

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 39.02.03 - Rules Governing Vehicle Dealer's Principal Place of Business - Proposed Rule
(Docket No. 39-0203-1501);

IDAPA 39.02.26 - Rules Governing Temporary Vehicle Clearance for Carriers - Proposed Rule
(Docket No. 39-0226-1501);

IDAPA 39.03.16 - Rules Governing Oversize Permits for Non-Reducible Vehicles and/or Loads -
Temporary and Proposed Rule (Docket No. 39-0316-1501);

IDAPA 39.03.19 - Rules Governing Annual Overlegal Permits - Temporary and Proposed Rule
(Docket No. 39-0319-1501).

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 09/16/2015. If a meeting is
called, the subcommittee must hold the meeting within forty-two (42) days of receipt of the rules' analysis
from Legislative Services. The final date to hold a meeting on the enclosed rules is 10/15/2015.

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: Principal Legislative Research Analyst - Katharine Gerrity

DATE: August 27, 2015

SUBJECT: Idaho Transportation Department

IDAPA 39.02.03 - Rules Governing Vehicle Dealer's Principal Place of Business - Proposed Rule (Docket No. 39-0203-1501)

IDAPA 39.02.26 - Rules Governing Temporary Vehicle Clearance for Carriers - Proposed Rule (Docket No. 39-0226-1501)

IDAPA 39.03.16 - Rules Governing Oversize Permits for Non-Reducible Vehicles and/or Loads - Temporary and Proposed Rule (Docket No. 39-0316-1501)

IDAPA 39.03.19 - Rules Governing Annual Overlegal Permits - Temporary and Proposed Rule (Docket No. 39-0319-1501)

1. IDAPA 39.02.03 - Rules Governing Vehicle Dealer's Principal Place of Business

The Idaho Transportation Department submits notice of proposed rule at IDAPA 39.02.03 - Rules Governing Vehicle Dealer's Principal Place of Business. The revisions involve business hour requirements that were added by rulemaking reviewed during the 2015 Legislative Session. The changes in this rulemaking are being made to address concerns raised by some members of the legislature during that review process. The department notes that in addition, the rulemaking clarifies a requirement that all wholesale dealers must declare, to the department in writing, the regular hours that their dealerships are open and when they are available to be contacted by the department or by customers.

Negotiated rulemaking was conducted. The rulemaking appears to be authorized pursuant to Section 49-201, Idaho Code.

2. IDAPA 39.02.26 - Rules Governing Temporary Vehicle Clearance for Carriers

The Idaho Transportation Department submits notice of proposed rule at IDAPA 39.02.26 - Rules Governing Temporary Vehicle Clearance for Carriers. This is a fee rule. According to the department, the proposed changes bring the rule into alignment with current department fees, terminology, procedures and administrative

Mike Nugent, Manager
Research & Legislation

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processes. The department states that the changes have no major impact on the public or industry. The department also notes that in 2009, the Idaho Legislature passed legislation that made changes to statutory department fees and the proposed rule change is necessary to reflect the change made due to the legislation.

The department indicates that negotiated rulemaking was not conducted due to the simple nature of the changes. The rulemaking appears to be authorized pursuant to Sections 40-312 and 49-201, Idaho Code.

3. IDAPA 39.03.16 - Rules Governing Oversize Permits for Non-Reducible Vehicles and/or Loads

The Idaho Transportation Department submits notice of temporary and proposed rule at IDAPA 39.03.16 - Rules Governing Oversize Permits for Non-Reducible Vehicles and/or Loads. According to the department, the rule change will improve efficiency for motor carriers by allowing them to haul more than one non-reducible item on a 53-foot trailer on certain routes. The department states that the rule also provides the maximum sizes allowed by an overlegal permit. The department goes on to state that the proposed changes clarify which types of loads will be permitted as non-reducible and provide that those loads may be hauled on a 53-foot trailer on the majority of routes in Idaho, clarify that vehicles hauling reducible-height loads must be of legal dimensions for the highway of travel, remove duplicative provisions and remove provisions that pertain to self-issue permits with a fee account due to the fact that fee accounts will be eliminated. The temporary rule was effective July 23, 2015. According to the department, the temporary rule justification is that the change confers a benefit.

The department indicates that negotiated rulemaking was not conducted. The rulemaking appears to be authorized pursuant to Section 40-312, Idaho Code, and Sections 49-201 and 49-1004, Idaho Code.

