STATE OF CALIFORNIA

DEPARTMENT OF INDUSTRIAL RELATIONS
WORKERS' COMPENSATION APPEALS BOARD

NOTICE OF PROPOSED RULEMAKING

RULES OF PRACTICE AND PROCEDURE

TITLE 8, CALIFORNIA CODE OF REGULATIONS,SECTIONS 10300 THROUGH 10999

**NOTICE IS HEREBY GIVEN** that the Workers’ Compensation Appeals Board, hereafter “WCAB,” pursuant to the authority vested in it by Labor Code §§ 133 and 5307, proposes to amend, adopt, and repeal rules of practice and procedure in Title 8, Chapter 4.5, Subchapter 2 of the California Code of Regulations, commencing with Section 10300.

Pursuant to Government Code § 11351, the WCAB is not subject to Article 5 of the Administrative Procedures Act (commencing at Government Code § 11346), Article 6 (commencing at § 11349), Article 7 (commencing at § 11347.9), or Article 8 (commencing at § 11350), with the exception of § 11346.4(a)(5). The rulemaking proceeding to amend the WCAB’s Rules of Practice and Procedure is being conducted under the WCAB’s rulemaking power under Labor Code § 5307 and is subject to the procedural requirements of § 5307.4. This Notice of Proposed Rulemaking, and accompanying Initial Statement of Reasons are being prepared to comply with the procedural requirements of Labor Code § 5307.4 and for the convenience of the regulated public to assist the regulated public in analyzing and commenting on this non-APA rulemaking proceeding.

PUBLIC HEARING:

A public hearing has been scheduled to permit all interested persons the opportunity to present statements or arguments, oral or in writing, with respect to the above noted subject on the following date:

**Date: August 21, 2002 (Wednesday)**

**Time: 10:00 a.m. to 5:00 p.m. or Conclusion of Business**

**Place: Hearing Room 9**

 **Hiram Johnson Building**

 **San Francisco Civic Center Complex**

 **Conference Center - Basement Level**

 **455 Golden Gate Avenue**

 **San Francisco, CA 94102**

Please note that public comment will begin promptly at 10:00 a.m. and will conclude when the last speaker has finished his or her presentation. If public comment concludes before the Noon recess, no afternoon session will be held. The WCAB requests, but does not require, that any persons who make oral comments at the hearing also provide a written copy of their comments.

AUTHORITY AND REFERENCE:

The WCAB is undertaking this regulatory action pursuant to the authority vested in it by Labor Code Sections 133 and 5307, to adopt regulations to implement, interpret and make specific various sections of the Labor Code.

INFORMATIVE DIGEST AND POLICY STATEMENT OVERVIEW:

The WCAB proposes to add, amend, and repeal specific sections of its Rules of Practice and Procedure as set forth below:

Section Amended: 10301.

Various subsections of Section 10301 are renumbered so that the definitions remain in alphabetical order.

The definition of “Administrative Director” is added for clarity and consistency.

The spelling change in the definition of “Appeals Board” is for consistency with Appeals Board decisions.

The term “application” is given the same definition as the term “Application for Adjudication,” consistent with the use of those terms in the rules. There is an additional nonsubstantive change to conform to modern standards of English usage.

The definition of “conference hearing” is deleted as unnecessary because all of the types of conferences are separately defined.

The term “Declaration of Readiness” is given the same definition as the term “Declaration of Readiness to Proceed,” consistent with the use of those terms in the rules.

The definition of “Declaration of Readiness to Proceed to Expedited Hearing” is added to conform to Labor Code 5502(b), and § 10136 of the Administrative Director’s rules, which is being amended concurrently.

The definition of the term to “file” is added to clarify the meaning of this term in the rules.

The definition of “hearing” is added to clarify the meaning of this term in the rules.

Nonsubstantive changes in the definition of the term “lien claimant” include a change in capitalization for consistency and correction of a punctuation error.

The definition of “mandatory settlement conference” is added to clarify the meaning of this term in the rules.

The definition of the term “party” is amended to include lien claimants when the injured worker’s case has settled or the worker chooses not to pursue the case.

The definition of “proceeding” is deleted as unnecessary based on the proposed definition of the term “hearing.”

The definition of “priority conference” is added to define this term, which is used in Labor Code § 5502(c), effective January 1, 2003.

The term “rating pre-trial” is amended to “rating mandatory settlement conference” and a requirement is added that the only unresolved issues at a rating mandatory settlement conference are permanent disability and the need for future medical treatment. Other nonsubstantive changes include deletion of the word “hearing” as unnecessary, correction of an error of omission, and updating a reference to an organizational component of the Division.

The definition of the term “record of proceedings” is amended to include an arbitrator’s file, if one exists. There is also a nonsubstantive change in capitalization for consistency.

The definition of the term “regular hearing” is amended to be equivalent to the term “trial” and the term “trial” takes on the previous definition of the term “regular hearing.” There is an additional nonsubstantive change in capitalization for consistency.

The definition of the term to “serve” is added to clarify the meaning of this term in the rules.

The definition of “standby calendar” is deleted as unnecessary because only one district office of the WCAB of twenty-six is known to use standby calendars and it can continue to do so where the parties consent without the need for regulations establishing the procedure.

The definition of “status conference” is added to include conferences under Labor Code § 5502(c), effective January 1, 2003, as well as conferences not otherwise defined.

The definition of “trial” is added, taking on the previous definition of the term “regular hearing.”

Section Amended: 10306.

Section 10306 is amended to substitute a reference to the computer database for an index of cases, which no longer exists, and to clarify that the database is that of the Division of Workers' Compensation rather than the WCAB. There is also a nonsubstantive change for clarity and the title of the section is changed to conform to its contents.

Section Amended: 10308.

Section 10308 is amended to specify that the official address record in each case shall include the names and addresses of lien claimants. There is an additional nonsubstantive change to conform to modern standards of English usage.

Section Amended: 10322.

Section 10322 is amended to delete the reference to one of the Administrative Director’s rules in order to make applicable all of the Administrative Director’s rules concerning the payment of fees for certified copies of records.

Section Amended: 10324.

Section 10324 is amended to require lien claimants to serve on the parties copies of documents that they file and prohibit lien claimants from engaging in ex parte communications with a judge concerning the merits of a pending case. In addition, language is added to allow exceptions to be prescribed in other sections of the rules.

Section Amended: 10340.

Section 10340 is amended to avoid any implication that workers' compensation judges do not have the power to conduct proceedings for contempt or sanctions. There is also a nonsubstantive change to conform to modern standards of English usage.

Section Proposed: 10341.

Section 10341 is proposed to provide that en banc decisions of the Appeals Board are binding legal precedent.

Section Amended: 10346.

