

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 39.03.21 - Rules Pertaining To The Rules Governing Overlegal Permit Fees (Docket No.  
39-0321-1101) – FEE RULE.

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 09/30/2011. 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 10/28/2011.

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:** September 13, 2011

**SUBJECT:** Idaho Transportation Department

IDAPA 39.03.21 - Rules Pertaining To The Rules Governing Overlegal Permit Fees (Docket No. 39-0321-1101) -- FEE RULE.

The Idaho Transportation Department submits notice of proposed rulemaking at IDAPA 39.03.21 - Rules Governing Overlegal Permit Fees. The proposed rule increases a number of fees. The agency notes that it is taking this step for at least two reasons: (i) that the Legislature has provided clear direction that administrative costs incurred in the processing, issuance and enforcement of overlegal permits should be borne by the permittees; and (ii) that such administrative costs should not be borne or subsidized by the traveling public via the expenditure of highway funds. The agency state that currently, the overlegal permit program is not self-funding and that the fee increases proposed in this docket are necessary to cover administrative costs. The proposed rule also includes a new section--Section 200.05--which provides that the Department may require reimbursement of actual costs incurred for extraordinary services provided, incidental and necessary to the planning and/or movement of overlegal loads moving under the requirements of a traffic control plan.

The agency states that its cost analysis relating to the recovery of administrative costs for fiscal year 2010 revealed that the permit program was not recovering approximately \$643,000 in administrative costs. The Department states that the increases in fees in the proposed rule are expected to raise slightly more than \$643,000 in additional revenue, which should cover the shortfall.

The agency states that negotiated rulemaking was not conducted because the basis for the increased fees found in the proposed rule is reflected in intent language of Section 100 of this rule which was approved by the Legislature. That section states in part: "The movement of oversize or overweight vehicles or vehicles with over legal loaded is a privilege not accorded every use of the highway. Administrative cost incurred in the processing, issuance and enforcement of overlegal permits shall be borne by such permittees and not by the general traveling public through expenditure of highway user funds. Overlegal permits issued for non-reducible, overweight vehicle and/or loads will be charged a road use fee as set forth in Section 49-1004(2), Idaho Code.

The agency's proposed rule appears authorized pursuant to 40-312 and 49-201, Idaho Code.

cc: Idaho Transportation Department  
Reymundo Rodriguez, Commercial Motor Vehicle Services Manager

Mike Nugent Manager  
Research & Legislation

Cathy Holland-Smith, Manager  
Budget & Policy Analysis

Don H. Berg, Manager  
Legislative Audits

Glenn Harris, Manager  
Information Technology

## Cost Benefit Analysis - ITD Docket 39-0321-1101

Coding	Revenue	Description				
1035 01	Overlegal Permit	Receipts for Administrative Fees for all Overlegal Permits - FY10				\$ 3,076,269
<i>All revenue receipts for Overlegal Permits are now deposited to the State Highway Account, effective October 2010.</i>						
<b>Total Revenue</b>						<b>\$ 3,076,269</b>

	Costs	Description				
	Overlegal Permit Direct	Costs from the DFM cost allocation plan. These are DFM personnel and operating costs specifically coded to the overlegal permit program.				\$ 1,108,468
	Port of Entry Allocation	This is a percentage of the POE enforcement and compliance costs that are allocated to the overlegal permit program.				\$ 1,943,740
	DMV Indirect	Costs associated with Motor Carrier and DMV Administration involvement with the overlegal permit program.				\$ 239,508
	Admin Indirect	Costs of the Division of Administration taken from the Indirect Cost Allocation Plan (ICAP)				\$ 173,025
	Highways Direct	Personnel and operating costs from HQ Bridge section and Highways Maintenance personnel associated with the overlegal permit program.				\$ 254,621
<b>Total Costs</b>						<b>\$ 3,719,362</b>
<b>Net Cash Flow</b>						<b>\$ (643,093)</b>

