

**OCCUPATIONAL SAFETY
AND HEALTH STANDARDS BOARD**

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



**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 **May 20, 2010**, at 10:00 a.m.
in Room 310 of the County Administration Center,
1600 Pacific Highway, 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 **May 20, 2010**, following the Public Meeting,
in Room 310 of the County Administration Center,
1600 Pacific Highway, 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 **May 20, 2010**, following the Public Hearing,
in Room 310 of the County Administration Center,
1600 Pacific Highway, San Diego, 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**

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 and the General Industry Safety Orders of the California Code of Regulations, as indicated below, at its Public Hearing on **May 20, 2010**.

1. TITLE 8: **CONSTRUCTION SAFETY ORDERS**
Division 1, Chapter 4, Subchapter 4, Article 12
Sections 1600-1601
Pile Driving and Pile Extraction

- TITLE 8: **GENERAL INDUSTRY SAFETY ORDERS**
Division 1, Chapter 4, Subchapter 7, Article 116
Section 5278
Loading of Explosive Materials

Descriptions of the proposed changes are as follows:

1. **TITLE 8:** **CONSTRUCTION SAFETY ORDERS**
Division 1, Chapter 4, Subchapter 4, Article 12
Sections 1600-1601
Pile Driving and Pile Extraction

INFORMATIVE DIGEST OF PROPOSED ACTION/POLICY STATEMENT OVERVIEW

This rulemaking proposal is staff-initiated in response to a new American National Standards Institute (ANSI) consensus standard, ANSI/ASSE A10.19, Safety Requirements for Pile Installation and Extraction Operations,¹ published in May 2008. California's pile driving standards were last amended in 2004. The purpose of the new ANSI standard is to serve as a guide for contractors, labor, equipment manufacturers and government authorities.

Construction Safety Orders, Article 12, contains standards for pile driving including handling of piles. The existing standards address such worker safety measures as safety zones, blocking devices, hose connections, work platforms, access to elevated locations, signalers, pile driver rig stability, and handling of piles. However, the new ANSI/ASSE Standard addresses several issues, such as planning, personnel access, specific requirements based on pile hammer types, and pile extraction, which either are not currently addressed by Title 8 standards, or it addresses them with greater specificity and clarity for employers and enhances worker safety. The new ANSI/ASSE standard also offers an opportunity to update existing Title 8 standards consistent with current technology and industry practice.

This proposed rulemaking action contains numerous nonsubstantive, editorial, reformatting of subsections, and grammatical revisions. These nonsubstantive revisions are not all discussed in this Informative Digest. However, these proposed revisions are clearly indicated in the regulatory text in underline and strikeout format. In addition to these nonsubstantive revisions, the following actions are proposed:

Article 12. Pile Driving.

It is proposed to amend the title of this Article to "Pile Driving and Pile Extraction." The effect of this amendment will be to clarify the scope of the contents of this Article consistent with the following proposed modifications.

Subsection 1600(a). Site Layout.

This new provision is proposed to clarify the responsibility of the controlling contractor to provide and maintain safe access into and through the site for the delivery and movement of necessary equipment and material. An exception excludes roads outside of the construction site. The effect of this amendment will be to clarify responsibilities for site access.

¹ ANSI/ASSE A10.19-2008 is the product of an ANSI Standards Committee on Safety in Construction and Demolition Operations, American Society of Safety Engineers (ASSE), Secretariat.

Subsection (b).

Provisions of existing subsection 1600(a) are re-designated as subsection (b) in order to make room for new subsection (a). The effect of this change, and other formatting changes to follow, will be to organize and arrange pile driving requirements in a logical and easy-to-use format.

Subsection (c).

The existing subsection 1600(b) requiring a blocking device to support the hammer in the leads when employees are working under the hammer is re-designated as subsection (c) and modified to permit the use of other equally effective means to secure the hammer in the leads when any employee is working under the hammer. An existing exception that permits the worker to momentarily lean through the leads to spot a pile under the hammer is proposed for deletion as this is less protective than the counterpart federal standard [29 CFR 1926.603(a)(5)]. The effect of these amendments will be to conform California standards to the federal counterpart and to provide more flexibility for compliance.

Subsection (d). Pressurized Lines and Hoses.

Existing subsection 1600(c) entitled “Steam and air hammer hose connections” is re-designated as subsection (d) and renamed “Pressurized Lines and Hoses” to more accurately reflect the content of this subsection. Subsection 1600(s) is proposed to be relocated to new subsection (d)(2) to organize and gather all relevant provisions for pressurized lines and hoses into one subsection. These modifications are merely reformatting and have no regulatory effect.

