

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

FINAL STATEMENT OF REASONS

**Subject Matter of Regulations:
Electronic document filing and lien filing fee rules**

**TITLE 8, CALIFORNIA CODE OF REGULATIONS
SECTIONS 10205 et seq.**

The Acting Administrative Director of the Division of Workers' Compensation (hereinafter "Acting Administrative Director") pursuant to the authority vested in her by Labor Code Sections 111, 133, 138.2(b), 4903.05, 4903.06 and 5307.3 has amended or adopted the following regulations:

Amend section 10205	Definitions
Amend section 10205.12	Form and Size Requirements for Filed Documents
Adopt section 10206	Electronic Document Filing; Electronic Adjudication Management System (EAMS) Reference Guide and Instructional Manual for E-Form Filers; Incorporation
Adopt section 10206.1	Electronic Document Filing; Electronic Adjudication Management System Business Rules for JET Filers; Incorporation.
Adopt section 10206.2.	Electronic Filing Exemption
Adopt section 10206.3	Time of Filing of Documents
Adopt section 10206.4.	Uniform Assigned Names
Adopt section 10206.5	Form and Size Requirements for Electronic Filed Documents
Adopt section 10206.14	DWC E-Forms and DWC Unstructured Forms
Adopt section 10206.15	DWC JET Forms
Adopt section 10207	Initial Lien Filing Fees
Adopt section 10208	Lien Activation Fees
Adopt section 10208.1	Lien Fee Refunds

UPDATE OF INITIAL STATEMENT OF REASONS AND INFORMATIVE DIGEST

As authorized by Government Code section 11346.9(d), the Administrative Director incorporates the Initial Statement of Reasons prepared in this matter. There have been no changes to the statutes directly relating to this rulemaking.

The proposed regulation changes are summarized below.

1. Section 10205 Definitions

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

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

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

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

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

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

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

“Your e-form login and Uniform Assigned Name has two functions. First ~~it~~ allows you ~~not only~~ to submit documents into ~~the~~ a case. You submit documents using

your eform logon, through an eform link on your home page. Second it allows you
~~but~~ to review all pertinent case information, including the ability to review and if
necessary print or save documents previously filed if you are a case participant.”

Page 16: “or quasi-UAN” is deleted.

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

Pages 2 -24: The process to change the handling location is revised. Two additional
data elements are added. If requesting multiple changes, the Guide is revised to
state what should be shown in the columns and deleting Microsoft Word table as an
allowable format.

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

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

Page 41: The “Request for Factual Correction” section is added and states:
“File an unstructured eForm attaching the Request for Factual Correction of a
Unrepresented Panel QME report form from the DWC website at
http://www.dir.ca.gov/dwc/DWCPropRegs/QME_PermanentDisabilityRatingDetermination_Regs/FORMS/QMEForm37.pdf. The form is filed when an injured worker or
claims administrator needs the qualified medical evaluator (QME) to correct a factual
error in an unrepresented panel QME medical report. Use the Product Type: DEU,
Document Type: DEU DOCS - OTHER, Document Title: FACTUAL CORRECTION
FORM.”

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

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

Page 61: The “Notice and Request for Allowance of Lien” section is revised.
“Appropriate” has been added before “box.” The following statement is added: “If
your lien filing fee or lien activation fee needs to be refunded, review the Lien Fee
Refund Policy in the DWC website at:

<http://www.dir.ca.gov/dwc/Liens/LienFeeRefundPolicy.htm> and follow the instructions to process a refund request.” Also, the requirements for the filing package is revised to address section 4803.8 lien declarations.

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

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

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

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

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

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

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

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

A note is added as follows:

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

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

Part II. The titled is reformatted.

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

added on page 68.

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

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

4. Section 10207 Initial Lien Filing Fees

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

5. Section 10208 Lien Activation Fees

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

6. Section 10208.1 Lien Fee Refunds

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

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

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

request for a refund.

Following the 15 day revisions, the following non-substantive changes were made:

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

The date of the Guide is corrected to conform to the most recent version (2013-12).

