

Dear Senators HAMMOND, Brackett, Werk, and
Representatives PALMER, Ellsworth, Ringo:

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

IDAPA 39.02.03 - Rules Pertaining To The Rules Governing Vehicle Dealer's Principal Place of
Business (Docket No. 39-0203-1101);

IDAPA 39.02.47 - Rules Pertaining To The Rules Governing Revocation of Vehicle Registration for
Failure to Comply with a Motor Vehicle Emission Inspection Ordinance (Chapter Repeal)
(Docket No. 39-0247-1101);

IDAPA 39.02.75 - Rules Pertaining To The Rules Governing Names on Drivers' Licenses and
Identification Cards (Docket No. 39-0275-1101);

IDAPA 39.03.01 - Rules Pertaining To The Rules Governing Definitions Regarding Overlegal
Permits (Docket No. 39-0301-1101);

IDAPA 39.03.16 - Rules Pertaining To The Rules Governing Oversize Permits for Non-Reducible
Vehicles and/or Loads (Docket No. 39-0316-1101).

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 09/13/2011. 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 10/11/2011.

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 334-4845, or send a written request to the address or FAX
number indicated on the memorandum enclosed.



Jeff Youtz
Director

Legislative Services Office Idaho State Legislature

Serving Idaho's Citizen Legislature

MEMORANDUM

TO: Rules Review Subcommittee of the Senate Transportation Committee and the House Transportation & Defense Committee
FROM: Principal Legislative Research Analyst - Eric Milstead
DATE: August 24, 2011
SUBJECT: Idaho Transportation Department

IDAPA 39.02.03 - Rules Pertaining To The Rules Governing Vehicle Dealer's Principal Place of Business (Docket No. 39-0203-1101)

IDAPA 39.02.47 - Rules Pertaining To The Rules Governing Revocation of Vehicle Registration for Failure to Comply with a Motor Vehicle Emission Inspection Ordinance (Chapter Repeal) (Docket No. 39-0247-1101)

IDAPA 39.02.75 - Rules Pertaining To The Rules Governing Names on Drivers' Licenses and Identification Cards (Docket No. 39-0275-1101)

IDAPA 39.03.01 - Rules Pertaining To The Rules Governing Definitions Regarding Overlegal Permits (Docket No. 39-0301-1101)

IDAPA 39.03.16 - Rules Pertaining To The Rules Governing Oversize Permits for Non-Reducible Vehicles and/or Loads (Docket No. 39-0316-1101)

The Idaho Transportation Department submits the following:

1. IDAPA 39.02.03 - Rules Pertaining To The Rules Governing Vehicle Dealer's Principal Place of Business (Docket No. 39-0203-1101)

The Idaho Transportation Department submits notice of temporary and proposed rulemaking at IDAPA 39.02.03 -- Rules Governing Vehicle Dealer's Place of Business. The temporary and proposed rule governs the retention of certain records, in physical or electronic format and allows for storage of certain records off-site. The temporary and proposed rule reflects changes to the germane statute which were enacted by the 2011 Legislature in Senate Bill 1061.

The agency notes that negotiated rulemaking was not conducted because the changes to rule were based upon the recently passed Senate bill.

The Department's temporary and proposed rule appear to be authorized by Section 49-201, Idaho Code.

2. IDAPA 39.02.47 - Rules Governing Revocation of Vehicle Registration for Failure to Comply With a Motor Vehicle Emission Inspection Ordinance (Docket No. 39-0247-1101)

Mike Nugent Manager
Research & Legislation

Cathy Holland-Smith, Manager
Budget & Policy Analysis

Don H. Berg, Manager
Legislative Audits

Glenn Harris, Manager
Information Technology

The Idaho Transportation Department submits notice of proposed rulemaking at IDAPA 39.02.03 -- Rules Governing Revocation of Vehicle Registration for Failure to Comply With a Motor Vehicle Emission Inspection Ordinance. The proposed rulemaking repeals a rule whose language is now included in section 39-116B, Idaho Code, per 2011 House Bill 326.

The agency notes that negotiated rulemaking was not conducted because the pertinent language of the repealed rule now appears in statute.

The Department's proposed rule appears to be authorized by Sections 49-201 and 49-202, Idaho Code.

3. IDAPA 39.02.75 - Rules Governing Names on Drivers' Licenses and Identification Cards (Docket No. 39-0275-1101)

The Idaho Transportation Department submits notice of temporary and proposed rulemaking at IDAPA 39.02.75 --Rules Governing Names on Drivers' Licenses and Identification Cards. In short, to prevent an individual from establishing two identities, the temporary and proposed rule disallows the issuance of a driver's license in one name and the issuance of a state identification card in another name. The agency also notes that the temporary and proposed rule complies with the Division of Motor Vehicle's "one-person/one record" requirement.

The Department's temporary and proposed rule appears to be authorized by Sections 67-5226 and 49-201, Idaho Code.

4. IDAPA 39.03.01 - Rules Governing Definitions Regarding Overlegal Permits (Docket No. 39-0301-1101)

The Idaho Transportation Department submits notice of temporary and proposed rulemaking at IDAPA 39.03.01 -- Rules Governing Definitions Regarding Overlegal Permits. The temporary and proposed rule includes a number of revisions to the current rule, including: adding a definition of "designated agent"; increases the length limit for certain vehicle combinations from 105 feet to 115 feet pursuant to statute (Section 49-1010(7)); and revised the definition of "overall length." Other revisions throughout the rule include changes to reference to relevant Idaho Code sections and also reflects updated formatting to comply with rules drafting guidelines.

The effective date of the temporary rule was July 1, 2011. The agency notes that negotiated rulemaking was not conducted because the changes to rule were based upon the recently passed Senate bill.

The Department's temporary and proposed rule appears to be authorized by Section 49-201, Idaho Code.

