

**OCCUPATIONAL SAFETY
AND HEALTH STANDARDS BOARD**

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**TITLE 8. CALIFORNIA CODE OF REGULATIONS**

Construction Safety Orders
Section 1710

Multi-Story Skeletal Steel Construction-Metal Decking Replacement - Horcher

NOTICE IS HEREBY GIVEN that the Occupational Safety and Health Standards Board (Board) proposes to adopt, amend or repeal the foregoing provisions of Title 8 of the California Code of Regulations in the manner described in the Informative Digest, below.

PUBLIC HEARING

The Board will hold a public hearing starting at 10:00 a.m. on **June 18, 2015**, in the auditorium of the **State Resources Building**, 1416 9th Street, Sacramento, California. At this public hearing, any person may present statements or arguments orally or in writing relevant to the proposed action described in the Informative Digest.

WRITTEN COMMENT PERIOD

Any interested person may present statements or arguments orally or in writing at the hearing on the proposed changes under consideration. The written comment period commences on **May 1, 2015** and closes at 5:00 p.m. on **June 18, 2015**. Comments received after that deadline will not be considered by the Board unless the Board announces an extension of time in which to submit written comments. Written comments are to be submitted as follows:

By mail to Sarah Money, Occupational Safety and Health Standards Board, 2520 Venture Oaks Way, Suite 350, Sacramento, CA 95833; or

By fax at (916) 274-5743; or

By e-mail sent to oshsb@dir.ca.gov.

AUTHORITY AND REFERENCE

Labor Code Section 142.3 establishes the Board as the only agency in the State authorized to adopt occupational safety and health standards. In addition, Labor Code Section 142.3 requires the adoption of occupational and health standards that are at least as effective as federal occupational safety and health standards.

INFORMATIVE DIGEST OF PROPOSED ACTION/POLICY
STATEMENT OVERVIEW

This rulemaking was initiated from a Division of Occupational Safety and Health (Division) memorandum to the Board, dated May 27, 2014. The Division noted that Federal OSHA construction standard [Section 1926.754(e)(5)] contains specific requirements for securing metal decking during the steel erection process. Title 8, Section 1710 does not have requirements as effective as Federal OSHA to secure decking from accidental displacement. The proposed amendments to Section 1710(l) would provide fall protection by requiring metal decking to be secured to prevent movement and ensure metal decking panels are fully supported by structural members.

The proposed amendment ensures that California is at least as effective as (ALAEA) the federal standard that pertains to the installation of metal decking. The proposal provides specific instructions for the placement and support of flooring on multi-story steel framed structures.

The U.S. Department of Labor, Occupational Safety and Health Administration (OSHA) promulgated regulations addressing Safety Standards for Steel Erection; Final Rule, on January 18, 2001, as 29 Code of Federal Regulations, Part 1926, Section 1926.754(e)(5). The Board is relying on the explanation of the provisions of the federal regulations in Federal Register, Volume 66, No. 12, pages 5196 – 5280, January 18, 2001, as the justification for the Board's proposed rulemaking action. The Board proposes to adopt a regulation which is the same as the federal regulation except for format differences.

The proposed regulation is substantially the same as the final rule promulgated by Federal OSHA. Therefore, 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 when adopting a standard substantially the same as a federal standard; however, the Board is still providing a comment period and will convene a public hearing. The primary purpose of the written and oral comments at the public hearing is to:

1. Identify any clear and compelling reasons for California to deviate from the federal standards; and
2. Identify any issues unique to California related to this proposal which should be addressed in this rulemaking and/or a subsequent rulemaking.

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

The specific change is as follows:

This proposed rulemaking adopts the federal language verbatim for the installation of metal decking. This will align Title 8, Construction Safety Orders with the federal construction standard and assures that the placement of metal decking is secured and fully supported by structural members.

This proposed rulemaking action is not inconsistent or incompatible with existing state regulations. This proposal is part of a system of occupational safety and health regulations. The consistency and compatibility of that system's component regulations is provided by such things as: (1) the requirement of the federal government and the Labor Code to the effect that the state's regulations be at least as effective as their federal counterparts, and (2) the requirement that all state occupational safety and health rulemaking be channeled through a single entity (the Standards Board).

