

Dear Senators DEN HARTOG, Woodward, Nelson, and
Representatives PALMER, DeMordaunt, Gannon:

The Legislative Services Office, Research and Legislation, has received the enclosed rules of
the Idaho Transportation Department:

IDAPA 39.02.22 - Rules Governing Registration and Permit Fee Administration and Temporary
Vehicle Clearance for Carriers (ZBR Chapter Rewrite, Fee Rule) - Proposed Rule
(Docket No. 39-0222-2201);

IDAPA 39.02.26 - Rules Governing Temporary Vehicle Clearance for Carriers (ZBR Chapter Repeal)
- Proposed Rule (Docket No. 39-0226-2201).

Pursuant to Section 67-454, Idaho Code, a meeting on the enclosed rules may be called by the
cochairmen or by two (2) or more members of the subcommittee giving oral or written notice to Research
and Legislation no later than fourteen (14) days after receipt of the rules' analysis from Legislative
Services. The final date to call a meeting on the enclosed rules is no later than 08/29/2022. If a meeting is
called, the subcommittee must hold the meeting within forty-two (42) days of receipt of the rules' analysis
from Legislative Services. The final date to hold a meeting on the enclosed rules is 09/26/2022.

The germane joint subcommittee may request a statement of economic impact with respect to a
proposed rule by notifying Research and Legislation. There is no time limit on requesting this statement,
and it may be requested whether or not a meeting on the proposed rule is called or after a meeting has
been held.

To notify Research and Legislation, call 334-4854, or send a written request to the address on the
memorandum attached below.



Terri Kondeff
Director

Legislative Services Office

Idaho State Legislature

Serving Idaho's Citizen Legislature

MEMORANDUM

TO: Rules Review Subcommittee of the Senate Transportation Committee and the House Transportation & Defense Committee

FROM: Senior Legislative Drafting Attorney - Matt Drake

DATE: August 10, 2022

SUBJECT: Idaho Transportation Department

IDAPA 39.02.22 - Rules Governing Registration and Permit Fee Administration and Temporary Vehicle Clearance for Carriers (ZBR Chapter Rewrite, Fee Rule) - Proposed Rule (Docket No. 39-0222-2201)

IDAPA 39.02.26 - Rules Governing Temporary Vehicle Clearance for Carriers (ZBR Chapter Repeal) - Proposed Rule (Docket No. 39-0226-2201)

Summary and Stated Reasons for the Rule

The Idaho Transportation Department submits notice of proposed rulemaking at IDAPA 39.02.22 and 39.02.26. Pursuant to the Governor's Red Tape Reduction Initiative, the Zero-Based Regulation E.O. 2020-01, and the Department's 5-year review schedule, the Department is incorporating the rules formerly located in IDAPA 39.02.26 into the rules located at IDAPA 39.02.22 and is eliminating IDAPA 39.02.26. In the process of combining the two former chapters, the Department has also removed certain language deemed obsolete or unnecessary and has updated certain terminology. Such changes do not appear to be substantive in nature.

Negotiated Rulemaking / Fiscal Impact

Negotiated rulemaking was conducted. There is no fiscal impact associated with this rulemaking.

Statutory Authority

The proposed rule changes appear to be within the statutory authority granted pursuant to Sections 40-312 and 49-201, Idaho Code.

cc: Idaho Transportation Department
Ramon Hobdey-Sanchez

*** PLEASE NOTE ***

Per the Idaho Constitution, all administrative rules may be reviewed by the Legislature during the next legislative session. The Legislature has 3 options with this rulemaking docket: **1)** Approve the docket in its entirety; **2)** Reject the docket in its entirety; or **3)** Reject the docket in part.

IDAPA 39 – IDAHO TRANSPORTATION DEPARTMENT

39.02.22 – RULES GOVERNING REGISTRATION AND PERMIT FEE ADMINISTRATION AND TEMPORARY VEHICLE CLEARANCE FOR CARRIERS

DOCKET NO. 39-0222-2201 (ZBR CHAPTER REWRITE, FEE RULE)

NOTICE OF RULEMAKING – 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 and 49-201, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than August 17, 2022.

