



## Final Regulation Agency Background Document

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| <b>Agency name</b>                                 | Virginia Workers' Compensation Commission   |
| <b>Virginia Administrative Code (VAC) citation</b> | 16 VAC 30-91  |
| <b>Regulation title</b>                            | Procedural Regulations for Filing Claims Reports Under the Virginia Workers' Compensation Act |
| <b>Action title</b>                                | EDI Claims Reporting  |
| <b>Date this document prepared</b>                 | December 12, 2008   |

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 36 (2006) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

### Brief summary

*Please provide a brief summary (no more than 2 short paragraphs) of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed. Alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation. Also, please include a brief description of changes to the regulation from publication of the proposed regulation to the final regulation.*

This action repeals 16 VAC 30-90 and promulgates 16 VAC 30-91 to conform the electronic filing method for mandatory reports to the Commission to the industry standard for such reports.

There have been no changes between the proposed and final stages.

### Statement of final agency action

*Please provide a statement of the final action taken by the agency including (1) the date the action was taken, (2) the name of the agency taking the action, and (3) the title of the regulation.*

On December 11, 2008, the Virginia Workers' Compensation Commission in open meeting adopted the proposed regulation as published in the Virginia Register of Regulations in Volume 25, Issue 1, page 49, on September 15, 2008, repealing 16VAC30-90-10 through 16VAC30-90-80, entitled "Procedural

Regulations for Filing First Reports under the Virginia Workers' Compensation Act," and adding 16VAC30-91-10 through 16VAC30-91-20, entitled "Claims Reporting."

**Legal basis**

*Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including Code of Virginia citation and General Assembly chapter numbers, if applicable, and (2) promulgating entity, i.e., agency, board, or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.*

The Commission is an independent, non-executive branch agency, governed by three Commissioners elected by the General Assembly. Code § 65.2-200. The Commission is charged with carrying out the provisions of the Virginia Workers' Compensation Act, Code § 65.2-100 et seq. The Commission is authorized to promulgate rules and regulations, and to examine the "books and records" of parties to proceedings relating to compensation. Code § 65.2-201. The Commission is authorized to collect specific accident data, as well as "such other information as may be required by the Commission" concerning injuries, and to regulate this activity. Code § 65.2-900. The Commission is required to notify injured workers of their rights and also to provide reports to other state agencies concerning accidents, Code §§ 65.2-201 & -900. Any voluntary agreements as to compensation, falling outside the dispute resolution authority of the Commission, must be filed with the Commission in the form prescribed by the Commission. Code § 65.2-701. Also, several of the Commission's dispute resolution rules concern data reporting, including rules requiring agreements, denial, and medical reports to be filed with the Commission. 16 VAC 30-50-50.

**Purpose**

*Please explain the need for the new or amended regulation. Describe the rationale or justification of the proposed regulatory action. Detail the specific reasons it is essential to protect the health, safety or welfare of citizens. Discuss the goals of the proposal and the problems the proposal is intended to solve.*

Since the adoption of 16 VAC 30-90 in 1996, pertaining to the electronic filing of accident reports with the Commission, technology and data standards have changed significantly. The Commission desires to conform its electronic data collection methods to current industry practice, and provide its customers that are required to submit reports to the Commission pursuant to the Virginia Workers' Compensation Act electronic methods that are simple, efficient, and effective. Accordingly, the Commission proposes adopting 16 VAC 30-91, which seeks to conform its electronic data reporting methods to those of the nationwide workers' compensation community standards-setting organization, the International Association of Industrial Accident Boards and Commissions, or IAIABC.

**Substance**

*Please identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. A more detailed discussion is required under the "All changes made in this regulatory action" section.*

This action is related to how organizations report certain data to the Commission. There are no substantive changes to what the law requires to be reported, only to how the reports are transmitted to

the Commission. Thus, the substance of the action is this: Effective July 1, 2009 such reports shall be filed electronically with the Commission.

**Issues**

*Please identify the issues associated with the proposed regulatory action, including:*  
 1) *the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions;*  
 2) *the primary advantages and disadvantages to the agency or the Commonwealth; and*  
 3) *other pertinent matters of interest to the regulated community, government officials, and the public. If there are no disadvantages to the public or the Commonwealth, please indicate.*

The primary advantage to the public and to the Commonwealth is the consistent, efficient and accurate electronic collection of data required by law. In this way the public can better comply with current reporting laws and the Commission can better collect such reports. Of particular importance is the standard being proposed, which is industry-created, tested, and controlled, through the International Board of Industrial Accident Boards and Commissions, or the IAIABC. Most workers' compensation jurisdictions, including the Virginia Workers' Compensation Commission, are members of the IAIABC, in addition to a vast array of private industry carriers, administrators, and workers' compensation vendors.

The primary disadvantage to the public is that the reporting methods currently in operation (primarily paper submission) will be changing, and thus operations accustomed to reporting by hand, on paper, through the mail, will be moving to an electronic system. It is believed that the available alternatives, including web-based submissions available through an internet browser, will over time virtually eliminate any disadvantage this action might cause, and instead provide tremendous value to the public. There is no disadvantage to the Commonwealth other than in its role as an employer subject to workers' compensation reporting requirements.

