

**STATE OF CALIFORNIA
DEPARTMENT OF INDUSTRIAL RELATIONS
Division of Workers' Compensation**

NOTICE OF RULEMAKING AFTER EMERGENCY ADOPTION

Workers' Compensation – Electronic document filing and lien filing fee rules

NOTICE IS HEREBY GIVEN that the Administrative Director of the Division of Workers' Compensation (hereinafter "Administrative Director"), pursuant to the authority vested in her by Labor Code Sections 133, 5307.3, 5710 and 5811, has adopted regulations on an emergency basis to implement the provisions of Labor Code sections 4903, 4903.05, 4903.06, and 4903.07, as amended and added by Senate Bill 863 (Chapter 363, stats. of 2012, effective January 1, 2013).

The regulations amend sections 10205 and 10205.12 and add sections 10206, 10206.1, 10206.2, 10206.3, 10206.4, 10206.5, 10206.14, 10206.15, 10207, and 10208 to Subchapter 1.8.5. of Chapter 4.5, of Title 8 California Code of Regulations. The regulations govern electronic document filing and lien filing fee rules. The emergency regulations listed below became effective on January 1, 2013, and will remain in effect for a period of 180 days from January 1, 2013. The purpose of this rulemaking is to adopt the emergency regulations on a permanent basis.

PROPOSED REGULATORY ACTION

Amend section 10205	Definitions
Amend section 10205.12	Form and Size Requirements for Filed Documents
Adopt section 10206	Electronic Document Filing; Electronic Adjudication Management System (EAMS) Reference Guide and Instructional Manual for E-Form Filers; Incorporation
Adopt section 10206. 1	Electronic Document Filing; Electronic Adjudication Management System Business Rules for JET Filers; Incorporation.
Adopt section 10206.2.	Electronic Filing Exemption
Adopt section 10206.3	Time of Filing of Documents
Adopt section 10206.4.	Uniform Assigned Names
Adopt section 10206.5	Form and Size Requirements for Electronic Filed Documents
Adopt section 10206.14	DWC E-Forms and DWC Unstructured Forms
Adopt section 10206.15	DWC JET Forms
Adopt section 10207	Initial Lien Filing Fees
Adopt section 10208	Lien Activation Fees

TIME AND PLACE OF PUBLIC HEARING

A public hearing has been scheduled to permit all interested persons the opportunity to present statements or arguments, either orally or in writing, with respect to the subjects noted above. The hearing will be held at the following time and place:

Date: March 26, 2013

Time: 10:00 A.M. to 5:00 P.M., or until conclusion of business

**Place: Elihu Harris State Office Building – Auditorium
1515 Clay Street**

Notice of Rulemaking After Emergency Adoption (February 2013)

Electronic document filing and lien filing fee rules California Code of Regulations, Title 8, sections 10205 et seq.

Oakland, California 94612

The State Office Building and its Auditorium are accessible to persons with mobility impairments. Alternate formats, assistive listening systems, sign language interpreters, or other type of reasonable accommodation to facilitate effective communication for persons with disabilities, are available upon request. Please contact the State Wide Disability Accommodation Coordinator, Kathleen Estrada, at 1-866-681-1459 (toll free), or through the California Relay Service by dialing 711 or 1-800-735-2929 (TTY/English) or 1-800-855-3000 (TTY/Spanish) as soon as possible to request assistance.

Please note that public comment will begin promptly at 10:00 a.m. and will conclude when the last speaker has finished his or her presentation or 5:00 p.m., whichever is earlier. If public comment concludes before the noon recess, no afternoon session will be held.

The Acting Administrative Director requests, but does not require, that any persons who make oral comments at the hearing also provide a written copy of their comments. Equal weight will be accorded to oral comments and written materials.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Department of Industrial Relations, Division of Workers' Compensation. The written comment period closes at **5:00 P.M., on March 26, 2013**. The Division of Workers' Compensation will consider only comments received at the Division by that time. Equal weight will be accorded to comments presented at the hearing and to other written comments received by 5 P.M. on that date by the Division.

Submit written comments concerning the proposed regulations prior to the close of the public comment period to:

Maureen Gray
Regulations Coordinator
Division of Workers' Compensation, Legal Unit
P.O. Box 420603
San Francisco, CA 94142

Written comments may be submitted by facsimile transmission (FAX), addressed to the above-named contact person at (510) 286-0687. Written comments may also be sent electronically (via e-mail) using the following e-mail address: dwcrules@dir.ca.gov.

