# STATE OF CALIFORNIA

# DEPARTMENT OF INDUSTRIAL RELATIONS

# OFFICE OF SELF-INSURANCE PLANS

## NOTICE OF MODIFICATIONS TO TEXT OF PROPOSED REGULATIONS

## AND ADDITION OF NEW DOCUMENTS TO THE RULEMAKING FILE

### **Workers’ Compensation – Self-Insurance Plans**

### **(Title 8, California Code of Regulations, Sections 15203.2, 15203.11, 15251, and 15430)**

Pursuant to the requirements of Government Code section 11346.8(c) and section 44 of Title 1 of the California Code of Regulations, the Chief Deputy Director of the Department of Industrial Relations, as Acting Director of the Department (“Director”) is providing this notice of modifications to the text of the proposed regulatory amendments that were issued on December 7, 2018, and were the subject of a public hearing held in Oakland, California on January 23, 2019. The Director is also adding documents and information to the rulemaking file, as described further below.

Revisions to text of proposals: The proposed modifications are as follows.

* Section 15203.11(a): New paragraphs (1) and (2) added to clarify scope of reporting requirement.
* Section 15203.11(b): New paragraphs (1) and (2) added to clarify scope of reporting requirement and duty of affiliate members to cooperate.
* Section 15251: Amendments in subsections (a)(2), (c)(1)(A), and (c)(1)(E) that were not properly reflected in original proposals are shown in these revisions.
* Section 15251(c)(4) and (5): Language and punctuation revised to clarify meaning, and last sentence of paragraph (4) moved into a new paragraph (5).
* Form AR-2: Aggregate Claims Information portion of this form added to proposals and rulemaking file.
* Proposed New Form P-1: Clarifying modifications made to Part A, items 2, 3, and 4. Zip code reporting replaced with regional reporting in Part B, item 2(a)(2) – *additional comments requested as discussed below.* Clarifying modifications made to Part B, items 2(b) and 3. Part B item 4 (employees) broken down further to distinguish numbers of volunteers, volunteers with elective coverage, and others for whom coverage mandated. In Part C, new item 2 heading added and subsequent items redesignated as a through c.
* Proposed New Form J-1: Part A, item 3 split into two items to distinguish between current affiliates and former affiliates with tail claims. Clarifying instruction added under Part B headings. Zip code reporting replaced with regional reporting in Part B, item 2(a)(2) – *additional comments requested as discussed below.* Clarifying modifications made to Part B, items 2(b), 3, 4, and 5(a), (b), and (c). Part B item 5 (employees) broken down further to distinguish numbers of volunteers, volunteers with elective coverage, and others for whom coverage mandated. Part C, item 1(a) corrected.

*Request for comment on regional reporting alternatives to zip code reporting.* Several commenters on the initial proposals suggested that in lieu of reporting the “Top five Zip Codes in which largest number of employees work” (Proposed Forms P-1 and J-1, Part B, item 2(b)(2)), that employers and Joint Powers Authorities instead be asked to report the region or regions in which they are located. In response to this suggestion and in recognition that this information is being sought principally for benchmarking and claims and program cost comparison purposes, the Director is proposing two possible alternatives for regional reporting. Alternative 1 would use the market area regions used by the Workers’ Compensation Insurance Ratings Bureau (WCIRB) to study and compare workers’ compensation claims costs. Alternative 2 would use the Covered California regions established by statute (Health and Code Section 1399.855(a)(2) and Insurance Code Section 10965.9(a)(2)), that insurers can use as a rating factor in establishing the cost of individual health plans under the Affordable Care Act. Both alternatives consist of 19 regions, but otherwise are very different in composition and use. The Director invites comment on which of these alternatives is more suitable for public self-insurer reporting, or whether Zip Code reporting or some other alternative would best meet the objectives of these proposals.

Additional Documents and Information: These documents and reference items have been added to the rulemaking file.

* Form AR-2 Aggregate Claims Information [also transmitted to interested persons with the text of modified proposals and this notice]
* [Workers’ Compensation Information Rating Bureau 2018 Geo Study](https://www.wcirb.com/sites/default/files/documents/2018_wcirb_geo_study.pdf) [posted online at <https://www.wcirb.com/sites/default/files/documents/2018_wcirb_geo_study.pdf>], including Technical Appendix describing basis for establishing geographic regions, and separate file Mapping Nine-Digit Zip Codes to Regions [linked to Study at <https://www.wcirb.com/content/study-geographic-differences>].[[1]](#footnote-2)
* [Health and Safety Code Section 1399.855(a)(2)](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=HSC&sectionNum=1399.855.) and [Insurance Code Section 10965.9(a)(2)](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=INS&sectionNum=10965.9.) [describing Covered California Pricing/Rating Regions].

Availability of modified text and items added to rulemaking record: Copies of the full text of the proposals, with revisions clearly shown, and this Notice, have been sent to interested parties who either commented on the initial proposals or who have requested notice of regulatory actions undertaken by the Office of Self-Insurance Plans. In addition, these items along with links to the additional documents and information listed above are posted on the Department of Industrial Relations’ website at <https://www.dir.ca.gov/osip/rulemaking/osip_rulemaking_proposed.html>. The full rulemaking file is available for inspection during normal working hours at the Office of Self-Insurance Plans, 11050 Olson Drive, Suite 230, Rancho Cordova, California 95670.

Opportunity to Comment: Interested persons are invited to submit written comments on (1) the proposed revisions to the text of the proposals and (2) the documents and information added to the rulemaking record. *Only comments directly concerning the proposed modifications to the text of the regulations and additional documents and information listed above will be considered and responded to in the Final Statement of Reasons.* The deadline for submitting comments is **Monday, May 20, 2019,** at **5:00 p.m.**, and the Department will only consider comments received at the Office of Self Insurance Plans (“OSIP”) by that time. Submit comments to:

Lyn Asio Booz, Chief

Office of Self Insurance Plans

11050 Olson Drive, Suite 230

Rancho Cordova, CA 95670

Comments may also be submitted prior to the close of the written comment period by e-mail to **OSIPRulemaking@dir.ca.gov** or by fax, to the attention of Lyn Asio Booz, at (916) 464-7007.

1. The Office of Self-Insurance Plans will develop and post a simplified zip code mapping tool if this alternative is adopted. [↑](#footnote-ref-2)