

Dear Senators BRACKETT, Crabtree, Buckner-Webb, and  
Representatives PALMER, Shepherd, Wintrow:

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 - Temporary and  
Proposed Rule (Docket No. 39-0203-1901);

IDAPA 39.02.22 - Rules Governing Registration and Permit Fee Administration - Proposed Rule  
(Docket No. 39-0222-1901);

IDAPA 39.02.42 - Temporary Vehicle Registration When Proof of Ownership Is Insufficient -  
Proposed Rule (Docket No. 39-0242-1901).

Pursuant to Section 67-454, Idaho Code, a meeting on the enclosed rules may be called by the  
cochairmen or by two (2) or more members of the subcommittee giving oral or written notice to Research  
and Legislation no later than fourteen (14) days after receipt of the rules' analysis from Legislative  
Services. The final date to call a meeting on the enclosed rules is no later than 11/14/2019. If a meeting is  
called, the subcommittee must hold the meeting within forty-two (42) days of receipt of the rules' analysis  
from Legislative Services. The final date to hold a meeting on the enclosed rules is 12/13/2019.

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

To notify Research and Legislation, call 334-4854, or send a written request to the address on the  
memorandum attached below.



Eric Milstead  
Director

# Legislative Services Office

## Idaho State Legislature

*Serving Idaho's Citizen Legislature*

### MEMORANDUM

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

**FROM:** Legislative Drafting Attorney - Matt Drake

**DATE:** October 24, 2019

**SUBJECT:** Idaho Transportation Department

IDAPA 39.02.03 - Rules Governing Vehicle Dealer's Principal Place of Business - Temporary and Proposed Rule (Docket No. 39-0203-1901)

IDAPA 39.02.22 - Rules Governing Registration and Permit Fee Administration - Proposed Rule (Docket No. 39-0222-1901)

IDAPA 39.02.42 - Temporary Vehicle Registration When Proof of Ownership Is Insufficient - Proposed Rule (Docket No. 39-0242-1901)

#### **I. Docket No. 39-0203-1901**

##### **Summary and Stated Reasons for the Rule**

The temporary and proposed rule addresses the administration of the Idaho Consumer Asset Recovery (ICAR) fund established by section 49-1608B, Idaho Code. The rule adds new provisions regarding procedures for the ICAR board and department staff to follow when handling claims for payout from the ICAR fund. The rule also defines "actual loss," a previously undefined term that serves as the basis for determining payout amounts referenced in Idaho Code. Appeal procedures and judicial review processes are also established. The department states that the rule is needed to address currently pending actions and court claims involving the ICAR fund.

##### **Negotiated Rulemaking / Fiscal Impact**

The negotiated rulemaking process was not utilized; however, the department states that it involved many stakeholders in the rulemaking process and held a public meeting about the proposed rule. There is no fiscal impact.

##### **Statutory Authority**

The rulemaking appears authorized pursuant to sections 40-312, 49-201, 49-1608B, and 49-1608F, Idaho Code.

Kristin Ford, Manager  
Research & Legislation

Paul Headlee, Manager  
Budget & Policy Analysis

April Renfro, Manager  
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## **II. Docket No. 39-0222-1901**

### **Summary and Stated Reasons for the Rule**

The proposed rule clarifies and updates installment payment arrangements for commercial vehicle customers registering in Idaho. It also provides online methods for obtaining commercial vehicle registrations from the department.

### **Negotiated Rulemaking / Fiscal Impact**

Negotiated rulemaking was conducted. There is no fiscal impact.

### **Statutory Authority**

The rulemaking appears authorized pursuant to sections 40-312, 49-201, 49-434, and 49-439 Idaho Code.

## **III. Docket No. 39-0242-1901**

### **Summary and Stated Reasons for the Rule**

The proposed rule addresses conditional motor vehicle titles. This type of title is used when an applicant for registration cannot meet standard titling requirements. The proposed rule removes a requirement that an applicant must sign the required affidavit in the presence of a county assessor or deputy assessor. The rule removes language regarding altered VINs and abandoned vehicles that has been deemed unnecessary.

### **Negotiated Rulemaking / Fiscal Impact**

Negotiated rulemaking was conducted. There is no fiscal impact.

