COURT ADMINISTRATOR RULES	RULEMAKING WRITTEN COMMENTS 45 DAY COMMENT PERIOD	P	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
General	Economic impact analysis has not been done for these changes. We believe there will be a substantial financial effect on all sectors of the regulated community. External users are being forced to move from automated systems that they have in place to manual systems they must redevelop in order to comply with the DWC's internal automation. Commercial or internal forms that auto-populate will not conform, and so must be re-programmed. Until that is accomplished, forms will need to be completed manually and repetitively. Sophisticated mailing machines may be unusable for sending unfolded documents to the WCAB. Also, the requirement to send documents in manila envelopes will double if not triple mailing costs. Added to these very real costs is staff training, OCR processing and for an altered process when external users are added.		Steven Suchil Assistant Vice President American Insurance Assn. July 15, 2008 Written Comments	Disagree. Injured workers and employers will benefit from a faster and more efficient claims adjudication system. EAMS will simplify and improve the DWC case management process to more efficiently resolve claims, improve the ability to schedule and manage court calendars, allow files to be shared between multiple users, and transform paper files into secure electronic files. This rulemaking updates already used forms and procedures to ensure their compatibility with the new integrated system and adopts new forms and procedures that will be required in order to use EAMS. As stated on the Form 399, while necessary forms will be provided by DWC on its website, minor costs may be incurred by individuals or entities that choose to purchase form completion programs from commercial vendors. Regarding mailing, currently multi-page documents are already sent unfolded, in 8 by 11 manila envelopes. The minimal added cost for mailing unfolded documents will only apply to documents that are a few pages or less, and only to those documents sent to the district offices by mail. (Also, attorneys and claims administrators may use one envelope for multiple filings in multiple cases.) The reference to "external users" refers to the next set of regulations, the electronic phase, which goes beyond the scope of these regulations.	None
General	It appears that the court administrator has conducted no analysis of the potential economic		Brenda Ramirez Claims & Medical Director	Disagree. Injured workers and employers will benefit from a faster	None

COURT ADMINISTRATOR RULES	RULEMAKING WRITTEN COMMENTS 45 DAY COMMENT PERIOD	P	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	impact of the implementation of EAMS for the regulated community. The court administrator must consider the financial impact of these regulations on the regulated community and should validate both the cost of EAMS to the state and the implementation costs to workers' compensation system participants. These costs need to be balanced against the benefits that the appeals board foresees for electronic adjudication management. CAAA has advised the court administrator that many of their members do not have the necessary technology or background to function with either the OCR or electronic document filing environment. Some highly automated applicant's attorneys will find that their system-generated forms do not work with EAMS and cannot be used. Lien claimants have complained that the loss of the EDEX database will similarly impair their ability to be efficient and effective. Claims administrators are beginning to understand that the technological advantages of their automated systems will be diminished by the incompatibility with EAMS. Claims administrators who have been functioning in the workers' compensation system for many years often have multiple "legacy systems" that will not be compatible with EAMS, so that even requiring the use of new OCR forms will become burdensome, time consuming, and costly. Many will have to add manual systems to their automated system to meet the demands of the EAMS procedures. Many systems participants have invested in large mailing operations that have automated the sorting and packaging vast quantities of mail for distribution to the local Boards. The filing procedures alone (section 10232) will virtually eliminate the use of such		Michael McClain, General Counsel & Vice President California Workers' Compensation Institute July 15, 2008 Written Comment	and more efficient claims adjudication system. EAMS will simplify and improve the DWC case management process to more efficiently resolve claims, improve the ability to schedule and manage court calendars, allow files to be shared between multiple users, and transform paper files into secure electronic files. This rulemaking updates already used forms and procedures to ensure their compatibility with the new integrated system and adopts new forms and procedures that will be required in order to use EAMS. As stated on the Form 399, while necessary forms will be provided by DWC on its website, minor costs may be incurred by individuals or entities that choose to purchase form completion programs from commercial vendors. Regarding mailing, currently multi-page documents are already sent unfolded, in 8 by 11 manila envelopes. The minimal added cost for mailing unfolded documents will only apply to documents that are a few pages or less, and only to those documents sent to the district offices by mail. (Also, attorneys and claims administrators may use one envelope for multiple filings in multiple cases.) The reference to "electronic document filing" refers to the next set of regulations, electronic phase, which goes beyond the scope of these regulations. Regarding EDEX, EDEX is essentially a conduit through which	

COURT ADMINISTRATOR RULES	RULEMAKING WRITTEN COMMENTS 45 DAY COMMENT PERIOD	P	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	automation or require a comprehensive and costly reprogramming of these systems. Simply requiring the use of manila envelopes will triple the cost of packaging mail to the Board. EAMS will eliminate many of the advantages of automation and shift the burden and cost of the WCAB's paperless environment to the workers' compensation community. It is clear from the discussions to date that any solution to the problem of the system compatibility, between EAMS and other claims and litigation management systems, will be expensive. Some will buy hardware to access the EAMS forms, fill them out manually, and mail them in. Others will have to reprogram their system, if they can, to fit the EAMS environment in order to regain the level of automated efficiency they have today. Some will have to add manual systems that will reduce the efficiency of the entire benefit delivery process. All of this work will be done in an environment of increasing loss adjustment expense and declining premium.			system users, such as lien claimants, health care organizations, attorneys and others, get information about cases before the DWC/Workers Compensation Appeals Board (WCAB). EDEX will still operate, but is revised. Because the system the division is using to house and manage its data is changing, and because the laws have changed since EDEX was initially implemented, the way in which data is relayed through EDEX and the data that will be available to some EDEX users must change. Private entity subscribers may search the system using Social Security numbers, but the information returned from EDEX will contain only the last four digits of the Social Security number, along with ZIP Code and date of birth. The injured worker's residence address will not be provided to private entity subscribers. The subscriber will receive the name and address of the injured worker's attorney for service of liens and supporting documentation. If the injured worker is represented, the injured worker's law firm information will be provided. The absence of law firm information will indicate the injured worker is unrepresented. Also, the ability to file an electronic notice of intention to file a lien in EDEX will cease and lien claimants will need to file perfected liens at the district offices once they find the case in EDEX. This is currently required	

COURT ADMINISTRATOR RULES	RULEMAKING WRITTEN COMMENTS 45 DAY COMMENT PERIOD	P	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
				by state law and regulation but generally is not done correctly. For lien claimants, this means first billing the insurance company/employer, waiting the statutory period of time for the bill to be paid timely, then filing the lien with documentation of the services provided if the insurance company/employer does not pay the bill. Having the perfected lien will allow the lien claimant to access the adjudication file information, will allow the lien claimant to receive service from DWC of all hearing dates, will allow the judge in the case to decide the claim, and will move cases more expeditiously through the system with minimal required continuances or docket impact. Having the address of the injured worker's attorney will allow the lien claimant to serve the lien.	
General	The proposed regulations are silent regarding the "EDEX" function. We believe this aspect of the system should be included.		Steven Suchil Assistant Vice President American Insurance Assn. July 15, 2008 Written Comments	Disagree. EAMS is an integrated case management, document filing and management, and information management system that operates under the jurisdiction of the Court Administrator. EDEX is a voluntary method of high volume electronic *data* exchange with the Division and operates under the authority of the Administrative Director. While it may be appropriate at some future time to develop specific regulations to address EDEX, it would be premature to do so at this time, and inappropriate to do so as part of this rulemaking.	None
10210	Commenter objects to the amendments in this		Sue Borg, President	Disagree. See Addendum B and	None

COURT ADMINISTRATOR RULES	RULEMAKING WRITTEN COMMENTS 45 DAY COMMENT PERIOD	P	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	section that have the appearance of impairing the judicial functions of the Workers' Compensation Appeals Board and the dispute resolution process. Commenter sees nothing in the statutory creation of the Court Administrator position, nor in the legislative history of that change that justifies any diminution of the strong judicial protections afforded injured workers.		California Applicants' Attorneys Association Written and Oral Comments July 15, 2008 Linda Atcherley, Legislative Chair California Applicants' Attorneys Association Oral Comments	Addendum C.	
10210(j)	Commenter recommends that the definition of "district office" in subdivision (j) be amended to read: (j) "District office" means a trial level court of the Workers' Compensation Appeals Board. With this definition of district office, the proposed language other subdivisions would correctly mean that, for example under subdivision (g), a Declaration of Readiness to Proceed is a request *for a judicial proceeding before a workers' compensation judge*. Although some may categorize this change as simply a matter of semantics, commenter believes that it is an important change. Individuals look to the various court systems in this country, including our Workers' Compensation Appeals Board, to enforce the law and protect their rights. Individuals expect fairness and justice from the courts, and rightly or wrongly, the courts are afforded much more respect and deference than are other governmental offices. It is extremely important that injured workers understand that they will continue to have access to a judicial, and not an administrative, dispute resolution process.		Sue Borg, President California Applicants' Attorneys Association Written and Oral Comments July 15, 2008 Linda Atcherley, Legislative Chair California Applicants' Attorneys Association Oral Comments	Disagree. See Addendum B	None
10210(k)	Commenter recommends that "court forms" be		Sue Borg, President	Disagree. The definition of document	None

COURT ADMINISTRATOR RULES	RULEMAKING WRITTEN COMMENTS 45 DAY COMMENT PERIOD	P	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	added to the definition of "Document." Although these proposed rules primarily regulate the initial period when most documents will be filed in paper and scanned into EAMS, some external users will be filing documents electronically. Because it is commenter's understanding that document separator sheets will be required for both paper and electronically filed documents, commenter recommends that subdivision (k) be amended to add after the word "filed" the phrase "either in paper form or electronic form."		California Applicants' Attorneys Association Written and Oral Comments July 15, 2008 Linda Atcherley, Legislative Chair California Applicants' Attorneys Association Oral Comments	is broad and includes court forms. Disagree in part. Electronic filing rules are beyond the scope of these regulations. Additional regulations will be proposed for the electronic filing phase. Section 10229 is added to provide an exemption for documents filed with EAMS as part of the electronic filing trial.	Section 10229 is added to provide an exemption for documents filed with EAMS as part of the electronic filing trial.
10210(o)	The definition only allows for electronic signatures for WCALJ's and the Appeals Board. Unless additional regulations will be forthcoming for external users of EAMS, the definition needs to be expanded for that population.		Steven Suchil Assistant Vice President American Insurance Assn. July 15, 2008 Written Comments	Disagree. Electronic filing rules are beyond the scope of these regulations. Additional regulations will be proposed for the electronic filing phase.	None
10210(o)	Commenter states that while this definition may suffice for the Board's purposes, it might be appropriate to cite the Uniform Electronic Transaction Act, as well.		Brenda Ramirez Claims & Medical Director Michael McClain, General Counsel & Vice President California Workers' Compensation Institute July 15, 2008 Written Comment	Disagree. This definition only defines the term electronic signature as the signature of a judge. The Act referred to regulates signatures for commercial transactions.	None
10210(p)	Commenter notes that the language in the previous proposal for E-Fax has been removed. While E-Fax capability may require additional resources, there are medical confidentiality issues to be considered. If parties are to fax medical information to an unsecured FAX machine or computer terminal, the security of these records must be insured and the procedures communicated in these regulations.		Steven Suchil Assistant Vice President American Insurance Assn. July 15, 2008 Written Comments	Disagree. Section 10222(c) prohibits documents from being faxed directly to the district office.	None
10210(q)	Commenter recommends that this subdivision be amended to recognize that some external users		Sue Borg, President California Applicants'	Disagree in part. Electronic filing rules are beyond the scope of these	Section 10229 is added to provide an exemption for

COURT ADMINISTRATOR RULES	RULEMAKING WRITTEN COMMENTS 45 DAY COMMENT PERIOD	P	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	will be filing documents electronically.		Attorneys Association Written and Oral Comments July 15, 2008 Linda Atcherley, Legislative Chair California Applicants' Attorneys Association Oral Comments	regulations. Additional regulations will be proposed for the electronic filing phase. Section 10229 is added to provide an exemption for documents filed with EAMS as part of the electronic filing trial.	documents filed with EAMS as part of the electronic filing trial.
10211	Commenter states that there is a question of whether the Court Administrator has the authority to deem a failure to comply with the rules of the Court Administrator a bad faith action or tactic for purposes of sanctions under Labor Code § 5813. Commenter further states that the section of the Labor Code clearly indicates that sanctions are within the province of the Appeals Board to administer, which by necessity means that the assessment of sanctions is within the Board's discretion based upon findings an individual workers' compensation administrative law judge may make. Commenter adds that there is nothing in the statutory framework establishing the Court Administrator (Labor Code §§ 5307, 5500.3) that suggests the Court Administrator has anything other than *administrative* responsibilities for the uniform and efficient resolution of disputes. Commenter opines that having the Court Administrator promulgate a rule that compels a specific *adjudicatory* decision by divesting the workers' compensation judiciary of its statutory discretion to levy sanctions violates the extent of authority granted this position.		Mark Webb Vice President – Governmental Relations Employer Direct Insurance Company July 15, 2008 Written Comment	Disagree. Labor Code section 110(f) defines the term court administrator as "the administrator of the workers' compensation adjudicatory process at the trial level." The legislature expressly intended the court administrator to "further the interests of uniformity and expedition of proceedings before workers' compensation administrative law judges, assure that all workers' compensation administrative law judges are qualified and adhere to deadlines mandated by law or regulation, and manage district office procedural matters at the trial level.: (Lab. Code, §127.5.) The court administrator is authorized pursuant to Labor Code section 5307(c) to "… adopt reasonable, proper, and uniform rules for district office procure regarding trial level proceedings of the workers' compensation appeals board. These rules shall include, but not be limited to, all the following: ¶(1) Rules regarding conferences, hearings, continuances, and other matters deemed reasonable and necessary to expeditiously resolve disputes. ¶(2)	None

COURT ADMINISTRATOR RULES	RULEMAKING WRITTEN COMMENTS 45 DAY COMMENT PERIOD	P	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
				The kind and character of forms to be used at all trial level proceedings….” In addition, the court administrator is authorized by Labor Code section 5500.3 to “establish uniform district procedures, uniform forms, and uniform time of court settings for all district offices of the appeals board. No district office of the appeals board or workers’ compensation administrative law judge shall require forms or procedures other than as established by the court administrator. The court administrator shall take reasonable steps to ensure enforcement of this section.” Like the administrative director and the appeals board, the court administrator has the “power and jurisdiction to do all things necessary or convenient in the exercise of any power or jurisdiction conferred upon it under this code. (Lab. Code, §133.) The Court Administrator’s power to issue sanctions falls under Labor Code section 133, not Labor Code section 5813. Based on the Labor Code sections discussed, the court administrator has authority to enforce the rules promulgated by this agency. Workers’ compensation administrative law judges cannot act without a specific grant of authority from the appropriate authority and the appeals board has no authority to enforce the rules of the court administrator. Characterizing non-compliance with the court	

COURT ADMINISTRATOR RULES	RULEMAKING WRITTEN COMMENTS 45 DAY COMMENT PERIOD	P	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
				administrator's rules as bad faith tactic and providing the administrative law judges with the authority to make that determination is within the power of the court administrator. (Lab. Code, §§ 5500.3(a) and 5307(c).)	
10211	Commenter states that this section should be deleted. The proposed regulation attempts to broaden the scope of sanctions permissible under Labor Code section 5813 and CCR section 10561. While section 5813 specifically includes workers' compensation judges and the appeals board, it does not allow the court administrator to impose sanctions. The proposed regulation should be deleted as it adds nothing to the standards that the WCAB already enforces and for which there is a body of case law defining the conduct at issue.		Brenda Ramirez Claims & Medical Director Michael McClain, General Counsel & Vice President California Workers' Compensation Institute July 15, 2008 Written Comment	Disagree. See response to comment submitted by Mark Webb Vice President – Governmental Relations, Employer Direct Insurance Company, July 15, 2008, Written Comment, above.	None.
10211	This proposed section provides that the failure to comply with the Rules of the Court Administrator shall be deemed a bad faith action or tactic that is frivolous or solely intended to cause unnecessary delay unless that failure results from mistake, inadvertence, surprise, or excusable neglect. **Recommendation:** Commenter recommends that a "grace period" be allowed for system failures and user training periods at the onset of EAMS. Further, commenter recommends that the rule should harmonize with LC §5813 and read as, "The failure to comply with the Rules of the Court Administrator ~~shall~~ *may* be deemed a bad faith action or tactic"… to give a judge or the		Marie Wardell Claims Operations Manager State Compensation Insurance Fund July 15, 2008 Written Comments	Disagree. See response to comment submitted by Mark Webb Vice President – Governmental Relations, Employer Direct Insurance Company, July 15, 2008, Written Comment, above. In addition, disagree regarding "grace period." The section excludes failure that results from mistake, inadvertence, surprise, or excusable neglect. Disagree regarding changing "shall" to "may." The section excludes failure that results from mistake, inadvertence, surprise, or excusable neglect.	None.

