

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 **August 16, 2007**, at 10:00 a.m.  
in The Bonderson Building, Hearing Room 102A  
901 P Street, Sacramento, California 95814.

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 **August 16, 2007**, following the Public Meeting  
in The Bonderson Building, Hearing Room 102A  
901 P Street, Sacramento, California 95814.

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 **August 16, 2007**, following the Public Hearing  
in The Bonderson Building, Hearing Room 102A  
901 P Street, Sacramento, California 95814.

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, Construction Safety Orders, General Industry Safety Orders, and Ship Building, Ship Repairing, and Ship Breaking Safety Orders of the California Code of Regulations, as indicated below, at its Public Hearing on **August 16, 2007**.

1. TITLE 8:     **CONSTRUCTION SAFETY ORDERS**  
Chapter 4, Subchapter 4, Article 4  
Section 1532.2  
**GENERAL INDUSTRY SAFETY ORDERS**  
Chapter 4, Subchapter 7, Article 110  
Sections 5203 and 5206  
**SHIP BUILDING, SHIP REPAIRING, AND SHIP BREAKING SAFETY  
ORDERS**  
Chapter 4, Subchapter 18, Article 4  
Section 8359  
**Carcinogen Report of Use Requirements for Chromium VI**
  
2. TITLE 8:     **CONSTRUCTION SAFETY ORDERS**  
Chapter 4, Subchapter 4, Appendix B  
Plate B-17  
**GENERAL INDUSTRY SAFETY ORDERS**  
Chapter 4, Subchapter 7, Article 2  
Section 3214 and Figure E-1 of Section 3231  
**Stair Railing Design**

Descriptions of the proposed changes are as follows:

1. **TITLE 8:**  
**CONSTRUCTION SAFETY ORDERS**  
Chapter 4, Subchapter 4, Article 4  
Section 1532.2  
**GENERAL INDUSTRY SAFETY ORDERS**  
Chapter 4, Subchapter 7, Article 110  
Sections 5203 and 5206  
**SHIP BUILDING, SHIP REPAIRING, AND SHIP BREAKING SAFETY ORDERS**  
Chapter 4, Subchapter 18, Article 4  
Section 8359  
**Carcinogen Report of Use Requirements for Chromium VI**

### **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 9030, which mandates the Board to adopt standards that require the reporting of the use and potentially hazardous release of all regulated carcinogens.

The U.S. Department of Labor, Occupational Safety and Health Administration (OSHA) promulgated standards addressing Hexavalent Chromium, chromium (VI) as a regulated carcinogen on February 28, 2006, as 29 Code of Federal Regulations, Sections 1910.1026, 1915.1026, and 1926.1126. The Board adopted substantially the same standards on August 17, 2006, as new Sections 1532.2, 5206 and 8359, chromium (VI). However, this follow-up rulemaking is necessary to add the carcinogen reporting requirements since the equivalent federal standards do not require reporting.

This proposed rulemaking action would amend Section 5203(b) by adding Sections 1532.2 and 8359 to the list of Title 8 sections covered in the definition of regulated carcinogen in this subsection. The definition for regulated carcinogen in Section 5203 already includes Section 5206, since that section is part of Article 110 and all sections of this Article are defined as regulated carcinogens. Therefore, Section 5206 does not have to be specifically identified in the definition's list of covered regulated carcinogens.

The proposed rulemaking would also amend Section 5203(c)(2) by specifying the circumstances in which report of use is required for regulated carcinogens that do not require the establishment of regulated areas. Chromium (VI), as regulated by Section 5206 for general industry, has a regulated area requirement triggered by exposure above the permissible exposure limit (PEL). However, Section 1532.2 for the construction industry and Section 8359 for the ship building, ship repairing, and ship breaking industry do not require the establishment of regulated areas.

