

**TRANSPORTATION COMMITTEE**

**ADMINISTRATIVE RULES REVIEW**

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**2012 Legislative Session**

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## IDAPA 35 - IDAHO STATE TAX COMMISSION

### 35.01.05 - IDAHO MOTOR FUELS TAX ADMINISTRATIVE RULES

DOCKET NO. 35-0105-1101

#### NOTICE OF RULEMAKING - ADOPTION OF PENDING 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. The pending rules become final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5221(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 pending rule is being adopted as proposed. The complete text of the proposed rule was published in the [October 5, 2011, Idaho Administrative Bulletin, Volume 11-10, pages 700 through 702.](#)**

**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 25<sup>th</sup> day of November, 2011.

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 WAS PUBLISHED WITH THE PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to 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 19, 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 rulemaking:

**Rule 310 is being amended in Subsection 310.02.b. to provide the Tax Commission with adequate time to determine that a fuel distributor is delinquent and to notify the fuel distributor that its bond exemption will be terminated if the delinquency is not paid. The fuel distributor will need time to obtain a bond if it is not able to pay the delinquency. A fuel distributor's license is revoked if it does not have a bond or a bond exemption.**

**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 26, 2011.

DATED this 31st day of August, 2011.

**THE FOLLOWING IS THE TEXT OF DOCKET NO. 35-0105-1101**

**310. EXEMPTION FROM REQUIREMENT FOR BONDS, DETERMINATION OF FINANCIAL RESPONSIBILITY (RULE 310).**

**01. Exemption to Bond Requirements for Licensed Distributors.** Bonds, as referred to in Rule 010 of these rules are required of all licensed distributors unless the distributor is found to be financially responsible. A licensed distributor seeking exemption from the bonding requirement must apply for the exemption by filing a written petition with the State Tax Commission. The petition must contain information relating to the requirements of Section 63-2428, Idaho Code, for establishing financial solvency and responsibility. Together with the petition, the distributor must submit any information required in the following Subsections 310.01.a. through 310.01.e. (3-30-01)

**a.** If all or any part of the unencumbered property offered to show financial solvency is real property, the petition must include both a title report from an independent title company reporting on the state of the title of the real property as of a time not more than fifteen (15) days before the filing of the petition and a copy of the most recent valuation notice issued by the county assessor for ad valorem property tax purposes. (6-23-94)

**b.** If all or any part of the unencumbered property is licensed motor vehicles, the petition must include copies of the titles of the vehicles and evidence of the value of the vehicles from a source independent from the distributor. (6-23-94)

**c.** If all or any part of the unencumbered property is personal property other than motor vehicles, the petition must include a description of the property, evidence of ownership of the property, an independent appraisal of the property, and evidence that the property is unencumbered. Copies of all documents relating to all of the distributor's current and long-term liabilities, including contingent liabilities, lawsuits or potential lawsuits to which the distributor is or may become a party, are required to establish that no security interests or other encumbrances exist. (6-23-94)

**d.** The petitioner must arrange, at the petitioner's expense, for an established, independent commercial credit rating company to submit directly to the State Tax Commission a current and complete credit report about the licensed distributor; or, the distributor must include with the petition its most recent financial statements, including a current income statement, balance sheet, and statement of cash flows. If the petitioner is a publicly held company, the financial statements must be accompanied by an opinion issued by an independent certified public accountant and a responsible company officer must also certify that the financial statements provided present fairly the financial position of the company. If the petitioner is a privately held company, the financial statements must be reviewed by a certified public accountant or licensed public accountant and a responsible company officer must also certify that the financial statements provided present fairly the financial position of the company. (3-30-01)

e. The State Tax Commission may require the distributor to supplement its petition with such further information as the State Tax Commission, in its discretion, finds necessary to determine financial responsibility. If incomplete or substitute submissions are received by the State Tax Commission, the information submitted will be reviewed on a case-by-case basis to determine whether an exemption from the bonding requirement will be granted. (3-30-01)

**02. Conditions for Termination of Exemption.** If granted, the exemption from the bonding requirement shall terminate: (6-23-94)

a. One (1) year after the date on which it was granted. (6-23-94)

b. Upon Ninety (90) days after the occurrence of any delinquency in motor fuels tax unless the delinquency has been paid within that time period. ~~(6-23-94)~~( )

c. Upon the occurrence of any encumbrance of any of the property upon which the finding of financial responsibility was based. (6-23-94)

d. Upon the occurrence of any change in the business activity of the distributor that would cause the amount of bond required to be increased to an amount greater than the value of the distributor's unencumbered assets. (6-23-94)

e. Upon the occurrence of any event prejudicing the distributor's solvency or financial responsibility. (6-23-94)

**03. Bond Requirement upon Termination of Exemption.** Immediately upon any termination of the exemption from the requirement for a bond the distributor must supply the required bond according to Section 63-2428, Idaho Code. (3-30-01)

**04. Pending Application Does Not Excuse the Bond Requirement.** Having an application pending for exemption from the requirement for a bond does not excuse the bond. If a bond exemption is due to expire, the distributor must submit a new petition applying for a continuation of the exemption no later than ninety (90) days before the day the exemption is due to expire to prevent a lapse in the exemption. The petition must meet all of the requirements of this rule. (6-23-94)

**05. Conditions for Renewal of Bond Exemption.** The following must be submitted to renew a bond exemption: (7-1-97)

a. A written request for renewal of waiver; (7-1-97)

b. The information required in Subsections 310.01.a. through 310.01.e. of this rule. (7-1-97)

## IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT

### 39.02.03 - RULES GOVERNING VEHICLE DEALER'S PRINCIPAL PLACE OF BUSINESS

DOCKET NO. 39-0203-1101

#### NOTICE OF RULEMAKING - ADOPTION OF PENDING 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. 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 Sections 49-201(1), Idaho Code, and Title 49, Chapter 16, Dealers and Salesmen Licensing (Vehicle Dealer Act).

**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 [August 3, 2011 Idaho Administrative Bulletin, Volume 11-8, pages 228 through 231.](#)**

**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: This rulemaking has no fiscal impact on the general fund.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Amy Smith, Vehicle Services Manager, 334-8660.

DATED this 31st day of August, 2011.

Linda L. Emry  
Office of Governmental Affairs  
Idaho Transportation Department  
3311 W State St, PO Box 7129,  
Boise ID 83707-1129  
Phone – 208-334-8810 / FAX – 208-332-4107  
[linda.emry@itd.idaho.gov](mailto:linda.emry@itd.idaho.gov)

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

**EFFECTIVE DATE:** The effective date of the temporary rule is **July 1, 2011**.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rule-making procedures have been initiated. The action is authorized pursuant to Section 49-201(1), Idaho Code, and Title 49, Chapter 16, Dealers and Salesmen Licensing (Vehicle Dealer Act).

**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 August 17, 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 the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rule-making:

**Provides criteria for record types and allows records to be retained physically or electronically. Allows for files to be stored off-site following 30-day notification to the department, with the provision that records must be produced within 3 business days upon request by the department. Requires that electronic records be searchable, be kept secure preventing unauthorized access, and in such a manner that they cannot be altered. It amends dated telephone criteria and revises sections 001 through 006 to meet requirements of the Office of the Administrative Rules Coordinator.**

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

**Senate Bill 1061, 2011, effective July 1, 2011, sponsored by the Idaho Automobile Dealers Association, authorized licensed Idaho dealers to store department required documentation in an electronic format or at a secure off-site location. The intent is to provide for better consumer protection of personal information. It was necessary to update the associated rule which defines principal place of business requirements for the record keeping systems required by the department for licensed vehicle dealers.**

**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: There is no impact on the state general fund.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because action was initiated based on compliance with Legislative action with the passage of Senate Bill 1061, 2011.

**INCORPORATION BY REFERENCE:** Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: No materials are being incorporated by reference into this rule.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, contact Amy Smith, Vehicle Services Manager, Division of Motor Vehicles, 334-8660.

Anyone may submit written comments regarding the proposed rule-making. All written comments must be directed to the undersigned and must be delivered on or before August 24, 2011.

DATED this 6th day of August, 2011.

**THE FOLLOWING IS THE TEXT OF DOCKET NO. 39-0203-1101**

**001. TITLE AND SCOPE.**

**01. Title.** This rule shall be cited as IDAPA 39.02.03, "Rules Governing Vehicle Dealer's Principal Place of Business. ( )

**02. Scope.** This rule clarifies terms used in the definition of "principal place of business" and provisions regarding these terms. (~~12-26-90~~)( )

**002. WRITTEN INTERPRETATIONS.**  
There are no written interpretations for this chapter. ( )

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

**004. INCORPORATION BY REFERENCE.**  
There are no documents incorporated by reference in this chapter. ( )



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

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

**02. Office Hours.** Daily office hours are 8:00 a.m. to 5 p.m. except Saturday, Sunday and state holidays. ( )

**03. Telephone and Fax Numbers.** The central office may be contacted during office hours by phone at 208-334-8681 or by fax at 208-332-4183. ( )

**006. PUBLIC RECORDS ACT COMPLIANCE.**

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

**007. -- 009. (RESERVED)**

**010. DEFINITIONS.**

**01. Vehicle Dealer File System.** Books, records and files, necessary to conduct the business of a vehicle dealership. In accordance with the Vehicle Dealer Act, records shall be securely kept ~~in a file cabinet or desk drawer~~ by the dealership in such order that they can be readily inspected by a Department Investigator. Such records and files may be kept electronically, as long as such records can be verified by the dealership as true and correct copies of the original records. Physical records or files retained by the dealership may be stored at an off-site location. The dealership must notify the department 30 days in advance of the address of the off-site location prior to moving such records. Records or files stored off-site must be made available to the department within 3 business days upon request. The files and records shall contain but are not limited to: ~~(12-26-90)~~( )

- a. Physical or electronic ~~S~~sales invoices for current and two (2) preceding years; ~~(12-26-90)~~( )
- b. Physical or electronic ~~C~~copies of purchase orders for vehicles purchased for current and two (2) preceding years; ~~(12-26-90)~~( )
- c. Physical or electronic copies of ~~F~~title application forms ~~kept~~ accessible in numerical order; ~~(12-26-90)~~( )
- d. Written or electronic records of vehicles bearing new or used dealers' number plates and their use by a manufacturer, vehicle dealer, or full-time licensed salespersons searchable by date, time or plate number; ~~(12-26-90)~~( )
- e. Written or electronic records for loaner plates searchable by date, time or plate number; ~~(12-26-90)~~( )

- f. A valid bond in the amount required by Section 49-1608, Idaho Code; (12-26-90)
- g. Copies or electronic records of Wholesale Dealer Forms records showing, all transactions, as applicable searchable by date or name of consignee; ~~(12-26-90)~~( )
- h. Physical or electronic ~~o~~dometer disclosure records for non-exempt vehicles; and ~~(12-26-90)~~( )
- i. Physical or electronic records of ~~C~~consignment agreements, as specified in Section 49-1636, Idaho Code. ~~(7-2-92)~~( )
- i. A valid liability insurance policy as required by Section 49-1608A, Idaho Code. ( )
- k. All electronic records must be created in a secure manner to prevent such records from being altered. Electronic copies of records must be legible, complete, and an accurate reproduction of the original business record. ( )
- l. All electronic copies of records shall be supplemented with a back-up copy of the electronic records, either retained on-site or an off-site location, which permits the business record to be retrieved within three (3) business days. ( )
- m. Any device, server, network device, or any internal or external storage medium which stores the electronic records must have security access controls and physical security measures to protect the records from unauthorized access, viewing, or alteration. ( )
- n. Any dealer storing electronic or physical records that contain personal information shall ensure that disposal of any records shall be completed in a secure manner, by shredding, erasing, or otherwise modifying the personal information to make it unreadable or undecipherable through any means. ( )

**02. Vehicle Dealer Sign Requirements.** An exterior sign permanently affixed to the land or building, with clearly visible letters, visible to major avenue of traffic meeting local building or zoning codes with the trade name of the dealership clearly visible is required. Wholesale dealer signs may be painted on the window of the office next to the entrance door of sufficient size to be easily read by prospective customers. A suggested retail sign size is twenty-four (24) square feet, with a minimum of ~~two~~ four (24) inch letters. ~~(12-26-90)~~( )

**03. Telephone.** A ~~“hard-mount” wire-line~~ business phone which has a published business number, and listing in a local telephone directory in the name of the dealership. Business phones shall be answered during declared business hours ~~or all other reasonable times~~, in the name of the licensed dealer. The telephone may be answered in person, by an answering machine, or at a remote location in person, ~~or by machine via call forwarding. All mobile telephones, including cellular, IMTS, trunking, or any telephone interconnect systems are specifically excluded. The telephone must be listed with the local telephone company in the name of the dealership.~~ ~~(7-2-92)~~( )

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

**100. GENERAL PROVISIONS.**

**01. ~~File~~ Physical or Electronic Records System Inspection.** A vehicle dealer shall ~~submit~~ make available all books, records and files maintained at the dealership location for immediate inspection for cause or complaint, ~~and upon reasonable written notice~~ or within three (3) business days if records are stored at an approved off-site location for random compliance review by a peace officer or authorized agent of the Department. ~~(12-26-90)~~( )

**02. Title Fee Disclosure.** A dealer may reflect the payment of a state-required title fee as specified by Section 49-202(2)(b), Idaho Code, however: (7-2-92)

**a.** The fee must be clearly identified as a "TITLE FEE"; (7-2-92)

**b.** The fee must be shown as the exact amount required by law; (7-2-92)

**c.** Any documentation fees charged must be clearly listed separately from other fees and identified to the customer as dealer document preparation fees that are subject to sales tax as part of the purchase price of the vehicle. (7-2-92)

**03. Vehicle Dealer License Suspension.** Any dealer not meeting the requirements of the Vehicle Dealer Act shall be subject to suspension of an existing dealer license or refusal by the Department to issue a new dealer license. (7-2-92)

**a.** The Department's agent shall give written notice of deficiencies to the dealer or applicant. (12-26-90)

**b.** At its discretion the Department may give the licensed dealership a reasonable amount of time to comply. (12-26-90)

**c.** Upon compliance, the license shall be reinstated or issued. (12-26-90)

## IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT

### 39.02.47 - RULES GOVERNING REVOCATION OF VEHICLE REGISTRATION FOR FAILURE TO COMPLY WITH A MOTOR VEHICLE EMISSION INSPECTION ORDINANCE

DOCKET NO. 39-0247-1101 (CHAPTER REPEAL)

#### NOTICE OF RULEMAKING - ADOPTION OF PENDING 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. 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 Sections 49-201(1) and 49-202(12)(f), 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 [August 3, 2011 Idaho Administrative Bulletin, Volume 11-8, page 232.](#)**

**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: This rulemaking has no fiscal impact on the general fund.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Amy Smith, Vehicle Services Manager, 334-8660.