COURT ADMINISTRATOR RULES	RULEMAKING WRITTEN COMMENTS 45 DAY COMMENT PERIOD	P	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	Court Administrator the discretion of finding that the failure to comply was a bad faith tactic.				
10211	Commenter suggests deletion of this section because it is duplicative of current WCAB powers. Further, he questions the Court Administrator's authority to impose this sanction.		Steven Suchil Assistant Vice President American Insurance Assn. July 15, 2008 Written Comments	Disagree. See response to comment submitted by Mark Webb Vice President – Governmental Relations, Employer Direct Insurance Company, July 15, 2008, Written Comment, above.	None.
10211	Commenter believes that compliance with these rules is essential; however questions the imposition of sanctions, which appear to be mandatory based up on a violation of these rules. Commenter believes this extends beyond the scope of the sanction statute under Labor Code section 5813. Commenter believes this authority lies with the WCAB is beyond the scope of the Court Administrator.		Corey Ingber, Esq. Zenith Insurance Company July 14, 2008 Oral Testimony	Disagree. See response to comment submitted by Mark Webb Vice President – Governmental Relations, Employer Direct Insurance Company, July 15, 2008, Written Comment, and Marie Wardell Claims Operations Manager State Compensation Insurance Fund July 15, 2008 Written Comments, above.	None.
10213(a)	The purpose of this proposed regulation is to inform the public that it is improper to serve a document on the district office or the workers' compensation administrative law judge unless it has been served all other parties as well. **Recommendation:** Commenter recommends that all forms that require a **proof of service** should include a "Proof of Service" page attached to the form to ensure compliance with the new regulations. In the proposed versions of forms such as Declaration of Readiness to Proceed to Expedited Hearing (Trial) (DWC-CA form 10252.1) & Request for Dispute Resolution (DWC-AD form 10133.14), columns pertaining to proof of service have been deleted. Identifying recipients of copies of the forms and enclosed documents would ensure compliance with regulations and may reduce additional filing of documents and separator sheets for "Proof of Service" documents.		Marie Wardell Claims Operations Manager State Compensation Insurance Fund July 15, 2008 Written Comments	Disagree. The forms are designed to request the data that is required to direct the information to the appropriate case. However, section 10232(b)(2) is amended to explain that 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.	Section 10232(b)(2) is amended to explain that 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.

COURT ADMINISTRATOR RULES	RULEMAKING WRITTEN COMMENTS 45 DAY COMMENT PERIOD	P	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
10214 et al.	Commenter believes that most of the proposed forms are unnecessarily complicated and much too long. Although she understands that the Division is continuing to work with outside vendors to enable to proposed forms to be auto-filled by case management software, there will still be many instances where it will be necessary to fill out these forms individually. This will be extremely cumbersome and time consuming, and we fail to understand why much of the requested information is being requested. It appears that the Division is attempting to use these forms to collect data on various aspects of the system. She has no objection to this effort, but believes that much of the information that must be entered on some of these forms is necessary for that form but has been requested simply to get that information into the EAMS system. Commenter urges the Division to recognize that this can place significant added work on the parties, and recommend that the Division again review these forms with a goal to shorten their length.		Sue Borg, President California Applicants' Attorneys Association Written and Oral Comments July 15, 2008 Linda Atcherley, Legislative Chair California Applicants' Attorneys Association Oral Comments	Disagree. See Addendum A.	None
	With regard to specific comments:				
	Commenter notes that most of the forms request the applicant's social security number. She does not believe there is any need to collect this information, and in view of the national push to eliminate unnecessary requests for this information, we recommend that it be deleted from all forms.			Disagree in part. Section 10232(a)(7) is amended to clarify that the social security numbers are optional, not mandatory. However, social security numbers are the most accurate identifier.	Section 10232(a)(7) is amended to clarify that the social security numbers are optional, not mandatory.
	Not all applicants have a "first name, middle initial, last name." It is not infrequent that workers use their middle name, or one of several middle names, as their common name. These forms should be revised to recognize the reality			Disagree. If there is no middle initial, the field should remain empty. Also, see Addendum A.	None

COURT ADMINISTRATOR RULES	RULEMAKING WRITTEN COMMENTS 45 DAY COMMENT PERIOD	P	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	of names in the state's multi-cultural workforce. Several forms ask for the "Start Date" and "End Date" of either a specific or cumulative injury. These forms specify that for a specific injury the "Start Date" is to be used as the specific date of injury. However, no instructions are provided regarding a cumulative injury. In fact, under Labor Code §5412, the date of injury (or the "End Date") for a cumulative injury is defined, but no similar definition of a cumulative injury "Start Date" is provided. In fact, in many cases the "start date" of a cumulative injury is unknown. Commenter recommends that the instructions for this form be amended to clarify that "Unknown" can be entered as the "Start Date" for a cumulative injury. Commenter notes that there is a very long space for "specific, genuine, good faith efforts to resolve the dispute(s) listed above:" As noted with regard to proposed §10251, it should be sufficient to simply state that efforts were made. Otherwise, there could be an improper rejection of DOR's for purported failure to have sufficient attempt to resolve the dispute, again putting unwarranted delay into the system.			Disagree. 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. Disagree. The space is provided for the description of the efforts to resolve the dispute. The form does not require specific language to be entered.	None None
10214(a)	Commenter would like to point out that this form does not reference "Workers' Compensation Appeals Board" in its caption as the rest of the forms do.		Daniel Asturia Workers' Compensation Judge – Salinas District Office June 16, 2008 Written Comment	Agree. The title has been corrected.	The title has been corrected.
10214(a)	Commenter requests that the division delete the material on page 5 of this proposed form relating to the inclusion of multiple companion cases. Page 5 requires the inclusion of specific information regarding up to 4 companion cases, which suggests that the stipulated findings and		Brenda Ramirez Claims & Medical Director Michael McClain, General Counsel & Vice President California Workers' Compensation Institute July 15, 2008	Disagree. 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 WRITTEN COMMENTS 45 DAY COMMENT PERIOD	P	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	award can combine multiple specific injuries or specific and cumulative injuries in the same award. 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." A stipulated finding 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.		Written Comment		
10214(a)	Commenter recommends that Column 2 and 2(a) of Page 6 of the proposed " Stipulations with Request for Award" form include the options of Industrial Disability Leave (IDL)/Paid Leave of Absence for some employees of California Highway Patrol(CHP) under LC §4800.5. ***There are number of State Employees and CHP Officers who do not receive temporary disability benefits, but get paid IDL or benefits under LC §4800.5. Including these options will prevent manual corrections to the OCR forms.*** The terms should read as "The injury (ies) caused temporary disability/*IDL/4800.5 time* for the period_____." ▪ Term *1DL/4800.5 time* should be inserted next to the reference area as in Pg 6 of the proposed Form 10214(a). Commenter recommends that fields to enter **"Name of the Injured Employee"** and **"Claim Number"** be added on each page to ensure clear identification during the printing, collating, mailing, receiving and scanning process.		Marie Wardell Claims Operations Manager State Compensation Insurance Fund July 15, 2008 Written Comment	Disagree. Industrial Disability Leave applies to a small group of employees. The form states that the injury caused "temporary disability" and requests the dates. A blank is allowed for the rate and the amount received. How the indemnity is characterized (i.e., as "IDL") is not needed for this form. Disagree. This information is obtained through the cover sheet.	None
10214(b)	Commenter recommends that Dependant information for **"Dependants # 1-3"** should be		Marie Wardell Claims Operations Manager	Accept in part. The form is amended to reflect adult dependants and minor	The form is amended to reflect adult dependants

COURT ADMINISTRATOR RULES	RULEMAKING WRITTEN COMMENTS 45 DAY COMMENT PERIOD	P	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	similar to that listed for Dependants' # 4-6. Currently Dependants # 1-3 do not list areas to indicate information regarding **"Date of Birth" and "Relationship to the deceased."**		State Compensation Insurance Fund July 15, 2008 Written Comment	dependants. Date of birth is not needed for adult dependants.	and minor dependants.
	Commenter recommends that the information regarding the name of the applicant filing the application be added to the proposed form as present in the current version of the Stipulations with Request for Award (Death Case) form. The proposed form only allows for Applicant's Attorney's and Defense Attorney's signatures.			Disagree. See Addendum A However, the case number is listed at the top of the form. The dependants' signature lines are on page 4.	None
	Commenter recommends that fields to enter **"Name of the Injured Employee"** and **"Claim Number"** be added on each page to ensure clear identification during the printing, collating, mailing, receiving and scanning process.			Disagree. See Addendum A. However, the case number is listed at the top of the form on page one.	None
10214(c)	Commenter recommends that the language*"...and claims to have sustained injury (ies) arising out of and in the course of employment."* as indicated on Pg 1of the existing C&R form be added to the proposed form.		Marie Wardell Claims Operations Manager State Compensation Insurance Fund July 15, 2008 Written Comment	Agree. The form is amended.	The form is amended to state: "sustained injury arising out of and in the course of employment at the locations and during the dates listed below:"
	Commenter recommends that Column 6 of Page 5 of the proposed " Compromise and Release" form include the options of Industrial Disability Leave (IDL)/Paid Leave of Absence for some employees of California Highway Patrol(CHP) under LC §4800.5. The terms should read as "TEMPORARY DISABILITY INDEMNITY/*IDL/4800.5 time* PAID_____Weekly Rate $_____". ▮▮ Term *1DL/4800.5 time* should be inserted next to the reference area like Pg 5 of the proposed Form 10214(c) .			Disagree. Industrial Disability Leave applies to a small group of employees. The form states that the injury caused "temporary disability" and requests the dates. A blank is allowed for the rate and the amount received. How the indemnity is characterized (i.e., as "IDL") is not needed for this form.	None

COURT ADMINISTRATOR RULES	RULEMAKING WRITTEN COMMENTS 45 DAY COMMENT PERIOD	P	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	Commenter recommends that fields to enter **"Name of the Injured Employee"** and **"Claim Number"** be added on each page to ensure clear identification during the printing, collating, mailing, receiving and scanning process.			Disagree. See Addendum A.	None
10214(e)	Commenter recommends that Column 4 of Page 3 and Column 14 of Page 5 of the proposed Compromise and Release- Third Party" form include the options of Industrial Disability Leave (IDL)/Paid Leave of Absence for some employees of California Highway Patrol(CHP) under LC §4800.5. The terms should read as "Temporary disability indemnity/*IDL/4800.5 time* has been paid to the employee in the sum of $_____". ▪ Term *1DL/4800.5 time* should be inserted in the reference area as taken from Page 3&5 of the proposed Form 10214(e). ▪ The term should read as "$_____for temporary disability/*IDL/4800.5 time* covering the" Commenter recommends that fields to enter **"Name of the Injured Employee"** and **"Claim Number"** be added on each page to ensure clear identification during the printing, collating, mailing, receiving and scanning process		Marie Wardell Claims Operations Manager State Compensation Insurance Fund July 15, 2008 Written Comment	Disagree. Industrial Disability Leave applies to a small group of employees. The form states that the injury caused "temporary disability" and requests the dates. A blank is allowed for the rate and the amount received. How the indemnity is characterized (i.e., as "IDL") is not needed for this form. Disagree. See Addendum A.	None None
10215	The WCAB case number is the current fingerprint identifying all of the case participants, related cases, lien claimants, and evidentiary material. In the transition to EAMS the system should provide some computer runs to crosswalk the old to the new case number. Or the system should limit the new case number usage to new cases after a specific date. The system should		Brenda Ramirez Claims & Medical Director Michael McClain, General Counsel & Vice President California Workers' Compensation Institute July 15, 2008 Written Comment	No change needed. The system will recognize current case numbers and be able to match these to the new EAMS case number. The EAMS case number will be approximately 10 to 12 digits.	None

COURT ADMINISTRATOR RULES	RULEMAKING WRITTEN COMMENTS 45 DAY COMMENT PERIOD	P	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	recognize current case numbers and be able to match these to the new EAMS case number. Commenter opines that while the implementation phase will be the most difficult, the elimination of the traditional Board case number and the addition of the EAMS Integrated Case Number will lead to some unforeseen consequences that could create significant disruption. Any current participant in the workers' compensation system who has a case management system will find it costly and a considerable technical challenge to convert to the EAMS identification system. First, the new numbering system is 50 digits – well beyond the field capacity of most case management systems that are geared to the current Board file number. Secondly, the regulations are still unclear how this new number is obtained and communicated. Would the claims administrator be required to go into EAMS and extract the converted WCAB case using their log-on and password? Once the number is obtained, it is very likely that it will not be compatible with the structure of the current case management system, which may in itself require the filer to resort to a manual system. Commenter believes this will be an operational nightmare, which would actually retard the effectiveness of the workers' compensation community to help meet the Board's goal of internal efficiency.			Agree in part. Section 10216 is amended to clarify how case numbers will be assigned.	Section 10216 is amended to state: (b) All case opening documents shall be given a case number by the district office where no case number has been previously assigned for the injured worker for the alleged date of injury. The parties shall be notified of the case number by their preferred method of service. (c) If a case number has been previously assigned by the Division of Workers' Compensation, a new case number will be assigned when a document is filed as follows: the prefix "ADJ" shall replace the previously assigned three

COURT ADMINISTRATOR RULES	RULEMAKING WRITTEN COMMENTS 45 DAY COMMENT PERIOD	P	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
					letter prefix (i.e. "OAK") and precede the assigned case number.
10215	While commenter has no objection to the general statement that reference to a case is to be by the applicant's name and case number, she urges that procedures be available to access the information in the index where the case number is not known.		Sue Borg, President California Applicants' Attorneys Association Written and Oral Comments July 15, 2008 Linda Atcherley, Legislative Chair California Applicants' Attorneys Association Oral Comments	Agree. Searches do not require the case number.	None
10216	Commenter recommends that the paper file be maintained in a temporary file for 30-days, until the system is fully tested, functioning, and accessible to the workers' compensation community. Commenter is concerned that the failure to maintain a parallel paper system for at least the implementation phase (of EAMS) could make documents irretrievable, taint the Board's evidentiary record, and adversely affect the delivery of benefits.		Brenda Ramirez Claims & Medical Director Michael McClain, General Counsel & Vice President California Workers' Compensation Institute July 15, 2008 Written Comment	Agree in part. Proposed §§ 10216(a) and 10217(e) are amended to provide that scanned documents will be destroyed "no less than 30 business days after filing: and scanned files will be destroyed "no less than 30 business days after the issuance of the notification" to the parties that the file has been scanned.	Proposed §§ 10216(a) and 10217(e) are amended.
10216(a)	Commenter objects to proposed section 10216 providing that documents once scanned into the system will be destroyed. Commenter suggests that implementation of this section should be delayed until there is a way to measure system performance. Commenter states that conversion of paper files already existing has a notice provision and discretion on whether to destroy the documents. [Proposed 8 CCR §§ 10216(b) and (c).] Commenter recommends a delayed effective date for subdivision (a) unless the regulations governing new files provide a window of time to allow the parties to verify that all documents have been properly scanned and placed into the file. Commenter requests that		Mark Webb Vice President – Governmental Relations Employer Direct Insurance Company July 15, 2008 Written Comment	Agree in part. Proposed §§ 10216(a) and 10217(e) are amended to provide that scanned documents will be destroyed "no less than 30 business days after filing: and scanned files will be destroyed "no less than 30 business days after the issuance of the notification" to the parties that the file has been scanned. This will allow parties to confirm that the documents exist in EAMS. .	Proposed §§ 10216(a) and 10216(e) are amended.