Section 10346 is amended to clarify that the presiding judge is responsible for assignment of all cases and to allow reassignment of cases where the assigned judge is unavailable. The existing text is renumbered as subsection (a) and a new subsection (b) is added to provide that, in cases where settlements have not been acted upon within 45 days, the file shall be transferred to the presiding judge for review. There are also nonsubstantive changes to conform to modern standards of English usage.

Section Proposed: 10347.

Section 10347 is proposed to require that, where practicable, different judges shall conduct the trial and the mandatory settlement conference or conferences under new Labor Code § 5502(c), effective January 1, 2003.

Section Amended: 10348.

Section 10348 is amended to clarify that a workers' compensation judge has full authority over any case assigned to him or her. There are also nonsubstantive changes to conform to modern standards of English usage.

Section Proposed: 10349.

Section 10349 is proposed to provide that an order with a clause rendering it null and void if an objection to it is filed within ten days is equivalent to a 10-day notice of intention to submit.

Section Amended: 10350.

Section 10350 is amended to substitute the current term “trial” for the former term “regular hearing” in the text and in the title of the section, consistent with the amendments to the definitions in Section 10301 and common usage by the regulated public.

Section Amended: 10351.

Section 10351 is amended to revise references to types of proceedings held by the Appeals Board, deleting references to conference pre-trials and standby calendars, and adding mandatory settlement conferences, rating mandatory settlement conferences, and status conferences. There are also nonsubstantive changes for clarity and to conform to modern standards of English usage.

Section Amended: 10353.

Section 10353 is amended to specify that, upon a showing of good cause, a judge may continue a case to another mandatory settlement conference, continue it to a status conference, or take the case off calendar. That section is also amended to require that the judge note the reason for his or her action in the minutes, and that the minutes be served on all parties and lien claimants, and their representatives. Other nonsubstantive changes include deletion of references to settlement conference referees because the Division no longer employs referees, renumbering to divide the section into subsections (a) through (c), changes in references to subsections of Labor Code § 5502, which has been renumbered effective January 1, 2003, and correction of a duplicated word error.

Section Amended: 10360.

Section 10360 is amended to delete a reference to a section of the regulations that was repealed in 1996 and to conform to modern standards of English usage.

Section Amended: 10364.

Section 10364 is amended to establish that lien claimants become parties, and therefore have the rights of parties, after an injured worker has resolved his or her case, or chooses not to proceed with the case.

Section Amended: 10380.

Section 10380 is amended to delete the reference to settlement conference referees because referees are no longer employed by the Division of Workers' Compensation.

Section Amended: 10390.

Section 10390 is amended to include references to the section of the regulations that concerns petitions for removal. In addition, it is amended to clarify that documents that are improperly sent to a district office may be discarded.

Section Proposed: 10391.

Section 10391 is proposed to allow the filing of a copy of a document, rather than the original, and establish the burden of proof if the accuracy of the copy is challenged. This section also provides that documents may not be filed by fax or e-mail.

Section Amended: 10392.

Section 10392 is amended to allow quotations in pleadings, petitions, and briefs to be single-spaced, and to conform to modern standards of English usage.

Section Amended: 10395.

Section 10395 is amended to add two items to the list of documents that shall not be filed, proofs of service ordered under § 10500, and medical reports except as required by other sections. In addition, it is amended to provide that improperly filed documents may be discarded.

Section Amended: 10396.

Section 10396 is amended to delete language referring to a procedure applicable only to cases in which the injury occurred during 1990 through 1993, to require parties and lien claimants to advise the other parties and lien claimants of any change of address, and to require lien claimants to advise the parties of any change in name or telephone number of the person with authority to resolve the lien on behalf of the lien claimant.

Section Amended: 10400.

Section 10400 is amended to delete language specifying a different procedure for cases in which the injury occurred during 1990 through 1993 than for other cases, to conform to current usage by the regulated public, and to conform to modern standards of English usage.

Section Amended: 10402.

Section 10402 is amended to delete language referring to a procedure applicable only to cases in which the injury occurred during 1990 through 1993.

Section Amended: 10404.

Section 10404 is amended to conform to modern standards of English usage and to delete punctuation added in error.

Section Amended: 10405.

Section 10405 is amended to refer to renumbered sections of the Government Code, to add other similar sections of the Government Code to include additional parties who may request a findings of fact, and to add an additional section of the Labor Code, which was enacted effective September 23, 1994. An additional nonsubstantive change is made to correct a capitalization error.

Section Repealed: 10406.

Section 10406 is repealed because it specifies a different procedure for cases in which the injury occurred during 1990 through 1993 than for other cases, and the Appeals Board has determined that those few cases that remain should follow the same procedures as other cases.

Section Renumbered: 10407.

Section 10407 is renumbered as 10583 so that it is located near other regulations on similar topics.

Section Amended: 10408.

Section 10408 is amended to delete language that provides for designating venue on the Application for Adjudication or an attached document, to add language specifying that the initial venue of a case is the district office in which the Application for Adjudication is filed pursuant to § 5505.1, to delete language specifying a different procedure for cases in which the injury occurred during 1990 through 1993 than for other cases, and to delete other language that is superfluous.

Section Proposed: 10410.

Section 10410 is proposed to allow an objection to venue on the same basis as is allowed under Labor Code § 5501.5(c), which can no longer be used due to the repeal of § 5401.5, effective January 1, 1994.

Section Proposed: 10411.

Section 10411 is proposed to establish procedures for petitions for change of venue including the location where the petition is to be filed, a time limit for filing objections, and a time limit for action by the WCAB.

Section Proposed: 10412.

Section 10412 is proposed to establish which district office shall have custody of the case file after an order changing venue has issued.

Section Amended: 10414.

Section 10414 is amended to delete language specifying a different procedure for cases in which the injury occurred during 1990 through 1993 than for other cases, to delete references to pre-trial conferences and regular hearings and to add references to mandatory settlement conferences, status conferences, and priority conferences, to conform the description of the organizational component prescribing forms to the definition in § 10301, to specify that status conferences and priority conferences do not require a declaration under penalty of perjury that the party is ready to proceed to trial, to delete the requirement that Declarations of Readiness be reviewed prior to the matter being set for hearing, to include sanctions under Labor Code § 5813 as a remedy for a false declaration, to require Declarations of Readiness filed by all parties, not only injured workers, to be executed by their attorneys, and to clarify that none of the regulations prohibit the setting of a case on the Board’s own motion. There is an additional nonsubstantive deletion for consistency with the definitions in § 10301.

Section Proposed: 10415.

Section 10415 is proposed to conform to Labor Code § 5502(b), which provides for filing of a declaration of readiness in order for a case to be set for expedited hearing. The proposed section also specifies that the WCAB may set an expedited hearing on its own motion.

Section Amended: 10416.

