

**STATE OF CALIFORNIA
DEPARTMENT OF INDUSTRIAL RELATIONS
DIVISION OF OCCUPATIONAL SAFETY AND HEALTH**

NOTICE OF PROPOSED RULEMAKING

Proposed Amendments to California Code of Regulations

Title 8, Division 1, Chapter 7, Subchapter 1, Article 2, Sections 14300.35, 14300.41, Appendix B, Appendix E, and Appendix H

PUBLIC PROCEEDINGS: **NOTICE IS HEREBY GIVEN** that the Division of Occupational Safety and Health (“the Division”) within the Department of Industrial Relations proposes to amend Sections 14300.35 and 14300.41 of Title 8 of the California Code of Regulations regarding employers’ duty to record and report occupational injuries and illnesses. The Division proposes to adopt the proposed amendments described below after considering all comments, objections and recommendations regarding the proposed action.

PUBLIC HEARING

A public hearing has been scheduled to permit all interested persons the opportunity to present statements or arguments, oral or in writing, with respect to the proposed amendments, on the following date:

Date: Thursday, June 27, 2019

Time: 10:00 a.m. to 5:00 p.m.

**Place: Elihu Harris State Office Building – Room 1304
1515 Clay Street, Oakland, CA 94612**

The State Office Building and meeting rooms are accessible to persons with mobility impairments. Alternate formats, assistive listening systems, sign language interpreters, or other types of reasonable accommodations to facilitate effective communication for persons with disabilities are available upon request. Please contact the State Wide Disability Accommodation Coordinator at 1-866-326-1616 (toll free), or through the California Relay Service by dialing 711 or 1-800-735-2929 (TTY/English) or 1-800-855-3000 (TTY/Spanish) as soon as possible to request assistance. Accommodation requests should be made as soon as possible. Requests for an Assistive Listening System or Communication Access Realtime Translation should be made no later than five (5) days before the hearing.

At the hearing, any person may present statements or arguments, orally or in writing, relevant to the proposed amendments described below in the Informative Digest. The Division requests, but does not require, that any persons who make oral comments at the hearing also provide a written copy of their comments. Equal weight will be accorded to oral comments and written materials.

Please note that public comment will begin promptly at 10:00 a.m. and will conclude when the last speaker has finished his or her presentation or at 5:00 p.m., whichever is earlier. If public comment concludes before the noon recess, no afternoon session will be held.

WRITTEN COMMENT PERIOD: Any interested person, or his or her authorized representative, may submit written comments relevant to the Proposed Rulemaking. Written comments, regardless of the method of transmittal, must be received by the Division by 5:00 p.m. on June 27, 2019, which is hereby designated as the close of the written comment period. Comments received after this date will not be considered timely. Persons wishing to use the California Relay Service may do so at no cost by dialing 711.

Written comments may be submitted as follows:

1. By email to: wnguyen@dir.ca.gov. It is requested that email transmissions of comments, particularly those with attachments, contain the regulation identifier "Recording and Reporting of Occupational Injuries and Illnesses" in the subject line to facilitate timely identification and review of the comment;
2. By fax transmission to Willie Nguyen, Staff Counsel, at (510) 286-7039;
3. By mail or hand-delivery to Willie Nguyen, Staff Counsel, at Cal/OSHA Legal Unit, 1515 Clay Street, Suite 1901, Oakland, California 94612.

All comments, regardless of the method of transmittal, should include the commenter's name and U.S. Postal Service mailing address or e-mail address to enable the Division to provide the commenter with notice of any changes to the proposed amendments on which additional comments may be solicited.

AUTHORITY AND REFERENCE CITATIONS

Section 14300.35

Authority cited: Sections 150(b) and 6410, Labor Code. Reference: Section 6410, Labor Code.

Section 14300.41

Authority cited: Sections 150(b) and 6410, Labor Code. Reference: Section 6410, Labor Code.

