

Dear Senators BRACKETT, Nonini, 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 39.03.01 - Rules Governing Definitions Regarding Overlegal Permits (Chapter Repeal) -
Proposed Rule (Docket No. 39-0301-1801);

IDAPA 39.03.01 - Rules Governing Definitions Regarding Special Permits (New Chapter) - Proposed
Rule (Docket No. 39-0301-1802).

Pursuant to Section 67-454, Idaho Code, a meeting on the enclosed rules may be called by the
cochairmen or by two (2) or more members of the subcommittee giving oral or written notice to Research
and Legislation no later than fourteen (14) days after receipt of the rules' analysis from Legislative
Services. The final date to call a meeting on the enclosed rules is no later than 11/09/2018. If a meeting is
called, the subcommittee must hold the meeting within forty-two (42) days of receipt of the rules' analysis
from Legislative Services. The final date to hold a meeting on the enclosed rules is 12/11/2018.

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 334-4854, 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: Legislative Research Analyst - Matt Drake

DATE: October 23, 2018

SUBJECT: Idaho Transportation Department

IDAPA 39.03.01 - Rules Governing Definitions Regarding Overlegal Permits (Chapter Repeal) - Proposed Rule (Docket No. 39-0301-1801)

IDAPA 39.03.01 - Rules Governing Definitions Regarding Special Permits (New Chapter) - Proposed Rule (Docket No. 39-0301-1802)

1. IDAPA 39.03.01 - Rules Governing Definitions Regarding Overlegal Permits (Chapter Repeal)

Summary and Stated Reasons for the Rule

The Idaho Transportation Department submits notice of proposed rulemaking at IDAPA 39.03.01. The Department states that the rulemaking responds to Senate Concurrent Resolution 130 of 2018 regarding commercial motor vehicle permit consolidation. Docket No. 39-0301-1801 repeals the existing rule in its entirety so that a replacement rule may be promulgated.

Negotiated Rulemaking / Fiscal Impact

The Department states that negotiated rulemaking was conducted. There is no fiscal impact.

Statutory Authority

The rulemaking appears to be authorized pursuant to sections 40-312, 49-201, and 49-1004, Idaho Code.

2. IDAPA 39.03.01 - Rules Governing Definitions Regarding Special Permits (New Chapter)

Summary and Stated Reasons for the Rule

The Idaho Transportation Department submits notice of proposed rulemaking at IDAPA 39.03.01. Docket No. 39-0301-1802 is the first chapter of the replacement rules. It contains general provisions, such as definitions, related to the permitting of commercial motor vehicles and truck-trailer combinations.

Negotiated Rulemaking / Fiscal Impact

The Department states that negotiated rulemaking was conducted. There is no fiscal impact.

Kristin Ford, Manager
Research & Legislation

Paul Headlee, Manager
Budget & Policy Analysis

April Renfro, Manager
Legislative Audits

Glenn Harris, Manager
Information Technology

Statutory Authority

The rulemaking appears to be authorized pursuant to sections 40-312, 49-201, and 49-1004, Idaho Code.

cc: Idaho Transportation Department
Ramon Hobdey-Sanchez

***** PLEASE NOTE *****

Per the Idaho Constitution, all administrative rules must be reviewed by the Legislature during the next legislative session. The Legislature has 3 options with this rulemaking docket: **1)** Approve the docket in its entirety; **2)** Reject the docket in its entirety; or **3)** Reject the docket in part.

IDAPA 39 – IDAHO TRANSPORTATION DEPARTMENT

39.03.01 – RULES GOVERNING DEFINITIONS REGARDING OVERLEGAL PERMITS

DOCKET NO. 39-0301-1801 (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 initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 40-312, 49-201 and 49-1004, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 17, 2018.

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:

Per the Idaho Transportation Department's commercial motor vehicle permit consolidation rulemaking, as directed by the 2018 Idaho Legislature in **Senate Concurrent Resolution 130**, this administrative rule is being repealed and replaced. For additional information, please visit: <https://itd.idaho.gov/rulemaking/>.

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 under Docket No. 39-0300-1801 in the May 2, 2018, Idaho Administrative Bulletin, **Vol. 18-5, pages 145-146**.