5. IDAPA 39.03.16 - Rules Governing Oversize Permits for Non-Reducible Vehicles and/or Loads (Docket No. 39-0316-1101)

The Idaho Transportation Department submits notice of temporary and proposed rulemaking at IDAPA 39.03.16 -- Rules Governing Oversize Permits for Non-Reducible Vehicles and/or Loads. The temporary and proposed rule revises certain provisions governing oversize permits for certain vehicles or loads. Specifically included in the revisions: the provision limiting to ten minutes the interruption of low volume traffic has been eliminated (Rule 100.01); the width of certain hauling equipment is increased from nine to ten feet (Rule 300.01); provisions are added relating to the transport of certain implements of husbandry (Rule 400.02--this change stems from the adoption of 2011 House Bill 228); and a provision dealing with district approval relating to the width of certain loads on interstate highways has been eliminated (Rule 500).

The agency states that negotiated rulemaking was not conducted for two reasons: revisions were necessary to comply with recently passed legislation (2011 House Bill 228) relating to farm equipment; other changes in the rule "confer a benefit and eliminate conflict with another department rule."

The Department's temporary and proposed rule appears to be authorized by Section 49-201, Idaho Code.

cc: Idaho Transportation Department

Linda L. Emry, Amy Smith, Lynn Rhodes and Regina Phipps

IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT

39.02.03 - RULES GOVERNING VEHICLE DEALER'S PRINCIPAL PLACE OF BUSINESS

DOCKET NO. 39-0203-1101

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is July 1, 2011.

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 49-201(1), Idaho Code, and Title 49, Chapter 16, Dealers and Salesmen Licensing (Vehicle Dealer Act).

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than August 17, 2011.

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:

Provides criteria for record types and allows records to be retained physically or electronically. Allows for files to be stored off-site following 30-day notification to the department, with the provision that records must be produced within 3 business days upon request by the department. Requires that electronic records be searchable, be kept secure preventing unauthorized access, and in such a manner that they cannot be altered. It amends dated telephone criteria and revises sections 001 through 006 to meet requirements of the Office of the Administrative Rules Coordinator.

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:

Senate Bill 1061, 2011, effective July 1, 2011, sponsored by the Idaho Automobile Dealers Association, authorized licensed Idaho dealers to store department required documentation in an electronic format or at a secure off-site location. The intent is to provide for better consumer protection of personal information. It was necessary to update the associated rule which defines principal place of business requirements for the record keeping systems required by the department for licensed vehicle dealers.

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: There is no impact on the state general fund.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because action was initiated based on compliance with Legislative action with the passage of Senate Bill 1061, 2011.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: No materials are being incorporated by reference into this rule.

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, Division of Motor Vehicles, 334-8660.

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 August 24, 2011.

DATED this 6th day of August, 2011.

Linda L. Emry
Office of Governmental Affairs
Idaho Transportation Department
3311 W State St, P O Box 7129, Boise ID 83707-1129
Phone: 208-334-8810 / FAX: 208-332-4107
linda.emry@itd.idaho.gov

THE FOLLOWING IS THE TEMPORARY RULE & PROPOSED TEXT FOR DOCKET NO. 39-0203-1101

001. TITLE AND SCOPE.

01. Title. This rule shall be cited as IDAPA 39.02.03, "Rules Governing Vehicle Dealer's Principal Place of Business." (7-1-11)T

02. Scope. This rule clarifies terms used in the definition of "principal place of business" and provisions regarding these terms. (~~12-26-90~~)(7-1-11)T

002. WRITTEN INTERPRETATIONS.
There are no written interpretations for this chapter. (7-1-11)T

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." (7-1-11)T

004. INCORPORATION BY REFERENCE.
There are no documents incorporated by reference in this chapter. (7-1-11)T

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. (7-1-11)T

02. Office Hours. Daily office hours are 8:00 a.m. to 5 p.m. except Saturday, Sunday and state holidays. (7-1-11)T

03. Telephone and Fax Numbers. The central office may be contacted during office hours by phone at 208-334-8681 or by fax at 208-332-4183. (7-1-11)T

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. (7-1-11)T

~~007.~~ -- 009. (RESERVED)

010. DEFINITIONS.

01. Vehicle Dealer File System. Books, records and files, necessary to conduct the business of a vehicle dealership. In accordance with the Vehicle Dealer Act, records shall be securely kept ~~in a file cabinet or desk drawer~~ by the dealership in such order that they can be readily inspected by a Department Investigator. Such records and files may be kept electronically, as long as such records can be verified by the dealership as true and correct copies of the original records. Physical records or files retained by the dealership may be stored at an off-site location. The dealership must notify the department 30 days in advance of the address of the off-site location prior to moving such records. Records or files stored off-site must be made available to the department within 3 business days upon request. The files and records shall contain but are not limited to: ~~(12-26-90)~~(7-1-11)T

- a. Physical or electronic ~~S~~sales invoices for current and two (2) preceding years; ~~(12-26-90)~~(7-1-11)T
- b. Physical or electronic ~~E~~copies of purchase orders for vehicles purchased for current and two (2) preceding years; ~~(12-26-90)~~(7-1-11)T
- c. Physical or electronic copies of ~~F~~title application forms ~~kept~~ accessible in numerical order; ~~(12-26-90)~~(7-1-11)T
- d. Written or electronic records of vehicles bearing new or used dealers' number plates and their use by a manufacturer, vehicle dealer, or full-time licensed salespersons searchable by date, time or plate number; ~~(12-26-90)~~(7-1-11)T
- e. Written or electronic records for loaner plates searchable by date, time or plate number; ~~(12-26-90)~~(7-1-11)T
- f. A valid bond in the amount required by Section 49-1608, Idaho Code; (12-26-90)
- g. Copies or electronic records of Wholesale Dealer Forms records showing, all transactions, as applicable searchable by date or name of consignee; ~~(12-26-90)~~(7-1-11)T
- h. Physical or electronic ~~O~~odometer disclosure records for non-exempt vehicles; and ~~(12-26-90)~~(7-1-11)T
- i. Physical or electronic records of ~~E~~consignment agreements, as specified in Section 49-1636, Idaho Code. ~~(7-2-92)~~(7-1-11)T
- j. A valid liability insurance policy as required by Section 49-1608A, Idaho Code. (7-1-11)T
- k. All electronic records must be created in a secure manner to prevent such records from being altered. Electronic copies of records must be legible, complete, and an accurate reproduction of the original business record. (7-1-11)T
- l. All electronic copies of records shall be supplemented with a back-up copy of the electronic records, either retained on-site or an off-site location, which permits the business record to be retrieved within three (3) business days. (7-1-11)T
- m. Any device, server, network device, or any internal or external storage medium which stores the electronic records must have security access controls and physical security measures to protect the records from unauthorized access, viewing, or alteration. (7-1-11)T
- n. Any dealer storing electronic or physical records that contain personal information shall ensure that disposal of any records shall be completed in a secure manner, by shredding, erasing, or otherwise modifying the personal information to make it unreadable or undecipherable through any means. (7-1-11)T

