

IDAHO ADMINISTRATIVE BULLETIN

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IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

**16.01.21 - RULES GOVERNING THE PROTECTION AND DISCLOSURE OF RECORDS IN THE
POSSESSION OF THE DIVISION OF ENVIRONMENTAL QUALITY**

DOCKET NO. 16-0121-9801

NOTICE OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the Board of Health and Welfare (Board) and is now pending review by the 2000 Idaho State Legislature for final approval. In November 1998, the Board adopted this rule as a temporary rule, which is currently effective. The pending rule will become final and effective immediately upon the adjournment sine die of the Second Regular Session of the Fifty-fifth Idaho Legislature unless prior to that date the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that the Board has adopted a pending rule. The action is authorized by Sections 9-342A(8), 39-105 and 39-107, Idaho Code.

DESCRIPTIVE SUMMARY: A detailed summary of the reasons for adopting the rule is set forth in the initial proposal published in the Idaho Administrative Bulletin, Volume 99-1, January 6, 1999, pages 186 through 192. The agency received no public comments on the proposal, and the rule has been adopted as initially proposed. The rulemaking record is maintained at the Division of Environmental Quality (DEQ), 1410 N. Hilton, Boise, Idaho 83706.

GENERAL INFORMATION: For more information about DEQ's programs and activities, visit DEQ's web site at www.state.id.us/deq.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this rule, contact Sue Richards at (208)373-0502.

Dated this 22nd day of April, 1999.

Paula Junae Saul
Environmental Quality Section
Attorney General's Office
1410 N. Hilton
Boise, Idaho 83706-1255

**IDAPA 16
TITLE 01
Chapter 21**

**RULES GOVERNING THE PROTECTION AND DISCLOSURE OF RECORDS IN THE
POSSESSION OF THE DIVISION OF ENVIRONMENTAL QUALITY**

There are no substantive changes from the proposed rule text.

**The original text was published in the Idaho Administrative Bulletin,
Volume 99-1, January 6, 1999, pages 186 through 192.**

**This rule has been adopted as Final by the Agency and is now pending
review by the 2000 Idaho State Legislature for final adoption.**

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.03.01 - RULES GOVERNING ELIGIBILITY FOR MEDICAID FOR FAMILIES AND CHILDREN
DOCKET NO. 16-0301-9901
NOTICE OF TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: These temporary rules are effective March 1, 1999 and April 1, 1999.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) 56-202(b) and 39-106(l), Idaho Code.

PUBLIC HEARING SCHEDULE: Pursuant to Section 67-5222(2), Idaho Code, 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 June 16, 1999.

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: This rule docket adds policy on who may and may not be included in a budget unit for determining Medicaid eligibility related to the Aid to Families with Dependent Children program plan in effect on July 16, 1996.

Adds policy for providing Medicaid to a family with excess real or personal property, conditioned on efforts to sell the excess property.

Revises treatment of lump sum income, which is counted as income in the month received.

Adds policy on treatment of earned income from self-employment.

Adds policy on Transitional Medicaid reporting requirements, notification requirements, income tests and reasons to end benefits.

Adds policy on eligibility requirements for a Low Income Pregnant Woman seeking coverage for pregnancy-related services and postpartum Medicaid.

TEMPORARY RULE JUSTIFICATION: Temporary rules have been adopted in accordance with Section 67-5226, Idaho Code and are necessary in order to confer a benefit.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary or proposed rule, contact Patti Campbell at (208) 334-5815.

Anyone can submit written comments regarding this rule. All written comments and data concerning the rule must be directed to the undersigned and must be postmarked on or before June 23, 1999.

DATED this 14th day of April, 1999.

Sherri Kovach
Administrative Procedures Coordinator
DHW - Division of Legal Services
450 West State Street, 10th Floor
P.O. Box 83720
Boise, Idaho 83720-0036
(208) 334-5564 phone, (208) 334-5548 fax

THE FOLLOWING IS TEXT OF DOCKET NO. 16-0301-9901

302. ~~309.~~ (RESERVED) MEDICAID BUDGET UNIT.

A Medicaid budget unit is a person or group of persons living in the same home. Their needs, income, and resources are counted as a unit for Medicaid eligibility. Eligibility is based on the number of budget unit members. (3-1-99)T

01. Medicaid Eligibility Requirements. All members of the budget unit must meet Medicaid eligibility requirements. (3-1-99)T

02. Member Of More Than One Budget Unit. No person may be a member of more than one (1) budget unit during the same month. (3-1-99)T

03. More Than One Medicaid Budget Unit In Home. If there is more than one (1) Medicaid budget unit in a home, each budget unit is considered a separate unit. (3-1-99)T

04. Budget Units Not Separate. Budget units cannot be separate if any member is a required member of both units. The units must be combined and treated as one (1) unit. (3-1-99)T

303. PERSONS WHO MUST BE INCLUDED IN THE MEDICAID BUDGET UNIT.

Persons in the home listed in Subsections 303.01 through 303.05 must be included in the budget unit. (3-1-99)

01. Parents. A natural or adoptive parent must be included in the budget unit. Both parents must be included if: (3-1-99)T

a. One (1) or both parents is incapacitated; (3-1-99)T

b. One (1) parent is receiving AABD Medicaid based on the Community Property method and is not an SSI recipient; or (3-1-99)T

c. The family's principal wage earner is unemployed. (3-1-99)T

02. Disqualified Parents. Disqualified parents are members of the budget unit, but are not included in the family size. A disqualified parent's income and resources are counted in full. (3-1-99)T

03. Siblings. A child's natural or adoptive brother or sister, including half (1/2) siblings, must be included in the budget unit. (3-1-99)T

04. Pregnant Woman With No Other Children. A pregnant woman, who does not have a child residing in the home, may receive Medicaid. (3-1-99)T

a. Pregnancy must be verified by a licensed physician, certified laboratory, or district health department. (3-1-99)T

b. The needs, income and resources of all persons in the home, who would be included in the budget unit if the child was born, must be counted for Medicaid eligibility. (3-1-99)T

c. The father of the child, if living in the home, must be included in the budget unit if the couple is married. The father is not eligible for Medicaid until the child is born. (3-1-99)T

d. If the parents are not married, the father must be included in the budget unit if the couple has signed an "Acknowledgment of Paternity Affidavit" form (HWHP001). (3-1-99)T

05. Stepparent Incapacitated Or Unemployed. A stepparent, having a child residing in the home in common with the parent, must be included in the budget unit if: (3-1-99)T

- a. The stepparent meets the Medicaid incapacitated parent or unemployed parent requirement; or (3-1-99)T
- b. The stepparent meets the unemployed parent requirement. (3-1-99)T

304. PERSONS WHO MAY BE INCLUDED IN THE MEDICAID BUDGET UNIT.

Persons in the home listed in Subsections 304.01 through 304.05 may be included in the Medicaid budget unit. They may choose not to be included. (3-1-99)T

01. Other Child In Home. A child, who is not a natural or adoptive child of a budget unit member and not a sibling or half-sibling of other children in the budget unit, can be included. The child must be under eighteen (18), or expected to graduate from high school by his nineteenth birthday. (3-1-99)T

02. Child Of Pregnant Woman. A pregnant woman's children can be included. If any children are included, all siblings must be included. (3-1-99)T

03. Caretaker Relative Other Than Parent. A caretaker relative who is not a natural or adoptive parent, such as an aunt, uncle, or grandparent, can be included. (3-1-99)T

04. Sibling Caretaker. A sibling over the age limit who is the caretaker relative, because the parents are absent, can be included. (3-1-99)T

05. Stepparent Caretaker. A stepparent, who is the caretaker relative because the child's parent is absent, can be included. (3-1-99)T

305. PERSONS WHO MUST NOT BE INCLUDED IN THE MEDICAID BUDGET UNIT.

Persons listed in Subsections 305.01 through 305.06 must not be included in the Medicaid budget unit. (3-1-99)T

01. SSI Recipient. Persons receiving SSI benefits must not be included. (3-1-99)T

02. AABD Recipient. Persons receiving AABD benefits must not be included. (3-1-99)T

03. Stepparent Without Common Child. Stepparents must not be included, unless there is a common child and the child's parent is incapacitated or unemployed. (3-1-99)T

04. Ineligible Non-Citizen. Persons who are ineligible non-citizens must not be included. (3-1-99)T

05. Title IV-E Foster Child. A child receiving foster care payments from the Department must not be included. (3-1-99)T

06. Adoption Assistance. A child receiving adoption assistance payments from any federal, state or local agency providing adoption assistance payments must not be included. (3-1-99)T

306. DEEM INCOME FROM STEPPARENT, NON-PARENT CARETAKER, OR LEGAL NON-CITIZEN PARENT.

Use Table 306 to deem income for Medicaid related to the AFDC need standards in effect July 16, 1996. Do not use Table 306 for Medicaid related to Federal Poverty Guidelines. (3-1-99)T

01. Stepparent Or Legal Non-Citizen Parent. Deem income from a stepparent or legal non-citizen parent to the budget unit. (3-1-99)T

02. Non-Parent Caretaker. Deem income from a non-parent caretaker choosing to be included in the budget unit. If there are two (2) non-parent caretaker relatives in the home, only one (1) can get Medicaid. (3-1-99)T

03. Two Non-Parent Caretaker Relatives. If two (2) non-parent caretaker relatives are a married couple and one (1) chooses to get Medicaid, deem the income of the spouse not receiving Medicaid to the budget unit.

(3-1-99)T

04. Table 306 - Deeming Income From Stepparent, Nonparent Caretaker, And Legal Non-Citizen Parent.

TABLE 306 - DEEMING INCOME FROM STEPPARENT, NON-PARENT CARETAKER AND LEGAL NON-CITIZEN PARENT	
STEP	ACTION
Step 1	Subtract a ninety dollar (\$90) work disregard from the total monthly earned income.
Step 2	Add the remaining earned income and unearned income to arrive at the total monthly income.
Step 3	Subtract any verified child support payments made by a stepparent, non-parent caretaker or legal non-citizen parent from total monthly income in Step 2.
Step 4	Subtract verified payments made to a dependent not residing in the home from income in Step 3. The dependent must be claimed for income tax purposes before the payments can be subtracted. The amount remaining after the subtraction of the disregards is the net income.
Step 5	Subtract the Need Standard for the stepparent, non-parent caretaker or legal non-citizen parent and their dependent children from the net income in Step 4. The difference is the income deemed to the Medicaid family unit.

(3-1-99)T

307. -- 309. (RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

319. -- 3429. (RESERVED).

330. CONDITIONAL BENEFITS.

A participant ineligible due solely to excess nonliquid resources can receive Medicaid. Nonliquid resources are noncash resources not convertible to cash within twenty (20) working days. The participant must meet two (2) conditions. First, his countable liquid resources must not exceed three (3) times his Medicaid income limit. Second, the participant agrees, in writing, to sell excess nonliquid resources at their fair market value, within three (3) months. The value of excess real property is not counted as a resource, as long as the participant makes reasonable efforts to sell the property at its fair market value, and his reasonable efforts to sell are not successful. This exclusion is also used to compute deemed resources.

(4-1-99)T

01. Conditional Benefits Payments Disposal/Exclusion Period. The disposal period and exclusion period for excess nonliquid resources begins on the date the participant signs the Agreement to Sell Property. The disposal and exclusion periods can begin earlier for a participant who met all requirements to receive conditional benefits before his first opportunity to sign the Agreement to Sell Property. The participant must sign the Agreement to Sell Property before his application is approved.

(4-1-99)T

02. Time Period For Disposal Of Excess Personal Property. The disposal period for excess nonliquid personal property is three (3) months. One (1) three (3) month extension, for sale of personal property, is allowed when good cause exists.

(4-1-99)T

03. Good Cause For Not Making Efforts To Sell Excess Property. The participant has good cause exists for not making efforts to sell property, when circumstances beyond his control prevent his taking the required actions. Without good cause, the participants's countable resources include the value of the excess property.

retroactive to the beginning of the conditional benefits period. (4-1-99)T

331. -- 349. (RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

352. SELF-EMPLOYMENT EARNED INCOME.

Income from self-employment is treated as earned income. Compute self-employment income using Table 352.
(7-1-98)(3-1-99)T

01. Annualize Self-Employment Income. Annualize the income if the participant has been self employed for more than one (1) year. (3-1-99)T

02. Average Self-Employment Income. Average the income over the period of time the business has been operating if the participant has been self employed for less than one (1) year. (3-1-99)T

03. Annualized Or Averaged Income Not Accurate. If the annualized or averaged income does not reflect the participant's current or projected income from his business, anticipate self employment income and expenses. (3-1-99)T

04. Allowable Costs Of Producing The Self-Employment Income. Allowable costs of producing the self-employment income include: (3-1-99)T

- a. The cost of labor paid to persons not in the home. (3-1-99)T
- b. The cost of stock. (3-1-99)T
- c. The cost of material. (3-1-99)T
- d. The cost for rent and utilities, advertising, shipping and legal fees. (3-1-99)T
- e. The cost of seed and fertilizer. (3-1-99)T
- f. Interest paid to purchase income-producing property, including real estate. (3-1-99)T
- g. Insurance premiums. (3-1-99)T
- h. Taxes paid on income-producing property. (3-1-99)T
- i. Transportation, when a vehicle is an integral part of business activity. (3-1-99)T

05. Non-Allowable Costs Of Producing The Self-Employment Income. The non-allowable costs of producing the self-employment income are: (3-1-99)T

- a. Payments on the principal of the purchase price of income-producing real estate and capital assets, equipment, machinery, and other durable goods. (3-1-99)T
- b. Net losses from previous periods. (3-1-99)T
- c. Federal, State, and local income taxes. (3-1-99)T
- d. Money set aside for retirement. (3-1-99)T
- e. Work-related personal expenses such as transportation to and from work. (3-1-99)T

f. Depreciation. (3-1-99)T

06. Computing Self-Employment Income.

TABLE 352 - COMPUTING SELF-EMPLOYMENT INCOME	
STEP	DESCRIPTION
<u>Step 1.</u>	<u>Add all gross self-employment income.</u>
<u>Step 2.</u>	<u>Add all capital gains to the gross self-employment income.</u>
<u>Step 3.</u>	<u>Subtract allowable costs of producing the self-employment income. Allowable costs are listed in Subsection 352.04. Do not subtract the non-allowable costs listed in Subsection 352.05. The result is available self-employment income.</u>

(3-1-99)T

(BREAK IN CONTINUITY OF SECTIONS)

384. LUMP SUM INCOME.

A nonrecurring lump sum payment is income in the month received. Lump sum income is a retroactive monthly benefit or a windfall payment. This may be earned or unearned income, paid in a single sum. Lump sum income includes RSDI, VA, worker compensation awards, severance pay, disability insurance and lottery winnings.

~~(7-1-98)~~(3-1-99)T

(BREAK IN CONTINUITY OF SECTIONS)

416. TRANSITIONAL MEDICAID (TM).

Low Income Families with Children are eligible for Transitional Medicaid (TM) if the family income exceeds limits because ~~the caretaker relative's hours of employment increase, income from employment increased, or the thirty dollars (\$30) plus one third (1/3) or the thirty dollar (\$30) disregard expired. Medicaid must have been received in three (3) of the six (6) months before the month the family become ineligible. Eligible families get TM for up to twelve (12) months. An initial six (6) month period and an additional six (6) month period is available when the conditions listed in Subsections 416.01 through 416.02 are met. TM ends when all eligible children have left the home or the applicable time periods have expired of a reason listed in Subsections 416.01 through 416.03. The caretaker must have earnings each month. The family must have received Medicaid in three (3) of the six (6) months before the month they became ineligible. Eligible families may get TM for up to twelve (12) months.~~

~~(7-1-99)~~(3-1-99)T

01. ~~Reporting Requirement For TM.~~ Families getting TM must complete and sign three (3) quarterly reports in the Transitional Medicaid periods. ~~Monthly earnings and child care expenses must be declared and proof of earnings and child care expenses must be provided. The additional six (6) month is authorized when the first completed quarterly report is received.~~ **Hours Of Employment Increased.** Family income exceeds limits because the caretaker relative's hours of employment increased.

~~(7-1-98)~~(3-1-99)T

02. ~~Income Tests For TM.~~ Families must meet two (2) income tests during the twelve (12) month period. ~~The one hundred eighty five percent (185%) income test must be passed at the end of the sixth month and again when the final quarterly report is received. The caretaker must have earnings each month.~~ **Employment Income Increased.** Family income exceeds limits because employment income increased.

~~(7-1-98)~~(3-1-99)T

03. Disregard Expired. Family income exceeds limits because the thirty dollar (\$30) plus one-third (1/3) or the thirty dollar (\$30) disregard expired. (3-1-99)T

417. --499. ~~(RESERVED)~~ TM REPORTING REQUIREMENT.
 Families getting TM must submit three (3) reports during the twelve (12) TM months. (3-1-99)T

01. First Report. The first report is due day twenty-one (21) of TM month four (4). The report is for TM months one (1) through three (3). Authorize TM month seven (7) when the first report is received. End TM after month six (6) if the family fails to return the first report. (3-1-99)T

02. Second Report. The second report is due day twenty-one (21) of TM month seven (7). The report is for TM months four (4) through six (6). End TM, after ten (10) day advance notice, if the family fails to submit the second report without good cause. (3-1-99)T

03. Third Report. The third report is due day twenty-one (21) of TM month ten (10). The report is for TM months seven (7) through nine (9). End TM, after ten (10) day advance notice, if the family fails to submit the third report without good cause. (3-1-99)T

04. Report Content. The participant must sign the report and include proof of reported information. The participant must report: (3-1-99)T

- a. Earnings of all family members. (3-1-99)T
- b. The presence of a child under age eighteen (18) in the home. (3-1-99)T
- c. Work related child care expenses. (3-1-99)T

05. Good Cause For Failure To Submit Report. Good cause for failure to submit a complete report by the due date is based on conditions beyond the participant's control. Determine good cause on a case-by-case basis. (3-1-99)T

418. INCOME TESTS FOR TM.
 The family must pass the income tests listed in this Section to receive TM for months seven (7) through twelve (12). Use steps in Table 418.01 for the first income test, done at the end of month seven (7) of TM. Use steps in Table 418.02 for the second income test, done at the end of month ten (10) of TM. (3-1-99)T

01. First TM Income, Test Done At The End Of Month Seven.

TABLE 418.01 - FIRST TM INCOME TEST, DONE AT THE END OF MONTH SEVEN (7)	
STEP	ACTION
Step 1	Add the gross monthly earnings from months four (4) through six (6) of TM.
Step 2	Subtract allowable child care costs from months four (4) through six (6) of TM from the total gross earnings. Allowable child care costs are costs necessary for the employment of the caretaker relative, not paid by another party.
Step 3	Divide the result of the computation in Step 2 by three (3). The result is the average monthly earnings.
Step 4	Select the Federal Poverty Guideline amount for the family size and multiply that amount by one hundred eighty-five percent (185%).
Step 5	Compare the average monthly earnings from Step 3 with the product of Step 4. If the average monthly earnings in Step 3 exceed the amount computed in Step 4, stop TM. Adequate notice is required.

(3-1-99)T

02. Second TM Income Test, Done At The End Of Month Ten.

TABLE 418.02 - SECOND TM INCOME TEST, DONE AT THE END OF MONTH TEN (10)	
STEP	ACTION
Step 1	Verify the caretaker relative has earnings in each of months seven (7) through nine (9) of TM. If earnings are verified TM eligibility continues. If no earnings go to Step 2.
Step 2	If no earnings are verified for any of months seven (7) through nine (9) of TM, determine if the caretaker relative has good cause for the lack of earnings. Use the criteria in Subsection 418.03. If good cause does not exist, stop TM. Ten (10) day advance notice is required.

(3-1-99)T

03. Good Cause For Lack Of Earnings. Good cause for lack of earnings includes: (3-1-99)T

a. Family crisis. (3-1-99)T

b. Court required appearance or incarceration. (3-1-99)T

c. Loss of transportation where no other means of transportation is readily accessible. (3-1-99)T

d. Loss of child care arrangements. (3-1-99)T

e. Involuntary loss of employment. (3-1-99)T

f. Illness. (3-1-99)T

419. NOTICE REQUIREMENTS.

The participant must be provided notice during TM as described in Subsections 419.01 through 419.02. (3-1-99)T

01. Required Notice During TM. Notify the participant of the reporting requirements and the option for months seven (7) through twelve (12) of TM. Send the notice in month three (3) and month six (6) of TM. (3-1-99)T

02. Required Notice During Month Nine Of TM. Notify the participant of reporting requirements. Send the notice during month nine (9) of TM. (3-1-99)T

420. REASONS TO END TM.

Reasons to end TM are listed in Subsections 420.01 through 420.05. (3-1-99)T

01. Child Leaves Family Unit. The family unit ceases to include an eligible child. (3-1-99)T

02. Not Residing In Idaho. The family unit ceases to reside in Idaho. (3-1-99)T

03. Failure To Furnish SSN. The caretaker relative fails to furnish the SSN for a family unit member other than a newborn. That family unit member is not eligible for TM. (3-1-99)T

04. Failure To Cooperate. The caretaker relative fails to cooperate in obtaining medical support and third party payments. In this case, the caretaker relative is ineligible for TM. (3-1-99)T

05. Member Committing Fraudulent Acts. It is determined a member of the family unit committed fraud during the last six (6) months the unit got Medicaid, before getting TM. The remaining members of the family unit remain eligible. (3-1-99)T

421. TM FAMILY RETURNS TO IDAHO.

If TM is closed because the family left the state, reopen the TM if the family returns to Idaho during the twelve (12) month period. The family remains eligible for the rest of the original twelve (12) months if all eligibility requirements are met. Count the months of absence as if the family had actually received TM during those months. (3-1-99)T

422. NEW PERSONS MOVE INTO TM HOME.

New persons moving into the home during the twelve (12) month TM period are eligible for Medicaid if they must be included in the budget unit as described in Section 303. (3-1-99)T

423. -- 499. (RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

502. LOW INCOME PREGNANT WOMAN.

A Low Income Pregnant Woman must meet Medicaid non-financial criteria, financial criteria of the FPG, and provide medical verification of the pregnancy. ~~Low Income Pregnant Women receive Medicaid through a sixty (60) day postpartum period.~~ Medicaid is limited to pregnancy related and postpartum services. A Low Income Pregnant Women is eligible for Medicaid through a sixty (60) day postpartum period if she applied for Medicaid while pregnant and was receiving Medicaid when the child was born. (7-1-98)(3-1-99)T

01. Income Limit. Family income must not exceed one hundred thirty-three percent (133%) of the Federal Poverty Guideline. (3-1-99)T

02. Family Size. Count family members living with the pregnant woman. Family members include the pregnant woman, spouse, minor dependent children, minor step-children, and unborn. Count family members regardless of Medicaid ineligibility or disqualification. Do not include family members receiving SSI or AABD payments. For an individual Medicaid determination, only income and resources of persons financially responsible for the individual can make the individual ineligible for Medicaid. (3-1-99)T

03. Income Disregards. Subtract income exclusions and disregards to determine family income. (3-1-99)T

04. Continuing Eligibility. The pregnant woman remains eligible during the pregnancy regardless of changes in income. Changes in resources and non-financial criteria must be considered prospectively. The woman must report the end of pregnancy to the Department within ten (10) days. (3-1-99)T

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.03.04 - RULES GOVERNING THE FOOD STAMP PROGRAM IN IDAHO
DOCKET NO. 16-0304-9802

NOTICE OF PENDING RULE AND AMENDMENT TO TEMPORARY RULE

EFFECTIVE DATE: The amendment to the temporary rule is effective October 1, 1998 and November 1, 1998. These rules have been adopted by the agency and are now pending review by the 2000 Idaho State Legislature for final adoption. The pending rule becomes final and effective upon adjournment of the legislature, 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 and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a pending rule and amended a temporary rule. The action is authorized pursuant to Section(s) 56-202(b) and 39-106(l), Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and amending the existing temporary rule and a statement of any change between the text of the proposed rule and the text of the pending rule.

The temporary rule has been amended to make a typographical and clerical correction to Section 776 of the rule. The correction is to the temporary effective date correcting it to October 1, 1998, and is being amended pursuant to Section 67-5227, Idaho Code.

Section 776 is not being reprinted in this bulletin. The original text of the proposed rules was published in the November 4, 1998 Administrative Bulletin, Volume 98-11, pages 68 through 93.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Patti Campbell, Bureau of Policy at (208) 334-5819.

DATED this 23rd day of April, 1999.

Sherri Kovach
Administrative Procedures Coordinator
DHW - Legal Services Division
450 West State Street - 10th Floor
P.O. Box 83720, Boise, Idaho 83720-0036
(208) 334-5564 phone; (208) 334-5548 fax

IDAPA 16
TITLE 03
Chapter 04

RULES GOVERNING THE FOOD STAMP PROGRAM IN IDAHO

There is one substantive change being made to a temporary effective date that differs from the original temporary rule. The change is described in the descriptive summary in this notice.

The complete original text of the temporary and proposed rule was published in the Idaho Administrative Bulletin, Volume 98-11, November 4, 1998, pages 68 through 93.

This rule has been adopted as Final by the Agency and is now pending review by the 2000 Idaho State Legislature for final adoption.

