

Dear Senators McGEE, Hammond & Werk , and
Representatives Jo An WOOD, Hart & Mary Lou Shepherd:

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

1. IDAPA 39.02.22 - Rules Governing Registration and Permit Fee Administration
(FEE RULE) (Docket No. 39-0222-0901)
2. IDAPA 39.02.41 - Rules Governing Special Provisions Applicable to Fees for
Services (Docket No. 39-0241-0901) (FEE RULE)
3. IDAPA 39.02.60 - Rules Governing License Plate Provisions
(Docket No. 39-0260-0901)
4. IDAPA 39.03.12 - Rules Governing Safety Requirements for Overlegal Permits
(Docket No. 39-0312-0901)
5. IDAPA 39.03.16 - Rules Governing Oversize Permits for Non-Reducible Vehicles
And/or Loads. (Docket No. 39-0316-0901)
6. IDAPA 39.03.41 - Rules Governing Traffic Control Devices
(Docket No. 39-0341-0901)
7. IDAPA 39.04.05 - Rules Governing Aircraft Registration
(Docket No. 39-0405-0901).

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 11-13-
09. 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 12-11-09.

_____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: Rules Review Subcommittees of the Senate Transportation Committee and the House Transportation and Defense Committee

FROM: Research & Legislation Staff - Eric Milstead

DATE: October 26, 2009

SUBJECT: Temporary and Proposed Rules of the Idaho Transportation Department

1. IDAPA 39.02.22 - Rules Governing Registration and Permit Fee Administration (FEE RULE) (Docket No. 39-0222-0901)

The Idaho Transportation Department submits notice of proposed rulemaking at IDAPA 39.02.22 - Rules Governing Registration and Permit Fee Administration. The proposed rule deals with installment payment plans for commercial vehicle registrations. Specifically, the proposed rule provides for a cancellation of such privileges after a customer (registrant) has been suspended for delinquent installment payments two or more times, unless the customer has 12 consecutive months of no suspensions related to the account and the customer requests in writing to the Department to participate in future installment payment plans. (See, Rule 200.06).

The proposed rule also provides for a new fee (\$50) that shall be required and collected for each installment payment plan created. (See, Rule 200.01.i)

The Department states that negotiated rulemaking was not conducted because the changes are based on recommendations by the 2009 Legislature to be more lenient regarding suspensions of installment payment plans and to ensure that the costs of the program are provided for.

The proposed rule appears to be authorized pursuant to section 49-201, Idaho Code.

2. IDAPA 39.02.41 - Rules Governing Special Provisions Applicable to Fees for Services (Docket No. 39-0241-0901) (FEE RULE)

The Idaho Transportation Department submits notice of temporary and proposed rulemaking at IDAPA 39.02.41- Rules Governing Special Provisions Applicable to Fees for Services. The temporary and proposed rule reflects changes to statute via 2009 House Bill 334. The rule revises rates for services and replaces them with charges specified in Section 49-202(2)(h), Idaho Code. The temporary and proposed rule also updates references to certain electronic information by employing more current terminology. The temporary rule took effect on August 1, 2009.

The proposed rule appears to be authorized pursuant to Section 49-201, Idaho Code.

3. IDAPA 39.02.60 - Rules Governing License Plate Provisions (Docket No. 39-0260-0901)

The Idaho Transportation Department submits notice of temporary and proposed rulemaking at IDAPA 39.02.60 - Rules Governing License Plate Provisions. The temporary and proposed rule provides for the issuance of restricted dealer plates for Idaho licensed motorbike, all terrain vehicle, and utility vehicle dealers. (See Rule, Section 151.01). The rule also provides for issuing wrecker plates consistent with 2009 Senate Bill 1183. The rule also includes provisions relating to the purpose of such plates, their numbering, renewal, use, and possession of registration.

The temporary and proposed rule prohibits certain messages from personalized license plates. Specifically, the revised rule provides that the message may not consist of a term that is considered to be, among other things, one of sexual preference or orientation or an act of violence or illegal substances. (See Rule, Section 202.08.b).

Finally, the temporary and proposed provides for the creation of a business logo plate available as a permanent commercial trailer plates. This provision reflects the adoption of 2009 House Bill 226. (See, Rule Section 204).

The effective date of the temporary rule was July 1, 2009.

The proposed rule appears to be authorized pursuant to section 49-201, Idaho Code.

4. IDAPA 39.03.12 - Rules Governing Safety Requirements for Overlegal Permits (Docket No. 39-0312-0901)

The Idaho Transportation Department submits notice of proposed rulemaking at IDAPA 39.03.12 - Rules Governing Safety Requirements for Overlegal Permits. The proposed rule simply revises the size requirement for flags on oversize vehicles and loads. The minimum size of flags is now 18 inches by 18 inches (the current size is 12 inches by 12 inches). (See, Rule Section 200.02).

The proposed rule appears to be authorized pursuant to section 49-201, Idaho Code.

5. IDAPA 39.03.16 - Rules Governing Oversize Permits for Non-Reducible Vehicles and/or Loads. (Docket No. 39-0316-0901)

The Idaho Transportation Department submits notice of proposed rulemaking at IDAPA 39.03.16 - Rules Governing Oversize Permits for Non-Reducible Vehicles and/or Loads. The proposed rule revises restrictions on overlength vehicles. The proposed rule provides that oversize vehicles operating under authority of an overlegal permit which exceed 7 feet of front overhang are restricted to daylight travel only on 2-lane, 2- way highways. The current rule had required this restriction for 4 feet of front overhang.

We note that the Department states that negotiated rulemaking was not conducted because the rulemaking was initiated at the request of industry and confers a benefit.

The proposed rule appears to be authorized pursuant to section 49-201, Idaho Code.

6. IDAPA 39.03.41 - Rules Governing Traffic Control Devices (Docket No. 39-0341-0901)

The Idaho Transportation Department submits notice of proposed rulemaking at IDAPA 39.03.41 - Rules Governing Traffic Control Devices. The proposed rule adopts the most recent edition of a uniform manual, the Manual on Uniform Traffic Control Devices for Street and Highways, as well as adopting conforming additions to the manual adopted by the State Transportation Board and approved by the Federal Highway Administration.

The proposed rule appears to be authorized pursuant to sections 40-313 and 49-201, Idaho Code.

7. IDAPA 39.04.05 - Rules Governing Aircraft Registration (Docket No. 39-0405-0901)

The Idaho Transportation Department submits notice of proposed rulemaking at IDAPA 39.04.05 - Rules Governing Aircraft Registration. The proposed rule provides a reference to a correct code citation. The proposed rule also includes provisions relating to administrative and housekeeping matters, e.g., administrative appeals, office hours and mailing address, phone numbers, etc.

The proposed rule appears to be authorized pursuant to sections 21-111 and 21-114, Idaho Code.

cc: Idaho Transportation Department
Linda Emry, Regina Phipps, Ed Pemble, Amy Smith, Brent Jennings & John DeThomas

IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT

39.02.22 - RULES GOVERNING REGISTRATION AND PERMIT FEE ADMINISTRATION

DOCKET NO. 39-0222-0901 (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 proposed rulemaking procedures. The action is authorized pursuant to Section 49-201, Idaho Code, as applied to the provisions for registration and permit fee administration in Sections 49-434 and 49-439, 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 21, 2009.