Section 10416 is amended to delete language specifying a different procedure for cases in which the injury occurred during 1990 through 1993 than for other cases, to increase the time for filing an objection to a Declaration of Readiness from six to ten days, to conform to modern standards of English usage, to include sanctions under Labor Code § 5813 as a remedy for a false declaration, to require objections to Declarations of Readiness filed by all parties, not only injured workers, to be executed by their attorneys, to delete any requirement that objections to Declarations of Readiness be reviewed prior to the matter being set for hearing, to provide that objections to proceeding shall be, rather than may be, deemed waived absent extraordinary circumstances if no objection is filed. Additional nonsubstantive revisions include a change in capitalization for consistency and changes for clarity, conciseness, and to conform to modern standards of English usage.

Section Amended and Renumbered: 10417.

Section 10417 is renumbered as 10420 to allow the insertion of a new § 10417. It is amended to delete references to the Labor Code §5502, subsections (b) and (d), to delete language that is referring to a different procedure for cases in which the injury occurred during 1990 through 1993 than for other cases. Other nonsubstantive revisions include changes to correct an error in wording, and for clarity.

Section Proposed: 10417.

Section 10417 is proposed to establish a new procedure that allows parties or their attorneys to personally file Declarations of Readiness and be given hearing dates at that time. A party or attorney choosing to use this procedure is responsible for serving notice of the hearing on the other parties. Any objections to the Declaration of Readiness shall be considered by the judge at the time of hearing.

Section Amended and Renumbered: 10418.

Section 10418 is renumbered as 10430 to allow the insertion of a new § 10417 and amended to delete language establishing a different procedure for cases in which the injury occurred during 1990 through 1993 than for other cases, to require service of notice of medical examinations on both parties and their attorneys or representatives, for clarity, and to conform to modern standards of English usage.

Section Amended: 10440.

The title of § 10440 is amended to more accurately describe the contents of the section.

Section Amended: 10445.

Section 10445 is amended to delete language concerning dismissal of petitions for failure to state a claim with particularity and to correct a punctuation error.

Section Amended: 10447.

Section 10447 is amended to delete language concerning dismissal of petitions for failure to state a claim with particularity. In addition, the title is amended to more accurately describe the contents of the section.

Section Amended: 10450.

Section 10450 is amended to specify where petitions are to be filed, to specify that previously-filed documents should not be attached to petitions, and to allow the WCAB to discard documents that are improperly attached to a petition.

Section Amended: 10453.

Section 10453 is amended to clarify the rights of the parties concerning automatic reassignment of a case, to delete the requirement that a written affidavit be filed in order to exercise the right to automatic reassignment, to specify how the right is to be exercised, to specify the procedure after the right is exercised, for clarity and conciseness, and to conform to modern standards of English usage. The title is amended to more accurately describe the contents of the section.

Section Renumbered: 10454.

Section 10454 is renumbered as 10455 to allow the insertion of a new § 10454.

Section Proposed: 10454.

Section 10454 is proposed to provide for a right of automatic reassignment when a decision on an issue of the statute of limitations, jurisdiction, employment, or injury arising out of and in the course of employment has been reversed and remanded by the Appeals Board, and to establish procedures for exercising that right.

Section Amended: 10462.

Section 10462 is amended to specify that a failure to file a timely petition to terminate liability for continuing temporary disability indemnity may affect the defendants’ right to credit for any overpayment, and to conform to modern standards of English usage.

Section Amended: 10464.

Section 10464 is amended to require that a computer printout of benefits be attached to a petition to terminate liability for temporary disability indemnity and delete the requirement that the petition specify the amounts and dates of payments. That section is also amended to require that a petition to terminate liability for temporary disability indemnity include a statement that an order terminating liability may, rather than will, issue unless an objection is filed within 14 days after service of the petition. Nonsubstantive changes include renumbering the subsections of § 10464, a wording change for clarity, correction of a punctuation error, and a change to conform to modern standards of English usage.

Section Amended: 10466.

Section 10466 is amended to require the filing of a Declaration of Readiness to Proceed to Expedited Hearing with any objection to a petition to terminate liability for temporary disability indemnity, to require that the matter be set for an expedited hearing, and to delete language that is made superfluous by those changes. Nonsubstantive changes include wording changes for clarity and to conform to modern standards of English usage.

Section Repealed: 10470.

Section 10470 is repealed, deleting the requirement that medical reports be filed and served; those requirements are addressed in § 10608.

Section Amended: 10480.

Section 10480 is amended to delete language specifying a different procedure for cases involving injuries occurring during 1990 through 1993 than for other cases, and to add a reference to proposed § 10415, which concerns Declarations of Readiness to Proceed to Expedited Hearing.

Section Amended: 10484.

Section 10484 is amended to use the term “proof” of service, which has a commonly understood meaning, in place of “statement” of service.

Section Amended: 10490.

Section 10490 is amended to prohibit the filing of petitions for judgment on the pleadings and petitions for summary judgment. The title of the section is amended to conform to the content of the section. A nonsubstantive change is made for clarity.

Section Amended: 10500.

Section 10500 is amended to delete language specifying a different procedure for cases involving injuries occurring during 1990 through 1993 than for other cases, to provide that notification of the case number assigned to the Application for Adjudication, rather than the affixing of the case number, constitutes service of a conformed copy in accordance with Labor Code § 5501, to allow the WCAB to designate the representative of a party or lien claimant to serve notices of hearing, to require that the person designated to serve a notice of hearing shall not file a proof of service unless ordered to do so, to delete the requirement that the WCAB serve notice of the first mandatory settlement conference, to delete references to settlement conference referees, who are no longer employed by the Division, and to delete language concerning disallowance or reduction of lien claims that is being moved to § 10886. Other nonsubstantive revisions include changes to conform to current usage by the regulated public, to correct grammar, to change capitalization for consistency, and for clarity.

Section Amended: 10501.

Section 10501 is amended to use the current name of the Death Without Dependents Unit rather than the unit’s prior name, and to delete the requirement of service of the Application for Adjudication, compromise and release, or stipulations with request for award on the Death Without Dependents Unit where there is a surviving minor child and add a requirement of service by the filing party where there is a bona fide issue as to partial or total dependency. Other nonsubstantive amendments are for clarity and to conform to modern standards of English usage. The title of the section is changed due to the change in the name of the Unit.

Section Amended: 10505.

Section 10505 is amended to allow service of documents by fax where the parties agree to it.

Section Proposed: 10506.

Section 10506 is proposed to allow parties to pick up their mail from mailboxes maintained at district offices for outgoing mail, and to specify that the mail they pick up is deemed to have been served by mail.

Section Amended: 10507.

Section 10507 is amended to correct an error of omission and to specify that service by mail and fax is governed by the time requirements of Code of Civil Procedure § 1013(a).

Section Amended: 10514.

Section 10514 is amended to specify that a proof of service is to be filed with the documents that were served and that an improperly filed proof of service may be discarded. Nonsubstantive changes include changes in capitalization for consistency, and a change for conciseness.

Section Amended: 10520.

Section 10520 is amended for conciseness.