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.03.05 - RULES GOVERNING ELIGIBILITY FOR AID TO THE AGED, BLIND,
AND DISABLED IN IDAHO (AABD)

DOCKET NO. 16-0305-9902

NOTICE OF TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: These temporary rules are effective March 1, 1999.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) 56-202(b) and 39-106(l), Idaho Code.

PUBLIC HEARING SCHEDULE: Pursuant to Section 67-5222(2), Idaho Code, 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 June 16, 1999.

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 rule docket adds that pension funds owned by a child's ineligible parent cannot be deemed to the child.

Adds an exclusion from resources for a real estate contract owned by a nursing home participant if the contract produces income.

Adds that child support payments must be turned in to the Department and that failure to do so is noncooperation.

Adds a new income limit for Home and Community Based Services for an individual who needs the type of care provided in a nursing home. Decreases the lower age limit for eligibility from 21 to 18.

Revises a life expectancy test used to determine if an irrevocable annuity is an asset transfer without adequate consideration.

TEMPORARY RULE JUSTIFICATION: Temporary rules have been adopted in accordance with Section 67-5226, Idaho Code and are necessary in order to confer a benefit.

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

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary or proposed rule, contact Patti Campbell at (208) 334-5815.

Anyone can submit written comments regarding this rule. All written comments and data concerning the rule must be directed to the undersigned and must be postmarked on or before June 23, 1999.

DATED this 21st day of April, 1999.

Sherri Kovach
Administrative Procedures Coordinator
DHW - Division of Legal Services
450 West State Street, 10th Floor
P.O. Box 83720
Boise, Idaho 83720-0036
(208) 334-5564 phone, (208) 334-5548 fax

THE FOLLOWING IS TEXT OF DOCKET NO. 16-0305-9902

215. DEEMING RESOURCES.

Resources are deemed from a spouse to a participant, from a parent or spouse of a parent to a child participant, from an essential person to a participant, or from a sponsor to a legal non-citizen participant. Resource deeming is determined by the participant's circumstances the first moment of the month. Deeming starts the first full calendar month the participant is in a deeming situation. Deeming ends the first full calendar month the participant is not in a deeming situation. Deeming to a child ends the month after the child's eighteenth birthday. (10-1-98)T

01. Spouse Of Adult Participant. When a participant lives with a spouse, his resources include those of the spouse. The resource limit is for a couple, when the spouse was a member of the household as of the first moment of the benefit month. The AABD resource exclusions are subtracted. Pension funds the ineligible spouse has on deposit are excluded. (10-1-98)T

02. Resources Of Parent(s) Of Child Under Age Eighteen (18). When a child participant, under age eighteen (18), is living with his parent or the spouse of his parent, their resources are deemed to the child. When there is more than one (1) child participant in the household, deemed parental resources are divided equally among the child AABD cash participants. When the child lives with one (1) parent, resources over the single person resource limit are deemed to the child. When the child lives with both parents, resources over the couple limit are deemed to the child. A stepparent's resources are not deemed to the child for Medicaid eligibility. A stepparent's resources are deemed to the child for AABD cash. Resources and exclusions of the child participant, and the parents, are computed separately. Pension funds owned by an ineligible parent or parent's spouse are excluded from resources for deeming. (10-1-98)T(3-1-99)T

03. Resources Of Essential Person Of Participant. When a participant lives with an essential person, the resources of the essential person are deemed to the participant. The essential person's countable resources are combined with the participant's countable resources. When the essential person is not the participant's spouse, the single person resource limit is used. When the essential person is the participant's ineligible spouse, the couple resource limit is used. (10-1-98)T

04. Resources Of Legal Non-Citizen's Sponsor - No I-864 Signed. A legal non-citizen's resources include those of his sponsor and of the sponsor's spouse. When the sponsor has not signed an I-864 affidavit of support, the resources deeming period is three (3) years after the legal non-citizen's admission to the U.S. A sponsor's resources are not deemed to the legal non-citizen for Medicaid eligibility. (10-1-98)T

a. If the sponsor does not have a spouse living with him, the sponsor's countable resources over the single person resource limit are deemed to the legal non-citizen participant. (10-1-98)T

b. If the sponsor's spouse lives with him, the sponsor couple's resources over the couple resource limit are deemed to the legal non-citizen participant. (10-1-98)T

c. If a person sponsors two (2) or more legal non-citizen participants, the sponsor's deemed resources are divided and deemed equally to the legal non-citizen participants. (10-1-98)T

05. Resources Of Legal Non-Citizen's Sponsor - I-864 Signed. For a legal non-citizen admitted to the U.S. on or after August 22, 1996, whose sponsor has signed an I-864 affidavit of support, all resources of the sponsor and sponsor's spouse are deemed to the legal non-citizen for AABD cash and Medicaid eligibility. (10-1-98)T

(BREAK IN CONTINUITY OF SECTIONS)

273. -- 2854. RESERVED.

285. EXCLUDED REAL ESTATE CONTRACT.

The principal balance of a real estate contract is excluded from resources of a participant in long-term care. The contract must meet the conditions in Subsections 285.01 through 285.03. The exclusion ends the first month the contract does not produce income. The principal balance is a resource the first moment of the next month. Interest payments on the contract are income for patient liability. This exclusion is not used if it is more restrictive to Medicaid eligibility than counting the value of the contract. (3-1-99)T

01. Income Producing. The contract produces income when payments are made to the participant by the purchaser. (3-1-99)T

02. Adequate Rate Of Return. The contract has a rate of return no less than two (2) percentage points below the bank market rate for loans on similar property in the community when the contract was signed. (3-1-99)T

03. Remainder To Estate. The remainder of the contract is part of the estate when the participant dies. There are no provisions in the contract having the intent or effect of making the remainder unavailable to Medicaid estate recovery. (3-1-99)T

(BREAK IN CONTINUITY OF SECTIONS)

703. CHILD SUPPORT COOPERATION.

The participant must cooperate to identify and locate the noncustodial parent, establish paternity, and establish, modify and enforce a child support order, to be eligible for Medicaid. After CSS establishes a case, the participant must forward all support payments to CSS for distribution. This includes support payments received directly from the noncustodial parent. The cooperation requirement is waived for poverty level pregnant women exempt from cooperating in establishing paternity and obtaining medical support and payments from, or derived from, the father of a child born out of wedlock. A participant who cannot legally assign his own rights must not be denied Medicaid if the legally responsible person does not cooperate. (~~10-1-98~~)T(3-1-99)T

(BREAK IN CONTINUITY OF SECTIONS)

787. PERSON ENTITLED TO HOME AND COMMUNITY BASED SERVICES (HCBS).

An aged, blind or disabled person not eligible for SSI or AABD cash in his own home, because of income deeming or income limits, is eligible for Medicaid if he meets the conditions in Subsections 787.01 through 787.12. (10-1-98)T

01. Age. Is at least ~~twenty-one~~ eighteen (≥18) years old. (~~10-1-98~~)T(3-1-99)T

02. AABD Criteria. If under age sixty-five (65), meets the AABD blindness or disability criteria. (10-1-98)T

03. AABD Resource Limit. Meets the AABD single person resource limit. (10-1-98)T

04. HCBS Income Limit. For HCBS-NF, has income not exceeding nine hundred sixty-seven dollars (\$967). For HCBS-DD, has income not exceeding three (3) times the Federal SSI benefit payable monthly to a single person. The income limit for HCBS-NF is changing to an amount not exceeding three (3) times the Federal SSI benefit payable monthly to a single person. The new income limit will be phased in on the schedule listed in Table 787.04.

TABLE 787.04. - EFFECTIVE DATE OF HCBS-NF INCOME LIMIT	
Counties	Effective Date
<u>Bannock, Bear Lake, Bingham, Caribou, Franklin, Power and Oneida.</u>	<u>March 1, 1999</u>
<u>Blaine, Camas, Cassia, Gooding, Jerome, Lincoln, Minidoka, Twin Falls, Bonneville, Butte, Clark, Custer, Fremont, Jefferson, Lemhi, Madison and Teton.</u>	<u>October 1, 1999</u>
<u>Benewah, Bonner, Boundary, Kootenai, Shoshone, Clearwater, Idaho, Latah, Lewis and Nez Perce.</u>	<u>December 1, 1999</u>
<u>Adams, Canyon, Gem, Owyhee, Payette, Washington, Ada, Boise, Elmore and Valley.</u>	<u>February 1, 2000</u>

~~(1-1-99)T~~(3-1-99)T

05. Eligible For Long Term Care. For HCBS-NF, meets the medical conditions for nursing facility care in accordance with IDAPA 16.03.09, "Rules Governing Medical Assistance," Subsection 160.09. For HCBS-DD, meets the medical conditions for ICF/MR care in accordance with IDAPA 16.03.09, "Rules Governing Medical Assistance," Section 143. (10-1-98)T

06. Home Care. For HCBS-NF, can be maintained in his own home with Personal Care Services (PCS) furnished under the Department's HCBS waiver. For HCBS-DD, can be maintained in the community. (10-1-98)T

07. Cost Of Care. For HCBS-NF, can be cared for at home at a cost not to exceed the statewide average cost of care for the participant's level of care. The estimated cost of care in a nursing facility is the statewide average rate for the level of care the participant requires, charged by the type of facility where he would be placed if he were not living at home. For traumatic brain injury patients, the estimated cost of care is at the nursing facility special rate. (10-1-98)T

08. Care Requirement. For HCBS-NF, must require and receive, or be likely to require and receive, HCBS waiver personal care services for thirty (30) consecutive days. For HCBS-DD, must require and receive, or be likely to require and receive, HCBS-DD waiver services for thirty (30) consecutive days. (10-1-98)T

09. Effective Date. Medicaid is effective the first day of the thirty (30) day period the participant required and received HCBS-NF or HCBS-DD waiver services. (10-1-98)T

10. Participant With Spouse. A married participant living at home with his spouse who is not and HCBS participant, can choose between the SSI, CP, and FSI methods. If his spouse is also an HCBS participant or lives in a nursing home, the couple can choose between the SSI and CP methods. (10-1-98)T

11. Continued Services. The participant must continue to require and receive waiver services. The participant is ineligible when there is a lapse in need for or receipt of waiver services for thirty (30) days. (10-1-98)T

12. Annual Limit. A participant who applies for HCBS Medicaid, after the annual limit on HCBS-NF or HCBS-DD waiver participants is reached, must be denied Medicaid. (10-1-98)T

(BREAK IN CONTINUITY OF SECTIONS)

837. LIFE ESTATES AND ANNUITIES AS ASSET TRANSFERS.

Conditions for determining if a life estate or an annuity are an asset transfer for less than fair market value are listed in Subsections 837.01 through 837.05. (10-1-98)T

01. Life Estate. A life estate worth less than the value of the transferred real property is subject to the

asset transfer penalty. To compute the value of the life estate, multiply the fair market value of the real property at the time of transfer by the remainder factor for the participant's age at the time of transfer. The remainder factor for the participant's age is listed in Table 837.01.

TABLE 837.01 - LIFE ESTATE REMAINDER TABLE							
AGE	LIFE ESTATE REMAINDER	AGE	LIFE ESTATE REMAINDER	AGE	LIFE ESTATE REMAINDER	AGE	LIFE ESTATE REMAINDER
0	.02812	1	.01012	2	.00983	3	.00922
4	.01019	5	.01062	6	.01116	7	.01178
8	.01252	9	.01337	10	.01435	11	.01547
12	.01671	13	.01802	14	.01934	15	.02063
16	.02185	17	.02300	18	.02410	19	.02520
20	.02635	21	.02755	22	.02880	23	.03014
24	.03159	25	.03322	26	.03505	27	.03710
28	.03938	29	.04187	30	.04457	31	.04746
32	.05.058	33	.05.392	34	.05.750	35	.06132
36	.06540	37	.06974	38	.07433	39	.07917
40	.08429	41	.08970	42	.09543	43	.10145
44	.10779	45	.11442	46	.12137	47	.12863
48	.13626	49	.14422	50	.15257	51	.16126
52	.17031	53	.17972	54	.18946	55	.19954
56	.20994	57	.22069	58	.23178	59	.24325
60	.25509	61	.26733	62	.27998	63	.29304
64	.30648	65	.32030	66	.33449	67	.34902
68	.36390	69	.37914	70	.39478	71	.41086
72	.42739	73	.44429	74	.46138	75	.47851
76	.49559	77	.51258	78	.52951	79	.54643
80	.56341	81	.58033	82	.59705	83	.61358
84	.63002	85	.64641	86	.66236	87	.67738
88	.69141	89	.70474	90	.71779	91	.73045
92	.74229	93	.75308	94	.76272	95	.77113
96	.77819	97	.78450	98	.79000	99	.79514
100	.80025	101	.80468	102	.80946	103	.81563
104	.82144	105	.83038	106	.84512	107	.86591
108	.89932	109	.95455				

(10-1-98)T

02. Irrevocable Annuity. An irrevocable annuity is an asset transfer if it does not provide fair market value. To provide fair market value, an irrevocable annuity must meet life expectancy and annual interest tests listed in Subsections 837.03 and 837.04. The value for calculating the asset transfer penalty is the difference between the actual rate produced by the annuity and five percent (5%) per year. The sixty (60) month look-back applies.

(10-1-98)T

03. Irrevocable Annuity Life Expectancy Test. The participant's life expectancy must equal or exceed the term of the annuity. Using Table 837.03 ~~divide~~ compare the face value of the annuity ~~by~~ to the participant's life expectancy at the purchase time. The annuity meets the life expectancy test if the ~~result~~ participant's life expectancy equals or exceeds the term of the annuity, ~~or more.~~

TABLE 837.03 - LIFE EXPECTANCY TABLE - FEMALES

AGE	LIFE EXPECTANCY						
0	78.79	1	78.42	2	77.48	3	76.51
4	75.54	5	74.56	6	73.57	7	72.59
8	71.60	9	70.61	10	69.82	11	68.63
12	67.64	13	66.65	14	65.67	15	64.68
16	63.71	17	62.74	18	61.77	19	60.80
20	59.63	21	58.86	22	57.59	23	56.92
24	55.95	25	54.98	26	54.02	27	53.05
28	52.08	29	51.12	30	50.15	31	49.19
32	48.23	33	47.27	34	46.31	35	45.35
36	44.40	37	43.45	38	42.50	39	41.55
40	40.61	41	39.66	42	38.72	43	37.78
44	36.85	45	35.92	46	35.00	47	34.08
48	33.17	49	32.27	50	31.37	51	30.48
52	29.60	53	28.72	54	27.86	55	27.00
56	26.15	57	25.31	58	24.48	59	23.67
60	22.86	61	22.06	62	21.27	63	20.49
64	19.72	65	18.96	66	18.21	67	17.48
68	16.76	69	16.04	70	15.35	71	14.66
72	13.99	73	13.33	74	12.68	75	12.05
76	11.43	77	10.83	78	10.24	79	9.67
80	9.11	81	8.58	82	8.06	83	7.56
84	7.08	85	6.63	86	6.20	87	5.79
88	5.41	89	5.05	90	4.71	91	4.40
92	4.11	93	3.84	94	3.59	95	3.36
96	3.16	97	2.97	98	2.80	99	2.64

TABLE 837.03 - LIFE EXPECTANCY TABLE - FEMALES							
AGE	LIFE EXPECTANCY	AGE	LIFE EXPECTANCY	AGE	LIFE EXPECTANCY	AGE	LIFE EXPECTANCY
100	2.48	101	2.34	102	2.20	103	2.06
104	1.93	105	1.81	106	1.69	107	1.58
108	1.48	109	1.38	110	1.28	111	1.19
112	1.10	113	1.02	114	0.96	115	0.89
116	0.83	117	0.77	118	0.71	119	0.66

TABLE 837.03 - LIFE EXPECTANCY TABLE - MALES							
AGE	LIFE EXPECTANCY	AGE	LIFE EXPECTANCY	AGE	LIFE EXPECTANCY	AGE	LIFE EXPECTANCY
0	71.80	1	71.53	2	70.58	3	69.62
4	68.65	5	67.67	6	66.69	7	65.71
8	64.73	9	63.74	10	62.75	11	61.76
12	60.78	13	59.79	14	58.62	15	57.85
16	56.91	17	55.97	18	55.05	19	54.13
20	53.21	21	52.29	22	51.38	23	50.46
24	49.55	25	48.63	26	47.72	27	46.80
28	45.88	29	44.97	30	44.06	31	43.15
32	42.24	33	41.33	34	40.23	35	39.52
36	38.62	37	37.63	38	36.83	39	35.94
40	35.05	41	34.15	42	33.26	43	32.37
44	31.49	45	30.61	46	29.74	47	28.88
48	28.02	49	27.17	50	26.32	51	25.48
52	24.65	53	23.82	54	23.01	55	22.41
56	21.43	57	20.66	58	19.90	59	19.15
60	18.42	61	17.70	62	16.99	63	16.30
64	15.62	65	14.96	66	14.32	67	13.70
68	13.09	69	12.50	70	11.92	71	11.35
72	10.80	73	10.27	74	9.27	75	9.24
76	8.76	77	8.29	78	7.83	79	7.40
80	6.98	81	6.59	82	6.21	83	5.85
84	5.51	85	5.19	86	4.89	87	4.61

TABLE 837.03 - LIFE EXPECTANCY TABLE - MALES							
AGE	LIFE EXPECTANCY	AGE	LIFE EXPECTANCY	AGE	LIFE EXPECTANCY	AGE	LIFE EXPECTANCY
88	4.34	89	4.09	90	3.86	91	3.64
92	3.43	93	3.24	94	3.06	95	2.90
96	2.74	97	2.60	98	2.47	99	2.34
100	2.22	101	2.11	102	1.99	103	1.89
104	1.78	105	1.68	106	1.59	107	1.50
108	1.41	109	1.33	110	1.25	111	1.17
112	1.10	113	1.02	114	0.96	115	0.89
116	0.83	117	0.77	118	0.71	119	0.66

~~(10-1-98)T(3-1-99)T~~

04. Irrevocable Annuity Annual Interest Test. The annuity must produce annual interest of at least five percent (5%). A variable rate annuity meets the interest rate test if the average yearly rate for the most recent five (5) year period is five percent (5%) or more. The participant can rebut the five percent (5%) interest test. He must show single premium annuities are not offered by insurers now, or when the annuity was purchased. Insurers must be rated ~~exceptional~~ excellent or superior by an insurance rating firm such as A.M. Best Co. ~~(10-1-98)T(3-1-99)T~~

05. Revocable Annuity. The surrender amount of a revocable annuity is a resource. Early surrender of a revocable annuity is not an asset transfer for less than fair market value. (10-1-98)T

(BREAK IN CONTINUITY OF SECTIONS)

840. PENALTY EXCEPTIONS FOR ASSET TRANSFERS.

A participant or spouse who meets a condition in Subsections 840.01 through 840.15 is not subject to the asset transfer penalty. (10-1-98)T

01. Home To Spouse. The asset transferred was a home. Title to the home was transferred to the spouse. (10-1-98)T

02. Home To Minor Child Or Disabled Adult Child. The asset transferred was a home. Title to the home was transferred to the child of the participant or spouse. The child must be under age twenty-one (21) or blind or totally disabled under Social Security and SSI rules in 20 CFR Part 416. (10-1-98)T

03. Home To Brother Or Sister. The asset transferred was a home. Title to the home was transferred to a brother or sister of the participant or spouse. The brother or sister must have an equity interest in the transferred home. The brother or sister must reside in that home for at least one (1) year immediately before the month the participant starts long-term care. (10-1-98)T

04. Home To Adult Child. The asset transferred was a home. Title to the home was transferred to a son or daughter of the participant or spouse, other than a child under the age of twenty-one (21). The son or daughter must reside in that home for at least two (2) years immediately before the month the participant started long-term care. The son or daughter must have provided care to the participant which permitted him to live at home rather than enter long-term care. (10-1-98)T

05. Benefit Of Spouse. The assets were transferred to the participant's spouse or to another person for

the sole benefit of the spouse. (10-1-98)T

06. Transfer From Spouse. The assets were transferred from the participant's spouse to another person for the sole benefit of the participant's spouse. (10-1-98)T

07. Transfer To Child. The assets were transferred to the participant's child, or to a trust established solely for the benefit of the participant's child. The child must be blind or totally disabled under Social Security and SSI rules in 20 CFR Part 416. The child may be any age. (10-1-98)T

08. Transfer To Trust For Person Under Sixty-Five (65). The assets were transferred to a trust for the sole benefit of a person under age sixty-five (65). "Sole benefit" means any remainder in the trust after the person's death must go to his estate, not to another person. The person must be blind or totally disabled under Social Security and SSI rules in 20 CFR Part 416. (10-1-98)T

09. Intent To Get Fair Market Value. The participant or spouse proves he intended to dispose of the assets at fair market value or for other adequate consideration. (10-1-98)T

10. Assets Returned. All assets transferred for less than fair market value have been returned to the participant. (10-1-98)T

11. No Medicaid Purpose. The participant or spouse proves the assets were transferred exclusively for a purpose other than to qualify for Medicaid. (10-1-98)T

12. Undue Hardship. Denying eligibility would cause an undue hardship. Undue hardship exists if any of the conditions in Subsections ~~69840.12.a.~~ through ~~69840.12.c.~~ apply. ~~(10-1-98)T~~(3-1-99)T

a. The participant proves he is not able to pay for his nursing facility services or his HCBS services any other way. He assigns his rights to recover the asset to the state of Idaho. (10-1-98)T

b. The participant proves he did not knowingly transfer the asset. He assigns his rights to recover the asset to the state of Idaho. (10-1-98)T

c. The HCBS participant proves he would be deprived of food, clothing or shelter if all income transferred to the trust is used only for HCBS costs. He assigns his rights to recover the asset to the state of Idaho. If the participant proves undue hardship, the income paid to meet his needs for food, clothing or shelter is exempt from the asset transfer penalty. It does not invalidate the trust. It is not income for eligibility. (10-1-98)T

13. Exception To Fair Market Value. The amount received is adequate, even if not fair market value. This exception must meet one (1) of the conditions in Subsections 690.13.a. through 690.13.c. (10-1-98)T

a. A forced sale was done under reasonable circumstances. (10-1-98)T

b. Little or no market demand exists for the type of asset transferred. (10-1-98)T

c. The asset was transferred to settle a legal debt approximately equal to the fair market value of the transferred asset. (10-1-98)T

14. No Benefit To Participant. The participant received no benefit from the asset. This exception must meet one (1) of the conditions in Subsections 690.14.a. through 690.14.b. (10-1-98)T

a. The participant or spouse held title to the property only as a trustee for another person. The participant or spouse had no beneficial interest in the property. (10-1-98)T

b. The transfer was done to clear title to property. The participant or spouse had no beneficial interest in the property. (10-1-98)T

15. Fraud Victim. The asset was transferred because the participant or spouse was the victim of fraud,

misrepresentation, or coercion. The participant or spouse must take all possible steps to recover the assets or property, or its equivalent in damages. The participant must assign recovery rights to the state of Idaho. (10-1-98)T

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.03.08 - RULES GOVERNING TEMPORARY ASSISTANCE FOR FAMILIES IN IDAHO
DOCKET NO. 16-0308-9901

NOTICE OF TEMPORARY AND PROPOSED RULES

EFFECTIVE DATE: These temporary rules are effective May 1, 1999 and June 1, 1999.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) 39-106(l) and 56-202(b), Idaho Code.

PUBLIC HEARING SCHEDULE: Pursuant to Section 67-5222(2), Idaho Code, 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 June 16, 1999.

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: Public Law 104-193, Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) of 1996, allows training, counseling and mentoring services for work-related activities for applicants who lose TAFI eligibility due to excess income or requests closure due to employment. These services will be known as Transitional Services and are effective May 1, 1999.

The TAFI Work Incentive Table has been adjusted to reflect the 1999 Federal Poverty Guidelines. This change is effective June 1, 1999.

TEMPORARY RULE JUSTIFICATION: Temporary rules have been adopted in accordance with Section 67-5226, Idaho Code and are necessary in order to confer a benefit.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary or proposed rule, contact Beverley Sheeley at (208) 334-5624.

Anyone can submit written comments regarding this rule. All written comments and data concerning the rule must be directed to the undersigned and must be postmarked on or before June 23, 1999.

DATED this 2nd day of June, 1999.

Sherri Kovach
Administrative Procedures Coordinator
DHW - Division of Legal Services
450 West State Street, 10th Floor
P.O. Box 83720
Boise, Idaho 83720-0036
(208) 334-5564 phone, (208) 334-5548 fax

THE FOLLOWING IS TEXT OF DOCKET NO. 16-0308-9901

117. -- ~~1240.~~ (RESERVED).

1221. ELIGIBLE MANDATORY INDIVIDUALS.

Individuals who ~~may~~ must be eligible included in the family are listed in Subsections 1221.01 through 1221.053.

~~(7-1-98)~~(5-1-99)T

01. Children. Children under the age of eighteen (18) or, under the age of nineteen (19) if they are attending a secondary school or the equivalent level of vocational or technical training full time. Children must reside with a parent or a caretaker relative who exercises care and control of them. A dependent child's natural or adoptive brother or sister, including half (1/2) siblings, living in the same home as the dependent child must be included in the family.

~~(7-1-98)~~(5-1-99)T

02. Parents. Parents who have an eligible natural or adopted child residing with them. (7-1-98)

03. Pregnant Woman. A pregnant woman with no other children who is in her last trimester of pregnancy and is unable to work due to medical reasons.

