

Division of Occupational Safety and Health

NOTICE OF PUBLIC HEARING

Title 8. Division of Labor Statistics and Research

NOTICE IS HEREBY GIVEN that the Division of Labor Statistics and Research 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 beginning at 10 a.m. in the B, C & D Rooms at the Elihu Harris State Building, 1515 Clay Street, Oakland, California on Monday, October 29, 2001. These facilities are accessible to persons with mobility impairments.

Written comments must be received by mail, by fax or by email no later than 5:00 p.m. on Monday, October 29, 2001, or must be received at the hearing. Comments must be addressed to either of the following:

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The official record of the rulemaking proceeding will be closed at 5:00 p.m. on October 29, 2001. The Division of Labor Statistics and Research shall not consider written comments received after that date and time unless an extension of time in which to receive specific written comments is announced at the public hearing.

The Division of Labor Statistics and Research may thereafter adopt the proposed regulations substantially as described below, or may modify it if such modification is 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 or any changes to the proposal.

Authority and Reference

Authority cited: Labor Code Sections 50.7 and 6410.

Reference: Labor Code Section 6410.

Informative Digest/Policy Statement Overview

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 January 19, 2001, 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. See Federal Register Volume 66, No. 13, pages 5916-6135. 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.

DLSR now proposes to adopt requirements for recording of occupational injuries and illness that are substantially identical to the requirements of revised 29 CFR 1904. With the exception of several informational sections of revised 29 CFR 1904 that are not directly related to the compliance obligations of employers and are without regulatory effect, the federal recordkeeping provisions are proposed to be adopted in their entirety. The

federal recordkeeping provisions not proposed to be adopted are: 29 CFR 1904.37, State recordkeeping regulations, 29 CFR 1904.45, OMB control numbers under the Paperwork Reduction Act, and 29 CFR 1952.4, injury and illness recording and reporting requirements.

Revised 29 CFR 1904.39, a provision related to reporting of occupational injuries and illnesses, is not proposed to be adopted at this time. It should be noted that there is an existing state equivalent, at Title 8 Section 342 of the California Code of Regulations, which is at least as effective as 29 CFR 1904.39.

In addition, DLSR proposes to renumber and retain certain requirements of existing Article 2, which address the availability of the affected records to employees and governmental representatives who request them. As authorized by 29 CFR 1904.37(b)(2) and 29 CFR 1952.4(a), DLSR has consulted with federal OSHA and obtained the agency's approval to maintain these supplemental provisions, which are neither recording nor reporting requirements and are without direct federal equivalents. Where these provisions are proposed to be retained, this is specifically noted in the informative digest below.

To implement the new federal provisions, DLSR proposes to repeal, with the exception of the supplemental provisions to be retained and renumbered as described above, all of the existing provisions of Article 2, Sections 14300 through 14400, are proposed to be repealed. Article 2 is proposed to be renumbered as Sections 14300 through 14300.47. This numbering tracks the numbering of the new federal provisions and will facilitate comparing the proposed California regulations with their federal equivalents.

Existing sections of Article 2 to be repealed:

1. Section 14300. This section currently contains no provisions.
2. Section 14301, Log and Summary of Occupational Injuries and Illnesses. This section currently requires that all employers meeting certain criteria maintain in each establishment a log of all recordable occupational injuries and illnesses for that establishment. Injuries and illnesses are currently required to be recorded not later than six (6) working days after receiving information that a recordable case has occurred. Existing Section 14301

also addresses the specific form, or an equivalent, that is to be completed and the availability of the form at the establishment to which it applies.

3. Section 14303, Period Covered. This section requires that records be kept on a calendar year basis.

4. Section 14304, Supplementary Record. This section requires that employers have available for inspection at each establishment, within six (6) working days after receiving information that a recordable injury or illness has occurred, a supplementary record describing the circumstances of the injury or illness in greater detail than that provided in the log of injuries and illnesses required by Section 14301. Section 14304 describes the forms that would be acceptable for this supplementary record.

5. Section 14305, Annual Summary. This section requires that employers post, in the month of February, an annual summary of occupational injuries and illnesses. The annual summary must consist of a copy of the prior year's totals from the Cal/OSHA Form 200 along with basic information on the establishment for which the record is being maintained. This section requires that each employer, or the officer or employee of the employer who supervises preparation certify with a signature that the annual summary is true and complete. This section also requires that employees who do not primarily report to work at a single establishment or who do not report to any fixed establishment on a regular basis be presented or mailed a copy of the annual summary during the posting period.

6. Section 14307, Retention of Records. This section provides that the records specified by the provisions of Article 2 be retained in each establishment for five (5) years following the end of the year to which they relate.

7. Section 14308, Access to Records. This section requires that employers provide access to all of the records required by provisions of Article 2 to specified government representatives for inspection and copying. This section also requires that access to the injury and illness log and annual summary be provided to current and former employees, and to their representative for examination and copying.

8. Section 14309, Falsification, or Failure to Keep Records. This section

provides notice that falsification of records required by Article 2 is punishable by fine or imprisonment. Failure to maintain the records required by Article 2 is also noted to be a violation of Labor Code Sections 6410 and 6411, which may result in issuance of citations and assessment of penalties.

9. Section 14310, Change of Ownership. This section requires that, when an establishment changes ownership, each employer be responsible for maintaining records only for that period of the year during which they owned the establishment, and that the new owner preserve any records made by the prior owner required to be kept under Article 2.

10. Section 14311, Definitions. This section provides definitions for the terms “recordable occupational injuries and illnesses,” “medical treatment,” “first aid,” “lost workdays,” and “establishment.”

11. Section 14312, Petitions for Recordkeeping Exceptions. This section provides that for private employers no exceptions to the recordkeeping requirements of Article 2 are allowed, except to the extent granted by the Bureau of Labor Statistics within the U.S. Department of Labor. Special provision is made for public employers that, if a public employer proposes to keep a record of occupational injuries and illnesses resulting from the performance of like functions in more than one physical location, the employer’s recordkeeping plan must be submitted for approval to DLSR.

12. Section 14313, Employees Not in Fixed Establishments. This section provides that employers with employees engaged in physically dispersed operations may satisfy the provisions of Article 2 for recordkeeping by maintaining the required records in a central location and keeping at each worksite the address and telephone number of this central location. Personnel must also be available at the central location during normal business hours to provide information from the records by telephone and mail.