NOTE: Under California Labor Code § 50.7, the Department of Industrial Relations is the state agency designated to administer the California Occupational Safety and Health Act of 1973 (Cal. Lab. Code § 6300 *et seq.*) The California Division of Labor Statistics and Research (“DLSR”), formerly a division within the Department of Industrial Relations, promulgated 8 CCR §§ 14300.35 and 14300.41. These regulations were promulgated by DLSR under the authority of California Labor Code §§ 50.7 and 6410 to fulfill the federal mandate established by 29 CFR §§ 1902.3(j); 1902.7, and 1904.37(a) that California’s occupational injury and illness recording and reporting requirements under its State plan be “substantially identical” to the federal requirements.

In 2012, Senate Bill 1038 abolished DLSR and amended Labor Code § 150 by transferring its responsibilities under Chapter 7, Subchapter 1, Article 1 of Title 8 of the California Code of Regulations (commencing with Section 14000) to the Division. Labor Code § 150(b), as amended, provides:

To the extent not in conflict with this or any other section, on the date this subdivision becomes operative, the responsibilities of the Division of Labor Statistics and Research that are specified in Subchapter 1 (commencing with Section 14000) and Subchapter 2 (commencing with Section 14900) of Chapter 7 of Division 1 of Title 8 of the California Code of Regulations are reassigned to the Division of Occupational Safety and Health and the responsibilities of the Division of Labor Statistics and Research that are specified in Subchapter 3 (commencing with Section 16000) of Chapter 8 of Division 1 of Title 8 of the California Code of Regulations are reassigned to the Division of Labor Standards Enforcement.

The Division is now proposing to amend Sections 14300.35 and 14300.41 of Title 8 of the California Code of Regulations under the authority provided in Sections 50.7, 150(b) and 6410 of the Labor Code.

INFORMATIVE DIGEST / POLICY STATEMENT OVERVIEW

The federal Occupational Safety and Health Act of 1970 (29 USC § 651 *et seq.*) covers most private sector employers and their employees in all 50 states either directly through the federal Occupational Safety and Health Administration (“OSHA”) or through a “State plan” approved by OSHA under 29 CFR 1902 *et seq.* A State plan is an OSHA-approved occupational safety and health program operated by an individual state instead of by OSHA. OSHA approves and monitors all State plans and provides funding for those plans. If OSHA establishes a new or revised standard, a State plan must adopt its own standard that is at least as effective as the new or revised federal standard within six months. With regard to OSHA’s standards governing employers’ duties to record and report occupational injuries or illnesses, a State plan must adopt

standards that are “substantially identical” to the federal standards. (See 29 CFR §§ 1902.3(j), 1902.7, and 1904.37(a).)

On May 12, 2016, OSHA issued a final rule amending the requirements for employers to record and report occupational injuries and illnesses set forth in 29 CFR § 1904.41. The amendments required affected employers to submit electronically certain injury and illness data to OSHA or its designees.

DLSR previously promulgated Section 14300.41 of Title 8 of the California Code of Regulations to ensure that California’s occupational injury and illness recording and reporting requirements for employers were “substantially identical” to the federal recording and reporting standard. OSHA has issued a final rule amending the corresponding federal standard. Because the Division has assumed the rulemaking authority for the corresponding standards in California, it must now amend 8 CCR section 14300.41 to ensure that it remains “substantially identical” to the federal regulations. The Division must also make changes to 8 CCR section 14300.35 (1) to clarify existing requirements that employers inform their employees how to report work-related injuries and illnesses and that employers make certain injury and illness records available to their employees and (2) to conform the references to industry codes with other previously amended Title 8 regulations. The minor proposed changes to 8 CCR section 14300.35 are declarative of existing law and do not have any regulatory effect.

§ 14300.35. Employee Involvement.

The proposed amendments of 8 CCR Section 14300.35 clarifies existing requirements regarding an employer’s obligation to inform workers how to report work-related injuries and to make available certain injury and illness data. The proposed amendments also conform the references to industry codes with other previously amended Title 8 regulations.