(5-1-99)T

122. OPTIONAL INDIVIDUALS.

Individuals who may be eligible are listed in Subsections 122.01 and 122.02.

(5-1-99)T

031. Caretaker Relatives. Adult specified relatives other than parents who have an eligible related child residing with them and who are responsible for the child's care. Only one (1) child in the family must be related to one (1) of the following specified relatives: brother, sister, aunt, uncle, nephew, niece, first cousin, or first cousin once removed; one (1) of these relationships prefixed by "grand" or "great"; one (1) of these relationships by half-blood; a stepparent, step-sibling, or the spouse of a relative by marriage, even if the marriage has ended. (7-1-98)

042. ~~Optional Individuals~~ Related Children. Related dependent children who are not siblings or half (1/2) siblings of family members and who are living in the home. ~~(7-1-98)~~(5-1-99)T

~~(7-1-98)~~(5-1-99)T

05. Pregnant Woman. ~~A pregnant woman with no other children who is in her last trimester of pregnancy and is unable to work due to medical reasons.~~ (7-1-98)

~~(7-1-98)~~

(BREAK IN CONTINUITY OF SECTIONS)

251. WORK INCENTIVE TABLE.

Work Incentive Table 251 is used in the calculation of the grant amount for families with earned income.

WORK INCENTIVE TABLE 251	
NUMBER OF FAMILY MEMBERS	MONTHLY AMOUNT
1	\$298 <u>304</u>
2	\$298 <u>304</u>
3	\$375 <u>82</u>
4	\$452 <u>9</u>
5	\$529 <u>37</u>
6	\$606 <u>14</u>
7	\$683 <u>92</u>
8	\$760 <u>9</u>
9	\$834 <u>7</u>

10	\$914 25
OVER 10 PERSONS	ADD \$77 8 EACH

(7-1-98)T(6-1-99)T

(BREAK IN CONTINUITY OF SECTIONS)

345. -- 3649. (RESERVED).

350. TRANSITIONAL SERVICES.

Transitional services may be provided to an individual whose family is no longer eligible for TAFI due to employment or who requested TAFI closure because of employment. (5-1-99)T

351. TRANSITIONAL SERVICES CRITERIA.

The individual must meet the criteria in Subsections 351.01 through 351.07. (5-1-99)T

01. TAFI Family. The family must have received TAFI for one (1) partial month or one (1) full month within the past twelve (12) months. (5-1-99)T

02. Need For Work-Related Services. The individual must be in need of work-related services to maintain employment. (5-1-99)T

03. Residence. The individual must live in the state of Idaho and must not be a resident of another state. (5-1-99)T

04. Controlled Substance Felon. Felons convicted after August 22, 1996, under federal or state law of any offense classified as a felony that involves the possession, use or distribution of a controlled substance cannot receive transitional services. (5-1-99)T

05. Fleeing Felons. Felons who are fleeing to avoid prosecution, custody or confinement after conviction of a felony or an attempt to commit a felony cannot receive transitional services. (5-1-99)T

06. Parole Violation. Felons who are violating a condition of probation or parole imposed for a federal or state felony cannot receive transitional services. (5-1-99)T

07. Fraud. Individuals convicted in a federal or state court of fraudulently misrepresenting residence to get TANF, AABD, Food Stamps, Medicaid, or SSI, from two (2) or more states at the same time, cannot receive transitional services for ten (10) years from the date of conviction. (5-1-99)T

352. TRANSITIONAL SERVICES PAID.

Transitional services will be paid only for work-related services to assist the individual to maintain employment. Transitional services include counseling, mentoring, and training. Payment for transitional services will be made to the provider of the services. (5-1-99)T

353. TRANSITIONAL SERVICES TIME LIMIT.

Transitional Services may be provided up to twelve (12) months after TAFI ends due to employment. Transitional services do not count toward the TAFI twenty-four (24) month time limit. If the Department pays transitional services in error, the month does not count towards the twenty-four (24) month TAFI time limit. (5-1-99)T

354. -- 369. (RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

372. AT-RISK SERVICES PAID.

At-risk services will be paid for only those work-related services identified and authorized in a thirty (30) day period to meet needs that do not extend beyond a ninety (90) day period. Payment for at-risk services will be made to the provider of the services. ~~(10-1-98)T~~(5-1-99)T

(BREAK IN CONTINUITY OF SECTIONS)

374. AT-RISK TIME LIMIT.

At-risk payments do not count towards the TAFI twenty-four (24) month time limit. If the Department pays at-risk services in error, the month does not count towards the twenty-four (24) month TAFI time limit. ~~(10-1-98)T~~(5-1-99)T

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.03.10 - RULES GOVERNING MEDICAID PROVIDER REIMBURSEMENT
DOCKET NO. 16-0310-9901

NOTICE OF TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: These temporary rules are effective June 1, 1999.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) 56-202(b) and 56-203(b), Idaho Code.

PUBLIC HEARING SCHEDULE: Pursuant to Section 67-5222(2), Idaho Code, 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 June 16, 1999.

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: These rule changes will provide a process for timely review of a cost report and a timely interim and then final settlement to either the provider or the Department. This change reinstates the provisions for interim reimbursement after cost reports are submitted and reinstates the time line by which the State has to accomplish final cost settlement with Federally Qualified Health Centers (FQHC).

TEMPORARY RULE JUSTIFICATION: Temporary rules have been adopted in accordance with Section 67-5226, Idaho Code and are necessary in order to confer a benefit.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary or proposed rule, contact Russell Spearman at (208) 364-1842.

Anyone can submit written comments regarding this rule. All written comments and data concerning the rule must be directed to the undersigned and must be postmarked on or before June 23, 1999.

DATED this 2nd day of June, 1999.

Sherri Kovach
Administrative Procedures Coordinator
DHW - Division of Legal Services
450 West State Street, 10th Floor
P.O. Box 83720
Boise, Idaho 83720-0036
(208) 334-5564 phone, (208) 334-5548 fax

THE FOLLOWING IS TEXT OF DOCKET NO. 16-0310-9901

706. COST SETTLEMENTS.

The Department shall issue interim and final cost settlements based on the Medicaid cost report issued by the Department. ~~Within thirty (30) days after each provider's audited cost report is finalized by the Department's agent, the Department shall reimburse a FQHC for any underpayments or recover any overpayments made for the fiscal period represented in the audited report.~~ (2-4-98)T(6-1-99)T

01. Unaudited Cost Report. Within sixty (60) days of receipt of a FOHC provider's unaudited cost report, the Department shall review the cost report submitted, notwithstanding any appropriate adjustments the Department may make, in order to issue a tentative settlement to reimburse the FOHC for any underpayment or recover overpayment for the fiscal period to be settled. (6-1-99)T

02. Audited Cost Report. Within thirty (30) days after each provider's audited cost report is finalized by the Department's agent, the Department shall reimburse a FOHC for any underpayments or recover any overpayments made for the fiscal period represented in the audited report. (6-1-99)T

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.06.08 - RULES AND MINIMUM STANDARDS FOR DUI EVALUATORS
DOCKET NO. 16-0608-9901
NOTICE OF PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking. The action is authorized pursuant to Section(s) Title 18, Chapter 80, Section 18-8005(5) and Title 39, Chapter 3, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be held as follows:

June 10, 1999, at 7:00 pm
Little Tree Inn, Teton Room
888 N. Holmes, Idaho Falls

June 17, 1999, at 7:00 pm
Coeur d'Alene Inn, Garnet Room
414 West Appleway Ave., Coeur d'Alene

June 22, 1999, at 7:00 pm
Best Western, Caldwell Inn
908 Specht Ave., Caldwell

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 statement in nontechnical language of the substance of the proposed rules:

Addresses the need to provide sentencing judges, DUI education providers, Department of Health and Welfare approved treatment facilities, and DUI offenders increased quality, uniformity, and consistency in alcohol and drug assessments. The proposed rule increases the minimum qualification standards for DUI evaluators, implements peer review and quality improvement standards, establishes an Advisory Board to work with the Department on monitoring issues.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rules, contact Decker Sanders at 334-5934.

Anyone can submit written comments regarding this rulemaking. All written comments and data concerning the rule must be directed to the undersigned and delivered on or before June 23, 1999.

DATED this 2nd day of June, 1999.

Sherri Kovach
Administrative Procedures Coordinator
DHW - Legal Services Division
450 West State Street - 10th Floor
P.O. Box 83720
Boise, Idaho 83720-0036
(208) 334-5564 phone; (208) 334-5548 fax

THE FOLLOWING IS TEXT OF DOCKET NO. 16-0608-9901

000. LEGAL AUTHORITY.

Under authority vested in the Idaho State Board of Health and Welfare by Title 18, Chapter 80, Section 18-8005(5) and by Title 39, Chapter 3, Idaho Code, the Board adopts the following rules for a DUI evaluators in the state of Idaho. (12-31-91)()

001. TITLE AND SCOPE.

01. Title. These rules are to be cited in full as Idaho Department of Health and Welfare Rules, IDAPA 16.06.08, "Rules and Minimum Standards for DUI Evaluators". (12-31-91)()

042. Setting Rules Scope. It is the purpose of these rules to establish minimum standards for the approval, issuance, renewal, denial, suspension and/or revocation of the approval of a DUI evaluator license, to establish licensing fees charged by the Department for evaluators applicants seeking approval, evaluators seeking renewal, and to set forth rules for conducting evaluations to be conducted by the licensed evaluators. (3-10-88)()

023. Approved Services. DUI evaluators applications shall be considered by the Department, pursuant to these rules, and regulations to provide DUI evaluations of persons who plead guilty to, or are found guilty of, a violation of Section 18-8004 or Section 18-8006, Idaho Code. (3-10-88)()

996002. ADMINISTRATIVE PROVISIONS APPEALS.

Contested case appeals shall be governed by Idaho Department of Health and Welfare Rules, IDAPA 16.05.03, Sections 0600, et seq., "Rules Governing Contested Cases and Declaratory Rulings". (12-31-91)()

~~002. -- 004.~~ (RESERVED).

~~005.~~ PURPOSE.

~~0063. -- 099.~~ (RESERVED).

100. DEFINITIONS.

01. Department. The state of Idaho Department of Health and Welfare. (12-31-91)

02. Director. The Director of the state of Idaho Department of Health and Welfare or his designee. (12-31-91)

03. DUI. Driving while under the influence of alcohol, drugs or intoxicating substances. (12-31-91)

04. DUI Evaluation. The process of obtaining information in order to determine the nature and the extent of the offender's use of alcohol or drugs and to recommend appropriate services. (12-31-91)

05. Licensed DUI Evaluator. The licensed person qualified to provide diagnostic impression, assessment, or evaluation services to DUI offenders in the state of Idaho. For the purposes of these rules and regulations, an approved licensed DUI evaluator may constitute a facility. (12-31-91)()

06. Licensee. The person who has been approved and issued a license pursuant to Subsection 200.02. (12-31-91)

07. Licensing Agency. The state of Idaho Department of Health and Welfare. (12-31-91)

08. Operating License. A one (1) year license issued by the licensing agency to DUI evaluators complying with these rules. (12-31-91)

09. Peer Review. The process by which all DUI evaluators submit samples of their evaluations for an annual quality assurance review by a team of DUI evaluators and Substance Abuse Program staff. ()

10. Quality Assurance. The combination of technical and peer reviews of evaluations conducted by a licensed DUI evaluator to assure the evaluations consistently meet minimum standards. ()

~~0911.~~ **Substance Abuse Related Continuing Education.** Department approved Course work from an accredited university or college in alcohol and drug abuse studies, social work, psychology, or counseling and guidance; workshops or seminars on the subjects of alcohol and drug evaluation, treatment or prevention issues sponsored by state licensed facilities, state or federal government or other accredited educational institutions. (12-31-91)()

12. Substance Related Violation. Any withheld judgment or conviction in which substance use is identified as a contributing factor. ()

13. Technical Review. The process of evaluating the accuracy, legibility, appropriateness, and completeness of Department required forms and reporting formats used during DUI evaluations. ()

(BREAK IN CONTINUITY OF SECTIONS)

200. LICENSURE.

01. Application For An ~~Initial~~ Operating License. An individual seeking approval as a DUI Evaluator must submit a completed application on forms provided by the Department, accompanied by the documents noted in Subsection 400.02. In addition, the applicant must submit a statement of fees to be charged for services and an application fee of twenty-five dollars (\$25). (12-31-91)()

a. An individual who desires to be approved as a DUI evaluator must submit a completed application to the Department on forms provided by the Department, along with an application fee of twenty-five dollars (\$25). (3-10-88)

b. The application must be accompanied by those documents noted in Subsection 400.01. (12-31-91)

e. The applicant must submit a statement of the fees to be charged for services. (3-10-88)

02. Application Review And Issuance Of Operating License. The Department must initiate a review including an investigation within fifteen (15) days of receipt of the forms, documents, and fee described in Subsection 200.01. The result of the review as to whether an applicant has complied with this chapter must be rendered within forty-five (45) days from the date of receipt. The Department will arrange testing for applicants found to have complied with this chapter. Upon successful completion of testing, the Department will issue an operating licence. (3-10-88)()

a. Upon receipt of the completed application, the Department will review and determine within fifteen (15) days if the application complies with these rules. (1-1-84)

b. An investigation of the applicant may be conducted within fifteen (15) days of receipt of the application. (3-10-88)

e. If the application review and subsequent investigation is conducted and shows the applicant satisfactorily complies with this chapter, the Department will issue an operating license. (12-31-91)

i. ~~The license will be in effect for a period not to exceed one (1) year. The license will apply only to the person named therein and is not transferable. No license will be renewed, except as provided by Subsection 200.03.~~ (12-31-91)

ii. The license must be posted in a conspicuous location for client observation. (3-10-88)

03. License Period, Posting Requirement, And Notification Of Changes. The license, unless suspended or revoked, will be in effect for a period not to exceed one (1) calendar year from the date of issue printed on the license. The license will apply only to the person named therein and is not transferable. The license must be posted in a conspicuous location for client observation. The Department shall be notified by a licensee in writing of any changes in address, phone number or fees within thirty (30) days. (3-10-88)()

04. Expiration And Renewal Of License. No license will be renewed, except as provided in Subsections 200.04 and 400.04. (3-10-88)()

a. ~~Each license to operate as a DUI evaluator will, unless suspended or revoked, expire on June 30 of each year.~~ (3-10-88)

ba. At least sixty (60) days prior to the expiration of the license, the licensee will apply for a renewal of the license on forms provided by the Department. The application shall be accompanied by a twenty-five dollar (\$25) renewal fee payable to the Department. (3-10-88)

eb. The licensee must attend a minimum of ~~six~~ twelve (12) hours of substance abuse related continuing education ~~per~~ each year, and will provide verification of attendance with the renewal application. (3-10-88)()

ec. Following the application review, the licensee meeting the requirements of this chapter, will have their licenses renewed for a period not to exceed one (1) year. (3-10-88)

05. Denial, Suspension Or Revocation Of License. The Department may deny, suspend or revoke the license of a DUI evaluator for any of the following reasons: (3-10-88)

a. If ~~the an~~ applicant has ~~been convicted of a~~ DUI substance-related violation within the past year. (3-10-88)()

b. If ~~the a~~ licensee ~~has is~~ convicted of a DUI substance-related violation, the license shall be revoked for a period of ~~one~~ two (2) years. (3-10-88)()

c. If the licensee has failed to comply with any portion of this chapter. (12-31-91)()

d. If the licensee demonstrates a conflict of interest by providing both the DUI evaluation and treatment or by referring the client to the licensee's employer or business associate, unless this requirement is waived in writing by the sentencing court. (9-14-90)()

e. If there has been a criminal, civil, or administrative determination that the licensee has committed misrepresentation in the preparation of the application or other documents required by the Department. (3-10-88)

f. If there has been a criminal, civil, or administrative determination that the licensee has committed fraud or gross negligence while operating as a licensed DUI evaluator. (3-10-88)

g. If ~~the an~~ applicant or licensee has been convicted of a felony within the past three (3) years. (3-10-88)()

h. If there has been a criminal, civil, or administrative determination that the licensee has committed, permitted, or aided and abetted the commission of any illegal act while ~~operating as~~ holding a DUI Evaluator licensed alcohol and drug abuse evaluator. (1-1-84)()

i. If the licensee demonstrates inadequate knowledge and/or performance by repeatedly recommending treatment programs for clients determined by review not to need treatment programs substandard peer and quality assurance reviews. (1-1-84)()

j. If the licensee fails to furnish any data, information or records as requested. (3-10-88)

k. If the licensee refuses or fails to participate in the peer review and quality assurance process.()

l. If the licensee was first issued an operating license prior to June 30, 2000 and fails to meet minimum qualification standards within the sunset provision under Section 400.04. ()

m. Upon a second revocation, no further licenses shall be issued. ()

06. Notice And Hearing. The Department must give the licensee notice of intent to suspend, deny, or revoke approval, the right to appeal in accordance with the provisions of Idaho Department of Health and Welfare Rules, IDAPA 16.05.03, Sections ~~3600~~, et seq., "Rules Governing Contested Cases and Declaratory Rulings". (12-31-91)()

07. Return Of License. The DUI evaluator license is the property of the state of Idaho and must be returned to the Department immediately upon the denial, suspension, or revocation of the license, or if the operation is discontinued by the voluntary action of the licensee. (3-10-88)

(BREAK IN CONTINUITY OF SECTIONS)

400. QUALIFICATIONS.

01. Qualifications Of Staff. In order for the applicant to be licensed as a DUI evaluator, the applicant shall meet the following criteria: (3-10-88)

a. ~~Is a currently licensed medical physician; or~~ Six (6) months documented professional experience in which a minimum of thirty (30) hours per week were spent in the performance of alcohol/drug evaluation or treatment; and (3-10-88)()

b. ~~Is a Level II Certified Alcohol and Drug Counselor certified by the Idaho Board of Alcohol/Drug Counselor Certification; or~~ Holds a baccalaureate or higher degree in an allied health field; or (3-10-88)()

c. ~~Has passed the Substance Abuse Program's DUI examination for DUI evaluators; and~~ Is a Certified Addictions Counselor as issued through the Idaho Board of Alcohol and Drug Counselor's Certification; or (3-10-88)()

i. ~~Is a graduate from an accredited college or university with a baccalaureate degree in social or health sciences; or~~ (3-10-88)

ii. ~~Has three (3) years of directly supervised or supervisory work experience in a social service or alcohol/drug evaluation or treatment program for a minimum of thirty (30) hours per week.~~ (3-10-88)

d. Is a Licensed or Certified Social Worker; or ()

e. Is a Licensed Professional Counselor. ()

f. Applicants must successfully complete the competency-based DUI Evaluator examination. ()

02. Documentation. The application submitted to the Department for licensure as a DUI evaluator shall be accompanied by: (3-10-88)

a. ~~A current copy of the physician's medical license; or~~ A certified copy of all college transcripts; professional licenses or certifications. (3-10-88)(____)

b. ~~A current copy of the Level II Certified Alcohol and Drug Counselor certificate; or~~ (3-10-88)

e. ~~A certified copy of college transcripts verifying graduation from a college or university with a baccalaureate degree in social or health sciences; or~~ (3-10-88)

~~dh.~~ A detailed employment history showing dates and hours per week of employment experience in a social service or alcohol/drug evaluation or treatment program, the name of the program, the name of the direct supervisor, and the nature of the duties performed. (3-10-88)(____)

03. Written Test Examination. The ~~written test examination~~ required by Subsection 400.01 ~~df.~~ shall be administered a minimum of twice per year ~~by~~ under the direction of the Department at times and locations to be announced by the Department. (12-31-91)(____)

04. Sunset Provision. Licensees issued an operating license prior to June 30, 2000 must meet minimum qualification standards set in Subsection 400.01 before June 30, 2003. This includes educational and examination requirements. Licensees qualifying under this provision will provide verification on progress toward meeting the minimum education and examination standards with their annual application for renewal. (____)

(BREAK IN CONTINUITY OF SECTIONS)

500. DUI EVALUATIONS.

01. Record System. The DUI evaluator must maintain a record system of client files for a minimum of three (3) years. Client files will minimally include the written evaluation and supporting documents ~~stated identified~~ in Subsections 500.02 and 500.03. (12-31-91)(____)

02. Individual DUI Evaluation. The DUI evaluation conducted by the licensee shall be composed of the minimum following items: (3-10-88)

a. ~~The client reported citations and final dispositions of previous arrests for DUI, reckless driving offenses, inattentive driving, verified by the Idaho Department of Law Enforcement. Face sheet. All DUI evaluations shall have a one (1) page typed summary sheet attached to the report consistent with Idaho Supreme Court Misdemeanor Criminal Rule 9.4.~~ (12-31-91)(____)

b. ~~Documentation of the client's blood alcohol content at the time of the current arrest and previous arrests within the last five (5) years. Evaluation report. All DUI evaluations shall conform to Idaho Supreme Court Misdemeanor Criminal Rule 9.4.~~ (3-10-88)(____)

e. Any reported refusal to take a breath or blood test. (3-10-88)

d. ~~Previous attendance at driving schools, court ordered alcohol schools or detoxification, inpatient, intermediate or outpatient treatment for problem drinking, alcoholism, or drug abuse (including information regarding success/failure of prior programs).~~ (3-10-88)

e. A description of the client's use of alcohol and/or other drugs and the extent to which alcohol or drugs have contributed to the development of problems within the client's major life areas, including: (3-10-88)

i. Family; (1-1-84)

ii. Social; (1-1-84)

- iii. Financial; (1-1-84)
 - iv. Job—School; (1-1-84)
 - v. Legal; and (1-1-84)
 - vi. Health. (1-1-84)
 - f. Psychological testing is not a required evaluation procedure. (3-10-88)
 - g. Prior record as required by defendant. (3-10-88)
 - h. Defendant's version of current incident. (3-10-88)
 - i. Results of evidentiary tests as reported by defendant. (3-10-88)
 - j. Results and explanation of any tests administered by the evaluator. (3-10-88)
 - k. Defendant's self-assessment. (3-10-88)
- ~~03. Report To The Court.~~ With the written consent of the client, the final report shall be submitted to the court in accordance with the format contained in Department form HW-0344. (12-31-91)
- 043. Distribution Of The DUI Evaluation.** (3-10-88)
- a. With the client's written consent, the evaluator will forward the original evaluation directly to the court. (3-10-88)
 - b. The defendant shall be provided with a copy of the DUI evaluation. (3-10-88)
 - c. The DUI evaluator is prohibited from releasing the evaluation to anyone other than the court and the defendant Department for the purposes of compliance inspection and peer review without the written authorization of the defendant. (3-10-88)()
 - d. One (1) copy of the original evaluation, including all supporting documentation and associated Department required forms, must be maintained in the licensee's files. ()
 - e. Photocopies of evaluations required for peer review and quality assurance will have personal identification data rendered illegible and replaced by the client number. ()

(BREAK IN CONTINUITY OF SECTIONS)

601. -- 995699. (RESERVED).

700. QUALITY ASSURANCE, PEER AND TECHNICAL REVIEW.

The Department shall develop policies concerning the composition of peer review teams, standardized assessment tools, standardized formats, scoring scales, and recommendations for quality and performance improvements. ()

701. -- 799. (RESERVED).

800. ADVISORY BOARD.

The Department shall convene an advisory board. The advisory board consists of members from the community and

the Department. The board will provide feedback on program performance and suggestions for program improvement. The board will meet at least quarterly and provide minutes of all meetings to the State Substance Abuse Executive Council. ()

801. -- 996. (RESERVED).

IDAPA 31 - IDAHO PUBLIC UTILITIES COMMISSION

31.61.01 - THE MOTOR CARRIER RULES

DOCKET NO. 31-6101-9901

NOTICE OF LEGISLATIVE ACTION

**RELATING TO THE REPEAL AND TRANSFER OF THE MOTOR CARRIER RULES FROM THE
IDAHO PUBLIC UTILITIES COMMISSION TO THE IDAHO TRANSPORTATION
DEPARTMENT AND THE DEPARTMENT OF LAW ENFORCEMENT**

EFFECTIVE DATE: On July 1, 1999, the Public Utilities Commission's statutory authority over motor carriers and its authority to promulgate rules pertaining to motor carriers will expire.

AUTHORITY: In compliance with House Bill 335, as amended (1999 Sess. Laws ch. 383), notice is hereby given that the regulation of motor carriers formerly vested in the Public Utilities Commission is being transferred to the Idaho Transportation Department and the Idaho Department of Law Enforcement.

DESCRIPTIVE SUMMARY: The following is a summary for the reasons for the repeal and transfer of rules:

On March 26, 1999, the Governor signed into law House Bill 335, as amended (1999 Sess. Laws ch. 383). In essence, the bill transfers regulatory authority over motor carriers operating within the state of Idaho from the Idaho Public Utilities Commission to the Idaho Transportation Department (ITD) and the Idaho Department of Law Enforcement (DLE), respectively. Section 13 of the bill repeals the Idaho Motor Carrier Act found at Sections 61-801 through 61-818, Idaho Code. Consequently, the Commission's Motor Carrier Rules found at IDAPA 31.61.01—except those rules transferred to ITD—are repealed effective July 1, 1999.

