

Dear Senators DEN HARTOG, Woodward, Nelson, and
Representatives PALMER, DeMordaunt, Gannon:

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

IDAPA 39.02.70 - Rules Governing Restricted Driving Permits (ZBR Chapter Rewrite) - Proposed
Rule (Docket No. 39-0270-2201);

IDAPA 39.02.71 - Rules Governing Driver's License Violation Point System and Accident Prevention
Courses (ZBR Chapter Rewrite) - Proposed Rule (Docket No. 39-0271-2201);

IDAPA 39.02.72 - Rules Governing Administrative License Suspensions (ZBR Chapter Rewrite) -
Proposed Rule (Docket No. 39-0272-2201);

IDAPA 39.02.73 - Rules Governing Accident Prevention Course (ZBR Chapter Repeal) - Proposed
Rule (Docket No. 39-0273-2201).

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 09/02/2022. 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 09/30/2022.

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.



Terri Kondoff
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: Senior Legislative Drafting Attorney - Matt Drake

DATE: August 12, 2022

SUBJECT: Idaho Transportation Department

IDAPA 39.02.70 - Rules Governing Restricted Driving Permits (ZBR Chapter Rewrite) - Proposed Rule (Docket No. 39-0270-2201)

IDAPA 39.02.71 - Rules Governing Driver's License Violation Point System and Accident Prevention Courses (ZBR Chapter Rewrite) - Proposed Rule (Docket No. 39-0271-2201)

IDAPA 39.02.72 - Rules Governing Administrative License Suspensions (ZBR Chapter Rewrite) - Proposed Rule (Docket No. 39-0272-2201)

IDAPA 39.02.73 - Rules Governing Accident Prevention Course (ZBR Chapter Repeal) - Proposed Rule (Docket No. 39-0273-2201)

Summary and Stated Reasons for the Rule

IDAPA 39.02.70 - Rules Governing Restricted Driving Permits (ZBR Chapter Rewrite) - Proposed Rule (Docket No. 39-0270-2201)

The Idaho Transportation Department submits notice of proposed rulemaking at IDAPA 39.02.70 - Rules Governing Restricted Driving Permits. Pursuant to the Governor's Red Tape Reduction Initiative, the Zero-Based Regulation E.O. 2020-01, and the Department's 5-year review schedule, the Department states that the goal of the rulemaking is to remove obsolete language, provide clarity, and to update the chapter. There appear to be no substantive changes contained in this chapter.

IDAPA 39.02.71 - Rules Governing Driver's License Violation Point System and Accident Prevention Courses (ZBR Chapter Rewrite) - Proposed Rule (Docket No. 39-0271-2201) and IDAPA 39.02.73 - Rules Governing Accident Prevention Course (ZBR Chapter Repeal) - Proposed Rule (Docket No. 39-0273-2201)

The Idaho Transportation Department submits notice of proposed rulemaking at IDAPA 39.02.71 - Rules Governing Driver's License Violation Point System and Accident Prevention Courses. The Department is incorporating the rules formerly located at IDAPA 39.02.73 into IDAPA 39.02.71, resulting in the elimination of IDAPA 39.02.73. In addition to combining these chapters, the Department states that the goal of the rulemaking is to remove obsolete language, provide clarity, and to update the language of the chapter, including

Paul Headlee, Deputy Director Kristin Ford, Manager Keith Bybee, Manager April Renfro, Manager Glenn Harris, Manager
Legislative Services Office Research & Legislation Budget & Policy Analysis Legislative Audits Information Technology

the contents formerly located at IDAPA 39.02.73. There appear to be no substantive changes as a result of this rulemaking.

IDAPA 39.02.72 - Rules Governing Administrative License Suspensions (ZBR Chapter Rewrite) - Proposed Rule (Docket No. 39-0272-2201)

The Idaho Transportation Department submits notice of proposed rulemaking at IDAPA 39.02.72 - Rules Governing Administrative License Suspensions. Pursuant to the Governor's Red Tape Reduction Initiative, the Zero-Based Regulation E.O. 2020-01, and the Department's 5-year review schedule, the Department states that the goal of the rulemaking is to remove obsolete language, provide clarity, and to update the chapter. There appear to be no substantive changes contained in this chapter.

