

PENDING RULES

COMMITTEE RULES

REVIEW BOOK

Submitted for Review Before
**House Commerce &
Human Resources Committee**
65th Idaho Legislature
First Regular Session – 2019



Prepared by:

*Office of the Administrative Rules Coordinator
Department of Administration*

January 2019

HOUSE COMMERCE & HUMAN RESOURCES COMMITTEE

ADMINISTRATIVE RULES REVIEW

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IDAPA 17 – IDAHO INDUSTRIAL COMMISSION

17.02.06 – EMPLOYERS' REPORTS

DOCKET NO. 17-0206-1801

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2019 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 72-508 and 72-806, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

The Industrial Commission is adopting the pending rule with a minor change to the “termination of disability” to comply with EDI based on related comments on EDI procedures from Sureties.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The complete text of the proposed rule was published in the October 3, 2018, Idaho Administrative Bulletin, [Vol. 18-10, pages 230-232](#).

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Patti Vaughn, Benefits Administration Manager, (208) 334-6063.

Dated this 1st day of November, 2018.

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 NOTICE PUBLISHED WITH THE 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, and 72-806 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 17, 2018

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:

The Commission seeks to clarify the requirements for submission of Summaries of Payment and filing of closing documents to reflect Electronic Data Interchange (EDI) filing.

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

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules – Negotiated Rulemaking was published in the June 6, 2018 Idaho Administrative Bulletin, [Vol. 18-6, page 68](#).

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 Patti Vaughn, Benefits Administration Manager, (208) 334-6063.

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 24, 2018.

Dated this 24th day of August, 2018.

[LINK: LSO Rules Analysis Memo](#)

Italicized red text that is double underscored indicates amendments to the proposed text in the pending rule.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 17-0206-1801

021. SUMMARIES OF PAYMENT.

01. Authority and Definitions. Pursuant to Sections 72-432, 72-508, 72-602 and 72-707, Idaho Code, the Industrial Commission of the State of Idaho promulgates this rule governing the procedure for submission of summaries of payment to the Industrial Commission. This procedure applies to all workers' compensation claims. The following definitions shall be applicable to this Rule. (2-20-95)

- a. "Closure," ~~means that Retirement of~~ the file ~~will be retired~~ following an audit by the Commission. (2-20-95)()
- b. "Commission," ~~means~~ The Idaho Industrial Commission. (2-20-95)()
- c. "Death claim," ~~means~~ The injured worker died as a result of a work-related injury or occupational disease. (2-20-95)()
- d. "Employer" ~~is~~. As defined in Section 72-102(13)(a), Idaho Code, and includes agents of employers such as attorneys, sureties, and adjusters. (2-20-95)()
- e. "Impairment rated claim," ~~means those~~ Claims in which a provider establishes an impairment rating for the injured worker. (2-20-95)()
- f. Indemnity benefits. All payments made to or on behalf of workers' compensation claimants, including temporary or permanent total or partial disability benefits, death benefits paid to dependents, retraining benefits, and any other type of income benefits, but excluding medical and related benefits. ()
- g. Legacy claim. A First Report of Injury that was filed with the Commission prior to November 4, 2017. ()
- fh. "Medical only claim," ~~means~~ The injured worker will neither suffer a disability lasting more than five calendar days as a result of a job-related injury or occupational disease nor be admitted to a hospital as an in-patient. (2-20-95)()
- gi. "Time loss claim," ~~means~~ The injured worker will suffer, or has suffered, a disability that lasts more than five calendar days as a result of a job-related injury or occupational disease, or the injured worker requires, or required, in-patient treatment as a result of such injury or disease. (2-20-95)()
- hj. "Termination of disability," ~~means~~ The date ~~upon which the obligation of the Employer/Surety/Adjuster becomes certain as to duration and amount whether by settlement, decision or periodic payments in the ordinary course of claims processing~~ disability payments cease. If resolved by lump sum settlement (LSS), the termination of disability shall occur on the date the LSS is approved and an order approving is filed by the Industrial Commission. If resolved by decision, the termination of disability shall occur on the date the decision resolving all issues becomes final unless future indemnity benefits are ordered. (4-11-15)()

02. Summaries Requirement. A summary of payment shall be filed, in duplicate, by the Employer/Surety/Adjuster within one hundred twenty (120) days of termination of disability for all ~~time loss~~ legacy indemnity claims upon which an Employer/Surety/Adjuster has made payments, except for those claims which are resolved by lump sum settlement. If all claim information has been provided via Electronic Data Interchange as prescribed by Commission rules, ~~no hard copy summary of payment need~~ an electronic final summary of payment transaction must be filed within one hundred twenty (120) days of termination of disability for all indemnity claims. In the case of medical-only ~~eases~~ claims, no summaries of payment need to be filed. In the context of death claims and permanent

total disability claims, interim summaries of payments shall be filed annually within the first quarter of each calendar year. Interim summaries shall be submitted setting forth substantially the same information required by Final Summaries of Payment, including the balance of payments made to the beginning of the current calendar year, payments during the calendar year, and a total of payments made. This total balance shall be carried forward as the amount of payments made to the beginning of the current year. The Final Summary shall be so designated. Supporting documentation shall be attached to any legacy claim summary of payment filed with the Commission. If all claim information has been filed electronically, supporting documentation must be provided upon Commission request. (3-25-16)()

03. Form. The summary of payment for legacy claims shall be submitted in a format substantially similar to IC Form 6, available from the Commission and posted on the Commission's website at www.iic.idaho.gov. The final Subsequent Report of Injury (SROI) transaction shall be reported electronically for non-legacy claims. (3-25-16)()

04. Approval. Within ninety (90) days of receipt of the legacy claim Summary of Payment or final Subsequent Report of Injury (SROI) electronic transaction as set forth above, the Industrial Commission shall notify the Employer/Surety/Adjuster ~~that such summary has been approved or shall notify~~ of its an inability to reconcile the summary to its records and request additional information. If the Employer/Surety/Adjuster does not receive ~~either an approval or a~~ request for additional information within the ninety (90) day period, the Employer/Surety/Adjuster may proceed with closure. In the event the Commission requests additional information, whether in writing or telephonic, the Employer/Surety/Adjuster shall submit the requested information within fifteen (15) working days. If the Employer/Surety/Adjuster is unable to furnish the requested information, the Employer/Surety/Adjuster shall notify the Commission, in writing, of its inability to respond and the reasons therefor within the fifteen (15) working days. The Commission may schedule a show cause hearing to determine whether or not the Employer/Surety/Adjuster should be allowed to continue its status under the workers' compensation laws, including whether the Employer should be allowed to continue self-insured status. (3-30-07)()

05. Changes in Status. In case of any default by the Employer or in the event the Employer shall fail to pay any final award or awards, by reason of insolvency or because a receiver has been appointed, the Employer shall submit a summary of payments for every time-loss and death claim within one hundred twenty (120) days of the default, insolvency, or appointment of a receiver. This summary will be designated as an interim summary and does not relieve the Employer, successor or receiver from continued reporting requirements. The receiver or successor shall continue to report to the Commission, including the submission of summaries of payments and schedules of outstanding awards. (4-11-15)

IDAPA 17 – IDAHO INDUSTRIAL COMMISSION
17.02.07 – PROCEDURES TO OBTAIN COMPENSATION
DOCKET NO. 17-0207-1801
NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2019 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 72-508 and 72-806, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 3, 2018, Idaho Administrative Bulletin, [Vol. 18-10, pages 233-236](#).

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Patti Vaughn, Benefits Administration Manager, (208) 334-6063.

Dated this 1st day of November, 2018.

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 NOTICE PUBLISHED WITH THE 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, and 72-806 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 17, 2018.

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:

The Commission seeks to clarify that the IAIABC EDI Claims 3.0 Implementation Guide and Trading Partner Tables referenced in the rule are the roadmaps on how to properly report claims electronically and are not part of the rule. This is being done by moving the references to these guides from the Incorporation by Reference section to the Written Interpretations section of the rule. The changes also clarify the requirements for Trading Partner Agreements and eliminate obsolete procedures for submission of paper claims.

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

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules – Negotiated Rulemaking was published in the June 6, 2018 Idaho Administrative Bulletin, [Vol. 18-6, page 69](#).

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 Patti Vaughn, Benefits Administration Manager, (208) 334-6063.

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 24, 2018.

Dated this 24th day of August, 2018.

[LINK: LSO Rules Analysis Memo](#)

THE FOLLOWING IS THE TEXT OF DOCKET NO. 17-0207-1801

002. WRITTEN INTERPRETATIONS.

~~No written interpretations of these rules exist~~ The Industrial Commission uses the following guidelines for implementing the EDI reporting requirements set out in this Chapter: (7-1-97)()

01. EDI Guide and Tables. The Idaho Industrial Commission Claims EDI Implementation Guide and Trading Partner Tables (“EDI Guide and Tables”). The Idaho Industrial Commission Claims EDI Implementation Guide and Trading Partner Tables are available on the Commission’s website at www.iic.idaho.gov. ()

02. EDI Implementation Guide. International Association of Industrial Accidents Boards and Commissions (IAIABC) EDI Claims Release 3.0 Implementation Guide (“EDI Implementation Guide”). The IAIABC Claims Release 3.0 Implementation Guide is available at the IAIABC website at www.iaiaabc.org. ()

(BREAK IN CONTINUITY OF SECTIONS)

004. INCORPORATION BY REFERENCE.

~~The Idaho Industrial Commission hereby adopts and incorporates by reference the following:~~ No documents have been incorporated by reference into these rules. (3-25-16)()

~~**01. EDI Guide and Tables.**~~ ~~Idaho Industrial Commission Claims EDI Implementation Guide and Trading Partner Tables, Version 1.2 (“EDI Guide and Tables”). The Idaho Industrial Commission Claims EDI Implementation Guide and Trading Partner Tables are available at the Commission’s website at www.iic.idaho.gov.~~ (3-25-16)

~~**02. EDI Implementation Guide.**~~ ~~International Association of Industrial Accidents Boards and Commissions (IAIABC) EDI Claims Release 3.0 Implementation Guide – January 1, 2015 Publication (“EDI Implementation Guide”). The IAIABC Claims Release 3.0 Implementation Guide is available at the IAIABC website at www.iaiaabc.org.~~ (3-25-16)

(BREAK IN CONTINUITY OF SECTIONS)

010. DEFINITIONS.

The following definitions shall be applicable to these rules. (7-1-97)

01. Adjuster. An individual who adjusts workers’ compensation claims. (3-25-16)

02. Claim. The making of a request with the Commission for benefits payable under the Idaho Workers’ Compensation Act, either by filing Industrial Commission (IC) Form 1A-1 entitled “Workers Compensation First Report of Injury or Illness,” filing a First Report of Injury (FROI) transaction electronically, or by filing an application for hearing, referred to as a Complaint in the Judicial Rules, with the Commission. (3-25-16)()

03. Claimant. A worker who is seeking to recover benefits under the Workers’ Compensation Law. (3-25-16)

04. Claims Administrator. An organization, including insurers, third party administrators, independent adjusters, or self-insured employers, that services workers' compensation claims. (3-25-16)

05. Commission. The Idaho Industrial Commission. (3-25-16)

06. Employer. As defined in Section 72-102, Idaho Code, and, for the purposes of these rules, includes sureties and adjusters. (3-25-16)

07. IAIABC EDI Release 3.0. The IAIABC authored EDI Release 3.0 standards that cover the transmission of Claims (FROI and SROI), information through electronic reporting. (3-25-16)

08. Legacy Claim. A First Report of Injury that was filed with the Commission prior to ~~the date specified in Subsection 012.02.b. of these rules~~ November 4, 2017. ~~(3-25-16)(____)~~

