

DEPARTMENT OF INDUSTRIAL RELATIONS
DIVISION OF OCCUPATIONAL SAFETY AND HEALTH1515 CLAY STREET, SUITE 1901
OAKLAND, CA 94612
(510) 286-7000 FAX: (510) 286-7037MAILING ADDRESS:
P. O. Box 420603
San Francisco, CA 94142-0603

September 6, 2013

NOTICE OF INTENTION TO READOPT EMERGENCY REGULATIONS

Regulation Subject: Inspection and Permit fees, Pressure Vessels, Boilers and Tanks
Sections 344 and 344.1, Title 8, California Code of Regulations

The Division of Occupational Safety and Health ("Division") in the Department of Industrial Relations plans to readopt regulations initially adopted effective March 18, 2013, as emergency regulations (OAL File No. 2013-0314-02-EFP). The regulations involved are sections 344 (Shop and Resale Inspection Fees, Consultation and Audit Fees, Boilers and Tanks) and 344.1 (Air Tank, Liquefied Petroleum Gas (L.P.G.) and Boiler Inspection Fees) of Title 8 of the California Code of Regulations (8 CCR). Labor Code section 7721(e) requires that any inspection fees collected by the Division under that section be adopted as emergency regulations. The amendment to regulation 344 increased the hourly amount for tank and boiler shop and resale inspection fees and for consultation and audit fees from \$ 110 per hour to \$ 135 per hour, and to the hourly fee of \$ 202.50 for work performed evenings, weekends and holidays. In addition the mileage rate allowed in the regulation was increased from 31 cents to 55.5 cents. The amendment to regulation 344.1 increased the hourly field inspection fee for air tanks, LPG tanks and boilers from \$ 135.00 to \$ 160.00 per hour. The current text of sections 344 and 344.1, as adopted effective March 18, 2013, can be viewed on line at:

<http://government.westlaw.com/linkedslice/search/default.asp?tempinfo=find&RS=GVT1.0&VR=2.0&SP=CCR-1000> (this full address must be entered on one unbroken line in the web browser). These regulations are also found in Article 5, Subchapter 2, Chapter 3.2, Division 1 of Title 8 of the California Code of Regulations.

The Division now incorporates by reference, in support of this readoption action, the entire emergency rulemaking record, OAL File No. 2013-0314-02-EFP, filed by the Division with the Office of Administrative Law on or about March 14, 2013, as is permitted by section 52(c) of Title 1, California Code of Regulations. Copies of these documents may be obtained upon written request made to Suzanne P. Marria, Special Counsel, at smarria@dir.ca.gov or by calling (510) 286-7000.

Pressurized tanks, vessels and boilers present a serious public and workplace menace due to the hazard of explosions if the equipment is not properly constructed, maintained and operated. The inspection of pressurized tanks, vessels and boilers, for compliance with the regulations and statutes that govern safe maintenance, use and operation of the equipment, is necessary to protect the public and employees working in the vicinity of such vessels from injury or illness caused by explosion and exposure to hot, corrosive, chemical or other hazardous substances or gases held under pressure. (Lab. Code §§ 7681 – 7683, 7680 and 7750.) Labor Code sections 7680 and 7750 require that prior to using such a tank or boiler any person who owns or has custody of a

pressurized tank and boiler as defined in this part of the Code first obtain a permit to operate from the Division based on an inspection of the equipment.

To meet the Division's costs of performing the required inspection and permit services described in Part 6 (Tanks and Boilers) of Division 5 of the Labor Code, the Division determined it was necessary to increase inspection fees and the mileage charges for such inspections performed by Division inspectors. More specific explanations for the increased fee amounts are described in detail in the emergency rulemaking file. The Division initiated the regulation changes by adopting emergency regulations as mandated by Labor Code section 7721(e), effective March 18, 2013. Thirty days prior to implementing the change in permit inspection fees and mileage rates, affected owners and operators of such tanks and boilers were notified of the increase and given the option of renewing contracts with the Division to conduct the inspections at the new rate.

The Division has filed a Notice of Rulemaking with the Office of Administrative Law to announce the commencement of the public rulemaking process to adopt, on a permanent basis, the same amended regulatory language that increased the hourly inspection fees and mileage rate as those that became effective on March 18th (See, OAL File No. Z2013-0905-02.) The statutory requirement in Labor Code section 7721(e) to adopt fee regulations on an emergency basis remains in effect. For the purposes of the requirement of section 52(b)(2) of Title 1 of the California Code of Regulations, the condition for adopting emergency regulations remains unchanged since the time of the initial adoption of these emergency regulations.

Government Code section 11346.1(a)(2) requires that, at least five (5) working days prior to submission of the proposed emergency action, in this case the readoption, to the Office of Administrative Law, the adopting agency issue a notice of the proposed action to every person who has filed a request for notice of regulatory actions with the agency. The Office of Administrative Law may approve up to two readoptions, each for a period not to exceed ninety (90) days.

Attached is the proposed language to be readopted by this action.

A readoption of the current wording of regulations 344 and 344.1 will enable the Division to complete the public rulemaking process to make the changes permanent.

If you have any questions regarding this proposed readoption, please contact Suzanne P. Marria, Special Counsel, Division of Occupational Safety & Health, 1515 Clay Street, Ste. 1901, Oakland, CA 94612, or by email at smarria@dir.ca.gov, or by phone at 510-286-7000.

Att.