Negotiated Rulemaking / Fiscal Impact

Negotiated rulemaking was conducted. There is no fiscal impact associated with this rulemaking.

Statutory Authority

The proposed rule changes appear to be within the statutory authority granted pursuant to Sections 40-312 and 49-201, Idaho Code.

cc: Idaho Transportation Department
Ramon Hobdey-Sanchez

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

Per the Idaho Constitution, all administrative rules may 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
39.02.70 – RULES GOVERNING RESTRICTED DRIVING PERMITS
DOCKET NO. 39-0270-2201 (ZBR CHAPTER REWRITE)
NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Sections 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 and 49-201, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than August 17, 2022.

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:

In support of the Governor’s Red Tape Reduction Initiative, eight chapters under IDAPA Title 39 were up for review this year per the [Zero-Based Regulation E. O. 2020-01](#) and the [Department’s 5-year review schedule](#). The goal of these rulemakings is to make changes and modifications that remove obsolete language, eliminate unnecessary restrictions, provide clarity and update the respective chapters.

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: This rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2023 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted under docket 39-ZBRR-2201. The Notice of Intent to Promulgate Rules – Negotiated Rulemaking was published in the May 4, 2022, Idaho Administrative Bulletin, [Vol. 22-5, pages 88-89](#).

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 S. Hobdey-Sánchez 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 August 24, 2022.

DATED this 7th Day of July, 2022.

Ramón S. Hobdey-Sánchez, J.D.
Office of Governmental Affairs
Idaho Transportation Department
11331 W. Chinden Blvd.
Boise, ID 83714
ramon.hobdey-sanchez@itd.idaho.gov
208.334.8810

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 39-0270-2201
(Zero Based Regulation (ZBR) Chapter Rewrite)

39.02.70 – RULES GOVERNING RESTRICTED DRIVING PERMITS

000. LEGAL AUTHORITY.

Under authority of Sections 18-8002A, 49-325, and 49-326, Idaho Code, the Idaho Transportation Board adopts the following Rule for the issuance of Restricted Driving Permits for licensed drivers who face certain suspension or revocation of driving privileges in the state of Idaho. ()

001. SCOPE.

This rule contains guidelines for issuance of non-commercial restricted driving privileges for those individuals whose driving privileges have been suspended or revoked under authority of Idaho law; and establishes minimum standards for the issuance, denial and cancellation of non-commercial Restricted Driving Permits. ()

002. -- 099. (RESERVED)

100. ELIGIBILITY.

Individuals eligible for restricted driving privileges in the state of Idaho will meet two (2) general criteria: ()

01. Need. Show that driving privileges are essential to maintain a livelihood and/or to provide necessities of life; ()

02. Safety. Show that restricted driving privileges will not jeopardize the safety of the traveling public; and ()

101. -- 199. (RESERVED)

200. DURATION AND EXPIRATION OF RESTRICTED DRIVING PERMIT.

01. Duration and Expiration. The Restricted Driving Permit will remain in effect for the period of time the driver's privileges have been suspended or revoked unless canceled by the department or otherwise provided by law. ()

02. Reinstatement Action. Satisfactory completion of the terms and conditions of the Restricted Driving Permit will be noted in the driving records of the participant as maintained by the Department, and the Department will reinstate the applicant's regular driving privileges at the expiration of the Restricted Driving Permit if he has complied with all conditions of the Restricted Driving Permit and reinstatement requirements. Any convictions or notices of suspension or revocation will remain a part of the driver's file. ()

201. -- 399. (RESERVED)

400. RESTRICTED DRIVING PERMITS WILL NOT BE ISSUED.

Restricted Driving Permits will not be issued by the Department to: ()

01. Privileges Suspended. Individuals who have had their driving privileges suspended or revoked by the Court and/or Department three (3) or more times during the three (3) year period prior to the effective date of the current suspension. ()

