

TRANSPORTATION & DEFENSE COMMITTEE

ADMINISTRATIVE RULES REVIEW

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2011 Legislative Session

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DOCKET NO. 35-0105-1001

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2011 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rules are approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rules are approved, amended or modified by concurrent resolution, the rules become final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 63-105, Idaho Code.

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

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The complete text of the proposed rule was published in the [June 2, 2010, Idaho Administrative Bulletin, Volume 10-6, pages 52 through 54.](#)

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rules, contact Randy Nilson at (208) 334-7544.

DATED this 19th day of November, 2010.

Randy Nilson
Tax Policy Specialist
Idaho State Tax Commission
800 Park Blvd., Plaza IV
P.O. Box 36
Boise, ID 83722-0410

THIS NOTICE PUBLISHED WITH THE TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is **July 1, 2010**.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section 63-105, 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, 2010.

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

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

Rule 130 is being amended to notify fuel distributors that ethanol, natural gasoline, and gasoline blend stocks are received when the fuels are imported into Idaho, removed from an Idaho pipeline terminal, or removed from an Idaho ethanol production facility; to provide a method for distributors to deduct the gallons of ethanol placed into storage inside an Idaho pipeline terminal; and to show that the motor fuels tax and transfer fee are due when ethanol, natural gasoline, and gasoline blend stocks are received.

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

In compliance with deadlines in amendments to governing law.

FEE SUMMARY: Pursuant to Section 67-5226(2), Idaho Code, the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: N/A

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the amendments are simple in nature.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN

COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Randy Nilson at (208) 334-7544.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before June 23, 2010.

DATED this 30th day of April, 2010.

THE FOLLOWING IS THE TEXT OF DOCKET NO 35-0105-1001

130. DISTRIBUTOR'S FUEL TAX REPORTS (RULE 130).

01. Monthly Reports. Every licensed distributor shall file with the State Tax Commission a monthly tax report and supporting detailed schedules on forms prescribed by the State Tax Commission. The distributor must keep detailed inventory records. All reports which require the reporting of the number of gallons of motor fuels and other petroleum products shall be stated in gross gallons. With respect to the quantity of motor fuels and other petroleum products received during the month, the distributor shall include a listing of each person from inside and/or outside Idaho supplying motor fuels and petroleum products to the distributor during the month and the number of gallons supplied by each supplier, on a load-by-load basis. Such reports shall contain a declaration by the person filing the report that the statements contained therein are true and are made under penalties of perjury. The report shall include the following information together with such other information as the State Tax Commission may require: (3-30-01)

a. The beginning inventory of motor fuels and other petroleum products on the first day of the month; (7-1-98)

b. The total quantity of motor fuels includes natural gasoline, gasoline blend stocks, ethanol, ethanol blended with motor fuel, and other petroleum products received during the month. See Rule 130.06 of these Rules; (3-29-10)(____)

c. The total quantity of motor fuels and other petroleum products disbursed during the month. A Disbursements include is motor fuel that is: (4-11-06)(____)

i. Delivered to licensed distributors tax and transfer fee not collected; (4-11-06)

ii. Exported tax and transfer fee exempt; (4-11-06)(____)

iii. Delivered to the Idaho National Guard tax exempt; ~~or~~ (4-11-06)(____)

iv. Exempt from Delivered to a tribe or an Indian-owned retail outlet fuels tax and transfer fee not collected because the fuel is the subject of an agreement authorized by Section 67-

4002, Idaho Code, to the extent provided by the agreement, but only if the agreement is signed by the governor and appropriate representative of a tribe before December 1, 2007; ~~or~~ (4-2-08)()

v. Delivered to an Idaho pipeline terminal and placed into storage fuels tax and transfer fee not collected. ()

d. The total quantity of motor fuels and other petroleum products transferred or relabeled from one (1) fuel type to another; (7-1-98)

e. The casualty loss documented with satisfactory written explanation of proof of loss; (7-1-98)

f. The ending inventory of motor fuels and other petroleum products on the last day of the month; (7-1-98)

g. The gross taxable gallons of motor fuels and other petroleum products; (7-1-98)

h. The tax-paid purchases; (7-1-98)

i. The net taxable gallons; (7-1-98)

