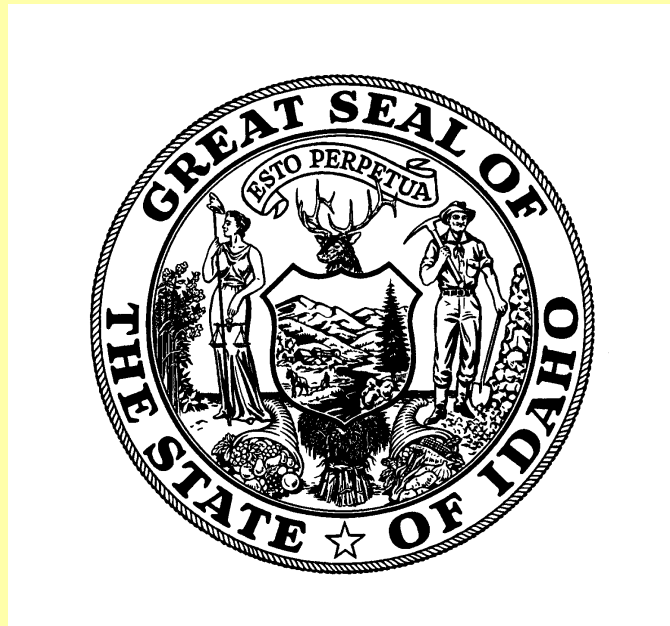


# **PENDING RULES**

## **COMMITTEE RULES**

### **REVIEW BOOK**

Submitted for Review Before  
**House Transportation  
& Defense Committee**  
68th Idaho Legislature  
First Regular Session – 2025



*Prepared by:*

*Office of the Administrative Rules Coordinator  
Division of Financial Management*

*January 2025*

**HOUSE TRANSPORTATION & DEFENSE COMMITTEE**

**ADMINISTRATIVE RULES REVIEW**

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**IDAPA 35 – IDAHO STATE TAX COMMISSION**  
**35.01.05 – IDAHO MOTOR FUELS TAX ADMINISTRATIVE RULES**  
**DOCKET NO. 35-0105-2401 (ZBR CHAPTER REWRITE)**  
**NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE**

[LINK: LSO Rules Analysis Memo](#)

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2025 Idaho State Legislature and must be approved by concurrent resolution of the Legislature to go into effect, in accordance with Section 67-5224(2)(c), Idaho Code. Should the pending rule be approved, it will become final and effective on July 1 following the First Regular Session of the Sixty-eighth Idaho Legislature, unless the concurrent resolution states a different effective date.

**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 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.

Under [Executive Order 2020-01, Zero-Based Regulation](#), the State Tax Commission is striving to prevent the accumulation of costly, ineffective, and outdated regulations and reduce regulatory burden to achieve a more efficient operation of government. In conjunction with stakeholders, the proposed rule changes reflect a comprehensive review of this chapter by collaborating with the public to streamline or simplify the rule language in this chapter, and use plain language for better understanding. This proposed rulemaking updates the rules to comply with governing statute and Executive Order 2020-01: Zero-Based Regulation.

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 September 4, 2024 Idaho Administrative Bulletin, [Volume 24-9, pages 566-590](#).

**FEE SUMMARY:** Pursuant to Section 67-5224(2)(d), Idaho Code, a pending fee rule shall not become final and effective unless affirmatively approved by concurrent resolution of the Legislature. The following is a description of the fee or charge imposed or increased in this rulemaking: N/A.

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

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Elena Gonzalez at (208) 334-7855.

DATED this 4th day of December, 2024.

Kimberlee Stratton  
Rules Coordinator, Government Affairs  
Idaho State Tax Commission  
11321 W. Chinden Blvd., Boise ID 83714  
PO Box 36, Boise ID 83722-0036  
(208) 334-7544

**THE FOLLOWING NOTICE PUBLISHED WITH THE PROPOSED RULE**

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

**PUBLIC HEARING SCHEDULE:** A public hearing concerning this rulemaking will be held as follows:

**Tuesday, October 1, 2024 at 1:00 p.m. (MT)**

**In Person:**

**Idaho State Tax Commission**  
**11321 W Chinden Blvd., Bldg. 2**  
**Boise, ID 83714**

**(Meeting to be held in the Coral Conference Room)**

**Teleconference via WebEx:**

**Join from the meeting link: <https://idahogov.webex.com/idahogov/j.php?MTID=md295b2a61bc9f17822c3d7340230286f>**

**Join by meeting number:**

**Meeting number (access code) 2630 741 4170**  
**Meeting password: 4UtWWTbCD87**

**Join by phone:**

**+1-415-655-0001 US Toll**

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:

The State Tax Commission performed a critical and comprehensive review of the statutes and existing rules chapter. This chapter rewrite was done under the premise of zero-based rulemaking, as per [Executive Order 2020-01: Zero Based Rule Regulation](#).

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

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

**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 April 3, 2024 Idaho [Administrative Bulletin, 24-4, page 46](#).

**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 Elena Gonzalez, (208) 334-7855.

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 2, 2024.

DATED this 4th of September, 2024.

**THE FOLLOWING IS THE TEXT OF ZBR DOCKET NO. 35-0105-2401**

**35.01.05 – IDAHO MOTOR FUELS TAX ADMINISTRATIVE RULES**

**000. LEGAL AUTHORITY ~~(RULE 000).~~**

~~In accordance with~~ Sections 63-105(2), 63-2427, 40-312 and 41-4909, Idaho Code, ~~the State Tax Commission (Tax Commission) has promulgated rules implementing the Idaho Fuels Tax Act, provisions of the Motor Vehicle Registration Act, and the Transfer Fee provisions of the Idaho Clean Water Trust Fund Act.~~ (3-31-22)(    )

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

~~01. Title.~~ These rules are titled IDAPA 35.01.05, “Idaho Motor Fuels Tax Administrative Rules.” (3-31-22)

~~02. Scope.~~ These rules are construed to reach the full jurisdictional extent of the state of Idaho’s authority ~~for to impose:~~ (3-31-22)(    )

a. Motor Fuels Tax. ~~The imposition of a~~ A motor fuel tax on each gallon of motor fuel received and on the use of or other consumption of motor fuel in this state. This also includes the administration of the International Fuel Tax Agreement (IFTA). (3-31-22)(    )

b. Transfer Fee. ~~The imposition of a~~ A transfer fee upon each gallon of petroleum or petroleum products received and subject to the transfer fee as authorized by Title 41, Chapter 49, ~~Title 41~~, Idaho Code. (3-31-22)(    )

c. Registration Records. ~~The imposition of records~~ Record requirements for International Registration Plan (IRP) and Idaho Full Fee registration audits authorized by Title 49, Chapter 4, ~~Title 49~~, Idaho Code. (3-31-22)(    )

**002. ~~ADMINISTRATIVE APPEALS (RULE 002).~~**

~~Sections 63-2434, 63-2442A, 63-2470, 41-4909, 49-439, and 63-3045 through 63-3049, Idaho Code. This chapter allows administrative relief as provided under Sections 63-2434, 63-2442A, 63-2470, 41-4909, 49-439, and 63-3045 through 63-3049, Idaho Code, and pursuant to rules adopted by the Tax Commission found in the Tax Commission’s administration and enforcement rules relating to income taxation, IDAPA 35.02.01.~~ (3-31-22)

**003. ~~INCORPORATION BY REFERENCE (RULE 003).~~**

~~Sections 63-2434, 63-2442A, 41-4909, 49-439, Idaho Code~~

~~01. Income Tax Administration and Enforcement Rules.~~ These rules incorporate the sections of IDAPA 35.02.01, “Tax Commission Administration and Enforcement Rules.” (3-31-22)

~~02. IFTA.~~ These rules incorporate the applicable IFTA governing documents: the IFTA Articles of

Agreement (~~revised January 1, 2017~~), the IFTA Procedures Manual (~~revised January 1, 2017~~), and the IFTA Audit Manual (~~revised January 1, 2017~~). IFTA is an international agreement between jurisdictions to encourage use of the highway system by uniformly administering fuels use tax laws. The IFTA governing documents are equally binding on all IFTA member jurisdictions and licensees. ~~Motor, including motor~~ fuels users licensed or ~~required~~ **obligated** to be licensed to operate under an Idaho IFTA license ~~must comply with all applicable rules contained in these rules.~~ These documents can be found on the IFTA website at <http://www.iftach.org>. (3-31-22)(    )

**032.** IRP. These rules incorporate the **applicable** IRP governing documents: ~~The IRP Plan (revised July 1, 2016)~~ **the Plan** and IRP Audit Procedures Manual (~~revised January 1, 2016~~). IRP is an international registration ~~reciprocity agreement~~. The documents are included to aid the Tax Commission in complying with IRP registration application audits authorized in **Title 49**, Chapter 4, ~~Title 49~~, Idaho Code. These documents can be found on the IRP website at <http://www.irponline.org>. (3-31-22)(    )

**0043. -- 009. (RESERVED)**

**010. DEFINITIONS (RULE 010).**

Section 63-2401, Idaho Code

~~The definitions provided by statute, including the definitions in Section 63-2401, Idaho Code, apply to these rules. Additionally, the following definitions apply.~~ (3-31-22)

**01. Commercial Motor ~~B~~boat.** A commercial motor-boat, ~~as defined in Section 63-2401, Idaho Code,~~ ~~i~~ includes a motor-boat used in a business that rents boats to others who use the boats for pleasure. (3-31-22)(    )

**02. ~~Indian Tribal~~-Owned Retail Outlet.** ~~An Indian~~ **A tribal**-owned retail outlet is: (3-31-22)(    )

a. Located within the boundaries of a federally recognized **American** Indian reservation; and (3-31-22)(    )

b. Owned and operated by **an enrolled member of, or an enterprise owned by:** (3-31-22)(    )

i. The Coeur d'Alene, Kootenai, Nez Perce, Shoshone/Bannock, or Shoshone/Paiute tribe; ~~or~~ (3-31-22)

ii. ~~An enterprise owned by one (1) of the tribes listed above; or~~ (3-31-22)

iii. ~~An enrolled member of one (1) of the listed tribes on whose reservation the retail outlet is located.~~ (3-31-22)

**03. ~~Pay, Paid, Payable or Payment.~~** When used in reference to any amount of tax, penalty, interest, ~~fee or other amount of money due to the Tax Commission, the words pay, paid, payable, or payment mean an irrevocable tender to the Tax Commission of lawful money of the United States. Lawful money of the United States means currency or coin of the United States at face value and negotiable checks that are payable in lawful money except any check not honored by the bank upon which it is drawn will not constitute payment. Additionally, the Tax Commission has the authority to refuse to accept any check drawn upon the account of a taxpayer who has previously tendered any check that was dishonored by the bank upon which it was drawn. All amounts due the state must be paid by electronic funds transfer whenever the total amount of tax due plus any related fee, interest, penalty or other additional amount is one hundred thousand dollars (\$100,000) or more, according to rules promulgated by the Idaho State Board of Examiners.~~ (3-31-22)

**011. -- 109. (RESERVED)**

**110. CALCULATION OF MOTOR FUELS TAX ON GASEOUS SPECIAL FUELS (RULE 110).**

Section 63-2424, Idaho Code

**01. ~~Gaseous Special Fuel.~~** ~~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.~~ (3-31-22)

**021. Selling Gaseous Special Fuel.** A gaseous special fuel may be sold at volumes or weights other than those listed in this section. ~~Distributors and consumers paying tax or claiming refunds must use the volumes and weights required by the Tax Commission when reporting. It is mandatory for distributors and consumers, paying tax or claiming refunds, to use Tax Commission prescribed volumes and weights when reporting.~~ (3-31-22)(    )

**032. Computing Gaseous Special Fuel Tax Equivalents.** Computation is made by multiplying the percentage of gasoline gallon energy equivalent times the current gasoline tax rate for each type of gaseous special fuel.

Motor Fuel	BTUs per Gallon or Gallon Equivalent	Equivalent Volume or Weight/Mass	Percentage of Gasoline Gallon Energy Equivalent
Gasoline	127,000	1 gallon	100%
Propane	92,000	4.25 lbs. or 1 gallon	72.44%
Compressed Natural Gas (CNG)	127,000 per GGE	5.66 lbs.	100%
Liquefied Natural Gas (LNG)	138,400 per DGE	6.06 lbs.	108.98%
Hydrogen	127,000 per GGE	1 kg.	100%

(3-31-22)(    )

111. -- 129. (RESERVED)

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

Sections 63-2406, 63-2407, 63-2408, 41-4909, Idaho Code

~~**01. Monthly Reports.** Every licensed distributor will file with the Tax Commission a monthly tax report, in gross gallons, with supporting detailed schedules on forms and in a manner prescribed by the Tax Commission. The distributor must keep detailed inventory records. With respect to the quantity of motor fuels and other petroleum products received during the month, the distributor will include a listing of each person from inside and outside Idaho supplying motor fuels and petroleum products to the distributor during the month and the number of gallons supplied by each supplier, on a load-by-load basis. Such reports must contain a declaration by the person filing the report that the statements contained therein are true and are made under penalties of perjury. The report will include such information as the Tax Commission may require.~~ (3-31-22)

~~**02. Exemption from Licensing and Monthly Reporting.** See Rule 135 for exemptions from obtaining a motor fuels distributor license and filing monthly reports.~~ (3-31-22)

~~**03. Machine Tabulated Data.** Machine tabulated data is accepted in lieu of detailed schedules on Tax Commission provided forms but only if the data is in the same format as shown on the required schedules. Before any other format may be used, the distributor must make a written request to the Tax Commission with a copy of the format and must be granted written authorization to use that format.~~ (3-31-22)

**041. Timely Reporting.** Any motor fuel and other petroleum product shipments that are: (3-31-22)

a. Reported on a timely supplemental report ~~is~~ are subject to interest but ~~are~~ not subject to penalty. (3-31-22)(    )

b. Not reported on a timely monthly or supplemental report ~~is~~ are subject to interest and may be subject to penalty. (3-31-22)(    )

**052. Motor Fuels Receipts.** All gasoline, natural gasoline, gasoline blend stocks, ethanol, ethanol blended fuels, aircraft engine fuel, biodiesel, biodiesel blends, ~~and undyed diesel fuel,~~ or other special fuels received by a distributor are subject to the fuels tax and transfer fee. All receipts of dyed diesel fuel and other petroleum products that are not subject to the special fuels tax are subject to the transfer fee. The special fuels tax is not imposed on gaseous fuels when the fuels are received. Refer to ~~Rule Sections 132 and 137~~ of these rules for the taxation and reporting of gaseous fuels used in motor vehicles. (3-31-22)(    )

**063. Motor Fuels and Other Petroleum Products Presumed to be Distributed.** Unless the contrary is established, it is presumed that all motor fuels and other petroleum products imported into this state by a distributor, which are no longer in the possession of that distributor, have been distributed. If the licensed distributor has returned to the refinery or pipeline terminal motor fuels and other petroleum products on which the tax and transfer fee has been paid or has had an accidental loss, the licensed distributor has the burden of showing the petroleum products were returned to the refinery or pipeline terminal or documenting the accidental loss. No refund of the transfer fee is allowed for accidental losses of motor fuels or other petroleum products. (3-31-22)

**074. Exported Fuel.** Motor fuels or other petroleum products claimed as exported from Idaho ~~must be supported by~~ are obligated to have supporting records. ~~Records must that~~ include the following: (3-31-22)(    )

a. Tax reports or other evidence that will verify that the exported product was reported to and any tax due was paid to the jurisdiction into which the product was claimed to have been exported or evidence that the purchaser is a licensed distributor in the jurisdiction to which the exported product is destined; and (3-31-22)

b. Common carrier shipping documents, bills of lading, manifests, and cost billings; or (3-31-22)

c. Invoices, manifests, bills of lading or other documentation, signed by the receiving party to acknowledge receipt of the product; or (3-31-22)

d. Accounts payable or receivable information for verifying payments to common carriers or payment by out-of-state parties to verify receipt of exported product. (3-31-22)

e. In addition to the above, for a licensed distributor who maintains operations in Idaho, as well as other jurisdictions, evidence such as product inventory and transfer records ~~must will~~ be retained to prove the transfer of product out of Idaho. (3-31-22)(    )

**131. ~~REQUIREMENT TO FILE~~ FILING MOTOR FUELS DISTRIBUTOR REPORTS ELECTRONICALLY ~~(RULE 131)~~.**  
Section 63-2406, Idaho Code

**01. Electronic Filing ~~Requirement~~.** A motor fuels distributor who reports twenty-five (25) or more ~~total receipts or and~~ disbursements of motor fuels on its monthly distributor report ~~is required to will~~ file the distributor report electronically. (3-31-22)(    )

**02. Not Reporting Electronically ~~as Required~~.** A motor fuels distributor who is ~~required~~ mandated to file its distributor report electronically, but does not, ~~file the report electronically~~ is treated as if ~~the distributor they~~ did not file the monthly report. (3-31-22)(    )

**03. Waiver ~~from Requirement to File Report Electronically~~ of Mandatory Electronic Reporting.** A motor fuels distributor can request a waiver ~~from the requirement to file motor fuel distributor reports electronically. The distributor making the request for waiver must show~~ of the mandatory electronic reporting by showing that the cost to comply with this rule is unreasonable. The Tax Commission will review each request for waiver and issue a determination. (3-31-22)(    )

**132. LICENSED GASEOUS SPECIAL FUELS DISTRIBUTOR'S REPORTS ~~(RULE 132)~~.**  
Section 63-2424, Idaho Code

**01. Monthly Reports.** Every licensed gaseous special fuels distributor (distributor) will file with the Tax Commission a monthly tax report, using equivalents from Rule 110 of these rules, with supporting detailed



~~schedules on forms and in a manner prescribed by the Tax Commission. Such reports must contain a declaration by the person filing the report that the statements contained therein are true and are made under penalties of perjury. The report includes such information as the Tax Commission may require.~~ (3-31-22)

~~**02. Report Due and Payment Required.** The report is due on or before the last day of the month following the month to which the report relates together with the payment of any tax, penalty or interest due. See Rule 010 of these rules relating to method of payment and requirement for payments of one hundred thousand dollars (\$100,000) or more.~~ (3-31-22)

~~**03. Not Paying Tax.** Any distributor required to pay the tax imposed by Section 63-2424, Idaho Code, who does not pay such tax is liable to the Tax Commission for the amount of tax not paid plus any applicable penalty or interest. The Tax Commission may collect such amounts in the manner provided in Section 63-2434, Idaho Code.~~ (3-31-22)

**041. Receipt of Gaseous Fuels.** The motor fuels tax is not imposed on gaseous special fuels when the fuels are received, as defined in Section 63-2403, Idaho Code. Propane and natural gas are presumed to be tax-exempt fuels unless delivered into the main supply tank of a licensed, or required to be licensed, motor vehicle. (3-31-22)

**052. Documentation of Exempt Sales of Gaseous Special Fuels Delivered into Motor Vehicles.** Gaseous special fuels delivered into the fuel supply tank of a licensed, or required to be licensed, motor vehicle are taxable except for: (3-31-22)

**a. Government.** Gaseous special fuels used by vehicles owned or leased, and operated by the federal government, or by an instrumentality of the state of Idaho, including all ~~of~~ its political subdivisions, are exempt from the motor fuels tax on gaseous special fuels. ~~In this case, the distributor must~~ **The distributor will** record the name of the governmental entity, the license or identification number of the vehicle, and the type of vehicle on the sales document. (3-31-22)(    )

**b. Manned and Unmanned Stations.** A manned station ~~must~~ **will** have a representative at the point of sale to visually inspect the vehicle in order to make exempt sales of gaseous special fuels. Exempt sales of gaseous special fuels from an unmanned station are allowed when each sale is recorded by other visual means. When a distributor cannot meet the previous two requirements, it ~~must~~ **will** request approval from the Tax Commission before making exempt sales of gaseous special fuels. (3-31-22)(    )

**133. -- 134~~6~~.** (RESERVED)

**135. QUALIFIED CONSUMERS (RULE 135).**  
Section 63-2427A, Idaho Code

~~**01. Point of Taxation and Receipt Defined.** The state of Idaho imposes an excise tax on all motor fuel, except dyed diesel, and the transfer fee on all petroleum and petroleum products received in Idaho. See Rule 510 of these rules for the definition of petroleum and petroleum products. Motor fuel imported into Idaho is received at the time the fuel arrives in Idaho by the person who is the owner of the motor fuel when the fuel arrives in Idaho. Motor fuel produced in Idaho is received when it is placed into any tank or other container from which sales or deliveries not involving transportation are made. Motor fuels are also received by a qualified consumer who produces motor fuels when the motor fuels are placed into storage tanks. For example: fifty five (55) gallon barrels, above ground tanks, stilt tanks, underground tanks, tank wagons, old delivery trucks, old tanker trucks, slip tanks in pickups, and any other storage tank used to store the motor fuel. The excise tax and transfer fee due on the motor fuel received in Idaho during a month are normally reported on a monthly Idaho Motor Fuels Distributor Report.~~ (3-31-22)

~~**02. Alternative to Monthly Reporting for Qualified Consumers.** As an alternative to obtaining an Idaho motor fuel distributor license and filing monthly reports, a qualified consumer may file an annual report to remit the motor fuel tax and transfer fee due to the state of Idaho or to receive a refund of excess tax or transfer fee paid.~~ (3-31-22)

~~**a.** A qualified consumer is not required to pay the transfer fee on the biodiesel they produce.~~

- (3-31-22)
- 03. Qualifications.** To be a qualified consumer under this rule, a person must: (3-31-22)
- a.** Use the produced biodiesel or imported motor fuel only in its own aircraft, motor vehicles, or equipment; and (3-31-22)
- b.** Import into Idaho one hundred thousand (100,000) gallons or less of motor fuel in a calendar year; or (3-31-22)
- c.** Produce in Idaho five thousand (5,000) gallons or less of biodiesel in a calendar year. (3-31-22)
- 04. Documentation of Export.** To claim an export of motor fuel or other petroleum products a qualified consumer must have tax reports or other evidence that will verify that the exported fuel was reported to and any tax due was paid to the jurisdiction into which the fuel was claimed to have been exported. (3-31-22)
- 05. Limitations.** (3-31-22)
- a.** A qualified consumer may not claim an export from Idaho for fuel in the supply tank of a motor vehicle or aircraft. (3-31-22)
- b.** A licensed Idaho fuel distributor may not file this report. (3-31-22)

**136. (RESERVED)**

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

Sections 63-2406, 63-2407, 63-2408, 63-2424, 63-2437, 41-4909, Idaho Code

**01. Monthly Reports.** Every licensed distributor (motor fuels and gaseous), instate pipeline terminal operator, and production terminal operator will file with the Tax Commission a monthly tax report, in using gross gallons, with or equivalents from Section 110 of these rules. The report will have such information, on the forms and in the manner prescribed by the Tax Commission, including supporting detailed schedules on forms and in a manner prescribed by the Tax Commission. The pipeline terminal operator and production. All distributors and terminal operators must will keep detailed inventory records. The pipeline terminal operator and production terminal operator will report Along with the quantity of motor fuels and other petroleum products received during the month including the motor fuels distributors and terminal operators will include a listing of each person from inside or outside Idaho supplying motor fuels and other petroleum products to the distributor, pipeline terminal, or production terminal. Such reports must Tax reports will contain a declaration by the person filing the report that the statements contained therein are true and are made under penalties of perjury. The report will include such information as the Tax Commission may require. (3-31-22)(    )

**02. Machine Tabulated Data.** Machine tabulated data is accepted in lieu of detailed schedules on Tax Commission provided forms, but only if the data is in the same format as shown on the required schedules. Before any other format may be used, the distributor or terminal operator must will make a written request to the Tax Commission with a copy of the format and must be granted receive written authorization to use that format from the Tax Commission. (3-31-22)(    )

**03. Report and Payment Due.** The report is due on or before the last day of the month following the month to which the report relates, together with the payment of any tax, penalty, or interest due. (    )

**04. Failure to Pay Tax.** Any distributor responsible for paying the tax imposed by Section 63-2424, Idaho Code, who does not pay such tax is liable to the Tax Commission for the amount not paid plus any applicable penalty, interest, or both. The Tax Commission may collect such amounts in the manner provided in Section 63-2434, Idaho Code. (    )

**138. -- 140. (RESERVED)**

**141. FUEL DISTRIBUTOR CREDIT AND REFUND CLAIMS ~~(RULE 141)~~.**  
Sections 63-2410, 63-2423, Idaho Code

**01. Fuel Distributor Credit and Refund Claims.** Fuel credit and refund claims ~~must be~~ are to be made on a distributor's original or amended fuel tax report unless ~~authorized~~ otherwise authorized by statute or this chapter. ~~A licensed distributor can claim credits or refunds by filing original or amended returns. Any distributor may use the Line Flush Allowance.~~ All claims ~~must need to~~ establish both of the following: (3-31-22)(    )

- a. The basis for the credit or refund claim, and (3-31-22)
- b. The amount of the credit or refund. (3-31-22)

