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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 **July 21, 2005**, at 10:00 a.m.  
in the County Administration Center,  
1600 Pacific Highway, Room 358, San Diego, 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 **July 21, 2005**, following the Public Meeting  
in the County Administration Center,  
1600 Pacific Highway, Room 358, San Diego, 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 **July 21, 2005**, following the Public Hearing  
in the County Administration Center,  
1600 Pacific Highway, Room 358, San Diego, California.

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

The meeting facilities and restrooms are accessible to the physically disabled. Requests for accommodations for the disabled (assistive listening device, sign language interpreters, etc.) should be made to the Board office no later than 10 working days prior to the day of the meeting. If Paratransit services are needed, please contact the Paratransit office nearest you.

OCCUPATIONAL SAFETY AND HEALTH  
STANDARDS BOARD

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STEVEN L. RANK, 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 of the California Code of Regulations, as indicated below, at its Public Hearing on **July 21, 2005**.

1. TITLE 8:        **CONSTRUCTION SAFETY ORDERS**  
                         Chapter 4, Subchapter 4, Article 3  
                         Section 1518(d)  
                         **Protection from Electric Shock**

A description of the proposed changes are as follows:

1. **TITLE 8: CONSTRUCTION SAFETY ORDERS**  
Chapter 4, Subchapter 4, Article 3  
Section 1518(d)  
**Protection from Electric Shock**

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

This rulemaking proposal is initiated in response to a Division of Occupational Safety and Health (Division) memorandum, dated July 28, 2003, with attached Form 9, Request for New, or Change in Existing Safety Order. The Form 9 describes an accident involving a construction industry employee who was killed (electrocuted) while attempting to demolish a concrete pad with a jackhammer. Unbeknownst to the employee, an energized, 5000-volt electrical conductor (wire) was buried in the ground beneath the pad. Following the accident, the Division determined that California does not have a standard comparable to federal OSHA's standard contained in 29 Code of Federal Regulation (CFR) 1926.416(a)(3), which specifically requires employers to ascertain the presence of exposed or concealed electrical conductors which could pose a threat to the safety of employees working in the area by either direct, or indirect contact via tools, equipment, or machinery used/operated by the employee. This determination is required to be made, and made known to employees, prior to the work being performed.

The Division evaluated existing Title 8 standards, such as but not limited to, Sections 2941 through 2944, and trenching and excavation standards contained in Sections 1539 through 1541, and concluded that California did not have a standard at least as effective as the federal standard contained in 29 CFR 1926.416(a)(3). Initially, the Division requested that proposed amendments be made to Section 2940.1 of the High Voltage Electrical Safety Orders; however due to public comments and further Board staff evaluation, it was determined that amendments should be made to the Construction Safety Orders (CSO) instead. Consequently, it is proposed to amend CSO Section 1518, Protection from Electric Shock. The proposal would require employers to ascertain whether any part of an energized electric power circuit is so located that the performance of the work may bring any person, tool, or machine into physical or electrical contact with the electric power circuit. The proposal would further require, where such circuits exist, (1) legible markings to communicate the presence and location of energized circuits or (2) warning signs be posted in accordance with Section 3340 of the General Industry Safety Orders. The proposal also requires that employees be advised as to the location of energized circuits, the hazards involved, and the protective measures to be taken in accordance with CSO Section 1509.

An editorial, clarifying amendment is also proposed in Section 1518(c), replacing the permissive term "may" with "shall" in order to ensure that employees are protected from electric shock by either protective devices or physical barricades.

#### **Section 1518. Protection from Electric Shock**

Existing Section 1518 contains standards addressing means and methods to protect employees from coming in contact with energized electrical equipment, such as use of personal protective equipment/devices, use of insulating equipment or barricades. An amendment is proposed to add a new subsection (d), which would require the employer to ascertain by inquiry, direct observation or by instruments, whether any part of an energized electric power circuit, exposed or concealed, is so located

that the performance of the work may bring any person, tool, or machine into physical or electrical contact with the electric power circuit. This determination is to be made prior to the commencement of any work. Where it has been determined that such energized circuits exist, the employer would be required to provide markings to indicate the presence and location of such circuits or, post warning signs in accordance with Section 3340 of the General Industry Safety Orders (GISO). The employer would also be required to advise the employee of the location of such energized circuits, the hazards involved, and the protective measures to be taken in accordance with CSO Section 1509.