13. Section 14314, Small Employers. This section provides that employers with less than 10 employees are not subject to the recordkeeping provisions of Article 2 except when they are notified by DLSR that they have been selected to participate in a statistical survey of occupational injuries and illnesses.

14. Section 14315, Employers Covered by the Federal Mine Safety and Health Act. This section provides that employers whose employees are covered by the Federal Mine Safety and Health Act of 1977 are not required to comply with the provisions of recordkeeping requirements adopted pursuant to Labor Code section 6410 to the extent that so complying would result in duplicating information provided that access to records required by regulations implementing the Mine Safety and Health Act is granted to representatives of the official mine safety agency of the State of California.

15. Section 14316, Private Sector Establishments Classified in Standard Industrial Classification Codes (SIC) 52-89, (except 52-55, 57, 70, 75, 76, 781, 79, and 80), In accordance with the 1972 Edition of the “Standard Industrial Classification Manual,” Incorporating the 1977 Supplement, Published by the Office of Management and Budget, Executive Office of the President. This section provides that private employers whose establishment is classified in SICs 52-89 (excluding 52-55, 57, 70, 75, 76, 781, 79, and 80) need not comply with any of the recordkeeping requirements of Article 2 except for Section 14400 which requires participation in statistical surveys.

16. Section 14400, Statistical Surveys. This section requires that upon receipt of an Occupational Injuries and Illnesses Survey Form or any such federally required survey, the employer shall complete and return the form as directed by the instructions received with the form.

Proposed Amendments and New Sections

The DLSR proposes to amend Section 14300 and to adopt Sections 14300.1 through 14300.47, all to be placed within Article 2 as described below.

Amended Section 14300, Purpose. This proposed section would contain the statement of general purpose of the equivalent federal regulation at 29 CFR 1904.0 with respect to recording of work-related fatalities, injuries, and illnesses. However, the reference in the federal rule to “reporting” of these work-related events would not be included in Section 14300 because Article 2 addresses only “recording” of such events. Reporting of workplace fatalities and serious injuries and illnesses is already addressed in Title 8 Section 342. Proposed Section 14300 would also contain two notes for informational purposes only which are without regulatory effect.

New Section 14300.1, Partial Exemption for Employers with 10 or Fewer Employees. This section is proposed to be adopted with language substantially identical to the equivalent federal rule at 29 CFR 1904.1, with the exception of references to federal agencies and authority which have been changed to their California equivalents where applicable. This section would provide that employers with ten or fewer employees in any industry at all times during the calendar year are partially exempted from recordkeeping unless OSHA or the Bureau of Labor Statistics informs them in writing that they must keep such records. The proposed new section retains references in existing Section 14314 to the requirements for all employers, regardless of size, to file reports with DLSR of occupational injuries and illnesses as well as to report to the Division of Occupational Safety and Health every serious occupational injury or illness, or death.

New Section 14300.2, Partial Exemption for Establishments in Certain Industries.

Existing Section 14316 contains a list of categories of establishments exempted from the provisions of existing Section 14301, which states a general requirement for employers to record occupational injuries and illnesses. The exempted categories are identified by using Standard Industrial Classification (SIC) Codes. The SIC Codes exempted are: 56, 58-69, 72-74, 782-784, and 81-89. These recordkeeping exemptions are considered to be only “partial,” because any employer may be specifically requested by OSHA, the U. S. Bureau of Labor Statistics, or a state designee to record occupational injuries and illnesses, and no employer is exempt from the requirement to comply with such a request.

This list of exempted SIC Codes, with some modifications made to maintain consistency with the new federal list of partially exempt employer categories, is proposed to be placed in new section 14300.2. The modifications consist of removing a number of specific subcategories from the currently exempted SIC Codes on the list. The subcategories proposed to be removed from the list, and thus no longer exempt from the recordkeeping requirements of Article 2, are shown by SIC Code in Table 1.

Table 1

SIC Codes of Industries No Longer Exempt

593 - Used Merchandise Stores
596 - Nonstore Retailers
598 - Fuel Dealers
651 - Real Estate Operators (except Developers) and Lessors
655 - Land Subdividers and Developers
721 - Laundry, Cleaning, and Garment Services
734 - Services to Dwellings and Other Buildings
735 - Miscellaneous Equipment Rental and Leasing
736 - Personnel Supply Services
833 - Job Training and Vocational Rehabilitation Services
836 - Residential Care
842 - Arboreta and Botanical or Zoological Gardens

In order to maintain consistency with the new OSHA recordkeeping requirements at 29 CFR 1904.2, a number of specific subcategories of establishments that are not within the currently exempted SIC Codes are proposed to be added to the list of exempted industries. Adding these subcategories of newly exempted employers to the list of exempted employers found in existing Section 14316 would make the California list identical to the federal list, with the exception of SIC code 781, Motion Picture Production and Allied Services, which will continue to be required to record in California. The subcategories of establishments proposed to be added to the list of exempted establishments, and thus no longer required to record, are shown by SIC Code in Table 2 below.

Table 2
SIC Codes of Industries No Longer Required to Record

- 525 - Hardware Stores
- 542 - Meat and Fish Markets
- 544 - Candy, Nut, and Confectionery Stores
- 545 - Dairy Product Stores
- 546 - Retail Bakeries
- 549 - Miscellaneous Food Stores
- 551 - New and Used Car Dealers
- 552 - Used Car Dealers
- 554 - Gasoline Service Stations
- 557 - Motorcycle Dealers
- 573 - Radio, Television, & Computer Stores
- 764 - Reupholstery
- 791 - Dance Studios, Schools, and Halls
- 792 - Producers, Orchestras, Entertainers
- 793 - Bowling Centers
- 801 - Offices and Clinics of Medical Doctors
- 802 - Offices and Clinics of Dentists
- 803 - Offices of Osteopathic Physicians
- 804 - Offices of Other Health Practitioners
- 807 - Medical and Dental Laboratories
- 809 - Health and Allied Services, Not Elsewhere Classified

The effect of this proposed rule is to add to the list of employers required to record those in the industries listed in Table 1 above, and to add to the list of those not required to record those employers in the industries listed in Table 2 above. Table 3 shows the complete proposed list of employers not required to record unless specifically requested to do so:

