

Dear Senators McGEE, Hammond & Langhorst, and
Representatives WOOD(35), Hart & Mary Lou Shepherd:

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

IDAPA 39.02.22 - Rules Governing Registration and Permit Fee Administration

(Docket #39-0222-0801);

IDAPA 39.03.06 - Rules Governing Allowable Vehicle Size

(Docket #39-0306-0801);

IDAPA 39.03.45 - Rules Governing Sale of No Longer Useful or Usable Real Property

(Docket #39-0345-0801).

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 9-9-08. 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 10-7-08.

_____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 334-2475, or send a written request to the address or FAX number indicated on the memorandum enclosed.

MEMORANDUM

TO: Senate Transportation Subcommittee on Administrative Rules and
House Transportation and Defense Subcommittee on Administrative Rules

FROM: Legislative Services Office staff, Maureen L. Ingram

DATE: August 19, 2008

SUBJECT: Rules of the Idaho Transportation Board

IDAPA 39, Title 02, Chapter 22 - Rules Governing Registration and Permit Fee Administration (Docket #39-0222-0801)

_____ Under Docket No. 39-0222-0801, the board has submitted this action as a proposed rule. Authority for promulgation of the rule is found in Sections 49-201, 49-434 and 49-439, *Idaho Code*.

The proposed changes to this rule clarify use of the registration installment payment plan by motor carrier registrants, specifically with regard to registrants who have been suspended from the plan. If a registrant were suspended for non-payment of funds (currently in rule) or for sending in a check with insufficient funds (proposed addition to the rule), that registrant's participation in a future installment payment plan will not be allowed until the balance is paid along with any penalties and fees due. It should be noted that the section of the rule that disallows participation in future plans due to repetitive suspensions has been deleted from the rule.

These proposed changes to the rule are consistent with current law and are within the statutory authority given to the department.

IDAPA 39, Title 03, Chapter 06 - Rules Governing Allowable Vehicle Size (Docket #39-0306-0801)

Under Docket Number 39-0306-0801, this action has been submitted as a temporary rule effective July 1, 2008, and as a proposed rule. The temporary rule promulgation has been approved by the Governor pursuant to Section 67-5226(1)(b), *Idaho Code*, in "compliance with deadlines in amendments to governing law or federal programs." Authority for promulgation of the rule is derived from Sections 40-312(1) and 49-1011, *Idaho Code*.

The proposed change to this rule is consistent with amendments to Section 49-1010, *Idaho Code*, enacted by the provisions of House Bill No. 181, Chapter 85, Laws of 2005, in which the overhang to the rear of a load was changed from fifteen feet beyond the last axle of a vehicle to ten feet beyond the end of a vehicle.

IDAPA 39, Title 03, Chapter 45 - Rules Governing Sale of No Longer Useful or Usable Real Property (Docket #39-0345-0801)

Under Docket No. 39-0345-0801, this action has been submitted as a temporary rule effective July 1, 2008, and as a proposed rule. The temporary rule promulgation has been approved by the Governor pursuant to Section 67-5226(1)(b), *Idaho Code*, in “compliance with deadlines in amendments to governing law or federal programs.” Authority for promulgation of the rule is found in Section 58-335A, *Idaho Code*.

Legislation was enacted during the 2008, House Bill No. 483aa, Chapter 382, Laws of 2008, effective July 1, 2008, that changed some of the parameters regarding sales of surplus property belonging to the Idaho Transportation Department. Specifically, the value limitation of under \$10,000 was removed so that surplus property of any value can be offered first to the owner of contiguous property, then certain government agencies, and then at public sale. Further, it was clarified that the value of the land is to be the appraised value.

