

Table of Contents

17.02.03 - ADMINISTRATIVE RULES OF THE INDUSTRIAL COMMISSION UNDER THE WORKERS' COMPENSATION LAW -- SECURITY FOR COMPENSATION

000. LEGAL AUTHORITY.	2
001. TITLE AND SCOPE.	2
002. WRITTEN INTERPRETATIONS.	2
003. ADMINISTRATIVE APPEALS.	2
004. -- 010. (RESERVED).	2
011. RULE GOVERNING QUALIFICATION OF INSURANCE CARRIER TO UNDERWRITE WORKMEN'S COMPENSATION LIABILITY.	2
012. REGULATIONS RULES GOVERNING INSURANCE COMPANIES.	3
013. RULES PROVIDING FOR THE CUSTODY BY BANKS OF CERTAIN SECURITIES.	7
014. RULES GOVERNING SELF-INSURED EMPLOYERS.	8
015. -- 050. (RESERVED).	10
051. REQUIREMENTS FOR MAINTAINING IDAHO WORKERS' COMPENSATION CLAIMS FILES.	10
052. -- 060. (RESERVED).	11
061. GOVERNING RECITALS IN INSURANCE CONTRACTS.	11
062. -- 180. (RESERVED).	12
181. RULE PROHIBITING USE OF SICK LEAVE OR OTHER ALTERNATIVE COMPENSATION.	12
182. -- 270. (RESERVED).	12
271. RULE GOVERNING COMPUTATION OF INDUSTRIAL SPECIAL INDEMNITY FUND LEVY ON STRUCTURED SETTLEMENTS.	12
272. -- 999. (RESERVED).	12

**IDAPA 17
TITLE 02
Chapter 03**

**17.02.03 - ADMINISTRATIVE RULES OF THE INDUSTRIAL COMMISSION UNDER THE
WORKERS' COMPENSATION LAW -- SECURITY FOR COMPENSATION**

000. LEGAL AUTHORITY.

These rules are adopted and promulgated by the Industrial Commission pursuant to the provision of Section 72-508, Idaho Code. (7-6-94)

001. TITLE AND SCOPE.

These rules shall be cited as IDAPA 17, Title 02, Chapter 03, "Administrative Rules of the Industrial Commission Under the Workers' Compensation Law -- Security for Compensation." (7-6-94)

002. WRITTEN INTERPRETATIONS.

No written interpretations of these rules exist. (7-6-94)

003. ADMINISTRATIVE APPEALS.

There is no administrative appeal from decisions of the Industrial Commission in workers' compensation matters, as the Commission is exempted from contested-cases provisions of the Administrative Procedure Act. (7-6-94)

004. -- 010. (RESERVED).

011. RULE GOVERNING QUALIFICATION OF INSURANCE CARRIER TO UNDERWRITE WORKMEN'S COMPENSATION LIABILITY.

01. Deposit with State Treasurer. To receive the approval of the Industrial Commission to write Workmen's Compensation coverage under Section 72-301, Idaho Code, a carrier whose application has been approved by the Commissioner of Insurance to underwrite casualty and surety insurance under Sections 41-506 and 41-507, Idaho Code, shall initially deposit security in the amount of twenty-five thousand dollars (\$25,000) with the State Treasurer, under the provisions of Section 72-302, Idaho Code, but such deposit shall not be additional required if such carrier has made a qualifying deposit of twenty-five thousand dollars (\$25,000) under the provisions of Section 41-317, Idaho Code. (5-26-72)

02. Application. Before the Commission shall approve any insurance company to do business under the Workmen's Compensation Law, said company shall apply to the Industrial Commission for permission to write compensation insurance and said application shall include the following: (5-26-72)

a. A statement from the insurance commissioner that the insurance company has been granted authority under the insurance laws of the state of Idaho to write surety business; (5-26-72)

b. The last financial statement of said company; (5-26-72)

c. The name of the attorney-in-fact and attorney for service of process in Idaho; (5-26-72)

d. That an Idaho licensed adjuster or adjusters have been appointed, resident in Idaho, to whom have been given authority to make compensation payments and adjustments of claims arising under the Act and the name of said adjuster or adjusters and residence thereof. (5-26-72)

e. Satisfactory assurance that it will cause to have printed such blank forms as are, or my be, prescribed by the Commission and distributed to such employers as it may insure. (5-26-72)

f. That it will cause to have printed uniform surety bonds in form approved by the Commission and cause all surety bonds covering the payment of compensation to be filed with the Industrial Commission in compliance with the law for all employers insured. Effective January 1, 1973, the Commission requires all sureties to use a continuous bond form, which is attached hereto. (5-26-72)