Section Amended: 10534.

Section 10534 is amended for conciseness and to conform to modern standards of English usage.

Section Amended: 10536.

Section 10536 is amended to provide witness fees in accordance with the regulations of the Administrative Director of the Division of Workers' Compensation, to delete language that is confusing and unnecessary, for conciseness and clarity, and to conform to modern standards of English usage.

Section Amended: 10541.

Section 10541 is amended to delete language made unnecessary by the definition of the term “hearing” that is proposed for § 10301. Other nonsubstantive revisions include changes in capitalization for consistency and changes in wording for clarity. The title is amended to more accurately describe the contents of the section.

Section Amended: 10544.

Section 10544 is amended to delete the requirement that the name of the judge to whom a case is assigned appear on a notice of hearing. There is a nonsubstantive change in capitalization for consistency.

Section Amended: 10548.

Section 10548 is amended to provide that reassignment of cases under § 10346 shall be used to avoid continuances where possible. The language of the current section numbered as subsection (a) and a new subsection (b) is added to provide that a case shall be taken off calendar and no appearances shall be required where the parties represent that the case has settled. The title is changed to conform to the changes in the content of the section. Language concerning submission of all issues in a single proceeding is deleted but similar language is added to § 10560. There is also a nonsubstantive grammatical change.

Section Proposed: 10555.

Section 10555 is proposed to clarify the procedures under Labor Code § 5502(c), effective January 1, 2003, which provides for priority conferences in cases in which the injured worker is represented by an attorney and the issues include employment and/or injury arising out of and in the course of employment.

Section Amended: 10560.

Section 10560 is amended to delete the existing language as superfluous in light of other sections, particularly § 10548 and new language that is currently being proposed for § 10353(b). The section is also revised to add essentially the same language that is deleted from § 10548, and to add additional language allowing a workers' compensation judge to bifurcate the issues in a case upon a showing of good cause. The title of the section is amended to conform to its contents.

Section Amended: 10561.

Section 10561 is amended to provide that failure to timely serve evidentiary documents shall be deemed an action that would be sanctionable under Labor Code § 5813. Nonsubstantive revisions include changes for clarity, conciseness, and to conform to modern standards of English usage.

Section Amended: 10562.

Section 10562 is amended to delete language referring to a procedure applicable only to cases in which the injury occurred during 1990 through 1993, and to specify the actions that a workers' compensation judge can take where a party fails to appear at a conference, where a lien claimant fails to appear at a conference or have someone with settlement authority available by telephone, where a lien claimant fails to appear at a trial, or where a lien issue has been deferred. The section is divided into subsections. Other nonsubstantive changes are made for clarity, conciseness, and to conform to modern standards of English usage.

Section Amended: 10563.

Section 10563 is amended to limit its application to mandatory settlement conferences and trials, and to add a requirement that lien claimants appear or have someone with settlement authority available by telephone. Other nonsubstantive changes are for clarity and to conform to current usage.

Section Amended: 10564.

Section 10564 is amended to be consistent with the Rules of the Administrative Director, Title 8, California Code of Regulations, § 9795.1 et seq. Other nonsubstantive changes include deletion of a reference to a Labor Code section that has been repealed, and changes for consistency in capitalization, consistency with the Labor Code, and to conform to modern standards of English usage.

Section Amended: 10566.

Section 10566 is amended to correct a punctuation error and conform to modern standards of English usage.

Section Amended: 10578.

Section 10578 is amended to delete language referring to a procedure that has fallen into disuse. There is an additional nonsubstantive change in grammar.

Section Amended: 10580.

Section 10580 is amended to conform to modern standards of English usage.

Section Amended: 10582.

Section 10582 is amended to allow the WCAB discretion in restoring a case to the active calendar after the filing of a Declaration of Readiness, and to provide that a case may be dismissed after issuance of a notice of intention to dismiss but not by an order of dismissal with a clause rendering the order null and void if an objection is filed. There is also a nonsubstantive change in capitalization for consistency.

Section Renumbered and Amended: 10590.

Section 10590 is renumbered as § 10589 to allow the insertion of a new § 10590. Language concerning consolidation of cases assigned to one district office is deleted from § 10591 and added to this section. Other nonsubstantive revisions include changes for conciseness and to conform to modern standards of English usage.

Section Proposed: 10590.

New § 10590 is proposed to establish the procedure for handling a petition to consolidate cases involving the same injured worker that are assigned to different district offices. Such cases are to be first referred to the presiding judges of the offices to which the cases are assigned and, if they cannot agree, the dispute is to be resolved by the court administrator, whose position is established by Labor Code § 138.1, effective January 1, 2003.

Section Amended: 10591.

Section 10591 is amended to apply to consolidation of cases involving more than one injured worker and to provide that any disputes shall be resolved by the court administrator, whose position is established by Labor Code § 138.1, effective January 1, 2003. Language concerning consolidation of cases assigned to one district office is deleted from this section and added to § 10589 (formerly 10590). The title is amended to be consistent with the contents of the section.

Section Amended: 10592.

Section 10592 is amended to delete as unnecessary the requirement of separate pleadings in consolidated cases, and to delete as unnecessary the requirement that the Board make sufficient copies of certain documents for filing and service in each of the consolidated cases. There are additional nonsubstantive changes for clarity.

Section Amended: 10600.

Section 10600 is amended to conform to modern standards of English usage.

Section Amended: 10601.

Section 10601 is amended to specify that videotapes constitute documents and provide that documents to be offered into evidence must be served on adverse parties no later than the mandatory settlement conference, rather than 20 days before the mandatory settlement conference. There are additional changes for clarity and conciseness. The title is amended to be consistent with the contents of the section.

Section Amended: 10602.

Section 10602 is amended to update references to an organizational component of the Division, to conform to terminology used by the Division for ratings issued in certain situations, to correct an error, for conciseness, and to conform to modern standards of English usage.

Section Amended: 10604.

Section 10604 is amended to conform to modern standards of English usage.

Section Proposed: 10605.

Section 10605 is proposed to allow the admission of copies of records made in the regular course of business and to establish the burden of proof where the accuracy of a copy is challenged.

Section Amended: 10606.

Section 10606 is amended to delete the requirement that party provide written notice 10 days before a hearing of his or her intent to present a medical witness. Nonsubstantive changes include changes for clarity and to conform to modern standards of English usage.

Section Proposed: 10607.

Section 10607 is proposed to require that defendants provide a computer printout of benefits paid within 20 days of a request, to place limits on the frequency of those requests, to specify the contents of the computer printout, and to require defendants to have a computer printout available for inspection at mandatory settlement conferences.

Section Amended: 10608.