DATED this 31st day of August, 2011.

Linda L. Emry  
Office of Governmental Affairs  
Idaho Transportation Department  
3311 W State St, PO Box 7129,  
Boise ID 83707-1129  
Phone – 208-334-8810 / FAX – 208-332-4107  
[linda.emry@itd.idaho.gov](mailto:linda.emry@itd.idaho.gov)

**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 49-201(1) and 49-202(12)(f), 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 17, 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 rulemaking:

**With passage of House Bill 326, 2011, which eliminated the requirement to forfeit and the need to repay registration fees when a registration is revoked for failure to comply with an emission test, this rule is no longer needed. All applicable language is now included in Section 39-116B, Idaho Code, making this rule unnecessary, and allowing it to be repealed in its entirety.**

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

**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: Other than the cost of publishing this rulemaking, there is no fiscal impact associated with this action.

**NEGOTIATED RULE-MAKING:** Pursuant to Section 67-5220, Idaho Code, negotiated rule-making was not conducted because there is no impact to the public or private sectors associated with the repeal of this administrative rule.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Amy Smith, Vehicle Services Manager, Division of Motor Vehicles, 334-8660.

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 24, 2011.

DATED this 7th day of July, 2011.

**THE FOLLOWING IS THE TEXT OF DOCKET NO. 39-0247-1101**

**IDAPA 39.02.47 IS BEING REPEALED IN ITS ENTIRETY**

**IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT**  
**39.02.70 - RULES GOVERNING RESTRICTED DRIVING PERMITS**

**DOCKET NO. 39-0270-1101**

**NOTICE OF RULEMAKING - ADOPTION OF PENDING 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. 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 Sections 18-8002A, 49-325, and 49-326, Idaho Code.

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

**The pending rule is being adopted as proposed. The original text of the proposed rule was published in the [July 6, 2011 Idaho Administrative Bulletin, Volume 11-7, pages 134 through 139.](#)**

**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: This rulemaking has no fiscal impact on the general fund.

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

DATED this 31st day of August, 2011.

Linda L. Emry  
Office of Governmental Affairs  
Idaho Transportation Department  
3311 W State St, PO Box 7129,  
Boise ID 83707-1129  
Phone – 208-334-8810 / FAX – 208-332-4107  
[linda.emry@itd.idaho.gov](mailto:linda.emry@itd.idaho.gov)

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

**EFFECTIVE DATE:** The effective date of the temporary rule is **July 1, 2011**.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rule-making procedures have been initiated. The action is authorized pursuant to Sections 18-8002A, 49-325, and 49-326, Idaho Code, and Section 49-306, Idaho Code, as amended in House Bill 334, 2009, effective January 1, 2010.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than July 20th, 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 the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rule-making:

**Rule changes are being proposed to replace a fee with a code reference since the fee has been codified, update terminology, remove restricted driving permit provisions for drivers under the age of 17 for consistency with graduated licensing laws, remove time limitations for application for a restricted driving permit, and add prescribed subsections to meet formatting requirements of the Office of Administrative Rules.**

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

**Compliance with changes to Section 49-306, Idaho Code, in House Bill 334, 2009, effective January 1, 2010, which codified the fee previously listed in this rule. Outdated language also needed to be updated.**

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

This rulemaking does not impose or change a fee, but removes the fee amount from the rule and replaces it with a reference to the Section 49-306, Idaho Code, where it was codified.

**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 RULE-MAKING:** Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because this rulemaking is based primarily on Legislative changes to Idaho Code.

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

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, contact Ed Pemble, Driver Services Manager, 332-7830.

Anyone may submit written comments regarding the proposed rule-making. All written comments must be directed to the undersigned and must be delivered on or before July 27, 2011.

DATED this 9th day of June, 2011.

**THE FOLLOWING IS THE TEXT OF DOCKET NO. 39-0270-1101**

**000. LEGAL AUTHORITY.**

Under authority of Sections 18-8002A, 49-325, and 49-326, Idaho Code, the Idaho Transportation Board adopts the following Rule for the issuance of Restricted Driving Permits for licensed drivers ~~licensed in Idaho~~ who face certain suspension or revocation of driving privileges in the state of Idaho. (3-19-99)( )

**001. TITLE AND SCOPE.**

**01. Title.** This rule shall be cited as IDAPA 39.02.70 "Rules Governing Restricted Driving Permits," IDAPA 39, Title 02, Chapter 70. ( )

**02. Scope.** ~~It is the purpose of this rule to provide~~ This rule contains guidelines for issuance of non-commercial restricted driving privileges for those individuals whose driving privileges have been suspended or revoked under authority of Idaho law. ~~This rule;~~ and establishes minimum standards for the issuance, denial and cancellation of non-commercial Restricted Driving Permits pursuant to Sections 18-8002A, 49-325 and 49-326, Idaho Code. (10-1-94)( )

**002. WRITTEN INTERPRETATIONS.**

There are no written interpretations for this chapter. ( )

**003. ADMINISTRATIVE APPEALS.**

Administrative appeals under this chapter shall be governed by the rules of administrative

procedure of the attorney general, IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General." ( )

**004. INCORPORATION BY REFERENCE.**

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

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

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

**02. Office Hours.** Daily office hours are 8:00 a.m. to 5:00 p.m. except Saturday, Sunday and state holidays. ( )

**03. Telephone and FAX numbers.** The central office may be contacted during office hours by phone at 208-334-8000 or by fax at 208-334-8739. ( )

**006. PUBLIC RECORDS ACT COMPLIANCE.**

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

**0027. -- 099. (RESERVED)**

**(BREAK IN CONTINUITY OF SECTIONS)**

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

**01. ~~Department Stay~~ Duration and Expiration.** ~~The Department may stay the suspension or revocation of applicant's driving privileges for the duration of the suspension or revocation upon receipt and approval of all necessary requirements for a restricted driving permit.~~ The Restricted Driving Permit shall remain in effect for the period of time the driver's privileges have been suspended or revoked unless cancelled by the department or otherwise provided by law. (10-1-94)( )

**02. Reinstatement Action.** Satisfactory completion of the terms and conditions of the Restricted Driving Permit will be noted in the driving records of the participant as maintained by the Department, and the Department shall reinstate the applicant's regular driving privileges at the expiration of the Restricted Driving Permit if he has complied with all conditions of the Restricted Driving Permit and reinstatement requirements. Any convictions or notices of suspension or revocation shall remain a part of the driver's file. (10-1-94)( )

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

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

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

**01. Reckless Driving.** Conviction of reckless driving ~~Ref. per~~ Sections 49-1401 and 49-326(1)(f), Idaho Code. ~~(10-1-94)~~( )

**02. Fleeing or Eluding an Officer.** Conviction of fleeing or attempting to elude a peace officer ~~Ref. per~~ Sections 49-1404 and 49-326(1)(f), Idaho Code. ~~(9-14-92)~~( )

**03. Points.** Accumulation of excessive “point” violations ~~per~~ Sections 49-326(1)(i) and (j), Idaho Code. ~~(8-31-89)~~( )

**04. Leaving Scene of Accident.** Conviction of leaving the scene of an accident involving damage to a vehicle ~~Ref. per~~ Sections 49-1301, and 49-326(1)(l), Idaho Code. ~~(9-14-92)~~( )

**05. Using Motor Vehicle.** Conviction of using a motor vehicle in the commission of a felony ~~Ref. per~~ Section 49-325(1)(b), Idaho Code. ~~(8-31-89)~~( )

**06. Offense in Another State.** Conviction of an offense in another state that would be grounds for suspension/revocation in this state ~~Ref. per~~ Section 49-326(1)(e), Idaho Code. ~~(8-31-89)~~( )

**07. Restricted License.** Conviction of violation of a restricted license ~~Ref. per~~ Sections 49-317 and 49-326(1)(k), Idaho Code. ~~(9-14-92)~~( )

**08. Administrative License Suspension.** An Aadministrative suspension of driving privileges for a first-time failure of an evidentiary test for the last sixty (60) days of that suspension, for Class D privileges only ~~if driver was operating a commercial vehicle. Ref. per~~ Section 18-8002A, Idaho Code. ~~(3-19-99)~~( )

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

**400. RESTRICTED DRIVING PERMITS SHALL NOT BE ISSUED.**

Restricted Driving Permits shall not be issued by the Department to: (8-31-89)

~~01. Non-Residents. Non-residents, except for active military stationed in the state of Idaho. (8-31-89)~~

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

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

~~04. Time Period. Any individual whose suspension/revocation period has less than~~

~~twenty-one (21) days remaining.~~

~~(10-1-94)~~

**053. Violation of Restrictions.** An individual found to be in violation of restrictions on any court or Department-issued permit ~~if the permit was issued by the Department pursuant to IDAPA 39.02.70 or if the restricted permit was issued by a Court.~~ (9-14-92)( )

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

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

401. -- 499. (RESERVED)

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

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

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

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

c. Proof of motor vehicle liability insurance coverage in the amount required by Idaho law to cover any and all vehicles to be used by the applicant. ~~Additionally, an applicant operating a vehicle other than his own shall provide a letter of permission from the owner to operate the vehicle and to verify the insurance coverage on that vehicle;~~ (3-19-99)( )

d. ~~Financial responsibility in the form of an SR-22 is required for Idaho or out-of-state convictions for driving under the influence of alcohol or other intoxicating substances, reckless driving, eluding a peace officer, driving without privileges, leaving the scene of an accident, or using a motor vehicle in the commission of a felony. Or other acceptable forms of insurance pursuant to Section 49-1209, Idaho Code.~~ All applicable reinstatement requirements must be satisfied; (10-1-94)( )

e. A non-refundable application fee ~~of thirty five dollars (\$35)~~ pursuant to Section 49-306, Idaho Code; (10-1-94)( )

~~f. A reinstatement fee for regular driving privileges pursuant to Section 49-328, Idaho Code.~~ (10-1-94)

**02. Written Agreement.** If the Department determines that an applicant is eligible for a non-commercial Restricted Driving Permit, the applicant must then sign written agreements, prepared by the Department, affirming that: (3-19-99)( )

a. Cause exists to suspend or revoke the driver's license or privileges of the applicant

and that the driver's license of the applicant is suspended or revoked; (8-31-89)( )

~~*b. The driver's license of the applicant is suspended or revoked but that such suspension or revocation shall be stayed pending completion of the Restricted Driving Permit and suspension;*~~ (10-1-94)

**eb.** The applicant shall obey all motor vehicle laws; (10-1-94)

~~*d. The applicant may be required to attend and complete defensive drivers courses or obtain an alcohol evaluation and follow the recommendations of the evaluator if the suspension is based upon conviction of an alcohol related offense;*~~ (9-14-92)

**ec.** The applicant shall provide and maintain adequate motor vehicle liability insurance; (10-1-94)

**fd.** The applicant shall notify the Department within ~~twenty-four (24) hours~~ **one business day** following arrest, citation, accident or warnings by any law enforcement officer with regard to motor vehicle violations or alleged violations, and any change of address, telephone number, place of employment; (8-31-89)( )

