

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

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

IDAPA 39.03.06 - Rules Governing Allowable Vehicle Size - Proposed Rule (Docket No.  
39-0306-1601);

IDAPA 39.03.11 - Rules Governing Overlegal Permittee Responsibility and Travel Restrictions -  
Proposed Rule (Docket No. 39-0311-1601);

IDAPA 39.03.12 - Rules Governing Safety Requirements of Overlegal Permits - Proposed Rule  
(Docket No. 39-0312-1601);

IDAPA 39.03.22 - Rules Governing Overlegal Permits for Extra-Length, Excess Weight, and Up To  
129,000 Pound Vehicle Combinations - Proposed Rule (Docket No. 39-0322-1601);

IDAPA 39.03.23 - Rules Governing Revocation of Overlegal Permits - Proposed Rule (Docket  
No. 39-0323-1601).

Pursuant to Section 67-454, Idaho Code, a meeting on the enclosed rules may be called by the  
cochairmen or by two (2) or more members of the subcommittee giving oral or written notice to Research  
and Legislation no later than fourteen (14) days after receipt of the rules' analysis from Legislative  
Services. The final date to call a meeting on the enclosed rules is no later than 10/03/2016. If a meeting is  
called, the subcommittee must hold the meeting within forty-two (42) days of receipt of the rules' analysis  
from Legislative Services. The final date to hold a meeting on the enclosed rules is 11/01/2016.

The germane joint subcommittee may request a statement of economic impact with respect to a  
proposed rule by notifying Research and Legislation. There is no time limit on requesting this statement,  
and it may be requested whether or not a meeting on the proposed rule is called or after a meeting has  
been held.

To notify Research and Legislation, call 334-4834, or send a written request to the address on the  
memorandum attached below.



Eric Milstead  
Director

# Legislative Services Office

## Idaho State Legislature

*Serving Idaho's Citizen Legislature*

### MEMORANDUM

**TO:** Rules Review Subcommittee of the Senate Transportation Committee and the House Transportation & Defense Committee

**FROM:** Deputy Division Manager - Katharine Gerrity

**DATE:** September 16, 2016

**SUBJECT:** Idaho Transportation Department

IDAPA 39.03.06 - Rules Governing Allowable Vehicle Size - Proposed Rule (Docket No. 39-0306-1601)

IDAPA 39.03.11 - Rules Governing Overlegal Permittee Responsibility and Travel Restrictions - Proposed Rule (Docket No. 39-0311-1601)

IDAPA 39.03.12 - Rules Governing Safety Requirements of Overlegal Permits - Proposed Rule (Docket No. 39-0312-1601)

IDAPA 39.03.22 - Rules Governing Overlegal Permits for Extra-Length, Excess Weight, and Up To 129,000 Pound Vehicle Combinations - Proposed Rule (Docket No. 39-0322-1601)

IDAPA 39.03.23 - Rules Governing Revocation of Overlegal Permits - Proposed Rule (Docket No. 39-0323-1601)

#### **1. IDAPA 39.03.06 - Rules Governing Allowable Vehicle Size**

The Idaho Transportation Department submits notice of proposed rule at IDAPA 39.03.06 - Rules Governing Allowable Vehicle Size. According to the department, the changes are being made to ensure congruency with the FAST Act (2015) and Idaho SB 1261 (2016). The department notes that it has referenced Section 49-1010, Idaho Code, within the rule. This section establishes permissible load overhang.

The department indicates that negotiated rulemaking was not conducted due to the simple nature of the change. The department adds that the rule was part of ITD's rule package presented to the Idaho Transportation Board and stakeholders, which was open for public comment multiple times over the last several months. The rule appears to be authorized pursuant to Section 40-312, Idaho Code.

#### **2. IDAPA 39.03.11 - Rules Governing Overlegal Permittee Responsibility and Travel Restrictions**

The Idaho Transportation Department submits notice of proposed rule at IDAPA 39.03.11 - Rules Governing Overlegal Permittee Responsibility and Travel Restrictions. According to the department, the changes address truck permitting for non-reducible, oversized loads traveling on U.S. 12 in northern Idaho, between

Mike Nugent, Manager  
Research & Legislation

Cathy Holland-Smith, Manager  
Budget & Policy Analysis

April Renfro, Manager  
Legislative Audits

Glenn Harris, Manager  
Information Technology

milepost 74 and milepost 174. The changes affect loads that either exceed sixteen feet wide and/or one hundred and fifty feet in length, loads where the movement requires longer than twelve hours to travel through the designated mileposts, or loads where the movement requires physical modification of the roadway or adjacent vegetation to facilitate passage beyond normal highway maintenance. The department notes that a federal district court held that the Forest Service has concurrent jurisdiction of vehicles and loads traveling through the Nez Perce Forest. The department states that the Forest Service will review all oversize vehicles/loads greater than 16 feet wide and/or 150 feet in length when such vehicles or loads travel between the designated mileposts.

