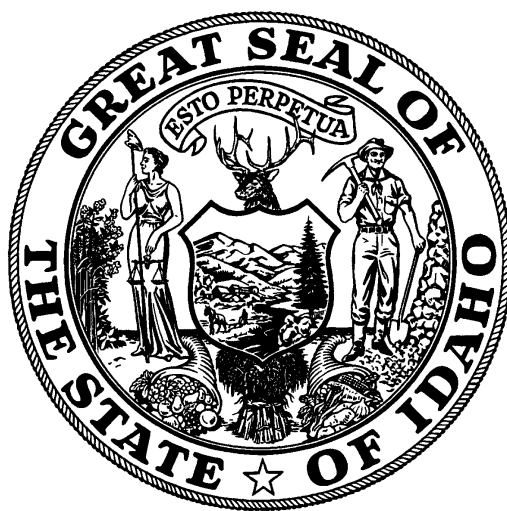


PENDING RULES

COMMITTEE RULES

REVIEW BOOK

Submitted for Review Before
Senate Transportation Committee
63rd Idaho Legislature
First Regular Session



Prepared by:

*Office of the Administrative Rules Coordinator
Department of Administration*

January 2015

SENATE TRANSPORTATION COMMITTEE

ADMINISTRATIVE RULES REVIEW

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**IDAPA 11 - IDAHO STATE POLICE
ISP COMMERCIAL VEHICLE SAFETY**

11.13.01 - THE MOTOR CARRIER RULES

DOCKET NO. 11-1301-1401

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2015 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 or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and of full force and effect upon adoption of the concurrent resolution.

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

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

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 1, 2014 Idaho Administrative Bulletin, [Vol. 14-10, pages 198 through 200](#).

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:

Adoption of these rules will not affect general or dedicated funds. If the rules are not adopted, Idaho could sustain a reduction in federal grant funding as well as have a negative impact on dedicated funding.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Capt. William Reese, Idaho State Police Commercial Vehicle Safety (208) 884-7220 or william.reese@isp.idaho.gov.

DATED this 7th Day of November, 2014.

Colonel Ralph W. Powell, Director
Idaho State Police
700 S. Stratford Dr.
Meridian, ID 83642
Tel: (208) 884-7003
Fax: (208) 884-7090

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

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

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 15, 2014.

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:

Idaho has adopted the Federal Motor Carrier Safety Regulations through incorporation by reference. In the past, Idaho has not adopted 49 CFR Part 386, which provides regulations and penalties for out of service provisions for interstate carriers who continue to operate after being declared an imminent hazard and/or have failed to pay outstanding civil penalties.

This rule would adopt 49 CFR Part 386, Subparts F & G only. These changes will provide law enforcement the ability to put interstate carriers, who have been declared an imminent hazard, out of service and thus prohibit the carriers from operating on Idaho's highways until the issue is resolved. Imminent hazard means the existence of a condition that presents a substantial likelihood that death, serious illness, severe personal injury, or a substantial endangerment to health, property, or the environment may occur. Currently Idaho does not have the authority to put these carriers out of service and these carriers pose a significant risk to public health and safety. Some carriers may also be out of service for failure to pay fines that were previously imposed for violations. Currently Idaho does not have the authority to place these carriers out of service.

States are required to incorporate these regulations by reference to maintain compliance with the Federal Motor Carrier Safety Administration and remain eligible for grant funding and highway funds.

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:

Adoption of these rules will not affect general or dedicated funds. If the rules are not adopted Idaho could sustain a reduction in federal grant funding as well as have a negative impact on dedicated funding.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because states are required to adopt these rules by reference to remain in compliance with the Federal Motor Carrier Safety Administration (FMCSA). The rules were adopted by FMCSA in compliance with the federal law and are published in the Federal Register and the Code of Federal Regulations.

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:

All states adopt the Federal Motor Carrier Safety Regulations for interstate transportation; otherwise, a driver would have to comply with different rules in each state. Standardized rules provide for consistent transportation safety nationwide.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Capt. William Reese, Idaho State Police Commercial Vehicle Safety (208) 884-7220 or william.reese@isp.idaho.gov.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 22, 2014.

DATED this 29th Day of August, 2014.

LSO RULES ANALYSIS MEMO

THE FOLLOWING IS THE TEXT OF DOCKET NO. 11-1301-1401

019. CARRIER SAFETY REQUIREMENTS (RULE 19).

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

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

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

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

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

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

b. Part 365. Rules Governing Application for Operating Authority. (3-29-10)

c. Part 382. Controlled Substance and Alcohol Use and Testing. (4-5-00)

d. Part 383. Commercial Driver's License Standards; Requirements and Penalties. (4-5-00)

e. Part 385. Safety Fitness Procedures. (3-29-10)

f. Part 386.71-84. Rules of Practice for Motor Carrier, Intermodal Equipment Provider, Broker, Freight Forwarder, and Hazardous Materials Proceedings. ()

fg. Part 387. Minimum Levels of Financial Responsibility. (3-29-10)

gh.	Part 388. Cooperative Agreements with States.	(4-5-00)
hi.	Part 390. Federal Motor Carrier Safety Regulations: General.	(4-5-00)
ij.	Part 391. Qualifications of Drivers.	(4-5-00)
jk.	Part 392. Driving of Commercial Motor Vehicles.	(3-29-10)
kl.	Part 393. Parts and Accessories Necessary for Safe Operation.	(4-5-00)
lm.	Part 395. Hours of Service of Drivers.	(4-5-00)
mn.	Part 396. Inspection, Repair and Maintenance.	(4-5-00)
no.	Part 397. Transportation of Hazardous Materials; Driving and Parking Rules.	(4-5-00)
op.	Part 398. Transportation of Migrant Workers.	(4-5-00)
pq.	Part 399. Employee Safety and Health Standards.	(4-5-00)