Subsection (g). Access to Pile Leads.

This new subsection, proposed to be entitled “Access to Pile Leads,” will consist of three parts: subsection (g)(1) will be existing subsection 1600(f) with modifications clarifying ladder and personal fall protection provisions; subsections (g)(2) and (3) are new provisions based on ANSI A10.19, Sections 14.1 and 11.12 stating that the means of access to the leads shall prevent the employee from contacting the pile hammer and that the operator of the equipment must take steps to prevent uncontrolled motion of the equipment before an employee may access the leads. The effect of these amendments will be to protect the employee when it is necessary to access the pile driver leads.

Subsection (h). Sheet Pile Access.

This new subsection, proposed to be entitled “Sheet Pile Access” will consist of existing subsections 1600(g) and (h) which are proposed to be combined and amended as follows: the use of stirrups [Subsection 1600(g)] will be clarified and moved to subsection (h)(3); the exception permitting the use of a boatswain’s chair for access is proposed to be eliminated, and in its place, there will be provisions for using a crane-suspended personnel platform [new subsection (h)(1)(B)]; a new subsection (h)(2), based on ANSI A10.19, section 16.2, will prescribe that sheet piling shall be firmly stabilized before workers are permitted on it. The effect of these amendments will be to clarify safe practices for accessing and working on sheet piling.

Subsection (i). Specific Pile Driving Requirements.

Existing subsections 1600(i) and (j) are proposed to be consolidated into a new subsection (i) as subsections (i)(1) and (i)(3) respectively. A new subsection (i)(2) is proposed which will provide that the pile head must be cut square to the driving head and free of concrete spall, steel fragments, or other

debris before being placed in position for driving. This new subsection is taken from ANSI A10.19, section 11.6. The effect of these amendments will be to clarify specific pile driving provisions.

Subsection (j). Pile Hammer Requirements.

This new subsection incorporates selected sections of ANSI A10.19 [Sections 11.26, 11.28, 12.12.1, 12.2, 12.3, and 12.4] regarding inspection of pile hammers, and specific provisions for vibratory pile hammers. The effect of this amendment will be to clarify provisions for safe operation of all pile hammers and will address specific concerns for vibratory pile hammers.

Subsection (o). Hoist Drums.

Existing subsections 1600(o) and (p) are proposed to be reformatted and consolidated into subsection (o). The term “dog” is proposed to be replaced with the term “pawl” which is more consistently used in other sections of the safety orders. Related non-substantive modifications are also proposed. The effect of these modifications will be to clarify means to prevent movement of hoist drums.

Subsection (p). Pile Leads.

Existing subsections 1600(q) and (r) are proposed to be consolidated into new subsection (p) as subsections (p)(1) and (p)(3) respectively. A new subsection (p)(2) is proposed which will provide that a guard or similar device shall be provided across the top of the head block to prevent the cable from jumping out of the sheaves. This section is added to provide equivalency with Federal standard 29 CFR 1926.603(a)(6). A new subsection (p)(4) is proposed that will prescribe that pile gates be sized sufficiently to secure piling at the bottom of the leads during driving operations. Subsection (p)(4) is based on ANSI A10.19, section 13.6. The effect of these amendments will be to clarify safety requirements for pile leads.

Subsection (q). Pile Driving Rig Stability.

Existing subsections 1600(t), (z) and (u) are proposed to be consolidated into new subsection (q) as subsections (q)(1), (q)(2) and (q)(3) respectively. The only other change proposed is to clarify that movement of the pile driver [new subsection (q)(2)] refers only to traveling; i.e., movement does not refer to slewing or other operations of the upper works. The effect of these modifications will be to simplify compliance by consolidating provisions for rig stability into one location.

Section 1600.1. Pile Extraction.

This new section has been added to address issues specific to pile extraction operations. The two subsections have been adapted from ANSI A10.19 sections 21.2 and 21.3. The effect of this amendment will be to address safety for pile extraction which is not specifically addressed at the present time.

Section 1601. Methods of Unloading and Storing Piles.

Existing Section 1601 contains provisions for safely unloading piles. It is proposed to modify the section title and text to include storage of piles. The text is proposed to be amended to prescribe that piles shall be stored in a controlled manner in order to protect employees from the hazard of rolling or falling piles after they are unloaded and prior to installation. The effect of this amendment will be to protect employees by prescribing that piles be stored in a safe manner while awaiting installation.

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.

