

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

NOTICE OF MODIFICATIONS TO TEXT OF PROPOSED REGULATIONS

Pursuant to the requirements of Government Code section 11346.8(c), and Section 44 of Title 1 of the California Code of Regulations (CCR), the Director of the Department of Industrial Relations is providing notice of changes made to the following proposed regulations which were the subject of a regulatory hearing on October 9, 2015: Title 8 of the CCR, §§ 333 and 336.

These changes are made in response to comments received at the regulatory hearing regarding those proposed regulations. These changes also correct an error made at the time the proposed regulations were published for public comment, namely: the text of the proposed regulations printed in the California Regulatory Notice Register on August 21, 2015 differed slightly from the text the Division published by electronic mail on August 20, 2015. Specifically, the first sentence of Section 333(b) in the California Regulatory Notice Register read:

(b) Notwithstanding subsection (a), if an employer timely submits proof of satisfactory abatement to the Division, the Division **shall** modify the civil penalty of the corresponding citation pursuant to Section 336(e)(2), even if the citation has become a final order of the Appeals Board. (Emphasis is added.)

However, the first sentence of Section 333(b) in the text the Division published by electronic mail read:

(b) Notwithstanding subsection (a), if an employer timely submits proof of satisfactory abatement to the Division, the Division **may** modify the civil penalty of the corresponding citation pursuant to Section 336(e)(2), even if the citation has become a final order of the Appeals Board. (Emphasis is added.)

These changes clarify that, consistent with the text published in the California Regulatory Notice Register, the Division **shall** grant an abatement credit if an employer satisfies all abatement requirements set forth in the proposed regulations.

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If you have any comments regarding these proposed changes, the Director will accept written comments between November 25 and December 10, 2015. Written comments may be submitted to the Division by any of the following means:

1. By mail or hand delivery to Chris Grossgart, IRC IV, DOSH Legal Unit, 1515 Clay Street, Suite 1901, Oakland, CA 94612;
2. By fax transmission addressed to Chris Grossgart at (510) 286-7039; or
3. By email to: cgrossgart@dir.ca.gov. It is strongly urged that email transmission of comments, particularly those with attachments, contain the regulation identifier "Abatement Credit Comment" in the "subject" line to facilitate timely identification and review of the comment.

All written comments received by December 10, 2015, which pertain to the indicated changes will be reviewed and responded to by the Director as part of the compilation of the rulemaking file. Please limit your comments to the proposed modifications to the text.

The ~~strikeout~~ (~~strikeout~~) and underline (underline) on the following pages show modifications to the text of the currently-effective emergency regulations.