**02. Line Flush Allowance.** Undyed, tax-paid diesel is contaminated with red dye when a distributor delivers dyed diesel then flushes the line with undyed diesel. The contaminated undyed diesel will be put into the delivery truck's dyed diesel fuel tank and sold as untaxed, dyed diesel. The distributor can claim a refund based on the actual gallons used to flush the line or standard allowance. A distributor will claim a fuel tax refund using the Form 75, Idaho Fuels Use Report, and Line Flush Allowance worksheet applicable forms. (3-31-22)(    )

~~**03. Methods to Determine the Line Flush Allowance.** The distributor can claim a refund based on the actual gallons used to flush the line or a standard allowance. Check the box on the worksheet to indicate the method used to calculate nontaxable gallons. Use the following procedure for method chosen:~~ (3-31-22)

- ~~a. Standard allowance. Multiply by five (5) gallons by the number of flushes using logs prepared by the delivery truck driver including the truck number, date, and number of flushes; or (3-31-22)~~
- ~~b. Actual gallons. The actual gallons used to flush the lines. Delivery tickets or totalizer log readings for each flush including the truck number, date, and gallons used to flush the line. (3-31-22)~~

**142. -- 149. (RESERVED)**

**150. FUEL SALE DOCUMENTATION REQUIRED (RULE 150).**  
Section 63-2429, Idaho Code

**01. Retail Sales Invoices for Delivered, Bulk Plant, and Station Sales.** Any distributor who sells motor fuels and other petroleum products ~~in this state must in Idaho will~~ issue an original invoice to the purchaser; ~~provided, however, that except~~ when sales are accounted for ~~on a~~ monthly ~~basis.~~ ~~†~~ The invoices may be issued to the purchaser at the time of billing. All sales invoices (including a credit card receipt used as a sales invoice) for motor fuels and other petroleum products sold at retail stations, bulk plants, or delivered to the customer's location ~~must will~~ contain the following: (3-31-22)(    )

- a. A preprinted identification number, except when invoices are automatically assigned a unique identification number by a computer or similar machine when issued; (3-31-22)
- b. Name and address of the distributor; (3-31-22)
- c. Name of the purchaser; (3-31-22)
- d. Date of sale or delivery; (3-31-22)
- e. Type of fuel; (3-31-22)
- f. Gallons invoiced - reported as ~~required~~ found in Section ~~130~~ 137 of these rules; (3-31-22)(    )
- g. Price per gallon and total amount charged. When taxable motor fuels products are sold, at least one (1) of the following ~~must be is~~ used to establish ~~that †~~ the Idaho ~~State~~ fuels tax ~~has been~~ and transfer fee was charged: (3-31-22)(    )

- i. The amount of Idaho ~~State~~ fuels tax; (3-31-22)( )
- ii. The rate of Idaho ~~State~~ fuels tax; ~~or and~~ (3-31-22)( )
- iii. The amount of Idaho transfer fee; or ( )
- iiiv. A statement that the Idaho ~~State~~ fuels tax and transfer fee are ~~is~~ included in the price. (3-31-22)( )
- h. Delivered sales invoices ~~must also will~~ contain the purchaser's address along with the origin and destination of the motor fuels and other petroleum products. (3-31-22)( )
- i. The sales invoice will contain double-faced carbons on the original of the first copy, unless invoices are automatically prepared by a computer or similar machine when issued. (3-31-22)

**02. Correcting Sales Invoice Errors.** ~~When an original invoice is issued containing incorrect information, it may~~ An incorrect invoice should be canceled by a credit invoice and cross-referenced to all copies of the invoice covering the transaction being corrected. If a second sales invoice is issued, it will show the date and serial number of the original invoice and that the second invoice is in replacement or correction. (3-31-22)( )

**03. Disallowing Tax-Paid Credit.** Not including all the above documentation will result in an invalid sales invoice for a tax-paid fuel claim by the distributor's customer. (3-31-22)

**04. Documentation ~~Requirements~~ Necessary for Dyed Diesel Fuel.** The state of Idaho ~~is~~ following ~~ts~~ the Internal Revenue Service ~~requirements for standards regarding~~ sales of dyed diesel fuel. The Internal Revenue Code ~~requires that~~ calls for a notice stating "Dyed Diesel Fuel, Nontaxable Use Only, Penalty for Taxable Use" ~~must to~~ be: (3-31-22)( )

- a. Provided by the terminal operator to any person who receives dyed diesel fuel at a terminal rack of that operator; and (3-31-22)
- b. Provided by any seller of dyed diesel fuel to the buyer if the fuel is located outside the bulk transfer/terminal system and is not sold from a posted retail pump; and (3-31-22)
- c. Posted by a seller on any retail pump where the dyed diesel fuel is sold for use by the buyer. (3-31-22)
- d. The documentation notice found in this rule ~~must be provided at the time of removal or sale and must appear~~ is necessary on shipping papers, bills of lading, and sales invoices accompanying the sale or removal of the fuel. Any person who does not provide or post the ~~required necessary~~ notice is presumed to know that the fuel is used for a taxable ~~use~~ purpose and is subject to penalties imposed by the Internal Revenue Service. (3-31-22)( )

**151. -- 169. (RESERVED)**

**170. INFORMATION ON DYED & UNDYED DIESEL FUEL ~~(RULE 170)~~.**  
Sections ~~63-2423, 63-2425,~~ Idaho Code

**01. Undyed Diesel Fuel Used for Heating Purposes.** The consumer ~~must will~~ apply directly to the Tax Commission for a refund of the special fuels taxes included in the purchase price of undyed diesel used for heating a dwelling or building. The distributor may assist the consumer claiming a refund of the special fuels tax ~~from the Tax Commission~~ by: (3-31-22)( )

- a. Properly documenting information on the sales invoice; and (3-31-22)
- b. Providing the customer with ~~a Form 75~~ the appropriate forms. (3-31-22)( )

**02. Red-Dyed Diesel.** It is illegal to use red-dyed diesel in the main supply tank of a licensed, or required to be licensed, motor vehicle in ~~this state Idaho~~ unless the type of user is listed below. Penalties for illegal use of red-dyed diesel in a motor vehicle are found in Section 63-2460, Idaho Code. The Internal Revenue Code ~~does allow certain types of users to purchase tax-exempt~~ allows the use of red-dyed diesel ~~for use in their vehicles. Red-dyed diesel may be used by:~~ (3-31-22)(    )

- a. ~~By s~~State and local governments (political subdivisions of the state) for their exclusive use; (3-31-22)(    )
- b. ~~In t~~The engine of a train; (3-31-22)(    )
- c. ~~In a~~A school bus, owned or leased and operated by a political subdivision of the state of Idaho, while the bus is engaged in the transportation of students and school employees; (3-31-22)(    )
- d. ~~In a~~A vehicle (such as a ground servicing vehicle for aircraft) owned by an aircraft museum; (3-31-22)(    )
- e. ~~In a~~A highway vehicle that is not registered (and is not required to be registered) for highway use under the laws of any state or foreign country and is used in the operator's trade or business or for the production of income; (3-31-22)(    )
- f. ~~In a~~A highway vehicle owned by the United States that is not used on a highway; (3-31-22)(    )
- g. Exclusively by a nonprofit educational organization as defined in Internal Revenue Code Section 4221 (d)(5) for their exclusive use. (3-31-22)(    )

**171. MOTOR FUELS EXEMPTION FROM SALES TAX (~~RULE 171~~).**

Sections 63-2431, 63-3622C, Idaho Code

Any sale of motor fuels ~~by any fuel distributor~~ that is subject to motor fuels tax is exempt from Idaho sales tax under Title 63, Chapter 36, ~~Title 63~~, Idaho Code. If such purchases are later included in credits or refunds for motor fuels tax paid and not subject to taxes imposed by Title 63, Chapter 24, Idaho Code, and no other exemption applies, sales and use taxes is applicable. ~~If dyed fuel products are sold without the motor fuels tax, the sale is~~ Sales of dyed fuel are subject to ~~the~~ Idaho sales tax unless exempted under the Idaho Sales Tax Act and Rules. Sales of dyed fuel ~~that do not include the motor fuels tax~~ are exempt from Idaho sales tax only if the seller has taken from the purchaser a sales tax exemption certificate in the manner ~~required by~~ outlined in IDAPA 35.01.02, "Idaho Sales and Use Tax Administrative Rules," ~~Rule 128~~. However, if the dyed fuel product delivered into a bulk storage tank is used exclusively for home heating purposes, a sales tax exemption certificate is not ~~required~~ necessary. (3-31-22)(    )

**172. -- 184. (RESERVED)**

**185. ~~AUTHORITY TO GIVE THE~~ CONSENT TO THE JURISDICTION OF IDAHO COURTS (~~RULE 185~~).**

Section 63-2427A, Idaho Code

**01. Authorized Signature on Application.** All Idaho ~~Fuel Distributor License Applications must~~ fuel distributor license applications have to be signed by an individual with the authority to give ~~the~~ consent to the jurisdiction of Idaho courts on behalf of the applicant. (3-31-22)(    )

**02. Authority to Waive Sovereign Immunity.** If the applicant is a state, local or tribal governmental entity, the application ~~must~~ has to be accompanied by a separate authorization by the governing authority of the entity waiving sovereign immunity that the entity may otherwise assert against any action to enforce Idaho motor fuels tax laws in Idaho state court and setting forth the authority of the individual who signs the application to bind the applicant. (3-31-22)(    )

**03. Irrevocable Submission and Waiver of Sovereign Immunity.** The application constitutes an irrevocable submission to the jurisdiction of Idaho state courts, and the waiver of any sovereign immunity that may otherwise be asserted, as to all disputes related to the enforcement of Title 63, Chapter 24, ~~of the~~ Idaho Code.

(3-31-22)(\_\_\_\_)

186. -- 229. (RESERVED)

230. MOTOR FUELS SUBJECT TO USE TAX -- ~~RECORDS~~**REPORTING (RULE 230).**

Section 63-2421, Idaho Code

~~Any person using tax-exempt motor fuels in a licensed motor vehicle, not subject to Rule 400 of these rules, upon highways in Idaho, will annually report to the Tax Commission the amount of motor fuels tax due.~~ (3-31-22)

~~01. **Reporting.** A person who wishes to pay their fuel taxes due more frequently may file on forms prescribed by the Tax Commission for any time period that is not less than one (1) month, but not more than one (1) year. The report may be made together with the claimant's Idaho income tax return, if it is required. The amount of fuels tax due on motor fuels may be off-set against any refund due from other motor fuels taxes or income taxes.~~ (3-31-22)

**021. Lack of Records to Compute Fuel Consumption Rate.** When a motor fuels consumer does not keep sufficiently detailed records to determine motor fuels consumed by its motor vehicles, the consumption rates found in Subsection 290.05 of these rules are presumed to be correct. (3-31-22)

**032. Fuel Records.** If the motor fuels consumer does not keep sufficiently detailed records to determine taxable gallons, all tax-exempt motor fuels purchased is subject to the fuels tax unless the number of gallons placed into the supply tank of the licensed or required to be licensed motor vehicle can be determined. (3-31-22)

231. -- 249. (RESERVED)

250. REFUND CLAIMS -- ~~REPORTING (RULE 250).~~

Sections 63-2410, 63-2423, Idaho Code

~~01. **Requirements of a** Valid Refund Claim. Before the Tax Commission can credit or refund motor fuels taxes, the taxpayer making the claim must establish both of the following:~~ (3-31-22)(\_\_\_\_)

- a. The basis for the credit or refund claim, and (3-31-22)
- b. The amount of the credit or refund. (3-31-22)

~~02. **Refund May Be Claimed Only by Final Consumer** **May Claim Refunds.** Refunds of motor fuels taxes may be claimed on ~~forms prescribed by the Tax Commission~~ **prescribed forms** by the person who purchased and used the motor fuels upon which the tax has been paid ~~and for which a refund may be claimed.~~ In the case of all partnerships and any corporations filing ~~Idaho Form 41S, relating to S Corporations income tax returns,~~ **any refund of motor fuels taxes paid by the partnership or S Corporation must be claimed by the partnership or corporation** **has to be the claimant for refunds of motor fuels taxes they paid.** The refund may not be applied to the individual returns filed by partners or shareholders. (3-31-22)(\_\_\_\_)~~

**03. Refund Applied to Taxes Due.** Any refund due to a consumer is applied first to any liability due under any law administered by the Tax Commission, including any liability under IFTA, which is due and unpaid at the time the claim is filed. In addition, no refund will be paid if the claimant has not filed any tax return required to be filed with the Tax Commission. Any balance of the refund exceeding taxes due will be paid as a refund to the entity filing the return. (3-31-22)

251. -- 269. (RESERVED)

270. REFUND CLAIMS -- GENERAL AND BULK DOCUMENTATION ~~(RULE 270).~~

Sections 63-2410, 63-2421, 63-2423, Idaho Code

**01. Refunds to Consumers.** ~~Tax paid fuel used in a nontaxable manner according to Sections 63-2410 and 63-2423, Idaho Code, qualifies for a fuel tax refund. Refund claims and required worksheets must be made on forms provided or approved by the~~ **Fuels tax refunds claims will be on** Tax Commission **prescribed forms.**

(3-31-22)(\_\_\_\_)

02. **Records Retention Requirements.** All claimants ~~must~~ will keep records for the greater of either:  
(3-31-22)(\_\_\_\_)
- a. Three (3) years from the due date, including extensions, of the income tax return; (3-31-22)
  - b. The time during which the taxpayer's income tax return is subject to adjustment by either the Tax Commission or voluntary action by the taxpayer if the refund claim is filed with the taxpayer's Idaho income tax return; or (3-31-22)(\_\_\_\_)
  - c. Four (4) years, if an IFTA licensee. (3-31-22)
03. **Mandatory Records Required – Generally.** A claimant ~~must have~~ will maintain fuel purchase records and records showing fuel was placed into the supply tank of vehicles or equipment ~~using the fuel for use~~ in a nontaxable manner. Fuel purchase records ~~must have to~~ contain the information ~~required stipulated~~ by Rule Section 1n 150 of these rules. Fuel purchase records ~~must need to~~ be reissued if altered or corrected. (3-31-22)(\_\_\_\_)
04. **Mandatory Records Required – Retail Fuel Purchases.** When claiming a refund of tax for fuel purchased from a retail outlet, a receipt is ~~required~~ mandatory. The vehicles ~~or~~ piece of equipment, or commercial motorboat using the fuel ~~must has to~~ be recorded on the receipt. ~~If claiming refunds for fuel used in more than one vehicle or piece of equipment, make sure all the vehicles and equipment are identified on each receipt. When placing fuel into containers for use in vehicles, pieces of equipment, or commercial motorboats, identify into which the fuel is placed on the receipt. No other records are required if the fuel from the container isn't used in licensed or required to be licensed motor vehicles. For fuel placed into containers, identify the vehicle, piece of equipment, or commercial motorboat the fuel was used in on the receipt.~~ (3-31-22)(\_\_\_\_)
05. **Mandatory Records Required – Bulk Fuel Purchases.** When claiming a fuel tax refund on fuel delivered in bulk, the claimant ~~must provide~~ will maintain the following documentation: (3-31-22)(\_\_\_\_)
- a. Seller Invoices. (3-31-22)
  - b. Withdrawal Logs. (3-31-22)
    - i. Complete. It is mandatory that withdrawal logs ~~must give~~ identify the date, the vehicle or piece of equipment, and the amount of fuel withdrawn. (3-31-22)(\_\_\_\_)
    - ii. Withdrawal logs aren't ~~required for claimants with two (2) or more bulk storage tanks at the same location with Idaho tax paid fuel of the same type for taxable and nontaxable uses. Claimants must identify each storage tank for taxable or nontaxable use necessary when separate, identified, and dedicated bulk storage tanks are used for taxable and nontaxable uses at the same location.~~ The seller ~~must has to~~ mark the invoices at the time of delivery and identify the storage tanks ~~in~~ to which the fuel was delivered. (3-31-22)(\_\_\_\_)
  - c. Bulk ~~Fuel Inventory Reconciliations. Reconciliations must~~ fuel inventory reconciliations include beginning inventory, purchases, withdrawals, calculated ending inventory, and actual ending inventory determined by a physical reading. (3-31-22)(\_\_\_\_)
06. **Alternate Method for Bulk Tanks – Authorized Percentage.** ~~A claimant can request an authorized percentage. If the claimant using Idaho tax-paid fuel from one (1) a single bulk tank in both a taxable and nontaxable manner. IFTA licensees and owners of multiple bulk storage tanks containing tax paid and tax exempt fuels of the same type at the same location can't use an authorized percentage. The claimant must submit a completed authorized percentage request form before using any percentage to claim a refund. the claimant may submit a request to use an authorized percentage on a Tax Commission prescribed form. A claimant needs approval from the Tax Commission before using an authorized percentage. The request must itemize Itemization of all taxable and nontaxable uses by vehicle and piece of equipment based on previous experience or anticipated use will be included on the request form. Records to support an authorized percentage must be kept and presented upon request. Equipment lists must be provided and supported by Requests will be denied if the claimant:~~ (3-31-22)(\_\_\_\_)

- a. ~~Equipment purchase records~~ Fails to fully complete the authorized percentage request form; (3-31-22)(    )
- b. ~~Sales or rental receipts; and~~ Fails to provide equipment lists supported equipment purchase records, sales or rent receipts, and depreciation schedules; (3-31-22)(    )
- c. ~~Depreciation schedules.~~ Fails to keep and provide records to support an authorized percentage upon request of the Tax Commission; (3-31-22)(    )
- d. Is an IFTA licensee; or (    )
- e. Is an owner of multiple bulk storage tanks containing tax-paid and tax-exempt fuels of the same type at the same location. (    )

07. **Untaxed Motor Fuel Audits.** ~~Untaxed motor fuel cannot be used in licensed or required to be licensed motor vehicles unless authorized in the Fuels Tax Act or these rules. Under the audit and enforcement provisions of Sections 63-2410 and 63-2434, Idaho Code, a~~ All fuel tax refund claims are subject to audit by the Tax Commission and no part of these rules may be construed to imply that an audit may not cannot be performed. Tax-paid motor fuel is not exempt from taxes imposed by the Idaho Sales Tax Act when the motor fuel tax is refunded. (3-31-22)(    )

08. **Tribal Indian-Owned Retail Outlet.** ~~Motor fuels purchased after December 1, 2007, from an Indian a tribal-owned retail outlet do not include the Idaho motor fuels tax and do not qualify as an Idaho tax-paid purchase, unless otherwise provided in an agreement between the state and appropriate tribe under the authority of Sections 63-2444 or 67-4002, Idaho Code. See definition of Indian owned retail outlet in Rule 010 of these rules.~~ (3-31-22)(    )

271. -- 289. (RESERVED)

290. ~~MOTOR VEHICLES REFUND CLAIMS – NONTAXABLE MILES (RULE 290).~~  
Sections ~~63-2410,~~ 63-2423, Idaho Code

01. **Refunds to Consumers – Nontaxable Miles.** ~~Tax-paid special fuels used as described in Section 63-2423, Idaho Code, qualifies for a fuels tax refund. Refund claims and required worksheets must will be made on forms provided or approved by the Tax Commission~~ prescribed forms. The records retention and fuel record requirements mandates in Subsections 270.02 through 270.05 of these rules also apply to this section. (3-31-22)(    )

- 02. **Nontaxable Miles Defined.** Nontaxable miles are miles driven on roads: (3-31-22)
- a. Not open to the public; ~~or~~ (3-31-22)(    )
- b. Not maintained by a governmental entity; ~~or~~ (3-31-22)(    )
- c. Located on private property maintained by the property owner; ~~or~~ (3-31-22)(    )
- d. Under construction and not open to the public; or (3-31-22)
- e. Constructed and maintained by the United States Forest Service, the United States Bureau of Land Management, the Idaho Department of Lands, or forest protective associations with which the state of Idaho has contracted or become a member pursuant to Title 38, Chapter 1, ~~Title 38,~~ Idaho Code. Miles traveled on these roads are nontaxable when the contractor or subcontractor is required mandated to pay the cost of maintaining these roads by contract or permit. (3-31-22)(    )

03. **Mandatory Records-Required – Mileage Records.** Mileage records are ~~required~~ needed to claim a refund of tax when using special fuels on nontaxable roads. ~~Claimants~~ It is mandatory for claimants operating under



the authority of ~~the~~ IFTA or IRP ~~are required~~ to follow the recordkeeping ~~requirements~~ mandates of IFTA and IRP in addition to ~~the requirements~~ those of this section. Idaho Full Fee registrants ~~must follow the requirements of Rule~~ will also comply with Section 422 of these rules ~~and this section.~~ (3-31-22)(    )

**04. Records ~~Required~~ – Actual Nontaxable Miles.** ~~Nontaxable miles must be documented for each trip using~~ Unless otherwise allowed by these rules, use of odometer, hubometer, or GPS readings for each trip is mandatory to document actual nontaxable miles. (3-31-22)(    )

**05. Alternate Methods.** A claimant, who is not an IFTA licensee or IRP registrant, may use an alternate method to determine nontaxable miles or use a presumed miles per gallon (MPG) to determine fuel use ~~unless they are an IFTA licensee or IRP registrant in any participating jurisdiction. Claimants may estimate using one of the methods below.~~ (3-31-22)(    )

**a. Estimating Nontaxable Miles.** Nontaxable miles may be estimated by using maps, contracts, or a Tax Commission approved trip analysis. ~~Upon request, t~~ The claimant must is obligated to provide the documents supporting the estimation one upon request by the Tax Commission. Maps other than the Official Idaho Highway map miles are estimates. (3-31-22)(    )

**b. Estimating Nontaxable Gallons.** Nontaxable gallons may be estimated using presumed MPG~~s~~. Upon request, the claimant ~~must~~ is obligated to provide the tax-paid fuel purchase records supporting the total gallons claimed. (3-31-22)(    )

**i. Presumed MPG~~s~~ by Weight.** The following are presumed MPG~~s~~ by gross vehicle weight (GVW) or registered GVW:

Over 40,000 GVW	4.0 MPG
Over 26,000 GVW to 40,000 GVW	5.5 MPG
Over 12,000 GVW to 26,000 GVW	7.0 MPG
12,000 GVW or less	10.0 MPG

(3-31-22)(    )

**ii. Presumed MPG~~s~~ by Operation.** The following are presumed MPG~~s~~ for vehicles over 40,000 GVW or registered GVW used in certain industries:

Logging	4.3 MPG
Agricultural	4.5 MPG
Sand, gravel <del>&amp;</del> <u>and</u> rock hauling	4.0 MPG
Construction	4.4 MPG

(3-31-22)(    )

**291. (RESERVED)**

**292. REFUND CLAIMS – POWER TAKE-OFF (PTO) AND AUXILIARY ENGINES ~~(RULE 292).~~**  
Sections 63-2410, 63-2423, Idaho Code

**01. Refund to Consumers — PTO and Auxiliary Engines.** ~~Tax paid fuel used in PTO and auxiliary engines qualifies for a fuels tax refund under Sections 63-2410 and 63-2423, Idaho Code.~~ PTO refunds are only allowed for special fuels. Auxiliary engine refunds are allowed for gasoline or special fuels. Refund claims ~~and required worksheets must~~ will be made on ~~forms provided or approved by the~~ Tax Commission prescribed forms. The

records retention and fuel record ~~requirements mandates~~ in Subsections 270.02 through 270.05 of these rules also apply to this section. (3-31-22)( )

**02. PTO and Auxiliary Engines Defined.** A PTO uses fuel from the main supply tank to operate the main engine for a purpose other than operating or propelling the vehicle on the road. An auxiliary engine uses fuel from the vehicle’s main supply tank to operate an engine other than the vehicle’s main engine. (3-31-22)

**03. Mandated Records ~~Required~~ – Actual Consumption Refunds.** Actual fuel consumption for PTO and auxiliary engines may be claimed when the PTO or auxiliary engines are equipped with an electronic monitoring device. ~~The It is mandatory for the~~ monitoring device ~~must provide to identify~~ the date, time of use, and gallons metered. The Tax Commission may request verification that the electronic monitoring device is reporting consumption correctly. (3-31-22)( )

**04. Alternate Methods – Standard Allowances.** ~~The following are~~ An IFTA licensee is not allowed to use alternate methods to determine nontaxable fuel use. The Tax Commission has adopted the following standard allowances; ~~adopted by the Tax Commission. An IFTA licensee isn’t allowed to use alternate methods to determine nontaxable fuel use. Claimants may estimate using unit quantities, percentages, or the nonstandard allowance method.~~ (3-31-22)( )

a. Allowances based on unit quantities:

Allowance Type	Allowance Rates	x	Unit Quantities
Gasoline/fuel oil	0.00015 gallons	x	Gallons pumped
Bulk cement	0.1858 gallons	x	Tons pumped
Refrigeration unit/reefer	0.75 gallons	x	Hours unit operated
Tree length timber/logs	0.0503 gallons	x	Tons Hauled
Tree length timber/logs	3.46 gallons	x	Hours unit operated
Carpet cleaning	0.75 gallons	x	Hours unit operated
Concrete Pumping	0.142857 gallons	x	Yards pumped