COURT ADMINISTRATOR RULES	RULEMAKING WRITTEN COMMENTS 45 DAY COMMENT PERIOD	P	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	once scanned, the parties should have five business days to review the electronic record and be able to petition a workers' compensation judge to allow additional scanning. Commenter opines that this level of oversight would prevent abuses and, if indeed the system functions as desired, would likely not result in significant delays in the destruction of paper documents.				
10216(a)	Commenter is extremely concerned that filed paper forms will be destroyed 14 days after being scanned. While commenter sincerely hopes that the system performs flawlessly, given the importance of a properly functioning system we believe it is imperative that some alternative or "back up" procedures be put in place to minimize the effect of any malfunctions in the electronic filing process. Commenter strongly recommends that this section be amended to provide that for the first six months after the system becomes operational no paper forms will be destroyed. Furthermore, that after six months the Court Administrator will analyze the operation of the system to that date and, after soliciting input from the workers' compensation community, shall make a determination of whether the system has demonstrated the necessary reliability and whether the paper files can then be destroyed.		Sue Borg, President California Applicants' Attorneys Association Written and Oral Comments July 15, 2008 Linda Atcherley, Legislative Chair California Applicants' Attorneys Association Oral Comments	Agree in part. Proposed §§ 10216(a) and 10217(e) are amended to provide that scanned documents will be destroyed "no less than 30 business days after filing: and scanned files will be destroyed "no less than 30 business days after the issuance of the notification" to the parties that the file has been scanned. Additionally, section 10225(f) is added to state that EAMS shall be backed up daily pursuant to the State of California's information technology standards.	Proposed §§ 10216(a) and 10216(e) are amended. Section 10225(f) is added to state that EAMS shall be backed up daily pursuant to the State of California's information technology standards.
10216(b)	Commenter unsure how and when the other parties will be advised of the case number.		Steven Suchil Assistant Vice President American Insurance Assn. July 15, 2008 Written Comments	Agree. This will be clarified by the addition of new (b) and (c).	Section 10216 will be amended to state: (b) All case opening documents shall be given a case number by the district office where no case number has been previously assigned for the injured worker for the alleged date of injury. The parties shall be notified of the case number by their preferred method of

COURT ADMINISTRATOR RULES	RULEMAKING WRITTEN COMMENTS 45 DAY COMMENT PERIOD	P	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
					service. (c) If a case number has been previously assigned by the Division of Workers' Compensation, a new case number will be assigned when a document is filed as follows: the prefix "ADJ" shall replace the previously assigned three letter prefix (i.e. “OAK”) and precede the assigned case number.
10216(b) and (c)	Commenter believes that the process of scanning the so-called "legacy" files into EAMS while the case is moving forward will cause immense problems in many cases. For example, it is her understanding that DWC staff is working to place needed cover and separator sheets in these legacy files preparatory to scanning these files into the EAMS system. This process will take an enormous amount of staff time to complete, particularly if staff is completely filling out these cover and separator sheets before scanning. And if these sheets are not filled out properly, or are not filled out at all, neither the parties nor the WCJ will know the full contents of the electronic case file without going through it page by page. This will either cause another huge expenditure of time, or will cause the parties to refile many of the documents, again adding to the time and expense. Quite simply, even if legacy files are not immediately scanned into EAMS, it will still be a huge undertaking for the Division to introduce a paperless system for newly filed cases and maintain District Office operations without some		Sue Borg, President California Applicants’ Attorneys Association Written and Oral Comments July 15, 2008 Linda Atcherley, Legislative Chair California Applicants’ Attorneys Association Oral Comments	Disagree. Sections 10216(b) and (c) do not require legacy cases to be scanned into EAMS, it just provides for the procedure when a legacy file is scanned.	None

COURT ADMINISTRATOR RULES	RULEMAKING WRITTEN COMMENTS 45 DAY COMMENT PERIOD	P	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	possibly significant problems cropping up. Commenter sees no advantage to adding to the workload and complicating the introduction process by trying to simultaneously convert these legacy files. After all, under these rules all documents filed in these legacy cases will continue to be paper forms, and eliminating the need to immediately convert legacy files to electronic format would actually decrease the amount of work involved and would free up staff to concentrate on dealing with possible problems with new cases that will be in electronic format. Consequently, we recommend the Division concentrate its efforts on assuring that this paperless system works for newly filed cases. Legacy files should remain as paper files until the case is settled, at which time the file can be entered into EAMS. Commenter strongly urges that subdivision (c) be deleted and that subdivision (b) be revised to read: (b) Except as provided in Section 10273, the Division of Workers' Compensation shall maintain a paper adjudication file for all cases filed before the effective date of these regulations until a settlement has been reached in the case that resolves all pending issues. After settlement of the case the paper adjudication file shall be completely scanned into EAMS and the paper adjudication file may be destroyed.				

COURT ADMINISTRATOR RULES	RULEMAKING WRITTEN COMMENTS 45 DAY COMMENT PERIOD	P	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
10217	The purpose of this proposed regulation is to require all parties to inform the Division of Workers' Compensation whenever there is a change of mailing address, telephone number, fax number, or e-mail. The parties are also required to inform other parties having an interest in the case if there is a change of address, telephone number, fax number or e-mail. **Recommendation:** Commenter recommends that this section make clear that a party must only inform the appeals board/DWC and other parties only once and that will become the party's address of record for every case, of which they are a party. If possible, the updated address record should apply to all DWC units (ADJ, DEU, SIF, UEF, VOC, INT, RSU) listed on DWC Form 10232.1 (Cover Sheet).		Marie Wardell Claims Operations Manager State Compensation Insurance Fund July 15, 2008 Written Comments	Agree in part. Section 10217 is amended. Updates made in the Central Registration Unit will apply to all existing cases.	Section 10217 is amended as follows: (a) The Division of Workers' Compensation shall maintain an official participant ~~address~~ record for each adjudication file, which shall contain the names ~~and mailing addresses~~ of all parties and lien claimants, and their attorneys or hearing representatives ~~agents of record~~. ~~In addition, where parties and lien claimants, or their attorneys or agents of record, have provided or have been required to provide telephone numbers, fax numbers or electronic mail addresses, the official address record shall contain these numbers and addresses.~~ (b) In order to ensure case parties and documents are accurately associated to the correct electronic adjudication file, uniform names for claims administrators' offices and representatives' offices shall be used when filing documents in EAMS. The names will be assigned by the

COURT ADMINISTRATOR RULES	RULEMAKING WRITTEN COMMENTS 45 DAY COMMENT PERIOD	P	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
					Division of Workers' Compensation. (1) The Division of Workers' Compensation will maintain a list on its website (www.dwc.ca.gov/EAMS) of uniform names and mailing addresses and preferred method of service for the following entities: claims administrators' offices, and representatives' offices. (2) Additions for new claims administrators' offices and representatives' offices and changes of name, location or address, telephone number, fax number, e-mail address or preferred method of service shall be registered with the Central Registration Unit. (A) The entity requesting the change must fax or e-mail a letter on letterhead with a signature from an authorized individual requesting the change to

COURT ADMINISTRATOR RULES	RULEMAKING WRITTEN COMMENTS 45 DAY COMMENT PERIOD	P	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
					the Division of Workers' Compensation's Central Registration Unit within five business days of any change. The entity shall also advise all parties of any change of name, mailing address, or telephone number by furnishing the current information within five business days of any change. (B) The fax number for the Central Registration Unit is: 1 (888) 822-9309. The e-mail address for the Central Registration Unit is: cru@dir.ca.gov. (C) The new uniform name or address and preferred method of service will be posted within ten business days of receipt of the request. (c)~~(b)~~ Except as required by subdivision (b), e~~E~~very ~~attorney, every~~ party~~,~~ and every lien claimant~~, and every representative of any party or lien claimant~~ having an interest in an active case pending before the district office

COURT ADMINISTRATOR RULES	RULEMAKING WRITTEN COMMENTS 45 DAY COMMENT PERIOD	P	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
					or appeals board shall advise the district office and all parties of any change of mailing address~~, as well as any change of~~ and telephone numbers~~, fax numbers or electronic mail addresses, where provided or required,~~ by furnishing the current information within five business days of any change (d)~~(c)~~ Every lien claimant that has filed a lien in a case pending in a district office shall advise all parties within five business days of any change in the identity and/or telephone number of the person with authority to resolve the lien by furnishing the correct name and daytime telephone number of that person to the interested parties; and shall advise the Division of Workers' Compensation of any such change after a declaration of readiness is filed. (e)~~(d)~~ Every party~~, attorney, hearing representative~~ and lien claimant having an interest in an inactive

COURT ADMINISTRATOR RULES	RULEMAKING WRITTEN COMMENTS 45 DAY COMMENT PERIOD	P	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
					case: (1) shall advise all other known parties, lien claimants, attorneys, and hearing representative within five business days of any change of address (which shall include any change of mailing address~~, as well as any change of~~ and telephone numbers~~, fax numbers or electronic mail addresses, where provided or required~~) by furnishing the correct and current address and/or number; and (2) shall advise the Division of Workers' Compensation of any such change within five business days if there is an outstanding award of further medical treatment or if there is continuing jurisdiction pursuant to Labor Code sections 5410, 5803 and 5804.
10217	Commenter recommends adding the Preferred Method of Service to these listings. It is unclear whether external users will *have* access to this record.		Steven Suchil Assistant Vice President American Insurance Assn. July 15, 2008 Written Comments	Agree. Section 10217(b)(2)(C) as amended provides that the preferred method of service for entities with a uniform name will be posted. With regard to service between parties, section 10218(b) will allow parties to enter into agreements regarding methods of service.	Section 10217(b)(2)(C) as amended provides that the preferred method of service for entities with a uniform name will be posted. With regard to service between parties, section 10218(b) is amended to allow parties to enter into agreements regarding methods of

COURT ADMINISTRATOR RULES	RULEMAKING WRITTEN COMMENTS 45 DAY COMMENT PERIOD	P	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
					service.
10217(b)	Commenter believes that the requirement to furnish change of address information within 5 business days of the change taking place is arbitrary and unnecessary. Commenter states that the Board has sanctions in place to deal with failures that impede the function of the WCAB.		Brenda Ramirez Claims & Medical Director Michael McClain, General Counsel & Vice President California Workers' Compensation Institute July 15, 2008 Written Comment	Disagree. It is necessary to require parties to provide change of address information within 5 days to ensure that the parties receive court documents and pleadings in a timely manner.	None
10218(a)	The purpose of this section is to provide a party to the claim the option to designate first class mail, electronic mail or fax as their preferred method of service for receiving documents from the district office and the appeals board. A party who does not designate a preferred method of service shall be served by first class mail. **Recommendation:** Commenter proposes that the preferred method of service be limited to each entity level only. If the method of service is on a case-specific level, the parties to the claim will have to check EAMS frequently or set up a database at an additional cost to monitor the method of service requested on each claim. The preferred method of service should be managed and maintained on EAMS to be uniform across all business interactions with other parties throughout the industry and WCAB. This listing needs to be formatted for downloading into existing systems/databases, e.g., in an Excel spreadsheet. This will promote efficient and timely case and document management.		Marie Wardell Claims Operations Manager State Compensation Insurance Fund July 15, 2008 Written Comments	Disagree. The preferred method of service only applies to how a party will receive documents from the district office or appeals board. (See section 10218(a).) The designated preferred method of service for claims administrators' offices and representative offices shall be the same for all active cases for those entities. All others will be served by first class mail. The designated method of service cannot be applied to service among parties because it would require another party to use technology that it may not feel comfortable using. Section 10218 (c) allows represented parties to enter into agreements regarding methods of service.	Section 10217 is amended as set forth above in response to Marie Wardell Claims Operations Manager State Compensation Insurance Fund July 15, 2008 Written Comments. With regard to service between parties, section 10218(b) is amended to allow represented parties to enter into agreements regarding methods of service.
10218(a)	Commenter recommends allowing the parties described in this Section to receive service in methods other than the U.S. Mail if they so choose.		Steven Suchil Assistant Vice President American Insurance Assn. July 15, 2008 Written Comments	Agree in part. Claims administrators' offices and representatives' offices may designate mail, fax or e-mail as the designated method of service from the district office or appeals board.	Section 10218(b) is amended to allow represented parties to enter into agreements regarding methods of service.

COURT ADMINISTRATOR RULES	RULEMAKING WRITTEN COMMENTS 45 DAY COMMENT PERIOD	P	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	Commenter unsure how and when the other parties will be advised of the other parties' preferred mailing options.			Agree in part. The preferred method of service only applies to the documents sent by the district offices. However, (b) is amended to clarify that represented parties may agree to any method of service.	
10218(b)	The purpose of this proposed section is to allow parties the option to agree that a designated preferred method of service with the WCAB may also be utilized for receiving documents from any other represented party, lien claimant, or attorney or other representative for a party or lien claimant. **Recommendation:** This language does not appear to be specific enough as to whether or not parties (party, lien claimant, attorney, or other representative, et. al.) can choose a different method of service on a case-by-case basis. Commenter recommends that each entity be required to select only one (1) method of service for their entity (i.e., legal office, organization, et al.) for every case filed and not be allowed to select a method of service on a case-by-case basis.		Marie Wardell Claims Operations Manager State Compensation Insurance Fund July 15, 2008 Written Comments	Disagree. The preferred method of service only applies to how a party will receive documents from the district office or appeals board. (See section 10218(a).) The designated preferred method of service for claims administrators' offices and representative offices shall be the same for all active cases for those entities. All others will be served by first class mail. The designated method of service cannot be applied to service among parties because it would require another party to use technology that it may not feel comfortable using. Section 10218 (c) allows represented parties to enter into agreements regarding methods of service.	Section 10217 is amended as set forth above in response to Marie Wardell Claims Operations Manager State Compensation Insurance Fund July 15, 2008 Written Comments. With regard to service between parties, section 10218(b) is amended to allow represented parties to enter into agreements regarding methods of service.
10218(b)	This should be revised to encourage electronic service. As written it is likely that in most cases service will revert to first class mail simply because the parties are not aware that the other parties will receive electronic service. In order to facilitate identification of those parties that will accept electronic service, we recommend that §10217 be amended to provide that the information required of all parties includes an electronic address and further that the official address record maintained by the Division will include the electronic address and will list the preferred method of service for all parties and lien claimants. Furthermore, when the EAMS system becomes mandatory for external users,		Sue Borg, President California Applicants' Attorneys Association Written and Oral Comments July 15, 2008 Linda Atcherley, Legislative Chair California Applicants' Attorneys Association Oral Comments	Agree in part. Section 10217(b)(2)(C) as amended provides that the preferred method of service for entities with a uniform name will be posted. The preferred method of service only applies to how a party will receive documents from the district office or appeals board. (See section 10218(a).) With regard to service between parties, section 10218(b) will allow represented parties to enter into agreements regarding methods of service. The designated method of service cannot be applied to service among parties because it would	Section 10217 is amended as set forth above in response to Marie Wardell Claims Operations Manager State Compensation Insurance Fund July 15, 2008 Written Comments. With regard to service between parties, section 10218(b) is amended to allow represented parties

COURT ADMINISTRATOR RULES	RULEMAKING WRITTEN COMMENTS 45 DAY COMMENT PERIOD	P	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	commenter recommends that § 10218 be amended to provide that electronic service shall be the default method of service.			require another party to use technology that it may not feel comfortable using.	to enter into agreements regarding methods of service.
10223	The proposed regulation informs the public that the DWC will have the ability to perform document substitution on filed documents, to repair scanned documents, and to move documents to other case files. The section also informs the public that a filer may substitute a document if it was unreadable or illegible. DWC may repair a document if the scanned image does not accurately reflect the original. **Recommendation:** Commenter recommends that the DWC provide notice to all parties of moved, substituted or repaired documents within a reasonable & specified timeframe.		Marie Wardell Claims Operations Manager State Compensation Insurance Fund July 15, 2008 Written Comments	Agree. The section is amended to state that notice will be provided.	The following subsection is added to section 10223: (f) The Division of Workers' Compensation will provide notice to all parties of moved, substituted, or repaired documents within 15 business days.
10223	As a practical matter, proposed 8 CCR § 10223 does not provide adequate recourse if paper documents are not properly entered into the correct case file. Subdivision (d) of this Section may provide aid when it is clear that a document in a file should be in a different file, but it provides no assistance to the party who looks at a file and finds out that documents that should be in that file are missing.		Mark Webb Vice President – Governmental Relations Employer Direct Insurance Company July 15, 2008 Written Comments	Disagree. The parties will maintain endorsed copies of the documents they file with the district office which they can present to the workers' compensation administrative law judge if there is a dispute regarding a document missing from the EAMS file.	None
10223	Commenter recommends an amendment to this section stating that the parties will be notified when the Division makes a correction either by moving or repairing a document. If this is not done, the parties may file duplicate documents or make complaints if reviewing file prior to the move or correction being made, causing additional costs and workload for both themselves and the Division.		Sue Borg, President California Applicants' Attorneys Association Written and Oral Comments July 15, 2008 Linda Atcherley, Legislative Chair California Applicants' Attorneys Association Oral Comments	Agree. The section is amended to state that notice will be provided.	The following subsection is added to section 10223: (f) The Division of Workers' Compensation will provide notice to all parties of moved, substituted, or repaired documents within 15 business days.
10223(c) and (d)	These subdivisions each provide that DWC		Steven Suchil	Disagree. It may not be possible to	None