To facilitate the transfer of regulatory functions, certain rules shall be transferred to ITD. As set out in the table below, the following rules shall remain effective and are being transferred to the ITD (IDAPA 39) effective July 1, 1999:

Commission Rule Section No.	Name of Rule Section	ITD Rule Section No.
31.61.01.005.02	Definition of Common Carrier	39.02.80.010.01
31.61.01.005.03	Definition of Contract Carrier	39.02.80.010.02
31.61.01.005.05	Definition of Interstate Carrier	39.02.80.010.03
31.61.01.005.10	Definition of Private Carrier	39.02.80.010.04
31.61.01.021	Insurance Requirements	39.02.80.020
31.61.01.022	Certificates of Insurance	39.02.80.021

Any Motor Carrier Rule not transferred is repealed on July 1, 1999. Please see the ITD and DLE Notices contained in this Bulletin.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the repeal and transfer of rules, contact Donald L. Howell, II, Deputy Attorney General, at (208) 334-0312.

DATED at Boise, Idaho, this 21st day of April, 1999.

Myrna J. Walters, Secretary
Idaho Public Utilities Commission
PO Box 83720
Boise, ID 83720-0074
(208) 334-0338
(208) 334-3762 (FAX)

IDAPA 35 - STATE TAX COMMISSION
35.01.03 - PROPERTY TAX ADMINISTRATIVE RULES
DOCKET NO. 35-0103-9901
NOTICE OF TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: This temporary rule is effective January 1, 1999.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) 63-105A and 63-3624, 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 June 16, 1999.

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 non-technical explanation of the substance and purpose of the proposed rulemaking:

Property Tax Rule 809. This rule is being promulgated to clarify that taxing districts do not invalidate the levy of the taxing district solely by failing to notify county clerks of budget hearing date and location by April 30.

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

Statutory timing of the program requires the rule be adopted as a temporary rule.

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

Not Applicable.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because changes to the amounts of circuit breaker are the result of mathematical calculations that are not amenable to negotiation.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Alan Dornfest at (208) 334-7530.

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 June 23, 1999.

DATED this 21st day of April, 1999.

Alan Dornfest, Tax Policy Specialist Supervisor
State Tax Commission
800 Park, Plaza IV, P.O. Box 36
Boise, ID 83722
Phone: 334-7530/FAX: (208) 334-7844

THE FOLLOWING IS TEXT OF DOCKET NO. 35-0103-9901

803. -- ~~961~~808. (RESERVED).

809. UNAUTHORIZED LEVY (RULE 809).

Effective January 1, 1999, no levy of any taxing district shall be considered unauthorized or in excess of the maximum provided by law solely for failure of the taxing district to comply with the requirements of Section 63-802A, Idaho Code. (1-1-99)

810. -- 961. (RESERVED).

IDAPA 39 - DEPARTMENT OF TRANSPORTATION
39.02.80 - RULES GOVERNING MOTOR CARRIER FINANCIAL RESPONSIBILITY
DOCKET NO. 39-0280-9901
NOTICE OF TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: This temporary rule is effective July 1, 1999.

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 regular rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) 49-1233(5), 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 June 16, 1999.

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:

House Bill 335aa, amends existing law to transfer regulatory authority over motor carriers operating within the state of Idaho from the Idaho Public Utilities Commission to the Idaho Transportation Department and the Department of Law Enforcement.

This notice, in accordance with Section 67-5203, Idaho Code, complies with the Legislative intent of House Bill 335aa, by transferring the authority of the affected chapters of rules from the Idaho Public Utilities Commission to the Idaho Transportation Department.

Repealed RuleSection:	Replaced With Rule Section:
IDAPA 31.61.005.02 Definition of Common Carrier	IDAPA 39.02.80.010.01 Definition of Common Carrier
IDAPA 31.61.005.03 Definition of Contract Carrier	IDAPA 39.02.80.010.02 Definition of Contract Carrier
IDAPA 31.61.005.05 Definition of Interstate Carrier	IDAPA 39.02.80.010.06 Definition of Interstate Carrier
IDAPA 31.61.005.10 Definition of Private Carrier	IDAPA 39.02.80.010.07 Definition of Private Carrier
IDAPA 31.61.021.01 through .08 Insurance Requirements	IDAPA 39.02.80.020.01 through .05 Insurance Requirements
IDAPA 31.61.022.01 through .05 Certificates of Insurance	IDAPA 39.02.80.021.01 through .03 Certificates of Insurance

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

Compliance with implementation of HB335aa.

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

NEGOTIATED RULE-MAKING: Pursuant to IDAPA 04.11.01.811, negotiated rule-making was not conducted because rule-making is in compliance with legislative action.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Herb Kinney at (208) 334-8608.

Anyone may submit written comments regarding this temporary and proposed rule-making. All written comments must be directed to the undersigned and must be delivered on or before June 23, 1999.

DATED this 21st day of April, 1999.

Linda L. Emry, Administrative Assistant
Budget, Policy, Intergovernmental Relations
Idaho Transportation Department
3311 West State Street
P O Box 7129
Boise ID 83707-1129
Phone – 208-334-8810 / FAX – 208-334-8195

THE FOLLOWING IS TEXT OF DOCKET NO. 39-0280-9901

IDAPA 39
TITLE 02
Chapter 80

RULES GOVERNING MOTOR CARRIER FINANCIAL RESPONSIBILITY

000. LEGAL AUTHORITY.

This rule is adopted under the authority of Section 49-1233(5) Idaho Code. (7-1-99)T

001. TITLE AND SCOPE.

01. Title. This rule shall be known as IDAPA 39.02.80, "Rules Governing Motor Carrier Financial Responsibility," IDAPA 39, Title 02, Chapter 80. (7-1-99)T

02. Scope. It is the purpose of this rule to establish the amount of liability coverage to be carried by motor carriers for personal injury suffered by one (1) person while being transported in a vehicle, any additional amounts for all persons receiving personal injury, and such amount for damage to the property of any person other than the insured. (7-1-99)T

002. INCORPORATION BY REFERENCE.

The Idaho Transportation Board incorporates by reference 49 CFR 171.8, 49 CFR 172.101 and its appendix, 49 CFR 173.403, 49 CFR 387 and 49 CFR 387.5, published in the Code of Federal Regulations volume dated October 1, 1997. (7-1-99)T

003. -- 009. (RESERVED).

010. DEFINITIONS.

01. Common Carrier. Any person that holds itself out to the general public to engage in the transportation by motor vehicle in commerce in the state of Idaho of passengers or property for compensation. (7-1-99)T

02. Contract Carrier. Any person that, under individual contracts or agreements, engages in the transportation by motor vehicle of passengers or property in commerce in the state of Idaho for compensation. (7-1-99)T

03. Environmental Restoration. Restoration for the loss, damage, or destruction of natural resources arising out of the accidental discharge, dispersal, release or escape into or upon the land, atmosphere, watercourse, or body of water of any commodity transported by a motor carrier. This shall include the cost of removal and the cost of necessary measures taken to minimize or mitigate damage to human health, the natural environment, fish, shellfish, and wildlife. See 49 CFR 387.5. (7-1-99)T

04. Hazardous Material. A substance or material, that has been determined by the Secretary of Transportation to be capable of posing an unreasonable risk to health, safety, and property when transported in commerce, and which has been so designated. The term includes hazardous substances, hazardous wastes, marine pollutants, and elevated temperature materials and materials designated as hazardous under the provisions of 49 CFR 172.101, and materials that meet the defining criteria for hazard classes and divisions in 49 CFR 173. See 49 CFR 171.8. (7-1-99)T

05. Injury. Harm to the body, sickness, or disease resulting from a motor carrier accident, including death from an injury. (7-1-99)T

06. Interstate Carrier. Any person who or which owns or operates any motor vehicle in the state of Idaho or on the highways of the state of Idaho, in commerce between the States, or between the States and a foreign Nation, used or maintained for the transportation of persons or property. (7-1-99)T

07. Private Carrier. Any person not included in the terms "common carrier" or "contract carrier" who or which transports in commerce in the state of Idaho by motor vehicle property of which such person is the owner, lessee, or bailee, when such property is for the purpose of sale, lease, rent or bailment, or in the furtherance of any commercial enterprise; provided, that a motor vehicle of a private carrier, not in excess of eight thousand (8,000) pounds gross vehicle weight, not engaged in the transport of a hazardous substance, shall be exempt from the provisions of the Motor Carrier Financial Responsibility Rules. (7-1-99)T

08. Property Damage. Damage to or loss of use of tangible property. (7-1-99)T

011. -- 019. (RESERVED).

020. INSURANCE REQUIREMENTS.

01. Insurance Required. No motor carrier subject to the jurisdiction of the Department may transport property or passengers until the carrier has obtained and has in effect the minimum levels of insurance or a surety bond set forth in this rule. (7-1-99)T

02. Passenger Carriers. The minimum levels of insurance or surety bond coverage (for injury, death, or property damage) in any one (1) accident for common/contract passenger carriers are: (7-1-99)T

a. For any vehicle with a seating capacity of twenty-five (25) passengers or more -- five million dollars (\$5,000,000); (7-1-99)T

b. For any vehicle with a seating capacity of twenty-four (24) passengers or less -- one million, five hundred thousand (\$1,500,000). (7-1-99)T

03. Property Carriers--Certain Risky Or Perilous Cargoes. The minimum levels of insurance or surety bond coverage (for injury, death, environmental restoration, or property damage in any one accident) for common and contract property carriers are: (7-1-99)T

- a. Five million dollars (\$5,000,000) for carriers of: (7-1-99)T
 - i. Any quantity of Division 1.1, 1.2, or 1.3; (7-1-99)T
 - ii. Any quantity of Division 2.3, Hazardous Zone A, or Division 6.1, Packing Group 1, Hazardous Zone A; (7-1-99)T
 - iii. Highway route controlled quantity of Class 7 material as defined in 49 CFR 173.403; (7-1-99)T
 - iv. Hazardous substances, as defined in 49 CFR 171.8, transported in cargo tanks, portable tanks, or hopper-type vehicles with capacities in excess of three thousand, five hundred (3,500) water gallons; (7-1-99)T
 - v. Division 2.1 or 2.2 in bulk; (7-1-99)T
- b. One million dollars (\$1,000,000) for carriers of: (7-1-99)T
 - i. Oil listed in 49 CFR 172.101; or (7-1-99)T
 - ii. Hazardous waste, hazardous materials or hazardous substances as defined in 49 CFR 171.8 and listed in 49 CFR 172.101 or its Appendix, but not mentioned in Subsection 020.03.a. (7-1-99)T

04. Other Property Carriers. The minimum level of insurance or surety bond coverage (for injury, death or property damage in any one accident) for common and contract carriers of all other property (including drive away and tow away units transported by the carrier) is seven hundred fifty thousand dollars (\$750,000). (7-1-99)T

05. Private Carriers. Private carriers must maintain the insurance required by Section 49-1229, Idaho Code, except private carriers transporting certain risky or perilous cargoes described in Subsection 020.03 must carry insurance as required by that Subsection. (7-1-99)T

021. CERTIFICATES OF INSURANCE.

01. Filing. Common/contract carriers and interstate carriers who participate in the base state agreement by registering in Idaho as their base state must file with the Department certificates that the insurance or bond described by the certificate of insurance and required by Section 020 is in effect for the account of the motor carrier. (7-1-99)T

02. Forms. The certificates for intrastate common/contract carriers must be either Form E, Form E-1 (available from the Department) or W.C. 3091 that is completed and signed by the insurance company's underwriting department or its authorized representative. For interstate carriers registered under the single state registration system the federal forms authorized by the U.S. Department of Transportation as set forth in Subpart C of 49 CFR 387. Surety bonds must be completed on a form provided by the Department. The Administrator of the Division of Motor Vehicles may prescribe additional forms as necessary. (7-1-99)T

03. Coverage. Policies of insurance and surety bonds required and filed with the Department under IDAPA 39.02.80, "Rules Governing Motor Carrier Financial Responsibility," remain in effect as described on the certificate filed with the Department until terminated according to Section 49-1233(3), Idaho Code. When certificates of insurance on file with the Department show that insurance has lapsed, the Department shall refuse to renew the carrier's vehicle registrations or shall revoke the carrier's motor vehicle registrations under the authority of Section 49-202(10)(12), Idaho Code. (7-1-99)T

022. -- 999. (RESERVED).

IDAPA 39 - DEPARTMENT OF TRANSPORTATION

39.03.01 - RULES GOVERNING DEFINITIONS

DOCKET NO. 39-0301-9801

NOTICE OF FINAL RULE

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency is publishing a final rule.

DESCRIPTIVE SUMMARY: The following is a statement in non-technical language of the substance of the final rule.

Pursuant to SCR 112, the 1999 Legislature has rejected the proposed repeal of the above named docket. Therefore, the text will revert back to its original form, prior to the repeal action.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this final rule, contact Regina Phipps, 334-8418.

DATED this 21st day of April, 1999.

Linda L. Emry, Administrative Assistant
Office of Budget, Policy, Intergovernmental Relations
Idaho Transportation Department
P. O. Box 7129
Boise ID 83707-1129
Phone: 208-334-8810
FAX: 208-334-8195

**IDAPA 39 - DEPARTMENT OF TRANSPORTATION
39.03.01 - RULES GOVERNING PERMITTED OVERLEGAL
VEHICLES AND/OR LOADS**

DOCKET NO. 39-0301-9802

NOTICE OF FINAL RULE

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency is publishing a final rule.

DESCRIPTIVE SUMMARY: The following is a statement in non-technical language of the substance of the final rule.

Pursuant to SCR 112, the 1999 Legislature has rejected the proposed repeal of the above named docket. Therefore, the text will revert back to its original form, prior to the repeal action.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this final rule, contact Regina Phipps, 334-8418.

DATED this 21st day of April, 1999.

Linda L. Emry, Administrative Assistant
Office of Budget, Policy, Intergovernmental Relations
Idaho Transportation Department
P. O. Box 7129
Boise ID 83707-1129
Phone: 208-334-8810
FAX: 208-334-8195

IDAPA 39 - DEPARTMENT OF TRANSPORTATION
39.03.05 - RULES GOVERNING VARIABLE LOAD SUSPENSION AXLES
DOCKET NO. 39-0305-9801
NOTICE OF FINAL RULE

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency is publishing a final rule.

DESCRIPTIVE SUMMARY: The following is a statement in non-technical language of the substance of the final rule.

Pursuant to SCR 112, the 1999 Legislature has rejected the proposed repeal of the above named docket. Therefore, the text will revert back to its original form, prior to the repeal action.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this final rule, contact Regina Phipps, 334-8418.

DATED this 21st day of April, 1999.

Linda L. Emry, Administrative Assistant
Office of Budget, Policy, Intergovernmental Relations
Idaho Transportation Department
P. O. Box 7129
Boise ID 83707-1129
Phone: 208-334-8810
FAX: 208-334-8195

IDAPA 39 - DEPARTMENT OF TRANSPORTATION
39.03.06 - RULES GOVERNING ALLOWABLE VEHICLE SIZE
DOCKET NO. 39-0306-9801
NOTICE OF FINAL RULE

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency is publishing a final rule.

DESCRIPTIVE SUMMARY: The following is a statement in non-technical language of the substance of the final rule.

Pursuant to SCR 112, the 1999 Legislature has rejected the proposed repeal of the above named docket. Therefore, the text will revert back to its original form, prior to the repeal action.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this final rule, contact Regina Phipps, 334-8418.

DATED this 21st day of April, 1999.

Linda L. Emry, Administrative Assistant
Office of Budget, Policy, Intergovernmental Relations
Idaho Transportation Department
P. O. Box 7129
Boise ID 83707-1129
Phone: 208-334-8810
FAX: 208-334-8195

IDAPA 39 - DEPARTMENT OF TRANSPORTATION
39.03.07 - RULES GOVERNING RESTRICTED ROUTES FOR SEMITRAILERS
DOCKET NO. 39-0307-9801
NOTICE OF FINAL RULE

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency is publishing a final rule.

DESCRIPTIVE SUMMARY: The following is a statement in non-technical language of the substance of the final rule.

Pursuant to SCR 112, the 1999 Legislature has rejected the proposed repeal of the above named docket. Therefore, the text will revert back to its original form, prior to the repeal action.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this final rule, contact Regina Phipps, 334-8418.

DATED this 21st day of April, 1999.

Linda L. Emry, Administrative Assistant
Office of Budget, Policy, Intergovernmental Relations
Idaho Transportation Department
P. O. Box 7129
Boise ID 83707-1129
Phone: 208-334-8810
FAX: 208-334-8195

IDAPA 39 - DEPARTMENT OF TRANSPORTATION
39.03.08 - RULES GOVERNING PREQUALIFICATION OF VARIABLE LOAD
SUSPENSION AXLES AND OTHER AUXILIARY AXLES

DOCKET NO. 39-0308-9801

NOTICE OF FINAL RULE

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency is publishing a final rule.

DESCRIPTIVE SUMMARY: The following is a statement in non-technical language of the substance of the final rule.

Pursuant to SCR 112, the 1999 Legislature has rejected the proposed repeal of the above named docket. Therefore, the text will revert back to its original form, prior to the repeal action.

Changes to the original text are being promulgated in a new Temporary Rule, which can be viewed following this notice in Docket No. 39-0308-9901.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this final rule, contact Regina Phipps, 334-8418.

DATED this 21st day of April, 1999.

Linda L. Emry, Administrative Assistant
Office of Budget, Policy, Intergovernmental Relations
Idaho Transportation Department
P. O. Box 7129
Boise ID 83707-1129
Phone: 208-334-8810
FAX: 208-334-8195

IDAPA 39 - DEPARTMENT OF TRANSPORTATION
39.03.08 - RULES GOVERNING PREQUALIFICATION OF VARIABLE LOAD
SUSPENSION AXLES AND OTHER AUXILIARY AXLES

DOCKET NO. 39-0308-9901

NOTICE OF TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: These temporary rules are effective October 1, 1997.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) 49-1001, 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 June 16, 1999.

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

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

The proposed amendment will allow Port of Entry inspectors to weigh prequalified variable load suspension axles if they have reason to believe that the axle is overweight or is not carrying sufficient weight for the group of axles. The amendment was recommended by the U.S. Attorney and the Federal Office of Motor Carrier.

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

This rule must be amended to meet Federal certification requirements. Non-compliance could result in a 10% withholding of Idaho's federal aid highway funds.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the rule was amended to comply with established federal certification requirements.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Steven Parry, 208-334-8814.

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 June 23, 1999.

DATED this 21st day of April, 1999.

Linda L. Emry, Administrative Assistant
Budget, Policy, Intergovernmental Relations
Idaho Transportation Department
3311 West State Street
P O Box 7129
Boise ID 83707-1129
Phone – 208-334-8810
FAX – 208-334-8195

THE FOLLOWING IS TEXT OF DOCKET NO. 39-0308-9901

001. TITLE AND SCOPE.

~~This rule is necessary to implement certain requirements of Section 49-1001, Idaho Code, with respect to prequalification of variable load suspension axles, and other types of auxiliary axles. (8-25-94)~~

01. Title. This rule shall be cited as IDAPA 39.03.08, "Rules Governing Prequalification of Variable Load Suspension Axles and Other Auxiliary Axles," IDAPA 39, Title 03, Chapter 08. (10-1-97)T

02. Scope. This rule is necessary to implement certain requirements of Section 49-1001, Idaho Code, with respect to prequalification of variable load suspension axles, and other types of auxiliary axles. (10-1-97)T

(BREAK IN CONTINUITY OF SECTIONS)

~~101. -- 999. (RESERVED) REVOCATION OF PREQUALIFICATION OF VARIABLE LOAD SUSPENSION (VLS) AXLES AND OTHER NONLIFTABLE AUXILIARY AXLES.~~

~~If Department personnel have reasonable cause to believe that a prequalified variable load suspension axle or other auxiliary axle is carrying a weight different than is allowed in the prequalification, the weight enforcement official may weigh the variable load suspension axles or other auxiliary axle separate from any other axle in the axle group and separately weigh the other axles in the axle group. If the gross weight of the variable load suspension axle or other auxiliary axle or other axles in the axle group exceeds allowable weights under Section 49-1001, Idaho Code, the port of entry inspector may take appropriate enforcement action. If enforcement action is taken utilizing a platform or full length scale certified to standards established by NIST Handbook 44, the prequalification may be revoked. (10-1-97)T~~

~~102. -- 999. (RESERVED).~~

IDAPA 39 - DEPARTMENT OF TRANSPORTATION
39.03.09 - RULES GOVERNING GENERAL CONDITIONS AND
REQUIREMENTS FOR SPECIAL PERMITS

DOCKET NO. 39-0309-9801

NOTICE OF FINAL RULE

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency is publishing a final rule.

DESCRIPTIVE SUMMARY: The following is a statement in non-technical language of the substance of the final rule.

Pursuant to SCR 112, the 1999 Legislature has rejected the proposed repeal of the above named docket. Therefore, the text will revert back to its original form, prior to the repeal action.

Changes to the original text are being promulgated in a new Temporary Rule, which can be viewed following this notice in Docket No. 39-0309-9901.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this final rule, contact Regina Phipps, 334-8418.

DATED this 21st day of April, 1999.

Linda L. Emry, Administrative Assistant
Office of Budget, Policy, Intergovernmental Relations
Idaho Transportation Department
P. O. Box 7129
Boise ID 83707-1129
Phone: 208-334-8810
FAX: 208-334-8195

IDAPA 39 - DEPARTMENT OF TRANSPORTATION
39.03.09 - RULES GOVERNING OVERLEGAL PERMITS - GENERAL
CONDITIONS AND REQUIREMENTS

DOCKET NO. 39-0309-9901

NOTICE OF TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: This temporary rule is effective March 19, 1999.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules and proposed regular rulemaking 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 June 16, 1999.

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

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rule-making:

Modifies permit requirements to eliminate need for permit when only crossing over state highway.

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

Changes address movement of oversize vehicles and/or loads and the safety requirements that must be met. Required changes will provide for improved industry compliance and promote uniformity in the movement of goods and services between the western states. Confers a benefit.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because this action is taken to reinstate a previously repealed rule. The repeal was rejected by legislative action.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Regina Phipps, 208-334-8418.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before June 23, 1999.

DATED this 21st day of April, 1999.

Linda L. Emry, Administrative Assistant
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IDAPA 39
TITLE 03
Chapter 09

**RULES GOVERNING OVERLEGAL PERMITS - GENERAL CONDITIONS
AND REQUIREMENTS ~~FOR SPECIAL PERMITS~~**

001. TITLE AND SCOPE.

This rule states the general conditions and requirements for special permits. (10-2-89)

01. Title. This rule shall be cited as IDAPA 39.03.09, "Rules Governing Overlegal Permits - General Conditions and Requirements." IDAPA 39, Title 03, Chapter 09. (3-19-99)T

02. Scope. This rule states the general conditions and requirements for overlegal permits. (3-19-99)T

(BREAK IN CONTINUITY OF SECTIONS)

100. RESPONSIBILITY OF ISSUING AUTHORITY.

01. Primary Concerns. The primary concern of the Department, in the issuance of ~~special~~ overlegal permits, shall be the safety and convenience of the general public and the preservation of the highway system. (1-3-92)(3-19-99)T

02. Permit Issuance. The Department shall, in each case, predicate the issuance of a ~~special~~ overlegal permit on a reasonable determination of the necessity and feasibility of the proposed movement. (1-3-92)(3-19-99)T

(BREAK IN CONTINUITY OF SECTIONS)

200. AUTHORITY TO ISSUE PERMITS.

The authority to issue permits on state highways is described in Subsection 200.01. Subsection 200.02 describes the Department's authority to issue ~~special~~ overlegal permits on local jurisdiction highways pursuant to an agreement between the Department and the local highway jurisdictions. (8-25-94)(3-19-99)T

01. Special Overlegal Permit. The ~~special~~ overlegal permit authority of the Department shall cover travel on state highways only and ~~special~~ overlegal permits issued by the Department shall be valid only on completed sections of state highway, described on the permit by route number or otherwise. The right to use county highways or city streets is neither granted nor implied. The ~~special~~ overlegal permit authority of the Department shall include those sections of state highways within corporate limits of cities and towns, but will not include sections of state highways intersecting with local highways, when travel is occurring on the local highway(s). Contractors hauling loads within the limits of state highway construction projects do not require ~~special~~ overlegal permits, but the loads must comply with the weight limits specified in the state highway contract. (8-25-94)(3-19-99)T

02. Authority. ~~Special~~ Overlegal permit authority agreed to by the Department and local highway jurisdiction shall include travel on the local jurisdiction's highways under these rules of this title, IDAPA 39.03.09, "Rules Governing Overlegal Permits - General Conditions and Requirements". (8-25-94)(3-19-99)T

(BREAK IN CONTINUITY OF SECTIONS)

300. OFFICES FOR ISSUANCE OF ~~SPECIAL~~ OVERLEGAL PERMITS.

The Department shall maintain a centralized ~~overlegal~~ permit office at the Department Headquarters, making permits

available by telecopy equipment at the following listed offices and Ports of Entry throughout the State. Permits will be available Monday through Friday, state holidays excluded, from ~~seven o'clock (7:00) a.m. to six o'clock (6:00) p.m.~~ Mountain Time. A map indicating the location of state offices where permits can be obtained is available at the Headquarters Special Overlegal Permit Office, Ports of Entry and the following locations and telephone numbers:
(~~8-25-94~~)(3-19-99)T

- 01. Headquarters**
Idaho Transportation Department
Special Overlegal Permit Office
P.O. Box 7129
3311 West State Street
Boise, Idaho 83707-1129
(208) 334-8420
(~~1-3-92~~)(3-19-99)T
- 02. Idaho Transportation Department, District One**
600 West Prairie
Coeur d'Alene, Idaho 83814-8764
(208) 772-1200
(8-25-94)
- 03. Idaho Transportation Department, District Two**
26th and North and South Highway
Lewiston, Idaho 83501-0837
(208) ~~746-1345~~ 799-5090
(~~8-25-94~~)(3-19-99)T
- 04. Idaho Transportation Department,**
District Three Maintenance Office
15503 Highway 44
Caldwell, Idaho 83606
(208) 459-7429
(8-25-94)
- 05. Idaho Transportation Department,**
District Four Maintenance Office
115 South 550 West
Rupert, Idaho 83350
(208) ~~436-4309~~ 630
(~~8-25-94~~)(3-19-99)T
- 06. Idaho Transportation Department, District Four**
Date Street
Shoshone, Idaho 83352-2028
(208) 886-2411
(8-25-94)
- 07. Idaho Transportation Department, District Five**
South of Pocatello on So. 5th
Pocatello, Idaho 83205-4700
(208) ~~232-4270~~ 239-3300
(~~8-25-94~~)(3-19-99)T
- 08. Idaho Transportation Department, District Six**
206 N. Yellowstone
Rigby, Idaho 83442-0097
(208) 745-7781
(8-25-94)
- 09. Idaho Transportation Department**
District Six Maintenance Office
North of Salmon on US93
Salmon, Idaho 83467
(208) 756-3313
(8-25-94)

IDAPA 39 - DEPARTMENT OF TRANSPORTATION
39.03.10 - RULES GOVERNING WHEN SPECIAL PERMIT IS REQUIRED
DOCKET NO. 39-0310-9801
NOTICE OF FINAL RULE

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency is publishing a final rule.

