COURT ADMINISTRATOR RULES	RULEMAKING COMMENTS 15 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
General Comment	First, various District Offices continue to establish rules outside of the formal rule making process. These local rules, whether verbal or written, are creating confusion and complicate the task as the Workers' Compensation community builds systems to comply with EAMS. Some of the guidelines for filing documents being communicated by the individual District Offices do not conform to the proposed regulations or the transition phase options discussed and communicated at the DWC sponsored "Train the Trainer" session held on August 14 and 15, 2008. For example: ♦ Use of different colored sheets of paper in lieu of proposed Document Cover Sheets and Document Separator Sheets until the effective date of the regulations. ♦ Section 10232 (a) (13) indicates no other bar codes on the top of the document, while Page 3 of the OCR handbook indicate that bar codes on documents submitted to EAMS are not prohibited and will not interfere with scanning unless	Marie Wardell, Claims Operations Manager – State Compensation Insurance Fund August 21, 2008 Written Comment	Disagree. The purpose of this rulemaking is to establish regulations that will be followed consistently at all of the district offices.	None

COURT ADMINISTRATOR RULES	RULEMAKING COMMENTS 15 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	placed on the same location as the DWC bar code. (When State Fund inquired, we were advised that our State Fund bar code could be on the documents as long as the placement was not conflicting with the placement of the DWC barcode.) If the District Offices continue to issue local rules after rule promulgation, it will create confusion and ultimately impact employer costs and could delay benefits to injured employees. Commenter recommends that after rule promulgation the Administrative Director or the Court Administrator, depending upon the particular regulation in question, provide any needed clarification, which should be applicable to all locations rather than individual District Offices providing local instructions. In our current environment where processes are automated, adherence to various local rules is not possible and the attempt to do so drives up administrative costs. Second, commenter suggests that the regulations clarify that **Body Part**		Disagree. The body part codes on the cover sheet have no legal standing because they are	None

COURT ADMINISTRATOR RULES	RULEMAKING COMMENTS 15 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	Codes information required on the Document Cover Sheet are data and have no legal standing. The body part codes used on the Document Cover Sheet in some instances will not necessarily reflect the settlement agreement. We have been advised that the "Comments" section would be used to accurately describe the actual settlement terms including the appropriate body part language. However, DWC-CA form 10214 (c) [Compromise & Release (C &R)] <u>Column # 3 on page 5 states:</u> "This agreement is limited to settlement of the body parts, conditions, or systems and for the dates of injury set forth in Paragraph No. 1 despite any language to the contrary in this document or any addendum." In other words, this sentence refers to the Body Part Codes that automatically populated the C&R and would prohibit any clarification in the freeform "Comments" section. **Recommendation:** ♦ Clearly state that the auto-		used only for indexing in EAMS and are not part of the substantive forms, which constitute the legal documents. Agree. The body part codes and text in the body part fields on the substantive forms are part of the legal documents and do have legal standing. If additional clarification regarding the settlement is desired beyond that which will fit in the body part fields, that can be included in the comments section. A nonsubstantive change will be made to paragraph 3 of 10214(c) to state "This agreement is limited to settlement of the body parts, conditions, or systems and for the dates of injury set forth in Paragraph No. 1 **<u>and further explained in Paragraph No. 9</u>** despite any language to the contrary **<u>elsewhere</u>** in this document or any addendum."	Because more space cannot be added to the body parts section (paragraph 1), a nonsubstantive change is made to paragraph 3, to allow a party to further explain which body parts are settled: "This agreement is limited to settlement of the body parts, conditions, or systems and for the dates of injury set forth in Paragraph No. 1 **<u>and further explained in Paragraph No. 9</u>** despite any language to the contrary **<u>elsewhere</u>** in this document or any addendum."

COURT ADMINISTRATOR RULES	RULEMAKING COMMENTS 15 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	population of EAMS from the data in the Cover Sheet when used in a C&R and Stipulation (Page 5) serve only as a data function and should have no legal standing. ♦ Strike the language noted above found in Column #3 on page 5 of the C&R. ♦ Allow for an expanded "Comments" section on Page 7 of the C&R form to accommodate detailed comments describing the agreements on body parts. Third, commenter continues to recommend the addition of fields to enter **"Name of the Injured Employee"** and **"Claim Number"** on each page of the OCR forms to ensure clear identification during printing, collating, mailing, receiving and scanning process at both the sending and receiving locations. This helps us identify and separate multiple sets of filings generated during an automated batch print process.		Disagree. See Addendum A. This information is obtained through the cover sheet.	

COURT ADMINISTRATOR RULES	RULEMAKING COMMENTS 15 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
				None
General Comment	Commenter states that the EAMS system is a primitive implementation of information technology. Commenter states that the technology being used is antiquated and was surpassed over 10 years ago. Commenter opines that a fully functional system could have been based on one Microsoft SQL server, with its inherit capacity of over 100 Tetra byte for a database volume. Commenter states that all the transactions since the beginning of the Wall Street stock exchange would only take of 10% of such a server. Commenter doubts that the entire transactions of the entire State of California would even begin to utilize one such server's capabilities. Commenter states that our system is limited and incompetent.	Zach Shahin, PE August 11, 2008 Written Comment	Disagree. See Addendum A.	None
General Comment	Commenter recommends that the court administrator continue to test and improve the functionality of the system in the current environment, and that EAMS not "go live" until after all changes to regulations and	Brenda Ramirez Claims and Medical Director Michael McClain General Counsel and Vice President	Disagree. Internal go live began on August 25, 2008. However, the public is not required to comply with the regulations until they are approved, filed with the	None

