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**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 17.02.03, "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. -- 009. (RESERVED).**

**010. DEFINITIONS.**

For the purposes of this chapter, the following definitions are applicable: (3-23-98)

01. Indemnity Benefits. All payments made to or on behalf of workers' compensation claimants, including temporary or permanent disability benefits, permanent partial impairment benefits, death benefits paid to dependents, retraining benefits, and any other type of income benefits, but excluding medical and related benefits. (3-23-98)

02. Indemnity Claim. Any claim that results in the payment of either temporary or permanent disability benefits, permanent partial impairment, death benefits, or retraining benefits. (3-23-98)

**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 (2) 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. RULES GOVERNING INSURANCE COMPANIES.**

An insurance company must apply for and receive the approval of the Industrial Commission to write workers' compensation insurance pursuant to Section 72-301, Idaho Code. After receiving such approval, an insurance

company shall comply with the following: (3-23-98)

01. Maintain Statutory Security Deposits With The State Treasurer. (3-23-98)

a. Each insurance company shall maintain with the Idaho State Treasurer security in the amount of twenty-five thousand dollars (\$25,000) if approved by the commission prior to July 15, 1988, or two hundred and fifty thousand dollars (\$250,000) if approved subsequent to that date. If the insurance company 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. (3-23-98)

b. In addition to the security required in Subsection 012.01.a., above, each insurance company shall deposit an amount equal to the total unpaid outstanding awards of said insurance company. Such deposit shall be in the form of cash, U. S. obligations, Idaho municipal bonds, or a surety bond in the form set forth in IDAPA 17.02.03.011.02.f. 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. (3-23-98)

c. Securities which are maintained 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. (3-23-98)

02. Appoint Agent For Service Of Process. Each insurance company shall appoint the Director of the Department of Insurance as its attorney to receive service of legal process. (3-23-98)

03. Maintain Resident Idaho Office. Each insurance company shall maintain an Idaho licensed adjuster or adjusters resident in Idaho who have been appointed and have been given authority as to claims arising under the Act. Each insurance company shall notify the Commission in writing of any change of designated resident adjuster(s) within fifteen (15) days of such change. (3-23-98)

04. Supply Forms. Each insurance company shall supply such forms as are or may be prescribed by the Commission pursuant to the Workers' Compensation Law and distribute them to all employers it insures. A list of required forms is available from the public information section of the Industrial Commission, P. O. Box 83720, Boise, Idaho 83720, telephone (208)334-6000. (3-23-98)

05. Comply With Industrial Commission Reporting Requirements. Each insurance company shall file such reports as the Industrial Commission may require concerning matters under the Workers' Compensation Law. (3-23-98)

06. Report Proof Of Coverage. (3-23-98)

a. Each insurance company shall report proof of coverage information to a third party designated by the Industrial Commission as its agent to receive, process, and forward the proof of coverage information required by these rules to the Commission. The name and address of the Commission's designated agent(s) is available upon request from the Employer Compliance Section of the Industrial Commission, P. O. Box 83720, Boise, Idaho 83720-0041; telephone (208)334-6000. (3-23-98)

b. As an alternative to Subsection 012.06.a., an insurance company may be allowed to report proof of coverage information directly to the Industrial Commission in an electronic format prescribed by the Commission by first making a written request to the Commission and obtaining the Commission's permission. A formal written agreement with the Commission is required prior to the electronic transmission of proof of coverage data to the Commission. (3-23-98)

c. The Industrial Commission hereby adopts the International Association of Industrial Accident Boards and Commissions' (IAIABC) electronic proof of coverage record layout and transaction standards as the required reporting mechanism for new policies, renewal policies, endorsements, cancellations, and non-renewals of policies. A copy of the record layout and transaction standards is available upon request from the Employer Compliance Section, Industrial Commission, P. O. Box 83720, Boise, Idaho 83720-0041; telephone (208)334-6000.