The proposed amendments would make the following specific changes to Section 14300.35:

- The phrase “a work-related” is being added to subsection (a)(1) to track the language from 29 CFR Section 1904.35(a)(1) and to clarify that this section applies only to work-related injuries and illnesses.
- In subsection (a)(2), the word “limited” is being deleted, and the phrase “as described in paragraph (b)(2) of this section” is being added to clarify what types of injury and illness records employers must make available to its employees and their representatives.

- In subsections (b)(2), subparagraphs (C) and (E), the SIC Code (or “Standard Industry Code”) is being replaced by the NAICS Code (or “North American Industry Classification System” code) for the industry identified in the exception. A formatting change is also being made by adding the word “seven” before the numeral 7 in the phrase “seven (7) calendar days.”
- The “Note: Authority cited” subsection of this regulation is being amended to specify California Labor Code section 150(b) as an additional authority for the regulation. California Labor Code section 150(b) went into effect on June 27, 2012, reassigning the responsibilities of the Division of Labor Statistics and Research specified in Chapter 7, Subchapter 1 of Title 8 of the California Code of Regulations to the Division of Occupational Safety and Health.

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

29 CFR Section 1904.37(a) requires a State plan to adopt rules regarding employer recording and reporting of occupational injuries and illness that are “substantially identical” to the federal regulations. The proposed amendment of 8 CCR Section 14300.41 would generally track the language and format of its corresponding federal counterpart, 29 CFR Section 1904.41

The Proposed Rulemaking would make the following specific changes to Section 14300.41:

- The heading of Section 14300.41 is being changed from “Annual OSHA Injury and Illness Survey” to “Electronic Submission of Injury and Illness Records to OSHA.” The language of this proposed amendment tracks the language in the heading of 29 CFR Section 1904.41 and reflects more accurately the topic of Section 14300.41 following the changes described below.
- Subsection (a)(1) is being amended to require employers that had 250 or more employees at any time during the previous calendar year and who are required to keep records to submit electronically certain occupational injury and illness data to OSHA once per year by the date listed in Section 14300.41(c). The language of this proposed amendment tracks federal OSHA’s current requirements.
- Subsection (a)(2) is being amended to require employers in designated industries that had 20 to 249 employees at any time during the previous calendar year to submit electronically certain occupational injury and illness data to OSHA once per year by the date listed in Section 14300.41(c). The language of this proposed amendment tracks the language in 29 CFR Section 1904.41(a)(2).

- Subsection (a)(3) is being amended to require employers to submit occupational injury and illness records to OSHA if notified by OSHA to do so. The language of this proposed amendment tracks the language in 29 CFR Section 1904.41(a)(3).
- Subsection (a)(4) is being added to require employers to provide the Employer Identification Number (“EIN”) for each establishment subject to the electronic reporting requirements. The language of this proposed amendment tracks the language in 29 CFR Section 1904.41(a)(4).
- Subsection (b)(1) is being amended to specify which categories of employers must routinely submit their occupational injury and illness data to OSHA. If an employer has 250 or more employees at any time during the preceding calendar year, and is required to keep records, then the employer must submit information on its Form 300A to OSHA once a year. Additionally, if an employer has between 20 and 249 employees and is classified as an industry listed in Appendix H, then it must submit information on its Form 300A to OSHA once a year. Employers who do not fall in either of the preceding categories must submit information from injury and illness records to OSHA only in response to a request from OSHA. The language of this proposed amendment tracks current federal OSHA requirements.
- Subsection (b)(3) is being amended to specify that part-time, seasonal, and temporary workers are included in the count of an employer’s number of employees that triggers the requirement to report occupational injury and illness data to OSHA. The language of this proposed amendment tracks the language in 29 CFR Section 1904.41(b)(3).
- Subsection (b)(4) is being amended to specify that, if OSHA intends to notify an employer that it must submit occupational injury and illness data as required under Subsection (a)(3), OSHA will notify that employer by mail. The language of this proposed amendment tracks the language in 29 CFR Section 1904.41(b)(4).
- Subsection (b)(6) is being added to specify the frequency with which an affected employer must submit its occupational injury and illness data to OSHA. If an employer is required to submit information under paragraph (a)(1) or (a)(2) of Section 14300.41, then it must submit the information once a year. If the employer is submitting information because OSHA notified it to submit information as part of an individual data collection under paragraph (a)(3) of Section 14300.41, then it must submit as often as specified in the notification

received. The language of this proposed amendment tracks the language in 29 CFR Section 1904.41(b)(5).