4. IDAPA 39.03.19 - Rules Governing Annual Overlegal Permits

The Idaho Transportation Department submits notice of temporary and proposed rule at IDAPA 39.03.19 - Rules Governing Annual Overlegal Permits. According to the department, the proposed rule would increase the load width allowed under an annual permit from the current maximum of 14'6" to 16' wide. The department states that the changes also ensure that the rule is in line with IDAPA 39.03.17 (Rules Governing Permits for Manufactured Homes, Modular Buildings and Office Trailers). The temporary rule was effective July 23, 2015. According to the department, the temporary rule justification is that the change confers a benefit.

The department indicates that negotiated rulemaking was not conducted. The rulemaking appears to be authorized pursuant to Section 40-312, Idaho Code, and Sections 49-201 and 49-1004, Idaho Code.

cc: Idaho Transportation Department
Ramon Hobdey-Sanchez

IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT

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

DOCKET NO. 39-0203-1501

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 Section 40-312, Idaho Code, and Section 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 September 16, 2015.

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:

This rule change removes the minimum business-hour requirements for motor vehicle dealers that were added during the 2015 Idaho Legislative Session. It also clarifies a requirement that all vehicle dealers must declare, in writing to the Department, the regular hours that their dealerships are open and when they are available to be contacted by the Department or their customers.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: There are no fees being imposed or increased by 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: There is no fiscal impact to the state general fund.

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 June 3, 2015, Idaho Administrative Bulletin, [Volume 15-6, Page 66](#).

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

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Amy Smith, Vehicle Service Manager, (208) 334-8660.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 23, 2015.

DATED this 29th Day of July, 2015.

Ramon S. Hobdey-Sanchez
Governmental Affairs Program Specialist
Idaho Transportation Department
3311 W State St, PO Box 7129
Boise ID 83707-1129
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ramon.hobdey-sanchez@itd.idaho.gov

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 39-0203-1501
(Only Those Sections With Amendments Are Shown.)

100. GENERAL PROVISIONS.

01. Physical or Electronic Records System Inspection. A vehicle dealer shall make available all books, records and files maintained at the dealership location for immediate inspection for cause or complaint, or within three (3) business days if records are stored at an approved off-site location for random compliance review by a peace officer or authorized agent of the Department. (3-29-12)

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

a. The fee must be clearly identified as a "TITLE FEE"; (7-2-92)

b. The fee must be shown as the exact amount required by law; (7-2-92)

c. Any documentation fees charged must be clearly listed separately from other fees and identified to the customer as dealer document preparation fees that are subject to sales tax as part of the purchase price of the vehicle. (7-2-92)

03. Surety Bond. A valid bond in the amount required by Section 49-1608D, Idaho Code, for three (3) years after initially licensed, unless otherwise provided by code; (4-11-15)

04. Idaho Consumer Asset Recovery (ICAR) Fund. (4-11-15)

a. All licensed dealers shall pay the annual fee as set by the Idaho Consumer Asset Recovery (ICAR) Board as required by Section 49-1608C, Idaho Code, unless otherwise provided by code. (4-11-15)

b. The ICAR fund fee shall be set by the ICAR Board annually to be effective the following January 1. Such fee shall be posted on the Department web site and all applicable forms for dealer licensing. (4-11-15)

05. Liability Insurance. A valid liability insurance policy as required by Section 49-1608A, Idaho Code. (4-11-15)

06. Declared Business Hours. ~~(4-11-15)~~

~~**a.** All licensed dealers shall declare in writing to the Department the regular business hours that their dealerships are open and when they are available to be contacted by the Department or their customers. *These regular business hours shall be no less than twenty (20) hours per week, part of which must be during Monday through Friday 8:00 am to 5:00 pm.* (4-11-15)~~

~~**b.** *Wholesale dealers are required to declare in writing to the Department at least four (4) business hours per week that they are open, part of which must be during Monday through Friday 8:00 am to 5:00 pm, when customers or the department can contact the dealer* **All wholesale dealers shall declare in writing to the department the regular hours that their dealerships are open and when they are available to be contacted by the department or their customers.** (4-11-15)()~~

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

a. The Department's agent shall give written notice of deficiencies to the dealer or applicant.