(3-23-98)

d. The most recent proof of coverage information contained in the Industrial Commission's database shall be presumed to be correct for the purpose of determining the insurance company providing coverage. (3-23-98)

07. Report New Policy, Renewal Policy, And Endorsement Information Within Thirty Days. Each insurance company shall report the issuance of any new workers' compensation policy, renewal policy, or endorsement to the Industrial Commission or its designated agent within thirty (30) days of the effective date of the transaction. (3-23-98)

08. Report Cancellation And Non-renewal Of Policy Within Time Prescribed By Statute. Each insurance company shall report the cancellation and/or nonrenewal of any workers' compensation insurance policy to the Industrial Commission or its designated agent within the time frames prescribed by Section 72-311, Idaho Code. (3-23-98)

09. Report Election Of Coverage On Form IC52 Or Similar Format. Each insurance company shall report election of coverage or revocation of election of coverage on or in a format substantially the same as Form IC52, "Election of Coverage," which follows this chapter as Appendix A. This report shall be submitted to the Industrial Commission in writing on eight and one-half by eleven inch (8 1/2 x 11) paper. (3-23-98)

10. Report Outstanding Awards. Each insurance company shall report to the Industrial Commission at the end of each calendar quarter, or more often as required by the Commission, any outstanding award on fatal, permanent partial impairment, and permanent total disability workers' compensation claims. (3-23-98)

a. The report of outstanding awards shall be filed with the Industrial Commission by the tenth (10th) day of the month following the end of each calendar quarter. (3-23-98)

b. The report shall be filed even if there are no outstanding awards and shall indicate the fact that there are no outstanding awards to be reported. (3-23-98)

c. The report shall be submitted on or in a format that is substantially the same as Form IC36, "Report of Outstanding Awards for Fatal, Permanent Partial Impairment, and Permanent Total Disability Claims," which follows this chapter as Appendix B. The report may be produced as a computerized spreadsheet or database printout and shall be submitted to the Commission in writing on paper no larger than eight and one-half inches by fourteen inches (8 1/2 x 14) in size. (3-23-98)

d. The report shall be signed by a corporate officer. If an insurance company has designated more than one adjuster for workers' compensation claims in Idaho, a corporate officer of the insurance company shall prepare and file a consolidated report of outstanding awards. (3-23-98)

e. The report shall list every outstanding fatal, permanent partial impairment, and total permanent disability claim, commencing with the calendar quarter during which the award is made or benefits are first paid, whichever occurs earlier. (3-23-98)

f. The report shall continue to list every outstanding award successively until the outstanding award is paid in full or is otherwise disposed of. (3-23-98)

g. The report shall designate the type of claim in Column 3 using the abbreviations "F" for fatal, "PPI" for permanent partial impairment, or "PT" for permanent total disability. (3-23-98)

h. The report shall specify the indemnity award for dependents on all fatal ("F") claims. (3-23-98)

i. The report shall identify the permanent impairment award on all permanent partial impairment ("PPI") claims. (3-23-98)

j. The report shall identify separately the medical payments and the indemnity payments on permanent total disability ("PT") claims. (3-23-98)

- k. The report shall indicate in Column 9 the amount of any compensation paid during the reporting period. (3-23-98)
- l. The report shall indicate in Column 6 the total amount of compensation paid to date. (3-23-98)
- m. The report shall indicate in Column 7 adjustments due to clerical error or status changes such as remarriage or death. (3-23-98)
- n. The report shall indicate in Column 8 the unpaid balance in each claim. (3-23-98)
11. Comply With Law And Rules. Each insurance company shall comply with the statutes of the state of Idaho and the rules of the Industrial Commission to ensure that payments of compensation shall be sure and certain and not unnecessarily delayed. (3-23-98)

**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 (3) 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 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 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 Agent Principal

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 051.07 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 REPORTING INDEMNITY PAYMENTS AND MAKING PAYMENT OF INDUSTRIAL SPECIAL INDEMNITY FUND ASSESSMENT.**

Pursuant to Section 72-327, Idaho Code, the state insurance fund, every authorized self-insurer, and every surety authorized to transact workers' compensation insurance in Idaho shall report semi-annually to the Industrial Commission the total gross amount of indemnity benefits paid on Idaho workers' compensation claims during the applicable reporting period. (3-23-98)

01. Filing. The report of indemnity payments shall be filed with the Industrial Commission simultaneously with the Semi-Annual Premium Tax Report. (3-23-98)

02. Form. The report of indemnity payments shall be submitted in writing on, or in a format substantially the same as Form IC327, "Report of Indemnity Payments," contained in Appendix C at the end of this chapter. (3-23-98)

03. Report Required When No Indemnity Paid. If an entity required to report under this rule has no claims against which indemnity payments have been made during the reporting period, a report shall be filed so indicating. (3-23-98)