The current language of Section 5203(c)(2) requires report of use of chromium (VI) for general industry regulated by Section 5206. To be consistent with the PEL trigger for Section 5206 regulated areas, a new subsection (A) is added to Section 5203(c)(2) to require reports of chromium (VI) use only when the PEL may be exceeded. Exceeding the PEL is the trigger for establishing a regulated area and hence for reporting use in the general industry standard for chromium (VI) and for most other regulated carcinogens.

To retain the current language that requires reports of use above 0.1% for other regulated carcinogens, the existing requirement is moved verbatim from existing Section 5203(c)(2) to new Section 5203(c)(2)(B). In addition, the words “all other” are included in this subsection following the word “For,” so it would be clear that this requirement applies to circumstances not covered by proposed Section 5203(c)(1) and (c)(2)(A).

This proposed rulemaking action would also amend Sections 1532.2, 5206 and 8359 by adding new subsections m, o and m, respectively. These new subsections would be titled, “Reporting requirements,” and would state, “See Section 5203”.

Finally, the proposed revisions would change the “NOTES” at the end of Sections 1532.2, 5206 and 8359 by adding the appropriate Labor Code sections in the occupational carcinogen control act to the list of authorities and references cited.

The effect of the proposed revisions of this proposal on the regulated public would be to require chromium (VI) users to report such use to the Division in a consistent manner for all three industries (general; construction; and ship building, repair, and breaking) and that the reporting is just as effective as the reporting required of users of other regulated carcinogens.

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

#### **Costs or Savings to State Agencies**

No costs or savings to state agencies will result as a consequence of the proposed action.

#### **Impact on Housing Costs**

The Board has made an initial determination that this proposal will not significantly affect housing costs.

#### **Impact on Businesses**

The Board has made an initial determination that this proposal will not result in a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. The cost of complying with Section 5203 has been found to be insignificant by businesses currently reporting use for other carcinogens covered by Section 5203. Therefore, the cost of complying with similar levels of reporting for chromium (VI) should also be insignificant.

#### **Cost Impact on Private Persons or Businesses**

See “Impact on Businesses.”

#### **Costs or Savings in Federal Funding to the State**

The proposal will not result in costs or savings in federal funding to the state.

## **Costs or Savings to Local Agencies or School Districts Required to be Reimbursed**

No costs to local agencies or school districts are required to be reimbursed. See explanation under “Determination of Mandate.”

## **Other Nondiscretionary Costs or Savings Imposed on Local Agencies**

This proposal does not impose nondiscretionary costs or savings on local agencies.

### **DETERMINATION OF MANDATE**

The Occupational Safety and Health Standards Board has determined that the proposed amendments 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 the proposed amendments will not require local agencies or school district to incur additional costs in complying with the proposal. Furthermore, the amendments do not constitute a “new program or higher level of service of an existing program with 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.)

The proposed amendments do not require local agencies to carry out the governmental function of providing services to the public. Rather, these revisions require local agencies to take certain steps to ensure the safety and health of their own employees only. Moreover, these amendments 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.)

The proposed amendments do not impose unique requirements on local governments. All employers - state, local and private - 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, no economic impact is anticipated.

### **ASSESSMENT**

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 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.

2. **TITLE 8:**      **CONSTRUCTION SAFETY ORDERS**  
Chapter 4, Subchapter 4, Appendix B  
Plate B-17  
**GENERAL INDUSTRY SAFETY ORDERS**  
Chapter 4, Subchapter 7, Article 2  
Section 3214 and Figure E-1 of Section 3231  
**Stair Railing Design**

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

Existing Section 3214 contains standards pertaining to the design of stair rails and handrails in permanent buildings. This proposal would amend certain portions of Section 3214 of the General Industry Safety Orders (GISO).

This proposal is based on a Division of Occupational Safety and Health (Division) Form 9 Request for New, or Change in Existing, Safety Order, to correct an oversight in Section 3214(c). Section 3214(c) became effective on April 3, 1997. The purpose of Section 3214(c) was to require the tops of stair rails to be 34-38 inches in height. Section 3214(c) was intended to apply to new installations, but the existing standard lacked wording to that effect. Therefore, this proposal corrects this oversight by providing a reasonable limitation based on the April 3, 1997 effective date. In addition, this proposal clarifies other portions of Section 3214 and two related figures/diagrams.