- Subsection (b)(7) is being added to specify how an affected employer must submit its occupational injury and illness data to OSHA. It would specify that employers are required to submit the information electronically through a secure website provided by OSHA. The language of this proposed amendment tracks the language in 29 CFR Section 1904.41(b)(6).
- Subsection (b)(8) is being added to specify that a partially exempt employer is not required to submit its occupational injury and illness data to OSHA unless OSHA notifies the employer in writing that it must submit such information. The language of this proposed amendment tracks the language in 29 CFR Section 1904.41(b)(7).
- Subsection (b)(9) is being added to specify that an affected employer located in a State Plan State (like California) must submit its occupational injury and illness data to OSHA as required under this amended regulation. The language of this proposed amendment tracks the language in 29 CFR Section 1904.41(b)(8).
- Subsection (b)(10) is being added to specify that an enterprise or corporate office of an affected employer may submit the occupational injury and illness data for the affected employer to OSHA. The language of this proposed amendment tracks the language in 29 CFR Section 1904.41(b)(9).
- Subsections (c)(1) and (2) are being added to specify the reporting date deadlines for affected employers to submit their occupational injury and illness data to OSHA. The language of this proposed amendment tracks the language in 29 CFR Section 1904.41(c)(1) and (2).
- The “Note: Authority cited” subsection of this regulation is being amended to specify California Labor Code section 150(b) as an additional authority for the regulation. California Labor Code section 150(b) went into effect on June 27, 2012, reassigning the responsibilities of the Division of Labor Statistics and Research specified in Chapter 7, Subchapter 1 of Title 8 of the California Code of Regulations to the Division of Occupational Safety and Health.

Appendices B, E, and H for Title 8 Sections 14300 - 14300.48

- Appendix B for Title 8 Sections 14300-14300.48 is being amended so “Establishment Information” box would require an employer to provide its establishment’s industry NAICS Code (or “North American Industry Classification

System” code) rather than its SIC Code (or “Standard Industry Code”). This amendment is necessary to conform Appendix B with other sections in this Article that replaced the outdated SIC Code system with the currently used NAICS Code system.

- Appendix E for for Title 8 Sections 14300-14300.48 is being amended so that Section A.4 of this appendix would require an employer to provide its establishment’s industry NAICS Code (or “North American Industry Classification System” code) rather than its SIC Code (or “Standard Industry Code”). This amendment is necessary to conform Appendix E with other sections in this Article that replaced the outdated SIC Code system with the currently used NAICS Code system.
- Appendix E is also being amended so that the “Note: Authority cited” subsection would include California Labor Code section 150(b) as an additional authority for the appendix. California Labor Code section 150(b) went into effect on June 27, 2012, reassigning the responsibilities of the Division of Labor Statistics and Research specified in Chapter 7, Subchapter 1 of Title 8 of the California Code of Regulations to the Division of Occupational Safety and Health.
- Appendix H for Title 8 Sections 14300-14300.48 is being added to specify which industries are included in the reporting requirements set forth in Subsection (a)(2) for employers that had 20 to 249 employees at any time in the previous calendar year. The language of this proposed appendix tracks the language of Appendix A to Subpart E of 29 CFR Section 1904.41.

Anticipated Benefits of the Proposed Rulemaking:

The electronic data-reporting provisions in the proposals will provide more timely and accurate reporting for the occupational injury and illness data that employers are required to record and report under Article 2. These provisions expand OSHA’s access to timely, establishment-specific occupational injury and illness data, thus allowing OSHA (and Cal/OSHA) to direct more of its enforcement and compliance assistance resources to those establishments where workers are at greatest risks.