(3-31-22)

b. Allowances based on percentages:

Allowance Type	Percentage Per Gallon	x	Gallons Consumed
Concrete mixing	30%	x	Gallons consumed
Garbage trucks	25%	x	Gallons consumed

(3-31-22)

**05. Nonstandard Allowances.** A claimant ~~must request a nonstandard allowance from the Tax Commission if they want to use~~ will submit a written request to the Tax Commission for authorization to use an allowance different from those listed in this section. ~~A claimant must request approval of the proposed allowance in writing with a copy of the supporting calculations used to compute the proposed allowance.~~ The Tax Commission may request additional information or documentation ~~as needed in order~~ to make a determination on the request. (3-31-22)( )

293. -- 299. (RESERVED)

300. ADMINISTRATION, RULES AND DELEGATION OF AUTHORITY ~~(RULE 300).~~

Sections ~~63-2434~~, 63-2442, Idaho Code

~~Personnel of the Idaho~~ Transportation Department ~~Personnel as Deputies of the Tax Commission. Pursuant to the authority of Sections 63-2434 and 63-2442, Idaho Code, those individuals employed by the Idaho Transportation Department employed~~ in the operation of stationary or mobile Ports of Entry are designated as deputies of the Tax Commission for exercising the powers necessary to enforce the provisions of the special fuels tax laws. Such authority includes exercise of the powers described in ~~Rule Section~~ Section 400 of these rules. (3-31-22)(    )

**301. -- 309. (RESERVED)**

**310. EXEMPTION FROM ~~REQUIREMENT FOR TAX BONDS (RULE 310).~~**

Section 63-2428, Idaho Code

**01. ~~Exemption to Bond Requirements~~ Exemption for Licensed Distributors.** Bonds are ~~required of mandatory for~~ all licensed distributors unless the distributor is found to be financially responsible. A licensed distributor seeking exemption from ~~the bonding requirement must~~ may apply for the exemption by filing a written petition with the Tax Commission. The petition ~~must will~~ contain information ~~relating to the requirements of defined in~~ Section 63-2428, Idaho Code, for establishing financial solvency and responsibility. Together with the petition, the distributor ~~must will~~ submit ~~any information required in the following Subsections 310.01.a. through 310.01.e. detailed as follows:~~ (3-31-22)(    )

**a.** If all or any part of the unencumbered property offered to show financial solvency is real property, the petition ~~must will~~ include both: (    )

**i.** 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 (    )

**ii.** a copy of the most recent valuation notice issued by the county assessor for ad valorem property tax purposes. (3-31-22)(    )

**b.** If all or any part of the unencumbered property is licensed motor vehicles, the petition ~~must will~~ include copies of the titles of the vehicles and evidence of the value of the vehicles from a source independent from the distributor. (3-31-22)(    )

**c.** If all or any part of the unencumbered property is personal property other than motor vehicles, the petition ~~must will~~ 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 t~~ 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 needed~~ to establish that no security interests or other encumbrances exist. (3-31-22)(    )

**d.** The petitioner ~~must will~~ arrange, at the petitioner's expense, for an established, independent commercial credit rating company to submit directly to the Tax Commission a current and complete credit report about the licensed distributor; ~~or;~~ the distributor ~~must will~~ 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 are to~~ be accompanied by an opinion issued by an independent certified public accountant ~~and a~~ A responsible company officer ~~must will~~ 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 will~~ be reviewed by a certified public accountant, ~~or licensed public accountant~~ and a responsible company officer ~~must also will~~ certify that the financial statements provided present fairly the financial position of the company. (3-31-22)(    )

**e.** The Tax Commission may ~~require request~~ the distributor ~~to~~ supplement its petition with ~~such f~~ further information ~~as the Tax Commission, in its discretion, finds necessary~~ to determine financial responsibility. If ~~incomplete or substitute submissions are received by~~ the Tax Commission receives incomplete or substitute information, the ~~information submitted is~~ submissions are reviewed on a case-by-case basis to determine whether ~~an exemption from the bonding requirement a bond exemption~~ is granted. (3-31-22)(    )

**02. Conditions for Termination of Exemption.** If granted, the exemption from ~~the~~ bonding requirement will terminate: (3-31-22)(\_\_\_\_)

- a. One (1) year after the date on which it was granted. (3-31-22)
- b. Ninety (90) days after the occurrence of any delinquency in motor fuels tax unless the delinquency has been paid within that time period. (3-31-22)
- c. Upon the occurrence of any encumbrance ~~of any of~~ to the property upon which the finding of financial responsibility was based. (3-31-22)(\_\_\_\_)
- 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. (3-31-22)(\_\_\_\_)
- e. Upon the occurrence of any event prejudicing the distributor's solvency or financial responsibility. (3-31-22)

**03. ~~Bond Requirement~~ Upon Termination of a Bond 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. (3-31-22)(\_\_\_\_)

**04. Pending Bond Exemption Application ~~Does Not Excuse the Bond Requirement~~.** Having an application pending for a bond exemption ~~from the requirement for a bond~~ does not excuse the bond. If a bond exemption is due to expire, the distributor ~~must is obligated to~~ 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 has to~~ meet all ~~of the requirements~~ the conditions of this rule. (3-31-22)(\_\_\_\_)

**05. Conditions for Renewal of Bond Exemption.** The following ~~must be submitted~~ is necessary to renew a bond exemption: (3-31-22)(\_\_\_\_)

- a. A written request for renewal of waiver; and (3-31-22)(\_\_\_\_)
- b. The information required in Subsections 310.01.a. through 310.01.e. of this rule. (3-31-22)

**311. IFTA LICENSE BOND ~~(RULE 311)~~.**  
Sections 63-2442A, 63-2470, Idaho Code

**01. General.** The Tax Commission may ~~require~~ compel an IFTA licensee to post a bond following the ~~requirements of the IFTA Agreement in order~~ IFTA provisions to maintain their license. A bond may be ~~required when he files returns or remits taxes, separately or in combination,~~ necessary when returns are filed or tax payments are remitted after the due date at least three times within a three-year period. When a bond is ~~required~~ obligated, the licensee ~~must will~~ post the bond within thirty (30) days from the date of the request. ~~When If~~ no bond is posted within the thirty (30) days, the license is automatically revoked ~~and it must be surrendered to the Tax Commission. An assessment may be made for any unreported tax liability based on actual records or an estimate. Tax may be assessed for any unreported liability~~ (3-31-22)(\_\_\_\_)

**02. Reinstating Revoked Licenses.** An applicant may be ~~required~~ obligated to post a bond ~~when he has if they have~~ previously had ~~his their~~ IFTA license revoked or is related to a person who has previously had their IFTA license revoked. An applicant is related to a person who has previously had ~~his their~~ IFTA license revoked when: (3-31-22)(\_\_\_\_)

- a. ~~The applicant is owned at least twenty five percent (25%) by a person or persons who has previously had their IFTA license revoked. The person or persons owns at least twenty-five percent (25%) interest in the applicant, or~~ (3-31-22)(\_\_\_\_)
- b. ~~The applicant is operated or controlled by a person or persons who has previously had their IFTA~~

~~license revoked~~ operates or controls the applicant. Operation and control includes, but ~~is~~ are 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. (3-31-22)( )

**03. Amount and Type of Bond.** ~~The amount of the bond is 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 is 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 is raised, lowered, or remains unchanged. (3-31-22)( )

**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 has to be a quarterly filer. The licensee must needs to 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.~~ (3-31-22)( )

**05. Denial of Bond Waiver Request and Appeal of Denial.** The Tax 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 needs to follow the appeal procedure in Section 63-2470, Idaho Code, to appeal the denial of a bond waiver request. (3-31-22)( )

312. -- 319. (RESERVED)

**320. RECORDS RETENTION ~~REQUIREMENTS (RULE 320).~~**  
Section 63-2429, Idaho Code

**01. Mandatory Records Required.** Any person importing, manufacturing, refining, dealing in, transporting, storing or selling any motor fuels in ~~this state~~ Idaho will keep such records, receipts, and invoices ~~as will s show ing~~ all purchases, sales, receipts, or deliveries of motor fuels ~~in this state~~. Such records ~~is are~~ maintained for at least three (3) years. (3-31-22)( )

**02. Motor Fuels Subject to Use Tax.** Any person who has purchased tax-exempt motor fuel and subsequently uses the fuel in a taxable manner, must will maintain ~~enough~~ records to establish the tax due. (3-31-22)( )

**03. Original Invoice Retention.** The original invoices, ~~required mandated~~ by Rule Section 270 of these rules, relating to refunds of motor fuels tax paid on certain fuel used off-road, must will be retained for the greater of either three (3) years or the time during which the taxpayer's Idaho income tax return is subject to adjustment by either the Tax Commission or by voluntary action of the taxpayer. (3-31-22)( )

321. -- 399. (RESERVED)

**400. IFTA LICENSING AND SPECIAL FUELS PERMITTING ~~(RULE 400).~~**  
Sections 49-432, 49-434, 63-2401, 63-2434, 63-2438 through 63-2440, 63-2442A, 63-2455, Idaho Code

**01. In General.** It is unlawful for any person to operate a motor vehicle over twenty six thousand (26,000) pounds ~~maximum registered gross weight or a motor vehicle with three (3) or more axles regardless of weight, that uses special fuels as defined in Section 63 2401, Idaho Code, on the highways of this state without having obtained one (1) of the following:~~ (3-31-22)

**a.** A registration to operate the motor vehicle solely within this state under Section 49-434, Idaho Code. (3-31-22)

**b.** A temporary fuel tax permit from the Idaho Transportation Department. (3-31-22)

**c.** An IFTA license. (3-31-22)

**02~~1~~.** Federal or In-State Governmental Vehicles. Motor vehicles owned or leased and operated by the

federal government or the state of Idaho, ~~or~~ their instrumentalities, or political subdivisions are exempt from ~~these requirements~~ licensing requisites. (3-31-22)(    )

~~03. Out-of-State Governmental Vehicles.~~ Motor vehicles owned or operated by another state of the United States or any agency or subdivision thereof are exempt from permitting and reporting under this rule if the state in which they are owned grants a reciprocal privilege to Idaho and its agencies and subdivisions. (3-31-22)

~~042. Temporary Fuel Tax Permits.~~ Any person who operates a motor vehicle over twenty-six thousand (26,000) pounds maximum registered gross weight or a motor vehicle with three (3) or more axles regardless of weight, that uses special fuels on the highways of this state and is not registered solely for operation in this state under Section 49-434, Idaho Code, or IFTA licensed, must without an IFTA license will secure a temporary fuel tax permit from the Idaho Transportation Department in the manner ~~provided and required~~ prescribed by that department, if operating a motor vehicle:- (3-31-22)(    )

- a. Over twenty-six thousand (26,000) pounds maximum registered gross weight or (    )
- b. With three (3) or more axles regardless of weight, and (    )
- c. Using special fuels on the highways of this state, and (    )
- d. Not registered to operate the motor vehicle solely within Idaho under Section 49-434, Idaho Code. (    )

~~053. Penalty for Not Obtaining an IFTA License, or Temporary Fuel Tax Permit.~~ Operation of a motor vehicle ~~over twenty-six thousand (26,000) pounds maximum registered gross weight or a motor vehicle with three (3) or more axles regardless of weight, that uses special fuels on the highways of this state without a registration to operate the motor vehicle solely within this state under Section 49-434, Idaho Code, as described in Subsection 400.02. of these rules, without~~ an IFTA license, or an Idaho temporary fuel tax permit is hereby deemed to be an act tending to prejudice the collection of the special fuels tax and an act that renders wholly or partially ineffective the procedures for collection of that tax. Accordingly, any deputy of the Tax Commission, including those designated as deputies in Section 300 of these rules, may issue a jeopardy assessment under the authority of Section 63-2434, Idaho Code. Such deputy is authorized to institute immediate collection procedures, including issuance of a tax warrant and distraint of the motor vehicle ~~required to display, but not displaying,~~ without either an IFTA license or a temporary fuel tax permit. (3-31-22)(    )

401. -- 419. (RESERVED)

420. DOCUMENTATION FOR IFTA LICENSEE REPORTING ~~(RULE 420)~~.  
Sections 63-2439, Idaho Code

01. ~~Records Required for Idaho IFTA Licensees.~~ Records are required to verify the accuracy of any tax report or worksheet filed with the Tax Commission. The taxpayer displaying, or required to display, an IFTA decal or a temporary permit must retain originals of all invoices or other documents relating to purchases of special fuels and all records relating to the mileage of the motor vehicles. The licensee displaying, or obligated to display, an IFTA decal will retain all records relating to the accrued distance of the motor vehicles and all invoices or other documents relating to purchases of special fuels. The licensee will provide these records upon request by the Tax Commission. (3-31-22)(    )

02. ~~Fuel Records.~~ In order for the IFTA licensee to obtain credit for tax paid purchases, a receipt or invoice, a credit card receipt, or microfilm/microfiche of the receipt or invoice must be retained showing evidence of such purchases and tax having been paid. An acceptable receipt or invoice for tax paid purchases taken as credit must include, but is not limited to, the following: (3-31-22)

- a. The date of each receipt of fuel; (3-31-22)
- b. The name and address of the person from whom purchased or received; (3-31-22)

- ~~c.~~ The number of gallons received; (3-31-22)
- ~~d.~~ The type of fuel; (3-31-22)
- ~~e.~~ The specific vehicle into which the fuel was placed; and (3-31-22)
- ~~f.~~ Detailed records of all withdrawals from bulk storage tanks, including the date of withdrawal, the number of gallons withdrawn, the fuel type, the unit number, the equipment type, and inventory records. (3-31-22)

**02. Distance Records.** It is mandatory for all IFTA licensees to maintain detailed distance records, on an individual-vehicle basis, according to IFTA Procedures Manual Section P540. ( )

~~03. Mileage Records.~~ All IFTA licensees must maintain detailed mileage records, such as trip logs or trip sheets, on an individual vehicle basis. Such records must contain, but not be limited to: (3-31-22)

- ~~a.~~ Total trip miles, including vicinity miles; (3-31-22)
- ~~b.~~ Miles traveled for taxable and nontaxable use; (3-31-22)
- ~~c.~~ Mileage totaled by jurisdiction in which the IFTA vehicle operated; (3-31-22)
- ~~d.~~ Starting and ending dates of trips; (3-31-22)
- ~~e.~~ Trip origin and destination; (3-31-22)
- ~~f.~~ Hubometer or odometer readings from the beginning and ending of each trip; (3-31-22)
- ~~g.~~ Complete routes of travel, that includes interim stops such as pick-up and delivery locations; and (3-31-22)
- ~~h.~~ Vehicle license number or unit number. (3-31-22)

**03. Fuel Records.** It is mandatory for all IFTA licensees to maintain detailed fuel records, on an individual-vehicle basis, according to IFTA Procedures Manual Section P550. ( )

- 04. Additional Records Requirements.** Other records may be requested, such as: (3-31-22)( )
- a. Bills of lading or manifest documents; (3-31-22)
  - b. Vehicle dispatch ledgers; (3-31-22)
  - c. Accounts payable and receivable; (3-31-22)
  - d. Lease agreements; (3-31-22)
  - e. Driver pay records; (3-31-22)
  - f. Driver logs; (3-31-22)
  - g. Fuel use trip permits; ~~and~~ (3-31-22)( )
  - h.** Registration trip permits; ( )
  - i.** Other commercial vehicle permits; and ( )
  - hj.** Other documents used in preparing fuel tax reports. (3-31-22)

**05. Summaries.** ~~Individual trips must~~ In addition to the information outlined in the IFTA Procedures Manual Section P560, individual trips for each vehicle have to be accumulated into monthly summaries in total and by jurisdiction. These summaries ~~must have to~~ be used as the basis for the miles submitted on the IFTA quarterly or annual reports. (3-31-22)( )

**06. Computer Support.** ~~Computer summaries must be supported by trip sheets or logs verifying mileage traveled.~~ (3-31-22)

**07. Mileage Distance Information.** Information recorded on trip sheets ~~must is to~~ be legible and reflect actual ~~miles distance~~ traveled. Mileage Distance records ~~must will~~ include all movement of the vehicle including loaded, empty, and tractor-only (bobtail) ~~miles distance traveled.~~ (3-31-22)( )

**08. Records Retention and Availability of Records.** IFTA licensees ~~must retain records at least four (4) years~~ need to retain and make available records according to IFTA Procedures Manual Section P510. (3-31-22)( )

**09. Distance Mileage Disputes.** Whenever a mileage distance dispute arises between the taxpayer and the Tax Commission, the official mileage distance map distributed by the appropriate authority in each jurisdiction is used to resolve the point-to-point mileage distance differences. (3-31-22)( )

**421. DOCUMENTATION FOR IDAHO IRP REGISTRANTS (RULE 421).**  
Section 49-439, Idaho Code

**01. Records Required For IRP Registrants.** ~~must~~ Registrants are obligated to keep records, by individual vehicle per registered fleet, ~~to~~ verify the accuracy of any IRP application submitted to the Idaho Transportation Department for each application reporting period of July 1st through June 30th. Registrants ~~must keep the records required by Rule~~ are held to the standards established by Section 420 of these rules for all IRP registered vehicles. ~~Also, registrants must keep individual vehicle records by registered fleet for each application reporting period of July 1st through June 30th.~~ (3-31-22)( )

**422. DOCUMENTATION FOR IDAHO FULL FEE REGISTRANTS (RULE 422).**  
Section 49-439, Idaho Code

**01. Records Required For Idaho Full Fee Registrations.** Registrants ~~must~~ are obligated to keep records, by individual vehicle, ~~to~~ verify the accuracy of any Idaho Full Fee registration application submitted to the Idaho Transportation Department for each reporting period of July 1st through June 30th, unless exempted pursuant to Section 49-439, Idaho Code. ~~No records are required for full fee vehicles registered at less than sixty two thousand (62,000) lbs. gvw or those registered at the maximum tier, of over fifty thousand (50,000) miles per reporting period. Registrants must keep records by individual vehicle for each reporting period of July 1st through June 30th. Examples of records~~ Mandatory records include, but are not limited to: (3-31-22)( )

a. Distance Measuring Devices. Odometer Distance is measured using an odometer, hubometer, GPS or perpetual life-to-date readings. Records ~~must include~~ identify the date the reading was recorded and the reading. When changing devices, the change ~~must needs to~~ be properly documented. (3-31-22)( )

b. Daily Trip Logs. Logs include the date of travel, origin and destination of the trip, and number of miles traveled. Logs may be supported by load tickets, billing invoices, or other original source documents that can verify miles traveled. (3-31-22)

c. Number of Trip/Round Trip Miles. When making numerous short trips from the same origin to the same destination, records include the origin, destination, and round-trip miles. Computations ~~must need to~~ be supported by scale tickets, load tickets, a route map, or a Tax Commission approved trip analysis. (3-31-22)( )

d. Fuel Purchases. Retail fuel purchases Valid retail fuel purchase records are fuel invoices with the date, location, quantity, and type of fuel purchased. Bulk fuel records ~~must need to~~ be sufficient to prove the accuracy of the fuel use. Fuel purchase records ~~must need to~~ show the usage per unit. The records ~~must need to~~ document how the average miles per gallon (MPG) was calculated. (3-31-22)( )



02. **Credit for Off-Road Miles and Documentation—Required.** Credit for off-road miles may be given for roads not maintained by a government entity or roads built or maintained by the registrant pursuant to a contract, according to Section 290 of these rules. These include roads on private property, roads under construction but not open to the public, and may include designated Forest Service roads. Off-road miles ~~must need to~~ be documented by using odometer readings, maps, contracts, GPS readings, or a Tax Commission approved trip analysis. (3-31-22)( )

03. **IFTA Licensees with Full Fee Registration.** An IFTA licensee with full fee registration ~~must will~~ maintain records ~~required mandated~~ by IFTA. (3-31-22)( )

~~423.—499.~~ (RESERVED)

~~500. IDAHO CLEAN WATER TRUST FUND TRANSFER FEE (RULE 500).~~

~~Section 41-4909, Idaho Code~~

~~The Transfer Fee. The fee imposed by Section 41-4909, Idaho Code, is The Idaho Clean Water Trust Fund is called the Transfer Fee.~~ (3-31-22)

~~501. TRANSFER FEE REINSTATED (RULE 501).~~

~~Section 41-4909, Idaho Code~~

~~The Transfer Fee was suspended as of October 1, 1999. The Transfer Fee was reinstated on September 1, 2007.~~ (3-31-22)

~~502~~423. -- 509. (RESERVED)

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

Sections ~~41-4902, 41-4903,~~ 41-4909, ~~63-2401, 63-2403, 63-2406.~~ Idaho Code

01. **Application.** (3-31-22)

~~a. The Transfer Fee applies to the first receipt of any petroleum or petroleum product within this state. The amount of the fee is one cent (\$0.01) for each gallon of petroleum or petroleum product received. The fee is paid by the distributor who receives any petroleum or petroleum product not excluded from the fee, unless the fee has previously been paid on the same petroleum or petroleum product. Only licensed Idaho fuel distributors may receive refunds or credits of the transfer fee. The refunds or credits must be claimed on the distributor report required in Section 63-2406, Idaho Code, according to Rule 180.~~ (3-31-22)

~~b. The legal incidence of the fee is on the first distributor which receives any petroleum or petroleum product. This distributor is required mandated to report and pay the transfer fee to the Tax Commission. The fee is not required to be separately stated on any invoice, receipt, or other billing document. A choice to state separately the fee does not change its legal incidence or its nature. Only licensed Idaho fuel distributors may receive refunds or credits of the transfer fee. The refunds or credits have to be claimed in the distributor report.~~ (3-31-22)( )

02. **Receipt of Petroleum Products.** Receipt of petroleum or petroleum products ~~is determined according to Section 63-2403, Idaho Code. Receipt~~ is determined by the movement of petroleum or petroleum products ~~from a~~ from permanent storage facility (terminal) or crossing the ~~Idaho~~ border of this state. Storage of petroleum or petroleum products is incidental to ~~the its~~ movement of the petroleum or petroleum products. (3-31-22)( )

03. **Exemption to Application of the Transfer Fee.** ~~The Transfer Fee does not apply to petroleum or petroleum products that are:~~ (3-31-22)

~~a. Returned to the refinery or pipeline terminal.~~ (3-31-22)

~~b. Exported from this state. No fuel is considered exported, unless the distributor can prove the export by documentation required by Rule 130 of these rules.~~ (3-31-22)

~~c. Received by a railroad or railroad corporation or any employee of them. Petroleum or petroleum products sold by a licensed distributor to a railroad or railroad corporation or any employee of them is subject to the Transfer Fee unless the petroleum or petroleum products are "received" by the railroad or railroad corporation as defined in Section 63-2403, Idaho Code. The exclusion for railroad employees applies only when the activity relating to the fuel is part of their employment with the railroad or railroad corporation. (3-31-22)~~

~~d. Received in retail containers of fifty-five (55) gallons or less or petroleum products to be packaged or repackaged into retail containers of fifty-five (55) gallons or less, if such containers are intended to be transferred to the ultimate consumer of the petroleum or petroleum products. Exemptions are according to Sections 41-4909 and 41-4943, Idaho Code. (3-31-22)( )~~

**04. Casualty Loss and Two Percent (2%) Allowance Not Deductible.** All petroleum and petroleum products received in this state that are not within an exemption or exclusion ~~listed in this rule~~ provided by law are subject to the fee, without further deductions or discounts despite the product's use. Deductions allowed to motor fuel distributors in Section 63-2407, Idaho Code, for casualty loss and the two percent (2%) allowance are not deductions applicable to the ~~T~~ransfer ~~F~~fee. (3-31-22)( )

**05. Petroleum and Petroleum Products.** ~~The products subject to the Transfer Fee are crude oil or any fraction of it that is liquid at a temperature of sixty (60) degrees Fahrenheit and a pressure of fourteen and seven tenths (14 7/10) psi. These products are all products~~ Products refined from crude oil ~~including~~ include, but are not limited to:

- ~~a.~~ motor gasoline, ( )
- ~~b.~~ alcohol blended fuels, such as E-10 and E-85, including the alcohol content of blended fuel, ( )
- ~~c.~~ diesel fuel (#1 - #6), ( )
- ~~d.~~ biodiesel blended fuels, such as B-20, including the biodiesel content of the blended fuel, ( )
- ~~e.~~ heating oil, ( )
- ~~f.~~ aviation fuel, ( )
- ~~g.~~ naphtha, ( )
- ~~h.~~ naphtha-type jet fuel, ( )
- ~~i.~~ kerosene-type jet fuel (JP#1 - #8), ( )
- ~~j.~~ motor oil, ( )
- ~~k.~~ brake fluid, ( )
- ~~l.~~ tractor fuel, ( )
- ~~m.~~ distillate fuel oil, ( )
- ~~n.~~ stove fuel, ( )
- ~~o.~~ unfinished oils, ( )
- ~~p.~~ turpentine substitutes, ( )
- ~~q.~~ lamp fuel, ( )
- ~~r.~~ diesel oils (#1 - #6), ( )

<u>s.</u>	engine oils,	( )
<u>t.</u>	railroad oils,	( )
<u>u.</u>	kerosene,	( )
<u>v.</u>	commercial solvents,	( )
<u>w.</u>	lubricating oils,	( )
<u>x.</u>	fuel oil,	( )
<u>y.</u>	boiler fuel,	( )
<u>z.</u>	refinery fuel,	( )
<u>aa.</u>	industrial fuel,	( )
<u>bb.</u>	bunker fuel,	( )
<u>cc.</u>	residual fuel oil,	( )
<u>dd.</u>	road oils, and	( )
<u>ee.</u>	transmission fluids.	( )
<u>ff.</u>	<u>The following are treated as petroleum or petroleum products that are subject to the transfer fee:</u>	( )
<u>i.</u>	Ethanol (E00),	( )
<u>ii.</u>	natural gasoline, and	( )
<u>iii.</u>	<del>biodiesel (B00) are also defined as petroleum and petroleum products that are subject to the</del>	<del>(3-31-22)( )</del>

Transfer Fee.