DESCRIPTIVE SUMMARY: The following is a statement in non-technical language of the substance of the final rule.

Pursuant to SCR 112, the 1999 Legislature has rejected the proposed repeal of the above named docket. Therefore, the text will revert back to its original form, prior to the repeal action.

Changes to the original text are being promulgated in a new Temporary Rule, which can be viewed following this notice in Docket No. 39-0310-9901.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this final rule, contact Regina Phipps, 334-8418.

DATED this 21st day of April, 1999.

Linda L. Emry, Administrative Assistant
Office of Budget, Policy, Intergovernmental Relations
Idaho Transportation Department
P. O. Box 7129
Boise ID 83707-1129
Phone: 208-334-8810
FAX: 208-334-8195

IDAPA 39 - DEPARTMENT OF TRANSPORTATION
39.03.10 - RULES GOVERNING WHEN AN OVERLEGAL PERMIT IS REQUIRED
DOCKET NO. 39-0310-9901
NOTICE OF TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: This temporary rule is effective March 19, 1999.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules and proposed regular rulemaking 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 June 16, 1999.

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:

Modifies permit requirements to allow a wrecker to tow a non-disabled vehicle to the point of disablement, to replace the disabled vehicle.

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

Changes address movement of oversize vehicles and/or loads and the safety requirements that must be met. Required changes will provide for improved industry compliance and promote uniformity in the movement of goods and services between the western states. Confers a benefit.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because this action is taken to reinstate a previously repealed rule. The repeal was rejected by legislative action.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Regina Phipps, 208-334-8418.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before June 23, 1999.

DATED this 21st day of April, 1999.

Linda L. Emry, Administrative Assistant
Budget, Policy, Intergovernmental Relations
Idaho Transportation Department
3311 West State Street
P O Box 7129
Boise ID 83707-1129
Phone – 208-334-8810
FAX – 208-334-8195

THE FOLLOWING IS TEXT OF DOCKET NO. 39-0310-9901

IDAPA 39
TITLE 03
Chapter 10

RULES GOVERNING WHEN ~~SPECIAL~~ AN OVERLEGAL PERMIT IS REQUIRED

001. TITLE AND SCOPE.

This rule lists when a special permit is required and when exemptions and temporary waivers from obtaining special permits are allowable. ~~(12-26-90)~~

01. Title. This rule shall be cited as IDAPA 39.03.10, "Rules Governing When An Overlegal Permit Is Required," IDAPA 39, Title 03, Chapter 10. ~~(3-19-99)T~~

02. Scope. This rule lists when an overlegal permit is required and when exemptions and temporary waivers from obtaining overlegal permits are allowable. ~~(3-19-99)T~~

(BREAK IN CONTINUITY OF SECTIONS)

100. GENERAL.

A ~~special~~ 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 with non-reducible loads which exceed the allowable weights or sizes established in Sections 49-1001, 49-1002 and 49-1010, Idaho Code. ~~(8-24-94)~~(3-19-99)T

(BREAK IN CONTINUITY OF SECTIONS)

200. COMPLIANCE WITH OTHER LAWS AND ORDINANCES.

The ~~special~~ overlegal permit will be effective only insofar as the Department has authority for its issue and does not release the permittee from complying with other existing laws, local ordinances or resolutions which may govern the movement. ~~(8-24-94)~~(3-19-99)T

(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 a ~~special overlegal~~ permit be in the vehicle prior to an over legal movement. Verbal approval to proceed without a ~~special 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 a ~~Special~~ Overlegal Permit must be submitted to the ~~Special~~ Overlegal Permit Office. (~~4-03-92~~)(3-19-99)T

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 ~~Rule~~ 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 a ~~special 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. (~~10-1-94~~)(3-19-99)T

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 ~~Transportation~~ Vehicles. Annual permits or single trip permits will be issued to heavy duty wrecker trucks or other vehicles used for the emergency removal of disabled trucks and/or trailers or combinations and their unladen return, subject to the following rules: (~~8-25-94~~)(3-19-99)T

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 twenty-five thousand (25,000) pounds/single and up to forty-three thousand (43,000) pounds/tandem axle. 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. (8-25-94)

c. Time of travel restrictions shall be waived when necessary to clear the travel way. (10-2-89)

d. Emergency movement of disabled vehicles will be authorized from the point at which the vehicles were disabled to the nearest appropriate commercial site having facilities for adequate repair services and cargo security. Secondary movements shall not be covered by the disabled vehicles permit. Secondary movements shall be required to operate by single trip permit in accordance with ~~Rule~~ IDAPA 39.03.13, "Rules Governing Overweight Permits," and Rule 39.03.16, "Rules Governing Oversize Permits For Non-Reducible Vehicles And/Or Loads," if allowed. (~~8-25-94~~)(3-19-99)T

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. (3-19-99)T

06. 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 an pilot/escort vehicle. All overwidth loads moved after dark shall have the extreme dimensions marked by lights as required by ~~Sections 700 and 800 of Rule~~ 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 paragraph. ~~(8-25-94)~~(3-19-99)T

(BREAK IN CONTINUITY OF SECTIONS)

400. ~~SPECIAL OVERLEGAL PERMITS FOR SELF PROPELLED VEHICLES.~~

Overweight/oversize self propelled vocational vehicles (~~i.e.~~ such as cranes, loaders, motor graders, drills) may tow any vehicle eight thousand (8,000) pounds or less when such vehicle is used solely for return trip after delivery of the permitted vehicle. ~~(8-25-94)~~(3-19-99)T

IDAPA 39 - DEPARTMENT OF TRANSPORTATION
39.03.11 - RULES GOVERNING SPECIAL PERMITTEE RESPONSIBILITY AND
TRAVEL RESTRICTIONS FOR OVERLEGAL LOADS

DOCKET NO. 39-0311-9801

NOTICE OF FINAL RULE

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency is publishing a final rule.

DESCRIPTIVE SUMMARY: The following is a statement in non-technical language of the substance of the final rule.

Pursuant to SCR 112, the 1999 Legislature has rejected the proposed repeal of the above named docket. Therefore, the text will revert back to its original form, prior to the repeal action.

Changes to the original text are being promulgated in a new Temporary Rule, which can be viewed following this notice in Docket No. 39-0311-9901.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this final rule, contact Regina Phipps, 334-8418.

DATED this 21st day of April, 1999.

Linda L. Emry, Administrative Assistant
Office of Budget, Policy, Intergovernmental Relations
Idaho Transportation Department
P. O. Box 7129
Boise ID 83707-1129
Phone: 208-334-8810
FAX: 208-334-8195

IDAPA 39 - DEPARTMENT OF TRANSPORTATION
39.03.11 - RULES GOVERNING OVERLEGAL PERMITTEE RESPONSIBILITY
AND TRAVEL RESTRICTIONS

DOCKET NO. 39-0311-9901

NOTICE OF TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: This temporary rule is effective March 19, 1999.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules and proposed regular rulemaking 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 June 16, 1999.

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

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rule-making:

Modifies hazardous travel restrictions to apply consistently to all vehicles and removing carrier option to apply restriction. Increases maximum length allowed on Interstate for 24-hour travel from 115 feet to 120 feet.

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

Changes address movement of oversize vehicles and/or loads and the safety requirements that must be met. Required changes will provide for improved industry compliance and promote uniformity in the movement of goods and services between the western states. Confers a benefit.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because this action is taken to reinstate a previously repealed rule. The repeal was rejected by legislative action.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Regina Phipps, 208-334-8418.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before June 23, 1999.

DATED this 21st day of April, 1999.

Linda L. Emry, Administrative Assistant
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Idaho Transportation Department
3311 West State Street
P O Box 7129
Boise ID 83707-1129
Phone – 208-334-8810
FAX – 208-334-8195

THE FOLLOWING IS TEXT OF DOCKET NO. 39-0311-9901

IDAPA 39
TITLE 03
Chapter 11

**RULES GOVERNING ~~SPECIAL OVERLEGAL~~ PERMITTEE
RESPONSIBILITY AND TRAVEL RESTRICTIONS**

001. TITLE AND SCOPE.

This rule states the responsibility of the permittee and the travel restrictions for overlegal loads. (10-2-89)

01. Title. This rule shall be cited as IDAPA 39.03.11, "Rules Governing Overlegal Permittee Responsibility And Travel Restrictions," IDAPA 39, Title 03, Chapter 11. (3-19-99)T

02. Scope. This rule states the responsibility of the permittee and the travel restrictions for overlegal loads. (3-19-99)T

(BREAK IN CONTINUITY OF SECTIONS)

100. RESPONSIBILITY OF PERMITTEE.

01. General Responsibilities. The permittee shall determine and declare the gross weight, distribution of weight, and the dimensions of the vehicle and load and shall submit all other required information before issuance of the permit. The acceptance of a ~~special overlegal~~ permit by the permittee is his agreement that the vehicle and load covered by the permit can and will be moved in compliance with the terms and limitations set forth in the permit. When a permit has been accepted by the permittee, such action shall be deemed an unequivocal assurance that he has complied, or will comply with all operating, licensing, and financial responsibility requirements. (8-25-94)(3-19-99)T

02. Permit To Be Carried In Vehicle. (1-3-93)

a. The ~~special overlegal~~ permit must be carried in the vehicle to which it refers during the time of movement and shall upon demand be delivered for inspection to any peace officer or authorized agent of the Idaho Transportation Board or any officer or employee charged with the care and protection of the public highways. The original ITD-217E annual permit must be carried in the vehicle within sixty (60) days of the date of issue. (1-1-90)(3-19-99)T

b. When the route of the permitted vehicle will not pass in the vicinity of a state operated transceiver station, the applicant may complete Form ITD-217-10, APPLICATION FOR ~~SPECIAL OVERLEGAL~~ PERMIT NUMBER, and provide pertinent information by telephone to the ~~special overlegal~~ permit office. If the ~~special overlegal~~ permit office approves the application, a ~~special overlegal~~ permit number will be assigned to complete the Form ITD-217-10. Form ITD-217-10 will serve as evidence of intent to obtain the ~~special overlegal~~ permit and will be honored by law enforcement subject to the officer checking with the ~~special overlegal~~ permit office. The applicant must qualify for this procedure by obtaining a permit fee account number. The ~~overlegal~~ permit office will complete the ~~Special Overlegal~~ Permit Form ITD-217 and charge the fee to the applicant's permit fee account number. (Rule IDAPA 39.03.21, "Rules Governing Special Permit Fees," Section 300.) (1-03-93)(3-19-99)T

03. Certification Load Is Non-Reducible. Upon application, the permittee must certify that steps have been taken to reduce the dimensions and/or weight of vehicle and/or load concerned in the permit to legal limitations, or if that is impractical, to reduce the excess to a minimum. (8-25-94)

04. Basic Limitations Shall Not Be Exceeded. Special Overlegal permits shall not be issued for vehicles or loads in excess of the maximum limitations of size or weight or which otherwise exceed the limitations for over legal loads as set forth in these rules unless exception is made by the Transportation Board, or as otherwise provided herein. (~~8-25-94~~)(3-19-99)T

05. Movement, Loading, Parking On State Highways. (1-3-93)

a. The movement of over legal loads shall be made in such a way that the traveled way will remain open at all times to provide for the continuous movement of opposing traffic and to provide for frequent passing of vehicles traveling in the same direction. Over legal vehicles or loads shall be pulled off the traveled way at every suitable location when necessary to relieve any accumulation of traffic behind such over legal vehicle or load. (10-2-89)

b. The over legal vehicle shall not be loaded, unloaded or parked, upon any State highway, except for emergencies, without the specific permission or by direction of the Department or policing agency having jurisdiction over such highway. (1-3-92)

(BREAK IN CONTINUITY OF SECTIONS)

200. TIME OF TRAVEL RESTRICTIONS FOR OVER LEGAL LOADS.

Oversize loads may be transported on Idaho Highways subject to the following conditions: (10-2-89)

01. Red-Coded Routes. Daylight travel until ~~two o'clock (2:00) PM p.m.~~ on Friday, no Saturday, no Sunday. Due to low traffic volumes on these routes early in the mornings of Saturday and Sunday, single trip permits may be issued for dawn to ~~eight o'clock (8:00) AM a.m.~~ If the movement is not completed by ~~eight o'clock (8:00) AM a.m.~~ the permittee will be required to safely park and not proceed until the next day. (~~8-25-94~~)(3-19-99)T

02. Black-Coded Routes. Loads not in excess of ten (10) feet wide, one hundred (100) feet long or fourteen (14) feet six (6) inches high may travel twenty-four (24) hours per day, seven (7) days per week; loads in excess of ten (10) feet wide, one hundred (100) feet long or fourteen (14) feet six (6) inches high may travel daylight hours seven (7) days per week. (12-26-90)

03. Interstate. Loads not in excess of ten (10) feet wide, one hundred and ~~fifteen~~ twenty (14~~5~~20) feet long or fourteen (14) feet six (6) inches high may travel twenty-four (24) hours per day, seven (7) days per week; loads in excess of ten (10) feet wide, one hundred and ~~fifteen~~ twenty (14~~5~~20) feet long or fourteen (14) feet six (6) inches high may travel daylight hours, seven (7) days per week. (~~1-01-90~~)(3-19-99)T

04. Additional Restrictions. (8-25-94)

a. Red-Coded Routes: No travel for any load after ~~two o'clock (2:00) PM p.m.~~ on the day preceding a holiday or holiday weekend. A holiday weekend occurs as three (3) consecutive days, when a designated holiday occurs on a Friday or Monday, or when the designated holiday occurs on a Saturday or Sunday, in which case the preceding Friday or the following Monday shall be included in such three (3) day holiday weekend. Travel may be resumed at dawn on the day following the holiday or holiday weekend. (~~12-2-90~~)(3-19-99)T

b. Black-Coded Routes and Interstate Routes: Loads in excess of ten (10) feet wide, one hundred (100) feet long or fourteen (14) feet six (6) inches high may not travel after ~~four o'clock (4:00) PM p.m.~~ on the day preceding a holiday; travel may be resumed at dawn on the day following the holiday. (~~12-26-90~~)(3-19-99)T

c. The following days are designated as holidays: New Year's Day, Memorial Day, Independence Day,

Labor Day, Thanksgiving, and Christmas.

(8-25-94)

d. Additional restrictions relating to movement of buildings and houses are listed in ~~Rule~~ IDAPA 39.03.18, "Rules Governing Overlegal Permits for Relocation of Buildings or Houses," Section 400.

~~(8-25-94)~~(3-19-99)T

e. Other time of travel restrictions may be noted on the permit due to special circumstances.

(8-25-94)

05. Hours Of Darkness. Hours are defined as extending from one-half (1/2) hour after sundown to ~~(1/2)~~ one-half (1/2) hour before sun rise or at any other time when visibility is restricted to less than five hundred (500) feet.

~~(8-25-94)~~(3-19-99)T

06. Heavy Commuter Traffic Restrictions. The movement of oversize vehicles or loads which are in excess of twelve (12) feet in width, in excess of eighty-five (85) feet in length, or in excess of sixteen (16) feet in height may be prohibited from movement on highways within the urban limits of the following cities: Boise, Caldwell, Coeur d'Alene, Idaho Falls, Lewiston, Nampa, Pocatello, Twin Falls, Garden City, and Chubbuck at times of heavy commuter traffic. Unless otherwise defined on the permit, the times of heavy commuter traffic shall be considered to be ~~seven o'clock (7:00) a.m. to eight o'clock (8:00) a.m., (12:00) a.m. noon to one o'clock (1:00) p.m. and four thirty o'clock (4:30) p.m. to six o'clock (6:00) p.m.~~ This restriction ~~shall may~~ not apply to sections of completed Interstate Highway within the above listed cities. Such a restriction of oversize load travel to avoid conflict with heavy commuter traffic volumes shall appear on the face of the permit.

~~(10-2-89)~~(3-19-99)T

07. Hazardous Travel Conditions Restrictions. Extreme caution in the operation of overweight/oversize vehicle combinations shall be exercised when hazardous conditions exist. The movement of overlegal vehicles and/or loads by special overlegal permit of mobile homes, modular housing sections and buildings 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; ~~or when wind velocity exceeds twenty (20) miles per hour. The wind velocity limitation shall not apply to mobile or modular homes transported on five (5) axle truck tractor and semi-trailer combinations similar in weight and construction to those used in general trucking operations.~~

~~(10-2-89)~~(3-19-99)T

~~**08. Permittee Determination.** The permittee and/or operator of the permitted towing vehicle shall be responsible for determining if road, wind, weather conditions, are safe for travel, or lateral or vertical clearance is adequate for the permitted load.~~

~~(10-2-89)~~

~~**09. Delaying Movement.** Enforcement personnel responsible for any section of highway may delay movements and carry out enforcement action for violations involving operation during hazardous operating conditions overlegal permit operations.~~

~~(10-2-89)~~(3-19-99)T

~~**10. Requirement Map Resources.** The Pilot/Escort Vehicle and Travel Time Requirement Map is available at the Idaho Transportation Department Overlegal Permit Office, and Ports of Entry, and District Offices.~~

~~(8-25-94)~~(3-19-99)T

IDAPA 39 - DEPARTMENT OF TRANSPORTATION
39.03.12 - RULES GOVERNING SAFETY REQUIREMENTS OF SPECIAL PERMIT
DOCKET NO. 39-0312-9801
NOTICE OF FINAL RULE

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency is publishing a final rule.

DESCRIPTIVE SUMMARY: The following is a statement in non-technical language of the substance of the final rule.

Pursuant to SCR 112, the 1999 Legislature has rejected the proposed repeal of the above named docket. Therefore, the text will revert back to its original form, prior to the repeal action.

Changes to the original text are being promulgated in a new Temporary Rule, which can be viewed following this notice in Docket No. 39-0312-9901.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this final rule, contact Regina Phipps, 334-8418.

DATED this 21st day of April, 1999.

Linda L. Emry, Administrative Assistant
Office of Budget, Policy, Intergovernmental Relations
Idaho Transportation Department
P. O. Box 7129
Boise ID 83707-1129
Phone: 208-334-8810
FAX: 208-334-8195

IDAPA 39 - DEPARTMENT OF TRANSPORTATION
39.03.12 - RULES GOVERNING SAFETY REQUIREMENTS OF OVERLEGAL PERMITS
DOCKET NO. 39-0312-9901
NOTICE OF TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: This temporary rule is effective March 19, 1999.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules and proposed regular rulemaking 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 June 16, 1999.

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

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rule-making:

Reorganizes and provides technical corrections to text of rule. ("Special Permit" to "Overlegal Permit" and "Escort Vehicle" To "Pilot/Escort Vehicle") Revises and standardizes certain operating requirements. Revises requirements for flagging, lighting and signing to make them uniform with requirements of other states.

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

Changes address movement of oversize vehicles and/or loads and the safety requirements that must be met. Required changes will provide for improved industry compliance and promote uniformity in the movement of goods and services between the western states. Confers a benefit.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because this action is taken to reinstate a previously repealed rule. The repeal was rejected by legislative action.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Regina Phipps, 208-334-8418.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before June 23, 1999.

DATED this 21st day of April, 1999.

Linda L. Emry, Administrative Assistant
Budget, Policy, Intergovernmental Relations
Idaho Transportation Department
3311 West State Street
P O Box 7129
Boise ID 83707-1129
Phone – 208-334-8810
FAX – 208-334-8195

THE FOLLOWING IS TEXT OF DOCKET NO. 39-0312-9901

IDAPA 39
TITLE 03
Chapter 12

RULES GOVERNING SAFETY REQUIREMENTS OF ~~SPECIAL~~ OVERLEGAL PERMITS

001. TITLE AND SCOPE.

~~This rule states when pilot cars, oversize load signs, red warning flags, a flagman or special lighting requirements are required, and it states the specifications for these safety requirements.~~ (10-2-89)

01. Title. This rule shall be cited as IDAPA 39.03.12, "Rules Governing Safety Requirements of Overlegal Permits," IDAPA 39, Title 03, Chapter 12. (3-19-99)T

02. Scope. This rule states the requirements for pilot cars, oversize load signs, red warning flags, and lighting. (3-19-99)T

(BREAK IN CONTINUITY OF SECTIONS)

100. ~~ESCORT VEHICLE REQUIREMENTS LIGHTING REQUIREMENTS FOR OVERSIZE VEHICLES AND/OR LOADS TRAVELING AFTER DARK.~~

~~Escort vehicle(s) shall be furnished by the permittee and shall be either passenger car(s), light truck(s) or vehicles authorized by the Vehicle Size and Weight Specialist except that officers trained in traffic control may use motorcycles as a lead escort vehicle or as an advance escort. The light truck(s) used as escort vehicle(s) shall not be loaded in such a manner as to cause confusion to the public as to which vehicle is the one under escort. Vehicles towing trailers shall not qualify as escort vehicles. Those overdimensional vehicles and/or loads traveling during hours of darkness shall be required to display lights to mark the extremities of the vehicle and/or load, and shall be in addition to those clearance lights required on legal size vehicles when traveling at night.~~ (8-25-94)(3-19-99)T

01. Standards For Lights On Oversize Vehicles And/Or Loads. (3-19-99)T

a. Lights are only required on those vehicles traveling after dark. (dark is defined as one-half (1/2) hour after sunset to one-half (1/2) hour before sunrise). (3-19-99)T

b. The lights must be visible from a minimum of five hundred (500) feet. (3-19-99)T

c. The lights shall be steady burning. (3-19-99)T

d. The color of the lights shall be as follows: (3-19-99)T

i. Lights visible from the front of the vehicle or loads and the extremities in the middle or near the front of the vehicle or load shall be amber. (3-19-99)T

ii. Lights visible from the back of the vehicle or load and the extremities near the back of the vehicle or load shall be red. (3-19-99)T

02. Standards For Lights On Rear Overhang. Lights are required when rear overhang exceeds the

end of the trailer by four (4) feet or more. (3-19-99)T

a. If the overhang is two (2) feet wide or less only one (1) light is required on the end of the overhang. (3-19-99)T

b. If the overhang is over two (2) feet wide, two (2) lights are required on the end of the overhang to show the maximum width of the overhang. (3-19-99)T

03. Standards For Warning Lights On Towing Vehicle. Amber flashing lights displayed on a towing vehicle operating at night, shall be mounted above the cab and meet the following: Rotating or flashing beacon visible from a minimum of five hundred (500) feet. (3-19-99)T

(BREAK IN CONTINUITY OF SECTIONS)

200. ESCORT VEHICLE SAFETY EQUIPMENT FLAGGING REQUIREMENTS FOR OVERSIZE VEHICLES AND/OR LOADS.

Warning flags for oversize vehicles and/or loads, excluding extra-length vehicle combinations, shall be marked by warning flags meeting the following:

01. Red Warning Flags. Escort vehicles shall carry in/on the vehicle: Warning flags are required on all overwidth vehicles and/or loads and when the rear overhang exceeds the end of the trailer by four (4) feet or more. (8-25-94)(3-19-99)T

a. A red warning flag on a staff. (8-25-94)

b. A non-metallic height pole used for determining vertical clearances. (8-25-94)

c. Vehicle shall display an "Oversize Load" sign. (See Section 300) (8-25-94)

d. Be equipped with flashing or rotating warning lights. (8-25-94)

e. A two-way radio capable of communication with the escorted vehicle and with other escort vehicles. (8-25-94)

