

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

**NOTICE OF MODIFICATION TO TEXT OF PROPOSED REGULATIONS**

**Subject Matter of Regulations: Workers' Compensation –  
Electronic document filing and lien filing fee rules**

**NOTICE IS HEREBY GIVEN** that the Acting Administrative Director of the Division of Workers' Compensation (hereinafter "Acting Administrative Director") pursuant to the authority vested in her by Labor Code Sections 133, 5307.3, 5710 and 5811 proposes to adopt or modify the text of the following proposed regulations:

Amend section 10205	Definitions
Amend section 10206.	Electronic Document Filing; Electronic Adjudication Management System (EAMS) Reference Guide and Instructional Manual for E-Form Filers; Incorporation.
Amend section 10206.1.	Electronic Document Filing; Electronic Adjudication Management System Business Rules for JET Filers; Incorporation.
Adopt section 10207	Initial Lien Filing Fees
Adopt section 10208	Lien Activation Fees
Adopt section 10208.1	Lien Fee Refunds

**PRESENTATION OF WRITTEN COMMENTS AND DEADLINE FOR SUBMISSION OF WRITTEN COMMENTS**

Members of the public are invited to present written comments regarding these proposed modifications. **Only comments directly concerning the proposed modifications to the text of the regulations will be considered and responded to in the Final Statement of Reasons.**

Written comments should be addressed to:

Maureen Gray  
Regulations Coordinator  
Department of Industrial Relations  
P.O. Box 420603  
San Francisco, CA 94612

The Division's contact person must receive all written comments concerning the

proposed modifications to the regulations no later than 5:00 p.m. on **September 11, 2013**. Written comments may be submitted via 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](mailto:dwcrules@dir.ca.gov).

## **AVAILABILITY OF TEXT OF REGULATIONS AND RULEMAKING FILE**

Copies of the original text and modified text with modifications clearly indicated, and the entire rulemaking file, are currently available for inspection at the Department of Industrial Relations, Division of Workers' Compensation, 1515 Clay Street, 17<sup>th</sup> Floor, Oakland, California 94612, between 9:00 A.M. and 4:30 P.M., Monday through Friday.

### **The specific modifications proposed include changes to the text of the following regulations and forms:**

Amend section 10205	Definitions
Amend section 10206.	Electronic Document Filing; Electronic Adjudication Management System (EAMS) Reference Guide and Instructional Manual for E-Form Filers; Incorporation.
Amend section 10206.1.	Electronic Document Filing; Electronic Adjudication Management System Business Rules for JET Filers; Incorporation.
Adopt section 10207	Initial Lien Filing Fees
Adopt section 10208	Lien Activation Fees
Adopt section 10208.1	Lien Fee Refunds

## **DOCUMENTS SUPPORTING THE RULEMAKING FILE**

No addition documents supporting the rulemaking have been added to the rulemaking file

## **FORMAT OF PROPOSED MODIFICATIONS**

### **Proposed Text Noticed for Emergency Regulations:**

The proposed text was indicated by underlining, thus: added language. Deletions were indicated by strikethrough, thus: ~~deleted language~~.

### **Proposed Text Noticed for 45-Day Comment Period:**

The proposed text was indicated by double underlining, thus: added language. Deletions were indicated by double strikethrough, thus: ~~~~deleted language~~~~.

### **Proposed Text Noticed for 15-Day Comment Period on Modified Text:**

The proposed text is indicated by way double underline and italic font, thus: *added language*. Deletions are indicated by italic font and strikeout, thus: ~~*deleted language*~~.

The proposed revisions to the EAMS Guide are indicated by way double underline and italic font, thus: *added language*. Deletions are indicated by italic font and double strikeout, thus: ~~~~*deleted language*~~~~.

The proposed revisions to the JET File Business Rules and Technical Specifications, including Appendices H and I, are indicated by single underline, thus: added language. Deletions are indicated by single strikeout, thus: ~~deleted language~~.

## **SUMMARY OF PROPOSED CHANGES**

### **1. Section 10205                      Definitions**

Subdivision (h) “cost” is revised by adding the words “against compensation” as a modifier following the word “lien.” Subdivision (h)(2) is modified by changing the phrase from “costs under Labor Code section 5811, including qualified interpreter services rendered during a medical treatment appointment or medical-legal examination; and” to “costs under Labor Code section 5811, other than interpreter services rendered during a medical treatment appointment.” Subdivision (h)(3) is added : “any amount payable as a medical-legal expense under Labor Code section 4620 et seq.; and” and former (h)(3) is renumbered (h)(4).