Section 10608 is amended to require that parties serve copies of medical reports on other parties and lien claimants within six days of a request and thereafter within six days of receipt, and within six days of receipt of a Declaration of Readiness. The section is also amended to require that medical reports be filed with a Declaration of Readiness, a Declaration of Readiness to Proceed to Expedited Hearing, an objection to either, a compromise and release, or stipulations with request for an award, to require that other medical reports not be filed until the next hearing, and to provide that any report filed in violation of this section may be discarded. The section is also amended to delete language specifying a different procedure for cases in which the injury occurred during 1990 through 1993 than for other cases. Other nonsubstantive changes include renumbering the paragraphs to include subsections (a) through (f), changes for clarity and conciseness, changes to conform to modern standards of English usage. The title of the section is amended to be consistent with the contents of the section.

Section Repealed: 10609.

Section 10609 is repealed as unnecessary in light of the proposed changes to § 10608.

Section Repealed: 10610.

Section 10610 is repealed as unnecessary because the procedure has fallen into disuse.

Section Amended: 10615.

Section 10615 is amended to delete language concerning the duties of the parties to file and serve medical reports and adds language establishing that they have a continuing duty to serve each other. The title is amended to be consistent with the contents of the section.

Section Amended: 10616.

Section 10616 is amended to provide that records of an employee assistance program are not required to be filed or served unless ordered by the WCAB. There are additional nonsubstantive revisions to delete a reference to § 10609, which the WCAB is proposing to repeal, and a change to conform to modern standards of English usage.

Section Amended: 10618.

Section 10618 is amended by adding the contents of §§ 10619 and 10620, which are repealed. The title is amended to encompass the additional provisions. Another nonsubstantive change is a change in capitalization for consistency.

Section Repealed: 10619.

Section 10619 is repealed and its contents added to § 10618.

Section Repealed: 10620.

Section 10620 is repealed and its contents added to § 10618.

Section Amended: 10622.

Section 10622 is amended to delete language that is unnecessary because the deleted provisions are used infrequently and the remaining language is sufficient. There are additional changes for clarity and conciseness.

Section Amended: 10626.

Section 10626 is amended to clarify that the right to inspect documents is limited by Labor Code § 3762. Other nonsubstantive revisions include changes for clarity and conciseness, and to conform to modern standards of English usage.

Section Amended: 10630.

Section 10630 is amended to conform to modern standards of English usage.

Section Amended: 10631.

Section 10631 is amended to conform to modern standards of English usage.

Section Amended: 10632.

Section 10632 is amended to delete language that is unnecessary because it is the option of the parties to determine what evidence they wish to present.

Section Amended: 10633.

Section 10633 is amended to correct a grammatical error.

Section Repealed: 10700.

Section 10700 is repealed as unnecessary in that it is outdated.

Section Repealed: 10715.

Section 10701 is repealed as unnecessary in that there is no longer a Medical Bureau and the procedure referred to in the regulation has fallen into disuse.

Section Amended: 10718.

Section 10718 is amended to allow an exception to the prohibition against a party communicating with an appointed physician when the WCAB orders it. The section is also amended for clarity and conciseness.

Section Repealed: 10722.

Section 10722 is repealed as unnecessary in that there is no longer a Medical Bureau, a portion of the section is outdated, another portion is improper in that it precludes objections to the admission of evidence, and the remainder of the section is superfluous in light of proposed changes to section 10608.

Section Amended: 10727.

Section 10727 is amended to be consistent with an amendment to the Labor Code effective July 19, 1984.

Section Amended: 10740.

Section 10740 is amended to provide that a deputy commissioner of the Appeals Board may order that a transcript of a hearing be prepared.

Section Amended: 10750.

Section 10750 is amended to clarify that documents that have been filed but not received in evidence are not part of the evidentiary record. Other nonsubstantive revisions include changes in capitalization for consistency and a change for clarity.

Section Proposed: 10751.

Section 10751 is proposed to specify the meaning of the term “legal file” and provide that all medical reports shall be transferred to the legal file after approval of a compromise and release or stipulations with request for award.

Section Amended: 10753.

Section 10753 is amended to set forth who may inspect a WCAB file and what parts of the file they may inspect, and to provide that files that have been transferred to storage will be made available for inspection by someone who is not a party or an attorney for a party upon payment of the fee required by the Administrative Director rather than upon a showing of good cause. Other revisions include deletion of references to the Medical Bureau, which no longer exists, and independent medical examiners, a term no longer in use, and the substitution of the term qualified medical examiner. Other nonsubstantive changes are for clarity and conciseness, and to conform to modern standards of English usage.

Section Amended: 10754.

Section 10754 is amended to correct an error and to conform to modern standards of English usage.

Section Amended: 10758.

Section 10758 is amended to reduce the period that the WCAB must keep a file from 15 years to 5 years. Other nonsubstantive revisions include changes for clarity and to conform to modern standards of English usage.

Section Amended: 10762.

Section 10762 is amended to accurately describe current practice.

Section Amended: 10770.

Section 10770 is amended to include a provision allowing the electronic filing of liens, to require lien claimants whose liens are filed electronically to file liens in writing upon the filing of a Declaration of Readiness, compromise and release, or stipulations with request for award, or upon receipt of a notice of hearing, to require lien claimants to provide the name, mailing address and daytime telephone number of a person who will be available at the time of conferences and trials with authority to resolve the lien claim, to require lien claimants to continue to serve amendments to liens on the parties but prohibit them from filing amendments with the WCAB, to provide that amendments to liens that are improperly filed may be discarded by the WCAB, and to delete language that specifies a different procedure for cases in which the injury occurred during 1990 through 1993 than for other cases. The section is also amended to delete the requirement that the WCAB notify lien claimants when a settlement document is filed; concurrently, the WCAB is proposing to amend § 10886 to require that the parties provide notice to lien claimants of the filing of a settlement document. Other nonsubstantive revisions are to conform to current usage and for clarity

Section Amended: 10771.

Section 10771 is amended for clarity.

Section Amended: 10772.

Section 10772 is amended to correct an error of omission.

Section Proposed: 10773.

Section 10773 is proposed to set forth the circumstances under which a non-lawyer employee of a law firm may appear on behalf of a party and sign settlement documents.

Section Amended: 10775.

Section 10775 is amended to delete references to settlement conference referees because they are no longer employed by the Division of Workers' Compensation.

Section Amended: 10776.

Section 10776 is amended to conform to modern standards of English usage.

Section Amended: 10779.

Section 10779 is amended to include attorneys who have been placed on involuntary inactive enrollment by the State Bar among those deemed unfit to represent a party before the WCAB. Other nonsubstantive changes are for clarity and to conform to current standards of English usage.

Section Amended: 10780.

Section 10780 is amended to provide that a case may not be dismissed by an order that includes a clause rendering the order null and void if an objection is filed.

Section Amended: 10820.

Section 10820 is amended to delete the requirement that a request for a certified copy of a final order or award state whether payments have been made and the amounts of any payments, and to delete the requirement that good cause be shown in order to obtain a certified copy of a final order or award. Other nonsubstantive revisions include changes for conciseness, and to conform to modern standards of English usage.