The department notes that negotiated rulemaking was not conducted because affected interests would not likely reach consensus. The rulemaking appears to be authorized pursuant to Section 40-312, Idaho Code.

### **3. IDAPA 39.03.12 - Rules Governing Safety Requirements of Overlegal Permits**

The Idaho Transportation Department submits notice of proposed rule at IDAPA 39.03.12 - Rules Governing Safety Requirements of Overlegal Permits. According to the department, the changes address vehicle inspections, driver training and brakes. The department notes that the changes would require owner inspections in compliance with 49 CFR 396.17 and 396.19. In addition, drivers are to meet all special training requirements for longer combination vehicles as provided in 49 CFR Part 380 unless they fall under an exemption. The department goes on to state that brakes shall meet the Federal Motor Carrier Safety Administration Regulations and shall be maintained to the Federal Motor Vehicle Safety Standards No. 121 in effect at the time the commercial motor vehicle was manufactured. The department also states that no vehicle or vehicle combinations shall operate with mixed brake systems between tractor and trailers.

Negotiated rulemaking was conducted. The department indicates that it has incorporated cited federal regulations by reference and notes that each year, ISP adopts varying regulations of the Federal Motor Carrier Safety Administration. The department adds that it has worked in partnership with ISP throughout the negotiated rulemaking and is only referencing regulations that are or will be adopted by ISP. The rulemaking appears authorized pursuant to Section 40-312, Idaho Code.

### **4. IDAPA 39.03.22 - Rules Governing Overlegal Permits for Extra-Length, Excess Weight, and Up To 129,000 Pound Vehicle Combinations**

The Idaho Transportation Department submits notice of proposed rule at IDAPA 39.03.22 - Rules Governing Overlegal Permits for Extra-Length, Excess Weight, and Up To 129,000 Pound Vehicle Combinations. According to the department, the changes to the rule address commercial motor vehicle brakes. The department states that the rule provides that the brakes on all commercial motor vehicles must meet and be maintained to the Federal Motor Vehicle Safety Standards No. 121 in effect at the time the commercial motor vehicle was manufactured. The department adds that no vehicle or vehicle combinations shall operate with mixed brake systems between tractor and trailers. The department also states that there is new language that addresses driver training requirements in accordance with 49 CFR Part 380, and that the rule deals with reducible loads exceeding 80,000 pounds.

The department notes that negotiated rulemaking was conducted. In addition, there is an incorporation by reference to several federal regulations. The department states this is due to negotiated rulemaking and each reference directly addresses safety on Idaho's highway system. The rulemaking appears authorized pursuant to Section 40-312, Idaho Code.

## **5. IDAPA 39.03.23 - Rules Governing Revocation of Overlegal Permits**

The Idaho Transportation Department submits notice of proposed rule at IDAPA 39.03.23 - Rules Governing Revocation of Overlegal Permits. According to the department, the change to the rule addresses a new instance in which a permit can be revoked. The department goes on to say that revocation of a permit for non-compliance may occur if the motor carrier has violated an Out-of-Service order by the Federal Motor Carrier Safety Administration as described in 49 CFR Part 386 (386.73) of the Federal Motor Carrier Safety Regulations.

Negotiated rulemaking was conducted. The department adds that there is reference to federal regulations. The regulations provide that Out-of-Service orders may be issued if it is determined that the carrier attempted to operate under a new identity or as an affiliated entity to avoid complying with a FMCSA order, avoid complying with a statutory or regulatory requirement, avoid paying a civil penalty, avoid responding to an enforcement action or avoid being linked with a negative compliance history. The rulemaking appears authorized pursuant to Section 40-312, Idaho Code.

cc: Idaho Transportation Department  
Ramon Hobdey-Sanchez

## IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT

### 39.03.06 - RULES GOVERNING ALLOWABLE VEHICLE SIZE

DOCKET NO. 39-0306-1601

#### NOTICE OF RULEMAKING - PROPOSED RULE

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. This 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 September 21, 2016.

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 changes to this rule are being made to ensure congruency with the FAST Act (2015) and Idaho Senate Bill 1261 (2016). The specific details of this rule are in Idaho statute (Section 49-1010, Idaho Code); therefore, for efficiency purposes and to avoid possible confusion, ITD has simply referenced the pertinent Idaho Code section in rule that establishes permissible load overhang. This code section was amended by the 2016 Idaho legislature and is now up-to-date.

**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(2), Idaho Code, negotiated rulemaking was not conducted because the change itself is simple in nature. It also confers a benefit to the industry by having the specific details of allowable vehicle overhang only in one place (Idaho Code). Although this rule was not formally negotiated, it was part of ITD's rule package presented to the Idaho Transportation Board and stakeholders, open for public comments, multiple times over the last several months.

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

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, please contact Reymundo Rodriguez, Motor Carrier Manager, at (208) 334-8699.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 28, 2016.

DATED this 2nd Day of August, 2016.