~~*g. The applicant understands that if they plead guilty to, are found guilty, or forfeit bond as to any moving traffic violation while operating with a Restricted Driving Permit, their Restricted Driving Permit may be cancelled;*~~ (3-19-99)

**he.** The applicant shall not operate any motor vehicle after consuming any alcohol, drugs, or other intoxicating substances; (3-19-99)

**if.** The applicant shall submit to any evidentiary testing to determine alcohol concentration at any time at the request of any peace officer; (9-14-92)

**ig.** The applicant shall operate a motor vehicle only for those reasons specified on the Restricted Driving Permit (See Section 600); (10-1-94)

**kh.** The applicant shall abide by all rules and regulations concerning the Restricted Driving Permit; (8-31-89)

**li.** The applicant's Restricted Driving Permit may be cancelled by the Department without a hearing for violation of the terms of the agreement or other conditions specified on the Restricted Driving Permit; and (10-1-94)

**mj.** The applicant understands that if, while driving on a Restricted Driving Permit, he/she receives an additional Department or court suspension that results in cancellation of the restricted permit, the applicant will not be eligible to receive another Restricted Driving Permit for said suspension. (10-1-94)

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

a. Submission and approval of all requirements listed in Subsection 500.01; and (10-1-94)

b. No other suspensions or revocations are in effect which preclude issuance of a Restricted Driving Permit. (10-1-94)

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

**600. DRIVING RESTRICTIONS SPECIFIED.**

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

**01. Operation of Vehicle.** Time of operation of a motor vehicle, i.e. restricted to certain days, or hours of a day. (8-31-89)

**02. Geographic Area.** Geographic limitations within limits of states, counties, cities. (8-31-89)

**03. Purpose of Permit.** Purposes of travel such as to and from employment, to and from counseling sessions, to and from medical appointments, to and from grocery store, church, etc. (10-1-94)

~~**04. Vehicles Approved for Operation.** Operation of only those vehicles approved under Section 500 of this rule. (10-1-94)~~

**054. Purpose of Permit Administrative License Suspension.** To travel to and from work and for work purposes, to attend an alternative high school, work on a GED, for post-secondary education, or to meet the medical needs of the person or their family. (3-19-99)

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

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

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

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

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

~~**03. Change in Employment.** There is a substantial change in the driver's employment that affects the necessity of driving privileges in order to maintain livelihood. (8-31-89)~~

~~**04. Applicant Moves Out of State.** The applicant moves from the state of Idaho and comes under the jurisdiction of another state. (8-31-89)~~

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

## IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT

### 39.02.72 - RULES GOVERNING ADMINISTRATIVE LICENSE SUSPENSIONS

DOCKET NO. 39-0272-1101

#### NOTICE OF RULEMAKING - ADOPTION OF PENDING 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. 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 Sections 18-8002 and 18-8002A, 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 [June 1, 2011 Idaho Administrative Bulletin, Volume 11-6, pages 60 through 64.](#)**

**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: This rulemaking has no fiscal impact on the general fund.

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

DATED this 31st day of August, 2011.

Linda L. Emry  
Office of Governmental Affairs  
Idaho Transportation Department  
3311 W State St, PO Box 7129,  
Boise ID 83707-1129  
Phone – 208-334-8810 / FAX – 208-332-4107  
[linda.emry@itd.idaho.gov](mailto:linda.emry@itd.idaho.gov)

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

**EFFECTIVE DATE:** The effective date of the temporary rule is **May 1, 2011**.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Sections 18-8002 and 18-8002A, 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 15, 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 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:

**House Bill 61, 2011, brought the Administrative License Suspension (ALS) program in Sections 18-8002 and 18-8002A, Idaho Code, into compliance with a 2010 Idaho Court of Appeals ruling regarding the seizure of the license and the issuance of a temporary permit to an out-of-state licensed driver who refuses to submit to, or submits to and fails, evidentiary testing for the presence of alcohol or drugs, in violation of Section 18-8004, Idaho Code. The bill removes the requirement to seize any license and issue a temporary permit whether the driver is licensed in-state or out-of-state. The ALS procedure will be less complex and more efficient for law enforcement officers and the department to administer. It will also allow the driver (whether licensed in-state or out-of-state) whose license is otherwise valid and current, to proceed with a photo ID in their possession that remains valid and current until a starting suspension date.**

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Sections 67-5226(1)(b), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons: **Compliance with House Bill 61, effective May 1, 2011.**

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: This rulemaking does not impose any new or increased fee.

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

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the action was required to comply with changes to statute in House Bill 61, effective May 1, 2011.



**INCORPORATION BY REFERENCE:** Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: There are no materials being incorporated by reference in this rulemaking.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, contact Ed Pemble, Driver Services Manager, 332-7830.

Anyone may submit written comments regarding the proposed rule-making. All written comments must be directed to the undersigned and must be delivered on or before June 22, 2011.

DATED this 12<sup>th</sup> day of June, 2011.

**THE FOLLOWING IS THE TEXT OF DOCKET NO. 39-0272-1101**

**004. INCORPORATION BY REFERENCE.**

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

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

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

**02. Office Hours.** Daily office hours are 8:00 a.m. to 5:00 p.m. except Saturday, Sunday and state holidays. ( )

**03. Telephone And Fax Numbers.** The central office may be contacted during office hours by phone at 208-334-8000 or by fax at 208-334-8739. ( )

**006. PUBLIC RECORDS ACT COMPLIANCE.**

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

**007. -- 009. (RESERVED)**

**010. DEFINITIONS.**

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

~~**02. Temporary Permit.** *A permit to operate a motor vehicle for a period of time not to*~~

~~exceed thirty (30) days from the date of issuance.~~ (10-1-94)

- 032. Received by the Department.** A document that has been: (10-1-94)
- a.** Personally delivered to the Department's Driver Services Section at 3311 W. State Street, Boise, Idaho; or (10-1-94)
  - b.** Delivered by mail and addressed to P.O. Box 7129, Boise, ID 83707-1129; or (10-1-94)
  - c.** Transmitted by facsimile machine to telephone number (208) ~~334-8739~~ **332-4124.**  
(10-1-94)( )
  - d.** Sent by e-mail to driverrecords@itd.idaho.gov. ( )

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

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

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

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

**(BREAK IN CONTINUITY OF SECTIONS)**

**101. HEARING NOTICES.**

**01. Notification.** Upon timely receipt of hearing requests, the Department shall notify petitioners of the time and date of the hearing as soon as practicable, but no later than seven (7) days prior to the hearing. Hearing notices shall be mailed or e-mailed to the address provided in the hearing requests, or if no address was provided, notices shall be mailed to the most current address contained in the petitioner's driver's license records. (3-19-99)( )

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

**03. Hearing Date.** Hearings shall be conducted within twenty (20) days of receipt of the hearing request. However, the Hearing Officer may extend the hearing date for an additional

one (1) ten (10) days ~~period~~ upon a showing of good cause. Such extension shall not stay the suspension ~~nor extend the expiration date of the thirty (30) day temporary permit.~~

(10-1-94)( )

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

**200. DOCUMENT SUBMISSION.**

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

**a.** Notice of Suspension ~~and Temporary Permit. A temporary permit shall not be issued by a peace officer when the drivers license is not surrendered, when the drivers license surrendered is not valid, when the driver holds a drivers license from another jurisdiction, or when the driver is operating a commercial vehicle at the time of the stop. No permit will be issued to operate a commercial vehicle.~~ (3-19-99)( )

**b.** The sworn statement of the officer incorporating any arrest or incident reports relevant to the arrest and evidentiary testing. (10-1-94)

**c.** A certified copy or duplicate original of the test results or log of test results if the officer has directed an evidentiary test of the petitioner's breath. (3-19-99)

~~**d.** The operational checklist for the administration of breath tests, if used. (10-1-94)~~

~~**e.** The petitioner's driver's license, if the petitioner is an Idaho licensed driver. (10-1-94)~~

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

**a.** The United States mail or overnight delivery service; or (10-1-94)

**b.** Hand delivered, within five (5) business days of the date of service of the suspension notice. (3-19-99)

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

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

**300. SUBPOENAS.**

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

**02. Serving Subpoenas.** Parties requesting subpoenas shall be responsible for having the subpoenas served. Witnesses shall not be compelled to attend and testify at hearings unless served with subpoenas at least ~~seventy-two~~ **one hundred and twenty** (~~72~~**120**) hours prior to the time of hearing. (~~10-1-94~~)(    )

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

**(BREAK IN CONTINUITY OF SECTIONS)**

**500. RECORDS OF PROCEEDINGS.**

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

a. An ~~tape~~ **audio** recording of the hearing, except in instances where the Hearing Officer authorizes a different method of reporting the hearing. (~~10-1-94~~)(    )

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

**02. Requesting Copies.** Any party may make a written request for a copy of the ~~tape~~ **audio** recording of the hearing from the Department. The requesting party shall reimburse the Department for the actual cost of providing the copy. (~~10-1-94~~)(    )

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

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

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

**01. Issuing ~~Before Suspension Expiration Date~~ **Facts and Findings.**** The Hearing Officer shall issue the Findings of Fact, Conclusions of Law and Order ~~prior to the expiration of the thirty (30) day temporary permit, but failure to do so shall not be grounds for staying or vacating the suspension~~ **following the hearing.** (~~10-1-94~~)(    )

**02. Mailing Final Order.** The Findings of Fact, Conclusions of Law and Order is

issued when a copy is deposited in the United States Mail addressed to the petitioner or the petitioner's attorney or e-mailed to the petitioner or the petitioner's attorney. (10-1-94)( )

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

**700. FAILURE TO APPEAR.**

**01. Proposed Order of Default.** Should the petitioner fail to appear at the scheduled hearing, either in person or through an attorney, the Hearing Officer shall promptly issue a notice of proposed order of default. This notice is deemed served when mailed or e-mailed to the petitioner or petitioner's attorney at the address shown in the request for hearing, or if no address was provided, the notice shall be mailed to the most current address contained in the petitioner's driver's license records. (10-1-94)( )

**02. Filing Petition.** The petitioner may, within seven (7) days of service of the notice of proposed order of default, file a petition requesting that the order of default not be entered and stating the grounds for such a request. If the Hearing Officer grants the petitioner's request, the hearing shall be promptly rescheduled. Granting the petitioner's request shall not stay or vacate the suspension. (10-1-94)( )

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

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

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

**800. FORMS.**

The Department shall develop appropriate forms to be used throughout the state including, but not limited to, forms for Notice of Suspension, temporary driving permit, and officer's sworn statement. Each law enforcement agency shall use the forms supplied by the Department in carrying out the requirements of Section 18-8002A, Idaho Code, and this Rule. However, the sworn statement may be in the form of a law enforcement agency's affidavit of probable cause or equivalent document, so long as it contains the elements required by Section 18-8002A, Idaho Code. (4-5-00)( )

~~**801. -- 899. (RESERVED)**~~

~~**900. COMMERCIAL DRIVERS.**~~

~~If a person is stopped while driving or in actual physical control of a commercial motor vehicle (as defined by Section 49-123(2)(c)) and is given an evidentiary test indicating an alcohol concentration of four hundredths (.04) through seven hundredths (.07) in violation of Section 18-8004b, Idaho Code, the notice of suspension served shall state, in addition to the information~~

*required by Section 18-8002A, Idaho Code, that:*

*(3-19-99)*

~~**01. Class A, B, and C Licenses.** Only Class A, B, and C driving privileges shall be suspended, unless the driver is under twenty-one (21) years then all driving privileges shall be suspended; and~~

~~*(10-1-94)*~~

~~**02. Restricted Privileges.** A restricted driving permit shall not be issued by the Department for the operation of commercial vehicles during the term of the suspension.~~*(10-1-94)*

~~**9801. -- 999. (RESERVED)**~~

**IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT**  
**39.02.75 - RULES GOVERNING NAMES ON DRIVERS' LICENSES**  
**AND IDENTIFICATION CARDS**

**DOCKET NO. 39-0275-1101**

**NOTICE OF RULEMAKING - ADOPTION OF PENDING 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. 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 Sections 49-201, 49-306, 49-315, 49-318, 49-319, and 49-2443, 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 [August 3, 2011 Idaho Administrative Bulletin, Volume 11-8, pages 233 through 236.](#)**

**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 Lynn Rhodes, Driver's License Program Supervisor, 334-8727.

DATED this 31st day of August, 2011.