- (12-26-90)
- b.** At its discretion the Department may give the licensed dealership a reasonable amount of time to
comply. (12-26-90)
- c.** Upon compliance, the license shall be reinstated or issued. (12-26-90)

PROPOSED RULE COST/BENEFIT ANALYSIS

Section 67-5223(3), Idaho Code, requires the preparation of an economic impact statement for all proposed rules imposing or increasing fees or charges. This cost/benefit analysis, which must be filed with the proposed rule, must include the reasonably estimated costs to the agency to implement the rule and the reasonably estimated costs to be borne by citizens, or the private sector, or both.

Department or Agency: Idaho Transportation Department

Agency Contact: Regina Phipps **Phone:** 208-334-8414

Date: 7/29/15

IDAPA, Chapter and Title Number and Chapter Name:

IDAPA 39-02.06, Rules Governing Temporary Vehicle Clearance for Carriers

Fee Rule Status: **Proposed** **Temporary**

Rulemaking Docket Number: 39-0226-1501

STATEMENT OF ECONOMIC IMPACT:

In 2009, the Idaho Legislature passed House Bill 334 in which, the legislature made changes to statutory Idaho Transportation Department (ITD) fees. With specific regard to rule 39.02.26, the legislature amended §49-202 which details what fees ITD can collect. Specifically, §49-202(m) changed the fee charged “For issuing letters of temporary vehicle clearance to Idaho-based motor carriers” from \$10 to \$18. This change directly impacted Administrative Rule 39.02.26, therefore the proposed rule change is necessary to reflect the change made in this legislation. The fee change became effective January 1, 2010.

HB 334 made several amendments and in §49-202 modified numerous ITD fees. In total, ITD estimated that all of the changes made to the Department’s fees would result in an additional \$13.1 million annually for ITD’s State Highway Account. The one-time cost of these fee changes was estimated to be \$72,000; which includes 600 hours of system programming by contractors (\$45,000) and form development/printing (\$27,000). Again, it should be noted that the additional monies generated and the costs associated with the implementation of these changes encompass the modifications made to numerous ITD fees in HB 334 and not simply the amendment of §49-202(m).

IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT

39.02.26 - RULES GOVERNING TEMPORARY VEHICLE CLEARANCE FOR CARRIERS

DOCKET NO. 39-0226-1501 (FEE RULE)

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 40-312, Idaho Code and Section 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 September 16, 2015.

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 proposed changes bring the rule into alignment with current Idaho Transportation Department (ITD) fees, terminology, procedures and administrative processes. The changes have no major impacts on the public or industry.

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

In 2009, the Idaho Legislature passed House Bill 334 in which, the legislature made changes to statutory Idaho Transportation Department (ITD) fees. With specific regard to IDAPA 39.02.26, the legislature amended Section 49-202, Idaho Code, which details what fees ITD can collect. Specifically, Section 49-202(m), Idaho Code, changed the fee charged "For issuing letters of temporary vehicle clearance to Idaho-based motor carriers" from ten dollars (\$10) to eighteen dollars (\$18). This change directly impacted IDAPA 39.02.26, therefore the proposed rule change is necessary to reflect the change made in this legislation. The fee change became effective January 1, 2010.

HB 334 made several amendments and in Section 49-202, Idaho Code, modified numerous ITD fees. In total, ITD estimated that all of the changes made to the Department's fees would result in an additional \$13.1 million annually for ITD's State Highway Account. The one-time cost of these fee changes was estimated to be \$72,000; which includes 600 hours of system programming by contractors (\$45,000) and form development/printing (\$27,000). Again, it should be noted that the additional monies generated and the costs associated with the implementation of these changes encompass the modifications made to numerous ITD fees in HB 334 and not simply the amendment of Section 49-202(m), Idaho Code.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: There is no fiscal impact to the state general fund.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the proposed rule changes are simple in nature.

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

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Regina Phipps, Vehicle Size and Weight Specialist, (208) 334-8418.

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 September 23, 2015.

DATED this 29th Day of July, 2015.

Ramon S. Hobdey-Sanchez
Governmental Affairs Program Specialist
Idaho Transportation Department
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THE FOLLOWING IS THE PROPOSED TEXT OF FEE DOCKET NO. 39-0226-1501
(Only Those Sections With Amendments Are Shown.)