Ramón S. Hobdey-Sánchez  
Governmental Affairs Program Specialist  
Idaho Transportation Department  
3311 W. State Street  
PO Box 7129  
Boise ID 83707-1129  
Phone: (208) 334-8810  
[ramon.hobdey-sanchez@itd.idaho.gov](mailto:ramon.hobdey-sanchez@itd.idaho.gov)

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 39-0306-1601  
(Only Those Sections With Amendments Are Shown.)

300. LOAD OVERHANG.

The overhang or extension of a load shall not extend ~~beyond the limits as set forth in Section 49-1010, Idaho Code.~~  
(~~9-14-92~~)(      )

- ~~01. **Front.** More than four (4) feet beyond the front of a vehicle other than an automobile transporter or a boat transporter. (4-24-92)~~
- ~~02. **Rear.** More than ten (10) feet beyond the end of a vehicle other than an automobile transporter or a boat transporter. (5-8-09)~~
- ~~03. **Right Side.** More than six (6) inches outside the right fender of a passenger vehicle. (4-24-92)~~
- ~~04. **Left Side.** Outside the left fender of a passenger vehicle. (4-24-92)~~
- ~~05. **Auto or Boat Transporter.** More than seven (7) feet front and rear combined length of an automobile transporter or boat transporter. (4-24-92)~~

**IDAPA 39 – IDAHO TRANSPORTATION DEPARTMENT**  
**39.03.11 - RULES GOVERNING OVERLEGAL PERMITTEE RESPONSIBILITY**  
**AND TRAVEL RESTRICTIONS**

**DOCKET NO. 39-0311-1601**

**NOTICE OF RULEMAKING - PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. This action is authorized pursuant to Section 40-312, Idaho Code.

**PUBLIC HEARING SCHEDULE:** A public hearing concerning this rulemaking will be held via video-conferencing at the following locations:

<b>Wednesday, September 28th, 2016 - 4:00 to 7:00 pm (MDT)</b>	
<b>Central Office - HQ</b> <b>3311 W. State Street</b> <b>Boise, ID 83707</b>	<b>District 1</b> <b>600 W. Prairie Ave.</b> <b>Coeur d'Alene, Idaho 83815</b>
<b>District 2</b> <b>2600 Frontage Road</b> <b>Lewiston, ID 83501</b>	<b>District 4</b> <b>216 S. Date Street</b> <b>Shoshone, ID 83352</b>
<b>District 5</b> <b>5151 S. 5th Ave.</b> <b>Pocatello, ID 83204</b>	<b>District 6</b> <b>206 N. Yellowstone Ave.</b> <b>Rigby, ID 83442</b>

Each location will have live video-conferencing and be connected to the auditorium and the Idaho Transportation Department headquarters.

The hearing sites 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 modifications being made to this rule address truck permitting for non-reducible, oversized loads traveling on U.S. 12 in northern Idaho, between milepost 74 and milepost 174. Specifically, loads that fall under one of the following criteria: 1) exceeds sixteen (16) feet wide and/or one hundred and fifty (150) feet in length; 2) load movement requires longer than twelve (12) hours to travel through the designated mileposts; or 3) load movement requires physical modification of the roadway or adjacent vegetation to facilitate passage beyond normal highway maintenance.

Recent federal litigation raised new considerations for certain oversize vehicles and loads traveling through the Nez Perce Forest on U.S. 12. The federal district court held that the United States Forest Service has concurrent jurisdiction of vehicles and loads traveling through the Nez Perce Forest. The Forest Service responded and stated it would review all oversize vehicles/loads greater than 16 feet wide and/or 150 feet in length when such vehicles or loads travel on US 12 between milepost 74 and milepost 174.

**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(2), Idaho Code, negotiated rulemaking was not

conducted because affected interests are not likely to reach consensus.

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

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, please contact Reymundo Rodriguez, Motor Carrier Manager, (208) 334-8699.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 30, 2016.

DATED this 22nd Day of August, 2016.

Ramón S. Hobdey-Sánchez  
Governmental Affairs Program Specialist  
Idaho Transportation Department  
3311 W. State Street  
PO Box 7129  
Boise, ID 83707-1129  
Phone: (208) 334-8810  
[ramon.hobdey-sanchez@itd.idaho.gov](mailto:ramon.hobdey-sanchez@itd.idaho.gov)

**THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 39-0311-1601**  
**(Only Those Sections With Amendments Are Shown.)**

**200. TIME OF TRAVEL RESTRICTIONS FOR OVER LEGAL LOADS.**

Oversize loads may be transported on Idaho Highways subject to the following conditions: (10-2-89)

**01. Red-Coded Routes.** Daylight travel until 2 p.m. on Friday, no Saturday, no Sunday. Due to low traffic volumes on these routes early in the mornings of Saturday and Sunday, single trip permits may be issued for dawn to 8 a.m. If the movement is not completed by 8 a.m. the permittee will be required to safely park and not proceed until the next day. (4-5-00)

