

Division of Labor Statistics and Research

INITIAL STATEMENT OF REASONS

Problem Addressed:

Pursuant to Labor Code Section 6410, DLSR, a division within the Department of Industrial Relations, is charged with prescribing and providing the forms necessary for maintenance of records of occupational injuries and illnesses required by the United States Department of Labor under the Federal Occupational Safety and Health Act of 1970 (P.L. 91-596). Requirements for fulfilling this mandate are currently found in Article 2 of Subchapter 1, Chapter 7, Division 1 of Title 8 in the California Code of Regulations ("Article 2").

On July 1, 2002, the U.S. Department of Labor, Occupational Safety and Health Administration (OSHA) promulgated revisions to regulations at 29 CFR 1904 addressing Occupational Injury and Illness Recording and Reporting Requirements. See Federal Register Volume 67, No. 126, pages 44037-44048. The State of California, through DLSR, is now required by the provisions of 29 CFR 1902.3(k), 29 CFR 1952.4, and 29 CFR 1956.10(i), to adopt regulations for recording of occupational injuries and illnesses that are substantially identical to the requirements of revised 29 CFR 1904.10 and 29 CFR 1904.12.

Specific Purpose of Adoption/Factual Basis:

To implement the use of recording criteria consistent with the Federal OSHA requirement for recording cases of occupational hearing loss, and to maintain a consistent approach for recording musculoskeletal disorders on the pertinent recording and reporting forms. The Division proposes to amend subsections 14300.10, and 14300.12 as described below.

Amended subsection 14300.10, Purpose. This proposed amendment establishes the criteria that employers use to report and record the occurrence of an employee's occupational hearing loss. This criteria replaces the existing criteria in that section with significant changes in defining the magnitude of the loss that is recordable. The proposed amendment omits the requirement in subpart 10(b)(7) to record hearing loss cases on the Form 300 in a specific column in keeping with the Federal request for information on the need for such a column in the Form 300. The existing criteria had been an interim measure set to expire on December 31, 2002. The new criteria would go into effect immediately thereafter.

This change is necessary for adopting criteria that are substantially identical to the Federal regulation as required by Federal OSHA in 29 CFR 1902.3(k), 29 CFR 1952.4, and 29 CFR 1956.10(i)

Amended subsection 14300.12, Purpose.

To extend the use of the existing recording criteria and procedures for another year as a result of Federal OSHA's postponement of defining final "recording criteria for cases involving work-related musculoskeletal disorders" (MSDs) until January 1, 2004. Federal OSHA had planned to implement the use of specific criteria for recording MSDs beginning on January 1, 2003. However, delays in reconciling these criteria with the criteria that would be used in preparing the federal standard for ergonomics required the agency to postpone the

implementation of the criteria for at least another year. The proposed amendment to subsection 14300.12 extends the use of current criteria for the extended interim period. This change in the length of the interim recording period is necessary to maintain a recording procedure already in effect, that would be least disruptive to California employers while maintaining a process that is consistent with OSHA's procedures.

Specific Technology or Equipment: This proposal will not mandate the use of specific technologies or equipment.

Identified Alternatives that Would Lessen Adverse Impact on Small Businesses: No alternatives would lessen economic impact. No adverse impact on small businesses is anticipated from the implementation of the proposed regulation. Therefore, no alternatives which would lessen the impact on small businesses have been identified.

Business Impact: This regulation will not have a significant adverse economic impact on businesses.

Documents relied upon: Federal Register /Volume 67, Number 126 (Monday July 1, 2002)
Federal OSHA Proposed and Final Rules. Pages 44037-44048 & 44124-44127.