

Dear Senators BRACKETT, Nonini, Buckner-Webb, and
Representatives PALMER, Shepherd, King:

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

IDAPA 39.03.10 - Rules Governing When an Overlegal Permit Is Required - Temporary and
Proposed Rule (Docket No. 39-0310-1701);

IDAPA 39.03.16 - Rules Governing Oversize Permits for Non-Reducible Vehicles and/or Loads -
Temporary and Proposed Rule (Docket No. 39-0316-1701).

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 10/13/2017. 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 11/13/2017.

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 334-4834, or send a written request to the address on the
memorandum attached below.



Eric Milstead
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 Research Analyst - Elizabeth Bowen

DATE: September 25, 2017

SUBJECT: Idaho Transportation Department

IDAPA 39.03.10 - Rules Governing When an Overlegal Permit Is Required - Temporary and Proposed Rule (Docket No. 39-0310-1701)

IDAPA 39.03.16 - Rules Governing Oversize Permits for Non-Reducible Vehicles and/or Loads - Temporary and Proposed Rule (Docket No. 39-0316-1701)

The Idaho Transportation Department submits notice of proposed rulemaking at IDAPA 39.03.10 and 39.03.16.

39.03.10

This rule, also a temporary rule, revises language relating to emergency movement of implements of husbandry. In order to comply with Senate Bill 1043 (2017), the revisions clarify the circumstances that qualify as an emergency. Negotiated rulemaking was not conducted due to the nature of the rule change, and there is no anticipated negative fiscal impact on the state general fund. The Governor finds that the temporary rule is justified due to the need to align the rule with the Idaho Code. The Department states that this rulemaking is authorized pursuant to Sections 40-312 and 49-201, Idaho Code.

39.03.16

This rule, also a temporary rule, revises language for the purpose of conforming the rule with Senate Bill 1043 (2017). The revised language clarifies when overwidth permits are required to transport implements of husbandry. Negotiated rulemaking was not conducted due to the nature of the rule change, and there is no anticipated negative fiscal impact on the state general fund. The Governor finds that the temporary rule is justified due to the need to align the rule with the Idaho Code. The Department states that this rulemaking is authorized pursuant to Sections 40-312 and 49-201, Idaho Code.

cc: Idaho Transportation Department
Ramon Hobdey-Sanchez

IDAPA 39 – IDAHO TRANSPORTATION DEPARTMENT

39.03.10 – RULES GOVERNING WHEN AN OVERLEGAL PERMIT IS REQUIRED

DOCKET NO. 39-0310-1701

NOTICE OF RULEMAKING – TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is July 21, 2017.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Sections 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 September 20, 2017.

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

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

This rule change is being initiated based on the passage of Senate Bill 1043a (2017) that amended Section 49-1010, Idaho Code. The change being made amends Section 300.03 in order to clarify when there is an emergency movement of implements of husbandry and provides that verbal approval of the movement may be allowed on official state holidays and weekends in lieu of a written permit.

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

The rule change is needed to align IDAPA rule with Idaho Code, due to the passage of Senate Bill 1043a (2017) which went into effect March 24, 2017.

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

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the rule change is simple in nature.

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

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Reymundo Rodriguez, Compliance Program Manager, at (208) 334-4426.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 27, 2017.

DATED this 25th day of July, 2017.

Ramon S. Hobdey-Sanchez
Governmental Affairs Program Specialist
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Phone: (208) 334-8810

Idaho Transportation Department
3311 W. State Street
P.O. Box 7129
Boise, ID 83707-1129

**THE FOLLOWING IS THE TEMPORARY RULE AND THE PROPOSED TEXT
OF DOCKET NO. 39-0310-1701
(Only Those Sections With Amendments Are Shown.)**

300. WAIVER OF LIMITATIONS FOR EMERGENCY MOVEMENTS.

Notwithstanding other provisions of these rules, the Idaho Transportation Board may waive existing permit policy limitations in the event of an emergency, subject to such limitations or special requirements as the Board may impose. (8-25-94)