Linda L. Emry  
Office of Governmental Affairs  
Idaho Transportation Department  
3311 W State St, PO Box 7129,  
Boise ID 83707-1129  
Phone – 208-334-8810 / FAX – 208-332-4107  
[linda.emry@itd.idaho.gov](mailto:linda.emry@itd.idaho.gov)

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

**EFFECTIVE DATE:** The effective date of the temporary rule is **July 1, 2011**.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rule-making procedures have been initiated. The action is authorized pursuant to Sections 49-201, 49-306, 49-315, 49-318, 49-319, and 49-2443, 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 August 17, 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 the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rule-making:

**This revision disallows issuance of a driver's license in one name and issuance of an identification card in another name, thereby preventing establishment of two identities. It also conforms to the one-person/one-record requirement for DMV Modernization and confers a customer benefit. The revision deletes the 26 character name limitation and provides for name formatting flexibility that aligns with current cultural practices and additional formatting procedures for long, complex names. This will clarify requirements for applicants, whose marital status has changed and provide for associated name changes. Name formatting conventions will be more clearly stated, more easily accommodated, and processed more quickly. Driver license examiners will have clearer guidelines for formatting requested name changes. It will also reduce the number of phone calls and faxes between ITD and county driver license examiners, improving efficiency.**

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

**All applicants for a driver's license or identification card and the people who serve them will enjoy a more clear and efficient process while the general public and businesses will benefit by reducing the number of persons who might abuse the system to establish multiple identities for personal gain.**

**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: Other than the cost to publish, there is no fiscal impact associated with this rulemaking.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted. Changes imposed by this rulemaking must meet specific guidelines and be compatible with other states.

**INCORPORATION BY REFERENCE:** Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: No materials are being incorporated by reference.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, contact Lynn Rhodes, Driver's License Program Supervisor, Division of Motor Vehicles, 334-8727.

Anyone may submit written comments regarding the proposed rule-making. All written comments must be directed to the undersigned and must be delivered on or before August 24, 2011.

DATED this 7th day of July, 2011.

**THE FOLLOWING IS THE TEXT OF DOCKET NO. 39-0275-1101**

**000. LEGAL AUTHORITY.**

Under the authority of Sections 49-201, 49-306, ~~49-314~~, 49-315, 49-318, 49-319, ~~49-336~~, and 49-2443, Idaho Code, the Department adopts the following rule. ~~(5-13-91)( )~~

**(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. (4-2-08)

**02. Office Hours.** Daily office hours are 8 a.m. to 5 p.m. except Saturday, Sunday and state holidays. (4-2-08)

**03. Telephone and FAX numbers.** The central office may be contacted during office hours by phone at 208-334-8735000 or by fax at 208-334-8739586. (4-2-08)( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**100. GENERAL PROVISIONS.**

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

**02. Full Name Requirements.** ~~Only twenty-six (26) characters, including the spaces and punctuation, can be used in the entire full name on the actual driver's license or identification card.~~ If a full name has more ~~than twenty-six (26)~~ characters than the department automated system allows, the last name and first name must be written out fully. The middle name can be initialized and then the full middle name entered on the comment line of the application. If there is a designator, it will follow the middle initial. If the name ~~is~~ still has more ~~than twenty-six (26)~~ characters than the department automated system allows, the first and middle names can be initialized and the full first and middle names entered on the comment line of the application. (5-13-91)( )

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

**200. CRITERIA.**

**01. Legal Name.** The name on the certified original birth certificate will be used unless a name changes due to: (5-13-91)( )

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

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

**03. Driver's License and Identification Card Names.** The name printed on the driver's license or identification card will be maintained in the Idaho Transportation Department records in the following order: (1) Last name, (2) First name, (3) Middle name, (4) Designator (if applicable (see Subsection 200.04)). An applicant may not have a driver's license and an

identification card in different names. An applicant may add a middle name by providing a certified original copy of the applicant's: ~~(7-1-96)~~( )

a. Birth Certificate: ( )

b. Court Order; or ( )

c. Divorce Decree. ( )

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

**05. Married Applicant's Name.** ( )

a. A married applicant is permitted to use the maiden name of the woman or surname of the man as the last name or as the middle name, or may hyphenate ~~both~~ the surnames and maiden name to form the last name. In no case under any of these stated options shall any applicant have more than one (1) hyphen in his or her last name. ( )

b. When married applicants choose to use different hyphenated names or only one (1) applicant chooses to hyphenate his or her name, a woman will hyphenate her last name as "maiden-married" and a man will hyphenate his last name as "surname-maiden". ( )

c. Married applicants who choose to have the same hyphenated last name may hyphenate their name as either "maiden-married" or "surname-maiden". (4-2-08)

d. Married applicants who already have hyphenated last names may: ( )

i. Use the hyphenated name of the man or the hyphenated name of the woman; or ( )

ii. Combine part of the hyphenated name of the man and part of the hyphenated name of the woman. ( )

e. An applicant who is established in department records with a hyphenated last name due to marriage and wants to drop the first part or the second part of the hyphenated name must provide, as required by the department, the following: ( )

i. A certified copy of a birth certificate; and/or ( )

ii. A certified copy of a marriage certificate; and/or ( )

iii. A certified copy of a divorce decree; and/or ( )

iv. A certified copy of a death certificate. ( )

**06. Divorced Applicant's Name.** A divorced applicant who wants to use his or her original surname or maiden name, or a surname from a previous marriage, but does not have a divorce decree indicating the new name, is allowed to submit the following documents to the County Sheriff or the Idaho Transportation Department: (5-13-91)( )

**a.** Original certified copy of the birth certificate showing the original maiden or surname; or (7-1-96)( )

**b.** Original certified copies of the marriage ~~license~~ certificate and the divorce decree, as evidence to change the name; ~~or~~. (7-1-96)( )

~~**c.** Original certified copies of the marriage license and divorce decree (only required for applicants wanting to use a surname from a former marriage). (7-1-96)~~

**07. Applicant's First Name.** An applicant is not allowed to change his or her first name except by court order. (5-13-91)

**08. Common Law Marriage.** Common law marriages created prior to January 1, 1996 will, for the purposes of this rule, be treated as a valid marriage. An affidavit of agreement is required which shall include: (7-1-96)

**a.** The signatures of both the husband and the wife; (5-31-91)

**b.** The date they became married under common law; and (5-13-91)

**c.** Other documents verifying the marriage (subject to the approval of the Idaho Transportation Department). (5-13-91)

**09. Change of Name on Record.** Once a name is established in the Idaho Transportation Department records, a court order, marriage license, or divorce decree will be required to change the name and record. ~~(An original certified copy of the document, which is dated after the date of record, will be required.) (7-1-96)( )~~

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

## IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT

### 39.02.76 - RULES GOVERNING DRIVER'S LICENSE RENEWAL-BY-MAIL PROCESS

DOCKET NO. 39-0276-1101

#### NOTICE OF RULEMAKING - ADOPTION OF PENDING 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. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 49-319(10), 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 [October 5, 2011 Idaho Administrative Bulletin, Volume 11-10, pages 728 through 731](#).**

**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 Lynn Rhodes, Driver's License Program Supervisor, 334-8727.

DATED this 4th day of November, 2011.

Linda L. Emry  
Office of Governmental Affairs  
Idaho Transportation Department  
3311 W State St.  
PO Box 7129  
Boise ID 83707-1129  
Phone: 208-334-8810  
FAX: 208-332-4107  
[linda.emry@itd.idaho.gov](mailto:linda.emry@itd.idaho.gov)

**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 Section 49-319(10), Idaho Code.

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

**This rulemaking incorporates changes in Sections 001 through 006 as required by the Office of Administrative Rules, documents procedural changes to match current practice (renewal stickers no longer used), sets limitations on electronic or mail renewals for those who may or may not have a lawful presence in the US, and adds provisions for "electronic renewal" that is planned for the future as part of the DMV modernization that is now in process.**

**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 rule-making was not conducted because the revisions delete references to out-dated procedures and make provisions for future electronic renewal procedures as part of the DMV modernization, currently in process.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Lynn Rhodes, Driver's License Program Supervisor, 334-8727.

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 26, 2011.

DATED this 31st day of August, 2011.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 39-0276-1101

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

**000. LEGAL AUTHORITY.**

In accordance with Section 49-319(§10), Idaho Code, the Idaho Transportation Board adopts the following rule to establish a process that may allow ~~ing~~ Idaho residents to renew their Class D drivers' licenses by mail or electronically. (7-1-96)(    )

**001. TITLE AND SCOPE.**

**01. Title.** This rule shall be cited as IDAPA 39.02.76, "Rules Governing Driver's License Renewal-by-Mail and Electronic Renewal Process". (      )

**02. Scope.** The purpose of this rule is to establish standards by which Class D drivers' licenses ~~can~~ may be renewed by mail or electronically for those individuals who are licensed Idaho residents and whose licenses are about to expire. The driver's license renewal-by-mail and electronic systems ~~is~~ are designed to reduce the length of driver's license renewal waiting lines at county driver's license offices. (7-1-96)(    )

**002. WRITTEN INTERPRETATIONS.**

~~None~~ There are no written interpretations for this chapter. This rule merely implements the provisions of Section 49-319(§10), Idaho Code, which states: "The department may use a mail renewal process for Class D licenses based on criteria established by rule and regulation." (7-1-96)(    )

**003. ADMINISTRATIVE APPEALS.**

~~This chapter does not provide for appeal of the administrative requirements contained herein.~~ Administrative appeals under this chapter shall be governed by the rules of administrative procedure of the attorney general, IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General." (7-1-96)(    )

**004. INCORPORATION BY REFERENCE.**

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

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

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

**02. Office Hours.** Daily office hours are 8:00 a.m. to 5:00 p.m. except Saturday, Sunday and state holidays. ( )

**03. Telephone and FAX Numbers.** The central office may be contacted during office hours by phone at 208-334-8000 or by fax at 208-334-3858. ( )

**006. PUBLIC RECORDS ACT COMPLIANCE**

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

**0047. -- 009. (RESERVED)**

**010. DEFINITIONS.**

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

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

~~**03. Driver's License Sticker.** A sticker issued by the Idaho Transportation Department that, when affixed to the back of the appropriate driver's license, extends the expiration date by a period of four (4) years from the expiration date printed on the face of the license. (7-1-96)~~

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

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

**011. ELIGIBILITY.**

**01. Eligibility.** The renewal by mail or electronic renewal may be granted on the expiration date of a person's Idaho Class D driver's license, in lieu of requiring the person to ~~obtain a new photo license~~ renew a driver's license in person. Licenses renewed by mail or electronically shall only be renewed once in an eight (8) year period, and shall ~~expire four (4) years from the expiration date printed on the face of the license~~ have a four-year validity period. (7-1-96)( )

**02. License Renewal.** Drivers' licenses shall not be renewed by mail or electronically for persons who: (7-1-96)( )

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

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



- c. Have any changes in physical, mental, and/or emotional condition, including vision, which may impair the ability to safely operate a motor vehicle; (7-1-96)
- d. Have drivers' licenses or driving privileges which are suspended, revoked, cancelled, denied, refused, or disqualified; (7-1-96)
- e. Are operating on department or court restricted driving permits; (7-1-96)
- f. ~~Have lost, or no longer have, the photo license in their possession~~ **Are required to provide documentation proving lawful presence in the United States;** (7-1-96)( )
- g. ~~Want their Social Security Numbers removed from their driver's licenses~~ **Are not lawfully present in the United States;** (7-1-96)( )
- h. Have a driving record which has been marked for special handling (e.g., verification of identity or date of birth, possible fraud, etc.); (7-1-96)
- i. Already have an existing extension; (7-1-96)
- j. Wish to add a motorcycle endorsement; (7-1-96)
- k. Are under twenty-one (21) years of age; or (7-1-96)
- l. Are seventy (70) years of age or older. (7-1-96)

## **012. RENEWAL BY MAIL PROCEDURES.**

**01. Use of Fax or Phone Prohibited.** Driver's license renewal-by-mail **or electronic renewal** applications shall not be processed by fax or telephone. Eligible persons must mail **or electronically submit** their driver's license renewal application to the driver's license office in their county of residence, or deliver their application in person together with the renewal fee for the same class of license, pursuant to Section 49-306, Idaho Code. (7-1-96)( )

**02. Updating Driving Records.** The county driver's license office shall update driving records to reflect the new expiration year, followed by the notation "RM," and issue ~~and mail~~ a driver's license ~~sticker~~ to eligible licensees within three (3) business days after receipt of the completed application form. ~~Driver's license renewal stickers shall be affixed to the back of the driver's license.~~ (7-1-96)( )

**03. If ~~Renewal Sticker~~ **the Driver's License Card** Is Lost, Mutilated or Destroyed After Receipt.** If a driver's license ~~renewal sticker~~ is lost, mutilated, or destroyed after the applicant receives it, the applicant must apply in person at the county office for a duplicate driver's license. (7-1-96)( )

**04. If Lost or Destroyed in Mail.** If a drivers' license ~~renewal sticker~~ is lost or destroyed in the mail, a written statement detailing the loss or destruction must be mailed or hand-delivered to the applicant's county of residence. Upon receipt of the letter, the county can issue a no-charge replacement ~~sticker~~ **driver's license** to the applicant. (7-1-96)( )

**05. Temporarily Residing Out-of-State.** Individuals temporarily residing out-of-state may apply for a renewal by mail, electronic renewal, or an extension, but not both, in an eight (8) year period. ~~(7-1-96)~~( )

## IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT

### 39.03.01 - RULES GOVERNING DEFINITIONS REGARDING OVERLEGAL PERMITS

DOCKET NO. 39-0301-1101

#### NOTICE OF RULEMAKING - ADOPTION OF PENDING 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. 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:

**The pending rule is being adopted as proposed. The original text of the proposed rule was published in the [August 3, 2011 Idaho Administrative Bulletin, Volume 11-8, pages 237 through 242.](#)**

**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: This rulemaking has no fiscal impact on the general fund.

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

DATED this 31st day of August, 2011.