**Changes made since the proposed stage**

*Please describe all changes made to the text of the proposed regulation since the publication of the proposed stage. For the Registrar's office, please put an asterisk next to any substantive changes.*

| Section number | Requirement at proposed stage | What has changed | Rationale for change |
|----------------|-------------------------------|------------------|----------------------|
|                |                               |                  |                      |

No changes to have been made to the text of the proposed regulation since the publication of the proposed stage.

**Public comment**

*Please summarize all comments received during the public comment period following the publication of the proposed stage, and provide the agency response. If no comment was received, please so indicate.*

| Commenter | Comment | Agency response |
|-----------|---------|-----------------|
|-----------|---------|-----------------|

No comments on the proposed regulation were received during the public comment period.

**All changes made in this regulatory action**

*Please detail all changes that are being proposed and the consequences of the proposed changes. Detail new provisions and/or all changes to existing sections.*

| Current section number | Proposed new section number, if applicable | Current requirement  | Proposed change and rationale  |
|------------------------|--|--|--|
| 30-90-10               | NA   | The current section describes the statutory authority for the regulation   | This information is provided as a footer to each new proposed section. In general, the authority for this reporting regulation is 65.2-201 and -900  |
| 30-90-80               | NA   |  | Electronic reporting via EDI and web-based portal. The reports required to be made remain unchanged; only the manner of reporting is changed. Rationale is to collect reports required by the Virginia Workers' Compensation Act in the most efficient and accurate manner possible, in a way that aligns with current industry practice   |
| 30-90-20               | 30-91-10                                   | The current section provides applicable definitions  | The proposed section is essentially unchanged from the current section, but provides additional relevant definitions for new terms being used in the proposed section. Three key new definitions are (1) a "claims report," which is the FROI and SROI report used in the industry data standard; (2) "filed electronically" which is either through EDI for through a web-based alternative; and (3) "Implementation Guide," which describes the technical specifications for FROI and SROI reports |
| 30-90-30               | 30-91-20                                   | Paper reporting of claims data; provides summary data requirements for paper reports; describes procedures for filing "minor injury" reports | Proposed section describes that (1) all reporting of requested claims data must be done "electronically" as of July 1, 2009, either through EDI or a web-based alternative; and (2) that the technical specifications are described annually in the "Implementation Guide." The current and proposed description of "minor injury" reporting is unchanged (except that the report is to be done electronically instead of on paper).   |
| 30-90-40               | 30-91-20                                   | Provides overview of electronic filing of required reports via non-  | Proposed section provides overview of electronic filing, either through EDI or through web-based alternative, based upon industry  |

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|                     |                     | standardized format developed specifically for the Commission  | data standard FROI and SROI reports.  |
| 30-90-50            | 30-91-20            | Provides technical detail of electronic filing of required reports via non-standardized format developed specifically for the Commission | Proposed section provides for electronic filing through EDI or through web-based alternative according to detailed technical specifications set forth in the Implementation Guide, located at the Commission’s website at <a href="http://www.vwc.state.va.us/EDI/">http://www.vwc.state.va.us/EDI/</a> |
| 30-90-60            | 30-91-10 & 30-91-20 | Provides description of process for providing electronic reporting to the Commission via an alternative format                           | Proposed section 30-91-20 requires that reports be “filed electronically,” which is defined in proposed section 30-91-10 to be either through EDI or through a web-based alternative.   |
| 30-90-70 & 30-90-80 | 30-91-20            | Provides technical detail of electronic filing of required reports via non-standardized format developed specifically for the Commission | Proposed section provides for electronic filing through EDI or through web-based alternative according to detailed technical specifications set forth in the Implementation Guide, located at the Commission’s website at <a href="http://www.vwc.state.va.us/EDI/">http://www.vwc.state.va.us/EDI/</a> |

Background

Electronic Data Interchange, or EDI, is a powerful method allowing organizations to communicate, in a standardized format, mission-critical information. Using EDI within the workers’ compensation community is a long established practice. Deriving a standard submission format is a well founded project at the IAIABC, which is represented by almost every jurisdiction in the United States, as well as most carriers and vendors working within the workers’ compensation industry.

Thirty states across the country currently use an IAIABC data standard for transacting EDI. Four states use a “proprietary” method to some degree; Virginia is one of these four states. Four additional states, including Virginia, are moving to an IAIABC format, bring the total number of states using this standard to thirty-four.

The impact on organizations required to utilize several different formats in engaging in electronic transactions with workers’ compensation jurisdictions is significant. Most insurance carriers and workers’ compensation industry vendors transact business in several jurisdictions, and the extent to which jurisdictions’ reporting requirements are aligned provide for a more efficient and effective way of conducting business. Thus, deriving and using a standard format not only is well accepted within the industry, but is being driven by the industry.