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

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

This rulemaking will allow the cancellation of future installment payment plan privileges after two or more suspensions, whether in the same or different years. Upon written request for consideration by the customer and subsequent approval by the department, it will provide for the reinstatement of installment payment plan privileges after 12 consecutive months of no suspensions of any type on their account. The rulemaking provides for the collection of a \$50 installment payment plan fee for each plan to cover administrative costs.

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

A fee of \$50 is being imposed by this rulemaking to cover the administrative cost of setting up each installment payment plan, as authorized under Section 49-201(5), 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: There is no fiscal impact to the state general fund.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was not conducted because the changes in this rulemaking are based on recommendations by the 2009 Legislature to be more lenient regarding suspensions and reinstatements of installment payment plan privileges and to make sure the administrative costs of this program are covered.

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

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 28, 2009.

DATED this 19th day of August, 2009.

Linda L. Emry
Office of Governmental Affairs
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 PROPOSED TEXT OF DOCKET NO. 39-0222-0901

000. LEGAL AUTHORITY.

This rule, governing registration and permit fee administration as provided for in Sections 49-434 and 49-439, Idaho Code, is adopted under authority of Sections 49-201, ~~49-434, and 49-439~~, Idaho Code. (3-19-07)(____)

(BREAK IN CONTINUITY OF SECTIONS)

005. OFFICE -- OFFICE HOURS – MAILING AND STREET ADDRESS – PHONE NUMBERS.

01. Street and Mailing Address. The Idaho Transportation Department maintains a central office in Boise at 3311 W State Street with a mailing address of PO Box 7129, Boise ID 83707-1129. (3-19-07)

02. Office Hours. Daily office hours are ~~8:00~~ 7:30 a.m. to 5:00 p.m. except Saturday, Sunday and state holidays. (3-19-07)(____)

03. Telephone and Fax Numbers. The central office may be contacted during office hours by phone at 208-334-8611 or by Fax at 208-334-2006. (3-19-07)(____)

(BREAK IN CONTINUITY OF SECTIONS)

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. Submitted applications for registration that have been invoiced, but not paid for, by the due date stated on the fee summary sheet 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,~~ meets the criteria in Section 300 of this rule, 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 installment payment plan if the registrant's account has

previously been suspended ~~due to non-payment of previous payment plan~~ as stated in Subsection 200.06 of this rule.
(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)

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

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 fee along with the installment payment plan fee~~, and then shall 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. (3-19-07)()

b. All installment payments are due no later than the last day of the month in which the billing is due. Courtesy billing notices for the next installment payment due will be mailed approximately one (1) month prior to the due date. (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 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. (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.

a. After the registrant's accounts of registrant's have has 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- unless: ~~(3-19-07)~~()

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. (3-19-07)

a. Commercial vehicle registration is eligible for refund when the criteria in Section 49-434, Idaho Code, are met. (3-19-07)

b. If account has been overpaid, and no other fees are owed to the department. (3-19-07)

c. Unexpired portion of Idaho based fees are refundable for: (3-19-07)

i. A vehicle that has been sold or repossessed; ~~(3-19-07)~~()

ii. A vehicle that has been damaged beyond repair; or (3-19-07)

iii. A vehicle on which the lease has been terminated. (3-19-07)

02. Fees Not Eligible for Refunds: (3-19-07)

a. Other jurisdiction's fees are not refundable by Idaho. (3-19-07)

b. Temporary trip permits are issued for specific vehicles only and fees are not refundable, nor transferable to other vehicles. (3-19-07)

03. Request for Refunds: (3-19-07)

a. Registrant can make a request for refund of fees from the department. The refund request must include: (3-19-07)

i. Proof of sale or repossession of the vehicle; ~~(3-19-07)~~()

ii. Proof from the insurance company or law enforcement agency that the vehicle has been damaged beyond repair; or (3-19-07)

iii. Proof of lease termination from the leasing company. (3-19-07)

b. Request shall be subject to audit as provided in Idaho Code. (3-19-07)

c. All refund requests shall be reviewed by a Commercial Vehicle Services supervisor to ensure that all requests are valid and eligible. The Revenue Operations supervisor shall also approve/disapprove refunds. If the refund amount is greater than or equal to one thousand (\$1,000) dollars, a Financial Services manager shall also review and approve/disapprove the request before refund is processed. (3-19-07)

d. Approval/disapproval shall be indicated by either signature, or electronic approval by means of the department's financial management system. (3-19-07)

IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT

39.02.41 - RULES GOVERNING SPECIAL PROVISIONS APPLICABLE TO FEES FOR SERVICES

DOCKET NO. 39-0241-0901 (FEE RULE)

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is August 1, 2009.

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 Section(s) 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 October 21, 2009.

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 rulemaking removes fixed rates and replaces them with a reference to charges now specified in Section 49-202(2)(h), Idaho Code. It also updates technology references to currently use terms. ("microfilm" to "imaged" and "magnetic tapes" to "electronic media")

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

Compliance with changes to Idaho Code in HB334, 2009, effective January 1, 2010.

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:

This rulemaking does not impose or increase a fee or charge, but has been amended to refer to the fee increase imposed in HB334, 2009, effective January 1, 2010.

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

NEGOTIATED RULEMAKING: In compliance with Section 67-5220, Idaho Code, negotiated rulemaking was not conducted because rulemaking is necessary for compliance with changes to Idaho Code.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Ed Pemble, Driver Services Manager, 332-7830.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 28, 2009.

DATED this 19th day of August, 2009.

Linda L. Emry
Office of Governmental Affairs
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 PROPOSED TEXT OF DOCKET NO. 39-0241-0901

000. LEGAL AUTHORITY.

This rule is adopted under the authority of Sections 49-201~~(1)~~, 49-202~~(2)~~, and 67-2510, Idaho Code.

~~(9-4-91)~~(8-1-09)T

(BREAK IN CONTINUITY OF SECTIONS)

100. ADMINISTRATION.

Idaho Code provides for the collection of fees for related services. This rule provides for automation considerations and a fee schedule to uniformly apply the ~~ten dollar (\$10) per hour~~ fee provided by Section 49-202(2)(h), Idaho Code. The following fees apply for services and copies of files regarding motor vehicle or other registration, motor vehicle titles, drivers' licenses or commercial drivers licenses, and are based on ~~a ten dollar (\$10) the per hour photocopying charge~~ specified in Section 49-202(2)(h), Idaho Code. ~~(12-26-90)~~(8-1-09)T

01. Paper or ~~Microfilm~~ Imaged Records. Copies of supporting driver's license, registration, or title records from paper or ~~microfilm~~ imaged records, based on an average of twenty-four (24) minutes to fully process these requests. ~~Fee per document, four dollars (\$4) at the per-hour rate specified in Section 49-202(2)(h), Idaho Code, and rounded to the nearest whole dollar.~~ ~~(9-4-91)~~(8-1-09)T

02. Automated Records. Idaho Code does not provide a fee for complete county or statewide automated copies of registration or title files. A fee has been based on the costs to produce special file requests.

