

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

**NOTICE OF MODIFICATION TO TEXT OF
PROPOSED RULEMAKING**

**Subject Matter of Regulations:
Rules of the Court Administrator
Electronic Adjudication Management System (EAMS)**

**TITLE 8, CALIFORNIA CODE OF REGULATIONS
Sections 10210 et seq.**

NOTICE IS HEREBY GIVEN that the Court Administrator of the Division of Workers' Compensation, pursuant to the authority vested in him by Labor Code sections 133, 5307(c), 5500.3 and 5502, proposes to modify the text of the following proposed regulations contained in Article 1, Subchapter 4.5 of Title 8, California Code of Regulations, commencing with section 10210, relating to Electronic Adjudication Management System (EAMS) and workers' compensation adjudication files at the trial level.

Article 1. Definitions and General Provisions

Proposed §10210	Definitions
Proposed §10214	Compromise and Release forms and Stipulation with Request for Award forms

Article 2. The Electronic Adjudication Management System

Proposed §10216	Adjudication Files
Proposed §10217	Official Participant Record and Duty to Furnish Correct Address
Proposed §10218	Designated Preferred Method of Service
Proposed §10222	Failure to Comply with the Court Administrator's Rules
Proposed §10223	Corrective Measures for Misfiled or Misdirected Documents into the Case Management System
Proposed §10225	Extended System Unavailability

Article 3. Filing of Documents by Parties or Lien Claimants

Proposed §10227	Place of Filing Documents After Initial Application or Case Opening Document
Proposed §10228	Manner of Filing Documents
Proposed §10229	Electronic Filing Exemption
Proposed §10232	Form and Size Requirements for Filed Documents
Proposed §10232.1	Document cover sheet form
Proposed §10232.2	Document separator sheet form
Proposed §10233	Filing of Medical Reports, Medical-Legal Reports, and Various Records
Proposed §10235	Improper Filing of Documents

Article 4. Appearances, the Form of Minutes of Hearing and Minute Orders

Proposed §10240	Appearances Required
Proposed §10241	Failure to Appear
Proposed §10245	Minutes of Hearing form

Article 5. Declarations of Readiness to Proceed and Objections and Hearing Calendars

Proposed §10250.1 Declaration of Readiness to Proceed form
Proposed §10252.1 Expedited Hearing form

Article 7. Access to Records and Retention of Records

Proposed §10270 Access to and Viewing Adjudication Files
Proposed §10273 Retention, Return and Destruction of Records and Exhibits
Proposed §10280 Walk-Through Documents

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
Division of Workers' Compensation
Post Office Box 420603
San Francisco, CA 94142

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 August 21, 2008**. Written comments may be submitted by facsimile transmission (FAX), addressed to the contact person at (510) 286-0687. Written comments may also be sent electronically (via e-mail), using the following e-mail address: dwcrules@hq.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 public review during normal business hours of 8:00 a.m. to 5:00 p.m., Monday through Friday, excluding legal holidays, at the offices of the Division of Workers' Compensation. The Division is located at 1515 Clay Street, 17th Floor, Oakland, California.

Please contact the Division's regulations coordinator, Ms. Maureen Gray, at (510) 286-7100 to arrange to inspect the rulemaking file.

The specific modifications proposed include changes to the text of the proposed amendments Title 8, California Code of Regulations:

Article 1. Definitions and General Provisions

Proposed §10210 Definitions
Proposed §10214 Compromise and Release forms and Stipulation with Request for Award forms

Article 2. The Electronic Adjudication Management System

Proposed §10216	Adjudication Files
Proposed §10217	Official Participant Record and Duty to Furnish Correct Address
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Proposed §10273	Retention, Return and Destruction of Records and Exhibits
Proposed §10280	Walk-Through Documents

DOCUMENTS SUPPORTING THE RULEMAKING ADDED TO THE RULEMAKING FILE

- Comments from various interested parties concerning the regulations have been added to the rulemaking file.
- *Improving Dispute Resolution for California's Injured Workers*, Prepared for California Commission on Health and Safety and Workers' Compensation by Rand, Institute for Civil Justice, Santa Monica, California, 2003, chapter 17, "Court Technology," pp. 593-630 and excerpt from appendices, pp. 693-694.
- Documents regarding serif font:
 - Lynch and Horton, *Web Style Guide*, (Yale University Press, 1999) 87-88.
 - Merriam-Webster's Manual for Writers and Editors*, (Springfield, 1998) p. 329.
 - Edward Tufte, *Envisioning Information*, (Graphics Press, 1999) p. 51.

FORMAT OF PROPOSED MODIFICATIONS

Proposed Text Noticed for 45-Day Comment Period:

The new text is indicated by underlining, thus: underlined language.

Deletions from the regulatory text are indicated by single strike-through, thus: ~~deleted language~~.

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

Additions to the regulatory text, as proposed in May 2008, are indicated by a double underline, thus: added language.

Deletions from the regulatory text, as proposed in May 2008, are indicated by double strike-through, thus: ~~~~deleted language~~~~.