02. Vehicle Dealer Sign Requirements. An exterior sign permanently affixed to the land or building, with clearly visible letters, visible to major avenue of traffic meeting local building or zoning codes with the trade name of the dealership clearly visible is required. Wholesale dealer signs may be painted on the window of the office next to the entrance door of sufficient size to be easily read by prospective customers. A suggested retail sign size is

twenty-four (24) square feet, with a minimum of ~~two~~ **four** (24) inch letters.

~~(12-26-90)~~(7-1-11)T

03. Telephone. A ~~“hard-mount” wire line~~ **business** phone **which has a published business number, and listing in a local telephone directory in the name of the dealership. Business phones shall be** answered during **declared** business hours ~~or all other reasonable times~~, in the name of the licensed dealer. The telephone may be answered in person, by an answering machine, or at a remote location in person, ~~or by machine via call forwarding. All mobile telephones, including cellular, IMTS, trunking, or any telephone interconnect systems are specifically excluded. The telephone must be listed with the local telephone company in the name of the dealership.~~ **(7-2-92)**(7-1-11)T

011. -- 099. (RESERVED)

100. GENERAL PROVISIONS.

01. File Physical or Electronic Records System Inspection. A vehicle dealer shall **submit make available** all books, records and files **maintained at the dealership location** for immediate inspection for cause or complaint, ~~and upon reasonable written notice~~ **or within three (3) business days if records are stored at an approved off-site location** for random compliance review by a peace officer or authorized agent of the Department. **(7-2-92)**(7-1-11)T

02. Title Fee Disclosure. A dealer may reflect the payment of a state-required title fee as specified by Section 49-202(2)(b), Idaho Code, however: **(7-2-92)**

- a.** The fee must be clearly identified as a “TITLE FEE”; **(7-2-92)**
- b.** The fee must be shown as the exact amount required by law; **(7-2-92)**
- c.** Any documentation fees charged must be clearly listed separately from other fees and identified to the customer as dealer document preparation fees that are subject to sales tax as part of the purchase price of the vehicle. **(7-2-92)**

03. Vehicle Dealer License Suspension. Any dealer not meeting the requirements of the Vehicle Dealer Act shall be subject to suspension of an existing dealer license or refusal by the Department to issue a new dealer license. **(7-2-92)**

- a.** The Department’s agent shall give written notice of deficiencies to the dealer or applicant. **(12-26-90)**
- b.** At its discretion the Department may give the licensed dealership a reasonable amount of time to comply. **(12-26-90)**
- c.** Upon compliance, the license shall be reinstated or issued. **(12-26-90)**

IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT

39.02.47 - RULES GOVERNING REVOCATION OF VEHICLE REGISTRATION FOR FAILURE TO COMPLY WITH A MOTOR VEHICLE EMISSION INSPECTION ORDINANCE

DOCKET NO. 39-0247-1101 (CHAPTER REPEAL)

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rule-making procedures. The action is authorized pursuant to Sections 49-201(1) and 49-202(12)(f), 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 August 17, 2011.

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:

With passage of House Bill 326, 2011, which eliminated the requirement to forfeit and the need to repay registration fees when a registration is revoked for failure to comply with an emission test, this rule is no longer needed. All applicable language is now included in Section 39-116B, Idaho Code, making this rule unnecessary, and allowing it to be repealed in its entirety.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased. There is no fee associated with the repeal of this rule.

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: Other than the cost of publishing this rulemaking, there is no fiscal impact associated with this action.

NEGOTIATED RULE-MAKING: Pursuant to Section 67-5220, Idaho Code, negotiated rule-making was not conducted because there is no impact to the public or private sectors associated with the repeal of this administrative rule.

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

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 24, 2011.

DATED this 7th day of July, 2011.

Linda L. Emry
Office of Governmental Affairs
Idaho Transportation Department
3311 W State St, PO Box 7129, Boise ID 83707-1129
Phone: 208-334-8810 / FAX: 208-332-4107
linda.emry@itd.idaho.gov

IDAPA 39.02.47 IS BEING REPEALED IN ITS ENTIRETY

IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT

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

DOCKET NO. 39-0275-1101

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is July 1, 2011.

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 Sections 49-201, 49-306, 49-315, 49-318, 49-319, and 49-2443, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than August 17, 2011.

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 revision disallows issuance of a driver's license in one name and issuance of an identification card in another name, thereby preventing establishment of two identities. It also conforms to the one-person/one-record requirement for DMV Modernization and confers a customer benefit. The revision deletes the 26 character name limitation and provides for name formatting flexibility that aligns with current cultural practices and additional formatting procedures for long, complex names. This will clarify requirements for applicants, whose marital status has changed and provide for associated name changes. Name formatting conventions will be more clearly stated, more easily accommodated, and processed more quickly. Driver license examiners will have clearer guidelines for formatting requested name changes. It will also reduce the number of phone calls and faxes between ITD and county driver license examiners, improving efficiency.

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

All applicants for a driver's license or identification card and the people who serve them will enjoy a more clear and efficient process while the general public and businesses will benefit by reducing the number of persons who might abuse the system to establish multiple identities for personal gain.

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: Other than the cost to publish, there is no fiscal impact associated with this rulemaking.

NEGOTIATED RULE-MAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted. Changes imposed by this rulemaking must meet specific guidelines and be compatible with other states.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: No materials are being incorporated by reference.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Lynn Rhodes, Driver's License Program Supervisor, Division of Motor Vehicles, 334-8727.

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 August 24, 2011.

DATED this 7th day of July, 2011.