(4-11-06)

a. A base charge for programs requiring: One (1) to three (3) sorts, seventy-five dollars (\$75). Each additional sort, twenty-five (\$25). (12-26-90)

b. In addition to the above, the computer cost, printer cost and tape access cost, as established by the information technology section will be charged. (4-11-06)

c. Any mailing, shipping or special handling costs will also be added to the charges. (12-26-90)

03. ~~Magnetic Tapes~~ Electronic Media Must Be Provided. Requestors must provide ~~magnetic tapes~~ electronic media for this purpose, unless the file can be transmitted electronically. Data is provided in a standard department format. Vehicle or driver history information is not included. The only selection criterion is by counties. ~~(4-11-06)~~(8-1-09)T

04. Records Provided Free of Charge. Motor vehicle and driver records will be provided free of charge to the following: (9-4-91)

a. State Agencies. (9-4-91)

b. County Assessors. (9-4-91)

c. County Sheriffs. (9-4-91)

d. Peace Officers requesting records in the performance of their duties as per Section 49-202(3), Idaho Code. (9-4-91)

05. Rules for Providing Records Free of Charge. The Division of Motor Vehicles shall observe the following guidelines when providing records free of charge: (4-11-06)

a. Records will be provided free of charge only if they are a standard computer run that does not require special programming and/or sorting. Records requiring special handling will be provided for a fee equal to the cost of the additional handling. (9-4-91)

b. Records will be provided free of charge electronically or on ~~computer tapes~~ electronic media supplied by the requestor, or as a standard computer printout. All other formats will be provided for a fee equal to the cost of the additional materials. ~~(9-4-91)~~(8-1-09)T

c. The Assessor's Clearinghouse and the Sheriff's Clearinghouse shall each establish a single standardized computer printout that will be used for all motor vehicle and driver requests from their respective agencies. (9-4-91)

d. Records access agreements between the Division of Motor Vehicles and government agencies requesting motor vehicle and driver records shall be negotiated and renewed annually, and shall contain a list of all personnel who will have access to the records and/or on-line terminals. (4-11-06)

e. On-line computer installation and equipment shall be charged at a rate defined in the annual agreement. (9-4-91)

101. -- 199. (RESERVED).

200. LAW ENFORCEMENT INQUIRIES.

The Department provides full access to motor vehicle files by Law Enforcement at no charge through the Idaho Law Enforcement Telecommunication Systems (ILETS). There is also no charge to Law Enforcement for certified ~~MVR~~ motor vehicle or driver record packets to peace officers. For additional services beyond access to motor vehicle records (special reports, etc...), actual costs incurred by the Department will be charged. ~~(12-26-90)~~(8-1-09)T

(BREAK IN CONTINUITY OF SECTIONS)

203. MISCELLANEOUS.

The fee for vehicle inquiries by name will be based on the proper fee per vehicle record. Commercial vehicle inquiries shall be based on a per vehicle record fee. ~~(12-26-90)~~(8-1-09)T

IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT

39.02.60 - RULES GOVERNING LICENSE PLATE PROVISIONS

DOCKET NO. 39-0260-0901

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is July 1, 2009.

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 Section 49-201, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 21, 2009.

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 is being revised to include provisions for issuing Restricted Vehicle plates to Idaho licensed motorbike, all terrain vehicle, and utility vehicle dealers. Neither HB602, 2008 nor SB1098a, 2009 provided for issuing restricted vehicle dealer plates, which are necessary for dealers to conduct their business for demoing such vehicles to potential customers. Amendments are needed to add provisions for issuing wrecker plates to comply with SB1183, 2009. Amendments are being made to clarify unacceptable personalized plate messages to include prohibition against acts of violence, drug references, and sexual preference or orientation. A new section is being added to comply with HB226, 2009, providing for the creation of a business logo plate available as permanent commercial trailer plates for businesses who wish to create their own logo plate for registering their commercial trailers and provides for the periodic validation for non-resident owners every 3 years.

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1)(b), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons: Compliance with legislative action in 2008 and 2009.

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: None.

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

NEGOTIATED RULEMAKING: In compliance with Section 67-5220, Idaho Code, negotiated rulemaking was not conducted because changes are necessary for compliance with changes to Idaho Code.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Amy Smith, Vehicle Services Manager, 334-8660.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 28, 2009.

DATED this 19th day of August, 2009.

Linda L. Emry
Office of Governmental Affairs
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 PROPOSED TEXT OF DOCKET NO. 39-0260-0901

150. VEHICLE DEALER LICENSE PLATES FORMATS.

01. Designation for Manufacturers Plates. Plates issued to manufacturers shall bear the designation "MFR" and be numbered from nine thousand (9000) through nine thousand, nine hundred, ninety-nine (9999). (1-3-92)

02. Designation for Dealer Plates. Plates issued to dealers shall bear the designation "DLR" and the sequential license plate number shall be a maximum of two (2) digits. (1-3-92)

a. If a dealer is issued more than ninety-nine (99) plates, an alpha character will be placed in the first position, followed by a number. (1-8-90)

b. The dealer number shall be a maximum of four (4) digits. No dealer number shall be preceded by a zero (0): Dealer number one (1), plate number one (1): 1-01; Dealer number one thousand one (1001), plate number one hundred (100): 1001-A1. (1-8-90)

c. Dealer restricted vehicle plates will display the abbreviation "DLR" within the lower left hand box labeled "Restricted Vehicle". The dealer validation sticker shall be displayed within the box labeled "Dealer Validation Sticker". (7-1-09)T

151. VEHICLE DEALER LICENSE PLATES RESTRICTIONS.

01. Restrictions. Restrictions on the use of manufacturer or dealer plates are provided for by Section 49-1627, Idaho Code. In addition, the following restrictions shall apply: (1-3-92)

a. Authorized employees may operate vehicles displaying dealer plates only when operated in the furtherance of the dealer's business. The authorized employee must carry an identification card issued by the dealer. The identification card shall contain the employee name, dealership, date of issue, dealer number and signature of an authorized representative of the dealership and the signature of the employee. This use shall be limited to normal business hours unless the operator is in possession of a letter from the dealer listing the specific reason for the after-hour use. (1-3-92)

b. A manufacturer shall not display manufacturer plates on vehicle types other than those manufactured by the manufacturer. (1-8-90)

c. A new or used motorcycle ~~or all terrain vehicle~~ dealer shall not display motorcycle dealer plates on other vehicle types ~~nor on a new motorcycle or all terrain vehicle~~ that the dealer is not enfranchised to sell. (4-2-08)(7-1-09)T

d. A new vehicle dealer shall not display new vehicle dealer plates on new vehicles that the dealer is not enfranchised to sell. (4-2-08)

e. A new or used motorbike, all terrain vehicle, or utility vehicle dealer shall not display dealer restricted vehicle plates on other vehicle types nor on any new motorbike, all terrain vehicle, or utility vehicle that the dealer is not enfranchised to sell. (7-1-09)T

f. Vehicles displaying a dealer restricted vehicle plate shall be limited to operation off-highway, on authorized local jurisdiction roadways, on those roadways maintained by the Idaho Department of Lands, the Bureau of Land Management, and the US Forest Service. Restricted vehicles displaying the dealer restricted vehicle plate shall not operate on any state highway, but may cross such at a designated crossing. (7-1-09)T

g. Vehicles displaying a dealer restricted vehicle plate are not required to display the Idaho

Department of Parks and Recreation Off-highway registration to be valid, but are required to be validated in the same manner as are standard dealer plates and display the required annual validation sticker on the restricted plate.

