

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

**NOTICE OF PROPOSED RULEMAKING**

**Subject Matter of Regulations:  
Disability Evaluation Unit Regulations**

**TITLE 8, CALIFORNIA CODE OF REGULATIONS  
Sections 10150 through 10168**

**NOTICE IS HEREBY GIVEN** that the Administrative Director of the Division of Workers' Compensation, pursuant to the authority vested in her by Labor Code sections 133, 139.5, 4061, 4660, 5307.3, and 5307.4 proposes modify the text of the following regulations within Article 9, Subchapter 1.6, Chapter 4.5 of Title 8, California Code of Regulations, commencing with section 10150, relating to the Disability Evaluation Unit.

Proposed §10150.1	Signature Disputes and the Signatures of Consultants.
Proposed §10150.2	Technical Unavailability of EAMS.
Proposed §10150.3	Disability Evaluation Unit File Retention.
Proposed §10150.4	Misfiled or Misdirected Documents.
Proposed §10151	Filing Requirements.
Proposed §10152	Electronic Filing Exemption
Amended §10160.1	Summary Rating Determinations, Report of Primary Treating Physician for Unrepresented Employee.
Amended §10161	Forms.
Amended §10164	Summary Rating Determinations, Reconsideration if Employee is Unrepresented.
Amended §10166.1	Form (Request for Consultative Rating).
Amended §10167	Informal Ratings.

**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](mailto: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, 17<sup>th</sup> 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:

Proposed §10150.1	Signature Disputes and the Signatures of Consultants.
Proposed §10150.2	Technical Unavailability of EAMS.
Proposed §10150.3	Disability Evaluation Unit File Retention.
Proposed §10150.4	Misfiled or Misdirected Documents.
Proposed §10151	Filing Requirements.
Proposed §10152	Electronic Filing Exemption
Amended §10160.1	Summary Rating Determinations, Report of Primary Treating Physician for Unrepresented Employee.
Amended §10161	Forms.
Amended §10164	Summary Rating Determinations, Reconsideration if Employee is Unrepresented.
Amended §10166.1	Form (Request for Consultative Rating).
Amended §10167	Informal Ratings.

## **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:**

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

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

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

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

Additions to the regulatory text, as proposed in May 2008, are indicated by a double underline, thus: added 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 §10150.1. Signature Disputes and the Signatures of Consultants.**

**The title** of this section is corrected for clerical error to change the letters “d,” “s,” and “c” in the words “disputes,” “signatures,” and “consultants” from lower case to higher case and to insert a period at the end of the title. The title of the section now reads: “§10150.1. Signature Disputes and the Signatures of Consultants.”

### **Modifications to §10150.2. Technical Unavailability of EAMS.**

**The title** of this section is corrected for clerical error to change the letter “u” in the word “unavailability” from lower case to higher case and to insert a period at the end of the title. The title of the section now reads: “§10150.2. Technical Unavailability of EAMS.” The word “sections” is corrected to state “section.”

### **Modifications to §10150.3. Disability Evaluation Unit File Retention.**

**Subdivision (b) is amended.** The sentence “If a paper case file has been converted to electronic form, the paper case file may be destroyed.” is moved to the end of the subdivision, and the words “no less than 30 business days after the parties have been informed of the conversion” are added to the sentence in response to comments requesting that the documents be retained for a period of time after the conversion in case there was a mistake or error.

## **Modifications to §10150.4. Misfiled or Misdirected Documents.**

**The title** of this section is corrected for clerical error to change the letters “m” and “d” in the words “misdirected” and “documents” from lower case to higher case and to insert a period at the end of the title. The title of the section now reads: “§10150.4. Misfiled or Misdirected Documents.”

Letter “(a)” is added to the first subdivision. The extra “a” in the first sentence is deleted. The word “written” is added to modify “request” and the words “with the proposed documents for substitution appended” in response to a comment to clarify how the request to move or substitute a document is made.

Subdivision (b) is added to provide the remedies that may be taken if a document is not filed in compliance with proposed sections 10217, 10228 and 10232 of title 8 of the California Code of Regulations. The subdivision now states: “(b) If a document is not filed in compliance with sections 10217, 10228 and 10232 of title 8 of the California Code of Regulations and these regulations, the administrative director may in his or her discretion take the actions set forth in section 10222 of title 8 of the California Code of Regulations.”

## **Modifications to §10151. Filing Requirements.**

**This section is amended** for clerical error. The entire section is moved after section 10150.4 where it follows chronologically.

Subdivision (b)(3) previously contained the words “properly filed electronic form or document or a.” These words have been removed as this set of regulations does not pertain to the electronic filing of forms and documents.

## **Proposed §10152. Electronic Filing Exemption.**

**This section is added** to state:

“If a document is filed with EAMS as part of the electronic filing trial, that document does not need to be filed in compliance with sections 10228 and 10232 of title 8 of the California Code of Regulation.”

The purpose of the section is to exempt documents filed in the electronic filing trial from the rules pertain to the filing paper documents. This addition is necessary as some parties will be participating in an electronic filing trial. If documents are filed under the procedures necessary for electronic filing, there is no need for the documents to also be filed as paper documents.

## **Modifications to §10160.1. Summary Rating Determinations, Report of Primary Treating Physician for Unrepresented Employee.**

**Subdivision (a) is amended** to correct the regulation citation. Section 9785.5 no longer exists. The correct regulation is section 9785.

## **Modifications to §10161. Forms.**

**DWC-AD form 100 (DEU)—Employee’s Disability Questionnaire 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.

**DWC-AD form 101 (DEU)—Request for Summary Rating Determination of Qualified Medical Examiner is amended** to reflect changes in the registration marks to aid scanning process.

**DWC-AD form 102 (DEU)—Request for Summary Rating Determination of Primary Treating Physician Report 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 §10164. Summary Rating Determinations, Reconsideration if Employee is Unrepresented.**

**The title** of this section is corrected for clerical error to change the two letters “I” in the words “If” and “Is” from higher case to lower case. The title of the section now reads: “§10164. Summary Rating Determinations, Reconsideration if Employee is Unrepresented.”

**Modifications to §10166.1. Form (Request for Consultative Rating).**

**DWC-AD Form 104 (DEU) is amended** to reflect changes in the registration marks to aid scanning process.

**Modifications to §10167. Informal Ratings.**

**Subdivision (b) is amended** to remove the words “on a form prescribed for that purpose by the administrative director” because the form is an internal form that is not required to be part of the rulemaking process.