**06. Exclusion of Petroleum and Petroleum Products on Which the Fee Has Previously Been Paid.** Used oil ~~as defined by 40 CFR Part 279 (July 1, 2000)~~ is presumed to be comprised of petroleum or petroleum products on which the transfer fee has previously been paid when generated in Idaho. The distributor will not report used oil generated in Idaho on the distributor report nor pay or receive a credit of the transfer fee on used oil generated in Idaho. When used oil is not generated in Idaho it is presumed to be subject to the transfer fee. The distributor ~~must~~ has to report and pay the transfer fee unless an exemption or exclusion applies. (3-31-22)( )

**07. Motor Fuel Distributor License and Limited Distributor License.** Any person holding a motor fuel distributor license issued by the Tax Commission under Title 63, Chapter 24, ~~Title 63~~, Idaho Code, is also licensed for the Transfer Fee. No additional license is ~~required~~ necessary. Any person who receives any petroleum or petroleum products ~~in this state, but Idaho, and~~ who is not a licensed distributor ~~nor required obligated~~ to obtain a motor fuel distributor license ~~applies to the Commission, needs to apply~~ for a limited distributor license with the Tax Commission. The limited distributor license is only for reporting the Transfer Fee. (3-31-22)( )

**08. Mandatory Reporting Requirements.** (3-31-22)( )

**a.** A motor fuel distributor will report and pay the Transfer Fee with the distributor's report ~~required~~ by in accordance with Section 63-2406, Idaho Code. For fuel subject to the taxes imposed by Sections 63-2402 and 63-2408, Idaho Code, the Transfer Fee is included in the ~~report in which the distributor is required to report the tax~~

~~on the distributor report for the~~ same fuel. (3-31-22)( )

b. Persons holding a limited distributor license will file a monthly report ~~with the Commission on forms prescribed by the Commission~~ using Tax Commission prescribed forms on or before the last day of the month following the month to which the report relates. (3-31-22)( )

c. The ~~T~~ransfer ~~F~~ee ~~must has to~~ be reported according to ~~Rule- Section~~ 130 of these rules. (3-31-22)( )

**09. Payment.** (3-31-22)

a. Payment of the fee is due on the due date of the report. For method of payment, including required use of electronic funds transfer, see Rule 010 of these rules. (3-31-22)( )

b. Any partial payment or collection of amounts shown due or ~~required~~ obligated to be shown due on a distributor's report, plus any additional amount of penalty or interest due, is allocated between the motor fuels tax and the ~~T~~ransfer ~~F~~ee in the same proportion that the liability for the tax and the fee bear to the total liability. (3-31-22)( )

511. -- 999. (RESERVED)

## IDAPA 39 – IDAHO TRANSPORTATION DEPARTMENT

### 39.02.03 – RULES GOVERNING VEHICLE DEALER’S PRINCIPAL PLACE OF BUSINESS AND CLAIMS TO THE IDAHO CONSUMER ASSET RECOVERY FUND

DOCKET NO. 39-0203-2401 (ZBR CHAPTER REWRITE)

#### NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

[LINK: LSO Rules Analysis Memo](#)

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2025 Idaho State Legislature and must be approved by concurrent resolution of the Legislature to go into effect, in accordance with Section 67-5224(2)(c), Idaho Code. Should the pending rule be approved, it will become final and effective on July 1 following the First Regular Session of the Sixty-eighth Idaho Legislature, unless the concurrent resolution states a different effective date.

**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 49-1608F(9), 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 clarifies terms used in the statutory definition of “principal place of business” and provides for definitions and processes for payment of claims from the Idaho Consumer Asset Recovery Fund. This rule was reviewed in accordance with the agency’s [Zero-Based Regulation review schedule](#). The proposed edits clarify several provisions and are non-substantive in nature.

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 2, 2024 Idaho Administrative Bulletin, [Vol. 24-10, pages 411-415](#).

**FEE SUMMARY:** Pursuant to Section 67-5224(2)(d), Idaho Code, a pending fee rule shall not become final and effective unless affirmatively approved by concurrent resolution of the Legislature. The following is a description of the fee or charge imposed or increased in this rulemaking: N/A.

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

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Brendan Floyd at 208-334-8474.

DATED this 8th day of November, 2024.

Brendan Floyd  
Policy Specialist  
Idaho Transportation Department  
11331 W. Chinden Blvd.  
Boise, ID 83714  
208-334-8474  
[Brendan.floyd@itd.idaho.gov](mailto:Brendan.floyd@itd.idaho.gov)

**THE FOLLOWING NOTICE PUBLISHED WITH THE PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 49-201(1) and 49-1608F(9), 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 16, 2024.

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 clarifies terms used in the statutory definition of “principal place of business” and provides for definitions and processes for payment of claims from the Idaho Consumer Asset Recovery Fund. This rule was reviewed in accordance with the agency’s Zero-Based Regulation review schedule. The proposed edits clarify several provisions and are non-substantive in nature.

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

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

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the May 1, 2024, Idaho Administrative Bulletin, [Vol. 24-5, pages 236-237](#).

**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 Brendan Floyd at 208-334-8474.

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 23, 2024.

DATED this 30th day of August, 2024.

**THE FOLLOWING IS THE TEXT OF ZBR DOCKET NO. 39-0203-2401**

**39.02.03 – RULES GOVERNING VEHICLE DEALER'S PRINCIPAL PLACE OF BUSINESS  
AND CLAIMS TO THE IDAHO CONSUMER ASSET RECOVERY FUND**

**000. LEGAL AUTHORITY.**

This rule is adopted under the authority of Sections 49-201(1), and 49-1608F(9) Idaho Code ~~and the Vehicle Dealer Act, Chapter 16, Title 49, Idaho Code.~~ (3-31-22)(    )

**001. ~~TITLE AND SCOPE~~ PURPOSE.**

~~01. Title. This rule will be titled IDAPA 39.02.03, "Rules Governing Vehicle Dealer's Principal Place of Business and Claims to the Idaho Consumer Asset Recovery Fund."~~ (3-31-22)

~~02. Scope. This rule clarifies terms used in the definition of "principal place of business" and provisions regarding these terms and prescribes procedures for the payment of claims from the Idaho Consumer Asset Recovery Fund.~~ (3-31-22)(    )

**002. -- 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, r~~ Records ~~shall will~~ 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 will~~ 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 will~~ be made available to the department within 3 business days upon request. The files and records ~~shall will~~ contain but are not limited to: (3-31-22)(    )

- a. Physical or electronic sales invoices for current and two (2) preceding years; (3-31-22)
- b. Physical or electronic copies of purchase orders for vehicles purchased for current and two (2) preceding years; (3-31-22)
- c. Physical or electronic copies of title application forms accessible in numerical order; (3-31-22)
- 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; (3-31-22)
- e. Written or electronic records for loaner plates searchable by date, time or plate number; (3-31-22)
- f. Copies or electronic records of Wholesale Dealer Forms records showing, all transactions, as applicable searchable by date or name of consignee; (3-31-22)
- g. Physical or electronic odometer disclosure records for non-exempt vehicles; and (3-31-22)
- h. Physical or electronic records of consignment agreements, as specified in Section 49-1636, Idaho Code. (3-31-22)
- i. All electronic records ~~must will~~ be created in a secure manner to prevent such records from being altered. Electronic copies of records ~~must will~~ be legible, complete, and an accurate reproduction of the original business record. (3-31-22)(    )

j. All electronic copies of records ~~shall will~~ 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.~~ (3-31-22)(    )

k. Any device, server, network device, or any internal or external storage medium which stores the electronic records ~~must will~~ have security access controls and physical security measures to protect the records from unauthorized access, viewing, or alteration. (3-31-22)(    )

l. Any dealer storing electronic or physical records that contain personal information ~~shall will~~ ensure that disposal of any records be completed in a secure manner, by shredding, erasing, or otherwise modifying the personal information to make it unreadable or undecipherable through any means. (3-31-22)(    )

**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 from fifty (50) feet. 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.~~ (3-31-22)(    )

**03. Telephone.** A ~~business~~ phone that has a publicly published business number ~~and listing in a local telephone directory~~ in the name of the dealership. Business phones ~~shall will~~ 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.~~ (3-31-22)(    )

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

**100. GENERAL PROVISIONS.**

**01. Physical or Electronic Records System Inspection.** A vehicle dealer ~~shall will~~ 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. (3-31-22)(    )

**02. Dealer 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:~~ (3-31-22)(    )

a. The fee ~~must will~~ be clearly identified as a "TITLE FEE"; (3-31-22)(    )

b. The fee ~~must will~~ be shown as the exact amount required by law; (3-31-22)(    )

c. Any documentation fees charged ~~must will~~ 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. (3-31-22)(    )

~~**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;~~ (3-31-22)

**043. Idaho Consumer Asset Recovery (ICAR) Fund.** (3-31-22)

a. All licensed dealers will 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. (3-31-22)

b. The ICAR fund fee will be set by the ICAR Board annually to be effective the following January 1. Such fee ~~shall will~~ be posted on the Department web site and all applicable forms for dealer licensing. (3-31-22)

~~**05. Liability Insurance.** A valid liability insurance policy as required by Section 49-1608A, Idaho Code.~~ (3-31-22)



**064. Declared Business Hours.** 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. ~~All wholesale dealers shall declare in writing to the department the regular hours that their dealerships are open and when they are available to be contacted by the department or their customers.~~  
(3-31-22)( )

**075. Vehicle Dealer License Suspension.** Any dealer not meeting the requirements of ~~the Vehicle Dealer Act~~ Title 49, Idaho Code shall will be subject to suspension of an existing dealer license or refusal by the Department to issue a new dealer license.  
(3-31-22)( )

- a. The Department's agent will give written notice of deficiencies to the dealer or applicant. (3-31-22)
- b. At its discretion the Department may give the licensed dealership a reasonable amount of time to comply. (3-31-22)
- c. Upon compliance, the license will be reinstated or issued. (3-31-22)

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

**200. IDAHO CONSUMER ASSET RECOVERY FUND CONTROL BOARD ADMINISTRATION.**

**01. Quorum.** A majority of the members of the Idaho Consumer Asset Recovery Control (ICAR) Board established pursuant to Section 49-1608C, Idaho Code, constitutes a quorum. A quorum is required for voting on any ICAR claims. The ICAR Board chairman presides over ICAR Board meetings. The ICAR Board operates in compliance with Idaho open meeting laws. (3-31-22)

**02. Voting.** All members of the ICAR Board constituting the quorum are entitled to vote in consideration of any payment of a claim pursuant to Section 49-1608F, Idaho Code. (3-31-22)

**03. Actual Loss or Damages.** As provided for in Section 49-1608E, Idaho Code, "actual loss or damages", means: The total cost to the purchaser, as set forth in a final judgement, of the loss directly resulting in a violation, by a dealer, of the provisions of Title 48, Chapter ~~5~~ 6 or Title 49, Chapter 5 or Section 49-1418, Idaho Code; including such things as repairs, inspections and loss of resale value. The term includes the attorney fees and costs in bringing suit against the dealer, and includes pre-judgement, but not post-judgement interest. "Actual Loss or Damages" ~~shall will~~ not include such things as treble damages, expectation damages nor consequential damages resulting from dealer fraud. (3-31-22)( )

**04. Complete and Complaint Claims.** All ICAR claims will be initiated by filing the complete claim with the Idaho Transportation Department DMV Administrator. When a proper ICAR claim has been received, staff will review the claim for completeness and compliance with these rules and the provisions of Title 49, Chapter 16, Idaho Code. If the claim is complete and in compliance with statute and these rules, the ICAR Board will send notification per Section 49-1608F(5), Idaho Code, to the subject vehicle dealer with a demand that the dealer satisfy the judgement within thirty (30) days. (3-31-22)

a. Should the dealer fail to satisfy the judgment within thirty (30) days of notice from the ICAR Board, staff will provide the ICAR Board and the claimant a staff-recommended amount of the claim. If the claimant agrees with the staff-recommended payment amount, the ICAR Board will issue a final order either adopting or rejecting the staff recommended claim payment amount. (3-31-22)

b. Should the claimant disagree with the proposed amount to be paid on the claim, the claimant may request an administrative hearing under the provisions of Title 67, Chapter 52, Idaho Code, within 10 business days of receipt of notification. The department will appoint a qualified hearing officer to hear the claim, take testimony and review evidence; and issue findings of fact, conclusions of law and provide a recommended order. (3-31-22)

c. Upon receipt of the recommended order from the hearing officer, the ICAR Board will issue a final order either adopting or rejecting the hearing officer's recommendation of the claim payment amount. (3-31-22)

d. Final orders of the ICAR Board may be subject to judicial review under the provision of Title 67, Chapter 52, Idaho Code. (3-31-22)

~~201. -- 299.~~ (RESERVED)

~~300. PENALTIES.~~

~~A dealer violating this rule is subject to license suspension for a period not to exceed six (6) months. (3-31-22)~~

~~301. -- 999.~~ (RESERVED)

## IDAPA 39 – IDAHO TRANSPORTATION DEPARTMENT

### 39.02.75 – RULES GOVERNING NAMES ON DRIVERS' LICENSES AND IDENTIFICATION CARDS

DOCKET NO. 39-0275-2401

#### NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

[LINK: LSO Rules Analysis Memo](#)

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2025 Idaho State Legislature and must be approved by concurrent resolution of the Legislature to go into effect, in accordance with Section 67-5224(2)(c), Idaho Code. Should the pending rule be approved, it will become final and effective on July 1 following the First Regular Session of the Sixty-eighth Idaho Legislature, unless the concurrent resolution states a different effective date.

**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), 49-319(5), and 49-2444(15), 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 provides standardization to record and format names for credentials. The proposed changes align the recording of an individual's name with their verified identity documentation and remove unnecessary and prohibitive language.

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 2, 2024 Idaho Administrative Bulletin, [Vol. 24-10, pages 416-419](#).

**FEE SUMMARY:** Pursuant to Section 67-5224(2)(d), Idaho Code, a pending fee rule shall not become final and effective unless affirmatively approved by concurrent resolution of the Legislature. The following is a description of the fee or charge imposed or increased in this rulemaking: N/A.

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

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Brendan Floyd at 208-334-8474.

DATED this 8th day of November, 2024.

Brendan Floyd  
Policy Specialist  
Idaho Transportation Department  
11331 W. Chinden Blvd.  
Boise, ID 83714  
208-334-8474  
[Brendan.floyd@itd.idaho.gov](mailto:Brendan.floyd@itd.idaho.gov)

**THE FOLLOWING NOTICE PUBLISHED WITH THE PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 49-201(1), 49-319(5), and 49-2444(15), 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 16, 2024.

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 provides standardization to record and format names for credentials. The proposed changes align the recording of an individual's name with their verified identity documentation and remove unnecessary and prohibitive language.

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

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

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the May 1, 2024, Idaho Administrative Bulletin, [Vol. 24-5, pages 236-237](#).

**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 Brendan Floyd at 208-334-8474.

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 23, 2024.

DATED this 30th day of August, 2024.

**THE FOLLOWING IS THE TEXT OF DOCKET NO. 39-0275-2401**

39.02.75 – RULES GOVERNING NAMES ON DRIVERS' LICENSES AND IDENTIFICATION CARDS

001. ~~TITLE AND SCOPE~~ **PURPOSE.**

~~01. Title. This rule is titled IDAPA 39.02.75 "Rules Governing Names on Drivers' Licenses and Identification Cards," IDAPA 39, Title 02, Chapter 75. (3-31-22)~~

~~02. Scope. The purpose of this rule is to provide procedures and criteria for County Sheriffs and the Idaho Transportation Department to record and format names, and to allow surnames and hyphenated names on drivers' licenses and identification cards. (3-31-22)( )~~

002. -- 099. (RESERVED)

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 those allowed by the North American Card Design Standard. (3-31-22)( )~~

~~02. Full Name Requirements. If a full name has more characters than the department automated system allows, the last name and first name must be written out fully. The, and 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 still has more 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. (3-31-22)( )~~

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: (3-31-22)~~

- ~~a. Marriage; (3-31-22)~~
- ~~b. Divorce; or (3-31-22)~~
- ~~c. Court Order. (3-31-22)~~

~~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. (3-31-22)~~

~~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: (3-31-22)( )~~

- ~~a. Birth Certificate; (3-31-22)~~
- ~~b. Court Order; or (3-31-22)~~

c, Divorce Decree. (3-31-22)

**043. 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. (3-31-22)

**054. Married Applicant's Name.** (3-31-22)

a. A married applicant is permitted ~~to use~~ to use either their birth last name or the birth last name of their spouse as the last name or as the middle name, or may hyphenate their current last name with their spouse's last name to form the last name. In no case ~~under any of these stated options shall~~ will any applicant have more than one (1) hyphen in their last name. (3-31-22)( )

b. Married applicants may choose to use different hyphenated last names. (3-31-22)

c. Married applicants who choose to have the same hyphenated last name may hyphenate their last names in any order. (3-31-22)

d. Married applicants who already have hyphenated last names may: (3-31-22)

i. Use the hyphenated name of their spouse or retain their own hyphenated name; or (3-31-22)

ii. Combine part of their own hyphenated name and part of the hyphenated name of their spouse. (3-31-22)

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~~ will provide, ~~as required by the department,~~ the following: (3-31-22)( )

i. A certified copy of a birth certificate; and/or (3-31-22)

ii. A certified copy of a marriage certificate; and/or (3-31-22)

iii. A certified copy of a divorce decree; and/or (3-31-22)

iv. A certified copy of a death certificate. (3-31-22)

**065. Divorced Applicant's Name.** A divorced applicant who wants to use their original birth last 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: (3-31-22)

a. Original certified copy of the birth certificate showing the original last name; or (3-31-22)

b. Original certified copies of the marriage certificate and the divorce decree, as evidence to change the name. (3-31-22)

**076. Applicant's First Name.** An applicant is not allowed to change their first name except by court order. (3-31-22)

**087. 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 includes: (3-31-22)

a. The signatures of both the husband and the wife; (3-31-22)

b. The date they became married under common law; and (3-31-22)

c. Other documents verifying the marriage (subject to the approval of the Idaho Transportation Department). (3-31-22)

**098. 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. (3-31-22)

~~1009.~~ **Titles or Nicknames.** An applicant is not allowed to use titles or nicknames. (3-31-22)

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

**300. PROCEDURES.**

**01. Verification of Name.** First-time applicants for a driver's license or identification card ~~must~~ will provide the County Sheriff's issuing office with one (1) of the following in order to verify their name: ~~(3-31-22)~~ ( )

- a. Original certified copy of the birth certificate; (3-31-22)
- b. Court order; (3-31-22)
- c. Original certified copy of the marriage license; (3-31-22)
- d. Divorce decree (if applicable); (3-31-22)
- e. Driver's license from another state or country that is current or if expired, has been expired for less than five (5) years; or (3-31-22)
- f. A valid, unexpired passport. (3-31-22)

**02. Surrendering Driver's License or Identification Card.** Applicants for license or identification card renewals ~~must~~ or duplicates will surrender the previous driver's license or identification card. Name changes are allowed if the criteria in Section 200 are met. ~~(3-31-22)~~ ( )

~~**03. Surrendering Duplicate Driver's License or Identification Cards.** Applicants for duplicate drivers' licenses or identification cards must surrender the previous driver's license or identification card (if applicable). Name changes are allowed if the criteria in Section 200 are met. (3-31-22)~~

**043. Document Approval by the Department.** Other documents may be accepted to change a name, on approval by the Idaho Transportation Department. (3-31-22)

**301. -- 999. (RESERVED)**

## IDAPA 39 – IDAHO TRANSPORTATION DEPARTMENT

### 39.03.41 – RULES GOVERNING TRAFFIC CONTROL DEVICES

DOCKET NO. 39-0341-2401

#### NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

[LINK: LSO Rules Analysis Memo and Incorporation By Reference Synopsis \(IBRS\)](#)

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2025 Idaho State Legislature and must be approved by concurrent resolution of the Legislature to go into effect, in accordance with Section 67-5224(2)(c), Idaho Code. Should the pending rule be approved, it will become final and effective on July 1 following the First Regular Session of the Sixty-eighth Idaho Legislature, unless the concurrent resolution states a different effective date.

**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 40-312(1), 40-313(2), and 49-201(3), 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:

Pursuant to 23 CFR § 655.603(a)(1) and (3), states are required to be in substantial conformance with the federal Manual on Uniform Traffic Control Devices (MUTCD) within two years of the effective date of the final rule (December 2023). This rule articulates the portions of the MUTCD that Idaho does not comply with.

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 2, 2024 Idaho Administrative Bulletin, [Vol. 24-10, pages 420-442](#).

**FEE SUMMARY:** Pursuant to Section 67-5224(2)(d), Idaho Code, a pending fee rule shall not become final and effective unless affirmatively approved by concurrent resolution of the Legislature. The following is a description of the fee or charge imposed or increased in this rulemaking: N/A.

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

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Brendan Floyd at 208-334-8474.

DATED this 8th day of November, 2024.

Brendan Floyd  
Policy Specialist  
Idaho Transportation Department  
11331 W. Chinden Blvd.  
Boise, ID 83714  
208-334-8474  
[Brendan.floyd@itd.idaho.gov](mailto:Brendan.floyd@itd.idaho.gov)



**THE FOLLOWING NOTICE PUBLISHED WITH THE PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 40-312(1), 40-313(2), and 49-201(3), 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 16, 2024.

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:

Pursuant to 23 CFR § 655.603(a)(1) and (3), states are required to be in substantial conformance with the federal Manual on Uniform Traffic Control Devices (MUTCD) within two years of the effective date of the final rule (December 2023). This rule articulates the portions of the MUTCD that Idaho does not comply with.

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

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

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the July 3, 2024, Idaho Administrative Bulletin, [Vol. 24-7, pages 273-274](#).

**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:

Pursuant to the federal statute cited under the “Descriptive Summary,” all states must substantially conform to the federal Manual on Uniform Traffic Control Devices (MUTCD). Idaho Code 49-201(3) requires the Transportation Board to adopt a manual for a system of traffic control devices that conforms, so far as possible, with the specifications set forth in the MUTCD. This rule incorporates the MUTCD by reference and articulates the instances where Idaho does not fully comply with the manual, which is permissible under the “substantial conformance” provisions in CFR. Providing this material through administrative rule allows for stakeholder engagement and feedback throughout the review process.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Brendan Floyd at 208-334-8474.

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 23, 2024.

DATED this 30th day of August, 2024.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 39-0341-2401

39.03.41 – RULES GOVERNING TRAFFIC CONTROL DEVICES

000. LEGAL AUTHORITY.

The Idaho Transportation Board adopts this rule under the authority of Section 40-312(1), Idaho Code, to meet the provisions of Sections 40-313(1) and 49-201(3), Idaho Code. (3-31-22)

001. ~~TITLE AND SCOPE~~ PURPOSE.

~~01. Title. This rule is titled IDAPA 39.03.41, “Rules Governing Traffic Control Devices,” IDAPA 39, Title 03, Chapter 41. (3-31-22)~~

~~02. Scope. It is the purpose of t~~This rule ~~to~~ establish~~s~~ standards, guidance, options, and supporting information for the design, construction, and implementation of traffic control devices. (3-31-22)(    )

002. – 003. (RESERVED)

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 ~~2009 11th~~ edition ~~including revisions 1 and 2~~ of the Manual with an effective date of ~~June 13, 2012~~ **January 18, 2024**, 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: (3-31-22)(    )

~~01. Section 1A.10, Interpretations, Experimentations, Changes, and Interim Approvals. On page 7, delete paragraphs 19 and 20. (3-31-22)~~

~~021. Section 1A.1105, Relation to Other Documents. (3-31-22)(    )~~

a. On page ~~7~~**3**, replace paragraph 01 as follows:

**01** 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 publication~~, the Idaho Transportation Department Supplement to the “Standard Highway Signs ~~and Markings~~” ~~book publication~~; 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).