Because the reference to \$10,000 has been deleted from law, one could question why it is necessary to allow the definition of “Surplus Property Value Estimate” found at Section 010.04. to remain in the rule. Other than that, the proposed amendments to this rule correctly reflect the changes to Section 58-335A, *Idaho Code*, and are therefore consistent with current law and are within the statutory authority given to the department.

cc: Idaho Transportation Department
Linda L. Emry, Jerri Hunter, Regina Phipps, & Marvin K. Brown

IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT

39.02.22 - RULES GOVERNING REGISTRATION AND PERMIT FEE ADMINISTRATION

DOCKET NO. 39-0222-0801

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 rule-making procedures. The action is authorized pursuant to Sections 49-201, 49-434, and 49-439, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rule-making will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 17, 2008.

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

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rule-making:

This rule change will clearly state that motor carriers shall not participate in future registration installment payment plans as allowed in Idaho Code 49-434(10) and 49-434(11), if previous registration installment payment plans have been suspended due to non-payment or payment with an insufficient funds check.

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

Not applicable.

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

There is no fiscal impact on the state general fund.

NEGOTIATED RULE-MAKING: Pursuant to IDAPA 04.11.01.811, negotiated rule-making was not conducted because it is unlikely that those persons affected by this action would reach consensus. It is incumbent on the agency to take this action to protect and preserve state resources.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Jerri Hunter, Interstate Registration Program (IRP) Supervisor, 334-8626.

Anyone may submit written comments regarding this proposed rule-making. All written comments must be directed to the undersigned and must be delivered on or before September 24th, 2008

DATED this 1st day of August, 2008.

Linda L. Emry, Administrative Rules Coordinator
Budget, Policy, Intergovernmental Relations
Idaho Transportation Department
3311 West State Street
P O Box 7129
Boise ID 83707-1129
Phone - 208-334-8810
FAX - 208-332-4107

THE FOLLOWING IS THE TEXT OF DOCKET NO. 39-0222-0801

200. INSTALLMENT PAYMENTS FOR COMMERCIAL VEHICLE REGISTRATION.

The department offers a Payment Plan for registrants in compliance with Sections 49-434, Idaho Code. (3-19-07)

01. Requirements to Participate in Installment Payments. (3-19-07)

a. Participant must sign participation contract agreement. (3-19-07)

b. Only Full Fee and Idaho IRP registration fees are included in the payment plan. Other jurisdictions' IRP fees shall not be included. (3-19-07)

c. Only full annual registration fees shall be included in payment plan. Registrations for less than one full year shall not be included. (3-19-07)

d. Vehicles not registered within thirty (30) days after the previous year registration has expired shall not be eligible for the installment payment option. (3-19-07)

e. Installment contract requirements do not provide opportunity for registrant to opt out of any remaining installment payments. The balance of the payment plan shall continue to be paid even if the truck is not being operated. (3-19-07)

f. If registrant sells vehicle or otherwise disposes of vehicle, and the applicant provides proof of sale, upon returning the license plate, registration certificate, and validation sticker, the prorated portion of the Idaho fee shall be credited toward the installment plan or refunded if the plan has been paid in full. (3-19-07)

g. Registrant shall not participate in future installment payment plans if the registrant's installment payment plan account has previously been suspended due to non-payment of previous payment plan or ISF check; furthermore, the entire balance of the plan installments including penalties and fee will be due and payable to reinstate. (3-19-07)()

h. The contract shall stipulate the payment periods and the installment confirmation letter shall stipulate the due dates of each subsequent payment. (3-19-07)

02. Billings, Payments and Due Dates of Installment Plan. (3-19-07)

a. The department shall upon acceptance of the contract by the registrant, receive one-quarter of the annual registration payment, and then shall bill the registrant for three (3) equal installments based upon the previously set payment periods outlined in the contract, which are the third, sixth, and ninth months after the effective date of the registration. (3-19-07)

b. All installment payments are due no later than the last day of the month in which the billing is due. (3-19-07)

c. US Postal Service postmark shall 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 shall be considered "on time." (3-19-07)

d. If the last day of the month falls on a Saturday, Sunday or legal holiday, the next business day shall be considered the due date. (3-19-07)

e. Non receipt of the department's billing notice does not relieve the burden of the registrant to pay the installment amount by the due date. (3-19-07)