COURT ADMINISTRATOR RULES	RULEMAKING COMMENTS 15 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	forms are finalized and adopted. Add to the regulations a mandatory implementation date for external users that is at least 90 days after the date the regulations are adopted. Modify the regulations to permit voluntary participation by external users between the adoption date and the mandatory participation date. Prior to the adoption of regulatory changes, current regulations are in force. It is not clear that the regulated community may ignore current regulations and required forms in favor of unadopted regulatory changes	California Workers' Compensation Institute August 21, 2008 Written Comment	Secretary of State and the effective date arrives. Disagree. DWC has worked extensively with the public to prepare for the system change. It is necessary for the public to follow the regulations as soon as possible to avoid backlog at the district offices. If the documents are not filled out and filed correctly, the DWC staff is required to manually correct and enter the data. The data must be entered into to EAMS, otherwise the clerks will be unable to schedule hearings and send notices to the parties. The public is not required to comply with the regulations until they are approved, filed with the Secretary of State and the effective date arrives. The Division is asking for voluntary compliance with the proposed regulations and use of the draft OCR forms.	

COURT ADMINISTRATOR RULES	RULEMAKING COMMENTS 15 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	and forms. In addition, some regulatory changes and forms (WCAB rules and forms) necessary to implement EAMS will not have been to public hearing before the DWC "go live" and "voluntary adoption" date scheduled by the Division for August 25th, 2008. Proposed forms published for public hearing and modified forms distributed for this 15 day comment period have since undergone, and continue to undergo, additional changes. Some essential WCAB forms have been circulated but have not yet been posted for public hearing. The regulations and forms are not ready.			
Forms Recommendation – General Comment	Delete from the forms fields for information that the EAMS system will or can pull from other locations such as from the cover and separator sheets and from WCIS. The EAMS validation spreadsheet circulated to EAMS Forms developers indicates that many fields will be populated into EAMS from fields in the cover sheet and the separator sheet and not from the fields on EAMS forms. Entering information into	Brenda Ramirez Claims and Medical Director Michael McClain General Counsel and Vice President California Workers' Compensation Institute August 21, 2008 Written Comment	Disagree. See Addendum A. Disagree. The data captured on the document cover sheet and document separator sheet have no legal standing because they are used only for indexing in EAMS and are not part of the substantive forms, which constitute the legal documents.	None None

COURT ADMINISTRATOR RULES	RULEMAKING COMMENTS 15 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	fields on the EAMS forms, especially by manual entry, is resource intensive. Duplicate entry is unnecessary and can be eliminated. Resources and costs can be saved by deleting all fields possible that are, or can be populated from other forms such as cover sheets and separator sheets, or from other locations such as WCIS fields.		However, the data and text in the fields on the substantive forms are part of the legal documents and do have legal standing, therefore the legal forms should not be modified.	
10210(f) and 10217	Ensure that the system recognizes and accepts slight variations in the names and addresses of the parties. While registration is key to uniformity, the Division must ensure that the system recognizes and accepts slight variations in the names and addresses of the parties. Many Institute members have already experienced the difficulties that can be caused when document fields are overly constricted and the automated system has little or no capacity to "reason" through variations, typos, or other foreseeable human error. While system users are responsible to correctly report their vital statistics to the Division and communicate that throughout their organizations, the system must be able to account for	Brenda Ramirez Claims and Medical Director Michael McClain General Counsel and Vice President California Workers' Compensation Institute August 21, 2008 Written Comment	Disagree. 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 to use the uniform names when filing documents in EAMS. The system is unable to self-correct. As provided by section 10222, the Division may correct a defect and file the document.	None

COURT ADMINISTRATOR RULES	RULEMAKING COMMENTS 15 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	slight variations and correctly link parties to cases. If it cannot, then regardless of the precision of the system users, errors will impede the mission of the appeals board.			
10210(dd)	Commenter recommends that the DWC add "lien claimant" to the definition of "representative office" as follows: dd) "Representative's office" means any office location for a law firm, lawyer, lien claimant or representative of a party or lien claimant in a workers' compensation case. Alternatively add "lien claimant" to sections referencing those who may submit forms and documents to EAMS, including sections10217 and10218. Since lien claimants may submit documents directly to EAMS as well	Brenda Ramirez Claims and Medical Director Michael McClain General Counsel and Vice President California Workers' Compensation Institute August 21, 2008 Written Comment	Disagree. Within the time and resource constraints available, DWC was able to assign uniform names for claims administrators' offices and representatives' offices, but not for lien claimants. Lien claimant representatives are included in the representatives' offices, but lien claimants are not. Any project can only be accomplished within a given time and scope. In the future DWC will consider adding high volume lien claimants to the list of assigned names, resources permitting. All adjudication documents will be scanned into EAMS.	None

COURT ADMINISTRATOR RULES	RULEMAKING COMMENTS 15 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	as via intermediaries, lien claimants must be included in the language specifying those who submit forms and documents to EAMS.			
DWC Form 10214(a) – Stipulations with Request for Awards	There is no signature line for the applicant. This form should be revised to include a space for the applicant's signature.	Sue Borg, President CA Applicants' Attorneys Association August 21, 2008 Written Comment	Disagree. The signature line is on page 7 labeled "Applicant."	None
DWC Form 10214(a) – Stipulations with Request for Awards	• Delete the material relating to the inclusion of multiple companion cases on these and other forms. The court administrator has retained the inclusion of specific information regarding companion cases in these as well as in other forms. Labor Code section 3208.2 requires all questions of fact and law to be separately determined with respect to each injury, "including, but not limited to, the apportionment between such injuries of liability for disability benefits, the cost of medical treatment, and any death benefit". The WCAB's 2006 En Banc opinion in Benson v WCAB 72 CCC 1620 (currently being reviewed by the	Brenda Ramirez Claims and Medical Director Michael McClain General Counsel and Vice President California Workers' Compensation Institute August 21, 2008 Written Comment	Disagree. A least 1/3 of all dockets have companion cases. DWC needs to track and associate the cases. This document allows, but does not require, multiple cases to be settled in one document. The award of compensation, which is prepared by the judge, must comply with Labor Code section 3208.2.	None