Any references to Title 24 in the text are proposed for deletion. Prior to September 30, 2002, the Board was mandated by Health and Safety Code Section 18943(b) to submit Title 8 building standards to the California Building Standards Commission for their approval and adoption into Title 24, the California Building Code. Assembly Bill 3000 (Stats. 2002. c. 1124) repealed Labor Code Section 142.6 and Health and Safety Code Section 18943(b), thus exempting the Board from the building standard requirements contained in those statutes.

This proposed rulemaking action also includes non-substantive revisions such as editorial, grammatical, and re-formatting which includes replacing the term "stair rail(s)" with the term "stair railing(s)" which is defined in Section 3207 of the GISO. These non-substantive revisions are not all discussed in this informative digest but are clearly indicated in the regulatory text in underline and strikeout format. In addition to these non-substantive revisions, the following actions are proposed:

### **Section 3214. Stair Rails and Handrails.**

Existing Section 3214 contains standards that address required location and placement of stair rails and handrails. In addition, this section establishes requirements on the design of intermediate railings, number of required handrails and stair rails based on stairway width and number of risers, use of stairways to provide access to portable work stands less than 30 inches high, exotic applications for

stairways such as on cylindrical tanks or spherical structures, use of guardrails, construction and design of stair rails including required height above the nosing of treads of stairways, and the use of midrails and spacing of intermediate vertical members. Also, this section provides an exception for situations where handrails and stair rails may deviate from the required specifications for handrails and stair rails in basements and cellars.

In addition, Section 3214 describes what constitutes a compliant handrail design, addresses handrails that project from a wall and the mounting of handrails, and requires that the completed structure be capable of withstanding a 200 pound load applied in any direction at any point on the rail (strength requirement).

### **Subsection (b).**

Existing subsection (b) requires stair railings be of construction similar to a guardrail and the vertical height comply with Section 3214(c). Subsection (b) contains an informative “Note” which states that local building standards may require 9 inch spacing of midrails.

Amendments are proposed to subsection (b) to require a midrail located halfway between the top and the steps for railings on open sides that are 30 inches or more above the surface below. In addition, it is proposed in the “Note” to replace the “9”-inch spacing of “midrails” with “4”-inch spacing of “intermediate vertical members.”

The proposed amendments to subsection (b) would ensure that stair railings and handrails installed in California provide the necessary protection to prevent a person from falling through the stair railing to the level below or getting caught in between intermediate vertical members, consistent with the current California Building Code enforced by local jurisdiction building officials and the Division.

The “Note” in this subsection is informational only. Therefore, the proposed amendments to the “Note” are to be consistent with intermediate railing spacing width and terminology contained in the 2001 California Building Code, Section 509.3 enforced by the local jurisdiction building authorities.

### **Subsection (c).**

Existing subsection (c) requires the top of stair rails, handrails and handrail extensions to be placed not less than 34 inches or more than 38 inches above the nosing of treads and landings. This subsection also addresses requirements that stair rails and handrails be of continuous full length design with the exception of private stairways where the stair rail and handrail shall extend in the direction of the stair run not less than 12 inches beyond the top of the riser nor less than 12 inches beyond the bottom riser. This subsection also addresses ends returning and terminating in newel posts or safety terminals so as to not create a projection hazard. An “EXCEPTION” is included that excludes handrails and stair rails on stairs serving basements or cellars that are covered by a trap door, removable floor or grating when not in use.

Amendments are proposed to subsection (c) to require handrails, stair railings and handrail extensions installed on or after April 3, 1997 be at a vertical height between 34 and 38 inches above the tread nosing and landing, and for stairs installed before April 3, 1997, be at a vertical height between 30 and 38 inches.