Subdivision (aa) “party” is revised to refer to the “dependent of a deceased employee” instead of the “dependent of an injured employee.” “A petitioner for costs; or” is deleted and replaced with “an appellant from an independent medical review or independent bill review decision.” Subdivision (aa)(4) is added: “an interpreter filing a petition for costs in accordance with section 10451.3; or” and former (aa)(4) is renumbered (5). An “(s)” is added to “dependent” is (5) and “an injured” is deleted and replaced with “a deceased.”

Subdivision (hh) “section 4903(b) lien” is revised to state: “means a lien claim filed in accordance with Labor Code section 4903(b) for medical treatment expenses incurred by or on behalf of the injured employee, as provided by Article 2 (commencing with Labor Code section 4600), including but not limited to expenses for interpreter services, copying and related services, and transportation services incurred in connection with medical treatment. It shall not include any amount payable directly to the injured employee.”

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

The Electronic Adjudication Management System (EAMS) Reference Guide and Instructional Manual for E-Form Filers (EAMS E-Form Filing Reference Guide) is revised and now dated August 2013.

Page 3: In the table of contents, the section entitled “Request for Factual Correction” is added. The Table of Contents page numbers will be corrected when the final version is approved. Also, the links will be activated when the final version is posted on the DWC web page.

Page 5: The word “application” is replaced with “agreement.” The sentence, “The compatibility view, located under the IE menu toolbar, must be set to ‘display all websites in compatibility view.’” has been added. The last paragraph is changed to state:

“Your e-form login and Uniform Assigned Name has two functions. First it allows you ~~not only~~ to submit documents into ~~the a case,~~ You submit documents using your eform logon, through an eform link on your home page. Second it allows you ~~but~~ to review all pertinent case information, including the ability to review and if necessary print or save documents previously filed if you are a case participant.”

Page 16: “or quasi-UAN” is deleted.

Pages 21-22: The process to change the claims administrator’s office is revised if requesting multiple changes. The Guide is revised to state what should be shown in the columns and deleting Microsoft Word table as an allowable format.

Pages 23 -24: The process to change the handling location is revised. Two additional data elements are added. If requesting multiple changes, the Guide is revised to state what should be shown in the columns and deleting Microsoft Word table as an allowable format.

Page 25: The word “application” is replaced with “agreement.”

Page 36: The “Dismissal of Attorney with Substitution of Attorney” section is changed as follows: “If you are filing a Dismissal of Attorney and a Substitution of Attorney, e-File them as a single multiple page document ~~separate documents~~, using the correct Document Type ADJ – LEGAL DOCS, and Document Titles ~~DISMISSAL OF ATTORNEY or~~ SUBSTITUTION OF ATTORNEY.”

Page 41: The “Request for Factual Correction” section is added and states:

“File an unstructured eForm attaching the Request for Factual Correction of a Unrepresented Panel QME report form from the DWC website at [http://www.dir.ca.gov/dwc/DWCPropRegs/QME\\_PermanentDisabilityRatingDetermination\\_Regs/FORMS/QMEForm37.pdf](http://www.dir.ca.gov/dwc/DWCPropRegs/QME_PermanentDisabilityRatingDetermination_Regs/FORMS/QMEForm37.pdf). The form is filed when an injured worker or

claims administrator needs the qualified medical evaluator (QME) to correct a factual error in an unrepresented panel QME medical report. Use the Product Type: DEU, Document Type: DEU DOCS - OTHER, Document Title: FACTUAL CORRECTION FORM.”

Page 47: In the “Withdrawal of Notice and Request for Allowance of Lien” section, the following sentence is deleted: “Do not use the Document Title REQUEST FOR WITHDRAWAL OF LIEN; there is no workflow in EAMS for the later document title.”

Page 56: The “Answer to Application” section is revised to state: “Do **not** list any companion cases or file a Notice of Representation to be added as a case participant. The e-form will not automatically add ~~the~~ case participants.”