09. Notice. Both the employer's actual and constructive knowledge of the accident, injury, or occupational disease. (3-25-16)

10. Trading Partner. An insurance carrier, self-insured employer, or Claims Administrator that has entered into a Trading Partner Agreement with the Commission. (3-25-16)

11. Trading Partner Agreement. An agreement between the Idaho Industrial Commission and a trading partner that sets out the terms and conditions for the electronic reporting of information to the Commission. (3-25-16)

(BREAK IN CONTINUITY OF SECTIONS)

012. SUBMISSION OF FIRST REPORTS OF INJURY AND CLAIMS FOR COMPENSATION TO THE INDUSTRIAL COMMISSION.

01. Purpose. The Industrial Commission seeks to develop a form for reporting work-related injuries and occupational diseases that is compatible with emerging standards for electronic submission of data. This will allow for more timely entry of information into the database system from which statistical reports are generated by the Commission, reduce the paper that the Commission currently receives, and is expected to reduce the cost of reporting for insurance carriers, employers and the Commission. (3-25-16)

02. Procedure for Submitting Claims. (3-25-16)

~~**a.** *FROI Reporting Prior to EDI Mandate.* Prior to November 4, 2017, all FROI information shall be submitted to the Commission on single-sided eight and one-half inch by eleven inch (8 1/2" x 11") white paper in a format substantially similar to Form IA-1. Form IA-1 is available from the Benefits Bureau of the Industrial Commission or on the Commission's website at www.iic.idaho.gov. At the Commission's discretion, claims may be submitted electronically in accordance with EDI Release 1.0 standards and any additional requirements of the Commission. (3-28-18)~~

~~**ba.** FROI & SROI EDI Reporting. The Commission ~~will~~ requires electronic submission of a First Report of Injury (FROI), ~~effective November 4, 2017,~~ and a Supplemental or Subsequent Report of Injury (SROI), ~~effective November 4, 2017,~~ in accordance with IAIABC EDI Release 3.0 and the Commission's EDI Guides and Tables, for insurance carriers, in-state Claims Administrators, and self-insured employers, as those entities are not otherwise exempted by these rules. (3-28-18)(____)~~

~~**eb.** Trading Partner Agreements. Before commencing electronic reporting, self-insured employers and insurance carriers, or their claims administrator, shall sign electronically submit a Trading Partner Agreement with the Commission, which must be approved by the Commission prior to initial data submission. This agreement will provide the effective date to send and receive electronic reports, which may be earlier but not later than the date above in Paragraph 012.02.b., the acceptable data to be sent and received, the method of transmission to be used, and other pertinent elements identify the insurance carrier, the claims administrator, the sender of the electronic files, and the electronic filing method. To ensure the accuracy of reported data, the Trading Partner must maintain their profile to reflect changes as they occur. The Commission may make periodic audits of insurance carrier and self-insured employer files. In the event that a Trading Partner Agreement is entered into by a claims administrator, notice~~

to the Trading Partner of a FROI shall be deemed to be notice to the underlying insurance carrier or self-insured employer. (3-25-16)()

d.c. FROI. Each electronic First Report of Injury (FROI) must comply with the formatting requirements of the most current versions of the IAIABC EDI Claims Release 3.0 Implementation Guide and Idaho Industrial Commission Claims EDI Implementation Guide & Tables, and must contain the information identified as mandatory or mandatory conditional, as applicable. (3-25-16)()

d.d. SROI. Each electronic Supplemental or Subsequent Report of Injury (SROI) must comply with the formatting requirements of the most current versions of the IAIABC EDI Claims Release 3.0 Implementation Guide and the Idaho Industrial Commission Claims EDI Implementation Guide & Tables, and must contain the information identified as mandatory or mandatory conditional, as applicable. (3-25-16)()

d.e. Report Form and Content for Parties Exempt from EDI Requirements: (3-25-16)

i. Individual injured workers, injured workers' legal counsel, and employers that are not insured are not required to comply with IAIABC EDI requirements for filing of the FROI and SROI. SROIs filed on legacy claims will not be accepted via IAIABC EDI Release 3.0 standards. (3-25-16)

ii. Employers that are not insured, individual injured workers, and injured workers' legal counsel shall submit all FROI to the Commission on single-sided eight and one-half inch by eleven inch (8½" X 11") white paper in a format substantially similar to Form 1A-1. Form 1A-1 is available from the Benefits Bureau of the Industrial Commission or on the Commission's website at www.iic.idaho.gov. (3-25-16)

iii. Employers that are not insured, individual injured workers, and injured workers' legal counsel, shall submit all SROI to the Commission on single-sided eight and one-half inch by eleven inch (8½" X 11") white paper in a format substantially similar to Form SROI-1. Form SROI-1 is available from the Benefits Bureau of the Industrial Commission or on the Commission's website at www.iic.idaho.gov. (3-25-16)

03. Retaining Claims Files. ()

a. All insurance carriers and their claims administrators shall maintain their respective claim files in accordance with IDAPA 17.02.10, "Administrative Rules of the Industrial Commission Under the Workers' Compensation Law -- Security for Compensation -- Insurance Carriers," Section 051. IDAPA 17.02.11, "Administrative Rules of the Industrial Commission Under the Workers' Compensation Law -- Security for Compensation -- Self-Insured Employers," Section 051. Upon request of the Commission, insurance carriers, claims administrators, or employers shall provide to the Commission, in whole or in part according to the request, a copy of the claim file at no cost to the Commission. (3-25-16)

a.b. All insurance carriers, claims administrators, or employers shall retain complete copies of claims files for the life of the claim or a minimum of five (5) years from the date of closure, whichever is shorter. (3-25-16)

b. ~~For time-loss claims, closure will be the date upon which the insurance carrier, claims administrator, or employer files the final summary of payments, either as an appropriate EDI transaction, or as a hardcopy document for legacy claims. The Commission recommends that an insurance carrier, claims administrator, or employer retain a closed claim file for a minimum of five (5) years.~~ (3-25-16)

04. Filing Not an Admission. Filing a claim is not an admission of liability and is not conclusive evidence of any fact stated therein. If a claim is submitted electronically, no signatures are required. (7-1-97)

05. Filing Considered Authorization. Filing of a claim shall be considered an authorization for the release of medical records that are relevant to or bearing upon the particular injury or occupational disease for which the claimant is seeking compensation. (7-1-97)

06. Timely Response Requirement. When the Commission requests additional information in order to process the Claim, the claimant or employer shall provide the requested information promptly. The Commission request may be either in writing or telephonic. (7-1-97)

IDAPA 17 – IDAHO INDUSTRIAL COMMISSION

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

DOCKET NO. 17-0210-1801

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2019 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 72-508 and 72-304, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 3, 2018, Idaho Administrative Bulletin, [Vol. 18-10, pages 237-240](#).

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Patti Vaughn, Benefits Administration Manager, (208) 334-6063.

Dated this 1st day of November, 2018.

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 NOTICE PUBLISHED WITH THE 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, and 72-304 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 17, 2018.

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:

The Commission seeks to clarify the new electronic requirements for insurance carriers on the submission of First Reports of Injury and Claims for Benefits, notices of occupational illness, and fatalities. The changes also eliminate the need to submit paper documentation in support of electronically-filed initial payments.

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

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules – Negotiated Rulemaking was published in the June 6, 2018 Idaho Administrative Bulletin, [Vol. 18-6, page 72](#).

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 Patti Vaughn, Benefits Administration Manager, (208) 334-6063.

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 24, 2018.

Dated this 24th day of August, 2018.

[LINK: LSO Rules Analysis Memo](#)

THE FOLLOWING IS THE TEXT OF DOCKET NO. 17-0210-1801

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

All insurance carriers and licensed adjusters servicing Idaho workers' compensation claims shall comply with the following requirements: (4-7-11)

01. Idaho Office. (4-7-11)

a. All insurance carriers 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. (4-7-11)

b. The insurance carrier shall authorize and require a member of its in-state staff or a licensed, resident claims adjuster to service and make decisions regarding claims pursuant to Section 72-305, Idaho Code. Answering machines, answering services, or toll free numbers outside of the state will not suffice. That authority shall include, but is not limited to, the following responsibilities: (3-25-16)

i. Investigate and adjust all claims for compensation; (4-7-11)

ii. Pay all compensation benefits due; (4-7-11)

iii. Accept service of claims, applications for hearings, orders of the Commission, and all process which may be issued under the Workers' Compensation Law; (4-7-11)

iv. Enter into compensation agreements and lump sum settlements with Claimants; and (4-7-11)

v. Provide at the insurance carrier's expense necessary forms to any worker who wishes to file a claim under the Workers' Compensation Law. (4-7-11)

c. As staffing changes occur and, at least annually, the insurance carrier or licensed adjuster shall submit to the Industrial Commission Secretary the names of those authorized to make decisions regarding claims pursuant to Section 72-305, Idaho Code. Each authorized insurance carrier shall designate only one (1) claims administrator for each policy of workers' compensation insurance. (3-25-16)

02. Claim Files. All Idaho workers' compensation claim files shall be maintained within the state of Idaho in either hard copy or immediately accessible electronic format. Claim files shall include, but are not limited to: (4-7-11)

a. First Report of Injury and Claim for Benefits; (4-7-11)

b. Copies of bills for medical care; (4-7-11)

c. Copy of lost-time computations, if applicable; (4-7-11)

d. Correspondence reflecting reasons for any delays in payments (i.e., awaiting medical reports, clarification, questionable items on bills, etc.), the resolution of such delays and acceptance or denial of compensability; (4-7-11)

e. Employer's Supplemental Report; and (4-7-11)

f. Medical reports. (4-7-11)

03. Correspondence. All original correspondence involving adjusting decisions regarding Idaho workers' compensation claims shall be authorized from and maintained at in-state offices. (3-25-16)

04. Date Stamp. Each of the documents listed in Subsections 051.02 and 051.03 shall be date-stamped with the name of the receiving office on the day received, and by each receiving agent or vendor acting on behalf of the claims office. (4-7-11)

05. Notice and Claim. All First Reports of Injury, Claims for Benefits, notices of occupational illnesses and fatalities shall be sent directly to the in-state ~~adjuster~~ claims administrator or insurance carrier responsible for making the electronic filing with the Commission. ~~The original copy of the First Report of Injury, Claim for Benefits and notices of occupational illness and fatality shall be sent directly to the Industrial Commission.~~ (4-7-11)()

06. Compensation. All compensation, as defined by Section 72-102, Idaho Code, must be issued from the in-state office. (4-7-11)

07. Checks and Drafts. Checks must be signed and issued within the state of Idaho; drafts are prohibited. (4-7-11)

a. 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 an insurance carrier to sign and issue checks outside the state of Idaho. (4-7-11)

b. An Application for Waiver must be accompanied by an affidavit signed by an officer or principal of the insurance carrier attesting to the fact that the insurance carrier is prepared to comply with all statutes and rules pertaining to prompt payments of compensation. (4-7-11)

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 insurance carrier for which a waiver under this rule has been granted to assure that the insurance carrier is complying with all statutes and rules pertaining to prompt payments of compensation. (4-7-11)

d. If at any time after the Commission has granted a waiver, the Commission receives information permitting the inference that the insurance carrier 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 insurance carrier an opportunity to be heard, may revoke the waiver and order the insurance carrier to comply with the requirements of Subsections 051.06 and 051.07 of this rule. (4-7-11)

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 income benefit check, showing signature and date, shall be sent to the Industrial Commission the same day of issuance for legacy claims. Paper copies of the first income benefit check need not be sent to the Industrial Commission on claims when the initial payment transaction is filed electronically. (3-25-16)()

