

State of California
DEPARTMENT OF INDUSTRIAL RELATIONS
Division of Workers' Compensation

**NOTICE OF MODIFICATION TO TEXT OF
PROPOSED REGULATIONS
AMENDED TO EXTEND CLOSE OF COMMENT PERIOD
(Subject Matter: Workers' Compensation
Vocational Rehabilitation Regulations
Title 8, California Code of Regulations Sections 10122 et seq.)**

NOTICE IS HEREBY GIVEN that pursuant to Labor Code Sections 133, 139.5, and 5307.3, and Government Code Section 11346.8(c), the Administrative Director of the Division of Workers' Compensation proposes to modify the text of the following proposed amendments to Title 8, California Code of Regulations:

Section 10122.1	Weekend or Holiday Deadlines
Section 10127.3	Qualified Rehabilitation Representative (QRR)
Section 10131.2	Settlement of Prospective Vocational Rehabilitation
Section 10133.12	Form RU-94 "Notice of Offer of Modified or Alternative Work" and Form Filing Instructions
Section 10133.22	Form RU-122 "Settlement of Prospective Vocational Rehabilitation Services" and Form Filing Instructions
Section 10133.2	Pamphlets

PRESENTATION OF WRITTEN COMMENTS AND DEADLINE FOR SUBMISSION OF WRITTEN COMMENTS

Members of the public are invited to present written comments regarding these proposed modifications. **Only comments concerning the proposed modifications to the text of the regulations will be considered and responded to in the Final Statement of Reasons.**

Written comments should be addressed to:

Guia Carreon, Regulations Coordinator
Department of Industrial Relations
Division of Workers' Compensation
Post Office Box 420603
San Francisco, CA 94142

The Division's contact person must receive all written comments concerning the proposed modifications to the regulations no later than 5:00 p.m. on **Friday, October 25, 2002**. Written comments may be submitted by facsimile transmission (FAX), addressed to the contact person at (415) 703-4720. Written comments may also be sent electronically (via e-mail), using the following e-mail address: dwcrules@hq.dir.ca.gov.

AVAILABILITY OF TEXT OF REGULATIONS AND RULEMAKING FILE

Copies of the original text and modified text with modifications clearly indicated, and the entire rulemaking file, are currently available for public review during normal business hours of 8:00 a.m. to 5:00 p.m., Monday through Friday, excluding legal holidays, at the offices of the Division of Workers' Compensation. The Division is located at 455 Golden Gate Avenue, 9th Floor, San Francisco, California.

Please contact the Division's regulations coordinator, Ms. Guia Carreon, at (415) 703-4600 to arrange to inspect the rulemaking file.

The specific modifications proposed include changes to the text of the proposed amendments Title 8, California Code of Regulations, Section 10122.1 (Weekend or Holiday Deadlines), Section 10127.3 (Qualified Rehabilitation Representative [QRR]), Section 10131.2 (Settlement of Prospective Vocational Rehabilitation), Section 10133.12 (Form RU-94, "Notice of Offer of Modified or Alternative Work" and Form Filing Instructions), Section 10133.22 (Form RU-122, "Settlement of Prospective Vocational Rehabilitation Services" and Form Filing Instructions) and Section 10133.2 (Pamphlets).

FORMAT OF PROPOSED MODIFICATIONS

Proposed Text Noticed for 45-Day Comment Period:

Deletions from the codified regulatory text are indicated by strike-through, thus: ~~deleted language~~.

Additions to the codified regulatory text are indicated by underlining, thus: underlined language.

The proposed Forms (Form RU-94 and Form RU-122) and Instructions were presented without underlining or strike-through.

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

Deletions from the amended regulatory text, as proposed in July 2002, are indicated by double strike-through under-line, thus: ~~~~deleted language~~~~.

Additions to the regulatory text, as proposed in July 2002, are indicated by a double underline, thus: added language.

Deletions from the Forms, as proposed in July 2002, are indicated by double strike-through, thus: ~~~~deleted language~~~~.

Additions to the Forms, as proposed in July 2002, are indicated by a double underline, thus: added language.

SUMMARY OF PROPOSED CHANGES

Modifications to Section 10122.1

Weekend or Holiday Deadlines

Section 10122.1 is modified to clarify that the holidays referred to are the state holidays as defined by Government Code Section 6700 and Section 6701. The section's typographical error is corrected to note that it is 10122.1 not 10122.2.

Modifications to section 10127.3

Qualified Rehabilitation Representative (QRR)

Section 10127.3 has been modified in response to comments that the term "immediately" should be defined as "within ten days." In addition, as suggested by comments, the words "and narrative" have been deleted so that the referral to a QRR now only requires "pertinent medical and vocational reports."

Modifications to section 10131.1

Settlement of Prospective Vocational Rehabilitation

Section 10131.1 has been modified in response to comments. It has been modified to state that if disapproval is not made by the Rehabilitation Unit within ten days of receipt of a fully executed settlement agreement, it shall be deemed approved. This modification will promote the prompt conclusion of settlements.

Modifications to section 10133.12

Form RU-94 "Notice of Offer of Modified or Alternative Work" and Form Filing Instructions

The Form RU-94 has been modified. Under the heading "Alternative Work," section "C." has been clarified by including the words "and compensation." In response to comments regarding this Section and Section 10131 concerning undocumented workers, the following statement has been added to the block entitled "Notice to the Parties": "All employees must present documents required for completion of *INS Form I-9* prior to starting modified or alternative work." Finally, the last sentence in the "Notice to the Parties" block has been modified to state the correct place for filing. If no WCAB case exists, the parties are advised to file with a Rehabilitation Unit "at the appropriate district office."

Modifications to section 10133.22

Form RU-122 "Settlement of Prospective Vocational Rehabilitation Services" and Form Filing Instructions

The Form RU-122 has been modified in response to comments. At the bottom of page two, the following statement has been added: "The Rehabilitation Unit shall approve or disapprove the settlement of vocational rehabilitation. If disapproval is not made within ten (10) days of receipt of a fully executed agreement, the agreement shall be deemed approved." This modification will promote the prompt conclusion of settlements. Additionally, in response to comments suggesting that the parties be notified of their right to appeal, the following language has been added: "This Agreement is Final. Any aggrieved party must file with the Workers' Compensation Appeals Board within twenty days (20) days from the date this Agreement is approved, deemed approved or disapproved."

Modifications to section 10133.2

Pamphlets

In response to comments, the following clarifying language has been added: (1) on the first page, “doctor’s final report” has been modified to state “doctor’s report regarding medical eligibility;” (2) on the first page, in the heading, the word ‘vocational’ has been added before the word “rehabilitation;” (3) on the first page, “vocational rehabilitation benefits” has been modified to “vocational rehabilitation services;” (3) on the third page, the question mark following the heading “You may or may not be entitled to other rights” has been deleted; (4) on the third page, readers are advised to refer to the “Department of Industrial Relations” when using the white pages in the phone book; and (4) on the fifth page, the grammar in the sentence in the “filing of a false claim” warning box has been corrected.