

**OCCUPATIONAL SAFETY  
AND HEALTH STANDARDS BOARD**

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**NOTICE OF PUBLIC MEETING/PUBLIC HEARING/BUSINESS MEETING  
OF THE OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD  
AND NOTICE OF PROPOSED CHANGES TO TITLE 8  
OF THE CALIFORNIA CODE OF REGULATIONS**

Pursuant to Government Code Section 11346.4 and the provisions of Labor Code Sections 142.1, 142.2, 142.3, 142.4, and 144.6, the Occupational Safety and Health Standards Board of the State of California has set the time and place for a Public Meeting, Public Hearing, and Business Meeting:

**PUBLIC MEETING:** On **September 15, 2011**, at 10:00 a.m.  
in the Auditorium of the State Resources Building,  
1416 9th Street, Sacramento, California.

At the Public Meeting, the Board will make time available to receive comments or proposals from interested persons on any item concerning occupational safety and health.

**PUBLIC HEARING:** On **September 15, 2011**, following the Public Meeting,  
in the Auditorium of the State Resources Building,  
1416 9th Street, Sacramento, California.

At the Public Hearing, the Board will consider the public testimony on the proposed changes to occupational safety and health standards in Title 8 of the California Code of Regulations.

**BUSINESS MEETING:** On **September 15, 2011**, following the Public Hearing,  
in the Auditorium of the State Resources Building,  
1416 9th Street, Sacramento, California.

At the Business Meeting, the Board will conduct its monthly business.

**DISABILITY ACCOMMODATION NOTICE:** Disability accommodation is available upon request. Any person with a disability requiring an accommodation, auxiliary aid or service, or a modification of policies or procedures to ensure effective communication and access to the public hearings/meetings of the Occupational Safety and Health Standards Board should contact the Disability Accommodation Coordinator at (916) 274-5721 or the state-wide Disability Accommodation Coordinator at 1-866-326-1616 (toll free). The state-wide Coordinator can also be reached through the California Relay Service, by dialing 711 or 1-800-735-2929 (TTY) or 1-800-855-3000 (TTY-Spanish).

Accommodations can include modifications of policies or procedures or provision of auxiliary aids or services. Accommodations include, but are not limited to, an Assistive Listening System (ALS), a Computer-Aided Transcription System or Communication Access Realtime Translation (CART), a sign-language interpreter, documents in Braille, large print or on computer disk, and audio cassette recording. Accommodation requests should be made as soon as possible. Requests for an ALS or CART should be made no later than five (5) days before the hearing.

**OCCUPATIONAL SAFETY AND HEALTH  
STANDARDS BOARD**

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JOHN D. MACLEOD, Chairman

NOTICE OF PROPOSED CHANGES TO TITLE 8  
OF THE CALIFORNIA CODE OF REGULATIONS  
BY THE OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

Notice is hereby given pursuant to Government Code Section 11346.4 and Labor Code Sections 142.1, 142.4 and 144.5, that the Occupational Safety and Health Standards Board pursuant to the authority granted by Labor Code Section 142.3, and to implement Labor Code Section 142.3, will consider the following proposed revisions to Title 8, Ship Building, Ship Repairing, and Ship Breaking Safety Orders of the California Code of Regulations, as indicated below, at its Public Hearing on **September 15, 2011**.

1. TITLE 8:     **SHIP BUILDING, SHIP REPAIRING, AND SHIP BREAKING SAFETY ORDERS**  
Division 1, Chapter 4, Subchapter 18  
Articles 1, 3, 4, 6, and 8  
**General Conditions in Shipyard Employment, Federal Final Rule (Horcher)**

Descriptions of the proposed changes are as follows:

1. **TITLE 8: SHIP BUILDING, SHIP REPAIRING, AND SHIP BREAKING SAFETY ORDERS**  
Division 1, Chapter 4, Subchapter 18  
Articles 1, 3, 4, 6, and 8  
**General Conditions in Shipyard Employment, Federal Final Rule (Horcher)**

### **INFORMATIVE DIGEST OF PROPOSED ACTION/POLICY STATEMENT OVERVIEW**

The Occupational Safety and Health Standards Board (Board) intends to adopt the proposed rulemaking action pursuant to Labor Code Section 142.3, which mandates that the Board adopt standards at least as effective as federal standards addressing occupational safety and health issues.

On May 2, 2011, the U.S. Department of Labor, Occupational Safety and Health Administration (Federal OSHA) promulgated a final rule revising its standards on General Working Conditions in Shipyard Employment found primarily in federal 29 CFR Part 1915. The federal revisions update existing requirements to reflect advances in industry practices and technology, consolidate some general safety and health requirements into a single subpart, and provide protection from hazards not addressed by existing standards, including the control of hazardous energy.

