

Dear Senators PATRICK, Guthrie, Ward-Engelking, and
Representatives HARTGEN, Anderson, King:

The Legislative Services Office, Research and Legislation, has received the enclosed rules of
the Industrial Commission:

IDAPA 17.02.06 - Employers' Reports - Proposed Rule (Docket No. 17-0206-1801);

IDAPA 17.02.07 - Procedures to Obtain Compensation - Proposed Rule (Docket No. 17-0207-1801).

Pursuant to Section 67-454, Idaho Code, a meeting on the enclosed rules may be called by the
cochairmen or by two (2) or more members of the subcommittee giving oral or written notice to Research
and Legislation no later than fourteen (14) days after receipt of the rules' analysis from Legislative
Services. The final date to call a meeting on the enclosed rules is no later than 10/29/2018. If a meeting is
called, the subcommittee must hold the meeting within forty-two (42) days of receipt of the rules' analysis
from Legislative Services. The final date to hold a meeting on the enclosed rules is 11/28/2018.

The germane joint subcommittee may request a statement of economic impact with respect to a
proposed rule by notifying Research and Legislation. There is no time limit on requesting this statement,
and it may be requested whether or not a meeting on the proposed rule is called or after a meeting has
been held.

To notify Research and Legislation, call 334-4854, or send a written request to the address on the
memorandum attached below.



Eric Milstead
Director

Legislative Services Office

Idaho State Legislature

Serving Idaho's Citizen Legislature

MEMORANDUM

TO: Rules Review Subcommittee of the Senate Commerce & Human Resources Committee and the House Commerce & Human Resources Committee

FROM: Legislative Research Analyst - Matt Drake

DATE: October 10, 2018

SUBJECT: Industrial Commission

IDAPA 17.02.06 - Employers' Reports - Proposed Rule (Docket No. 17-0206-1801)

IDAPA 17.02.07 - Procedures to Obtain Compensation - Proposed Rule (Docket No. 17-0207-1801)

1. IDAPA 7.02.06 - Employers' Reports - Proposed Rule (Docket No. 17-0206-1801)

Summary and Stated Reasons for the Rule

The Commission submits notice of a proposed rule at IDAPA 7.02.06 - Employers' Reports. The Commission states that the rule is needed to clarify the requirements for submission of summaries of payment by an employer or other party liable to pay compensation and to allow for electronic data interchange (EDI) filing of closing documents. The proposed rule adds definitions for "indemnity benefits" and "legacy claim" and makes several technical amendments incorporating these newly defined terms.

Negotiated Rulemaking / Fiscal Impact

Negotiated rulemaking was conducted. There is no fiscal impact.

Statutory Authority

The rulemaking appears to be authorized pursuant to section 72-508 and 72-806, Idaho Code.

2. IDAPA 17.02.07 - Procedures to Obtain Compensation - Proposed Rule (Docket No. 17-0207-1801)

Summary and Stated Reasons for the Rule

The Commission submits notice of a proposed rule at IDAPA 17.02.07 - Procedures to Obtain Compensation. The Commission states that the rule is needed to clarify that the IAIABC EDI Claims 3.0 Implementation Guide and Trading Partner Tables referenced in the rule are guidelines as to properly reporting claims electronically, but are not part of the rule. References to these documents have been moved from section 004, entitled "Incorporation By Reference," to section 002, entitled "Written Interpretations." The proposed rule also clarifies the requirements for Trading Partner Agreements and eliminates obsolete procedures regarding submission of paper claims.

Negotiated Rulemaking / Fiscal Impact

Negotiated rulemaking was conducted. There is no fiscal impact.

Kristin Ford, Manager
Research & Legislation

Paul Headlee, Manager
Budget & Policy Analysis

April Renfro, Manager
Legislative Audits

Glenn Harris, Manager
Information Technology

Statutory Authority

The rulemaking appears to be authorized pursuant to sections 72-508 and 72-806, Idaho Code.

cc: Industrial Commission
Mindy Montgomery

***** PLEASE NOTE *****

Per the Idaho Constitution, all administrative rules must be reviewed by the Legislature during the next legislative session. The Legislature has 3 options with this rulemaking docket: **1)** Approve the docket in its entirety; **2)** Reject the docket in its entirety; or **3)** Reject the docket in part.

IDAPA 17 – IDAHO INDUSTRIAL COMMISSION

17.02.06 – EMPLOYERS' REPORTS

DOCKET NO. 17-0206-1801

NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 72-508, 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.

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

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 17-0206-1801
(Only Those Sections With Amendments Are Shown.)

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~~ eClaims 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 and there is no expectation payments will resume within one hundred twenty (120) days. 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 ~~cases~~ 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 – 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.

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

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 17-0207-1801
(Only Those Sections With Amendments Are Shown.)

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 (8½" 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)