02. Like Offense. Individuals who have been issued a Restricted Driving Permit by the Department or by an Idaho Court for a like offense within a previous two (2) year period prior to the effective date of the current

suspension or revocation. ()

03. Violation of Restrictions. An individual found to be in violation of restrictions on any court or Department-issued restricted driving permit. ()

04. Revoked Out-of-State Drivers. An individual who was an out-of-state resident at the time driving privileges were revoked or suspended in that state or any other state other than Idaho. ()

05. Under Seventeen. An individual who is not at least seventeen (17) years of age at the time of issuance of the permit. ()

401. -- 499. (RESERVED)

500. GENERAL APPLICATION PROCEDURE FOR A NON-COMMERCIAL RESTRICTED DRIVING PERMIT.

01. Applicant Submissions. Applicant will submit the following before their suspension or revocation is stayed: ()

a. Completed Form No. ITD-3227, Application for Restricted Driving Permit; ()

b. Completed Form No. ITD-3208, Work Verification; ()

c. Proof of motor vehicle liability insurance coverage in the amount directed by Idaho law to cover any and all vehicles to be used by the applicant; ()

d. All applicable reinstatement requirements will be satisfied; ()

e. A non-refundable application fee pursuant to Section 49-306, Idaho Code; ()

02. Written Agreement. If the Department determines that an applicant is eligible for a non-commercial Restricted Driving Permit, the applicant must then sign written agreements, prepared by the Department, affirming all the information requested by the Department. ()

03. Restricted Driving Permit Approval. Approval will be given and a Restricted Driving Permit will be issued if the following conditions are met: ()

a. Submission and approval of all requirements; and ()

b. No other suspensions or revocations are in effect which preclude issuance of a Restricted Driving Permit. ()

501. -- 599. (RESERVED)

600. DRIVING RESTRICTIONS SPECIFIED.

The Department may impose the following restrictions upon an applicant's driving privileges and such restrictions will be specified on the Restricted Driving Permit: ()

01. Operation of Vehicle. Time of operation of a motor vehicle, i.e. restricted to certain days, or hours of a day. ()

02. Geographic Area. Geographic limitations within limits of states, counties, cities. ()

03. Permitted Travel. To and from work, school, medical appointments, treatment programs, and to provide for basic life necessities of the applicant and/or their dependents. ()

601. -- 699. (RESERVED)

700. CANCELLATION OF RESTRICTED DRIVING PERMIT.

The Department may cancel a Restricted Driving Permit and will re-activate the suspension or revocation order which will expire according to the original order if: ()

01. Violation of Terms. There is a violation of terms of the written driver's agreement. ()

02. Violation of Restrictions. There is a violation of any of the restrictions set forth in the applicant's Restricted Driving Permit. ()

701. -- 999. (RESERVED)

IDAPA 39 – IDAHO TRANSPORTATION DEPARTMENT

39.02.71 – RULES GOVERNING DRIVER'S LICENSE VIOLATION POINT SYSTEM AND ACCIDENT PREVENTION COURSES

DOCKET NO. 39-0271-2201 (ZBR CHAPTER REWRITE)

NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Sections 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 and 49-201, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than August 17, 2022.

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:

In support of the Governor's Red Tape Reduction Initiative, eight chapters under IDAPA Title 39 were up for review this year per the [Zero-Based Regulation E. O. 2020-01](#) and the [Department's 5-year review schedule](#). The goal of these rulemakings is to make changes and modifications that remove obsolete language, eliminate unnecessary restrictions, provide clarity and update the respective chapters.

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

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NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted under docket 39-ZBRR-2201. The Notice of Intent to Promulgate Rules – Negotiated Rulemaking was published in the May 4, 2022, Idaho Administrative Bulletin, [Vol. 22-5, pages 88-89](#).

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 S. Hobdey-Sánchez 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 August 24, 2022.

DATED this 7th Day of July, 2022.