(7-1-09)T

eh. A prospective purchaser shall not have in his possession a vehicle belonging to a dealership after normal business hours without a letter of authority from the dealership. (4-2-08)

fi. A dealer or manufacturer shall not display a dealer plate for purposes other than provided for by law or regulation. (4-2-08)

02. Penalties. In addition to the penalties for violation of plate use provided for in Section 49-236, Idaho Code, a dealer or manufacturer may have his license to do business in Idaho suspended for a period not less than fifteen (15) days nor more than thirty (30) days. (1-8-90)

(BREAK IN CONTINUITY OF SECTIONS)

154. PROVISIONS FOR WRECKER PLATES.

01. Purpose. Wrecker plates are for the exclusive use of businesses engaged in the towing of a wrecked, abandoned, salvaged, or disabled motorized vehicle. Plates shall not be used on vehicles being repossessed. (7-1-09)T

02. Numbering of Plates. Plates shall be numbered as determined by the department and shall display the abbreviation "WRKR" vertically on the left hand side of the plate. (7-1-09)T

03. Renewal of Plates. The wrecker registration and plate are valid for one (1) year from January 1 through December 31 and may be renewed by use of a registration sticker showing the year of validation. (7-1-09)T

04. Use of Plates. Plates are not to be displayed on the towing power unit vehicle nor are they to be used on a vehicle not being towed. Plates are to be displayed on the rear of the towed vehicle in such a manner as to be visible to vehicles approaching from the rear. Wrecker plates may be moved from one (1) towed motorized vehicle to another vehicle under the direct lawful control of the registration holder. (7-1-09)T

05. Possession of Registration. When towing a motorized vehicle displaying a wrecker plate, the operator of the towing vehicle shall carry the wrecker plate registration in the towing vehicle. (7-1-09)T

06. Acquisition/Renewal of Wrecker Plates. Wrecker plates will be issued and renewed through the department by mail or by fax using an application and renewal process determined by the department. (7-1-09)T

1545. -- 198. (RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

202. PROVISIONS FOR PERSONALIZED LICENSE PLATES.

01. Special Characters or Marks. No special characters, or punctuation marks, may be used for personalized messages on license plates. (1-3-92)

a. Up to seven (7) letters or any combination of seven (7) letters and numbers and spaces (no half spaces) may be used for personalized messages on eligible six inch by twelve inch (6" x 12") license plates. (5-8-09)

b. Up to six (6) letters or any combination of six (6) letters and numbers and spaces (no half spaces) may be used for personalized messages on four inch by seven inch (4" x 7") motorcycle plates. (5-8-09)

c. Up to six (6) letters or any combination of six (6) letters and numbers and spaces (no half spaces) may be used for personalized messages on specialty program license plates. (5-8-09)

d. Disability six inch by twelve inch (6" x 12") plates will display the international handicapped symbol followed by up to five (5) letters, numbers, and spaces in the personalized message. Disability four inch by seven inch (4" x 7") motorcycle plates will display the international handicapped symbol followed by up to four (4) letters, numbers, and spaces (no half spaces) in the personalized message. (5-8-09)

02. Issue of Personalized Plates. Personalized plates can be issued only to vehicles if no specific wording is required on the plate to identify the purpose for which the vehicle is registered. Personalized plates will not be issued if such plates would jeopardize the integrity of unique plate identification requirements. Examples include but are not limited to: (1-3-92)

a. Commercial vehicles registered under the International Registration Plan (IRP), because the designators PRP are required to be printed on the plate; (1-3-92)

b. Vehicles for which the designators "PRP" are required to be printed on the plate to identify the use; and (4-2-08)

c. Utility, horse, or enclosed car hauling trailers with RV facilities or boat trailers. (4-2-08)

03. Specific Requests. Requests for specific plate letters and/or numbers will be issued on a first come, first served basis. In the event of a request for the same plate by more than one (1) individual, the request with the earliest postmark, e-mail transmission time, or fax transmission time will prevail. If the postmarks are the same, the date stamped upon arrival at the Department will prevail. Applications submitted at county assessors' offices will not be considered valid until stamped in by the Department. Telephone requests will not be accepted. (4-2-08)

04. Lack of Current Plates. When an applicant for personalized plates does not have current regular number plates: (1-3-92)

a. The Department may issue a thirty (30) day temporary registration to allow time for the billing process for personalized plates. The fee for each thirty (30) day temporary registration shall be as required by Section 49-523, Idaho Code. (4-2-08)

b. The Department may, upon payment of all required fees, issue a temporary registration document as provided in Section 012 of these rules. (4-2-08)

05. Credits. When personalized plates are issued before an applicant's current registration is expired, credit will be given for unexpired registration fees only. (1-3-92)

06. Renewing Plates. The applicant will have the choice of renewing existing personalized plates with validation stickers or ordering a new set of plates at the time of renewal. If new plates are requested, the plate fee will be charged in addition to all other fees that are due. New plates must be purchased every seven (7) years as provided in Section 49-443, Idaho Code. (4-2-08)

07. Transfer of Plates. When personalized plates are issued, the vehicle's regular number plates may be transferred to another vehicle belonging to the owner. If registration credit is given from the regular number plates to the personalized, the regular number plate registration is canceled. (1-3-92)

08. Acceptability of Plates Message. Acceptability of the personalized license plate message and issuance, denial or cancellation will be determined by the Department based on the following criteria: (1-3-92)

a. The combination of numbers and letters requested or combinations of same may not duplicate an existing combination in use. (1-3-92)

b. The message, in any language, may not carry a sexual connotation nor consist of a term that is considered to be one of: obscenity; contempt; prejudice; hostility; insult; racial degradation; ethnical degradation; profanity; or refers to bodily functions, bodily fluids, or intimate body parts; sexual preference or orientation; act of violence, illegal substances; or vulgarity as defined in dictionaries of general use, including, but not limited to, Webster's Unabridged Dictionary and the Harper & Row New Dictionary of American Slang. ~~(5-8-09)~~(7-1-09)T

c. The criteria in Paragraph 202.08.b. of these rules is not to be considered an exhaustive list. A compilation of offensive or obscene words, terms or letter/number combinations gathered from the experience of Idaho and other states may also be used as a guide. (4-2-08)

d. When a complaint is received from the public concerning an issued plate, the name of the caller will not be recorded nor, if known, revealed. (1-3-92)

e. Final determination regarding applications for questionable messages or cancellation of issued plates will be made by the Division of Motor Vehicles. The determination process shall include a first review by technical staff, followed by a second review by supervisory and management staff. An applicant does, however, have a right to a hearing on the decision. (4-2-08)

09. Message Preferences. Applicants may submit three (3) message preferences including the specific meaning of each. The first choice that is available and acceptable will be issued. If none of the preferences are available or acceptable, the applicant will be notified by return mail. (4-2-08)

10. Recalled Plates. Personalized plates may be recalled by the Department for the following reasons: (1-3-92)

a. Error in manufacturing; or (1-3-92)

b. Clerical error. (1-3-92)

c. Unacceptable personalized messages as outlined in Paragraph 202.08.b. of these rules. (4-2-08)

11. Unexpired Fees. If a set of personalized plates is recalled, the personalized plate program fee, unexpired portion of the registration fee, E.M.S. fee, plate fee, (if plates are returned to the department), and all other applicable special plate fees, will be refunded or transferred to a new issue of personalized plates. (4-2-08)

12. Expired Plates. Personalized plates that are allowed to expire shall become immediately available for reissue to another applicant. There is no grace period. (1-3-92)

(BREAK IN CONTINUITY OF SECTIONS)

204. PERMANENT COMMERCIAL TRAILER - BUSINESS LOGO PLATES PROVISIONS.

01. Applying for a Business Logo Plate. Businesses applying for a business logo plate pursuant to Section 49-415G, Idaho Code, will be required to remit a non-refundable fee as set by the Idaho Transportation Board for programming costs of a business logo plate. This fee will be utilized for programming of state systems to accommodate the new plate type, and periodic verification of ownership of trailers issued such plates. Such fee shall not exceed actual costs. (7-1-09)T