SURETY BOND

KNOW ALL MEN BY THESE PRESENTS:

That we, _____, as Principal, and _____, as Surety, are held and firmly bound unto the State of Idaho and the beneficiaries of awards rendered under the Workers' Compensation Law of the State of Idaho, for all sums said Principal is liable for by reason of workers' compensation policies issued to employers in the State of Idaho, insuring such employers' liability under Title 72, Idaho Code, the Workers' Compensation Law.

Under the authority of Chapter 3, Title 72, Idaho Code, the liability of the Surety on this bond shall in no event exceed an amount equal to the total amount of all outstanding and unpaid compensation awards against the Principal.

In case of any default by the Principal or in the event said Principal shall fail to pay, by reason of insolvency, or because a receiver has been appointed therefor, or by reason of refusal, neglect or delay to pay any final award or awards, the State of Idaho and any beneficiaries under the Workers' Compensation Law shall have a right of action at law against said Surety immediately upon default by said Principal.

This bond is issued for an indefinite term to begin on the _____ day of _____, 19 ____, and will continue in full force and effect until terminated in either of the following two manners: This bond may be cancelled by the Surety by filing sixty (60) days' written cancellation notice by registered mail with the Industrial Commission of the State of Idaho. This bond may be cancelled by the Industrial Commission of the State of Idaho by written notice to the Surety hereon, which notice shall specify the date of termination of the bond.

IN WITNESS WHEREOF, the parties hereto have caused their names to be signed and this instrument to be sealed by the respective parties thereto this _____ day of _____, 19 ____. (7-15-88)

g. That renewal certificates on said bonds will be issued and filed with the Industrial Commission immediately, if said bonds are to be renewed. (5-26-72)

h. That the cancellation of surety contracts will be made as set forth in the law, if said contracts are cancelled; (5-26-72)

i. That said company will deposit, in addition to the security required for authorization to write Workmen's Compensation coverage by Section 41-317, Idaho Code, and these rules, such further security equal to all unpaid outstanding awards of compensation; (5-26-72)

j. That it will company with the statutes of the state of Idaho and rules of the Industrial Commission to the end that payments of compensation shall be sure and certain and not unnecessarily delayed; (5-26-72)

k. That is will make such reports to the Commission as it may require in reference to matters under the Workmen's Compensation Law. IC Form 35, Report on Outstanding Awards, must be filed monthly with the Commission. (5-26-72)

012. REGULATIONS RULES GOVERNING INSURANCE COMPANIES.

Upon receiving the approval of the Industrial Commission to write workers' compensation insurance under Section 72-301, Idaho Code., to continue such approval, an insurance company shall: (7-15-88)

01. Maintain Security Deposits. Maintain with the Idaho State Treasurer security in the amount of twenty-five thousand dollars (\$25,000) if approved by the commission prior to the effective date of this rule or two hundred and fifty thousand dollars (\$250,000) if approved subsequently to that date.; however, iIf the carrier has made a qualifying deposit of twenty-five thousand dollars (\$25,000) under the provisions of Section 41-317, Idaho Code, that amount shall be deemed contributory to the total required security. In addition thereto such carrier is required to deposit an amount equal to total unpaid outstanding awards of said carrier. Such security shall be in the form of cash, U. S. obligations, Idaho municipal bonds, or a surety bond in the form attached hereto marked Appendix I. If a surety bond is deposited, the surety company shall be completely independent of the principal and authorized to transact such business in the state of Idaho. Securities which are used to satisfy the requirements of this

rule may be held in the federal reserve book-entry system, as defined in Section 41-2870(4), Idaho Code, and interests in such securities may be transferred by bookkeeping entry in the federal reserve book-entry system without physical delivery of certificates representing such securities. (7-15-88)