Unless submitted prior to or at the public hearing, Ms. Gray must receive all written comments no later than **5:00 P.M., on March 26, 2013**.

AUTHORITY AND REFERENCE

The Acting Administrative Director is undertaking this regulatory action pursuant to the authority vested in her by Labor Code sections 111, 133, 138.2, 4903.05, 4903.06, and 5307.3; and Stats. 2011, c. 559, §17 (A.B. 1426).

Reference is to Labor Code sections 110, 126, 4903, 4903.05, 4903.06, 4903.1, 5300, 5404.5, 5500.3, 5501.5, 5501.6, and 5502, Labor Code; section 1349 Health and Safety Code; and sections 10121, and 10270.5, Insurance Code.

INFORMATIVE DIGEST / POLICY STATEMENT OVERVIEW

Senate Bill (SB) 863 has created substantial changes to how liens are filed within the workers' compensation. Specifically, any liens filed pursuant to Labor Code section 4903(b) or claims of costs must be filed electronically. Also, a fee of \$150 is now required prior to filing for most liens filed after Jan. 1, 2013, and a \$100 activation fee is required for most liens filed before then, but activated for a lien conference after Jan. 1, 2013. This activation fee is required to be paid at the time a lien claimant files a declaration of readiness or appears at a lien conference. There are also provisions for dismissal of liens by operation of law after Jan. 1, 2014 if no activation fee has been filed. This rulemaking implements these changes.

Labor Code section 4903 et seq. authorizes the Workers' Compensation Appeals Board (WCAB) to determine and allow specified expenses as liens against any sum to be paid as compensation. Labor Code section 138.2(b) authorizes the Administrative Director to provide the necessary infrastructure, which includes the Electronic Adjudication Management System (EAMS), for the district offices of the WCAB. In fiscal year 2004 to 2005, the Senate Bill 1113 (SB 1113, Stats. 2004, Ch. 208) authorized funds for the Electronic Adjudication Management System (EAMS). EAMS is a computer based system that improved the DWC case management process by creating an electronic filing system for the trial level workers' compensation courts. EAMS replaced the paper file system with electronic-based workers' compensation court technology and supporting infrastructure.

SB 863 added Labor Code sections 4903.05 and 4903.06. Section 4903.05 describes the filing requirements for a lien, which was previously contained in former Labor Code section 4903.1. A lien claimant must still file a lien with the WCAB in the form approved by the WCAB. Section 4903.05(b) requires that liens for medical treatment (under Labor Code section 4903(b)) must be filed electronically using the form approved by the WCAB. Lien claims that are exempted from this obligation include liens for burial expenses, child support and living expenses. Labor Code section 4903.05(b) also includes liens for claim for costs.

Labor Code section 4903.05(c) adds a filing fee for liens filed on or after Jan. 1, 2013. The fee applies to liens under Labor Code section 4903(b), which relates to medical treatment or medical legal expense, or for claims for costs. If a lien is not properly submitted with proof that the filing fee has been paid, it will be deemed invalid and will not preserve or extend the time limit for filing the lien.

A lien claimant is required to pay a \$150 filing fee to the Division of Workers' Compensation (DWC) before filing a lien. The claimant must include proof that the filing fee is paid. The fee will be collected through an electronic payment system that accepts major credit cards and other forms of electronic payment selected by the Administrative Director. The Administrative Director is authorized to contract with a service provider for the processing of electronic payments, but a processing fee must not be absorbed by DWC and must not add to the fee charged to the lien claimant. The filing fee must be deposited into the Workers' Compensation Administrative Revolving Fund. The Administrative Director must adopt reasonable rules and regulations regarding the procedure for the collection of the fees.

Certain providers are explicitly excluded from payment of the filing fee. They are: (1) a health-care

service plan licensed per Health and Safety Code section 1349; (2) a group disability insurer under a policy issued in California per Insurance Code section 10270.5; (3) a self-insured employee welfare benefit plan issued in California as defined by Insurance Code section 10212; (4) a Taft-Hartley health and welfare fund; and (5) a publicly funded program providing medical benefits on a nonindustrial basis.

