

**STATE OF CALIFORNIA  
DEPARTMENT OF INDUSTRIAL RELATIONS  
DIVISION OF WORKERS' COMPENSATION**

**SECOND ADDENDUM TO FINAL STATEMENT OF REASONS**

**Subject Matter of Regulations: Workers' Compensation – Return to Work**

**TITLE 8, CALIFORNIA CODE OF REGULATIONS  
Sections 10001, 10002, 10003**

In addition to the changes and responses to comments set forth in the final statement of reasons and the addendum to the final statement of reasons, the Acting Administrative Director of the Division of Workers' Compensation sets forth the following:

**THE FOLLOWING SECTIONS WERE AMENDED FOLLOWING THE THIRD 15-DAY COMMENT PERIOD AND CIRCULATED FOR A FOURTH 15-DAY COMMENT PERIOD:**

**Modifications to Section 10002**

**Offer of Work; Adjustment of Permanent Disability Payments subdivision (g)(2)**

Changes were made to Section 10002 (g)(2) in order to remove redundant language: "where the previous employment was for seasonal work".

The text states:

(g)(1) the employee was hired for ~~on a seasonal work basis, as a daily hire, or as a project hire~~ prior to injury;

(2) the offer of regular, modified or alternative *seasonal* work is ~~on a similar seasonal basis of reasonably similar wages, hours and working conditions to the employee's previous employment, and where the previous employment was for seasonal work on a seasonal basis, as a daily hire, or as a project hire. the one year requirement may be satisfied by cumulative periods of seasonal work;~~

## Modifications to Section 10003

## Form DWC AD 10003 Notice of Offer of Work

At page 1 of DWC-AD Form 10003, “your” and “the” were added to the following sentence to improve the syntax: “...you are able to return to your usual occupation or the position you held at the time of your injury...”

Additionally, the sentence: “You must return the completed form to the employer or claims administrator listed here: \_\_\_\_\_” was added to advise the employee what to do with the form and to ensure the employee has the mailing address.

Also, language was changed in order to account for the situation where between the injury and the time Form 10003 is completed and sent, there has been a change in the employee’s pay, such as cost of living increase or merit increase, but still comply with the statutory requirement of “equivalent wages and compensation.” The text states:

This position is expected to last ~~for a total of~~ for at least 12 months of work. If this position does not last for a total of at least 12 months of work, you may be entitled to an increase in your permanent disability benefit payments.

This position provides wages and compensation of \$ \_\_\_\_\_, that are ~~no less than equivalent to~~ equivalent to or more than the wages and compensation paid to you at the time of your injury.

At page 2 of DWC-AD Form 10003, an explanation was added advising the employee when the form must be returned and the consequences of failing to return to form. The new section is as follows:

*The employee must accept, reject, or object to this offer for regular work and return this form to the employer or claims administrator listed on page one within 20 calendar days of receipt of the offer or it will be deemed that the employee has waived the right to object to the location or shift. The employee should keep a copy of this form for his or her records.*

The sentence advising the employee that the permanent disability payments may be decrease by 15% was revised. It now states:

**I understand that *if my disability is permanent and stationary and the employer has fulfilled its legal obligations related to this offer, whether I accept or reject this offer, my remaining permanent disability payments may will be decreased by 15% whether I accept or reject this offer.***

The advisement that either party may file a Declaration of Readiness with the WCAB if there is a dispute was revised and moved to two locations on the page. It now states:

**Note: If either party has a dispute or objection regarding the offer of regular work, or if the employee rejects the offer of regular work, that party may file a Declaration of Readiness with the local district office of the Workers' Compensation Appeals Board (WCAB).**

Under the section entitled "Offer of Regular Work at a Different Location and/or Shift," a line allowing the employee to reject the offer was added. The line allowing the employee to object was divided into two parts as follows:

**I reject this offer of work. Reason:**

**\_\_\_\_\_ I object to this offer because the ~~job shift or~~ job location that has been offered is different than the ~~job shift or~~ job location I held at the time of my injury, and I do not believe this job allows a reasonable commute from my residence. I understand if the claims administrator does not agree with this objection, my remaining permanent disability weekly benefit payment may be decreased by 15%.**

**\_\_\_\_\_ I object to this offer because the job shift that has been offered is different than the job shift I held at the time of my injury. I understand if the claims administrator does not agree with this objection, my remaining permanent disability weekly benefit payment may be decreased by 15%.**

The date on the form was changed from July 2006 to September 2006.

At page 3 of DWC-AD Form 10003, the proof of service was modified to also allow for hand delivery. The wording was also clarified:

**(Check one)**

**\_\_\_\_\_ placing a true copy ~~thereof enclosed of the Notice of Offer of Regular Work~~ in a sealed envelope with postage fully prepaid addressed to each person whose name and address is given below by depositing the envelope in the United States mail, and thereafter deposited in the U. S. Mail at the place so addressed.**

**Or**

**\_\_\_\_\_ by personally serving a true copy of the Notice of Offer of Regular Work on each person whose name and address is given below.**

An additional non substantive change was made to the proof of service following the close of the 4<sup>th</sup> 15 day comment period. The words "am a citizen of the United States" were stricken. California Code of Civil Procedure sections 1013(a) and 2015.5 do not require that a proof of service be signed by a "citizen."

**SUMMARY OF COMMENTS RECEIVED AND RESPONSES THERETO  
CONCERNING THE REGULATIONS ADOPTED**

The comments of each organization or individual are addressed in the charts contained in the rulemaking binder.

The fourth 15 day comment period was from July 21, 2006 to August 7, 2006.