TABLE 3
PARTIALLY EXEMPT INDUSTRIES IN
CALIFORNIA

<u>SIC Code</u>	<u>Industry Description</u>	<u>SIC Code</u>	<u>Industry Description</u>
<u>525</u>	<u>Hardware Stores</u>	<u>731</u>	<u>Advertising Services</u>
<u>542</u>	<u>Meat and Fish Markets</u>	<u>732</u>	<u>Credit Reporting and Collection Services</u>
<u>544</u>	<u>Candy, Nut, and Confectionery Stores</u>	<u>733</u>	<u>Mailing, Reproduction and Stenographic</u>
<u>545</u>	<u>Dairy Products Stores</u>		<u>Services</u>
<u>546</u>	<u>Retail Bakeries</u>	<u>737</u>	<u>Computer and Data Processing Services</u>
<u>549</u>	<u>Miscellaneous Food stores</u>	<u>738</u>	<u>Miscellaneous Business Services</u>
<u>551</u>	<u>New and Used car Dealers</u>	<u>764</u>	<u>Reupholstery and Furniture Repair</u>
<u>552</u>	<u>Used Car Dealers</u>	<u>782</u>	<u>Motion Picture Distribution and Allied</u>
<u>554</u>	<u>Gasoline Service Stations</u>		<u>Services</u>
<u>557</u>	<u>Motorcycle Dealers</u>	<u>783</u>	<u>Motion Picture Theaters</u>
<u>56</u>	<u>Apparel and Accessory Stores</u>	<u>784</u>	<u>Video Tape Rental</u>
<u>573</u>	<u>Radio, Television, and Computer Stores</u>	<u>791</u>	<u>Dance Studios, Schools, and Halls</u>
<u>58</u>	<u>Eating and Drinking Places</u>	<u>792</u>	<u>Producers, Orchestras, Entertainers</u>
<u>591</u>	<u>Drug Stores and Proprietary Stores</u>	<u>793</u>	<u>Bowling Centers</u>
<u>592</u>	<u>Liquor Stores</u>	<u>801</u>	<u>Offices and Clinics of Medical Doctors</u>
<u>594</u>	<u>Miscellaneous Shopping Goods Stores</u>	<u>802</u>	<u>Offices and Clinics of Dentists</u>
<u>599</u>	<u>Retail Stores, Not Elsewhere Classified</u>	<u>803</u>	<u>Offices of Osteopathic</u>
<u>60</u>	<u>Depository Institutions (banks and</u>	<u>804</u>	<u>Offices of Other Health Practitioners</u>
	<u>savings institutions)</u>	<u>807</u>	<u>Medical and Dental Laboratories</u>
<u>61</u>	<u>Nondepository</u>	<u>809</u>	<u>Health and Allied Services, Not</u>
<u>62</u>	<u>Security and Commodity Brokers</u>		<u>Elsewhere Classified</u>
<u>63</u>	<u>Insurance Carriers</u>	<u>81</u>	<u>Legal Services</u>
<u>64</u>	<u>Insurance Agents, Brokers and Services</u>	<u>82</u>	<u>Educational Services (schools, colleges,</u>
<u>653</u>	<u>Real Estate Agents and Managers</u>		<u>universities and libraries)</u>
<u>654</u>	<u>Title Abstract Offices</u>	<u>832</u>	<u>Individual and Family Services</u>
<u>67</u>	<u>Holding and Other Investment Offices</u>	<u>835</u>	<u>Child Day Care Services</u>
<u>722</u>	<u>Photographic Studios, Portrait</u>	<u>839</u>	<u>Social Services, Not Elsewhere Classified</u>
<u>723</u>	<u>Beauty Shops</u>	<u>841</u>	<u>Museums and Art Galleries</u>
<u>724</u>	<u>Barber Shops</u>	<u>86</u>	<u>Membership Organizations</u>
<u>725</u>	<u>Shoe Repair and Shoeshine Parlors</u>	<u>87</u>	<u>Engineering, Accounting, Research,</u>
<u>726</u>	<u>Funeral Service and Crematories</u>		<u>Management, and Related Services</u>
<u>729</u>	<u>Miscellaneous Personal Services</u>	<u>899</u>	<u>Services, Not Elsewhere Classified</u>

NOTE: In California, establishments in SIC Code 781 (Motion Picture Production and Allied Services) are required to record. Federal law does not require these establishments to record. This is the only difference between the list of establishments shown in Table 3 above and the list shown in the equivalent federal rule at 29 CFR 1904.2.

New Section 14300.3, Keeping Records for More than One Agency.

This section is proposed to be adopted with language substantially identical to the equivalent federal rule at 29 CFR 1904.3, with the exception of references to federal agencies and authority which have been changed to their California equivalents where applicable. This section is proposed to state that if employers already create injury and illness records to comply with requirements of another government agency, the Division will consider these as meeting the recordkeeping requirements of this Article if OSHA accepts the other agency's records under a memorandum of understanding with the other agency or if those records contain the same information required by the proposed revisions of Article 2. Language without regulatory effect included as a Note at the beginning of Subpart C of 29 CFR 1904 is not included in DLSR's proposed regulation.

New Section 14300.4, Recording Criteria. With the exception of an informational element proposed to be omitted as described below, this section is proposed to be adopted substantially identical to the equivalent federal rule at 29 CFR 1904.4, with the exception of references to federal agencies and authority which have been changed to their California equivalents where applicable. This new section states the three basic elements which make an injury or illness recordable: that it be work-related as detailed in proposed Section 14300.5, that it be a new case as detailed in proposed Section 14300.6, and that it meet one of the general recording criteria detailed in proposed Section 14300.7.

Proposed Sections 14300.5, 14300.6, and 14300.7 would specify in greater detail than does the existing rule the three elements of recordability: 1) work-relatedness; 2) a new case; and 3) meeting one of the criteria for recording (fatality, lost or restricted workday, medical treatment beyond first aid, or loss of consciousness). Also the proposed rule would differ from the provisions of existing Article 2 by applying the same criteria for recordability to illnesses that are currently applied only to injuries. An exception to this would be in proposed Section 14300.4(b)(4) which refers to new criteria for recording of five particular types of injuries and illnesses detailed in proposed Sections 14300.8 through 14300.12.