09. Prompt Claim Servicing. Prompt claim servicing includes, but is not limited to: (4-7-11)

a. Making an initial decision to accept or deny a claim for an injury or occupational disease within thirty (30) days after the claims administrator receives knowledge of the same. The worker shall be given notice of that initial decision in accordance with Section 72-806, Idaho Code. Nothing in this rule shall be construed as amending the requirement to start payment of income benefits no later than four (4) weeks or twenty-eight (28) days from the date of disability under the provisions of Section 72-402, Idaho Code. (3-28-18)

b. Payment of medical bills in accordance with the provisions of IDAPA 17.02.09, Medical Fees, Sections 031, 032, 033 and 034. (4-7-11)

- c. Payment of income benefits on a weekly basis, unless otherwise approved by the Commission. (4-7-11)
- i. The first payment of income benefits under Section 72-408, Idaho Code, shall constitute application by the insurance carrier for a waiver to pay Temporary Total Disability (TTD) benefits on a bi-weekly basis, Temporary Partial Disability (TPD) benefits on other than a weekly basis, Permanent Partial Disability (PPD) benefits based on permanent impairment and Permanent Total Disability (PTD) benefits every twenty-eight (28) days, rather than on a weekly basis. (3-28-18)
- ii. Such waiver application shall be granted upon receipt and remain in effect unless revoked by the Industrial Commission in accordance with Subparagraph 051.09.c.iii., below. (3-28-18)
- iii. If at any time after a waiver has been granted pursuant to this section the Commission receives information permitting the inference that the insurance carrier has failed to service claims in accordance with Idaho law, or that such waiver has created an undue hardship on a claimant, the Commission may issue an order to show cause why the Commission should not revoke that waiver, and after affording the insurance carrier an opportunity to be heard, may revoke the waiver with respect to all or certain claimants and order the insurance carrier to comply with the requirements of Subsection 051.09.c. of this rule. (3-28-18)
- d. Payment of the first Permanent Partial Disability (PPD) benefit based on permanent impairment no later than fourteen (14) days after receipt of the medical report providing the impairment rating. The first payment shall include payment of benefits retroactive to the date of medical stability. (3-28-18)
- e. Temporary Partial Disability (TPD) payments shall be calculated using the employee's pay period, whether weekly, bi-weekly, or semi-monthly. For employees paid pursuant to any other schedule, TPD benefits shall be calculated semi-monthly. TPD payments owed for a particular pay period shall issue no later than seven (7) days following the date on which employee is ordinarily paid for that pay period. (3-28-18)
- 10. Audits.** The Industrial Commission will perform periodic audits to ensure compliance with the above requirements. (4-7-11)
- 11. Non-Compliance.** Non-compliance with the above requirements may result in the revocation of the authority of an insurance carrier to write workers' compensation insurance in the state of Idaho, or such lesser sanctions as the Industrial Commission may impose. (4-7-11)

IDAPA 17 – IDAHO INDUSTRIAL COMMISSION

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

DOCKET NO. 17-0210-1802

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2019 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 72-508 and 72-304, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 3, 2018, Idaho Administrative Bulletin, [Vol. 18-10, pages 241-248](#).

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Patti Vaughn, Benefits Administration Manager, (208) 334-6063.

Dated this 1st day of November, 2018.

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 NOTICE PUBLISHED WITH THE 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 and 72-304, Idaho Code.

PUBLIC HEARING SCHEDULE: A public hearing concerning this rulemaking will be held as follows:

PUBLIC HEARING
Wednesday, October 10, 2018
2:00 p.m. – 3:30 p.m.

Idaho Industrial Commission
700 S. Clearwater Lane
Boise, ID 83720

Via VIDEO CONFERENCE

1:00 p.m. (PDT)

IIC Coeur D'Alene Field Office
1111 W. Ironwood Drive, Suite A
Coeur D'Alene, Idaho 83814

2:00 p.m. (MDT)

IIC Idaho Falls Field Office
1820 E. 17th, Suite 300
Idaho Falls, Idaho 83404

1:00 p.m. (PDT)

IIC Lewiston Field Office
1118 "F" Street
Lewiston, Idaho 83501

2:00 p.m. (MDT)

IIC Twin Falls Field Office
1411 Falls Avenue East, Suite 915
Twin Falls, Idaho 83301

The hearing sites 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:

The Industrial Commission seeks to authorize and set forth conditions for the use of electronic fund transfers and access cards to pay benefits due to injured workers by insurance carriers.

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

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules – Negotiated Rulemaking was published in the June 6, 2018 Idaho Administrative Bulletin, [Vol. 18-6, page 73](#).

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 Patti Vaughn, Benefits Administration Manager, (208) 334-6063. 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 24, 2018.

Dated this 28th day of August, 2018.

[LINK: LSO Rules Analysis Memo](#)

THE FOLLOWING IS THE TEXT OF DOCKET NO. 17-0210-1802

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

All insurance carriers and licensed adjusters servicing Idaho workers' compensation claims shall comply with the following requirements: (4-7-11)

01. Idaho Office. (4-7-11)

a. All insurance carriers 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. (4-7-11)

b. The insurance carrier shall authorize and require a member of its in-state staff or a licensed, resident claims adjuster to service and make decisions regarding claims pursuant to Section 72-305, Idaho Code. Answering machines, answering services, or toll free numbers outside of the state will not suffice. That authority shall include, but is not limited to, the following responsibilities: (3-25-16)

i. Investigate and adjust all claims for compensation; (4-7-11)

ii. Pay all compensation benefits due; (4-7-11)

iii. Accept service of claims, applications for hearings, orders of the Commission, and all process which may be issued under the Workers' Compensation Law; (4-7-11)

iv. Enter into compensation agreements and lump sum settlements with Claimants; and (4-7-11)

v. Provide at the insurance carrier's expense necessary forms to any worker who wishes to file a claim under the Workers' Compensation Law. (4-7-11)

c. As staffing changes occur and, at least annually, the insurance carrier or licensed adjuster shall submit to the Industrial Commission Secretary the names of those authorized to make decisions regarding claims pursuant to Section 72-305, Idaho Code. Each authorized insurance carrier shall designate only one (1) claims administrator for each policy of workers' compensation insurance. (3-25-16)

02. Claim Files. All Idaho workers' compensation claim files shall be maintained within the state of Idaho in either hard copy or immediately accessible electronic format. Claim files shall include, but are not limited to: (4-7-11)

- a. First Report of Injury and Claim for Benefits; (4-7-11)
- b. Copies of bills for medical care; (4-7-11)
- c. Copy of lost-time computations, if applicable; (4-7-11)
- d. Correspondence reflecting reasons for any delays in payments (i.e., awaiting medical reports, clarification, questionable items on bills, etc.), the resolution of such delays and acceptance or denial of compensability; (4-7-11)
- e. Employer's Supplemental Report; and (4-7-11)
- f. Medical reports. (4-7-11)

03. Correspondence. All original correspondence involving adjusting decisions regarding Idaho workers' compensation claims shall be authorized from and maintained at in-state offices. (3-25-16)

04. Date Stamp. Each of the documents listed in Subsections 051.02 and 051.03 shall be date-stamped with the name of the receiving office on the day received, and by each receiving agent or vendor acting on behalf of the claims office. (4-7-11)

05. Notice and Claim. All First Reports of Injury, Claims for Benefits, notices of occupational illnesses and fatalities shall be sent directly to the in-state adjuster or insurance carrier. The original copy of the First Report of Injury, Claim for Benefits and notices of occupational illness and fatality shall be sent directly to the Industrial Commission. (4-7-11)

06. Compensation Payments – Generally. ()

a. All compensation, as defined by Section 72-102, Idaho Code, must be issued from the in-state office. (4-7-11) ()

b. Except as ordered otherwise by the Commission, the insurance carrier may make compensation payments by either: ()

i. Check or other readily negotiable instrument; ()

ii. When requested by the claimant, electronic transfer to an account designated by the claimant in accordance with the requirements of Subsection 051.07 of this rule; or ()

iii. When requested by the claimant, electronic transfer payments made through an access card; if that option is made available by the carrier, in accordance with the requirements of Subsection 051.08 of this rule. ()

c. If the claimant is represented by an attorney who may have an attorney's lien for fees due on such compensation payments, the attorney must agree to payment by electronic transfer to claimant's account or through an access card before such compensation may be paid other than by a check made payable to the claimant and the attorney. ()

07. Electronic Transfer Payments. ()

a. A claimant may request that the insurance carrier make compensation payments by electronic transfer to a personal bank account by providing the insurance carrier in writing: the name and routing transit number of the financial institution and the account number and type of account to which the claimant wants to have the compensation electronically transferred. The insurance carrier shall provide the claimant with a written form to fill out the information required by this subsection within seven (7) days of receiving a request for electronic transfer of payments from the claimant unless the claimant has already completed an on-line electronic form provided by the carrier. ()

b. The insurance carrier may make compensation payments to the claimant by electronic transfer to an account designated by the claimant if the claimant: ()

i. Requests in writing that payment be made by electronic transfer: ()

ii. Provides the information required by Paragraph 051.07.a. of this rule; and ()

iii. Is reasonably expected to be entitled to receive compensation payments for a period of eight (8) weeks or more from the point that Subparagraphs 051.07.i. and 051.07.ii. of this rule are satisfied. ()

c. The insurance carrier shall initiate payment by electronic transfer starting with the first benefit payment due on or after the twenty-first day after all the requirements of Paragraph 051.07.b. of this rule are met, but shall continue to make timely payments by check until the insurance carrier initiates benefit payment delivery by electronic transfer. ()

d. If the claimant has previously been receiving benefit payments by electronic transfer and wants to receive benefits by check, the insurance carrier shall initiate benefit payment delivery by check starting with the first benefit payment due to the claimant on or after the seventh day after receiving a written request for such payments. ()

08. Access Card Payments. ()

a. Access card means any card or other payment method that may be used by a claimant to initiate electronic fund transfer from an insurance carrier's bank account. The term "access card" does not include stored value cards or prepaid cards that store funds directly on the card and that are not linked to an insurance carrier's bank account. ()

b. An insurance carrier may pay compensation through an access card to a claimant if there is written mutual agreement signed by the insurance carrier and the claimant. The insurance carrier shall maintain accurate records of the mutual agreement for, at a minimum, four hundred one (401) weeks from the date of injury. The written agreement shall contain an acknowledgment that the claimant received and agreed to the written disclosure required by Paragraph 051.08.d. of this rule. ()

c. An insurance carrier providing compensation payments to a claimant through an access card shall: ()

i. Permit the claimant to withdraw the entire amount of the balance of an access card in one (1) transaction: ()

ii. Not reduce compensation payments paid to a claimant through an access card for the following fees, surcharges, and adjustments: ()

(1) Overdraft services under which a financial institution pays a transaction (including a check or other item) when the claimant has insufficient or unavailable funds in the account; ()

(2) ATM withdrawal or point of sale purchase for more than the card holds and the transaction is denied; ()

(3) ATM balance inquiries; ()

(4) Withdrawing money from network ATMs; ()

(5) Withdrawing money from a teller; ()

(6) Customer service calls; ()