j. The gallons of ethanol reported in ethanol blended fuel. The deduction for ethanol is limited to ten percent (10%) of the total volume of the product that meets the definition of gasohol as defined in Section 63-2401, Idaho Code. Biodiesel reported in biodiesel and biodiesel blended fuel. The deduction for biodiesel is up to ten percent (10%) of the total volume. See Section 63-2407, Idaho Code, for other limitations to these deductions (This Subsection only applies to deductions for ethanol or biodiesel that could be made before June 1, 2009); (3-29-10)

k. The gallons after deduction of a one percent (1%) or two percent (2%) allowance, whichever is appropriate. (This subsection only applies to receipts of motor fuels received before December 1, 2007.) See Rule 140 of these rules; (4-2-08)

l. The gallons after deduction of a two percent (2%) allowance. (This subsection only applies to receipts of motor fuels received on and after December 1, 2007.) See Rule 140 of these rules; (4-2-08)

m. The tax computation; (7-1-98)

n. The bad debt amounts; refer to Rule 140 of these rules (This section only applies to debt from fuels taxes that have been written off for income tax purposes in the distributor's records before December 1, 2007.); (3-29-10)

o. The gaseous fuels permit fees; and (4-11-06)

p. The net tax due. (4-11-06)

02. Exemption from Licensing and Monthly Reporting. See Rule 135 for

exemptions from obtaining a motor fuels distributor license and filing monthly reports. (3-29-10)

03. Machine Tabulated Data. Machine tabulated data will be accepted in lieu of detailed schedules on State Tax Commission provided forms but only if the data is in the same format as shown on the required schedules. Before any other format may be used, the distributor must make a written request to the State Tax Commission with a copy of the format and must be granted written authorization to use that format. (7-1-98)

04. Supplemental Reports. In addition to ~~the~~ a timely filed original monthly report, a supplemental report may be filed in those cases involving additional shipments of motor fuels and other petroleum products to the distributor. The supplemental report may be filed only when the distributor is diligent in reporting shipments in the monthly report. Only shipments received within the last five (5) days of the month may be reported in a supplemental report. Shipments received before that date will be subject to penalty if reported in the supplemental report. If a supplemental report is filed, the State Tax Commission will impose interest, but the report will not be subject to penalty. The supplemental report must be postmarked on or before the tenth day of the month following the month in which a report from which shipments were omitted was due. (~~7-1-98~~)()

05. Timely Reporting. Any motor fuel and other petroleum product shipments that are: (~~7-1-98~~)()

a. Reported on a timely supplemental report shall be subject to interest but are not subject to penalty. (7-1-98)

b. Not reported on a timely monthly or supplemental report shall be subject to interest and may be subject to penalty. (7-1-99)

06. Motor Fuels Receipts. All gasoline, natural gasoline, gasoline blend stocks, ethanol, ethanol blended fuels, aircraft engine fuel, biodiesel, biodiesel blends, and undyed diesel fuel or other special fuels received by a distributor are subject to the fuels tax and transfer fee. All receipts of dyed diesel fuel and other petroleum products that are not subject to the special fuels tax are subject to the transfer fee. The special fuels tax is not imposed on gaseous fuels when the fuels are received. Refer to Rule 105 of these rules for the taxation and reporting of gaseous fuels used in motor vehicles. (~~5-8-09~~)()

IDAPA 35 - STATE TAX COMMISSION

35.01.05 - MOTOR FUELS TAX ADMINISTRATIVE RULES

DOCKET NO. 35-0105-1003

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: These rules have been adopted by the agency and are now pending review by the 2011 Idaho State Legislature for final approval. The pending rules become final and effective at the conclusion of the legislative session, unless the rules are approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rules are approved, amended or modified by concurrent resolution, the rules become final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has adopted pending rules. The action is authorized pursuant to Section(s) 63-105, Idaho Code.

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

The pending rules are being adopted as proposed. The complete text of the proposed rules was published in the [October 6, 2010, Idaho Administrative Bulletin, Volume 10-10, pages 542 through 546.](#)

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rules, contact Randy Nilson at (208) 334-7544.

DATED this 19th day of November, 2010.

Randy Nilson
Tax Policy Specialist
Idaho State Tax Commission
800 Park Bl., Plaza IV
P.O. Box 36, Boise, ID 83722-0410

THE FOLLOWING NOTICE PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 63-105, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 20, 2010.