The effect of this proposed section is to apply to most illnesses the same criteria for recording that existing Article 2 requirements apply only to injuries. Illnesses covered by the specific requirements of proposed Section

14300.8 through 14300.12 would receive separate and different treatment from other illnesses not specifically named in the rule. Illnesses and injuries falling within the definition of “significant diagnosed injury or illness” at proposed Section 14300.7(b)(7) would be required to be recorded even if they did not meet one of the criteria of proposed subsections 14300.7(b)(1)(A) through (b)(1)(E) (i.e. death, days away from work, restricted work or job transfer, medical treatment beyond first aid, or loss of consciousness).

Section 1904.4(b)(2) of the federal rule contains a “decision tree” intended to illustrate the process of deciding if an injury or illness must be recorded. This decision tree would be omitted in proposed Section 14300.4 as it is for information only and has no regulatory effect.

New Section 14300.5, Determination of Work-relatedness.

This section is proposed to be adopted with language substantially identical to the equivalent federal rule at 29 CFR 1904.5, with the exception of references to federal agencies and authority which have been changed to their California equivalents where applicable. This section would describe the circumstances when an injury or illness would and would not be considered to be work-related for the purposes of recordkeeping. Injuries and illnesses that are not found to be work-related under the provisions of this section, would not be required to be recorded by employers. The effect of this proposed section is to clarify for employers which injury and illness events are required to be recorded.

The following subsections of proposed Section 14300.5 would introduce new regulatory language not currently found in existing Article 2:

Proposed Section 14300.5(b)(1) defines the concept of “work environment” for the purposes of recordkeeping.

Proposed Section 14300.5(b)(2) details a list of specific circumstances when an injury or illness of an employee would not be regarded as being work-related for the purposes of recordkeeping

Proposed Section 14300.5(b)(4) details when a workplace event or exposure “significantly aggravates” a pre-existing condition so that it would then need to be recorded as an injury or illness event by the employer.

Proposed Section 14300.5(b)(5) details which injuries and illnesses are considered to be “pre-existing” conditions which when significantly aggravated under the definition of proposed Section 14300.5(b)(4) would be required to be recorded by the employer. Pre-existing conditions are defined by proposed subsection (b)(5) to include only non-work-related events and exposures that occurred outside the work environment.

Proposed Section 14300.5(b)(6) details a list of specific circumstances when an employee is traveling for work purposes and an injury or illness occurs but would not be regarded as being work-related for the purposes of recordkeeping.

Proposed Section 14300.5(b)(7) describes the circumstances under which an injury or illness occurring when an employee is working at home would and would not be required to be recorded by the employer.

New Section 14300.6, Determination of New Cases.

This section is proposed to be adopted with language substantially identical to the equivalent federal rule at 29 CFR 1904.6, with the exception of references to federal agencies and authority which have been changed to their California equivalents where applicable. This new section would describe the circumstances when an injury or illness would and would not be considered to be a “new case” for the purposes of recordkeeping. Injuries and illnesses that are not found to be new cases under the provisions of this section, would not be required to be recorded by employers. The effect of this proposed section is to clarify for employers which injury and illness events are required to be recorded

New Section 14300.7, General Recording Criteria.

This section is proposed to be adopted with language substantially identical to the equivalent federal rule at 29 CFR 1904.7, with the exception of references to federal agencies and authority which have been changed to their California equivalents where applicable. This new section would state that in order for an injury or illness to be recordable it must result in: death, days away from work, restricted work or transfer to another job, medical treatment beyond first aid, loss of consciousness, or significant injury or illness as diagnosed by a physician or licensed healthcare professional (these criteria are listed in subsections (b)(1)(A)-(F)). The effect of this proposed section is to clarify for employers which injury and illness events are required to be recorded.

The following subsections of proposed Section 14300.7 would introduce new regulatory language and concepts not currently found in existing Article 2:

Proposed subsection (b)(1) would apply the same criteria for recordability to most illnesses as is already applied to injuries. These criteria for recording are: death, loss or restriction of work, medical treatment beyond first aid, or loss of consciousness. Proposed subsection (b)(7), however, details a small number of “significant diagnosed injuries or illnesses” which must be recorded even if they do not meet any of these criteria. In addition proposed Sections 14300.8 through 14300.12 provide for special criteria and procedures for recording of specifically named health events. The effect of this proposed section is to apply to most illnesses the same criteria for recording that existing Article 2 requirements apply only to injuries. Illnesses covered by the specific requirements of proposed Sections 14300.8 through 14300.12 would receive separate and different treatment from other illnesses not specifically named in the rule. Illnesses and injuries falling within the definition of “significant diagnosed injury or illness” at proposed Section 14300.7 (b)(7), would be required to be recorded even if they did not meet one of the criteria of proposed subsections 14300.7 (b)(1)(A) through (b)(1)(E) (i.e. death, days away from work, restricted work or transfer, medical treatment beyond first aid, or loss of consciousness).

Proposed subsection (b)(3) substitutes a new term, “days away from work,” for the term “lost workdays” defined in existing Section 14311. As defined at proposed subsection (b)(3) and used throughout proposed new sections in Article 2, the term “days away from work” would refer only to days the employee was unable to work at all, and would not include days of restricted work or job transfer. The effect of proposed subsection (b)(3) is to provide a clearer and more limited definition of the concept of “days away from work.”

Proposed subsection (b)(3)(A) provides that an employer must begin counting days away from work on the day after the injury occurred or illness began. This is a detail not included in existing Article 2. The effect of including this detail is to clarify when employers must begin counting days away from work.

Proposed subsections (b)(3)(B) and (C) would provide new details not currently included in Article 2 addressing the situation when a health care professional provides a recommendation for work restriction and whether it is this recommendation or the employee's choice in coming to work which determines if an event is recordable. The effect of this subsection is to clarify that it is the health care professional's recommendation, and not the employee's action in coming to work, which determines whether the case must be recorded by the employer.