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

04. Version of Federal Regulations Adopted. The federal regulations adopted by reference in this Section 019 are those contained in the compilation of 49 CFR Parts 356, 365, 382, 383, 385, 387, 388, 390 through 399 published in the Code of Federal Regulations volumes dated March 1, 2012. (4-4-13)

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

**IDAPA 11 - IDAHO STATE POLICE
ISP COMMERCIAL VEHICLE SAFETY**

11.13.01 - THE MOTOR CARRIER RULES

DOCKET NO. 11-1301-1402

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2015 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 or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and of full force and effect upon adoption of the concurrent resolution.

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

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

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 1, 2014 Idaho Administrative Bulletin, [Vol. 14-10, pages 201 through 203](#).

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:

Adoption of these rules will not affect general or dedicated funds. If the rules are not adopted, Idaho could sustain a reduction in federal grant funding as well as have a negative impact on dedicated funding.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Capt. William Reese, Idaho State Police Commercial Vehicle Safety (208) 884-7220 or william.reese@isp.idaho.gov.

DATED this 7th Day of November, 2014.

Colonel Ralph W. Powell, Director
Idaho State Police
700 S. Stratford Dr.
Meridian, ID 83642
Tel: (208) 884-7003
Fax: (208) 884-7090

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

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

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 15, 2014.

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:

On October 1, 2012, the Federal MAP-21 legislation went into effect. The legislation provides additional exemptions from the Federal Motor Carrier Safety Regulations (FMCSR) for interstate operations of “covered farm” vehicles and vehicles engaged in the “transportation of agricultural commodities and farm supplies.”

The rule extends the hours of service exemption for farm and agricultural commodity, retail and wholesale distribution points from 100 to 150 air miles. Covered farm vehicles are exempted from most of the FMCSRs within 150 air mile radius of the farm or ranch, if the gross vehicle weight rating (GVWR) of the vehicle is over 26,001 pounds. If the GVWR of the vehicle is 26,001 pounds or less the vehicle is exempt, regardless of the distance from the farm or ranch. Covered farm vehicles are only required to comply with FMCSRs, 49 CFR Parts 385, 390, 391 (except Subpart E: Physical Qualifications & Examinations), 392 and 393.

States are required to adopt these regulations by reference to maintain compliance with the Federal Motor Carrier Safety Administration and remain eligible for grant funding and highway funds.

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:

Adoption of these rules will not affect general or dedicated funds. If the rules are not adopted Idaho could sustain a reduction in federal grant funding as well as have a negative impact on dedicated funding.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because states are required to adopt these rules by reference to remain in compliance with the Federal Motor Carrier Safety Administration (FMCSA). The rules were adopted by FMCSA in compliance with the federal law and are published in the Federal Register and the Code of Federal Regulations.

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:

All states adopt the Federal Motor Carrier Safety Regulations for interstate transportation; otherwise, a driver would have to comply with different rules in each state. Standardized rules provide for consistent transportation safety nationwide.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Capt. William Reese, Idaho State Police Commercial Vehicle Safety (208) 884-7220 or william.reese@isp.idaho.gov.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 22, 2014.

DATED this 29th Day of August, 2014.

LSO RULES ANALYSIS MEMO

THE FOLLOWING IS THE TEXT OF DOCKET NO. 11-1301-1402

019. CARRIER SAFETY REQUIREMENTS (RULE 19).

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

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

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

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

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

- a.** Part 356. Motor Carrier Routing Regulations. (3-29-10)
- b.** Part 365. Rules Governing Application for Operating Authority. (3-29-10)
- c.** Part 382. Controlled Substance and Alcohol Use and Testing. (4-5-00)
- d.** Part 383. Commercial Driver's License Standards; Requirements and Penalties. (4-5-00)
- e.** Part 385. Safety Fitness Procedures. (3-29-10)
- f.** Part 387. Minimum Levels of Financial Responsibility. (3-29-10)
- g.** Part 388. Cooperative Agreements with States. (4-5-00)
- h.** Part 390. Federal Motor Carrier Safety Regulations: General. (4-5-00)

- i.** Part 391. Qualifications of Drivers. (4-5-00)
- j.** Part 392. Driving of Commercial Motor Vehicles. (3-29-10)
- k.** Part 393. Parts and Accessories Necessary for Safe Operation. (4-5-00)
- l.** Part 395. Hours of Service of Drivers. (4-5-00)
- m.** Part 396. Inspection, Repair and Maintenance. (4-5-00)
- n.** Part 397. Transportation of Hazardous Materials; Driving and Parking Rules. (4-5-00)
- o.** Part 398. Transportation of Migrant Workers. (4-5-00)
- p.** Part 399. Employee Safety and Health Standards. (4-5-00)