Linda L. Emry
Office of Governmental Affairs
Idaho Transportation Department
3311 W State St, P O Box 7129, Boise ID 83707-1129
Phone: 208-334-8810 / FAX: 208-332-4107
linda.emry@itd.idaho.gov

THE FOLLOWING IS THE TEMPORARY RULE & PROPOSED TEXT FOR DOCKET NO. 39-0275-1101

000. LEGAL AUTHORITY.

Under the authority of Sections 49-201, 49-306, ~~49-314~~, 49-315, 49-318, 49-319, ~~49-336~~, and 49-2443, Idaho Code, the Department adopts the following rule. ~~(5-13-91)(7-1-11)T~~

(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 8 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 208-334-8735000 or by fax at 208-334-8739586. ~~(4-2-08)(7-1-11)T~~

(BREAK IN CONTINUITY OF SECTIONS)

100. GENERAL PROVISIONS.

01. Punctuation Marks. The only punctuation marks which may be used in a name are the comma (,), apostrophe ('), and the hyphen (-). A hyphen is allowed in the last name only, and may occur once. A comma can only be used between the last name and the first name. (4-2-08)

02. Full Name Requirements. ~~Only twenty-six (26) characters, including the spaces and punctuation, can be used in the entire full name on the actual driver's license or identification card.~~ If a full name has more ~~than twenty-six (26)~~ characters than the department automated system allows, the last name and first name must be written out fully. The middle name can be initialized and then the full middle name entered on the comment line of the application. If there is a designator, it will follow the middle initial. If the name ~~is~~ still has more ~~than twenty-six (26)~~ characters than the department automated system allows, the first and middle names can be initialized and the full first and middle names entered on the comment line of the application. ~~(5-13-91)(7-1-11)T~~

101. -- 199. (RESERVED)

200. CRITERIA.

01. Legal Name. The name on the certified original birth certificate will be used unless a name changes due to: ~~(5-13-91)~~(7-1-11)T

- a.** Marriage; (5-13-91)
- b.** Divorce; or (5-13-91)
- c.** Court Order. (5-13-91)

02. Stepparents' Name. An applicant is not allowed to use a stepparent's last name, except by court order or other documents may be accepted to change a name, on approval by the Idaho Transportation Department. (7-1-96)

03. Driver's License and Identification Card Names. The name printed on the driver's license or identification card will be maintained in the Idaho Transportation Department records in the following order: (1) Last name, (2) First name, (3) Middle name, (4) Designator (if applicable (see Subsection 200.04)). An applicant may not have a driver's license and an identification card in different names. An applicant may add a middle name by providing a certified original copy of the applicant's: ~~(7-1-96)~~(7-1-11)T

- a.** Birth Certificate; (7-1-11)T
- b.** Court Order; or (7-1-11)T
- c.** Divorce Decree. (7-1-11)T

04. Designations of Names. The designations of I, II, III, etc., will become first (1st), second (2nd), third (3rd), etc., and will appear after the middle name. The designators of JR and SR (no periods allowed) will be permitted and will appear after the middle name. The JR and SR designators will be permitted only if there is proof that the other individual exists, by way of an original certified copy of a birth certificate. (7-1-96)

05. Married Applicant's Name. (7-1-11)T

a. A married applicant is permitted to use the maiden name of the woman or surname of the man as the last name or as the middle name, or may hyphenate ~~both the~~ surnames and maiden name to form the last name. In no case under any of these stated options shall any applicant have more than one (1) hyphen in his or her last name. (7-1-11)T

b. When married applicants choose to use different hyphenated names or only one (1) applicant chooses to hyphenate his or her name, a woman will hyphenate her last name as "maiden-married" and a man will hyphenate his last name as "surname-maiden". (7-1-11)T

c. Married applicants who choose to have the same hyphenated last name may hyphenate their name as either "maiden-married" or "surname-maiden". (4-2-08)

d. Married applicants who already have hyphenated last names may: (7-1-11)T

i. Use the hyphenated name of the man or the hyphenated name of the woman; or (7-1-11)T

ii. Combine part of the hyphenated name of the man and part of the hyphenated name of the woman. (7-1-11)T

e. An applicant who is established in department records with a hyphenated last name due to marriage

and wants to drop the first part or the second part of the hyphenated name must provide, as required by the department, the following: (7-1-11)T

- i. A certified copy of a birth certificate; and/or (7-1-11)T
- ii. A certified copy of a marriage certificate; and/or (7-1-11)T
- iii. A certified copy of a divorce decree; and/or (7-1-11)T
- iv. A certified copy of a death certificate. (7-1-11)T

06. Divorced Applicant's Name. A divorced applicant who wants to use his or her original surname or maiden name, or a surname from a previous marriage, but does not have a divorce decree indicating the new name, is allowed to submit the following documents to the County Sheriff or the Idaho Transportation Department:
(~~5-13-91~~)(7-1-11)T

- a. Original certified copy of the birth certificate showing the original maiden or surname; or
(7-1-96)(7-1-11)T
- b. Original certified copies of the marriage license certificate and the divorce decree, as evidence to change the name; or.
(7-1-96)(7-1-11)T
- ~~c. Original certified copies of the marriage license and divorce decree (only required for applicants wanting to use a surname from a former marriage).~~ (7-1-96)

07. Applicant's First Name. An applicant is not allowed to change his or her first name except by court order. (5-13-91)

08. Common Law Marriage. Common law marriages created prior to January 1, 1996 will, for the purposes of this rule, be treated as a valid marriage. An affidavit of agreement is required which shall include:
(7-1-96)

- a. The signatures of both the husband and the wife; (5-31-91)
- b. The date they became married under common law; and (5-13-91)
- c. Other documents verifying the marriage (subject to the approval of the Idaho Transportation Department). (5-13-91)

09. Change of Name on Record. Once a name is established in the Idaho Transportation Department records, a court order, marriage license, or divorce decree will be required to change the name and record. (~~An original certified copy of the document, which is dated after the date of record, will be required.~~) (7-1-96)(7-1-11)T

10. Titles or Nicknames. An applicant is not allowed to use titles or nicknames. (7-1-96)

IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT

39.03.01 - RULES GOVERNING DEFINITIONS REGARDING OVERLEGAL PERMITS

DOCKET NO. 39-0301-1101

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is July 1, 2011.