02. Appoint Agent for Service of Process. Appoint the Director of the Department of Insurance as its attorney to receive service of legal process. (7-15-88)

03. Maintain Resident Idaho Office. Maintain an Idaho licensed adjuster or adjusters resident in Idaho who have been appointed and been given authority on claims arising under the Act. (7-15-88)

04. Supply Forms and Make Reports. Supply such forms as are or may be prescribed by the Commission and distribute them to such employers as it may insure. Report to the Commission on IC Form 50, 50-A, 51, 51-A, and 52, which forms are set forth herein issuance or cancellation of or endorsements to an employer's workers' compensation policy within thirty (30) days of the transaction. File with the Commission IC Form 36, which form is set forth herein, once every three months or more often as may be directed by the Commission. Make such reports to the Commission as it may require in reference to matters under the Workmen's Compensation Law. (7-15-88)

IC Form 50:

STATE OF IDAHO -- NOTICE OF ISSUANCE

DBA: _____ Policy No. _____
Insured: _____ Eff. Date _____
Idaho Location: _____ Iss. Office _____
Address _____
City _____ State _____ Zip _____ Phone _____
Type of Business: _____
Former Owner: _____

The undersigned hereby notifies the Industrial Commission of Idaho that it has issued the above described workers' compensation policy.
THIS NOTICE IS CONTINUOUS UNTIL CANCELLED

(Name of insurance company)

By: _____
Authorized Representative

IC Form 50-A:

STATE OF IDAHO -- NOTICE OF ISSUANCE

DBA: _____ Policy No. _____
Insured: _____ Eff. Date _____
Idaho Location: _____ Iss. Office _____
Address _____

City State ZipPhone

Type of Business: _____

Former Owner: _____

THE Industrial Commission of Idaho hereby acknowledges receipt of notice of coverage for the above named employer.

Industrial Commission

By: _____

Samples of IC 50, 50-A, 51, 51-A and 52 are available from the Employer Compliance Section of the Industrial Commission, 317 Main Street, P. O. Box 83720, Boise, Idaho 83720-0041, telephone (208) 334-6000.

These forms are required to be professionally printed on perforated card stock in specific colors and sizes for filing with the Industrial Commission.

IC Form 36:

INSTRUCTIONS

Every FATAL, PERMANENT TOTAL AND PERMANENT PARTIAL case on which compensation is being paid by your company must be entered on this form and carried forward on subsequent reports until paid out. New cases will be entered as they are determined and carried forward on the next report. (Be sure to disregard all Total Temporary cases.) File report by 10th of month.

COLUMN 1. DATE OF INJURY.

COLUMN 2. NAME OF INJURED EMPLOYEE.

COLUMN 3. CLASS OF DISABILITY.

Enter in this column the kind of case; i.e., FATAL, PERMANENT TOTAL, or PERMANENT PARTIAL. (Use abbreviation.)

COLUMN 4. TOTAL AWARDS.

Include total compensation and other expenses as shown on the approved Summary of Payments and/or reserves established for Permanent Totals.

COLUMN 5. COMPENSATION THIS REPORT.

Enter the amount paid on each case since the last report was filed.

COLUMN 6. TOTAL COMPENSATION PAID.

Enter the total amount paid on the award, including amount shown in Column 6.

COLUMN 7. ADJUSTMENT.

Make all adjustments for changes of conditions, remarriage, deaths, errors, etc. in this column. If adjustments are made, then Column 4 must equal Column 6 plus Column 7 plus column 8.

COLUMN 8. UNPAID BALANCE.

This will show the balance due on each case.

THIS FORM MUST BE COMPLETED AND EXECUTED DIRECTLY BY THE SURETY OR SELF-INSURED EMPLOYER.

MAIL TO: INDUSTRIAL COMMISSION
P. O. BOX 83720
BOISE, ID 83720-0041

The following is essentially the format required by the Industrial Commission for reporting outstanding awards. Due to the printing limitations of the publisher of these rules, the columns are not separated by lines. However, when the surety or self-insured employer has this form typeset by a professional printer, the columns should be separated by vertical lines and appropriately formatted for ease in reading. A sample of the appropriate form is available from the Fiscal Section of the Industrial Commission, 317 Main Street, P. O. Box 83720, Boise, Idaho 83720-0041, telephone (208) 334-6000.