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

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

Rule 137 is being added due to the passage of House Bill 384 by the 2010 Legislature. This rule will require an instate pipeline terminal operator to report ethanol that was placed into storage at its Idaho pipeline terminal. This information will help the Tax Commission to account for all ethanol that was imported into the state by tanker truck or railcar.

Rule 320 is being amended due to the passage of House Bill 384 by the 2010 Legislature to show that records for all types of motor fuels not just those for gasoline and special fuels must be kept for three years.

Rule 400 Subsection 05 is being amended to include motor vehicles powered by gaseous fuels that display a gaseous fuel permit because these motor vehicles do not prejudice the collection of the special fuels tax and do not render wholly or partially ineffective the procedures for the collection of that tax.

Rule 510, Subsection 05, is being amended due to the passage of House Bill 384 by the 2010 Legislature. This legislation imposed the motor fuels tax on ethanol and natural gasoline. The Tax Commission's current reporting system for fuel distributors requires that the motor fuels tax and transfer both be paid when a load of fuel is received. Ethanol and natural gasoline must be included in the definition of petroleum and petroleum products in order to impose the transfer fee on these fuels when they are imported into Idaho or removed from a production plant in Idaho.

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

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was not conducted because the proposed changes are of a simple nature.

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

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Randy Nilson, at (208) 334-7544.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 27, 2010.

DATED this 27th day of August, 2010.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 35-0105-1003

136. ~~139.~~ (RESERVED).

137. INSTATE PIPELINE TERMINAL, PRODUCTION TERMINAL, AND STORAGE REPORTS (RULE 137).

01. Monthly Reports. Every instate pipeline terminal operator and production terminal operator shall file with the state tax commission a monthly tax report and supporting detailed schedules on forms prescribed by the state tax commission. The pipeline terminal operator and production terminal operator must keep detailed inventory records. The number of gallons of motor fuels and other petroleum products shall be stated in gross gallons on all reports. The pipeline terminal operator and production terminal operator shall report the quantity of motor fuels and other petroleum products received during the month including a listing of each person from inside and/or outside Idaho supplying motor fuels and other petroleum products to the pipeline terminal or production terminal. Such reports shall contain a declaration by the person filing the report that the statements contained therein are true and are made under penalties of perjury. The report shall include the following information together with such other information as the state tax commission may require: ()

a. The beginning inventory of motor fuels and other petroleum products on the first day of the month; ()

b. The total quantity of motor fuels or other petroleum products received or produced during the month including gasoline blend stocks and ethanol; ()

c. The total quantity of motor fuels and other petroleum products disbursed during the month on a load-by-load basis; ()

d. The ending inventory of motor fuels and other petroleum products on the last day of the month; ()

02. Machine Tabulated Data. Machine tabulated data will be accepted in lieu of detailed schedules on state tax commission provided forms but only if the data is in the same format as shown on the required schedules. Before any other format may be used, the distributor must make a written request to the state tax commission with a copy of the format and must be granted written authorization to use that format. ()

138. -- 139. (RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

320. RECORDS RETENTION REQUIREMENTS (RULE 320).

01. Records Required. Any person importing, manufacturing, refining, dealing in, transporting, storing or selling any motor fuels in this state shall keep such records, receipts and invoices as will show all purchases, sales, receipts, or deliveries of motor fuels in this state. Such records shall be maintained for at least three (3) years. (6-23-94)

02. Motor Fuels Subject to Use Tax. Any person who has purchased tax-exempt motor fuel and subsequently uses the fuel in a manner that is subject to a motor fuel use tax, shall maintain records sufficient to establish the quantity of motor fuel subject to tax. (7-1-98)

03. Original Invoice Retention. The original invoices required by Rule 270 of these rules, relating to refunds of ~~gasoline and special~~ motor fuels tax paid on certain fuel used off-road, shall be retained for the greater of either three (3) years or the time during which the taxpayer's Idaho income tax return is subject to adjustment by either the State Tax Commission or by voluntary action of the taxpayer. ~~(7-1-98)~~()

(BREAK IN CONTINUITY OF SECTIONS)

400. IFTA LICENSING AND SPECIAL FUELS PERMITTING REQUIREMENTS FOR MOTOR VEHICLES OVER TWENTY-SIX THOUSAND POUNDS MAXIMUM GROSS WEIGHT (RULE 400).