02. Valid Operators License Size. Escort vehicle drivers operating for hire shall have a valid driver's license. Minimum size of flags is twelve (12) inches by twelve (12) inches. (8-25-94)(3-19-99)T

03. Two-Way Radio Color. Red or fluorescent orange. (8-25-94)(3-19-99)T

a. On all movements requiring an escort vehicle, both the towing unit and the escort vehicle(s) shall be equipped with two-way radio equipment, licensed under Federal Communications Commission regulations adequate to provide reliable voice communication between the drivers thereof at all times during the movement of the escorted load. Transmitting and receiving capabilities of the radio equipment used shall be adequate to provide the required communication over a minimum distance of one-half (1/2) mile separation under conditions normally encountered along the proposed route. (8-25-94)

b. Radio communication shall be open and monitored between escort vehicle(s) and oversize load at all times during movement. (8-25-94)

04. Placement Of Flags. On overwidth vehicles and/or loads, flags shall be placed at the four (4) corners and/or extremities of the vehicle and/or load as follows: (3-19-99)T

a. Front. Fastened to each front corner of the vehicle and/or load if it exceeds legal width. (3-19-99)T

- b. Rear. Fastened to each rear corner of the vehicle and/or load if it exceeds legal width. (3-19-99)T
- c. Side. Fastened to mark any extremity, when extremity is wider than the front or the rear of the vehicle and/or load. (3-19-99)T
- d. Overhang. If the overhang is two (2) feet wide or less only one (1) flag is required on the end of the overhang. If the overhang is over two (2) feet wide, two (2) flags are required on the end of the overhang to show the maximum width of the overhang. (3-19-99)T

(BREAK IN CONTINUITY OF SECTIONS)

300. ESCORT VEHICLE SIGN REQUIREMENTS SIGNING REQUIREMENTS OF OVERSIZE VEHICLES AND/OR LOADS.

Oversize load signs shall meet the following specifications: (3-19-99)T

01. Oversize Load Signs Dimensions. All escort vehicles while escorting an oversize load shall display a sign having the words OVERSIZE LOAD or other terminology approved by the Vehicle Size and Weight Specialist. Such signs shall not be displayed and shall be considered illegal except when the escort vehicle is actually escorting an oversize load. Eighteen (18) inches high by seven (7) feet wide, letter height ten (10) inches, letter type standard series C, stroke width one and five-eighths (1 5/8) inch, black letters on yellow background. (8-25-94)(3-19-99)T

02. Size Specifications For Signs: Displaying Signs. Signs shall be displayed on the front of the towing vehicle and the rear of the oversize load. Shall be displayed on the front and back of self propelled oversize vehicles. (8-25-94)(3-19-99)T

a. On escort vehicle—ten (10) inches high by five (5) feet wide, type Standard Series B, eight (8) inch high letters, one (1) inch stroke width, black letters on yellow background. (8-25-94)

b. On motoreycles used as escort vehicles: A WIDE-LOAD sign may be used with the word WIDE above the word LOAD, minimum six (6) inch letter height, minimum three fourths (3/4) inch stroke, overall size minimum eighteen (18) inches wide by fifteen (15) inches high, black letter on yellow. Motoreycles shall not be utilized as escort vehicles for those situations where a rear escort vehicle is being substituted for adequate rearview mirrors on the loaded vehicle. Section 49-940, Idaho Code, requires that when the escort vehicle is being substituted for the required mirrors, it shall be a passenger car or light truck. (8-25-94)

03. When Signs Are Required. Oversize load signs shall be required on all vehicles and/or loads exceeding legal width. Signs shall not be displayed when the vehicle is empty and of legal dimensions. (3-19-99)T

(BREAK IN CONTINUITY OF SECTIONS)

400. ESCORT VEHICLE LIGHTING REQUIREMENTS PILOT/ESCORT VEHICLES.

Pilot/escort vehicle(s) shall be furnished by the permittee and shall be either passenger car(s), light truck(s) or vehicles authorized by the Vehicle Size & Weight Specialist. The light truck(s) used as pilot/escort vehicle(s) shall not be loaded in such a manner as to cause confusion to the public as to which vehicle is the one under escort. Vehicles towing trailers shall not qualify as pilot/escort vehicles. (3-19-99)T

01. Flashing Amber Lights. Flashing amber lights displayed on escort vehicles shall be mounted at each end of the required OVERSIZE LOAD sign above the roof line of the vehicle. These lights shall meet the minimum requirements outlined under oversize loads above except that they may be a minimum of four (4) inches in diameter. Motoreycles used for escort vehicles shall also display two (2) lights [one (1) at each end of the required OVERSIZE LOAD sign] having a minimum diameter of four (4) inches and also meeting the minimum requirements

of SAEJ595b.

(8-25-94)

~~02. **Rotating Amber Beacon.** As an alternate, a escort vehicle may display one (1) rotating amber beacon warning light mounted either magnetically or permanently on or above the roof of the escort vehicle. It shall rotate through three hundred sixty (360) degrees, have a frequency between sixty (60) and ninety (90) revolutions per minute, an approximate minimum size of eight and one half (8 1/2) inches in diameter and eight (8) inches in height. These units shall be equal to Grote Model SB 32, Dietz Model 240, Federal Model 14, or equivalent.~~ (8-25-94)

(BREAK IN CONTINUITY OF SECTIONS)

500. PILOT/ESCORT VEHICLE SIGN REQUIREMENTS.

01. **Oversize Load Signs.** All pilot/escort vehicles while escorting and oversize load shall display a sign having the words OVERSIZE LOAD. Such signs shall not be displayed and shall be considered illegal except when the pilot/escort vehicle is actually piloting/escorting an oversize load. (3-19-99)T

02. **Dimensions.** Ten (10) inches high by five (5) feet wide, type standard series B, eight (8) inch high letters, one (1) inch stroke width, and black letters on yellow background. (3-19-99)T

(BREAK IN CONTINUITY OF SECTIONS)

600. PILOT/ESCORT VEHICLE LIGHTING REQUIREMENTS.

01. **Multiple Lights.** Flashing or rotating amber lights displayed on the pilot/escort vehicle shall be mounted at each end of the required OVERSIZE LOAD sign above the roofline of the vehicle and be visible from the front and rear of the pilot/escort vehicle. These lights shall meet the minimum standards outlined under oversize vehicle and/or load lighting requirements. (3-19-99)T

02. **Single Light.** As an alternate, a pilot/escort vehicle may display one (1) rotating or flashing amber beacon visible from a minimum of five hundred (500) feet, mounted above the roofline and visible from the front and rear of the pilot/escort vehicle. (3-19-99)T

(BREAK IN CONTINUITY OF SECTIONS)

700. ~~LIGHTING REQUIREMENT FOR OVERSIZE AFTER DARK MOVEMENTS~~ PILOT/ESCORT VEHICLE EQUIPMENT.

~~Those overdimensional loads permitted by Rule 39.03.10, Subsection 400.05 and Rule 39.03.11, Section 200 to travel state highways during hours of darkness shall be required to display warning lights to mark the extremities of the load, and shall be in addition to those clearance lights required on legal size vehicles when traveling at night. If a load overhangs the trailer by more than four (4) feet two (2) red lights shall be mounted on the load overhang to indicate its maximum width.~~ (8-25-94)

01. **Required Equipment To Be Carried In A Pilot/Escort Vehicle.** A pilot/escort vehicle shall carry the following items of equipment when piloting/escorting an overlegal vehicle and/or load. (3-19-99)T

a. Standard eighteen (18) inch STOP and SLOW paddle sign. (3-19-99)T

b. Three (3) bi-directional emergency reflective triangles. (3-19-99)T

- c. A minimum of one (1) five (5) pound B.C. fire extinguisher. (3-19-99)T
- d. A reflectorized orange vest, shirt, or jacket, which must be worn by the operator when working out of the vehicle. (3-19-99)T
- e. Two (2) additional oversize load signs. (3-19-99)T
- f. Non-metallic Height Pole for determining vertical clearances (when required). (3-19-99)T
- g. Valid drivers license. (3-19-99)T
- h. Two-Way Radio. (3-19-99)T

02. Two-Way Radio. On all movements requiring a pilot/escort vehicle, both the towing unit and the pilot/escort vehicle(s) shall be equipped with two-way radio equipment licensed under Federal Communications Commission regulations adequate to provide reliable voice communication between the drivers thereof at all times during the movement of the piloted/escorted vehicle and/or load. Transmitting and receiving capabilities of the radio equipment used shall be adequate to provide the required communication over a minimum distance of one-half (1/2) mile separation under conditions normally encountered along the proposed route. (3-19-99)T

03. Radio Communications. Radio communication shall be open and monitored between the pilot/escort vehicle(s) and oversize vehicle and/or load at all times during movement. (3-19-99)T

(BREAK IN CONTINUITY OF SECTIONS)

800. ~~STANDARDS FOR FLASHING OR ROTATING WARNING LIGHTS.~~

~~Flashing or rotating lights used in the operation of oversize vehicles or loads shall meet the following minimum requirements:—~~ (8-25-94)

01. ~~Oversize Load.~~ ~~Amber lights displayed on the rear of an oversize load, shall meet the requirements of SAE Standard Specifications (SAE J595b) for flashing warning lamps for authorized emergency, maintenance and service vehicles except that the minimum diameter shall be six (6) inches. Two (2) such lights shall be displayed on the rear of the load, mounted at the same height and at the outside edges of the load at a minimum height of eight (8) feet (or as high as practical for loads less than eight (8) feet in height).~~ (8-25-94)

02. ~~Towing Vehicle.~~ ~~Amber flashing lights displayed on a towing vehicle operating at night, shall be mounted above the cab and meet the following requirements:~~ (8-25-94)

- a. ~~Flashers frequency sixty (60) to ninety (90) revolutions or flashes per minute.~~ (1-3-92)
- b. ~~Option 1—Rotating beacon, frequency sixty ninety (60-90) revolutions per minute, three hundred sixty (360) degrees, minimum diameter eight and one half (8 1/2) inches.~~ (1-3-92)
- e. ~~Option 2—Strobe lights mounted at each end of oversize load sign, minimum diameter six (6) inches.—~~ (1-3-92)

5800. PILOT/ESCORT VEHICLE PLACEMENT.

01. Front Pilot/Escort Vehicle. The movement of an oversize vehicle and/or load shall be preceded by a ~~flagman or~~ pilot/escort vehicle on those sections of highway where the vehicle and/or load cannot travel within its proper travelway lane. (8-25-94)(3-19-99)T

02. Rear Pilot/Escort Vehicle. As authorized by Section 49-940, Idaho Code, when the width of a load obstructs the driver's view to the rear or when traffic control is required, a rear escort shall be required to accompany

the oversize load and to communicate with the driver of the permitted load concerning impeded overtaking traffic for the purpose of providing passing opportunity. (8-25-94)(3-19-99)T

03. Advance Pilot/Escort Vehicle. A third pilot/escort vehicle, ~~with radio, slow/stop paddle, and flagman's vest~~ may be required when the load is of such extreme dimensions for the route of travel as to require holding opposing traffic at turnouts and intersections to provide for passage of the load. (8-25-94)(3-19-99)T

04. First Movement From The Forest. An pilot/escort vehicle is not required on the first movement from the forest of tree-length logs or poles if the overall length does not exceed one hundred ten (110) feet. Secondary movements must comply with the requirements stated on the Pilot/Escort Vehicle and Travel Time Requirements map. (8-25-94)(3-19-99)T

05. Spacing. Approximately one thousand (1,000) feet shall be maintained in rural areas between the piloting/escorting vehicle and any oversize load. This spacing may be reduced in urban areas when necessary to provide traffic control for turning movements. (8-25-94)(3-19-99)T

(BREAK IN CONTINUITY OF SECTIONS)

900. ~~OVERSIZE LOAD SIGNING REQUIREMENTS.~~

~~Oversize load signs shall meet the following minimum specifications: (8-25-94)~~

~~**01. Dimensions.** On oversize vehicle or load ~~eighteen (18) inches high by seven (7) feet wide, letter height ten (10) inches, letter type Standard Series C, stroke width one and five eighths (1 5/8) inch, black letters on yellow background.~~ (8-25-94)~~

~~**02. Displaying Signs.** Oversize load signs shall always be displayed on both the towing vehicle and the towed unit in the movement of fourteen (14) foot wide mobile homes. Such signs may also be displayed, but shall not be required, on other oversize loads not requiring an escort vehicle. (8-25-94)~~

6200. CONVOY OF OVERLEGAL LOADS.

01. Convoying Oversize Loads. Oversize loads which individually would require an pilot/escort vehicle, except overwidth manufactured homes, office trailers, may be permitted to travel in convoy with pilot/escort vehicles in front of and behind the convoy, but such convoys shall not exceed four (4) oversize loads or vehicles between pilot/escort vehicles. Maximum width of units in a convoy shall be limited to fourteen (14) feet six (6) inches on the interstate system or on black-coded routes of the Pilot/Escort Vehicle and Travel Time Requirements Map and to twelve (12) feet six (6) inches on red-coded routes of the Pilot/Escort Vehicle and Travel Time Requirements Map. Oversize loads which do not individually require an pilot/escort vehicle may travel in convoy without pilot/escort vehicles. Maximum length of units in a convoy shall be limited to one hundred (100) feet on red-coded and black-coded routes of the pilot/escort vehicle and travel time requirements map and one hundred ~~fifteen~~ twenty (14520) feet on the interstate system. (8-25-94)(3-19-99)T

02. Convoying Manufactured Homes, Office Trailers. No convoy of overwidth manufactured homes and office trailers shall include more than two (2) units and two (2) piloting/escorting vehicles. On those routes where pilot/escort vehicles are required in front and rear of an overwidth manufactured home and office trailers, two (2) units may travel in convoy between such piloting/escorting vehicles. On routes requiring only a front pilot/escort vehicle, the manufactured home and office trailers mover may have the option of convoying two (2) units between front and rear pilots/escorts. At no time shall more than one (1) manufactured home or office trailer be piloted/escorted by one (1) pilot/escort vehicle. Minimum spacing of approximately one thousand (1000) feet shall be maintained between all units in a convoy except when an pilot/escort is required to control traffic in turning movements. (8-25-94)(3-19-99)T

IDAPA 39 - DEPARTMENT OF TRANSPORTATION
39.03.13 - RULES GOVERNING OVERWEIGHT PERMITS
DOCKET NO. 39-0313-9801
NOTICE OF FINAL RULE

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency is publishing a final rule.

DESCRIPTIVE SUMMARY: The following is a statement in non-technical language of the substance of the final rule.

Pursuant to SCR 112, the 1999 Legislature has rejected the proposed repeal of the above named docket. Therefore, the text will revert back to its original form, prior to the repeal action.

Changes to the original text are being promulgated in a new Temporary Rule, which can be viewed following this notice in Docket No. 39-0313-9901.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this final rule, contact Regina Phipps, 334-8418.

DATED this 21st day of April, 1999.

Linda L. Emry, Administrative Assistant
Office of Budget, Policy, Intergovernmental Relations
Idaho Transportation Department
P. O. Box 7129
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Phone: 208-334-8810
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IDAPA 39 - DEPARTMENT OF TRANSPORTATION
39.03.13 - RULES GOVERNING OVERWEIGHT PERMITS
DOCKET NO. 39-0313-9901
NOTICE OF TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: This temporary rule is effective March 19, 1999.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules and proposed regular rulemaking 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 June 16, 1999.

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:

Clarification of the following: Vehicles hauling or towing non-reducible loads are not required to register for the maximum legal weight to be eligible for an overweight permit; Current procedures for the issuance of overlegal permits in excess of routine weight allowances which may require an analysis taking up to 24 working hours; All permitted non-reducible vehicles and/or loads pay the same fee whether registered or not.

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

Changes address movement of oversize vehicles and/or loads and the safety requirements that must be met. Required changes will provide for improved industry compliance and promote uniformity in the movement of goods and services between the western states. Confers a benefit.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because this action is taken to reinstate a previously repealed rule. The repeal was rejected by legislative action.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Regina Phipps, 208-334-8418.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before June 23, 1999.

DATED this 21st day of April, 1999.

Linda L. Emry, Administrative Assistant
Budget, Policy, Intergovernmental Relations
Idaho Transportation Department
3311 West State Street
P O Box 7129
Boise ID 83707-1129
Phone – 208-334-8810
FAX – 208-334-8195

THE FOLLOWING IS TEXT OF DOCKET NO. 39-0313-9901

IDAPA 39
TITLE 03
Chapter 13

RULES GOVERNING OVERWEIGHT PERMITS

001. TITLE AND SCOPE.

~~This rule states the maximum weight authorized by special permits for loads consisting of single items. (10-2-89)~~

01. Title. This rule shall be cited as IDAPA 39.03.13, "Rules Governing Overweight Permits." IDAPA 39, Title 03, Chapter 13. (3-19-99)T

02. Scope. This rule states the maximum weight authorized by overlegal permits for loads consisting of single items. (3-19-99)T

(BREAK IN CONTINUITY OF SECTIONS)

100. GENERAL REQUIREMENTS.

01. Registration. Any vehicle ~~except self propelled vocational vehicles (i.e. log loader, crane, drill rigs, etc.)~~ hauling or towing non-reducible loads subject to registration, is not required to register for the maximum legal weight it can haul ~~shall be registered for a minimum of eighty thousand (80,000) pounds~~ to be eligible for an overweight permit. Farm tractors, road rollers, and road machines are exempt from registration but are not exempt from legal weight limitations. (8-25-94)(3-19-99)T

02. Overweight Permit Requirements. Overweight permits will be issued ~~only~~ for non-reducible ~~loads vehicles and/or loads that exceed legal axle weights and/or eighty thousand (80,000) pounds,~~ with weight reduced to a practical minimum, except that a permit may be issued for a machine with an accessory~~ies~~ and loaded separately on the transporting vehicle. Vehicles hauling overweight loads will be required to have five (5) or more axles to qualify for an overweight permit. Self-propelled vocational vehicles or vehicles towing overweight loads may have less than five (5) axles to qualify for an overweight permit. (8-25-94)(3-19-99)T

03. Variable Load Suspension Axle Requirements. Any vehicle which is equipped with variable load suspension axles (lift axles) transporting overweight loads shall have all lift axles fully deployed. (8-25-94)

(BREAK IN CONTINUITY OF SECTIONS)

200. MAXIMUM OVERWEIGHT LEVELS.

01. Allowable Gross Vehicle Weight. The gross vehicle weight allowable by overweight permit is subject to the seasonal stability of the roadway and the capacity of the structures on the route of travel. For the purpose of issuing ~~special~~ overlegal permits, five (5) levels of overweight are established, based on the weight formula of $W = 500((LN/N-1) + 12N + 36)$ and routes for carrying the various levels of overweight are designated by color coding. (8-25-94)(3-19-99)T

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

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

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

d. Purple Routes - The purple overweight level is based on a single axle loading of twenty-eight thousand five hundred (28,500) pounds, a tandem axle loading of forty-eight thousand five hundred (48,500) pounds, and a tridem axle loading of sixty-one thousand (61,000) pounds or the equivalent loading as determined by spacings and number of axles and computed by applying the formula $W = 715 ((LN/N-1) + 12N + 36)$. (8-25-94)

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

02. Vehicles Or Loads Exceeding Weights. Vehicles or loads exceeding the axle weights, groups of axle weights, or total gross weights allowed on any of the overweight levels described in ~~Rule~~ Subsection 200.01 must operate by single trip permits only if approved. ~~(8-25-94)~~(3-19-99)T

03. Maximum Weights. The maximum overweight levels shall not exceed eight hundred (800) pounds per inch width of tire nor the maximum weights authorized by ~~Rule~~ Subsection 200.01. ~~(8-25-94)~~(3-19-99)T

04. ~~Route Capacity Maps Resources.~~ Route capacity maps are available at the Idaho Transportation Department Headquarters Overlegal Permit office, Ports of entry, and all District Offices. A route capacity map will ~~be attached to accompany~~ each annual overweight/oversize permit. ~~(8-25-94)~~(3-19-99)T

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

(BREAK IN CONTINUITY OF SECTIONS)

400. OVERLEGAL PERMIT FOR LOADS IN EXCESS OF MAXIMUM WEIGHT LIMITS.

~~Proposals to transport loads having weights in excess of the maximum overweight limits may require an engineering analysis if structures are involved on the route to be traveled. The Department may waive the requirement for engineering analysis provided sufficient prior analyses for similar loadings have been performed by the Department for the involved structures. The Department may take up to twenty-four (24) hours to research if an engineering analysis has been waived. Engineering analysis or consideration to waive such analysis will be undertaken subject to the following requirements: Requests to transport vehicles and/or loads at weights in excess of the maximum weights~~

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

~~(1-3-92)~~(3-19-99)T

~~**01. Necessity Of Move Documentation.** A written statement by the applicant to provide a reasonable determination of the necessity and feasibility of the proposed movement. (10-2-89)~~

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

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

043. Engineering Analysis Fee. The applicant shall deposit one hundred dollars (\$100) with the Department as a deposit on the cost required to undertake the engineering analysis of the vehicle combination. (8-25-94)

054. Additional Fee For Movement Requiring An Inspector. At the time a permit is issued which requires an inspector, the issuing office shall require a deposit of one hundred dollars (\$100) in addition to permit fee. This deposit shall be applied to the cost incurred by the Department in furnishing the inspector with vehicle and equipment necessary in the inspection surveillance. (8-25-94)

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

~~**500. FEES FOR NON-REGISTERED VEHICLES.** Overweight fees shall be determined on the legal weight for vehicles not subject to registration. (8-25-94)~~

~~**5401. -- 999. (RESERVED).**~~

IDAPA 39 - DEPARTMENT OF TRANSPORTATION
39.03.14 - RULES GOVERNING POLICY DURING SPRING BREAKUP SEASON
DOCKET NO. 39-0314-9801
NOTICE OF FINAL RULE

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency is publishing a final rule.

DESCRIPTIVE SUMMARY: The following is a statement in non-technical language of the substance of the final rule.

Pursuant to SCR 112, the 1999 Legislature has rejected the proposed repeal of the above named docket. Therefore, the text will revert back to its original form, prior to the repeal action.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this final rule, contact Regina Phipps, 334-8418.

DATED this 21st day of April, 1999.

Linda L. Emry, Administrative Assistant
Office of Budget, Policy, Intergovernmental Relations
Idaho Transportation Department
P. O. Box 7129
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IDAPA 39 - DEPARTMENT OF TRANSPORTATION
39.03.15 - RULES GOVERNING INTERSTATE EXCESS WEIGHT PERMITS
DOCKET NO. 39-0315-9801
NOTICE OF FINAL RULE

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency is publishing a final rule.

DESCRIPTIVE SUMMARY: The following is a statement in non-technical language of the substance of the final rule.

Pursuant to SCR 112, the 1999 Legislature has rejected the proposed repeal of the above named docket. Therefore, the text will revert back to its original form, prior to the repeal action.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this final rule, contact Regina Phipps, 334-8418.

DATED this 21st day of April, 1999.

Linda L. Emry, Administrative Assistant
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IDAPA 39 - DEPARTMENT OF TRANSPORTATION
39.03.16 - RULES GOVERNING OVERSIZE PERMITS FOR NON-REDUCIBLE LOADS
DOCKET NO. 39-0316-9801
NOTICE OF FINAL RULE

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency is publishing a final rule.

DESCRIPTIVE SUMMARY: The following is a statement in non-technical language of the substance of the final rule.

Pursuant to SCR 112, the 1999 Legislature has rejected the proposed repeal of the above named docket. Therefore, the text will revert back to its original form, prior to the repeal action.

Changes to the original text are being promulgated in a new Temporary Rule, which can be viewed following this notice in Docket No. 39-0316-9901.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this final rule, contact Regina Phipps, 334-8418.

DATED this 21st day of April, 1999.

Linda L. Emry, Administrative Assistant
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IDAPA 39 - DEPARTMENT OF TRANSPORTATION
39.03.16 - RULES GOVERNING OVERSIZE PERMITS FOR NON-REDUCIBLE
VEHICLES AND/OR LOADS

DOCKET NO. 39-0316-9901

NOTICE OF TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: This temporary rule is effective March 19, 1999.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules and proposed regular rulemaking 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 June 16, 1999.

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

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rule-making:

Eliminated permit type, no longer requested. At request of industry, clarified that 9-foot wide trailers may haul non-reducible loads smaller than 9-feet wide on a regular basis. Private carriers, such as custom harvesters, moving from one farm to another, must be permitted.

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

Changes address movement of oversize vehicles and/or loads and the safety requirements that must be met. Required changes will provide for improved industry compliance and promote uniformity in the movement of goods and services between the western states. Confers a benefit.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because this action is taken to reinstate a previously repealed rule. The repeal was rejected by legislative action.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Regina Phipps, 208-334-8418.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before June 23, 1999.

DATED this 21st day of April, 1999.