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 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 the proposed amendments will not require local agencies or school districts to incur additional costs in complying with the proposal. Furthermore, 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, 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:** **GENERAL INDUSTRY SAFETY ORDERS**
Division 1, Chapter 4, Subchapter 7, Article 116
Section 5278
Loading of Explosive Materials

INFORMATIVE DIGEST OF PROPOSED ACTION/POLICY STATEMENT OVERVIEW

The Occupational Safety and Health Standards Board (Board) initiates this rulemaking to provide technical clarifying amendments to the General Industry Safety Orders (GISO), Section 5278. The proposal is a response to an Occupational Safety and Health Appeals Board Decision in the Matter of Ladd and Associates, Docket Nos. 99-R2D6-2068 and 2069, in which an employer was cited by the Division of Occupational Safety and Health (Division) for failing to implement an alternative safety plan when it is problematic to maintain a 50-foot clearance zone around a loaded hole filled with an explosive charge and awaiting detonation as required in Section 5278. The Administrative Law Judge's Decision indicates that the requirement for the 50-foot clearance applies only during the loading operation, which allows potential hazards to exist without such a regulation once loading has concluded. It is noted that this Appeals Board Matter concerned provisions of the Construction Safety Orders that have been repealed; GISO, Section 5278 is the relevant, presently-operative standard.

Section 5278 contains explosive material loading procedures and specifications associated with blasting operations. Section 5278(d) mandates that no one but the loading crew, inspection personnel, and authorized supervisory personnel are to be allowed within 50-feet of the loaded area when explosive

materials are being placed in drill holes. Currently, Section 5278 does not clarify that the clearance zone (restricted area) within 50-feet of the loaded holes must be maintained free of personnel, except for the attendant, loading/detonation crew, inspection personnel, and any other authorized supervisory personnel while the drill holes, loaded with armed explosive materials, await detonation. Section 5278 does not stipulate that when there is a problem maintaining the 50-foot clearance, an approved alternative loading plan in accordance with subsection (d) is to be implemented. This proposal provides such clarification and has been determined by the Board's and Division's staff to be consistent with established industry blasting practices in California.

§5278. Loading of Explosive Materials-General.

The proposal adds language to existing Section 5278 [in both new subsections (o)(3) and (w)(3)] to the effect that no persons other than the attendant(s), the loading/detonation crew, inspection personnel, and authorized supervisory personnel are to be allowed within 50-feet of the loaded holes and includes in both new subsections (o)(3)(A) and (w)(3)(A) the requirement to develop and implement an approved alternative plan pursuant to existing Section 5278(d) at blasting sites where the required 50-foot clearance to the loaded holes cannot be maintained.

The proposal clarifies that the existing 50-foot clearance and alternate blasting plan requirements for loading activities currently in Section 5278(d) also apply to the drill holes once they are loaded with explosive materials. These clarifications serve to enhance the safety of employees working in the vicinity of loaded blasting holes.

This proposal is consistent with the federal requirements in 29 Code of Federal Regulations, Section 1926.905(i), which mandates that no activity of any nature other than that which is required for loading holes shall be permitted in the blast area.

In addition, this proposal corrects editorial errors in subsection (w)(2) where the word "attended" is revised to "unattended", and the word "it" in this subsection is deleted. Revising the word "attended" to "unattended" clarifies that the loaded holes must either be attended, or if left unattended, the specified conditions in subsection (w)(2) must be met. This portion of the proposal will have the effect of ensuring that the standard's wording is consistent with its intent.

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 because this rulemaking only proposes to clarify that, as with loading operations, no one but the attendant(s), the loading/detonation crew, inspection personnel, and authorized supervisory personnel are to be allowed within 50-foot of the holes loaded with explosive materials. The proposal is consistent with the intent of the affected standard and will not result in added cost or savings to state agencies.

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. This proposal clarifies that no one but the attendant(s), the loading/detonation crew, inspection personnel, and authorized supervisory personnel are to be allowed within 50-foot of the holes loaded with explosive materials. This proposal is consistent with the intent of the affected standard and will not result in added cost or savings to state agencies.

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

The proposed regulation 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 regulation 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 May 14, 2010. 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 May 20, 2010, 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. 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

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 7, Article 154, Sections 6070, 6074, 6075, 6080, 6085, 6087, 6089, 6090, 6100, 6115, and 6120, and Appendices A and B, **Pressurized Worksite Operations**.

Heard at the July 16, 2009, Public hearing; adopted on January 21, 2010; filed with the Secretary of State on March 10, 2010; and will become effective on April 9, 2010.

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**.

OCCUPATIONAL SAFETY AND HEALTH
STANDARDS BOARD

Marley Hart, Executive Officer