Linda L. Emry  
Office of Governmental Affairs  
Idaho Transportation Department  
3311 W State St, PO Box 7129,  
Boise ID 83707-1129  
Phone – 208-334-8810 / FAX – 208-332-4107  
[linda.emry@itd.idaho.gov](mailto:linda.emry@itd.idaho.gov)

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

**EFFECTIVE DATE:** The effective date of the temporary rule is **July 1, 2011**.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rule-making procedures have been initiated. The action is authorized pursuant to Section 40-312, 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 August 17, 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 the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rule-making:

**This rule is being amended to correspond with changes made to 39.03.16, Rules Governing Oversize Permits for Non-Reducible Vehicles and/or Loads, based in part on the passage of House Bill 228, 2011. This adds a definition for “Designated Agent,” moves the definition of Escort Vehicle to Pilot Vehicle, increases the length limit for vehicle combinations from 105 ft to 115 ft under Extra Length, per Section 49-1010(7), Idaho Code, and adds a clarifying definition for Overall Length for enforcement personnel. Sections 000 through 006 have been updated to meet formatting requirements of the Office of Administrative Rules. Additionally, other definitions which have already been defined in code have been amended to reflect that code reference instead of duplicating the definition.**

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

**The passage of House Bill 228, 2011, expanded the exemptions associated with the transporting of implements of husbandry by an owner or their designated agent, which created a need to define “Designated Agent” which had not been done previously.**

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: This rulemaking does not impose or increase a fee or charge.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: This rulemaking does not impose any fiscal impact on the state general fund.

**NEGOTIATED RULE-MAKING:** Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted since change was necessary for compliance with legislative action and existing definitions in statute, and to update definitions to be consistent with industry standards.

**INCORPORATION BY REFERENCE:** Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: There are no materials being incorporated by reference into this rule.

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

Anyone may submit written comments regarding the proposed rule-making. All written comments must be directed to the undersigned and must be delivered on or before August 24, 2011.

DATED this 7th day of July, 2011.

**THE FOLLOWING IS THE TEXT OF DOCKET NO. 39-0301-1101**

**001. TITLE AND SCOPE.**

**01. Title.** This rule shall be cited as IDAPA 39.03.01, "Rules Governing Definitions Regarding Overlegal Permits", IDAPA 39, Title 03, Chapter 01. ( )

**02. Scope.** This rule gives the definitions for terms used in rules in Title 03 *dealing with highway matters* regarding overlegal permitting. (8-1-94)( )

**002. WRITTEN INTERPRETATIONS.**

There are no written interpretations for this chapter. ( )

**003. ADMINISTRATIVE APPEALS.**

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

**004. INCORPORATION BY REFERENCE.**

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

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

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

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

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

**006. PUBLIC RECORDS ACT COMPLIANCE.**

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

**007. -- 009. (RESERVED)**

**010. DEFINITIONS.**

**01. Accessories.** Additional parts of the single item load that have been removed to reduce width, length or height. (10-2-89)

**02. Administrative Cost.** The government's cost of processing, issuing and enforcing a permit. (10-2-89)

**03. Analysis.** A mathematical study of a vehicle or combination of vehicles and the stress they cause over bridges or specific sections of highways conducted by a professional engineer. (10-2-89)

**04. Annual.** Twelve (12) consecutive months. (10-2-89)

**05. Automobile Transporter.** ~~A vehicle combination constructed for the purpose of transporting vehicles~~ See Idaho Code 49-102. (4-24-92)( )

**06. Base Width.** The measurement below the eaves of a manufactured home, modular building or office trailer. (8-24-94)

**07. Boat Transporter.** ~~Any vehicle combination designed and used specifically to transport assembled boats and boat hulls. Boats may be partially disassembled to facilitate transporting~~ See Idaho Code 49-103. (9-14-92)( )

**08. Cargo Unit.** A full truck, a semi-trailer, a full trailer, or a semi-trailer converted to a full trailer by means of a dolly or a converter gear mounting a fifth wheel. A dromedary tractor equipped with conventional fifth wheel, not stinger steered, shall be excluded from the definition of a cargo unit. (9-14-92)

- 09. Convoy.** A group of two (2) or more motor vehicles traveling together for protection or convenience. (8-24-94)
- 10. Department.** Idaho Transportation Department. (9-14-92)
- 11. Designated Agent.** An employee or relative of the farmer. ( )
- 112. Dromedary Tractor.** ~~Every motor vehicle designed and used primarily for drawing a semitrailer and so constructed as to carry manifested cargo in addition to a part of the weight of the semitrailer~~ See Idaho Code 49-105. (9-14-92)( )
- 123. Economic Hardship.** The loss of a substantial amount of money caused by economic changes. (9-14-92)
- 134. Emergency Movement.** A vehicle or vehicle combination hauling a load traveling to the site of an emergency for the purpose of aiding in eliminating the emergency. (9-14-92)
- 145. Escort Vehicle.** ~~Escort vehicles shall be passenger cars or light trucks equipped as specified in rule 39.03.12. Escort vehicles may be motorcycles except when utilized in lieu of adequate rearview mirrors as allowed for by Section 49-940, Idaho Code~~ See Pilot Vehicle. (8-24-94)( )
- 156. Excess Weight.** Vehicle combinations hauling reducible loads operating on Interstate Routes with total gross loads exceeding eighty thousand (80,000) pounds but not to exceed twenty thousand (20,000) per single axle, thirty-four thousand (34,000) per tandem, not to exceed the weight limit for any group of two (2) or more consecutive axles established by Section 49-1001, Idaho Code, and not to exceed six hundred (600) pounds per inch width of tire for vehicles manufactured after July 1, 1987, or not to exceed eight hundred (800) pounds per inch width of tire for vehicles manufactured prior to that date as established by Section 49-1002, Idaho Code. (8-24-94)
- 167. Extra-Length.** Any vehicle combination in excess of the legal limits but not more than one hundred ~~five~~ fifteen (1015) feet as established in Section 49-1010, Idaho Code, which normally haul reducible loads. (9-14-92)( )
- 178. Extra-Ordinary Hazard.** Any situation where the traveling public's safety or the capacity of the highway system is endangered. (9-14-92)
- 189. Farm Tractor.** ~~Every motor vehicle designed or adapted and used primarily as a farm implement power unit operated with or without other farm implements attached in any manner consistent with the structural design of that power unit~~ See Idaho Code 49-107. (9-14-92)( )
- 1920. Gross Vehicle Weight.** ~~The weight of a vehicle or combination of vehicles including the load thereon~~ See Idaho Code 49-108. (8-24-94)( )
- 201. Heavily Loaded.** Exceeding legal weight or hauling a load which obstructs the driver's view. (9-14-92)

**212. Heavy Duty Wrecker Truck.** A motor vehicle designed and used primarily for towing disabled vehicles. (9-14-92)

**223. Height.** The total vertical dimension of a vehicle above the ground surface including any load and load-holding device thereon. (9-14-92)

**234. Implement of Husbandry.** ~~Every vehicle including self-propelled units, designed or adapted and used exclusively in agricultural, horticultural, dairy and livestock growing and feeding operations when being incidentally operated. Such implements include, but are not limited to, combines, discs, dry and liquid fertilizer spreaders, harrows, hay balers, harvesting and stacking equipment, pesticide applicators, plows, swathers, mint tubs and mint wagons, and farm wagons. A farm tractor when attached to or drawing any implement of husbandry shall be construed to be an implement of husbandry. "Implement of husbandry" does not include semi-trailers, nor does it include motor vehicles or trailers, unless their design limits their use to agricultural, horticultural, dairy or livestock growing and feeding operations~~ See Idaho Code 49-110. (8-24-94)( )

**245. Incidentally Operated.** ~~Means the transport of the implement of husbandry from one (1) farm operation to another~~ See Idaho Code 49-110. (8-24-94)( )

**256. Legal.** In compliance with the Idaho Code on size and weight. (9-14-92)

**267. Length.** The total longitudinal dimension of a single vehicle, a trailer, or a semi-trailer. Length of a trailer or semi-trailer is measured from the front of the cargo-carrying unit to its rear, exclusive of all overhang and any appurtenances listed in [Rule IDAPA 39.03.06, "Rules Governing Allowable Vehicle Size"](#). (9-14-92)( )

**278. Light Truck.** ~~Every motor vehicle eight thousand (8,000) pounds gross weight or less which is designed, used or maintained primarily for the transportation of property~~ See Idaho Code 49-121. (8-24-94)( )

**289. Manufactured Home.** A structure, constructed according to HUD/FHA mobile home construction and safety standards, transportable in one or more sections, which, in the traveling mode, is eight (8) body feet or more in width or is forty (40) body feet or more in length, or when erected on site, is three hundred twenty (320) or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein, except that such term shall include any structure which meets all the requirements of this paragraph except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the secretary of housing and urban development and complies with the standards established under 42 U.S.C. 5401 et seq. Similarly constructed vehicles used permanently or temporarily for offices, advertising, sales, display or promotion of merchandise or services are included in this definition. (8-24-94)

**2930. Mobile Home.** A structure similar to a manufactured home, but built to a state mobile home code which existed prior to the Federal Manufactured Housing and Safety Standards Act (HUD Code) dated June 15, 1975. (8-24-94)



**301. Modular Buildings.** A facility designed as a building or building section, the construction of which is constructed to standards contained in the Uniform Building Code (UBC), adopted by Section 39-4109, Idaho Code. (8-24-94)

**312. Non-Reducible.** A load that consists of a single piece (a machine and its accessories loaded separately is considered non-reducible also). (8-24-94)

**323. Off-Tracking.** The difference in the path of the first inside front wheel and of the last inside rear wheel as a vehicle negotiates a curve. (8-24-94)

**334. Office Trailer.** See definition of Manufactured Homes. (8-24-94)

**345. Overall Combination Length.** The total length of a combination of vehicles, i.e. truck tractor-semitrailer-trailer combination, measured from front bumper of the motor vehicle to the back bumper or rear extremity of the last trailer including the connecting tongue(s). (8-24-94)

**36. Overall Length.** The total length of a combination of vehicles, i.e. truck tractor-semitrailer-trailer combination, measured from front bumper of the motor vehicle to the back bumper or rear extremity of the last trailer including the connecting tongue(s) plus any load overhang. ( )

**357. Overdimensional.** Any vehicle or load in excess of the limits established in Section 49-1010, Idaho Code. (8-24-94)

**368. Overheight.** A vehicle or load in excess of the limits established in Section 49-1010, Idaho Code. (8-24-94)

**379. Overlegal.** Any vehicle, vehicle combination or load which exceeds the limits established in Idaho Code. (8-24-94)

**3840. Overlength.** Any load non-reducible in length being hauled or towed that is in excess of the limits established in Section 49-1010, Idaho Code. (8-24-94)

**3941. Oversize.** A vehicle or load in excess of the limits established in Section 49-1010, Idaho Code. (8-24-94)

**402. Overweight.** A single vehicle or a vehicle combination hauling or towing a non-reducible load whose weight is in excess of the limits established in Section 49-1001, Idaho Code. (8-24-94)

**413. Overwidth.** A vehicle or load in excess of the limits established in Section 49-1010, Idaho Code. (8-24-94)

**44. Pilot Vehicle.** Passenger cars or light trucks equipped as specified in IDAPA 39.03.12, "Rules Governing Safety Requirements of Overlegal Permits". ( )

**425. Reducible Load.** A single item or multiple items for transport which could

reasonably be repositioned or physically altered so that the load conforms to legal size and weight dimensions. The determination of ability to reduce or reconfigure the load primarily depends on the intended disposition of the contents of the load upon delivery to its destination. (8-24-94)

**436. Single Axle.** An assembly of two (2) or more wheels whose centers are in one (1) transverse vertical plane or may be included between two (2) parallel transverse planes forty (40) inches apart extending across the full width of the vehicle. (8-24-94)

**447. Special Permit.** A document issued by the Idaho Transportation Department which authorizes the movement of vehicles or loads on the state highway system in excess of the sizes and weights allowed by Sections 49-1001, 49-1002 or 49-1010, Idaho Code. (8-24-94)

**458. Steering Axle.** The axle or axles on the front of a motor vehicle that are activated by the operator to directly accomplish guidance or steering of the motor vehicle and/or combination of vehicles. (8-24-94)

**469. Stinger-Steered.** A truck-tractor semi-trailer combination where the kingpin is located five (5) feet or more to the rear of the centroid of the rear axle(s). (8-24-94)

**4750. Tandem Axle.** Any two (2) axles whose centers are more than forty (40) inches but not more than ninety-six (96) inches apart and are individually attached to or articulated from, or both, a common attachment to the vehicle including a connecting mechanism designed to equalize the load between axles. (8-24-94)

**4851. Tridem Axle.** Any three (3) consecutive axles whose extreme centers are not more than one hundred forty-four (144) inches apart, and are individually attached to or articulated from, or both, a common attachment to the vehicle including a connecting mechanism designed to equalize the load between axles. (8-24-94)

**4952. Variable Load Suspension Axle.** ~~Axles which can be regulated by the driver of the vehicle. These axles are controlled by hydraulic and air suspension systems, mechanically, or by a combination of these methods~~ See Idaho Code 49-123. (8-24-94)( )

**503. Vocational Vehicle.** A vehicle specifically designed to enable the operator to perform specific tasks none of which are primarily for the purpose of transporting loads. Cranes, loaders, scrapers, motor graders, drill rigs are examples of vocational vehicles. (8-24-94)

**514. Width.** The total outside transverse dimension of a vehicle including any load or load-holding devices thereon, but excluding any appurtenances listed in Rule IDAPA 39.03.06, "Rules Governing Allowable Vehicle Size". (8-24-94)( )

## IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT

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

DOCKET NO. 39-0316-1101

#### NOTICE OF RULEMAKING - ADOPTION OF PENDING 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. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 49-201, Idaho Code, and the provisions of Sections 49-1004 and 49-1010, 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 [August 3, 2011 Idaho Administrative Bulletin, Volume 11-8, pages 243 through 246.](#)**

**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: This rulemaking has no fiscal impact on the general fund.

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

DATED this 31st day of August, 2011.