Labor Code section 4903.06 implements a new activation fee for liens filed before Jan. 1, 2013. The activation fee applies to medical treatment and medical-legal liens under Labor Code 4903(b) and liens for costs. A lien claimant may avoid paying an activation fee only if it provides proof of having paid a filing fee as required by former Labor Code section 4903.05. Otherwise, a lien claimant must file a lien activation fee of \$100 to the DWC on or before Jan. 1, 2014. The activation fee is to be collected electronically. A lien claimant must include a proof of payment of the filing fee or activation fee when it files a declaration of readiness to proceed.

All lien claimants that did not file the DOR and that remain a lien claimant at the time of the lien conference must submit proof of payment of the activation fee at the conference. If the fee has not been paid or no proof of payment is made, the lien shall be dismissed with prejudice. Liens filed before Jan. 1, 2013, for which a filing fee or activation fee has not been paid by Jan. 1, 2014, will be dismissed by operation of law. The same lien claimants who are exempted from the \$150 filing fee are exempt from the activation fee.

The emergency regulations were adopted effective January 1, 2013. This rulemaking would make the regulations permanent. Changes to the text of the regulations that have been made after the adoption of the emergency regulations are shown in italics. These proposed regulations implement, interpret, and make specific the above sections of the Labor Code and Government Code as follows:

1. Section 10205. Definitions

- This amended section adds definitions for “cost,” “electronic filing,” “initial lien,” “section 4903(b) lien,” and amends the definitions for [to] “file” and “party.” *The definitions of “cost,” “lien conference,” “mandatory settlement conference” and “party” have been amended after the adoption of the emergency regulations for clarity. The definition of “section 4903(b) lien” is amended to delete reference to “interpreters’ fees incurred in connection with medical treatment (Labor Code section 4600)” because those fees are subject to a petition for costs under Labor Code section 5811.*
- The definitions are added to ensure that the terms meaning, as used in the regulations, will be clear to the regulated public.

2. Section 10205.12 Form and Size Requirements for Filed Documents

- The cross reference in subdivision (b)(4) to the definition of “product deliver units” is corrected to reflect the new lettering (section 10205(dd)).

3. Section 10206. Electronic Document Filing; Electronic Adjudication Management System (EAMS) Reference Guide and Instructional Manual for E-Form Filers; Incorporation.

- This section provides that electronic documents (E-forms) shall be filed upon a form approved by the appeals board and shall follow the procedures set forth in the Electronic Adjudication

Management System (EAMS) Reference Guide and Instructional Manual for E-Form Filers (EAMS E-Form Filing Reference Guide), dated *July 1, 2013*. (*The EAMS Reference Guide's date has been changed from January 1 to July 1 to include revisions that have been and may be made during the certificate of compliance.*). The guide is incorporated by reference.

- The EAMS Reference Guide provides that filing electronically requires a login consisting of a user name and password. Upon completion of the required training, new participants to the e-form filing will receive a login which allows them electronic access to EAMS. E-forms are electronic forms that are filled out on the user's computer and filed over the Internet into EAMS. The guide provides the user with a key word and key phrase searchable resource to help the user achieve as error free and efficient e-filing as possible. The topics include general guidelines, filing procedure, general topics (an alphabetical list of topics such as attachments, body part codes, change of address, document titles, medical records, proof of service, and trial exhibits), selected structured form specifics (how to file structured e-forms) , EAMS help desk and UDQ operator, tips and tricks, troubleshooting and an appendix. *The section pertaining to uniform assigned names (UANs) on pages 7, 8 and 59 of the EAMS Reference Guide has been amended to include lien claimants. The word "court" has been deleted on pages 61 and 78 as it was an incorrect term.*

4. Section 10206.1. Electronic Document Filing; Electronic Adjudication Management System Business Rules for JET Filers; Incorporation.

- This section provides that JET filing shall follow the procedures set forth in the Electronic Adjudication Management System JET File Business Rules and Technical Specifications, Version 4.0, dated January 1, 2013. The document is incorporated by reference.
- The JET File system was created to electronically process forms and minimize or eliminate the need for manual filing. JET Filing reduces the overall volume of processed paper.
- JET filers have three ways to use JET: (1) purchase or rent software from an approved vendor that lets allows them to JET file directly; (2) use a third party filer to transmit on their behalf; or (3) build their own transmission process using the technical specifications. The purpose of the JET File Business Rules and Technical Specifications is to provide JET filing specifications required for both EAMS and submitters' systems. The document includes the JET File business rules and identifies the JET filing technical requirements. This document also contains detailed system design artifacts such as use cases and class diagrams. The document lists the JET file system requirements, the SFTP Bulk filing requirements and technical use cases, the EAMS JET file bulk business rules, xml layout specifications and schema definitions, error codes and messages, JET file system security, guidelines and standards, and appendices.