001. TITLE AND SCOPE.

~~This rule provides for temporary vehicle clearance (TVC) procedures in Idaho, self issued by selected carriers or issued by the Department via facsimile equipment. (1-2-93)~~

01. Title. This rule shall be cited as IDAPA 39.02.26, "Rules Governing Temporary Vehicle Clearance for Carriers," IDAPA 39, Title 02, Chapter 26. ()

02. Scope. This rule provides for temporary vehicle clearance (TVC) procedures in Idaho, self issued by carriers or issued by the Department. ()

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 208-334-8611 or by fax at (208) 334-2006. ()

006. PUBLIC RECORDS ACT COMPLIANCE.

~~All records associated with this chapter are subject to and in compliance with the Idaho Public Records Act, as set forth in Sections 9-337 through 9-350, Idaho Code. ()~~

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

010. DEFINITIONS.

01. **Carrier.** The person or company who is qualified for ~~operation~~ registration in Idaho, and whose vehicles are issued ~~Temporary Vehicle Clearances.~~ (1-2-93)()

02. **Temporary Vehicle Clearance (TVC).** Temporary clearance issued ~~in lieu of permanent registration~~ for immediate operation of a vehicle pending receipt of credentials. (1-2-93)()

011. -- 099. (RESERVED)

100. **ADMINISTRATION.**

Temporary Vehicle Clearances, valid for a maximum of forty-five (45) days or to the registration year expiration date, may be issued to a carrier whose account is in good standing ~~pending receipt by the Department of the registration application or pending receipt of proof of title.~~ (1-2-93)()

101. -- 199. (RESERVED)

200. **ISSUANCE OF TVC.**

01. **Temporary Vehicle Clearances.** Carriers may apply for request temporary vehicle clearances ~~on new or replacement vehicles at~~ online, from the department or an Idaho port of entry. ~~When all licensing requirements are met, a temporary clearance is transceived from the Department to the port of entry.~~ Fees are payable when the clearance is issued. (1-2-93)()

~~02. **Clearance Issued Electronically.** Clearances may be issued by the Department electronically to business locations selected by the carrier. (1-2-93)~~

~~201. **SELF-ISSUE PERMITS.**~~

~~Companies whose accounts are in good standing and who meet requirements outlined in signed agreements with the Department may purchase temporary vehicle clearances for self-issuance to put newly purchased vehicles into service immediately pending receipt by the Department of the registration application. The required agreement is shown in Exhibit A. (1-2-93)~~

~~202. **TEMPORARY VEHICLE CLEARANCE PENDING PROOF OF OWNERSHIP.**~~

~~01. **Temporary Clearance for Untitled Vehicles.** An Idaho based carrier may be issued a TVC, upon receipt of all registration fees, when an Idaho title has not been obtained because:~~ (1-2-93)

~~a. The vehicle was recently purchased; (1-2-93)~~

~~b. The vehicle was recently transferred from out-of-state and the title application is pending; or (1-2-93)~~

~~c. The vehicle belongs to an owner/operator from another state, is leased to an Idaho carrier and a copy of the out of state title is not available. (1-2-93)~~

~~02. **Second Temporary Vehicle Clearance.** A carrier may be issued a second TVC when written verification of delay in obtaining the Idaho title is received from the carrier. (1-2-93)~~

~~203. **CONVERSION OF TEMPORARY VEHICLE CLEARANCE TO PERMANENT IDENTIFICATION ISSUANCE OF VEHICLE REGISTRATION (CAB CARD) AND LICENSE PLATE(S).**~~

01. **Conversion to Permanent Identification Issuance of Vehicle Registration & License Plate(s).** ~~A temporary vehicle clearance may be converted to a permanent identification~~ The vehicle registration and license plate(s) may be issued when: (1-2-93)()

a. The online application is received by the Department and all licensing requirements are met; (1-2-93)()

b. The carrier submits a copy of an Idaho title or title receipt showing that the ~~name on the title and the registered owner are the same~~ vehicle is titled in the owners name; (1-2-93)()

~~e. The carrier submits a copy of the out of state title showing that the name on the title and registered owner are the same if the vehicle is leased from out of state.~~ (1-2-93)

02. **Permanent Identification.** When all criteria are met, a ~~permanent~~ registration and a validation plate and/or sticker shall be issued. (1-2-93)()

~~2042.~~ -- 299. (RESERVED)

