

IDAPA 17 - INDUSTRIAL COMMISSION

17.02.10 - ADMINISTRATIVE RULES OF THE INDUSTRIAL COMMISSION UNDER THE WORKERS' COMPENSATION LAW -- SECURITY FOR COMPENSATION -- INSURANCE CARRIERS

DOCKET NO. 17-0210-1301

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 72-508, 72-301, 72-304 and 72-302, 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, 2013.

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 establishes an annual deductible policy reporting period of March 3rd to coincide with the premium tax due date; and requires the mandatory data elements in the proof of coverage reporting. This rule change also removes the Appendices B and C reporting forms from the rule but directs insurance carriers to the Commission's address or website to obtain report forms.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: There is no fiscal impact to the General Fund or to the Commission's fund as a result of these proposed changes.

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: There is no negative fiscal impact resulting from this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because a subcommittee of the Commission's Advisory Committee, which included insurance carrier representatives and self-insured employers, has been providing input to the Industrial Commission in the drafting of these rules.

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, contact Jane McClaran, (208) 334-6042.

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 October 18, 2013.

DATED this 27th day of August, 2013.

Mindy Montgomery, Director
Industrial Commission
700 S. Clearwater Lane
P.O. Box 83720
Boise, Idaho 83720-0041
Phone: (208) 334-6000
Fax: (208) 334-2321

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 17-0210-1301
(Only those Sections being amended are shown.)

004. INCORPORATION BY REFERENCE.

No documents have been incorporated by reference into these rules. ()

005. OFFICE -- OFFICE HOURS -- MAILING ADDRESS AND STREET ADDRESS.

Idaho Industrial Commission office hours are Monday through Friday, 8:00 a.m. to 5:00 p.m., except holidays designated by the state of Idaho. The mailing address for filing documents is Idaho Industrial Commission, PO BOX 83720, Boise, ID 83720-0041. The Commission office is located at 700 S. Clearwater Lane, Boise, ID 83712. ()

006. PUBLIC RECORDS ACT COMPLIANCE.

This rule is subject to and in compliance with the Public Records Act. ()

0047. -- 009. (RESERVED)

(BREAK IN CONTINUITY OF SECTIONS)

011. (RESERVED)

012. RULES GOVERNING QUALIFICATION OF INSURANCE CARRIER TO UNDERWRITE WORKERS' COMPENSATION LIABILITY.

01. Deposit With State Treasurer. To receive the approval of the Industrial Commission to write Worker's Compensation coverage under Section 72-301, Idaho Code, a carrier whose application has been approved by the Director 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 two hundred fifty thousand dollars (\$250,000) with the State Treasurer, under the provisions of Section 72-302, Idaho Code. (4-7-11)

02. Application. Before the Commission shall approve any insurance carrier to do business under the Workers' Compensation Law, said carrier shall apply to the Industrial Commission for permission to write compensation insurance and said application shall include the following: (4-7-11)

a. A statement from the Director of the Idaho Department of insurance that the insurance carrier has been granted authority under the insurance laws of the state of Idaho to write casualty or surety insurance; (4-7-11)

b. The latest audited financial statement of said carrier; (4-7-11)

c. The name and address of the agent for service of process in Idaho; (4-7-11)

d. The name and address of the Idaho resident licensed adjuster or adjusters with authority to make compensation payments and adjustments of claims arising under the Act. If more than one (1) adjuster is utilized in Idaho, a list of every such adjuster and all corresponding policyholders shall be provided; (4-7-11)

e. A statement that the carrier will provide such blank forms as are, or may be, prescribed by the Commission and distributed to such employers as it may insure. (4-7-11)

f. A statement that all surety bonds covering the payment of compensation will be filed with the Idaho State Treasurer in compliance with the law for all employers insured. All carriers will use the continuous bond form set out herein. (4-7-11)