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 40-312, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than August 17, 2011.

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 rule is being amended to correspond with changes made to 39.03.16, Rules Governing Oversize Permits for Non-Reducible Vehicles and/or Loads, based in part on the passage of House Bill 228, 2011. This adds a definition for "Designated Agent," moves the definition of Escort Vehicle to Pilot Vehicle, increases the length limit for vehicle combinations from 105 ft to 115 ft under Extra Length, per Section 49-1010(7), Idaho Code, and adds a clarifying definition for Overall Length for enforcement personnel. Sections 000 through 006 have been updated to meet formatting requirements of the Office of Administrative Rules. Additionally, other definitions which have already been defined in code have been amended to reflect that code reference instead of duplicating the definition.

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:

The passage of House Bill 228, 2011, expanded the exemptions associated with the transporting of implements of husbandry by an owner or their designated agent, which created a need to define "Designated Agent" which had not been done previously.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: This rulemaking does not impose or increase a fee or charge.

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: This rulemaking does not impose any fiscal impact on the state general fund.

NEGOTIATED RULE-MAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted since change was necessary for compliance with legislative action and existing definitions in statute, and to update definitions to be consistent with industry standards.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: There are no materials being incorporated by reference into this rule.

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, Division of Motor Vehicles, 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 August 24, 2011.

DATED this 7th day of July, 2011.

Linda L. Emry,
Office of Governmental Affairs
Idaho Transportation Department
3311 W State St, PO Box 7129, Boise ID 83707-1129
Phone: 208-334-8810 / FAX: 208-332-4107
linda.emry@itd.idaho.gov

THE FOLLOWING IS THE TEMPORARY RULE & PROPOSED TEXT FOR DOCKET NO. 39-0301-1101

001. TITLE AND SCOPE.

01. Title. This rule shall be cited as IDAPA 39.03.01, "Rules Governing Definitions Regarding Overlegal Permits, IDAPA 39, Title 03, Chapter 01. (7-1-11)T

02. Scope. This rule gives the definitions for terms used in rules in Title 03 *dealing with highway matters* regarding overlegal permitting. (8-1-94)(7-1-11)T

002. WRITTEN INTERPRETATIONS.
There are no written interpretations for this chapter. (7-1-11)T

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." (7-1-11)T

004. INCORPORATION BY REFERENCE.
There are no documents incorporated by reference in this chapter. (7-1-11)T

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 P O Box 7129, Boise, ID 83707-1129. (7-1-11)T

02. Office Hours. Daily office hours are 7:30 a.m. to 5 p.m. except Saturday, Sunday and state holidays. (7-1-11)T

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. (7-1-11)T

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. (7-1-11)T

007. -- 009. (RESERVED)

010. DEFINITIONS.

- 01. Accessories.** Additional parts of the single item load that have been removed to reduce width, length or height. (10-2-89)
- 02. Administrative Cost.** The government's cost of processing, issuing and enforcing a permit. (10-2-89)
- 03. Analysis.** A mathematical study of a vehicle or combination of vehicles and the stress they cause over bridges or specific sections of highways conducted by a professional engineer. (10-2-89)
- 04. Annual.** Twelve (12) consecutive months. (10-2-89)
- 05. Automobile Transporter.** ~~A vehicle combination constructed for the purpose of transporting vehicles~~ See Idaho Code 49-102. ~~(4-24-92)(7-1-11)T~~
- 06. Base Width.** The measurement below the eaves of a manufactured home, modular building or office trailer. (8-24-94)
- 07. Boat Transporter.** ~~Any vehicle combination designed and used specifically to transport assembled boats and boat hulls. Boats may be partially disassembled to facilitate transporting~~ See Idaho Code 49-103. ~~(9-14-92)(7-1-11)T~~
- 08. Cargo Unit.** A full truck, a semi-trailer, a full trailer, or a semi-trailer converted to a full trailer by means of a dolly or a converter gear mounting a fifth wheel. A dromedary tractor equipped with conventional fifth wheel, not stinger steered, shall be excluded from the definition of a cargo unit. (9-14-92)
- 09. Convoy.** A group of two (2) or more motor vehicles traveling together for protection or convenience. (8-24-94)
- 10. Department.** Idaho Transportation Department. (9-14-92)
- 11. Designated Agent.** An employee or relative of the farmer. (7-1-11)T
- 12. Dromedary Tractor.** ~~Every motor vehicle designed and used primarily for drawing a semitrailer and so constructed as to carry manifested cargo in addition to a part of the weight of the semitrailer~~ See Idaho Code 49-105. ~~(9-14-92)(7-1-11)T~~
- 123. Economic Hardship.** The loss of a substantial amount of money caused by economic changes. (9-14-92)
- 134. Emergency Movement.** A vehicle or vehicle combination hauling a load traveling to the site of an emergency for the purpose of aiding in eliminating the emergency. (9-14-92)
- 145. Escort Vehicle.** ~~Escort vehicles shall be passenger cars or light trucks equipped as specified in rule 39.03.12. Escort vehicles may be motorcycles except when utilized in lieu of adequate rearview mirrors as allowed for by Section 49-940, Idaho Code~~ See Pilot Vehicle. ~~(8-24-94)(7-1-11)T~~
- 156. Excess Weight.** Vehicle combinations hauling reducible loads operating on Interstate Routes with total gross loads exceeding eighty thousand (80,000) pounds but not to exceed twenty thousand (20,000) per single axle, thirty-four thousand (34,000) per tandem, not to exceed the weight limit for any group of two (2) or more consecutive axles established by Section 49-1001, Idaho Code, and not to exceed six hundred (600) pounds per inch width of tire for vehicles manufactured after July 1, 1987, or not to exceed eight hundred (800) pounds per inch width of tire for vehicles manufactured prior to that date as established by Section 49-1002, Idaho Code. (8-24-94)
- 167. Extra-Length.** Any vehicle combination in excess of the legal limits but not more than one hundred ~~five~~ fifteen (1015) feet as established in Section 49-1010, Idaho Code, which normally haul reducible loads. ~~(9-14-92)(7-1-11)T~~