300. COST AND PAYMENT.

The fee for temporary vehicle clearances issued via facsimile transceiver equipment or self issued by the carrier is ~~ten~~ eighteen dollars (\$~~10~~18) per clearance, payable in advance by the carrier. (1-2-93)()

IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT

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

DOCKET NO. 39-0316-1501

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is July 23, 2015.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rule-making procedures have been initiated. The action is authorized pursuant to Section 40-312, Idaho Code, and Sections 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 September 16, 2015.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

This rule change will improve efficiency for motor carriers by allowing them to haul more than one non-reducible item on a 53-foot trailer on certain routes. This rule states the maximum sizes allowed by an overlegal permit. The proposed rule changes: 1) Clarify in Section 100 which types of loads will be permitted as non-reducible and that those loads may be hauled on a 53-foot trailer on the majority of routes in Idaho; 2) Clarify in Section 200 that vehicles hauling reducible-height loads must be of legal dimensions for the highway of travel; 3) Remove language in Section 300.01 that is not needed because it is in Section 300.03 and 4) Remove language in Section 400 that pertains to self-issue permits with a fee account (monthly billings for permits) because fee accounts will be eliminated after the implementation of the new cash drawer and the availability of escrow accounts.

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

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: None.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: NA

NEGOTIATED RULE-MAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the rule change is temporary.

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: NA

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Regina Phipps, Vehicle Size and Weight Specialist, (208)334-8418.

Anyone may submit written comments regarding the proposed rule-making. All written comments must be directed to the undersigned and must be delivered on or before September 23, 2015.

DATED this 29th Day of July, 2015.

Ramon S. Hobdey-Sanchez
Governmental Affairs Program Specialist
Idaho Transportation Department

ramon.hobdey-sanchez@itd.idaho.gov
Phone: (208) 334-8810
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THE FOLLOWING IS THE TEMPORARY RULE AND THE PROPOSED TEXT
OF DOCKET NO. 39-0316-1501
(Only Those Sections With Amendments Are Shown.)

100. GENERAL OVERSIZE LIMITATIONS.

01. **Maximum Dimensions Allowed.** The maximum dimensions of oversize vehicles or oversize loads shall depend on the character of the route to be traveled: width of roadway, alignment and sight distance, vertical or horizontal clearance, and traffic volume. (3-29-12)

02. **Practical Minimum Dimension of Load.** Oversize loads shall be reduced to a practical minimum dimension. Except ~~as~~ where noted below, permits will not be issued to exceed legal size if the load is more than one (1) unit in width, ~~length or~~ height, or length which results in them exceeding legal overhang. ~~nor shall~~ Additionally, permits shall not be utilized for multiple unit loads which may be ~~reduced in number of units and re-~~ positioned to meet legal dimensions established in Section 49-1010, Idaho Code. ~~(8-25-94)~~(7-23-15)T

03. ~~Multiple Unit~~ **Overwidth Loads on Single or Double Trailers.** ~~Multiple unit overwidth loads must be transported on legal dimension vehicles. Overwidth~~ Non-reducible loads may be transported on double trailer combinations not exceeding seventy-five (75) feet combination length and single trailers not exceeding fifty-three (53) feet exclusive of load overhang. ~~(4-2-08)~~(7-23-15)T

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

(BREAK IN CONTINUITY OF SECTIONS)

300. OVERWIDTH HAULING VEHICLES, RESTRICTIONS.

01. **Width of Hauling Equipment.** Overlegal permits may be issued for ten (10) foot wide trailers hauling non-reducible loads smaller than ten (10) feet wide. ~~Overlegal permits shall not be issued for trailers over ten (10) feet wide hauling any load on an overwidth vehicle unless such vehicle has been designed and constructed for the specific purpose of hauling a particular load the nature of which makes it impractical to be hauled on a legal width vehicle.~~ The permit issued for oversize loads being hauled on oversize equipment will be valid for the unladen movement and the laden movement, which shall not include commodities either to or from the point of loading or unloading of the oversize load. ~~(3-29-12)~~(7-23-15)T

02. **Load Dimensions.** Any load exceeding the dimensions of the trailer shall be non-reducible in size, and any load exceeding legal allowable weight shall be non-reducible in weight. Annual permits issued for such hauling vehicles shall be subject to the requirements and limitations of IDAPA 39.03.19, "Rules Governing Annual Overlegal Permits," and 39.03.13, "Rules Governing Overweight Permits," Section 200. (3-29-12)