Virginia currently has available for use a “proprietary” EDI format, meaning that basic, fundamental data elements common to every workers’ compensation report, such as employee name and address, employer name and address, policy number, date of injury, etc., result in programming that is unique. Not surprisingly, only a handful—less than 10 out of more than 250 customers—have undertaken to make these changes. The impact on the Commission’s operations from this is significant, meaning that there is no efficient, effective, and accurate way of conducting electronic business with our customers. Additionally, for some time, our customers have been demanding more from the Commission in terms of its capacity to conduct electronic business with them.

Proposal

The Commission proposes 16 VAC 30-91 to effectuate its transition to a standardized EDI transaction format. The proposal is simple: Specified reports, known in the industry as “FROI” and “SROI” reports, must be filed electronically with the Commission. An Implementation Guide, describing the technical

format to be used, and explaining the process of bringing customers online, has been issued in draft form, and will be finalized by May 1, 2008. Any changes to the technical format must be published by May 1 of each year thereafter. This Guide covers the current IAIABC reporting standard, as applicable to the Virginia workers' compensation context.

### Impact

Most customers will have little net impact by this action. Although some organizations report "manually" to the Commission, and will be moving to EDI, the standard to be used has wide acceptance across the United States, and thus adding Virginia will fit within their overall approach to reporting. Additionally, Virginia coverage is not unique, but is commonly written. In other words, carriers conducting business here conduct business broadly. Conforming its practices with those broadly accepted across the industry should have minimal net impact on the bulk of the Commission's reporting customers.

Some customers transact workers' compensation reporting business only within Virginia, however. The impact of this action on these customers depends on volume—the higher the volume, the lower the net impact, because of the replacement of manual processing with EDI processing. This does require an investment, however, of technical infrastructure. To accommodate this impact, the Commission is providing an internet-based submission method. In this way, those customers unable to reasonably accommodate the impact have a reasonable, effective alternative. This keeps reporting consistent among all filers, regardless of size, but recognizes the potential impact required by an investment. The number of customers about which this is relevant—small volume, Virginia only reporters—is small.

### Communications

Communications about these changes has been robust. Apart from the IAIABC, there are three vendors who focus on data reporting. Thus, from the beginning, these organizations have been approached to broadcast these changes. Additionally, all insurance carriers and self-insurers filing reports in Virginia have been contacted through their contact of record at the Commission.

A formal invitation to all customers to attend an information and training event was made for a Richmond-based meeting on February 25-26, 2008. These efforts have met with tremendous success. There were more than 100 attendees at the February 25-26, 2008, event, and there are several large-volume volunteers to test these new systems.

Additionally, on December 24, 2007, a Notice of Intended Regulatory Action was published in the Virginia Register of Regulations, and posted on the Commission's website.

### Timing

The Commission will begin accepting reports in the new EDI format October 1, 2008, and ending June 20, 2009. Ample time for testing and readiness is being supplied, in accordance with IAIABC recommendations.

### Affected Regulations

16 VAC 30-90 is being repealed, and 16 VAC 30-91 is being proposed as a replacement. Note that some sections of 16 VAC 30-90 are copied into the proposal; however, the overall effect of amended Chapter 90 was too confusing, hence and repeal of Chapter 90 and proposal of Chapter 91.

### Conclusion

In conclusion, EDI is a powerful and industry-tested method of exchanging workers' compensation data. It assists jurisdictions with fulfilling its legislative data mandates, and assists customers with complying with workers' compensation reporting laws. It fosters accurate, timely, and efficient reporting, and lowers

net costs compared to manual paper processing. This action effectuates in a straightforward manner Virginia's move to industry-established reporting standards.

### Regulatory flexibility analysis

*Please describe the agency's analysis of alternative regulatory methods, consistent with health, safety, environmental, and economic welfare, that will accomplish the objectives of applicable law while minimizing the adverse impact on small business. Alternative regulatory methods include, at a minimum: 1) the establishment of less stringent compliance or reporting requirements; 2) the establishment of less stringent schedules or deadlines for compliance or reporting requirements; 3) the consolidation or simplification of compliance or reporting requirements; 4) the establishment of performance standards for small businesses to replace design or operational standards required in the proposed regulation; and 5) the exemption of small businesses from all or any part of the requirements contained in the proposed regulation.*

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Small-volume reporters will be able to use the Commission's web-facing portal to file required reports at no cost. Timing was carefully considered, and across the industry there are other EDI implementations underway. Currently, they are underway in varying degrees in Florida, Georgia, West Virginia, and Maine, as well as other states. The Commission has analyzed these implementations' schedules and worked with the IAABC implementation committee to derive its schedule. The IAABC standard is six months for an implementation; the Commission published its implementation guide in February 2008 and the final production date is June 30, 2009.

The Commission considered continuing to collect reports on paper, but then scanning the paper and indexing the content. Doing so would allow reporters to continue to send paper reports. This is burdensome to the Commission, difficult to perform with accuracy because of the volume of data elements collected, and it is not aligned with the industry EDI reporting methods. It was determined that a system utilizing the industry established standard via EDI, alongside a low-volume alternative via the internet, would result in the least burdensome action, especially on small business.

### Family impact

*Please assess the impact of the proposed regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.*

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No impact.