01. Military Emergency Affecting National Security. Any movement by or for a military or other government agency which is in excess of permit policy maximum limits of weight or size or which is otherwise outside established rules must be certified as a military necessity involving national security before receiving any special consideration to provide any waiver of normal permit rules. Certification of military necessity must be made by an official designated as having such authority by the Department of Defense Directory, issued by the Office of the Chief of Transportation, Department of Army. All applications for military emergency movements must be channeled through the Vehicle Size and Weight Specialist, Idaho Transportation Department. (8-25-94)

02. Emergencies Endangering the Public Health, Safety or Welfare Including but Not Limited to Fire, Flood, or Earthquake. During an emergency endangering the public health, safety or welfare, there may be an urgent and immediate need for equipment and it will not be in the public interest to require that an overlegal permit be in the vehicle prior to an over legal movement. Verbal approval to proceed without an overlegal permit in the vehicle may be obtained from the Overlegal Permit Office or an Idaho Port-of-Entry. Once the emergency movement is completed, formal application for an Overlegal Permit must be submitted to the Overlegal Permit Office. (4-2-08)

03. Emergency Movement of Implements of Husbandry. It shall be considered an emergency when an implement of husbandry being operated on an official state holiday or a weekend (~~the Overlegal Permit Office is closed on weekends and holidays for hours of Permit Office operation see IDAPA 39.03.09, "Rules Governing Overlegal Permits General Conditions and Requirements"~~) breaks down and a dealer brings replacement equipment to the farmer that exceeds ~~the annual permit maximum width of fourteen (14) feet six (6) inches~~ **legal height, length and weight**. Verbal approval to proceed without an overlegal permit in the vehicle may be obtained from ~~an Idaho Port of Entry~~ **the Overlegal Permit on-call staff**. That verbal authorization ~~will~~ **may** include escort vehicle requirements based on the route of travel and ~~width~~ **dimensions** of load. Once the emergency movement is completed, the permittee shall make formal application for a permit to the Overlegal Permit Office on the first working day after the occurrence. (~~4-4-13~~)(7-21-17)T

04. Economic Emergencies. When a circumstance occurs in which an economic hardship is expected to result due to the application of existing rules or limitations, the Transportation Board may consider a petition for the temporary waiver of those rules or limitations which are perceived as being the cause of such economic hardship. (8-25-94)

05. Emergency Movements After Dark or Weekends. Any overwidth load moving after dark or on weekends on a red coded route of the Pilot/Escort Vehicle and Travel Time Requirements Map must be preceded by an escort vehicle displaying a rotating or flashing amber light to warn other traffic of the presence of the hazard. Any overwidth load moving after dark on black coded routes, if width exceeds ten (10) feet, must also be preceded by such a pilot/escort vehicle. All overwidth loads moved after dark shall have the extreme dimensions marked by lights as required by IDAPA 39.03.12, "Rules Governing Safety Requirements For Overlegal Permits." Self-propelled vehicles utilized to clear the travelway of snow or debris are exempt from the provisions listed in this Subsection. (4-2-08)

IDAPA 39 – IDAHO TRANSPORTATION DEPARTMENT
39.03.16 – RULES GOVERNING OVERSIZE PERMITS FOR NON-REDUCIBLE
VEHICLES AND/OR LOADS
DOCKET NO. 39-0316-1701

NOTICE OF RULEMAKING – TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is July 21, 2017.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Sections 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 September 20, 2017.

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

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

This rule change is being initiated based on the passage of Senate Bill 1043a (2017) that amended Section 49-1010, Idaho Code. The change being made addresses the movement of implements of husbandry and when such movement must be permitted or is allowed to move without an overlegal permit. Language has been modified to exempt equipment dealers moving implements of husbandry larger than legal size to or from a farm to a dealer for repair, rental, lease or purchase.