Ramón S. Hobdey-Sánchez, J.D.
Office of Governmental Affairs
Idaho Transportation Department
11331 W. Chinden Blvd.
Boise, ID 83714
ramon.hobdey-sanchez@itd.idaho.gov
208.334.8810

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 39-0271-2201
(Zero Based Regulation (ZBR) Chapter Rewrite)

**39.02.71 – RULES GOVERNING DRIVER'S LICENSE VIOLATION POINT SYSTEM AND
ACCIDENT PREVENTION COURSES**

000. LEGAL AUTHORITY.

Sections 41-2515, 49-201 and 49-326, Idaho Code. ()

001. SCOPE.

These rules establish a driver's license violation point system for drivers convicted of moving traffic violations and convictions. Subchapter A establishes minimum standards for approval of a motor vehicle accident prevention course. ()

002. ADMINISTRATIVE APPEALS.

Administrative appeals under this chapter will 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." ()

003. -- 099. (RESERVED)

100. VIOLATION POINT COUNT SYSTEM.

01. Points for Traffic Violations. Idaho Code authorizes and directs the Department to establish a violation point count system for drivers convicted of various moving traffic violations and infractions occurring either within the state of Idaho, or outside the state of Idaho. ()

02. Violation Point Count List. The following violation point count list includes traffic violations in Idaho Code, and the appropriate code section reference. Convictions of traffic violations not herein listed which are violations of a state law or municipal ordinance will receive three (3) violation points, except those for which mandatory withdrawal of driving privileges is required by Idaho Code or the Idaho Code provides a point exemption. ()

03. Points Assessed. Each traffic violation conviction will be assessed from one (1) point for less serious violations to a maximum of four (4) points for more serious violations. The degree of seriousness of traffic violations has been determined by considering the possibility of bodily injury or property damage resulting from such violation. ()

04. Dual Violation. In cases where the driver is convicted of more than one (1) violation arising from one (1) occasion of arrest or citation, only one (1) conviction will be counted and assessed points against the driver's record. The conviction counted will be the one with the greater amount of points. ()

05. Speeding Violation. Drivers convicted of traveling sixteen (16) miles per hour or more over the posted maximum speed limit or exceeding the speed limit in a work zone will receive four (4) points. Driving convictions of other speeding violations will receive three (3) points. ()

06. Distracted Driving. A first offense of Section 49-1401A, Idaho Code, will not be assessed points pursuant to code. Subsequent offenses will be assessed points as shown in Section 200. Third and subsequent offenses in a three-year period may also be subject to a court suspension. ()

101. -- 199. (RESERVED)

200. LIST OF TRAFFIC CONVICTIONS AND VIOLATION POINT COUNT.

Idaho Code	Convictions Reported by Court	Point Count
49-603	Starting Parked Vehicle	Two (2)
49-604	Limitations on Backing	One (1)
49-605	Driving Upon Sidewalk	Three (3)
49-606	Coasting Prohibited	Two (2)
49-612	Obstruction to Driver's View or Driving Mechanism	Three (3)
49-614	Stopping When Traffic Obstructed	One (1)
49-615	Drivers to Exercise Due Care	Three (3)
49-616	Driving through Safety Zone Prohibited	Two (2)
49-619	Slow Moving Vehicles	Two (2)
49-623(4)	Authorized Emergency or Police Vehicles	Three (3)
49-624	Duty Upon Approaching a Stationary Police Vehicle or an Emergency Vehicle Displaying Flashing Lights	Three (3)
49-625	Operation of Vehicles on Approach of Authorized Emergency or Police Vehicles	Three (3)
49-626	Following Fire Apparatus Prohibited	Three (3)
49-627	Crossing Fire Hose	One(1)
49-630	Drive on Right Side of Roadway - Exceptions	Three (3)
49-631	Passing Vehicles Proceeding in Opposite Directions	Two (2)
49-632	Overtaking a Vehicle on Left	Three (3)
49-633	When Passing on the Right Is Permitted	Two (2)
49-634	Limitations on Overtaking on the Left	Three (3)
49-635	Further Limitations on Driving on Left of Center of Highway	Three (3)
49-636	One-Way Highways	One (1)
49-637	Driving on Highways Laned for Traffic	One (1)
49-638	Following Too Closely	Three (3)
49-639	Turning Out of Slow Moving Vehicles	Two (2)
49-640	Vehicles Approaching or Entering Unmarked or Uncontrolled Intersection	Three (3)
49-641	Vehicle Turning Left	Three (3)
49-642	Vehicle Entering Highway	Three (3)
49-643	Highway Construction and Maintenance	Three (3)
49-644	Required Position and Method of Turning	Three (3)
49-645	Limitations on Turning Around	Three (3)
49-648	Obedience to Signal Indicating Approach of Train	Four (4)
49-649	Compliance with Stopping Requirement at All Railroad Grade Crossings	Four (4)