(3-31-22)(    )

~~b. Add the following to the end of paragraph 04:~~

~~43. “Standards and Procedures for Specific Service Signs,” 20XX Edition (ITD)  
44. “Standards and Procedures for Tourist Oriented Directional Signs (TODS) for Motorist Services Facilities Along the State Highway System Except Fully Controlled Access Highways,” 20XX Edition (ITD)~~

(3-31-22)

**03:** ~~02. Section 1B.02 State Adoption and Conformance. On page 4, insert the following after paragraph~~

04: Photo enforcement is not used in Idaho. All signs, pavement markings, signals, and other traffic control devices pertaining exclusively to photo enforcement in this manual are not applicable in Idaho and shall not be used.

05: High-occupancy vehicle lanes are not used in Idaho. All signs, pavement markings, signals, and other traffic control devices pertaining exclusively to high-occupancy vehicle lanes in this manual are not applicable in Idaho and shall not be used.

06: Light rail transit is not used in Idaho. All signs, pavement markings, signals, and other traffic control devices pertaining exclusively to light rail transit in this manual are not applicable in Idaho and shall not be used.

07: Toll facilities and priced managed lanes are not used in Idaho. All signs, pavement markings, signals, and other traffic control devices pertaining exclusively to toll facilities and/or priced managed lanes are not applicable in Idaho and shall not be used.

( )

03. Section 1B.06 Changes to the MUTCD. On page 9, paragraph 04, replace the phrase “future for consideration in the next rulemaking” with “future rulemaking.” ( )

04. Section 1B.07 Interim Approvals. On page 11, delete paragraph 11. ( )

05. Section 1C.02 Definitions of Words and Phrases Used in this Manual. On page 17, add the following to definition 77:

Where used in Idaho Code, the terms “traffic engineering study,” “traffic study,” “engineering and traffic investigation,” “engineering or traffic investigation,” and “engineering and traffic study” shall mean the same as “engineering study.”

( )

~~036. Table 2B-1. Regulatory Sign and Plaque Sizes.~~ On page 46, remove R1-5b, “Stop Here for Peds,” R1-5c, “Stop Here for Pedestrians,” R1-6a, and R1-9a. (3-31-22)( )

a. On page 68, delete line 8. ( )

b. On page 68, line 9, delete “(Stop Here for)” from the first column and delete “.5e” from the second column. ( )

c. On page 68, line 10, delete “(Stop)” from the first column and delete “.6a” from the second column. ( )

d. On page 68, line 11, delete “(Stop)” from the first column and delete “.6e” from the second column. ( )

e. On page 68, line 12, delete “(Stop)” from the first column and delete “.9a” from the second column. ( )

f. On page 68, line 16, add “.201P” after “2P.” ( )

g. On page 68, delete lines 17, 18 and 28. ( )

h. On page 72, line 7, replace “All-Terrian” with “All-Terrain.” ( )

i. On page 73, line 18, replace “R13-1” with “R13-101;” replace both instances of “72 x 54” with

“108 x 48;” replace “96 x 72” with “144 x 60;” and replace “132 x 90” with “180 x 84.” ( )

j. On page 73, after the “Weight Limit” (R12-5) sign, insert a “Trailer Length Limit” sign with “R12-501” in the Sign Designation column, “2B.64” in the Section column, and “60 x 42” in each of the Conventional Road columns. ( )

k. On page 73, to the bottom of the table, add a “Chains Required on Non-Exempt Commercial Vehicles” sign with “R16-201” in the Sign Designation column, “2B.69a” in the Section column, “132 x 72” in both Conventional Road columns and the Freeway column. ( )

**07.** **Section 2B.10 Yield Control.** On page 77, replace paragraph 02 as follows:

02 Yield control should be considered when engineering judgment indicates that all of the following conditions exist:

A. Intersection sight distance is adequate on the approaches to be controlled by YIELD signs.

B. All approaches to the intersection are a single lane and there are no separate turn lanes.

C. One of the following crash-related criteria applies:

1. For changing from no intersection control to yield control, there have been two or more reported crashes in the previous 12 months that are susceptible to correction by the installation of a YIELD sign.

2. For changing from minor road stop control to yield control, there have been two or fewer reported crashes in the previous 12 months.

D. The combined motor vehicle, bicycle, and pedestrian volume entering the intersection averages less than 1,800 units per day or 140 units in the peak hour.

E. The angle of intersection is between 90 and 75 degrees.

F. The functional classification of the intersecting streets is either the intersection of two local streets or the intersection of a local street with a collector street.

( )

**048.** **Section 2B.149, Yield Here To Pedestrians Signs and Stop Here For Pedestrian Signs (R1-5 Series).** On page 5481 ~~delete “and Stop Here For Pedestrian” from the title. R~~replace the Section with the following:

**Section 2B.19 Yield Here To Pedestrians Signs (R1-5 Series)**

Support:

01 The R1-5 series signs are intended to mitigate the scenario that can place pedestrians at risk by blocking other drivers’ view of pedestrians and by blocking the pedestrians’ view of the vehicles approaching in the adjacent lanes.

02 State law requires drivers to yield to a pedestrian in an uncontrolled crosswalk.

**Standard:**

**043** Yield Here To Pedestrians (R1-5, R1-5a, and R1-5d) signs (see Figures 2B-2 and 7B-1) shall be used if yield lines are used in advance of a marked crosswalk that crosses an uncontrolled multi-lane approach. The legend Stop Here For Pedestrians shall not be used. **The legend STATE LAW shall not be displayed on the R1-5 series signs.**

Support:

02 Idaho law requires drivers to yield to a pedestrian in an uncontrolled crosswalk.

**Section 2B.19 Yield Here To Pedestrians Signs (R1-5 Series)**

Guidance:

~~034~~ If yield lines and Yield Here To Pedestrian signs are used in advance of a crosswalk that crosses an uncontrolled multi-lane approach, they should be placed 20 to 50 feet in advance of the nearest crosswalk line (see Section 3B.169 and Figure 3B-176), ~~and parking should be prohibited in the area between the yield line and the crosswalk.~~

~~04~~ Yield lines and Yield Here To Pedestrian signs should not be used in advance of crosswalks that cross an approach to or departure from a roundabout.

**Standard:**

**05** When used with a School Crossing assembly within school zones (see Part 7), the R1-5a sign shall be used in place of the R1-5 sign in accordance with Paragraph 03 of this Section.

**06** When used with a Trail Crossing assembly (see Section 2C.54), the R1-5d sign shall be used in place of the R1-5 sign in accordance with Paragraph 03 of this Section.

*Guidance:*

~~07~~ When Yield Here to Pedestrians signs are provided in advance of a crosswalk across a multi-lane approach, parking should be prohibited in the area between the yield line and the crosswalk.

~~08~~ Yield lines and Yield Here To Pedestrian signs should not be used in advance of crosswalks that cross an approach to or departure from a roundabout.

Option:

~~059~~ Yield Here To Pedestrian signs may be used in ~~advance of a crosswalk that crosses an uncontrolled multi-lane approach to indicate to road users where to yield~~ **in accordance with Paragraphs 03 through 05 of this Section** even if yield lines are not used.

~~0610~~ A Pedestrian Crossing (W11-2) warning sign may be placed overhead or may be post-mounted with a diagonal downward pointing arrow (W16-7P) plaque at the crosswalk location where Yield Here To Pedestrian signs have been installed in advance of the crosswalk.

~~07~~ The legend STATE LAW may be displayed at the top of the R1-5 and R1-5a signs.

**Standard:**

**0811** If a W11-2 sign has been post-mounted at the crosswalk location where a Yield Here To Pedestrians sign is used on the approach, the Yield Here To Pedestrian sign shall not be placed on the same post as or block the road user's view of the W11-2 sign.

Option:

~~0912~~ An advance Pedestrian Crossing (W11-2) warning sign with an AHEAD or a distance supplemental plaque may be used in conjunction with a Yield Here To Pedestrians sign on the approach to the same crosswalk.

~~1013~~ In-Street Pedestrian Crossing signs and Yield Here To Pedestrian signs may be used together at the same crosswalk.

(3-31-22)( )

**059**. Section 2B.~~120~~, In-Street and Overhead Pedestrian **and Trail** Crossing Signs (R1-6, ~~R1-6a~~, R1-9, and R1-9a **Series**). (3-31-22)( )

- a. On page ~~5581~~ delete R1-6a and R1-9a from the title. Replace paragraph 01 as follows:

Option:

01 The In-Street Pedestrian Crossing (R1-6) sign (see Figure 2B-2) ~~or, In-Street Trail Crossing (R1-6d) sign (see Figure 2B-2),~~ the Overhead Pedestrian Crossing (R1-9) sign (see Figure 2B-2), ~~or the Overhead Trail Crossing (R1-9d) sign (see Figure 2B-2)~~ may be used to remind road users of laws regarding right-of-way at an unsignalized pedestrian crosswalk. The legend STATE LAW may be displayed at the top of the R1-6 and R1-9 signs. On the R1-6 sign, the legend YIELD may be used instead of the appropriate YIELD sign symbol.

(3-31-22)( )

- b. On page 5683, replace paragraphs ~~08 and 09~~ and add paragraph ~~09a~~ 03 as follows:

Standard:

~~08 The In-Street Pedestrian Crossing sign and the Overhead Pedestrian Crossing sign shall not be used at crosswalks on approaches controlled by a traffic control signal, pedestrian hybrid beacon, or an emergency vehicle hybrid beacon.~~

093 The legend STOP FOR PEDESTRIANS legend shall not be used on In-Street Pedestrian Crossing signs or Overhead Pedestrian Crossing signs.

Support:

~~09a Idaho law requires drivers to yield to a pedestrian in an uncontrolled crosswalk.~~

(3-31-22)( )

- c. On page 5683, add paragraph ~~H~~06a as follows:

~~11a The In-Street Pedestrian Crossing sign or the Overhead Pedestrian Crossing sign may be used at intersections or midblock pedestrian crossings with flashing beacons.~~

Support:

~~06a State law requires drivers to yield to a pedestrian in an uncontrolled crosswalk.~~

(3-31-22)( )

- ~~d.~~ On page 56, replace paragraph 15 as follows:

~~15 In-Street Pedestrian Crossing signs, Overhead Pedestrian Crossing signs, and Yield Here To Pedestrian signs may be used together at the same crosswalk.~~

(3-31-22)

0610. Figure 2B-2. Unsignalized Pedestrian Crosswalk Signs. On page 5582, delete signs R1-5b, R1-5c, R1-6a, R1-6c, and R1-9a, and R1-9c.

(3-31-22)( )

~~07. Section 2B-69, SLOW AND MOVE OVER FOR STOPPED VEHICLES WITH FLASHING LIGHTS (R16-101) sign.~~ On page 102, add the following section:

Support:

~~01 State law requires drivers approaching stationary police, emergency, tow truck, or highway incident response vehicles to slow on two-lane highways and to slow and move over on multi-lane highways.~~

Option:

~~02 The SLOW AND MOVE OVER FOR STOPPED VEHICLES WITH FLASHING LIGHTS (R16-101) sign (see Figure 2B-33) may be used to inform road users of the state law on multi-lane highways.~~

**Standard:**

~~03 If used, the SLOW AND MOVE OVER FOR STOPPED VEHICLES WITH FLASHING LIGHTS sign shall only be used on highways with two or more lanes in each direction.~~

**Option:**

~~04 The legend STATE LAW may be displayed at the top of the SLOW AND MOVE OVER FOR STOPPED VEHICLES WITH FLASHING LIGHTS sign.~~

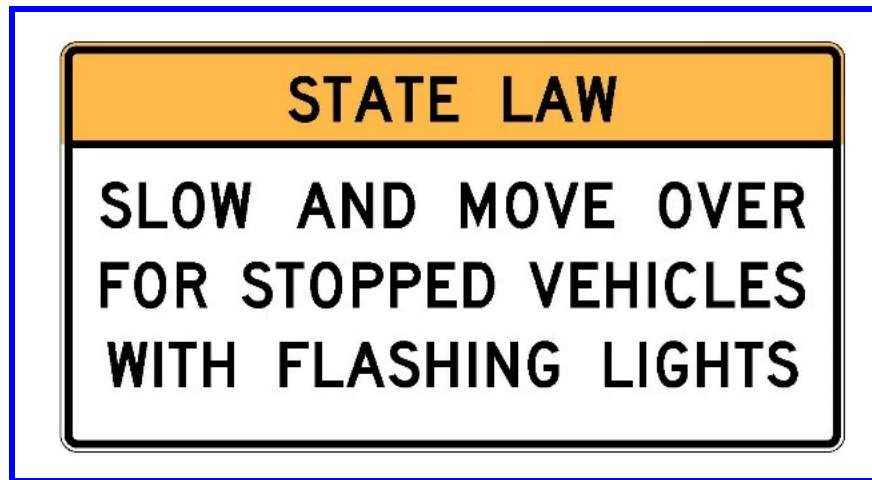
**Standard:**

~~05 If used, the legend STATE LAW shall be black with a black border on a yellow background.~~

(3-31-22)

~~08. Figure 2B-33. Slow and Move Over for Stopped Vehicles with Flashing Lights Sign. On page 102, add the following figure:~~

~~Figure 2B-33. Slow And Move Over For Stopped Vehicles With Flashing Lights Sign~~



(3-31-22)

~~11. Section 2B.21 Speed Limit Sign (R2-1). On page 85, paragraph 18, replace the phrase "Traffic Control Device Handbook" with "ITE Traffic Control Device Handbook – 2nd Edition, 2013." ( )~~

~~12. Figure 2B-3. Speed Limit Signs and Plaques. On page 86, delete signs R2-2aP, R2-2bP, R2-2cP, R2-6aP, and R2-10 and add the following sign:~~



~~R2-201P~~

( )

**13. Section 2B.22 Vehicle Speed Limit Plaques (R2-2P Series).** On page 87: ( )

**a.** Replace paragraph 01 with the following:

**01** Where a special speed limit applies to trucks, the Truck Speed Limit (R2-2P) plaque shall be displayed below the Speed Limit (R2-1) sign, except as provided in Paragraph 2 of this Section.

( )

**b.** Replace paragraph 03 with the following:

**03** A 5 AXLES OR MORE OVER 13 TONS (R2-201P) plaque (see Figure 2B-3) may be used beneath the Truck Speed Limit Plaque (R2-2P) to reiterate the statutory definition of trucks.

( )

**14. Section 2B.25 Higher Fines Signs and Plaque (R2-6P, R2-10, and R2-11).** On pages 87-88, replace the section with the following:

**Section 2B.25 Higher Fines Sign and Plaque (R2-6P and R2-11)**

**Standard:**

**01** Except as provided in Paragraph 3 of this Section, if increased fines are imposed for traffic violations within a designated zone of a roadway, a FINES HIGHER (R2-6P) plaque (see Figure 2B-3) shall be used to provide notice to road users.

**02** If an R2-6P plaque is posted to provide notice of increased fines for traffic violations, an END HIGHER FINES ZONE (R2-11) sign (see Figure 2B-3) shall be installed at the downstream end of the zone to provide notice to road users of the termination of the increased fines zone.

*Guidance:*

**03** *The FINES HIGHER plaque should be located at the beginning of the temporary traffic control zone and just beyond any interchanges, major intersections, or other major traffic generators.*

**Standard:**

**04** The Higher Fines signs and plaque shall have a black legend and border on a white rectangular background. All supplemental plaques mounted below the Higher Fines signs and plaque shall have a black legend and border on a white rectangular background.

**05** The FINES HIGHER plaque shall be mounted below an applicable regulatory or warning sign in a temporary traffic control zone (see Section 6G.08), a school zone (see Section 7B.06), or other applicable designated zone.



**Section 2B.25 Higher Fines Sign and Plaque (R2-6P and R2-11)**

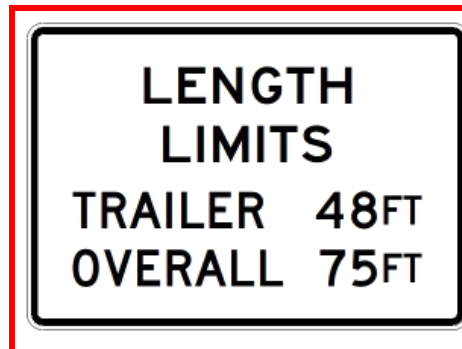
Option:  
06 The legend FINES HIGHER on the R2-6P plaque may be replaced by \$XX FINE (R2-6bP), or another legend appropriate to the specific regulation (see Figure 2B-3).  
07 The following, listed in order of preference, may be mounted below an R2-6P plaque:  
A. A WHEN FLASHING (S4-4P) plaque (see Figure 7B-1) if used in conjunction with a Speed Limit Sign Beacon (see Section 4S.04), or  
B. A TIME OF DAY (S4-1P) plaque (see Figure 7B-1) specifying the times that the higher fines are in effect, if supplemented by an S4-6P plaque indicating the days of the week the higher fines are in effect, or  
C. A WHEN CHILDREN ARE PRESENT (S4-2P) plaque (see Figure 7B-1), if supplemented by an S4-6P plaque indicating the days of the week the speed limit is in effect.

( )

15. **Road Closed, Weight Limit, and Trailer Length Limit Signs.** On page 136, change the heading at the top of the page to “ROAD CLOSED, WEIGHT LIMIT AND TRAILER LENGTH LIMIT SIGNS.”

( )

16. **Figure 2B-30. Road Closed and Weight Limit Signs.** On page 136, change the figure title to “Figure 2B-30. Road Closed, Weight Limit and Trailer Length Limit Signs” and add the following sign:



**R12-501**

( )

17. **Section 2B.64 Weight Limit Signs (R12-1 through R12-7).** On page 137, change the section title to “Section 2B.64 Weight Limit and Trailer Length Limit Signs (R12-1 through R12-7 and R12-501)” and add paragraph 07a as follows:

07a A TRAILER LENGTH LIMIT (R12-501) sign (see Figure 2B-30) may be used in advance of highways with length restrictions.

( )

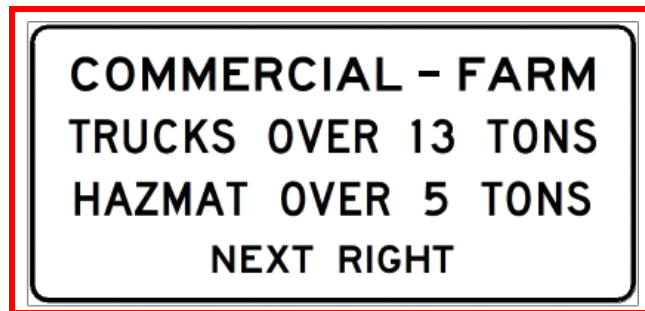
18. **Section 2B.65 Weigh Station Sign (R13-1).** On page 138, change the sign designation in the section title to “R13-101” and replace paragraphs 01 and 02 with the following:

Guidance:

01 An R13-101 sign with the legend **COMMERCIAL – FARM TRUCKS OVER 13 TONS HAZMAT OVER 5 TONS NEXT RIGHT (LEFT)** (see Figure 2B-31) should be used to direct appropriate traffic into an inspection station.

02 The R13-101 sign should be supplemented by the D8 series of guide signs (see Section 2D.51).

19. **Figure 2B-31. Truck Signs.** On page 139, replace the R13-1 sign with the following: ( )



**R13-101** ( )

20. **Succeeding Section 2B.69.** On page 140, after Section 2B.69, add a new section as follows: ( )

~~09.~~ ~~Section 2B.70, CHAINS REQUIRED ON NON-EXEMPT COMMERCIAL VEHICLES (R16-201) sign.~~ On page 102, add the following section:

**Section 2B.69a. CHAINS REQUIRED ON NON-EXEMPT COMMERCIAL VEHICLES (R16-201) sign**

**Standard:**

01 When required by state law, CHAINS REQUIRED ON NON-EXEMPT COMMERCIAL VEHICLES (R16-201) signs (see Figure 2B-34) shall be installed ~~when mountain passes are determined to be unsafe by the Idaho Transportation Department. If used,~~ two or more CHAINS REQUIRED ON NON-EXEMPT COMMERCIAL VEHICLES signs shall be installed in advance of an area that has been provided for drivers to pull off of the highway to install chains on their tires (see Section 2I.07).

**Support:**

- 02 Commercial vehicles required to use chains include:
- Vehicles with a combined weight in excess of 26,000 pounds including a trailer with a rating of more than 10,000 pounds
  - Vehicles with weight in excess of 26,000 pounds
- 03 Commercial vehicles exempt from chain requirements include:
- Idaho Transportation Department vehicles used in the maintenance of the highway
  - School busses or other vehicles used to transport school children and teachers
  - Vehicles used by farmers to transport agricultural products, supplies, or farm equipment
  - Mail carrier vehicles
  - Motor carriers transporting forest products or chips
  - Motor carriers transporting mining products including sand, gravel, and aggregates, but not petroleum products
  - Tow trucks

**Section 2B.69a. CHAINS REQUIRED ON NON-EXEMPT COMMERCIAL VEHICLES (R16-201) sign**

**Standard:**  
**04** The CHAINS REQUIRED ON NON-EXEMPT COMMERCIAL VEHICLES signs shall be removed or covered when the condition no longer applies.  
**05** The CHAINS REQUIRED ON NON-EXEMPT COMMERCIAL VEHICLES sign shall have a black legend and border on a white background.  
**Option:**  
**06** The legend STATE LAW may be displayed at the top of the CHAINS REQUIRED ON NON-EXEMPT COMMERCIAL VEHICLES sign.  
**Standard:**  
**07** If used, the legend STATE LAW shall be black with a black border on a yellow background.

(3-31-22)

~~10. Figure 2B-34. Chains Required on Non-Exempt Commercial Vehicles Sign. On page 102, add the following figure:~~

Figure 2B-34~~2~~. Chains Required On Non-Exempt Commercial Vehicles Sign



**R16-201**

(3-31-22)( )

~~11. Section 2D.43, Street Name Signs (D3-1 or D3-1a). (3-31-22)~~

~~a. On page 162, change the fifteenth paragraph under the Option statement to read as follows: The border may be omitted from a Street Name sign except on State Highways. (3-31-22)~~

~~12. Table 2E-1, Freeway or Expressway Guide Sign and Plaque Sizes. On page 186, replace the first 16 lines of the table with the following:~~

Sign or Plaque	Sign Designation	Section	Minimum Size
Exit Number (plaque)			
1-, 2-Digit Exit Number	E1-5P	2E-31	114 x 36

<b>Sign or Plaque</b>	<b>Sign Designation</b>	<b>Section</b>	<b>Minimum Size</b>
3-Digit Exit Number	E1-5P	2E-31	132 x 36
1-, 2-Digit Exit Number (with single letter suffix)	E1-5P	2E-31	138 x 36
3-Digit Exit Number (with single letter suffix)	E1-5P	2E-31	156 x 36
1-, 2-Digit Exit Number (with dual letter suffix)	E1-5P	2E-31	168 x 36
3-Digit Exit Number (with dual letter suffix)	E1-5P	2E-31	186 x 36
Left (plaque)	E1-5aP	2E-33	72x36
Left Exit Number (plaque)			
1-, 2-Digit Exit Number	E1-5bP	2E-31	114 x 60
3-Digit Exit Number	E1-5bP	2E-31	132 x 60
1-, 2-Digit Exit Number (with single letter suffix)	E1-5bP	2E-31	138 x 60
3-Digit Exit Number (with single letter suffix)	E1-5bP	2E-31	156 x 60
1-, 2-Digit Exit Number (with dual letter suffix)	E1-5bP	2E-31	168 x 60
3-Digit Exit Number (with dual letter suffix)	E1-5bP	2E-31	186 x 60

(3-31-22)

**13. Section 2E-31, Interchange Exit Numbering.** On page 212, substitute the following for the fourth sentence of paragraph 04: “The 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.” (3-31-22)

**21. Table 2C-1, Warning Sign and Plaque Sizes.** ( )

**a.** On page 149, after the “Bridge Ices Before Road” (W8-13) sign, insert a “Chains Recommended When Icy” sign with “W8-1301” in the Sign Designation column, “2C.30” in the Section column, “30 x 30” in the Conventional Road Single Lane column, “36 x 36” in the Conventional Road Multi-Lane column, and “48 x 48” in the Expressway and Freeway columns. ( )

**b.** On page 150, after the “Ahead (plaque)” (W16-9P) plaque, insert an “Open Range” plaque with “W16-901P” in the Sign Designation column, “2C.57” in the Section column, and “30 x 24” in all road type columns. ( )

**22. Figure 2C-2, Examples of Warning Signs for Changes in Horizontal Alignment (Sheet 1 of 2).** On page 156: ( )

**a.** Replace the “30 MPH” legends for signs W13-1P and W13-1aP with “35 MPH.” ( )

**b.** Replace “30-mph” in Note 4 with “35-mph.” ( )

**23. Section 2C.12 Advisory Exit and Ramp Speed Signs (W13-2 and W13-3) and Combination Horizontal Alignment/Advisory Exit and Ramp Speed Signs (W13-6 through W13-13).** On page 160, add the word “Speed” after the words “Alignment/Advisory Exit” in the second sentence of paragraph 09. ( )

**24. Section 2C.57 Use of Supplemental Warning Plaques.** On page 195, add the following after paragraph 03:

<u>Option:</u>
<u>04</u> The OPEN RANGE (W16-901P) plaque (see Figure 2C-16) may be used with the Cattle (W11-4) or Sheep (W11-17) Non-Vehicular Warning signs.
<u>Support:</u>
<u>05</u> Open range is defined as “all unenclosed lands outside of cities, villages and herd districts, upon which by custom, license, lease, or permit are grazed or permitted to roam.”
<u>Guidance:</u>
<u>06</u> Use of the OPEN RANGE plaque should be limited to areas defined in paragraph 05 of this section.