Proposed subsection (b)(3)(D) would change the way in which days away from work would be counted by the employer when recording injuries and illnesses. The definition of "lost workdays" in existing Title 8 Section 14311 limits days counted away from work to only those days which the employee would have been scheduled to work but could not do so because of their injury or illness. Proposed subsection (b)(3)(C) would require instead that the number of calendar days the employee was unable to work (including holidays, vacation days, and other days off) be counted as time away from work, regardless of whether or not the employee was scheduled to work on those days. The effect of this proposed change would be that records of injuries and illnesses would reflect the duration of injuries and illnesses that kept employees away from work, without regard to the actual work schedule of the employee.

Proposed subsection (b)(3)(F) provides that an employer may limit the days away from work counted to 180. Where an employee is restricted in or away from work because of a work-related injury or illness for more than 180 days an employer need not record a number greater than this. Existing Article 2 does not provide for such a limit on counting. The effect of this change would be to limit the days of restricted activity and days away from work an employer would have to record for any single injury or illness incident to 180.

Proposed Section 14300.7 (b)(4)(A) provides a detailed definition of the term "restricted work," which is one of the criteria for recordability. The definition of this term is based on the employee's ability to perform one or more of the routine functions of their job. The definition of "lost workdays" in existing Section 14311 includes an inability to "perform all or any part of his normal work assignment for any part of the workday or shift because of the occupational injury or illness." The effect of this proposed change is to clarify the conditions under which an employee's injury or illness would

meet the criteria of resulting in “restricted work” and thus be required to be recorded.

Proposed subsection (b)(4)(K) provides that an employer begins counting days of job transfer or restriction on the day after the injury occurred or illness began. This is a detail not included in existing Article 2. The effect of including this detail is to clarify when employers must begin counting days of job transfer or restriction.

Proposed subsection (b)(5) provides definitions of “medical treatment” and “first aid” which expand upon the definitions of these terms at existing Section 14311. The effect of providing additional details in the definitions of these terms is to clarify when employers must record an injury or illness on the basis of its resulting in medical treatment beyond first aid.

Proposed subsection (b)(7) defines the term “significant diagnosed injury or illness” that is recordable even if it does not result in death, days from work, restricted work or job transfer, medical treatment beyond first aid, or loss of consciousness. This subsection would provide that work-related illnesses involving cancer or other chronic irreversible diseases, and work-related injuries involving a fractured or cracked bone or a punctured eardrum must always be recorded at the time of diagnosis by a physician or other licensed health care professional. The effect of this subsection, when compared to the definition of “recordable occupational injuries and illnesses” in existing Section 14311 is to narrow the range of illnesses that must be recorded even if they do not meet the criteria of proposed subsections 14300.7(b)(1)(A) through (E) while at the same time expanding the range of injuries that must be recorded by providing that cracked or fractured bones and punctured eardrums are to be recorded even if they do not meet the criteria of proposed subsections 14300.7(b)(1)(A) through (E).

New Section 14300.8, Recording Criteria for Needlestick and Sharps Injuries. This section is proposed to be adopted with language substantially identical to the equivalent federal rule at 29 CFR 1904.8, with the exception of references to federal agencies and authority which have been changed to their California equivalents where applicable. This new section details specific provisions for recording of work-related needlestick injuries and cuts from sharp objects that are contaminated with another person’s blood or other potentially infectious material as defined in Title 8 Section 5193, Bloodborne Pathogens. This new section would also provide that such

injuries qualify for treatment as “privacy cases” under proposed section 14300.29 thus requiring that employers not include the injured employee’s name on the injury and illness log form when recording the case. The effect of this new section is to require recording of all work-related needlestick injuries and cuts from sharp objects that are contaminated with another person’s blood or other potentially infectious material, regardless of whether they meet one of the criteria usually required for recording of workplace injuries. The new section also would require that the identity of an employee suffering such an injury not be entered in the recording log.

New Section 14300.9, Recording Criteria for Cases Involving Medical Removal Under OSHA Standards

This section is proposed to be adopted with language substantially identical to the equivalent federal rule at 29 CFR 1904.9, with the exception of references to federal agencies and authority which have been changed to their California equivalents where applicable. This new section would provide that every time an employee is medically removed under a medical surveillance provision of a Title 8 standard for occupational safety and health that the case must be recorded on the injury and illness recording log as involving either days away from work or a case involving restricted work activity. The effect of this new section is to require recording as a case any removal of an employee from exposure to a hazard when required by a specific Title 8 standard, regardless of the presence of diagnosis of an injury or illness, or satisfaction of one of the criteria for recording of proposed subsections 14300.7(b)(1)(A) through (F).

New Section 14300.10, Reserved. This section is proposed for numbering purposes only and possible future rulemaking. It is not proposed in this rulemaking to contain any regulatory language.

New Section 14300.11, Recording Criteria for Work-Related

Tuberculosis Cases. This section is proposed to be adopted with language substantially identical to the equivalent federal rule at 29 CFR 1904.11.

This new section details specific provisions for recording of work-related cases of tuberculosis as evidenced by a positive skin test or diagnosis by a physician or other licensed health care professional. These cases must be recorded even if they do not meet any of the criteria for recording of proposed subsections 14300.7(b)(1)(A) through (F). The effect of this new section would be to require recording of work-related cases of diagnosed tuberculosis regardless of their effect on the employee.

New Section 14300.12 through 14300.28. These sections are proposed for numbering purposes only and possible future rulemaking. They are not proposed in this rulemaking to contain any regulatory language.

New Section 14300.29, Forms. This section is proposed to be adopted with language substantially identical to the equivalent federal rule at 29 CFR 1904.29, with the exception of minor modifications as described below and with the exception of references to federal agencies and authority which have been changed to their California equivalents where applicable.

Provisions of existing Article 2 require the use of two specific forms for recording of occupational injuries and illnesses: Form 200, which is used as a log of injuries and illnesses as required by existing Section 14301(b), and an annual summary form, which is used as required by existing Section 14305(a). In addition, existing Section 14304 requires the keeping of a supplementary record for each recorded occupational injury or illness, indicates three forms that are acceptable for this purpose, and allows use of any form that contains all of the information required by OSHA Form 101, Supplementary Record of Occupational Injuries and Illnesses. Proposed Section 14300.29 would revise Form 200 and rename it “Form 300,” provide for a new “Form 300A” to be used as an annual summary, and provide for a new “Form 301” to be used as a supplementary record. Proposed Section 14300.29 would allow the use of forms other than those specified, provided that they record the same information as the specified forms require and are as readable and understandable to a person not familiar with them. This section is necessary to implement the equivalent federal rule at 29 CFR 1904.29.