Linda L. Emry  
Office of Governmental Affairs  
Idaho Transportation Department  
3311 W State St, PO Box 7129,  
Boise ID 83707-1129  
Phone – 208-334-8810 / FAX – 208-332-4107  
[linda.emry@itd.idaho.gov](mailto:linda.emry@itd.idaho.gov)

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

**EFFECTIVE DATE:** The effective date of the temporary rule is **July 1, 2011**.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rule-making procedures have been initiated. The action is authorized pursuant to Section 49-201, Idaho Code, and the provisions of Sections 49-1004 and 49-1010, 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 August 17, 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 the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rule-making:

With the passage of House bill 228, 2011, it is necessary to update the farm exemptions listed in this rule for transporting implements of husbandry between farm operations and a repair/maintenance facility or a dealership/sales facility. Additional changes confer a benefit by allowing motor carriers to use the more widely accepted industry standard 10-foot wide trailer to haul a non-reducible load smaller than 10-feet wide on the trailer. We have also removed the 24-foot width restriction on the Interstate to reduce the impact on two-lane highways. The 10-minute limit on interruption of traffic has been deleted to eliminate any conflict with the traffic control plan provisions in IDAPA 39.03.11, "Rules Governing Overlegal Permittee Responsibility and Travel Restrictions". Section 100.05 of that rule requires that the permittee submit a traffic control plan prepared by a licensed engineer or certified traffic control supervisor when operating on two-lane highways and exceeding specified dimensions.

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

Compliance with statutory changes in House Bill 228, effective July 1, 2011, and conferring a benefit by allowing motor carriers to use the more widely accepted industry standard 10-foot wide trailer to haul a non-reducible load smaller than 10 feet wide on the trailer and removing the 24-foot width restriction on the Interstate to reduce the impact on two-lane highways.

**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: This rulemaking imposes no fiscal impact on the general fund.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because rulemaking was initiated to comply with changes to Idaho Code in House Bill 228, 2011. Additional changes confer a benefit and eliminate conflict with another department rule.

**INCORPORATION BY REFERENCE:** Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: There are no materials incorporated by reference into this rule.

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

Anyone may submit written comments regarding the proposed rule-making. All written comments must be directed to the undersigned and must be delivered on or before August 24, 2011.

DATED this 7th day of July, 2011.

**THE FOLLOWING IS THE TEXT OF DOCKET NO. 39-0316-1101**

**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. *Overlegal permits will not normally be issued for movements which cannot allow for the passage of traffic as provided in 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.* (4-5-00)(      )

**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 double trailer combinations not exceeding seventy-five (75) feet combination length exclusive of load overhang. (4-2-08)

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

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

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

**01. Cylindrical Hay Bales.** 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. (4-5-00)

**02. Reducible Height Loads.** 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~~ **vertical clearances** is available at the Idaho Transportation Department Permit Office **and online at <http://www.itd.idaho.gov/dmv/poe/poe.htm>**. (4-5-00)( )

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

**300. OVERWIDTH HAULING VEHICLES, RESTRICTIONS.**

**01. Width of Hauling Equipment.** Overlegal permits may be issued for ~~nine ten~~ **(910)** foot wide trailers hauling non-reducible loads smaller than ~~nine ten~~ **(910)** feet wide. Overlegal permits shall not be issued for trailers over ~~nine ten~~ **(910)** 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 impractical to be hauled on a legal width vehicle. The permit issued for oversize loads being hauled on oversize equipment will be valid for the unladen movement ~~or an incidental haul~~ **and the laden movement**, 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.~~ (3-20-04)( )

**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 IDAPA 39.03.19, "Rules Governing Annual Overlegal Permits," and 39.03.13, "Rules Governing Overweight Permits," Section 200. (4-5-00)( )

**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)

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

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

**01. Farm Tractors on Interstate Highways.** Farm tractors transported on Interstate Highways are required to have 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 (not to include farming operations), are subject to the same overlegal permit regulations as other oversize loads when the width of the load exceeds legal-width limitations, and must operate under oversize permits. (3-30-01)

**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 overlegal permits ~~authority.~~ except when the farmer or their designated agent is transporting implements of husbandry and equipment for the purpose of: (4-5-00)( )

a. The repair or maintenance of such implements of husbandry and equipment when traveling between a farm and a repair or maintenance facility during daylight hours; or ( )

b. The purchase or sale of such implements of husbandry or equipment when traveling between a farm and a dealership, auction house, or other facility during daylight hours. ( )

**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 IDAPA 39.03.21, “Rules Governing *Special Overlegal* Permit Fees,” Section 300) and thereby qualify to complete an application form, call the overlegal permit office for a permit number, and carry the application form with the overwidth vehicle in lieu of the overlegal permit form. Under provisions of 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. (4-5-00)( )

**04. Overwidth Farm Trailers.** Trailers or semi-trailers exceeding eight feet six inches (8’ 6”) wide, but not wider than the implement of husbandry, used for the transportation of implements of husbandry from a farm to a farm for agricultural operations, shall be exempt from overlegal permitting requirements. This exemption does not apply to trailers or semi-trailers used in common carrier operations, hauling for hire or used in the furtherance of a business (not to include farming operations). (3-20-04)

**a.** Exempt trailers, as listed above, may not be used to haul implements of husbandry that are narrower than the overwidth trailer. (3-20-04)

**b.** Empty trailers, as listed above, being used to pick up or drop off an implement of husbandry from a farm to a farm are also exempt and must be reduced to a practical minimum dimension (i.e. dropping side extensions). (3-20-04)

**c.** Exempt trailers, as listed above, may not be used to transport loads other than implements of husbandry from a farm to a farm. (3-20-04)

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

**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 *coded routes* 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 [online at http://www.itd.idaho.gov/dmv/poe/poe.htm](http://www.itd.idaho.gov/dmv/poe/poe.htm). (4-5-00)( )



## IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT

### 39.03.41 - RULES GOVERNING TRAFFIC CONTROL DEVICES

DOCKET NO. 39-0341-1101

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

**EFFECTIVE DATE:** The effective date of the amendment to the temporary rule is **September 15, 2011**. This pending rule has been adopted by the agency and is now pending review by the 2012 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224 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 40-312, Idaho Code, and to meet the provisions of Sections 40-313(1) and 49-201(3), Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and amending the temporary 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:

**In Subsections 004-15, 004.17, 004.18, and 004.19 of this rule, a reference to Idaho Code did not include the proper citation, and had not been updated to reflect changes to that code. The references now accurately cite the code section and reflect the exact language in code.**

**The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code, and is being republished following this notice. Rather than keep the temporary rule in place while the pending rule awaits legislative approval, the Idaho Transportation Department amended the temporary rule with the same revisions which have been made to the pending rule. Only the sections that have changes differ from the proposed text are printed in this bulletin. The original text of the proposed rule was published in the [September 7, 2011 Idaho Administrative Bulletin, Volume 11-9, pages 155 through 167](#).**

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

There is no fiscal impact to the state general fund.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending rule and the amendment to temporary rule, contact Carl Main, Traffic Engineer, 334-8558.

DATED this 4th day of November, 2011.

Linda L. Emry  
Office of Governmental Affairs  
Idaho Transportation Department  
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**THE FOLLOWING NOTICE WAS PUBLISHED WITH  
THE TEMPORARY AND PROPOSED RULE**

**EFFECTIVE DATE:** The effective date of the temporary rule is **September 15, 2011**.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rule-making procedures have been initiated. The action is authorized pursuant to Section 40-312, Idaho Code, to meet the provisions of Sections 40-312(1) and 40-313(1), Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 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 the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rule-making:

**As required in Section 49-201(3), Idaho Code, the Idaho Transportation Department adopts a manual and specifications for a uniform system of traffic-control devices consistent with the provisions in Title 49 for use on highways within the state. To meet that requirement, this rulemaking adopts and incorporates by reference, the 2009 edition of the Manual on Uniform Traffic Control Devices for Streets and Highways, published by the Federal Highway Administration of the U.S. Department of Transportation, with an effective date of January 15, 2010, with conforming additions, as specified in the rulemaking, and approved by FHWA/Idaho.**

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

Compliance with 23 CFR Part 655, Subpart F, National Standards for Traffic Control Devices, requiring implementation of the 2009 Manual on Uniform Traffic Control Devices within two years of the January 15, 2010 effective date established in the Final Rule. Failure to do so could jeopardize Federal Aid funding for transportation projects.

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

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

**NEGOTIATED RULE-MAKING:** Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the MUTCD is the nationwide standard for traffic control devices and the department is required by statute to adopt such a standard with conforming additions to address needs and exceptions unique to Idaho.

**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:

**The MUTCD is an extremely large publication, more than 2,400 pages in total. It would be impractical and very costly to include the actual text of this manual in the rule.**

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

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

DATED this 5th day of August, 2011.

**THE FOLLOWING IS THE TEXT OF DOCKET NO. 39-0341-1101**

**000. LEGAL AUTHORITY.**

The Idaho Transportation Board adopts this rule under the authority of Sections 40-31~~3~~<sup>2</sup>(1), Idaho Code, to meet the provisions of Sections 40-313(1) and 49-201(3), Idaho Code.

(5-1-10)( )

(BREAK IN CONTINUITY OF SECTIONS)

**004. INCORPORATION BY REFERENCE.**

The “Manual on Uniform Traffic Control Devices for Streets and Highways” is published by the Federal Highway Administration of the U.S. Department of Transportation. The 2003<sup>9</sup> edition of the Manual ~~and all subsequent amendments, through and including revision number two (2)~~ with an effective dated ~~of December 21~~ January 15, 2007~~10~~, ~~are is~~ hereby incorporated by reference and made a part of the Rules of the Idaho Transportation Department. The following conforming additions to the Manual are adopted by the Idaho Transportation Board: (5-1-10)( )

**01.** ~~Section 2H-04, General Design Requirements for Recreational and Cultural Interest Area Symbol Signs. On page 2H-1, modify the first sentence under Standard to read as follows: Recreational and cultural interest area symbol signs shall be square or rectangular in shape and shall have a white symbol or message and white border on a brown background, with the exception of Scenic Byway signs which shall be allowed to use a multi-colored format.~~ Section 1A.09, Engineering Study and Engineering Judgment. Page 4 - replace the section in its entirety with Section 1A.09, page 1A-3 as published in the 2003 MUTCD, to read as follows:

**“Standard:**

**This Manual describes the application of traffic control devices, but shall not be a legal requirement for their installation.**

**Guidance:**

*The decision to use a particular device at a particular location should be made on the basis of either an engineering study or the application of engineering judgment. Thus, while this Manual provides Standards, Guidance, and Options for design and application of traffic control devices, this Manual should not be considered a substitute for engineering judgment.*

*Engineering judgment should be exercised in the selection and application of traffic control devices, as well as in the location and design of the roads and streets that the devices complement. Jurisdictions with responsibility for traffic control that do not have engineers on their staffs should seek engineering assistance from others, such as the State transportation agency, their County, a nearby large City, or a traffic engineering consultant.”*

(4-1-05)( )

**02. Section 1A.11, Relation to Other Documents.** On page ~~1A-7~~ - in the first paragraph under Standard, change the paragraph to read as follows: To the extent that they are incorporated by specific reference, the latest editions of the following publications, or those editions specifically noted, shall be a part of this Manual: “Standard Highway Signs and Markings” book, the Idaho Transportation Department (ITD) Sign Chart; and “Color

Specifications for Retroreflective Sign and Pavement Marking Materials” (appendix to subpart F of Part 655 of Title 23 of the Code of Federal Regulations). ~~The “Standard Highway Signs” book (FHWA) shall be a part of this Manual as a supporting document and a~~ Add the following as the first sentence of the “Support” statement: Idaho Transportation Department Sign Chart includes all signs approved for use on a highway under the jurisdiction of the Idaho Transportation Department, their sign number designations and a cross reference index for comparison of all MUTCD approved signs and those included on the Idaho Transportation Department sign chart.