5. Section 10206.2. Electronic Filing Exemption

- This section provides an exemption from the electronic filing rules for any unrepresented injured employee, any unrepresented dependent of an injured employee, or any unrepresented uninsured employer.

6. Section 10206.3. Time of Filing of Documents

- This section sets forth the rules regarding when an electronically filed document is deemed to have been filed. An electronically transmitted document shall be deemed to have been received by EAMS when the electronic transmission of the document into EAMS is complete. A document received electronically after 5:00 pm of a court day (i.e., Monday through Friday, except designated State holidays) shall be deemed filed as of the next court day.
- When an e-form is filed electronically, the party filing the document shall verify completion of filing pursuant to the procedures set forth in the EAMS E-Form Filing Reference Guide, Version 2.0.
- When a document is filed using JET filing, the party filing the document shall verify completion of filing pursuant to the EAMS JET File Business Rules and Technical Specifications, Version 4.0.

7. Section 10206.4. Uniform Assigned Names

- This section provides that uniform assigned names (UAN) shall be created and assigned for claims administrators, representatives and lien claimant organizations by the DWC Central Registration Unit. The Central Registration Unit shall maintain the website list of uniform names and addresses of claims administrators' offices, representatives' offices, and lien claimant organization.

8. Section 10206.5. Form and Size Requirements for Electronic Filed Documents.

- This section sets forth the standards for filing an electronic document:
 - (1) All electronically filed documents shall be submitted by using the appropriate e-form or XML file.
 - (2) Any document that is required to accompany an electronic form shall be filed as an attachment to the electronic form and shall be submitted in one of the following four file formats: "PDF/A1-a (Portable Document Format)," "DOC (.doc" Microsoft Word document)," "XLS" (.xls" Microsoft Excel worksheet sheet)," or "TIFF (.tif or .tiff" Tagged Image File Format)." Filing using the "PDF/A1-a" is preferred.
 - (3) With the exception of electronic forms and required attachments, no embedded data shall be allowed in electronically filed documents.
 - (4) The filing party shall take all reasonable steps to ensure that the filing does not contain computer code, including viruses that might be harmful to EAMS or to other users of EAMS.

Any electronically submitted document that is determined to contain a virus or other potentially harmful computer code may not be processed and may be deleted.

(5) If it is necessary to attach a document to an e-form, the filing party shall verify the readability of the scanned document before submitting it to EAMS.

- The section also provides that service of any document that has been filed electronically shall include a copy of the entire e-form, all attachments and EAMS cover sheet. The proof of service for any electronically filed document shall identify the serving office's EAMS administrator and provide that individual's contact information.

9. Section 10206.14. DWC E-Forms and DWC Unstructured Forms.

- This section provides that authorized e-form filers shall use the e-forms from the external user home page. E-forms filing may be obtained from the DWC website at <http://www.dir.ca.gov/dwc/forms.html#EAMSForms>.

10. Section 10206.15. DWC JET Forms.

- This section provides that authorized JET filers shall file forms using the EAMS JET File Business Rules and Technical Specifications, Version 4.0. JET filing forms may be obtained from the DWC website at <http://www.dir.ca.gov/dwc/forms.html>.

11. Section 10207. Initial Lien Filing Fees

- This section provides what type of liens must be filed with the appeals board in writing or electronically using a form approved by the appeals board. It also states which type of liens must pay the initial filing fee. The lien must be accompanied by a proof of service and any other documents required by the appeals board.
- Unless exempt pursuant to Labor Code section 4903.06(b), prior to or at the filing of an initial lien pursuant to Labor Code section 4903(b), the lien claimant shall submit a filing fee in the amount of one hundred fifty dollars (\$150) to the DWC, using a form approved by the appeals board. A filing fee is required for each case in which the lien is filed; however, where one or more liens or one or more costs filed as a lien is filed in more than one case involving the same injured worker and same service or services by the same lien claimant, only one filing fee needs to be paid.
- The filing fee shall be collected by the Administrative Director.
- E-Forms filers shall pay the initial lien filing fee following with the procedures set forth in the EAMS E-Form Filing Reference Guide.
- JET Filers shall pay the initial lien filing fee following the procedures set forth in the EAMS JET File Business Rules and Technical Specifications, Version 4.0.