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

04. Version of Federal Regulations Adopted. The federal regulations adopted by reference in this Section 019 are those contained in the compilation of 49 CFR Parts 356, 365, 382, 383, 385, 387, 388, 390 through 399 published in the Code of Federal Regulations volumes dated March ~~31~~ 20~~12~~14. ~~(4-4-13)~~()

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

IDAPA 35 - STATE TAX COMMISSION

35.01.05 - IDAHO MOTOR FUELS TAX ADMINISTRATIVE RULES

DOCKET NO. 35-0105-1401

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2015 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 or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and of full force and effect upon adoption of 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 63-105 and 63-2427, Idaho Code.

DESCRIPTIVE SUMMARY: There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the June 4, 2014 Idaho Administrative Bulletin, [Vol. 14-6, pages 92 through 96](#).

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: NA

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Don Williams (208) 334-7855 or email don.williams@tax.idaho.gov.

DATED this 10th Day of November, 2014.

Don Williams
Tax Policy Specialist
State Tax Commission
P.O. Box 36
Boise, ID 83722-0410
(208) 334-7855
don.williams@tax.idaho.gov

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE
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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 and 63-2427, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearings 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 18, 2014.

The hearing site 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:

Motor Fuels Tax Rule 001 is a rule required in order to follow the formatting standard outlined by the Office of Administrative Rules Coordinator. The rule is informational and gives the title and scope of the rules to follow.

Motor Fuels Tax Rule 004 is amended to adopt the formatting standard outlined by the Office of Administrative Rules Coordinator. Motor Fuels Tax Rule 330 is being moved to Rule 004 and amended to conform to different tax rules of a similar type promulgated by the State Tax Commission.

Motor Fuels Tax Rules 006 is a rule required in order to follow the formatting standard outlined by the Office of Administrative Rules Coordinator. Motor Fuels Rule 004 is being moved to Rule 006 and amended to conform to different tax rules of a similar type promulgated by the State Tax Commission.

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: NA

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted. Negotiated Rulemaking was not feasible because the rules were written to meet the formatting standard outlined by the Office of Administrative Rules Coordinator.

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 International Fuel Tax Agreement is being incorporated by reference because it is adopted by Section 63-2442A(2), Idaho Code and Motor Fuels Rule 410.

The International Registration Plan is being incorporated by reference because it is adopted by Section 49-435(1), Idaho Code, and Motor Fuels Rule 421.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Don Williams at (208) 334-7855 or don.williams@tax.idaho.gov.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before June 25, 2014.

DATED this 9th day of May, 2014.

LSO RULES ANALYSIS MEMO

THE FOLLOWING IS THE TEXT OF DOCKET NO. 35-0105-1401

001. ~~(RESERVED)~~ **TITLE AND SCOPE (RULE 001).**

01. Title. These rules shall be cited as IDAPA 35.01.05, "Idaho Motor Fuels Tax Administrative Rules." ()

02. Scope. These rules shall be construed to reach the full jurisdictional extent of the state of Idaho's authority for: ()

a. Motor Fuels Tax. The imposition of a motor fuel tax on each gallon of motor fuel received and on the use or other consumption of motor fuel in this state. This shall also include the administration of the International Fuel Tax Agreement (IFTA). ()

b. Transfer Fee. The imposition of a transfer fee upon each gallon of petroleum or petroleum products received and subject to the transfer fee as authorized by Chapter 49, Title 41, Idaho Code. ()

c. Registration Records. The imposition of records requirements for Idaho International Registration Plan (IRP) and Full Fee registration audits authorized by Chapter 4, Title 49, Idaho Code. ()

(BREAK IN CONTINUITY OF SECTIONS)

[Codified Section 004 is being moved and renumbered to Section 006]

004. INCORPORATION BY REFERENCE (RULE 004).

Sections 63-2434, 63-2442A, and 49-439, Idaho Code. The following documents are incorporated by reference: ()

01. Income Tax Administration and Enforcement Rules. These rules incorporate the sections of IDAPA 35.02.01, "Tax Commission Administration and Enforcement Rules" relating to the statutes authorized by Section 63-2434, Idaho Code. ()

02. International Fuel Tax Agreement. These rules incorporate the International Fuel Tax Agreement (IFTA) governing documents: the IFTA Articles of Agreement (revised July 1, 2013), the IFTA Procedures Manual (revised January 1, 2013), and the IFTA Audit Manual (revised January 20, 2013). IFTA is an international agreement between jurisdictions to encourage use of the highway system by uniformly administering fuels use tax laws. These documents can be found on the IFTA website at <http://www.iftach.org>. ()

03. International Registration Plan. These rules incorporate the International Registration Plan (IRP) governing documents: The IRP Plan (revised January 1, 2014) and IRP Audit Procedures Manual (revised July 1, 2013). IRP is an international registration reciprocity agreement. The documents are included to aid the Commission in complying with IRP registration application audits authorized in Chapter 4, Title 49, Idaho Code. These documents can be found on the IRP website at <http://www.irponline.org>. ()