The proposed amendments would have the effect of requiring employers to (1) make the determination as to whether or not there are exposed or concealed energized electric power circuits that, given the location of the work to be performed, pose an electrocution hazard, (2) mark the location of the hazard or post warning signs in accordance with existing requirements contained in GISO Section 3340, and (3) communicate the location of the electrical circuits, the hazards involved, and what protective measures are to be followed by the employee. The proposed amendments are necessary to be at least as effective as federal counterpart standards contained in 29 CFR 1926.416(a)(3), and are consistent with existing requirements contained in GISO Section 3203, Injury Illness and Prevention Program.

It is also proposed to replace the permissive term “may” with “shall” in existing subsection (c). The proposed amendment will clarify to the employer that the employee is required to be protected from electric shock by either protective devices or physical barricades.

### **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. Although the proposal now requires construction employers to ascertain whether exposed or concealed energized electric power circuits are located, such that they pose a threat to the health and safety of employees, the proposal does not mandate any one specific method to be used. Employers are provided a no-cost opportunity to comply through consultation with the applicable utility company or via existing documentation revealing the location of such energized conductors.

Construction employers are also required to mark or post warning signs where such circuits exist, and advise employees of the location of such lines, the hazards involved, and the protective measures to be taken. These requirements are consistent with existing CSO and GISO standards specific to hazard warning and employee communication/instruction, and are included in this proposal for clarity purposes and for consistency with federal counterpart requirements contained in 29 CFR 1926.416(a)(3). Consequently, the Board is not aware of any new costs that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

**Cost Impact on Private Persons or Businesses**

The Board is not aware of any cost impact 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.)

The 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, the 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 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 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 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 July 15, 2005. 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 July 21, 2005, 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@hq.dir.ca.gov](mailto:oshsb@hq.dir.ca.gov). The Occupational Safety and Health Standards Board may thereafter adopt the above proposal 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.

STANDARDS BOARD

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STEVEN L. RANK, Chairman

**TITLE 8**

**CONSTRUCTION SAFETY ORDERS**

**CHAPTER 4, SUBCHAPTER 4, ARTICLE 3**

**SECTION 1518(d)**

**PROTECTION FROM ELECTRIC SHOCK**

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: Chapter 4, Subchapter 7, General Industry Safety Orders, Article 7, Section 3314, The Control of Hazardous Energy~~

~~Heard at the January 15, 2004, Public Hearing; adopted on October 21, 2004; filed with the Secretary of State on December 7, 2004; and became effective on January 6, 2005.~~

2. ~~Title 8: Chapter 4, Subchapter 7, General Industry Safety Orders, Article 2, Sections 3210 and 3212, Fall Protection at Ladderway and Stairway Entrances and Openings.~~

~~Heard at the September 23, 2004, Public Hearing; adopted on October 21, 2004; filed with the Secretary of State on December 8, 2004; and became effective on January 7, 2005.~~

3. ~~Title 8: Chapter 4, Subchapter 4, Construction Safety Orders, Article 13, Section 1602(a), Personal Flotation Devices.~~

~~Heard at the September 23, 2004, Public Hearing; adopted on October 21, 2004; filed with the Secretary of State on December 8, 2004; and became effective on January 7, 2005.~~

A copy of these standards 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/oshb> and follow the links to the Standards Board. This information is updated monthly. The Standards Board's e-mail address is: [oshb@dir.ca.gov](mailto:oshb@dir.ca.gov).

OCCUPATIONAL SAFETY AND HEALTH  
STANDARDS BOARD

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Keith Umemoto, Executive Officer