(4-1-05)( )

03. ~~Section 2C.30, Speed Reduction Signs (W3-5, W3-5a) on page 2C-15, delete “W3-5” from the title of the section and from the first sentence of the Guidance Statement, and Figure 2C-5, Advisory Speed and Speed Reduction Signs, on page 2C-16, remove the W3-5 sign from the figure.~~ **Section 1A.13, Definitions of Words and Phrases in this Manual.**

On page 10, modify the definition of A. Standard to read as follows:

**Standard** - a statement of required, mandatory, or specifically prohibitive practice regarding a traffic control device. All Standard statements are labeled, and the text appears in bold type. The verb “shall” is typically used. The verbs “should” and “may” are not used in Standard statements. Standard statements are sometimes modified by Options.

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

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

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

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

(4-1-05)( )

**04.** Section ~~2C.3948~~, **Traffic Signal Signs (W25-1, W25-2)**. On page ~~2C-20 128~~ - delete the section in its entirety, and Figure 2C-89. Intersection Warning Signs and Plaques, on page ~~2C-20 127~~, remove the W25-1 and W25-2 signs from the figure. (4-1-05)( )

~~**05.** Section 2D.15, Cardinal Direction Auxiliary Signs (M3-1 Through M3-4). On page 2D-6, change the first sentence under Standard to read as follows: "To improve the readability, the first letter of the cardinal direction words shall be ten percent larger, rounded up to the nearest whole number size, except for those sign installations that were in existence prior to the adoption of this rule."~~ (4-1-05)

**085.** Section ~~3C.01~~ **2C.63, Object Marker Design and Placement Height**. On page ~~3C-1 134~~ - under "Standard:" add the following paragraphs as a second paragraph under Type 1, Type 2 and Type 3 Object Markers make the following changes to allow ~~an~~ alternate methods of marker construction and additional types of markers:

Support:

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

Standard:

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

(5-1-10)( )

**a.** Type 1 - either a ~~marker consisting of a rigid substrate sheeted with yellow ASTM 4956D, TYPE IV retroreflective sheeting screen printed to display nine (9) yellow retroreflective circles, each with a minimum diameter of seventy-five (75) millimeters (three (3) inches), arranged symmetrically on a black (OM1-2) diamond shaped panel four hundred fifty (450) millimeters (eighteen (18) inches) or more on a side; or an all-yellow ASTM 4956D, TYPE IV retroreflective diamond shaped panel (OM1-3) of the same size~~ diamond-shaped sign, at least eighteen (18) inches on a side, consisting of either a yellow (OM1-1) or black (OM1-2) sign with nine (9) yellow retroreflective devices, each with a minimum diameter of three (3) inches, mounted symmetrically on the sign, or an all-yellow retroreflective sign (OM1-3) or a marker consisting of a rigid substrate sheeted with yellow retroreflective sheeting screen printed to display nine (9) yellow retroreflective circles, each with a minimum diameter of three (3) inches, arranged symmetrically on a black (OM1-2) diamond shaped panel eighteen (18) inches or more on a side; or an all-yellow retroreflective diamond shaped panel (OM1-3) of the same size.

(5-1-10)( )

**b.** Type 2 - either a marker (OM2-1V or OM2-1H) consisting of ~~a rigid substrate sheeted with white ASTM 4956D, TYPE IV retroreflective sheeting and displaying three (3) yellow circles of ASTM 4956D, TYPE IV retroreflective sheeting, each with a minimum diameter of seventy-five (75) millimeters (three (3) inches), arranged either horizontally or vertically on a white panel measuring at least one hundred fifty (150) millimeters by three hundred (300) millimeters (six (6) inches by twelve (12) inches); or on an all-yellow horizontal or vertical~~

~~retroreflective panel (OM2-2V or OM2-2H), sheeted with ASTM 4956D, TYPE IV retroreflective sheeting measuring at least one hundred fifty (150) millimeters by three hundred (300) millimeters (six (6) inches by twelve (12) inches) three (3) yellow retroreflective devices, each with a minimum diameter of three (3) inches, arranged either horizontally or vertically on a white sign measuring at least six (6) inches by twelve (12) inches; or an all-yellow horizontal or vertical retroreflective sign (OM2-2V or OM2-2H), measuring at least six (6) inches by twelve (12) inches; or a marker (OM2-1V or OM2-1H) consisting of a rigid substrate sheeted with white retroreflective sheeting and displaying three (3) yellow circles of retroreflective sheeting, each with a minimum diameter of three (3) inches, arranged either horizontally or vertically on a white panel measuring at least six (6) inches by twelve (12) inches; or on an all-yellow horizontal or vertical retroreflective panel (OM2-2V or OM2-2H), sheeted with retroreflective sheeting measuring at least six (6) inches by twelve (12) inches.~~ (5-1-10)( )

c. Type 3 - a striped marker, ~~three hundred (300) millimeters by nine hundred (900) millimeters (twelve (12) inches by thirty-six (36) inches)~~, consisting of a rigid substrate sheeted with yellow ~~ASTM 4956D, TYPE IV~~ retroreflective sheeting screen printed to display a vertical rectangle with alternating black stripes and retroreflective yellow stripes sloping downward at an angle of forty-five (45) degrees toward the side of the obstruction on which traffic is to pass. The minimum width of the yellow and black stripes shall be ~~seventy-five (75) millimeters (three (3-in) inches)~~. (5-1-10)( )

d. ~~Add a category for~~ Type 4 ~~object markers, to read as follows:~~ - a diamond-shaped sign, at least eighteen (18) inches on a side, consisting of either a red (OM4-1) or black (OM4-2) sign with nine (9) red retroreflective devices, each with a minimum diameter of three (3) inches, mounted symmetrically on the sign, or an all-red retroreflective sign (OM4-3). (5-1-10)( )

e. Type ~~45~~ - ~~add a category for~~ Type 5 object markers to read as follows: a striped marker, ~~eight hundred thirty-eight (838) millimeters by nine hundred sixty-five (965) millimeters (to be used for marking of Highway-Rail Grade or Highway-Light Rail Transit Grade crossings ONLY. The marker is to be~~ thirty-three (33) inches by thirty-eight (38) inches), consisting of a vertical rectangle with two (2), ~~two hundred ninety-two (292) millimeter (eleven point five (11.5) inch)~~ side wings and an ~~two hundred sixteen (216) millimeter (eight point five (8.5) inch)~~ center section which are formed by bending the panel from top to bottom at a forty-five (45) degree angle away from approaching traffic. The rigid substrate panel is sheeted on both sides with white ~~ASTM 4956D, TYPE IX~~ diamond grade prismatic retroreflective sheeting and has reflective chrome stripes and red transparent ink stripes applied to the side wings sloping downward from the top outer corners at an angle of forty-five (45) degrees toward the center of the marker where they meet corresponding stripes which have been placed at a ninety (90) degree angle across the center section of the marker, except on the back of the marker which shall have the center section unsheeted and on the areas of the bends which shall have a ~~nineteen (19) millimeter (point seventy-five (.75) inch)~~ wide strip from top to bottom left unsheeted. The stripes shall meet the following dimensions: chrome stripes shall be ~~thirty-eight (38) millimeters (one point five (1.5) inches)~~ and red stripes shall be ~~one hundred forty (140) millimeters (five point five (5.5) inches)~~. (5-1-10)( )

f. Type 6 - ~~add a category for~~ Type 6 object markers to read as follows: a striped marker, twelve (12) inches by thirty-six (36) inches, consisting of a vertical rectangle with alternating white and retroreflective red stripes sloping downward at an angle of forty-five (45)

degrees toward the side of the obstruction on which traffic is to pass, to be used for entrance to Truck Escape Ramps ONLY. The minimum width of the white and red stripes shall be three (3) inches. Red retroreflective stripes shall meet the minimum requirements of sheeting.

Under “Support:” add the following revised paragraph 2:

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

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

The Type ~~4~~5 object marker, known in Idaho as OM-~~4~~5 (IdaShield), shall be placed below the Highway-Rail Grade or Highway-Light Rail Transit Grade crossing Crossbuck Sign Assembly on the right hand side of the roadway on each approach to a crossing where automatic signal warning devices do not exist. The bottom of the shield should be ~~six hundred ten (610) millimeters (twenty-four (24) inches)~~ above the top of the rail and shall not be more than ~~nine hundred fifteen (915) millimeters (thirty-six (36) inches)~~ above the ground.

Under “Guidance:” add the following as paragraph 3 to read as follows:

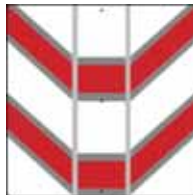
*The Type 5 object marker, known in Idaho as OM-5 (IdaShield), shall be placed below the Highway-Rail Grade or Highway-Light Rail Transit Grade crossing Crossbuck Sign Assembly on the right hand side of the roadway on each approach to a crossing where automatic signal warning devices do not exist. The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

~~(5-1-10)~~(    )

~~(2)g.~~ On page ~~3C-2~~ 135, Figure ~~3C-1~~ 2C-13, Object Markers ~~and End-of-Roadway Markers~~ - add a Type 4 5 and Type 6 Object Marker category to the figure which shall include an example of an OM-~~4~~5 object marker known in Idaho as IdaShield and the OM-6 object marker known as the Idaho Truck Escape Ramp marker.

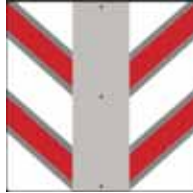
**Type ~~4~~5 Object Markers  
OM-~~4~~5 (IdaShield)**

**FRONT**





BACK



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



OM6-L OM6-R

(5-1-10)( )

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

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

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

**067. Section 2E.2831, Interchange Exit Numbering.** On page ~~2E-24~~ 212, in the fourth sentence under “Standard” revise the sentence to read as follows: “The ~~standard~~ exit number plaque (E1-5P) (see Figure 2E-22) shall be thirty-six (36) inches in height and shall include the word “EXIT” along with the appropriate exit number, and the suffix letter A or B (on multi-exit interchanges) in a single line format on a plaque thirty-six (36) inches in height, except for those sign installations that were in existence prior to the adoption of this rule.”

(5-1-10)( )

~~**07. Section 2E.37, Interchange Sequence Signs.** On page 2E-38, revise the last Standard to an Option to read as follows: “Interchange Sequence signs located in the median may be installed at overhead sign height.”~~ (4-1-05)

**Subsection 004.08 has been moved and renumbered to Subsection 004.05**

~~**09. Table 4C-1, Warrant 1, Eight-Hour Vehicular Volume.** On page 4C-3, remove all~~

*references to the fifty-six percent (56%) volume columns and note "d" and Section 4C.02 Warrant 1, Eight-Hour Vehicular Volume, on page 4C-4, remove the Option statement in its entirety.* (4-1-05)

**108.** Section 4D.04, Meaning of Vehicular Signal Indications. On page ~~4D-2~~ 451- in the second paragraph of Item C.1, substitute the following for the first sentence: "Except when a sign is in place prohibiting a turn on steady circular red signal or a RED ARROW signal indication is displayed, vehicular traffic facing a steady CIRCULAR RED signal indication may ~~cautiously enter the intersection to~~ turn right, or ~~to~~ turn left from a one-~~(1)~~-way or two-~~(2)~~-way street highway into a one-~~(1)~~-way street, after stopping in conformance with the provisions of the Idaho Vehicle Code." (4-1-05)( )

**109.** Section ~~4K~~.03, Warning Beacon. On page ~~4K-2~~ 524 - in the second paragraph under "Standard," ~~revise~~ add the following as a second sentence to read as follows: "The beacon shall not be included within the border of the sign or marker." (4-1-05)( )

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

~~12. Section 5F.02, Highway Rail Grade Crossing (Crossbuck) Sign Assembly (R15-1, R15-2).~~ On page 5F-1, in the title add the word "Assembly" after the word "Sign," and Under Standard, insert the following text as the first sentence: "The Highway Rail Grade Crossing (Crossbuck) (R15-1) sign (see Figure 5F-1) may be an assembly consisting of separate sign blades, assembled to appear as a single sign when installed at a highway-rail grade crossing." (4-1-05)

**111.** Section 5F.04, STOP ~~or~~ and YIELD Signs (R1-1, R1-2). On page ~~5F-1~~ 543, delete ~~the first paragraph titled as Option Statement, retaining the Standard for Stop Ahead (W3-1) or Yield Ahead (W3-2) signs~~ "and YIELD" from the title and insert the following paragraph as the ~~second~~ third paragraph under "Standard": "Under Idaho law, wherever a highway crosses one (1) or more railroads at grade, the Department or local authorities within their respective jurisdictions, shall place and maintain stop signs, directing vehicular traffic approaching the crossing to come to a full stop prior to entering the crossing at all railroad crossings where electric or mechanical warning signals do not exist. Placement of these stop signs shall be mandatory except when, in the determination of the Department or local authorities, the existence of stop signs at a given crossing would constitute a greater hazard than their absence, based on a recognized engineering study." (4-1-05)( )