Changes to Forms for This 15-Day Comment Period:

The forms are presented as revised forms without underlining or strike-through. The changes are described in this notice.

SUMMARY OF PROPOSED CHANGES

Modifications to §10210. Definitions

New subdivision (f) is added setting forth the definition for the term “central registration unit.” The term is defined as a unit within the Division of Workers’ Compensation which maintains the website list of uniform names and addresses of claims administrators’ offices, representatives’ offices and high volume lien claimants. It is necessary to define the term so that the public will understand how it is used in the regulations.

New subdivision (g) is added setting forth the definition for the term “claims administrator’s office.” The term is defined as any office location that administers workers’ compensation claims. It is necessary to define the term because every claims administrator’s office will be assigned a uniform name that must be used when filing documents in EAMS.

Subdivision (f) setting forth the definition of the term “court administrator” is re-letter subdivision “(h)”.

Subdivision (g) setting forth the definition of the terms “declaration of readiness to proceed” or “declaration of readiness” is re-letter subdivision “(i)”.

Subdivision (h) setting forth the definition of the term “declaration of readiness to proceed for expedited hearing” is re-letter subdivision “(j)”.

Subdivision (i) setting forth the definition of the term “defendant” is re-letter subdivision “(k)”.

Subdivision (j) setting forth the definition of the term “district office” is re-letter subdivision “(l)”.

Subdivision (k) setting forth the definition of the term “document” is re-letter subdivision “(m)”.

Subdivision (l) setting forth the definition of the term “document cover sheet” is re-letter subdivision “(n)”.

Subdivision (m) setting forth the definition of the term “document separator sheet” is re-letter subdivision “(o)”.

Subdivision (n) setting forth the definition of the terms “electronic adjudication management system” or “EAMS” is re-letter subdivision “(p)”.

Subdivision (o) setting forth the definition of the term “electronic signature” is re-letter subdivision “(q)”.

Subdivision (p) setting forth the definition of the term “fax” is re-letter subdivision “(r)”.

Subdivision (q) setting forth the definition of the term “to file” is re-letter subdivision “(s)”.

Subdivision (r) setting forth the definition of the term “hearing” is re-letter subdivision “(t)”.

Subdivision (s) setting forth the definition of the term “lien claimant” is re-letter subdivision “(u)”.

Subdivision (t) setting forth the definition of the term “lien conference” is re-letter subdivision “(v)”.

Subdivision (u) setting forth the definition of the term “mandatory settlement conference” is re-letter subdivision “(w)”.

Subdivision (v) setting forth the definition of the terms “optical character recognition form” or “OCR form” is re-letter subdivision “(x)”.

Subdivision (w) setting forth the definition of the term “party” is re-letter subdivision “(y)”.

Subdivision (x) setting forth the definition of the term “petition” is re-letter subdivision “(z)”.

Subdivision (y) setting forth the definition of the term “priority conference” is re-letter subdivision “(aa)”.

New subdivision (bb) is added setting forth the definition for the term “product delivery unit.” The term is defined as a unit within the Division of Workers’ Compensation. The units are abbreviated as follows: Adjudication Unit “ADJ”; Disability Evaluation Unit “DEU”; Subsequent Injuries Benefits Trust Fund “SIF”; Uninsured Employers’ Benefits Trust Fund “UEF”; Vocational Rehabilitation “VOC; and Retraining and Return to Work Unit “RSU”. For each product delivery unit there is an area in EAMS in which the case management information related to that product delivery unit is stored. That area is called the “product delivery case.” “INT” is the integrated case, which is the umbrella for the individual product delivery cases for each unit residing in EAMS. These terms and abbreviations are necessary as the separator sheet requires the public to list the product delivery unit for the document being filed. Other forms list the abbreviations.

Subdivision (z) setting forth the definition of the term “rating mandatory settlement conference” is re-letter subdivision “(cc)”.

New subdivision (dd) is added setting forth the definition for the term “representative’s office.” The term is defined as any office location for a law firm, lawyer or representative of a party or lien claimant

in a workers' compensation case. It is necessary to define the term because every representative's office will be assigned a uniform name that must be used when filing documents in EAMS.

Subdivision (aa) setting forth the definition of the term "regular hearing" is re-letter subdivision "(ee)".

Subdivision (bb) setting forth the definition of the term "to serve" is re-letter subdivision "(ff)".

Subdivision (cc) setting forth the definition of the term "status conference" is re-letter subdivision "(gg)".

Subdivision (dd) setting forth the definition of the term "submission" is re-letter subdivision "(hh)".

Subdivision (ee) setting forth the definition of the term "trial" is re-letter subdivision "(ii)".

Subdivision (ff) setting forth the definition of the term "venue" is re-letter subdivision "(jj)".

Subdivision (gg) setting forth the definition of the term "workers' compensation administrative law judge" is re-letter subdivision "(kk)".

Modifications to §10214. Compromise and Release forms and Stipulation with Request for Award forms

DWC-CA Form 10214 (a) Stipulations with Request for Award is amended to reflect changes in the registration marks to aid scanning process.