### **Statutory Authority**

The rulemaking appears authorized 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

### 39.02.03 – RULES GOVERNING VEHICLE DEALER'S PRINCIPAL PLACE OF BUSINESS

DOCKET NO. 39-0203-1901

#### NOTICE OF RULEMAKING – TEMPORARY AND PROPOSED RULE

**EFFECTIVE DATE:** The effective date of the temporary rule is August 22, 2019.

**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 rulemaking procedures have been initiated. The action is authorized pursuant to Sections 40-312 & 49-201, Idaho Code, and Sections 49-1608B & 49-1608F(9), Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 16, 2019.

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 clarifies the appropriate procedures for the Idaho Consumer Asset Recovery (ICAR) Board and Department staff to follow when tasked with determining the outcome of claims brought forth for payout from the ICAR fund. It also defines "actual loss," a previously undefined term that serves as the basis for determining payout amounts that are referenced in Section 49-1608E, Idaho Code, and describes appeal procedures and judicial review.

**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:

These rule changes are needed to address current outstanding actions as there are existing court claims that need immediate action. This rule change provides the direction and clarity needed for decisions to be made and citizens to be served.

**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: N/A

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted formally via the publication of a "Notice of Intent to Promulgate Rules - Negotiated Rulemaking;" however, the Department did communicate with hundreds of Idaho dealers and also held an open, public meeting on July 16, 2019 from 4pm-6pm (MT), in which the Department received comments and input from stakeholders. Therefore, this rulemaking did include public involvement. Additionally, this rulemaking confers a benefit to Idaho consumers.

**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 temporary and proposed rule, please contact Brendan Floyd, DMV Program Specialist, at (208) 334-8474.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before Wednesday, October 23, 2019.

Dated this 30th day of August, 2019.

Ramón Hobdey-Sánchez  
Governmental Affairs Project Manager  
Idaho Transportation Department  
3311 W. State Street  
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Boise, ID 83707-1129  
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**THE FOLLOWING IS THE TEMPORARY RULE AND THE PROPOSED TEXT  
OF DOCKET NO. 39-0203-1901  
(Only Those Sections With Amendments Are Shown.)**

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

**(BREAK IN CONTINUITY OF SECTIONS)**

**001. TITLE AND SCOPE.**

**01. Title.** This rule ~~are~~ will be titled IDAPA 39.02.03, "Rules Governing Vehicle Dealer's Principal Place of Business and Claims to the Idaho Consumer Asset Recovery Fund." ~~(3-29-12)~~(8-22-19)T

**02. Scope.** This rule clarifies terms used in the definition of "principal place of business" and provisions regarding these terms and payment of claims from the Idaho Consumer Asset Recovery Fund. ~~(3-29-12)~~(8-22-19)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**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~~ 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. ~~(4-11-15)~~(8-22-19)T

**b.** The ICAR fund fee ~~shall~~ will 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)~~(8-22-19)T

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

**06. 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. 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. (3-25-16)

**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 will 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~~ will be reinstated or issued. ~~(12-26-90)~~(8-22-19)T

**101. -- 2199. (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. (8-22-19)T

**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. (8-22-19)T

**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 5 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" shall not include such things as treble damages, expectation damages nor consequential damages resulting from dealer fraud. (8-22-19)T

**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. (8-22-19)T

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. (8-22-19)T

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. (8-22-19)T

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. (8-22-19)T

d. Final orders of the ICAR Board may be subject to judicial review under the provision of Title 67, Chapter 52, Idaho Code. (8-22-19)T

**300. PENALTIES.**

A dealer violating this rule ~~shall be~~ **is** subject to license suspension for a period not to exceed six (6) months.

~~(12-26-90)~~(8-22-19)T

## IDAPA 39 – IDAHO TRANSPORTATION DEPARTMENT

### 39.02.22 – RULES GOVERNING REGISTRATION AND PERMIT FEE ADMINISTRATION

DOCKET NO. 39-0222-1901

#### NOTICE OF RULEMAKING – PROPOSED RULE

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 40-312 & 49-201, Idaho Code, and Sections 49-434 & 49-439, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 16, 2019.