COURT ADMINISTRATOR RULES	RULEMAKING COMMENTS 15 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	District Court of Appeal) reaffirms the intention of the appeals board to ensure that individual cases are determined separately as required by section 3208.2. A stipulated findings and award form must, therefore, be prepared for each separate injury, whether specific or cumulative and cannot combine the factual circumstances underlying any separate injury. The WCALJ, then cannot, lawfully, resolve multiple specific injuries or specific and cumulative injuries in the same award. • Replace the "start date" and "end date" fields for specific and cumulative trauma injuries with a single "date of injury" field, and delete the instruction "(If Specific Injury, use the start date as the specific date of injury)" on these and all other proposed forms. Labor Code section 5412 defines a <u>single</u> date of injury for a cumulative injury: "The date of injury in cases of occupational injuries is that date upon		Disagree. See Addendum A. Labor Code section 3208.1 describes a cumulative injury as occurring as repetitive mentally or physically traumatic activities extending over a period of time, the combined effect of which causes any disability or need for medical treatment. The forms request the alleged period of cumulative injury. The start date of the cumulative injury is when the repetitive traumatic activities began.	None

COURT ADMINISTRATOR RULES	RULEMAKING COMMENTS 15 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	which the employee first suffered disability there from and either knew, or in the exercise of reasonable diligence should have known, that such disability was caused by his present or prior employment." • Delete the drop-down box in the body part field in these and other forms and provide an expandable free form text field or a field of sufficient length to describe the relevant body part(s), conditions, and systems in the forms. The area to describe the injuries is deficient in these and other forms. The forms must provide for an adequate description of the body part(s), conditions, and systems being resolved, or at issue either on the face of the document or by reference to an addendum. In each area provided to identify the affected body parts or conditions, there is room for only 20 characters or so (13 characters in capital letters). Additionally, there is the instruction that conditions <u>may not be</u>		Disagree. See Addendum A. There is a comment box on page 5 that allows free form text regarding the body parts.	None

COURT ADMINISTRATOR RULES	RULEMAKING COMMENTS 15 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	incorporated by reference to medical reports (emphasis original). This is woefully deficient and will be unacceptable to any applicant's attorney, defense attorney, workers' compensation administrative law judge, or Board commissioner who encounters this procedural Catch-22. Simply stated, such a forced limitation makes the settlement documents defective and the parties will not be getting the resolution they intended. The incomplete descriptions will only lead to additional litigation later on. There is no necessity for the proposed drop down box from which the user must select. The body parts drop down includes the inadequate list described and commented upon above. The drop down box is a hindrance to all parties. Contained in the compromise and release form (DWC CA form 10214(c)) is the statement (Paragraph 3): "This agreement is limited to settlement of the body parts,		Agree. A nonsubstantive change will be made to paragraph 3 of 10214(c) to state "This agreement is limited to settlement of the body parts, conditions, or systems and for the	Because more space cannot be added to the body parts section (paragraph 1), a nonsubstantive change is made to paragraph 3, to allow

COURT ADMINISTRATOR RULES	RULEMAKING COMMENTS 15 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	conditions, or systems … set forth in Paragraph 1 despite any language to the contrary in this document or any addendum." This language creates a trap for the parties and assures that they cannot extricate themselves from the dilemma. No technical or procedural rule can be allowed to dictate the release of the injured worker's rights or the employer's liabilities.		dates of injury set forth in Paragraph No. 1 **and further explained in Paragraph No. 9** despite any language to the contrary **elsewhere** in this document or any addendum."	a party to further explain which body parts are settled: "This agreement is limited to settlement of the body parts, conditions, or systems and for the dates of injury set forth in Paragraph No. 1 **and further explained in Paragraph No. 9** despite any language to the contrary **elsewhere** in this document or any addendum."
10216(c)	Commenter believes that replacing the office designation by a unit prefix, rather than retaining the legacy file number in its entirety, is unduly confusing and unnecessary as most of the forms have a place for the legacy case number. In addition, unless the same number is used it is a matter of guesswork for the filer as to what the case number is. Therefore, for legacy files commenter recommends that the number remain unchanged and the filer can indicate on the document cover sheet that the documents are	Sue Borg, President CA Applicants' Attorneys Association August 21, 2008 Written Comment	Disagree. The prefix of the legacy case number is not changed. The legacy case number remains completely intact. The prefix of the legacy number is the office designation. New EAMS cases numbers have a prefix corresponding to the DWC unit. EAMS is a statewide system. The file is maintained at the statewide level. The DWC unit is a more meaningful designation for the	None

COURT ADMINISTRATOR RULES	RULEMAKING COMMENTS 15 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	being filed in the ADJ, DEU, VOC, etc. unit.		case number than the old office designation, which is less meaningful in a statewide system. Either the legacy case number or the EAMS case number can be used in the forms. The case number fields accept either.	
10216(d)	Rather than maintaining concurrent paper files and electronic files for documents filed after 8/25/2008 that belong in the "legacy files", commenter believes it would be far more effective and efficient to maintain all legacy files as paper files and convert them to electronic format only at final resolution of the matter (or, alternatively, at the time of trial). Commenter strongly urges the Division to revise these rules to direct that only newly filed cases shall be filed and maintained electronically from inception.	Sue Borg, President CA Applicants' Attorneys Association August 21, 2008 Written Comment	Disagree. All newly filed documents must be scanned into EAMS in order for the functionality to work. The data must be entered into to EAMS in order for the clerks to schedule hearings and send notices to the parties and for the judges to issue orders. There is no calendaring function outside of EAMS.	None
10217(b)	Although commenter understands that the "names" inserted on the forms are important, it is her understanding that EAMS will reject paperwork where the name of the insurance company, employer, employee, law firm, attorney, etc. does not "match" the	Sue Borg, President CA Applicants' Attorneys Association August 21, 2008 Written Comment	Disagree. Proposed section 10222 gives DWC the option to correct incorrectly entered names, and DWC can and will do so if it is the most expeditious way to file a particular form. Otherwise,	None

