

***TRANSPORTATION & DEFENSE COMMITTEE***

***ADMINISTRATIVE RULES REVIEW***

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***2012 Legislative Session***

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## IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT

### 39.03.21 - RULES GOVERNING OVERLEGAL PERMIT FEES

#### DOCKET NO. 39-0321-1101 (FEE RULE)

#### NOTICE OF RULEMAKING - ADOPTION OF PENDING FEE RULE

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2012 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved, amended, or modified by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. 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 fee rule. The action is authorized pursuant to Sections 40-312 and 49-201, Idaho Code.

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

**The pending rule is being adopted as proposed. The original text of the proposed rule was published in the [September 7, 2011 Idaho Administrative Bulletin, Volume 11-9, page 152 through 154.](#)**

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased. This fee or charge is being imposed pursuant to Section 49-201, Idaho Code:

**A recent cost analysis was undertaken to determine if administrative fees are covering administrative costs. The FY10 cost analysis revealed that the permit program fell short by approximately \$643,000. This shortfall is currently subsidized by the State Highway Account. Individual increases were applied to seven permit types, commensurate with the level of complexity, staff involvement, and updates to required documents. The individual increases, ranging between \$18 and \$70, are expected to generate a total of \$643,136, which would just cover the shortfall.**

**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: Not applicable.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending fee rule, contact Alan Frew, Motor Vehicle Administrator, 334-8809.

DATED this 4th day of November, 2011.

Linda L. Emry  
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Idaho Transportation Department  
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**THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rule-making procedures. The action is authorized pursuant to Sections 40-312 and 49-201, Idaho Code, and governs the movement of vehicles or loads which are in excess of the sizes or weights allowed in Sections 49-1001, 49-1002, 49-1004, or 49-1010, 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 September 21, 2011.

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:

**The Idaho Legislature has provided clear direction to the Department in their approval of Section 100 of this rule, "Costs to be Borne by Permittee." This section states that administrative costs incurred in the processing, issuance and enforcement of overlegal permits will be borne by the permittees and not by the general traveling public through the expenditure of highway use funds. The permit program is currently experiencing a revenue shortfall and it is necessary to raise certain fees to cover administrative costs. New language also provides for reimbursement of actual costs incurred for extraordinary services associated with planning and/or movement of overlegal loads moving under the requirements of a traffic control plan.**

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

**A recent cost analysis was undertaken to determine if administrative fees are covering administrative costs. The FY10 cost analysis revealed that the permit program fell short by approximately \$643,000. This shortfall is currently subsidized by the State Highway Account. Individual increases were applied to seven permit types, commensurate with the level of complexity, staff involvement, and updates to required documents. The individual increases, ranging between \$18 and \$70, are expected to generate a total of \$643,136, which would just cover the shortfall. Such fees are authorized in Section 49-201, Idaho Code.**

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

There is no fiscal impact to the state general fund.

**NEGOTIATED RULE-MAKING:** Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was not conducted because the basis for this rule change is intent language approved by the Legislature, stating that administrative costs associated with overlegal permits will be covered by the permittee. The fee increases on permits to cover administrative costs maintain revenue neutrality.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Remundo Rodriguez, Commercial Motor Vehicle Services Manager, 334-8699.

Anyone may submit written comments regarding this proposed rule-making. All written comments must be directed to the undersigned and must be delivered on or before September 28, 2011.

DATED this 5th day of August, 2011.

**THE FOLLOWING IS THE TEXT OF DOCKET NO. 39-0321-1101**

**000. LEGAL AUTHORITY.**

This rule, governing the movement of vehicles or loads which are in excess of the sizes or weights allowed by 49-1001, 49-1002, ~~49-1004~~, or 49-1010, is adopted under the authority of Sections 40-312; ~~and~~ 49-201, ~~and 49-1004~~, Idaho Code. (3-19-07)( )

**(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. (3-19-07)

**02. Office Hours.** Daily office hours are 7:30 a.m. to 5 p.m. except Saturday, Sunday and state holidays. (3-19-07)( )

**03. Telephone and Fax Numbers.** The central office may be contacted during office hours by phone at 208-334-8420 or by fax at 208-334-8419. (3-19-07)

**(BREAK IN CONTINUITY OF SECTIONS)**

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

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

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

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

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

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

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

**c.** Oversize single trip exceeding sixteen (16) feet wide, or sixteen (16) feet high or one hundred ten (110) feet long, ~~fifty-three~~ seventy-one dollars (~~\$53~~71). ~~(3-19-07)~~(    )

**d.** Oversize only, two (2) trips within seven (7) days, exceeding sixteen (16) feet wide, or sixteen (16) feet high or one hundred ten (110) feet long, ~~seventy-one~~ eighty-nine dollars (~~\$71~~89). ~~(3-19-07)~~(    )

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

feet overall combination length on magenta coded routes; forty-three dollars (\$43). (3-19-07)

**f.** Excess weight annual, twelve (12) consecutive months, authority to exceed eighty thousand (80,000) lbs. on reducible loads up to one hundred five thousand five hundred (105,500) pounds, forty-three dollars (\$43). (3-19-07)

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

**h.** Overweight/Oversize or Overweight only (non-reducible) single trip, ~~thirty-three~~ seventy-one dollars (~~\$3371~~). (~~3-19-07~~)(    )

**i.** Overweight/Oversize or Overweight only (non-reducible), two (2) trips, ~~forty-three~~ eighty-one dollars (~~\$4381~~). (~~3-19-07~~)(    )

**j.** Overweight/Oversize (non-reducible) single trip, exceeding sixteen (16) feet wide, or sixteen (16) feet high or one hundred ten (110) feet long, ~~fifty~~ one hundred three dollars (~~\$5103~~). (~~3-19-07~~)(    )

**k.** Overweight/Oversize (non-reducible) two (2) trips within seven (7) days, exceeding sixteen (16) feet wide, or sixteen (16) feet high or one hundred ten (110) feet long, ~~seventy-one~~ hundred sixteen dollars (~~\$7116~~). (~~3-19-07~~)(    )

**l.** Overweight/Oversize (non-reducible) annual permit fee for twelve (12) consecutive months, ~~fifty one hundred twenty-eight~~ one hundred twenty-eight dollars (~~\$5128~~). (~~3-19-07~~)(    )

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

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

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