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 will clarify and update installment payment arrangements for commercial vehicle customers registering in Idaho. It also provides online methods for obtaining commercial vehicle registrations from the Department. This rulemaking effort is in alignment with the Governor's Red Tape Reduction Act, because it removes unnecessary language within administrative rule and confers benefits to customers.

**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 Number 39-0300-1901OM. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the July 3, 2019, Idaho Administrative Bulletin, [Vol. 19-7, pages 265-266](#).

**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 Lance Green, DMV Permits Program Specialist, at (208) 334-8427.

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 Wednesday, October 23, 2019.

Dated this 29th day of August, 2019.

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**THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 39-0222-1901**  
**(Only Those Sections With Amendments Are Shown.)**

**010. DEFINITIONS.**

- 01. Combination of Vehicles.** A tractor or truck tractor and one (1) or more trailers and/or semitrailers. (11-20-91)
- 02. Customer.** The individual or entity that is registering/permitting the vehicle. The following terms; customer, individual, company or registrant are interchangeable in this rule. (3-19-07)
- 03. Insufficient Funds (ISF).** ISF will be the abbreviation as it pertains to checks written on personal and/or business checking accounts without sufficient funds to cover the check, for payment to the department. (3-19-07)
- 04. Non-Reducible Load.** Defined in IDAPA 39.03.01, “Rules Governing Definitions,” ~~Subsection 010.31~~ Regarding Special Permits. (3-19-07)(    )
- 05. Probable Cause.** Information sufficient to create a reasonable belief that the registrant of a motor vehicle(s) has either not paid fees due or has under reported miles traveled or has underpaid fees due. (3-19-07)
- 06. Quarterly Report.** The form for registrants to report the laden miles traveled on Idaho highways during the preceding three (3) months when transporting non-reducible vehicles/loads under annual overweight/oversize permits. (3-19-07)
- 07. Revocation of Registration.** The termination of a registrant’s vehicle registrations and authority to operate on Idaho highways for failure to comply with requirements specified by the Department and Idaho Code. (3-19-07)
- 08. Registrant.** A person, firm, or corporation in whose name a vehicle or vehicles are registered, with an Idaho account number assigned by the department. (3-19-07)
- 09. Road Use Fee.** The fee per mile paid for non-reducible vehicles or combinations of vehicles hauling non-reducible loads. The fees are based on the number of axles on the vehicle or combination of vehicles and the total gross weight, in addition to the registration fee. (3-19-07)
- 10. Suspension of Registration.** The temporary withdrawal of a registrant’s vehicle registrations and authority to operate on Idaho highways for failure to comply with requirements specified by the department and Idaho Code. (3-19-07)
- 11. Third-Party Checks.** Checks payable to one entity, and endorsed over to another entity for payment. (3-19-07)

**(BREAK IN CONTINUITY OF SECTIONS)**

**101. QUARTERLY ROAD USE FEE REPORTING.**

- 01. Quarterly Reporting Forms Issued.** The department will ~~issue~~ generate an online quarterly report form ~~to customers~~ for each valid annual overweight/oversize permit issued to them. Customers can choose to opt-in and receive a printed form via mail. (3-19-07)(    )

**02. Use of Quarterly Reporting Form.** The customer is required to report each quarter's information on the form provided online or on a Department printed copy that will be mailed on or before the due date specified on the quarterly report form, even when reporting zero (0) miles traveled. (3-25-16)( )

**a.** If the customer does not receive a quarterly report form or report their information online, it is the customer's responsibility to notify the department allowing adequate time to submit the report before the due date. (3-19-07)( )

**b.** Any report transmitted through the US Postal Service shall be considered filed and received by the department on the date shown by the post office cancellation mark stamped on the envelope or wrapper containing the report. A postage meter cancellation shall not be considered as a post office cancellation mark. (3-19-07)

**c.** If the quarterly report form due date falls on a Saturday, Sunday, or legal holiday, the due date will be extended to the next business day. (3-25-16)