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:

In support of the Governor’s Red Tape Reduction Initiative, eight chapters under IDAPA Title 39 were up for review this year per the [Zero-Based Regulation E. O. 2020-01](#) and the [Department’s 5-year review schedule](#). The goal of these rulemakings is to make changes and modifications that remove obsolete language, eliminate unnecessary restrictions, provide clarity and update the respective chapters.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: No fees or charges are being increased.

This rule provides for installment payment plans for commercial motor vehicle registrations. It covers administrative costs for services provided by the Department, which includes a \$50 fee for setting up each installment payment plan. To reinstate a payment plan that has been suspended, a \$40 fee is required. If there are insufficient funds, the rule allows the Department to collect a \$20 insufficient funds fee and provides the Department with the ability to collect a \$40 fee for reinstatement of a revoked or suspended commercial motor vehicle registration.

In Subchapter A, the rule allows the Department to authorize and issue temporary clearance for a carrier who needs to immediately operate a commercial motor vehicle and who is in the process of obtaining and submitting requirements for full issuance of vehicle registration and license plates. This temporary permit provides for a 45-day intermediate clearance at a cost of \$18. (See §49-434 and §49-501, Idaho Code)

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted under docket 39-ZBRR-2201. The Notice of Intent to Promulgate Rules – Negotiated Rulemaking was published in the May 4, 2022, Idaho Administrative Bulletin, [Vol. 22-5, pages 88-89](#).

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, please contact Ramón S. Hobdey-Sánchez at (208) 334-8810.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 24, 2022.

DATED this 7th Day of July 2022.

Ramón S. Hobdey-Sánchez, J.D.
Office of Governmental Affairs
Idaho Transportation Department
11331 W. Chinden Blvd.
Boise, ID 83714
ramon.hobdey-sanchez@itd.idaho.gov
208.334.8810

THE FOLLOWING IS THE PROPOSED TEXT OF FEE DOCKET NO. 39-0222-2201
(Zero Based Regulation (ZBR) Chapter Rewrite)

39.02.22 – RULES GOVERNING REGISTRATION AND PERMIT FEE ADMINISTRATION AND
TEMPORARY VEHICLE CLEARANCE FOR CARRIERS

000. LEGAL AUTHORITY.

Sections 49-201, 49-202, 49-434, 49-439 and 49-501, Idaho Code. ()

001. SCOPE.

This rule clarifies the procedures for administering registration and permit fees and provides for temporary vehicle clearance (TVC) procedures in Idaho. ()

002. -- 009. (RESERVED)

010. DEFINITIONS.

01. Combination of Vehicles. A tractor or truck tractor and one (1) or more trailers and/or semitrailers. ()

02. Nonsufficient Funds (NSF). NSF will be the abbreviation as it pertains to checks written on personal and/or business checking accounts without sufficient funds to cover the check, for payment to the department. ()

03. Non-Reducible Load. Defined in IDAPA 39.03.01, Rules Governing Definitions Regarding Special Permits. ()

04. Quarterly Report. The form for registrants to report the laden miles traveled on Idaho highways during the preceding three (3) months when transporting non-reducible vehicles/loads under annual overweight/oversize permits. ()

05. Revocation of Registration. The termination of a registrant's vehicle registrations and authority to operate on Idaho highways for failure to comply with requirements specified by the Department and Idaho Code. ()

06. Registrant. A person, firm, or corporation in whose name a vehicle or vehicles are registered, with

an Idaho account number assigned by the department. ()

07. Road Use Fee. The fee per mile paid for non-reducible vehicles or combinations of vehicles hauling non-reducible loads. The fees are based on the number of axles on the vehicle or combination of vehicles and the total gross weight, in addition to the registration fee. ()

08. Suspension of Registration. The temporary withdrawal of a registrant's vehicle registrations and authority to operate on Idaho highways for failure to comply with requirements specified by the Department and Idaho Code. ()

011. -- 099. (RESERVED)

100. QUARTERLY ROAD USE FEE REPORTS FOR ANNUAL OVERWEIGHT PERMITS.

To comply with Section 49-1001, Idaho Code, the customer will make quarterly reports of laden only mileage to the department for the movements of non-reducible vehicle/loads, at the appropriate permitted weight level of the annual special permits. These fees are in addition to the registration fees. Mileage and road use fees for single trip special permits are calculated and collected at the time of issuance and are not reported quarterly. ()