(BREAK IN CONTINUITY OF SECTIONS)

[Codified Section 004 is being moved and renumbered to Section 006]

0046. PUBLIC RECORDS ACT COMPLIANCE (RULE 0046).

The records associated with ~~this chapter~~ these rules are subject to the provisions of the Idaho Public Records Act, Chapter 3, Title 9, Idaho Code, to the extent that these documents are not confidential under Sections 63-2434, ~~41-4909~~, 63-3076, 63-3077, ~~41-4909~~, or 9-337 through 9-350, Idaho Code. ~~Noneconfidential records are available for public inspection and copying at the main office of the State Tax Commission. See Rule 005 of these rules for the main office address.~~ (4-6-05)()

(BREAK IN CONTINUITY OF SECTIONS)

321. -- ~~329.~~ **(RESERVED)**

~~330. INCORPORATION BY REFERENCE OF RELEVANT INCOME TAX RULES (RULE 330).~~

~~Section 63-2434, Idaho Code, incorporates by reference various provisions of the Idaho Income Tax Act to apply to~~

~~administering and enforcing the taxes on motor fuels. For applying and construing those sections as they apply to taxes on motor fuels, the administration and enforcement rules previously promulgated or to be promulgated or amended by the Commission are hereby adopted as part of these rules as if set out in full. In addition, Administration and Enforcement Rule 110 (IDAPA 35.02.01.110) is hereby adopted as part of these rules as if set out in full. (7-1-97)~~

~~331.~~ 399. (RESERVED)

IDAPA 35 - STATE TAX COMMISSION

35.01.05 - MOTOR FUELS TAX ADMINISTRATIVE RULES

DOCKET NO. 35-0105-1402

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2015 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 or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and of full force and effect upon adoption of 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 63-105 and 63-2427, Idaho Code.

DESCRIPTIVE SUMMARY: There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the August 6, 2014 Idaho Administrative Bulletin, **Vol. 14-8, pages 138 through 140.**

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: NA

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Don Williams (208) 334-7855 or email don.williams@tax.idaho.gov.

DATED this 10th Day of November, 2014.

Don Williams
Tax Policy Specialist
State Tax Commission
P.O. Box 36
Boise, ID 83722-0410
(208) 334-7855
don.williams@tax.idaho.gov

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE
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AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 63-105 and 63-2427, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearings 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 20, 2014.

The hearing sites 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:

Motor Fuels Tax Rule 110, Calculation of Tax on Gaseous Fuels, outlines conversion factors required by Section

63-2424(1), Idaho Code, to make it possible to assess the \$0.25/gallon gasoline tax on given volume of gaseous fuel based on the energy equivalent of a gallon of gasoline. The rule is being changed to align the current conversion factors to national and industry standards.

Motor Fuels Tax Rule 311, IFTA License Bond, outlines the procedure for International Fuel Tax Agreement (IFTA) license bonds according to Section 63-2442A(2), Idaho Code, and the IFTA Articles of Agreement R340, Bond Requirement. This new rule clarifies a timely filer and allows the IFTA licensee to request a waiver from the bond requirement. The rule also includes instructions for the bonding an IFTA licensee who has his license revoked then reapplies for an IFTA license.

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: NA

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the June 4, 2014 Idaho Administrative Bulletin, [Vol. 14-6, pages 95 and 96](#).

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: NA

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Don Williams at (208)334-7855 or don.williams@tax.idaho.gov.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 27, 2014.

DATED this 6th day of August, 2014.

LSO RULES ANALYSIS MEMO

THE FOLLOWING IS THE TEXT OF DOCKET NO. 35-0105-1402

110. CALCULATION OF TAX ON GASEOUS FUELS (RULE 110).

Section 63-2424, Idaho Code.

01. In General. ~~In all cases in which any tax under Chapter 24, Title 63, Idaho Code, must be calculated for any special fuel that is a gaseous fuel, the following equivalency formulas shall be used to calculate the amount of tax due.~~ The following applies to gaseous special fuels: (6-23-94)()

a. ~~One (1) therm of natural gas will be the equivalent of one (1) gallon of liquid.~~ A gaseous special fuel is a special fuel that is a gas at sixty (60) degrees Fahrenheit and fourteen and seven-tenths (14.7) pounds per square inch absolute. (6-23-94)()

b. ~~Four and one-fourth (4 1/4) pounds of propane will be the equivalent of one (1) gallon of liquid.~~ A gaseous special fuel may be sold at volumes or weights other than those listed in this section, but, must be converted to the volumes and weights used in this section for reporting purposes to ensure that the gaseous special fuels are taxed at the energy equivalent to a gallon of gasoline. (6-23-94)()

02. Equivalent~~s~~ BTU's. ~~Special fuels tax on gaseous fuels will be computed based upon the equivalent BTU's per gallon of gaseous fuels. The following values will be used in a formula establishing the rate:- The following equivalents will be used when calculating amounts of gaseous special fuel sold and corresponding tax amounts for motor fuels tax reporting purposes. Gaseous special fuel distributors are required to report the volumes and tax as required on the fuel distributor form.~~