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

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

301. -- 399. (RESERVED)

400. OVERWIDTH PERMITS FOR IMPLEMENTS OF HUSBANDRY.

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

02. Other Than Farm to Farm. Implements of husbandry exceeding eight (8) feet six (6) inches in width being transported other than from one (1) farm operation to another farm operation shall require overlegal permits except when the farmer or their designated agent is transporting implements of husbandry and equipment for the purpose of: (3-29-12)

a. The repair or maintenance of such implements of husbandry and equipment when traveling between a farm and a repair or maintenance facility during daylight hours; or (3-29-12)

b. The purchase or sale of such implements of husbandry or equipment when traveling between a farm and a dealership, auction house, or other facility during daylight hours. (3-29-12)

03. Farm Permits. Single trip permits must be ordered at the permit office ~~and the operator may post a security bond to establish credit (See IDAPA 39.03.21, "Rules Governing Overlegal Permit Fees," Section 300) and thereby qualify to complete an application form, call the overlegal permit office for a permit number, and carry the application form with the overwidth vehicle in lieu of the overlegal permit form.~~ Under provisions of IDAPA 39.03.19, "Rules Governing Annual Overlegal Permits," Section 100, annual permits will be issued to towing units or to self-propelled farm tractors or towed units, or blanket permits may be issued to an Idaho domicile applicant without vehicle identification. Such blanket permits may be transferred from one vehicle to another vehicle but shall be valid only when the permit is with the overwidth vehicle and/or load. A photocopy of the permit is valid provided that the Pilot/Escort Vehicle and Travel Time Requirements Map and Vertical Clearance of Structures Map furnished by the Idaho Transportation Department are included. Such annual permits for implements of husbandry or farm tractors are subject to the same maximum dimensions, travel time exclusions and safety requirements as other overwidth annual permits and are valid for continuous travel for twelve (12) consecutive months. (3-29-12)(7-23-15)T

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

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

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

IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT

39.03.19 - RULES GOVERNING ANNUAL OVERLEGAL PERMITS

DOCKET NO. 39-0319-1501

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is July 23, 2015.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rule-making procedures have been initiated. The action is authorized pursuant to Section 40-312, Idaho Code, and Sections 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 September 16, 2015.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The proposed rule change would increase the load width allowed under an annual permit from the current maximum of 14' 6" to 16' wide. The proposed rule change also makes sure that this rule is in line and working order with IDAPA 39.03.17.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reason: the change confers a benefit.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: There are no fees being imposed or increased by 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: There is no fiscal impact to the state general fund.

NEGOTIATED RULE-MAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the rule change is temporary.

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: NA

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Regina Phipps, Vehicle Size and Weight Specialist, (208) 334-8418.

Anyone may submit written comments regarding the proposed rule-making. All written comments must be directed to the undersigned and must be delivered on or before September 23, 2015.

DATED this 29th Day of July, 2015.

Ramon S. Hobdey-Sanchez
Governmental Affairs Program Specialist
Idaho Transportation Department

ramon.hobdey-sanchez@itd.idaho.gov
Phone: (208) 334-8810
3311 W State St, PO Box 7129, Boise ID 83707-1129

THE FOLLOWING IS THE TEMPORARY RULE AND THE PROPOSED TEXT
OF DOCKET NO. 39-0319-1501
(Only Those Sections With Amendments Are Shown.)

004. OFFICE -- OFFICE HOURS -- MAILING AND STREET ADDRESS -- PHONE NUMBERS.

01. Street and Mailing Address. The Idaho Transportation Department maintains a central office in Boise at 3311 W. State Street with a mailing address of P. O. Box 7129, Boise, ID 83707-1129. (7-23-15)T

02. Office Hours. Daily office hours are 7:30 a.m. to 5:00 p.m. except Saturday, Sunday and state holidays. (7-23-15)T

03. Telephone and Fax Numbers. The central office may be contacted during office hours by phone at (208) 334-8420 or by fax at (208) 334-8419. (7-23-15)T

005. PUBLIC RECORDS ACT COMPLIANCE.

All records associated with this chapter are subject to and in compliance with the Idaho Public Records Act, as set forth in Sections 9-337 through 9-350, Idaho Code. (7-23-15)T

~~004~~ -- 009. (RESERVED)

(BREAK IN CONTINUITY OF SECTIONS)