101. QUARTERLY ROAD USE FEE REPORTING.

01. Quarterly Reporting Forms Issued. The department will generate an online quarterly report form for each valid annual special permit issued to them. ()

02. Use of Quarterly Reporting Form. The customer will report each quarter's information on the Department's form with all requested information completed on or before the specified due date, even when reporting zero (0) miles traveled. ()

a. If the customer does not receive a quarterly report form or report their information online, it is the customer's responsibility to notify the Department allowing adequate time to submit the report before the due date. ()

b. Any report transmitted through the US Postal Service is considered filed and received by the department on the date shown by the post office cancellation mark stamped on the envelope or wrapper containing the report. A postage meter cancellation is not considered as a post office cancellation mark. ()

c. If the quarterly report form due date falls on a Saturday, Sunday, or legal holiday, the due date will be extended to the next business day. ()

d. Quarterly reports not submitted will result in the account being suspended. ()

102. -- 199. (RESERVED)

200. INSTALLMENT PAYMENTS FOR COMMERCIAL VEHICLE REGISTRATION.

The department offers a Payment Plan for registrants in compliance with Sections 49-434, Idaho Code. ()

01. Requirements to Participate in Installment Payments. ()

a. Participant must sign participation contract agreement. ()

b. Only Full Fee and Idaho IRP registration fees are included in the payment plan. Other jurisdictions' IRP fees will not be included. ()

c. Only full annual registration fees will be included in payment plan. Registrations for less than one full year will not be included. ()

d. Vehicles not registered within thirty (30) days after the previous year registration has expired will not be eligible for the installment payment option. Submitted applications for registration that have been invoiced, but

not paid for, by the last day of the registration effective month will not be eligible for the installment payment option. ()

e. Installment contract requirements do not provide opportunity for registrant to opt out of any remaining installment payments. The balance of the payment plan may continue to be paid even if the truck is not being operated. ()

f. If registrant meets the criteria in Section 300 of this rule, the prorated portion of the Idaho fee will be credited toward the installment plan or refunded if the plan has been paid in full. ()

g. Registrant may not participate in installment payment plan if the registrant's account has previously been suspended as stated in Subsection 200.06 of this rule. ()

h. The contract will stipulate the payment periods and the installment payment vouchers will stipulate the due dates of each subsequent payment. ()

i. An installment payment plan fee of fifty dollars (\$50) will be required and collected at the time of setup for each installment payment plan created. ()

02. Billings, Payments and Due Dates of Installment Plan. ()

a. The department will upon acceptance of the contract by the registrant, receive one-quarter of the annual registration fee along with the installment payment plan fee, and then will bill the registrant for three (3) equal installments based upon the previously set payment periods outlined in the contract, which are due by the end of the third, sixth, and ninth months after the effective date of the registration. ()

b. Installment payment vouchers will be provided with the initial invoice. ()

c. US Postal Service postmark may be used to determine if payment is received on time. If the envelope is postmarked on or before the last day of the month, the payment will be considered "on time." ()

d. If the last day of the month falls on a Saturday, Sunday or legal holiday, the next business day will be considered the due date. ()

e. Failure to retain provided payment vouchers does not relieve the burden of the registrant to pay the installment amount by the due date. ()

03. Failure to Pay Installment Payment by Due Date. ()

a. The department may send out courtesy pre-suspension notices approximately five (5) days after the due date to registrants who have failed to remit payment by the due date printed on the quarterly billing. ()

b. The pre-suspension letter will contain a late penalty fee of ten percent (10%) of the amount due and an additional one percent (1%) for each month or portion of a month that the payment is past due. ()

c. Registrant will pay installment amount portion that is due, plus assessed penalties and interest. ()

04. Suspension of Registrant's Account Due to Non-Payment of Payment Plan. Approximately two (2) weeks after pre-suspension notices are mailed to the registrant, the department may suspend accounts of registrant's that have failed to remit installment payment and/or interest and penalty. ()

05. Reinstatement Fee for Payment Plan Registration. ()

a. A forty dollar (\$40) reinstatement fee will be applied to all payment plan accounts that have been suspended. ()

b. Registrant must pay quarterly payment portion, penalty and interest, if applicable, and reinstatement fee before suspension will be cleared from account. ()