The public disclosure of the electronic data submission required by the proposals could also lead to safer workplaces for workers. The public disclosure of this information could:

- Encourage employers to abate hazards to prevent occupational injuries and illnesses to their workers so as to preserve their reputations as good places to work or do business with;

- Allow establishments to gauge the effectiveness of their injury and illness prevention programs by comparing their occupational injury and illness rates with those of comparable establishments;
- Allow investors to compare occupational injury and illness rates among competing establishments when looking for investment opportunities;
- Allow members of the public to make more informed decisions on what businesses to patronize based on competing establishments' ability to address workplace hazards impacting their workers; and
- Provide better information to job-seekers regarding the occupational injury and illness rates of prospective employers.

Evaluation as to Whether the Proposed Regulations Are Inconsistent or Incompatible with Existing State Regulations: The Division has determined that the proposed amendments are not inconsistent or incompatible with existing state regulations. After conducting a review for any regulations that would relate to or affect this area, the Division concluded that no other state regulations address the same subject matter.

Explanation of Substantial Differences Between the Proposed Regulations and Comparable Federal Regulations or Statutes: The proposed amendments and additions to Section 14300.41 would make California's regulations substantially identical to corresponding federal regulations being implemented by federal OSHA.

While the table in 29 CFR Section 1904.41(c)(1) suggests that establishments governed by 29 CFR Section 1904.41(a)(1) must submit Forms 300 and 301 for the 2018 submission year, the references to Forms 300 and 301 in 29 CFR Section 1904.41(c)(1) appear to be a mistake. Federal OSHA's original May 12, 2016 final rule did require employers governed by 29 CFR Section 1904.41(a)(1) to submit Forms 300 and 301 data. However, following the January 25, 2019, amendment of the federal rule, employers governed by 29 CFR 1904.41(a)(1) no longer are required to report Form 300 and 301 data. Accordingly, the table included in the proposed amendment to 8 CCR Section 14300.41(c)(1) does not reference Forms 300 or 301.

Forms Incorporated by Reference: None.

MANDATED BY FEDERAL REGULATIONS

The proposed amendments to Section 14300.41 are compatible with 29 CFR Section 1904.41. Because California is a State Plan state under 29 CFR, Part 1902, these proposed amendments essentially are mandated by federal law, which require that California's requirements for employers to record and report occupational injuries and

illnesses be “substantially identical” to the corresponding federal requirements. (See 29 CFR §§ 1902.3(j), 1902.7, and 1904.37(a).)

OTHER STATUTORY REQUIREMENTS

There are no other statutory requirements that are specific to the Division or this type of regulation.

LOCAL MANDATE

The proposals do not impose a mandate on local agencies or school districts. The Division has determined that the proposals 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 they do not constitute a “new program or higher level of service of an existing program within the meaning of Section 6 or Article XIII B of the California Constitution.

The California Supreme Court has established that a “program” within the meaning of Section 6 or 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 amendments do not require any local agency to carry out the governmental function of providing services to the public, nor do they impose unique requirements on local governments that do not apply generally to all entities in the state.

Furthermore, any costs associated with the recording and reporting of occupational injuries and illnesses required by the proposed amendments are costs mandated by the federal government. As such, even if the proposed amendments were held to constitute a “new program or higher level of service of an existing program” under Section 6 of Article XIII B of the California Constitution, any associated costs would not be considered costs mandated by the state. (See Cal.Gov.Code § 17556(c).)

FISCAL IMPACT

Costs or Savings to any local agency or school district which must be reimbursed in accordance with Government Code sections 17500 through 17630:

None.

Costs or savings to any state agency: The cost to an individual state agency to comply with the proposals will be less than or equal to \$11.13 per year.

There will be no savings.

Other nondiscretionary costs or savings imposed on local agencies: The cost to an individual local agency to comply with the proposals will be less than or equal to \$11.13 per year.