Linda L. Emry, Administrative Assistant
Budget, Policy, Intergovernmental Relations
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3311 West State Street
P O Box 7129
Boise ID 83707-1129
Phone – 208-334-8810
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THE FOLLOWING IS TEXT OF DOCKET NO. 39-0316-9901

IDAPA 39
TITLE 03
Chapter 16

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

000. LEGAL AUTHORITY.

This rule, governing the movement of vehicles and/or loads which are in excess of the sizes allowed by Section 49-1010, Idaho Code, is adopted under the authority of Sections 40-312 and 49-1004, Idaho Code. ~~(40-2-89)~~(3-19-99)T

001. TITLE AND SCOPE.

~~This rule states the maximum sizes allowed by special permit. It does not apply to the transport of oversize manufactured homes or office trailers (see IDAPA 39.03.17).~~ ~~(8-25-94)~~

01. Title. This rule shall be cited as IDAPA 39.03.16, "Rules Governing Oversize Permits For Non-Reducible Vehicles And/Or Loads," IDAPA 39, Title 03, Chapter 16. (3-19-99)T

02. Scope. This rule states the maximum sizes allowed by overlegal permit. It does not apply to the transport of oversize manufactured homes or office trailers (see IDAPA 39.03.17, "Rules Governing Permits For Manufactured Homes, Modular Buildings, And Office Trailers"). (3-19-99)T

(BREAK IN CONTINUITY OF SECTIONS)

100. GENERAL OVERSIZE LIMITATIONS.

01. Maximum Dimensions Allowed. The maximum dimensions of oversize vehicles or oversize loads shall depend on the character of the route to be traveled: width of roadway, alignment and sight distance, vertical or horizontal clearance, and traffic volume. ~~Special Overlegal~~ permits will not normally be issued for movements which cannot allow for the passage of traffic as provided in ~~Rule~~ IDAPA 39.03.11, "Rules Governing Overlegal Permittee Responsibility and Travel Restrictions," Subsection 100.05, except under special circumstances when an interruption of low volume traffic may be permitted (not to exceed ten (10) minutes) or when adequate detours are available. ~~(40-2-89)~~(3-19-99)T

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

03. Multiple Unit Overwidth Loads. Multiple unit overwidth loads must be transported on legal dimension vehicles. Overwidth loads may be transported on extra-length combinations not exceeding seventy-five (75) feet combination length exclusive of load overhang. (8-25-94)

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

(BREAK IN CONTINUITY OF SECTIONS)

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

01. Cylindrical Hay Bales. ~~Special~~ Overlegal permits may be issued for overwidth transportation of cylindrical hay bales, produced by balers having bale chambers which may be five (5) feet or more in width. Such bales may be loaded two (2) bales wide and two (2) bales high. Hauling vehicles eligible for permit for this purpose shall be legal size vehicles registered for travel on public highways. Operation of such overwidth loads shall be subject to the same time of travel and other safety requirements as other overwidth loads having a similar width. This type of operation is intended as an option to the use of farm tractors hauling such loads on size-exempt implement of husbandry vehicles. Maximum width of such loads without tolerance may not exceed eleven (11) feet six (6) inches; ~~maximum height fourteen (14) feet zero (0) inches.~~ (8-25-94)(3-19-99)T

02. Crane Booms. ~~Special permits may be issued for overwidth transportation of two (2) crane boom units hauled side by side up to a maximum width of ten (10) feet six (6) inches. Hauling vehicles eligible for permit for this purpose shall be legal size vehicles registered for travel on public highways. Operation of such overwidth loads shall be subject to the same time of travel and other safety requirements as other overwidth loads having a similar width.~~ (8-25-94)

03. Conveyor Units. ~~Special permits may be issued for overwidth transportation of two (2) conveyor units hauled side by side up to a maximum width of ten (10) feet, six (6) inches. Hauling vehicles eligible for permit for this purpose shall be legal size vehicles registered for travel on public highways. Operation of such overwidth loads shall be subject to the same time of travel and other safety requirements as other overwidth loads having a similar width.~~ (8-25-94)

04. Reducible Height Loads. ~~Special~~ Overlegal permits may be issued to allow the transportation of reducible loads in excess of fourteen (14) feet high but not in excess of fourteen (14) feet nine (9) inches high on designated highways. The vehicle height must not exceed fourteen (14) feet. A map listing the designated highways is available at the Idaho Transportation Department Permit Office. (8-25-94)(3-19-99)T

(BREAK IN CONTINUITY OF SECTIONS)

300. OVERWIDTH HAULING VEHICLES, RESTRICTIONS.

01. Width Of Hauling Equipment. Overlegal permits may be issued for nine (9) foot wide trailers hauling non-reducible loads smaller than nine (9) feet wide. ~~Special~~ Overlegal permits shall not be issued for trailers over nine (9) feet wide hauling any load on an overwidth vehicle unless such vehicle has been designed and constructed for the specific purpose of hauling a particular load the nature of which makes it impossible to be hauled on a legal width vehicle. Overwidth hauling equipment shall not exceed ten (10) feet in width. The permit issued for oversize loads being hauled on oversize equipment will be valid for the unladen movement or an incidental haul, which shall not include commodities either to or from the point of loading or unloading of the oversize load. The permittee is required to carry proof that the unladen movement or incidental haul is on the way to or from the point of loading or unloading of the oversize load. (8-25-92)(3-19-99)T

02. Load Dimensions. Any load exceeding the dimensions of the trailer shall be non-reducible in size, and any load exceeding legal allowable weight shall be non-reducible in weight. Annual permits issued for such ten (10) foot hauling vehicles shall be subject to the requirements and limitations of Rules IDAPA 39.03.19, "Rules Governing Annual Overlegal Permits," and 39.03.13, "Rules Governing Overweight Permits," Section 200. (1-3-92)(3-19-99)T

03. Hauling Equipment In Excess Of Ten Feet. Special overwidth hauling vehicles exceeding ten (10) feet in width will be permitted, and may be required, in the hauling of excessively heavy loads to improve the

lateral distribution of weight, or when a combination of weight, width, or height makes extra width in the hauling vehicle desirable in the public interest. The use of such vehicles more than ten (10) feet in width shall be restricted to loads requiring an overwidth hauling vehicle and the backhaul permit shall be for the unladen vehicle. (10-2-89)

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

(BREAK IN CONTINUITY OF SECTIONS)

400. OVERWIDTH PERMITS FOR IMPLEMENTS OF HUSBANDRY.

01. Farm Tractors On Interstate Highways. Farm tractors transported on Interstate Highways are required to have ~~special~~ overlegal permit authority if width exceeds nine (9) feet. A farm tractor when attached to an implement of husbandry or when drawing an implement of husbandry shall be construed to be an implement of husbandry and is not required to have a permit. Farmers, equipment dealers or custom operators may be issued single trip or annual permits under this rule for transportation of farm tractors, having a width in excess of nine (9) feet to or from a farm involving Interstate Highway travel. The transportation of farm tractors or implements of husbandry for hire, or not being transported from one farm operation to another, is a common-carrier operation. Exemptions from legal width limitation do not apply to common-carrier operations. Farm tractors or implements of husbandry hauled for hire, or used in the furtherance of a business, are subject to the same ~~special~~ overlegal permit regulations as other oversize loads when the width of the load exceeds legal-width limitations, and must operate under oversize permits. (8-25-94)(3-19-99)T

02. Other Than Farm To Farm. Implements of husbandry exceeding eight (8) feet six (6) inches in width being transported other than from one (1) farm operation to another farm operation shall require ~~special~~ overlegal permit authority. (10-2-89)(3-19-99)T

03. Farm Permits. Single trip permits must be ordered at the permit office and the operator may post a security bond to establish credit (See ~~Rule~~ IDAPA 39.03.21, "Rules Governing Special Permit Fees," Section 300) and thereby qualify to complete an application form, call the ~~special~~ overlegal permit office for a permit number, and carry the application form with the overwidth vehicle in lieu of the ~~special~~ overlegal permit form. Under provisions of ~~Rule~~ IDAPA 39.03.19, "Rules Governing Annual Overlegal Permits," Section 100, annual permits will be issued to towing units or to self-propelled farm tractors or towed units, or blanket permits may be issued to an Idaho domicile applicant without vehicle identification. Such blanket permits may be transferred from one vehicle to another vehicle but shall be valid only when the permit is with the overwidth vehicle and/or load. A photocopy of the permit is valid provided that the Pilot/Escort Vehicle and Travel Time Requirements Map and Vertical Clearance of Structures Map furnished by the Idaho Transportation Department are included. Such annual permits for implements of husbandry or farm tractors are subject to the same maximum dimensions, travel time exclusions and safety requirements as other overwidth annual permits and are valid for continuous travel for twelve (12) consecutive months. (8-25-94)(3-19-99)T

(BREAK IN CONTINUITY OF SECTIONS)

500. ADDITIONAL DISTRICT APPROVAL AND ALLOWANCE FOR APPROVAL TIME.

District approval is required when vehicles or loads exceed: sixteen (16) feet wide on red coded routes, eighteen (18) feet wide on black and interstate highways with no loads over twenty-four (24) feet wide allowed on interstate highways, sixteen (16) feet high on any route, and one hundred twenty (120) feet long on any route. District approval will be obtained by the Overlegal Permit office and may require up to twenty-four (24) working hours. See Pilot/Escort Vehicle and Travel Time Requirements Map for color coded routes. (8-25-94)(3-19-99)T

(BREAK IN CONTINUITY OF SECTIONS)

600. OVERLENGTH RESTRICTIONS.

Oversize vehicles operating under authority of a ~~special~~ overlegal permit for oversize vehicles which exceed four (4) feet of front overhang, on any vehicle in the combination, are restricted to daylight travel only on two (2) lane, two (2) way highways. ~~(8-25-94)~~(3-19-99)T

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

DOCKET NO. 39-0317-9801

NOTICE OF FINAL RULE

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency is publishing a final rule.

DESCRIPTIVE SUMMARY: The following is a statement in non-technical language of the substance of the final rule.

Pursuant to SCR 112, the 1999 Legislature has rejected the proposed repeal of the above named docket. Therefore, the text will revert back to its original form, prior to the repeal action.

Changes to the original text are being promulgated in a new Temporary Rule, which can be viewed following this notice in Docket No. 39-0317-9901.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this final rule, contact Regina Phipps, 334-8418.

DATED this 21st day of April, 1999.

Linda L. Emry, Administrative Assistant
Office of Budget, Policy, Intergovernmental Relations
Idaho Transportation Department
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IDAPA 39 - DEPARTMENT OF TRANSPORTATION
39.03.17 - RULES GOVERNING PERMITS FOR MANUFACTURED HOMES,
MODULAR BUILDINGS, AND OFFICE TRAILERS

DOCKET NO. 39-0317-9901

NOTICE OF TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: This temporary rule is effective March 19, 1999.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules and proposed regular rulemaking 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 June 16, 1999.

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

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rule-making:

Reduces insurance requirement from \$500,000 to \$300,000 for someone transporting their own manufactured home. Deletes lighting requirement for daylight hours and adds lighting requirements for movements after dark.

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

Changes address movement of oversize vehicles and/or loads and the safety requirements that must be met. Required changes will provide for improved industry compliance and promote uniformity in the movement of goods and services between the western states. Confers a benefit.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because this action is taken to reinstate a previously repealed rule. The repeal was rejected by legislative action.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Regina Phipps, 208-334-8418.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before June 23, 1999.

DATED this 21st day of April, 1999.

Linda L. Emry, Administrative Assistant
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THE FOLLOWING IS TEXT OF DOCKET NO. 39-0317-9901

IDAPA 39
TITLE 03
Chapter 17

**RULES GOVERNING ~~OVERSIZE~~ PERMITS FOR MANUFACTURED HOMES,
MODULAR BUILDINGS, AND OFFICE TRAILERS**

001. TITLE AND SCOPE.

~~This rule states the regulations for special permits issued for the movement of manufactured homes, modular buildings and office trailers.~~ (8-25-94)

01. Title. This rule shall be cited as IDAPA 39.03.17, "Rules Governing Permits For Manufactured Homes, Modular Buildings, And Office Trailers," IDAPA 39, Title 03, Chapter 17. (3-19-99)T

02. Scope. This rule states the regulations for overlegal permits issued for the movement of manufactured homes, modular buildings and office trailers. (3-19-99)T

(BREAK IN CONTINUITY OF SECTIONS)

100. REGISTRATION AND LICENSING REQUIREMENTS.

All manufactured homes and office trailers moved on any public highway are required to be licensed. New and resale units ~~shall~~ may, if applicable, carry license plates provided by the dealer or transporter. Other units shall be licensed by the owner. The manufactured home and office trailer registration and general property tax receipt shall be made available for inspection upon demand of any enforcement officer. (8-25-94)(3-19-99)T

101. INSURANCE REQUIREMENTS.

The permittee or the driver of the vehicle towing overwidth manufactured homes and office trailers shall be required to carry evidence of general liability insurance in the permitted vehicle written by a company licensed in Idaho showing coverage in the minimum amounts of ~~five~~ three hundred thousand dollars (\$~~5300,000~~) when hauling permittee's own manufactured home. When hauling for hire permittee must carry a minimum amount of seven hundred and fifty thousand dollars (\$750,000) insurance coverage, and have proper authority. (8-25-94)(3-19-99)T

(BREAK IN CONTINUITY OF SECTIONS)

201. VEHICLES FOR TOWING MANUFACTURED HOMES AND OFFICE TRAILERS.

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

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

(3-23-98)

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

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

04. Hitch Assembly. Shall meet the requirements of Federal Motor Carrier Safety Regulations, part 393. (8-25-94)

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

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

a. On all movements requiring a pilot/escort vehicle, both the towing unit and the pilot/escort vehicle(s) shall be equipped with two-way radio equipment, licensed under Federal Communications Commission regulations adequate to provide reliable voice communication between the drivers thereof at all times during the movement of the escorted load. Transmitting and receiving capabilities of the radio equipment used shall be adequate to provide the required communication over a minimum distance of one-half (1/2) mile separation under conditions normally encountered along the proposed route. ~~(3-23-98)~~(3-19-99)T

b. Radio communication shall be open and monitored between pilot/escort vehicle(s) and oversize load at all times during movement. ~~(3-23-98)~~(3-19-99)T

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

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

(BREAK IN CONTINUITY OF SECTIONS)

400. GENERAL PROVISIONS.

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

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

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

04. Oversize Manufactured Homes Or Office Trailers. Oversize manufactured Homes or Office Trailers must be transported under authority of the rule. ~~Rule IDAPA 39.03.16, "Rules Governing Oversize Permits for Non-Reducible Vehicles and/or Loads,"~~ does not apply to the transport of Manufactured Homes or Office Trailers. (8-25-94)(3-19-99)T

05. Manufactured Homes And Office Trailers. This rule applies only to Manufactured Homes and Office Trailers and does not apply to individual componets utilized in the manufacturing of Manufactured Homes (~~i.e., frames, suspension, ect.~~). Permits may be issued to authorize transport of components for Manufactured Homes or Office Trailers under ~~Rule IDAPA 39.03.16, "Rules Governing Oversize Permits for Non-Reducible Vehicles and/or Loads".~~ (8-25-94)(3-19-99)T

06. Signs. All manufactured homes, modular buildings and office trailers whether hauled or towed shall be required to display an oversize load sign, even if no pilot/escort vehicles ~~are~~ is required. The sign shall meet the following dimensions: eighteen (18) inches high by seven (7) feet wide, letter height ten (10) inches, letter type standard series C, stroke width one and five-eighths (1 5/8) inch, black letters on yellow background. (3-23-98)(3-19-99)T

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

~~**08. Warning Lights.** All manufactured homes, modular buildings and offices whether hauled or towed shall be required to display two (2) flashing or rotating amber lights (visible from five hundred (500) ft.) on the back of the manufactured home, modular building or office. (3-23-98)~~

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

Route	Base Width	Overall Width	Height	Overall Length
Red		12' 6"	15' 6"	110'
Black	14'	18'	15' 6"	110'
Double Black	16'	18'	15' 6"	110'

The double black routes are the interstate and 4 lane highways

**The routes referred to above are on the Pilot/Escort Vehicle and Travel Time Requirements Map.

**When exceeding the above maximum dimensions allowed for a route, movement will be allowed only by single trip permit.

**Manufactured homes, modular buildings and offices exceeding sixteen (16) feet overall width being towed on their own axles on two lane highways, will be required to submit for approval a traffic control plan, that lists at a minimum the following information: date of move, routes of travel, turnouts for traffic relief, and dimensions of load. (3-23-98)(3-19-99)T

09. Hazardous Travel Conditions Restrictions. Extreme caution in the operation of vehicle combinations shall be exercised when hazardous conditions exist. The movement by overlegal permit of manufactured homes, modular buildings and office trailers shall be prohibited and otherwise valid permits shall automatically become invalid enroute when travel conditions become hazardous due to ice, snow or frost; when visibility is restricted to less than five hundred (500) feet by fog, dust, smoke or smog or other atmospheric condition; or when wind velocity exceeds twenty (20) miles per hour. The wind velocity limitation shall not apply to

manufactured homes, modular buildings or office trailers transported on five (5) axle truck tractor and semi-trailer combinations similar in weight and construction to those used in general trucking operations. (3-19-99)T

10. Time Of Travel Requirements. Manufactured homes, modular buildings, and office trailers exceeding ten (10) feet in width, will have daylight travel only. When less than ten (10) feet wide, twenty-four (24) hour travel will be allowed, and must meet the following requirements: (3-19-99)T

- a. The lights must be visible from five hundred (500) feet; (3-19-99)T
- b. The lights shall be steady burning; (3-19-99)T
- c. The color of the lights shall be as follows: (3-19-99)T
 - i. Lights visible from the front of the load and the extremities in the middle or near the front of the load shall be amber. (3-19-99)T
 - ii. Lights visible from the back of the load and the extremities near the back of the load shall be red. (3-19-99)T

**IDAPA 39 - DEPARTMENT OF TRANSPORTATION
39.03.18 - RULES GOVERNING SPECIAL PERMITS FOR
RELOCATION OF BUILDINGS OR HOUSES**

DOCKET NO. 39-0318-9801

NOTICE OF FINAL RULE

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency is publishing a final rule.

DESCRIPTIVE SUMMARY: The following is a statement in non-technical language of the substance of the final rule.

Pursuant to SCR 112, the 1999 Legislature has rejected the proposed repeal of the above named docket. Therefore, the text will revert back to its original form, prior to the repeal action.

Changes to the original text are being promulgated in a new Temporary Rule, which can be viewed following this notice in Docket No. 39-0318-9901.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this final rule, contact Regina Phipps, 334-8418.

DATED this 21st day of April, 1999.

Linda L. Emry, Administrative Assistant
Office of Budget, Policy, Intergovernmental Relations
Idaho Transportation Department
P. O. Box 7129
Boise ID 83707-1129
Phone: 208-334-8810
FAX: 208-334-8195

IDAPA 39 – IDAHO TRANSPORTATION DEPARTMENT
39.03.18 – RULES GOVERNING OVERLEGAL PERMITS FOR
RELOCATION OF BUILDINGS OR HOUSES

DOCKET NO. 39-0318-9901

NOTICE OF TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: This temporary rule is effective March 19, 1999.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules and proposed regular rulemaking 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 June 16, 1999.

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

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rule-making:

Reduces insurance requirement from \$500,000 to \$300,000 for someone relocating their own building. Clarifies that utility companies must be contacted by permittee when load exceeds 17 feet high.

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

Changes address movement of oversize vehicles and/or loads and the safety requirements that must be met. Required changes will provide for improved industry compliance and promote uniformity in the movement of goods and services between the western states. Confers a benefit.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because this action is taken to reinstate a previously repealed rule. The repeal was rejected by legislative action.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Regina Phipps, 208-334-8418.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before June 23, 1999.

DATED this 21st day of April, 1999.

Linda L. Emry, Administrative Assistant
Budget, Policy, Intergovernmental Relations
Idaho Transportation Department
3311 West State Street
P O Box 7129
Boise ID 83707-1129
Phone – 208-334-8810
FAX – 208-334-8195

THE FOLLOWING IS TEXT OF DOCKET NO. 39-0318-9901

IDAPA 39
TITLE 03
Chapter 18

**RULES GOVERNING ~~SPECIAL OVERLEGAL~~ PERMITS FOR
RELOCATION OF BUILDINGS OR HOUSES**

001. TITLE AND SCOPE.

This rule states the regulations for special permits issued for the movement of buildings or houses. (10-2-89)

01. Title. This rule shall be cited as IDAPA 39.03.18, "Rules Governing Overlegal Permits for Relocation of Buildings or Houses," IDAPA 39, Title 03, Chapter 18. (3-19-99)T

02. Scope. This rule states the regulations for overlegal permits issued for the movement of buildings or houses. (3-19-99)T

(BREAK IN CONTINUITY OF SECTIONS)

100. GENERAL REQUIREMENTS.

01. Buildings Exceeding Sixteen Feet Wide. ~~Special Overlegal~~ permits for the transportation of buildings or houses having a basic width in excess of sixteen (16) feet shall be limited to the relocation of previously used buildings. The transportation of new, centrally manufactured houses, buildings, building sections, mobile or modular homes, etc., shall be denied ~~special overlegal~~ permits if the width at the base is in excess of sixteen (16) feet. (10-2-89)(3-19-99)T

02. Requirements For Permit. The requirements of each permit for relocation of a used building or house shall depend on the dimensions of the load as well as a consideration of the width and alignment of the roadway, passing opportunity for the traveling public, vertical or horizontal clearance of bridges or other structures along the route of travel, and traffic volumes. (10-2-89)

03. Grandfather Rights. ~~Housing units manufactured prior to January 1, 1980 and having a basic width exceeding fourteen (14) feet mounted on factory installed mobilehome axles shall be considered to have a grandfather right for issuance of a special permit under the economic emergency provisions of Rule 39.03.10, Subsection 400.03.~~ (10-2-89)

(BREAK IN CONTINUITY OF SECTIONS)

200. INFORMATION REQUIRED IN APPLICATION.

01. Overall Width Of The Building. (10-2-89)

a. At the base; and (10-2-89)

- b. At the eaves or widest point. (10-2-89)
- ~~02. Vehicle Width. Out to out width of the tires of the hauling vehicle or house moving dollies. (10-2-89)~~
032. **Overhang.** Overhang of the building load to the right and left of the hauling vehicle or its tires. (10-2-89)
043. **Height.** Loaded height of the building. (10-2-89)
054. **Combined Length.** Combination length of the towing vehicle and its building load. (10-2-89)
065. **Identification.** Identification of the owner of the building, and of the permittee. (10-2-89)
076. **Route.** Proposed route of travel on state highways and other public roads. (10-2-89)
087. **Turnouts.** Availability of turnouts if required for passage of traffic. (10-2-89)

(BREAK IN CONTINUITY OF SECTIONS)

300. PASSING LANE MUST BE PROVIDED.

Except for short movements in urban areas, and on routes having very low Average Daily Traffic (ADT), permits will not be issued for a load of such dimension that continuous passage of opposing traffic and frequent passing of following traffic cannot be maintained. Ten (10) feet or more of travelway should be provided for passage of traffic unless there are frequent turnouts, intersections, etc., to provide relief of accumulated traffic to the rear. ~~On Interstate highways, permits will not be issued for any load which cannot travel the route in the right lane and right paved shoulder without crossing the centerline. (10-2-89)(3-19-99)T~~

(BREAK IN CONTINUITY OF SECTIONS)

350. VERTICAL CLEARANCE REQUIREMENTS.

01. **Permit For Overheight.** The issuance of any permit for movement of overheight loads will be subject to the vertical clearance of any structure involved along the route of travel. The Department may require a minimum of twenty-four (24) working hours to allow for the proposed route to be evaluated and approved or denied. ~~(1-3-92)(3-19-99)T~~

02. **Overhead Traffic Signals.** Any movement of a building, or other overheight load, having a loaded height of sixteen (16) feet six (6) inches or more may require ~~two (2) weeks'~~ advance notice if overhead traffic signals are involved in the route. ~~(10-2-89)(3-19-99)T~~

03. **Overhead Power Lines.** ~~Permits for loads eighteen (18) feet or more high will not be issued until the applicant furnished certification that arrangements have been made with public utility companies for clearing the route for the overheight load. Carriers whose load/vehicle combination exceed seventeen (17) feet high must contact local utility company(s) for approval and assistance with power lines. (10-2-89)(3-19-99)T~~

(BREAK IN CONTINUITY OF SECTIONS)

400. TIME OF TRAVEL.

01. Excessively Oversize Loads. Excessively oversize loads shall be restricted to the time of day, or day of the week, when traffic interference will be at a minimum. (10-2-89)

02. Buildings. Time of travel of loads in the building size category shall be restricted to the ~~same times allowed for mobile homes in the fourteen (14) foot wide category but added restrictions may be imposed depending on the dimensions of the load and other circumstances~~ time of day and/or day of the week, when traffic interference will be at a minimum. (10-2-89)(3-19-99)T

03. Early Morning Moves. In metropolitan areas and in certain other cases where a serious disruption of traffic would otherwise be unavoidable, the movement of excessively oversize buildings may be permitted, at the discretion of the District Engineer, between ~~two o'clock (2:00) a.m.~~ and daybreak to avoid traffic congestion. (10-2-89)(3-19-99)T

(BREAK IN CONTINUITY OF SECTIONS)

450. INSURANCE AND BONDING REQUIREMENTS.

01. Insurance. The permittee when hauling buildings fourteen (14) feet or more in width shall be required to carry evidence of insurance in the permitted vehicle in the same minimum amounts as is required for those permits issued for the movement of overwidth ~~mobile~~ manufactured homes. Minimum requirements are ~~five~~ three hundred thousand dollars (\$~~5300,000~~) combined single limit, ~~and evidence of insurance shall be written by a company licensed to do business in Idaho~~ (when hauling permittee's own building) and seven hundred fifty thousand dollars (\$750,000) when hauling for hire. (1-1-90)(3-19-99)T

02. Permittee Responsibility. The permittee shall be responsible for the protection of sign-posts, guideposts, delineators, ~~etc.~~, and may be required to post bond to cover the costs of repairs or replacements of such facilities. (10-2-89)(3-19-99)T

03. Bond Requirements. When an expense to the State can be presumed in providing clearance for an overheight load, or for repair of signposts, ~~etc.~~ or other such facilities, a cash bond based on estimated costs to the State may be required before issuance of such permit. Any part of the cash bond in excess of material costs, labor, and equipment rental will be returned to the permittee after the actual costs to the State have been determined and deducted. (10-2-89)(3-19-99)T

(BREAK IN CONTINUITY OF SECTIONS)

451. -- ~~499~~500. (RESERVED).