Idaho Code	Convictions Reported by Court	Point Count
49-650	Moving Heavy Equipment at Railroad Grade Crossings	Three (3)
49-651	Emerging from Alley, Driveway or Building	Three (3)
49-652	School Safety Patrols – Failure to Obey Unlawful	Three (3)
49-654	Basic Rule and Maximum Speed Limits	Three (3) Four (4)
49-655	Minimum Speed Regulation	Three (3)
49-656	Special Speed Limitations	Three (3) Four (4)
49-657	Work Zone Speed Limits	Four (4)
49-658	School Zone Speed Limit	Three (3)
49-663	Restricted Use of Neighborhood Electric Vehicles on Highways	Two (2)
49-702	Pedestrians' Right of Way in Crosswalks	Three (3)
49-706	Blind and/or Hearing Impaired Pedestrian Has Right-of-Way	Three (3)
49-707	Pedestrians' Right-of-Way on Sidewalks	Three (3)
49-801	Obedience to and Required Traffic Control Devices	Three (3)
49-802	Traffic Control Signal Legend	Three (3)
49-804	Flashing Signals	Three (3)
49-806	Lane Use Control Signals	Three (3)
49-807(2)	Stop Signs	Three (3)
49-807(3)	Failure to Yield – Signed Intersection	Three (3)
49-808	Turning Movements and Required Signals	Three (3)
49-1302	Duty to Give Information in Accident Involving Damage to a Vehicle	Four (4)
49-1303	Duty Upon Striking Unattended Vehicle	Four (4)
49-1304	Duty Upon Striking Fixtures Upon or Adjacent to a Highway	Four (4)
49-1401(3)	Inattentive Driving	Three (3)
49-1401A	Distracted Driving (second and subsequent offenses)	Three (3)
49-1419	Obedience to Traffic Direction	Two (2)
49-1421(1)	Driving on Divided Highways	One (1)
49-1421(2)	Restricted Access	One (1)
49-1422	Overtaking and Passing School Bus	Four (4)
49-1424	Racing on Public Highways	Four (4)

()

201. -- 299. (RESERVED)

300. SUSPENSION OF DRIVER LICENSE.

01. Twelve Points. When a driver accumulates twelve (12) or more points in any twelve (12) month period of time, the suspension period will be for thirty (30) days. ()

02. Eighteen Points. When a driver accumulates eighteen (18) or more points within any twenty-four (24) month period of time, the suspension period will be for ninety (90) days. ()

03. Twenty-Four Points. When a driver accumulates twenty-four (24) or more points within any thirty-six (36) month period of time, the suspension period will be for six (6) months. ()

301. -- 399. (RESERVED)

400. COMPLETION OF A DEFENSIVE DRIVING CLASS OR TRAFFIC SAFETY EDUCATION PROGRAM.

01. Removal of Points Upon Completion of Defensive Driving Class or Traffic Safety Education Program. Three (3) points may be removed from an Idaho driving record upon the driver's completion of an approved defensive driving class or points may be removed from a traffic violation upon the driver's completion of an approved traffic safety education program. Points may only be removed from a driver's record once every three (3) years. The three-year period begins on the completion date of either a defensive driving class or traffic safety education program. ()

a. For completion of a defensive driving class, points are only removed from the violation point count total on the driving record. ()

b. For completion of a traffic safety education program as provided in Section 50-336, Idaho Code, points are removed from the conviction for which the traffic safety education program was offered and taken. ()