INDUSTRIAL COMMISSION
STATE OF IDAHO

OUTSTANDING AWARDS
(Including Permanent Total)

Period Ending _____, 19 ____

FATAL, PERMANENT PARTIAL AND PERMANENT TOTAL

Date of Injury	Name of Injured	Kind of Injury	Total Award	Comp this Report	Total Comp Pd	Adjust-ment	Unpd Bal
----------------	-----------------	----------------	-------------	------------------	---------------	-------------	----------

Total

VERIFICATION

State of _____) ss.
County of _____)

I, _____, being first duly sworn on
oath, state that I am the _____ of
(Officer)

_____, and that I
(Surety or Self-Insured Employer)

have read the foregoing statement of Outstanding Awards and
know the contents thereof, and the same are true to my best
knowledge and belief.

(Reporting Carrier) _____

By _____
(Officer of the Corporation)

Address _____

SUBSCRIBED AND SWORN to before me this ____ day of _____ 19 ____.

Notary Public for _____
Residing at _____

05. Comply with Law and Rules. Comply with the statutes of the State of Idaho and the rules of the Industrial Commission to the end that payments of compensation shall be sure and certain and not unnecessarily delayed. (7-15-88)

013. RULES PROVIDING FOR THE CUSTODY BY BANKS OF CERTAIN SECURITIES.

A petition having been duly presented by Argonaut Insurance Company, a corporation, and Argonaut Northwest Insurance Company, a corporation, and filed with the Industrial Accident Board of the State of Idaho on April 25, 1969, and it appearing that notice has been given to all interested persons known to the Board on or before said date; and it further appearing from the petition of the above named applicants that there exists reasonable need for the adoption of rules providing for the safekeeping, maintenance and custody of certain securities required under Section 72-801, Idaho Code, by authorized and approved banks as requested in said petition; and it further appearing that the Industrial Accident Board of Idaho does have the duty and authorization to adopt rules pertaining to said securities as provided under the provisions of Section 72-801, Idaho Code. (5-27-69)

01. Order Allowing Deposit of Securities in Bank. IT IS HEREBY ORDERED, and this does order, that upon request by any self-insured employer, the State Fund of Idaho, or surety companies, and upon approval of the state of Idaho in each instance, said requests by said self-insured employers, State Fund, or surety companies shall allow and permit certain securities required under Section 72-801, Idaho Code, to be placed in the Trust Department of a bank approved by the Industrial Commission and the State Treasurer for safekeeping and custody; however, further provided that said deposits shall be made with and held by the Trust Department of said approved established bank located in Boise, Idaho, and further approved by the Industrial Commission and the State Treasurer, and said security is to be further held by the Trust Department of said bank under custodial arrangements likewise approved by the Industrial Commission and the State Treasurer. It is further provided, in each instance, that the cost of any such custodial arrangement shall be born by the self-insured employer, State Insurance Fund, or surety company making said request. Further, neither the state of Idaho, nor any of its departments or agencies, shall have responsibility for the safekeeping of said deposited securities in the Trust Department of said designated and approved, established bank. (5-27-69)

02. Order Requiring Banks to Make Information Available Regarding Securities. IT IS FURTHER ORDERED that in each of said instances of deposit or safekeeping and custody, said Trust Department of said established and selected bank shall at any time make available to the State Treasurer and the Industrial Commission, all information pertaining to said securities being held pursuant to Section 72-801, Idaho Code, and this rule. (5-27-69)

03. Order Allowing for Inspection by Authorized State Personnel. IT IS FURTHER ORDERED that under such custodial arrangement, authorized personnel of the Office of the State Treasurer and the Industrial Commission may, in the presence of authorized personnel of said self-insured employer, State Insurance Fund or surety company, as the case may be, make periodic physical inspection of said securities. (5-27-69)