The Board is relying on the explanation of the federal standards found in Federal Register, Volume 76, No. 84, pages 24576-24711, May 2, 2011, as the justification for the Board's proposed rulemaking action. The Board proposes to adopt standards which are the same as the federal standards except for editorial and format differences, or where existing state standards provide a higher level of safety. The Board notes that federal OSHA's promulgation also will require minor and incidental modification of California Title 8 General Industry Safety Orders as indicated in the attached documentation.

Subjects addressed by the proposal include, but are not limited to, the following:

- Scope, application, definitions and effective dates.
- Housekeeping.
- Lighting.
- Utilities.
- Working alone.
- Vessel radar and communication systems.
- Lifeboats.
- Medical services and first aid.
- Sanitation.
- Control of hazardous energy (lockout/tagout).
- Safety color code for marking physical hazards.
- Accident prevention signs and tags.
- Retention of DOT markings, placards, and labels.
- Motor vehicle safety equipment, operation, and maintenance.
- Servicing of multi-piece and single-piece rim wheels.
- Ship's propulsion machinery.
- Electric circuits and distribution boards.

Because the proposed standards are substantially the same as the Federal OSHA final rule, Labor Code Section 142.3(a)(3) exempts the Board from the provisions of Article 5 (commencing with Section 11346) and Article 6 (commencing with Section 11349) of Chapter 3.5, Part 1, Division 3 of Title 2 of the

Government Code. However, the Board is still providing a comment period and will convene a public hearing. The primary purpose of the written comments and the oral comments at the public hearing is to:

- (1) Identify any issues unique to California related to this proposal which should be addressed in this rulemaking and/or a subsequent rulemaking.
- (2) Solicit comments on the proposed effective date.

The responses to comments will be available in the rulemaking file on this matter and will be limited to the above areas.

The effective date is proposed to be upon filing with the Secretary of State. The standards may be adopted without further notice even though modifications may be made to the original proposal in response to public comments or at the Board's discretion.

### **DOCUMENTS INCORPORATED BY REFERENCE**

- ANSI/IESNA RP-7-01, Recommended Practice for Lighting Industrial Facilities, ANSI approved July 26, 2001.

This document is too cumbersome or impractical to publish in Title 8. Therefore, it is proposed to incorporate the document by reference. A copy of this document is available for review Monday through Friday from 8:00 a.m. to 4:30 p.m. at the Standards Board Office located at 2520 Venture Oaks Way, Suite 350, Sacramento, California.

### **COST ESTIMATES OF PROPOSED ACTION**

Federal OSHA's estimate of compliance costs found at Federal Register, Vol. 76, No. 84, May 2, 2011, starting at page 24673.

Based on information found at page 24692, Table 26, the economic impact of the standard as a percentage of profits for the two major industry sectors, further broken down by size class, are summarized as follows:

<b>Sector</b>	<b>Size Class<sup>1</sup></b>	<b>Compliance cost as % of profits</b>
Shipyards <sup>2</sup>	1-19	0.63%
	1-200	0.41%
	1-1000	0.58%
	All	0.33%
Commercial vessels <sup>3</sup>	1-19	0.97%
	1-200	0.53%
	1-1000	0.48%
	All	0.39%

Source: OSHA Office of Regulatory Analysis

Federal OSHA estimates that if compliance costs of the final rule are completely passed on to consumers, prices will increase by 0.01 to 0.03 percent, a consequence they believe is unlikely to have an effect on the viability of the affected industries. Alternatively, with no price increase, OSHA

<sup>1</sup> Size class is number of employees

<sup>2</sup> The "shipyards" sector consists of ship-building, ship repair and ship-breaking.

<sup>3</sup> The "commercial vessels" sector consists of commercial fishing, fish processing on-board vessels, tug and towing boats, and passenger vessels.

estimates that profits will decrease 0.33 percent for shipyards and 0.39 percent for commercial-vessel industries, a decrease that, in their opinion, would have no effect on the economic viability of these industries. Therefore, OSHA has concluded that this rule is economically feasible.<sup>4</sup> Furthermore, federal OSHA believes that the net monetized benefits of the final rule will exceed the cost of compliance. Federal OSHA also stated that they were unable to find a regional variation in the impacts of the final rule. If this is correct, then federal OSHA estimates should carry approximately the same economic impact on California industries.

Federal OSHA has also certified that the rule will not have a significant impact on a substantial number of small entities.

### **DETERMINATION OF MANDATE**

The Occupational Safety and Health Standards Board has determined that the proposed standards do not impose a local mandate. Therefore, reimbursement by the state is not required pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code because these standards 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 B 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.)