**02. Black-Coded Routes.** Loads not in excess of ten (10) feet wide, one hundred (100) feet long or fourteen (14) feet six (6) inches high may travel twenty-four (24) hours per day, seven (7) days per week; loads in excess of ten (10) feet wide, one hundred (100) feet long or fourteen (14) feet six (6) inches high may travel daylight hours seven (7) days per week. (12-26-90)

**03. Interstate.** Loads not in excess of ten (10) feet wide, one hundred and twenty (120) feet long or fourteen (14) feet six (6) inches high may travel twenty-four (24) hours per day, seven (7) days per week; loads in excess of ten (10) feet wide, one hundred and twenty (120) feet long or fourteen (14) feet six (6) inches high may travel daylight hours, seven (7) days per week. (4-5-00)

**04. Nez Perce - Clearwater Forest Safety and Travel Requirements.** As per a Federal Court decision, the United States Forest Service has the duty to regulate oversize loads traveling through the Nez Perce - Clearwater Forest (US 12 from milepost 74 to 174). ( )

**a.** The Forest Service has issued the following written criteria to determine which "oversize" loads will be subject to Forest Service review: ( )

- i. Load exceeds sixteen (16) feet wide, and/or one hundred and fifty (150) feet in length. ( )
- ii. Load movement requires longer than twelve (12) hours to travel through the designated mileposts. ( )
- iii. Load movement requires physical modification of the roadway or adjacent vegetation to facilitate passage beyond normal highway maintenance. ( )
- b.** For those loads meeting any of the criteria above there will be additional safety requirements for the movement of such loads on US 12 from milepost 74 to 174. These additional safety requirements include, at a minimum, the following: ( )
  - i. Ambulances and possible law enforcement escorts to ensure public safety. ( )
  - ii. Safety lighting will be addressed so as to not create a safety hazard to the traveling public. ( )
  - iii. Loads cannot utilize turnouts - which are designated for recreational vehicles for non-emergency parking. ( )
  - iv. Time of travel will be determined based on traffic volume and best interest of the public. Night time movement may be required and/or movement may be restricted during holidays or weekends. ( )
  - v. Loads require a vehicle safety inspection by the Idaho State Police or equivalent agency of another jurisdiction prior to issuance of a permit. ( )
  - vi. ITD shall monitor the loads as they travel the highway and ensure only one (1) load shall operate on this section of highway at any one time. ( )

**045. Additional Restrictions. (8-25-94)**

- a.** Red-Coded Routes: No travel for any load after 2 p.m. on the day preceding a holiday or holiday weekend. A holiday weekend occurs as three (3) consecutive days, when a designated holiday occurs on a Friday or Monday, or when the designated holiday occurs on a Saturday or Sunday, in which case the preceding Friday or the following Monday shall be included in such three (3) day holiday weekend. Travel may be resumed at dawn on the day following the holiday or holiday weekend. (4-5-00)
- b.** Black-Coded Routes and Interstate Routes: Loads in excess of ten (10) feet wide, one hundred (100) feet long or fourteen (14) feet six (6) inches high may not travel after 4:00 p.m. on the day preceding a holiday; travel may be resumed at dawn on the day following the holiday. (4-5-00)
- c.** The following days are designated as holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving, and Christmas. (8-25-94)
- d.** Additional restrictions relating to movement of buildings and houses are listed in IDAPA 39.03.18, "Rules Governing Overlegal Permits for Relocation of Buildings or Houses," Section 400. (4-5-00)
- e.** Other time of travel restrictions may be noted on the permit due to special circumstances. (8-25-94)

**056. Hours Of Darkness.** Hours are defined as extending from one-half (1/2) hour after sundown to one-half (1/2) hour before sun rise or at any other time when visibility is restricted to less than five hundred (500) feet. (4-5-00)

**067. Heavy Commuter Traffic Restrictions.** The movement of oversize permitted vehicles or loads which are in excess of thirteen (13) feet in width, may be prohibited from movement on highways all state and interstate within one (1) mile of the city limits of the following cities: Boise, Caldwell, Coeur d'Alene, Eagle,

Emmett, Idaho Falls, Meridian, Middleton, Nampa, Pocatello, Star, Twin Falls, Garden City, and Chubbuck at times of heavy commuter traffic. Authorized oversize permitted vehicles operating during hours of heavy commuter traffic shall be restricted to the furthest right hand lane. Emergency movement of vehicles/loads responding to imminent hazards to persons or property shall be exempt from the provisions of Section 200. Unless otherwise defined on the permit, the times of heavy commuter traffic shall be considered to be 6:30 a.m. to 8:30 a.m., and 4 p.m. to 6 p.m. Monday through Friday except as noted under Holiday restrictions. Restrictions to the operation of oversize permitted vehicles and/or loads during times of heavy commuter traffic shall appear either on the face of the permit or in the attachments for annual permits. (3-30-07)