COURT ADMINISTRATOR RULES	RULEMAKING WRITTEN COMMENTS 45 DAY COMMENT PERIOD	P	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	"may" repair a document where the scanning fails to reflect the original document, and "may" *move* a document if scanned into the wrong file. All three of the references to "may" in these two Sections should be changed to "shall."		Assistant Vice President American Insurance Assn. July 15, 2008 Written Comments	repair or substitute a document. There may be factual issues that need to be addressed.	
10225	Commenter recommends that the technical back-up for EAMS should be defined in the regulations and any alternate procedures for adjudication during any system failure should be stated in greater detail. Commenter points out that while section 10225 makes some provision for extended unavailability, including temporary paper files and Board service by mail, the issues raised by the potential failure of the system are more extensive and far-reaching and should be addressed in the regulations. From a technological standpoint, the EAMS back-up system should be described in some detail. To the extent that new procedures would apply, those procedures should be stated in the regulations, even if that only meant that the community would resort to paper files reconstructed by the case participants. Commenter recommends that the workers' compensation community be advised of the Board's disaster recovery plan. It may not be necessary to include the Board's disaster recovery plan in these proposed regulations; however, commenter recommends that essential information should be available to the workers' compensation community, if for no other reason than their own preparedness. Commenter believes that the procedures described in this section raise some of the issues		Brenda Ramirez Claims & Medical Director Michael McClain, General Counsel & Vice President California Workers' Compensation Institute July 15, 2008 Written Comment	Agree in part. Section 10225 is amended to state that the system will be backed up daily. Disagree regarding greater detail for a system failure. The procedures will depend on the severity of the failure and, as stated in the proposed regulation, the procedure will be set forth in the court administrator's order.	Section 10225 is amended to state: (f) EAMS shall be backed up daily pursuant to the State of California's information technology standards. None

COURT ADMINISTRATOR RULES	RULEMAKING WRITTEN COMMENTS 45 DAY COMMENT PERIOD	P	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	regarding a potential system failure but the procedures do not address the likelihood that an extended system failure would shut the local Boards down. Allowing the parties to obtain date stamped, conforming copies of the documents to be filed and scanning them after the system becomes operative again may be a useful interim solution. If the Board routinely scans all documents and destroys the paper copies, as the proposed regulations provide in several areas, then no previously filed documents will be available when the system fails for any period of time. The Board and the court administrator must consider a more detailed backup system or disaster recovery plan in order to ensure the continued delivery of benefits. That plan should be in place well before the "go live" date and should be communicated to the workers' compensation community in detail, so that all workers' compensation system participants understand and can prepare for what will be required in this circumstance.			Disagree. The parties may obtain conformed copies of filed documents, as they presently do. Disagree. The parties will have copies of their own documents.	None None
10225	This Section includes some of the procedures for dealing with an extended period of EAMS unavailability. If documents are destroyed after being scanned into the system, we are concerned about how the WCAB and DWC will be able to function. These regulations should provide a thorough explanation of what measures are included in the plan for System Back-Up/Business Recovery.		Steven Suchil Assistant Vice President American Insurance Assn. July 15, 2008 Written Comments	Agree in part. Section 10225 is amended to state that the system will be backed up daily. Disagree regarding greater detail for recovery after a system failure. The procedures will depend on the severity of the failure and, as stated in the proposed regulation, the procedure will be set forth in the court administrator's order.	Section 10225 is amended to state: (f) EAMS shall be backed up daily pursuant to the State of California's information technology standards.
10225	Reviewing this proposed section perfectly illustrates the difficulty of analyzing a system		Sue Borg, President California Applicants'	Disagree. Section 10225 (c) provides where the notice will be posted.	None

COURT ADMINISTRATOR RULES	RULEMAKING WRITTEN COMMENTS 45 DAY COMMENT PERIOD	P	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	that is not yet in place. There are a multitude of "what if" questions that arise in contemplating an "extended" period of EAMS unavailability. Some questions may be easily worked out, but others may represent major hurdles. For example, if the EAMS system is "unavailable," how will external users be notified of that fact? Many boards are in remote locations and not visited daily by either by practitioners or the injured workers. If a different filing process, or different timing for a required filing, is implemented during EAMS unavailability and individuals are not aware of these changes, this could cause major problems.		Attorneys Association Written and Oral Comments July 15, 2008 Linda Atcherley, Legislative Chair California Applicants' Attorneys Association Oral Comments		
	Furthermore, although commenter recognizes that during the initial period most external users will continue to file paper copies in person at the Board offices, what about her members and others who are participating in the optional e-filing of all documents? How will they be notified? If the system is down, will it even be able to send out a notice that it is down? And what happens when all external users are initiated into an e-filing process?			Disagree. Issues regarding e-filing are beyond the scope of these regulations.	None
	Beyond the filing questions, commenter does not believe this rule provides sufficient guidance regarding how the Board offices will operate during a period of extended EAMS unavailability. For example, how will the documents that have already been entered into the EAMS system be made available so that trials and conferences can continue? If, as recommended in an earlier comment, these regulations are revised to require the Division to maintain paper files for a period of time before destroying them it may be possible to replace the missing documents. Whether or not this recommendation is accepted, there must be some provision in these rules to define how to replace			Disagree regarding greater detail for recovery after a system failure. The procedures will depend on the severity of the failure and, as stated in the proposed regulation, the procedure will be set forth in the court administrator's order. The parties will have their own copies of the documents that were filed in EAMS. Agree to require the Division to maintain paper files for not less than 30 days after scanning – see sections 10216(e) and 10228(b).	None Sections 10216(e) and 10228(b) are amended to require the Division to maintain paper files for not less than 30 days after

COURT ADMINISTRATOR RULES	RULEMAKING WRITTEN COMMENTS 45 DAY COMMENT PERIOD	P	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	documents that have been entered into EAMS but that are unavailable because the system itself is unavailable.				scanning.
10225(c)	The purpose of this proposed regulation is to inform the public what types of orders that Court Administrator will issue if there is a system failure of EAMS for at least 24 hours. **Recommendation:** Commenter recommends that the website include a history of any and all suspensions for later reference by an outside user.		Marie Wardell Claims Operations Manager State Compensation Insurance Fund July 15, 2008 Written Comments	Agree. Section 10225 (e) is amended to provide that the Division of Workers' Compensation will maintain a list of any and all technical failures of EAMS that last longer than 24 hours on its website.	Section 10225 (e) is amended to provide: (e) The Division of Workers' Compensation will maintain a list of any and all technical failures of EAMS that last longer than 24 hours on its website.
10228(a) and (b)	Commenter does not understand the reason that case documents as described in subdivisions (a) and (b) must be filed at a specific physical location. It is her understanding that these documents will be scanned into EAMS as soon as they are filed regardless of where they are filed. Thus, all newly filed documents will be entered into EAMS at the identical time whether filed in Sacramento, Los Angeles, San Francisco, or any other district office. Consequently the location of the office at which the documents are filed should be immaterial. Should the Division adopt her recommendation that legacy files be maintained in paper form, then the rules in this section would apply to these legacy files.		Sue Borg, President California Applicants' Attorneys Association Written and Oral Comments July 15, 2008 Linda Atcherley, Legislative Chair California Applicants' Attorneys Association Oral Comments	Disagree re (a). The documents must be filed with the district office having venue so that the work will be distributed among the current staff. (The staffing is based on current filings). Agree re (b). Because there are so few filings that fall under (b), this subdivision is deleted.	None Subdivision (b) is deleted.
10228(c)	Commenter believes that this section should be deleted. This regulation is redundant because the Board already has adequate authority to enforce its rules, when the failure to follow procedural requirements is determined to be disruptive. The proposed regulation is unworkable because no party will include a SASE with an erroneously directed document and cannot afford to do so with every document. The consequence of		Brenda Ramirez Claims & Medical Director Michael McClain, General Counsel & Vice President California Workers' Compensation Institute July 15, 2008 Written Comment	Agree. Subdivision (c) is deleted.	Subdivision (c) is deleted.

COURT ADMINISTRATOR RULES	RULEMAKING WRITTEN COMMENTS 45 DAY COMMENT PERIOD	P	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	failing to follow the dictates of this section is that a necessary document is eliminated from the Board's evidentiary record without notice to the parties. The proposed rule is unnecessary because a positive feature of an electronic litigation management system is that the documents can be scanned into the system from any location and, once scanned, be attached to the proper file by the system. Rather than eliminating documents from the Board evidentiary record, the Board should include the document and notify the case participant of the need to file document at the district office with proper venue.				
	Commenter recommends that as part of the document completion phase, the system should automatically provide a confirmation of the records successfully filed. Any records rejected by the appeals board, for whatever reason, should be returned to the filing party with an explanation of the failure. If a party or lien claimant consistently fails to follow the document filing procedures, the Board has adequate means to correct this conduct.			Agree in part. Section 10222 is amended to provide that a filer will be notified within 15 days if the document is not accepted for filing.	Section 10222 is amended to provide: (a)(2) Notify the filer that the document is not accepted for filing by service of a Notice of Document Discrepancy. The Notice shall state the discrepancy, the date of the attempted filing, and provide the filer with 15 business days from service to cure the discrepancy. If the document is corrected within 15 business days, or at a later date upon a showing of good cause, it shall be deemed filed on the original date the document was submitted.
	Commenter states that in a number of regulations				

COURT ADMINISTRATOR RULES	RULEMAKING WRITTEN COMMENTS 45 DAY COMMENT PERIOD	P	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	(section 10210(k), (l), & (m)), the court administrator is establishing a new procedure for filing documents in EAMS and advises that the paper documents successfully loaded into the new system will or may be destroyed. In some cases, incomplete documents will be reviewed and discarded, sometimes with notice to the parties, sometimes with notice if the filer has included a SASE, and sometimes, it is implied, without notice to the parties. Without confirmation that a document has been successfully loaded into the system, the filing party will not know what documents have become a part of the evidentiary record. Rejection without notice to the filing party will only add to the confusion and potentially taint the Board's evidentiary record. Commenter states that in no event should the appeals board, on purely technical or procedural grounds, reject a document intended for inclusion in the evidentiary record and discard it without notice to the parties and an opportunity to correct the defect.				
10228(c)	Commenter states that this subdivision should be deleted. If it is retained, the result will be delay or - worse yet, possible gaps in the record. We see no reason for this provision when scanning and transmission to the file can occur from any location.		Steven Suchil Assistant Vice President American Insurance Assn. July 15, 2008 Written Comments	Agree. Subdivision (c) is deleted.	Subdivision (c) is deleted.
10228(c)	Subdivision (c) provides that documents filed in the "wrong" district office will be rejected, but provides that these documents may be returned where the filing party includes a self-addressed stamped envelope. As noted above, commenter does not believe there is a "wrong" filing location since all filed documents will be scanned into EAMS regardless of where these documents are filed. Consequently, commenter recommends		Sue Borg, President California Applicants' Attorneys Association Written and Oral Comments July 15, 2008 Linda Atcherley, Legislative Chair California Applicants'	Agree. Subdivision (c) is deleted.	Subdivision (c) is deleted.

COURT ADMINISTRATOR RULES	RULEMAKING WRITTEN COMMENTS 45 DAY COMMENT PERIOD	P	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	that this section be extensively amended or deleted. However, should this section be retained, she recommends that subdivision (c) be amended to recognize those cases in which the filing party has designated email as the preferred method of service. Specifically, we recommend adding the following sentence after the word "postage": "If the party filing the document is receiving service via email from EAMS, the party will be notified by email of the incorrect filing."		Attorneys Association Oral Comments		
10229	This section refers to Title 8, section 10603 but there is no such regulation currently in place.		Brenda Ramirez Claims & Medical Director Michael McClain, General Counsel & Vice President California Workers' Compensation Institute July 15, 2008 Written Comment	Disagree. Section 10603 is a proposed WCAB regulation.	None
10229(c)	The proposed regulation states that attorneys, insurance carriers, self insured employers, third party administrators, lien claimants or any representatives of the above shall file optical character recognition forms completed by using a computer or a typewriter. **Recommendation:** Commenter recommends that parties who negotiate and agree on settlements at hearings or trials should have the option to enter all information in the forms in handwritten text in order to obtain signatures from all parties present at the board. The proposed requirements to file the forms completed only by using a computer or typewriter will create undue hardship for all parties to the case because settlements agreed upon at MSCs or trials cannot now be executed and signed at the venue. Currently many settlement papers are finalized at the hearings and all entries and information is handwritten.		Marie Wardell Claims Operations Manager State Compensation Insurance Fund July 15, 2008 Written Comments	Agree. Section 10228(c) is revised to add the phrase "with the exception of OCR forms that are prepared at a hearing or that, for good cause, are filed at trial:"	Section 10228(c) is revised to add the phrase "with the exception of OCR forms that are prepared at a hearing or that, for good cause, are filed at trial:"

COURT ADMINISTRATOR RULES	RULEMAKING WRITTEN COMMENTS 45 DAY COMMENT PERIOD	P	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	The parties will now need to carry a portable printer with a computer or take the documents back to their office locations and go through an elaborate process to get approval from all parties. This can lead to ongoing disputes when not necessary and delay payments to injured workers.				
10229(c)	The requirement that these forms be filled out by typewriter or computer should be amended to enable cases to move forward without unnecessary delays. Commenter recommends that subdivision (c) be amended to add the following beginning phrase (which was in a previous version of these regulations): "With the exception of paper documents that are prepared at hearing or that, for good cause, are filed at trial," In addition, she notes that every other Court that uses electronic filing, including the Superior Courts and Appellate Courts, allow *neat* block handwriting on forms and briefs. Consequently, she also recommends that this subdivision be amended to allow the filing of OCR forms that have been completed in neat block handwriting.		Sue Borg, President California Applicants' Attorneys Association Written and Oral Comments July 15, 2008 Linda Atcherley, Legislative Chair California Applicants' Attorneys Association Oral Comments	Agree. Section 10228(c) is revised to add the phrase "with the exception of OCR forms that are prepared at a hearing or that, for good cause, are filed at trial:" Disagree. See Addendum A. The scanning will not be accurate unless the forms are filled with all capital type.	Section 10228(c) is revised to add the phrase "with the exception of OCR forms that are prepared at a hearing or that, for good cause, are filed at trial:" None
10230	This section provides that a document is deemed filed on the day received if received prior to 5:00 P.M. While this may be appropriate for the paper filing of OCR forms, even initially there will be some users who file documents electronically. Commenter recommends that this section be amended to provide that electronically filed documents are deemed filed on the day received if received prior to 12:00 AM, midnight, of that day. She believes this midnight deadline was proposed in previous versions of these rules, and a midnight deadline was discussed in various meetings held on the system around the state. Although she recognizes that this provides a differential between paper and electronic users, she believes that every effort should be made to		Sue Borg, President California Applicants' Attorneys Association Written and Oral Comments July 15, 2008 Linda Atcherley, Legislative Chair California Applicants' Attorneys Association Oral Comments	This comment goes beyond the scope of this set of regulations. The electronic filing requirements will be included in a separate set of regulations.	None

COURT ADMINISTRATOR RULES	RULEMAKING WRITTEN COMMENTS 45 DAY COMMENT PERIOD	P	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	encourage participation in the electronic system.				
10232	This section refers to Title 8, section 10603 but there is no such regulation currently in place.		Brenda Ramirez Claims & Medical Director Michael McClain, General Counsel & Vice President California Workers' Compensation Institute July 15, 2008 Written Comment	Disagree. Section 10603 is a proposed WCAB regulation.	None
10232	Commenter believes that requiring the judge's prior permission to file documents over 25 pages is an unnecessary burden when there are tight time constraints for filing documents like Petitions for Reconsideration and it may be not be possible to get the prior permission, or potentially parties will get permission to file the documents at the trial level without regard to whether this permission is ultimately needed anyway. In any case, she questions how much of a problem this has been historically and whether this limitation is needed if there has been no demonstrated abuse. Commenter urges the division to consider the complete elimination of any artificial limit. Since these regulations contemplate that all newly filed documents will be maintained in electronic format, there does not appear to be any reason for limiting the size of pleadings and other documents to 25 pages. However, if the Division feels some limit is needed, we suggest that the word count limits that are applicable to filings with the appellate court may be more appropriate.		Sue Borg, President California Applicants' Attorneys Association Written and Oral Comments July 15, 2008 Linda Atcherley, Legislative Chair California Applicants' Attorneys Association Oral Comments	Disagree. This requirement is necessary because the documents will all have to be scanned into EAMS. (Please note, the rule excludes medical reports and proposed exhibits.) Additionally, page limitation is a common court rule. For example, see California Rules of Court, rule 3.1113, which limits memorandum to 15 pages and summary judgment motions to 20 pages.	None
10232(a)	The word "primary" should be added before the word "treating" in the first line.		Steven Suchil Assistant Vice President American Insurance Assn.	Disagree. All treating physician medical reports are excluded from the limitations set forth in section 10232,	None

COURT ADMINISTRATOR RULES	RULEMAKING WRITTEN COMMENTS 45 DAY COMMENT PERIOD	P	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
			July 15, 2008 Written Comments	not just primary treating physician reports.	
10232(a)(5)	This subsection states that "Except as otherwise provided by this section, documents shall be printed in Times New Roman, Times..." It excludes a very common sans-serif font, Arial. **Recommendation:** Commenter recommends that other typefaces commonly used in standard business correspondence, such as Arial, Helvetica, Standard, and Universe, be permitted.		Marie Wardell Claims Operations Manager State Compensation Insurance Fund July 15, 2008 Written Comments	Disagree. See Addendum A. For scanning accuracy, serif type is required. As set forth in the documents relied upon (Lynch and Horton, *Web Style Guide*, (Yale University Press, 1999) 87-88; *Merriam-Webster's Manual for Writers and Editors*, (Springfield, 1998) p. 329; and Edward Tufte, *Envisioning Information*, (Graphics Press, 1999) p. 51) serif faces are easier to read in blocks or paragraphs of text than sans-serif faces.	None
10232(a)(6)	Commenter recommends deletion of the 25 page document limit. It is an artificial limit and could delay completing the record because special permission would be needed to exceed this limit.		Steven Suchil Assistant Vice President American Insurance Assn. July 15, 2008 Written Comments	Disagree. This requirement is necessary because the documents will all have to be scanned into EAMS. (Please note, the rule excludes medical reports and proposed exhibits.) Additionally, page limitation is a common court rule. For example, see California Rules of Court, rule 3.1113, which limits memorandum to 15 pages and summary judgment motions to 20 pages.	None
10232.1	Since the DWC-CA form 10232.12 is referenced in Section 10210 of the draft regulations as the "document cover sheet," commenter recommends changing the title of the form from "Cover Sheet" to "document cover sheet." Commenter believes that the party should be required to submit only the pages in this document that are sufficient to describe the case in chief and any companion cases. Commenter requests that the division consider adding a "note" at the bottom of each page to instruct the user to submit additional pages of form as appropriate.		Brenda Ramirez Claims & Medical Director Michael McClain, General Counsel & Vice President California Workers' Compensation Institute July 15, 2008 Written Comment	Agree in part. The title of the form is amended to state "Document Cover Sheet." Section 10232(b)(1) is amended to state that only the pages of the document cover sheet that are filled out need to be filed.	The title of the form is amended to state "Document Cover Sheet." Section 10232(b)(1) is amended to state that only the pages of the document cover sheet that are filled out need to be filed.