( )

- 25.** Figure 2C-16. Supplemental Warning Plaques. On page 195, add the following sign:



( )

- 26.** Section 2D.03 Size of Signs. On page 206, add “The dimensions of signs on extruded aluminum substrate may be increased to the nearest increment of 12 inches.” to the end of paragraph 03. ( )

- 27.** Table 2D-1. Conventional Road Guide Sign and Plaque Sizes. On page 208, add a Slow Vehicle Turn Out sign with “D17-701” in the Sign Designation column, “2D.54” in the Section column, “72 x 36” in the Conventional Road column, and “96 x 60” in the Oversized column to the bottom of the table. ( )

- 28.** Table 2D-2. Recommended Minimum Letter and Numeral Sizes for Conventional Road Guide Signs According to Speed\* (Sheet 2 of 2) B - Overhead-Mounted Signs. On page 211, replace the text “Interstate, U.S., State, or Off-Interstate Business Route Signs” with the text “Interstate or Off-Interstate.” ( )

- 29.** Figure 2D-2. Examples of Uses of Abbreviations on Guide Signs. On page 212, change the sentence that reads ““South” is a cardinal direction and may be abbreviated.” to ““South” is a pre-directional designation and may be abbreviated.” ( )

- 30.** Section 2D.08 Arrows. On page 215, replace the reference to “Section 2D.41” in paragraph 25 with “Section 2E.41.” ( )

- 31.** Section 2D.25 Temporary Detour Signs and Auxiliary Plaques. On page 221, replace paragraph 01 with the following:

<u>01</u> Chapters 6H and 6I contain information regarding Temporary Detour signs and auxiliary plaques.
--

( )

- 32.** Section 2D.51 WEIGH STATION Signing (D8 Series). On page 261: ( )

- a.** Replace the “D8-1” sign references in paragraph 07 with the words “D8-1 Series.” ( )

- b.** Replace paragraph 05 with the following:

05 A Weigh Station (R13-101) regulatory sign (see Section 2B.65) may be located following the Advance Weigh Station Ahead sign (see Figure 2D-23).

( )

- 33.** Figure 2D-23. Example of Weigh Station Signing – Conventional Road. On page 262, replace the R13-1 sign with an R13-101 sign and delete the double asterisk and associated note.

( )

- 34.** Section 2D.54 Emergency and Slow Vehicle Turn-Out Signs (D17-5 through D17-7). On page 266, add a new paragraph 02a as follows:

02a In addition to the SLOW VEHICLE TURN-OUT (D17-7) sign, a SLOW VEHICLE TURN-OUT (D17-701) sign with a directional arrow (see Figure 2D-28) may be used immediately before the turn-out.

( )

- 35.** Figure 2D-28. Emergency and Slow Vehicle Turn-Out Signs. On page 266, add the following sign:



( )

- 36.** Section 2E.12 Size of Signs and Letters. On page 293, add “The dimensions of signs on extruded aluminum substrate may be increased to the nearest increment of 12 inches.” to the end of paragraph 03.

( )

- 37.** Section 2E.54 Weigh Station Signing. On page 370, replace paragraph 05 with the following:

05 A Weigh Station (R13-101) regulatory sign (see Section 2B.65) may be added to the sign sequence as shown in Figure 2E-59.

( )

- 38.** Figure 2E-59. Example of Weigh Station Signing on Freeways. On page 372, replace the R13-1 sign with an R13-101 sign and delete the associated note.

( )

- 39.** Section 2I.03 General Service Signs for Freeways and Expressways. On page 482, remove the bold font from paragraph 26 to indicate an Option statement.

( )

- 440.** Section 2M.10, Memorial or Dedication Signing. On page 339, replace the section with the following:

Support:

01 ~~Legislative bodies will occasionally adopt an act or resolution memorializing or dedicating a highway, bridge, or other component of the highway.~~ State law identifies the following as memorial highways or bridges in Idaho:

- Bennett Bay Bridge on I-90 as the “Veterans Memorial Centennial Bridge.”
- US-93 bridge over the Snake River as the “I.B. Perrine Bridge.”
- US-95 between Midvale and Cambridge as the “Stu Dopf Memorial Highway.”
- I-90 as the Purple Heart Trail
- SH-3 as the “North Idaho Medal of Honor Highway.”
- I-84 as the “Vietnam Veterans Memorial Highway.”
- US-20 as the “Idaho Medal of Honor Highway.”
- US-26 as the “POW/MIA Memorial Highway.”
- SH-6 between US-95 and the western city limits of the city of Potlatch as the “Bobby Chambers Memorial Highway.”

Guidance:

02 ~~Except as provided in Paragraphs 03 and 04, memorial or dedication names should not appear on or along a highway, or be placed on bridges or other highway components. If a route, bridge, or highway component is officially designated as a memorial or dedication, and if notification of the memorial or dedication is to be made on the highway right-of-way, such notification should consist of installing a memorial or dedication marker in a rest area, scenic overlook, recreational area, or other appropriate location where parking is provided with the signing inconspicuously located relative to vehicle operations along the highway.~~

Option:

03 ~~If the installation of a memorial or dedication marker off the main roadway is not practical, memorial or dedication signs may be installed on the mainline.~~

Guidance:

04 ~~Except as provided in paragraphs 06 and 07, freeways and expressways should not be signed as memorial or dedicated highways.~~

Standard:

05 ~~Where memorial or dedication signs are installed on the mainline, (1) memorial or dedication names shall not appear on directional guide signs, (2) memorial or dedication signs shall not interfere with the placement of any other necessary signing, and (3) memorial or dedication signs shall not compromise the safety or efficiency of traffic flow. Except as provided in paragraph 07, the memorial or dedication signing shall be limited to one sign at an appropriate location in each route direction, each as an independent sign installation. Sign location shall be determined by engineering judgement.~~

06 ~~Memorial or dedication signs shall be installed for the Veterans Memorial Centennial Bridge, I B Perrine Bridge, and North Idaho Medal of Honor Highway.~~

07 ~~The Purple Heart Trail, Vietnam Veterans Memorial Highway, and Idaho Medal of Honor Highway shall have memorial or dedication signs installed at each end of the highway and at intermediate locations along the highway.~~

Guidance:

08 ~~Memorial or dedication signs should have a white legend and border on a brown background.~~

**Standard:**

~~09 Memorial or dedication signs shall be rectangular in shape. The legend displayed on memorial or dedication signs shall be limited to the name of the person or entity being recognized and a simple message preceding or following the name, such as "Dedicated to" or "Memorial Parkway." Additional legend, such as biographical information, shall not be displayed on memorial or dedication signs. Except as provided in paragraph 10, decorative or graphical elements, pictographs, logos, or symbols shall not be displayed on memorial or dedication signs. All letters and numerals displayed on memorial or dedication signs shall be as provided in the "Standard Highway Signs and Markings" book (see Section 1A.11). The route number or officially mapped name of the highway shall not be displayed on the memorial or dedication sign~~

~~10 The design of the Idaho Medal of Honor Highway sign shall include three different designs of the medal of honor.~~

**Option:**

~~11 The lettering for the name of the person or entity being recognized may be composed of a combination of lower case letters with initial upper case letters.~~

**Standard:**

~~12 Memorial or dedication names shall not appear on supplemental signs or on any other information sign on or along the highway or its intersecting routes.~~

**Support:**

~~13 Named highways are officially designated and shown on official maps and serve the purpose of providing route guidance, primarily on unnumbered highways. A highway designated as a memorial or dedication is not considered to be a named highway. Section 2D-53 contains provisions for the signing of named highways.~~

(3-31-22)( )

**15. Section 2J.11, Signing Policy.** On page 319, add the following after paragraph 01:

**Support:**

~~01a The Idaho Transportation Department's specific service signs policy can be found in "Standards and Procedures for Specific Service Signs" (see Section 1A.11).(X XX 19)~~

(3-31-22)

**16. Section 2K.07, State Policy.** On page 324, add the following after paragraph 02:

**Support:**

~~03 The Idaho Transportation Department's tourist-oriented directional signing policy can be found in "Standards and Procedures for Tourist Oriented Directional Signs (TODS) for Motorist Services Facilities Along the State Highway System Except Fully Controlled Access Highways" (see Section 1A.11).~~

(3-31-22)

~~17. Section 4D.04, Meaning of Vehicular Signal Indications.~~ On page 451 in the second paragraph of Item C.1, substitute the following for the first sentence: "Except when a traffic control device is in place prohibiting a turn on red or a steady RED ARROW signal indication is displayed, vehicular traffic facing a steady CIRCULAR RED signal indication is permitted to enter the intersection to turn right or turn left from a one-way or two-way street into a one-way street, after stopping."  
(3-31-22)

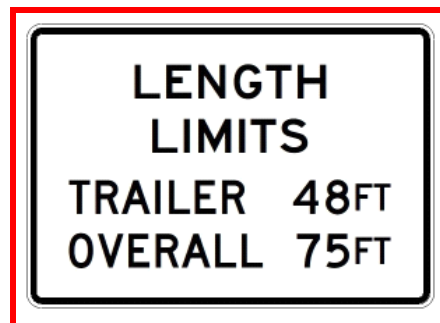
~~18. Table 6F-1, Temporary Traffic Control Zone Sign and Plaque Sizes.~~ On page 578, remove R2-6aP, "Begin Higher Fines Zone," R2-6bP, "Fines Double (plaque)," and R2-10, "\$XX Fine (plaque)."  
(3-31-22)

**41. Section 3B.01 Yellow Center Line Pavement Markings.** On page 540: ( )

**a. Change the word "Guidance" between paragraphs 06 and 07 to "Support."** ( )



- b.** Remove the italics from paragraph 07 to indicate a Support statement. ( )
- c.** Insert the header “Guidance” between paragraphs 07 and 08. ( )
- 42.** Section 3B.05 Pavement Markings for Two-Way Left-Turn Lanes. On page 546, change paragraph 06 to read: “Two-way left-turn lane markings should not extend to intersections (see definition in Section 1C.02) controlled by a highway traffic signal.” ( )
- 43.** Section 3B.17 Raised Pavement Markers Substituting for Pavement Markings. On page 572, change “Section 6J.02” in paragraph 04 to “Section 6J.03.” ( )
- 44.** Figure 4C-7. Warrant 4, Pedestrian Four-Hour Volume (70% Factor). On page 659, change the subheading below the figure title to “(COMMUNITY LESS THAN 10,000 POPULATION OR ABOVE 35 MPH ON MAJOR STREET).” ( )
- 45.** Figure 4C-8. Warrant 4, Pedestrian Peak Hour (70% Factor). On page 659, change the subheading below the figure title to “(COMMUNITY LESS THAN 10,000 POPULATION OR ABOVE 35 MPH ON MAJOR STREET).” ( )
- 46.** Section 4F.02 Signal Indications for Left-Turn Movements – General. On page 684, delete paragraph 09. ( )
- 47.** Section 4F.09 Signal Indications for Right-Turn Movements – General. On page 693, delete paragraph 07. ( )
- 48.** Section 4F.16 Signal Indications for Approaches with No Through Movement. On page 707, delete item B of paragraph 11. ( )
- 49.** Section 4J.02 Design of Pedestrian Hybrid Beacons. On page 729, remove the word “STEADY” from paragraph 08. ( )
- 50.** Section 4U.02 In-Roadway Warning Lights at Crosswalks. On page 757, insert paragraph number 02a at the beginning of the line following paragraph 02. ( )
- 4951.** Figure 6FG-31. Regulatory Signs and Plaques in Temporary Traffic Control Zones. ( )
- a.** On page 58794, remove figures delete plaque R2-6aP, R2-6bP, and signs R2-10 and R2-12. (3-31-22)( )
- b.** On page 795, add the following sign:



R12-501 ( )

**52.** Section 6G.06 Weight Limit Signs (R12-1, R12-2, and R12-5). On page 795, change the section title to “Section 6G.06 Weight Limit and Trailer Length Limit Signs (R12-1, R12-2, R12-5, and R12-501)” and add the following after paragraph 02:

Option:  
03 A TRAILER LENGTH LIMIT (R12-501) sign (see Figure 6G-1) may be used in advance of highways with length restrictions.

( )

**2053.** Section 6B.G.1208, Work Zone and Higher Fines Signs and Plaques. On pages ~~586~~ 795 and 797, replace the section with the following:

**Standard:**

**01** Where increased fines are imposed for exceeding a reduced speed limit, a FINES HIGHER (R2-6P) plaque (see Figure 6F.G-31) shall be installed as a supplement to a Speed Limit (R2-1) sign to identify the beginning point of the higher fines zone.

**Support:**

**02** Law enforcement can assess higher fines if signs indicate the TTC zone, the reduced speed limit, and notice of the enhanced penalty for exceeding the reduced speed limit.

**Guidance:**

**03** If a FINES HIGHER plaque is used with a Speed Limit sign, an END HIGHER FINES ZONE (R2-11) sign (see Figure 6F-3) should be installed at the downstream end of the zone to notify road users of the termination of the increased fines zone.

**Option:**

**04** ~~Individual signs and plaques for TTC zone speed limits and higher fines may be combined into a single sign or may be displayed as an assembly of signs and plaques.~~ A WORK ZONE (G20-5aP) plaque (see Figure 6G-1) may be installed above a Speed Limit sign to emphasize the speed limit in a TTC zone.

**05** ~~An END WORK ZONE SPEED LIMIT (R2-12) sign (see Figure 6F-3) may be installed at the downstream end of the reduced speed limit zone.~~ Individual signs and plaques for TTC zone speed limits and higher fines may be combined into a single sign or may be displayed as an assembly of signs and plaques.

**06** ~~A WORK ZONE (G20-5aP) plaque (see Figure 6F-3) may be installed above a Speed Limit sign to emphasize the speed limit in a TTC zone.~~

(3-31-22)( )

**54.** Table 6G-1. Temporary Traffic Control Zone Regulatory Sign and Plaque Sizes. On page 796, delete lines 10, 12 and 14 of the table and, after the R12-5 sign, insert a “Trailer Length Limit” sign with “R12-501” in the Sign Designation column, “6G.06” in the Section column, and “36 x 48” in both Conventional Road columns.

( )

**55.** Section 6H.12 EXIT OPEN and EXIT CLOSED Signs (E5-2 and E5-2a). On page 806, replace “see Figure 6H-1” with “see Figure 6I-1” in paragraph 01.

( )

**56.** Section 6H.13 EXIT ONLY Sign (E5-3). On page 806, replace “see Figure 6H-1” with “see Figure 6I-1” in paragraph 01.

( )

**57.** Section 6L.01 Guide Signs – General. On page 811, insert the word “**Standard**” between paragraphs 06 and 07, and make the text for paragraph 07 bold to indicate a **Standard** statement.

( )

**58.** Section 6L.05 Portable Changeable Message Signs. On pages 830-831:

( )

**a.** In the second sentence of paragraph 01, insert the word “permanent” between the words “for” and “changeable.” ( )

**b.** Insert a new paragraph 12a as follows:

Option:  
12a A portable changeable message sign combined with radar detection may be used to convey the speeds of approaching drivers as a message.

( )

**59.** Section 6M.02 Positive Protection and Temporary Traffic Barriers. On page 837, delete the words “Long-term stationary” in Item B of paragraph 03 and capitalize the word “Work.” ( )

**60.** Section 6N.04 Work Affecting Pedestrian and Bicycle Facilities. On page 843, change the first sentence of paragraph 06 to read “*Except for short-term and mobile operations, when a highway shoulder is occupied, a SHOULDER WORK (W21-5) sign should be placed in advance of the activity area.*” ( )

**61.** Section 6N.19 Late Merge. On page 852, replace “R9-4a” with “R4-9a” in paragraph 03. ( )

**62.** Figure 6N-1. Late Merge. On page 853, replace “R9-4a” with “R4-9a.” ( )

**63.** Figure 6P-5. Shoulder Closure on a Freeway (TA-5). On page 869: ( )

**a.** Change the “C” dimension to “A” and the “A” dimension to “C.” ( )

**b.** Replace “W16-2P” with “W16-2aP.” ( )

**64.** Notes for Figure 6P-27-Typical Application 27 Closure at the Side of an Intersection. On page 912, replace item 9 with the following:

9. Turns can be prohibited as required by vehicular traffic conditions, such as where the streets are so narrow that it might be physically impossible to make certain turns, especially for large vehicles.

( )

**65.** Notes for Figure 6P-39—Typical Application 39 Median Crossover on a Freeway. On page 936, delete the last “Option” statement. ( )

~~**2166.** Table 7B-1. School Area Sign and Plaque Sizes. On page 733971, remove delete references to R1-6a, “In-Street Ped Crossing,” R1-6c, “In-Street Schoolchildren Crossing,” and S4-2PR1-9c; “When Children Are Present.” delete lines 7, 12 and 13 of the “Sign” part of the table; and delete line 8 of the “Plaque” part of the table. (3-31-22)( )~~

~~**2267.** Figure 7B-1. Signs in School Areas—Signs and at School Crossings. On page 735973, remove figure S4-2P delete signs S5-3, R2-10, R2-11, and the R2-6aP plaque; on page 974, delete signs R1-5c, R1-6a, R1-6c, and R1-9c. (3-31-22)( )~~

~~**23.** Section 7B.11. School Advance Crossing assembly. On page 736, delete “or R1-6a” from the first sentence of paragraph 05. (3-31-22)~~

~~**24.** Figure 7B-6. In-Street Signs in School Areas. On page 741, delete signs R1-6a and R1-6c and remove “and R1-6a” from note 2. (3-31-22)~~

~~**25.** Section 7B.12. School Crossing Assembly. (3-31-22)~~

- a. On page 741, replace paragraph 04 with the following:

**Option:**  
04 The In Street Pedestrian Crossing (R1-6) sign (see Section 2B.12 and Figure 7B-6) or the In Street Schoolchildren Crossing (R1-6b) sign (see Figure 7B-6) may be used at unsignalized school crossings. If used at a school crossing, a 12 x 4 inch SCHOOL (S4-3P) plaque (See Figure 7B-6) may be mounted above the sign. The STATE LAW legend on the R1-6 series signs may be omitted.

(3-31-22)

- b. On page 742, replace paragraphs 06 and 07 with the following:

06 A 12-inch reduced size in-street School (S1-1) sign (See Figure 7B-6) may be used at an unsignalized school crossing instead of the In-Street Pedestrian Crossing (R1-6) or the In-Street Schoolchildren Crossing (R1-6b) sign. A 12 x 6 inch reduced size diagonal downward pointing arrow (W16-7P) plaque may be mounted below the reduced size in-street School (S1-1) sign.

**Standard:**

07 ~~If an In-Street Pedestrian Crossing sign, an In-Street Schoolchildren Crossing sign, or a reduced size in-street School (S1-1) sign is placed in the roadway, the sign support shall comply with the mounting height and special mounting support requirements for In-Street Pedestrian Crossing (R1-6) signs (see Section 2B.12).~~

(3-31-22)

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

(3-31-22)

- a. On page 742, remove S4-2P in the title; and

(3-31-22)

- b. On page 743, in paragraph 09, remove the S4-2P.

(3-31-22)

68. Figure 7B-2. Example of Signing for a School Zone with a School Speed Limit and a School Crossing. On page 975, delete the two sign assemblies that include the S5-3 sign. ( )

69. Section 7B.03 School Crossing Signs. On pages 976 and 978: ( )

a. In paragraph 11, delete "(Stop Here For)," delete the reference to the R1-5c sign, and change "Figure 7B-4" to "Figure 7B-1." ( )

- b. In paragraphs 12, 13, and 16, delete the references to R1-6a and R1-6c signs. ( )

c. In paragraph 14, delete the reference to the R1-9c sign, and replace "R1 series signs" in the last sentence with "R1-9b sign." ( )

- d. In paragraph 17, delete the reference to the R1-6a sign. ( )

70. Section 7B.05 School Speed Limit Signs and Plaques. ( )

- a. On page 978, insert a new Option statement between paragraphs 02 and 03 as follows:

**Option:**  
02a At locations where there is no school zone speed limit reduction, a School Speed Limit Assembly (see Figure 7B-1) with a HIGHER FINES (R2-6P) or \$XX FINE (R2-6bP) plaque (see Section 7B.06) may be added following the School (S1-1) sign to remind road users of the posted speed limit and associated increased penalty.

- ( )
- b.** On page 978, insert the word “Standard:” between paragraph 02a and paragraph 03. ( )
- c.** On page 978, replace paragraphs 03 and 04 with the following:

**03** The downstream end of an authorized school zone shall be identified with an END SCHOOL ZONE (S5-2) sign (see Figures 7B-1, 7B-2, and 7B-4).

Option:

**04** A standard Speed Limit (R2-1) sign showing the speed limit for the section of highway that is downstream from the authorized school zone may be mounted on the same post above the End School Zone (S5-2) sign.

- ( )
- d.** On page 980, replace paragraph 07 with the following:

**07** The static School Speed Limit assembly shall consist of a top plaque (S4-3P) with the legend SCHOOL, a Speed Limit (R2-1) sign, and a bottom plaque (S4-1P, S4-2P, or S4-4P) indicating the specific periods of the day that the special school speed limit is in effect (see Figure 7B-1). When the S4-1P or S4-2P plaque is used, it shall be supplemented by the S4-6P plaque indicating the days of the week that the special school speed limit is in effect.

( )

**71.** Figure 7B-4. Example of Signing for a School Zone with a School Speed Limit and Higher Fines Only for Speeding. On page 979, delete the two (2) sign assemblies that include the S5-3 sign and delete the R2-6aP plaques. ( )

**72.** Section 7B.06 Higher Fines Zone Signs and Plaques in School Areas. On pages 980 and 983: ( )

- a.** Delete paragraphs 02, 04, and 05. ( )
- b.** Replace paragraph 03 with the following:

**03** A FINES HIGHER (R2-6P) or \$XX FINE (R2-6bP) plaque shall be posted with either the School Speed Limit (S5-1) sign or School Speed Limit Assembly and shall not be posted beneath the School Zone (S1-1) sign (see Section 7B.05).

- ( )
- c.** Replace paragraph 06 with the following:

**06** Where appropriate, one of the following plaques, listed in order of preference, may be mounted below the sign that identifies the beginning point of the higher fines zone:

A. A WHEN FLASHING (S4-4P) plaque (see Figure 7B-1) if used in conjunction with a yellow flashing beacon, or

B. A TIME OF DAY (S4-1P) plaque (see Figure 7B-1) specifying the times that the higher fines are in effect, if supplemented by an S4-6P plaque indicating the days of the week the higher fines are in effect, or

C. A WHEN CHILDREN ARE PRESENT (S4-2P) plaque (see Figure 7B-1), if supplemented by an S4-6P plaque indicating the days of the week the school speed limit is in effect.