There will be no savings.

Costs or savings in federal funding to the State: None.

HOUSING COSTS

The proposals will not significantly affect housing costs.

SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESS, INCLUDING ABILITY TO COMPETE

Although the Proposed Rulemaking will directly affect businesses statewide that have employees, the Division anticipates that the statewide adverse economic impact will be insignificant. The Division anticipates that the proposals will have no effect on the ability of California businesses to compete with business in other states because all Federal OSHA states and other state-plan states will have to adopt substantially identical requirements.

RESULTS OF THE ECONOMIC IMPACT ASSESSMENT

Creation or Elimination of Jobs Within California: The Division concludes that it is unlikely that the proposals will either create or eliminate jobs within California.

Creation of New Business, Elimination of Existing Businesses, or Expansion of Businesses Currently Doing Business in California: The Division concludes that it is unlikely that the proposed amendments will: (1) create new businesses in California; (2) eliminate any existing businesses in California; or (3) result in the expansion of businesses currently doing business in California.

Benefits of the Proposed Amendments to the Health and Welfare of California Residents, Worker Safety, and the State's Environment:

The proposals will benefit worker safety and health in California. The electronic data-reporting provisions in the proposals will provide more timely and accurate reporting for the occupational injury and illness data that employers are required to record and report under Article 2. These provisions expand OSHA's access to timely, establishment-specific occupational injury and illness data, thus allowing OSHA (and Cal/OSHA) to

direct more of its enforcement and compliance assistance resources to those establishments where workers are at greatest risks.

The public disclosure of the electronic data submission required by the proposals could also lead to safer workplaces for workers. The public disclosure of this information could:

- Encourage employers to abate hazards to prevent occupational injuries and illnesses to their workers so as to preserve their reputations as good places to work or do business with;
- Allow establishments to gauge the effectiveness of their injury and illness prevention programs by comparing their occupational injury and illness rates with those of comparable establishments;
- Allow investors to compare occupational injury and illness rates among competing establishments when looking for investment opportunities;
- Allow members of the public to make more informed decisions on what businesses to patronize based on competing establishments' ability to address workplace hazards impacting their workers; and
- Provide better information to job-seekers regarding the occupational injury and illness rates of prospective employers.

The proposals will not otherwise significantly benefit the health and welfare of California's residents, and will not likely benefit California's environment.

COST IMPACTS ON REPRESENTATIVE PERSON OR BUSINESS

The Division has determined that the proposed amendments will have some economic impacts on covered employers, but that these economic impacts will not be significantly adverse.

During its rulemaking process that lead to the May 12, 2016 final rule, OSHA conducted an economic analysis to determine the economic impact on employers to comply with the new requirement to report injury and illness data electronically. According to OSHA, the amendments in their final rule made the following four changes to the prior recording and reporting requirements in 29 CFR, Part 1904:

- Establishments that are required to keep injury and illness records under part 1904 and that had 250 or more employees in the previous year, must electronically submit the required information from the OSHA annual summary form (Form 300A) to OSHA or OSHA's designee, on an annual basis.

- Establishments that are required to keep injury and illness records under part 1904, that had 20 to 249 employees in the previous year, and that are in certain designated industries, must electronically submit the required information from the OSHA annual summary form (Form 300A) to OSHA or OSHA's designee, on an annual basis.
- Employers who receive notification from OSHA, must electronically submit the requested information from their injury and illness records to OSHA or OSHA's designee, with any such notification subject to the approval process established by the Paperwork Reduction Act.

OSHA's final rule did not change an employer's obligation to complete and maintain occupational injury and illness records, nor did it change the recording criteria for the records.

OSHA determined that an employer's electronic submission of occupational injury and illness data to OSHA "would be a relatively simple and quick matter" involving, in most cases, these basic steps:

- (1) Logging on to OSHA's web-based submission system;
- (2) entering basic establishment information into the system (the first time only);
- (3) copying the required injury and illness information from the establishment's records into the electronic submission forms; and
- (4) hitting a button to submit the information to OSHA.