Rule Reference	Permit Type	Permit Description	Permit Fee \$			Permit Volume	Revenue Increase \$
			Current Fee	Proposed Fee	Fee Increase		
	Oversize						
39.03.21.04.c		<i>Single trip: Exceeding (16) feet wide, or sixteen (16) feet high, or one hundred ten (110) feet long</i>	\$ 53	\$ 71	\$ 18	1,333	\$ 23,994
39.03.21.04.d		<i>Two (2) trips within seven (7) days: Exceeding (16) feet wide, or sixteen (16) feet high, or one hundred ten (110) feet long</i>	\$ 71	\$ 89	\$ 18	93	\$ 1,674
	Overweight / Oversize or Overweight only (non-reducible)						
39.03.21.04.h		<i>Single trip</i>	\$ 33	\$ 71	\$ 38	5,250	\$ 199,500
39.03.21.04.i		<i>Two (2) trips</i>	\$ 43	\$ 81	\$ 38	161	\$ 6,118
	Overweight / Oversize (non-reducible)						
39.03.21.04.j		<i>Single trip: Exceeding (16) feet wide, or sixteen (16) feet high, or one hundred ten (110) feet long</i>	\$ 53	\$ 103	\$ 50	2,409	\$ 120,450
39.03.21.04.k		<i>Two (2) trips within seven (7) days: Exceeding (16) feet wide, or sixteen (16) feet high, or one hundred ten (110) feet long</i>	\$ 71	\$ 116	\$ 45	90	\$ 4,050
39.03.21.04.l		<i>annual permit fee for twelve (12) consecutive months</i>	\$ 58	\$ 128	\$ 70	4,105	\$ 287,350
<b>Total</b>						<b>13,441</b>	<b>\$ 643,136</b>

Average increase, per affected permit

48

**Estimated Net Cash Flow**

**\$ 43**

## IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT

### 39.03.21 - RULES GOVERNING OVERLEGAL PERMIT FEES

#### DOCKET NO. 39-0321-1101 (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 rule-making procedures. The action is authorized pursuant to Sections 40-312 and 49-201, Idaho Code, and governs the movement of vehicles or loads which are in excess of the sizes or weights allowed in Sections 49-1001, 49-1002, 49-1004, or 49-1010, Idaho Code.

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

The Idaho Legislature has provided clear direction to the Department in their approval of Section 100 of this rule, "Costs to be Borne by Permittee." This section states that administrative costs incurred in the processing, issuance and enforcement of overlegal permits will be borne by the permittees and not by the general traveling public through the expenditure of highway use funds. The permit program is currently experiencing a revenue shortfall and it is necessary to raise certain fees to cover administrative costs. New language also provides for reimbursement of actual costs incurred for extraordinary services associated with planning and/or movement of overlegal loads moving under the requirements of a traffic control plan.

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

A recent cost analysis was undertaken to determine if administrative fees are covering administrative costs. The FY10 cost analysis revealed that the permit program fell short by approximately \$643,000. This shortfall is currently subsidized by the State Highway Account. Individual increases were applied to seven permit types, commensurate with the level of complexity, staff involvement, and updates to required documents. The individual increases, ranging between \$18 and \$70, are expected to generate a total of \$643,136, which would just cover the shortfall. Such fees are authorized in Section 49-201, 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 RULE-MAKING:** Pursuant to Section 67-5220, Idaho Code, negotiated rule-making was not conducted because the basis for this rule change is intent language approved by the Legislature, stating that administrative costs associated with overlegal permits will be covered by the permittee. The fee increases on permits to cover administrative costs maintain revenue neutrality.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Reymundo Rodriguez, Commercial Motor Vehicle Services Manager, 334-8699.

Anyone may submit written comments regarding this proposed rule-making. All written comments must be directed to the undersigned and must be delivered on or before September 28, 2011.

DATED this 5th day of August, 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](mailto:linda.emry@itd.idaho.gov)

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**THE FOLLOWING IS THE PROPOSED TEXT OF FEE DOCKET NO. 39-0321-1101**

**000. LEGAL AUTHORITY.**

This rule, governing the movement of vehicles or loads which are in excess of the sizes or weights allowed by 49-1001, 49-1002, ~~49-1004~~, or 49-1010, is adopted under the authority of Sections 40-312, ~~and~~ 49-201, ~~and 49-1004~~, 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 ~~7:30~~ a.m. to 5 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 208-334-8420 or by fax at 208-334-8419. (3-19-07)

**(BREAK IN CONTINUITY OF SECTIONS)**

**200. PAYMENT OF OVERLEGAL PERMIT FEES.**

**01. Payment of Fees.** The Idaho Constitution prohibits the state from extending credit to any individual, corporation, municipality or association. Permit fees are collectible at the time of issuance except that the permittee may guarantee payment of permit fees in advance by posting a bond in a minimum amount as specified in Section 300, Permit Fee Account Procedures of this rule. (8-25-94)

