

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 17.02.07 - Procedures to Obtain Compensation - Proposed Rule (Docket No. 17-0207-1701);  
IDAPA 17.02.08 - Miscellaneous Provisions - Proposed Rule (Docket No. 17-0208-1701).

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 01/03/2018. 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 02/01/2018.

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 334-4834, 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:** Senior Legislative Research Analyst - Elizabeth Bowen

**DATE:** November 29, 2017

**SUBJECT:** Industrial Commission

IDAPA 17.02.07 - Procedures to Obtain Compensation - Proposed Rule (Docket No. 17-0207-1701)

IDAPA 17.02.08 - Miscellaneous Provisions - Proposed Rule (Docket No. 17-0208-1701)

The Industrial Commission submits notice of proposed rulemaking at IDAPA 17.02.07 and 17.02.08.

#### 17.02.07

This rule requires electronic submission of workers' compensation claims on and after November 4, 2017. A temporary rule regarding electronic submission is currently in effect.

Negotiated rulemaking was not conducted due to the nature of the rule; previously, the intent had been to require electronic submissions as of July 1, 2017, but more time was needed to adapt and test the operating systems. There is no anticipated negative impact on the state general fund. The Commission states that this rulemaking is authorized pursuant to several sections of the Idaho Code, including Section 72-508, which provides rulemaking authority to the Commission.

#### 17.02.08

Section 72-806, Idaho Code, requires an injured worker with a workers' compensation claim to receive notice of any change of status or condition of the claim. This rule clarifies the statute by providing examples of what qualifies as a change of status or condition, including acceptance, commencement, denial, reduction, or cessation of workers' compensation benefits.

Negotiated rulemaking was conducted, and there is no anticipated negative fiscal impact on the state general fund. The Commission states that this rulemaking is authorized pursuant to Sections 72-508 and 72-806, Idaho Code.

cc: Industrial Commission  
Mindy Montgomery

Mike Nugent, Manager  
Research & Legislation

Paul Headlee, Manager  
Budget & Policy Analysis

April Renfro, Manager  
Legislative Audits

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## IDAPA 17 – IDAHO INDUSTRIAL COMMISSION

### 17.02.07 – PROCEDURES TO OBTAIN COMPENSATION

DOCKET NO. 17-0207-1701

#### NOTICE OF RULEMAKING – PROPOSED RULE

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 72-508, 72-432, 72-448, 72-602, 72-701 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 November 15, 2017.

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 rule is necessary to extend the implementation date for EDI Claims Release 3.0 an additional four months, from July 1, 2017 to November 4, 2017, to allow trading partners the amount of time necessary for testing and development of their reporting systems to adapt to the new reporting requirements.

**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 of the need for temporary rulemaking. The temporary rule under this same docket number published in the May 3, 2017 Idaho Administrative Bulletin, [Vol. 17-5, pages 71-73](#). It is necessary to extend the implementation date from July 1, 2017 to November 4, 2017, allowing affected companies additional time to adapt and test their operating systems to the new standard for reporting of worker's compensation claims data to the Industrial Commission under EDI Release 3.0.

**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 November 22, 2017.

DATED this 20th day of September, 2017.

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. 17-0207-1701  
(Only Those Sections With Amendments Are Shown.)**

**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 ~~July 1, 2017~~ 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 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](http://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. (~~3-25-16~~)(    )

**b. FROI & SROI EDI Reporting.** The Commission will require electronic submission of a First Report of Injury (FROI), effective ~~July 1, 2017~~ November 4, 2017, and a Supplemental or Subsequent Report of Injury (SROI), effective ~~July 1, 2017~~ 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. (~~3-25-16~~)(    )

**c. Trading Partner Agreements.** Before commencing electronic reporting, self-insured employers and insurance carriers shall sign 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. To ensure the accuracy of reported data, 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. FROI.** Each electronic First Report of Injury (FROI) must comply with the formatting requirements 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)

**e. SROI.** Each electronic Supplemental or Subsequent Report of Injury (SROI) must comply with the formatting requirements 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)

**f. 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](http://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](http://www.iic.idaho.gov). (3-25-16)

**03. Retaining Claims Files.** 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.** 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

## 17.02.08 – MISCELLANEOUS PROVISIONS

### DOCKET NO. 17-0208-1701

#### 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 November 15, 2017.

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 believes it important to clarify the regulations that define how benefits must be calculated and paid, and the time frame within which sureties must take certain actions. Without these changes, sureties may not know the Industrial Commission's expectations, and workers will not be protected against untimely payment.

This change would require that a worker receives notice of the acceptance, commencement, denial, reduction or cessation of medical or monetary compensation benefits to which the worker might presently or ultimately be entitled.

**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 7, 2017 Idaho Administrative Bulletin, [Vol. 17-6, pages 45-46](#).

**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 November 22, 2017.

DATED this 20th day of September 2017.

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. 17-0208-1701**  
**(Only Those Sections With Amendments Are Shown.)**

**061. RULE GOVERNING NOTICE TO CLAIMANTS OF STATUS CHANGE PURSUANT TO SECTION 72-806, IDAHO CODE.**

**01. Notice of Change of Status.** As required and defined by Idaho Code, Section 72-806, a worker shall receive written notice within fifteen (15) days of any change of status or condition, including, but not limited to, whenever there is an acceptance, commencement, denial, reduction, or cessation of medical or monetary compensation benefits to which the worker might presently or ultimately be entitled. Such notice is required when benefits are reduced to recoup any overpayment of benefits in accordance with the provisions of Section 72-316, Idaho Code. (4-7-11)( )

**02. By Whom Given.** Any notice to a worker required by Idaho Code, Section 72-806 shall be given by: the surety if the employer has secured Workers' Compensation Insurance; or the employer if the employer is self-insured; or the employer if the employer carries no Workers' Compensation Insurance. (4-7-11)

**03. Form of Notice.** Any notice to a worker required by Idaho Code, Section 72-806 shall be mailed within ten (10) days by regular United States Mail to the last known address of the worker, as shown in the records of the party required to give notice as set forth above. The Notice shall be given in a format substantially similar to IC Form 8, available from the Commission and posted on the Commission's website at [www.iic.idaho.gov](http://www.iic.idaho.gov). (4-11-15)

**04. Medical Reports.** As required by Idaho Code, Section 72-806, if the change is based on a medical report, the party giving notice shall attach a copy of the report to the notice. (4-7-11)

**05. Copies of Notice.** The party giving notice pursuant to Idaho Code, Section 72-806 shall send a copy of any such notice to the Industrial Commission, the employer, and the worker's attorney, if the worker is represented, at the same time notice is sent to the worker. The party giving notice may supply the copy to the Industrial Commission in accordance with the Commission's rule on electronic submission of documents. (3-25-16)