**d.** Quarterly reports not submitted will result in the account being suspended. (3-25-16)

**03. Information Required on the Quarterly Report Form.** Customers must report the following: (3-19-07)

**a.** The number of laden miles traveled on Idaho highways when operating under an annual overweight/oversize permit with non-reducible vehicles and/or load that exceed eighty thousand (80,000) pounds and/or legal axle weights for the appropriate weight category for the quarter specified on the quarterly report form, rounded to the next full mile; and the road use fee due; and penalty, if the report is filed after the due date. (3-25-16)

**b.** Total amount due. (11-20-91)

**c.** Signature and title of company official, and date of report. All reports filed with the department must be signed by an authorized representative of the company/individual in order to be considered a valid report even if zero (0) miles are being reported. (3-25-16)

**d.** Address change, if different from quarterly report form. (11-20-91)

**e.** Customer telephone number (3-19-07)

**102. -- 199. (RESERVED)**

**200. INSTALLMENT PAYMENTS FOR COMMERCIAL VEHICLE REGISTRATION.** The department offers a Payment Plan for registrants in compliance with Sections 49-434, Idaho Code. (3-19-07)

**01. Requirements to Participate in Installment Payments.** (3-19-07)

**a.** Participant must sign participation contract agreement. (3-19-07)

**b.** Only Full Fee and Idaho IRP registration fees are included in the payment plan. Other jurisdictions' IRP fees shall not be included. (3-19-07)

**c.** Only full annual registration fees shall be included in payment plan. Registrations for less than one full year shall not be included. (3-19-07)

**d.** Vehicles not registered within thirty (30) days after the previous year registration has expired shall not be eligible for the installment payment option. Submitted applications for registration that have been invoiced, but not paid for, by the due date stated on the fee summary sheet last day of the registration effective month shall not be eligible for the installment payment option. (3-29-10)( )

**e.** Installment contract requirements do not provide opportunity for registrant to opt out of any

remaining installment payments. The balance of the payment plan shall continue to be paid even if the truck is not being operated. (3-19-07)

f. If registrant meets the criteria in Section 300 of this rule, the prorated portion of the Idaho fee shall be credited toward the installment plan or refunded if the plan has been paid in full. (3-29-10)

g. Registrant shall not participate in installment payment plan if the registrant's account has previously been suspended as stated in Subsection 200.06 of this rule. (3-29-10)

h. The contract shall stipulate the payment periods and the installment ~~confirmation letter~~ **payment vouchers** shall stipulate the due dates of each subsequent payment. (3-19-07)( )

i. An installment payment plan fee of fifty dollars (\$50) shall be required and collected at the time of setup for each installment payment plan created. (3-29-10)

**02. Billings, Payments and Due Dates of Installment Plan.** (3-19-07)

a. The department shall upon acceptance of the contract by the registrant, receive one-quarter of the annual registration fee along with the installment payment plan fee, and then shall bill the registrant for three (3) equal installments based upon the previously set payment periods outlined in the contract, which are due by the end of the third, sixth, and ninth months after the effective date of the registration. (3-29-10)

b. ~~Courtesy billing notices for the next installment payment due will be mailed approximately one (1) month prior to the due date~~ **Installment payment vouchers will be provided with the initial invoice.** (3-29-10)( )

c. US Postal Service postmark shall be used to determine if payment is received on time. If the envelope is postmarked on or before the last day of the month, the payment shall be considered "on time." (3-19-07)

d. If the last day of the month falls on a Saturday, Sunday or legal holiday, the next business day shall be considered the due date. (3-19-07)

e. ~~Non receipt of the department's billing notice~~ **Failure to retain provided payment vouchers** does not relieve the burden of the registrant to pay the installment amount by the due date. (3-19-07)( )

**03. Failure to Pay Installment Payment by Due Date.** (3-19-07)

a. The department shall send out courtesy pre-suspension notices approximately five (5) days after the due date to registrants who have failed to remit payment by the due date printed on the quarterly billing. (3-29-10)

b. The pre-suspension letter shall contain a late penalty fee of ten percent (10%) of the amount due and an additional one percent (1%) for each month or portion of a month that the payment is past due. (3-19-07)

c. Registrant shall pay installment amount portion that is due, plus assessed penalties and interest. (3-19-07)