02. Completed Application. Businesses applying for a business logo plate must complete an application provided by the department. (7-1-09)T

03. Listed Business Name. Business logo plates are only available to a company whose name is listed on any Secretary of State's business name listing. (7-1-09)T

04. Licensed Business Name Only. Business logos may only contain the licensed business name of the designated company and not the products or business it provides or transports. (7-1-09)T

05. Copyrighted or Trademarked Designs. Any copyrighted or trademarked design must be accompanied by a written release or authorization to reproduce such design on Idaho license plates. (7-1-09)T

06. Verified Business Vehicles. Business logo plates will only be issued to vehicles verified to be owned and titled in the name of the business applying for such logo. (7-1-09)T

07. Business Logo Graphics. Messages and designs contained within the business logo graphics must comply with Subsection 202.08.b. of this rule regarding acceptability of plate messages including designs. (7-1-09)T

08. Verification of Business Owner Status. Periodic verification of owner status shall be sent by the department to non-resident owners of business logo plates and North America permanent trailer plates, every three (3) years to verify current vehicle ownership. Failure of the owner to respond and confirm ownership shall result in the plate being canceled. (7-1-09)T

2045. -- 299. (RESERVED).

IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT

39.03.12 - RULES GOVERNING SAFETY REQUIREMENTS OF OVERLEGAL PERMITS

DOCKET NO. 39-0312-0901

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rule-making procedures. The action is authorized pursuant to Section 49-201, 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 October 21, 2009.

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:

The Federal Motor Carrier Safety Regulations (FMCSR 393.87) have recently changed the required dimension for flags from 12"x12" to 18"x18". This change is being made to ensure that the administrative rule is in compliance with federal regulation.

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

There are no fee or charges being imposed through this rulemaking.

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was not conducted because this change was necessary for compliance with federal regulations.

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

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 28, 2009.

DATED this 19th day of August, 2009.

Linda L. Emry
Office of Governmental Affairs
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 PROPOSED TEXT FOR DOCKET NO. 39-0312-0901

000. LEGAL AUTHORITY.

This rule, governing the movement of vehicles or loads which are in excess of the sizes or weights allowed by Sections 49-940, 49-1001, 49-1002, 49-1004, or 49-1010, Idaho Code, is adopted under the authority of Sections ~~40-312 and 49-1004~~ 201, Idaho Code. (9-14-92)()

(BREAK IN CONTINUITY OF SECTIONS)

005. OFFICE -- OFFICE HOURS -- MAILING AND STREET ADDRESS -- PHONE NUMBERS.

01. Street And Mailing Address. The Idaho Transportation Department maintains a central office in Boise at 3311 W. State Street with a mailing address of PO Box 7129, Boise, ID 83707-1129. (4-2-08)

02. Office Hours. Daily office hours are 7:30 a.m. to 5 p.m. except Saturday, Sunday and state holidays. (~~4-2-08~~)()

03. Telephone and Fax Numbers. The central office may be contacted during office hours by phone at 208-334-8420 or by fax at 334-8419. (4-2-08)

(BREAK IN CONTINUITY OF SECTIONS)

200. FLAGGING REQUIREMENTS FOR OVERSIZE VEHICLES AND/OR LOADS.

Warning flags for oversize vehicles and/or loads, excluding extra-length vehicle combinations, shall be marked by warning flags meeting the following: (4-5-00)

01. Warning Flags. Warning flags are required on all overwidth vehicles and/or loads and when the rear overhang exceeds the end of the trailer by four (4) feet or more. (4-5-00)

02. Size. Minimum size of flags is ~~twelve~~ eighteen (128) inches by ~~twelve~~ eighteen (128) inches. (~~4-5-00~~)()

03. Color. Red or fluorescent orange. (4-5-00)

04. Placement of Flags. On overwidth vehicles and/or loads, flags shall be placed at the four (4) corners and/or extremities of the vehicle and/or load as follows: (4-5-00)

a. Front. Fastened to each front corner of the vehicle and/or load if it exceeds legal width. (4-5-00)

b. Rear. Fastened to each rear corner of the vehicle and/or load if it exceeds legal width. (4-5-00)

c. Side. Fastened to mark any extremity, when extremity is wider than the front or the rear of the vehicle and/or load. (4-5-00)

d. Overhang. If the overhang is two (2) feet wide or less only one (1) flag is required on the end of the overhang. If the overhang is over two (2) feet wide, two (2) flags are required on the end of the overhang to show the maximum width of the overhang. (4-5-00)

IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT
39.03.16 - RULES GOVERNING OVERSIZE PERMITS FOR NON-REDUCIBLE
VEHICLES AND/OR LOADS

DOCKET NO. 39-0316-0901

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking procedures. The action is authorized pursuant to Section 49-201, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 21, 2009.

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:

As written, the current restriction applies to loads exceeding four feet overhang in front of flatbed trailers, between the trailer and the tractor of the vehicle combination. Staff partnered with industry to research and determined that seven feet of front trailer overhang can be safely accommodated for night operations on two-lane, two-way highways. An overhang which exceeds seven feet will be restricted to daylight only travel when operating on two-lane, two-way highways.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: None.

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was not conducted because the rulemaking was initiated at the request of industry and confers a benefit.

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

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 28, 2009.

DATED this 19th day of August, 2009.

Linda L. Emry
Office of Governmental Affairs
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 PROPOSED TEXT FOR DOCKET NO. 39-0316-0901

000. LEGAL AUTHORITY.

This rule, governing the movement of vehicles and/or loads which are in excess of the sizes allowed by Sections 49-1004 and 49-1010, Idaho Code, is adopted under the authority of Sections ~~40-312 and 49-1004~~ 201, Idaho Code.
(4-5-00)()

(BREAK IN CONTINUITY OF SECTIONS)

005. OFFICE -- OFFICE HOURS -- MAILING AND STREET ADDRESS -- PHONE NUMBERS.

01. Street and Mailing Address. The Idaho Transportation Department maintains a central office in Boise at 3311 W. State Street with a mailing address of PO Box 7129, Boise, ID 83707-1129. (3-20-04)

02. Office Hours. Daily office hours are 7:30 a.m. to 5 p.m. except Saturday, Sunday and state holidays. (3-20-04)()

03. Telephone and Fax Numbers. The central office may be contacted during office hours by phone at 208-334-8420 or by fax at 334-8419. (3-20-04)

(BREAK IN CONTINUITY OF SECTIONS)

600. OVERLENGTH RESTRICTIONS.

Oversize vehicles operating under authority of an overlegal permit ~~for oversize vehicles~~ which exceed ~~four~~ seven (47) feet of front overhang, on any vehicle in the combination, are restricted to daylight travel only on two (2) lane, two (2) way highways. (4-5-00)()

IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT

39.03.41 - RULES GOVERNING TRAFFIC CONTROL DEVICES

DOCKET NO. 39-0341-0901

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rule-making procedures. The action is authorized pursuant to Sections 40-313 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 21, 2009.

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

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

This rulemaking adopts the most recent edition of the Manual on Uniform Traffic Control Devices for Streets and Highways (MUTCD), the 2003 edition including revisions #1 and #2, published December 21, 2007. It also adds conforming additions to the manual, as adopted by the Idaho Transportation Board and approved by FHWA/Idaho, allowing the optional use of the IdaShield object marker for additional delineation of non-signalized at-grade railroad/road crossings of public roads. Studies show driver awareness and compliance with traffic rules at these crossings increases 20-25% with the use of IdaShield, which results in increased public safety and a decrease in the number of vehicular accidents.