04. Order Allowing Authorized Personnel to Clip Coupons from Securities. IT IS FURTHER ORDERED that a duly authorized representative of said self-insured employer, State Insurance Fund or surety company, as the case may be, may, in the presence of duly authorized personnel of said Trust Department of said banking institution, clip coupons from said securities to effect the collection of the interest, dividends or profits of said securities as is required by the nature of said securities on deposit. (5-27-69)

05. Provisions for Release, Exchange or Substitution of Securities. IT IS FURTHER PROVIDED AND ORDERED under this rule that in no event are any of the securities so deposited with the Trust Department of said banking institution to be released to any individual, business, firm or institution, except upon order of a court of competent jurisdiction or upon proper certified order of the Industrial Commission, either for purposes of release of said securities or for substitution or exchange thereof, and in this regard, in all instances said securities so deposited for custody and safekeeping with Trust Department of said established banks are to be kept with the Trust Department of said designated banking institutions. (5-27-69)

06. Adoption of this Order as a Rule. This order is to be regarded as a rule within the meaning of

Section 72-801, Idaho Code, and Section 67-5203, 63-6, Idaho Code. Notice pursuant to Section 67-5203, Idaho Code, shall be given in accordance with the law to all interested persons for adoption of this rule, all in accordance with the sections above referred to of the Idaho Code. (5-27-69)

014. RULES GOVERNING SELF-INSURED EMPLOYERS.

Upon receiving the approval of the Industrial Commission to be a self-insured employer under Section 72-301, Idaho Code, to continue such approval a self-insured employer shall: (4-1-90)

01. Payroll Requirements. Maintain an average annual Idaho payroll over the preceding three (3) years of at least four million dollars (\$4,000,000), if such employer was originally approved by the Commission subsequent to April 30, 1984, and two million dollars (\$2,000,000) if such employer was originally approved by the Commission prior to May 1, 1984; provided, however, that any employer who was an approved self-insured employer on July 1, 1974 need not comply with the provisions of this section. (4-1-90)

02. Deposit with Treasurer. Maintain a deposit with the Idaho State Treasurer in the form of cash, U.S. obligations, Idaho municipal bonds, or a self-insurer's bond in substantially the form set forth below, in the amount of fifty thousand dollars (\$50,000), plus five percent (5%) of the employer's average annual payroll in the state of Idaho for the three preceding years, not in excess of ten million dollars (\$10,000,000) if such employer was originally approved by the Commission subsequent to April 30, 1984; and five million dollars (\$5,000,000) if such employer was originally approved by the Commission prior to May 1, 1984. In addition thereto, the self-insured employer shall deposit additional security in an amount equal to all outstanding and unpaid awards of compensation under the Workers' Compensation Law. All security deposited by the self-insured employer shall be maintained as a trust fund exclusively for the purpose of securing payments by the employer of the compensation required by the Workers' Compensation Law. Any withdrawal of security deposited hereunder must be approved by the Commission. (4-1-90)

SELF-INSURER'S COMPENSATION BOND

KNOW ALL MEN BY THESE PRESENTS, THAT _____,
_____, a corporation of the State of _____,
hereinafter called the Principal, as Principal, and the

_____, a surety corporation authorized to transact a surety business in the State of Idaho, as Surety, are held and firmly bound unto the State of Idaho, for the use and benefit of all those employees of the Principal to whom or to the dependents of whom the Principal may, during the life of this bond, become liable for benefits under the Idaho Workers' Compensation Law, as hereinafter more fully referred to, in the sum equal to and limited by the sum or sums that may become due and/or payable by said Principal to said employees under the terms, provisions and limitations of said Workers' Compensation Law, and in accordance with the terms, agreements, conditions and limitations of this obligation not exceeding, however, the sum of _____ dollars, for the payment of which, well and truly made, the Principal well and truly binds itself, its successors and assigns, and the Surety binds itself, its successors and assigns, jointly and severally, well and truly by these presents.

WHEREAS, in accordance with the provisions of Idaho Code, Title 72, Chapters 1 to 8, both inclusive, known as the Workers' Compensation Law and all amendments thereto, and Principal has elected to secure compensation to its employees by depositing and maintaining with the Industrial Commission of Idaho a surety bond issued and executed by the surety herein named, which surety is duly qualified to transact such business in the State of Idaho subject to the approval of the Industrial Commission of the State of Idaho.

