

**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 **November 17, 2011**, at 10:00 a.m.
in the Costa Mesa City Council Chambers,
77 Fair Drive, Costa Mesa, 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 **November 17, 2011**, following the Public Meeting,
in the Costa Mesa City Council Chambers,
77 Fair Drive, Costa Mesa, 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 **November 17, 2011**, following the Public Hearing,
in the Costa Mesa City Council Chambers,
77 Fair Drive, Costa Mesa, 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, General Industry Safety Orders, Petroleum Safety Orders, and the Ship Building, Ship Repairing, and Ship Breaking Safety Orders of the California Code of Regulations, as indicated below, at its Public Hearing on **November 17, 2011**.

1. TITLE 8: **CONSTRUCTION SAFETY ORDERS**
Division 1, Chapter 4, Subchapter 4
Article 4, Section 1532.1
Article 15, Section 1615.7
GENERAL INDUSTRY SAFETY ORDERS
Division 1, Chapter 4, Subchapter 7
Article 9, Section 3361
Article 101, Sections 5042, 5044, 5045, 5047, and 5049
Article 107, Section 5144
Article 109, Sections 5191, 5198, and 5209
**SHIP BUILDING, SHIP REPAIRING, SHIP BREAKING SAFETY
ORDERS**
Division 1, Chapter 4, Subchapter 18, Article 4
Section 8355
Federal Final Rule, Standards Completion Project—Phase III (Horcher)

2. TITLE 8: **PETROLEUM SAFETY ORDERS**
Division 1, Chapter 4, Subchapter 14
Article 2, Section 6505
Article 35, New Section 6625.1
Article 46, Section 6651
Diesel Engine Runaway Protection

Descriptions of the proposed changes are as follows:

1. **TITLE 8:** **CONSTRUCTION SAFETY ORDERS**
Division 1, Chapter 4, Subchapter 4
Article 4, Section 1532.1
Article 15, Section 1615.7
GENERAL INDUSTRY SAFETY ORDERS
Division 1, Chapter 4, Subchapter 7
Article 9, Section 3361
Article 101, Sections 5042, 5044, 5045, 5047, and 5049
Article 107, Section 5144
Article 109, Sections 5191, 5198, and 5209
**SHIP BUILDING, SHIP REPAIRING, SHIP BREAKING SAFETY
ORDERS**
Division 1, Chapter 4, Subchapter 18, Article 4
Section 8355
Federal Final Rule, Standards Completion Project—Phase III (Horcher)

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 142.3, which mandates the Board to adopt regulations at least as effective as federal regulations addressing occupational safety and health issues.

The U.S. Department of Labor, Occupational Safety and Health Administration (OSHA) promulgated regulations addressing Standards Improvement Project, Phase III, on June 8, 2011, as 29 Code of Federal Regulations, Parts 1910 (general industry), 1915 (shipyards), 1917 (marine terminals), 1918 (longshoring), 1919 (gear certification), 1926 (construction) and 1928 (agriculture). The Board is relying on the explanation of the provisions of the federal regulations in Federal Register, Volume 76, No. 110, pages 33590-33612, June 8, 2011, as the justification for the Board's proposed rulemaking action. The Board proposes to adopt regulations which are the same as the federal regulations except for editorial and format differences.

The proposed regulations address updated requirements for respiratory protection as it pertains to use and maintenance of breathing gas containers; safe operating practices for chain and wire rope slings including the labeling of chains, slings and shackles; employee lead exposure monitoring; medical removal protection, and construction industry material handling (rigging) equipment.

The proposed regulations are substantially the same as the federal standards; 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. However, the Board is still providing a comment period and will convene a public hearing. The primary purpose of the written comments and oral comments at the public hearing is to: (1) identify any clear and compelling reasons for California to deviate from the federal standard, (2) identify any issues unique to California related to this proposal which should be addressed in a subsequent rulemaking, and (3) solicit comments on the proposed effective date. The responses to comments will be available in the rulemaking file on this matter and will be limited to the above areas.

The regulations may be adopted without further notice even though modifications may be made to the original proposal in response to public comments or at the Board's discretion.

COST ESTIMATES OF PROPOSED ACTION

According to Section IV of the Preamble to the Final Rule (page 33602), Federal OSHA has determined that the final standard is not an economically significant regulatory action under federal Executive Order 12866. This rule has no costs and will lead to cost savings to regulated entities. The final rule like the proposed rule deletes and revises a number of provisions in existing OSHA standards and is technologically feasible because it removes or reduces current requirements upon employers. In the case of this proposal a number of issues amount to technical clarifications consistent with Federal definitions. In other cases, the proposal consists of new language consistent with comparable federal language to ensure that California will be at least as effective as federal OSHA for those issues.