- If the initial section 4903(b) lien filing fee has been previously paid, the lien claimant shall submit written documentation of confirmation of payment when filing the Declaration of Readiness to Proceed for a lien conference.
- When filing an initial lien, a lien claimant that claims that a filing fee is not required or that a lien filed under Labor Code section 4903(b) is exempt from the filing fee shall so indicate that status on the lien form.
- If no application exists for the employee at the time of the initial section 4903(b) lien filing, the lien claimant shall file any necessary application(s) and duty to investigate verification pursuant to section 10770.5. In such cases, the ADJ case number shall be assigned by the appeals board. The lien claimant will receive a Notice of Application assigning a case number. The lien claimant may thereafter file the initial lien claim or claim of cost filed as a lien accompanied with the filing fee required by Labor Code section 4903.05 or confirmation of payment.
- For an initial lien pursuant to Labor Code section 4903(b) that is not exempt pursuant to Labor Code section 4903.06(b) confirmation of payment shall be filed with the Declaration of Readiness to Proceed for a lien conference.
- The claims of two or more providers of goods or services shall not be merged into a single section 4903(b) lien.
- When a lien claimant files liens or claims of costs filed as a lien in more than one case at the same time, the filing fee or fees may be paid in a single transaction following the instructions set forth in the EAMS E-Form Filing Reference Guide or the EAMS JET File Business Rules and Technical Specifications, Version 4.0.
- A section 4903(b) lien or claims of costs filed as a lien submitted for filing on or after January 1, 2013 that does not comply with the requirements of this section shall be invalid, even if lodged with the appeals board, and shall not operate to preserve or toll any time limit for filing of the lien.
- Any section 4903(b) lien or claims of costs filed as a lien filed for goods or services that are not the proper subject of a lien may be dismissed upon request of a party by verified petition or on the appeals board's own motion. If the section 4903(b) lien or claim of costs filed as a lien is dismissed, the lien claimant will not be entitled to reimbursement of the filing fee.
- Unless exempt pursuant to Labor Code section 4903.06(b), no initial section 4903(b) lien or claim of costs filed as a lien shall be accepted for filing on or after the effective date of these regulations unless accompanied by full payment for the filing fee required by Labor Code section 4903.05. Until receipt of proper payment or confirmation of payment, the lien shall not be deemed to have been received or filed for any purpose.
- When the attorney for the employee or dependent or any assignee of the lien claimant files the initial medical costs, that filing shall be deemed to have been made by an agent for the medical

provider and payment of the filing fee required by Labor Code section 4903.05 shall be required of the filing party as if the lien had been filed directly by the lien claimant.

12. Section 10208. Lien Activation Fees

- This section sets forth what liens are subject to the \$100 lien activation fees and how the payment is made. It also clarifies which lien claimants are exempt from the payment and which lien claimants are not required to pay the lien activation fee.
- *Subdivision (b) has been deleted as it was duplicative of the provision in subdivision (a) that provides that an activation fee is required for each lien except where one or more liens or one or more costs filed as lien is filed in one or more cases involving the same injured worker and same service or services by the same lien claimant, only one lien activation fee is required.*
- Subdivision (c) provides that the lien activation fee shall be collected by the Administrative Director. All fees shall be deposited in the Workers' Compensation Administration Revolving Fund and applied for the purposes of that fund.
- E-Forms filers shall pay the lien activation fee following the procedures set forth in the EAMS E-Form Filing Reference Guide, Version 1.0.
- JET filers shall pay the lien activation fee following the procedures set forth in the EAMS JET File Business Rules and Technical Specifications, Version 4.0.
- If the activation fee for a section 4903(b) lien filed prior to January 1, 2013 or the cost filed as a lien prior to January 1, 2013 has been previously paid, the lien claimant shall submit confirmation of payment with the Declaration of Readiness to Proceed for a lien conference.
- All lien claimants that are required to pay an activation fee pursuant to this article that did not file the Declaration of Readiness to Proceed for a lien conference and remain a lien claimant of record at the time of a lien conference or consolidated lien conference shall submit confirmation of payment of the lien activation fee at the lien conference.