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

The rule change is needed to align IDAPA rule with Idaho Code, due to the passage of Senate Bill 1043a (2017) which went into effect March 24, 2017.

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

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the rule change is simple in nature.

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

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Craig Roberts, Compliance Program Supervisor, at (208) 334-8292.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 27, 2017.

DATED this 25th day of July, 2017.

Ramon S. Hobdey-Sanchez
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ramon.hobdey-sanchez@itd.idaho.gov
Phone: (208) 334-8810

Idaho Transportation Department
3311 W. State Street
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Boise, ID 83707-1129

THE FOLLOWING IS THE TEMPORARY RULE AND THE PROPOSED TEXT
OF DOCKET NO. 39-0316-1701
(Only Those Sections With Amendments Are Shown.)

400. OVERWIDTH PERMITS FOR IMPLEMENTS OF HUSBANDRY.

01. Farm Tractors on Interstate Highways. Farm tractors transported on Interstate Highways are required to have overlegal permit authority if width exceeds nine (9) feet. A farm tractor when attached to an implement of husbandry or when drawing an implement of husbandry shall be construed to be an implement of husbandry and is not required to have a permit. Farmers, equipment dealers or custom operators may be issued single trip or annual permits under this rule for transportation of farm tractors, having a width in excess of nine (9) feet to or from a farm involving Interstate Highway travel. The transportation of farm tractors or implements of husbandry for hire, or not being transported from one farm operation to another, is a common-carrier operation. Exemptions from legal width limitation do not apply to common-carrier operations. Farm tractors or implements of husbandry hauled for hire, or used in the furtherance of a business (not to include farming operations), are subject to the same overlegal permit regulations as other oversize loads when the width of the load exceeds legal-width limitations, and must operate under oversize permits. (3-30-01)

02. Other Than Farm to Farm. Implements of husbandry exceeding eight (8) feet six (6) inches in width being transported other than from one (1) farm operation to another farm operation shall require overlegal permits except when the farmer or their designated agents, including without limitation, equipment dealers ~~is~~ transporting implements of husbandry and equipment for the purpose of: ~~(3-29-12)~~(7-21-17)T

a. The repair or maintenance of such implements of husbandry and equipment when traveling ~~between~~ to or from a farm ~~and~~ to a repair or maintenance facility during daylight hours; or ~~(3-29-12)~~(7-21-17)T

b. The purchase, ~~or~~ sale, lease or rental of such implements of husbandry or equipment when traveling between a farm and a dealership, auction house, or other facility during daylight hours. ~~(3-29-12)~~(7-21-17)T

03. Farm Permits. Single trip permits must be ordered at the permit office. Under provisions of IDAPA 39.03.19, "Rules Governing Annual Overlegal Permits," Section 100, annual permits will be issued to towing units or to self-propelled farm tractors or towed units, or blanket permits may be issued to an Idaho domicile applicant without vehicle identification. Such blanket permits may be transferred from one vehicle to another vehicle but shall be valid only when the permit is with the overwidth vehicle and/or load. A photocopy of the permit is valid provided that the Pilot/Escort Vehicle and Travel Time Requirements Map and Vertical Clearance of Structures Map furnished by the Idaho Transportation Department are included. Such annual permits for implements of husbandry or farm tractors are subject to the same maximum dimensions, travel time exclusions and safety requirements as other overwidth annual permits and are valid for continuous travel for twelve (12) consecutive months. (3-25-16)

04. Overwidth Farm Trailers. Trailers or semi-trailers exceeding eight feet six inches (8' 6") wide, but not wider than the implement of husbandry, used for the transportation of implements of husbandry ~~from a farm~~ or from a farm for agricultural operations, shall be exempt from overlegal permitting requirements. This exemption does not apply to trailers or semi-trailers used in common carrier operations, hauling for hire or used in the furtherance of a business (not to include farming operations). ~~(3-29-12)~~(7-21-17)T

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

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