On page 16 – under “Addresses” and the line entitled “Injured workers residing out-of-the county:”

“When submitting case opening documents where the injured worker resides of-of-the” was corrected to state “out-of the”.

On page 18 – First paragraph under “Batch ID and a Deleted Batch,” “When [you] re-submit your e-filing within the ...” The “you” shown in brackets is inserted.

On page 23 – Top line, “... whether is it is just a file transfer ...” The extra “is” is deleted.

On page 26, under “Duplicate Filings,” the 9th sentence “... and resend your document even if the even if the EAMS Help Desk advises you what caused the document to erred” The extra “even if the” is deleted and “erred” is changed to “err.”

On page 28, under “Emails,” 2nd paragraph - “For all emails address to the addresses above,...” The words “address to the” are deleted.

On page 28, second paragraph, last sentence, “...check Events in the ADJ case home page. Do not send additional emails [to] the EAMS Help Desk ...” The “to” shown in brackets is added.

On page 28, 3rd paragraph, 3rd sentence, “...WCJ took action on the request. If no action taken place, you should ...” is corrected to state “If no action was taken...”

On page 31, first sentence, “When filling out an e-form, if there [are] inapplicable fields, do not ...” The “are” shown in brackets is added.

On page 31, under “In-camera Review and Petition to Seal Documents,” the second sentence, “File your DOR requesting a conference hearing. Bring at hard copies of your ...” The “at” is deleted.

On page 34, under “Notice of Application – Incorrect Injured Worker,” 1st paragraph, 2nd sentence –“ ... and social security number (SSN). For common last names, it is it is helpful to include ...” The extra “it is” is deleted.

On page 37, under “Proof of Service,” 2nd paragraph, 2nd sentence, “...representation, a substitution of attorney, or a petitions, etc. ...” The “s” on petitions is deleted.

On page 40, under “Deleted Batch of a Petition or Answer to Reconsideration,” 5th sentence, “...original submission dat. Include as an attachment ...” The “e” is added to date.

On page 42, the line above “Self-Insured Employer,” “This search will list all of the cases for the injured worker. If the DOI ... provides you the EAMS case number use it on all of your documents filings.” The “s” on documents is deleted.

On page 47, under “Venue,” 3th paragraph, 2nd sentence, “...form is considered part of the application packet for both and OCR and e-form filers.” The “and” before “venue” is deleted.

On page 47, 4th paragraph, 3rd sentence, “ ...selection to assure that [it] is appropriately selected ...” The “it” as shown in brackets is added.

On page 60, 2nd paragraph, 2nd sentence, “...occur before you ‘submit’ the DOR, if the remaining available slots have already being taken by someone else...” “Being” is replaced with “been.”

On page 66, paragraph above “E-Filed Walk-Through Settlements,” “Do not enter an S signature on the settlement document e-form. The e-form’s purpose is to enter the case information into the EAMS and creates ...” The “the” before “EAMS” is deleted.

On page 66, 1st paragraph under “E-Filed Walk-Through Settlements,” “...you have verified the documents are in the case in EAMS, advice the WCJ of the case ...” “Advice” is replaced with “advise.”

On page 67, 5th paragraph under “Case Opening Walk-Through Settlements,” “... verified the documents are in the case in EAMS, advice the WCJ of the case...” “Advice” is replaced with “advise.”

On page 69, last paragraph, 5th sentence, "... errors. The problem may be able to be fixed by the UDQ operation and the batch ..." "Operation" is replaced with "operator."

On page 71, under "There was a mistake in your e-form ...,"

1. If the number entered was incorrect ... the documents will process though ...
2. If the mistake would not cause ... the documents will process though to ...

"Though" is changed to "through" in both sentences.

2. Section 10206.1 Electronic Adjudication Management System Business Rules for JET Filers; Incorporation

The version number and date are corrected to conform to the most recent version (Version 4.1, December 2013).

