IDAPA 39 – IDAHO TRANSPORTATION DEPARTMENT

Division of Motor Vehicles

39.02.03 – Rules Governing Vehicle Dealer's Principal Place of Business and Claims to the Idaho Consumer Asset Recovery Fund

Who does this rule apply to?
Those licensed in the business of selling vehicles or vessels in the State of Idaho and physical location requirement. This rule also provides the requirements for the Idaho Consumer Asset Recovery (ICAR) Board to review claims made by consumers against a licensed dealer as it relates to a court judgment and to determine the amount of payout.

- Dealers of Vehicles or Vessels including off-highway vehicles;
- Physical location requirements;
- Record Retention;
- Consumers/Claimants; and
- ICAR Board Provisions

What is the purpose of this rule?
Rule establishes the requirements for licensed dealer physical locations and required record retention. Additionally this rule outlines the provisions for the ICAR Board in reviewing and determining payout amounts for consumers who have been awarded court judgments against a licensed dealer who has failed to provide title or violated a provision of Title 49, Chapter 5 or 16; harming the consumer.

What is the legal authority for the agency to promulgate this rule?
This rule implements the following statutes passed by the Idaho Legislature:

Motor Vehicles -
- 49-201, Idaho Code – General: Duties of Board
- Title 49, Chapter 16, Idaho Code – Dealer and Salesmen Licensing

Who do I contact for more information on this rule?

Idaho Transportation Department
Monday – Friday 8:00 am to 5:00 pm
P.O. Box 7129
Boise, ID 83707-1129
3311 West State Street
Phone: (208) 334-8000
itd.idaho.gov

This rule chapter will be reviewed in compliance with Section 67-5292, Idaho Code, and in accordance with the 8-year rule review schedule linked here.

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39.02.03 – RULES GOVERNING VEHICLE DEALER'S PRINCIPAL PLACE OF BUSINESS AND CLAIMS TO THE IDAHO CONSUMER ASSET RECOVERY FUND

000. LEGAL AUTHORITY.
This rule is adopted under the authority of Sections 49-201(1), and 49-1608F(9) Idaho Code. (7-1-25)

001. PURPOSE.
This rule clarifies terms used in the definition of "principal place of business" and prescribes procedures for the payment of claims from the Idaho Consumer Asset Recovery Fund. (7-1-25)

002. -- 009. (RESERVED)

010. DEFINITIONS.

01. Vehicle Dealer File System. Books, records and files, necessary to conduct the business of a vehicle dealership. Records will be securely kept by the dealership in such order that they can be readily inspected by a Department Investigator. Such records and files may be kept electronically, as long as such records can be verified by the dealership as true and correct copies of the original records. Physical records or files retained by the dealership may be stored at an off-site location. The dealership will notify the department 30 days in advance of the address of the off-site location prior to moving such records. Records or files stored off-site will be made available to the department within 3 business days upon request. The files and records will contain but are not limited to: (7-1-25)

a. Physical or electronic sales invoices for current and two (2) preceding years; (3-31-22)

b. Physical or electronic copies of purchase orders for vehicles purchased for current and two (2) preceding years; (3-31-22)

c. Physical or electronic copies of title application forms accessible in numerical order; (3-31-22)

d. Written or electronic records of vehicles bearing new or used dealers' number plates and their use by a manufacturer, vehicle dealer, or full-time licensed salespersons searchable by date, time or plate number; (3-31-22)

e. Written or electronic records for loaner plates searchable by date, time or plate number; (3-31-22)

f. Copies or electronic records of Wholesale Dealer Forms records showing, all transactions, as applicable searchable by date or name of consignee; (3-31-22)

g. Physical or electronic odometer disclosure records for non-exempt vehicles; and (3-31-22)

h. Physical or electronic records of consignment agreements, as specified in Section 49-1636, Idaho Code. (3-31-22)

i. All electronic records will be created in a secure manner to prevent such records from being altered. Electronic copies of records will be legible, complete, and an accurate reproduction of the original business record. (7-1-25)

j. All electronic copies of records will be supplemented with a back-up copy of the electronic records. (7-1-25)

k. Any device, server, network device, or any internal or external storage medium which stores the electronic records will have security access controls and physical security measures to protect the records from unauthorized access, viewing, or alteration. (7-1-25)

l. Any dealer storing electronic or physical records that contain personal information will ensure that disposal of any records be completed in a secure manner, by shredding, erasing, or otherwise modifying the personal information to make it unreadable or undecipherable through any means. (7-1-25)