**04. Suspension of Registrant's Account Due to Non-Payment of Payment Plan.** Approximately two (2) weeks after pre-suspension notices are mailed to the registrant, the department shall suspend accounts of registrant's that have failed to remit installment payment and/or interest and penalty. (3-19-07)

**05. Reinstatement Fee for Payment Plan Registration.** (3-19-07)

a. A forty dollar (\$40) reinstatement fee shall be applied to all payment plan accounts that have been suspended. (3-19-07)

b. Registrant must pay quarterly payment portion, penalty and interest, if applicable, and reinstatement fee before suspension shall be cleared from account. (3-19-07)

**06. Repetitive Suspensions Result.** (3-29-10)

- a.** After the registrant's account has been suspended for delinquent installment payments two (2) or more times, the registrant shall not be allowed to participate in future payment plan programs unless; (3-29-10)
  - i.** Customer has twelve (12) consecutive months of no suspensions related to the account starting from the month the account is cleared; and (3-29-10)
  - ii.** Customer requests in writing to the department to participate in future installment payment plans and will be allowed to do so. (3-29-10)

**(BREAK IN CONTINUITY OF SECTIONS)**

**602. CREDIT CARD PAYMENTS.**

The department will accept only Visa, Discover, American Express, or Mastercard for any fees due to or purchases from the department. (~~3-25-16~~)(    )

**(BREAK IN CONTINUITY OF SECTIONS)**

**900. APPEAL PROCEDURE.**

- 01. Filing of Appeal.** A registrant wishing to contest a penalty or suspension of a registration or an account may file an appeal within ten (10) days of receipt of the notice. (3-19-07)
- 02. Delivery of Appeal.** The appeal must be either hand delivered or mailed to Commercial Vehicle Services Compliance Manager, Idaho Transportation Department, P.O. Box 7129, Boise, Idaho 83707-1129. (~~3-19-07~~)(    )
- 03. Delivery of Decision.** A copy of the final decision in response to the request will be sent to the registrant. (3-19-07)

## IDAHA 39 – IDAHO TRANSPORTATION DEPARTMENT

### 39.02.42 – TEMPORARY VEHICLE REGISTRATION WHEN PROOF OF OWNERSHIP IS INSUFFICIENT

DOCKET NO. 39-0242-1901

#### 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 October 16, 2019.

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 a requirement to sign an affidavit in the presence of the county assessor/deputy assessor. The change allows a second type of title (conditional title) to be issued when an applicant cannot meet standard titling requirements. It also removes redundant and outdated sections/language. This rulemaking effort is in alignment with the Governor's Red Tape Reduction Act, because it removes unnecessary language within administrative rule and confers benefits to customers.

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

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the July 3, 2019, Idaho Administrative Bulletin, [Vol. 19-7, pages 259-260](#).

**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 Chris Fisher, DMV Program Specialist, at (208) 334-8167.

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 Wednesday, October 23, 2019.

Dated this 30th day of August, 2019.

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THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 39-0242-1901  
(Only Those Sections With Amendments Are Shown.)

**39.02.42 – ~~TEMPORARY~~ RULES GOVERNING CONDITIONAL VEHICLE REGISTRATION  
WHEN PROOF OF OWNERSHIP IS INSUFFICIENT**

**000. LEGAL AUTHORITY.**

This rule is adopted under the authority of Sections 49-501, 49-507 and 49-523, Idaho Code. (12-26-90)

**001. TITLE AND SCOPE.**

**01. Title.** This rule is ~~titled cited as~~ IDAPA 39.02.42, “~~Temporary~~ Rules Governing Vehicle Registration When Proof of Ownership is Insufficient.”, ( )

**02. Scope.** ~~and provides for temporary~~ The purpose of this rule establishes conditional vehicle registration when the applicant does not have sufficient proof of ownership. This rule provides operating privileges for a specific time period and does not apply to Idaho licensed dealers, non-residents of Idaho; or owners and/or operators of non-Idaho based commercial vehicles operated in interstate commerce under the various proportional registration plans or agreements with other states of which Idaho is a participant. (~~12-26-90~~)( )