Section Amended: 10828.

Section 10828 is amended to conform to modern standards of English usage.

Section Amended: 10842.

Section 10842 is amended for conciseness, and to conform to modern standards of English usage.

Section Amended: 10843.

Section 10843 is amended to provide that petitions to remove that are sent to the wrong district office shall not be deemed to have been filed and may be discarded, to provide that no action by the Appeals Board is necessary if the petitioner withdraws a petition to remove, and to require that, after a petition to remove is filed, the workers' compensation judge consult with the presiding judge before proceeding in a case or canceling or continuing a scheduled hearing. Other nonsubstantive revisions include renumbering the section by dividing it into subsections, and changes for clarity and consistency.

Section Amended: 10850.

Section 10850 is amended to add petitions for removal and petitions for disqualification, requiring that they be served in the same manner as petitions for reconsideration. The section is also amended for clarity and conciseness.

Section Amended: 10852.

Section 10852 is amended to substitute the terms “justify” and “justified” for “support” and “supported” to be consistent with Labor Code § 5903(c).

Section Amended: 10856.

Section 10856 is amended to conform to modern standards of English usage.

Section Amended: 10859.

Section 10859 is amended to specify that this section, which allows a workers' compensation judge to amend or rescind a decision after a petition for reconsideration has been filed, applies where the petition has been filed timely. The section is also amended to delete references to settlement conference referees, who are no longer employed by the Division.

Section Amended: 10860.

Section 10860 is amended to specify that a workers' compensation judge’s report on a petition for reconsideration, removal, or disqualification is to be sent to the Appeals Board within 15 days after the filing of the petition and the report shall include a discussion of each contention raised by the petition. Other nonsubstantive revisions include changes for conciseness, and to conform to modern standards of English usage.

Section Amended: 10862.

Section 10862 is amended to conform to modern standards of English usage.

Section Amended: 10864.

Section 10864 is amended to conform to modern standards of English usage.

Section Amended: 10865.

Section 10865 is amended to specify that a petition for reconsideration of an arbitrator’s decision shall be captioned so as to identify it as such, to require the petition to include the injured worker’s name, date of birth, and social security number, to specify that the arbitrator’s opinion shall set forth the rationale of the decision as to each contention raised by the petition, and to specify that the section applies to petitions filed under newly-enacted Labor Code § 3201.7(a)(1), effective January 1, 2003. Other nonsubstantive revisions include changes for consistency and to conform to modern standards of English usage.

Section Amended: 10866.

Section 10866 is amended to require the parties to serve on the arbitrator any petition for reconsideration and answer to a petition for reconsideration, and to specify that §§ 10840 and 10842 apply to petitions for reconsideration of a decision of an arbitrator.

Section Amended: 10867.

Section 10867 is amended to specify that, after preparation of a report on a petition for reconsideration, the arbitrator is to forward the report and his or her file to the presiding judge, and the presiding judge is forward the arbitrator’s file and WCAB file to the Appeals Board.

Section Repealed: 10868.

Section 10868 is repealed as unnecessary in that the Division no longer employs settlement conference referees.

Section Repealed: 10869.

Section 10869 is repealed as unnecessary in that the Division no longer employs settlement conference referees.

Section Amended: 10870.

Section 10870 is amended to conform to modern standards of English usage.

Section Amended: 10875.

Section 10875 is amended by capitalizing certain words for consistency.

Section Amended: 10878.

Section 10878 is amended to add the filing of stipulations with request for award as constituting the filing of an application. The title is changed to conform to the contents of the section. A nonsubstantive revision is a change to conform to modern standards of English usage.

Section Amended: 10882.

Section 10882 is amended to add a requirement that the WCAB inquire into the adequacy of stipulations with request for award. The title of the section is amended to be consistent with that change.

Section Amended: 10886.

Section 10886 is amended to require settlements (compromise and release agreements and stipulations) to be served on lien claimants in all cases, not only cases in which disallowance of a lien is proposed, to delete the requirement that documentary evidence be served on lien claimants where disallowance of the lien is proposed, and to delete the requirement that lien claimants object to disallowance of their liens within 15 days. Language concerning disallowance or reduction of lien claims that is deleted from § 10500 is added to this section for better organization. Other nonsubstantive revisions include changes for clarity and conciseness

Section Proposed: 10888.

Section 10888 is proposed to require that a good-faith attempt be made to resolve liens before a settlement is approved, to specify that a good faith attempt requires at least one contact by telephone or letter, to require that judges take action to resolve any liens that remain unresolved after approval of a settlement, to allow one continuance of conference set to resolve liens after a settlement has been approved, and to specify that an agreement to “pay, adjust or litigate” a lien, or its equivalent, or an award that leaves a lien to be adjusted is not a resolution of the lien.

Section Proposed: 10890.

Section 10890 is proposed to specify that a walk-through document is one presented to a judge for immediate action, provide that most walk-through documents may be presented to a judge during conference and mandatory settlement conference calendars, to provide that parties may walk through compromise and releases, stipulations with request for award, certain petitions for attorney’s fees, petitions to compel attendance at a medical examination or deposition, and petitions to stay an action pending a hearing, to require that each walk-through document be accompanied by a proof of service, to specify the actions that may be taken by the judge, to specify that walk-through documents must be presented to a judge at an office with venue, to require that a walk-through document be presented to the judge who has been handling the case if the judge has taken testimony or previously reviewed a settlement and declined to approve it, to require that an injured worker who is unrepresented be present at the time a settlement document is walked through or that the injured worker has reviewed the settlement with an Information and Assistance officer, and to require that district offices have staff available during certain hours to obtain files and create new files for walk-through cases.

Section Amended: 10940.

Section 10940 is amended to correct the title of the Division.

Section Amended: 10942.

Section 10942 is amended to correct the title of the Division and the title of an organizational component.

Section Repealed: 10944.

Section 10944 is repealed as unnecessary in that there is no need to provide a different notice period for hearings involving the Subsequent Injuries Fund.

Section Amended: 10946.

Section 10946 is amended to require service of medical reports no later than the mandatory settlement conference, rather than 30 days prior to a hearing, and to correct the title of the Division.

Section Amended: 10950.

Section 10950 is amended to reverse the order of the paragraphs, to renumber the section by designating the paragraphs as subsections (a) and (b), to delete the last sentence of the former first paragraph as unnecessary because the procedure referred to is not used, to correct an erroneous reference to a regulation of the Administrative Director, to amend the references to subsections of a regulation of the Administrative Director to reflect the renumbering of that section, reduce the time for appeal to 20 days to be consistent with other appeal periods, to require that a petition be filed at the proper district office, and to specify that appeals under new subsection (a) shall be referred to a workers' compensation judge without the need to refer the case to the Appeals Board.

Section Amended: 10952.