06. Repetitive Suspensions Result. ()

a. After the registrant's account has been suspended for delinquent installment payments two (2) or more times, the registrant will not be allowed to participate in future payment plan programs unless; ()

i. Customer has twelve (12) consecutive months of no suspensions related to the account starting from the month the account is cleared; and ()

ii. Customer requests in writing to the department to participate in future installment payment plans and will be allowed to do so. ()

201. -- 299. (RESERVED)

300. REFUNDS.

01. Fees Eligible for Refund. Registrants may make a request for refunds if appropriate information is submitted to the Department in the following instances: ()

a. Commercial vehicle registration is eligible for refund when the criteria in Section 49-434, Idaho Code, are met. ()

b. If account has been overpaid, and no other fees are owed to the department. ()

c. Unexpired portion of Idaho based fees are refundable for: ()

i. A vehicle that has been sold or repossessed; ()

ii. A vehicle that has been damaged beyond repair; or ()

iii. A vehicle on which the lease has been terminated. ()

iv. Other refund requests will be reviewed and approved or denied on a case by case basis. ()

02. Fees Not Eligible for Refunds. Other jurisdiction's fees are not refundable by Idaho. ()

301. -- 399. (RESERVED)

400. NONSUFFICIENT FUNDS.

01. Payment With Insufficient Fund Check. If a customer pays a fee by check and the check is returned to the department as NSF, the transaction will be cancelled. The department reserves the right to not accept checks from a customer who has written two (2) or more NSF checks within four (4) years to the department. That customer will have to pay with cash, or verifiable check, or credit card. ()

02. Suspension of Account. The department will suspend the customer's account until the customer has paid the amount of the NSF check, along with the twenty dollar (\$20) NSF fee. ()

03. No Further Transactions. The department will not complete further transactions with the customer until the customer has paid the amount of the NSF check along with the twenty dollar (\$20) NSF fee. ()

401. -- 499. (RESERVED)

500. SUSPENSION OF REGISTRATION.

The department will suspend the vehicle registration(s) by notifying the registrant in writing sent via first class pre-paid mail to the registrant's last known address if: ()

01. Failure to Comply. The registrant fails to comply with a billing letter requesting payment of fees and penalties. ()

02. Non-Filing by the Registrant. The registrant does not file quarterly reports or make installment payments to the department. ()

501. REVOCATION OF REGISTRATION.

The department may revoke the vehicle registration(s) if the registrant fails to comply with a suspension notice within fifteen (15) days of receipt of the notice. ()

502. REQUIREMENTS FOR REINSTATEMENT OF REVOKED OR SUSPENDED VEHICLE REGISTRATION.

01. Revocation. In the case of a revocation, a registrant must pay all fees due and a forty dollar (\$40) reinstatement fee to be reinstated and must also re-register to resume operating. ()

02. Suspension. In the case of a suspension all fees, reports, and records required prior to the suspension must be provided to the department, including a forty dollar (\$40) reinstatement fee. ()

503. REQUIREMENTS FOR COLLECTIONS.

All unpaid amounts owed to the department may be sent to an external collection agency. Collection agencies may charge a fee for their efforts in collection of a debt as per Section 67-2358, Idaho Code. Accounts that have been assigned to a collection agency must pay the collection agency all fees due. The department will not accept the payment once assigned to the collection agency. ()

504. -- 599. (RESERVED)

600. ENFORCEMENT.

01. Delayed Movement. If the registration of a vehicle is suspended the Ports of Entry may delay movement of the vehicle until such time as the registrant complies with the condition(s) that caused the suspension. ()

02. Revoked Registrations. If a registrant's registrations are revoked for failure to respond to a suspension notice, the motor vehicle cannot be operated on Idaho highways until the registrant complies with Section 702 of this rule. Registrants with outstanding balances owed to the department or revoked registrations are not eligible to purchase trip permits. ()

601. -- 699. (RESERVED)

700. APPEAL PROCEDURE.

01. Filing of Appeal. A registrant wishing to contest a penalty or suspension of a registration or an account may file an appeal within ten (10) days of receipt of the notice. ()

701. -- 799. (RESERVED)