500. ~~IDAHO PUBLIC UTILITY COMMISSION (IPUC) AUTHORITY REQUIRED.~~

01. Authority. ~~The transportation of any house, building or structure for hire required IPUC authority.~~ (10-2-89)

02. Owner Or Mover. ~~Any applicant for a special permit for the movement of a house or building shall provide information as to whether the building is his property or is being transported for hire.~~ (10-2-89)

03. PUC Permit Number. ~~When a house or building is being transported for hire, the applicant shall provide, as a part of his application, the Idaho PUC permit number which is his authority to move or transport buildings or houses for hire.~~ (10-2-89)

IDAPA 39 - DEPARTMENT OF TRANSPORTATION
39.03.19 - RULES GOVERNING ANNUAL SPECIAL PERMITS
DOCKET NO. 39-0319-9801
NOTICE OF FINAL RULE

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency is publishing a final rule.

DESCRIPTIVE SUMMARY: The following is a statement in non-technical language of the substance of the final rule.

Pursuant to SCR 112, the 1999 Legislature has rejected the proposed repeal of the above named docket. Therefore, the text will revert back to its original form, prior to the repeal action.

Changes to the original text are being promulgated in a new Temporary Rule, which can be viewed following this notice in Docket No. 39-0319-9901.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this final rule, contact Regina Phipps, 334-8418.

DATED this 21st day of April, 1999.

Linda L. Emry, Administrative Assistant
Office of Budget, Policy, Intergovernmental Relations
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IDAPA 39 - DEPARTMENT OF TRANSPORTATION
39.03.19 - RULES GOVERNING ANNUAL OVERLEGAL PERMITS
DOCKET NO. 39-0319-9901
NOTICE OF TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: This temporary rule is effective March 19, 1999.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules and proposed regular rulemaking 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 June 16, 1999.

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:

Specifies that annual permits cannot exceed a gross weight of 200,000 lbs and that a vehicle configuration cannot operate on less axles than the number of axles stated on the permit but can operate on more axles. Specifies that carriers can operate at lesser weights, but not greater weights than that listed on the permit.

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

Changes address movement of oversize vehicles and/or loads and the safety requirements that must be met. Required changes will provide for improved industry compliance and promote uniformity in the movement of goods and services between the western states. Confers a benefit.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because this action is taken to reinstate a previously repealed rule. The repeal was rejected by legislative action.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Regina Phipps, 208-334-8418.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before June 23, 1999.

DATED this 21st day of April, 1999.

Linda L. Emry, Administrative Assistant
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THE FOLLOWING IS TEXT OF DOCKET NO. 39-0319-9901

IDAPA 39
TITLE 03
Chapter 19

RULES GOVERNING ANNUAL ~~SPECIAL~~ OVERLEGAL PERMITS

000. LEGAL AUTHORITY.

This rule, governing the movement of vehicles and/or loads which are in excess of the sizes or weights allowed by 49-1001, 49-1002 or 49-1010, is adopted under the authority of Sections 40-312 and 49-1004, Idaho Code.
(~~10-2-89~~)(3-19-99)T

001. TITLE AND SCOPE.

~~This rule states the provisions relating to issuance of annual special permits.~~ (8-25-94)

01. Title. This rule shall be cited as IDAPA 39.03.19, "Rules Governing Annual Overlegal Permits," IDAPA 39, Title 03, Chapter 19. (3-19-99)T

02. Scope. This rule states the provisions relating to issuance of annual overlegal permits. (3-19-99)T

(BREAK IN CONTINUITY OF SECTIONS)

100. GENERAL.

~~Special Overlegal~~ permits may be issued for continuous operation to haul or transport nonreducible loads having specified maximum dimensions of oversize or overweight provided such permits for multiple trips can maintain the same measure of protection to highway facilities and to the traveling public as is provided by single trip permits.
(~~10-2-89~~)(3-19-99)T

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

a. Permits for continuous operation shall be issued to one (1) specified power unit. The permittee may tow various units with the specified power unit, either as towaway vehicles or as trailers hauling oversize loads. Except as provided in ~~Rules~~ IDAPA 39.03.07, "Rules Governing Restricted Routes for Semitrailers," 39.03.16, "Rules Governing Oversize Permits for Non-Reducible Vehicles and/or Loads," Section 200 and 39.03.22, "Rules Governing Overlegal Permits for Extra-Length Vehicle Combinations," oversize loads shall be nonreducible in width, length, or height. In the case of specially constructed equipment, mounted on a towed vehicle, or if the towed vehicle is only hauling an oversize but not overweight load, the permit may be issued to the towed vehicle.
(~~8-25-94~~)(3-19-99)T

b. Maximum size of loads or vehicles transported under authority of an annual oversize permit, for black and interstate routes, shall be limited to a width of fourteen (14) feet six (6) inches (manufactured homes, modular buildings, and office trailers limited as per ~~Rule~~ IDAPA 39.03.17, "Rules Governing Permits for Manufactured Homes, Modular Buildings, and Office Trailers"), a height of fifteen (15) feet six (6) inches, and to a combination length of one hundred ten (110) feet including load overhang. Annual oversize permits for red coded routes shall be limited to a width of twelve (12) feet six (6) inches. A current Pilot/Escort Vehicle and Travel Time Requirements Map shall accompany such permits for extended operations and shall be considered to be a part of the permit.
(~~8-25-94~~)(3-19-99)T

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

a. Annual permits may not be issued for gross weights in excess of two hundred thousand (200,000) pounds for any colored route. Gross weights in excess of two hundred thousand (200,000) pounds must operate by single trip permit. (3-19-99)T

b. Since the fees are now based on the number of axles and gross weight to calculate the fee per mile, annual overweight permits will have to be issued to various combinations including those with a different number of axles and higher gross weights for those axles. You will no longer be able to operate less axles than the number stated on the permit, because the fee per mile (using less axles) would be greater than the fee per mile for the higher number of axles and gross weight. The number of axles in the vehicle configuration may be greater than the number of axles listed on the permit. The gross weight of the vehicle configuration may be less than the gross weight stated for each colored route, but your fee per mile will be based on and reported at the stated gross weight for each colored route on the permit (i.e. black, purple, green and yellow) and the number of axles. (3-19-99)T

c. A percent reduction in the total fees may be given when the following requirements are met: (3-19-99)T

i. A two percent (2%) reduction per axle group (such as tandem or tridem), to a maximum of ten percent (10%) per vehicle configuration, for axle groups that are wider than ten (10) feet. (3-19-99)T

ii. A two percent (2%) reduction per axle group (such as tandem or tridem), to a maximum of ten percent (10%) per vehicle configuration, for axle groups with sixteen (16) tires per axle. (3-19-99)T

iii. If both the above requirements are met for an axle group, a five percent (5%) reduction per axle group, to a maximum of twenty-five percent (25%) per vehicle configuration may be given. This reduction will be taken off of the total roadway use fees charged for the vehicle and will not reduce the administrative fee. (3-19-99)T

ad. To comply with Section 49-436, Idaho Code, the permittee will make quarterly reports of mileage to the ~~Motor Vehicle Bureau~~ Department at the permitted weight levels separate from the registered weight mileage otherwise required to be reported to that agency. ~~Vehicles exempt from registration will not be required to report mileage under these annual permit regulations.~~ Mileage for single trip overweight permits is charged for and collected at the time of issuance, and need not be reported elsewhere. Unladen miles are reported at the registered weight of a vehicle or combination of vehicles. (8-4-95)(3-19-99)T

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

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

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

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

iv. Purple Routes - The purple overweight level is based on a single axle loading of twenty-eight thousand five hundred (28,500) pounds, a tandem axle loading of forty-eight thousand five hundred (48,500) pounds, and a tridem axle loading of sixty-one thousand (61,000) pounds or the equivalent loading as determined by spacings and number of axles and computed by applying the formula $W = 715 ((LN/N-1) + 12N + 36)$. (4-6-92)

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

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

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

ef. The maximum overweight levels shall not exceed eight hundred (800) pounds per inch width of tire nor the maximum weights authorized by ~~Rule IDAPA 39.03.13, "Rules Governing Overweight Permits,"~~ Section 200.01. (~~4-6-92~~)(3-19-99)T

dg. Annual overweight permits shall become invalid subject to the conditions of ~~Rule IDAPA 39.03.23,~~ "Rules Governing Revocation Of Special Permits". (~~4-6-92~~)(3-19-99)T

IDAPA 39 - DEPARTMENT OF TRANSPORTATION
39.03.20 - RULES GOVERNING APPLICATION FOR SPECIAL PERMITS
DOCKET NO. 39-0320-9801
NOTICE OF FINAL RULE

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency is publishing a final rule.

DESCRIPTIVE SUMMARY: The following is a statement in non-technical language of the substance of the final rule.

Pursuant to SCR 112, the 1999 Legislature has rejected the proposed repeal of the above named docket. Therefore, the text will revert back to its original form, prior to the repeal action.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this final rule, contact Regina Phipps, 334-8418.

DATED this 21st day of April, 1999.

Linda L. Emry, Administrative Assistant
Office of Budget, Policy, Intergovernmental Relations
Idaho Transportation Department
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IDAPA 39 - DEPARTMENT OF TRANSPORTATION
39.03.21 - RULES GOVERNING SPECIAL PERMIT FEES
DOCKET NO. 39-0321-9801
NOTICE OF FINAL RULE

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency is publishing a final rule.

DESCRIPTIVE SUMMARY: The following is a statement in non-technical language of the substance of the final rule.

Pursuant to SCR 112, the 1999 Legislature has rejected the proposed repeal of the above named docket. Therefore, the text will revert back to its original form, prior to the repeal action.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this final rule, contact Regina Phipps, 334-8418.

DATED this 21st day of April, 1999.

Linda L. Emry, Administrative Assistant
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IDAPA 39 - DEPARTMENT OF TRANSPORTATION
39.03.22 - RULES GOVERNING SPECIAL PERMITS FOR
EXTRA-LENGTH VEHICLE COMBINATIONS

DOCKET NO. 39-0322-9801

NOTICE OF FINAL RULE

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency is publishing a final rule.

DESCRIPTIVE SUMMARY: The following is a statement in non-technical language of the substance of the final rule.

Pursuant to SCR 112, the 1999 Legislature has rejected the proposed repeal of the above named docket. Therefore, the text will revert back to its original form, prior to the repeal action.

Changes to the original text are being promulgated in a new Temporary Rule, which can be viewed following this notice in Docket No. 39-0322-9901.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this final rule, contact Regina Phipps, 334-8418.

DATED this 21st day of April, 1999.

Linda L. Emry, Administrative Assistant
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IDAPA 39 - DEPARTMENT OF TRANSPORTATION
39.03.22 - RULES GOVERNING OVERLEGAL PERMITS FOR
EXTRA-LENGTH VEHICLE COMBINATIONS

DOCKET NO. 39-0322-9901

NOTICE OF TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: This temporary rule is effective March 19, 1999.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules and proposed regular rulemaking 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 June 16, 1999.

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

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rule-making:

At the request of carriers, increase overall length on blue routes for extra-length vehicles from 85 feet to 90 feet, without exceeding the off-track requirement of 5.5 feet. Eliminates the need and cost to issue an additional permit. Clarify operating requirements during hazardous conditions.

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

Changes address movement of oversize vehicles and/or loads and the safety requirements that must be met. Required changes will provide for improved industry compliance and promote uniformity in the movement of goods and services between the western states. Confers a benefit.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because this action is taken to reinstate a previously repealed rule. The repeal was rejected by legislative action.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Regina Phipps, 208-334-8418.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before June 23, 1999.

DATED this 21st day of April, 1999.

Linda L. Emry, Administrative Assistant
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THE FOLLOWING IS TEXT OF DOCKET NO. 39-0322-9901

IDAPA 39
TITLE 03
Chapter 22

**RULES GOVERNING ~~SPECIAL OVERLEGAL~~ PERMITS FOR
EXTRA-LENGTH VEHICLE COMBINATIONS**

001. TITLE AND SCOPE.

This rule states the special requirements and routes for extra-length vehicle combinations. (8-25-94)

01. Title. This rule shall be cited as IDAPA 39.03.22, "Rules Governing Overlegal Permits For Extra-Length Vehicle Combinations," IDAPA 39, Title 03, Chapter 22. (3-19-99)T

02. Scope. This rule states the requirements and routes for extra-length vehicle combinations. (3-19-99)T

(BREAK IN CONTINUITY OF SECTIONS)

200. CONDITIONS AND REQUIREMENTS FOR EXTRA-LENGTH.

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

01. Extra-Length Vehicle Combinations. Vehicle combinations operating with an overall length in excess of the limits imposed in Section 49-1010, Idaho Code, shall consist of not more than four (4) units, shall not exceed one hundred five (105) feet overall and no such vehicle combination shall include more than three (3) cargo units except that a full truck and full trailer may have an overall length in excess of seventy-five (75) feet but not in excess of eighty-five (85) feet including load overhang. (12-26-90)

02. ROUTES FOR EXTRA-LENGTH OPERATIONS. Shall be designated in four (4) categories: (9-4-91)

a. Routes for combinations not exceeding ~~eighty-five~~ ninety (8590) feet in overall length including load overhang (blue-coded routes). An extra-length combination operating on routes designated for ~~eighty-five~~ ninety (8590) foot combinations shall be designed and assembled in a manner whereby its maximum off-tracking will not exceed five point five zero (5.50) feet on a one hundred sixty-five (165) foot radius when computed by the equation developed by Western Highway Institute (WHI) for computation of maximum vehicular off-track. (12-26-90)(3-19-99)T

b. Routes for combinations of vehicles not exceeding one hundred five (105) feet in overall length including load overhang (red-coded routes). An extra-length combination operating on routes designated for one hundred five (105) foot combinations shall be designed and assembled in a manner whereby its maximum off-tracking will not exceed six point five zero (6.50) feet on a one hundred sixty-five (165) foot radius when computed by the WHI equation referred to above. (12-26-90)(3-19-99)T

c. Interstate system routes and specified interchanges providing access to approved breakdown areas located in close proximity to the Interstate system (black-coded routes). An extra-length combination operating on

routes in this category shall be designed and assembled in such a manner that its off-tracking may exceed six point five zero (6.50) feet but shall not exceed eight point seventy-five (8.75) feet when computed by the WHI equation referred to above. Specified interchanges providing access to approved breakdown areas are required to be used by combinations that exceed six point five zero (6.50) feet off-tracking. The specified interchanges will be authorized for either combinations in excess of six point five zero (6.50) feet off-tracking, but not in excess of seven (7) feet off-tracking, or for combinations in excess of seven (7) feet off-tracking but not in excess of eight point seventy-five (8.75) feet off-tracking. ~~(10-2-89)~~(3-19-99)T

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

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

04. Connecting Devices. Fifth wheel, drawbar, and other coupling devices shall be as specified by Federal Motor Carrier Safety Regulations, Part 393, which shall be considered to be a part of this rule. (10-2-89)

05. Weather Restrictions. Extreme caution in the operation of an extra length vehicle combination shall be exercised when hazardous conditions ~~such as those caused by snow, ice, sleet, fog, mist, rain, dust, or smoke adversely affect visibility or traction exist.~~ The movement of vehicles by extra-length 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. Speed shall be reduced when such conditions exist. ~~When conditions become sufficiently dangerous, the company or the operator shall discontinue operations and operations shall not be resumed until the extra length vehicle combination can be safely operated.~~ The state may restrict or prohibit operations during periods when in the state's judgment traffic, weather, or other safety conditions make such operations unsafe or inadvisable. ~~(8-25-94)~~(3-19-99)T

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

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

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

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

c. Be in compliance with all Federal Motor Carrier Safety Regulations. (3-19-99)T

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

09. Tire Limitations. All axles on extra-length vehicle combinations shall be equipped with four (4) tires except on the steering axle and on axles which are in tandem axle groups or other multiple axle groups. (8-25-94)

(BREAK IN CONTINUITY OF SECTIONS)

300. ~~SPECIAL OVERLEGAL PERMITS FOR EXTRA-LENGTH OPERATIONS.~~

01. Permit Attachments. All vehicles in extra-length operation shall be allowed to travel under the authority of ~~special overlegal~~ permits issued to the power unit. A copy of this rule shall accompany and shall be a part of all annual extra-length permits. An allowable gross loads table shall accompany and be referred to on the face of the permit. Extra-length operations shall be valid only on routes of the state highway system designated for such purposes as set forth on the extra length color coded map of designated routes which shall accompany the permit, and is available at the ~~special overlegal~~ permit office, ports of entry, and highway district offices. Combination extra-length and excess weight permits are available. ~~(8-25-94)~~(3-19-99)T

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

a. The operator of any extra-length combination which has an internal dimension between points of articulation of thirty (30) feet or more, or of any doubles combination which has an overall length of ninety (90) feet or more, or a combination which is authorized by Subsection 200.02.d., of this rule to operate on selected state highways, shall complete the Off-Track Computation Form to provide internal dimensions of the combination and computation of off-track as evidence of compliance with maximum off-track requirements specified for the designated route being traveled. The completed Off-Track Computation Form, when required, shall be available for inspection by enforcement officers with the permit for the extra-length vehicle combination. When the off-track computation form is required, permit shall be invalid until the form is completed and available for inspection. (8-25-94)

b. Extra-length permits shall become automatically invalid subject to conditions cited in ~~Rule IDAPA 39.03.23, "Rules Governing Revocation of Special Permits".~~ ~~(10-2-89)~~(3-19-99)T

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

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

b. The driver of the extra length vehicle combination will be issued a single trip, one (1) day permit via a specified route to the nearest permitted route. The condition of this permit shall require an advance pilot/escort vehicle to escort the extra-length vehicle combination, and the pilot/escort vehicle shall meet the pilot/escort vehicle requirements as set forth in ~~Rule IDAPA 39.03.12, "Rules Governing Safety Requirements of Overlegal Permits".~~ ~~(8-25-94)~~(3-19-99)T

301. -- ~~9399.~~ (RESERVED).

400. PILOT PROJECT TO EXCEED ONE HUNDRED FIVE THOUSAND, FIVE HUNDRED POUNDS UP TO ONE HUNDRED TWENTY-NINE THOUSAND POUNDS.

In addition to the previously stated requirements that must be met, vehicles operating at weights in excess of one hundred five thousand, five hundred (105,500) pounds, must also meet the following requirements: (3-19-99)T

01. Brakes. All axles must be equipped with brakes. (3-19-99)T

02. Permits. Permits will be vehicle specific and will list the axle spacings, number of axles and the gross weight. (3-19-99)T

- 03.** **Trip Logs.** Trip logs will be required to be submitted quarterly with the following information: (3-19-99)T
- a. Each trip must be listed (a trip is defined as each way unladen or laden); (3-19-99)T
 - b. Date trip occurred; (3-19-99)T
 - c. Origin; (3-19-99)T
 - d. Destination; (3-19-99)T
 - e. Route (list each highway traveled); and (3-19-99)T
 - f. Gross weight of vehicle configuration (unladen or laden). (3-19-99)T
- 04.** **Failure To Comply.** Failure to provide this information will invalidate your permit. (3-19-99)T

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

IDAPA 39 - DEPARTMENT OF TRANSPORTATION
39.03.23 - RULES GOVERNING REVOCATION OF SPECIAL PERMITS
DOCKET NO. 39-0323-9801
NOTICE OF FINAL RULE

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency is publishing a final rule.

DESCRIPTIVE SUMMARY: The following is a statement in non-technical language of the substance of the final rule.

Pursuant to SCR 112, the 1999 Legislature has rejected the proposed repeal of the above named docket. Therefore, the text will revert back to its original form, prior to the repeal action.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this final rule, contact Regina Phipps, 334-8418.

DATED this 21st day of April, 1999.

Linda L. Emry, Administrative Assistant
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Idaho Transportation Department
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IDAPA 39 - DEPARTMENT OF TRANSPORTATION
39.03.24 - RULES GOVERNING SELF-PROPELLED SNOWPLOWS
DOCKET NO. 39-0324-9801
NOTICE OF FINAL RULE

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency is publishing a final rule.

DESCRIPTIVE SUMMARY: The following is a statement in non-technical language of the substance of the final rule.

Pursuant to SCR 112, the 1999 Legislature has rejected the proposed repeal of the above named docket. Therefore, the text will revert back to its original form, prior to the repeal action.

Changes to the original text are being promulgated in a new Temporary Rule, which can be viewed following this notice in Docket No. 39-0324-9901.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this final rule, contact Regina Phipps, 334-8418.

DATED this 21st day of April, 1999.

Linda L. Emry, Administrative Assistant
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IDAPA 39 - DEPARTMENT OF TRANSPORTATION
39.03.24 - RULES GOVERNING SELF-PROPELLED SNOWPLOWS
DOCKET NO. 39-0324-9901
NOTICE OF TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: This temporary rule is effective March 19, 1999.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules and proposed regular rulemaking 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 June 16, 1999.

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

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rule-making:

Technical corrections to rule text to make consistent with other rules. Change size of warning flags from 18"x18" to 12"x12" minimum. Makes all flagging requirements for permitted vehicles uniform. Also makes requirements more uniform between the western states.

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

Changes address movement of oversize vehicles and/or loads and the safety requirements that must be met. Required changes will provide for improved industry compliance and promote uniformity in the movement of goods and services between the western states. Confers a benefit.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because this action is taken to reinstate a previously repealed rule. The repeal was rejected by legislative action.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Regina Phipps, 208-334-8418.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before June 23, 1999.

DATED this 21st day of April, 1999.

Linda L. Emry, Administrative Assistant
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Boise ID 83707-1129
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THE FOLLOWING IS TEXT OF DOCKET NO. 39-0324-9901

001. TITLE AND SCOPE.

~~Self-propelled snowplows cannot comply with the safety requirements as other oversize loads due to the nature of their operation. Therefore, this rule is promulgated to state the regulations and safety requirements for overwidth self-propelled snowplows operating under special permit authority. The self-propelled snowplows will be permitted at the rates listed in Rule 39.03.21 for oversize loads.~~ (12-26-90)

01. Title. This rule shall be cited as IDAPA 39.03.24, "Rules Governing Self-Propelled Snowplows." IDAPA 39, Title 03, Chapter 24. (3-19-99)T

02. Scope. ~~Self-propelled snowplows cannot comply with the safety requirements as other oversize loads due to the nature of their operation. Therefore, this rule is promulgated to state the regulations and safety requirements for overwidth self-propelled snowplows operating under overlegal permit authority. The self-propelled snowplows will be permitted at the rates listed in Rule 39.03.21, "Rules Governing Special Permit Fees," for oversize loads.~~ (3-19-99)T

(BREAK IN CONTINUITY OF SECTIONS)

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

01. Maximum Width. The maximum width of the self-propelled snowplows utilized to clear roads, streets and other locations of snow or debris shall be eight (8) feet six (6) inches and the maximum width of the blade mounted on this vehicle shall be fourteen (14) feet as measured normal to the direction of travel. (8-25-94)

02. No Pilot/Escort Vehicles Required. Self-propelled snowplows utilized to clear roads, streets and other locations of snow or debris may operate with no escort vehicles required twenty-four (24) hours a day, seven (7) days a week, including holidays. (8-25-94)(3-19-99)T

03. Warning Flags. ~~An eighteen twelve (182) inch by eighteen twelve (182) inch red or fluorescent orange flag shall be mounted near the extremities of the blade if it exceeds eight (8) feet six (6) inches in width.~~ (8-25-94)(3-19-99)T

04. Clearance Light Or Reflector Requirements. When operating during hours of darkness, a clearance light or a clearance reflector which meets the specifications listed in Sections 49-910 and 49-911, Idaho Code, shall be mounted near the extremities of the blade if the blade exceeds eight (8) feet six (6) inches in width. (8-25-94)

IDAPA 39 - DEPARTMENT OF TRANSPORTATION
39.03.25 - RULES GOVERNING LIGHTS ON SNOW REMOVAL EQUIPMENT
DOCKET NO. 39-0325-9801
NOTICE OF FINAL RULE

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency is publishing a final rule.

DESCRIPTIVE SUMMARY: The following is a statement in non-technical language of the substance of the final rule.

Pursuant to SCR 112, the 1999 Legislature has rejected the proposed repeal of the above named docket. Therefore, the text will revert back to its original form, prior to the repeal action.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this final rule, contact Regina Phipps, 334-8418.

DATED this 21st day of April, 1999.

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