The form is amended to create a text box to replace lines where written text was allowed.

The form is amended for clerical error at page 1, lines 4, 5, and 6, to remove the period at the end of the Labor Code citations.

The form is amended at page 1, line 7, to insert the word "letter" and to delete the word "instruction" and insert the phrase "the document cover." The corrected sentence now states: "Select 3 Letter Office Code for Place/Venue of Hearing (From the Document Cover Sheet)". This change clarifies that the office code for place/venue of hearing is a 3 letter digit, and that it further reflects the proper name of the "Document Cover Sheet" document.

The form is amended for clarification purposes at page 5, the last line before the text box, to reorganize the text in the form to state as follows: "by the employer(s) and their insurer(s) listed above and who sustained injury(ies) arising out of and in the course of employment to". The parenthetical sentence "(Please list all body parts injured)" was inserted in the middle bottom part inside of the text box.

DWC-CA Form 10214 (b) Stipulations with Request for Award (Death Case) is amended to reflect changes in the registration marks to aid scanning process.

The form is amended to create a text box to replace lines where written text was allowed.

The form is amended for clerical error at page 1, lines 4, 5, and 6, to remove the period at the end of the Labor Code citations.

DWC-CA Form 10214 (c) Compromise and Release is amended to reflect changes in the registration marks to aid scanning process.

The form is amended to create a text box to replace lines where written text was allowed.

The form is amended for clerical error at page 1, lines 5, 6, and 7, to remove the period at the end of the Labor Code citations.

The form is amended for clarification purposes at page 3, paragraph No. 1, to redraft the sentence. The sentence originally stated: “The injured employee born _____ while employed as _____ suffered.” The sentence now states: “The injured employee, born _____, alleges that while employed as a(n) _____, sustained injury arising out of and in the course of employment at locations and during the dates listed below.”

The form is amended for clerical error at page 7, last sentence to insert the word “decision” and a period to complete the sentence.

DWC-CA Form 10214 (d) Compromise and Release (Dependency claim) is amended to reflect changes in the registration marks to aid scanning process.

The form is amended to create a text box to replace lines where written text was allowed.

The form is amended for clerical error at page 1, lines 5, 6, and 7, to remove the period at the end of the Labor Code citations.

The form is amended at page 1, line 8, to insert the word “letter” and to delete the word “instruction” and insert the phrase “the document cover.” The corrected sentence now states: “Select 3 Letter Office Code for Place/Venue of Hearing (From the Document Cover Sheet)”. This change clarifies that the office code for place/venue of hearing is a 3 letter digit, and that it further reflects the proper name of the “Document Cover Sheet” document.

The form is amended for clerical and grammatical errors at page 2, line 9, to correct the beginning of the first sentence after number 1. The corrected beginning of the sentence now states: “1. The below – dependent(s) claims that”.

The form is amended for clerical and grammatical errors at page 3, paragraph No. 5, first line on top of the page. The corrected sentence now states: “5. The applicant(s) herein claims to have been dependent upon said employee at the time of the claimed injury and states the name(s), age(s), relationship to, and the extent of dependency upon the deceased employee to have been as follows:”

The form is amended for clerical error at page 3, line 15, paragraph No. 6, to add a parenthetical “(s)” after the word dependent. Thus, the corrected beginning of the sentence now states: “6. The parties agree to settle any and all claims of said dependent(s) on account of the claimed injury and the death of said”.

DWC-CA Form 10214 (e) Third Party Compromise and Release is amended to reflect changes in the registration marks to aid scanning process.

The form is amended to create a text box to replace lines where written text was allowed.

The form is amended to move the line requesting the social security number from the left to the right.

The form is amended for clerical error at page 1, lines 5, 6, and 7, to remove the period at the end of the Labor Code citations.

The form is amended at page 1, line 8, to insert the word “letter” and to delete the word “instruction” and insert the phrase “the document cover.” The corrected sentence now states: “Select 3 Letter Office Code for Place/Venue of Hearing (From the Document Cover Sheet)”. This change clarifies that the office code for place/venue of hearing is a 3 letter digit, and that it further reflects the proper name of the “Document Cover Sheet” document.

The form is amended for clarification purposes at page 4, paragraph no. 9. The paragraph now provides at the end of the sentence for a line to insert amount of balance settlement to be provided to the carrier or insured employer as well as to the employee.

The form is amended for clerical error at page 5, paragraph no. 13, line 4, to substitute the word “date” instead of the word “data.”

The form is amended for clerical error at page 5, paragraph no. 4, the last sentence in parenthesis, to change the words “Lien Claimant” to lower case, thus “lien claimant.”

Modifications to Proposed §10216. Adjudication Files

Subdivision (a) is amended to include the words “no less than 30 business days after filing.” This is added in response to comments concerned that the documents would be destroyed immediately after scanning. This amendment clarifies that the document will be kept for at least 30 business days in case there is an error or mistake.