Gasoline	127,000	BTU's per gallon
Propane	92,000	BTU's per gallon
Natural Gas	100,000	BTU's per gallon

$$\frac{\text{Natural gas } 100,000 \text{ BTU}}{\text{Gasoline } 127,000 \text{ BTU}} \times \text{current tax rate} = \text{tax per therm}$$

$$\frac{\text{Propane } 92,000 \text{ BTU}}{\text{Gasoline } 127,000 \text{ BTU}} \times \text{current tax rate} = \text{tax per } 4 \frac{1}{4} \text{ pounds}$$

<u>Motor Fuel</u>	<u>BTUs per liquid gallon</u>	<u>Tax per liquid gallon</u>	<u>Volume per Gasoline Gallon Equivalent (GGE)</u>	<u>Tax per GGE</u>	<u>Volume per Diesel Gallon Equivalent (DGE)</u>	<u>Tax per DGE</u>
<u>Gasoline</u>	<u>127,000</u>	<u>\$0.25</u>	<u>1 gallon</u>	<u>\$0.25</u>	<u>N/A</u>	<u>N/A</u>
<u>Propane</u>	<u>92,000</u>	<u>\$0.181</u>	<u>1.39 gallon</u>	<u>\$0.25</u>	<u>N/A</u>	<u>N/A</u>
<u>Compressed Natural gas (CNG)</u>	<u>N/A</u>	<u>N/A</u>	<u>126.67 cu. ft. or 5.66 lbs. @ 60° F</u>	<u>\$0.25</u>	<u>N/A</u>	<u>N/A</u>
<u>Liquefied Natural Gas (LNG)</u>	<u>84,800</u>	<u>\$0.167</u>	<u>N/A</u>	<u>N/A</u>	<u>6.06 lbs.</u>	<u>\$0.273</u>
<u>Diesel</u>	<u>138,400</u>	<u>\$0.25</u>	<u>N/A</u>	<u>N/A</u>	<u>1 gallon</u>	<u>\$0.25</u>

(6-23-94)()

(BREAK IN CONTINUITY OF SECTIONS)

311. IFTA LICENSE BOND (RULE 311).
Section 63-2442A, Idaho Code.

01. General. The State Tax Commission (Commission) may require an International Fuel Tax Agreement (IFTA) licensee to post a bond following the requirements of the IFTA Agreement in order to maintain his license. A bond may be required when he files returns or remits taxes, separately or in combination, after the due date at least three times within a three year period. When a bond is required, the licensee must post the bond within thirty (30) days from the date of the request. When no bond is posted within the thirty (30) days, the license is automatically revoked and it must be surrendered to the Commission. An assessment may be made for any unreported tax liability

based on actual records or an estimate. ()

02. Reinstating Revoked Licenses. An applicant may be required to post a bond when he has previously had his IFTA license revoked or is related to a person who has previously had his IFTA license revoked. An applicant is related to a person who has previously had his IFTA license revoked when: ()

a. The applicant is owned or controlled by a person or persons who has previously had his IFTA license revoked. ()

b. The applicant is operated or controlled by a person or persons who has previously had his IFTA license revoked. Operation and control includes, but is not limited to, an officer or director or other person authorized by the applicant to engage in the business or commercial activity of the applicant. ()

03. Amount and Type of Bond. The amount of the bond will be one thousand dollars (\$1,000) or twice the estimated tax liability for the licensee's quarterly tax reporting period, whichever is greater, without regard to actual or anticipated tax-paid credits. Any type of bond allowed by the IFTA Agreement or these rules may be secured. The bond amount will be reviewed annually, but may be reviewed at any time, thereafter. The licensee's returns and records may be reviewed to determine if the bond amount will be raised, lowered, or remain unchanged. ()

04. Bond Waiver Request. The licensee may request a waiver of bond requirement within thirty (30) days from the approval of the license renewal request. The licensee must be a quarterly filer. The licensee must have submitted the quarterly returns and paid the tax due by the due date for one calendar year. An annual filer may not request a bond waiver. ()

05. Denial of Bond Waiver Request and Appeal of Denial. The Commission may deny a bond waiver request when it determines that waiving the bond requirement puts the financial interests of IFTA jurisdictions in jeopardy. The licensee must follow the appeal procedure in Section R1400, IFTA Articles of Agreement (revised July 2013) to appeal the denial of a bond waiver request. ()

IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT

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

DOCKET NO. 39-0203-1402

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2015 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 or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and of full force and effect upon adoption of 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 40-201 (1), Idaho Code.

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

This rule would add specificity to further define Section 49-117 (15), Idaho Code, regarding principal place of business requirements, to define the term "reasonable times" for the purpose of customers being able to contact a dealer. The proposed change adds a section for "declared business hours" and requires retail dealers to be open to hours a week, of which part must be Monday to Friday 8:00 am to 5:00 pm, and 4 hours a week for wholesale dealers, part of which must be Monday to Friday 8:00 am to 5:00 pm.

This rule also adds specific information regarding the Idaho Consumer Asset Recovery Fund (ICAR), which passed in House Bill 167 in the 2013 legislative session, to identify how the ICAR fee will be set and by whom. It further specifies when a fee change will go into effect. Changes provide that all dealers, unless otherwise exempt will pay into the fund. The sections for liability insurance and surety bond requirements have just been moved to another heading under the rule to be more logical and specify that a surety bond is needed for the first 3 years unless otherwise provided by code, as also contained in House Bill 167.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 1, 2014 Idaho Administrative Bulletin, [Vol. 14-10, pages 480 through 483](#).