03. Failure to Pay Installment Payment by Due Date. (3-19-07)

a. The department shall send out courtesy pre-suspension notices to registrants who have failed to remit payment by the due date printed on the quarterly billing. (3-19-07)

b. The pre-suspension letter shall 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. (3-19-07)

c. Registrant shall pay installment amount portion that is due, plus assessed penalties and interest. (3-19-07)

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 shall suspend accounts of registrant's that have failed to remit installment payment and/or interest and penalty. (3-19-07)

05. Reinstatement Fee for Payment Plan Registration. (3-19-07)

a. A forty dollar (\$40) reinstatement fee shall be applied to all payment plan accounts that have been suspended. (3-19-07)

b. Registrant must pay quarterly payment portion, penalty and interest, if applicable, and reinstatement fee before suspension shall be cleared from account. (3-19-07)

~~**06. Repetitive Suspensions Result.** After accounts of registrant's have been suspended for delinquent installment payments two (2) or more times in one (1) payment plan year, the registrant shall not be allowed to participate in future payment plan programs. (3-19-07)~~

IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT

39.03.06 - RULES GOVERNING ALLOWABLE VEHICLE SIZE

DOCKET NO. 39-0306-0801

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is July 1, 2008.

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(1) and 49-1011, Idaho Code and Section 49-1010(4)(b), 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 17, 2008.

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

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

This rulemaking ensures compliance with Section 49-1010(4)(b), as amended by House Bill 181, in 2005, which limits the overhang or extension of a load beyond the end of a vehicle to no more than 10 feet.

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

Compliance with Section 49-1010(4)(b), as amended by House Bill 181, in 2005.

FEE SUMMARY: Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: Not applicable.

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

NEGOTIATED RULE-MAKING: In compliance with IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the rule making is required for compliance with Idaho Code, and therefore, not negotiable.

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

Anyone may submit written comments regarding the proposed rule-making. All written comments must be directed to the undersigned and must be delivered on or before September 24, 2008.

DATED this 1st day of August, 2008.

Linda L. Emry, Administrative Rules Coordinator
Budget, Policy, and Intergovernmental Relations
Idaho Transportation Department
3311 West State Street
P O Box 7129
Boise ID 83707-1129
Phone - 208-334-8810, FAX - 208-332-4107

THE FOLLOWING IS THE TEXT OF DOCKET NO. 39-0306-0801

300. LOAD OVERHANG.

The overhang or extension of a load shall not extend: (9-14-92)

01. Front. More than four (4) feet beyond the front of a vehicle other than an automobile transporter or a boat transporter. (4-24-92)

02. Rear. More than ~~fifteen~~ ten (150) feet beyond the ~~last axle~~ end of a vehicle other than an automobile transporter or a boat transporter. (~~4-24-92~~)(7-1-08)T

03. Right Side. More than six (6) inches outside the right fender of a passenger vehicle. (4-24-92)

04. Left Side. Outside the left fender of a passenger vehicle. (4-24-92)

05. Auto or Boat Transporter. More than seven (7) feet front and rear combined length of an automobile transporter or boat transporter. (4-24-92)

IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT

39.03.45 - RULES GOVERNING SALE OF NO LONGER USEFUL OR USABLE REAL PROPERTY

DOCKET NO. 39-0345-0801

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is July 1, 2008.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rule-making procedures have been initiated. The action is authorized pursuant to Section 58-335A, 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 17, 2008.

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

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

This rulemaking is to ensure compliance with changes made to Section 58-335A, Idaho Code, in House Bill 483aa, in 2007, which provides that all surplus real property will be offered first to the adjacent land owner.

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 reason:

Compliance with House Bill 483aa, effective 7/1/08.

FEE SUMMARY: Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: Not applicable.

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

NEGOTIATED RULE-MAKING: In compliance with IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the rule making is necessary for compliance with Idaho Code, and therefore, not negotiable.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Marvin K. Brown, Sr. Right-of-Way Agent, 334-8515.