- (7) Activating the card; ()
- (8) Fees for card inactivity; ()
- (9) Closing account; ()
- (10) Access card replacement through standard mail; ()
- (11) Withdrawing the entire payment in one (1) transaction; ()
- (12) Point of sale purchases; or ()
- (13) Any other fees or charges that are not authorized under Subparagraph 051.08.c.iii. of this rule; and ()
- iii. Only permit a claimant to be charged for the following: ()
- (1) Fees for access card replacement through an expedited mail service; ()
- (2) International transaction fees; and ()
- (3) Out-of-network ATM fees. ()
- d. Insurance carriers shall provide a written disclosure to the claimant contemporaneously with the written mutual agreement required under Paragraph 051.08.b. of this rule. The written disclosure shall include: ()
- i. A summary of the claimant's liability for unauthorized electronic fund transfers; ()
- ii. The telephone number and address of the person or office to be notified when the claimant believes that an unauthorized electronic fund transfer has been or may be made; ()
- iii. The type of electronic fund transfers that the claimant may make and any limitations on the frequency of transfers; ()
- iv. Any fees imposed for electronic fund transfers or for the right to make transfers, including a statement that fees may be imposed by an ATM operator that is out-of-network; ()
- v. Fees for expedited card replacement or international transaction fees will be removed from the balance maintained in the bank account linked to the access card; ()
- vi. A summary of the claimant's right to receipts and periodic statements; ()
- vii. All bank locations and network ATMs in the United States where the claimant may access his or her funds at no cost; ()
- viii. A statement informing the claimant that they have a right to receive payments directly into their personal bank account through direct deposit or by check. ()
- e. An insurance carrier shall provide the written disclosure and any notice of term or condition changes required under Subsection 051.08 of this rule that: ()
- i. Are printed in not less than twelve (12) point font; ()
- ii. Include the full text in English, Spanish, and any other language common to the claimant population; ()

iii. Are written in a clear and coherent manner, and wherever practical, words with common and everyday meaning shall be used to facilitate readability; and ()

iv. Are appropriately divided and captioned in a meaningful sequence such that each section contains an underlined, boldfaced, or otherwise conspicuous title or caption at the beginning of the section that indicates the nature of the subject matter included in or covered by the section. ()

f. An access card issued to a claimant under Subsection 051.08 of this rule; ()

i. Shall not bear any information that could reasonably identify the claimant as a participant in the workers' compensation system; and ()

ii. Shall include on the front or back of the access card a toll-free customer service number and website address. Customer service personnel shall be available by phone Monday through Friday during normal business hours (9:00 a.m. to 6:00 p.m. Mountain Time). ()

g. The insurance carrier shall provide a written notice to the claimant at least twenty-one (21) days before the effective date of any change in a term or condition of the mutual agreement or disclosure, including terminating the access card program, increased fees, or liability for unauthorized electronic fund transfers. Any terms or conditions that violate the requirements of Subsection 051.08 of this rule are null and void and may result in administrative action against the carrier. An insurance carrier shall provide a written notice of term or condition changes that: ()

i. Provides a comparison of the current terms and the changes; and ()

ii. References the claimant's ability to request a change in method of payment to electronic fund transfer to his or her personal bank account in accordance with Subsection 051.07 of these rules, or to payment by check. ()

h. An insurance carrier may close the access card account by issuing a check to the claimant with the remaining balance of the access card if the account has been inactive for twelve (12) months or longer. ()

i. The insurance carrier shall not remove money from the claimant's account or access card except to remove permitted fees under Subparagraph 051.08.c.iii. of this rule or to close the account for inactivity of a period of twelve (12) months or more. An insurance carrier seeking to recoup overpayments shall follow the requirements of Section 72-316, Idaho Code. ()

j. An insurance carrier is considered to have made a compensation payment the date the payment is available on the claimant's access card. ()

079. Checks and Drafts. Checks must be signed and issued within the state of Idaho; drafts are prohibited. (4-7-11)

a. 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 an insurance carrier to sign and issue checks outside the state of Idaho. (4-7-11)

b. An Application for Waiver must be accompanied by an affidavit signed by an officer or principal of the insurance carrier attesting to the fact that the insurance carrier is prepared to comply with all statutes and rules pertaining to prompt payments of compensation. (4-7-11)

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 insurance carrier for which a waiver under this rule has been granted to assure that the insurance carrier is complying with all statutes and rules pertaining to prompt payments of compensation. (4-7-11)

d. If at any time after the Commission has granted a waiver, the Commission receives information permitting the inference that the insurance carrier 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 insurance carrier an opportunity to be heard, may revoke the waiver and order the insurance carrier to comply with the requirements of Subsections 051.06 and 051.07 of this rule. (4-7-11)

108. **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 income benefit check, showing signature and date, shall be sent to the Industrial Commission the same day of issuance. (3-25-16)

11. **Prompt Claim Servicing.** Prompt claim servicing includes, but is not limited to: (4-7-11)

a. Making an initial decision to accept or deny a claim for an injury or occupational disease within thirty (30) days after the claims administrator receives knowledge of the same. The worker shall be given notice of that initial decision in accordance with Section 72-806, Idaho Code. Nothing in this rule shall be construed as amending the requirement to start payment of income benefits no later than four (4) weeks or twenty-eight (28) days from the date of disability under the provisions of Section 72-402, Idaho Code. (3-28-18)

b. Payment of medical bills in accordance with the provisions of IDAPA 17.02.09, Medical Fees, Sections 031, 032, 033 and 034. (4-7-11)

c. Payment of income benefits on a weekly basis, unless otherwise approved by the Commission. (4-7-11)

i. The first payment of income benefits under Section 72-408, Idaho Code, shall constitute application by the insurance carrier for a waiver to pay Temporary Total Disability (TTD) benefits on a bi-weekly basis, Temporary Partial Disability (TPD) benefits on other than a weekly basis, Permanent Partial Disability (PPD) benefits based on permanent impairment and Permanent Total Disability (PTD) benefits every twenty-eight (28) days, rather than on a weekly basis. (3-28-18)

ii. Such waiver application shall be granted upon receipt and remain in effect unless revoked by the Industrial Commission in accordance with Subparagraph 051.09.c.iii., below. (3-28-18)

iii. If at any time after a waiver has been granted pursuant to this section the Commission receives information permitting the inference that the insurance carrier has failed to service claims in accordance with Idaho law, or that such waiver has created an undue hardship on a claimant, the Commission may issue an order to show cause why the Commission should not revoke that waiver, and after affording the insurance carrier an opportunity to be heard, may revoke the waiver with respect to all or certain claimants and order the insurance carrier to comply with the requirements of Subsection 051.09.c. of this rule. (3-28-18)

d. Payment of the first Permanent Partial Disability (PPD) benefit based on permanent impairment no later than fourteen (14) days after receipt of the medical report providing the impairment rating. The first payment shall include payment of benefits retroactive to the date of medical stability. (3-28-18)

e. Temporary Partial Disability (TPD) payments shall be calculated using the employee's pay period, whether weekly, bi-weekly, or semi-monthly. For employees paid pursuant to any other schedule, TPD benefits shall be calculated semi-monthly. TPD payments owed for a particular pay period shall issue no later than seven (7) days following the date on which employee is ordinarily paid for that pay period. (3-28-18)

102. **Audits.** The Industrial Commission will perform periodic audits to ensure compliance with the above requirements. (4-7-11)

143. **Non-Compliance.** Non-compliance with the above requirements may result in the revocation of the authority of an insurance carrier to write workers' compensation insurance in the state of Idaho, or such lesser sanctions as the Industrial Commission may impose. (4-7-11)

IDAPA 17 – IDAHO INDUSTRIAL COMMISSION

17.02.11 – ADMINISTRATIVE RULES OF THE INDUSTRIAL COMMISSION UNDER THE WORKERS' COMPENSATION LAW – SECURITY FOR COMPENSATION – SELF-INSURED EMPLOYERS

DOCKET NO. 17-0211-1801

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2019 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 72-508 and 72-304, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 3, 2018, Idaho Administrative Bulletin, [Vol. 18-10, pages 249-252](#).

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Patti Vaughn, Benefits Administration Manager, (208) 334-6063.

Dated this 1st day of November, 2018.

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 NOTICE PUBLISHED WITH THE 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, and 72-304 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 17, 2018.

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:

The Commission seeks to clarify the new electronic requirements for self-insured employers on the submission of First Reports of Injury and Claims for Benefits, notices of occupational illness, and fatalities. The changes also eliminate the need to submit paper documentation in support of electronically-filed initial payments.

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

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules – Negotiated Rulemaking was published in the June 6, 2018 Idaho Administrative Bulletin, [Vol. 18-6, page 75](#).

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 Patti Vaughn, Benefits Administration Manager, (208) 334-6063.

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 24, 2018.

Dated this 24th day of August, 2018.

[LINK: LSO Rules Analysis Memo](#)

THE FOLLOWING IS THE TEXT OF DOCKET NO. 17-0211-1801

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

All self-insured employers and licensed adjusters servicing Idaho workers' compensation claims shall comply with the following requirements: (4-7-11)

01. Idaho Office. All 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 self-insured employer shall designate and require an Idaho licensed, resident adjuster to make decisions regarding claims pursuant to Section 72-305, Idaho Code. As staffing changes occur and, at least annually, the self-insured employer or licensed adjuster shall submit to the Industrial Commission Secretary the names of those authorized to make decisions regarding claims pursuant to Section 72-305, Idaho Code. Answering machines, answering services, or toll free numbers outside of the state will not suffice. (3-25-16)

02. Claim Files. All Idaho workers' compensation claim files shall be maintained within the state of Idaho in either hard copy or immediately accessible electronic format. Claim files shall include, but are not limited to: (4-7-11)

- a. First Report of Injury and Claim for Benefits; (4-7-11)
- b. Copies of bills for medical care; (4-7-11)
- c. Copy of lost-time computations, if applicable; (4-7-11)
- d. Correspondence reflecting reasons for any delays in payments (i.e., awaiting medical reports, clarification, questionable items on bills, etc.), the resolution of such delays and acceptance or denial of compensability; (4-7-11)
- e. Employer's Supplemental Report; and (4-7-11)
- f. Medical reports. (4-7-11)

03. Correspondence. All original correspondence involving adjusting decisions regarding Idaho workers' compensation claims shall be authorized from and maintained at in-state offices. (3-25-16)

04. Date Stamp. Each of the documents listed in Subsections 051.02 and 051.03 shall be date-stamped with the name of the receiving office on the day received, and by each receiving agent or vendor acting on behalf of the self-insured employer. (4-7-11)

05. Notice and Claim. All First Reports of Injury, Claims for Benefits, notices of occupational illnesses and fatalities shall be sent directly to the in-state adjuster claims administrator or self-insured employer responsible for making the electronic filing with the Commission. The original copy of the First Report of Injury, Claim for Benefits and notices of occupational illness and fatality shall be sent directly to the Industrial Commission. (4-7-11)()

06. Compensation. All compensation, as defined by Section 72-102, Idaho Code, must be issued from the in-state office. (4-7-11)

07. Checks and Drafts. Checks must be signed and issued within the state of Idaho; drafts are prohibited. (4-7-11)

a. 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 self-insured employer to sign and issue checks outside the state of Idaho. (4-7-11)

b. An Application for Waiver must be accompanied by an affidavit signed by an officer or principal of the self-insured employer, attesting to the fact that the self-insured employer is prepared to comply with all statutes and rules pertaining to prompt payment of compensation. (4-7-11)

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 self-insured employer for which a waiver under this rule has been granted to assure that the self-insured employer is complying with all statutes and rules pertaining to prompt payment of compensation. (4-7-11)

d. If at any time after the Commission has granted a waiver, the Commission receives information permitting the inference that the 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 self-insured employer an opportunity to be heard, may revoke the waiver and order the self-insured employer to comply with the requirements of Subsections 051.06 and 051.07 of this rule. (4-7-11)

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 income benefit check, showing signature and date, shall be sent to the Industrial Commission the same day of issuance for legacy claims. Paper copies of the first income benefit check need not be sent to the Industrial Commission on claims when the initial payment transaction is filed electronically. (3-25-16)()