NOW, THEREFORE, the condition of this obligation is such that if the said Principal shall pay compensation according to the terms, provisions, and limitations of Idaho Code, Title 72, Chapter 1 to 8, both inclusive, known as the Workers' Compensation Law and all amendments thereto, to its injured employees or the dependents of its killed employees contemplated by the terms of and covered under the said law, and shall furnish medical, surgical, nursing and the hospital services and attention and funeral expenses as provided for in said law (all of which shall be understood to be included in the term "compensation" as hereinafter used), then this obligation shall be null and void, otherwise to remain in full force and effect, subject, however to the following express conditions and agreements:

1. That any employee or the dependent of any employee of the Principal entitled to compensation under said Workers' Compensation Law, shall have the right to enforce in his own name the liability of the Surety hereunder, in whole or in part, for such compensation, either by at any time filing a separate claim against the Surety or by at any

time making the Surety a part of the original claim against the employer; provided, however, that payment in whole or in part of such compensation by either the Principal or the Surety shall, to the extent thereof, be a bar to the recovery against the other of the amount so paid.

That as between the employee and the Surety, notice to or knowledge of the occurrence of injury on the part of the employer shall be deemed notice to or knowledge, as the case may be, on the part of the Surety; that the obligation of the Surety, and the Surety, shall in all things be bound by and subject to the orders, findings, decisions or awards rendered against the Principal for the payment of compensation under the provisions of the Workers' Compensation Law aforesaid, and that the insolvency or bankruptcy of the Principal and its discharge therein, shall not relieve the Surety from the payment of compensation for injuries, including death resulting therefrom, sustained during the life of this bond by an employee of the Principal covered under the Workers' Compensation Law.

That upon request of the Industrial Commission of Idaho, it will make such changes in this form of bond by endorsement to be attached hereto or by the execution of a surety bond replacing this one, as the said Commission may deem requisite, to bring this bond into conformity with its rulings as to the form of surety bond required of employers under Idaho Code, Title 72, Chapters 1 to 8, both inclusive, known as the Workers' Compensation Law and all amendments thereto.

This bond is issued for an indefinite term to begin on the ____ day of _____, 19__, and will continue in full force and effect until terminated in either of the following two manners: This bond may be cancelled by the Surety by filing 60 days written cancellation notice by registered mail with the Industrial Commission of the State of Idaho. This bond may be cancelled by the Industrial Commission of the State of Idaho by written notice to the Surety hereon, which notice shall specify the date of termination of the bond.

IN TESTIMONY WHEREOF, the said Principal and said Surety have caused these presents to be executed in due form this ____ day of _____, 19__.

Countersigned

By _____
Resident AgentPrincipal

SEAL

SEAL By _____
By _____

Samples of this form are available from the Fiscal Section of the Industrial Commission, 317 Main Street, P. O. Box 83720, Boise, Idaho 83720-0041, Telephone (208) 334-6000.

(4-1-90)

03. Maintain a Resident Adjuster. Maintain a resident claims adjuster located within the state of Idaho who shall have full authority to service said claims on behalf of the employer including, but not limited to, the following: (4-1-90)

- a. Investigate and adjust all claims for compensation; (4-1-90)
- b. Pay all compensation benefits due; (4-1-90)
- c. Accept service of claims, applications for hearings, orders of the Commission, and all process which may be issued under the Workers' Compensation Law; (4-1-90)
- d. Enter into compensation agreements and lump sum settlements with Claimants; (4-1-90)
- e. Provide at the employer's expense necessary forms to any employee who wishes to file a claim

under the Workers' Compensation Law. (4-1-90)

04. File Reports. File IC Form 36, which form is set forth in Subsection 012.04 above, once every three (3) months or more often as may be directed by the Commission. Make such reports to the Commission as it may require in reference to matters under the Workers' Compensation Law. (4-1-90)

05. Submit to Audits by Industrial Commission. Submit to audit by the Commission or its designee at any time and as often as it requires to verify the amount of premium such self-insured employer would be required to pay as premium to the State Insurance Fund, and to inspect or cause to be inspected the records of such self-insured employer for purposes of verifying premium taxes remitted. (4-1-90)

06. Comply with Law and Rules. Comply with the statutes of the state of Idaho and the rules of the Industrial Commission to the end that payment of compensation shall be sure and certain and not unnecessarily delayed. The Commission may withdraw its approval of any employer to operate as a self-insurer if it shall appear to the Commission that workers secured by said self-insured employer are not adequately protected and served, or the employer is failing to comply with the provisions of the Workers' Compensation Law. (4-1-90)

015. -- 050. (RESERVED).