COURT ADMINISTRATOR RULES	RULEMAKING WRITTEN COMMENTS 45 DAY COMMENT PERIOD	P	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	Commenter recommends replacing the four proposed fields with a single "date of injury" field. Check boxes have been added to indicate specific and cumulative injury in this and many other forms. Only the single date of injury that is currently in use is necessary. The date of cumulative injury may be at issue. The proposed from and to dates are unnecessary and will be a source of confusion and additional dispute. In addition, this creates a new field, not part of most claim systems, that will be costly to add, and that is of no value to injured employees. These proposed changes are not necessary for EAMS implementation and commenter believes that the proposed regulations should be limited to those required to implement this initial phase.			Disagree. See Addendum A. Also, 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
10232.1	Commenter recommends that fields to enter **"Name of the Injured Employee"** and **"Claim Number"** be added on each page to ensure clear identification during the printing, collating, mailing, receiving and scanning process. Commenter recommends that the regulations clarify if the **Cover Sheet** should display only the **Three (3) Character Codes** <u>or</u> the **Full Description of the Body Parts** from the list attached to the Document Separator Sheet. The revised version of the proposed forms allows for both entries up to a maximum of 19 characters.		Marie Wardell Claims Operations Manager State Compensation Insurance Fund July 15, 2008 Written Comment	Disagree. See Addendum A. Disagree. As it states on the body part code attachment, the code should be used to complete the form. The code itself is sufficient. DWC will also post a set of abbreviations that may optionally be entered.	None None
10232.1	Commenter suggests adding a Case Number field and we would also like to see a note indicating that only the number of pages necessary need be transmitted. This will be especially needed during the OCR transmittal phase.		Steven Suchil Assistant Vice President American Insurance Assn. July 15, 2008 Written Comments	Disagree re: case number field. The form already has a case number field, so it does not need to be added. Agree re: pages necessary: Section 10232 (b)(1) is revised to clarify that only the document cover sheet pages filled out need to be filed.	None Section 10232 (b)(1) is revised to clarify that only the document cover sheet pages filled out need to be filed.
10232.2	Commenter recommends that fields to enter		Marie Wardell	Disagree. See Addendum A.	None

COURT ADMINISTRATOR RULES	RULEMAKING WRITTEN COMMENTS 45 DAY COMMENT PERIOD	P	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	"Name of the Injured Employee" and **"Claim Number"** be added on each page to ensure clear identification during the printing, collating, mailing, receiving and scanning process. The instruction at the bottom of the four attached sheets to the Document Separator sheet should indicate that the document title/types should be used to complete *"Document Separator Sheet"* and not "Document Cover Sheet".		Claims Operations Manager State Compensation Insurance Fund July 15, 2008 Written Comment	Agree. The document is revised.	The words "Document Separator Sheet" now replace "Document Cover Sheet."
10232.2	Commenter thanks the division for changing the title of the form from "EAMS Patchcode" to "document separator sheet" and for defining the options for the "document type" and other fields on the form. Commenter suggests integrating the document types and document title by unit into a single easy to reference list in a uniform format. An "other" category is necessary in each Unit's list of document types and document titles. Comment questions if the form should include a field for the case number.		Brenda Ramirez Claims & Medical Director Michael McClain, General Counsel & Vice President California Workers' Compensation Institute July 15, 2008 Written Comment	No response needed. Disagree. The document titles are organized alphabetically by document types and units, which is the most intuitive organization. Disagree. A case number field is not necessary on the separator sheet because that information will be on the document cover sheet.	None.
10232.2	Commenter suggests the addition of a Case Number field and perhaps a Form Completion Memo would be helpful here. It is not clear what the "Product Delivery Unit" is, or how this line is to be filled in. It is not clear whether the Document Date means the date on the document, the date it is signed, the date it is received by filer, or some other date. It is not clear whether the author is the writer or the filer of the document?		Steven Suchil Assistant Vice President American Insurance Assn. July 15, 2008 Written Comments	Agree in part. A definition of "product delivery unit" is added to section 10210 (bb). Section 10232 is revised to provide more instruction regarding the body parts codes and the list of district office venues. The separator sheet requires information regarding the attached document. Therefore, document date is the date of the attached document and author is the person who prepared the document.	A definition of "product delivery unit" is added to section 10210 (bb). Section 10232 is revised to provide more instruction regarding the body parts codes and the list of district office venues.
10233	This section refers to Title 8, section 10603 but there is no such regulation currently in place.		Brenda Ramirez Claims & Medical Director	Disagree. Section 10603 is a proposed WCAB regulation.	None

COURT ADMINISTRATOR RULES	RULEMAKING WRITTEN COMMENTS 45 DAY COMMENT PERIOD	P	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
			Michael McClain, General Counsel & Vice President California Workers' Compensation Institute July 15, 2008 Written Comment		
10233(a)	Commenter is concerned that the citation to Section 10603, which is currently only proposed for the WCAB, may be precipitous here. If adoption of this section not finalized simultaneously with these regulations, the citation may create a lack of clarity and confusion.		Steven Suchil Assistant Vice President American Insurance Assn. July 15, 2008 Written Comments	Disagree. Section 10603 is a proposed WCAB regulation. The effective dates of the two sets of regulations will be the same.	None
10233(b)(1)	This subsection contains a typographical error. The provision begins "When filing of'. The "of' should be deleted.		Steven Suchil Assistant Vice President American Insurance Assn. July 15, 2008 Written Comments	Agree. The typographical error is corrected.	The typographical error is corrected.
10233(b)(1)	Under subdivision (b)(1) of this section, reports of the Primary Treating Physician or Treating Physician are not mentioned. Many cases are settled and/or set on the reports of the treating physician only, especially where the issue is medical treatment (as would be the case of an expedited hearing). Commenter recommends that subdivision (b)(1) be amended to mirror the language in subdivision (c)(1) with respect to reports from the treating physician.		Sue Borg, President California Applicants' Attorneys Association Written and Oral Comments July 15, 2008 Linda Atcherley, Legislative Chair California Applicants' Attorneys Association Oral Comments	Agree. The words "and any treating physician" are added.	The words "and any treating physician" are added.
10233(b)(2)	This subsection contains a typographical error. The provision begins "When filing of'. The "of' should be deleted.		Steven Suchil Assistant Vice President American Insurance Assn. July 15, 2008 Written Comments	Agree. The typographical error is corrected.	The typographical error is corrected.
10233(c)(1)	This subsection contains a typographical error. The provision begins "When filing of'. The "of' should be deleted.		Steven Suchil Assistant Vice President American Insurance Assn. July 15, 2008	Agree. The typographical error is corrected.	The typographical error is corrected.

COURT ADMINISTRATOR RULES	RULEMAKING WRITTEN COMMENTS 45 DAY COMMENT PERIOD	P	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
			Written Comments		
10233(c)(2)	This subsection contains a typographical error. The provision begins "When filing of'. The "of' should be deleted.		Steven Suchil Assistant Vice President American Insurance Assn. July 15, 2008 Written Comments	Agree. The typographical error is corrected.	The typographical error is corrected.
10233(e) and (f)	These subsections state that 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. **Recommendation:** It is unclear how to execute this regulation. There is no instruction and/or direction as to how or the manner in which a party will excerpt a portion(s) of a record. Does the party "cut & paste" the excerpted portion of the medical record to another document? Commenter recommends that the regulation state specifically how and the manner in which the DWC requires the parties to present each excerpted portion of the medical record.		Marie Wardell Claims Operations Manager State Compensation Insurance Fund July 15, 2008 Written Comments	Disagree. The filer may excerpt the relevant portion in any manner. The size and type of the record may affect the decision of what method works best.	None
10235	Commenter recommends that this section be clarified to remove a potential ambiguity. This section lists documents that shall not be filed with the Board. Although it may be improper to file the listed documents as stand alone documents, this rule in conjunction with §§ 10232 and 10235 could be read to preclude these documents when filed as exhibits to Motions to Compel Attendance at Doctor's appointment or deposition, penalty petitions, etc. It would be a waste of the court's time if it is necessary to obtain permission to attach necessary documents in such cases. Commenter recommends that the rule be amended to permit these documents to be filed as exhibits.		Sue Borg, President California Applicants' Attorneys Association Written and Oral Comments July 15, 2008 Linda Atcherley, Legislative Chair California Applicants' Attorneys Association Oral Comments	Agree. Section 10235 is deleted and merged into section 10222 (b), with clarifying language excluding non duplicative supporting exhibits, or upon the order of a workers' compensation administrative law judge or the appeals board.	Section 10235 is deleted and merged into section 10222 (b), with clarifying language excluding non duplicative supporting exhibits, or upon the order of a workers' compensation administrative law judge or the appeals board.
10235(b)	Commenter recommends the following modified language:		Brenda Ramirez Claims & Medical Director	Agree in part. Section 10222 is added to address the problem of documents	Section 10222 is added: **§10222. Failure to**

COURT ADMINISTRATOR RULES	RULEMAKING WRITTEN COMMENTS 45 DAY COMMENT PERIOD	P	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	Documents improperly submitted pursuant to this section shall not be accepted for filing or deemed filed and shall ~~not~~ be ~~acknowledged and may be discarded~~ returned to the filing party. The proposed regulation allows the Board to discard improperly filed documents without notice to the parties. These documents are considered by the party filing them to be integral to the case and a necessary part of the evidentiary record. To discard them without notice to the filing party is to invite error in the record. Because the filing of these documents is so important, there should also be a confirmation statement to advise the parties that documents submitted to the Board have been appropriately filed in the case. In the interim, before the workers' compensation community has electronic access to the system, it is improper for the Board to simply refuse to accept or discard material deemed important to one of the parties without notice. It may be more appropriate to return improperly filed materials and sanction the errant party.		Michael McClain, General Counsel & Vice President California Workers' Compensation Institute July 15, 2008 Written Comment	that are not filed in compliance with the regulations. Either the defect will be corrected and filed, or the filer will receive a notice of document discrepancy and a 15 day period in which to correct the discrepancy. Section 10235 is deleted and merged into section 10222 (b). The documents listed in (b) are not documents that require action by the district office and therefore should not be filed at all. The documents listed in (b) shall not be filed and no notice will be provided to the filer. This subdivision is similar to the current WCAB rule section 10395.	**Comply with the Court Administrator's Rules.** (a) If a document is not filed in compliance with the court administrator's rules, either because it does not comply with the procedural requirements or with the place of filing requirements, the court administrator may in his or her discretion take the following actions: (1) Correct the defect and file the document; or (2) Notify the filer that the document is not accepted for filing by service of a Notice of Document Discrepancy. The Notice shall state the discrepancy, the date of the attempted filing, and provide the filer with 15 business days from service to cure the discrepancy. If the document is corrected within 15 business days, or at a later date upon a showing of good cause, it shall be deemed filed on the original date the document was submitted. (b) Notwithstanding the provisions of subdivision (a), the following documents shall not be filed with the district office or the appeals

COURT ADMINISTRATOR RULES	RULEMAKING WRITTEN COMMENTS 45 DAY COMMENT PERIOD	P	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
					board, except as a non duplicative supporting exhibit or upon the order of a workers' compensation administrative law judge or the appeals board. Documents improperly submitted pursuant to this subdivision shall not be accepted for filing or deemed filed and shall not be acknowledged and may be discarded. (1) letters to opposing parties or counsel; (2) subpoenas; (3) notices of taking deposition; (4) medical appointment letters; (5) proofs of service ordered pursuant to California Code of Regulations, title 8, section 10500, subd. (a); (6) medical reports, except as required by section 10233; (7) copies of any decision of any federal or state court opinion otherwise available. (8) copies of any decision of the appeals board or a workers' compensation administrative law judge that is otherwise available. (9) duplicate medical and

COURT ADMINISTRATOR RULES	RULEMAKING WRITTEN COMMENTS 45 DAY COMMENT PERIOD	P	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
					medical-legal reports. (10) no diagnostic imaging as defined in Labor Code section 139.3, subd. (b)(1), shall be transmitted to the district office or the appeals board unless it is ordered. (c) No document shall be sent by electronic mail or by fax directly to the district office or the appeals board. If a document is sent by electronic mail or fax directly to the district office, it shall not be accepted for filing or deemed filed, shall not be acknowledged, and may be discarded unless otherwise ordered by the workers' compensation administrative law judge or the appeals board.
10235(b)	This subdivision presents concerns. Each transmittal or transmission, whether OCR or electronic, should be acknowledged either as received and accepted, or rejected. If rejected, the package should be returned to the sender with advice on the deficiency and any means of correction.		Steven Suchil Assistant Vice President American Insurance Assn. July 15, 2008 Written Comments	Agree in part. Section 10222 is added to address the problem of documents that are not filed in compliance with the regulations. Either the defect will be corrected and filed, or the filer will receive a notice of document discrepancy and a 15 day period in which to correct the discrepancy. Section 10235 is deleted and merged into section 10222 (b). The documents listed in (b) are not documents that require action by the district office and therefore should not be filed at all. The documents listed	Section 10222 is added. See language above.