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 _____, 20____, 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 _____, 20____. (4-7-11)

g. A statement that renewal certificates on said bonds will be issued and filed with the Industrial Commission immediately, if said bonds are to be renewed. (4-7-11)

h. A statement that the cancellation of surety contracts will be made as set forth in the law, if said contracts are cancelled; (4-7-11)

i. A statement that said carrier will deposit, in addition to the security required for authorization to write Workers' Compensation coverage by these rules, such further security equal to all unpaid outstanding awards of compensation; (4-7-11)

j. A statement that said carrier will comply 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; and (4-7-11)

k. A statement that said carrier will make such reports to the Commission as it may require in reference to matters under the Workers' Compensation Law, including IC Form 36A, Report of Outstanding Awards – Insurance Carriers; which must be filed quarterly with the Commission. (4-7-11)

0123. RULES GOVERNING INSURANCE CARRIERS.

An insurance carrier 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 carrier shall comply with the following: (4-7-11)

01. Maintain Statutory Security Deposits with the State Treasurer. (4-7-11)

a. Each insurance carrier shall maintain with the Idaho State Treasurer a security deposit 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. (4-7-11)

b. In addition to the security required in Subsection 0123.01.a., of this rule, each insurance carrier

shall deposit an amount equal to the total unpaid outstanding awards of said insurance carrier. Such deposit shall be in the form permitted by Section 72-301, Idaho Code. Surety bonds shall be in the form set forth in Subsection 01~~2~~2.02.f. of these rules. 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. A partial release of security deposited hereunder must be requested in writing and approved by the Commission. (4-7-11)()

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. (4-7-11)

02. Appoint Agent for Service of Process. Each insurance carrier shall appoint the Director of the Department of Insurance as its agent to receive service of legal process. (4-7-11)

03. Maintain Resident Idaho Office. Each insurance carrier shall maintain an Idaho licensed resident adjuster or adjusters, or its own adjusting offices or officers resident in Idaho who have been appointed and have been given authority as to claims arising under the Act. (4-7-11)

a. Each authorized insurance carrier shall notify the Commission Secretary in writing of any change of the designated resident adjuster(s) for every insured Idaho employer within fifteen (15) days of such change. (4-7-11)

b. Each authorized insurance carrier will ensure that every in-state adjuster can classify and identify all claims adjusted on behalf of said insurance carrier, and that the in-state adjuster will provide such information to the Industrial Commission upon request. (4-7-11)

04. Supply Forms. Each insurance carrier 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~~ Employer Compliance Bureau of the Industrial Commission, ~~700 S. Clearwater Lane, P. O. Box 83720, Boise, Idaho 83720-0041~~, telephone (208)334-6000, or on the Commission's website at www.iic.idaho.gov. (4-7-11)()

05. Comply with Industrial Commission Reporting Requirements. Each insurance carrier shall file such reports as the Industrial Commission may require concerning matters under the Workers' Compensation Law. (4-7-11)

06. Report Proof of Coverage. (4-7-11)

a. Each insurance carrier 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 Bureau of the Industrial Commission, ~~700 S. Clearwater Lane, P. O. Box 83720, Boise, Idaho 83720-0041~~, telephone (208) 334-6000, or on the Commission's website at www.iic.idaho.gov. (4-7-11)()

b. As an alternative to Subsection 01~~23~~23.06.a., an insurance carrier 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. (4-7-11)()

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, data element requirements, and transaction standards is available upon request from the Employer Compliance Bureau, of the Industrial Commission, 700 S. Clearwater Lane, P. O. Box 83720, Boise, Idaho 83720-0041, telephone (208) 334-6000, or on the Commission's website at www.iic.idaho.gov. Each

insurance carrier shall report data for all mandatory elements in the current IAIABC proof of coverage record layout and transaction standards on each policy reported. (4-7-11)()

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 carrier providing coverage. (4-7-11)

07. Report New Policy, Renewal Policy, and Endorsement Information Within Thirty Days. Each insurance carrier 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. (4-7-11)

08. Report Cancellation and Non-Renewal of Policy Within Time Prescribed by Statute. Each insurance carrier 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. Receipt of cancellation or nonrenewal notices by the Commission's designated agent shall be deemed to have been received by the Commission. (4-7-11)

09. Report Election of Coverage on Form IC52 or Similar Format. Each insurance carrier 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. (4-7-11)

