

DEPARTMENT OF INDUSTRIAL RELATIONS
DIVISION OF OCCUPATIONAL SAFETY & HEALTH
LEGAL UNIT

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April 12, 2019

**NOTIFICATION OF INTENT TO READOPT EMERGENCY REGULATIONS
AND UPDATED FINDING OF EMERGENCY**

Subject: Recording and Reporting of Occupational Injuries and Illnesses
Title 8 of the California Code of Regulations

Section 14300.35. Employee Involvement

Section 14300.41. Electronic Submission of Injury and Illness Records to OSHA

The Department of Industrial Relations, Division of Occupational Safety and Health (“the Division”) is proposing to readopt the emergency regulations regarding the recording and reporting of occupational injuries and illnesses that were adopted effective November 1, 2018 (OAL Matter No. 2019-1025-02E). These emergency regulations, which amended sections 14300.35 and 14300.41, required designated employers in California to submit electronically certain occupational injury and illness information to the federal Occupational Safety and Health Administration (“OSHA”). These emergency regulations can be found at article 2 of chapter 7, subchapter 1, of Title 8 of the California Code of Regulations, sections 14300.35 and 15300.41. This readoption will be submitted to the Office of Administrative Law (“OAL”) on April 19, 2019.

As required for readoption of an emergency regulation, the Division has made substantial progress and is proceeding with diligence to comply with Government Code section 11346.1(e) and California Code of Regulations, title 1, section 52(b)(1). The readoption of the emergency regulations will provide the Division with additional time to proceed with regular rulemaking to adopt the same or similar proposals on a permanent basis.

The Division is currently working towards completion of the documentation necessary to commence the regular rulemaking process. The Division anticipates publishing a notice of proposed rulemaking for the permanent regulations by May 10, 2019, and holding a public hearing at least 45 calendar days after the publication of the notice of proposed rulemaking. Readoption of the emergency regulations will keep the emergency regulation in place pending rulemaking for the permanent recording and reporting of occupational injuries and illnesses regulations.

Pursuant to California Code of Regulations, title 1, section 52(b)(2) there have been no changes in emergency circumstances since the original adoption of the emergency regulation. This readoption is necessary to allow the Division’s regulations to remain substantially identical to the corresponding Federal recording and reporting regulation, as required by Federal law. (See 29 CFR §§ 1902.3(j), 1902.7, and 1904.37(a).)

Pursuant to California Code of Regulations, title 1, section 52(c), the Division hereby incorporates by reference the rulemaking record of OAL File No. 2018-1025-02E. Included with this notice is the specific regulatory language now in place following OAL's November 1, 2018, approval of the Division's emergency action, the Amended Notification of Proposed Emergency Regulatory Action that was submitted to OAL on or about October 25, 2018, and the Revised Finding of Emergency. Copies of such documents are available on the Division's website at the following address: <https://www.dir.ca.gov/dosh/doshreg/Recording-and-Reporting/>.

Government Code section 11346.1(a)(2) requires that, at least five (5) working days prior to submission of the proposed readoption action to OAL, the adopting agency provide a notice of the proposed readoption action to every person who has filed a request for notice of regulations action with the agency. After submission of the proposed readoption to OAL, OAL shall allow interested persons five (5) calendar days to submit comments on the proposed readoption as set forth in Government Code section 11349.6(b) and California Code of Regulations, title 1, section 55(b). Upon filing, OAL will have ten (10) calendar days within which to review and make a decision on the proposed readoption. OAL may approve up to two (2) readoptions, each for a period not to exceed ninety (90) days.

The Division has complied with the provisions of Government Code section 11346.1(a)(2), regarding the sending of notice of proposed emergency regulatory action to every person who has filed a request for notice of regulatory action. This notice of readoption was sent electronically on April 12, 2019, to members of the public who have requested notice of regulatory actions at least five (5) working days prior to submission to OAL.

If you have any questions regarding this proposed emergency action, please contact Willie Nguyen at wnguyen@dir.ca.gov or (510) 286-7348.