These proposed amendments to subsection (c) would ensure that Title 8 is consistent with current building standards for new installations and would provide the employer with stairways installed prior to April 3, 1997 an option to comply with a broader stair railing and handrail extension specification. The broader handrail specification would encompass the existing extension dimensions found with older installations in California and would avoid imposing a burden upon California employers with older installations.

### **Figure E-1, Section 3231 of the General Industry Safety Orders.**

Figure E-1 of Section 3231 provides an illustration of stairs, tread, riser, rail, nosing, stairway angle and distance between the top of the stair riser to the rail. Figure E-1 follows Section 3231 which contains standards addressing circular stairways, landings, the rise and run of stairways, headroom, enclosure construction of exit stairways, and openings into enclosures. This section also contains a reference to the stair rail and handrail requirements of Section 3214.

Amendments to Figure E-1 are proposed in order to be consistent with the proposed amendments to Section 3214. This amended figure shows a midrail installation along the stairway diagram and updates the railing to stairway surface dimension to 34 to 38 inches with a written caption indicating the dimension applies to stairways installed on or after April 3, 1997.

### **Appendix B, Plate B-17 of the Construction Safety Order (CSO).**

Appendix B of the Construction Safety Orders contains mathematical construction data, sanitation of personal safety device information, measures, weights of metal per square foot, rules of thumb, scaffold plank information, and other reference information helpful to employers involved in construction operations. Existing Plate B-17 contains criteria for stairs, ramps, ladders or inclines and is essentially identical to existing Figure E-1. Plate B-17 consists of an illustration of stairway angles in degrees, location of rail, riser, nosing, and tread.

Amendments to Plate B-17 are proposed to be consistent with those made to Section 3214 and Figure E-1, to update the illustration to show a midrail and a revised rail-to-surface of tread distance of 34 to 38 inches.

## **COST ESTIMATES OF PROPOSED ACTION**

### **Costs or Savings to State Agencies**

No costs or savings to state agencies will result as a consequence of the proposed action. Title 8 standards require handrails and stair railings to comply with the 34-38 inch height requirement since the standard went into effect on April 3, 1997 without regard to whether or not the building was new construction. This proposal provides a grandfather feature which allows the handrails and stair railings installed prior to April 3, 1997 to comply with a 30-38 inch height requirement.

### **Impact on Housing Costs**

The Board has made an initial determination that this proposal will not significantly affect housing costs.

### **Impact on Businesses**

The Board has made an initial determination that this proposal will not result in a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

### **Cost Impact on Private Persons or Businesses**

The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

### **Costs or Savings in Federal Funding to the State**

The proposal will not result in costs or savings in federal funding to the state.

### **Costs or Savings to Local Agencies or School Districts Required to be Reimbursed**

No costs to local agencies or school districts are required to be reimbursed. See explanation under “Determination of Mandate.”

### **Other Nondiscretionary Costs or Savings Imposed on Local Agencies**

This proposal does not impose nondiscretionary costs or savings on local agencies.

## **DETERMINATION OF MANDATE**

The Occupational Safety and Health Standards Board has determined that the proposed standard does 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 the proposed amendments will not require local agencies or school districts to incur additional costs in complying with the proposal. Furthermore, this standard does 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.)

This proposed standard does not require local agencies to carry out the governmental function of providing services to the public. Rather, the standard requires local agencies to take certain steps to ensure the safety and health of their own employees only. Moreover, this proposed standard does 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.)

This proposed standard does not impose unique requirements on local governments. All employers - state, local and private - will be required to comply with the prescribed standard.

## **EFFECT ON SMALL BUSINESSES**

The Board has determined that the proposed amendments may affect small businesses. However, no economic impact is anticipated.

## **ASSESSMENT**

The adoption of the proposed amendments to this standard 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 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 August 10, 2007. 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 August 16, 2007, 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 Keith Umemoto, Executive Officer, or Michael 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