051. REQUIREMENTS FOR MAINTAINING IDAHO WORKERS' COMPENSATION CLAIMS FILES.

All sureties, self-insured employers, and licensed adjusters servicing Idaho workers' compensation claims shall comply with the following requirements: (5-5-93)

01. Idaho Office. All sureties, self-insured employers and licensed adjusters servicing Idaho workers' compensation claims shall maintain an office within the state of Idaho. The offices shall be staffed by adequate personnel to conduct business. The surety or self-insured employer shall authorize a member of its staff or a licensed adjuster to make decisions regarding claims pursuant to Idaho Code Section 72-305. As staffing changes occur and, at least annually, the surety, self-insured employer or licensed adjuster shall submit to the Industrial Commission the names of those authorized to make decisions regarding claims pursuant to Idaho Code Section 72-305. Answering machines, answering services, or toll free numbers outside of the state will not suffice. (5-5-93)

02. Claim Files. All Idaho workers' compensation claim files shall be maintained within the state of Idaho, or if maintained on an out-of-state computer, data must be entered from within the State. Hard copies of data entry shall be maintained within the State. Claim files shall include, but are not limited to: (5-5-93)

- a. Notice of Injury and Claim for Benefits; (5-5-93)
- b. Copies of bills for medical care; (5-5-93)
- c. Copy of lost-time computations, if applicable; (5-5-93)
- d. Correspondence reflecting reasons for any delays in payments (i.e., awaiting medical reports, clarification, questionable items on bills, etc.); (5-5-93)
- e. Employer's Supplemental Report; and (5-5-93)
- f. Medical reports. (5-5-93)

03. Correspondence. All original correspondence regarding Idaho workers' compensation claims shall be mailed from and maintained at in-state offices. (5-5-93)

04. Date Stamp. Each of the above shall be date-stamped on the day received by the claims office. (5-5-93)

05. Notice and Claim. All Notices of Injury and Claims for Benefits, occupational illnesses and fatalities shall be sent directly to the in-state adjuster, surety, or self-insured employer. The original copy of the Notice

of Injury and Claim for Benefits, occupational illness and fatality shall be sent directly to the Industrial Commission. (5-5-93)

06. Compensation. "Compensation" is used collectively and means any or all of the income benefits the medical and related benefits and medical services made under the provision of the Workers' Compensation Act. All compensation must be issued from the in-state office. (5-5-93)

07. Checks and Drafts. Checks must be signed and issued within the state of Idaho; drafts are prohibited. (5-5-93)

a. However, the Commission may, upon receipt of a written Application for Waiver, grant a waiver from the provisions of Subsections 051.06 and 07 of this rule to permit a surety or self-insured employer to sign and issue checks outside the state of Idaho. (5-5-93)

b. An Application for Waiver must be accompanied by an affidavit signed by an officer or principal of the surety or self-insured employer, attesting to the fact that the surety or self-insured employer is prepared to comply with all statutes and rules pertaining to prompt payments of compensation. (5-5-93)

c. All waivers shall be effective from the date the Commission issues the order granting the waiver. A waiver shall remain in effect until revoked by the Industrial Commission. At least annually, staff of the Industrial Commission may review the performance of any surety or self-insured employer for which a waiver under this rule has been granted to assure that the surety or self-insured employer is complying with all statutes and rules pertaining to prompt payments of compensation. (5-5-93)

d. If at any time after the Commission has granted a waiver, the Commission receives information permitting the inference that the surety or self-insured employer has failed to provide timely benefits to any claimant, the Commission may issue an order to show cause why the Commission should not revoke the waiver; and, after affording the surety or self-insured employer an opportunity to be heard, may revoke the waiver and order the surety or self-insured employer to comply with the requirements of Subsection 051.07 of this rule. (5-5-93)