COURT ADMINISTRATOR RULES	RULEMAKING COMMENTS 15 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	"correct" names that EAMS has in its database. The "correct" names should be available on the DWC website which, of course, does not exist in EAMS. Also, not all names are registered, so if there is a name that is "new" it will have to be registered. However, a party cannot register a name for another party. Applicants and Applicants' attorneys regularly deal with many employers and insurance companies whose names may not be registered. Applicants' attorneys have no authority to "register" these name, nor that of a defense law firm either. If the name is incorrect *for any* reason (which includes even the misplacement of commas or the use of extra spaces) the filer will not know that the document has been rejected until a clerk gets around to tell them. Furthermore, the clerks will have an extraordinary work load forced upon them. The DWC website states that 36 million pieces of paper were filed last year with the WCAB. This includes 335,000 DOR's and 140,000 applications. This does not include Petitions of any character or		DWC has the option to return the document to the filer and give the filer the opportunity to correct the name. If the filer does so within the applicable time, the filing date will relate back to the original filing date for statute of limitations purposes. Uniform names are necessary in order to properly associate participants to cases. Without the uniform names participants would be associated with their cases with several different versions of their names and therefore would not be able to access those cases in EAMS once participants have access to the system. In order to prepare for that time, it was necessary to assign uniform names at the time data was converted from the online system into EAMS. It could not be done later. Most claims administrators' offices and representatives' offices did receive uniform names upon conversion. Those that did not are being registered continuously in EAMS as they	

COURT ADMINISTRATOR RULES	RULEMAKING COMMENTS 15 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	settlement documents. However this new rule requiring the "correct" name will apply to DOR's, Petitions to Compel Attendance; Request for Continuance, etc. If it is a "new" name, i.e., one that does not exist in EAMS, then the clerk will be required to call the new Central Registration Unit (CRU) to "enroll" the name. However, we believe this will only further contribute to a major backlog in the "unprocessed document file". Furthermore, the need to use the "correct" names on all filed documents poses a significant potential cost and burden to the community to update their own internal software and other software in order to correctly "auto populate" the new OCR forms (and this will likely also apply to E-forms); the additional cost will be for personnel costs to correct data and IT costs to revise data bases. The purpose for filing with the WCAB is to get cases open and benefits delivered on a timely bases, including the timely setting of hearings and Expedited Trials. Commenter believes the adoption of an inflexible standard		request to be registered. By the time the regulations and the forms become effective the database should be virtually complete. If a participant needs to file a form including the name of a participant that is not yet registered, nothing precludes the filer from contacting the Central Registration Unit and making that request.	

COURT ADMINISTRATOR RULES	RULEMAKING COMMENTS 15 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	requiring "correct" names on all documents will cause a huge logjam of documents that need to be corrected, names enrolled, a large unprocessed document queue and needless delay in getting matters set. The California Constitution Article XIV, §4 requires "expeditious and inexpensive" proceedings with an eye to "substantial justice". This is binding on *all* departments of the state. This name convention is a convenience for the division and provides neither prompt proceedings or substantial justice to the parties. Although commenter offers other proposals regarding the provisions of proposed §10222, with regard to this rule commenter strongly urges that the Division adopt procedures that permit the processing of all documents *regardless of whether the correct name has been entered on the documents.*			
10222	Subsection (b) of proposed CCR §10222 states that documents improperly submitted (i.e., letters to opposing parties or counsel, subpoenas, notices of taking depositions, proofs of service, medical reports unless required by section	Marie Wardell, Claims Operations Manager – State Compensation Insurance Fund August 21, 2008 Written Comment	Disagree. If an improperly filed document is attached or filed along with properly filed document or time sensitive document, the properly filed document would be processed and only the improperly filed	None

COURT ADMINISTRATOR RULES	RULEMAKING COMMENTS 15 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	10233, copies of other opinions, duplicate medical/medical legal and diagnostic images) will not be accepted. Commenter will comply with this rule. However, the accidental filing of a duplicate medical report along with a time sensitive document or finalization document—e.g., a duplicate copy of a medical report along with a signed Compromise and Release—is an error that will occur from time to time. Commenter recommends in those instances, when a Compromise and Release document, Stipulated Findings and Award or another document subject to a statute of limitations is filed and a duplicate medical report is attached, the filing is accepted.		document would be discarded.	
10222	Commenter believes that subdivision (a), which defines the procedures to be followed where a filed document does not comply with all of the Court Administrator rules, should be amended to eliminate a potential conflict with WCAB rules and to assure that this rule does not cause	Sue Borg, President CA Applicants' Attorneys Association August 21, 2008 Written Comment	Disagree. To the extent the proposed WCAB rules in question purport to govern the conduct of the Court Administrator, or the functioning of the EAMS system which is administered by the Court Administrator, the	None

COURT ADMINISTRATOR RULES	RULEMAKING COMMENTS 15 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	unnecessary delay in resolving claims. As she understands it, this rule will apply where a filed document is incorrect, incomplete, or otherwise does not meet all of the requirements for filing under EAMS. Under this proposed rule, the Division will either: (1) correct the defect and file the document, or (2) notify the filer that the document is not accepted by sending the filer a "Notice of Document Discrepancy." The filer will then have 15 business days to correct the defect However, one of the draft rules proposed by the WCAB appears to contradict this rule. Proposed section 10397 of the WCAB rules states that any document subject to a statute of limitations or a jurisdictional time limitation "shall not be rejected for filing" if it is filed incorrectly, which includes where the document "contains inaccurate information...". Under the WCAB's rule a time sensitive document may be rejected only if it does "not contain a combination of information sufficient to establish the case or cases to which the document relates, or if it is a case		Court Administrator's rules are controlling. (Labor Code sections 127.5, 5307(c), and 5500.3(a).) The proposed Court Administrator rules provide adequate options and protections for the rights of the parties.	