The forms specified in proposed Section 14300.29 would be shown in Appendices A, B, and C to Section 14300.29. In addition, lists of essential informational elements that must be included in forms used as equivalents are shown in Appendices D, E, and F to Section 14300.29. Each of these proposed appendices are described in greater detail below and in the Informative Digest. Attached for reference as Exhibit 1 are copies of existing Form 200, the existing instructions for filling out Form 200, and the OSHA Form 101 referred to in existing Section 14304.

The following subsections of proposed Section 14300.29 would substantially change regulatory requirements of existing Article 2:

Proposed subsection (b)(3) would change the timeframe for recording of injuries and illnesses from that at existing Section 14301(a)(2) of six (6) working days after receiving information that a recordable case has occurred to seven (7) calendar days. The effect of this change would be to simplify the timeframe for recording of cases by establishing a uniform standard applicable to all employers regardless of the nature of their working schedule.

Proposed subsection (b)(4) retains the allowance found at existing Title 8 Sections 14301, 14304, and 14305 to use for recordkeeping purposes forms equivalent to those prescribed by the standard. One element of existing Section 14301 with respect to form equivalency of the injury and illness log which is not found in the federal rule is the requirement at existing Section 14301(b)(4) that the form not only be readable and understandable in general, but that it be readable and understandable “to a person not familiar with it.” It is proposed to retain this additional requirement in proposed Section 14300.20 (b)(4) for all of the recordkeeping forms required by Article 2.

Proposed subsections (b)(6) through (b)(10) would introduce new regulatory language and concepts related to protection of employee privacy not currently found in Article 2 requirements but which are substantially identical to those found in the equivalent federal rule. These subsections would define a “privacy concern case” and how an employer must treat these cases when recording them on the injury and illness log. The effect of these new requirements to protect privacy would be to clarify for employers the circumstances under which they must not enter the name of an injured or ill employee on the recordkeeping forms. These new provisions would also detail how employers must go about keeping employee identities confidential in privacy concern cases, separate from the recordkeeping forms but retainable for future use as well as disclosable to the injured or ill employee, authorized government representatives, and personal representatives of the employee.

Proposed Appendix A would introduce the Cal/OSHA Form 300 (Log of Work-related Injuries and Illnesses) that is specified in subsection (a). This form is substantially identical to the federal Form 300. The effect of establishing this form is to provide the employer with the means to readily comply with the requirements of proposed Article 2.

Proposed Appendix B would introduce the Cal/OSHA Form 300A (Summary of Work-related Injuries and Illnesses) that is specified in subsection (a). This form is substantially identical to the federal Form 300A. The effect of establishing this form is to provide the employer with the means to readily comply with the requirements of proposed Article 2.

Proposed Appendix C would introduce the Cal/OSHA Form 301 (Injury and Illness Incident Report) that is specified in subsection (a). This form is substantially identical to the federal Form 301. The effect of establishing this form is to provide the employer with the means to readily comply with the requirements of proposed Article 2.

Proposed Appendix D would introduce the required information that a form would need to contain in order to be equivalent to the Cal/OSHA Form 300. The appendix provides a list of the specific items that are to be entered and the instructions that are to accompany an equivalent form. The effect of establishing this list is to provide the employer with the means to readily comply with the requirements of proposed Article 2.

Proposed Appendix E would introduce the required information that a form would need to contain to be equivalent to the Cal/OSHA Form 300A. The appendix provides a list of the specific items that are to be entered and the instructions that are to accompany an equivalent form. The effect of establishing this list is to provide the employer with the means to readily comply with the requirements of proposed Article 2.

Proposed Appendix F would introduce the required information that a form would need to be equivalent to the Cal/OSHA 301. The appendix provides a list of the specific items that are to be entered and the instructions that are to accompany an equivalent form. The effect of establishing this list is to provide the employer with the means to readily comply with the requirements of proposed Article 2.

Proposed Appendix G would provide a worksheet to assist employers with filling out the Cal/OSHA Form 300A (Summary of Work-related Injuries and Illnesses). This worksheet is substantially identical to its federal equivalent entitled Worksheet to Help You Fill Out the Summary.

New Section 14300.30, Multiple Business Establishments. This section is proposed to be adopted with language substantially identical to the

equivalent federal rule at 29 CFR 1904.30, with the exception of minor modifications as described below and with the exception of references to federal agencies and authority which have been changed to their California equivalents where applicable. Existing Section 14313 addresses injury and illness recordkeeping requirements for employers with employees working in non-fixed locations. Proposed Section 14300.30 would provide that for establishments expected to be in operation less than one year an employer may choose to keep one set of records covering all such establishments.

Proposed Section 14300.30 would also provide that employers with multiple locations would be allowed to maintain records at a central location provided the employer transmits information from the establishment where an injury or illness occurred to the central recordkeeping location within seven (7) calendar days of receiving information that an injury or illness has occurred. The employer must also satisfy the requirements of proposed sections 14300.35 and 14300.40 for timely provision of requested records to employees, their representatives, and government representatives. The effect of these provisions is to clarify the options employers have for maintaining records for establishments which exist for less than one year, as well as options for maintaining records for establishments which are in different geographical locations.

This proposed section differs from the equivalent federal rule by retaining and renumbering from existing Section 14313, and applying to both fixed and non-fixed worksheets, provisions that for establishments for which records are kept at another location the address and telephone number of that central recordkeeping location is kept available, and that at the central recordkeeping location personnel be available during normal business hours to transmit to the non-fixed establishment applicable injury and illness records when requested by employees, their representatives, and authorized government personnel.

New Section 14300.31, Covered employees. This section is proposed to be adopted with language substantially identical to the equivalent federal rule at 29 CFR 1904.31, with the exception of references to federal agencies and authority which have been changed to their California equivalents where applicable. Proposed Section 14330.31 clarifies that it is the party providing day-to-day supervision of an injured or ill employee who must maintain the record of their occupational injury or illness. This point is clarified for a

variety of employment situations including temporary help, contract labor, and employee leasing services.