02. Driving Conviction Cannot Be Removed. A driver may not remove a traffic conviction from their record by attending a defensive driving class or a traffic safety education program. ()

03. Suspension for Excessive Points. Once the department has suspended a driver for excessive points, that driver may not have the suspension action rescinded by attending a defensive driving class or traffic safety education program. ()

04. Driver May Not Reserve Point Reduction. When a driver completes a defensive driving class or traffic safety education program but has no violation points on their driver record, the driver may not reserve a point reduction for use on a future traffic violation that points are assessed. ()

401. -- 499. (RESERVED)

SUBCHAPTER A – RULES GOVERNING ACCIDENT PREVENTION COURSE

500. ACCIDENT PREVENTION COURSE.

A structured course of study, either in a traditional classroom setting, field driving or internet based format, with curriculum focusing on becoming a safer driver and avoiding accidents, by being cautious, aware, responsible, and respectful of other drivers while abiding by Idaho's rules of the road. The terms "accident prevention course" and "defensive driving class" are interchangeable, and the course standards established for the accident prevention course in this rule are the same standards for the defensive driving class for violation point count reduction as established above. ()

501. -- 549. (RESERVED)

550. CRITERIA.

01. Instructor Certification. For classroom and field driving instruction, instructors will be certified by the Idaho Department of Education as a Driver and Traffic Safety Education instructor, or the National Safety

Council, American Automobile Association's program (AAA), American Association of Retired Persons (AARP), or an equivalent program, as determined by the Department. ()

02. Contents of Course. Other than courses provided by the National Safety Council, AAA, or AARP, all accident prevention course outlines will be approved by the Department. ()

03. Length of Class. The course will be a minimum of six (6) hours, which may include any combination of classroom instruction, field driving instruction, or on-line instruction time. ()

04. Proof of Insurance. For any field driving instruction, the course provider will confirm adequate proof of insurance. ()

05. Provider Location. The course provider will confirm location(s) of established place of business, and a telephone number or e-mail address of a contact person who can be reached during regular working hours 8 a.m. to 5 p.m. ()

06. Participant Certification. Each participant will be issued a certificate of completion by the instructor or course provider. ()

651. -- 599. (RESERVED)

600. COURSE REVIEW.

Accident Prevention Courses are subject to periodic review by the Department. As a part of the review process, the provider may be asked to confirm course and instructor information and resubmit instruction materials. ()

601. WITHDRAWAL OF COURSE APPROVAL.

The Department may withdraw course approval if minimum standards are no longer met or if course providers have failed to respond to a course review. ()

602. -- 999. (RESERVED)

IDAPA 39 – IDAHO TRANSPORTATION DEPARTMENT
39.02.72 – RULES GOVERNING ADMINISTRATIVE LICENSE SUSPENSIONS
DOCKET NO. 39-0272-2201 (ZBR CHAPTER REWRITE)
NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Sections 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 and 49-201, Idaho Code.

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DATED this 7th Day of July, 2022.

Ramón S. Hobdey-Sánchez, J.D.
Office of Governmental Affairs
Idaho Transportation Department
11331 W. Chinden Blvd.
Boise, ID 83714
ramon.hobdey-sanchez@itd.idaho.gov
208.334.8810

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 39-0272-2201
(Zero Based Regulation (ZBR) Chapter Rewrite)

39.02.72 – RULES GOVERNING ADMINISTRATIVE LICENSE SUSPENSIONS

000. LEGAL AUTHORITY.

Section 18-8002A, Idaho Code. ()

001. SCOPE.

This rule establishes driver's license suspension procedures for persons driving under the influence of alcohol or other intoxicating substances as indicated by an evidentiary test of blood, breath, or urine. ()

002. -- 009. (RESERVED)