**078. Hazardous Travel Conditions Restrictions.** Extreme caution in the operation of permitted vehicle combinations shall be exercised when hazardous conditions exist. The movement of overlegal vehicles and/or loads by overlegal permit shall be prohibited and otherwise valid permits shall automatically become invalid enroute when travel conditions become hazardous due to ice, snow or frost; when visibility is restricted to less than five hundred (500) feet by fog, dust, smoke or smog or other atmospheric conditions. (3-10-05)

**089. Delaying Movement.** Enforcement personnel responsible for any section of highway may delay movements and carry out enforcement action for violations involving overlegal permit operations. (4-5-00)

**0910. Map Resources.** The Pilot/Escort Vehicle and Travel Time Requirement Map is available at the Idaho Transportation Department Overlegal Permit Office, and Ports of Entry, and District Offices. (4-5-00)

## IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT

### 39.03.12 - RULES GOVERNING SAFETY REQUIREMENTS OF OVERLEGAL PERMITS

DOCKET NO. 39-0312-1601

#### NOTICE OF RULEMAKING - PROPOSED RULE

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. This 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 September 21, 2016.

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 modifications to this rule address vehicle inspections, driver training and brakes. Specifically, the rule identifies a requirement for owner inspections in compliance with 49 CFR 396.17 and 396.19. Drivers are to meet all special training requirements for longer combination vehicles as outlined in 49 CFR Part 380. However, there are some exemptions in place for these two new requirements.

Additionally, brakes shall meet the Federal Motor Carrier Safety Administration Regulations and shall be maintained to the Federal Motor Vehicle Safety Standards No. 121 in effect at the time the commercial motor vehicle was manufactured. No vehicle or vehicle combinations shall operate with mixed brake systems between tractor and trailers.

**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(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the May 2016 Idaho Administrative Bulletin, [volume 16-5, pages 68-69](#).

**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: Each year, the Idaho State Police (ISP) adopt varying regulations of the Federal Motor Carrier Safety Administration. ITD has worked in partnership with ISP throughout this negotiated rulemaking and is only referencing federal regulations which are or will be adopted by ISP. The federal regulations/standards now being cited in ITD's administrative rule deal with self-certified owner inspections, driver training and brake standards.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, please contact Reymundo Rodriguez, Motor Carrier Manager, at (208) 334-8699.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 28, 2016.

DATED this 4th Day of August, 2016.

Ramón S. Hobdey-Sánchez  
Governmental Affairs Program Specialist  
Idaho Transportation Department  
[ramon.hobdey-sanchez@itd.idaho.gov](mailto:ramon.hobdey-sanchez@itd.idaho.gov)

PO Box 7129  
3311 W. State Street  
Boise ID 83707-1129  
Phone: (208) 334-8810

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 39-0312-1601  
(Only Those Sections With Amendments Are Shown.)

**001. TITLE AND SCOPE.**

**01. Title.** This rule shall be cited as IDAPA 39.03.12, "Rules Governing Safety Requirements of Overlegal Permits," IDAPA 39, Title 03, Chapter 12. (4-5-00)

**02. Scope.** This rule states the requirements for vehicle inspections, brakes, pilot cars, oversize load signs, red warning flags, and lighting. (4-5-00)( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**011. -- 049. (RESERVED)**

**050. SAFETY INSPECTION REQUIREMENTS FOR OVERSIZE VEHICLES AND/OR LOADS.**

**01. Inspections.** All vehicles, tractors, trailers, and dolly converters operating under the authority of an overlegal permit issued by the Department must have a valid annual inspection at the time a permit is issued. The inspection shall be completed in compliance with 49 CFR Part 396.17. ( )

**02. Inspectors.** Inspectors completing required annual inspections shall meet the certifications requirement in 49 CFR 396.19 and brake inspector qualification in 49 CFR 396.25. ( )

**03. Drivers.** All drivers shall meet the special training requirements for Longer Combination Vehicles as outlined in 49 CFR Part 380. ( )

**04. Motor Carriers.** By applying for an overlegal permit, motor carriers self-certify that they have performed inspections as set forth in 49 CFR Part 396.17. ( )

**05. Exemption.** Oversize vehicles and/or loads operating under an exemption outlined in §67-2901B(2), Idaho Code, are exempt from this safety inspection requirement. ( )

**051. -- 059. (RESERVED)**

**060. SAFETY STANDARDS FOR BRAKES.**

Brakes shall meet the Federal Motor Carrier Safety Regulations and shall be maintained to the Federal Motor Vehicle Safety Standards No. 121 in effect at the time the commercial motor vehicle was manufactured. No vehicle or vehicle combinations shall operate with mixed brake systems between tractor and trailers. ( )

**061. -- 099. (RESERVED)**

## IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT

### 39.03.22 - RULES GOVERNING OVERLEGAL PERMITS FOR EXTRA-LENGTH, EXCESS WEIGHT, AND UP TO 129,000 POUND VEHICLE COMBINATIONS

DOCKET NO. 39-0322-1601

#### NOTICE OF RULEMAKING - PROPOSED RULE

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. This 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 September 21, 2016.