New Section 14300.32, Annual Summary. This section is proposed to be adopted with language substantially identical to the equivalent federal rule at 29 CFR 1904.32, with the exception of minor modifications as described below and with the exception of references to federal agencies and authority which have been changed to their California equivalents where applicable. This section would retain the requirements of existing Section 14305 for completion and posting of a summary of the injury and illness records maintained for the prior calendar year. This section would extend the required period for posting the summary so that it included not only the month of February but also the months of March and April. This section would also add the new provision that the individual certifying that the annual summary is correct and complete must be an officer of the company or at least the highest ranking official at the establishment for which the records are maintained.

This section would differ from the federal rule by retaining at subsection (b)(7) the requirement of existing Section 14305(d)(1) for providing in person or by mail the annual summary to employees who do not primarily work at the location where records are kept.

This section would also differ from the federal rule by including at subsection (b)(8) the provision at existing Section 14305(d)(1) that employers are not required to post annual summaries for locations where they no longer have operations or employees.

New Section 14300.33, Retention and Updating. This section is proposed to be adopted with language substantially identical to the equivalent federal rule at 29 CFR 1904.33, with the exception of references to federal agencies and authority which have been changed to their California equivalents where applicable. This section would contain the provisions currently found at Section 14307 for employers to retain injury and illness records for five (5) years following the end of the calendar year that the records cover. In addition, this section would add a new requirement for updating of stored injury and illness logs to include newly discovered recordable injuries or illnesses and to show any changes that had occurred in the classification of previously recorded injuries and illnesses.

New Section 14300.34, Change in Business Ownership. This section is proposed to be adopted with language substantially identical to the equivalent federal rule at 29 CFR 1904.34, with the exception of references to federal agencies and authority which have been changed to their California equivalents where applicable. This section would contain provisions currently found at Section 14310 for how employers are to handle injury and illness records when a business changes ownership. The effect of this proposed section is to require former owners of a business to transfer injury and illness records to any new owner and for the new owner to retain such records in accordance with provisions of proposed Section 14300.33.

New Section 14300.35, Employee Involvement. This section is proposed to be adopted with language substantially identical to the equivalent federal rule at 29 CFR 1904.35, with the exception of minor modifications as described below and with the exception of references to federal agencies and authority which have been changed to their California equivalents where applicable. Existing Section 14308 addresses employee access to injury and illness records. Proposed Section 14300.35 would expand the access of employees and their representatives to include access to the supplementary information to be found on the incident report for the injury or illness. In addition, proposed Section 14300.35 would require employers to tell each employee how to report work-related injuries and illnesses to the employer. Proposed Section 14330.35 would clarify that the first copy of recordkeeping documents requested by the employee or other person authorized by this section to have access to the records would be required to be provided free of charge.

Proposed Section 14330.35 would differ from the equivalent federal rule at 29 CFR 1904.35 by retaining and renumbering the following provisions from Section 14308:

1. The provision of existing Section 14308(b) that access be provided to the annual summary record of injuries and illnesses. The annual summary would be one of the records that employees and their representative would have access to under the provisions of proposed Section 14300.35(b)(2)(C).
2. With modification to protect employee privacy, the provision of existing Section 14308(c) is retained as proposed Section 14300.35(c). The provisions of this subsection would provide that, with the exception of

provisions to protect employee privacy, nothing in proposed Section 14300.35 would be deemed to preclude employees and their representatives from collectively bargaining to obtain access to information relating to occupational injuries and illnesses in addition to the information made available under this section.

New Section 14300.36, Prohibition Against Discrimination. This section is proposed to be adopted with language substantially identical to the equivalent federal rule at 29 CFR 1904.36, with the exception of additions of references to applicable California authority. This section would inform employers of legal protections against discrimination related to an employee's exercising their rights including reporting a work-related fatality, injury or illness or filing of a complaint of unsafe working conditions with the Division of Occupational Safety and Health.

New Section 14300.37. This section is proposed for numbering purposes only and for possible future rulemaking. It is not proposed in this rulemaking to contain any regulatory language.

New Section 14300.38, Variances from the Recordkeeping Rule. This section is proposed to be adopted with language substantially identical to the equivalent federal rule at 29 CFR 1904.38, with the exception of the addition of a provision addressing public agency employer recordkeeping and with the exception of references to federal agencies and authority which have been changed to their California equivalents where applicable. This section would retain the requirement of existing Section 14312 that private employers wishing to keep records in a manner different from that prescribed in Article 2 may submit a variance request to the U.S. Department of Labor, modifying the addressee of the request to be the Assistant Secretary of Labor for Occupational Safety and Health. Proposed Section 14300.38 would provide substantially more detail as to what should be included in such a variance request as well as the procedure that would be followed by the Assistant Secretary in processing the request. This section would also provide that a private employer may not use the proposed alternative recordkeeping system while the variance request is being processed and that a variance request will not have any effect on citations or penalties previously issued to an employer for violation of provisions of Article 2.

This section would modify the provision of existing Section 14312(b) that if a public agency wishes to keep records of occupational injuries and illnesses suffered in performing like functions in more than one physical location, the agency must submit a plan for doing so to DLSR for approval. The proposed language would provide that a public agency employer wishing to keep records in a manner different than that described in Article 2 may write a letter to the Chief of DLSR with the same information required of private employers applying to OSHA for a variance from the recordkeeping requirements of Article 2.

New Section 14300.39. This section is proposed for numbering purposes only and for possible future rulemaking. It is not proposed in this rulemaking to contain any regulatory language.

New Section 14300.40, Providing Records to Government

Representatives. This section is proposed to be adopted with language substantially identical to the equivalent federal rule at 29 CFR 1904.40, with the exception of minor modifications as described below and with the exception of references to federal agencies and authority which have been changed to their California equivalents where applicable. Existing Section 14308(a) addresses access of specified government representatives to injury and illness records maintained in accordance with Article 2. Proposed Section 14300.40 would retain these provisions and add a provision for access to records by representatives of the Director of the California Department of Health Services. Additionally, proposed Section 14300.40 would specify a new requirement that records be produced within four (4) business hours when requested by an authorized government representative.

Proposed Section 14300.40 would differ from the equivalent federal rule at 29 CFR 1904.40 in the following ways:

1. By specifying that one set of copies of records requested be provided free of charge.
2. By clarifying that in addition to providing copies of requested records, employers would be required to provide government representatives with access to original recordkeeping documents, if such access is requested.