010. DEFINITIONS.

01. Petitioner. A person who has been served with a Notice of Suspension pursuant to Section 18-8002A, Idaho Code. ()

02. Certified Copy. A reproduction of an original record that has been certified by a custodian of such record to be a true and accurate copy. ()

03. Duplicate Original. A counterpart produced by the same impression as the original, or from the same matrix. ()

04. Evidentiary Test. An analysis of blood, breath, or urine to determine the presence of alcohol, drugs, or other intoxicating substances. ()

011. -- 099. (RESERVED)

100. HEARING REQUESTS.

01. Written Requests. Hearing requests will be made in writing and contain the following information: ()

a. The petitioner's full name, complete mailing address, and telephone number where hearing will be conducted; ()

b. The driver's license number; ()

c. The petitioner's date of birth; ()

d. The date of arrest; ()

e. A brief statement of the issues the petitioner proposes to raise at the hearing; and ()

f. Any dates or times that the petitioner or attorney cannot be available for the hearing. ()

02. Timely Requests. Hearing requests will be received by the Department no later than 5 p.m. of the seventh business day following the service of the Notice of Suspension. Hearing requests received after that time will be considered untimely. The Department will deny an untimely hearing request unless the petitioner can demonstrate

that a request should be granted. ()

03. Request Withdrawal. Petitioners may withdraw their hearing requests at any time. ()

101. HEARING NOTICES.

01. Notification. Upon timely receipt of hearing requests, the Department will notify petitioners of the time and date of the hearing as soon as practicable, but no later than seven (7) days prior to the hearing. Hearing notices will be mailed or e-mailed to the address provided in the hearing requests, or if no address was provided, notices will be mailed to the most current address contained in the petitioner's driver's license records. ()

02. Hearings Conducted by Telephone. Hearings will be conducted by telephone unless the hearing officer will determine that the petitioner or other participant would be denied the opportunity to participate in the entire hearing if held by telephone. Face to face hearings will be held in Ada County (or other locations within the state as may be determined by the Department). ()

102. -- 199. (RESERVED)

200. DOCUMENT SUBMISSION.

01. Compliance. The documents will be considered forwarded in a timely manner if they are postmarked within five (5) business days of the date of service of the Notice of Suspension or are accompanied by a certificate, certifying the documents were deposited with: ()

a. The United States mail or overnight delivery service; or ()

b. Hand delivered, within five (5) business days of the date of service of the suspension notice. ()

02. Blood and Urine Tests. If an evidentiary test of blood or urine was administered rather than a breath test, the Notice of Suspension will not be served until the results of the test are obtained. In such cases, the peace officer may forward the sworn statement and accompanying reports to the Department and the Department will have the responsibility of serving the Notice of Suspension, if necessary. ()

201. -- 299. (RESERVED)

300. SUBPOENAS.

01. Request. The Hearing Officer assigned to the matter may, upon written request, issue subpoenas requiring the attendance of witnesses or the production of documentary or tangible evidence at a hearing. ()

02. Serving Subpoenas. Parties requesting subpoenas will be responsible for having the subpoenas served. Witnesses will not be compelled to attend and testify at hearings unless served with subpoenas at least one hundred and twenty (120) hours prior to the time of hearing. ()

03. Proof of Service. Parties responsible for service of the subpoena will provide proof of service of the subpoena prior to the scheduled hearing. ()

301. -- 399. (RESERVED)

400. DOCUMENT DISCOVERY.

01. Obtaining Photocopies. To obtain a photocopy of a document which is public record, relates to the petitioner hearing, and is in the possession of the Department, petitioners will make a written request to the Department. The Department will attempt to provide the requested copies prior to the hearing date, but failure to do so will not be grounds for staying or rescinding a suspension. ()

02. Document Discovery. Further discovery will be conducted in accordance with IDAPA 04.11.01.521, "Idaho Rules of Administrative Procedure of the Attorney General." ()

401. -- 499. (RESERVED)

500. RECORDS OF PROCEEDINGS.

01. Records. The Hearing Officer will make a record of hearing proceedings consisting of: ()

a. An audio recording of the hearing, except in instances where the Hearing Officer authorizes a different method of reporting the hearing. ()

b. Exhibits and other items of evidentiary nature. ()