COURT ADMINISTRATOR RULES	RULEMAKING COMMENTS 15 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	opening document, sufficient information to open an adjudication file." This is the only circumstance under which the Court Administrator is required to return the time sensitive document to the filer with a "Notice of Document Discrepancy." Commenter strongly recommends that proposed section 10222 be amended to conform to the provisions of the draft WCAB rule section 10397. In addition, although subdivision (a)(2) establishes a 15 business day time limit for the filer to respond to the Notice of Document Discrepancy, there is no provision in the rule regulating the Division's issuance of this Notice. Commenter believes it is imperative that a time limit be adopted. With no limit, the filer may not know for weeks or even months that a document has been rejected for filing. Although she believes the Division is not planning on such delays, adopting a rule that sets up an unlimited time period to reject a document is unreasonable. In view of the literally millions of documents submitted to the Division each year, and the fact that EAMS is untested,		Disagree. The Notice of Discrepancy will be sent out at the earliest feasible opportunity. However, workloads may vary from time to time and from office to office, so a 10 day limitation may in some circumstances be unworkable. The time for correction runs from the time of the notice, not the time of filing, so the filing party's rights are adequately protected.	None

COURT ADMINISTRATOR RULES	RULEMAKING COMMENTS 15 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	there is potential for workers to suffer significant harm if backlogs of unfiled documents cause unnecessary delays in the delivery of benefits. As noted above, commenter recommends that this rule be amended to conform to the proposed WCAB rule dealing with the filing of time sensitive documents. However, it must be recognized that the filing of all documents, not just those identified in the WCAB rule, is subject to the Constitutional mandate that cases be handled "expeditiously." Consequently, commenter recommends that subdivision (a)(2) be amended to provide that where a document is not accepted for filing, the Notice of Document Discrepancy shall be sent to the filer within 10 business days of the date of filing; and furthermore that where a Notice of Document Discrepancy is not sent to the filer within 10 business days the document shall be deemed filed.			
10222(b) and (c)	Ensure the rule for a discarded document is the same as the procedure applied in subdivision (a)(2) with a notification that the document was not	Brenda Ramirez Claims and Medical Director Michael McClain	Disagree. The documents listed in (b) are not documents that require action by the district office and therefore	None

COURT ADMINISTRATOR RULES	RULEMAKING COMMENTS 15 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	accepted and an opportunity to cure the defect. While the rules are clear, the consequences are potentially troublesome. As stated previously, the Board's primary function is to resolve disputes expeditiously and to that end the evidentiary record must be protected. Filing errors and procedural problems occur but, particularly in the initial phase of EAMS, enforcement of the procedural rules must yield to the Board's constitutional responsibility. The Institute recommends that the penalty for these kinds of misfiled documents be similar to subdivision (a) – return the document and notify the filer that it has been rejected. The WCAB has the authority to consider sanctions for these errors, if necessary.	General Counsel and Vice President California Workers' Compensation Institute August 21, 2008 Written Comment	should not be filed at all. Because no action is required by the district office, no notice needs to be provided to the party that filed the documents. Subdivision (b) is similar to the current WCAB rule section 10395 and subdivision (c) is similar to the first sentence of current section 10391. These are not new rules.	
10228	Although commenter appreciates that the time to destroy documents is now extended to 30 days, she believes that this is still too short as the system has demonstrated no long term viability or stability. Therefore, commenter recommends keeping documents in legacy files until the file is finalized by Findings and Award or final settlement. New files should have the	Sue Borg, President CA Applicants' Attorneys Association August 21, 2008 Written Comment	Disagree. The regulations states the paper documents shall be destroyed *no less than 30 business days* after scanning. Therefore, the Division may keep the documents for a longer period if it is necessary. The system has been live internally since August 25, 2008, which has	None

COURT ADMINISTRATOR RULES	RULEMAKING COMMENTS 15 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	documents retained until at least the system is fully implemented and 30 days thereafter.		allowed the Division to test the viability and stability before the regulations are even effective.	
10232(a)(2)	Margins for all documents—except medical reports of treating physicians, secondary physicians, qualified or agreed medical evaluators and proposed exhibits—should be at least one inch and without typed or handwritten text. State Fund has adopted an electronic claim process. The automated process allows for remote printing and mailing of medical reports and other relevant documents. <u>In order to remote print, and mail, placement of bar codes and date stamp identification tags within the one inch margin is a necessary part of the process. It is not possible to move our "Bar Code" and "Date Stamp Identification" out of the one inch clearance area.</u> **Recommendation:** ♦ **Bar Codes:** Commenter recommends that the regulations reaffirm what we were initially advised. Those claims administrators with electronic	Marie Wardell, Claims Operations Manager – State Compensation Insurance Fund August 21, 2008 Written Comment	Disagree. Neither a barcode nor a received stamp is typewritten or handwritten text. Accordingly they may be placed in the one inch margin so long as they do not interfere with the DWC form or barcode, as the commenter was previously correctly advised.	None