100. GENERAL.

Overlegal permits may be issued for continuous operation to haul or transport nonreducible loads having specified maximum dimensions of oversize or overweight provided such permits for multiple trips can maintain the same measure of protection to highway facilities and to the traveling public as is provided by single trip permits. (4-5-00)

01. Oversize. Permits for continuous operation, oversize only. (10-2-89)

a. Permits for continuous operation shall be issued to one (1) specified power unit. The permittee may tow various units with the specified power unit, either as towaway vehicles or as trailers hauling oversize loads. Except as provided in IDAPA 39.03.07, "Rules Governing Restricted Routes for Semitrailers," 39.03.16, "Rules Governing Oversize Permits for Non-Reducible Vehicles and/or Loads," Section 200 and 39.03.22, "Rules Governing Overlegal Permits for Extra-Length Vehicle Combinations," oversize loads shall be nonreducible in width, length, or height. In the case of specially constructed equipment, mounted on a towed vehicle, or if the towed vehicle is only hauling an oversize but not overweight load, the permit may be issued to the towed vehicle. (4-5-00)

b. Maximum size of loads or vehicles transported under authority of an annual oversize or manufactured homes/modular buildings and office trailer permit, for black and interstate routes, shall be limited to a width of ~~four~~sixteen (14~~6~~) feet ~~six (6) inches~~ (manufactured homes, modular buildings, and office trailers limited as per IDAPA 39.03.17, "Rules Governing Permits for Manufactured Homes, Modular Buildings, and Office Trailers"), a height of fifteen (15) feet six (6) inches, and to a combination length of one hundred ten (110) feet including load overhang. Annual oversize permits for red coded routes shall be limited to a width of twelve (12) feet six (6) inches. A current Pilot/Escort Vehicle and Travel Time Requirements Map shall accompany such permits for extended operations and shall be considered to be a part of the permit. ~~(4-5-00)~~(7-23-15)T

02. Overweight/Oversize. Permits for continuous operation involving overweight loads shall be subject to the following conditions and requirements: (10-2-89)

a. Annual permits may not be issued for gross weights in excess of two hundred thousand (200,000)

pounds for any colored route. Gross weights in excess of two hundred thousand (200,000) pounds must operate by single trip permit. (4-5-00)

b. Since the fees are now based on the number of axles and gross weight to calculate the fee per mile, annual overweight permits will have to be issued to various combinations including those with a different number of axles and higher gross weights for those axles. You will no longer be able to operate less axles than the number stated on the permit, because the fee per mile (using less axles) would be greater than the fee per mile for the higher number of axles and gross weight. The number of axles in the vehicle configuration may be less than the number of axles listed on the permit. The gross weight of the vehicle configuration may be less than the gross weight stated for each colored route, but your fee per mile will be based on and reported at the stated gross weight for each colored route on the permit (i.e. black, purple, green and yellow) and the number of axles. (4-5-00)

~~**e.** A percent reduction in the total fees may be given when the following requirements are met: (4-5-00)~~

~~**i.** A two percent (2%) reduction per axle group (such as tandem or tridem), to a maximum of ten percent (10%) per vehicle configuration, for axle groups that are wider than ten (10) feet. (4-5-00)~~

~~**ii.** A two percent (2%) reduction per axle group (such as tandem or tridem), to a maximum of ten percent (10%) per vehicle configuration, for axle groups with sixteen (16) tires per axle. (4-5-00)~~

~~**iii.** If both the above requirements are met for an axle group, a five percent (5%) reduction per axle group, to a maximum of twenty five percent (25%) per vehicle configuration may be given. This reduction will be taken off of the total roadway use fees charged for the vehicle and will not reduce the administrative fee. (4-5-00)~~

~~**dc.** To comply with Section 49-4361001, Idaho Code, the permittee will make quarterly reports of mileage to the Department at the permitted weight levels separate from the registered weight mileage otherwise required to be reported to that agency. Mileage for single trip overweight permits is charged for and collected at the time of issuance, and need not be reported elsewhere. Unladen miles are reported at the registered weight of a vehicle or combination of vehicles. A quarterly statement is mailed out every three (3) months and required to be returned to the department even if no miles were traveled using the overweight part of the annual permit during that quarter. Every time a non-reducible vehicle and/or load exceeds legal axle weights and/or eighty thousand (80,000) pounds operating under an annual overweight/oversize permit it must be reported on the quarterly statement. The gross weight, number of axles, and the total miles traveled will be the information needed to report. If the gross weight is in between two (2) weight categories listed on the permit/quarterly statement, the permittee will report at the next higher gross weight limit. (4-5-00)(7-23-15)T~~