OSHA's economic analysis of its final rule determined that the average cost to employers to comply with the electronic reporting of Form 300A data would be \$11.13 per year.¹

BUSINESS REPORT

¹ OSHA arrived at these cost estimates by multiplying the compensation per hour, including wage and fringe benefits, of the employer's personnel expected to perform the task of electronic submission to OSHA by the time required for the electronic submission. In its calculation, OSHA identified the occupational class of "Industrial Health and Safety Specialists" as the representative class of workers who would be expected to transmit electronically the injury and illness data to OSHA. This class of workers had an estimated total compensation (wages and benefits) of \$48.78 per hour. OSHA then determined the amount of time that would be needed per year for covered employers to submit the electronic information.

The proposed regulations will require subject businesses to report occupational injury and illness records to OSHA. This reporting requirement is mandated by federal law. It is necessary for the health, safety, or welfare of the people of the state that the regulation apply to businesses.

SMALL BUSINESS DETERMINATION

The Division has determined that the proposed amendments affect small business.

ALTERNATIVES STATEMENT: In accordance with Government Code section 11346.5, subdivision (a)(13), the Division must determine that no reasonable alternative considered or that has otherwise been identified and brought to the attention of the Division would be more effective in carrying out the purpose for which the regulations are proposed, or would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provisions of law..

No alternatives were considered because the proposed amendments are mandated by federal law. The proposed amendments are compatible with 29 CFR Sections 1904.35 and 1904.41.

The Division invites interested persons to present statements or arguments with respect to alternatives to the proposed amendments at the scheduled hearing or during the written comment period.

CONTACT PERSONS: Non-substantive inquiries concerning the proposals or this rulemaking, such as requests for copies of the text of the proposed amendments, and the location of public records, may be directed to Mary Ann David at (510) 286-7348 or mdavid@dir.ca.gov. Inquiries regarding the substance of the proposed amendments may be directed to Willie Nguyen at (510) 286-7348 or wnguyen@dir.ca.gov.

AVAILABILITY OF STATEMENT OF REASONS, TEXT OF PROPOSED REGULATIONS, AND RULEMAKING FILE:

The full text of the proposals, and all information upon which the Proposed Rulemaking is based, are available upon request from the contact persons named in this Notice.

As of the date of publication of this Notice, the rulemaking file consists of this Notice, the Initial Statement of Reasons, the proposed text of the regulations, the Economic and Fiscal Impact Statement (Form 399), and a copy of the document entitled "Federal Register, Vol. 81. No. 92, May 12, 2016, pp. 29624-29694." As public comments are received during the rulemaking process, they will be added to the rulemaking file.

The Division's rulemaking file is available for inspection and copying throughout the rulemaking process, Monday through Friday, from 9:00 a.m. to 5:00 p.m., at 1515 Clay Street, Suite 1901, Oakland, CA 94612. The full text of the proposals, and the principle documents upon which the Proposed Rulemaking is based, also may be accessed through the agency's Internet website at www.dir.ca.gov/dosh/rulemaking/dosh_rulemaking_proposed.html.

AVAILABILITY OF CHANGES FOLLOWING PUBLIC HEARING

After considering all timely and relevant comments received, the Division may adopt the proposed amendments substantially as described in this Notice. If the Division makes modifications which are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before it adopts the amendments as revised. Any such modifications also will be posted on the Division's website.

Please send requests for copies of any modified amendments to the attention of Mary Ann David at the above telephone number or e-mail address. The Division will accept written comments on the modified regulations for 15 days after the date on which they are made available.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting Mary Ann David at the above telephone number or e-mail address. The Final Statement of Reasons may also be accessed on the Division's website at: www.dir.ca.gov/dosh/rulemaking/dosh_rulemaking_proposed.html. If adopted, the Proposed Rulemaking will appear in Title 8, California Code of Regulations, Sections 14300.35 and 14300.41.