**002. ADMINISTRATIVE APPEALS.**

Administrative appeals under this chapter are governed by the rules of administrative procedure of the attorney general, IDAPA 04.11.01, “Idaho Rules of Administrative Procedure of the Attorney General.” ( )

**00~~2~~3. -- 099. (RESERVED)**

**100. GENERAL PROVISIONS FOR INSUFFICIENT PROOF OF OWNERSHIP INCLUDES.**

- 01. Vehicle Record.** The vehicle for which record of ownership is unavailable; (12-26-90)
- 02. Title.** The applicant does not have the title from the previous owner; (12-26-90)
- 03. Release of Interest.** The previous owner of record has not released interest in the title; (12-26-90)
- 04. Bill of Sale.** The possessor has the unreleased title but does not have a bill of sale to support transfer of ownership; (12-26-90)
- 05. Vehicle Identification Number.** The title vehicle identification number (VIN) and the VIN on the vehicle do not match (except for obvious typographical errors); or (12-26-90)
- 06. Documentation for Component Part.** Component parts of a homemade, reconstructed or specially constructed vehicle cannot be documented. (12-26-90)

**101. -- 199. (RESERVED)**

**200. PROCEDURE.**

**01. Conditional Registration.** “Registration Only” (conditional registration until titling requirements are met) may be processed for a one (1) year period without benefit of title. “Registration Only” will not be issued on vehicles with altered VINs, vehicles confirmed as stolen or vehicles where there is a recorded and unpaid lien. (~~12-26-90~~)( )

~~02. **Altered VINs.** “Registration Only” shall not be issued on vehicles with altered VINs, vehicles confirmed as stolen or vehicles where there is a recorded and unpaid lien. (12-26-90)~~

**032. Conditional Registration Procedure.** “Registration Only” procedure is as follows: (12-26-90)

**a.** VIN Inspection: The vehicle must be inspected by an agent of the county assessor’s office or a city, county or state peace officer. The inspecting officer will verify the identification number and provide the applicant with a signed inspection form containing the vehicle description, other pertinent information and recommendations. If the VIN has been altered or is missing, the officer may ask for the assistance of a motor vehicle investigator before issuing the VIN inspection. (12-26-90)

**b.** Indemnifying Affidavit. The “Registration Only” applicant ~~must~~ **will** complete an indemnifying affidavit explaining how and where the vehicle came into ~~his/her~~ **the applicant’s** possession, and why proper documentation is not available. The indemnifying affidavit must be signed ~~in the presence of the county assessor or deputy assessor~~, and ~~must~~ fully indemnify and save harmless the department. (12-26-90)(    )

**c.** Registration of the Vehicle: The vehicle ~~can~~ **may** be registered for one (1) year. The title block of the registration document will show “Registration Only” in bold letters. The applicant must obtain adequate proof of ownership prior to the ~~end of the tenth (10th) month expiration~~ of the registration period ~~to allow adequate time for title processing~~. The one (1) year “Registration Only” period ~~shall~~ **will** not be extended. (12-26-90)(    )

**d.** The county ~~shall~~ **will** hold the VIN inspection and the indemnifying affidavit in file until the applicant complies with requirements in Subsection 200.04. (12-26-90)(    )

**043. Applicant Responsibility.** By the ~~end of the tenth (10th) month expiration~~ of the “Registration Only” period, the applicant must present a properly executed title and bill of sale for the vehicle or apply for a bonded ~~or conditional~~ title. (12-26-90)(    )

**054. Action by the County Assessor.** When the applicant has complied with Subsection 200.043, the county assessor ~~shall remove~~ **will pull** the VIN inspection and indemnifying affidavit from ~~their~~ file; prepare an Application for Title; and submit the application form with the title, bill of sale, indemnifying affidavit and VIN inspection for title processing. (12-26-90)(    )

**065. Proof of Ownership.** If the applicant cannot prove ownership within the one (1) year “Registration Only” period, no further registration (permanent or temporary) will be issued until after the title requirement is met. (12-26-90)

~~07. **Abandoned Vehicles.** “Abandoned Vehicles” as provided for in Chapter 18, Title 49, Idaho Code, must be processed in accordance with abandoned vehicle statutes and are not affected by this rule. (12-26-90)~~

201. -- 999. (RESERVED)