178. Extra-Ordinary Hazard. Any situation where the traveling public's safety or the capacity of the highway system is endangered. (9-14-92)

189. Farm Tractor. ~~Every motor vehicle designed or adapted and used primarily as a farm implement power unit operated with or without other farm implements attached in any manner consistent with the structural design of that power unit~~ See Idaho Code 49-107. (9-14-92)(7-1-11)T

190. Gross Vehicle Weight. ~~The weight of a vehicle or combination of vehicles including the load thereon~~ See Idaho Code 49-108. (8-24-94)(7-1-11)T

201. Heavily Loaded. Exceeding legal weight or hauling a load which obstructs the driver's view. (9-14-92)

212. Heavy Duty Wrecker Truck. A motor vehicle designed and used primarily for towing disabled vehicles. (9-14-92)

223. Height. The total vertical dimension of a vehicle above the ground surface including any load and load-holding device thereon. (9-14-92)

234. Implement of Husbandry. ~~Every vehicle including self-propelled units, designed or adapted and used exclusively in agricultural, horticultural, dairy and livestock growing and feeding operations when being incidentally operated. Such implements include, but are not limited to, combines, discs, dry and liquid fertilizer spreaders, harrows, hay balers, harvesting and stacking equipment, pesticide applicators, plows, swathers, mint tubs and mint wagons, and farm wagons. A farm tractor when attached to or drawing any implement of husbandry shall be construed to be an implement of husbandry. "Implement of husbandry" does not include semi-trailers, nor does it include motor vehicles or trailers, unless their design limits their use to agricultural, horticultural, dairy or livestock growing and feeding operations~~ See Idaho Code 49-110. (8-24-94)(7-1-11)T

245. Incidentally Operated. ~~Means the transport of the implement of husbandry from one (1) farm operation to another~~ See Idaho Code 49-110. (8-24-94)(7-1-11)T

256. Legal. In compliance with the Idaho Code on size and weight. (9-14-92)

267. Length. The total longitudinal dimension of a single vehicle, a trailer, or a semi-trailer. Length of a trailer or semi-trailer is measured from the front of the cargo-carrying unit to its rear, exclusive of all overhang and any appurtenances listed in [Rule IDAPA 39.03.06, "Rules Governing Allowable Vehicle Size"](#). (9-14-92)(7-1-11)T

278. Light Truck. ~~Every motor vehicle eight thousand (8,000) pounds gross weight or less which is designed, used or maintained primarily for the transportation of property~~ See Idaho Code 49-121. (8-24-94)(7-1-11)T

289. Manufactured Home. A structure, constructed according to HUD/FHA mobile home construction and safety standards, transportable in one or more sections, which, in the traveling mode, is eight (8) body feet or more in width or is forty (40) body feet or more in length, or when erected on site, is three hundred twenty (320) or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein, except that such term shall include any structure which meets all the requirements of this paragraph except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the secretary of housing and urban development and complies with the standards established under 42 U.S.C. 5401 et seq. Similarly constructed vehicles used permanently or temporarily for offices, advertising, sales, display or promotion of merchandise or services are included in this definition. (8-24-94)

290. Mobile Home. A structure similar to a manufactured home, but built to a state mobile home code which existed prior to the Federal Manufactured Housing and Safety Standards Act (HUD Code) dated June 15, 1975. (8-24-94)

301. Modular Buildings. A facility designed as a building or building section, the construction of

which is constructed to standards contained in the Uniform Building Code (UBC), adopted by Section 39-4109, Idaho Code. (8-24-94)

~~342.~~ **Non-Reducible.** A load that consists of a single piece (a machine and its accessories loaded separately is considered non-reducible also). (8-24-94)

~~323.~~ **Off-Tracking.** The difference in the path of the first inside front wheel and of the last inside rear wheel as a vehicle negotiates a curve. (8-24-94)

~~334.~~ **Office Trailer.** See definition of Manufactured Homes. (8-24-94)

~~345.~~ **Overall Combination Length.** The total length of a combination of vehicles, i.e. truck tractor-semitrailer-trailer combination, measured from front bumper of the motor vehicle to the back bumper or rear extremity of the last trailer including the connecting tongue(s). (8-24-94)

~~36.~~ **Overall Length.** The total length of a combination of vehicles, i.e. truck tractor-semitrailer-trailer combination, measured from front bumper of the motor vehicle to the back bumper or rear extremity of the last trailer including the connecting tongue(s) plus any load overhang. (7-1-11)T

~~357.~~ **Overdimensional.** Any vehicle or load in excess of the limits established in Section 49-1010, Idaho Code. (8-24-94)

~~368.~~ **Overheight.** A vehicle or load in excess of the limits established in Section 49-1010, Idaho Code. (8-24-94)

~~379.~~ **Overlegal.** Any vehicle, vehicle combination or load which exceeds the limits established in Idaho Code. (8-24-94)

~~3840.~~ **Overlength.** Any load non-reducible in length being hauled or towed that is in excess of the limits established in Section 49-1010, Idaho Code. (8-24-94)

~~3941.~~ **Oversize.** A vehicle or load in excess of the limits established in Section 49-1010, Idaho Code. (8-24-94)

~~402.~~ **Overweight.** A single vehicle or a vehicle combination hauling or towing a non-reducible load whose weight is in excess of the limits established in Section 49-1001, Idaho Code. (8-24-94)

~~413.~~ **Overwidth.** A vehicle or load in excess of the limits established in Section 49-1010, Idaho Code. (8-24-94)

~~44.~~ **Pilot Vehicle.** Passenger cars or light trucks equipped as specified in IDAPA 39.03.12, "Rules Governing Safety Requirements of Overlegal Permits". (7-1-11)T

~~425.~~ **Reducible Load.** A single item or multiple items for transport which could reasonably be repositioned or physically altered so that the load conforms to legal size and weight dimensions. The determination of ability to reduce or reconfigure the load primarily depends on the intended disposition of the contents of the load upon delivery to its destination. (8-24-94)

~~436.~~ **Single Axle.** An assembly of two (2) or more wheels whose centers are in one (1) transverse vertical plane or may be included between two (2) parallel transverse planes forty (40) inches apart extending across the full width of the vehicle. (8-24-94)