Subdivision (b) is added to provide that all case opening documents shall be given a case number by the district office where no case number has been previously assigned for the injured worker for the alleged date of injury. The parties shall be notified of the case number by their preferred method of service. This language is added to clarify how the case number will be assigned and how the parties will find out what the case number is.

Subdivision (c) is added to state if a case number has been previously assigned by the Division of Workers' Compensation, a new case number will be assigned when a document is filed as follows: the prefix "ADJ" shall replace the previously assigned three letter prefix (i.e. “OAK”) and precede the assigned case number. This language is added to clarify that a case with an existing case number will be assigned a new EAMS number with the ADJ prefix.

Former subdivision (b) is re-lettered (d).

Former subdivision (c) is re-lettered (e). Subdivision (e) is amended to include the words “no less than 30 business days after the issuance of the notification.” This is added in response to comments

concerned that the files would be destroyed immediately after scanning. This amendment clarifies that the document will be kept for at least 30 business days in case there is an error or mistake.

Modifications to Proposed §10217. Official Participant Record and Duty to Furnish Correct Address

Section 10217 is renamed. The word “Participant” replaces the word “Address.” This change is made to reflect how information is stored in EAMS, which is by participants.

Subdivision (a) is amended to substitute the term “address” with participant” and the term “agents of record” with the term “hearing representatives.” The words “and mailing address” are deleted. The last sentence, which stated “In addition, where parties and lien claimants, or their attorneys or hearing representatives, have provided or have been required to provide telephone numbers, fax numbers or electronic mail addresses, the official address record shall contain these numbers and addresses” is deleted.

Subdivision (a) now states: “The Division of Workers’ Compensation shall maintain an official participant record for each adjudication file, which shall contain the names of all parties and lien claimants, and their attorneys or hearing representatives.

Subdivision (b) is added to provide that the Division of Workers’ Compensation will assign in EAMS uniform names to claims administrators’ offices, representatives’ offices, and lien claimants who file monetary liens in 250 cases or more per year. The assignment of uniform names is to ensure that case parties and documents are accurately associated with the correct case file. This subdivision requires the parties who received a uniform name to use the name when filing documents in EAMS.

Subdivision (b)(1) is added to provide that the Division of Workers’ Compensation will maintain a list on its website (www.dwc.ca.gov/EAMS) of uniform names and mailing addresses and preferred method of service for the following entities: claims administrators’ offices, and representatives’ offices.

Subdivision (b) (2) is added to provide that additions for new claims administrators’ offices and representatives’ offices and changes of name, location or address, telephone number, fax number, e-mail address or preferred method of service shall be registered with the Central Registration Unit.

The method of notifying the Division is set forth in subdivision (b)(2)(A): The entity requesting the change must fax or e-mail a letter on letterhead with a signature from an authorized individual requesting the change to the Division of Workers’ Compensation’s Central Registration Unit within five business days of any change. The entity shall also advise all parties of any change of name, mailing address, or telephone number by furnishing the current information within five business days of any change.

Subdivision (b)(2)(B) is added to provide: The fax number for the Central Registration Unit is: 1 (888) 822-9309. The e-mail address for the Central Registration Unit is: cru@dir.ca.gov.

Subdivision (b)(2)(C) is added to provide: The new uniform name or address and preferred method of service will be posted within ten business days of receipt of the request.

Subdivision (c) (former subdivision (b)) is revised to apply only to those entities that do not fall within subdivision (b) and deletes that requirement that the entities provide fax numbers or electronic mail addresses. It now states: (c) Except as required by subdivision (b), every party and every lien claimant having an interest in an active case pending before the district office or appeals board shall advise the district office and all parties of any change of mailing address and telephone numbers by furnishing the current information within five business days of any change

Former subdivision (c) is now subdivision (d).

Former subdivision (d) is now subdivision (e) and is revised to delete reference to “attorney, hearing representative.” It refers to parties and lien claimants having an interest in an inactive case and deletes that requirement that the entities provide fax numbers or electronic mail addresses. It now states: Every party and every lien claimant having an interest in an inactive case: (1) shall advise all other known parties, lien claimants, attorneys, and hearing representative within five business days of any change of address (which shall include any change of mailing address and telephone numbers) by furnishing the correct and current address and/or number; and (2) shall advise the Division of Workers’ Compensation of any such change within five business days if there is an outstanding award of further medical treatment or if there is continuing jurisdiction pursuant to Labor Code sections 5410, 5803 and 5804.

Modifications to Proposed §10218. Designated Preferred Method of Service

Subdivision (a) is amended to replace the words “A party, a lien claimant, or an attorney or other representative for a party or lien claimant” with the words “Claims administrators’ offices and representatives’ offices.” The sentence “The designated method of service shall be the same for all active cases for that claims administrator’s office or representative’s office.” is added. The words “or cannot” are added to the last sentence of the subdivision. It now reads: “Claims administrators’ offices and representatives’ offices may designate first class mail, electronic mail or fax as their preferred method of service for receiving documents from the district office and the appeals board. The designated method of service shall be the same for all active cases for that claims administrator’s office or representative’s office. A party, a lien claimant, or an attorney or other representative for a party or lien claimant who does not or cannot designate a preferred method of service shall be served by first class mail.”