09. Prompt Claim Servicing. Prompt claim servicing includes, but is not limited to: (4-7-11)

a. Making an initial decision to accept or deny a claim for an injury or occupational disease within thirty (30) days of the date the claims administrator receives knowledge of the same. The worker shall be given notice of that initial decision in accordance with Section 72-806, Idaho Code. Nothing in this rule shall be construed as amending the requirement to start payment of income benefits no later than four (4) weeks or twenty-eight (28) days from the date of disability under the provisions of Section 72-402, Idaho Code. (3-28-18)

b. Payment of medical bills in accordance with the provisions of IDAPA 17.02.09, Medical Fees, Sections 031, 032, 033, and 034. (4-7-11)

c. Payment of income benefits on a weekly basis, unless otherwise approved by the Commission. (4-7-11)

i. The first payment of income benefits under Section 72-408, Idaho Code, shall constitute application by the self-insured employer for a waiver to pay Temporary Total Disability (TTD) benefits on a bi-weekly basis, Temporary Partial Disability (TPD) benefits on other than a weekly basis, Permanent Partial Disability (PPD) benefits based on permanent impairment and Permanent Total Disability (PTD) benefits every twenty-eight (28) days, rather than on a weekly basis. (3-28-18)

ii. Such waiver application shall be granted upon receipt and remain in effect unless revoked by the Industrial Commission in accordance with Subparagraph 051.09.c.iii., below. (3-28-18)

iii. If at any time after a waiver has been granted pursuant to this section the Commission receives information permitting the inference that the self-insured employer has failed to service claims in accordance with Idaho law, or that such waiver has created an undue hardship on a claimant, the Commission may issue an order to show cause why the Commission should not revoke that waiver, and after affording the employer an opportunity to be heard, may revoke the waiver with respect to all or certain claimants and order the self-insured employer to comply with the requirements of Subsection 051.09.c. of this rule. (3-28-18)

d. Payment of the first Permanent Partial Disability (PPD) benefit based on permanent impairment no

later than fourteen (14) days after receipt of the medical report providing the impairment rating. The first payment shall include payment of benefits retroactive to the date of medical stability. (3-28-18)

e. Temporary Partial Disability (TPD) payments shall be calculated using the employee's pay period, whether weekly, bi-weekly, or semi-monthly. For employees paid pursuant to any other schedule, TPD benefits shall be calculated semi-monthly. TPD payments owed for a particular pay period shall issue no later than seven (7) days following the date on which employee is ordinarily paid for that pay period. (3-28-18)

10. Audits. The Industrial Commission will perform periodic audits to ensure compliance with the above requirements. (4-7-11)

11. Non-Compliance. Non-compliance with the above requirements may result in the revocation of the authority of a self-insured employer to self-insure its workers' compensation obligations in the state of Idaho, or such lesser sanctions as the Industrial Commission may impose. (4-7-11)

IDAPA 17 – IDAHO INDUSTRIAL COMMISSION

17.02.11 – ADMINISTRATIVE RULES OF THE INDUSTRIAL COMMISSION UNDER THE WORKERS' COMPENSATION LAW – SECURITY FOR COMPENSATION – SELF-INSURED EMPLOYERS

DOCKET NO. 17-0211-1802

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2019 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 72-508 and 72-304, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 3, 2018, Idaho Administrative Bulletin, [Vol. 18-10, pages 253-259](#).

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Patti Vaughn, Benefits Administration Manager, (208) 334-6063.

Dated this 1st day of November, 2018.

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 NOTICE PUBLISHED WITH THE 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 and 72-304, Idaho Code.

PUBLIC HEARING SCHEDULE: A public hearing concerning this rulemaking will be held as follows:

PUBLIC HEARING
Wednesday, October 10, 2018
2:00 – 3:30 p.m.

Idaho Industrial Commission
700 S. Clearwater Lane
Boise, ID 83720

Via VIDEO CONFERENCE

1:00 p.m. (PDT)

IIC Coeur D'Alene Field Office
1111 W. Ironwood Drive, Suite A
Coeur D'Alene, Idaho 83814

2:00 p.m. (MDT)

IIC Idaho Falls Field Office
1820 E. 17th, Suite 300
Idaho Falls, Idaho 83404

1:00 p.m. (PDT)

IIC Lewiston Field Office
1118 "F" Street
Lewiston, Idaho 83501

2:00 p.m. (MDT)

IIC Twin Falls Field Office
1411 Falls Avenue East, Suite 915
Twin Falls, Idaho 83301

The hearing sites 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:

The Industrial Commission seeks to authorize and set forth conditions for the use of electronic fund transfers and access cards to pay benefits due to injured workers by self-insured employers.

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

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules – Negotiated Rulemaking was published in the June 6, 2018 Idaho Administrative Bulletin, [Vol. 18-6, page 76](#).

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 Patti Vaughn, Benefits Administration Manager, (208) 334-6063.

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 24, 2018.

Dated this 28th day of August, 2018.

[LINK: LSO Rules Analysis Memo](#)

THE FOLLOWING IS THE TEXT OF DOCKET NO. 17-0211-1802

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

All self-insured employers and licensed adjusters servicing Idaho workers' compensation claims shall comply with the following requirements: (4-7-11)

01. Idaho Office. All 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 self-insured employer shall designate and require an Idaho licensed, resident adjuster to make decisions regarding claims pursuant to Section 72-305, Idaho Code. As staffing changes occur and, at least annually, the self-insured employer or licensed adjuster shall submit to the Industrial Commission Secretary the names of those authorized to make decisions regarding claims pursuant to Section 72-305, Idaho Code. Answering machines, answering services, or toll free numbers outside of the state will not suffice. (3-25-16)

02. Claim Files. All Idaho workers' compensation claim files shall be maintained within the state of Idaho in either hard copy or immediately accessible electronic format. Claim files shall include, but are not limited to: (4-7-11)

- a.** First Report of Injury and Claim for Benefits; (4-7-11)
- b.** Copies of bills for medical care; (4-7-11)
- c.** Copy of lost-time computations, if applicable; (4-7-11)
- d.** Correspondence reflecting reasons for any delays in payments (i.e., awaiting medical reports, clarification, questionable items on bills, etc.), the resolution of such delays and acceptance or denial of compensability; (4-7-11)
- e.** Employer's Supplemental Report; and (4-7-11)
- f.** Medical reports. (4-7-11)

03. Correspondence. All original correspondence involving adjusting decisions regarding Idaho

workers' compensation claims shall be authorized from and maintained at in-state offices. (3-25-16)

04. Date Stamp. Each of the documents listed in Subsections 051.02 and 051.03 shall be date-stamped with the name of the receiving office on the day received, and by each receiving agent or vendor acting on behalf of the self-insured employer. (4-7-11)

05. Notice and Claim. All First Reports of Injury, Claims for Benefits, notices of occupational illnesses and fatalities shall be sent directly to the in-state adjuster or self-insured employer. The original copy of the First Report of Injury, Claim for Benefits and notices of occupational illness and fatality shall be sent directly to the Industrial Commission. (4-7-11)

06. Compensation Payments – Generally. ()

a. All compensation, as defined by Section 72-102, Idaho Code, must be issued from the in-state office. ~~(4-7-11)~~ ()

b. Except as ordered otherwise by the Commission, the self-insured employer may make compensation payments by either: ()

i. Check or other readily negotiable instrument; ()

ii. When requested by the claimant, electronic transfer to an account designated by the claimant in accordance with the requirements of Subsection 051.07 of this rule; or ()

iii. When requested by the claimant, electronic transfer payments made through an access card; if that option is made available by the employer, in accordance with the requirements of Subsection 051.08 of this rule. ()

c. If the claimant is represented by an attorney who may have an attorney's lien for fees due on such compensation payments, the attorney must agree to payment by electronic transfer to claimant's account or through an access card before such compensation may be paid other than by a check made payable to the claimant and the attorney. ()

07. Electronic Transfer Payments. ()

a. A claimant may request that the self-insured employer make compensation payments by electronic transfer to a personal bank account by providing the self-insured employer in writing: the name and routing transit number of the financial institution and the account number and type of account to which the claimant wants to have the compensation electronically transferred. The self-insured employer shall provide the claimant with a written form to fill out the information required by this subsection within seven (7) days of receiving a request for electronic transfer of payments from the claimant unless the claimant has already completed an on-line electronic form provided by the employer. ()

b. The self-insured employer may make compensation payments to the claimant by electronic transfer to an account designated by the claimant if the claimant: ()

i. Requests in writing that payment be made by electronic transfer; ()

ii. Provides the information required by Paragraph 051.07.a. of this rule; and ()

iii. Is reasonably expected to be entitled to receive compensation payments for a period of eight (8) weeks or more from the point that Subparagraphs 051.07.a.i. and 051.07.a.ii. of this rule are satisfied. ()

c. The self-insured employer shall initiate payment by electronic transfer starting with the first benefit payment due on or after the twenty-first day after all the requirements of Paragraph 051.07.b. of this rule are met, but shall continue to make timely payments by check until the self-insured employer initiates benefit payment delivery by electronic transfer. ()

d. If the claimant has previously been receiving benefit payments by electronic transfer and wants to receive benefits by check, the self-insured employer shall initiate benefit payment delivery by check starting with the first benefit payment due to the claimant on or after the seventh day after receiving a written request for such payments. ()

08. Access Card Payments. ()

a. Access card means any card or other payment method that may be used by a claimant to initiate electronic fund transfer from a self-insured employer's bank account. The term "access card" does not include stored value cards or prepaid cards that store funds directly on the card and that are not linked to a self-insured employer's bank account. ()

b. A self-insured employer may pay compensation through an access card to a claimant if there is written mutual agreement signed by the self-insured employer and the claimant. The self-insured employer shall maintain accurate records of the mutual agreement for, at a minimum, four hundred one (401) weeks from the date of injury. The written agreement shall contain an acknowledgment that the claimant received and agreed to the written disclosure required by Paragraph 051.08.d. of this rule. ()

c. A self-insured employer providing compensation payments to a claimant through an access card shall: ()

i. Permit the claimant to withdraw the entire amount of the balance of an access card in one (1) transaction; ()

ii. Not reduce compensation payments paid to a claimant through an access card for the following fees, surcharges, and adjustments: ()

(1) Overdraft services under which a financial institution pays a transaction (including a check or other item) when the claimant has insufficient or unavailable funds in the account; ()

(2) ATM withdrawal or point of sale purchase for more than the card holds and the transaction is denied; ()

(3) ATM balance inquiries; ()

(4) Withdrawing money from network ATMs; ()

(5) Withdrawing money from a teller; ()

(6) Customer service calls; ()

(7) Activating the card; ()

(8) Fees for card inactivity; ()

(9) Closing account; ()

(10) Access card replacement through standard mail; ()

(11) Withdrawing the entire payment in one (1) transaction; ()

(12) Point of sale purchases; or ()

(13) Any other fees or charges that are not authorized under Subparagraph 051.08.c.iii. of this rule; and ()