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

There is no fee or charge being imposed through this rulemaking.

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was not conducted because the MUTCD is the nationwide standard for traffic control devices and the department is required by statute to adopt such a standard with conforming additions to address needs and exceptions, unique to Idaho.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Brent Jennings, Highway Operations and Safety Engineer, 334-8557.

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 28, 2009.

DATED this 19th day of August, 2009.

Linda L. Emry
Office of Governmental Affairs
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 PROPOSED TEXT FOR DOCKET NO. 39-0341-0901

000. LEGAL AUTHORITY.

The Idaho Transportation Board adopts this rule under the authority of Sections 40-313, and 49-201(3) ~~and 67-5203A~~, Idaho Code. ~~(5-16-90)()~~

(BREAK IN CONTINUITY OF SECTIONS)

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 2003 edition of the Manual and all subsequent amendments, through and including revision number ~~one two~~ (#2) dated ~~July~~ December 21, 2004~~7~~, are hereby incorporated by reference and made a part of the Rules of the Idaho Transportation Department. The following ~~exceptions~~ conforming additions to the Manual are adopted by the Idaho Transportation Board: ~~(4-1-05)()~~

01. Section 2H-04, General Design Requirements for Recreational and Cultural Interest Area Symbol Signs. On page 2H-1, modify the first sentence under Standard to read as follows: Recreational and cultural interest area symbol signs shall be square or rectangular in shape and shall have a white symbol or message and white border on a brown background, with the exception of Scenic Byway signs which shall be allowed to use a multi-colored format. (4-1-05)

02. Section 1A.11, Relation to Other Documents. On page 1A-7, in the first paragraph under Standard, change the paragraph to read as follows: 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: Idaho Transportation Department (ITD) Sign Chart; 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). The "Standard Highway Signs" book (FHWA) shall be a part of this Manual as a supporting document and add the following as the first sentence of the "Support" statement: Idaho Transportation Department Sign Chart includes all signs approved for use on a highway under the jurisdiction of the Idaho Transportation Department, their sign number designations and a cross reference index for comparison of all MUTCD approved signs and those included on the Idaho Transportation Department sign chart. (4-1-05)

03. Section 2C.30, Speed Reduction Signs (W3-5, W3-5a) on page 2C-15, delete "W3-5" from the title of the section and from the first sentence of the Guidance Statement, and Figure 2C-5, Advisory Speed and Speed Reduction Signs, on page 2C-16, remove the W3-5 sign from the figure. (4-1-05)

04. Section 2C.39, Traffic Signal Signs (W25-1, W25-2). On page 2C-20, delete the section in its entirety, and Figure 2C-8. Intersection Warning Signs, on page 2C-20, remove the W25-1 and W25-2 signs from the figure. (4-1-05)

05. Section 2D.15, Cardinal Direction Auxiliary Signs (M3-1 Through M3-4). On page 2D-6, change the first sentence under Standard to read as follows: "To improve the readability, the first letter of the cardinal direction words shall be ten percent larger, rounded up to the nearest whole number size, except for those sign installations that were in existence prior to the adoption of this rule." (4-1-05)

06. Section 2E.28, Interchange Exit Numbering. On page 2E-24, in the fourth sentence under Standard, revise the sentence to read as follows: "The standard exit number plaque shall include the word EXIT, the appropriate exit number, and the suffix letter A or B (on multi-exit interchanges) in a single-line format on a plaque ~~750 mm (30) thirty-six (36) inches~~ in height, except for those sign installations that were in existence prior to the adoption of this rule." ~~(4-1-05)()~~

07. Section 2E.37, Interchange Sequence Signs. On page 2E-38, revise the last Standard to an Option to read as follows: "Interchange Sequence signs located in the median may be installed at overhead sign height."
(4-1-05)

08. Section 3C.01, Object Marker Design and Placement Height. On page 3C-1 under "Standard:" add the following paragraphs as a second paragraph under Type 1, Type 2 and Type 3 Object Markers to allow an alternate method of marker construction: ()

a. Type 1 - either a marker consisting of a rigid substrate sheeted with yellow ASTM 4956D, TYPE IV retroreflective sheeting screen printed to display nine (9) yellow retroreflective circles, each with a minimum diameter of seventy-five (75) millimeters (three (3) inches), arranged symmetrically on a black (OM1-2) diamond shaped panel four hundred fifty (450) millimeters (eighteen (18) inches) or more on a side; or an all-yellow ASTM 4956D, TYPE IV retroreflective diamond shaped panel (OM1-3) of the same size. ()

b. Type 2 - either a marker (OM2-1V or OM2-1H) consisting of a rigid substrate sheeted with white ASTM 4956D, TYPE IV retroreflective sheeting and displaying three (3) yellow circles of ASTM 4956D, TYPE IV retroreflective sheeting, each with a minimum diameter of seventy-five (75) millimeters (three (3) inches), arranged either horizontally or vertically on a white panel measuring at least one hundred fifty (150) millimeters by three hundred (300) millimeters (six (6) inches by twelve (12) inches); or on an all-yellow horizontal or vertical retroreflective panel (OM2-2V or OM2-2H), sheeted with ASTM 4956D, TYPE IV retroreflective sheeting measuring at least one hundred fifty (150) millimeters by three hundred (300) millimeters (six (6) inches by twelve (12) inches). ()

c. Type 3 - a striped marker, three hundred (300) millimeters by nine hundred (900) millimeters (twelve (12) inches by thirty-six (36) inches), consisting of a rigid substrate sheeted with yellow ASTM 4956D, TYPE IV retroreflective sheeting screen printed to display a vertical rectangle with alternating black stripes and retroreflective yellow stripes sloping downward at an angle of forty-five (45) degrees toward the side of the obstruction on which traffic is to pass. The minimum width of the yellow and black stripes shall be seventy-five (75) millimeters (three inches (3 in)). ()

d. Add a category for Type 4 object markers, to read as follows: ()

i. Type 4 - a striped marker, eight hundred thirty-eight (838) millimeters by nine hundred sixty-five (965) millimeters (thirty-three (33) inches by thirty-eight (38) inches), consisting of a vertical rectangle with two (2), two hundred ninety-two (292) millimeter (eleven point five (11.5) inch) side wings and a two hundred sixteen (216) millimeter (eight point five (8.5) inch) center section which are formed by bending the panel from top to bottom at a forty-five (45) degree angle away from approaching traffic. The rigid substrate panel is sheeted on both sides with white ASTM 4956D, TYPE IX diamond grade prismatic retroreflective sheeting and has reflective chrome stripes and red transparent ink stripes applied to the side wings sloping downward from the top outer corners at an angle of forty-five (45) degrees toward the center of the marker where they meet corresponding stripes which have been placed at a ninety (90) degree angle across the center section of the marker, except on the back of the marker which shall have the center section unsheeted and on the areas of the bends which shall have a nineteen (19) millimeter (point seventy-five (.75) inch) wide strip from top to bottom left unsheeted. The stripes shall meet the following dimensions: chrome stripes shall be thirty-eight (38) millimeters (one point five (1.5) inches) and red stripes shall be one hundred forty (140) millimeters (five point five (5.5) inches). ()

