

## NOTICE OF PUBLIC HEARING

Title 8. Division of Occupational Safety and Health

NOTICE IS HEREBY GIVEN that the Division of Occupational Safety and Health is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held at 2211 Park Towne Circle, Suite 1, Sacramento, California at 10:00 a.m., on February 19, 2002. These facilities are accessible to persons with mobility impairments.

Written comments must be received by the Division at 2211 Park Towne Circle, Suite 1 not later than 5:00 p.m. on February 19, 2002, or must be received by the Division at the hearing. The official record of the rulemaking proceeding will be closed at 5:00 p.m. on February 19, 2002. Written comments received after that date and time will not be considered unless an extension of time in which to receive specific written comments is announced at the public hearing.

The Division may thereafter adopt the proposed regulations substantially as described below or may modify them if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

Authority: Section 7180, Business and Professions Code; Sections 60.5, 6308, and 9021.5, Labor Code

Reference: Sections 7184 and 7185, Business and Professions Code; Sections 9021.5, 9021.6, and 9021.8, Labor Code; and Section 1529, Title 8, California Code of Regulations.

### Informative Digest/Policy Statement Overview.

Article 2.6 Certification of Asbestos Consultants and Site Surveillance Technicians.

Pursuant to Labor Code sections 9021.5 and 9021.8 and 8 CCR section 341.15, individuals performing services of an asbestos consultant or site surveillance technician must apply for and obtain certification from the Division of Occupational Safety and Health (the Division) to perform such services, and must renew their certification annually. Pursuant to the same provisions, the

Division may charge a fee to those applying for certification and those who renew their certification, and the fees charged must be sufficient to cover the cost of administering the certification program.

Currently, the fees charged by the Division are as follows:

(1) Fees for asbestos consultant.

Application and Examination Fee: \$375

Annual Renewal Fee: \$150

(2) Fees for site surveillance technician.

Application and Examination Fee: \$275

Annual Renewal Fee: \$125

These fees were set when the program was initiated in 1992, and are now insufficient to cover the cost of administering the program. Therefore, the Division is proposing to increase the application/examination and renewal fees for consultants to \$500 and \$325 respectively, and the application/examination and renewal fees for site surveillance technicians to \$400 and \$270 respectively.

More Information.

The full text of the Proposed Regulations, and all information upon which the Proposed Regulations are based, including an initial statement of the reasons for the Proposed Regulations, are available upon request. Inquiries concerning the Proposed Regulations, including questions regarding the substance of the Proposed Regulations, may be directed to:

Rick Axe or Steve Smith  
Department of Industrial Relations  
Division of Occupational Safety and Health  
2211 Park Towne Circle Suite 1  
Sacramento, CA 95825  
(916) 574-2993

The Division's rulemaking file on the Proposed Regulations is open for public inspection Monday through Friday, from 8:00 a.m. to 5:00 p.m., at 2211 Park

Towne Circle Suite 1, Sacramento, California. Interested parties may obtain copies of the initial statement of reasons, the actual text of the Proposed Regulations, this notice, and the final statement of reasons, (once it has been prepared pursuant to Government Code section 11346.9(a),) from the Division representatives named above, or from the Division's web site ([www.dir.ca.gov/DOSH](http://www.dir.ca.gov/DOSH)).

#### Cost or Savings of the Proposed Regulations.

Costs or Savings to State Agencies: No costs or savings to state agencies will result as a consequence of the Proposed Regulations.

Impact on Housing Costs: The Proposed Regulations will not significantly affect housing costs.

Impact on Businesses: The Division has made an initial determination that the Proposed Regulations will not result in a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

Cost Impacts on Representative Private Persons or Businesses: The Division is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the Proposed Regulations.

Costs or Savings in Federal Funding to the State: The Proposed Regulations will not result in costs or savings in federal funding to the State.

Costs or Savings to Local Agencies or School Districts: No costs to local agencies or school districts are required to be reimbursed. See explanation under "Determination of Mandate".

Other Nondiscretionary Costs or Savings Imposed on Local Agencies: The Proposed Regulations do not impose nondiscretionary costs or savings on local agencies.

#### Determination of Mandate.

The Proposed Regulations do not impose a mandate on local agencies or school districts. The Division has determined that the Proposed Regulations do not impose a mandate requiring reimbursement by the State pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code because the Proposed Regulations do not constitute a "new program or higher level of service of an existing program within the meaning of Section 6 of Article XIII B of the California Constitution."

The California Supreme Court has established that a "program" within the meaning of Section 6 of Article XIII of the California Constitution is one which carries out the governmental function of providing services to the public, or

which, to implement a state policy, imposes unique requirements on local governments and does not apply generally to all residents and entities in the state. (County of Los Angeles v. State of California (1987) 43 Cal.3d 46.)

The Proposed Regulations do not require any local agency to carry out the governmental function of providing services to the public.

#### Effect on Small Businesses.

It has been determined that the Proposed Regulations may affect small businesses.

#### Assessment.

The adoption of the Proposed Regulations will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California.

#### Consideration of Alternatives.

The Division must determine that no reasonable alternative considered by the Division, or that has been identified and brought to the attention of the Division, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.