DETERMINATION OF MANDATE

The Occupational Safety and Health Standards Board has determined that the proposed regulations 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 regulations 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 regulations do not require local agencies to carry out the governmental function of providing services to the public. Rather, the regulations require local agencies to take certain steps to ensure the safety and health of their own employees only. Moreover, the proposed regulations 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 regulations 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 BUSINESS

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 regulations 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:** **PETROLEUM SAFETY ORDERS**
Division 1, Chapter 4, Subchapter 14
Article 2, Section 6505
Article 35, New Section 6625.1
Article 46, Section 6651
Diesel Engine Runaway Protection

INFORMATIVE DIGEST OF PROPOSED ACTION/POLICY STATEMENT OVERVIEW

The Occupational Safety and Health Standards Board (Board) staff initiated this rulemaking as the result of Petition No. 516, filed on July 8, 2010, by Mr. Jogen Bhalla, Vice President, AMOT Inc. The petition was granted by the Board on October 21, 2010, to the extent that Board staff convene a representative advisory committee (committee) to consider the petitioner's request to mandate the use of automatic shut-off devices for diesel powered engines/equipment and address the hazards associated with the failure to control runaway diesel engines. The petitioner opined that the overrun of diesel powered equipment constitutes a source of ignition capable of igniting a gas and/or vapor cloud of flammable substances from an open well bore such as oil and natural gas which could lead to fire and explosion. Having employees run to haphazardly block off the diesel ignition source in the event of a runaway condition and conflagration is both dangerous and unreliable. Therefore, the petitioner proposed Title 8 be amended to require automatic diesel overrun control devices be installed on all mobile and stationary diesel powered equipment and vehicles that constitute a source of ignition.

As directed by the Board, staff convened a committee meeting which included the petitioner, labor and management representatives on February 8, 2011. The committee considered the petitioner's request and supporting documentation which included various American and Canadian consensus standards, accident statistics and testimony and comments from committee members and the petitioner.

At present, the Petroleum Safety Orders-Drilling & Production (PSO-D&P) addresses definitions and clarifications of terms used in the PSO-D&P but does not define or clarify some of the key terms used in the proposed text. Other sections contain general requirements for overspeed protection on stationary internal combustion engines driving air or gas compressors. However, they do not specifically address requirements for air intake shut-off valves to control runaway conditions for diesel engines. The PSO-D&P addresses emergency stop devices on prime movers including air-intake shutoff valves for diesel engines (prime movers) for drilling rigs and well servicing machinery but does not regulate diesel engines used exclusively as vehicular diesel engines nor is there a specific requirement for automatically actuated emergency stop devices.

Section 6651 regulates the safe loading and unloading of flammable liquids into or from tank trucks and trailers. Subsection 6651(c) is a performance standard that requires the engines to be stopped or if the engine is used to transfer the flammable liquids, subsection (c) requires that any released flammable vapors be prevented from reaching the engine. However, Section 6651 does not address the specific hazards associated with diesel engine runaway conditions.

This proposed rulemaking action addresses definitions, diesel engine runaway protection within 50 feet of an open well bore through selection by the employer of one or more precautionary measures, and addresses loading and unloading operations into which diesel powered tank, vacuum trucks and auxiliary equipment are operated during the loading of unprocessed fuel.

This proposal contains additional non-substantive, editorial, reformatting of subsections, and grammatical revisions. Non-substantive 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 non-substantive revisions, the following actions are proposed.

§6505. Definitions.

The proposal adds six definitions of terms consisting of: “Actuation Test,” “Air intake shut-off valve,” “Open well bore,” “Prime Mover,” “Remote Control,” and “Runaway.” The proposed definitions will clarify the intended meaning of the proposed standards and ensure proper understanding of the scope and application of the proposed requirements. The proposed definition for “Prime Mover” addresses confusion expressed by the advisory committee members with its meaning and scope in existing regulations of Article 52, so titled. The definition of “Prime Mover” is consistent with a similar definition used in Section 3941 of the General Industry Safety Orders and the Federal OSHA prime mover definition contained in 29 CFR, Section 1910.211(f)(9). All other proposed definitions are consistent with commonly used oil and gas drilling and production industry terminology.

§6625.1. Diesel Engines Runaway Protection.