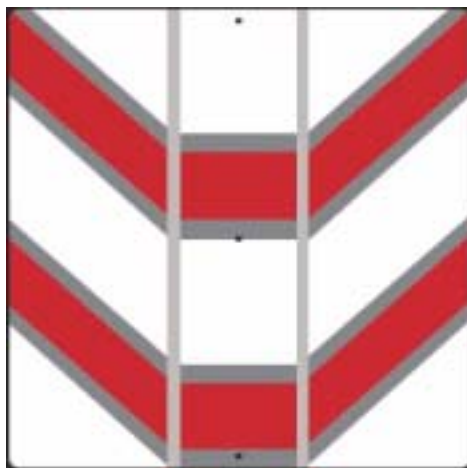
ii. Under "Support:" add the following as paragraph three (3): ()

(1) The Type 4 object marker, known in Idaho as OM-4 (IdaShield), shall be placed below the Highway-Rail Grade or Highway-Light Rail Transit Grade crossing Crossbuck Sign Assembly on the right hand side of the roadway on each approach to a crossing where automatic signal warning devices do not exist. The bottom of the shield should be six hundred ten (610) millimeters (twenty-four (24) inches) above the top of the rail and shall not be more than nine hundred fifteen (915) millimeters (thirty-six (36) inches) above the ground. ()

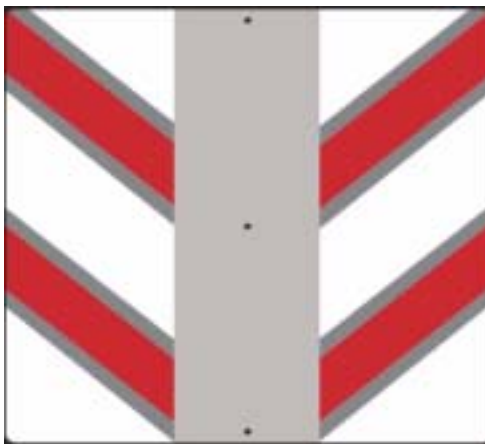
(2) On page 3C-2 Figure 3C-1, Object Markers and End-of-Roadway Markers, add a Type 4 Object Marker category to the figure which shall include an example of an OM-4 object marker known in Idaho as IdaShield. ()

Type 4 Object Markers
OM-4 (IdaShield)

FRONT



BACK



()

089. **Table 4C-1, Warrant 1, Eight-Hour Vehicular Volume.** On page 4C-3, remove all references to the fifty-six percent (56%) volume columns and note “d” and Section 4C.02 Warrant 1, Eight-Hour Vehicular Volume, on page 4C-4, remove the Option statement in its entirety. (4-1-05)

0910. **Section 4D.04, Meaning of Vehicular Signal Indications.** On page 4D-2, in the second paragraph of Item C.1, substitute the following for the first sentence: “Except when a sign is in place prohibiting a turn on red or a RED ARROW signal indication is displayed, vehicular traffic facing a CIRCULAR RED signal indication may

cautiously enter the intersection to turn right, or to turn left from a one (1) way or two (2) way street into a one (1) way street, after stopping in conformance with the provisions of the Idaho Vehicle Code.” (4-1-05)

101. Section 4K.03, Warning Beacon. On page 4K-2, in the second paragraph under Standard, revise the second sentence to read as follows: “The beacon shall not be included within the border of the sign.” (4-1-05)

142. Section 5F.02, Highway-Rail Grade Crossing (Crossbuck) Sign Assembly (R15-1, R15-2). On page 5F-1, in the title add the word “Assembly” after the word “Sign,” and Under Standard, insert the following text as the first sentence: “The Highway-Rail Grade Crossing (Crossbuck) (R15-1) sign (see Figure 5F-1) may be an assembly consisting of separate sign blades, assembled to appear as a single sign when installed at a highway-rail grade crossing.” (4-1-05)

123. Section 5F.04, STOP or YIELD Signs (R1-1, R1-2). On page 5F-1, delete the first paragraph titled as Option Statement, retaining the Standard for Stop Ahead (W3-1) or Yield Ahead (W3-2) signs and insert the following paragraph as the second paragraph under Standard: “Under Idaho law, wherever a highway crosses one (1) or more railroads at grade, the Department or local authorities within their respective jurisdictions, shall place and maintain stop signs, directing vehicular traffic approaching the crossing to come to a full stop prior to entering the crossing at all railroad crossings where electric or mechanical warning signals do not exist. Placement of these stop signs shall be mandatory except when, in the determination of the Department or local authorities, the existence of stop signs at a given crossing would constitute a greater hazard than their absence.” (4-1-05)

134. Section 7B.11, School Speed Limit Assembly (S4-1, S4-2, S4-3, S4-4, S4-6, S5-1). On page 7B-7, in the fourth paragraph under Option, revise the second sentence to read as follows: “The lenses of the Speed Limit Sign Beacon shall not be positioned within the face of the School Speed Limit (S5-1) sign.” (4-1-05)

15. Section 8B.05, EXEMPT Highway-Rail Grade Crossing Signs (R15-3, W10-1a). ()

a. On page 8B-5, add the following paragraph titled as: “Standard: All EXEMPT (R15-3) signs placed at a highway-rail grade crossing, shall require train crews to flag the crossing and stop all vehicular traffic prior to allowing any railroad equipment to enter the crossing. Placement of an EXEMPT (R15-3) sign shall require a written agreement between the railroad company and the agency having jurisdiction over the highway which requires both parties to comply with the proper procedures for placement of EXEMPT signs at Highway-Rail Grade Crossings. A copy of all agreements shall be forwarded to the Idaho Transportation Department Highway-Rail Safety Coordinator.” ()

b. Retain the “Option” statement and modify the “Support” statement as follows: Support: These supplemental signs inform drivers of vehicles carrying passengers for hire, school buses carrying students, or vehicles carrying hazardous materials that a stop is not required at certain designated highway-rail grade crossings. ()

146. Section 8B.08, STOP (R1-1) or YIELD (R1-2) Signs at Highway-Rail Grade Crossings. On page 8B-6, delete the first five paragraphs titled as “Option, Support and Guidance Statements,” retaining the Standard for Stop Ahead or Yield Ahead Advance Warning signs and insert the following: paragraph as the second paragraph under Standard: “Under Idaho law, wherever a highway crosses one (1) or more railroads at grade, the Department or local authorities within their respective jurisdictions, shall place and maintain stop signs, directing vehicular traffic approaching the crossing to come to a full stop prior to entering the crossing at all railroad crossings where electric or mechanical warning signals do not exist. Placement of these stop signs shall be mandatory except when, in the determination of the Department or local authorities, the existence of stop signs at a given crossing would constitute a greater hazard than their absence.” (4-1-05)

157. Section 8B.22, Dynamic Envelope Markings. On page 8B-13, revise the first sentence under Standard to read as follows: “If used, the dynamic envelope shall be contrasting pavement color and/or contrasting pavement texture.” And, on page 8B-13, revise the first sentence under Guidance to read as follows: “If used, dynamic envelope pavement markings with contrasting pavement color and/or texture should be placed for a distance of 1.8 m (6 ft.) from the nearest rail, installed parallel to the tracks, unless the operating railroad company advises otherwise.” (4-1-05)

168. Figure 8B-8, Typical Train Dynamic Envelope Pavement Markings. On page 8B-13, delete

Figure in it's entirety.