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 Ramón Hobdey-Sánchez, Governmental Affairs Program Specialist, at (208) 334-8810.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 24, 2018.

DATED this 28th Day of August, 2018.

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

IDAPA 39.03.01 IS BEING REPEALED IN ITS ENTIRETY

IDAPA 39 – IDAHO TRANSPORTATION DEPARTMENT

39.03.01 – RULES GOVERNING DEFINITIONS REGARDING SPECIAL PERMITS

DOCKET NO. 39-0301-1802 (NEW CHAPTER)

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. The action is authorized pursuant to Sections 40-312, 49-201 and 49-1004, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 17, 2018.

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:

Per the Idaho Transportation Department's commercial motor vehicle permit consolidation rulemaking, as directed by the 2018 Idaho Legislature in [Senate Concurrent Resolution 130](#), this administrative rule provides definitions related to the permitting of commercial motor vehicles and/or combinations. For additional information, please visit: <https://itd.idaho.gov/rulemaking/>.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: There are no fees being imposed or increased with this rulemaking.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: 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 under Docket No. 39-0300-1801 in the May 2, 2018, Idaho Administrative Bulletin, [Vol. 18-5, pages 145-146](#).

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 Ramón Hobdey-Sánchez, Governmental Affairs Program Specialist, at (208) 334-8810.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 24, 2018.

DATED this 30th Day of August, 2018.

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

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 39-0301-1802
(New Chapter)

IDAPA 39
TITLE 03
CHAPTER 01

39.03.01 – RULES GOVERNING DEFINITIONS REGARDING SPECIAL PERMITS

000. LEGAL AUTHORITY.

This rule is adopted under the authority of Section 40-312, Idaho Code. ()

001. TITLE AND SCOPE.

01. Title. This rule shall be cited as IDAPA 39.03.01, “Rules Governing Definitions Regarding Special Permits,” IDAPA 39, Title 03, Chapter 01. ()

02. Scope. This rule gives the definitions for terms used in rules in IDAPA 39, Title 03 regarding special permitting. ()

002. WRITTEN INTERPRETATIONS.

There are no written interpretations for this chapter. ()

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.” ()

004. INCORPORATION BY REFERENCE.

There are no documents incorporated by reference in this chapter. ()

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. ()

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

03. Telephone and Fax Numbers. The central office may be contacted during office hours by phone at 208-334-8420, 1-800-662-7133 or by fax at 208-334-8419. ()

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 Title 74, Chapter 1, Idaho Code. ()

007. – 009. (RESERVED)

010. DEFINITIONS.

01. **Accessories.** Additional parts of the single item load that have been removed to reduce width, length or height. ()
02. **Administrative Cost.** The government's cost of processing, issuing and enforcing a permit. ()
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. ()
04. **Annual.** Twelve (12) consecutive months. ()
05. **Automobile Transporter.** See Section 49-102, Idaho Code. ()
06. **Base Width.** The measurement below the eaves of a manufactured home, modular building, or office trailer. ()
07. **Boat Transporter.** See Section 49-103, Idaho Code. ()
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. ()
09. **Convoy.** A group of two (2) or more motor vehicles traveling together for protection or convenience. ()
10. **Department.** Idaho Transportation Department. ()
11. **Designated Agent.** An employee or relative of the farmer. ()
12. **Dromedary Tractor.** See Section 49-105, Idaho Code. ()
13. **Economic Hardship.** The loss of a substantial amount of money caused by economic changes. ()
14. **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. ()
15. **Escort Vehicle.** See Pilot Vehicle. ()
16. **Excess Weight.** Vehicle combinations hauling reducible loads operating on any highway 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 for the front steer axle not to 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. The maximum allowable load for all other vehicle tires shall not 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. ()
17. **Extra-Length.** Any vehicle combination in excess of the legal limits, but not more than one hundred fifteen (115') feet as established in Section 49-1010, Idaho Code, that normally haul reducible loads. ()
18. **Extra-Ordinary Hazard.** Any situation where the traveling public's safety or the capacity of the highway system is endangered. ()
19. **Farm Tractor.** See Section 49-107, Idaho Code. ()
20. **Gross Vehicle Weight.** See Section 49-108, Idaho Code. ()