COURT ADMINISTRATOR RULES	RULEMAKING COMMENTS 15 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	processes that have system generated bar codes should be exempt from the one inch margin requirement as long as it does not conflict with the placement of DWC barcodes on the OCR Forms. ♦ **Date Stamp Identification:** Commenter recommends that the electronic date stamp identification tag marking the receipt of a document by State Fund and which is used for indexing the documents in our electronic case file be exempt from the one inch margin requirement. The required proof of date receipt is always going to be in the margin in an electronically received document.			
10232(a)(5)	Other than medical reports (i.e., treating physicians, secondary physicians, qualified or agreed medical evaluators and proposed exhibits) all OCR forms and documents filed at the District Offices shall be printed in serif fonts of at least 12 point in size. Commenter requests that the rules be more specific as to what documents have to be printed in serif fonts of at	Marie Wardell, Claims Operations Manager – State Compensation Insurance Fund August 21, 2008 Written Comment	Disagree. As stated in the regulations, proposed exhibits do not need to be in serif font of at least 12 point in size. Therefore, if a copy of a benefit notice is attached to a pleading as an exhibit, it would not need to comply. An addendum to a C&R or a non-form pleading would be drafted by the filer, would not be considered an exhibit or	None

COURT ADMINISTRATOR RULES	RULEMAKING COMMENTS 15 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	least 12 point in size and that the DWC consider the challenges associated with the requirement if expanded beyond the OCR forms. State Fund's claims and legal business processes have currently integrated Benefit Notice Letters, Addendums to C&R and Stips, and Non-form Legal Pleadings into our electronic system. All of the above documents may be filed as attachments or presented as part of the evidentiary record in a filing at the District Office. These same documents can also be produced as an exhibit in a trial. If Benefit Notice Letters, Addendums to C&R and Stips, and Non-form Legal Pleadings are considered exhibits in a filing they would be exempt from compliance with proposed section 10232(a). However if they are not considered exhibits, then the requirement to conform to specific font size and font style applies with the exception of medical reports and proposed exhibits and would require State Fund to rebuild all the Benefit Letters and Notices in our electronic system, which will result in		medical record, and would need to comply with the font requirement. Wage records and personnel records would be attached to a document as an exhibit and therefore would be exempt.	

COURT ADMINISTRATOR RULES	RULEMAKING COMMENTS 15 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	significant costs. Incoming documents such as wage statements or personal records filed with certain case opening documents on unrepresented employees will still not conform to the requirements of this subsection because these potential exhibits cannot be altered or tampered with. **Recommendation:** Commenter recommends that the following documents be clearly exempt from compliance with subsection 10232(a)(5): ♦ Copies of system generated documents such as Benefit Notice Letters, Addendums, and Non-form legal pleadings. ♦ Copies of imaged documents received by State Fund from external parties.			
10232(a)(6)	Delete the requirement to use capital letters to complete OCR forms. Requiring capital letters for forms will complicate the programming needed for external users and vendors to develop compliant forms. To auto-	Brenda Ramirez Claims and Medical Director Michael McClain General Counsel and Vice President California Workers'	Disagree. See Addendum A. It is necessary the forms be filled out with capital letters so that the information is readable by the DWC scanners.	None

COURT ADMINISTRATOR RULES	RULEMAKING COMMENTS 15 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	populate forms, existing information is extracted from current systems. Additional programming will be needed to convert the extracted information into capital letters. In addition, capital letters require more space and the field space on the forms may no longer be sufficient to accommodate the required information.	Compensation Institute August 21, 2008 Written Comment		
10232(a)(8)	Commenter recommends using the body part injury descriptions listed in the 2005 permanent disability rating schedule to denote injured body parts. The body part code list proposed in the regulation is inadequate. It is unacceptable to force an incomplete or misleading injury description on the parties when these descriptions will be included with documents that are intended to determine the legal rights of injured workers and employers. The list proffered by the regulation is inconsistent with that used by the Disability Evaluation Unit or to report to the Workers' Compensation Information System (WCIS) and wholly inadequate for any purpose of	Brenda Ramirez Claims and Medical Director Michael McClain General Counsel and Vice President California Workers' Compensation Institute August 21, 2008 Written Comment	Disagree. The data captured on the document cover sheet has no legal standing because they are used only for indexing in EAMS and are not part of the substantive forms, which constitute the legal documents.	None

COURT ADMINISTRATOR RULES	RULEMAKING COMMENTS 15 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	concern to the Workers' Compensation Appeals Board. Contained in the compromise and release form (DWC CA form 10214(c)) is the following statement (Paragraph 3): "This agreement is limited to settlement of the body parts, conditions, or systems … set forth in Paragraph 1 despite any language to the contrary in this document or any addendum." No technical or procedural rule can be allowed to dictate the release of the injured workers rights or the employer's liabilities.		Agree. A nonsubstantive change will be made to paragraph 3 of 10214(c) to state "This agreement is limited to settlement of the body parts, conditions, or systems and for the dates of injury set forth in Paragraph No. 1 **and further explained in Paragraph No. 9** despite any language to the contrary **elsewhere** in this document or any addendum."	Because more space cannot be added to the body parts section (paragraph 1), a nonsubstantive change is made to paragraph 3, to allow a party to further explain which body parts are settled: "This agreement is limited to settlement of the body parts, conditions, or systems and for the dates of injury set forth in Paragraph No. 1 **and further explained in Paragraph No. 9** despite any language to the contrary **elsewhere** in this document or any addendum."
10232(a)(8)	On many forms there are more body parts than there is room to place the body parts. This should be corrected or some instructions should be provided to instruct the parties how to	Sue Borg, President CA Applicants' Attorneys Association August 21, 2008	See above. Also, as set forth on the body parts code sheet, code 700 can be used for multiple parts when there are more than five major body	See above.

