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**IDAPA 39
TITLE 02
CHAPTER 80**

39.02.80 - RULES GOVERNING MOTOR CARRIER FINANCIAL RESPONSIBILITY

000. LEGAL AUTHORITY.

This rule is adopted under the authority of Section 49-1233(5) Idaho Code. (4-5-00)

001. TITLE AND SCOPE.

01. Title. This rule shall be known as IDAPA 39.02.80, "Rules Governing Motor Carrier Financial Responsibility," IDAPA 39, Title 02, Chapter 80. (4-5-00)

02. Scope. It is the purpose of this rule to establish the amount of liability coverage to be carried by motor carriers for personal injury suffered by one (1) person while being transported in a vehicle, any additional amounts for all persons receiving personal injury, and such amount for damage to the property of any person other than the insured. (4-5-00)

002. INCORPORATION BY REFERENCE.

The Idaho Transportation Board incorporates by reference 49 CFR 171.8, 49 CFR 172.101 and its appendix, 49 CFR 173.403, 49 CFR 387 and 49 CFR 387.5, published in the Code of Federal Regulations volume dated October 1, 1997. (4-5-00)

003. -- 009. (RESERVED).

010. DEFINITIONS.

01. Common Carrier. Any person that holds itself out to the general public to engage in the transportation by motor vehicle in commerce in the state of Idaho of passengers or property for compensation. (4-5-00)

02. Contract Carrier. Any person that, under individual contracts or agreements, engages in the transportation by motor vehicle of passengers or property in commerce in the state of Idaho for compensation. (4-5-00)

03. Environmental Restoration. Restoration for the loss, damage, or destruction of natural resources arising out of the accidental discharge, dispersal, release or escape into or upon the land, atmosphere, watercourse, or body of water of any commodity transported by a motor carrier. This shall include the cost of removal and the cost of necessary measures taken to minimize or mitigate damage to human health, the natural environment, fish, shellfish, and wildlife. See 49 CFR 387.5. (4-5-00)

04. Hazardous Material. A substance or material, that has been determined by the Secretary of Transportation to be capable of posing an unreasonable risk to health, safety, and property when transported in commerce, and which has been so designated. The term includes hazardous substances, hazardous wastes, marine pollutants, and elevated temperature materials and materials designated as hazardous under the provisions of 49 CFR 172.101, and materials that meet the defining criteria for hazard classes and divisions in 49 CFR 173. See 49 CFR 171.8. (4-5-00)

05. Injury. Harm to the body, sickness, or disease resulting from a motor carrier accident, including death from an injury. (4-5-00)

06. Interstate Carrier. Any person who or which owns or operates any motor vehicle in the state of Idaho or on the highways of the state of Idaho, in commerce between the States, or between the States and a foreign Nation, used or maintained for the transportation of persons or property. (4-5-00)

07. Private Carrier. Any person not included in the terms "common carrier" or "contract carrier" who or which transports in commerce in the state of Idaho by motor vehicle property of which such person is the owner,

lessee, or bailee, when such property is for the purpose of sale, lease, rent or bailment, or in the furtherance of any commercial enterprise; provided, that a motor vehicle of a private carrier, not in excess of eight thousand (8,000) pounds gross vehicle weight, not engaged in the transport of a hazardous substance, shall be exempt from the provisions of the Motor Carrier Financial Responsibility Rules. (4-5-00)

08. Property Damage. Damage to or loss of use of tangible property. (4-5-00)

011. -- 019. (RESERVED).

020. INSURANCE REQUIREMENTS.

01. Insurance Required. No motor carrier subject to the jurisdiction of the Department may transport property or passengers until the carrier has obtained and has in effect the minimum levels of insurance or a surety bond set forth in this rule. (4-5-00)

02. Passenger Carriers. The minimum levels of insurance or surety bond coverage (for injury, death, or property damage) in any one (1) accident for common/contract passenger carriers are: (4-5-00)

a. For any vehicle with a seating capacity of twenty-five (25) passengers or more -- five million dollars (\$5,000,000); (4-5-00)

b. For any vehicle with a seating capacity of twenty-four (24) passengers or less -- one million, five hundred thousand (\$1,500,000). (4-5-00)

03. Property Carriers -- Certain Risky or Perilous Cargoes. The minimum levels of insurance or surety bond coverage (for injury, death, environmental restoration, or property damage in any one accident) for common and contract property carriers are: (4-5-00)

a. Five million dollars (\$5,000,000) for carriers of: (4-5-00)

i. Any quantity of Division 1.1, 1.2, or 1.3; (4-5-00)

ii. Any quantity of Division 2.3, Hazardous Zone A, or Division 6.1, Packing Group 1, Hazardous Zone A; (4-5-00)

iii. Highway route controlled quantity of Class 7 material as defined in 49 CFR 173.403; (4-5-00)

iv. Hazardous substances, as defined in 49 CFR 171.8, transported in cargo tanks, portable tanks, or hopper-type vehicles with capacities in excess of three thousand, five hundred (3,500) water gallons; (4-5-00)

v. Division 2.1 or 2.2 in bulk; (4-5-00)

b. One million dollars (\$1,000,000) for carriers of: (4-5-00)

i. Oil listed in 49 CFR 172.101; or (4-5-00)

ii. Hazardous waste, hazardous materials or hazardous substances as defined in 49 CFR 171.8 and listed in 49 CFR 172.101 or its Appendix, but not mentioned in Subsection 020.03.a. (4-5-00)

04. Other Property Carriers. The minimum level of insurance or surety bond coverage (for injury, death or property damage in any one (1) accident) for common and contract carriers of all other property (including drive away and tow away units transported by the carrier) is seven hundred fifty thousand dollars (\$750,000). (4-5-00)

05. Private Carriers. Private carriers must maintain the insurance required by Section 49-1229, Idaho Code, except private carriers transporting certain risky or perilous cargoes described in Subsection 020.03 must carry insurance as required by that Subsection. (4-5-00)

021. CERTIFICATES OF INSURANCE.

01. Filing. Common/contract carriers and interstate carriers who participate in the base state agreement by registering in Idaho as their base state must file with the Department certificates that the insurance or bond described by the certificate of insurance and required by Section 020 is in effect for the account of the motor carrier. (4-5-00)

02. Forms. The certificates for intrastate common/contract carriers must be either Form E, Form E-1 (available from the Department) or W.C. 3091 that is completed and signed by the insurance company's underwriting department or its authorized representative. For interstate carriers registered under the single state registration system the federal forms authorized by the U.S. Department of Transportation as set forth in Subpart C of 49 CFR 387. Surety bonds must be completed on a form provided by the Department. The Administrator of the Division of Motor Vehicles may prescribe additional forms as necessary. (4-5-00)

03. Coverage. Policies of insurance and surety bonds required and filed with the Department under IDAPA 39.02.80, "Rules Governing Motor Carrier Financial Responsibility," remain in effect as described on the certificate filed with the Department until terminated according to Section 49-1233(3), Idaho Code. When certificates of insurance on file with the Department show that insurance has lapsed, the Department shall refuse to renew the carrier's vehicle registrations or shall revoke the carrier's motor vehicle registrations under the authority of Section 49-202(10)(12), Idaho Code. (4-5-00)

022. -- 999. (RESERVED).

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