21. **Heavily Loaded.** Exceeding legal weight or hauling a load that obstructs the driver’s view. ()
22. **Heavy Duty Wrecker Truck.** A motor vehicle designed and used primarily for towing disabled vehicles. ()
23. **Height.** The total vertical dimension of a vehicle above the ground surface including any load and load-holding device thereon. ()
24. **Implement of Husbandry.** See Section 49-110, Idaho Code. ()
25. **Incidentally Operated.** See Section 49-110, Idaho Code. ()
26. **Legal.** In compliance with the Idaho Code on size and weight. ()
27. **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 IDAPA 39.03.03, “Rules Governing Special Permits – General Conditions and Requirements.” ()
28. **Light Truck.** See Section 49-121, Idaho Code. ()
29. **Longer Combination Vehicle (LCV).** Any combination of a truck-tractor and two (2) or more trailers or semi-trailers that operate on the National System of Interstate and Defense Highways with a gross vehicle weight (GVW) greater than thirty-six thousand two hundred eighty-eight (36,288) kilograms (eighty thousand (80,000) pounds). ()
30. **Manufactured Home.** A structure, constructed according to HUD/FHA mobile home construction and safety standards, transportable in one (1) or more sections, that, 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 that 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 that meets all the requirements of this subsection 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. ()
31. **Mobile Home.** A structure similar to a manufactured home, but built to a state mobile home code that existed prior to the Federal Manufactured Housing and Safety Standards Act (HUD Code) dated June 15, 1975. ()
32. **Modular Buildings.** A facility designed as a building or building section that is constructed to standards contained in the Uniform Building Code (UBC), adopted by Section 39-4109, Idaho Code. ()
33. **Non-Reducible.** Any load or vehicle exceeding applicable length or weight limits that, if separated into smaller loads or vehicles, would: ()
- a. Compromise the intended use of the vehicle, i.e., make it unable to perform the function for which it was intended; ()
- b. Destroy the value of the load or vehicle, i.e., make it unusable for its intended purpose; or ()
- c. Require more than eight (8) work hours to dismantle using appropriate equipment. The applicant for a nondivisible load permit has the burden of proof of establishing the number of work hours required to dismantle the load. ()

34. **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. ()
35. **Office Trailer.** See definition of Manufactured Homes. ()
36. **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). ()
37. **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. ()
38. **Overdimensional.** Any vehicle or load in excess of the limits established in Section 49-1010, Idaho Code. ()
39. **Overheight.** A vehicle or load in excess of the limits established in Section 49-1010, Idaho Code. ()
40. **Overlegal.** Any vehicle, vehicle combination, or load that exceeds the limits established in Idaho Code. ()
41. **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. ()
42. **Oversize.** A vehicle or load in excess of the limits established in Section 49-1010, Idaho Code. ()
43. **Overweight.** A single vehicle or a vehicle combination hauling or towing a non-reducible load whose weight is in excess of eighty thousand (80,000) pounds and/or legal axle weights. ()
44. **Overwidth.** A vehicle or load in excess of the limits established in Section 49-1010, Idaho Code. ()
45. **Pilot Vehicle.** Passenger cars or trucks equipped as specified in IDAPA 39.03.05, "Rules Governing Special Permits – Oversize Non-Reducible." ()
46. **Reducible Load.** A single item or multiple items for transport that could reasonably be repositioned so that the load conforms to legal size and weight dimensions. The determination of ability to reduce the load primarily depends on the intended disposition of the contents of the load upon delivery to its destination (i.e. made into smaller pieces). ()
47. **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. ()
48. **Special Permit.** A permit issued by the Idaho Transportation Department that 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. ()
49. **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. ()
50. **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). ()
51. **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 and/or articulated from a common attachment to the vehicle including a connecting mechanism designed to equalize the load between axles. ()

52. 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 and/or articulated from a common attachment to the vehicle including a connecting mechanism designed to equalize the load between axles. ()

53. Variable Load Suspension Axle. See Section 49-123, Idaho Code. ()

54. 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, and drill rigs are examples of vocational vehicles. ()

55. Width. The total outside transverse dimension of a vehicle including any load or load-holding devices thereon, but excluding any appurtenances listed in IDAPA 39.03.03, "Rules Governing Special Permits – General Conditions and Requirements." ()

011. – 999. (RESERVED)