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 modifications to this rule address commercial motor vehicle brakes. Specifically, that the brakes on all commercial motor vehicles must meet and be maintained to the Federal Motor Vehicle Safety Standards No. 121 in effect at the time the commercial motor vehicle was manufactured. Additionally, no vehicle or vehicle combinations shall operate with mixed brake systems between tractor and trailers. There is also new language that addresses driver training requirements in accordance with 49 CFR Part 380. This rule deals with reducible loads exceeding 80,000 pounds.

**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(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the May 2016 Idaho Administrative Bulletin, [volume 16-5, pages 68-69](#).

**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: this administrative rule does reference 49 CFR Part 380 "Special Training Requirements" as well as Federal Motor Vehicle Safety Standards No. 121 which deals with air brake systems. Reference to these federal regulations is the result of ITD's negotiated rulemaking and each one directly addresses safety on Idaho's highway system.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, please contact Reymundo Rodriguez, Motor Carrier Manager, at (208) 334-8699.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 28, 2016.

DATED this 3rd Day of August, 2016

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THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 39-0322-1601  
(Only Those Sections With Amendments Are Shown.)

**200. DESIGNATED ROUTES FOR VEHICLE COMBINATIONS UP TO ONE HUNDRED TWENTY-NINE THOUSAND (129,000) POUNDS.**

In addition to the requirements listed in Sections 300 and 400, vehicle combinations operating up to one hundred twenty-nine thousand (129,000) pounds, must meet the following requirements: (7-1-13)

**01. Brakes.** All axles shall be equipped with brakes that meet the Federal Motor Carrier Safety Regulations and shall be maintained to the Federal Motor Vehicle Safety Standards No. 121 in effect at the time the commercial motor vehicle was manufactured. No vehicle or vehicle combinations shall operate with mixed brake systems between tractor and trailers. (~~7-1-13~~)( )

**02. Permits.** Permits will be vehicle specific and will be in addition to any extra length and excess weight permit for operation of vehicle combinations at weights up to one hundred five thousand five hundred (105,500) pounds. (7-1-13)

**03. Designated Routes.** All designated state approved routes for vehicle combinations to operate at weights above one hundred five thousand five hundred (105,500) pounds will be identified on the "Designated Routes Up to 129,000 Pound Map" which is available at the Idaho Transportation Department. (4-1-14)

**a. Black-Coded Routes.** Interstate system routes and specified interchanges providing access to approved breakdown areas located in close proximity to the Interstate system (black-coded routes). A vehicle combination operating on routes in this category shall be designed and assembled in such a manner that its off-tracking may exceed six point five zero (6.50) feet but shall not exceed eight point seven five (8.75) feet when computed. Specified interchanges providing access to approved breakdown areas are required to be used by combinations that exceed six point five zero (6.50) feet off-tracking. The specified interchanges will be authorized for either combinations in excess of six point five zero (6.50) feet off-tracking, but not in excess of seven (7) feet off-tracking, or for combinations in excess of seven (7) feet off-tracking but not in excess of eight point seven five (8.75) feet off-tracking. ( )

**#b. Magenta-Coded Routes.** Routes for combinations of vehicles not exceeding one hundred fifteen (115) feet in overall length including load overhang (magenta-coded routes). A vehicle combination operating on routes designated for up to one hundred fifteen (115) feet shall be designed and assembled in a manner whereby its maximum off-tracking will not exceed six point five zero (6.50) feet on a one hundred sixty-five (165) foot radius when computed. (3-25-16)

**#c. Brown-Coded Routes.** Routes for combinations not exceeding ninety-five (95) feet in overall length including load overhang (brown-coded routes). A vehicle combination operating on routes designated for up to ninety-five (95) feet shall be designed and assembled in a manner whereby its maximum off-tracking will not exceed five point five zero (5.50) feet on a one hundred sixty-five (165) foot radius when computed. (3-25-16)

**#d.** Routes for combinations operating on non-state maintained highways (orange-coded routes). Local jurisdictions adding, modifying or deleting non-state maintained routes for vehicle combinations operating up to one hundred twenty-nine thousand (129,000) pounds shall provide the route information to the department. (4-1-14)

**04. Requests for Adding Idaho Transportation Department Maintained Non-Interstate Routes.** Routes not currently designated to operate at up to one hundred twenty-nine thousand (129,000) pounds may be added as follows: (4-1-14)

**a. Request Form Submission.** The request form (ITD form number 4886) will be completed and submitted to the Idaho Transportation Department Office of the Chief Engineer by the requestor. The requestor will forward the form to the adjacent local jurisdictions. (4-1-14)