02. Vehicle Dealer Sign Requirements. An exterior sign permanently affixed to the land or building, with clearly visible letters, visible to major avenue of traffic meeting local building or zoning codes with the trade name of the dealership clearly visible from fifty (50) feet. (7-1-25)

03. Telephone. A phone that has a publicly published business number in the name of the dealership.

Business phones will be answered during declared business hours, in the name of the licensed dealer. (7-1-25)

011. -- 099. (RESERVED)

100. GENERAL PROVISIONS.

01. Physical or Electronic Records System Inspection. A vehicle dealer will make available all books, records and files maintained at the dealership location for immediate inspection for cause or complaint, or for random compliance review by a peace officer or authorized agent of the Department. (7-1-25)

02. Dealer Title Fee Disclosure. (7-1-25)

a. The fee will be clearly identified as a "TITLE FEE"; (7-1-25)

b. The fee will be shown as the exact amount required by law; (7-1-25)

c. Any documentation fees charged will 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. (7-1-25)

03. Idaho Consumer Asset Recovery (ICAR) Fund. (3-31-22)

a. All licensed dealers will 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. (3-31-22)

b. The ICAR fund fee will be set by the ICAR Board annually to be effective the following January 1. Such fee will be posted on the Department web site and all applicable forms for dealer licensing. (3-31-22)

04. Declared Business Hours. 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. (7-1-25)

05. Vehicle Dealer License Suspension. Any dealer not meeting the requirements of Title 49, Idaho Code will be subject to suspension of an existing dealer license or refusal by the Department to issue a new dealer license. (7-1-25)

a. The Department's agent will give written notice of deficiencies to the dealer or applicant. (3-31-22)

b. At its discretion the Department may give the licensed dealership a reasonable amount of time to comply. (3-31-22)

c. Upon compliance, the license will be reinstated or issued. (3-31-22)

101. -- 199. (RESERVED)

200. IDAHO CONSUMER ASSET RECOVERY FUND CONTROL BOARD ADMINISTRATION.

01. Quorum. A majority of the members of the Idaho Consumer Asset Recovery Control (ICAR) Board established pursuant to Section 49-1608C, Idaho Code, constitutes a quorum. A quorum is required for voting on any ICAR claims. The ICAR Board chairman presides over ICAR Board meetings. The ICAR Board operates in compliance with Idaho open meeting laws. (3-31-22)

02. Voting. All members of the ICAR Board constituting the quorum are entitled to vote in consideration of any payment of a claim pursuant to Section 49-1608F, Idaho Code. (3-31-22)

03. Actual Loss or Damages. As provided for in Section 49-1608E, Idaho Code, "actual loss or

damages", means: The total cost to the purchaser, as set forth in a final judgement, of the loss directly resulting in a violation, by a dealer, of the provisions of Title 48, Chapter 6 or Title 49, Chapter 5 or Section 49-1418, Idaho Code; including such things as repairs, inspections and loss of resale value. The term includes the attorney fees and costs in bringing suit against the dealer, and includes pre-judgement, but not post-judgement interest. "Actual Loss or Damages" will not include such things as treble damages, expectation damages nor consequential damages resulting from dealer fraud. (7-1-25)

04. Complete and Complaint Claims. All ICAR claims will be initiated by filing the complete claim with the Idaho Transportation Department DMV Administrator. When a proper ICAR claim has been received, staff will review the claim for completeness and compliance with these rules and the provisions of Title 49, Chapter 16, Idaho Code. If the claim is complete and in compliance with statute and these rules, the ICAR Board will send notification per Section 49-1608F(5), Idaho Code, to the subject vehicle dealer with a demand that the dealer satisfy the judgement within thirty (30) days. (3-31-22)

a. Should the dealer fail to satisfy the judgment within thirty (30) days of notice from the ICAR Board, staff will provide the ICAR Board and the claimant a staff-recommended amount of the claim. If the claimant agrees with the staff-recommended payment amount, the ICAR Board will issue a final order either adopting or rejecting the staff recommended claim payment amount. (3-31-22)

b. Should the claimant disagree with the proposed amount to be paid on the claim, the claimant may request an administrative hearing under the provisions of Title 67, Chapter 52, Idaho Code, within 10 business days of receipt of notification. The department will appoint a qualified hearing officer to hear the claim, take testimony and review evidence; and issue findings of fact, conclusions of law and provide a recommended order. (3-31-22)

c. Upon receipt of the recommended order from the hearing officer, the ICAR Board will issue a final order either adopting or rejecting the hearing officer's recommendation of the claim payment amount. (3-31-22)

d. Final orders of the ICAR Board may be subject to judicial review under the provision of Title 67, Chapter 52, Idaho Code. (3-31-22)

201. -- 999. (RESERVED)