**12.** Table 7B.1, School Area Sign and Plaque Sizes. On page 733, remove S4-2P, "When Children Are Present." ( )

**13.** Figure 7B.1, School Area Signs. On page 735, remove figure S4-2P. ( )

**14.** Section 7B.~~11~~**15**, School Speed Limit Assembly (S4-1**P**, S4-2**P**, S4-3**P**, S4-4**P**, S4-6**P**, S5-1). ( )

**a.** On page ~~7B-7~~ 742, remove S4-2P in the title; and ( )

**b.** On page 743, in the second paragraph under “Standard” remove the S4-2P and in the ~~fourth~~ third paragraph under “Option” ~~revise~~ add the ~~second~~ following as a ~~fourth~~ sentence to read as follows: “The lenses of the Speed Limit Sign Beacon shall not be positioned within the face of the School Speed Limit (S5-1) sign.” (4-1-05)(    )

**15. Section 8A.03, Use of Standard Devices, Systems, and Practices at Highway-LRT Grade Crossings.** On page 748, under “Standard” add the following statement as a second sentence to read as follows: “*Per Section 49-202(25), Idaho Code, “Wherever a highway crosses one (1) or more railroads at grade, the Department or local authorities within their respective jurisdictions, shall place and maintain stop signs, directing vehicular traffic approaching the crossing to come to a full stop prior to entering the crossing at all railroad crossings where electric or mechanical warning signals do not exist. Placement of these stop signs shall be mandatory except when, in the determination of the public highway agencies, the existence of stop signs at a given crossing would constitute a greater hazard than their absence, based on a recognized engineering study.”* (    )

*Subsection 004.16 has been moved and renumbered to Subsection 004.18*

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

~~17. Section 8B.22, Dynamic Envelope Markings. On page 8B-13, revise the first sentence under Standard to read as follows: “If used, the dynamic envelope shall be contrasting pavement color and/or contrasting pavement texture.” And, on page 8B-13, revise the first sentence under Guidance to read as follows: “If used, dynamic envelope pavement markings with contrasting pavement color and/or texture should be placed for a distance of 1.8 m (6 ft.) from the nearest rail, installed parallel to the tracks, unless the operating railroad company advises otherwise.”~~ **Figure 8B.3, Crossbuck Assembly with a YIELD or STOP Sign on a Separate Sign Support (Sheet 2 of 2).** Delete “YIELD or” from the title of the figure. Change Note 1 to read as follows: “*Per Section 49-202(25), Idaho Code, “Wherever a highway crosses one (1) or more railroads at grade, the Department or local authorities within their respective jurisdictions, shall place and maintain stop signs, directing vehicular traffic approaching the crossing to come to a full stop prior to entering the crossing at all railroad crossings where electric or mechanical warning signals do not exist. Placement of these stop signs shall be mandatory except when, in the determination of the public highway agencies, the existence of stop signs at a given crossing would constitute a greater hazard than their absence, based on a recognized engineering study.”*” (4-1-05)(    )

~~18. Figure 8B-8, Typical Train Dynamic Envelope Pavement Markings. On page 8B-13, delete Figure in it’s entirety.~~ (4-1-05)

**168. Section 8B.084, Crossbuck Assemblies with YIELD or STOP (RI-1) or YIELD (RI-2) Signs at Highway-Rail Passive Grade Crossings.** On pages ~~8B-6~~ 754,757 and 758, delete the first five paragraphs titled as “*Option, Support and Guidance Statements,*” retaining the *Standard for Stop Ahead or Yield Ahead Advance Warning signs* and insert the following paragraph as the second paragraph under Standard: “*YIELD or*” from the title and modify the

Section to read as follows:

**Standard:**

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

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

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

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

**Guidance:**

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

**Support:**

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

**Option:**

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

**Standard:**

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

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

Guidance:

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

Support:

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

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

Standard:

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

(4-1-05)( )

**2019.** Section ~~10C.04~~ **8B.05**, STOP (R1-1) Or YIELD (R1-2) **Signs without Crossbuck** Signs at Highway-~~Light Rail Transit~~ **LRT** Grade Crossings. On page ~~10C-2 and 10C-4~~ **758**, delete “Or YIELD (R1-2)” from the title and delete the Guidance, ~~and Option Statements~~, retaining the Standard ~~for Stop Ahead or Yield Ahead Advance Warning signs~~ and insert the following paragraph as the first paragraph under Standard: “~~Under Idaho law~~ Per Section 49-202(25), Idaho Code, “~~Wherever a highway crosses one (1) or more railroads at grade, the Department or local authorities within their respective jurisdictions, shall place and maintain stop signs, directing vehicular traffic approaching the crossing to come to a full stop prior to entering the crossing at all railroad crossings where electric or mechanical warning signals do not exist. Placement of these stop signs shall be mandatory except when, in the determination of the Department or local authorities~~ public highway agencies, the existence of stop signs at a given crossing would constitute a greater hazard than their absence, based on a recognized engineering study.””

(4-1-05)( )

**1520.** Section ~~8B.057~~, EXEMPT Highway-Rail Grade Crossing **Signs Plaques** (R15-**3P**, W10-1a**P**).

(5-1-10)( )

a. On page ~~8B-5~~ **759** - add the following paragraph titled as: “Standard: All EXEMPT (R15-3) signs placed at a highway-rail grade crossing, shall require train crews to flag the crossing and stop all vehicular traffic prior to allowing any railroad equipment to enter the crossing. Placement of an EXEMPT (R15-3) sign shall require a written agreement between the

railroad company and the agency having jurisdiction over the highway which requires both parties to comply with the proper procedures for placement of EXEMPT signs at Highway-Rail Grade Crossings. A copy of all agreements shall be forwarded to the Idaho Transportation Department Highway-Rail Safety Coordinator.” (5-1-10)( )

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

**21.** ~~Section 10C.10, EXEMPT Highway-Rail Grade Crossing Sign (R15-3, W10-1a).~~ Section 8B.09, DO NOT STOP ON TRACKS Sign (R8-8). On page 760, change the second paragraph of the Guidance statement to read as follows:

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

(5-1-10)( )

~~**a.** On page 10C-5, add the following paragraph titled as: “Standard: All EXEMPT (R15-3) signs placed at a highway-rail grade crossing, shall require train crews to flag the crossing and stop all vehicular traffic prior to allowing any railroad equipment to enter the crossing. Placement of an EXEMPT (R15-3) sign shall require a written agreement between the railroad company and the agency having jurisdiction over the highway which requires both parties to comply with the proper procedures for placement of EXEMPT signs at Highway-Rail Grade Crossings. A copy of all agreements shall be forwarded to the Idaho Transportation Department Highway-Rail Safety Coordinator.”~~ (5-1-10)

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

**22.** ~~Section 10C.25 Dynamic Envelope Delineation.~~ Section 8B.16, Divided Highway with Light Rail Transit Crossing Signs (R15-7 Series). On page 762, change the second sentence of the first paragraph of the Option statement to read as follows: The sign shall be mounted separately. (4-1-05)( )

~~**a.** On page 10C-12, delete the word “markings” in the title and, under Support, delete the word “markings” and replace with “contrasting pavement color and/or contrasting pavement texture.”~~ (4-1-05)

~~**b.** On page 10C-12, under Option: Replace the sentence with the following: “The dynamic envelope may be delineated on the pavement using contrasting pavement color and/or contrasting pavement texture (see Figures 10C-7 and Figure 10C-10),” and on page 10C-12, delete “Standard, relating to pavement markings in its entirety,” and on page 10C-12, revise Guidance, to read as follows: “If used at the light-rail transit crossing, dynamic envelope~~

*contrasting pavement color and/or texture should be placed at a distance of 1.8 m (6 ft.) from the nearest rail, installed parallel to the tracks, unless the transit authority and/or operating railroad company advises otherwise,” and on page 10C-12, delete the work “markings” in all four paragraphs under the second Option and replace with “delineation.”* (4-1-05)

**23.** ~~Figure 10C-8, Typical Light Rail Transit Vehicle Dynamic Envelope Delineation Pavement Markings.~~ On page 10C-13, delete Figure 10C-8 in its entirety. **Section 8B.18, Emergency Notification Sign (I-13).** On page 763, change the second paragraph of the Guidance statement to read as follows: Emergency Notification signs should be oriented so as to face highway vehicles at the grade crossing or on the traveled way near the grade crossing. (4-1-05)( )

**24.** ~~Section 10D.06, Traffic Signal Preemption Turning Restrictions.~~ On page 10D-4, under the third paragraph titled Guidance: add text “if justified by an engineering study,” to the end of the final sentence in the paragraph. (4-1-05)

**1924.** ~~Section 8D.07C.09, Traffic Control Signals at or Near Highway-Rail Grade Crossings.~~ On page ~~8D-07 777~~, in the ~~tenth~~ **fourth** paragraph titled “Standard,” ~~add text~~ **replace** “if applicable” with “if justified by an engineering study,” ~~to~~ **at** the end of the final sentence in the paragraph. (4-1-05)( )

#### **1005. AVAILABILITY OF THE “MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES FOR STREETS AND HIGHWAYS.”**

**01. Review of Manual.** Persons wishing to review the Manual may do so at any of the locations listed in Section 0056. The Manual and subsequent amendments are also available for review ~~at~~ **on** the ~~Idaho State Library~~ **Federal Highway Administration website at <http://mutcd.fhwa.dot.gov>.** (3-20-04)( )

**02. Purchase of Manual.** The Manual ~~and all subsequent amendments dated~~ **with an effective date of December 21 January 15, 200710, with Revision No. 1 and Revision No. 2 changes** may be viewed and printed from the Federal Highway Administration website at <http://mutcd.fhwa.dot.gov>, or purchased from a number of organizations described on the website, such as the U.S. Government Printing Office, AASHTO, ATSSA, and ITE. (5-1-10)( )

#### **0056. OFFICE -- OFFICE HOURS -- MAILING AND STREET ADDRESS -- PHONE NUMBERS.**

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

**02. Office Hours.** Daily office hours are 8 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 208-334-8000 or by fax at 208-334-3858. (3-20-04)

**04. Idaho Transportation Department District Offices.** Offices are at the following locations: (3-20-04)

- a. Idaho Transportation Department District 1  
60~~50~~ W. Prairie, Coeur d'Alene  
Mailing address -- ~~P.O. Box D~~ 600 W. Prairie, Coeur d'Alene, Idaho 8381~~45~~-8764  
Office Hours -- 7 a.m. to 4 p.m., Pacific Time Zone  
Phone -- (208) 772-1200 (3-20-04)( )
- b. Idaho Transportation Department District 2  
~~26th and North and South Highway~~ 2600 Frontage Road, Lewiston  
Mailing address -- P.O. Box 837, Lewiston, Idaho 83501-0837  
Office Hours -- 7 a.m. to 4 p.m., Pacific Time Zone  
Phone -- (208) 799-5090 (3-20-04)( )
- c. Idaho Transportation Department District 3  
8150 Chinden Blvd., Boise  
Mailing address -- P.O. Box 8028, Boise, Idaho 83707-2028  
Office Hours -- 8 a.m. to 5 p.m., Mountain Time Zone  
Phone -- (208) 334-8300 (3-20-04)( )
- d. Idaho Transportation Department District 4  
216 South Date Street, Shoshone  
Mailing address -- ~~P.O. Box 2-A~~ 216 South Date Street, Shoshone, Idaho 83352-  
0820  
Office Hours -- 8 a.m. to 5 p.m., Mountain Time Zone  
Phone -- (208) 886-7800 (3-20-04)( )
- e. Idaho Transportation Department District 5  
5151 South 5th, Pocatello  
Mailing address -- P.O. Box 4700, Pocatello, Idaho 8320~~7~~-5-4700  
Office Hours -- 8 a.m. to 5 p.m., Mountain Time Zone  
Phone -- (208) 239-3300 (3-20-04)( )
- f. Idaho Transportation Department District 6  
206 North Yellowstone Highway, Rigby  
Mailing address -- P.O. Box 97, Rigby, Idaho 83442-0097  
Office Hours -- 8 a.m. to 5 p.m., Mountain Time Zone  
Phone -- (208) 745-8735 (3-20-04)( )

**0067. PUBLIC RECORDS ACT COMPLIANCE.**

Rules contained herein are promulgated in accordance with Title 67, Chapter 52, Idaho Administrative Procedures Act (IDAPA) and IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Idaho Attorney General." All records associated with this chapter are subject to and in compliance with the Idaho Public Records Act, as set forth in Sections 9-337 through 9-350, Idaho Code. (3-20-04)

**0078. -- 0999. (RESERVED)**