- iii. Only permit a claimant to be charged for the following: ()
- (1) Fees for access card replacement through an expedited mail service; ()
- (2) International transaction fees; and ()
- (3) Out-of-network ATM fees. ()
- d. Self-insured employers shall provide a written disclosure to the claimant contemporaneously with the written mutual agreement required under Paragraph 051.08.b. of this rule. The written disclosure shall include: ()
- i. A summary of the claimant's liability for unauthorized electronic fund transfers; ()
- ii. The telephone number and address of the person or office to be notified when the claimant believes that an unauthorized electronic fund transfer has been or may be made; ()
- iii. The type of electronic fund transfers that the claimant may make and any limitations on the frequency of transfers; ()
- iv. Any fees imposed for electronic fund transfers or for the right to make transfers, including a statement that fees may be imposed by an ATM operator that is out-of-network; ()
- v. Fees for expedited card replacement or international transaction fees will be removed from the balance maintained in the bank account linked to the access card; ()
- vi. A summary of the claimant's right to receipts and periodic statements; ()
- vii. All bank locations and network ATMs in the United States where the claimant may access his or her funds at no cost; ()
- viii. A statement informing the claimant that they have a right to receive payments directly into their personal bank account through direct deposit or by check. ()
- e. A self-insured employer shall provide the written disclosure and any notice of term or condition changes required under Subsection 051.08 of this rule that: ()
- i. Are printed in not less than twelve (12) point font; ()
- ii. Include the full text in English, Spanish, and any other language common to the claimant population; ()
- iii. Are written in a clear and coherent manner and wherever practical, words with common and everyday meaning shall be used to facilitate readability; and ()
- iv. Are appropriately divided and captioned in a meaningful sequence such that each section contains an underlined, boldfaced, or otherwise conspicuous title or caption at the beginning of the section that indicates the nature of the subject matter included in or covered by the section. ()
- f. An access card issued to a claimant under Subsection 051.08 of this rule: ()
- i. Shall not bear any information that could reasonably identify the claimant as a participant in the workers' compensation system; and ()
- ii. Shall include on the front or back of the access card a toll-free customer service number and website address. Customer service personnel shall be available by phone Monday through Friday during normal business hours (9:00 a.m. to 6:00 p.m. Mountain Time). ()

g. The self-insured employer shall provide a written notice to the claimant at least twenty-one (21) days before the effective date of any change in a term or condition of the mutual agreement or disclosure, including terminating the access card program, increased fees, or liability for unauthorized electronic fund transfers. Any terms or conditions that violate the requirements of Subsection 051.08 of this rule are null and void and may result in administrative action against the employer. A self-insured employer shall provide a written notice of term or condition changes that: ()

i. Provides a comparison of the current terms and the changes; and ()

ii. References the claimant's ability to request a change in method of payment to electronic fund transfer to his or her personal bank account in accordance with Subsection 051.07 of this rule, or to payment by check. ()

h. A self-insured employer may close the access card account by issuing a check to the claimant with the remaining balance of the access card if the account has been inactive for twelve (12) months or longer. ()

i. The self-insured employer shall not remove money from the claimant's account or access card except to remove permitted fees under Subparagraph 051.08.c.iii. of this rule, or to close the account for inactivity of a period of twelve (12) months or more. A self-insured employer seeking to recoup overpayments shall follow the requirements of Section 72-316, Idaho Code. ()

j. A self-insured employer is considered to have made a compensation payment the date the payment is available on the claimant's access card. ()

079. **Checks and Drafts.** Checks must be signed and issued within the state of Idaho; drafts are prohibited. (4-7-11)

a. 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 self-insured employer to sign and issue checks outside the state of Idaho. (4-7-11)

b. An Application for Waiver must be accompanied by an affidavit signed by an officer or principal of the self-insured employer, attesting to the fact that the self-insured employer is prepared to comply with all statutes and rules pertaining to prompt payment of compensation. (4-7-11)

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 self-insured employer for which a waiver under this rule has been granted to assure that the self-insured employer is complying with all statutes and rules pertaining to prompt payment of compensation. (4-7-11)

d. If at any time after the Commission has granted a waiver, the Commission receives information permitting the inference that the 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 self-insured employer an opportunity to be heard, may revoke the waiver and order the self-insured employer to comply with the requirements of Subsections 051.06 and 051.07 of this rule. (4-7-11)

0810. **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 income benefit check, showing signature and date, shall be sent to the Industrial Commission the same day of issuance. (3-25-16)

0911. **Prompt Claim Servicing.** Prompt claim servicing includes, but is not limited to: (4-7-11)

a. Making an initial decision to accept or deny a claim for an injury or occupational disease within thirty (30) days of the date the claims administrator receives knowledge of the same. The worker shall be given notice

of that initial decision in accordance with Section 72-806, Idaho Code. Nothing in this rule shall be construed as amending the requirement to start payment of income benefits no later than four (4) weeks or twenty-eight (28) days from the date of disability under the provisions of Section 72-402, Idaho Code. (3-28-18)

b. Payment of medical bills in accordance with the provisions of IDAPA 17.02.09, Medical Fees, Sections 031, 032, 033, and 034. (4-7-11)

c. Payment of income benefits on a weekly basis, unless otherwise approved by the Commission. (4-7-11)

i. The first payment of income benefits under Section 72-408, Idaho Code, shall constitute application by the self-insured employer for a waiver to pay Temporary Total Disability (TTD) benefits on a bi-weekly basis, Temporary Partial Disability (TPD) benefits on other than a weekly basis, Permanent Partial Disability (PPD) benefits based on permanent impairment and Permanent Total Disability (PTD) benefits every twenty-eight (28) days, rather than on a weekly basis. (3-28-18)

ii. Such waiver application shall be granted upon receipt and remain in effect unless revoked by the Industrial Commission in accordance with Subparagraph 051.09.c.iii., below. (3-28-18)

iii. If at any time after a waiver has been granted pursuant to this section the Commission receives information permitting the inference that the self-insured employer has failed to service claims in accordance with Idaho law, or that such waiver has created an undue hardship on a claimant, the Commission may issue an order to show cause why the Commission should not revoke that waiver, and after affording the employer an opportunity to be heard, may revoke the waiver with respect to all or certain claimants and order the self-insured employer to comply with the requirements of Subsection 051.09.c. of this rule. (3-28-18)

d. Payment of the first Permanent Partial Disability (PPD) benefit based on permanent impairment no later than fourteen (14) days after receipt of the medical report providing the impairment rating. The first payment shall include payment of benefits retroactive to the date of medical stability. (3-28-18)

e. Temporary Partial Disability (TPD) payments shall be calculated using the employee's pay period, whether weekly, bi-weekly, or semi-monthly. For employees paid pursuant to any other schedule, TPD benefits shall be calculated semi-monthly. TPD payments owed for a particular pay period shall issue no later than seven (7) days following the date on which employee is ordinarily paid for that pay period. (3-28-18)

102. **Audits.** The Industrial Commission will perform periodic audits to ensure compliance with the above requirements. (4-7-11)

143. **Non-Compliance.** Non-compliance with the above requirements may result in the revocation of the authority of a self-insured employer to self-insure its workers' compensation obligations in the state of Idaho, or such lesser sanctions as the Industrial Commission may impose. (4-7-11)

IDAPA 28 – DEPARTMENT OF COMMERCE

28.02.03 – RULES OF THE IDAHO REGIONAL TRAVEL AND CONVENTION GRANT PROGRAM

DOCKET NO. 28-0203-1802

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2019 Idaho State Legislature for final approval. The pending rule becomes final and effective at the end of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 67-4702, 67-4715 and 67-4717, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule:

The Idaho Department of Commerce proposed this rule to define and clarify allowable costs of the Idaho Regional Travel and Convention Grant Program. This pending rule implements the temporary rule adopted on March 2, 2018. There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 3, 2018 Idaho Administrative Bulletin, [Vol. 18-10, pages 411 through 414](#).

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:

There is no fiscal impact. Administrative costs remain at 10% of the grant award, capped at \$25,000. There is no proposed change to the 10% or the cap of \$25,000.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Matt Borud at (208) 334-2470.

Dated this 12th day of December, 2018.

Bobbi-Jo Meuleman, Director
Idaho Department of Commerce
700 W. State St., 2nd Floor
Boise, ID 83702
Phone: (208) 334-2470
Fax: (208) 334-2631

THE FOLLOWING NOTICE PUBLISHED WITH THE 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 67-4702, 67-4715, and 67-4717, 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 17, 2018.

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:

The Idaho Department of Commerce adopted a temporary rule on March 2, 2018, to define and clarify allowable costs of the Idaho Regional Travel and Convention Grant Program so that the program would continue to operate without interruption. This proposed rule implements the temporary rule without change and provides for other minor rule edits for housekeeping purposes.

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

There is no fee or charge imposed or increased.

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 zero fiscal impact. Administrative costs remain at 10% of the grant award, capped at \$25,000. There is no proposed change to the 10% or the cap of \$25,000.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(3), Idaho Code, negotiated rulemaking was facilitated by involving current grant recipients in formulation of the policy through telephone interviews, surveys, one on one meetings, and public meetings of the Idaho Travel Council. The Idaho Travel Council was presented with the results of the data collected and Commerce staff proposed a revision to the rule. The temporary rule was endorsed by the Idaho Travel Council and adopted by the Department Director on March 2, 2018.

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:

There are no documents incorporated by reference.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Matt Borud at (208) 334-2470. 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 24, 2018 at 5:00 p.m. Mountain Time.

Dated this 21st day of August, 2018.

[LINK: LSO Rules Analysis Memo](#)

THE FOLLOWING IS THE TEXT OF DOCKET NO. 28-0203-1802

011. PROGRAM INTENT.

The intent of the ITC's Regional Grant Program is to distribute grant funds to non-profit, incorporated organizations which have in place a viable travel or convention promotion program, or both, in their area of operation. Preference is given to programs ~~of Destination Marketing Organizations (DMOs)~~ with a primary focus of promoting overnight visitation in ~~their area~~ Idaho. Funds may be used for tourism marketing which has a positive economic impact to the state of Idaho. Such marketing includes, but is not limited to, the promotion of accommodations, recreational areas, events, conferences, food and beverage, tourism services, culture, attractions, and transportation. The Idaho Travel Council and the Department will guide the tourism marketing goals and strategies for the state of Idaho.

~~(3-29-10)~~()

(BREAK IN CONTINUITY OF SECTIONS)

013. DISTRIBUTION OF FUNDS.

The Idaho Regional Travel and Convention Grant is a cost reimbursementmentable grant.

~~(3-29-10)~~()

01. Documentation of Funds Expended. The Department will allocate reimburse funds to the grantee upon submission and review of complete documentation of funds expended.

~~(3-29-10)~~()

02. Documentation of Reimbursable Expenses. Documentation for reimbursable expenses will be determined by the Department and the ITC as outlined in the guidelines.

(3-29-10)

(BREAK IN CONTINUITY OF SECTIONS)

015. POTENTIAL CONFLICT OF INTEREST.

A grant recipient's affiliation with a profit-making organization could imply a conflict of interest and must be disclosed. Such conflict could render the grant application ineligible.

~~(3-29-10)~~()

(BREAK IN CONTINUITY OF SECTIONS)

017. ELIGIBLE PROJECTS.

Eligible projects under the Regional Travel and Convention Grant Program must be consistent with the legislative declaration of policy in Title 67, Chapter 47, Idaho Code, and the program intent. Programs that are eligible for consideration must fall under the basic definition of travel or convention promotion.

~~(3-29-10)~~()

018. ~~INELIGIBLE PROJECTS~~ ADMINISTRATIVE EXPENSES.

01. Program Purpose. It is not the purpose of this grant program to fund the day-to-day, administrative expenses of organizations that have a travel or convention promotion element. Projects that have alternative funding sources (for example, regular Chamber of Commerce budgets) or that have been funded previously with the agency's own funds may be deemed ineligible.