- ( )
- d.** Delete paragraphs 07-09. ( )
- 73.** Figure 7B-5. Example of Signing for a School Zone with Higher Fines for All Traffic Violations. On pages 981 and 982, delete this figure. ( )
- 74.** Section 9A.01 General. On page 1047, insert the following two paragraphs between paragraphs 03 and 04:

03a State law allows a person operating a bicycle, human-powered vehicle, or electric-assisted bicycle approaching a STOP sign to slow down and, if required for safety, stop before entering the intersection, and after yielding the right of way to all other traffic, to cautiously make a turn or proceed through the intersection without stopping. (See Section 2B.06)

03b State law allows a person operating a bicycle or human-powered vehicle approaching a steady red signal indication to stop before entering the intersection; and, after yielding the right of way to all other traffic, to enter the intersection to make a turn or proceed straight ahead. (see Section 4A.03)

- ( )
- 75.** Section 9B.01 STOP and YIELD Signs (R1-1, R1-2). On page 1052, change paragraph 01 to read “STOP (R1-1) signs (see Figure 9B-1) shall be installed on bicycle facilities at points where bicyclists are required to slow down and stop, if required for safety, before proceeding.” ( )
- 76.** Section 9C.04 Bicycle Warning and Trail Crossing Signs (W11-1 and W11-15). On page 1067, change the word “should” in paragraph 04 to “may.” ( )
- 77.** Section 9D.08 Bicycle Route Sign and Auxiliary Plaques. On page 1078, insert the header “Support” between paragraphs 12 and 13. ( )
- 78.** Section 9D.13 Two-Stage Bicycle Turn Box Guide Signs (D11-20 Series). On page 1084, insert the header “Support” between paragraphs 08 and 09. ( )

**005. AVAILABILITY OF THE “MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES FOR STREETS AND HIGHWAYS AND OTHER REFERENCED DOCUMENTS.”**

**01. Review of Documents.** The Manual with an effective date of ~~June 13, 2012~~ January 18, 2024, may be viewed and printed from the Federal Highway Administration website at <http://mutcd.fhwa.dot.gov>. Other referenced documents may be reviewed at the Idaho Transportation Department central office or district offices. Office locations can be found at <https://itd.idaho.gov>. (3-31-22)( )

**006. -- 999. (RESERVED)**

## IDAPA 39 – IDAHO TRANSPORTATION DEPARTMENT

### 39.03.60 – RULES GOVERNING OUTDOOR ADVERTISING, ACCIDENT MEMORIALS, AND OTHER OFFICIAL SIGNS

DOCKET NO. 39-0360-2401 (ZBR CHAPTER REWRITE)

#### NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

[LINK: LSO Rules Analysis Memo](#)

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2025 Idaho State Legislature and must be approved by concurrent resolution of the Legislature to go into effect, in accordance with Section 67-5224(2)(c), Idaho Code. Should the pending rule be approved, it will become final and effective on July 1 following the First Regular Session of the Sixty-eighth Idaho Legislature, unless the concurrent resolution states a different effective date.

**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 Chapters 1, 3, and 19, Title 40, 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 establishes provisions concerning the control of outdoor advertising signs, structures or displays along the interstate, primary system of highways, and National Highway System roads of the state of Idaho. This rule was reviewed in accordance with the agency's [Zero-Based Regulation review schedule](#). The proposed edits remove several definitions that are already established through Idaho Code.

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 2, 2024, Idaho Administrative Bulletin, [Vol. 24-10, pages 443-457](#).

**FEE SUMMARY:** Pursuant to Section 67-5224(2)(d), Idaho Code, a pending fee rule shall not become final and effective unless affirmatively approved by concurrent resolution of the Legislature. The following is a description of the fee or charge imposed or increased in this rulemaking: N/A.

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

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Brendan Floyd at 208-334-8474.

DATED this 8th day of November, 2024.

Brendan Floyd  
Policy Specialist  
Idaho Transportation Department  
11331 W. Chinden Blvd.  
Boise, ID 83714  
208-334-8474  
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**THE FOLLOWING NOTICE PUBLISHED WITH THE PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Chapters 1, 3, and 19, Title 40, 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 16, 2024.

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 establishes provisions concerning the control of outdoor advertising signs, structures or displays along the interstate, primary system of highways, and National Highway System roads of the state of Idaho. This rule was reviewed in accordance with the agency's Zero-Based Regulation review schedule. The proposed edits remove several definitions that are already established through Idaho Code.

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

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

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the July 3, 2024, Idaho Administrative Bulletin, [Vol. 24-7, pages 273-274](#).

**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 Brendan Floyd at 208-334-8474.

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 23, 2024.

DATED this 30th day of August, 2024.

**THE FOLLOWING IS THE TEXT OF ZBR DOCKET NO. 39-0360-2401**



**39.03.60 – RULES GOVERNING OUTDOOR ADVERTISING,  
ACCIDENT MEMORIALS, AND OTHER OFFICIAL SIGNS**

**000. LEGAL AUTHORITY.**

The Idaho Transportation Board adopts this rule under the authority of Section 40-312, Idaho Code. (3-31-22)

**001. ~~TITLE AND SCOPE~~ PURPOSE.**

~~01. Title. This rule is titled IDAPA 39.03.60 “Rules Governing Outdoor Advertising, Accident Memorials, and Other Official Signs,” IDAPA 39, TITLE 03, Chapter 60. (3-31-22)~~

~~02. Scope. This rule contains guidelines for the control of outdoor advertising signs, structures or displays along the interstate, primary system of highways, and National Highway System roads of the state of Idaho pursuant to Chapters 1, 3, and 19, Title 40, Idaho Code. (3-31-22)( )~~

**002. -- 009. (RESERVED)**

**010. DEFINITIONS.**

~~The Idaho Transportation Department adopts the definitions set forth in Sections 40-101 through 40-127, Idaho Code. In addition, as used in this chapter: (3-31-22)~~

**01. Advertising Structure(s) or Sign(s), or Advertising Display(s).** Any outdoor structure, display, light device, figure, painting, drawing, message, plaque, poster, billboard, or other thing which is designed, intended, or used to advertise or inform. ~~These do not include: (3-31-22)( )~~

~~a. Official notices issued by any court or public body or officer. (3-31-22)~~

~~b. Notices posted by any public officer in performance of a public duty or by any person giving legal notice. (3-31-22)~~

~~c. Directional, warning, or informational structures required by or authorized by law, informational or directional signs regarding telephone service, emergency telephone signs, buried or underground cable markers and above cable closures. (3-31-22)~~

~~d. An official or public structure erected near a city or county, and within its territorial or zoning jurisdiction, which contains the name of such city or county, provided the same is maintained wholly at public expense. (3-31-22)~~

**02. Bypassed Community Signs.** A form of community official sign erected when a city has been bypassed, but remains within five (5) miles of an interstate highway or primary freeway. Such communities have the right to erect and maintain, at city expense, a billboard displaying the name of the city at a location not to exceed one (1) mile from an interchange primarily serving that city. (3-31-22)

**03. Commercial or Industrial Activities.** Those activities generally recognized as commercial or industrial by zoning authorities in this State, except that none of the following activities are considered commercial or industrial: (3-31-22)

**a.** Agricultural, forestry, grazing, farming, and related activities, including but not limited to, wayside fresh produce stands. (3-31-22)

**b.** Transient or temporary activities. (3-31-22)

**c.** Activities not visible from the main traveled way. (3-31-22)

- d. Activities conducted in a building principally used as a residence. (3-31-22)
- e. Railroad tracks and minor sidings. (3-31-22)
- f. Outdoor advertising displays. (3-31-22)

**04. Commercial or Industrial Zones.** The provisions of Section 40-1911, Idaho Code, do not apply to those segments of the interstate and primary system of highways which traverse and abut on commercial, business, or industrial zones within the boundaries of incorporated municipalities, wherein the use of real property adjacent to and abutting on the interstate and primary system of highways is subject to municipal or county regulation or control, or which traverse and abut on other areas where the land use is clearly established by State law or county zoning regulation, as industrial, business, or commercial, or which are located within areas adjacent to the interstate and primary system of highways which are in unzoned commercial or industrial areas as determined by the Department from actual land uses; provided, however, that the Department will determine the size, lighting, and spacing of signs in such zoned and unzoned industrial, business, or commercial areas. For the purpose of this rule, areas abutting interstate and primary highways of this State which are zoned commercial or industrial by counties and municipalities are to be valid as commercial or industrial zones only as to the portions actually used for commerce or industrial purposes and the land along the highway in urban areas for a distance of six hundred (600) feet immediately abutting to the area of the use, and does not include areas so zoned in anticipation of such uses at some uncertain future date nor does it include areas so zoned for the primary purpose of allowing advertising structures. (3-31-22)

**05. Community Official Signs.** Signs approved by a city, erected within its territorial or zoning jurisdiction and maintained wholly at city expense. These signs will display only the name of the city and driver directional information. Specific advertising is not allowed. (3-31-22)

**06. Customary Maintenance.** Repainting the structure, trim, or sign face, changing poster paper, replacing existing electrical components after failure and replacing damaged structural parts. It does not include the installation of a new sign face nor the initial installation of lighting. Substantial replacement begins when repair and other costs exceed fifty percent (50%) of the sign's reproduction cost. (3-31-22)

~~**07. Department.** The Idaho Transportation Department, acting through the Idaho Transportation Board. (3-31-22)~~

**08. Directional Signs.** Signs containing directional information about public places owned or operated by federal, state, or local governments or their agencies; publicly or privately owned natural phenomena, historic, cultural, scientific, educational and religious sites; and areas of natural scenic beauty or naturally suited for outdoor recreation, deemed to be in the interest of the traveling public. (3-31-22)

**09. Erect.** To construct, build, raise, assemble, place, affix, create, paint, draw, or in any other way bring into being or establish, but does not include any of the foregoing activities when performed incident to the change of an advertising message or customary maintenance of a sign. (3-31-22)

~~**10. Federal or State Law.** A federal or state constitutional provision or statute, or an ordinance, rule, or regulation enacted or adopted by this state or a federal agency or a political subdivision of this state pursuant to a federal or state constitution or statutes. (3-31-22)~~

~~**109. Freeway.** A divided highway with four (4) or more lanes for through traffic and full control of access. (3-31-22)~~

**120. Grandfather Sign.** One which was lawfully in existence in a zoned or unzoned commercial or industrial area on the effective date of the State law and which may remain even though it may not comply with the size, lighting, or spacing criteria within this rule. This clause only allows an individual sign at its particular location for the duration of its normal life subject to customary maintenance. (3-31-22)

~~**131. Illegal Sign.** One which was erected and/or maintained in violation of State law. (3-31-22)~~

~~**14. Interstate System or Interstate Highway.** Any portion of the national system of interstate and~~

~~defense highways located within the state, as officially designated, or as may hereinafter be so designated, by the Idaho Transportation Board, and approved by the Secretary of Transportation, pursuant to the provisions of Title 23, U.S. Code, "Highways."~~ (3-31-22)

- ~~15. Maintain or Place.~~ To allow to exist, subject to the provision of Chapter 19, Title 40, Idaho Code. (3-31-22)
- ~~16. Maintenance.~~ To preserve from failure or decline, or repair, refurbish, repaint or otherwise keep an existing highway or structure in a suitable state for use. (3-31-22)
- ~~17. Main Traveled Way.~~ The portion of a roadway for the movement of vehicles, exclusive of shoulders. (3-31-22)
- ~~18. Multiple Message Sign (MMS).~~ A sign, display, or device that changes the message or image on the sign electronically by movement or rotation of panels or slats, or electronic billboards that have a programmable display of variable text or symbolic imagery. (3-31-22)
- ~~19. Nonconforming Sign.~~ One which was lawfully erected, but does not comply with the provisions of State law or State regulation passed at a later date or which later fails to comply with State law or State regulation due to changed conditions. Illegally erected and/or maintained signs are not nonconforming signs. All signs located within an unzoned area are nonconforming if the commercial or industrial activity used in defining the area ceases for a continuous period of six (6) months. (3-31-22)
- ~~20. Official Signs and Notices.~~ Signs and notices erected and maintained by public officers or public agencies within their territorial or zoning jurisdiction and pursuant to and in accordance with direction or authorization contained in federal, state, or local law for the purposes of carrying out an official duty or responsibility. Historical markers authorized by state law and erected by state or local government agencies or nonprofit historical societies may be considered official signs. (3-31-22)
- ~~21. Parkland.~~ Any publicly owned land which is designated or used as a public park, recreation area, wildlife or water fowl refuge or historical site. (3-31-22)
- ~~22. Permit.~~ A written approval by the department covering location, size, lighting, spacing, number and message content requirements of permissible directional signs. (3-31-22)
- ~~23. Permit Application.~~ The form or format of information and data supplied by an individual, agency, or organization to obtain approval for erection and maintenance of a directional sign. (3-31-22)
- ~~24. Primary System or Primary Highway.~~ Any portion of the highways of the state, as officially designated, or as may hereafter be so designated, by the Idaho Transportation Board, and approved by the Secretary of Transportation, pursuant to the provisions of Title 23, U.S. Code, "Highways." (3-31-22)
- ~~25.18. Public Service Signs.~~ Signs located on school bus or other bus stop bench or shelter, which: (3-31-22)
- a. Identify the donor, sponsor, or contributor of said shelters; (3-31-22)
  - b. Contain public service messages, which will ~~not~~ occupy not less than fifty percent (50%) of the area of the sign; (3-31-22)( )
  - c. Contain no other message; (3-31-22)
  - d. Are located on school bus or other bench or shelter authorized or approved by city, county, or state law, regulation, or ordinance, and at places approved by the city, county, or state agency controlling the highway involved; and (3-31-22)
  - e. May not exceed thirty-two (32) square feet in area. Not more than one (1) sign on each bench or

shelter ~~shall~~ will face in any one (1) direction.

~~(3-31-22)~~ ( )

**2619. Public Utility Signs.** Warning signs, informational signs, notices, or markers which are customarily erected and maintained by publicly or privately owned public utilities, as essential to their operations. (3-31-22)

**270. Regionally Known.** The attraction or activity must be known statewide and in one (1) or more adjoining states. (3-31-22)

**281. Rest Area.** Any area of particular scenic beauty or historical significance as determined by the federal, state, or local officials having jurisdiction thereof, and includes interests in land which have been acquired for the restoration, preservation, and enhancement of scenic beauty. (3-31-22)

**292. Service Club and Religious Notices.** Signs and notices, whose erection is authorized by law, relating to meeting of nonprofit service clubs or charitable associations, or religious services, which do not exceed eight (8) square feet in area. (3-31-22)

**3023. Sign.** An outdoor sign, light, display, device, figure, painting, drawing, message, placard, poster, billboard, or other thing which is designed, intended, or used to advertise or inform, any part of the advertising or informative contents of which is visible from any place on the main traveled way of the interstate or primary highway. (3-31-22)

**3124. Sign Face.** The overall dimensions or area of that portion or side of an individual sign structure that is designed, intended, and capable of displaying messages. It includes border and trim, but excludes the base or apron, supports and other structural members. (3-31-22)

**3225. Sign Structure.** A construction including the sign face, base or apron, and other structural members. (3-31-22)

~~33. State. State of Idaho.~~ (3-31-22)

**3426. Territorial or Zoning Jurisdiction.** The geographical area located outside of any city or county limits for a distance of three (3) miles. (3-31-22)

**3527. Transient or Temporary Activity.** An activity is transient or temporary for the purposes of Chapter 19, Title 40, Idaho Code when: (3-31-22)

a. The activity lacks any business or privilege license required by the city, county or state. (3-31-22)

b. The activity on the property has not been conducted for at least six (6) months at the time of application for a sign permit. (3-31-22)

c. The activity lacks utilities (water, power, telephone, etc.) and which are normally utilized by similar commercial activities. (3-31-22)

d. The activity is not carried on in a permanent building designed, built or modified for its current commercial or industrial use, located within six hundred sixty (660) feet of the nearest edge of the right-of-way. (3-31-22)

e. The property upon which the activity is conducted lacks direct or indirect vehicular access or does not generate vehicular traffic. (3-31-22)

f. The activity does not have employees on-site during normal business hours which is considered normal, usual, and customary. (3-31-22)

g. The activity lacks a frequency of operations which are considered usual, normal and customary for that type of commercial or industrial operation and the activity is visible and recognizable as a commercial or

industrial activity. (3-31-22)

~~36. **Unzoned Commercial or Industrial Area.** Any area not zoned by State or local law, regulation or ordinance which is occupied by one (1) or more industrial or commercial activities, other than outdoor advertising signs, and the land along the highway for a distance of six hundred (600) feet immediately abutting to the area of the activities. All measurements need to be from the outer edge of the regularly used buildings, parking lots, storage, or processing areas of the activities, and shall be along or parallel to the edge of pavement of the highway. (3-31-22)~~

~~37.28. **Urban Areas.** Any geographical area within the city limits of any incorporated city having a population of five thousand (5,000) or more inhabitants. Population numbers referred to in this Subsection shall will be determined by the latest United States census. (3-31-22)( )~~

~~38. **Visible.** Capable of being seen (whether or not legible) without visual aid by a person of normal visual acuity. (3-31-22)~~

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

**100. GENERAL.**

**01. Visible Informative Content.** This rule applies only to advertising displays whose informative content is visible from the main traveled way of interstate or primary highways. (3-31-22)

**02. Responsibilities.** Both the owner of a sign and the landowner upon whose property the sign is located will be held responsible for violations of this rule. (3-31-22)

**03. Nonconforming Signs.** Signs which stand without advertising copy, obsolete advertising matter, or continued need for repairs beyond customary maintenance constitute discontinuance and abandonment after a period of six (6) months and will be subject to removal. (3-31-22)

**04. Signs Visible from the Main Travel-Way.** Signs beyond six hundred and sixty (660) feet from the right-of-way will be considered to have been erected with the purpose of their message being read from the main traveled way when:

**a.** The sign angle and size is such that the message content is readily visible from the main traveled way; or (3-31-22)

**b.** The exposure time is long enough at the maximum speed limit for the sign message to be readable and comprehensible. (3-31-22)

**05. Permit or License Revocation.** The erection or maintenance of signs from the highway right-of-way; or the destruction of trees or shrubs within the highway right-of-way will be cause for permit or license revocation. (3-31-22)

**06. Multiple Sign Faces.** Criteria which permit multiple sign faces to be considered as one (1) sign structure for spacing purposes are limited to signs which are physically contiguous, or connected by the same structure or cross-bracing. (3-31-22)

**07. Edge of Right-of-Way.** Distance from the edge of the right-of-way is measured horizontally along a line normal or perpendicular to the centerline of the highway. (3-31-22)

**08. Control Requirement.** Where a sign is erected with the purpose of its message being read from two (2) or more highways, one (1) or more of which is a controlled highway, the more stringent of applicable control requirements will apply. (3-31-22)

**101. -- 109. (RESERVED)**

**110. EXEMPTIONS AUTHORIZED BY SECTION 40-1904, IDAHO CODE.**

**01. Signs Erected by Public Officers or Agencies.** Directional and other official signs and notices erected by public officers or agencies will be issued permits at no cost to the owners, as described more fully elsewhere in this rule. (3-31-22)

**02. Advertising Sale or Lease of Property.** Signs advertising the sale or lease of property upon which they are located. These signs ~~shall~~ will not advertise any products, services, or anything unrelated to the selling or leasing of the property. (3-31-22)(    )

**03. On-Premise Signs.** Signs (on-premise) advertising activities conducted on the property upon which they are located are allowed, subject to the following: Not more than one (1) such sign, visible to traffic proceeding in any one (1) direction and advertising activities being conducted upon the real property where the sign is located may be permitted more than fifty (50) feet from the advertised activity. The criteria for determining the limits of the area of the advertised activity from which the fifty (50) feet measurement can be taken are as follows: (3-31-22)

**a.** When the advertised activity is a business, commercial, or industrial land use, the distance ~~shall~~ will be measured from the regularly used buildings, parking lots, storage, or processing areas, or other structures which are essential and customary to the conduct of the business and within its limits of the real property. It is not be measured from driveways, fences, or similar facilities. (3-31-22)(    )

**b.** When the advertised activity is a noncommercial or nonindustrial land use such as a residence, farm, or orchard, the distance is measured from the major structures on the property. (3-31-22)

**c.** In no event will a sign site be considered part of the premises on which the advertised activity is conducted if it is located upon a narrow strip of land which is nonbuildable land, such as, but not limited to, swampland, marshland, or other wetland, or which is a common or private roadway, or held by easement or other lesser interest than the premises where the advertised activity is located. (3-31-22)

**111. -- 119. (RESERVED)**

**120. DISPLAYS LOCATED WITHIN ZONED OR UNZONED INDUSTRIAL, BUSINESS OR COMMERCIAL AREAS.**

**01. Size of Signs.** Within zoned and unzoned commercial, business, or industrial areas, and pursuant to the directive of Section 40-312, Idaho Code, the face of an advertising display ~~shall~~ will not exceed the following size limits: (3-31-22)(    )

**a.** Maximum area - one thousand (1000) square feet; (3-31-22)

**b.** Maximum height - thirty (30) feet; (3-31-22)

**c.** Maximum length - fifty (50) feet. (3-31-22)

**02. Dimensions.** The area of a sign face will include all of the border, trim, cutouts, and extensions. (3-31-22)

**03. Spacing of Advertising Displays.** Within zoned and unzoned commercial, business, or industrial areas, as defined in Section 010 herein and pursuant to directive of Section 40-1912, Idaho Code, the following spacing regulations apply: (3-31-22)

**a.** Advertising displays on interstate and primary highways may not be located in such a manner as to obscure or otherwise interfere with the effectiveness of an official traffic sign, signal, or device, or to obstruct or interfere with the driver's view of approaching, merging, or intersecting traffic. (3-31-22)

**b.** Advertising displays on interstate and primary highways may not be located within five hundred (500) feet of any of the following which are adjacent to the highway: public parks; public forests; public playgrounds;

scenic areas designated as such by the Department or other State agencies having and exercising such authority. (3-31-22)

c. In a case where the highway passes beneath a railroad overpass or beneath a highway grade separation structure where no traffic connection between the crossing highways is provided, no advertising display may be located on the road passing beneath the structure within a distance of five hundred (500) feet from the nearest edge of the overhead route. (3-31-22)

d. Measurement between signs or from a sign to another feature ~~shall~~ will be made horizontally along the pavement edge nearest the signs, between points directly opposite the signs or other features. The point of the sign nearest to the highway is used to determine the measurement point. (3-31-22)(    )

e. Two (2) sign faces will be permitted at a single location, arranged back to back, or in a V-type configuration, but ~~shall~~ will only have one (1) sign face visible to one (1) direction of travel and will be considered as one (1) sign for spacing regulation. (3-31-22)(    )

f. Signs erected by public agencies or officers and on-premise signs, as defined in Section 010 of this rule, ~~shall~~ will not be counted nor ~~shall~~ will measurements be made from them for determining compliance with spacing requirements. (3-31-22)(    )

g. Spacing on interstate highways between advertising displays along each side of the highway ~~shall~~ will be a minimum of five hundred (500) feet. The spacing between multiple message signs ~~shall~~ will be a minimum of five thousand (5,000) feet. (3-31-22)(    )

h. No advertising display on interstate highways ~~shall~~ will be erected or maintained within one thousand (1000) feet of an interchange or rest area with the exception of permitted, existing displays which ~~shall~~ will have grandfather rights. The minimum spacing between displays as set forth herein for interstate highways ~~shall~~ will govern the actual location of any sign display permitted and existing within this zone. No advertising display subject to this regulation ~~shall~~ will be permitted along any interstate highways within the actual "interchange area," defined as commencing or ending at the beginning or ending of pavement widening at the exit or entrance to the main traveled way of the interstate freeway. (3-31-22)(    )

i. The spacing of signs on primary highways between advertising displays along each side of the highway ~~must~~ will be a minimum of one hundred (100) feet in urban areas and a minimum of two hundred and fifty (250) feet outside of urban areas. The spacing between multiple message signs ~~shall~~ will be a minimum of one thousand (1,000) feet in urban areas and a minimum of five thousand (5,000) feet outside urban areas. (3-31-22)(    )

j. Where intersections are more than five hundred (500) feet apart, no off-premise advertising display will be permitted within one hundred (100) feet from the right-of-way line of the intersecting road unless buildings or structures control cross vision; then advertising displays may be permitted up to and on top of the intervening structures. (3-31-22)

k. When intersections are five hundred (500) feet or less apart, off-premise advertising displays will be permitted a minimum of fifty (50) feet from the right-of-way line of the intersecting road; however, all advertising displays between fifty (50) feet and one hundred (100) feet from the right-of-way line of the intersecting road ~~must~~ will have the lower extremities of the advertising display (excluding posts) not less than fourteen (14) feet above the traveled way of the roads affected by the intersection for visibility under the signs by road users. Advertising displays may be permitted within one hundred (100) feet of the intersecting road's right-of-way when buildings or structures control cross vision; but such displays ~~must~~ will not be located so as to cause greater restriction to vision than the existing buildings or structures. (3-31-22)(    )

l. Alleys, undeveloped rights-of-way, private roads and driveways ~~shall~~ will not be regarded as intersecting streets, roads or highways. (3-31-22)(    )

m. Advertising structures may not be located within five hundred (500) feet of the point of pavement widening at the entrance or exit to a rest area, weight checking station, port of entry or other State-operated facility

for the use of motorists. (3-31-22)

**04. Lighting.** (3-31-22)

**a.** No sign will be allowed if it is so illuminated that it interferes with the effectiveness of, or obscures an official traffic sign, device, or signal. (3-31-22)

**b.** Section 40-1910, Idaho Code, prohibits advertising structures which are visible from any interstate or primary highway and display any red or blinking intermittent light likely to be mistaken for a warning or danger signal. (3-31-22)

**c.** Section 40-1910, Idaho Code, prohibits advertising displays which include any illumination of such brilliance and so positioned as to blind or dazzle the vision of travelers on adjacent interstate and primary highways. (3-31-22)