SUBCHAPTER A – RULES GOVERNING TEMPORARY VEHICLE CLEARANCE FOR CARRIERS

800. ADMINISTRATION.

Temporary Vehicle Clearances are valid for a maximum of forty-five (45) days or to the registration year expiration date and may be issued to a carrier whose account is in good standing upon payment of the fee. If self-issued by the carrier online, the temporary vehicle clearance fee is waived. ()

801. -- 899. (RESERVED)

900. ISSUANCE OF VEHICLE REGISTRATION (CAB CARD) AND LICENSE PLATE(S).

01. Issuance of Vehicle Registration & License Plate(s). The vehicle registration and license plate(s) may be issued when: ()

a. The online application is received by the Department, all applicable fees are paid and all licensing requirements are met. ()

02. Permanent Identification. When all criteria are met, a registration, license plate and sticker (if applicable) will be issued. ()

901. -- 999. (RESERVED)

PROPOSED RULE COST/BENEFIT ANALYSIS

Section 67-5223(3), Idaho Code, requires the preparation of an economic impact statement for all proposed rules imposing or increasing fees or charges. This cost/benefit analysis, which must be filed with the proposed rule, must include the reasonably estimated costs to the agency to implement the rule and the reasonably estimated costs to be borne by citizens, or the private sector, or both.

Department or Agency: Idaho Transportation Department

Agency Contact: Ramón S. Hobdey-Sanchez **Phone:** 208.860.6513

Date: July 19, 2022

IDAPA, Chapter and Title Number and Chapter Name:

39.02.22: Rules Governing Registration and Permit Fee Administration and Temporary Vehicle Clearance for Carriers

Fee Rule Status: **Proposed** **Temporary**

Rulemaking Docket Number: 39-0222-2201

STATEMENT OF ECONOMIC IMPACT:

This rulemaking does not impose a fee or charge, or increase a fee or charge, beyond what was previously submitted to and reviewed by the Idaho Legislature in the prior rules. The following is a specific description of the fees or charges within this chapter:

39.02.22, Rules Governing Registration & Permit Fee Administration and Temporary Vehicle Clearance for Carriers: This rule provides for installment payment plans for commercial motor vehicle registrations. It covers administrative costs for services provided by the Department, which includes a \$50 fee for setting up each installment payment plan. To reinstate a payment plan that has been suspended, a \$40 fee is required. If there are insufficient funds, the rule allows the Department to collect a \$20 insufficient funds fee and provides the Department with the ability to collect a \$40 fee for reinstatement of a revoked or suspended commercial motor vehicle registration.

In Subchapter A, the rule allows the Department to authorize and issue temporary clearance for a carrier who needs to immediately operate a commercial motor vehicle and who is in the process of obtaining and submitting requirements for full issuance of vehicle registration and license plates. This temporary permit provides for a 45-day intermediate clearance at a cost of \$18. (See §49-434 and §49-501, Idaho Code)

IDAPA 39 – IDAHO TRANSPORTATION DEPARTMENT

39.02.26 – RULES GOVERNING TEMPORARY VEHICLE CLEARANCE FOR CARRIERS

DOCKET NO. 39-0226-2201 (ZBR CHAPTER REPEAL)

NOTICE OF RULEMAKING – 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 and 49-201, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than August 17, 2022.

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:

In support of the Governor's Red Tape Reduction Initiative, the Department has continued to work on making changes and modifications that remove obsolete language, eliminate unnecessary restrictions, provide clarity and update the Department's respective chapters. During this year's rules review, the Department has combined two chapters into one. Therefore, this administrative rule is being repealed and consolidated into IDAPA 39.02.22. For additional information, please visit: <https://itd.idaho.gov/rulemaking/>.

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

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted under docket 39-ZBRR-2201. The Notice of Intent to Promulgate Rules – Negotiated Rulemaking was published in the May 4, 2022, Idaho Administrative Bulletin, [Vol. 22-5, pages 88-89](#).

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, please contact Ramón S. Hobdey-Sánchez at (208) 334-8810.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 24, 2022.

DATED this 7th Day of July 2022.

Ramón S. Hobdey-Sánchez, J.D.
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Idaho Transportation Department
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208.334.8810

IDAPA 39.02.26 IS BEING REPEALED IN ITS ENTIRETY