COURT ADMINISTRATOR RULES	RULEMAKING COMMENTS 15 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	fill out this field.	Written Comment	parts. Sections 10214(a) has a comment section where additional information regarding body parts may be listed.	
10232(b)(2)	For all filed documents if an individual document includes an attachment, a completed document separator sheet shall precede the attachment. 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. The guidelines communicated to the Workers' Compensation community in the "Train the Trainer" session on August 14&15 and also posted on the EAMS website in the sample C&R packet do not conform to the proposed regulations. Section 10210(m) indicates that "Each medical report or other record having a different author and/or a different date of service is a	Marie Wardell, Claims Operations Manager – State Compensation Insurance Fund August 21, 2008 Written Comment	Disagree-The term document is defined in the Court Administrator regulations. The instructions and tutorials for EAMS provide examples when a separator sheet is needed and what are separate documents for purpose of using cover and separator sheets. For example the instructions make it clear each medical report for a separate date of service is a separate document and therefore needs a separator sheet.	None

COURT ADMINISTRATOR RULES	RULEMAKING COMMENTS 15 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	separate "document." The sample C&R packet does not place a Document Separator Sheet before the Employee's Claim Form, QME information letter, and the letter requesting additional claims information, however, all of the above have a separate date of service. Commenter recommends that the regulations clarify when a Separator Sheet is required between a document and an attachment and when it is not.			
10232(b)(2)	Commenter notes that using a document separator sheet in some cases will result in adding 50 to 100 pages of extraneous paper, i.e., in lien trials where EOB's and denial letters of different dates are being submitted. There is a clerical cost to the external users of typing information on each of the separator sheets when you have, effectively, on group of documents that could very easily be considered as a group rather than individual documents.	Sue Borg, President CA Applicants' Attorneys Association August 21, 2008 Written Comment	Disagree. Only relevant evidence should be admitted which would reduce the number of exhibits. One separator is needed for each document and not parts of documents. If the parties in a very rare case do have 50 to 100 relevant separate documents they would have 50-100 separator sheets. This issue is caused in most cases by the parties having evidence that is not relevant as part of the record. Cases with this many relevant separate documents are very rare.	None

COURT ADMINISTRATOR RULES	RULEMAKING COMMENTS 15 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
10233(d)(3)	Commenter recommends the following revision: If the compromise and release or the stipulations with request for award is not approved at or after the adequacy hearing, and the matter is set for a mandatory settlement conference or trial, then any additional medical reports, medical-legal reports, medical records, or other documents that are being proposed as exhibits shall be filed ~~in the same manner as set forth in subsections (b)(3) and (b)(4~~). Since there are no subsections (b)(3) or (b)(4) in section 10233, the references must be deleted or corrected.	Brenda Ramirez Claims and Medical Director Michael McClain General Counsel and Vice President California Workers' Compensation Institute August 21, 2008 Written Comment	Agree. This is a non-substantive change. The citation will be corrected as follows: (b)(3) should be (g) and (b)(4) should be (h).	The citation will be corrected as follows: (b)(3) will be changed to (g) and (b)(4) will be changed to (h).
10233(e) and (f)	Excerpted portions of relevant physician, hospital or dispensary records, personnel records, wage records and statements, job descriptions and other business records shall be filed in accordance with section 10232. Commenter recommends that documents received from external parties and copies of which may be submitted as attachments in filings at	Marie Wardell, Claims Operations Manager – State Compensation Insurance Fund August 21, 2008 Written Comment	Disagree. The designation of medical records need not be done by cut and paste, but can be accomplished by citing the exact language in the medical record without paraphrasing the language and referring to the exact place in the record the designation can be found.	None

COURT ADMINISTRATOR RULES	RULEMAKING COMMENTS 15 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	the District Office be exempt from compliance with the requirements of section 10232 and that the regulation state specifically the manner in which the DWC requires the parties to present each excerpted portion of the medical record. Currently copies of documents such as physician, hospital, dispensary, wage records and statements, job descriptions and other business records are received by State Fund and scanned into our Electronic Claims File System. The system does not allow for copy or paste function from a received document. It is neither possible nor feasible to alter these documents to conform to the proposed regulatory specification listed under section 10232, such as minimum margin of one inch with no text in the margin, case caption requirement, font size and style, etc. Changes to a document received from an external party would amount to tampering of a potential evidentiary record.			
10236(d)	Subsection (d) of CCR §10236 raises serious issues that unless resolved will generate substantial administrative costs.	Marie Wardell, Claims Operations Manager – State Compensation	Disagree. The section states that a party that elects to retain the original of an exhibit, meaning that retention of the	None

COURT ADMINISTRATOR RULES	RULEMAKING COMMENTS 15 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	This subsection states: <u>A party or lien claimant that elects to retain the original of an exhibit or proposed exhibit need not retain the original after either (1) the exhibit has been authenticated at trial or (2) a settlement that resolves all pending issues has been approved and all appeals have been exhausted or the time for seeking appellate review has expired.</u> The Initial Statement of Reasons (May 2008) in part indicates that "…<u>it is necessary for the parties to keep the original documents. Because it is possible that a copy may be altered from the original, it is necessary to have a procedure for a party to object if it alleges that the copy is inaccurate.</u> In today's electronic environment, State Fund receives documents in our Claims Processing Centers and these documents are scanned in a controlled environment and then verified for accurate imaging. The original document that is scanned is kept for a	Insurance Fund August 21, 2008 Written Comment	original is not mandatory. The section further states that the person filing the document must establish that the document is an accurate representation of the original document if a dispute arises. This can be done without the original by showing the original was accurately scanned into their system and could not be altered. This is not a change from the procedure for filling copies in the prior WCAB regulation.	