3. By including representatives of the Director of the Department of Health Services among those to whom records are required to be provided when requested.

New Section 14300.41, Annual OSHA Injury and Illness. This section is proposed to be adopted with language substantially identical to the equivalent federal rule at 29 CFR 1904.41, with the exception of references to federal agencies and authority which have been changed to their California equivalents where applicable. Existing Section 14400 provides that employers must respond as instructed to any federally required requests for information related to injury and illness recordkeeping. Proposed Section 14300.41 would retain this requirement as it would apply to the annual survey of occupational injuries and illnesses conducted by federal OSHA. This section would provide additional information as to employer responsibilities for responding to this survey.

New Section 14300.42, Requests from the Bureau of Labor Statistics for Data. This section is proposed to be adopted with language substantially identical to the equivalent federal rule at 29 CFR 1904.42, with the exception of references to federal agencies and authority which have been changed to their California equivalents where applicable. Existing Section 14400 provides that employers must respond as instructed to any federally required requests for information related to injury and illness recordkeeping. Proposed Section 14300.42 would retain this requirement as it would apply to requests for data for the Survey of Occupational Injuries and Illness conducted by the Bureau of Labor Statistics or its designee, which in California is currently DLSR. This section would provide additional information as to employer responsibilities for responding to this survey.

New Section 14300.43, Summary and Posting of the 2001 Data. This section is proposed to be adopted with language substantially identical to the equivalent federal rule at 29 CFR 1904.43, with the exception of references to federal agencies and authority which have been changed to their California equivalents where applicable. Existing Section 14305 addresses completion and posting of an annual summary of injury and illness recordkeeping information. Proposed Section 14300.43 would retain substantially identical provisions specifically for posting of the annual summary for injury and illness records for calendar year 2001, the last year of recordkeeping under the provisions of existing Article 2.

New Section 14300.44, Retention and Updating of Old Forms. This section is proposed to be adopted with language substantially identical to the equivalent federal rule at 29 CFR 1904, with the exception of references to federal agencies and authority which have been changed to their California equivalents where applicable. Existing Section 14307 requires employers to retain all injury and illness records required by Article 2 for five (5) years following the end of the year to which they relate. Proposed Section 14300.44 would retain these requirements for the log and incident reports completed under the provisions of existing Article 2 for calendar years prior to 2002. This proposed section would also clarify that employers are not required to update stored logs and incident reports for calendar years prior to 2002.

New Section 14300.45. This section is proposed for numbering purposes only and for possible future rulemaking. It is not proposed in this rulemaking to contain any regulatory language.

New Section 14300.46, Definitions. This section is proposed to be adopted with language substantially identical to the equivalent federal rule at 29 CFR 1904.46, with the exception of modifications as described below and with the exception of references to federal agencies and authority which have been changed to their California equivalents where applicable. Existing Section 14311 provides definitions for the terms “recordable occupational injuries or illnesses,” “medical treatment,” “first aid,” “lost workdays,” and “establishment.”

Proposed Section 14300.46 would make the following changes to these definitions consistent with the equivalent federal rule at 29 CFR 1904.46:

1. The term “injury or illness” would replace “recordable occupational injuries or illnesses.” The new term would be much more limited in its scope, with the bulk of the meaning of the definition of “recordable occupational injuries or illnesses” in existing Section 14311 being found as subsections in proposed Section 14300.7.
2. In place of the existing definition of “lost workdays,” Section 14300.45 would contain references to new definitions of:
 - a. “days away from work” at proposed Section 14300.7(b)(3)
 - b. “restricted work” at proposed Section 14300.7(b)(4)(A)

- c. “transfer to another job” at proposed Section 14300.7(b)(4)(I)
2. Section 14300.46 would contain a new definition of “establishment” which would be applicable to private employers and to public agency employers. The revised definition of “establishment” would address businesses with establishments at more than one location, and employees telecommuting from home.
3. Definitions of “medical treatment” and “first aid” in existing Section 14311 would be changed to refer to their definitions in proposed Section 14300.7.

In addition to the above definitions, proposed Section 14300.46 would include the following new definitions also contained in the federal rule at 29 CFR 1904.46:

1. A definition of “The Act” as meaning the Occupational Safety and Health Act of 1970.
2. A definition of “Physician or other licensed health care professional” as an individual whose legally permitted scope of practice allows them to independently perform, or be delegated the responsibility to perform, the activities described in Article 2.
3. A definition of “You” as meaning the employer as defined in Labor Code Sections 3300 and 3301.

The following definitions do not appear in the equivalent federal rule definitions at 29 CFR 1901.46 but are proposed to be included in Section 14300.46:

1. A definition of “fatality” as any occupational injury or illness which results in death, regardless of the time between injury and death, or the length of the illness. This is the definition of fatality at existing Section 14311.
2. A definition of “certify” as being to attest by means of affixing a signature that the entries in the annual summary Form 300-A or equivalent are true, accurate, and complete to the best of the signatory's knowledge.

In addition to the above, for clarity proposed Section 14300.46 would contain references to definitions of a number of specialized terms found in various sections in Article 2.

New Section 14300.47, Employers Covered by the Federal Mine Safety and Health Act. This section has no federal equivalent. It would retain and renumber the language of existing Section 14315. This section would inform employers covered by the federal Mine Safety and Health Act that they are not required to comply with recordkeeping requirements adopted pursuant to Section 6410 of the California Labor Code, to the extent that so complying would result in duplicating information, provided that access to the records maintained under federal regulations implementing the federal Mine Safety and Health Act is granted to authorized representatives of the official mine safety agency of the State of California.

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:

**Robert Barish, Senior Industrial Hygienist
Department of Industrial Relations
Division of Occupational Safety and Health
455 Golden Gate Avenue, 10th Floor
San Francisco, CA 94102
Phone: (415) 703-5161
Fax: (415) 703-5114**

The designated back-up contact person is:

**Ramon Cruz, Research Manager
Department of Industrial Relations
Division of Labor Statistics and Research
455 Golden Gate Avenue, 8th Floor
San Francisco, CA 94102
Phone: (415) 703-4757
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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 455 Golden Gate Avenue, 10th Floor, San Francisco, 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 website >www.dir.ca.gov/DOSH<. Click on "Proposed Regulations."

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.