Subdivision (b) is revised to clarify how the parties may make an agreement regarding preferred methods of service between themselves. It states: “(b) A represented party, a lien claimant, or an attorney or other representative for a party or lien claimant may agree with any other represented party, lien claimant, or attorney or other representative for a party or lien claimant that any that his, her, or its designated preferred method of service may be utilized for receiving documents between the parties to the agreement from any other represented party, lien claimant, or attorney or other representative for a party or lien claimant. If such an agreement is made, service pursuant to the agreement shall constitute valid service. Absent such an agreement, service between these parties or entities shall be made by first class mail.”

Subdivision (c) is amended for clarification purposes to add the word “unrepresented” before the words “dependent” and “uninsured employer.” The section now states: “If the service is being made by or on an unrepresented injured worker, unrepresented dependent or unrepresented uninsured employer, then the service shall be made by first class mail.”

Subdivision (d) is deleted.

Proposed §10222. Failure to Comply with the Court Administrator’s Rules

Section 10222 is added to forth the consequences of failure to comply with the court administrator’s rules. Previously proposed §10235 is moved in whole to subdivision (b) without changes to the substance of the section. Proposed section 10222 now provides as follows:

Subdivision (a) is added to provide that if a document is not filed in compliance with the court administrator’s rules, either because it does not comply with the procedural requirements or with the place of filing requirements, the court administrator may in his or her discretion take the following actions.

Subdivision (a)(1) is added to provide that the court administrator may correct the defect and file the document.

Subdivision (a)(2) is added to provide that the court administrator may notify the filer that the document is not accepted for filing by service of a Notice of Document Discrepancy. The paragraph further provides that the Notice shall state the discrepancy, the date of the attempted filing, and provide the filer with 15 business days from service to cure the discrepancy. The paragraph also provides that if the document is corrected within 15 business days, or at a later date upon a showing of good cause, it shall be deemed filed on the original date the document was submitted.

Subdivision (b) contains the regulatory language previously proposed §10235 without changes to the substance of the section. The only change to the section is an introductory clause at the beginning of the section which states: “Notwithstanding the provisions of subdivision (a)” and the addition of the words “as a non duplicative supporting exhibit.”

Subdivision (c) was previously set forth in section 10228(e), but was moved to this section for clarity. There were minor syntax changes. It now states: “No document shall be sent by electronic mail or by fax directly to the district office or the appeals board. If a document is sent by electronic mail or fax directly to the district office, it shall not be accepted for filing or deemed filed, shall not be acknowledged, and may be discarded unless otherwise ordered by the workers’ compensation administrative law judge or the appeals board.”

Modifications to Proposed §10223. Corrective Measures for Misfiled or Misdirected Documents into the Case Management System

Subdivision (f) is added in response to comments to state: “(f) The Division of Workers’ Compensation will provide notice to all parties of moved, substituted, or repaired documents within 15 business days.”

Modifications to Proposed §10225. Extended System Unavailability

In response to comments, subdivisions (e) and (f) have been added as follows:

“(e) The Division of Workers’ Compensation will maintain a list of any and all technical failures of EAMS that last longer than 24 hours on its website.

(f) EAMS shall be backed up daily pursuant to the State of California’s information technology standards.”

Modifications to Previously Proposed §10228. Place of Filing Documents After Initial Application or Case Opening Document

Section 10228 is renumbered section 10227 and the words “After Initial Application or Case Opening Document” are added to the title.

Subdivision (a) is modified to delete the reference to subdivision (b) below as subdivision (b) is being deleted from the section. Thus, the subdivision now provides: “After the filing and processing of an initial application for adjudication of claim or other case opening document, all documents required or permitted to be filed under these regulations or under the rules of the appeals board shall be filed only with the district office having venue, except as provided by the rules of the appeals board, unless otherwise ordered by a workers’ compensation administrative law judge or the appeals board.”

Subdivisions (b) through (e) are deleted.

Modifications to Previously Proposed §10229. Manner of Filing Documents

Section 10229 is renumbered section 10228.

Subdivision (b) is revised to add the words “no less than 30 business days after filing” in response to comments concerned about documents being destroyed after scanning.

Subdivision (c) is revised to add the words “with the exception of OCR forms that are prepared at a hearing or that, for good cause, are filed at trial.” This revision is made in response to comments that OCR forms will sometimes be filled in at a hearing by hand.

New subdivision (d) is added to explain how OCR forms can be accessed and used. It states: “OCR forms will be posted in fillable format on the Division of Workers’ Compensation website (<http://www.dir.ca.gov/dwc/forms.html>). The forms may be (1) filled out on line and then printed or (2) printed and then filled out.”

Former subdivision (d) is re-lettered subdivision (e).