04. Penalty For Late Filing. A penalty shall be assessed by the Commission for filing the report of indemnity payments later than March 3 and July 31 each year. (3-23-98)

a. A penalty of two hundred dollars (\$200) shall be assessed for late filing of seven (7) days or less. (3-23-98)

b. A penalty of one hundred dollars (\$100) per day shall be assessed for late filing of more than seven (7) days. (3-23-98)

c. A penalty assessed by the Commission shall be payable to the Industrial Commission and shall be submitted with the April 1 or September 1 payment of the industrial special indemnity fund assessment, following notice by the Commission of the penalty assessment. (3-23-98)

05. Estimating Indemnity Payments For Entities That Fail To Report Timely. If an entity required to report indemnity payments under these rules fails to report within the time allowed in these rules, the Commission will estimate the indemnity payments for that entity by using the indemnity amount reported for the preceding reporting period and adding twenty percent (20%). (3-23-98)

06. Adjustment For Overpayments Or Underpayments. Overpayments or underpayments, including those resulting from estimating the indemnity payments of entities that fail to report timely, will be adjusted on the billing for the subsequent period. (3-23-98)

**272. -- 999. (RESERVED).**

APPENDIX A

IC52 - ELECTION OF COVERAGE

The undersigned hereby notifies the Industrial Commission of the following:

(Check the Appropriate Box)

Election

Revocation of Election

- Household domestic service.
- Casual employment.
- Employment of outworkers.
- Employment of members of an employer's family dwelling in his household. (applies only to sole-proprietorships)
- Employment which is not carried on by the employer for the sake of pecuniary gain.
- Employment of a sole proprietorship.
- Employment of a working member of a partnership or a limited liability company. (Circle either partnership or limited liability company; if the election applies only to certain partners/members, name the covered partners/members.)
- Employment of an officer of a corporation who at all times during the period involved owns not less than ten percent (10%) of all of the issued and outstanding voting stock of the corporation and, if the corporation has directors, is also a director thereof. (If the election applies only to certain corporate officers, name the covered officers.)
- Employment for which a rule of liability for injury, occupational disease, or death is provided by the laws of the United States.
- Pilots of agricultural spraying or dusting planes.
- Associate real estate brokers and real estate salesmen paid solely by commission.
- Volunteer ski patrollers.
- Officials of athletic contests involving secondary schools.

\_\_\_\_\_  
(Name of Insurance Company)

Policy Number \_\_\_\_\_

Effective Date \_\_\_\_\_

\_\_\_\_\_  
(Signature of authorized representative)

\_\_\_\_\_  
(Employer's signature)

APPENDIX B

IC36 - REPORT OF OUTSTANDING AWARDS FOR FATAL, PERMANENT PARTIAL  
IMPAIRMENT, LITIGATED AND PERMANENT TOTAL DISABILITY CLAIMS

(Name of Insurer or Self-Insured Employer)							
Year: _____							
For Calendar Quarter Ending: <input type="checkbox"/> March <input type="checkbox"/> June <input type="checkbox"/> September <input type="checkbox"/> December							
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
Date of Injury	Claimant Name (as shown on First Report of Injury)	Type of Claim	Total Awards	Compensation This Report	Total Compensation Paid	Adjustment	Unpaid Balance
<b>TOTALS</b>							

Send Original to: Fiscal Section, Industrial Commission, P. O. Box 83720, Boise, Idaho 83720-0041

\_\_\_\_\_  
Corporate Officer  
Date: \_\_\_\_\_

Name and Title of Preparer: \_\_\_\_\_

Company: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_

APPENDIX C

IC327 REPORT OF INDEMNITY PAYMENTS  
EXHIBIT A to SEMI-ANNUAL PREMIUM TAX REPORT

Reporting Entity Name:

Reporting Period:  January 1 - June 30, \_\_\_\_\_ (Year)  
 July 1 - December 31, \_\_\_\_\_ (Year)

Date of Preparation:

1. Total Claims:
2. Total Number of Indemnity Claims:
3. Payments Made During the Reporting Period on Indemnity Claims:
  - a. Total Amount of All Payments (including Medical):
  - b. Total Amount of All Indemnity Payments:

Certification  
State of \_\_\_\_\_ )  
                                  ) ss.  
County of \_\_\_\_\_ )

I, \_\_\_\_\_, being first duly sworn on oath, state that I have read the foregoing report which sets forth certain information relating to indemnity payments made during the reporting period, that I know the contents, and that I certify the report is true and correct to the best of my knowledge.

\_\_\_\_\_  
Signature of Preparer

\_\_\_\_\_  
Title of Preparer

SUBSCRIBED AND SWORN to before me on this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

Notary Public for \_\_\_\_\_.  
Residing at \_\_\_\_\_.  
My term expires: \_\_\_\_\_