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, contact Amy Smith, Motor Vehicle Manager, (208) 334-8860.

DATED this 29th day of November, 2014.

Lori Garza, Program Specialist
Idaho Transportation Department
Office of Governmental Affairs
3311 W. State Street
P.O.Box 7129
Boise, ID 83707-1129
Lori.garza@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 initiated proposed rulemaking procedures. The action is authorized pursuant to Section 40-201 (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 October 15, 2014.

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

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

This rule would add specificity to further define Section 49-117 (15), Idaho Code, regarding principal place of business requirements, to define the term "reasonable times" for the purpose of customers being able to contact a dealer. The proposed change adds a section for "declared business hours" and requires retail dealers to be open 20 hours a week, of which part must be Monday to Friday 8:00 am to 5:00 pm, and 4 hours a week for wholesale dealers, part of which must be Monday to Friday 8:00 am to 5:00 pm.

This rule also adds specific information regarding the Idaho Consumer Asset Recovery Fund (ICAR), which passed in House Bill 167 in the 2013 legislative session, to identify how the ICAR fee will be set and by whom. It further specifies when a fee change will go into effect. Changes provide that all dealers, unless otherwise exempt will pay into the fund. The sections for liability insurance and surety bond requirements have just been moved to another heading under the rule to be more logical and specify that a surety bond is needed for the first 3 years unless otherwise provided by code, as also contained in House Bill 167.

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:

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 the Dealer Advisory Board, which represents dealers in the state, agrees with the proposed amendments and additional comments from dealers are unlikely to be received.

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 proposed rule, contact Amy Smith, Motor Vehicle Manager, 208-334-8860.

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 22, 2014.

DATED this 22nd Day of August, 2014.

LSO RULES ANALYSIS MEMO

THE FOLLOWING IS THE TEXT OF DOCKET NO. 39-0203-1402

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 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: (3-29-12)

- a.** Physical or electronic sales invoices for current and two (2) preceding years; (3-29-12)
- b.** Physical or electronic copies of purchase orders for vehicles purchased for current and two (2) preceding years; (3-29-12)
- c.** Physical or electronic copies of title application forms accessible in numerical order; (3-29-12)
- 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; (3-29-12)
- e.** Written or electronic records for loaner plates searchable by date, time or plate number; (3-29-12)
- ~~**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; (3-29-12)
- ~~**h.** Physical or electronic odometer disclosure records for non-exempt vehicles; and (3-29-12)~~
- ~~**i.** Physical or electronic records of consignment agreements, as specified in Section 49-1636, Idaho Code. (3-29-12)~~
- ~~**j.** A valid liability insurance policy as required by Section 49-1608A, Idaho Code. (3-29-12)~~
- ~~**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. (3-29-12)~~
- ~~**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. (3-29-12)~~
- ~~**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. (3-29-12)~~
- ~~**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. (3-29-12)~~

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 four (4) inch letters. (3-29-12)

03. Telephone. A 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, 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. (3-29-12)

011. -- 099. (RESERVED)

100. GENERAL PROVISIONS.

01. Physical or Electronic Records System Inspection. A vehicle dealer shall make available all books, records and files maintained at the dealership location for immediate inspection for cause or complaint, 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. (3-29-12)

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. Surety Bond. A valid bond in the amount required by Section 49-1608D, Idaho Code, for three (3) years after initially licensed, unless otherwise provided by code; ()

04. Idaho Consumer Asset Recovery (ICAR) Fund. ()

a. All licensed dealers shall pay the annual fee as set by the Idaho Consumer Asset Recovery (ICAR) Board as required by Section 49-1608C, Idaho Code, unless otherwise provided by code. ()

b. The ICAR fund fee shall be set by the ICAR Board annually to be effective the following January 1. Such fee shall be posted on the Department web site and all applicable forms for dealer licensing. ()

05. Liability Insurance. A valid liability insurance policy as required by Section 49-1608A, Idaho Code. ()

06. Declared Business Hours. ()

a. All licensed dealers shall declare in writing to the Department the regular business hours that their dealerships are open and when they are available to be contacted by the Department or their customers. These regular business hours shall be no less than twenty (20) hours per week, part of which must be during Monday through Friday 8:00 am to 5:00 pm. ()

b. Wholesale dealers are required to declare in writing to the Department at least four (4) business hours per week that they are open, part of which must be during Monday through Friday 8:00 am to 5:00 pm, when customers or the department can contact the dealer. ()

037. 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

39.03.10 - RULES GOVERNING WHEN AN OVERLEGAL PERMIT IS REQUIRED

DOCKET NO. 39-0310-1401

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2015 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 or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and of full force and effect upon adoption of 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 49-1001, 49-1002, or 49-1010, Idaho Code, adopted under Sections 40-312, and 49-1004, Idaho Code.