This subdivision is further amended for clarification purposes to add the word “unrepresented” before the words “dependent” and “uninsured employer.” The subdivision is also amended to clarify that if unrepresented employees, unrepresented dependents and unrepresented uninsured employers or lien claimants who do not have access to a computer or a typewriter can obtain a printed OCR form from the district offices and hand-print the information on the form. The subdivision now states: “All unrepresented employees, unrepresented dependents, unrepresented uninsured employers, or lien claimants listed in subdivision (c)(5)(A), (B) or (C) shall utilize optical character recognition forms, where such forms are required, but if they do not have ready access to a computer or typewriter, printed

OCR forms will be available at the district offices and the information added to the form may be hand-printed in black ink.”

Subdivision (e) is re-lettered subdivision (f).

Subdivision (g) is added to state: “Except as set forth in subdivision (e), any OCR form that was not obtained from the Division of Workers’ Compensation’s website must function with EAMS in an equivalent manner as the Division’s form.” This is necessary so that entities that create OCR forms for companies to use know that the forms they create must be readable by the DWC scanners. Subdivision (g) provides subdivision (e) is an exception to this rule.

Proposed §10229. Electronic Filing Exemption

The new sections states: “If a party electronically files with EAMS as part of the voluntary electronic filing experimental study group, that party will be exempted from complying with regulation sections 10229 and 10232 for that filing.” This is necessary so that parties that have agreed to participate in the voluntary electronic filing program will not also be required to file OCR forms.

Modifications to §10232. Form and Size Requirements for Filed Documents

Subdivision (a)(5) is amended to add the words “all OCR forms and” to clarify that the OCR forms must be filled out in the listed fonts.

Subdivision (a)(6) is added to require the text added to the OCR forms to be in capital letters. This is necessary so that the information is readable by the DWC scanners.

Subdivision (a)(7) is added to clarify that the request on OCR forms for social security numbers is optional, not mandatory.

Subdivision (a)(8) is added to state: “A list of body part codes is provided with the document cover sheet form and posted on the Division of Workers’ Compensation website (<http://www.dir.ca.gov/forms.html>). The codes shall be used on OCR forms to describe the part of the body injured.”

Subdivision (a)(9) is added to state: “A list of district office codes for place of venue is provided with the document cover sheet form and posted on the Division of Workers’ Compensation website (<http://www.dir.ca.gov/forms.html>). The codes shall be used on OCR forms to describe the district office venue.”

Former subdivisions (a)(6) and (7) are renumbered (a)(10) and (11).

Subdivision (a)(12) is added as an additional requirement for filed documents. The paragraph requires that the documents be flat, without folds and without staples. This is necessary so that the documents will go through the scanners without difficulty.

Subdivision (a)(13) is added to state: “OCR forms have bar codes at the top of the document. No other documents shall have bar codes on the top of the document.”

Subdivision (b)(1) providing that a completed document cover sheet shall be the first page of each individual document or set of documents filed at one time in the same case is modified to add that the cover sheet provides space for information regarding 15 companion cases. Only the pages filled out need to be filed. The subdivision now provides: “a completed document cover sheet shall be the first page of each individual document or set of documents filed at one time in the same case. The cover sheet provides space for information regarding 15 companion cases. Only the pages filled out need to be filed. A document separator sheet shall precede each document within a set of documents.” This clarifies that the filers do not need to file the extra, unused pages of the 15 page form.

Subdivision (b)(2) is revised to remove the word “that” from the first sentence to improve the grammar. Two sentences are added to clarify how to use the separator sheet. The subdivision now states: “If an individual document includes an attachment, a completed document separator sheet shall precede the attachment and if an individual document includes multiple attachments, a document separator sheet shall precede each individual attachment. A document separator sheet shall not be placed between a document and the proof of service for that document. Where one proof of service is used for multiple documents, a document separator sheet shall precede the proof of service.”

Subdivision (b)(3) is added to state: “A list of document titles is provided with the document separator sheet form and posted on the Division of Workers’ Compensation website (<http://www.dir.ca.gov/forms.html>). The document titles shall be used on document separator sheet to describe the attached document.”

Subdivision (b)(4) is added in response to comments to state: “The document separator sheet requires the filer to list the product delivery units, as defined in section 10210(bb), the date of the attached document, and the author of the attached document.”

Former subsection (b)(3) is renumbered (b)(5) and is amended for clarification purposes to add the word “unrepresented” before the words “dependent” and “uninsured employers.” The subsection now states: “This subdivision shall not apply to any unrepresented employees, unrepresented dependents or unrepresented uninsured employers who do not have ready access to document cover sheets and document separator sheets.” This change is consistent with changes in §10228(e).

Modifications to §10232.1 Document cover sheet

The title of the “Document cover sheet” in DWC-CA form 10232.1 is corrected for clerical error. The title in the form was originally reflected as “Cover Sheet.” It has now been corrected to state: “Document Cover Sheet.”

DWC-CA form 10232.1—Document Cover Sheet is amended to reflect changes in the registration marks to aid scanning process.