Objective and Anticipated Benefits of the Proposed Regulations:

The objective of the regulations is set forth the procedures for electronic filings and implement lien filing fees. The statewide benefit is to reduce system costs. Each lien adds an average of \$400 to \$1000 of loss adjustment expense to a workers' compensation claim, according to estimates by the Workers' Compensation Insurance Rating Bureau (WCIRB) and Commission on Health and Safety and Workers' Compensation (CHSWC), respectively. Collectively they add over \$256 million to \$640 million of frictional costs to the workers' compensation system. The reduction in liens, particularly nuisance liens that are not worth the payment of a \$150 filing fee, is expected to save California employers and insurers from \$106 million to \$743 million annually (including settlement costs). The requirement that most liens must be filed electronically will also reduce system costs.

Determination of Inconsistency/Incompatibility with Existing State Regulations:

The Acting Administrative Director has determined that this proposed regulation is not inconsistent or incompatible with existing regulations. After conducting a review for any regulations that would relate to or affect this area, the Acting Administrative Director has concluded that these are the only regulations that set forth the procedures for electronically filing within the workers' compensation adjudication system and provide procedures regarding the lien filing fees and activation fees.

DISCLOSURES REGARDING THE PROPOSED REGULATORY ACTION

The Acting Administrative Director has made the following initial determinations:

- Mandate on local agencies and school districts: None
- Cost or savings to any state agency: Unspecified savings to the quasi-state agency State Compensation Insurance Fund resulting from reduced litigation costs of \$400 to \$1000 per lien dispute and to the Division of Workers' Compensation resulting from the more efficient electronic filing of liens and reduction of the number of filed liens.
- Cost to any local agency or school district which must be reimbursed in accordance with Government Code sections 17500 through 17630: None
- Other nondiscretionary cost or savings imposed on local agencies: Unspecified savings resulting from reduced litigation costs of \$400 to \$1000 per lien dispute.
- Cost or savings in federal funding to the state: None
- Cost impacts on a representative private person or business: Lien filers, including physicians, clinics, hospitals, pharmacies and other providers of medical and ancillary services to injured workers who have fee disputes with the workers' employers or insurers, will be impacted by the statutory requirement to pay a \$150 filing fee or a \$100 activation fee before pursuing a lien for the disputed amount. However, most of the impacted businesses will have access to alternative dispute resolution mechanisms for collection of medical payments for dates of services on or after January 1, 2013.
- Statewide adverse economic impact directly affecting businesses and individuals: Lien filers, including physicians, clinics, hospitals, pharmacies and other providers of medical and ancillary services to injured workers who have fee disputes with the workers' employers or insurers, will be impacted by the statutory requirement to pay a \$150 filing fee or a \$100 activation fee before pursuing a lien for the disputed amount. However, most of the impacted businesses will have access to alternative dispute resolution mechanisms for collection of medical payments for dates of services on or after January 1, 2013. Although the proposed action will directly affect business statewide, including small business, the Acting Administrative Director concludes that the adverse economic impact, including the ability of California business to compete with business in other states, will not be significant.

- Significant effect on housing costs: None.

Results of the Economic Impact Analysis/Assessment

The Acting Administrative Director concludes that it is (1) unlikely that the proposal will create any jobs within the State of California, (2) likely that the proposal will eliminate hearing representative jobs within the State of California, (3) unlikely that the proposal will create any new businesses with the State of California, (4) likely that the proposal will eliminate some existing businesses that thrive on “nuisance settlements” of workers’ compensation liens within the State of California, and (5) unlikely that the proposal would cause the expansion of the business currently doing business within the State of California.

Benefits of the Proposed Action: The statewide benefit is to reduce system costs. Each lien adds an average of \$400 to \$1000 of loss adjustment expense to a workers’ compensation claim, according to estimates by the Workers Compensation Insurance Rating Bureau (WCIRB) and Commission on Health and Safety and Workers’ Compensation (CHSWC), respectively. Collectively they add over \$256 million to \$640 million of frictional costs to the workers’ compensation system. The reduction in liens, particularly “nuisance liens” that are not worth the payment of a \$150 filing fee, is expected to save California employers and insurers from \$106 million to \$743 million annually (including settlement costs). The reduction in lien filings will also allow more time and resources for adjudicating injured workers’ claims.

Small Business Determination: The Acting Administrative Director has determined that the proposed regulations affect small business.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5(a)(13), the Acting Administrative Director must determine that no reasonable alternative considered or that has otherwise been identified and brought to the Acting Administrative Director’s attention would be more effective in carrying out the purpose for which the actions are proposed, or would be as effective and less burdensome to affected private persons than the proposed actions, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

The Acting Administrative Director invites interested persons to present reasonable alternatives to the proposed regulations at the scheduled hearing or during the written comment period.