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

This rule allows industry to haul a motorized vehicle on a trailer behind the self-propelled vocational vehicle for the sole purpose of using the hauled motorized vehicle for the return trip after the delivery of the self-propelled vocational vehicle. The rule currently only allows towing of the motorized vehicle on its own axles.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 1, 2014 Idaho Administrative Bulletin, [Vol. 14-10, pages 484 - 485](#).

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, contact Regina Phipps, Vehicle Size and Weight Specialist, (208) 334-8418.

DATED this 29th day of November, 2014.

Lori Garza, Program Specialist
Idaho Transportation Department
Office of Governmental Affairs
3311 W. State Street
P.O.Box 7129
Boise, ID 83707-1129
Lori.garza@itd.idaho.gov

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

EFFECTIVE DATE: The effective date of the temporary rule is September 1, 2014.

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 49-1001, 49-1002, or 49-1010, Idaho Code, adopted under Sections 40-312, and 49-1004, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 15, 2014.

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:

This rule allows industry to haul a motorized vehicle on a trailer behind the self-propelled vocational vehicle for the sole purpose of using the hauled motorized vehicle for the return trip after the delivery of the self-propelled vocational vehicle. The rule currently only allows towing of the motorized vehicle on its own axles.

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:

This rule allows industry to haul a motorized vehicle on a trailer behind the self-propelled vocational vehicle for the sole purpose of using the hauled motorized vehicle for the return trip after the delivery of the self-propelled vocational vehicle. This will allow for another option to safely transport the motorized vehicle.

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

There are no fees being 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:

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 change to this rules were necessary to allow industry to haul a motorized vehicle on a trailer behind a self-propelled vocational vehicle for the sole purpose of using the hauled motorized vehicle for the return trip after the delivery of the self-propelled vocational vehicle.

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, (208) 334-8418.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 22, 2014.

DATED this 22nd Day of August, 2014.

LSO RULES ANALYSIS MEMO

THE FOLLOWING IS THE TEXT OF DOCKET NO. 39-0310-1401

400. OVERLEGAL PERMITS FOR SELF PROPELLED VEHICLES.

Permitted overweight/oversize self propelled vocational vehicles (such as cranes, loaders, motor graders, drills) may haul or tow ~~any~~ motorized vehicle provided that the motorized vehicle or combination of vehicles being towed (trailer and motorized vehicle) does not exceed eight thousand (8,000) pounds ~~or less when such~~ and the motorized vehicle is used solely for return trip after delivery of the permitted vehicle. ~~(4-2-08)~~ ()

IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT

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

DOCKET NO. 39-0316-1401

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2015 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 or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 67-5221 (1) and 67-5226, 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:

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the June 4th, 2014 Idaho Administrative Bulletin, [Vol. 14-6, pages 99-100](#).

The proposed rule amended the maximum sizes allowed by overlegal permit. The amended maximum sizes do not apply to the transport of oversized Manufactured Homes or Office Trailers (see IDAPA 39.03.17, Rules Governing Permits for Manufactured Homes Modular Buildings, and Office Trailers).

The proposed rule institutes a new permit to allow the transportation of kiln lumber stacks on a half mile section of State Highway 3 at a width in excess of 8 feet 6 inches. This will allow industry to haul, under an annual overlegal permit, kiln lumber stacks on the specified section of State Highway 3 that are in excess of the allowed 8 feet 6 inches but that cannot exceed 9 feet 3 inches under an annual overlegal permit.

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, contact Regina Phipps, Vehicle Size and Weight Specialist, (208) 334-8418.

DATED this 1st day of October, 2014.

Lori Garza
Program Specialist
Idaho Transportation Department
Office of Governmental Affairs
3311 W State Street
PO Box 7129
Boise ID 83707-1129
Lori.garza@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, 2014.

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 49-1004 and 49-1010, Idaho Code, adopted under Section 49-201, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than June 18, 2014.

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

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

This rule states the maximum sizes allowed by overlegal permit. It does not apply to the transport of oversize manufactured homes or office trailers (see IDPA 39.03.17, Rules Governing Permits for Manufactured Homes, Modular Buildings, and Office Trailers). This rulemaking institutes a new permit to allow the transportation of kiln lumber stacks on a half mile section of State Highway 3 at a width in excess of 8 feet 6 inches. This will allow industry to haul, under an annual overlegal permit, kiln lumber stacks on the specified section of State Highway 3 that are in excess of the allowed 8 feet 6 inches but that cannot exceed 9 feet 3 inches under an annual overlegal permit.

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1) (c), Idaho Code, this rule provides a conferring benefit by allowing industry to haul kiln lumber stacks on a ½ mile of State Highway 3 in excess of the allowed 8 feet 6 inches and not to exceed 9 feet 3 inches under an annual overlegal permit.

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

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

NEGOTIATED RULE-MAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because changes to this rule were necessary to allow industry to haul kiln lumber stacks on State Highway 3 in excess of the allowed 8 feet 6 inches and not to exceed 9 feet 3 inches under and annual overlegal permit.

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: NA

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, 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 June 25, 2014.

DATED this 15th day of May, 2014.

LSO RULES ANALYSIS MEMO

THE FOLLOWING IS THE TEXT OF DOCKET NO. 39-0316-1401

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 vertical clearances is available at the Idaho Transportation Department Permit Office and online at <http://www.itd.idaho.gov/dmv/poe/poe.htm>.