**05. Variable or Multiple Message Signs.** (3-31-22)

**a.** Multiple message signs ~~shall~~ **will** not include any illumination or image which moves continuously, appears to be in motion or has any moving or animated parts or video displays or broadcasts. No multiple message sign may include any illumination which is flashing or moving, except those giving public service information such as date, time, temperature, weather, or other similar information. (3-31-22)( )

**b.** If illuminated with beams or rays of such intensity or brilliance that it would cause glare or impair the vision of the driver or interfere with the operation of a motor vehicle, effective shielding ~~must~~ **will** be in place so as to prevent beams or rays of light from being directed at any portion of the traveled way. (3-31-22)( )

**c.** If illuminated, illumination ~~must~~ **will** not obscure or interfere with the effectiveness of official traffic sign, device, or signal. (3-31-22)( )

**d.** Multiple message signs ~~must~~ **will** not emit or utilize any sound capable of being detected. (3-31-22)( )

**e.** The message or image on a multiple message sign must remain static for a minimum of eight (8) seconds. (3-31-22)

**f.** An automated change of message or image on a multiple message sign must be accomplished within two (2) seconds or less and contain a default design that will freeze the sign face in one (1) position should a malfunction occur. (3-31-22)

**g.** If a multiple message sign is in violation of any of the conditions listed in Subsection 300.05.a. through 300.05.g., the permit will be revoked. (3-31-22)

**121. -- 129. (RESERVED)**

**130. LICENSES.**

~~Pursuant to Sections 40-1905, 40-1906 and 40-1907, Idaho Code, no person will be allowed to engage in the business of outdoor advertising without first having secured an outdoor advertising license and paid the required license fee. Licenses **must will** be renewed annually; the Department cannot renew licenses for a period longer than one (1) year at a time. License application forms may be secured at the Idaho Transportation Department District Offices, as listed in Section 005 of this rule.~~ (3-31-22)( )

**131. -- 139. (RESERVED)**

**140. OUTDOOR ADVERTISING PERMITS.**

No person may place any advertising display within the areas affected by the provisions of Section 40-1907, Idaho Code, without first having secured a written permit from the Department. (3-31-22)



**01. Application Forms.** Permit application forms may be secured at the Idaho Transportation Department District Offices. (3-31-22)

**02. Expiration of Annual Permits.** Annual permits will expire December 31 each year, but a multi-year permit may be issued as a convenience to the outdoor advertiser. An original annual permit fee of ten dollars (\$10) ~~shall will~~ accompany each original permit application. An annual renewal fee of three dollars (\$3) will be assessed for each permit, and the Department will mail a bill to each sign owner annually. Payment for the renewal of a permit must be received at least thirty (30) days prior to the expiration date. Permit fees will not be prorated for a fraction of a year. (3-31-22)( )

**03. Modified Advertising Structures.** Whenever an advertising structure is relocated or undergoes substantial replacement beyond customary maintenance, the modified structure will be considered to be a new sign. ~~Therefore, p~~ Pursuant to Section 40-1906, Idaho Code, an application for a new display ~~must will~~ be submitted before such reconstruction is begun. A permit fee of ten dollars (\$10) must accompany the application. Conversion of a sign face to a multiple message sign face will be considered substantial replacement beyond customary maintenance and considered a new sign. (3-31-22)( )

**a.** Nonconforming signs which are allowed to be maintained until the State requires their removal cannot be modified so as to increase the reproduction cost. They must remain substantially the same as they were on the effective date of the state law and any subsequent amendments. (3-31-22)

**b.** The categories of nonconforming signs which may be maintained until they are removed, and nonconforming signs which have been “grandfathered”. in commercial and industrial areas cannot include new signs erected in their place or any changes to the existing sign which would be beyond customary maintenance. (3-31-22)

**04. Space Requirement Violations.** In the event that two (2) or more lawfully erected signs along the interstate and primary highways are in violation of the spacing requirements and the regulations promulgated by the Department, the Department ~~shall will~~ accord the interested parties a full opportunity to be heard and ~~shall will~~ thereafter make a finding as to the date of erection of each of the signs and award the permit or permits to the applicants whose signs were first erected. (3-31-22)( )

**05. Application.** All applications received during the Department’s normal office hours during the same mail pickup will be construed to have been received simultaneously. In the case of a tie between applicants and upon notification thereof by the Department, it ~~shall will~~ determine by lot which will receive the permit. (3-31-22)( )

**06. Permit Denial.** No permit will be issued for a new sign having two (2) or more faces in any one (1) direction. (3-31-22)

**07. Physically Connected Signs.** Two (2) sign structures which are physically connected will be considered as a single sign for permit purposes. (3-31-22)

**08. Standard Permit Application.** Owners of displays defined under Sections 40-102(4) and 40-1904, Idaho Code, will be requested to submit a standard permit application for each such display. Identification tags will be issued for such displays at no cost to the owners. No applications will be requested for minor signs, or emergency telephone signs, nor will tags be issued for them. (3-31-22)

**09. Lost or Destroyed Identification Tags.** Identification tags, except those issued under Subsection 401.08, which are lost or destroyed either before or after being attached to signs will be replaced only upon payment of a three dollar (\$3) fee. Tags issued under Subsection 401.08 will be replaced at no cost if lost or destroyed. (3-31-22)

**10. Invalid Permit.** A permit will only be issued for a sign that is lawfully erected within one hundred and eighty (180) days of the permit issuance date. The identification tag is to be affixed only to the sign for which it was issued and ~~must will~~ be so affixed within one hundred and eighty (180) days after being received; otherwise, the permit automatically becomes invalid. (3-31-22)( )

**11. Cancellation of Permit.** If the sign for which a permit has been issued is removed, destroyed, or for any reason becomes unusable prior to the expiration date of permit, the permit may be canceled. (3-31-22)

**12. Advertising Illegal Activities.** Signs advertising activities illegal under Federal, State, or local law are not eligible for permits. (3-31-22)

**13. Revoked Permits.** When the Department determines a false or misleading statement has been made in the application for a license or permit, said license or permit ~~shall~~ will be revoked. (3-31-22)(    )

**14. Appeal Process.** In the event a permit is denied or revoked, the applicant may obtain instructions for the appeal process at any of the Idaho Transportation Department District Office ~~locations listed in Section 005s.~~ (3-31-22)(    )

**141. -- 149. (RESERVED)**

**150. BONDS OF OUT-OF-STATE PERMITTEES AND LICENSEES.**

As authorized by Section 40-1908, Idaho Code, a bond in the penal sum of one thousand dollars (\$1000) ~~shall~~ will be paid by all non-resident or foreign corporation permittees and licensees. (3-31-22)(    )

**151. -- 199. (RESERVED)**

**200. GENERAL: TRAFFIC ACCIDENT MEMORIALS.**

In accordance with Section 49-1316, Idaho Code, relatives or friends of a person killed in a traffic accident upon a state highway may apply for a permit to erect a memorial in memory of the decedent. Only one (1) memorial may be placed per fatal accident. Memorials placed before January 1, 2003 may be retained if they meet all of the requirements of Section 202 and Subsections 215.01 through 215.03, of this rule. (3-31-22)

**201. TRAFFIC ACCIDENT MEMORIAL PERMIT.**

After January 1, 2003, relatives or friends of a person killed in a traffic accident upon a state highway may obtain an approved encroachment permit from the Department prior to installing, maintaining or removing a memorial within the state highway right-of-way. As a condition of permit approval, the individual(s) wishing to install a memorial needs to provide the Department with the following: (3-31-22)

**01. Written Approval from the Next of Kin.** Written approval from the decedent's next of kin, who are related by blood, marriage or adoption; and (3-31-22)

**02. Written Approval from the Property Owner.** Written approval from all property owners whose property is within a five hundred foot (500') radius of the proposed memorial location. (3-31-22)

**202. PHYSICAL REQUIREMENTS.**

The maximum dimensions of a memorial ~~shall~~ will be thirty-six (36) inches high, sixteen (16) inches wide and ~~shall~~ will weigh no more than seven (7) pounds. The height requirement is measured from the ground level to the highest point on the memorial, the width ~~shall~~ will be measured horizontally at the memorial's widest point and the weight is based on the portion above the ground. (3-31-22)(    )

**01. Shape and Color.** Memorials ~~shall~~ will not be shaped or colored to portray, resemble or conflict with any traffic control device. The memorial ~~shall~~ will not be reflectorized. (3-31-22)(    )

**02. Memorial Site.** Planting or landscaping at a memorial is not allowed. (3-31-22)

**203. -- 214. (RESERVED)**

**215. LOCATION.**

Memorials ~~must~~ will be erected as near as practical to the milepost location where the accident occurred. The person installing the memorial is responsible for contacting a utility locating service to identify the location of any utilities in the area prior to placement of the memorial. See call-before-you-dig requirements in Sections 55-2201 through 55-2210 of Idaho Code. The applicant is required to meet on site with the Department highway maintenance supervisor

assigned to the area where a memorial is to be erected to review the proposed installation. The Department highway maintenance supervisor will be responsible for final approval of the memorial location. (3-31-22)( )

**01. Shoulder.** Memorials ~~shall~~ will be placed as far as practical from the edge of roadway, but must be placed a minimum of twenty (20) feet from the roadway shoulder where highway right-of-way width permits. (3-31-22)( )

**02. Medians.** Placement of an accident memorial in the median of any interstate or non-interstate highway is ~~prohibited~~ not allowed. (3-31-22)( )

**03. Incorporated Cities.** Memorials are not allowed within the boundaries of incorporated cities. (3-31-22)

**216. -- 219. (RESERVED)**

**220. SAFETY.**

**01. Parking.** Those participating in the installation, maintenance, or removal of the memorial ~~shall~~ will park their vehicle(s) as far as practical from the travel lanes and in an area where there is adequate sight distance on the highway in both directions. (3-31-22)( )

**02. Participants and Motorists.** Those participating in the installation, maintenance, or removal of a memorial ~~must~~ will wear proper safety attire and obey all safety procedures approved by the Department at the time of permit issuance. A high degree of safety must be maintained for the traveling public and the participants during the installation, maintenance, or removal of a memorial. (3-31-22)( )

**221. -- 239. (RESERVED)**

**240. MAINTENANCE.**

The Department is not responsible for maintenance, vandalism, damage, or theft of a memorial. The permittee is responsible for maintenance of the memorial. All memorials need to be maintained in good condition at all times and in a manner that complies with this rule. (3-31-22)

**241. COMPLIANCE.**

**01. Improper Installation.** Memorials not installed in compliance with this rule are subject to removal by the Department. (3-31-22)

**02. Maintenance.** Memorials not maintained in good condition are subject to removal by the Department. (3-31-22)

**03. Traffic Hazard.** Memorials that have been installed or maintained in such a manner that either the memorial or the participants create a traffic hazard are subject to removal by the Department. (3-31-22)

**242. -- 299. (RESERVED)**

**300. GENERAL: STANDARDS FOR COMMUNITY OFFICIAL SIGNS.**

**01. Direction of Sign.** Only one (1) community sign may face the same direction of travel along a single route approaching the community. (3-31-22)

**02. Location of Sign.** A community sign may not be located within two thousand (2,000) feet of an interchange, along the interstate system or other freeways (measured along the interstate or freeway from the nearest point of the beginning or ending of pavement widening at the exit from or entrance to the main traveled way) or located within one thousand (1,000) feet of an intersection of a primary route with another designated federal-aid route. Community signs may not be located within two thousand (2,000) feet of a rest area, park land or scenic area. (3-31-22)

- 03. Size of Sign.** Community signs ~~shall~~ will not exceed the following limits: (3-31-22)(    )
- a. Maximum area -- Three hundred (300) square feet. (3-31-22)
  - b. Maximum height -- Thirty (30) feet. (3-31-22)
  - c. Maximum length -- Thirty (30) feet. (3-31-22)

**301. STANDARDS FOR DIRECTIONAL SIGNS.**

- 01. Prohibited Directional Signs.** ~~The following directional signs are prohibited:~~ (3-31-22)(    )
- a. Signs advertising activities that are illegal under federal or state laws or regulations in effect at the location of those signs or at the location of those activities. (3-31-22)
  - b. Signs located in such a manner as to obscure or otherwise interfere with the effectiveness of an official traffic sign, signal, or device, or obstruct or interfere with the driver's view of approaching, merging, or intersecting traffic. (3-31-22)
  - c. Signs which are erected or maintained upon trees or painted or drawn upon rocks or other natural features. (3-31-22)
  - d. Signs which are structurally unsafe or in disrepair. (3-31-22)
  - e. Signs which move or have any animated or moving parts. (3-31-22)
  - f. Signs located in rest areas, parklands, or scenic areas. (3-31-22)
  - g. Signs that advertise or call attention to an activity or attraction no longer in existence and/or abandoned or obsolete signs. (3-31-22)
  - h. Signs not maintained in a neat, clean, and attractive condition or in good repair. (3-31-22)
  - i. Signs not designed to withstand a wind pressure of thirty (30) pounds per square foot of exposed surface. (3-31-22)
  - j. A sign installation that has not been issued an annual permit. (3-31-22)
- 02. Size of Directional Signs.** (3-31-22)
- a. Signs ~~shall~~ will not exceed the following limits: Maximum area, one hundred and fifty (150) square feet; maximum height twenty (20) feet; maximum length, twenty (20) feet. (3-31-22)(    )
  - b. All dimensions include border and trim, but exclude supports. (3-31-22)
- 03. Spacing of Directional Signs.** (3-31-22)
- a. Each location of a sign ~~must~~ will be approved by the department and the property owner on whose property the sign is installed. (3-31-22)(    )
  - b. A sign may not be located within two thousand (2,000) feet of an interchange, along the interstate system or other freeways (measured along the interstate or freeway from the nearest point of the beginning or ending of pavement widening at the exit from or entrance to the main traveled way), or located within one thousand (1,000) feet of an intersection of a primary route with another designated federal-aid route. (3-31-22)
  - c. A sign may not be located within two thousand (2,000) feet of a rest area, park land, or scenic area.

(3-31-22)

d. A sign ~~shall~~ will not be located within one (1) mile of any other directional sign facing the same direction of travel. ~~(3-31-22)~~( )

e. Not more than three (3) signs pertaining to the same activity and facing the same direction of travel may be erected along a single route approaching the activity. (3-31-22)

f. Signs located adjacent to the interstate system ~~shall~~ will be within seventy-five (75) air miles of the activity. ~~(3-31-22)~~( )

g. Signs located adjacent to the primary system ~~shall~~ will be within fifty (50) air miles of the activity. ~~(3-31-22)~~( )

**04. Message Content.** The message on directional signs ~~shall~~ will be limited to the identification of the attraction or activity and directional information useful to the traveler in locating the attraction, such as mileage, route numbers, or exit numbers. Descriptive words or phrases and pictorial or photographic representations of the activity or its environs are ~~prohibited~~ not allowed. ~~(3-31-22)~~( )

**302. -- 319. (RESERVED)**

**320. LIGHTING, SIGNS MAY BE ILLUMINATED, SUBJECT TO THE FOLLOWING.**

**01. Flashing or Moving Lights.** Signs which contain, include, or are illuminated by any flashing, intermittent, or moving light or lights are ~~prohibited~~ not allowed. ~~(3-31-22)~~( )

**02. Lights Which Impair Driver Vision.** Signs which are not effectively shielded so as to prevent beams or rays of light from being directed toward any portion of the traveled way of a highway or which are of such intensity or brilliance as to cause glare or to impair the vision of the driver of any motor vehicle, or which otherwise interfere with any driver's operation of a motor vehicle are ~~prohibited~~ not allowed. ~~(3-31-22)~~( )

**03. Interference With Traffic Sign, Device, or Signal.** A sign may not be so illuminated as to interfere with the effectiveness of, or obscure an official traffic sign, device, or signal. (3-31-22)

**321. -- 339. (RESERVED)**

**340. ADMINISTRATION.**

**01. Selection Methods and Criteria.** (3-31-22)

a. Application for permits to erect and maintain directional and official signs under this regulation ~~shall~~ will be filed with the Idaho Transportation Department, Division of Highways. ~~(3-31-22)~~( )

b. The approval of applications of directional signs is to be based on the following criteria: Nationally or regionally known activity of outstanding interest to the traveling public; location of activity relative to highway and proposed signing plan; dominant attraction must be for edification and enjoyment of motorist, not tourist-oriented business or for generation of activity income; and Attraction or Activity ~~shall~~ will have drinking water and toilet facilities meeting the Idaho Department of Health and Welfare standards. ~~(3-31-22)~~( )

c. The applicant of directional signs will furnish to the department the following data: Proposed sign plans including sign details, color, construction, shape, legend, lighting and location; letter of property owner approval of directional sign installation; department of Health and Welfare certification that water and toilet facilities meet Idaho standards; and documentation and explanation by applicant if it is a regionally known attraction or activity of outstanding interest to the traveling public. (3-31-22)

d. Applicants for directional signing will furnish to the department, on request, information relating to the limits of their advertising program, need of directional signing for the traveling public, number of public visits,

and such other information as deemed appropriate to assure compliance with federal regulations and state law. The applicant or other representatives may appear before the Idaho Transportation Board in case of controversy. (3-31-22)

e. The applicant of community or bypassed community official signs will furnish the department the same information required in Subsection 340.01.c of this rule. (3-31-22)

**02. Permits.** (3-31-22)

a. Permit application forms may be secured at any ~~office of the~~ Idaho Transportation Department; ~~Division of Highways~~ District Office. (3-31-22)(    )

b. Permits will be issued annually expiring on December 31 each year, but can be issued for a period greater than one (1) year as a matter of convenience. (3-31-22)

c. The initial permit application fee is ten dollars (\$10) with an annual renewal fee of three dollars (\$3). The initial application fee is nonrefundable. A fee ~~shall will~~ not be prorated ~~for a fraction of a year~~ or be refunded for the balance of a permit period if the sign is removed. (3-31-22)(    )

d. A permit ~~shall will~~ not be issued until the sign has been approved by the department. A valid permit may be transferred to another person or jurisdiction upon written notice to the department. (3-31-22)(    )

e. A permit ~~shall will~~ not be issued for a sign located adjacent to a fully-controlled access highway or freeway unless it has been determined that access to the sign can be obtained without violating the access control provisions of the highway. The department will cancel a permit and require removal of the sign if it is found that the sign has been erected, maintained or serviced from the highway right-of-way at those locations where the department has acquired rights of access to the highway or rights of access have not accrued to the abutting property. In addition, the department may recover from the sign owner or person erecting, maintaining or servicing the sign, the amount of damage of landscaping, sodding, fencing, ditching or other highway appurtenances resulting from such acts. (3-31-22)(    )

f. The permit can be revoked by the state if the department determines that the applicant has knowingly supplied false or misleading information in his application for a permit or permit renewal. (3-31-22)

g. Service club, religious notice, and community official signs will require a permit but the fees will be waived. For permit purposes, service club and religious notice structures may have more than one (1) face but not more than six (6) faces. (3-31-22)(    )

**341. -- 999. (RESERVED)**

## IDAPA 39 – IDAHO TRANSPORTATION DEPARTMENT

### 39.03.65 – RULES GOVERNING TRAFFIC MINUTE ENTRIES

#### DOCKET NO. 39-0365-2401 (ZBR CHAPTER REWRITE)

#### NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

[LINK: LSO Rules Analysis Memo](#)

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2025 Idaho State Legislature and must be approved by concurrent resolution of the Legislature to go into effect, in accordance with Section 67-5224(2)(c), Idaho Code. Should the pending rule be approved, it will become final and effective on July 1 following the First Regular Session of the Sixty-eighth Idaho Legislature, unless the concurrent resolution states a different effective date.

**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(2), 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 establishes the procedures for making traffic minute entries regulating speed zoning, parking, traffic control devices, and the selective exclusion of traffic on the State Highway System. This rule was reviewed in accordance with the agency's [Zero-Based Regulation review schedule](#). The proposed edits remove minor provisions that are no longer applicable.

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 2, 2024, Idaho Administrative Bulletin, [Vol. 24-10, pages 458-460](#).

**FEE SUMMARY:** Pursuant to Section 67-5224(2)(d), Idaho Code, a pending fee rule shall not become final and effective unless affirmatively approved by concurrent resolution of the Legislature. The following is a description of the fee or charge imposed or increased in this rulemaking: N/A.

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

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Brendan Floyd at 208-334-8474.

DATED this 8th day of November, 2024.

Brendan Floyd  
Policy Specialist  
Idaho Transportation Department  
11331 W. Chinden Blvd.  
Boise, ID 83714  
208-334-8474  
[Brendan.floyd@itd.idaho.gov](mailto:Brendan.floyd@itd.idaho.gov)

**THE FOLLOWING NOTICE PUBLISHED WITH THE PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 49-201(1) and 49-202(22), 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 16, 2024.

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 establishes the procedures for making traffic minute entries regulating speed zoning, parking, traffic control devices, and the selective exclusion of traffic on the State Highway System. This rule was reviewed in accordance with the agency's Zero-Based Regulation review schedule. The proposed edits remove minor provisions that are no longer applicable.

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

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

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the July 3, 2024, Idaho Administrative Bulletin, [Vol. 24-7, pages 273-274](#).

**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 Brendan Floyd at 208-334-8474.

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 23, 2024.

DATED this 30th day of August, 2024.

**THE FOLLOWING IS THE TEXT OF ZBR DOCKET NO. 39-0360-2401**



**39.03.65 – RULES GOVERNING TRAFFIC MINUTE ENTRIES**

**000. LEGAL AUTHORITY.**

This rule adopted under the authority of Sections 49-201 and 49-202, Idaho Code. (3-31-22)

**001. ~~TITLE AND SCOPE~~ PURPOSE.**

This rule ~~is titled IDAPA 39.03.65, "Rules Governing Traffic Minute Entries," and~~ establishes the procedures for making Traffic Minute Entries regulating speed zoning, parking, traffic control devices, and the selective exclusion of traffic on the State Highway System. (3-31-22)(    )

**002. -- 009. (RESERVED)**

**010. DEFINITIONS.**

**01. Traffic Minute Entries.** Official entries made to Department records regulating traffic on the State Highway System. (3-31-22)

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

**100. GENERAL PROVISIONS.**

**01. Preparation.** Traffic Minute Entries (except for temporary speed zones ~~and flashing beacons with warning signs~~) ~~shall~~ will be prepared by the Traffic Section for approval by the Department Director, State Highway Administrator, or the Chief of Highway Operations. (3-31-22)(    )

**02. Requests.** Each request for a Traffic Minute Entry ~~shall~~ will indicate: (3-31-22)(    )

**a.** The location regulated by the Traffic Minute Entry; (3-31-22)

**b.** The basis for the request; and (3-31-22)

**c.** Traffic and engineering study of operational characteristics and observations that support the Traffic Minute Entry. (3-31-22)

**03. Temporary Regulations.** Temporary traffic regulations for construction or maintenance zones ~~and flashing beacons with warning signs~~ ~~shall~~ will be initiated, monitored, corrected, and deleted by written approval of the appropriate District Engineer. (3-31-22)(    )

**04. Unresolved Differences.** Traffic Minute Entry worksheets regulating traffic on the State Highway System within incorporated cities should have the concurrence of the appropriate local officials. Unresolved differences regarding Traffic Minute Entries ~~shall~~ will be documented by the Traffic Section and presented to the Transportation Board for resolution. (3-31-22)(    )

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

**200. REQUIRED ENTRIES.**

Traffic Minute Entries ~~shall~~ will be made for the following types of traffic regulations on the State Highway System: (3-31-22)(    )

**01. Limits.** (3-31-22)

**a.** Permanent speed limits. (3-31-22)

**b.** Bridge limits (allowable gross loads). (3-31-22)

- 02. **Parking.** (3-31-22)
  - a. Rural parking restrictions. (3-31-22)
  - b. Approval of angle parking on state highways through cities. (3-31-22)
- 03. **Traffic Control.** (3-31-22)
  - ~~a. Traffic control signals and flashing intersection beacons at locations where there are no cooperative agreements between ITD and local authorities. (3-31-22)~~
  - ~~b. Flashing beacons with warning signs approved by District Engineer. (3-31-22)~~
  - ~~c. Exceptions to placing stop signs at passively protected railroad crossings. (3-31-22)~~
  - ~~d.a. Selective exclusion of vehicles on controlled-access highways. (3-31-22)~~
- 04. **Other Entries.** Temporary construction, maintenance, and emergency regulations approved by the District Engineer. (3-31-22)
- 201. -- 299. **(RESERVED)**
- 300. **PARKING ON STATE HIGHWAYS WITHIN CITIES.**  
Parking prohibitions and regulations on the State Highway System within incorporated cities ~~shall~~ will be approved by the city and the ITD Traffic Section and ~~shall~~ will be covered by a local ordinance unless provided for by a cooperative maintenance or construction agreement. Unresolved differences between incorporated cities and ITD ~~shall~~ will be presented to the Transportation Board for final resolution. (~~3-31-22~~)(    )
- 301. -- 999. **(RESERVED)**