~~447.~~ **Special Permit.** A document issued by the Idaho Transportation Department which authorizes the movement of vehicles or loads on the state highway system in excess of the sizes and weights allowed by Sections 49-1001, 49-1002 or 49-1010, Idaho Code. (8-24-94)

~~458.~~ **Steering Axle.** The axle or axles on the front of a motor vehicle that are activated by the operator to

directly accomplish guidance or steering of the motor vehicle and/or combination of vehicles. (8-24-94)

469. Stinger-Steered. A truck-tractor semi-trailer combination where the kingpin is located five (5) feet or more to the rear of the centroid of the rear axle(s). (8-24-94)

4750. Tandem Axle. Any two (2) axles whose centers are more than forty (40) inches but not more than ninety-six (96) inches apart and are individually attached to or articulated from, or both, a common attachment to the vehicle including a connecting mechanism designed to equalize the load between axles. (8-24-94)

4851. Tridem Axle. Any three (3) consecutive axles whose extreme centers are not more than one hundred forty-four (144) inches apart, and are individually attached to or articulated from, or both, a common attachment to the vehicle including a connecting mechanism designed to equalize the load between axles. (8-24-94)

4952. Variable Load Suspension Axle. ~~Axles which can be regulated by the driver of the vehicle. These axles are controlled by hydraulic and air suspension systems, mechanically, or by a combination of these methods~~ See Idaho Code 49-123. ~~(8-24-94)(7-1-11)T~~

503. Vocational Vehicle. A vehicle specifically designed to enable the operator to perform specific tasks none of which are primarily for the purpose of transporting loads. Cranes, loaders, scrapers, motor graders, drill rigs are examples of vocational vehicles. (8-24-94)

514. Width. The total outside transverse dimension of a vehicle including any load or load-holding devices thereon, but excluding any appurtenances listed in Rule IDAPA 39.03.06, "Rules Governing Allowable Vehicle Size". ~~(8-24-94)(7-1-11)T~~

IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT

39.03.16 - RULES GOVERNING OVERSIZE PERMITS FOR NON-REDUCIBLE VEHICLES AND/OR LOADS

DOCKET NO. 39-0316-1101

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is July 1, 2011.

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 49-201, Idaho Code, and the provisions of Sections 49-1004 and 49-1010, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than August 17, 2011.

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:

With the passage of House bill 228, 2011, it is necessary to update the farm exemptions listed in this rule for transporting implements of husbandry between farm operations and a repair/maintenance facility or a dealership/sales facility. Additional changes confer a benefit by allowing motor carriers to use the more widely accepted industry standard 10-foot wide trailer to haul a non-reducible load smaller than 10-feet wide on the trailer. We have also removed the 24-foot width restriction on the Interstate to reduce the impact on two-lane highways. The 10-minute limit on interruption of traffic has been deleted to eliminate any conflict with the traffic control plan provisions in IDAPA 39.03.11, "Rules Governing Overlegal Permittee Responsibility and Travel Restrictions". Section 100.05 of that rule requires that the permittee submit a traffic control plan prepared by a licensed engineer or certified traffic control supervisor when operating on two-lane highways and exceeding specified dimensions.

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

Compliance with statutory changes in House Bill 228, effective July 1, 2011, and conferring a benefit by allowing motor carriers to use the more widely accepted industry standard 10-foot wide trailer to haul a non-reducible load smaller than 10 feet wide on the trailer and removing the 24-foot width restriction on the Interstate to reduce the impact on two-lane 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: This rulemaking imposes no fiscal impact on the general fund.

NEGOTIATED RULE-MAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because rulemaking was initiated to comply with changes to Idaho Code in House Bill 228, 2011. Additional changes confer a benefit and eliminate conflict with another department rule.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: There are no materials incorporated by reference into this rule.

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, Motor Vehicle Division, 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 August 24, 2011.

DATED this 7th day of July, 2011.

Linda L. Emry
Office of Governmental Affairs
Idaho Transportation Department
3311 W State St, PO Box 7129, Boise ID 83707-1129
Phone: 208-334-8810 / FAX: 208-332-4107
linda.emry@itd.idaho.gov

THE FOLLOWING IS THE TEMPORARY RULE & PROPOSED TEXT FOR DOCKET NO. 39-0316-1101

100. GENERAL OVERSIZE LIMITATIONS.

01. Maximum Dimensions Allowed. The maximum dimensions of oversize vehicles or oversize loads shall depend on the character of the route to be traveled: width of roadway, alignment and sight distance, vertical or horizontal clearance, and traffic volume. ~~Overlegal permits will not normally be issued for movements which cannot allow for the passage of traffic as provided in IDAPA 39.03.11, "Rules Governing Overlegal Permittee Responsibility and Travel Restrictions," Subsection 100.05, except under special circumstances when an interruption of low volume traffic may be permitted (not to exceed ten (10) minutes) or when adequate detours are available. (4-5-00)(7-1-11)T~~

02. Practical Minimum Dimension. Oversize loads shall be reduced to a practical minimum dimension. Except as noted below, permits will not be issued to exceed legal size if the load is more than one (1) unit in width, length or height nor shall permits be utilized for multiple unit loads which may be reduced in number of units and positioned to meet legal dimensions established in Section 49-1010, Idaho Code. (8-25-94)

03. Multiple Unit Overwidth Loads. Multiple unit overwidth loads must be transported on legal dimension vehicles. Overwidth loads may be transported on double trailer combinations not exceeding seventy-five (75) feet combination length exclusive of load overhang. (4-2-08)

04. Overwidth Overhang. Over width loads shall distribute overhang to the sides of the trailer as evenly as possible. (8-25-94)

101. -- 199. (RESERVED)

200. PERMITS FOR MULTIPLE-WIDTH OR MULTIPLE-HEIGHT LOADING.

01. Cylindrical Hay Bales. Overlegal permits may be issued for overwidth transportation of cylindrical hay bales, produced by balers having bale chambers which may be five (5) feet or more in width. Such bales may be loaded two (2) bales wide and two (2) bales high. Hauling vehicles eligible for permit for this purpose shall be legal size vehicles registered for travel on public highways. Operation of such overwidth loads shall be subject to the same time of travel and other safety requirements as other overwidth loads having a similar width. This type of operation is intended as an option to the use of farm tractors hauling such loads on size-exempt implement of husbandry vehicles. Maximum width of such loads without tolerance may not exceed eleven (11) feet six (6) inches. (4-5-00)