Section 10952 is amended to require that an Appeal of Notice of Compensation Due be accompanied by a Declaration of Readiness and an Application for Adjudication, if one has not been previously filed, to provide that the case number assigned to the Application for Adjudication shall be assigned to the appeal, and for consistency and to conform to the definitions in § 10301. Other nonsubstantive revisions include deletions for conciseness.

Section Proposed: 10953.

Section 10953 is proposed to specify that a defendant appealing a notice of penalty assessment under Labor Code § 129.5(g) shall file a petition and Declaration of Readiness at the nearest district office of the WCAB or at the San Francisco district office if the petitioner is domiciled out of state, that the petitioner shall attach a copy of the notice of penalty assessment and any other evidence it wishes to submit, that the petitioner shall serve upon the Administrative Director copies of all documents filed, that the defendant and the Administrative Director may stipulate to submit the matter without testimony at the mandatory settlement conference, and that, otherwise, the matter will be set for trial.

Section Amended: 10955.

Section 10955 is amended to require that a petition appealing a decision of the Rehabilitation Unit set forth the reason for the appeal, to require that it be accompanied by a Declaration of Readiness and an Application for Adjudication, if one has not already been filed, to delete language that specifies a different procedure for cases in which the injury occurred during 1990 through 1993 than for other cases, to delete language made obsolete by the amendment of Labor Code § 5275, effective January 1, 2003, to add the contents of § 10956, which is being repealed, and to capitalize the title of an organizational component of the Division for consistency.

Section Repealed: 10956.

Section 10956 is repealed as unnecessary, the content of that section having been added to § 10955, with the exception of the requirement that a party receiving an appeal of a decision of the Rehabilitation Unit file any documents it deems relevant within five days.

Section 10956 is repealed as unnecessary, the content of that section having been added to § 10955, with the exception of the five-day time limit for a party opposing an appeal of a decision of the rehabilitation unit to file any documents it deems relevant.

Section Amended: 10957.

Section 10957 is amended to conform to the current title of an organizational component of the Division, and change capitalization for consistency.

Section Amended: 10958.

Section 10958 is amended to conform to the current title of an organizational component of the Division.

Section Repealed: 10960.

Section 10960 is repealed as unnecessary because its purpose is to implement a different procedure for cases in which the injury occurred during 1990 through 1993 than for other cases.

Section Repealed: 10961.

Section 10961 is repealed as unnecessary because its purpose is to implement a different procedure for cases in which the injury occurred during 1990 through 1993 than for other cases.

Section Repealed: 10963.

Section 10963 is repealed as unnecessary in light of the addition of the definition of the term “Administrative Director” in § 10301.

Section Repealed: 10964.

Section 10964 is repealed as unnecessary in that the organizational component of the Division referred to in this rule has been renamed.

Section Repealed: 10966.

Section 10966 is repealed as unnecessary because it specifies a different procedure for cases in which the injury occurred during 1990 through 1993 than for other cases.

Section Repealed: 10967.

Section 10967 is repealed as unnecessary because it specifies a different procedure for cases in which the injury occurred during 1990 through 1993 than for other cases.

Section Repealed: 10984.

Section 10984 is repealed as unnecessary in that there is no longer a Medical Bureau and all references to it are being deleted.

Section Repealed: 10987.

Section 10987 is repealed as unnecessary because it specifies a different procedure for cases in which the injury occurred during 1990 through 1993 than for other cases.

Section Repealed: 10987.1.

Section 10987.1 is repealed as unnecessary because it specifies a different procedure for cases in which the injury occurred during 1990 through 1993 than for other cases.

Section Repealed: 10987.2.

Section 10987.2 is repealed as unnecessary because it specifies a different procedure for cases in which the injury occurred during 1990 through 1993 than for other cases.

Section Repealed: 10987.3.

Section 10987.3 is repealed as unnecessary because it specifies a different procedure for cases in which the injury occurred during 1990 through 1993 than for other cases.

Section Amended: 10995.

Section 10995 is amended to delete language made obsolete by the amendment of Labor Code § 5275, effective January 1, 2003, and to specify that the parties will provide the necessary materials to the arbitrator and the WCAB file will remain in the custody of the district office. Other nonsubstantive revisions include a change in punctuation for consistency and changes to conform to modern standards of English usage.

Section Amended: 10996.

Section 10996 is amended to require that with an arbitration submittal form, an Application for Adjudication be filed if one has not been previously filed, to specify that the parties will provide the necessary materials to the arbitrator, and to specify that the WCAB file will remain in the custody of the district office. Other nonsubstantive revisions include changes to eliminate confusing and unnecessary language and to conform to modern standards of English usage.

Section Amended: 10997.

Section 10997 is amended to delete the requirement that, when a case is set for hearing, arbitration must be requested within six days after service of the notice of hearing, and to eliminate confusing and unnecessary language.

Section Amended: 10998.

Section 10998 is amended to change a reference to a subsection of Labor Code § 5275 that was renumbered, and delete language made obsolete by the amendment of § 5275, effective January 1, 2003.

Section Amended: 10999.

Section 10999 is amended to eliminate confusing and unnecessary language, and to conform to modern standards of English usage.

STATE REIMBURSABLE MANDATE:

The WCAB has determined that the proposed regulations will not impose any new mandated programs on any local agency or school district. The California Supreme Court has determined that an increase in workers’ compensation benefit levels does not constitute a new State mandate for the purpose of local mandate claims because the increase does not impose unique requirements on local governments. (*County of Los Angeles v. State of California*, 43 Cal.3d 46 (1987)). The requirements imposed on all employers by the proposed changes to these regulations, although not a benefit level increase, are similarly not a new State mandate because the regulations apply to all employers, private and public, and not uniquely to local governments.

COST OR SAVINGS TO LOCAL AGENCIES OR SCHOOL DISTRICTS:

The regulations proposed herein may, from time to time, impose costs on local agencies and school districts. Any such costs, however, will be non-discretionary because the requirement that every employer contribute to the funding of California’s workers’ compensation programs is a statutory obligation. Furthermore, any such costs are non-reimbursable because the requirement on employers to contribute to the funding of California’s workers’ compensation programs is not unique to local agencies or school districts and applies to all employers alike, public and private, including the State of California.

COST OR SAVINGS TO STATE AGENCIES:

The proposed regulations may, in certain situations, impose costs on State agencies. Any such costs are non-reimbursable, however, since the requirement that employers contribute to the funding of California’s workers’ compensation programs is not unique to State agencies and applies to all employers alike, both public and private.

COST OR SAVINGS IN FEDERAL FUNDING TO THE STATE:

The proposed regulations will not affect any federal funding.

DETERMINATION REGARDING SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT ON BUSINESS:

The WCAB declares that it has initially determined that the proposed regulations will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. The proposed amendments involve changes in the procedures for handling workers’ compensation cases that do not impose significant financial or economic burdens on the regulated public; there is no change in the amount of compensation that is paid to injured workers.