~~**ed.** Annual permits involving overweight loadings will be available at the following levels: (4-6-92)~~

~~**i.** Red Routes -- The red routes contain posted bridges and require approval or analysis from the Department. A vehicle configuration may be issued an annual overweight/oversize permit for travel on red routes, upon completion of an analysis verifying the requested weights are acceptable. The annual permit will be issued for a specific vehicle configuration, operating on a specific route, at specific weights. All information will be listed on the annual permit and will be subject to revocation at such time the vehicle configuration changes (such as axle spacings), the approved weights change, or a bridge rating changes. (8-4-95)~~

~~**ii.** Yellow Routes -- The yellow overweight level is based on a single axle loading of twenty-two thousand five hundred (22,500) pounds, a tandem axle loading of thirty-eight thousand (38,000) pounds, and a tridem axle loading of forty-eight thousand (48,000) pounds or the equivalent loading as determined by spacings and number of axles and computed by applying the formula $W = 560 ((LN/N-1) + 12N + 36)$. (4-6-92)~~

~~**iii.** Orange Routes -- The orange overweight level is based on a single axle loading of twenty-four thousand (24,000) pounds, a tandem axle loading of forty-one thousand (41,000) pounds, and a tridem axle loading of fifty-one thousand five hundred (51,500) pounds or the equivalent loading as determined by spacings and number of axles and computed by applying the formula $W = 600 ((LN/N-1) + 12N + 36)$. (3-30-01)~~

~~**iv.** Green Routes -- The green overweight level is based on a single axle loading of twenty-five~~

thousand five hundred (25,500) pounds, a tandem axle loading of forty-three thousand five hundred (43,500) pounds and a tridem axle loading of fifty-four thousand five hundred (54,500) pounds or the equivalent loading as determined by spacings and number of axles and computed by applying the formula $W = 640 ((LN/N-1) + 12N + 36)$. (4-6-92)

v. Blue Routes -- The blue overweight level is based on a single axle loading of twenty-seven thousand (27,000) pounds, a tandem axle loading of forty-six thousand (46,000) pounds, and a tridem axle loading of fifty-seven thousand five hundred (57,500) pounds or the equivalent loading as determined by spacings and number of axles and computed by applying the formula $W = 675 ((LN/N-1) + 12N + 36)$. (3-30-01)

vi. Purple Routes -- The purple overweight level is based on a single axle loading of thirty thousand (30,000) pounds, a tandem axle loading of fifty-one thousand five hundred (51,500) pounds, and a tridem axle loading of sixty-four thousand five hundred (64,500) pounds or the equivalent loading as determined by spacings and number of axles and computed by applying the formula $W = 755 ((LN/N-1) + 12N + 36)$. (3-30-01)

vii. Black Routes -- The black overweight level is based on a single axle loading of thirty-three thousand (33,000) pounds, a tandem axle loading of fifty-six thousand (56,000) pounds, and a tridem axle loading of seventy thousand five hundred (70,500) pounds or the equivalent loading as determined by spacings and number of axles and computed by applying the formula $W = 825 ((LN/N-1) + 12N + 36)$. (4-6-92)

viii. Vehicles or loads exceeding the axle weights, groups of axle weights, or total gross weights allowed on any of the overweight levels must operate by single trip permit only. (4-6-92)

ix. Weight Formula. "W" is the maximum weight in pounds (to the nearest five hundred (500) pounds) carried on any group of two (2) or more consecutive axles. "L" is the distance in feet between the extremes of any group of two (2) or more consecutive axles, "N" is the number of axles under consideration and "F" is the load factor most appropriate based on the most critical bridge on the highway route. (4-6-92)

f. The maximum overweight levels shall not exceed eight hundred (800) pounds per inch width of tire nor the maximum weights authorized by IDAPA 39.03.13, "Rules Governing Overweight Permits," Subsection 200.01. (4-5-00)

g. Annual overweight permits shall become invalid subject to the conditions of IDAPA 39.03.23, "Rules Governing Revocation of Special Permits." (4-5-00)