COURT ADMINISTRATOR RULES	RULEMAKING WRITTEN COMMENTS 45 DAY COMMENT PERIOD	P	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	The proposed regulations vary as to the fate of incorrectly file documents. We believe that there must be a consistent procedure and that, in all cases, the filer must be notified if the documents are not added to the system, and provided with the method to remedy the matter.			in (b) shall not be filed and no notice will be provided to the filer. This subdivision is similar to the current WCAB rule section 10395. Same response.	Section 10222 is added.
10236	This section refers to Title 8, section 10603 but there is no such regulation currently in place.		Brenda Ramirez Claims & Medical Director Michael McClain, General Counsel & Vice President California Workers' Compensation Institute July 15, 2008 Written Comment	Disagree. Section 10603 is a proposed WCAB regulation.	None
10236(a)	Commenter is concerned that the citation to Section 10603, which is currently only proposed for the WCAB, may be precipitous here. If adoption of this section not finalized simultaneously with these regulations, the citation may create a lack of clarity and confusion.		Steven Suchil Assistant Vice President American Insurance Assn. July 15, 2008 Written Comments	Disagree. Section 10603 is a proposed WCAB regulation. The effective dates of the two sets of regulations will be the same.	None
10240 and 10241	Commenter objects to these proposed sections. Commenter sees no benefit from having all lien claimants attending perfunctory MCS's or other interim hearings regarding the case in chief. It will unnecessarily burden medical providers, and act as a barrier to medical providers even pursuing liens due to these added unnecessary costs of pursuing liens. Section 10240 is inconsistent with the long-held definition of a party, under the current and these proposed rules. Section 10210(w), in effect, says a lien claimant is not a party to a proceeding until		Niko Paris, Esq. California Pharmacy Management, Inc. July 15, 2008 Written Comment	Agree in part. Sections 10240 and 10241 are amended.	Section 10240 as amended provides: (a) All parties and lien claimants shall appear at all hearings, except as provided below: (1) 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)

COURT ADMINISTRATOR RULES	RULEMAKING WRITTEN COMMENTS 45 DAY COMMENT PERIOD	P	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	the applicant's underlying case in chief is resolved. How can a non-party be forced to attend hearings? Second, the added cost burden to lien claimants means that the Effect on Small Business statement is absolutely false. Commenter would like to propose a possible cost saving solution to the problems inadvertently created by this proposed section. Currently lien claimants do not attend any hearings, but major applicant hearings, such as case in chief trial. Instead, when they receive a hearing notice involving routine applicant related hearings, they send the court a letter of non appearance indicating who they are, what medical providers and liens are represented, and how to contact them to attempt to resolve outstanding liens at the time of resolution of the case in chief. Commenter requests that the division permit the filing of a non-appearance.				shall not be required to appear at the mandatory settlement conference or trial, unless otherwise ordered by the workers' compensation administrative law judge. (2) Where liability for the claim has been accepted, lien claimants not defined as a party under subdivision 10210(y)(3), with a lien claim of $25,000 or more, shall appear or have a representative appear at the mandatory settlement conference or lien conference, unless the appearance is excused by the workers' compensation administrative law judge. (3) Lien claimants not defined as a party under subdivision 10210(y)(3) with liens of less than $25,000 shall be available by telephone with settlement authority and shall notify defendant(s) of the telephone number at which the defendant may reach the lien claimants during the mandatory settlement conference or lien conference. The workers'

COURT ADMINISTRATOR RULES	RULEMAKING WRITTEN COMMENTS 45 DAY COMMENT PERIOD	P	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
					compensation administrative law judge may order the appearance of lien claimants not defined as a party under subdivision 10210(y)(3), with liens of less than $25,000 at a mandatory settlement conference or lien conference. (4) All lien claimants shall appear at trial at which their lien(s) is an issue to be decided. (b) All parties shall have a person available with settlement authority at the mandatory settlement conference or lien conference. The person with settlement authority need not be present if an attorney or representative who is present at these proceedings can obtain immediate authority by telephone. (c) Unless the notice otherwise provides, the applicant shall be present at a mandatory settlement conference as provided in Labor Code section 5502, subd. (e). (d) Appearance at a hearing not covered under

COURT ADMINISTRATOR RULES	RULEMAKING WRITTEN COMMENTS 45 DAY COMMENT PERIOD	P	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
					this section shall be at the discretion of the workers' compensation administrative law judge. Section 10241(b) is amended to add the words, "pursuant to section 10240."
10240 and 10241	Commenter objects to the requirement for lien claimants to appear for every scheduled conference and/or hearing. He states that being present for all hearings will not expedite the settlement process because the defendants are the ones in control of whether the case will be settled or not and they do not like to settle liens before the case is resolved. He fears that if this in enacted that medical providers will cease treating workers' compensation patients.		Ron Diller, Esq. Southern California Medical Legal Consultants July 14, 2008 Oral Testimony	Agree. Sections 10240 and 10241 are amended. See response to Niko Paris, Esq. California Pharmacy Management, Inc. July 15, 2008 Written Comment, above.	Sections 10240 and 10241 are amended. See response to Niko Paris, Esq. California Pharmacy Management, Inc. July 15, 2008 Written Comment, above.
10240 and 10241	Commenter objects to these proposed regulations. As a lien claimant for the past seven years and dealing with adjusters & defense attorneys in the negotiation of liens, commenter believes that the proposed regulations will prejudice lien claimant's ability to recover on their lien. Lien claimants are told on a frequent basis prior to a conference that our lien will not be at issue nor will it be addressed, due to the underlying case has not resolved, and the lien will not be addressed until such time the underlying issues are resolved. Commenter's organization has had on calendar		Fred Earl, Workers' Compensation Operations Manager - Dept. of Health Care Services July 15, 2008 Written Comment	Agree in part. Sections 10240 and 10241 are amended. See response to Niko Paris, Esq. California Pharmacy Management, Inc. July 15, 2008 Written Comment, above.	Sections 10240 and 10241 are amended. See response to Niko Paris, Esq. California Pharmacy Management, Inc. July 15, 2008 Written Comment, above.

COURT ADMINISTRATOR RULES	RULEMAKING WRITTEN COMMENTS 45 DAY COMMENT PERIOD	P	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	for the month of June, 293 cases calendared, two thirds of those cases we were advised by defense counsel that an appearance would not be necessary, as the underlying issues of the case will not resolve. On the remaining one third (Lien Conferences) the lien did not settle as the defendant did not have authority to resolve, and therefore was rescheduled for another conference, if these are the issues the WCAB is trying to avoid, then my suggestion would be to look at the defense side, as they are the cause for delays in resolving liens. Commenter understands what the division is trying to accomplish, but doesn't think enough research has been dedicated to this issue to come up with a solution that would be beneficial for all concerned. Lien claimants have no control over their lien until such time the underlying issues of the case resolves. Commenter states that it is a very small percentage of cases that settle at Mandatory Settlement Conferences, Status Conferences, Expedited Hearings and Pre Trial Conferences. Commenter believes that these proposed regulations will bring more work to the WCJ (which they will not have time to manage) and it will create a back log in the courts from objections submitted on notices of intent. Commenter opines that the proposed regulations appear to prejudice the lien claimant and deny due process.				
10240 and 10241	Commenter objects to this proposed rule. If adopted, Proposed Rule 10240 would require lien claimants with liens worth more than $2,500 to appear at *every* hearing unless excused by the WCJ. Currently, WCAB Rule 10563 requires		Douglas Benner, MD Kaiser Permanente July 14, 2008 Written Comment	Agree in part. Sections 10240 and 10241 are amended. See response to Niko Paris, Esq. California Pharmacy Management, Inc. July 15, 2008	Sections 10240 and 10241 are amended. See response to Niko Paris, Esq. California Pharmacy Management, Inc.

COURT ADMINISTRATOR RULES	RULEMAKING WRITTEN COMMENTS 45 DAY COMMENT PERIOD	P	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	that lien claimants appear only at mandatory settlement conferences ("MSC") and trials. The current process is an effective method of resolving liens, while avoiding in-person appearances at every hearing, as defined by proposed Court Administrator Rule 10210. At many of these hearings the lien is not in issue and the lien claimant's participation is unnecessary. The current WCAB Rule 10563 which requires lien claimants to be present only at MSCs or trials where the lien is in issue and ripe for resolution is reasonable and effective. To require lien claimants to attend every hearing in which they have no substantive input is unduly burdensome and yields no benefit to the efficiency of the system. The fact that Proposed Rule 10240 provides that lien parties may be "excused" from a noticed hearing fails to take into account the substantial cost of requesting excuses, on the part of the lien claimants, and responding to those requests, on the part of the WCJs. Requiring lien claimants to attend all hearings would also burden the WCJs, who are charged with coordinating the participants based on the availability of attending representatives. Currently, lien claimants do not seek continuances for unavailability for hearings unless the hearing is a lien conference because they are not required to attend or be available by phone. In a system that requires universal attendance (and punishes non-attendance with dismissal) WCJs would be obliged to grant reasonable continuances to lien claimants, in addition to the principal parties. In cases involving numerous parties and lien claimants, the formerly simple task of scheduling an			Written Comment, above.	July 15, 2008 Written Comment, above

COURT ADMINISTRATOR RULES	RULEMAKING WRITTEN COMMENTS 45 DAY COMMENT PERIOD	P	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	agreeable hearing time will become suddenly and drastically more complex, which will delay the resolution of the applicant's case. Accordingly, the Court Administrator's initial motivation for this new rule—that proceedings are sometimes delayed by parties who fail to appear when needed—would not be satisfied by requiring lien claimants with liens over $2,500 to appear in person at every hearing. A direct result of the new rule would be to discourage medical providers from providing services to injured workers by making lien recovery ever more difficult and costly. Physicians willing to treat injured workers in California have already dwindled. To impose higher hurdles on the lien collection system would further thin the ranks of competent physicians willing to treat injured workers on a lien basis. As an alternative to imposing this categorical and expensive rule, commenter suggests retaining the current rule concerning availability at hearings (WCAB Rule 10563) and encouraging the WCJs to resolve difficulties with unresponsive lien claimants by issuing intents to dismiss or imposing sanctions for parties who fail to appear or be available via telephone or who generally delay the proceedings. Dismissal of the lien or sanctions is currently available for WCJs (WCAB Rules 10562 and 10561) to enforce the existing rules regarding attendance and responsiveness. Consistent use of the above rules would achieve the intended goal of appropriate participation by lien claimants without needlessly burdening the system. Finally, the Court Administrator's				

COURT ADMINISTRATOR RULES	RULEMAKING WRITTEN COMMENTS 45 DAY COMMENT PERIOD	P	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	implementation of Proposed Rule 10240 risks an operational and jurisdictional crisis. The Court Administrator may not have the appropriate jurisdiction to promulgate Proposed Rule 10240 because it is not a district office procedure rule under Labor Code section 5307(c). Furthermore, it is unclear how the new rule would interact and/or conflict with WCAB Rules 10562(a) and 10770(c), which are inconsistent with the proposed rule. In sum, Proposed Rule 10240 is unduly burdensome because it requires lien claimants to attend all hearings even when their presence serves no purpose. The inevitable explosion in requests for continuances will burden both the WCJs and the parties. Frustrated medical providers will be even less willing to treat injured workers on a lien basis. As an alternative, WCJs should resolve difficulties with delinquent participants by exercising their existing powers to dismiss liens or impose sanctions. Finally, there are serious jurisdictional and procedural questions raised by the application of the Labor Code to Proposed Rule 10240.				
10240 and 10241	Commenter requests that these proposed sections be withdrawn. Commenter believes that the proposed changes will not only adversely affect lien claimants but will also have an adverse impact upon the WCAB and the parties to the case-in-chief. By requiring lien claimants to appear at all hearings, there will be multiple representatives (both lawyers and non-lawyers) crowding the board rooms with little, if any, opportunity or expectation of resolving the lien prior to the resolution of the case-in-chief. We believe the impact upon the WCAB will be substantial:		David A. Robin, Esq. The 4600 Group July 14, 2008 Written and Oral Comments	Agree in part. Sections 10240 and 10241 are amended. See response to Niko Paris, Esq. California Pharmacy Management, Inc. July 15, 2008 Written Comment, above.	Sections 10240 and 10241 are amended. See response to Niko Paris, Esq. California Pharmacy Management, Inc. July 15, 2008 Written Comment, above.

COURT ADMINISTRATOR RULES	RULEMAKING WRITTEN COMMENTS 45 DAY COMMENT PERIOD	P	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	1. WCALJs will be inundated with requests for excuses from needless appearances by lien claimants which will place a heavy burden on the automated telephone system, the WCALJ secretary and the WCALJ. In short order the WCALJ will stop taking calls from lien claimants resulting in the need to appear at every hearing no matter what the reason for the hearing being set or run the risk of dismissal of its lien pursuant to proposed rule 10241(b). The dismissal arising out of the failure to appear at one of these hearings that have no direct bearing on the lien can be a dismissal with prejudice notwithstanding that the treatment is otherwise compensable; 2. The standard towards lien claimants requiring their appearances at all hearings is greater than that of the injured worker whose presence is only mandated by regulation at MSCs and trials; 3. When cases are continued to another date by stipulation of the parties, each and every lien claimant in attendance will have the opportunity to state whether or not the continued date is compatible with their schedules. With more people involved in agreeing upon a continued date, the result will be either longer continuances or dates assigned on notice when all of the people present cannot agree upon a date; 4. If lien claimants are required to				

COURT ADMINISTRATOR RULES	RULEMAKING WRITTEN COMMENTS 45 DAY COMMENT PERIOD	P	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	appear at all hearings, lien claimants will demand to participate in the trial of the case-in-chief rather than allowing the liens to be deferred to a future lien conference date post Findings and Award. The result will be multiple lien claimants' participation in direct testimony and cross examination of witnesses with the potential for delaying the conclusion of the trial and possibly interfering with the trial strategy of counsel for either the injured worker or the defendant; 5. Because liens will be "at issue" during the trial of the case-in-chief, lien claimants will need to put on testimony to support the reasonableness of their treatment and appropriateness of the billing, even if the case-in-chief's principal issue is AOE/COE. The defendant will likewise need to put on testimony disputing the need for treatment and/or the reasonableness of the cost of treatment. Currently, this additional testimony takes place after the case-in-chief is resolved and following a lien conference where the parties and the lien claimant can evaluate the settlement potential of the lien based upon the resolution of the case-in-chief. **There is no Basis for the Proposed Rules** The Court Administrator has not offered any data to support why these newly proposed regulations				

COURT ADMINISTRATOR RULES	RULEMAKING WRITTEN COMMENTS 45 DAY COMMENT PERIOD	P	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	are necessary and will provide any time and/or dollar savings to anyone within the system. Rather, it is more likely that it will result in additional congestion at the district offices and delay resolution of the case-in-chief which goes against the constitutional mandate of prompt resolution of claims of the injured workers. It is also incorrect for the Court Administrator to state that there will be no significant statewide economic impact directly affecting business. All lien claimants, from the largest health plans down to the sole practitioner who has provided treatment to an injured worker on a lien basis must now either appear in person or hire counsel to be at every hearing. Doctors and hospitals who currently provide treatment to injured workers with the understanding that they will not be paid until the conclusion of the case-in-chief will incur the additional expense of having to appear at all hearings no matter that their liens will not be considered or resolved at most of these hearings. Some of these doctors and hospitals will decide that it is too expensive to treat injured workers on a lien basis when they have to factor in the cost of all of the needless appearances at the WCAB. For those injured workers with health insurance, the cost will be further passed along to the health insurers to pay for treatment that is not their responsibility because fewer and fewer doctors and hospitals will be available for industrial treatment on a lien basis.				
10240 and 10241	While this section may have a positive purpose to ensure that all parties are in court to fully and finally resolve a matter, this proposed section goes too far. There is no reason or benefit from having all lien claimants attending perfunctory MSC's or other interim hearings regarding the case in chief. It will unnecessarily burden		Michael John Tichon General Counsel Imperial Lien Solutions July 15, 2008 Written Comment	Agree in part. Sections 10240 and 10241 are amended. See response to Niko Paris, Esq. California Pharmacy Management, Inc. July 15, 2008 Written Comment, above.	Sections 10240 and 10241 are amended. See response to Niko Paris, Esq. California Pharmacy Management, Inc. July 15, 2008

COURT ADMINISTRATOR RULES	RULEMAKING WRITTEN COMMENTS 45 DAY COMMENT PERIOD	P	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	medical providers, and act as a barrier to medical providers even pursuing liens due to added unnecessary costs of pursuing liens. Commenter estimates that the number of hearings his company representatives will attend will increase from approximately 200 per week to 400-500. Commenter further estimates the added costs to his organization, from increased hearing representative fees and administrative expenses, is well over One Million Dollars ($1,000,000.00) per year! If one looks at the added expense to a physician practice, where the reimbursement makes the practice barely viable, doubling the administrative expense for collections, may question the viability of the practice. Both applicant and defense physicians still have collection problems and must actively pursue the lien collection process. Section 10240 creates several other problems. First, it is inconsistent with the long-held definition of a party, under the current and these proposed rules, Section 10210(w), in effect, says a lien claimant is not a party to a proceeding until the applicant's underlying case in chief is resolved. How can a non-party be forced to attend hearings? Second, the added cost burden to lien claimants means that the Effect on Small Business statement is absolutely false. Not only could one question how an insurer, or a TPA, or substantial net worth self insured employer can be deemed a small business, but the statement ignores medical providers who are, by definition, for the most part truly small businesses and lien claimants. As indicated, the potential doubling of hearing attendance is a material expense to both the lien claimant and the employer. In light of the purpose of these new regulations to				Written Comment, above

COURT ADMINISTRATOR RULES	RULEMAKING WRITTEN COMMENTS 45 DAY COMMENT PERIOD	P	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	facilitate a digital court system, modifying 10240 to permit the filing of a non appearance should be feasible, and will result in the lien claimant's contact information being readily available to any concerned party. This would be in lieu of petitioning the judge for an exception, which, again, is costly, and will cause disruption in applicant proceedings. Instead, the judges or the rule should more specifically set out what hearings lien claimant must attend, and allow lien claimants to file none appearance letters in lieu of all other appearances.				
10240 and 10241	WCAB Rule § 10563 provides lien claimants with the option of appearing either in person or by telephone. When our office receives a hearing notice, we assess as best we can whether attendance at the hearing is necessary. If it appears our client's lien will not be addressed at the hearing, we write the judge and the parties advising that we will be available by telephone. This rule is not slated for repeal. In contradiction to § 10563, proposed rules §§ 10240 and 10242 will require personal appearance at all hearings by all lien claimants who have filed liens for more than $2,500 and whose appearance has not been expressly excused by a workers' compensation judge. The penalty for non-appearance is lien dismissal. This new requirement will be onerously and unnecessarily burdensome on both lien claimants and every Workers' Compensation Appeals Board (WCAB) judge and district office. It is too costly and too confounding for lien claimants, including all the specialists so defined in Labor Code § 3209.3, to appear at every hearing. Doctors, hospitals, health plans, union trust funds, etc. are in the business of providing		Nancy Roberts, Esq. Boehm & Associates July 9, 2008 Written and Oral Comment	Agree in part. Sections 10240 and 10241 are amended. See response to Niko Paris, Esq. California Pharmacy Management, Inc. July 15, 2008 Written Comment, above.	Sections 10240 and 10241 are amended. See response to Niko Paris, Esq. California Pharmacy Management, Inc. July 15, 2008 Written Comment, above.