- b. Request Review/Analysis Process. (4-1-14)
- i. Once submitted, the request will be reviewed for completeness and the department's analysis will be completed for engineering and safety criteria. The criteria shall include assessment of pavement and bridges to allow legal tire, axle, and gross weight limits as per Section 49-1001 and 49-1002, Idaho Code, and route off-track requirements which includes road width and curvature. Additional consideration shall be given to traffic volumes and other safety factors. (4-1-14)
- ii. Once the analysis is completed, the request will be submitted to the Chief Engineer, who will report to the Idaho Transportation Board Sub-committee. (4-1-14)
- iii. The Idaho Transportation Board Sub-committee will make a recommendation (proceed to hearing, reject, or request additional information) to the Idaho Transportation Board based upon the department's analysis. (4-1-14)
- iv. If the Idaho Transportation Board recommends that the request proceed to hearing, it shall instruct the Chief Engineer to schedule a hearing in the district(s) where the requested route is located. The hearing will be conducted pursuant to the Idaho Administrative Procedures Act, Title 67, Chapter 52, Idaho Code. (4-1-14)
- v. The Chief Engineer or designee will conduct the hearing(s) and make a determination after the hearing(s) are held. Following the determination, the Chief Engineer will issue Findings and a Preliminary Order, hereafter referred to as Preliminary Order. (4-1-14)
- vi. The Department will notify the requestor of the Chief Engineer's Preliminary Order and post to the Idaho Transportation Department Web site. (4-1-14)
- vii. An appeal of the Preliminary Order may be made pursuant to the Idaho Administrative Procedures Act, Title 67, Chapter 52, Idaho Code. The appeal shall be made to the Director of the Idaho Transportation Department. (4-1-14)
- c. Local Highways Approved for Travel Up to 129,000 pounds. Local routes will be added or removed on the "Designated Routes Up to 129,000 Pound Map" when information and approval is provided to the Department by the local jurisdiction having authority over the local route. (4-1-14)

**201. -- 299. (RESERVED)**

**300. OPERATING REQUIREMENTS FOR EXTRA-LENGTH, EXCESS WEIGHT, AND UP TO ONE HUNDRED TWENTY-NINE THOUSAND (129,000) POUNDS VEHICLE COMBINATIONS.**

All vehicle combinations shall be subject to the following conditions, limitations, and requirements: (7-1-13)

**01. Cargo Carrying Units.** Vehicle combinations operating with an overall length in excess of the limits imposed in Section 49-1010, Idaho Code, shall consist of not more than four (4) units, shall not exceed one hundred fifteen (115) feet overall and no such vehicle combination shall include more than three (3) cargo units except that a full truck and full trailer may have an overall length in excess of seventy-five (75) feet but not in excess of eighty-five (85) feet including load overhang. (7-1-13)

**02. Power Unit.** The power unit of all vehicle combinations shall have adequate power and traction to maintain a minimum of twenty (20) miles per hour under normal operating conditions on any up-grade over which the combination is operated. (7-1-13)

**03. Connecting Devices.** Fifth wheel, drawbar, and other coupling devices shall be as specified by Federal Motor Carrier Safety Regulations, Part 393. (4-7-11)

**04. Hazardous Travel Conditions Restrictions.** Extreme caution in the operation of permitted vehicle combinations shall be exercised when hazardous conditions exist. The movement of overlegal vehicles and/or loads by overlegal permit shall be prohibited and otherwise valid permits shall automatically become invalid en route when

travel conditions become hazardous. Hazardous conditions include, but are not limited to, ice, snow or frost; or when visibility is restricted to less than five hundred (500) feet. (7-1-13)

**05. Trailer Weight Sequence.** In any extra-length combination, the respective loading of any trailer shall not be substantially greater than the weight of any trailer located ahead of it in the vehicle combination. (Substantially greater shall be defined as more than four thousand (4,000) pounds heavier.) (10-2-89)

**06. Operating Restrictions.** Operators of all vehicle combinations governed by this rule shall comply with the following operating restrictions: (8-25-94)

**a.** A minimum distance of five hundred (500) feet shall be maintained between combinations of vehicles except when overtaking and passing. (10-2-89)

**b.** Except when passing another vehicle traveling in the same direction, the combination shall be driven so as to remain at all times on the right hand side of the centerline of a two (2) lane, two (2) way highway, or on the right hand side of a lane stripe or marker of a highway of four (4) or more lanes. (1-1-90)

**c.** Be in compliance with all Federal Motor Carrier Safety Regulations. (3-22-00)

**07. Insurance Requirements.** Every vehicle combination operated under this rule shall be covered by insurance of not less than five hundred thousand dollars (\$500,000) combined single limit. The permittee or driver of the permitted vehicle combination shall carry in the vehicle evidence of insurance written by an authorized insurer to certify that insurance in this minimum amount is currently in force. (7-1-13)