~~(3-29-10)~~()

~~01. **Organizational Administrative Expense.** Rent, phone, supplies, wages and salaries, other overhead and administrative expenses are not reimbursable; however, the actual cost of staff wages and benefits (Other Personnel Expenses (OPE)) may be used as cash match with documentation. (3-29-10)~~

~~02. **Salary or Personnel Administrative Expense.** Expenses related to grant writing are not eligible. The following administrative and overhead costs are allowable: (3-29-10)()~~

~~a. **Wages and Benefits.** Wages and benefits of one (1) designated grant administrator for time directly related to the task of grant administration. Other employee wages and benefits incurred in the execution of the grant program may be used as cash match with documentation. ()~~

~~b. **Overhead.** Reasonable, apportioned overhead costs of the grantee organization required to execute the grant program shall be approved by the Idaho Travel Council. The Department shall recommend preferred apportionment methods. ()~~

~~c. **Grant Writing.** No expenses related to grant writing, or grant application are eligible. ()~~

~~03. **Alternative Funding Sources.** Projects that have alternative funding sources (for example, regular Chamber of Commerce budgets) or that have been funded previously with the agency's own funds may be deemed ineligible. (3-29-10)~~

(BREAK IN CONTINUITY OF SECTIONS)

022. GRANT ADMINISTRATION GUIDELINES.

01. Noncompliance with Guidelines. Noncompliance with administrative guidelines may lead to grant termination or omission from future grant awards, or both. (3-29-10)

02. Usage of Funds. Applicant must agree that funds will be used in accordance with ITC grant contract and guidelines, including, but not limited to: (3-29-10)()

- a. Submitting narrative progress reports according to contract schedule; (3-29-10)
- b. Using appropriate forms with accompanying documentation; (3-29-10)
- c. Abiding by subcontract procedures in the guidelines; and (3-29-10)
- d. Providing complete audit documentation when applicable. (3-29-10)

(BREAK IN CONTINUITY OF SECTIONS)

201. MATCHING FUNDS.

Match must be documented in the application. (3-29-10)

01. Match Required. The Idaho Regional Travel and Convention Grant Program requires match from all organizations applying for funding as a way to increase the regional or local commitment to the plan, and to assist in generating more dollars for tourism promotion. (3-29-10)

02. Match Percentage. All plans must provide cash match of twelve and one-half percent (12.5%) of the amount awarded. All match must be outlined in the scope of work within the grant application. Audits are exempt from match requirements. (3-29-10)

03. Match Definition. Match is defined in the guidelines, but is considered documented cash contributions, wages and benefits or income used to fund a project. (3-29-10)

04. Expenditures. Expenditures claimed for projects funded previously by the grantee, such as brochures and publications, will not be allowed as match. (3-29-10)

05. Marketing. Marketing dollars spent by a for-profit enterprise within their marketing program may not be claimed as cash match by a grantee, not to exclude approved co-op programs. (3-29-10)

~~**06. Audits.** Funds awarded for audits are exempt from match requirements. (3-29-10)~~

(BREAK IN CONTINUITY OF SECTIONS)

222. GRANT AWARD.

The ITC is responsible for the selection of applications to be awarded ITC Grants. Once the ITC has selected plans applications to be funded, the Department will notify all applicants, ~~by letter~~, of their funding status in writing. (3-29-10)()

01. Term of Contract. All contracts will be in effect for a period of no more than fourteen (14) months unless otherwise stipulated in the contract. (3-29-10)

02. Special Conditions. If applicable, special conditions of funding will be outlined. (3-29-10)

03. Effective Date. The grant will take effect upon the date of award. Grant monies cannot be expended until that date. (3-29-10)

04. Reimbursement. No expenditures can be reimbursed until the contract is signed by the Director of the Department or his designee. (3-29-10)

223. AUDIT REQUIREMENT.

Grantees who receive one hundred thousand dollars (\$100,000) or more in grant funds must will have an audit. The audit must will be performed by a Certified Public Accountant and submitted to the Department within sixty (60) days following the close of the grant cycle. The Council may also require an audit for grants less than one hundred thousand dollars (\$100,000). ~~Estimated audit costs must be included in the grant application. Audits are exempt from match requirements.~~ (3-29-10)()

IDAPA 59 – PUBLIC EMPLOYEES RETIREMENT SYSTEM OF IDAHO

59.01.03 – PERSI CONTRIBUTION RULES

DOCKET NO. 59-0103-1801

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2019 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 59-1314 and 72-1405.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the June 6, 2018, Idaho Administrative Bulletin, [Vol. 18-6, pages 132-135](#).

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:

Employer contribution rates will increase by 0.62% of salaries, beginning July 1, 2019. This will affect the general fund to the extent the contributions required of the employer (State of Idaho and political subdivisions and government entities electing to participate in the system) are made from general fund dollars.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Cheryl George, (208) 287-9231.

Dated this 24th day October, 2018.

Don Drum
Executive Director
Public Employee Retirement System of Idaho
607 N. 8th Street, Boise, ID 83702
P.O. Box 83720, Boise, ID 83720-0078
Phone: (208) 287-9230
Fax: (208) 334-3408

THE FOLLOWING NOTICE PUBLISHED WITH THE 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 Section 54-912, 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 June 20, 2018.

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 applies to the PERSI Employer General Member and Class II Contribution Rate, the PERSI Employee General Member and Class II contribution rates, and the Firefighter Retirement Fund Employer Rate. The actuarial valuation for the PERSI general member contribution rate period ending June 30, 2016 reflected that the amortization period was above 25 years. The PERSI Board acted to adopt a rate increase to bring the amortization period to 25 years or less as required by Section 59-1322, Idaho Code. This rate increase was scheduled to go into effect July 1, 2018. The actuarial valuation for the rate period ending June 30, 2017 reflected that the amortization period was less than 25 years and the PERSI Board delayed the rate increase for one year. This rule reflects the delayed increase and acts to impose the rate increase to go into effect July 1, 2019.

A temporary rule was adopted under this docket effective December 5, 2017 and published in the January 3, 2018 Idaho Administrative Bulletin, [Vol. No. 18-1, pages 242 through 245](#). This rule is now being promulgated as a proposed rulemaking.

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

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

Employer contribution rates will increase by 0.62% of salaries, beginning July 1, 2019. This will affect the general fund to the extent the contributions required of the employer (State of Idaho and political subdivisions and government entities electing to participate in the system) are made from general fund dollars.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was not conducted because negotiated rulemaking is not feasible because it would be inconsistent with the PERSI Board's need to bring the amortization rate to 25 years or less and with the Board's exclusive fiduciary responsibility for plan operations.

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 Cheryl George, (208) 287-9231.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before June 27, 2018.

DATED this 17th day of April, 2018.

[LINK: LSO Rules Analysis Memo](#)

THE FOLLOWING IS THE TEXT OF DOCKET NO. 59-0103-1801

026. PERSI EMPLOYER GENERAL MEMBER CONTRIBUTION RATE (RULE 26).

The PERSI employer contribution rate as provided in Section 59-1322, Idaho Code, shall be nine point seventy-seven percent (9.77%) of payroll through June 30, 2004. Beginning July 1, 2004, the rate shall be ten point thirty-nine percent (10.39%) of payroll through June 30, 2013. Beginning July 1, 2013, the rate shall be eleven point thirty-two percent (11.32%) of payroll until ~~June 30, 2019. Beginning July 1, 2019, the rate shall be eleven point ninety-four percent (11.94%)~~ until next determined by the Board.

Statutory Reference: Sections 59-1302(16), 59-1391, 59-1394, and 59-1397, Idaho Code. Cross References: (Amended 10-1-94) (Amended 10-1-97) (Amended 10-1-98) (Amended 10-1-99) (Amended 7-1-00) (Amended 3-30-01) (Amended 3-20-04) ~~(10-21-14)~~()

027. FIREFIGHTER RETIREMENT FUND EMPLOYER RATE (RULE 27).

The Firefighter Retirement Fund employer rate shall be: (10-1-94)

01. Option I and II Firefighters. For option I and II firefighters hired before October 1, 1980, as follows:

Option I And II Firefighters	
PERSI Employer Contribution Rate:	Ten point eleven percent (10.11%) of payroll through June 30, 2004. Beginning July 1, 2004, the rate shall be ten point seventy three percent (10.73%) of payroll through June 30, 2013. Beginning July 1, 2013, the rate shall be eleven point sixty six percent (11.66%) of payroll until next determined by the Board <u>The employer contribution rate as provided in Rule 28.</u>
Additional Employer Rate:	One percent (1%)
Social Security Rate:	Seven point sixty-five percent (7.65%)
Excess Merger Costs Rate:	Seventeen point twenty-four percent (17.24%) through December 31, 2014. Beginning January 1, 2015, five percent (5%) until next determined by the Board.
TOTAL Contribution Rate:	The total contribution rate is the sum of the PERSI employer contribution rate, the additional employer rate, the social security rate and the excess merger costs rate.

~~(10-21-14)~~()

02. Class D Firefighters. For class D firefighters (firefighters employed on or after October 1, 1980, by a city or fire district that employs paid firefighters who are participating in the Firefighters' Retirement Fund), as

follows:

Class D Firefighters	
PERSI Employer Contribution Rate:	Ten point eleven percent (10.11%) of payroll through June 30, 2004. Beginning July 1, 2004, the rate shall be ten point seventy three percent (10.73%) of payroll through June 30, 2013. Beginning July 1, 2013, the rate shall be eleven point sixty six percent (11.66%) of payroll until next determined by the Board <u>The employer contribution rate as provided in Rule 28.</u>
Excess Merger Costs Rate:	Seventeen point twenty-four percent (17.24%) through December 31, 2014. Beginning January 1, 2015, five percent (5%) until next determined by the Board.
TOTAL Contribution Rate:	The total contribution rate is the sum of the PERSI employer contribution rate and the excess merger costs rate.

Statutory References: Sections 59-1302(16), 59-1391, 59-1394, 59-1397, 72-1403, and 72-1434, Idaho Code. Cross References: (Amended 10-1-94) (Amended 10-1-97) (Amended 10-1-98) (Amended 10-1-99) (Amended 7-1-00) (Amended 3-30-01) (Amended 7-1-03) (Amended 3-20-04) ~~(10-21-14)~~()

03. Class E Members. For class E members (general members who meet the definition of paid firefighter under Section 59-1391(f), Idaho Code, but are not firefighters as defined in Section 59-1302(16), Idaho Code) the employer general member contribution rate as provided in Rule 26, plus the excess merger costs specified in Subsection 027.01. (3-20-04)

028. PERSI EMPLOYER CLASS II CONTRIBUTION RATE (RULE 28).

The PERSI employer contribution rate as provided in Section 59-1322, Idaho Code, for an employee classified as a police officer member excluding those listed in Rule 29 of this chapter when applicable, and firefighters excluding those listed in Rule 27 of this chapter, shall be ten point eleven percent (10.11%) of payroll through June 30, 2004. Beginning July 1, 2004, the rate shall be ten point seventy-three percent (10.73%) of payroll through June 30, 2013. Beginning July 1, 2013, the rate shall be eleven point sixty-six percent (11.66%) of payroll through June 30, 2019. Beginning July 1, 2019, the rate shall be twelve point twenty-eight percent (12.28%) until next determined by the Board.

Statutory References: Cross Reference: (Amended 10-1-94) (Amended 10-1-97) (Amended 10-1-98) (Amended 10-1-99) (Amended 7-1-00) (Amended 3-30-01) (Amended 7-1-03) (Amended 3-20-04) ~~(10-21-14)~~()

(BREAK IN CONTINUITY OF SECTIONS)

100. PERSI EMPLOYEE GENERAL MEMBER CONTRIBUTION RATE (RULE 100).

The PERSI employee contribution rate as provided in Section 59-1333, Idaho Code, for all members not classified as police members or firefighters, shall be five point eighty-six percent (5.86%) of salary through June 30, 2004. Beginning July 1, 2004, the rate shall be six point twenty-three percent (6.23%) of salary through June 30, 2013. Beginning July 1, 2013, the rate shall be six point seventy-nine percent (6.79%) through June 30, 2019. Beginning July 1, 2019, the rate shall be seven point sixteen percent (7.16%) of salary until next determined by the Board.