10. Report Deductible Policy. On or before March 3rd of each year, every insurance carrier shall submit a report of all deductible policies that were issued and in effect during the previous calendar year. That report shall be submitted in a form substantially similar to the current "Deductible Policy Report" available upon request from the Fiscal Bureau of the Industrial Commission, telephone (208) 334-6000, or on the Commission's website at www.iic.idaho.gov. The report shall include the following information: insured name, policy number, effective and expiration dates, deductible amount, the premium charged for the policy before credit for the deductible and the final premium after credit for the deductible. ()

101. Report Outstanding Awards. Each insurance carrier shall report to the Industrial Commission at the end of each calendar quarter, or more often as required by the Commission, any outstanding award. (4-7-11)

a. The report of outstanding awards shall be filed with the Industrial Commission by the end of the month following the end of each calendar quarter. (4-7-11)

b. The report shall be filed even if there are no outstanding awards. In that event, the carrier shall certify the fact that there are no outstanding awards to be reported. (4-7-11)

c. The report shall be submitted on or in a format that is substantially the same as the current Form IC36A, "Report of Outstanding Awards – Insurance Carriers" which follows this chapter as Appendix B available upon request from the Fiscal Bureau of the Industrial Commission, telephone (208) 334-6000, or on the Commission's website at www.iic.idaho.gov. 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 eleven inches (8 1/2" x 11") in size. (4-7-11)()

d. The report shall be signed and certified to be correct by a corporate officer. If an insurance carrier has designated more than one adjuster for workers' compensation claims in Idaho, a corporate officer of the insurance carrier shall prepare, certify and file a consolidated report of outstanding awards. (4-7-11)

e. The report shall list all outstanding awards, commencing with the calendar quarter during which the award is made or benefits are first paid, whichever occurs earlier. (4-7-11)

112. Comply with Law and Rules. Each insurance carrier 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. (4-7-11)

~~0134~~. -- 050. (RESERVED)

(BREAK IN CONTINUITY OF SECTIONS)

271. RULES GOVERNING REPORTING INDEMNITY PAYMENTS AND MAKING PAYMENT OF INDUSTRIAL SPECIAL INDEMNITY FUND ASSESSMENT.

Pursuant to Section 72-327, Idaho Code, the state insurance fund and every insurance carrier authorized to transact workers' compensation insurance in Idaho shall report annually to the Industrial Commission the total gross amount of indemnity benefits paid on Idaho workers' compensation claims during the applicable reporting period. (4-7-11)

01. Filing. The report of indemnity payments shall be filed with the Industrial Commission simultaneously with the first Semi-Annual Premium Tax Report which, pursuant to Section 72-523, Idaho Code, is due each year on March 3rd. (4-7-11)

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~~ available upon request from the Fiscal Bureau of the Industrial Commission, telephone (208) 334-6000, or on the Commission's website at www.iic.idaho.gov. (4-7-11)()

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. (4-7-11)

04. Penalty for Late Filing. A penalty shall be assessed by the Commission for filing the report of indemnity payments later than March 3 each year. (4-7-11)

a. A penalty of two hundred dollars (\$200) shall be assessed for late filing of seven (7) days or less. (4-7-11)

b. A penalty of one hundred dollars (\$100) per day shall be assessed for late filing of more than seven (7) days. (4-7-11)

c. A penalty assessed by the Commission shall be payable to the Industrial Commission and shall be submitted with the April 1 payment of the industrial special indemnity fund assessment, following notice by the Commission of the penalty assessment. (4-7-11)

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%). (4-7-11)

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. (4-7-11)

272. -- 999. (RESERVED)

APPENDIX A

IC52 ELECTION OF COVERAGE

Check the appropriate box	
_ Election	_ Revocation of Election

The undersigned hereby notifies the Industrial Commission of the following:

- _ 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 as the owner 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 _____

Insured Name _____

Effective Date of Election/Revocation _____

(Signature of authorized representative)

(Employer's signature)

[APPENDIX B is being deleted]

[APPENDIX C is being deleted]