(4-1-05)

179. Section 8D.07, Traffic Control Signals at or Near Highway-Rail Grade Crossings. On page 8D-07, in the tenth paragraph titled Standard, add text "if justified by an engineering study," to the end of the final sentence in the paragraph. (4-1-05)

180. Section 10C.04, STOP (R1-1) Or YIELD (R1-2) Signs at Highway-Light Rail Transit Grade Crossings. On page 10C-2 and 10C-4, delete the Guidance, and Option Statements," retaining the Standard for Stop Ahead or Yield Ahead Advance Warning signs and insert the following paragraph as the first paragraph under Standard: "Under Idaho law, wherever a highway crosses one (1) or more railroads at grade, the Department or local authorities within their respective jurisdictions, shall place and maintain stop signs, directing vehicular traffic approaching the crossing to come to a full stop prior to entering the crossing at all railroad crossings where electric or mechanical warning signals do not exist. Placement of these stop signs shall be mandatory except when, in the determination of the Department or local authorities, the existence of stop signs at a given crossing would constitute a greater hazard than their absence." (4-1-05)

21. Section 10C.10, EXEMPT Highway-Rail Grade Crossing Sign (R15-3, W10-1a). ()

a. On page 10C-5, add the following paragraph titled as: "Standard: All EXEMPT (R15-3) signs placed at a highway-rail grade crossing, shall require train crews to flag the crossing and stop all vehicular traffic prior to allowing any railroad equipment to enter the crossing. Placement of an EXEMPT (R15-3) sign shall require a written agreement between the railroad company and the agency having jurisdiction over the highway which requires both parties to comply with the proper procedures for placement of EXEMPT signs at Highway-Rail Grade Crossings. A copy of all agreements shall be forwarded to the Idaho Transportation Department Highway-Rail Safety Coordinator." ()

b. Retain the "Option" statement and modify the "Support" statement as follows: Support: These supplemental signs inform drivers of vehicles carrying passengers for hire, school buses carrying students, or vehicles carrying hazardous materials that a stop is not required at certain designated highway-light rail transit grade crossings. ()

1922. Section 10C.25 Dynamic Envelope Delineation. (4-1-05)

a. On page 10C-12, delete the word "markings" in the title and, under Support, delete the word "markings" and replace with "contrasting pavement color and/or contrasting pavement texture." (4-1-05)

b. On page 10C-12, under Option: Replace the sentence with the following: "The dynamic envelope may be delineated on the pavement using contrasting pavement color and/or contrasting pavement texture (see Figures 10C-7 and Figure 10C-10)," and on page 10C-12, delete "Standard, relating to pavement markings in its entirety," and on page 10C-12, revise Guidance, to read as follows: "If used at the light-rail transit crossing, dynamic envelope contrasting pavement color and/or texture should be placed at a distance of 1.8 m (6 ft.) from the nearest rail, installed parallel to the tracks, unless the transit authority and/or operating railroad company advises otherwise," and on page 10C-12, delete the work "markings" in all four paragraphs under the second Option and replace with "delineation." (4-1-05)

203. Figure 10C-8, Typical Light Rail Transit Vehicle Dynamic Envelope Delineation Pavement Markings. On page 10C-13, delete Figure 10C-8 in it's entirety. (4-1-05)

214. Section 10D.06, Traffic Signal Preemption Turning Restrictions. On page 10D-4, under the third paragraph titled Guidance: add text "if justified by an engineering study," to the end of the final sentence in the paragraph. (4-1-05)

(BREAK IN CONTINUITY OF SECTIONS)

100. AVAILABILITY OF THE “MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES FOR STREETS AND HIGHWAYS.”

01. Review of Manual. Persons wishing to review the Manual may do so at any of the locations listed in Section 005. The Manual and subsequent amendments are also available for review at the Idaho State Library.
(3-20-04)

02. Purchase of Manual. The Manual and all subsequent amendments dated ~~July~~ December 21, 2004~~7~~, with Revision No. 1 and Revision No. 2 changes may be viewed and printed from the Federal Highway Administration website, <http://mutcd.fhwa.dot.gov> or purchased from a number of organizations described on the website, such as the U.S. Government Printing Office, AASHTO, ATSSA, and ITE.
(~~4-1-05~~)()

IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT

39.04.05 - RULES GOVERNING AIRCRAFT REGISTRATION

DOCKET NO. 39-0405-0901

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking procedures. The action is authorized pursuant to Section(s) 21-111 and 21-114, 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 21, 2009.

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:

The rule currently cites Section 63-1203, Idaho Code, which has been repealed by the legislature and replaced with Section 63-301, Idaho Code, with equivalent wording. Minor wording changes were included to clarify the intent of the rule and language added as prescribed by the Office of the Administrative Rules Coordinator.

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, Idaho Code, negotiated rulemaking was not conducted since there is no impact to the industry or to the public.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact John DeThomas, Aeronautics Division Administrator, 334-8788. 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 28, 2009.

DATED this 19th day of August, 2009.

Linda L. Emry
Office of Governmental Affairs
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 PROPOSED TEXT OF DOCKET NO. 39-0405-0901

001. TITLE AND SCOPE.

01. Title. This rule shall be known as IDAPA 39.04.05, "Rules Governing Aircraft Registration," IDAPA 39, TITLE 04, Chapter 05. ()

02. Scope. This rule establishes the procedures for aircraft registration in the state of Idaho.

~~(11-28-90)~~()

002. WRITTEN INTERPRETATIONS.

There are no written interpretations for this chapter.

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003. ADMINISTRATIVE APPEALS.

Administrative appeals under this chapter shall be governed by the rules of administrative procedure of the attorney general, IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General."

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004. INCORPORATION BY REFERENCE.

There are no documents incorporated by reference in this chapter.

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005. OFFICE -- OFFICE HOURS -- MAILING AND STREET ADDRESS -- PHONE NUMBERS.

01. Street and Mailing Address. The Idaho Transportation Department Division of Aeronautics maintains an office in Boise at 3483 Rickenbacker Street with a mailing address of P O Box 7129, Boise ID 83707-1129.

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02. Office Hours. Daily office hours are 8 a.m. to 5 p.m. except Saturday, Sunday and state holidays.

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03. Telephone and FAX Numbers. The division office may be contacted during office hours by phone at 208-334-8775 or 800-426-4587 or by fax at 208-334-8789. The central office may be contacted during office hours by phone at 208-334-8000 or by fax at 208-334-3858.

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006. PUBLIC RECORDS ACT COMPLIANCE.

All records associated with this chapter are subject to and in compliance with the Idaho Public Records Act, as set forth in Sections 9-337 through 9-350, Idaho Code.

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0027. -- 099. (RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

101. REGISTRATION PERIOD.

01. Annual Period. The registration period for the registration of aircraft in the state of Idaho shall run from January 1 through December 31 of each year.

(11-28-90)

02. Annual Registration Closing Date. The closing date for the annual registration shall be the first Monday of November in each year. A list of unregistered aircraft, as of that date, shall be forwarded to the proper county assessor for inclusion in personal property assessment due on the fourth Monday in November, as required by Section 63-~~1203~~ 301, Idaho Code.

~~(11-28-90)~~()

102. APPLICATIONS FOR AIRCRAFT REGISTRATION.

01. Current Registration Certificate. An owner who holds a currently effective registration certificate for an aircraft issued by the Federal government shall make application for an aircraft registration upon appropriate forms to be prescribed and furnished by the Division. Every such application shall contain a statement of the applicant's title and the names and addresses of all persons having any interest therein.

(11-28-90)

02. Application Information. Every application for an aircraft registration shall contain: The name of the manufacturer, model, year, the aircraft identification number and serial number, engine type, and aircraft manufacturer's certified maximum gross weight.

~~(1-2-93)~~()