Page 61: The “Notice and Request for Allowance of Lien” section is revised. “Appropriate” has been added before “box.” The following statement is added: “If your lien filing fee or lien activation fee needs to be refunded, review the Lien Fee Refund Policy in the DWC website at: <http://www.dir.ca.gov/dwc/Liens/LienFeeRefundPolicy.htm> and follow the instructions to process a refund request.” Also, the requirements for the filing package is revised to address section 4803.8 lien declarations.

Pages 62-63: The title “LIENS FILED IN COMPANION CASES” is changed to “LIENS WITH COMPANION CASES,” and the section now says: “Do not list companion cases on the Document Coversheet. Each lien must be filed separately.” Lien claimant’s names must be listed in the organization field, and the Guide is revised to state that. The following sentence is revised: “File your Notice of non-appearance/Notice of availability by phone using ADJ – MISC – CORRESPONDENCE-OTHER only if the case IS NOT set for a lien conference or a lien trial.”

Page 68: The “Amended Settlement Document” section is revised to include the following:

“The above procedure is used when submitting amended settlement documents in situations where no OSA has been issued.

Include an amended Order or Award with the amended settlement documents only if an amended Order or Award is necessary. When filing the amended Order or Award also file a letter indicating why an amended Order or Award should issue using ADJ – MISC – Typed or Written Letter.”

Page 81: This website link and email address is added:

[EAMS Lien Filing and Activation Fees](http://www.dir.ca.gov/dwc/Liens.htm)  
<http://www.dir.ca.gov/dwc/Liens.htm>

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

The Electronic Adjudication Management System JET File Business Rules and Technical Specifications is revised. It is now Version 4.1, dated August 2013.

A note is added as follows:

“SB 863, dated January 1, 2013, requires Lien Activation Fees, Lien Filing Fees and DOR (Declaration of Readiness for Hearing) changes for Lien Conferences. A description of these changes is attached in Appendix H, JET Payment File Specification Version 1.3, and Appendix I, JET DOR for Lien Conference File Specification Version 1.” Appendix H and Appendix I have been added to the Table of Contents.

Part I. JET File Business Rules title and chart are reformatted.

Part II. The titled is reformatted.

Placeholders for the links to Appendix H: JET Payment File Specification Version 1.3 and Appendix I: JET DOR for Lien Conference File Specification Version 1 are added on page 68.

Appendix H: JET Payment File Specification Version 1.3 is completely new. The scope of this document is limited to identifying the JET payment technical file specifications for paying for new liens as well as activating existing liens.

Appendix I: JET DOR for Lien Conference File Specification Version 1 is completely new. The scope of this document is limited to identifying the JET technical file specifications for filing a Declaration of Readiness to Proceed (DOR) requesting a lien conference.

### **4. Section 10207 Initial Lien Filing Fees**

Subdivision (b) is revised for clarity by deleting the words “lien filed pursuant to Labor Code.” Subdivision (d) is also revised for clarity by replacing “Unless” with “Except for liens that are...” and deleting the words “an initial lien pursuant to Labor Code” so that the first phrase reads: Except for liens that are exempt pursuant to Labor Code section 4903.06(b), prior to or at the filing of a section 4903(b) lien.”

### **5. Section 10208 Lien Activation Fees**

Subdivision (a) is revised for clarity by stating “section 4903(b) lien” and deleting “filed pursuant to Labor Code section 4903(b).” The last sentence in (a) is revised to state: “A lien activation fee is required for each section 4903(b) lien filed prior to January 1, 2013, and for each cost filed as a lien prior to January 1, 2013; however, where two or more liens are filed by the same lien claimant in one or more cases,

and the liens involve the same injured worker and service provider, and are based on the same service or services, only one lien activation fee is required.

#### **4. Section 10208.1 Lien Fee Refunds**

This is a new section. Subdivision (a) states that lien filing and or lien activation fees will automatically be refunded when (1) a payment was not processed due to a system error; (2) the fee was previously paid or the lien is not available for activation; (3) an improper amount is paid; or (4) a lien filing fee is properly paid, but due to a procedural defect in the filing of the lien, the filing is not effective and the filer was not able to re-file and cure the defect with 15 days.

Subdivision (b) provides that if the automatic refund is not issued, the Lien Filing Fee Refund Request form must be submitted with any required documentary proof. A refund will only be provided upon a showing of good cause. The bases for good cause are stated.

Subdivision (c) provides that the Lien Fee Refund Request form is required and provides a link to the form. The form requests data to allow DWC to process the request for a refund.