

**OCCUPATIONAL SAFETY  
AND HEALTH STANDARDS BOARD**

2520 Venture Oaks Way, Suite 350  
Sacramento, CA 95833  
(916) 274-5721  
FAX (916) 274-5743  
Website address [www.dir.ca.gov/oshsb](http://www.dir.ca.gov/oshsb)



February 17, 2012

Subject: Advisory Committee-General Industry Safety Orders, New Section 3380.1, Employer Duty to Pay for Personal Safety Devices and Safeguards

You are invited to serve as a member of an advisory committee being convened by the Occupational Safety and Health Standards Board (Board) to consider a new provision proposed for inclusion in California Code of Regulations, Title 8. That new provision, Section 3380.1, is entitled Employer Duty to Pay for Personal Safety Devices and Safeguards. A version of this proposal was originally heard at the Board's January 20, 2011 public hearing. Three 15-day Notices were issued following the public hearing. Two of those 15-day Notices included exceptions to the duty to pay— exceptions based on Federal standards promulgated on November 15, 2007. Ultimately, the Board directed Board staff to withdraw the proposal, which was done, and to convene this advisory committee.

The purpose of this advisory committee is to consider the need for this proposal, and if there is a need, to consider the proposal's possible wording. The version of the proposal attached to this invitation states that the employer shall provide Title-8-safety-order-required personal protective equipment at no cost to the employee, and the proposal includes provisions derived from some of the Federal exceptions.

The date, time and location of the advisory committee meeting are as follows:

**March 22, 2012**  
**9:30 a.m. to 4:30 p.m.**  
**Division of Occupational Safety and Health**  
**2211 Park Towne Circle, Suite 5**  
**Sacramento, California**

The Board has used advisory committees for years as an effective method of reaching consensus among stakeholders. The advisory committee provides input on the necessity for, and content of, proposed modifications of Title 8 standards in order to foster worker safety in a manner that is reasonable, effective and consistent with Federal standards and current technology.

The following documents are attached for your information:

1. Board staff's rulemaking proposal;
2. Labor Code Sections 6400, 6401 and 6403;

3. The Federal standards and explanatory materials found at Fed. Reg., Vol. 72, No. 220 (November 15, 2007), pages 64342-64430;
4. *Bendix Forest Products Corporation v. Division of Occupational Safety and Health* (1979), 25 Cal. 3d 465;
5. *Oakland Police Officers Association v. City of Oakland* (1973), 30 Cal. App. 3d 96;
6. *California Correctional Supervisors Organization, Inc. v. Department of Corrections* (2002), 96 Cal. App. 4<sup>th</sup> 824;
7. *Newman Flange & Fitting Company* (2011), Occupational Safety and Health Appeals Board (OSHAB) Docket Nos. 07-R2D4-2581 through 2583, Decision after Reconsideration;
8. *Labor Ready Southwest, Inc.* (2001), OSHAB Docket No. 01-R1D1-002;
9. The California Attorney General opinion found at 51 Ops. Cal. Atty. Gen. 105 (1968);
10. Meeting agenda;
11. Advisory committee roster.

Please review the rulemaking proposal and be prepared to discuss it at the meeting. Committee members also should be prepared to discuss the potential fiscal impact (costs and/or savings) which might result from changes to the standards as a result of committee deliberations.

If you are unable to attend, please contact me and designate an alternate or submit written comments so that they comments are received at the Board's office no later than March 20, 2012, in order for the written comments to be distributed at the meeting.

Members of the public are welcome to attend and observe the proceedings. However, the Chair may limit discussion to committee members (see attached advisory committee roster) if necessary.

Your assistance in the rulemaking process is most appreciated. If you have any questions or comments, please contact Michael Manieri (at 916-274-5725 or [mmanieri@dir.ca.gov](mailto:mmanieri@dir.ca.gov)) or David Beales (at 916-274-5732 or [dbeales@dir.ca.gov](mailto:dbeales@dir.ca.gov)).

Sincerely,

Michael J. Manieri Jr. and David Beales  
Co-Chairs

Attachments

cc: All Standards Board Members  
Marley Hart, Executive Officer, OSHSB  
David Shiraishi, Area Director, Region IX, Federal OSHA

Kevin Thompson, Cal-OSHA Reporter  
Ellen Widess, Chief, DOSH