The form is amended throughout the document to number the body parts vertically as opposed to horizontally as it was reflected in the previous draft of the form.

The form is amended to highlight in bold the sentence at the bottom of the “District office codes for place of venue.” Thus the sentence appears now in the form in bold as follows: **“Use this document to complete forms, but do not file this document with your forms.”**

The form is amended by adding a sentence at the end of the “Body Part Code List” page. The sentence reads as follows: **“Use this document to complete forms, but do not file this document with your forms.”**

Modifications to §10232.2 Document separator sheet

DWC-CA form 10232.2—Document separator sheet is amended to insert a revision date at the footer.

The attachment entitled “Document type and document titles for ADJ cases” is amended by listing new document type and new document titles for the ADJ cases.

The attachment entitled “Document type and document titles for the Vocational Rehabilitation and Retraining and Return to Work Units” is amended by listing new document type and new document titles for the vocational rehabilitation and retraining and return to work units.

The attachment entitled “Document Type and document titles for the DEU and the Integrated case” is amended by listing new document type and new document titles for the DEU and the integrated case.

Modifications to §10233. Filing of Medical Reports, Medical-Legal Reports, and Various Records.

Subdivision (b)(1) relating to the filing of a declaration of readiness is modified to add the requirement that the relevant report of any treating physician be also filed with the declaration of readiness in addition to the agreed medical evaluator and qualified medical report. The word “of” was a typo and is removed. The subdivision now states: “When filing a declaration of readiness, the filing party or lien claimant shall file the report of any agreed medical evaluator, any qualified medical evaluator, and any treating physician that: (A) are then in its possession or control, (B) are relevant to the issue being raised by the declaration of readiness, and (C) have not been filed previously. No other medical reports, medical-legal reports, medical records, or other documents shall be filed at that time, unless otherwise ordered by the appeals board or a workers’ compensation administrative law judge.”

Subdivision (b)(2) relating to the filing of an objection to a declaration of readiness or to filing opposing documents in response to a declaration of readiness to proceed is modified to add the requirement that the relevant report of any treating physician be also filed in addition to the agreed medical evaluator and qualified medical report. The word “of” was a typo and is removed. The subdivision now states: “When filing an objection to a declaration of readiness, or within ten days of the filing of the declaration of readiness if no objection is timely filed, each opposing party or lien claimant shall file the report of any agreed medical evaluator, any qualified medical evaluator, and any treating physician that: (A) are then in its possession or control, (B) are relevant to the issue being raised by the declaration of readiness, and (C) have not been filed previously. No other medical reports, medical-legal reports, medical records, or other documents shall be filed at that time, unless otherwise ordered by the appeals board or a workers’ compensation administrative law judge.”

In subdivision (c)(1) and (2), the word “of” was a typo and is removed.

Subdivision (g) is modified to add a rating mandatory settlement conference, a priority conference and a lien conference in addition to the mandatory settlement conference to the proceedings where all other exhibits not already submitted relating to the issue raised must be submitted if the matter is being set for trial. The subdivision now provides: “At a mandatory settlement conference, rating mandatory settlement conference, priority conference or lien conference, all other medical reports, medical-legal

reports, medical records, or other documents that are being proposed as exhibits with respect to the issue being raised by the declaration of readiness, and that have not been filed previously, shall be filed, but only if the matter is being set for trial, unless otherwise ordered by the appeals board or a workers' compensation administrative law judge." The listing of all of these relevant proceedings insures that all proper exhibits are submitted when the case is being set for trial.

Modifications to Previously Proposed §10235. Improper Filing of Documents

The text of this section is moved to §10222, subdivision (b). The substance of the section is not changed.

Modifications to Proposed §10240. Appearances Required

Proposed §10240 is deleted in whole and re-drafted. The section provides that all parties and lien claimants are required to appear at all hearings, except when provided by the subdivisions that follow.

Subdivision (a)(1) is added to provide that where injury arising out of and in the course of employment is at issue, lien claimants not defined as a party under subdivision 10210(y)(3) shall not be required to appear at the mandatory settlement conference or trial, unless otherwise ordered by the workers' compensation administrative law judge. This is necessary to allow the necessary parties to appear at the proceedings, to prevent unnecessary appearances on the part of the lien claimants, and to avoid backlog in the trial courts. The appearance of a lien claimant as defined in subdivision 10210(y)(3) is necessary as this lien claimant would normally be raising the regular issues related to injury arising out of and in the course of employment in those proceedings. The workers' compensation administrative law judge, of course, has the discretion to order any party to appear at the proceedings.

Subdivision (a)(2) is added to provide that where liability for the claim has been accepted, lien claimants not defined as a party under subdivision 10210(y)(3), with a lien claim of \$25,000 or more, shall appear or have a representative appear at the mandatory settlement conference or lien conference, unless the appearance is excused by the workers' compensation administrative law judge. The amount of the lien claim value was increased from the originally proposed amount of \$2,500 to \$25,000 based on public comments that the amount of the lien was too low to require appearance at the mandatory settlement conference and that the amount should be increased. The appearance of a lien claimant as defined in subdivision 10210(y)(3) is necessary as this lien claimant would normally be raising the regular issues related to injury arising out of and in the course of employment at the mandatory settlement conference. The workers' compensation administrative law judge, of course, has the discretion to order any party to appear at the mandatory settlement conference.