COURT ADMINISTRATOR RULES	RULEMAKING WRITTEN COMMENTS 45 DAY COMMENT PERIOD	P	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	or paying for medical treatment, and not in the business of going to court multiple times a week to attempt to collect on individual bills. Given the restricted rates of the Official Medical Fee Schedule--even with the slight enhancements authorized under Labor Code § 4603.2(b) when payments are unjustifiably delayed--lien claimants cannot afford to provide treatment and also attend all hearings to collect on unpaid bills. As a result, the availability of practitioners willing to treat patients with industrial injuries will decline. This regulation will also adversely impact the District Offices. They will be inundated with requests from lien claimants who will ask to be excused from appearances or who seek further information on the hearing agenda. Will the WCAB extend the same courtesies to lien claimants--often more than one per case--that it does to applicants and defendants who request changes in hearing dates due to calendar conflicts? This chaotic process engendered by the proposed rule § 10240 will encumber the WCAB District Offices impossibly and extend the time it takes for an applicant, defendant or lien claimant to get due process without undue encumbrance that is a constitutional requirement of the workers' compensation system. Some of the district office facilities are, moreover, inadequately small to accommodate the increased volume of lien claimants who will be required to appear. The enhanced access to filed documents through EAMS is a welcomed change. In particular, commenter looks forward to viewing a Declaration of Readiness (DOR) to determine whether her client's lien will be an issue to be addressed at a requested hearing. Under the				

COURT ADMINISTRATOR RULES	RULEMAKING WRITTEN COMMENTS 45 DAY COMMENT PERIOD	P	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	current system, commenter often appears only to find out that a case has been continued or taken off calendar without any notice to lien claimants. Even at trials where liens have been listed as issues to be tried, judges routinely defer decisions on liens until after a decision issues on the case-in-chief. It is a waste of resources to require lien claimants to appear at hearings where judges and parties are not required to address lien issues. The improvements under EAMS notwithstanding, we are still very concerned that the WCAB judges will not have sufficient resources to respond to every lien claimant that requests to be excused from hearings on issues unrelated to the liens. Proposed rules §§ 10240 and 10241 will have a significant environmental impact. In these times of much needed energy conservation and skyrocketing gasoline prices, it is environmentally irresponsible to add more drivers to the already congested California roads. As indicated above, issues concerning lien claimants are rarely addressed at MSC's and at trials. If parties are prepared to resolve liens, they can notify lien claimants in advance of the hearing or by telephone from the WCAB. Under the proposed rule, lien claimants will be forced to drive around the state to appear at unnecessary hearings. The gas emissions will deleteriously impact the environment. According to DWC's "Initial Statement of Reasons," the new regulation will have no impact on small businesses. We respectfully disagree. Doctors' offices, chiropractor offices, physical therapy offices, ambulance services, lien claim representatives, etc. can all qualify as "small businesses." In fact, the smaller the business, the				

COURT ADMINISTRATOR RULES	RULEMAKING WRITTEN COMMENTS 45 DAY COMMENT PERIOD	P	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	bigger impact the proposed rule will have on the business. The $2,500.00 amount is arbitrary. The DWC claims that the necessity of having the $2,500.00 threshold is "[b]ecause there are many lien claimants in workers' compensation cases." There are also many lien claimants whose liens are over $2,500.00. What is the reason for presumptively exempting lien claimants with smaller lien values and not exempting the many lien claimants whose liens exceed the arbitrary dollar threshold? The regulations place unnecessary burdens on the WCAB and lien claimants without any favorable benefits or basis. **There Are More Effective and Less Burdensome Alternative Means to Effectuate the Court Administrator's Goal** DWC states that there is "[n]o more effective alternative to the proposed regulation, nor any equally effective and less burdensome alternative…." As indicated above, the Regulation § 10563 is an effective alternative. If the lien claimant does not have someone available by telephone, then the judge can issue a notice of intention to dismiss the lien. Other court systems allow all parties to appear by telephone conference call. In U.S. Bankruptcy Court, for example, parties are permitted to decide whether they need or want to appear in person or by telephone. We do not know whether DWC considered this alternative.				
10240 and 10241	Commenter echoed the points made Boehm and Associates. Commenter also questions the requirement that all lien holders with liens of $2,500 or more as an		Steve Cattolica California Society of Industrial Medicine and Surgery July 15, 2008	Agree in part. Sections 10240 and 10241 are amended. See response to Niko Paris, Esq. California Pharmacy Management, Inc.	Sections 10240 and 10241 are amended. See response to Niko Paris, Esq. California Pharmacy

COURT ADMINISTRATOR RULES	RULEMAKING WRITTEN COMMENTS 45 DAY COMMENT PERIOD	P	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	arbitrary amount. Commenter also states that the failure to appear, Section 10241, carries no threshold – that the failure to appear and its consequences fall on all lien holders regardless of the amount. This needs to be clarified.		Oral Comments	July 15, 2008 Written Comment, above.	Management, Inc. July 15, 2008 Written Comment, above.
10240 and 10241	Commenter objects to the requirement that lien claimants must be present at every scheduled hearing or conference or face the consequence of having their lien dismissed. Commenter states that in his experience most defendants want to completely resolve the case in chief before even discussing settlement of a lien claim.		David A. Keisner, Esq. Stringfellow and Associates July 15, 2008 Written Comment	Agree. Sections 10240 and 10241 are amended. See response to Niko Paris, Esq. California Pharmacy Management, Inc. July 15, 2008 Written Comment, above.	Sections 10240 and 10241 are amended. See response to Niko Paris, Esq. California Pharmacy Management, Inc. July 15, 2008 Written Comment, above.
10240(a)	Commenter states that the proposed threshold of $2,500.00 is too low and should be raised to $20,000.00.		David A. Keisner, Esq. Stringfellow and Associates July 15, 2008 Written Comment	Agree to raise the threshold to $25,000.	Section 10240 is amended. See response to Niko Paris, Esq. California Pharmacy Management, Inc. July 15, 2008 Written Comment, above.
10240(c)	Commenter does not believe it is necessary to have a lien claimant representative physically present but that it would be sufficient to have a person with settlement authority available by telephone.		David A. Keisner, Esq. Stringfellow and Associates July 15, 2008 Written Comment	Agree. Section 10240 is amended. See response to Niko Paris, Esq. California Pharmacy Management, Inc. July 15, 2008 Written Comment, above.	Section 10240 is amended. See response to Niko Paris, Esq. California Pharmacy Management, Inc. July 15, 2008 Written Comment, above.
10245	Commenter recommends that the following options be added to the proposed Minutes of Hearing form. Commenter recommends that the following check box be added under "**Reason for Request"** on Page 2 of the new form. ▪ The following example has been taken		Marie Wardell Claims Operations Manager State Compensation Insurance Fund July 15, 2008 Written Comments	Disagree. See Addendum A. In addition, WCAB rule 10452 provides that petitions for disqualification shall be made not more than 10 days after service of notice of the hearing. By the time of the hearing, a petition for disqualification would be untimely.	None

COURT ADMINISTRATOR RULES	RULEMAKING WRITTEN COMMENTS 45 DAY COMMENT PERIOD	P	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	from Page 1 of the existing "Minutes of Hearing form. ☐ AUTO REASSIGN ☐ DISQUALIFY Commenter recommends that the following check box be added under "**Board Reason"** on Page 2 of the proposed form. ▪ The following example has been taken from Page 1 of the existing "Minutes of Hearing form. ☐ REASSIGNMENT:			Disagree. See Addendum A. The "other" box can be sued for this purpose. Also, rule 10453 provides time limitations to request reassignment; at the time of the hearing, reassignment requests would be untimely.	None
	Commenter recommends that details on "**Carrier Name/Information"** be added by making minor changes to the **Appearances** section of the proposed form. "Defendant Represented By" in the third row in the example below should be re-formatted in the following manner: This will allow for information on the name of the carrier and person representing. **Defendant_____ Represented By_____** ☐ ☐ ▪ Please see Page 1 of the existing "Minutes of Hearing form.			Disagree. See Addendum A.	None
	Commenter recommends that the following check boxes be added under **"Decision"** on Page 3 of the proposed form. ▪ The following example has been taken			Disagree. See Addendum A. Also, the parties will receive the hearing date from the calendar clerk and a notice will issue.	None

COURT ADMINISTRATOR RULES	RULEMAKING WRITTEN COMMENTS 45 DAY COMMENT PERIOD	P	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	from Page 1 of the existing "Minutes of Hearing form. TIME ☐ 1 HR ☐ 2 HRS ☐ 4 HRS ☐ ___ DAY				
10246	The district office may electronically file any decision, findings, award, order or other document issued by a workers' compensation administrative law judge. Any document that is electronically filed shall have the same legal effect as a document in paper form. **Recommendation:** Commenter recommends that the regulation indicate that electronically filed decisions be served to parties per designated method of service.		Marie Wardell Claims Operations Manager State Compensation Insurance Fund July 15, 2008 Written Comments	Disagree. Section 10218 (a) provides that the district offices and the appeals board will notify parties by their designated method of service, or by first class mail if the party cannot designate service.	None
10250(b)	Commenter is extremely concerned that under (b) the requirement to state with "specificity" the good faith efforts to resolve the dispute will result in DOR's being reviewed and rejected for "insufficient" attempts to resolve. Accordingly, commenter strongly urges that two amendments be made to subdivision (b). First, the words "with specificity" should be deleted. Second, this section should be amended to re-adopt following sentence from existing CCR §10414 which had been adopted in accordance with the settlement between CAAA and the Board: "A simple statement in the declaration setting forth efforts to resolve the dispute or noting the opposing party's failure to respond within fifteen (15) days to an effort to resolve the dispute shall constitute an adequate description for the purposes of this rule."		Sue Borg, President California Applicants' Attorneys Association Written and Oral Comments July 15, 2008 Linda Atcherley, Legislative Chair California Applicants' Attorneys Association Oral Comments	Disagree. The settlement agreement was with the Workers' Compensation Appeals Board, not the Division of Workers' Compensation or the Court Administrator, which now has jurisdiction over this issue. The settlement agreement does not control publically noticed and adopted regulations. The language is needed to address the current problem of parties either stating nothing regarding the attempts to resolve the lawsuit or misstating the facts.	None
10250.1	Commenter recommends that the following information columns be added to the proposed		Marie Wardell Claims Operations Manager		

COURT ADMINISTRATOR RULES	RULEMAKING WRITTEN COMMENTS 45 DAY COMMENT PERIOD	P	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	form. ▪ The proposed form does not provide space to enter **"Carrier Information"** as indicated in the current DOR form. This information is important for record keeping and liability identification. ▪ The proposed form does not include column to enter names and addresses of parties served with the document as indicated in the current DOR form but requires that an attachment of **"proof of service"** be included with the form. Having the names and addresses of the parties served identified on the document may reduce the filing of proof of service documents to the WCAB. It is unclear, if this attachment will require a separator sheet or if it would be considered part of the form.		State Compensation Insurance Fund July 15, 2008 Written Comments	Disagree. See Addendum A. The proof of service will show the carrier information. Agree. Section 10232(b)(1) is revised to state that a separator sheet shall not be placed between a document and the proof of service for that document.	None Section 10232(b)(1) is revised to state that a separator sheet shall not be placed between a document and the proof of service for that document.
10251	Commenter suggests that the time limit to object to a Declaration of Readiness to Proceed should be changed from 10 days to 15 days after service.		Christine L. Harris Claim Examiner Sedgwick CMS June 2, 2008 Written Comment	Disagree. The 10 day timeframe is based on the requirements of Labor Code section 5502, which states that the hearing shall be held not less than 10 days and not more than 60 days, after the date the Declaration of Readiness is filed.	None
10251(c)	Commenter objects to the language in subdivision (c) that permits a WCJ to unilaterally and without due process protection reject a DOR. To correct this problem commenter recommends that the second sentence in subdivision (c) be amended to read: "Where an objection has been timely filed the workers' compensation judge shall consider the objection at trial and shall determine on the basis of the facts whether the objection should be sustained."		Sue Borg, President California Applicants' Attorneys Association Written and Oral Comments July 15, 2008 Linda Atcherley, Legislative Chair California Applicants' Attorneys Association Oral Comments	Disagree. This proposal would clog the hearing calendar and waste the parties' resources by having cases called for trial which are clearly not ready to proceed.	None
10252	Commenter states that there have been numerous		Mark Webb	Disagree. See Addendum C.	None

COURT ADMINISTRATOR RULES	RULEMAKING WRITTEN COMMENTS 45 DAY COMMENT PERIOD	P	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	comments about the wisdom of using the expedited hearing process for issues regarding disputed body parts. There is a legitimate question of the authority of the Court Administrator to adopt this regulation. While Labor Code § 5502(b) provides authority for the Court Administrator to provide for expedited hearings in certain instances, this is not one of them. Expansion beyond these specific claims [See: Labor Code §§ 5502(b)(1) – 5502(b)(4); Proposed 8 CCR §§ 10252(a)(1) – 10252(a)(4)] is limited to the authority of the Administrative Director. [Labor Code § 5502(b)(5)]		Vice President – Governmental Relations Employer Direct Insurance Company July 15, 2008 Written Comments		
10252(b)	Commenter recommends the following modified language: An expedited hearing may be set upon request where injury to any part or parts of the body is accepted as compensable by the employer and the issues include medical treatment or temporary disability ~~for a disputed body part or parts.~~ The proposed regulation permits the assertion of a disputed injury, on which temporary disability may or may not be based, at an expedited hearing. Subdivision (c) allows the judge to try the issue or conduct an MSC and close discovery. This regulation is based on Labor Code section 5502, which does not allow for the inclusion of disputed injuries or conditions in an expedited hearing. The court administrator has no authority to expand section 5502 to permit a trial on disputed injuries or additional claims. Permitting the applicant to request an expedited hearing on an accepted injury and then raise a dispute injury issue at trial has due process implementation, as well. Even the close of discovery at the time of the expedited hearing		Brenda Ramirez Claims & Medical Director Michael McClain, General Counsel & Vice President California Workers' Compensation Institute July 15, 2008 Written Comment	Disagree. There must be a mechanism for resolving issues over disputed body parts. These disputes fall under Labor Code section 4062(a) as disputes over medical treatment. Labor Code section 5502(b)(1) authorizes expedited hearings over the employee's entitlement to medical treatment and (b)(2) authorizes expedited hearings over the entitlement of temporary disability. There is nothing in the regulation that takes away the opportunity of a party to object to the setting of an Expedited Hearing based on the fact that discovery is not complete on the disputed body part. Moreover subsection (b) must be read in conjunction with subsection (c): <u>(c) A workers' compensation administrative law judge assigned to a case involving a disputed body part or parts may redesignate the expedited hearing as a mandatory settlement conference, receive a pretrial</u>	

COURT ADMINISTRATOR RULES	RULEMAKING WRITTEN COMMENTS 45 DAY COMMENT PERIOD	P	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	may affect the defendant's ability to fairly adjudicate the newly asserted issues.			conference statement pursuant to Labor Code section 5502, subd. (e)(3), close discovery, and schedule the case for trial on the issues presented, if the workers' compensation administrative law judge determines, in consultation with the presiding workers' compensation administrative law judge, that the case is not appropriate for expedited determination. This allows a party to establish that it was inappropriate to set the matter for expedited hearing and the matter is converted to a Mandatory Settlement Conference. The judge can consider arguments that it is premature to hear the issue relating to the disputed body part in making that determination.	
10252(b)	Commenter is concerned that this section would permit an applicants' attorney to allege a body part or existing body part in a case that is under dispute to become the subject of a DOR for treatment which would forgo the opportunity for the defense counsel to conduct discovery thereby depriving them of due process. Commenter requests that we align this section to conform to its enabling statute, 5502(b).		Corey Ingber, Esq. Zenith Insurance Company July 14, 2008 Oral Testimony	Disagree. There is nothing in the regulation that takes away the opportunity of a party to object to the setting of an Expedited Hearing based on the fact that discovery is not complete on the disputed body part. Moreover subsection (b) must be read in conjunction with subsection (c): (c) A workers' compensation administrative law judge assigned to a case involving a disputed body part or parts may redesignate the expedited hearing as a mandatory settlement conference, receive a pretrial conference statement pursuant to Labor Code section 5502, subd. (e)(3), close discovery, and schedule the case for trial on the issues presented, if	None