08. Copies of Checks. Copies of checks and/or electronically reproducible copies of the information contained on the checks must be maintained in the in-state files for Industrial Commission audit purposes. A copy of the first check, showing signature and date, shall be sent to the Industrial Commission the same day of issuance. (5-5-93)

09. Prompt Claim Servicing. Prompt claim servicing is defined as: (5-5-93)

a. Payment of medical bills in accordance with the provisions of IDAPA 17.02.09.031 and 032 (formerly IDAPA 17.01.03.803.A and B); (5-5-93)

b. Payment of income benefits on a weekly basis, unless otherwise approved by the Commission. (5-5-93)

10. Audits. The Industrial Commission will perform periodic audits to ensure compliance with the above requirements. (5-5-93)

11. Non-Compliance. Non-compliance with the above requirements may result in the revocation of the authority of an insurance company or self-insured employer to write workers' compensation insurance in the state of Idaho, or such lesser sanctions as the Industrial Commission may impose. (5-5-93)

052. -- 060. (RESERVED).

061. GOVERNING RECITALS IN INSURANCE CONTRACTS.

01. Legal Authority. The Idaho Legislature, pursuant to Idaho Code Section 72-508 and the Administrative Procedure Act, Idaho Code Section 67-5200 et. seq., has given to the Industrial Commission the legislative power to promulgate rules and regulations effecting the purposes of the Workmen's Compensation Law.

(3-5-79)

02. Policy. The Industrial Commission has adopted this rule for the sole purpose of clarifying an ambiguity in the language of Idaho Code Section 72-306. (3-5-79)

03. Coverage for Entire Liability. Every policy of insurance and every guaranty contract or surety bond covering the liability of the employer for compensation shall cover the entire compensation liability of the employer to its employees. In other words, each policy, contract or bond shall cover the employer's workmen's compensation liability to all its employees. (3-5-79)

062. -- 180. (RESERVED).

181. RULE PROHIBITING USE OF SICK LEAVE OR OTHER ALTERNATIVE COMPENSATION.

01. Employee Not Required to Take Sick Leave in Lieu of Compensation. No employer obligated to pay workers' compensation benefits to an employee as provided by the Workers' Compensation Law may require an employee to accept "sick leave" or other comparable benefit in lieu of the workmen's compensation benefits provided by law. Section 72-318(2), Idaho Code, specifically provides that no agreement by an employee to waive his rights to compensation under the Workers' Compensation Law shall be valid. (5-1-75)

02. Election of Sick Leave or Alternative Compensation Prohibited. Further, the Commission construes this section as preventing an employee from electing to accept "sick leave" or other comparable benefit from an employer in lieu of workmen's compensation benefits to which the employee is entitled under the Workers' Compensation Law, and therefore such elections or agreements are prohibited. (5-1-75)

182. -- 270. (RESERVED).

271. RULE GOVERNING COMPUTATION OF INDUSTRIAL SPECIAL INDEMNITY FUND LEVY ON STRUCTURED SETTLEMENTS.

01. Computing Cash Value. In computing the present cash value of future periodic, annuity or installment payments, for purposes of computing the Industrial Special Indemnity Fund levy prescribed by Section 72-327, Idaho Code, the Commission will use the mortality, annuity and interest tables contained in the appendix to the volume of the Idaho Code currently designated Volume 3. The interest rate to be used by the Commission in computing such value shall be the lesser of either ten percent (10%), or the prime rate, rounded to the closest whole percent, as the same may have been published in the most recent edition of the Wall Street Journal prior to such assessment. (9-1-88)

02. Submitting Evidence of Cost. The employer or its surety shall have ten (10) days from the time of final approval of the settlement to submit to the Commission evidence as to the actual, established cost to it of the future periodic, annuity or installment payments; should such information not be received by the Commission within that period, the assessment shall be computed on the present cash value of such payments in the manner prescribed by Section 271.01 above. (9-1-88)

272. -- 999. (RESERVED).