02. Requesting Copies. Any party may make a written request for a copy of the audio recording of the hearing from the Department. The requesting party will reimburse the Department for the actual cost of providing the copy. ()

501. -- 599. (RESERVED)

600. FINAL ORDER REQUEST FOR RECONSIDERATION.

The Hearing Officer will make Findings of Fact, Conclusions of Law and Order either sustaining or vacating the license suspension in question following the hearing. A request for reconsideration will be made within fourteen (14) days of the issuance of the Findings of Fact, Conclusions of Law and Order. The request for reconsideration will contain a request to submit new evidence if the party wishes the hearing officer to consider any new evidence. ()

01. Mailing Final Order. The Findings of Fact, Conclusions of Law and Order is issued when a copy is deposited in the United States Mail addressed to the petitioner or the petitioner's attorney or e-mailed to the petitioner or the petitioner's attorney. ()

601. -- 699. (RESERVED)

700. FAILURE TO APPEAR.

01. Proposed Order of Default. Should the petitioner fail to appear at the scheduled hearing, either in person or through an attorney, the Hearing Officer will promptly issue a notice of proposed order of default. This notice is deemed served when mailed or e-mailed to the petitioner or petitioner's attorney at the address shown in the request for hearing, or if no address was provided, the notice will be mailed to the most current address contained in the petitioner's driver's license records. ()

02. Filing Petition. The petitioner may, within seven (7) days of service of the notice of proposed order of default, file a petition requesting that the order of default not be entered and stating the grounds for such a request. If the Hearing Officer grants the petitioner's request, the hearing will be rescheduled. Granting the petitioner's request will not stay or vacate the suspension. ()

03. Denied Petitions. If the Hearing Officer denies the petitioner's request that the default order not be entered, the Hearing Officer will make a determination to sustain or vacate the suspension based upon the documentary record submitted by the Department. ()

04. Attending a Hearing. A petitioner or witness will be deemed to have appeared if present within fifteen (15) minutes after the time the Hearing Officer is ready to begin the hearing. In the case of a telephone hearing, the petitioner or witness will be deemed to have appeared if contacted by telephone on the second attempt to do so within a fifteen (15) minute period from the commencement of the hearing. ()

701. -- 799. (RESERVED)

800. FORMS.

Each law enforcement agency will use the forms supplied by the Department in carrying out the requirements of Section 18-8002A, Idaho Code, and this Rule. However, the sworn statement may be in the form of a law enforcement agency's affidavit of probable cause or equivalent document, so long as it contains the elements directed by Section 18-8002A, Idaho Code. ()

801. -- 999. (RESERVED)

IDAPA 39 – IDAHO TRANSPORTATION DEPARTMENT
39.02.73 – RULES GOVERNING ACCIDENT PREVENTION COURSE
DOCKET NO. 39-0273-2201 (ZBR 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 and 49-201, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than August 17, 2022.

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:

In support of the Governor's Red Tape Reduction Initiative, the Department has continued to work on making changes and modifications that remove obsolete language, eliminate unnecessary restrictions, provide clarity and update the Department's respective chapters. During this year's rules review, the Department has combined two chapters into one. Therefore, this administrative rule is being repealed and consolidated into IDAPA 39.02.71. 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 under docket 39-ZBRR-2201. The Notice of Intent to Promulgate Rules – Negotiated Rulemaking was published in the May 4, 2022, Idaho Administrative Bulletin, [Vol. 22-5, pages 88-89](#).

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 S. Hobdey-Sánchez 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 August 24, 2022.

DATED this 7th Day of July 2022.

Ramón S. Hobdey-Sánchez, J.D.
Office of Governmental Affairs
Idaho Transportation Department
11331 W. Chinden Blvd.
Boise, ID 83714
ramon.hobdey-sanchez@itd.idaho.gov
208.334.8810

IDAPA 39.02.73 IS BEING REPEALED IN ITS ENTIRETY