COURT ADMINISTRATOR RULES	RULEMAKING WRITTEN COMMENTS 45 DAY COMMENT PERIOD	P	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
				the workers' compensation administrative law judge determines, in consultation with the presiding workers' compensation administrative law judge, that the case is not appropriate for expedited determination. This allows a party to establish that it was inappropriate to set the matter for expedited hearing and the matter is converted to a Mandatory Settlement Conference. The judge can consider arguments that it is premature to hear the issue relating to the disputed body part in making that determination.	
10252(c)	Commenter recommends that this language be stricken. Please see argument above (10252(b)).		Brenda Ramirez Claims & Medical Director Michael McClain, General Counsel & Vice President California Workers' Compensation Institute July 15, 2008 Written Comment	There is nothing in the regulation that takes away the opportunity of a party to object to the setting of an Expedited Hearing based on the fact that discovery is not complete on the disputed body part. Moreover subsection (b) must be read in conjunction with subsection (c): (c) A workers' compensation administrative law judge assigned to a case involving a disputed body part or parts may redesignate the expedited hearing as a mandatory settlement conference, receive a pretrial conference statement pursuant to Labor Code section 5502, subd. (e) (3), close discovery, and schedule the case for trial on the issues presented, if the workers' compensation administrative law judge determines, in consultation with the presiding workers' compensation administrative	None

COURT ADMINISTRATOR RULES	RULEMAKING WRITTEN COMMENTS 45 DAY COMMENT PERIOD	P	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
				law judge, that the case is not appropriate for expedited determination. This allows a party to establish that it was inappropriate to set the matter for expedited hearing and the matter is converted to a Mandatory Settlement Conference. The judge can consider arguments that it is premature to hear the issue relating to the disputed body part in making that determination.	
10252 (c) and (d)	As she stated in her comments on this section when these regulations were released under the DWC Forum, she does not believe that the Division has the authority to adopt a rule allowing a WCJ to redesignate an expedited hearing as a mandatory settlement conference. Where the issue in dispute is one of the issues listed under Labor Code §5502(b), the worker has a statutory right to receive an expedited hearing and decision. Accordingly, she strongly urges that subdivisions (c) and (d) be deleted as they clearly restrict this statutory right.		Sue Borg, President California Applicants' Attorneys Association Written and Oral Comments July 15, 2008 Linda Atcherley, Legislative Chair California Applicants' Attorneys Association Oral Comments	Disagree. See Addendum C. The decision to redesignate the expedited hearing to a mandatory settlement conference will only be made if the workers' compensation administrative law judge determines that the case is not appropriate for expedited determination. Therefore it does not conflict with Labor Code section 5502(b).	None
10252.1	Commenter recommends that the following information columns be added to the proposed form. - Commenter recommends that a request for "**Exhibit List**" be added to the proposed form to enable quick identification of exhibits listed. - In addition all the recommendations listed for "Declaration of Readiness to Proceed" above should be applied to the proposed Declaration of Readiness to Proceed (Expedited) form.		Marie Wardell Claims Operations Manager State Compensation Insurance Fund July 15, 2008 Written Comments	Disagree. With regard to all of the suggestions below, see Addendum A. Additionally, an exhibits list may be filed as an attachment to the document. Additionally, see response to commenter regarding section 10250.1.	None

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	▪ Commenter recommends that a column be added to the form indicating **"Name of the doctor the declarant relies upon"** as indicated on Page 1 of the existing "Declaration to Readiness to Proceed" form. This will enable expedited identification of the relevant medical reports and will focus the discussion on the relevant issues set for adjudication. ▪ The proposed form does not include columns to enter names and addresses of parties served with the document as indicated in the current DOR form.			The parties are requires to attach a proof of service.	
10253(a)	Commenter does not understand how it helps system efficiency to prohibit the WCJ from hearing sworn testimony at any hearing. Where the parties agree, taking brief sworn testimony at the conference may result in submission of the issue or allow the parties to reach agreement. Consequently, she believes this prohibition will only add extra work and unnecessarily delay resolution of some cases. Commenter recommends that the last sentence of subdivision (a) be deleted.		Sue Borg, President California Applicants' Attorneys Association Written and Oral Comments July 15, 2008 Linda Atcherley, Legislative Chair California Applicants' Attorneys Association Oral Comments	Disagree. The submission of sworn testimony at a conference may violate due process and can be a burden on the WCJ who may have 50 cases that day. Hearing testimony is not the purpose of a settlement conference. However, nothing prohibits the parties from waiving this section and if the WCJ agrees, submitting an issue at a conference.	None
10253(d)	Subdivision (d) requires that absent resolution of the dispute, all exhibits must be filed at the MSC. Commenter believes it would be completely impractical and unnecessarily expensive for the District Offices to process hundreds of pages of trial exhibits on every case when it is likely that many of these cases will settle before trial. Storing these needless documents on the state's computers could become a massive problem. Nevertheless, she recognizes that for those cases that do not settle, the trial exhibits need to be scanned and imported into EAMS for the WCJ to		Sue Borg, President California Applicants' Attorneys Association Written and Oral Comments July 15, 2008 Linda Atcherley, Legislative Chair California Applicants' Attorneys Association Oral Comments	Disagree. The regulation is authorized by Labor Code section 5502(b)(3). Also, settlement is more likely to occur prior to or at the MSC if the parties are required to have their cases prepared.	None

COURT ADMINISTRATOR RULES	RULEMAKING WRITTEN COMMENTS 45 DAY COMMENT PERIOD	P	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	review and utilize on the date of trial. Commenter recommends deletion of proposed subdivision (d), to be replaced by the following: "All parties shall file all exhibit documents not already filed at least 10 calendar days prior to a Regular Hearing. These exhibits may be filed in electronic form on a CD-ROM." Allowing the exhibits to be filed on a CD would save time for the District Office staff and ensure accuracy of the scanned documents when imported into EAMS.				
10253.1	Commenter recommends that pages in the existing form be numbered to reflect the total number of pages in the document so that relevant pages of the form are not inadvertently missed. - The following example was taken from the existing and proposed form from Page 1 and Page 5 respectively and does not reflect the number of pages in the form. SERVICE AS ORDERED ON PAGE 4 PAGE ___ OF ___		Marie Wardell Claims Operations Manager State Compensation Insurance Fund July 15, 2008 Written Comments	Disagree. See Addendum A.	None
10270	Commenter believes that access to the basic case data to allow the proper identification of the injured worker and other relevant information must be expanded. The section delineates the access provided to parties and the public, but the procedure for viewing the EAMS case file electronically is not stated. The community is aware that the system has certain limitation and that each individual attempting to view an electronic file must have a "log-on" and password. The proposed		Brenda Ramirez Claims & Medical Director Michael McClain, General Counsel & Vice President California Workers' Compensation Institute July 15, 2008 Written Comment	Disagree. Section 10270 assures the parties and public that they will be provided the appropriate access to the files. Because the size, staff and resources vary from district office to district office, the actual procedures regarding viewing the electronic files may differ from office to office. For example, there may be public kiosks available or an Information and Assistance Office may assist the parties in viewing the files. As is the	None

COURT ADMINISTRATOR RULES	RULEMAKING WRITTEN COMMENTS 45 DAY COMMENT PERIOD	P	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	regulations must address the necessary logistics and limitations to provide a greater understanding of what will be required of the users and how they can accomplish their obligations under the strict timeframes stated in the statutes and regulations. Currently the court administrator has advised that each case participant will be provided with one log-on and password for each office location and that this access will be limited to one user. Access to the system at the local Board will be limited to a single computer. This limited access creates a serious bottleneck, not just in the initial phase of implementation, but for the foreseeable future.			current procedure, the viewer need only to make the request and appropriate access will be provided. The log-on and password issues will be addressed in a different set of regulations.	
10270(a)	The general statement in subdivision (a) that "an attorney ... may access and view specific adjudication files" in which he or she is a case participant does not provide any details on how that process is to work. How will this process work during the period between the "go live internal" date and the unspecified date for "go live" for *all* external users? How will an attorney request access? How does the attorney prove he or she is a case participant? Will there be sufficient equipment available at the WCAB district offices? Will there be a time limit for using the equipment? Will there be any way to assure availability if the equipment is limited? If an attorney needs copies of information in the electronic file, how will that process work? As these questions illustrate, there is a huge potential for this process to become a bottleneck, slowing the process and leaving injured workers and your court personnel waiting while the parties try to access information through the electronic adjudication files. Without any details on how this process will work, all we are able to		Sue Borg, President California Applicants' Attorneys Association Written and Oral Comments July 15, 2008 Linda Atcherley, Legislative Chair California Applicants' Attorneys Association Oral Comments	Disagree. Section 10270 assures the parties and public that they will be provided the appropriate access to the files. Because the size, staff and resources vary from district office to district office, the actual procedures regarding viewing the electronic files may differ from office to office. For example, there may be public kiosks available or an Information and Assistance Office may assist the parties in viewing the files. As is the current procedure, the viewer need only to make the request and appropriate access will be provided. It should be noted that parties and their attorneys will have their own files with copies of the pleadings. Also, if an attorney requests to view a file, the same process for identifying that individual that is currently used in the district office will be used – the attorney or party will be asked to	None

COURT ADMINISTRATOR RULES	RULEMAKING WRITTEN COMMENTS 45 DAY COMMENT PERIOD	P	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	do at this time is to list out these potential problems. However, commenter does believe that maintenance of paper files during a transition period should be considered as the availability of these paper files could eliminate potential bottlenecks caused by problems with the electronic network. Commenter also notes that with regard to this section and the following section, 10271, it may be appropriate to amend these sections to provide that the parties and the public may inspect only those contents of the adjudication file that are public record documents. Specifically, we note that evidence that is *submitted* in a case does not become part of the legal file, and therefore public record information, until that evidence is *admitted* by the WCJ.			show identification. Disagree. Parties may view evidence submitted in a case, as any documents provided to the district office must be served on all parties in the case. The right of the public to view documents in the files is controlled by the Labor Code section 138.7, Public Records Act, and sections 10271 and 10272. This is set forth in subdivisions 10270 (b) and (c).	None
10270(a)	This should be clarified to provide the method by which parties, lien claimants, attorneys or other representatives may have access to, and view, specific adjudication files.		Steven Suchil Assistant Vice President American Insurance Assn. July 15, 2008 Written Comments	Disagree. See above response to Sue Borg, President California Applicants' Attorneys Association Written and Oral Comments July 15, 2008 Linda Atcherley, Legislative Chair California Applicants' Attorneys Association Oral Comments	None
10270(b)	This should be clarified to provide how persons may view electronic adjudication files.		Steven Suchil Assistant Vice President American Insurance Assn. July 15, 2008 Written Comments	Disagree. See above response to Sue Borg, President California Applicants' Attorneys Association Written and Oral Comments July 15, 2008 Linda Atcherley, Legislative Chair California Applicants' Attorneys Association Oral Comments	None

COURT ADMINISTRATOR RULES	RULEMAKING WRITTEN COMMENTS 45 DAY COMMENT PERIOD	P	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
10271	Commenter recommends that this section and the following section, 10271, be amended to expressly state that the right to view the contents of any electronic adjudication file are subject to all federal and state statutory and regulatory privacy protections, including the Health Insurance Portability and Accountability Act of 1996 (HIPAA).		Sue Borg, President California Applicants' Attorneys Association Written and Oral Comments July 15, 2008 Linda Atcherley, Legislative Chair California Applicants' Attorneys Association Oral Comments	Disagree. HIPAA does not apply to workers' compensation. However, subdivisions 10270 (b) and (c) are corrected to set forth "Except as otherwise prohibited by law or sections 10271 and 10272…" the public may view the files. This would include any federal or state laws that apply.	Subdivisions 10270 (b) and (c) are corrected to set forth "Except as otherwise prohibited by law or sections 10271 and 10272…" the public may view the files.
10272(a)	Commenter recommends that HIV/AIDS diagnosis and treatment should be specifically added in this provision.		Steven Suchil Assistant Vice President American Insurance Assn. July 15, 2008 Written Comments	Disagree. The section is general and would include HIV/AIDS diagnosis and treatment.	None
10273	This section refers to Title 8, section 10603 but there is no such regulation currently in place.		Brenda Ramirez Claims & Medical Director Michael McClain, General Counsel & Vice President California Workers' Compensation Institute July 15, 2008 Written Comment	Disagree. Section 10603 is a proposed WCAB regulation. The effective dates of the two sets of regulations will be the same.	None
10273(c)(2)	There is a citation to Section 10395, which is shown in these proposed regulations as deleted. Commenter believes that the correct citation is Section 10235.		Steven Suchil Assistant Vice President American Insurance Assn. July 15, 2008 Written Comments	Agree in part. The correct section is 10222(b).	The citation is corrected to state 10222, subd. (b).
10273(d)	Commenter recommends that the time period in subdivision (d) be extended from 50 years to 75 years. This change is necessary to recognize the increased life span of individuals, and the potential need to access information in cases where lifetime medical benefits are awarded. Because these files will be maintained in electronic format we believe this change would not cause any appreciable added costs.		Sue Borg, President California Applicants' Attorneys Association Written and Oral Comments July 15, 2008 Linda Atcherley, Legislative Chair California Applicants' Attorneys Association	Disagree. Fifty years is sufficient. The time period can be re-considered in thirty or forty years.	None

COURT ADMINISTRATOR RULES	RULEMAKING WRITTEN COMMENTS 45 DAY COMMENT PERIOD	P	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
			Oral Comments		
10280	Commenter recommends that the list of documents that can be handled on a walk-through basis be expanded to include (1) petitions for reimbursement of costs under Labor Code Section 5811, (2) petitions for reimbursement of medical-legal costs, and (3) orders for joinder.		Sue Borg, President California Applicants' Attorneys Association Written and Oral Comments July 15, 2008 Linda Atcherley, Legislative Chair California Applicants' Attorneys Association Oral Comments	Disagree. Walk-throughs documents have severely interfered with the effective ability to address the MSC's that have been set on calendar, to the detriment of those who have patiently waited for their hearings to be set so that their disputes can be addressed. Any additions to the types of documents that can be walked through will further cut into the rights of those people.	None
	Second, the Requirement under (1) that a walk through C&R and/or Stipulations is required to have proof of service on "all other parties to the settlement, on any defendant not executing the settlement who may be liable for the payment of additional compensation and on all lien claimants whose liens have not been resolved" should be deleted. A proof of service requirement is totally unnecessary where both parties have already signed the document. Lien claimants in these cases must already be notified under existing regulations, and the judge handling the walk-through can set those issues for a lien conference, so again there is no need for a rule requiring a three day notice.			Disagree. The proof of service is the only proof the judges have that shows that the lien claimants and other parties not signing the settlement document know that a settlement had been agreed to until it is ultimately been served with the award.	None
10280(d)(1)(A)	Commenter recommends that with regard to case opening documents and petitions presented at a walk-through conference, all action necessary to finalize a case resolution be taken by the assigned judge on the day the documents are presented and that the scanning, case number assignment, and other procedural requirements be completed by the Board staff the next day and communicated to the parties with the approval of the case resolution.		Brenda Ramirez Claims & Medical Director Michael McClain, General Counsel & Vice President California Workers' Compensation Institute July 15, 2008 Written Comment	Disagree. For documents that are case opening documents, the documents must be scanned into EAMS prior to the judge reviewing the documents and issuing an order. This is because of how EAMS functions. For example, a hearing cannot be scheduled except through EAMS and the judge can only issue an order if the case exists in EAMS.	None

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	The proposed regulations establish a 2-day process, required by the technical demands of the system, for resolving a dispute when there has been no case number assigned previously. The prompt and appropriate resolution of disputes is the Board's paramount concern and the technical requirements of the system must be a secondary consideration.				
10280(d)(1)(A)	The system that is intended to speed up adjudication appears to be creating a longer and more resource intensive process. Commenter is unclear on the reason for extending the Walk-Through to two days, requiring two trips to the WCAB. Perhaps further consideration could be given in this area. Could the system processing for case opening documents and petitions possibly be done after the walk-through or could a cover sheet be sent in prior to the walk-through for file set-up?		Steven Suchil Assistant Vice President American Insurance Assn. July 15, 2008 Written Comments	Disagree. The parties could mail the documents in if they do not want to bring them into the district office. However, for documents that are case opening documents, the documents must be scanned into EAMS prior to the judge reviewing the documents and issuing an order. See Addendum A.	None
10281	Section 10281 seems to relate to section 10252(b) in that defendants will try to cut off or slow down requests for expedited hearings. There are no forums for DOR objections and there is a question as to whether decisions will be uniform. The stay procedure is cumbersome by requiring ex parte notice and declarations. A layer of hearings will be superimposed on expedited hearing statutes.		Corey Ingber, Esq. Zenith Insurance Company July 14, 2008 Oral Testimony	Disagree. Section 10281 does not apply only to expedited hearings. It creates a stay procedure in general. The notice requirements are in place to ensure due process.	None