The following rules relate to the special fuels tax licensing system provided in Sections 63-2438 through 63-2440, Idaho Code, inclusive and, where expressly stated, supplements the requirements of IFTA. (7-1-98)

01. In General. It is unlawful for any person to operate a motor vehicle over twenty-six thousand (26,000) pounds maximum registered gross weight or a motor vehicle with three (3) or more axles regardless of weight, that uses special fuels as defined in Section 63-2401, Idaho

Code, on the highways of this state without having obtained one (1) of the following: (3-30-07)

- a.** A registration to operate the motor vehicle solely within this state under Section 49-434, Idaho Code. (7-1-98)
- b.** A temporary permit from the Idaho Transportation Department. (3-15-02)
- c.** An IFTA license. (7-1-98)
- d.** In the case of vehicles powered by gaseous fuels, a gaseous fuels permit as provided by Section 63-2424, Idaho Code. ~~(7-1-98)~~()

02. Federal or In-State Governmental Vehicles. Motor vehicles owned or leased and operated by the federal government or the state of Idaho or their instrumentalities or political subdivisions are exempt from these requirements. (3-15-02)

03. Out-of-State Governmental Vehicles. Motor vehicles owned or operated by another state of the United States or any agency or subdivision thereof are exempt from permitting and reporting under this rule if the state in which they are owned grants a reciprocal privilege to Idaho and its agencies and subdivisions. (7-1-98)

04. Temporary Permits. Any person who operates a motor vehicle over twenty-six thousand (26,000) pounds maximum registered gross weight or a motor vehicle with three (3) or more axles regardless of weight, that uses special fuels on the highways of this state and is not registered solely for operation in this state under Section 49-434, Idaho Code, or IFTA licensed, shall secure a temporary permit from the Idaho Transportation Department in the manner provided and required by that department. (3-30-07)

05. Failure to Obtain an IFTA License, ~~or a~~ Temporary Permit, or a Gaseous Fuels Permit. Operation of a motor vehicle over twenty-six thousand (26,000) pounds maximum registered gross weight or a motor vehicle with three (3) or more axles regardless of weight, that uses special fuels on the highways of this state without a registration to operate the motor vehicle solely within this state under Section 49-434, Idaho Code, an IFTA license, ~~or~~ an Idaho temporary permit, or a gaseous fuels permit for motor vehicles powered by gaseous fuels as provided by Section 63-2424, Idaho Code, is hereby deemed to be an act tending to prejudice the collection of the special fuels tax and an act that renders wholly or partially ineffective the procedures for collection of that tax. Accordingly, any deputy of the Commission, including those designated as deputies in Section 300 of these rules, may issue a jeopardy assessment under the authority of Sections 63-2434 and 63-3065, Idaho Code. Such deputy is authorized to institute immediate collection procedures, including issuance of a tax warrant and distraint of the motor vehicle required to display, but failing to display, either an IFTA license or a temporary permit. ~~(3-30-07)~~()

(BREAK IN CONTINUITY OF SECTIONS)

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

01. Application. (6-23-94)

a. The Petroleum Transfer Fee applies to the receipt of any petroleum or petroleum product within this state. The amount of the fee is one cent (\$0.01) for each gallon of petroleum or petroleum product received. The fee shall be paid by the distributor who receives any petroleum or petroleum product not excluded from the fee, unless the fee has previously been paid on the same petroleum or petroleum product. (7-1-99)

b. The legal incident of the fee is on the distributor required to report it to the State Tax Commission. The fee is not required to be separately stated on any invoice, receipt, or other billing document. A choice to state separately the fee does not change its legal incidence or its nature. (6-23-94)

02. Receipt of Petroleum Products. Receipt of petroleum or petroleum products shall be determined according to Section 63-2403, Idaho Code. (7-1-99)

03. Exemption to Application of the Transfer Fee. The Petroleum Transfer Fee does not apply to petroleum or petroleum products that are: (6-23-94)

a. Returned to the refinery or pipeline terminal. (6-23-94)

b. Exported from this state. No fuel will be considered exported, unless the distributor can prove the export by documentation required by Rule 140 of these rules. (7-1-99)

c. Received by a railroad or railroad corporation or any employee of them. Petroleum or petroleum products sold by a licensed distributor to a railroad or railroad corporation or any employee of them is subject to the Petroleum Transfer Fee unless the petroleum or petroleum products are "received" by the railroad or railroad corporation as defined in Section 63-2403, Idaho Code. The exclusion for railroad employees applies only when the activity relating to the fuel is part of their employment with the railroad or railroad corporation. (7-1-99)

d. Received in retail containers of fifty-five (55) gallons or less or petroleum products to be packaged or repackaged into retail containers of fifty-five (55) gallons or less, if such containers are intended to be transferred to the ultimate consumer of the petroleum or petroleum products. (6-23-94)