The proposal adds Section 6625.1 specifically to address the hazards associated with diesel engine runaway. New subsections (a) and (b) prohibit the operation of stationary, vehicular and mobile diesel engines within 50 feet of the open well bore or other source of ignitable gas or vapor unless at least one of the five conditions specified in subsections (b)(1) through (5) are met. The five conditions under which a diesel engine can operate within the 50-foot safety zone prevent diesel engine runaway conditions by either blocking the oxygen/fuel mixture from entering the engine as in subsections (1) and (2), providing gas and vapor free combustion air as set forth in subsection (3), displacing the oxygen/fuel mixture from the engine with an inert gas as set forth in subsection (4), or using any other approved (as per GISO Section 3206) and effective method or device designed to stop a diesel engine runaway as stipulated by subsection (5).

The proposed subsections will ensure the safe operation of diesel engines within 50 feet of an open well bore and other existing sources of ignitable gas or vapor where statistics show the risk of vapor/gas ignition is great. The choice of the five conditions in subsection (b) will provide employers with flexibility to tailor their compliance strategy effectively and efficiently. The proposal is consistent with Section 6521 in the Petroleum Orders and Section 5416 in the General Industry Safety Orders which mandate eliminating sources of ignition and conducting air monitoring for flammable gases and vapors in environments where a flammable atmosphere exists. The proposed 50 feet safety zone in subsection (a) is consistent with requirements in Section 6684 in these safety orders for spark control systems for internal combustion engines, including diesel engines, within 50 feet of drilling wells.

Proposed subsection (c) requires actuation testing for air intake shut-off valves at weekly intervals for rig diesel engines and at least monthly intervals for all other diesel engines. Additionally, subsection (c) establishes a recordkeeping requirement for the actuation tests pursuant to Section 3203(b)(1) of the General Industry Safety Orders.

Proposed subsection (c) will ensure that air intake shut-off valves and their controls function properly to prevent and control the fire and explosion risk and the employer can demonstrate that the required system maintenance is being performed and system integrity is preserved.

Proposed subsection (d) requires that a diesel engine experiencing runaway conditions be shut-down and the area affecting the safe operation of the diesel engine is free of flammable gas or vapor before the diesel engine is restarted.

The proposed text in subsection (d) will ensure that the condition that caused the diesel engine to overspeed (runaway) has been abated before the diesel engine is operated.

§6651. Loading and Unloading Operations.

The proposed new subsection (d) addresses the hazards associated with diesel engine runaway conditions for tank truck and vacuum truck diesel engines or auxiliary diesel engines used in the transfer of a flammable liquid. Proposed subsection (d) would prevent diesel engine runaway conditions by requiring the subject diesel engines to comply with Sections 6625.1(b) through (d).

Subsection (d) will ensure the safe operation of tank truck and vacuum truck diesel engines when transferring flammable liquid and is consistent with Section 5416 in the General Industry Safety Orders which mandates the elimination of sources of ignition and air monitoring for flammable gases and vapors in environments where the concentration of the flammable gases or vapors exceeds or may reasonably be expected to exceed 25 percent of the lower explosive limit.

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/Significant Statewide Adverse Economic Impact Directly Affecting Businesses Including the Ability of California Businesses to Compete

The proposal provides optional methods for controlling the diesel overrun hazard when work is performed within 50 feet of an open well bore and addresses record keeping and vacuum and tanker truck operations. Drilling and production employers have likely already implemented one or more proposed control methods, such as airborne monitoring. The cost of implementing one or more of the proposed methods, maintaining inspection records and controlling vacuum truck hazards is insignificant compared to overall drilling and production operation costs.

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 regulations 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, the regulations 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."

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

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ASSESSMENT

The adoption of the proposed amendments to these regulations 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 November 11, 2011. 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 November 17, 2011, 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 4, Article 2, Section 1504, Article 12, Section 1504 of the Construction Safety Orders, and Subchapter 7, Article 1, Section 3207 of the General Industry Safety Orders, **Definition of Certified Safety Professional (CSP)**.

Heard at the May 19, 2011, Public Hearing; adopted on July 21, 2011; filed with the Secretary of State on August 29, 2011; and became effective on September 28, 2011.

2. Title 8, Division 1, Chapter 4, Subchapter 15, Article 1, Section 8608 of the Telecommunication Safety Orders, **Fixed Ladders and Steps for Telecommunication Towers and Poles**.

Heard at the June 16, 2011, Public Hearing; adopted on July 21, 2011; filed with the Secretary of State on September 6, 2011; and will become effective on October 6, 2011.

Copies 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/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