DOCUMENTS RELIED UPON

1. Division's Form 9 to the Board, dated May 27, 2014.
2. Federal Register, Vol. 66, No. 12, pp. 5196-5280, January 18, 2001.

This document is available online at the Federal OSHA website:

https://www.osha.gov/pls/oshaweb/owadisp.show_document?p_id=16290&p_table=FEDERAL_REGISTER

3. 29 CFR (Code of Federal Regulations), Part 1926, Subpart R, Section 1926.754.

This document is available online at the Federal OSHA website:

https://www.osha.gov/pls/oshaweb/owadisp.show_document?p_table=STANDARDS&p_id=12745

4. Bureau of Labor Statistics, Occupational Employment Statistics, Occupational Employment and Wages, May 2013.

This document is available online at the Bureau of Labor Statistics website:

<http://www.bls.gov/oes/current/oes472221.htm>

5. Bureau of Labor Statistics, Occupational Employment Statistics, May 2013 State Occupational Employment and Wage Estimates.

This document is available online at the Bureau of Labor Statistics website:

http://www.bls.gov/oes/current/oes_ca.htm#49-0000

These documents are also 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.

STRIKEOUT/UNDERLINE DRAFT PROPOSAL

See Attachment No. 1.

COST ESTIMATES OF PROPOSED ACTION

The OSHA preamble to 29 CFR Part 1926 final rule projects that after deducting costs incurred to achieve compliance with the final standard, this will result in net (or incremental) annualized costs of \$78.4 million for affected establishments. Among incremental annualized costs, expenditures for anchor bolts necessary for structural stability account for \$11.0 million, or 14 percent of the total costs. Therefore, OSHA anticipates that most small entities will experience minimal economic impact as a result of the implementation of this standard. Using available Bureau of Labor Statistics occupational employment data for comparison, Board staff has determined that California's portion of the structural stability costs will be 19 percent of the national estimate and extrapolated the costs associated with this activity, unadjusted for inflation, will be less than \$2.1 million.

DETERMINATION OF MANDATE

The Occupational Safety and Health Standards Board has determined that the proposed standard does not impose a local mandate. There are no costs to any local government or school district which must be reimbursed in accordance with Government Code Sections 17500 through 17630.

SMALL BUSINESS DETERMINATION

The Board has determined that the proposed amendment may affect small businesses. However, no economic impact is anticipated. The proposed amendment adopts the federal language essentially verbatim to be consistent and ALAEA the federal standard. No economic impact is anticipated since the placement and security of metal decking is included in the cost of building construction.

CONTACT PERSONS

Inquiries regarding this proposed regulatory action may be directed to Marley Hart (Executive Officer) and the back-up contact person is Michael Manieri (Principal Safety Engineer) at the Occupational Safety and Health Standards Board, 2520 Venture Oaks Way, Suite 350, Sacramento, CA 95833; (916) 274-5721.

AVAILABILITY OF TEXT OF THE PROPOSED REGULATIONS AND RULEMAKING FILE

The Board will have the entire rulemaking file, and all information that provides the basis for the proposed regulation available for inspection and copying throughout the rulemaking process at its office at the above address. As of the date this notice is published in the Notice Register, the

rulemaking file consists of this notice, the proposed text of the regulation, supporting documents, or other information upon which the rulemaking is based. Copies may be obtained by contacting Ms. Hart or Mr. Manieri at the address or telephone number listed above.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After holding the hearing and considering all timely and relevant comments received, the Board may adopt the proposed regulation without further notice even though modifications may be made to the original proposal in response to public comments or at the Board's discretion.

**AVAILABILITY OF THE MEMORANDUM TO THE
STANDARDS BOARD MEMBERS**

Upon its completion, copies of the Memorandum may be obtained by contacting Ms. Hart or Mr. Manieri at the address or telephone number listed above or via the internet.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

The Board will have rulemaking documents available for inspection throughout the rulemaking process on its website. Copies of the text of the regulation in an underline/strikeout format and the Notice of Proposed Action can be accessed through the Standards Board's website at <http://www.dir.ca.gov/oshsb>.