These proposed standards do not require local agencies to carry out the governmental function of providing services to the public. Rather, the standards require local agencies to take certain steps to ensure the safety and health of their own employees only. Moreover, these proposed standards do not in any way require local agencies to administer the California Occupational Safety and Health program. (See City of Anaheim v. State of California (1987) 189 Cal.App.3d 1478.)

These proposed standards do not impose unique requirements on local governments. All state, local and private employers will be required to comply with the prescribed standards.

### **EFFECT ON SMALL BUSINESSES**

The Board has determined that the proposed amendments may affect small businesses. However, based on federal OSHA’s determination, no significant economic impact on small entities is anticipated.

### **ASSESSMENT**

Based on federal analysis, the adoption of the proposed amendments to these standards 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.

### **REASONABLE ALTERNATIVES CONSIDERED**

Our Board must determine that no reasonable alternative considered by the Board or that has otherwise been identified and brought to the attention of the Board would be more effective in

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<sup>4</sup> Federal Register, Vol. 76, No. 84, page 24693.

carrying out the purpose for which the action is proposed or would be as effective as and less burdensome to affected private persons than the proposed action.

A copy of the proposed changes in STRIKEOUT/UNDERLINE format is available upon request made to the Occupational Safety and Health Standard Board's Office, 2520 Venture Oaks Way, Suite 350, Sacramento, CA 95833, (916) 274-5721. Copies will also be available at the Public Hearing.

An INITIAL STATEMENT OF REASONS containing a statement of the purpose and factual basis for the proposed actions, identification of the technical documents relied upon, and a description of any identified alternatives has been prepared and is available upon request from the Standards Board's Office.

Notice is also given that any interested person may present statements or arguments orally or in writing at the hearing on the proposed changes under consideration. It is requested, but not required, that written comments be submitted so that they are received no later than September 9, 2011. The official record of the rulemaking proceedings will be closed at the conclusion of the public hearing and written comments received after 5:00 p.m. on September 15, 2011, will not be considered by the Board unless the Board announces an extension of time in which to submit written comments. Written comments should be mailed to the address provided below or submitted by fax at (916) 274-5743 or e-mailed at [oshsb@dir.ca.gov](mailto:oshsb@dir.ca.gov). The Occupational Safety and Health Standards Board may thereafter adopt the above proposals substantially as set forth without further notice.

The Occupational Safety and Health Standards Board's rulemaking file on the proposed actions including all the information upon which the proposals are based are open to public inspection Monday through Friday, from 8:30 a.m. to 4:30 p.m. at the Standards Board's Office, 2520 Venture Oaks Way, Suite 350, Sacramento, CA 95833.

The full text of proposed changes, including any changes or modifications that may be made as a result of the public hearing, shall be available from the Executive Officer 15 days prior to the date on which the Standards Board adopts the proposed changes.

Inquiries concerning either the proposed administrative action or the substance of the proposed changes may be directed to Marley Hart, Executive Officer, or Mike Manieri, Principal Safety Engineer, at (916) 274-5721.

You can access the Board's notice and other materials associated with this proposal on the Standards Board's homepage/website address which is <http://www.dir.ca.gov/oshsb>. Once the Final Statement of Reasons is prepared, it may be obtained by accessing the Board's website or by calling the telephone number listed above.

OCCUPATIONAL SAFETY AND HEALTH  
STANDARDS BOARD

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JOHN D. MACLEOD, Chairman

NOTICE OF ADOPTION OF  
REGULATIONS  
INTO TITLE 8, CALIFORNIA CODE OF REGULATIONS  
BY THE  
OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

After proceedings held in accordance with and pursuant to the authority vested in Sections 142, 142.3 and 142.4, of the Labor Code to implement, interpret, or make specific, the Occupational Safety and Health Standards Board, by a majority vote, adopted additions, revisions, or deletions to the California Code of Regulations as follows:

1. Title 8, Division 1, Chapter 4, Subchapter 4, Article 15, Sections 1610 through 1619, Article 28, Section 1694; Subchapter 5, Group 2, High-Voltage Electrical Safety Orders, Article 36, Section 2940; and Subchapter 7, Article 153, Section 6060, Group 13, **Cranes and Derricks.**

Heard at the January 20, 2011, Public Hearing; adopted on May 19, 2011; filed with the Secretary of State on July 7, 2011; and became effective on July 7, 2011.

Copies of this standard are available upon request from the Occupational Safety and Health Standards Board, 2520 Venture Oaks Way, Suite 350, Sacramento, CA 95833, (916) 274-5721.

If you have Internet access, visit the Occupational Safety and Health Standards Board by going to: <http://www.dir.ca.gov/oshsb> and follow the links to the Standards Board. This information is updated monthly. The Standards Board's e-mail address is: [oshsb@dir.ca.gov](mailto:oshsb@dir.ca.gov).

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Marley Hart, Executive Officer