Statutory References: Cross Reference: (Amended 10-1-94) (Amended 10-1-97) (Amended 10-1-98) (Amended 10-1-99) (Amended 7-1-00) (Amended 3-30-01) (Amended 3-20-04) ~~(10-21-14)~~()

101. PERSI EMPLOYEE CLASS II CONTRIBUTION RATE (RULE 101).

The employee contribution rate as provided in Section 59-1334, Idaho Code, for an employee classified as a police officer member is seven point twenty-one percent (7.21%) of salary through June 30, 2004. Beginning July 1, 2004, the rate shall be seven point sixty-five percent (7.65%) of salary through June 30, 2013. Beginning July 1, 2013, the rate shall be eight point thirty-two percent (8.32%) of salary through June 30, 2019. Beginning July 1, 2019, the rate shall be eight point seventy-seven percent (8.77%) of salary until next determined by the Board.

Statutory References: Cross Reference: (Amended 10-1-94) (Amended 10-1-97) (Amended 10-1-98) (Amended 10-1-99) (Amended 7-1-00) (Amended 3-30-01) (Amended 3-20-04) ~~(10-21-14)~~()

IDAPA 59 – PUBLIC EMPLOYEES RETIREMENT SYSTEM OF IDAHO

59.01.05 – PERSI SEPARATION FROM SERVICE RULES

DOCKET NO. 59-0105-1801

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2019 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 59-1314(1).

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the June 6, 2018 Idaho Administrative Bulletin, [Vol. 18-6, pages 136-137](#).

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Cheryl George, (208) 287-9231.

DATED this 17th day of July, 2018.

Don Drum, Executive Director
Public Employee Retirement System of Idaho
607 N. 8th Street
Boise, ID 83702
P.O. Box 83720
Boise, ID 83720-0078
Phone: (208) 287-9230
Fax: (208) 334-3408

THE FOLLOWING NOTICE PUBLISHED WITH THE 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 Section 59-1314(1) 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 June 20, 2018.

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:

When a member is required to take a minimum distribution but fails to complete a retirement application and choose a retirement option, then the retirement option will default to regular retirement benefits if single or Option 1 if married. Also, when an inactive member defers retirement beyond service retirement age, the first retirement payment will be a lump sum that includes payment for the months of service beyond service retirement age.

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

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because negotiated rulemaking is not feasible because it would be inconsistent with the PERSI Board's exclusive fiduciary responsibility for plan operations.

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 Cheryl George, (208) 287-9231.

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 June 27, 2018.

DATED this 17th day of April, 2018.

[LINK: LSO Rules Analysis Memo](#)

THE FOLLOWING IS THE TEXT OF DOCKET NO. 59-0105-1801

126. REQUIRED MINIMUM DISTRIBUTIONS (RULE 126).

01. Default Application of Federal Requirements. With respect to distributions under the Base Plan made in calendar years beginning on or after January 1, 2001, and except as provided in Subsection 126.06, the Plan will apply the minimum distribution requirements of section 401(a)(9) of the Internal Revenue Code (Code) in accordance with a good faith interpretation of section 401(a)(9), notwithstanding any provision of the Base Plan to the contrary. (5-8-09)

02. Required Beginning Date. Except as otherwise provided in Subsections 126.034 through 126.068, distributions under the Base Plan shall begin not later than April 1 following the later of (a) the commencement year ~~and or~~ (b) the year in which the member retires. For purposes of Rule 126, the “commencement year” is the calendar year in which the member reaches age seventy and one-half (70 1/2). (5-8-09) ()

03. PERSI Selects Retirement Option. Any member required to take minimum distributions, as provided in this Rule 126, and fails to complete and submit an approved retirement application and select either a regular or optional retirement allowance by April 1 following the later of (a) the commencement year or (b) the year in which the member retires shall be deemed to have made the following selection: ()

a. If single, a regular retirement allowance and no other selection shall be required or permitted. ()

b. If married, Option 1 and no other selection shall be required or permitted, unless proof is provided that spouse has no community property interest in the benefit. ()

034. Lifetime Distributions. Distribution shall be made over the life of the participant or the lives of the participant and his beneficiary; or over a period certain not extending beyond the life expectancy of the member or the joint life and last survivor expectancy of the member and his beneficiary. (5-8-09)

045. Timing of Required Distributions. A required distribution shall be deemed to have been made during the commencement year if actually made by the following April 1, but such delayed distribution shall not change the amount of such distribution, and the distribution otherwise required during the subsequent calendar year shall be calculated as if the first distribution had been made on the last day of the commencement year. (5-8-09)

056. Adjustment of Required Distributions. Benefits paid prior to the commencement year shall reduce the aggregate amount subject to (but shall not otherwise negate) the minimum distribution requirements described herein. (5-8-09)

07. Benefits Deferred Beyond Service Retirement. The first payment of benefits of an inactive member following deferment beyond service retirement will be in a lump sum that includes payment for those months of service dating from the date of service retirement when a monthly retirement payment would have started through the current monthly payment. Subsequent payments will be for the monthly retirement allowance only. ()

068. Death Benefits. All death benefits payable under the Base Plan will be distributed as soon as administratively practicable after request, but must in any event be distributed within fifteen (15) months of the member’s death, unless the identity of the beneficiary is not ascertainable. (5-3-03)

IDAPA 59 – PUBLIC EMPLOYEES RETIREMENT SYSTEM OF IDAHO

59.01.06 – PERSI RETIREMENT RULES

DOCKET NO. 59-0106-1801

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2019 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 59-1314(1).

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the June 6, 2018 Idaho Administrative Bulletin, [Vol. 18-6, pages 138-139](#).

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Cheryl George, (208) 287-9231.

DATED this 17th day of July, 2018.

Don Drum, Executive Director
Public Employee Retirement System of Idaho
607 N. 8th Street
Boise, ID 83702
P.O. Box 83720
Boise, ID 83720-0078
Phone: (208) 287-9230
Fax: (208) 334-3408

THE FOLLOWING NOTICE PUBLISHED WITH THE 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 Section 59-1314, 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 June 20, 2018.

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:

The portion of this rule about a member's failure to file a completed retirement application and select a retirement option is deleted. The deleted portion will be addressed in IDAPA 59.01.05.126.

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

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because negotiated rulemaking is not feasible because it would be inconsistent with the PERSI Board's exclusive fiduciary responsibility for plan operations.

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 Cheryl George, (208) 287-9231.

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 June 27, 2018.

DATED this 17th day of April, 2018.

[LINK: LSO Rules Analysis Memo](#)

THE FOLLOWING IS THE TEXT OF DOCKET NO. 59-0106-1801

122. ~~CONTINGENT ANNUITANT OPTION AND~~ SPOUSAL CONSENT (RULE 122).

Except as provided in this rule, a member is required to complete and submit an approved retirement application and select either a regular or optional retirement allowance. The member's signature must be notarized. The application for retirement indicating the election made by the retiring member shall also be signed by the spouse certifying he/she understands and consents to the election made by the member. The spouse's signature must be notarized. ~~If an inactive member reaches service retirement age, or an active member who has reached service retirement age separates from service, and has failed to complete and submit an approved retirement application and select either a regular or optional retirement allowance within ninety (90) days thereafter, the member shall be deemed to have selected a regular retirement allowance and no other selection shall be required or permitted. (Amended 1-1-94)~~

(4-11-06)()

IDAPA 59 – PUBLIC EMPLOYEES RETIREMENT SYSTEM OF IDAHO

59.01.06 – PERSI RETIREMENT RULES

DOCKET NO. 59-0106-1802

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2019 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 59-1314.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 3, 2018, Idaho Administrative Bulletin, [Vol. 18-10, pages 559-560](#).

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Cheryl George, (208) 287-9231.

Dated this 24th day October, 2018.

Don Drum
Executive Director
Public Employee Retirement System of Idaho
607 N. 8th Street, Boise, ID 83702
P.O. Box 83720, Boise, ID 83720-0078
Phone: (208) 287-9230
Fax: (208) 334-3408

THE FOLLOWING NOTICE PUBLISHED WITH THE 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 Section(s) 59-1314 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 17, 2018.

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:

IDAPA 59.01.06.576 would be amended to require an employer who not is eligible to participate in other statutorily created sick leave pools and wants to voluntarily participate in the unused sick leave pool established by the state (see Section 59-1365, Idaho Code) to annually update and submit an application for participation in the subdivision unused sick leave fund. A new section IDAPA 59.01.06.579 would be added to terminate employers failing to meet the participation or funding requirements. It also allows an employer to withdraw. Any terminated employer or withdrawn employer would not be allowed to rejoin.

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

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because negotiated rulemaking is not feasible because it would be inconsistent with the PERSI Board's exclusive fiduciary responsibility for plan operations.

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 Cheryl George, (208) 287-9231.

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 24, 2018.

Dated this 21st day of August, 2018.

[LINK: LSO Rules Analysis Memo](#)

THE FOLLOWING IS THE TEXT OF DOCKET NO. 59-0106-1802

576. PARTICIPATION IN SUBDIVISION UNUSED SICK LEAVE POOL (RULE 576).

Any PERSI employer meeting the following requirements may elect to participate in the unused sick leave pool authorized by Section 59-1365, Idaho Code: (3-30-01)

01. No Current Plan. The employer does not participate in any other statutorily created plan that offers benefits for unused sick leave, including but not limited to, those plans created under Sections 33-1228, 33-2109, and 67-5333, Idaho Code. (3-29-10)

02. All Inclusive Participation. All of a participating employer's employees who are PERSI members and who accrue sick leave must be participants in the plan, except that employers may exclude certain distinctive classes of employees for legitimate business reasons. For example, a city could exclude employees covered by a collective bargaining agreement, or a county may choose to exclude elected officials. (3-30-01)

03. No Other Options for Unused Sick Leave. No employee may be given any option to receive benefits from unused sick leave other than through this plan. For example, no employee, other than those properly excluded under Subsection 576.02, may be given the option of exchanging sick leave for cash or other forms of payment or leave. (3-30-01)

04. Fixed Annual Accrual of Sick Leave. Employer must comply with a policy that offers a fixed amount of sick leave annually that is applicable to all employees or employee groups. A "personal leave" option that fails to distinguish between sick, vacation, or other forms of leave is not permitted. (3-30-01)

05. Medicare Eligible Retirees. Employer's plan must provide coverage to all retired employees eligible for unused sick leave credits, including retirees that become Medicare eligible. (3-29-10)

06. Annual Application. Employer must annually update and submit an application for participation in the Subdivision Unused Sick Leave Pool on the form prescribed by PERSI. ()

(BREAK IN CONTINUITY OF SECTIONS)

579. TERMINATION, WITHDRAWAL, OR REMOVAL FROM SUBDIVISION POOL (RULE 579).

Any employer failing to meet the requirements of participation provided by IDAPA 59.01.06.576 shall be terminated from participation in the Subdivision Pool. Any employer failing to meet the funding requirements provided by IDAPA 59.01.06.578 shall be terminated from participation in the Subdivision Pool, provided however, an employer may submit a detailed explanation for its failure to meet the funding requirements as required in IDAPA 59.01.06.578 and subject to PERSI approval. Employers that have withdrawn or have been terminated shall not be allowed to rejoin. ()

~~579~~**80. -- 599. (RESERVED)**