02. Reducible Height Loads. Overlegal permits may be issued to allow the transportation of reducible loads in excess of fourteen (14) feet high but not in excess of fourteen (14) feet nine (9) inches high on designated highways. The vehicle height must not exceed fourteen (14) feet. A map listing the designated highways vertical clearances is available at the Idaho Transportation Department Permit Office and online at <http://www.itd.idaho.gov/dmv/poe/poe.htm>. ~~(4-5-00)(7-1-11)T~~

201. -- 299. (RESERVED)

300. OVERWIDTH HAULING VEHICLES, RESTRICTIONS.

01. Width of Hauling Equipment. Overlegal permits may be issued for ~~nine ten~~ (910) foot wide trailers hauling non-reducible loads smaller than ~~nine ten~~ (910) feet wide. Overlegal permits shall not be issued for trailers over ~~nine ten~~ (910) feet wide hauling any load on an overwidth vehicle unless such vehicle has been designed and constructed for the specific purpose of hauling a particular load the nature of which makes it impractical to be hauled on a legal width vehicle. The permit issued for oversize loads being hauled on oversize equipment will be valid for the unladen movement ~~or an incidental haul~~ and the laden movement, which shall not include commodities either to or from the point of loading or unloading of the oversize load. ~~The permittee is required to carry proof that the unladen movement or incidental haul is on the way to or from the point of loading or unloading of the oversize load.~~ ~~(3-20-04)(7-1-11)T~~

02. Load Dimensions. Any load exceeding the dimensions of the trailer shall be non-reducible in size, and any load exceeding legal allowable weight shall be non-reducible in weight. Annual permits issued for such ~~ten~~ (10) foot hauling vehicles shall be subject to the requirements and limitations of IDAPA 39.03.19, "Rules Governing Annual Overlegal Permits," and 39.03.13, "Rules Governing Overweight Permits," Section 200. ~~(4-5-00)(7-1-11)T~~

03. Hauling Equipment in Excess of Ten Feet. Special overwidth hauling vehicles exceeding ten (10) feet in width will be permitted, and may be required, in the hauling of excessively heavy loads to improve the lateral distribution of weight, or when a combination of weight, width, or height makes extra width in the hauling vehicle desirable in the public interest. The use of such vehicles more than ten (10) feet in width shall be restricted to loads requiring an overwidth hauling vehicle and the backhaul permit shall be for the unladen vehicle. (10-2-89)

04. Buildings. Buildings which are too wide to be safely transported on legal-width hauling vehicles shall be moved either on house moving dollies or on trailers which can be reduced to legal width for unladen travel. (10-2-89)

301. -- 399. (RESERVED)

400. OVERWIDTH PERMITS FOR IMPLEMENTS OF HUSBANDRY.

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

02. Other Than Farm to Farm. Implements of husbandry exceeding eight (8) feet six (6) inches in width being transported other than from one (1) farm operation to another farm operation shall require overlegal permits ~~authority~~ except when the farmer or their designated agent is transporting implements of husbandry and equipment for the purpose of: ~~(4-5-00)(7-1-11)T~~

a. The repair or maintenance of such implements of husbandry and equipment when traveling between a farm and a repair or maintenance facility during daylight hours; or (7-1-11)T

b. The purchase or sale of such implements of husbandry or equipment when traveling between a farm and a dealership, auction house, or other facility during daylight hours. (7-1-11)T

03. Farm Permits. Single trip permits must be ordered at the permit office and the operator may post a security bond to establish credit (See IDAPA 39.03.21, "Rules Governing Special Overlegal Permit Fees," Section 300) and thereby qualify to complete an application form, call the overlegal permit office for a permit number, and carry the application form with the overwidth vehicle in lieu of the overlegal permit form. Under provisions of IDAPA 39.03.19, "Rules Governing Annual Overlegal Permits," Section 100, annual permits will be issued to towing units or to self-propelled farm tractors or towed units, or blanket permits may be issued to an Idaho domicile applicant without vehicle identification. Such blanket permits may be transferred from one vehicle to another vehicle but shall be valid only when the permit is with the overwidth vehicle and/or load. A photocopy of the permit is valid provided that the Pilot/Escort Vehicle and Travel Time Requirements Map and Vertical Clearance of Structures Map furnished by the Idaho Transportation Department are included. Such annual permits for implements of husbandry or farm tractors are subject to the same maximum dimensions, travel time exclusions and safety requirements as other overwidth annual permits and are valid for continuous travel for twelve (12) consecutive months. (4-5-00)(7-1-11)T

04. Overwidth Farm Trailers. Trailers or semi-trailers exceeding eight feet six inches (8' 6") wide, but not wider than the implement of husbandry, used for the transportation of implements of husbandry from a farm to a farm for agricultural operations, shall be exempt from overlegal permitting requirements. This exemption does not apply to trailers or semi-trailers used in common carrier operations, hauling for hire or used in the furtherance of a business (not to include farming operations). (3-20-04)

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

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

c. Exempt trailers, as listed above, may not be used to transport loads other than implements of husbandry from a farm to a farm. (3-20-04)

401. -- 499. (RESERVED)

500. ADDITIONAL DISTRICT APPROVAL AND ALLOWANCE FOR APPROVAL TIME.

District approval is required when vehicles or loads exceed: sixteen (16) feet wide on red coded routes, eighteen (18) feet wide on black coded routes and interstate highways ~~with no loads over twenty-four (24) feet wide allowed on interstate highways~~, sixteen (16) feet high on any route, and one hundred twenty (120) feet long on any route. District approval will be obtained by the Overlegal Permit office and may require up to twenty-four (24) working hours. See Pilot/Escort Vehicle and Travel Time Requirements Map for color coded routes online at <http://www.itd.idaho.gov/dmv/poe/poe.htm>. (4-5-00)(7-1-11)T