04. Casualty Loss and Shrinkage Not Deductible. All petroleum and petroleum products received in this state that are not within an exemption or exclusion listed in this rule are subject to the fee, without further deductions or discounts despite the product's use. The deductions allowed to motor fuel distributors for fuel lost by fire or similar casualty, see Section 63-2407(3), Idaho Code; and the two percent (2%) discount for loss by shrinkage or evaporation, see Section 63-2407(4), Idaho Code; are not deductions applicable to the Petroleum Transfer Fee. (4-2-08)

05. Petroleum and Petroleum Products. The products subject to the Petroleum

Transfer Fee are crude oil or any fraction of it that is liquid at a temperature of sixty (60) degrees Fahrenheit and a pressure of fourteen and seven tenths (14 7/10) psi. These products are all products refined from crude oil including but not limited to motor gasoline, alcohol blended fuels, such as E-10 and E-85, including the alcohol content of blended fuel, diesel fuel (#1 - #6), ~~biodiesel~~, biodiesel blended fuels, such as B-20, including the biodiesel content of the blended fuel, heating oil, aviation fuel, naphtha, naphtha-type jet fuel, kerosene-type jet fuel (JP#1 - #8), motor oil, brake fluid, tractor fuel, distillate fuel oil, stove fuel, unfinished oils, turpentine substitutes, lamp fuel, diesel oils (#1 - #6), engine oils, railroad oils, kerosene, commercial solvents, lubricating oils, fuel oil, boiler fuel, refinery fuel, industrial fuel, bunker fuel, residual fuel oil, road oils, and transmission fluids. Ethanol (E00), natural gasoline, and biodiesel (B00) are also defined as petroleum and petroleum products that are subject to the Petroleum Transfer Fee. (4-2-08)()

06. Licensed Distributors and Limited Licenses. Any person holding a distributor's license issued by the State Tax Commission under Section 63-2427A, Idaho Code, is also licensed for the Petroleum Transfer Fee. No additional license is required. Any person who receives any petroleum or petroleum product in this state, but who is not a licensed distributor nor required to obtain a license under Section 63-2427A, Idaho Code, shall apply to the State Tax Commission for a limited license. The limited license is only for reporting the Petroleum Transfer Fee and is not a license for any purpose under Chapter 24, Title 63, Idaho Code. (7-1-99)

07. Reporting Requirements. (6-23-94)

a. Distributors licensed under Section 63-2427A, Idaho Code, shall report and pay the Petroleum Transfer Fee with the distributor's report required by Section 63-2406, Idaho Code. For fuel subject to the taxes imposed by Sections 63-2402 and 63-2408, Idaho Code, the Petroleum Transfer Fee shall be included in the report in which the distributor is required to report the tax on the same fuel. (5-3-03)

b. Persons holding a limited license shall file a monthly report with the State Tax Commission on forms prescribed by the State Tax Commission on or before the last day of the month following the month to which the report relates. (7-1-99)

c. The provisions of Rule 130 of these rules, apply to reports of the Petroleum Transfer Fee. (7-1-99)

08. Payment. (6-23-94)

a. Payment of the fee is due on the due date of the report. For method of payment, including required use of electronic funds transfer, see Rule 010 of these rules. (6-23-94)

b. Any partial payment or collection of amounts shown due or required to be shown due on a distributor's report, plus any additional amount of penalty or interest due, shall be allocated between the motor fuels tax and the Petroleum Transfer Fee in the same proportion that the liability for the tax and the fee bear to the total liability. (6-23-94)

09. Incorporation of Other Relevant Rules. Section 41-4909, Idaho Code, incorporated by reference various provisions of the Income Tax Act, Chapter 30, Title 63, Idaho

Code, to apply to the administration and enforcement of the Petroleum Transfer Fee. For applying and construing those sections as they apply to the Petroleum Transfer Fee, the Administration and Enforcement Rules relating to those sections of the Income Tax Act are adopted as part of these rules, as if set out in full. In addition, Administration and Enforcement Rule 110, (IDAPA 35.02.01.110) relating to requests for declaratory rulings, is adopted as part of these rules, as if set out in full. (4-6-05)

IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT

39.03.22 - RULES GOVERNING OVERLEGAL PERMITS FOR EXTRA-LENGTH VEHICLE COMBINATIONS

DOCKET NO. 39-0322-1001

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2011 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

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

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

This rulemaking increases the limitations for permitted vehicle combinations on “blue-coded routes,” from ninety (90) to ninety-five (95) feet in overall length including load overhang. This still allows the vehicles to operate within the maximum off-tracking limitations. It also eliminates redundant language from Subsection 200.04 regarding connecting devices. With the exception of amendments to Subsection 200.04, this rulemaking was approved by the 2010 Legislature as a Temporary Docket, effective December 1, 2009. It will expire at the end of the 2011 Session to be replaced by this rulemaking.

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the [August 4, 2010, Idaho Administrative Bulletin, Volume 10-8, pages 95 through 98.](#)

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

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

DATED this 23rd day of September, 2010.

Linda L. Emry
Office of Governmental Affairs
Idaho Transportation Department
3311 West State Street
P O Box 7129, Boise ID 83707-1129
Phone - 208-334-8810 / FAX - 208-332-4107

THE FOLLOWING NOTICE PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rule-making procedures. The action is authorized pursuant to Section 40-312, 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 August 18, 2010.

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:

This rulemaking increases the limitations for permitted vehicle combinations on “blue-coded routes,” from ninety (90) to ninety-five (95) feet in overall length including load overhang. This still allows the vehicles to operate within the maximum off-tracking limitations. It also eliminates redundant language from Subsection 200.04 regarding connecting devices. With the exception of amendments to Subsection 200.04, this rulemaking was approved by the 2010 Legislature as a Temporary Docket, effective December 1, 2009. It will expire at the end of the 2011 Session and be replaced by this rulemaking.

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

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because this rulemaking was initiated at the request of representatives from the logging industry and is being promulgated on the basis of successful

testing of the longer vehicle combinations on selected “blue-coded routes.”

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

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Regina Phipps, Vehicle Size and Weight Specialist, 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 August 25, 2010.

DATED this 1st day of July, 2010.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 39-0322-1001

000. LEGAL AUTHORITY.

This rule, governing the movement of vehicles which are in excess of the sizes allowed by 49-1004 and 49-1010, is adopted under the authority of Sections 40-312 and 49-1004, Idaho Code. (10-2-89)()

(BREAK IN CONTINUITY OF SECTIONS)

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

01. Street And Mailing Address. The Idaho Transportation Department maintains a central office in Boise at 3311 W. State Street with a mailing address of PO Box 7129, Boise, ID 83707-1129. (3-20-04)

02. Office Hours. Daily office hours are 7:30 a.m. to 5 p.m. except Saturday, Sunday and state holidays. (3-20-04)()

03. Telephone and Fax Numbers. The central office may be contacted during office hours by phone at 208-334-8420 or by fax at 334-8419. (3-20-04)

(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 fifteen (115) feet overall and no such vehicle combination shall include more than three (3) cargo units except that a full truck and full trailer may have an overall length in excess of seventy-five (75) feet but not in excess of eighty-five (85) feet including load overhang. (3-20-04)

02. Routes for Extra-Length Operations. Shall be designated in four (4) categories: (9-4-91)

a. Routes for combinations not exceeding ninety-five (905) feet in overall length including load overhang (blue-coded routes). An extra-length combination operating on routes designated for ninety-five (905) 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. (~~3-22-00~~)()

b. Routes for combinations of vehicles not exceeding one hundred fifteen (115) feet in overall length including load overhang (red-coded routes). An extra-length combination operating on routes designated for one hundred fifteen (115) 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. (3-20-04)

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. (3-22-00)

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. 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)

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. (3-22-00)

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. Single axles on extra-length vehicle combinations shall be equipped with four (4) tires except on the steering axle, or variable load suspension axles (VLS-lift axles), unless equipped with fifteen (15) inch wide or wider single tires. Multiple axle configurations may be equipped with single tires on each of the axles as long as the pounds-per-inch width of tire does not exceed the limits as listed in Section 49-1002, Idaho Code. (5-8-09)