**02. Refund.** Permit fees are not refundable once they have been processed into the Department's accounting system, unless the permittee contacts the Overlegal Permit Office no more than two (2) working days (during office hours) following the start date of the overlegal permit or the Department issued the overlegal permit in error. (3-19-07)

**03. Permit Costs.** Overlegal (oversize and/or overweight) permit fees listed below are intended to cover cost of administration and are subject to periodic change depending on costs incurred in processing, issuance and enforcement of overlegal permit rules. (3-19-07)

- 04. Current Schedule of Fees.** Periodic changes to the fee schedule will be subject to legislative review and approval procedures in accordance with Chapter 52, Title 67, Idaho Code, Administrative Procedure Act. (3-19-07)
- a.** Oversize only, single trip, twenty-eight dollars (\$28). (3-19-07)
  - b.** Oversize only, two (2) trips, thirty-three dollars (\$33). (3-19-07)
  - c.** Oversize single trip exceeding sixteen (16) feet wide, or sixteen (16) feet high or one hundred ten (110) feet long, ~~fifty-three~~ **seventy-one** dollars (~~\$53~~**71**). (~~3-19-07~~)(    )
  - d.** Oversize only, two (2) trips within seven (7) days, exceeding sixteen (16) feet wide, or sixteen (16) feet high or one hundred ten (110) feet long, ~~seventy-one~~ **eighty-nine** dollars (~~\$71~~**89**). (~~3-19-07~~)(    )
  - e.** Oversize only, annual, twelve (12) consecutive months: Extra length combinations exceeding the limits imposed in Section 49-1010, Idaho Code, on designated routes; Overlength only; Manufactured homes, modular building and office trailers; Recreation vehicles up to twelve (12) feet wide, legal length/height; Farm tractors exceeding nine (9) feet width on Interstate and implements of husbandry; Cylindrical hay bales, two (2) wide; Emergency removal of disabled vehicles; Multiple width loads of crane booms; Multiple width loads of conveyer units; Reducible loads, up to and including fourteen (14) feet nine (9) inches high; and exceeding sixty-five (65) feet overall combination length on magenta coded routes; forty-three dollars (\$43). (3-19-07)
  - f.** Excess weight annual, twelve (12) consecutive months, authority to exceed eighty thousand (80,000) lbs. on reducible loads up to one hundred five thousand five hundred (105,500) pounds, forty-three dollars (\$43). (3-19-07)
  - g.** Extra Length/Excess Weight (reducible) combination, annual, twelve (12) consecutive months, fifty-three dollars (\$53). (3-19-07)
  - h.** Overweight/Oversize or Overweight only (non-reducible) single trip, ~~thirty-three~~ **seventy-one** dollars (~~\$33~~**71**). (~~3-19-07~~)(    )
  - i.** Overweight/Oversize or Overweight only (non-reducible), two (2) trips, ~~forty-three~~ **eighty-one** dollars (~~\$43~~**81**). (~~3-19-07~~)(    )
  - j.** Overweight/Oversize (non-reducible) single trip, exceeding sixteen (16) feet wide, or sixteen (16) feet high or one hundred ten (110) feet long, ~~fifty-~~ **one hundred** three dollars (~~\$51~~**03**). (~~3-19-07~~)(    )
  - k.** Overweight/Oversize (non-reducible) two (2) trips within seven (7) days, exceeding sixteen (16) feet wide, or sixteen (16) feet high or one hundred ten (110) feet long, ~~seventy-one~~ **hundred sixteen** dollars (~~\$71~~**16**). (~~3-19-07~~)(    )
  - l.** Overweight/Oversize (non-reducible) annual permit fee for twelve (12) consecutive months, ~~fifty-~~ **one hundred twenty-eight** dollars (~~\$51~~**28**). (~~3-19-07~~)(    )
  - m.** Overlegal permit manual (plus current sales tax for Idaho residents), five dollars (\$5). (3-19-07)
  - n.** Fee for reissuance or transfers, fifteen dollars (\$15). (3-19-07)
- 05. Additional Fees.** The department may require reimbursement of actual costs incurred for extraordinary services provided, incidental and necessary to the planning and/or movement of overlegal loads moving under the requirements of a traffic control plan. (    )