(3-29-12)

03. Kiln Lumber Stacks. Overlegal permits may be issued to allow the transportation of specifically produced kiln lumber stacks in excess of eight (8) feet six (6) inches wide but not in excess of nine (9) feet three (3) inches wide on designated highways. Each kiln lumber stack shall be considered a single non-reducible unit and may be hauled two (2) stacks wide and two (2) stacks high. Hauling vehicles eligible for permit for this purpose shall be legal size vehicles registered for travel on public highways. Operations of such overwidth loads shall be subject to the same type of travel restrictions and other safety requirements as other overwidth loads having a similar width. ()

IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT

39.03.50 - RULES GOVERNING SAFETY REST AREAS

DOCKET NO. 39-0350-1401

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2015 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 or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and of full force and effect upon adoption of the concurrent resolution.

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

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

This rulemaking implements the provisions of Senate Bill 1441 and amends the current rest area rule. The 2014 Legislature rejected last year's proposed rule changes to 39.03.50, as well as final rule 200.05, which banned the discharge of firearms/fireworks. This proposal rule more clearly defines "soliciting" and fireworks," as requested by the legislature. Passage of this rule would reinstate the ban on fireworks at rest areas. This rule also increases occupancy of time limits or rest areas to comply with federal law.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 1, 2014 Idaho Administrative Bulletin, [Vol. 14-10, pages 486 - 487](#).

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, contact Cathy Ford, Program Administrator, (208) 334-8418.

DATED this 29th day of November, 2014.

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THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. 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 October 15, 2014.

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

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

This rulemaking implements the provisions of Senate Bill 1441 and amends the current rest area rule. The 2014 Legislature rejected last year's proposed rule changes to 39.03.50, as well as final rule 200.05, which banned the discharge of firearms/fireworks. This proposed rule more clearly defines "soliciting" and "fireworks," as requested by the legislature. Passage of this rule would reinstate the ban on fireworks at rest areas. This rule also increases occupancy of time limits for rest areas to comply with federal law.

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

There are no fees being 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 resulting from this rulemaking:

There is no fiscal impact to the state general fund.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because this rule must be amended so the rule changes do not lend themselves to negotiation.

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

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 proposed rule, contact Cathy Ford, Program Administrator, (208)334-8416.

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 22, 2014.

DATED this 22nd Day of August, 2014.

LSO RULES ANALYSIS MEMO

THE FOLLOWING IS THE TEXT OF DOCKET NO. 39-0350-1401

200. PUBLIC BEHAVIOR AND TREATMENT OF PUBLIC PROPERTY.

The following acts are prohibited:

(12-26-90)

01. Behavior. Indulging in boisterous, abusive, threatening, or indecent conduct or creating unnecessary noise which interferes with the reasonable use of the area by other visitors.

(12-26-90)

02. Treatment of Natural Features or Plants. Destroying, defacing, cutting, sampling, or removing any natural feature or plant. (12-26-90)

03. Treatment of Public Property. Damaging by defacing, plugging, breaking, or removing any facility, fixture, sign or marker provided for use of the public. (12-26-90)

04. Soliciting. Selling or offering for sale any merchandise or service other than emergency services for disabled vehicles, such as towing, vehicle repairs, fire response, ambulance or medical response/transport, or vending machines permitted under the provisions of federal law or federal rule and Section 67-5411, Idaho Code. ~~(12-26-90)~~()

05. Noise Producing Devices. Operating or using any audio devices, including radio, television and musical instrument, and other noise producing devices, such as electrical generator plants and equipment driven by motors or engines, in such a manner and at such times so as to disturb other persons. (12-26-90)

06. Fireworks/Incendiary Devices. Discharging fireworks or any other incendiary device. Fireworks are considered any combustible or explosive substance but do not include any automotive safety flares or any other emergency or safety device. ()

201. -- 299. (RESERVED)

300. OCCUPANCY OF DEVELOPED REST AREAS.

The following acts are prohibited: (12-26-90)

01. Camping/Occupancy of Site. Camping or occupying a rest area for any purpose other than rest and relaxation from the fatigue of travel. (3-6-14)

02. Assembling. Assembling or attracting groups of people except for public service functions by civic, fraternal or religious organizations as approved by the Department. (12-26-90)

03. Time Limits. ~~Remaining in a rest area for a period of time longer than that established by the Idaho Transportation Department.~~ Occupancy of the rest areas on interstate highways is limited to ~~eight~~ ten (810) consecutive hours. Occupancy of rest areas on other routes of the State Highway System is limited to sixteen (16) consecutive hours. ~~(12-26-90)~~()

04. Fires. Building fires outside the confines of a stove, grill or fireplace. (3-6-14)

05. Failure to Clean. Failing to clean the space occupied before departing. (3-6-14)

06. Animals. (12-26-90)

a. Bringing a dog, cat or other animal into a rest area unless it is a certified service animal or crated, caged, leashed or otherwise under physical restrictive control at all times. (3-6-14)

b. Permitting a dog, cat or other animal to exercise and/or defecate in areas outside of specifically designated pet areas. (3-6-14)