COURT ADMINISTRATOR RULES	RULEMAKING COMMENTS 15 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	very limited period of time. In essence, the DWC may be asking claims administrators to create paper files to back up the electronic claim file. **Recommendation:** Commenter needs to know how the DWC is defining an "exhibit" or "proposed exhibit" as described in subsection (d) of proposed CCR §10236 so she can accurately assess the scope of this requirement. Please note suggested changes to the proposed language: (c) If a party or lien claimant alleges that a filed document is ~~an~~ inaccurate or unreliable, the party alleging the document is inaccurate or unreliable shall state the basis for the objection. The filing party must establish *by use of the original exhibit or other means such as testimony* that the ~~document~~ *exhibit* is an accurate representation of the original document. (d) ~~A party or lien claimant that elects to retain the original of an exhibit or proposed exhibit need not retain the original after either~~ *A party or lien*			

COURT ADMINISTRATOR RULES	RULEMAKING COMMENTS 15 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	claimant may raise the issue that a filed document is inaccurate or unreliable unless (1) the exhibit has been authenticated at trial or (2) a settlement that resolves all pending issues has been approved and all appeals have been exhausted or the time for seeking appellate review has expired.			
10240(a)	Commenter suggests the following language: All parties and line claimants shall appear at all hearings FOR WHICH PROPER NOTICE HAS BEEN GIVEN except as provided below. THE DEFENDANT SHALL GIVE WRITTEN NOTICE TO LIEN CLAIMANTS, NOT LESS THAN 20 DAYS PRIOR TO A HEARING, ADVISING WHETHER INJURY ARISING OUT OF AND IN THE COURSE OF EMPLOYEMENT IS AT ISSUE. Commenter believes that the additional language is necessary because a lien claimant does not always receive notice of a hearing and very often, a lien claimant does not know whether there is an issue as to	David A. Keisner, Esq. Stringfellow & Associates August 20, 2008 Written Comment	Disagree. Upon receipt of a lien, defendants are to pay the lien and, if not paying or paying in part, should file an objection to the lien putting lien claimant on notice as to the issues in the case. The defendants in the objection to the liens should be notifying the lien claimant that the lien is not being paid because AOE-COE is at issue therefore putting the lien claimant on notice of the issue. If the defendant has not put the lien claimant on notice that AOE-COE is at issue in the case they would know they did not and could add this to the notice without it being required by the rule. If the lien claimant failed to appear, the judge	None

COURT ADMINISTRATOR RULES	RULEMAKING COMMENTS 15 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	injury AOE/COE.		would inquire if the lien claimant had been put on notice by defendant that AOE-COE was at issue before taking any action. It is defendant's responsibility to put the lien claimant on notice that AOE-COE is an issue.	
10240(a)(1) and (a)(2)	Commenter suggests the following language: 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 ANY HEARING, unless otherwise ordered by the workers' compensation administrative law judge. Commenter believes that this change is necessary so that it is clear that a lien claimant is not required to appear at hearings other than MSCs and trials. It is commenter's experience, based upon many years representing a major medical provider lien claimant on a regular basis at all the appeals boards in Southern California, that defendants	David A. Keisner, Esq. Stringfellow & Associates August 20, 2008 Written Comment	Disagree. Lien claims with claims of $25,000 or more need to be involved in the litigation of the case not just for settlement purposes but because the lien should be litigated at the time of trial with the case-in-chief. Requiring the lien claimant to attend will result in more of the significant liens being litigated or settled with the case-in-chief.	None

COURT ADMINISTRATOR RULES	RULEMAKING COMMENTS 15 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	are virtually never ready, willing or able to negotiate a settlement of lien claims of any significant size at a mandatory settlement conference, even when the injury AOE/COE is not an issue and even when the case-in-chief settles at the MSC. Therefore, commenter believes that the requirement in Rule 10240(a)(2) that a lien claimant with a lien claim of $25,000 or more shall appear at the MSC should be deleted unless the rule is amended to expressly require defendants to exert their best efforts to resolve lien claims at mandatory settlement conferences. Also the term "lien conference" should be deleted because, in view of the fact that the case-in-chief has not been resolved or abandoned, there would not be a lien conference at this stage.		Disagree. This applies to the situation when there is a lien conference.	None
10240(a)(2)	Commenter suggests the following language: Where INJURY ARISING OUT OF AND IN THE COURSE OF EMPLOYMENT IS NOT AT ISSUE, lien claimants not defined as a party under 10210(y)(3), with a lien claim of $25,000 or more, shall appear or have a representative appear at the	David A. Keisner, Esq. Stringfellow & Associates August 20, 2008 Written Comment	Disagree. Lien claims with claims of $25,000 or more need to be involved in the litigation of the case not just for settlement purposes but because the lien should be litigated at the time of trial with the case-in-chief. Requiring the lien claimant to attend will result in more of	

COURT ADMINISTRATOR RULES	RULEMAKING COMMENTS 15 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	TRIAL (BUT NOT AT ANY OTHER TYPE OF HEARING, UNLESS OTHERWISE ORDERED BY THE WORKERS' COMPENSATION ADMINISTRATIVE LAW JUDGE), unless the appearance is excused by the workers' compensation administrative law judge.		the significant liens being litigated or settled with the case-in-chief.	
10240(a)(3)	Commenter believes that this section should remain as written except that the term "mandatory settlement conference or lien conference", which appears twice, should be replaced by the term "mandatory settlement conference or trial". This is because, as noted with respect to Rule 10240(a)(2), there would not be a lien conference at this stage.	David A. Keisner, Esq. Stringfellow & Associates August 20, 2008 Written Comment	Disagree. Subdivision (a)(4) provides that the lien claimants shall appear at trial at which their lien is an issue to be decided.	None