COST IMPACTS ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES:

Proposed section 10607 will require that insurance companies and self-insured employers, or third-party administrators, (hereafter “claims administrators”) provide a computer printout of benefits paid to a party requesting it. The proposed regulation provides that a request for a benefit printout may not be made more frequently than once in a 120-day period unless there is a change in indemnity payments. This regulation will require that these claims administrators have a computer, a printer, and a computer program that stores claims information and allows that information to be printed out. However, claims administrators are already required to store claims information on computers by Title 8, California Code of Regulations, § 9702 (Rules of the Administrative Director) and it is likely that most, if not all, of them already have software to print out benefits paid. The WCAB estimates that the proposed changes to section 10607 requiring that claims administrators provide a computer printout of benefits paid to a party requesting it will cost a representative claims administrator approximately $1,394 per year.

The WCAB is proposing to amend section 10886 to require the parties to serve a copy of a compromise and release or stipulations with request for award on any lien claimants. This is necessary so that lien claimants will receive notice of settlements, which is needed in order to insure that lien claims will be promptly resolved. As a result of this change, mailing costs will be incurred primarily by claims administrators. The WCAB estimates that the changes proposed to section 10886 requiring the parties to serve a copy of a compromise and release or stipulations with request for award on any lien claimants will cost a representative claims administrator approximately $1,714 per year.

The WCAB is proposing to amend section 10505 to allow parties to serve documents on each other by fax where the parties agree to fax service. The WCAB estimates that this change will save a representative claims administrator or workers’ compensation law firm approximately $394 per year. The WCAB is proposing to amend section 10548 to provide that when the parties represent to the WCAB that a case has been settled, the case shall be taken off calendar and no appearances shall be required. The WCAB estimates that this change will save a representative claims administrator approximately $43 per year and save a representative workers’ compensation law firm that represents injured workers approximately $75 per year. The WCAB is proposing to amend section 10608 to provide that, when a Declaration of Readiness is filed, if no objection is filed, the other parties are required to file their medical reports at the time of the mandatory settlement conference rather than within six days. The WCAB estimates that this change will save a representative claims administrator or workers’ compensation law firm approximately $1,346 per year.

ECONOMIC IMPACT ON SMALL BUSINESSES:

The WCAB estimates that approximately half of the businesses affected are small businesses, either third-party administrators or law firms that handle workers’ compensation cases. The impact on these businesses is discussed under *Cost Impacts on Representative Private Persons or Businesses*, above.

ASSESSMENT OF EFFECTS ON JOB AND/OR BUSINESS CREATION, ELIMINATION OR EXPANSION:

The WCAB has determined that the changes proposed to the regulations will have no effect on the creation or elimination of jobs or existing businesses within California, or affect the expansion of current California businesses.

IMPACT ON HOUSING COSTS:

The WCAB has determined that the changes proposed to the regulations will have no effect on housing costs.

CONSIDERATION OF ALTERNATIVES:

The WCAB must determine that no reasonable alternative considered by the Board, or that has otherwise been identified and brought to the attention of the Board, would be more effective in carrying out the purpose for which these regulations are proposed, nor would it be as effective and less burdensome to affected persons than the proposed action.

PRESENTATION OF ORAL AND/OR WRITTEN COMMENTS AND DEADLINE FOR SUBMISSION OF WRITTEN COMMENTS:

Members of the public are invited to present oral and/or written statements, arguments or evidence at the public hearing. In addition, any person may submit written comments on the proposed regulations, prior to the public hearing to:

 Dennis J. Hannigan

 Secretary and Deputy Commissioner

 Workers’ Compensation Appeals Board

 Post Office Box 429459

 San Francisco, CA 94142-9459

The address for submission of comments by electronic mail (e-mail) is WCABRules@dir.ca.gov.

Unless submitted prior to or at the public hearing, all written comments must be received by the agency contact person, no later than 5:00 p.m. on August 21, 2002. The WCAB prefers written comments to oral testimony. If you have provided a written comment, it will not be necessary to present oral testimony at the public hearing.

AVAILABILITY OF TEXT OF REGULATIONS AND STATEMENT OF REASONS:

An Initial Statement of Reasons has been prepared for the proposed regulations, in addition to the Informative Digest included in this Notice. The Initial Statement of Reasons and the text of the proposed regulations will be made available for inspection or provided upon written request. Please direct all such requests to the contact person who is identified below. In addition, the above-cited materials may be accessed on the internet at [www.dir.ca.gov/dirrulemaking.html](http://www.dir.ca.gov/dirrulemaking.html).

CONTACT PERSON:

Any interested person may inspect a copy, or direct questions regarding, the proposed regulations, the Initial Statement of Reasons, and any supplemental information contained in the Rulemaking File. The Rulemaking File may be inspected by any interested person, and will be available for inspection at the Workers’ Compensation Appeals Board, 455 Golden Gate Avenue, 9th Floor, San Francisco, CA 94102, between the hours of 9:00 AM and 4:30 PM, Monday through Friday. Copies of the proposed regulations, the Initial Statement of Reasons, and any supplemental information contained in the rulemaking file may be requested in writing from the contact person:

 Dennis J. Hannigan

 Secretary and Deputy Commissioner

 Workers’ Compensation Appeals Board

 Post Office Box 429459

 San Francisco, CA 94142-9459

The telephone number of the contact person is (415) 703-4554.

**Note:** In the event the contact person is unavailable, or to obtain responses to questions regarding the substance of the proposed regulations, inquiries should be directed to the following backup contact person at the same address and telephone number noted above: Frederick Dietrich, Assistant Secretary and Deputy Commissioner.

AVAILABILITY OF CHANGES FOLLOWING PUBLIC HEARING:

Consistent with Government Code Section 11346.8(c) and 1 CCR 44, if the WCAB makes changes to the proposed regulations as a result of the public hearing and public comment received, the modified text with changes clearly indicated will be available for public comment for at least 15 days prior to the date on which the regulations are adopted.

AVAILABILITY OF FINAL STATEMENT OF REASONS:

Following its preparation, a copy of the Final Statement of Reasons consistent with Government Code Section 11346.9(a) may be obtained from the contact person indicated above. In addition, the Final Statement of Reasons will be posted on the internet and may be accessed at [www.dir.ca.gov/dirrulemaking.html](http://www.dir.ca.gov/dirrulemaking.html).

AUTOMATIC MAILING:

A copy of this Notice, including the Informative Digest, the Initial Statement of Reasons, and the text of the proposed regulations, will automatically be sent to those interested persons on the mailing list of the WCAB, and to all persons who have requested notice of hearing as required by Labor Code Section 5307.4.

If adopted, the regulations as proposed will appear sequentially in the California Code of Regulations at Title 8, Chapter 4.5, Subchapter 2, commencing with Section 10300.