Subdivision (a)(3) is added to provide that lien claimants not defined as a party under subdivision 10210(y)(3) with liens of less than \$25,000 shall be available by telephone with settlement authority and shall notify defendant(s) of the telephone number at which the defendant may reach the lien claimants during the mandatory settlement conference or lien conference. The workers' compensation administrative law judge may order the appearance of lien claimants not defined as a party under subdivision 10210(y)(3), with liens of less than \$25,000 at a mandatory settlement conference or lien conference. The lien value of \$25,000 or more has been added. This subdivision allows the specified lien claimants to appear by telephone.

Subdivision (a)(4) is added to provide that all lien claimants shall appear at trial at which their lien(s) is an issue to be decided. This is necessary to ensure that the appropriate parties are present at trial.

Subdivision (b) is added to provide all parties shall have a person available with settlement authority at the mandatory settlement conference or lien conference. The person with settlement authority need not be present if an attorney or representative who is present at these proceedings can obtain immediate authority by telephone. This is necessary to ensure that settlement discussions will be meaningful.

Subdivision (c) is added to provide that unless the notice otherwise provides, the applicant shall be present at a mandatory settlement conference as provided in Labor Code section 5502, subd. (e). This language was contain in the originally proposed §10240(a). The sentence was moved to proposed subdivision (c) for clarification purposes.

Subdivision (d) is added to provide that appearance at a hearing not covered under this section shall be at the discretion of the workers' compensation administrative law judge. This allows the workers' compensation administrative law judge to use his or her discretion in setting forth appearances not covered under this section.

Modifications to Proposed §10241. Failure to Appear

Subdivision (a) is modified to reference §10240. The section now states: "Where a party or a lien claimant is served with notice of trial pursuant to section 10240 and fails to appear either in person or by attorney or representative, the workers' compensation administrative law judge may:"

Subdivision (b) is modified to reference §10240. The section now states: "Where a party or a lien claimant is served with notice of a conference or mandatory settlement conference pursuant to section 10240 and fails to appear at the conference, the workers' compensation administrative law judge may:" A colon is added to the end of the sentence where the punctuation is missing.

Modifications to Proposed §10245. Minutes of Hearing form

DWC AD form 10245—Minutes of Hearing is amended to reflect changes in the registration marks to aid scanning process.

The form is amended to create a text box to replace lines where written text was allowed.

Modifications to Proposed §10250.1. Declaration of Readiness to Proceed Form

DWC AD form 10250.1—Declaration of Readiness to Proceed is amended to reflect changes in the registration marks to aid scanning process.

The form is amended to create a text box to replace lines where written text was allowed.

Modifications to Proposed §10252.1. Expedited Hearing Form

DWC AD form 10252.1—Declaration of Readiness to Proceed to Expedited Hearing (Trial) is amended to reflect changes in the registration marks to aid scanning process.

The form is amended to create a text box to replace lines where written text was allowed.

Modifications to Proposed §10270. Access to and Viewing Adjudication Files

Subdivision (b) is modified for clerical error to insert the word “prohibited” before the phrase “by law.” The subdivision now states: “Except as otherwise prohibited by law or sections 10271 and 10272, any person may inspect the contents of any electronic adjudication file at any district office, whether or not the district office has venue over the case.”

Subdivision (c) is modified for clerical error to insert the word “prohibited” before the phrase “by law.” The subdivision now states: “Except as otherwise prohibited by law or sections 10271 and 10272, any person may inspect the contents of any paper adjudication file at the district office or office of the appeals board where the file is located during regular office hours.”

Modifications to Proposed §10273. Retention, Return and Destruction of Records and Exhibits

Subdivision (a) provides that the Division of Workers’ Compensation shall retain for at least fifty years after the filing of case opening documents (i.e., the initial application for adjudication of claim or, where an application has not previously been filed, either a stipulations with request for award or a compromise and release) certain listed records in a adjudication file, in either electronic or paper form.

Subdivision (a)(4) is added to include all minutes of hearing to the documents which are covered by the retention policy.

Subdivision (a)(5) is added to include all minutes of hearing and summary of evidence to the documents which are covered by the retention policy.

Former subdivision (a)(4) is renumbered subdivision (a)(6).

Former subdivision (a)(5) is renumbered subdivision (a)(7).

Subdivision (a)(6) is renumbered subdivision (a)(8).

Subdivision (a)(7) is renumbered subdivision (a)(9).

Subdivision (a)(8) is renumbered subdivision (a)(10).

Subdivision (c)(2) is corrected to reflect section 10222 subd. (b) instead of section 10395.

Modifications to Proposed §10280. Walk-Through Documents

The word “document” is added to modify “cover sheet” in subdivisions (d)(1) and (2).