On page 17, BR-08, the bulleting inside the "Business Rule Description" cell was incorrect. "Declaration of Readiness to Proceed to Expedited Hearing (DOR Exp)" is listed as two separate items, and "Notice and Request for Allowance of Lien (Lien) Compromise and Release (C&R) Stipulation with Request for Award (Stips)" is listed as one bullet when they are three separate documents.

The bulleting is corrected to show the text inside "Business Rule Description" as:

"Only the following seven (7) forms and their appropriate attachments may be JET Filed:

- Application for Adjudication of Claim (Application)
- Declaration of Readiness to Proceed (DOR)
- Declaration of Readiness to Proceed to Expedited Hearing (DOR Exp)
- Notice and Request for Allowance of Lien (Lien)
- Compromise and Release (C&R)
- Stipulations with Request for Award (Stips)
- EDD Golden Rod Lien"

Appendices H and I are re-dated "December 2013."

3. Section 10206.3 Time of Filing of Documents

In subdivision (c), "Version 4.0" is changed to "Version 4.1."

4. Section 10206.15 DWC JET Forms

“Version 4.0” is changed to “Version 4.1.”

5. Section 10207 Initial Lien Filing Fees

In subdivisions (a) and (g), the words “appeals board” is replaced with “Workers’ Compensation Appeals Board.”

In subdivision (b), the missing word “lien” is added.

In subdivision (d)(1)(B) and (j) “Version 4.0” is changed to “Version 4.1.”

In subdivision (h), “lien pursuant to Labor Code” is deleted and “lien” is added after “section 4903(b).”

In subdivision (j), “Version 4.0” is changed to “Version 4.1.”

In subdivision (n) the words “section 4903(b)” is added and “for medical costs” is deleted.

6. Section 10208 Lien Activation Fees

In subdivision (a) a typographical error “(4)” at the end of the sentence is deleted.

In subdivision (b) (1), “Version 1.0” is deleted. In subdivision (b)(2), “Version 4.0” is changed to “Version 4.1.”

7. Section 10208.1 Lien Fee Refunds

The refund form check boxes under “Reason for Refund” are revised for better syntax.

FORMAT OF PROPOSED MODIFICATIONS

Proposed Text Noticed for Emergency Regulations:

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

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

Proposed Text Noticed for 45-Day Comment Period:

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

Proposed Text Noticed for 1st 15-Day Comment Period on Modified Text:

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

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

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

Nonsubstantive changes made after 15 day comment period:

The proposed text was indicated by bold italic, thus: ***added language***. Deletions are indicated by bold italic strikeout, thus: ~~***deleted language***~~.

The refund form is revised with no underline/strikeout showing.

UPDATE OF MATERIAL RELIED UPON / DOCUMENTS ADDED TO RULEMAKING FILE

No additional relied-upon documents have been added to the rulemaking file.

LOCAL MANDATES DETERMINATION

- Local Mandate: None. The proposed regulations will not impose any new mandated programs or increased service levels on any local agency or school district. The proposed amendments do not apply to any local agency or school district.
- Cost to any local agency or school district that is required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4 of the Government Code: None. The proposed amendments do not apply to any local agency or school district.
- Other nondiscretionary costs/savings imposed upon local agencies: None. The proposed amendments do not apply to any local agency or school district.

CONSIDERATION OF ALTERNATIVES

The Division considered all comments submitted during the public comment periods, and made modifications based on those comments to the regulations as initially

proposed. The Acting Administrative Director has now determined that no alternatives proposed by the regulated public or otherwise considered by the Division of Workers' Compensation would be more effective in carrying out the purpose for which these regulations were proposed, nor would they be as effective and less burdensome to affected private persons and businesses than the regulations that were adopted.

SUMMARY OF COMMENTS RECEIVED AND RESPONSES THERETO CONCERNING THE REGULATIONS ADOPTED

The comments of each organization or individual are addressed in the following charts.

The public comment periods were as follows:

Initial 45-day comment period on proposed regulations:

Feb. 8, 2013 through March 26, 2013.

First 15-day comment period on modifications to proposed text:

Sept. 11, 2013 – Sept. 25, 2013