Anyone may submit written comments regarding the proposed rule-making. All written comments must be directed to the undersigned and must be delivered on or before September 24, 2008.

DATED this 1st day of August, 2008.

Linda L. Emry, Administrative Rules Coordinator
Budget, Policy, and Intergovernmental Relations
Idaho Transportation Department
3311 West State Street
P O Box 7129
Boise ID 83707-1129
Phone - 208-334-8810, FAX - 208-332-4107

THE FOLLOWING IS THE TEXT OF DOCKET NO. 39-0345-0801

010. DEFINITION.

- 01. Surplus Real Property.** Real property and the improvements thereon under the ownership and control of the Idaho Transportation Department outside the right-of-way limits which the Chief Engineer or his designee declares no longer useful or usable by the Department. (3-30-07)
- 02. Real Property.** ~~Real property~~ Land and improvements ~~within the Right-of-Way limits.~~
(~~7-1-97~~)(7-1-08)T
- 03. Appraisal.** An opinion of value formulated by a licensed Appraiser. (7-1-97)
- 04. Surplus Property Value Estimate.** An estimate of value for surplus real properties valued at ten thousand dollars (\$10,000) or less formulated by the Idaho Transportation Department or its agents. (7-1-97)
- 05. Public Sale.** Public auction or sealed bid. (7-1-97)
- 06. Administrative Fee.** A fee determined by the Department to include direct sale expenses. (7-1-97)
- 07. Department.** Idaho Transportation Department. (7-1-97)
- 08. District.** Individually or collectively the jurisdictional areas of the Department. (7-1-97)
- 09. Agent Appraiser.** Any individual, firm, partnership, or corporation that has contracted with the Department to express an opinion of value on surplus real property owned by the Department. (~~7-1-97~~)(7-1-08)T

(BREAK IN CONTINUITY OF SECTIONS)

301. METHOD OF SALE FOR PROPERTY ~~VALUED AT LESS THAN TEN THOUSAND DOLLARS.~~

Property shall first be offered to contiguous property owners. If more than one (1) contiguous property owner is interested in the property, a private auction will be held between those contiguous owners wishing to purchase the property. It shall be offered at an amount not less than the value estimate or appraisal. The sales price shall include any administrative fees established by the Department. ~~Term sales of up to five (5) years may be offered at the discretion of the Department.~~ If the property is not purchased by a contiguous owner, it shall be offered to public entities in the manner and in accordance with the priority set out in Section 302. (~~3-30-07~~)(7-1-08)T

302. SALE OR EXCHANGE OF PROPERTY TO TAX SUPPORTED ENTITIES AT THE APPRAISED VALUE.

~~As stated in Section 301, if not purchased by a contiguous owner,~~ the Department shall ~~first~~ then offer the property for sale or exchange at the appraised value to the following: state agencies, the county in which the property is located, the city in which the property is located, the highway district in which the property is located. State agencies are given first priority to acquire the property, county second, city third and highway district fourth. Other tax supported entities not enumerated will not specifically be notified, but will have the fifth priority to purchase the property. The sale price shall include any administrative fees established by the Department. (~~3-30-07~~)(7-1-08)T

(BREAK IN CONTINUITY OF SECTIONS)

304. METHOD OF SALE FOR PROPERTY NOT PURCHASED BY A PUBLIC ENTITY OR A CONTIGUOUS PROPERTY OWNER.

If no public agency purchases a property offered for sale, or if property ~~appraised under ten thousand dollars (\$10,000)~~ is not purchased by a contiguous property owner ~~or by a public agency~~, the surplus property will be offered at public sale for not less than the appraised price. The sales price shall include any administrative fees established by the Department. Term sales of up to twenty (20) years (five (5) years if the property is purchased for less than ten thousand dollars (\$10,000)) may be offered at the discretion of the Department. (~~3-30-07~~)(7-1-08)T