PUBLIC DISCUSSIONS OF PROPOSED REGULATIONS

The text of the draft proposed regulations was made available for pre-regulatory public comment from November 30 - December 7, 2012 through the Division’s Internet website (the “DWC Forum”).

AVAILABILITY OF INITIAL STATEMENT OF REASONS, TEXT OF PROPOSED REGULATIONS, RULEMAKING FILE AND DOCUMENTS SUPPORTING THE RULEMAKING FILE / INTERNET ACCESS

An Initial Statement of Reasons and the text of the proposed regulations in plain English have been prepared and are available from the contact person named in this notice. The entire rulemaking file will be made available for inspection and copying at the address indicated below.

As of the date of this Notice, the rulemaking file consists of the Notice, the Initial Statement of Reasons, proposed text of the regulations, pre-rulemaking comments and the Economic Impact Statement (Form STD 399). Also included are studies and documents relied upon in drafting the proposed regulations.

In addition, the Notice, Initial Statement of Reasons, and proposed text of the regulations being proposed may be accessed and downloaded from the Division's website at www.dir.ca.gov. To access them, click on the "Proposed Regulations – Rulemaking" link and scroll down the list of rulemaking proceedings to find the Electronic Document Filing and Lien Filing Fee link.

Any interested person may inspect a copy or direct questions about the proposed regulations and any supplemental information contained in the rulemaking file. The rulemaking file will be available for inspection at the Department of Industrial Relations, Division of Workers' Compensation, 1515 Clay Street, 17th Floor, Oakland, California 94612, between 9:00 A.M. and 4:30 P.M., Monday through Friday. Copies of the proposed regulations, Initial Statement of Reasons and any information contained in the rulemaking file may be requested in writing to the contact person.

CONTACT PERSON FOR GENERAL QUESTIONS

Non-substantive inquiries concerning this action, such as requests to be added to the mailing list for rulemaking notices, requests for copies of the text of the proposed regulations, the Initial Statement of Reasons, and any supplemental information contained in the rulemaking file may be requested in writing at the same address. The contact person is:

Maureen Gray
Regulations Coordinator
Department of Industrial Relations
Division of Workers' Compensation
P.O. Box 420603
San Francisco, CA 94142
E-mail: mgray@dir.ca.gov

The telephone number of the contact person is (510) 286-7100.

CONTACT PERSON FOR SUBSTANTIVE QUESTIONS

In the event the contact person above is unavailable, or for questions regarding the substance of the proposed regulations, inquiries should be directed to:

Destie Overpeck
Division of Workers' Compensation
P.O. Box 420603
San Francisco, CA 94142
E-mail: doverpeck@dir.ca.gov

The telephone number of this contact person is (510) 286-7100.

FORMAT OF REGULATORY TEXT.

Text of Emergency Regulations Effective January 1, 2013:

Deletions from the original codified regulatory text made by the emergency regulatory text effective January 1, 2013, are indicated by single strike-through, thus: ~~deleted language~~.

Additions to the original codified regulatory text made by the emergency regulatory text effective January 1, 2013, are indicated by single underlining, thus: added language.

Additional Proposed Text Noticed for 45-Day Comment Period:

Deletions from the emergency regulatory text noticed for the 45-day comment period are indicated by strike-through underlining: ~~deleted language~~

Additions to the original codified regulatory text and emergency regulatory text noticed for the 45-day comment period are indicated by double underlining: added language.

Newly proposed deletions from the original codified regulatory text noticed for the 45-day comment period are indicated by double strike-through: ~~~~deleted language~~~~.

AVAILABILITY OF CHANGES FOLLOWING PUBLIC HEARING

If the Acting Administrative Director makes changes to the proposed regulations as a result of the public hearing and public comment received, the modified text with changes clearly shown will be made available for public comment for at least 15 days prior to the date on which the regulations are adopted.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, the final Statement of Reasons will be available and copies may be requested from the contact person named in this notice or may be accessed on the Division's website at www.dir.ca.gov.

AUTOMATIC MAILING

A copy of this Notice, the Initial Statement of Reasons, and the text of the regulations, will automatically be sent to those interested persons on the Acting Administrative Director's mailing list.

If adopted, the regulations as amended will appear in California Code of Regulations, title 8, commencing with section 10205. The text of the final regulations also may be available through the website of the Office of Administrative Law at www.oal.ca.gov.