**08. Tire Limitations.** Single axles on vehicle combinations shall be equipped with four (4) tires except on the steering axle, or variable load suspension axles (VLS-lift axles), unless equipped with fifteen (15) inch wide or wider single tires. Multiple axle configurations may be equipped with single tires on each of the axles as long as the pounds-per-inch width of tire does not exceed six hundred (600) pounds, the manufacturers rating or legal weights whichever is less. Load for inch width of tire for the front steer axle may not exceed the manufacturer's load rating per tire or the load rating of the axle or twenty thousand (20,000) pounds per axle whichever is less. (3-25-16)

**09. Brakes.** Brakes shall meet the Federal Motor Carrier Safety Regulations and shall be maintained to the Federal Motor Vehicle Safety Standards No. 121 in effect at the time the commercial motor vehicle was manufactured. No vehicle or vehicle combinations shall operate with mixed brake systems between tractor and trailers. (~~7-1-13~~)( )

**10. Drivers.** All drivers shall meet the special training requirements for Longer Combination Vehicles as outlined in 49 CFR Part 380. ( )

**IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT**  
**39.03.23 - RULES GOVERNING REVOCATION OF OVERLEGAL PERMITS**  
**DOCKET NO. 39-0323-1601**  
**NOTICE OF RULEMAKING - PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. This 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 September 21, 2016.

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 modification to this rule addresses a new instance in which a permit can be revoked. Specifically, revocation of a permit for non-compliance if the motor carrier has violated an Out-of-Service order by the Federal Motor Carrier Safety Administration (FMCSA) as described in 49 CFR Part 386 (386.73) of the Federal Motor Carrier Safety Regulations.

**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(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the May 2016 Idaho Administrative Bulletin, [volume 16-5, pages 68-69](#).

**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. This rule change does reference 49 CFR 386.73 which deals with a FMCSA out-of-service order. This order may be issued to prohibit a motor carrier from conducting operations subject to FMCSA jurisdiction if it is determined that said motor carrier attempted to operate under a new identity or as an affiliated entity to: (1) Avoid complying with an FMCSA order; (2) Avoid complying with a statutory or regulatory requirement; (3) Avoid paying a civil penalty; (4) Avoid responding to an enforcement action; or (5) Avoid being linked with a negative compliance history.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, please contact Reymundo Rodriguez, Motor Carrier Manager, at (208) 334-8699.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 28, 2016.

DATED this 2nd Day of August, 2016

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**THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 39-0323-1601**  
**(Only Those Sections With Amendments Are Shown.)**

**100. REVOCATION OF PERMIT FOR NON-COMPLIANCE WITH THE LIMITATIONS OR PROVISIONS OF THE PERMIT.**

**01. Disqualification of Permits.** The permit shall become invalid and the cited vehicle may be disqualified for reissuance of permits if convicted of the following: (3-20-14)

**a.** The vehicle combination does not satisfy the requirements of Federal Motor Carrier Safety Regulations Part 393. (3-20-14)

**b.** The vehicle combination violates permitting conditions (other than weight) for the following: (3-20-14)

i. Failure to travel on Extra Length or Up to 129,000 Pound designated routes. (3-20-14)

ii. Failure to properly display required flags and/or signs. (3-20-14)

iii. Failure to provide required number of pilot cars and/or proper placement. (3-20-14)

iv. Failure to provide required lighting for travel during hours of darkness. (3-20-14)

v. Failure to travel during the hours of operation as specified on the permit. (3-20-14)

vi. Failure to comply with wind velocity requirements when moving manufactured housing, office trailers and modular buildings. (3-20-14)

vii. Failure to comply when travel conditions become hazardous. Hazardous conditions include, but are not limited to, ice, snow or frost; or when visibility is restricted to less than five hundred (500) feet. (3-20-14)

**c.** The vehicle combination violates weight limits under Section 49-1001 (1)(2) & (9), Idaho Code. (3-20-14)

i. Violating weight limits for single, tandem, tridem, quad, or other type axle groups by more than fifteen percent (15%). (3-20-14)

ii. Violating gross or bridge weight allowances by more than seven percent (7%). (3-20-14)

**d.** The motor carrier has violated an Out-of-Service order by the Federal Motor Carrier Safety Administration as described in Part 386 (386.73) of the Federal Motor Carrier Safety Regulations. ( )

**02. Permit Revocation Process.** A copy of the judgment of conviction from the court and the overlegal permit authorizing operation must be provided to the Permit Office by enforcement personnel. Paperwork will be reviewed for compliance with the provisions of this rule and, if met, notification will be sent to the company informing them of the pending revocation that will occur within ten (10) days of the letter being issued. (3-20-14)

**03. Disqualification Periods.** When a permit has become invalid, the vehicle identified on the invalidated permit may be disqualified for reapplication for permit for a period of thirty (30) days after the first violation, for a period of six (6) months after the second violation, and for a period of one (1) year after the third violation. (3-20-14)

**04. Penalties.** In addition to revocation of permits as authorized in this rule, the permittee shall be subject to all applicable penalties provided by law with regard to the provisions violated. (8-25-94)