

**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 **March 20, 2008**, at 10:00 a.m.
in the Glendale City Hall, Council Chambers
613 E. Broadway, Glendale, California 91026.

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 **March 20, 2008**, following the Public Meeting
in the Glendale City Hall, Council Chambers
613 E. Broadway, Glendale, California 91026.

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 **March 20, 2008**, following the Public Hearing
in the Glendale City Hall, Council Chambers
613 E. Broadway, Glendale, California 91026.

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, General Industry Safety Orders of the California Code of Regulations, as indicated below, at its Public Hearing on **March 20, 2008**.

TITLE 8: **GENERAL INDUSTRY SAFETY ORDERS**
Chapter 4, Subchapter 7, Article 11
Sections 3412, 3413, 3414, and 3416
Outdoor Advertising Structures—Fall Protection

Descriptions of the proposed changes are as follows:

INFORMATIVE DIGEST OF PROPOSED ACTION/POLICY STATEMENT OVERVIEW

This rulemaking proposal is the result of a Division of Occupational Safety and Health (Division) Memorandum dated December 28, 2001, to the Occupational Safety and Health Standards Board (Board) regarding General Industry Safety Orders (GISO) Section 3416 and fall protection on outdoor advertising structures. The Division's memorandum references a letter from Mr. Mark Chen, representing John A. Batchelor Co. Inc, a fall protection equipment vendor who provides fall protection systems used by employers to protect their workers from falls from elevated locations while performing work on outdoor advertising structures (billboards). Mr. Chen stated that existing Title 8 outdoor advertising structure (OAS) fall protection standards are out of date and inconsistent with current industry practice. The OAS standards reference the use of body belts in an environment where the use of fall arrest systems are the norm as opposed to fall restraint or positioning devices which can be used with body belts and a 5 foot lanyard length restriction which unduly restricts the mobility of employees working from billboard platforms.

On July 26, 2007, the Board staff convened a representative advisory committee (committee) which included OAS labor and management representatives and persons representing fall protection equipment manufacturers. The committee reached consensus on a number of recommended amendments to Sections 3412, 3413, 3414 and 3416.

The proposal contains a number of amendments which include, but are not limited to: updated terminology associated with OAS work based on American National Standard for Ladders – Portable Special Duty Ladders (ANSI) A14.10-2000 contained in Marking No. 4 of the ANSI A14.10 standard, a clarification of the applicability of the proposal by including a reference to the Construction Safety Orders (CSO) for standards that would apply to OAS construction, fall protection for ladders, and use of personal fall protection systems.

The following amendments are proposed:

Section 3412. General.

The existing section contains information pertaining to the scope and application of Article 11 standards. An amendment is proposed to add a Note to subsection (a) to make it clear that standards governing the construction of OAS are contained in the CSO.

An amendment is proposed for subsection (b) to augment the existing definition of “Special Purpose Poster Ladder” to include “Type 1A industrial extra heavy-duty” in addition to “Type 1 industrial heavy-duty” ladder and to define the two types of duty rating in terms of their respective working load capacities based on information contained in the ANSI A 14.10-2000 standard. The effect of the proposed amendment would be to clarify to the employer the definition of industrial heavy duty and industrial extra heavy duty and to be consistent with current national consensus standards.

Subsection (b) is also amended to delete the word “aluminum” in recognition of the fact that these ladders may be made of other materials.

Section 3413. Ladders.

This section contains safety requirements for ladders used in OAS work.

Amendments are proposed to clarify to the employer that all portable ladders are to be Type 1 or Type 1A industrial ladders as shown in subsection (c) of Section 3413. An additional clarifying amendment is proposed in subsection (c) which addresses special purpose industrial ladder approval, and indicates to the employer that the ladder is not restricted to aluminum construction but can be an extra heavy-duty type.

Section 3414. Poster Ladder Scaffolds.

This section contains standards addressing the safe use of poster ladder scaffolds.

Amendments are proposed in subsection (g) to clarify that a full body harness rather than a safety belt is to be used in conjunction with lanyards attached to independently-anchored safety lines or self-retracting life lines attached to approved anchorages.

The proposed amendments will clarify to the employer how personnel working on OAS are to be protected from the hazard of a fall from an elevated location and to be consistent with industry practice, existing Title 8 fall protection requirements and applicable national consensus standards.

Section 3416. Fall Protection.

This section addresses fall protection requirements.

A proposed amendment of subsection (a) clarifies that employees are to be provided and wear an approved personal fall protection system when working at certain heights from OAS platforms not provided with guardrails. The proposed amendment will require employers to purchase on a case-by-case basis a personal fall protection system for each employee who works as described in subsection (a) and implement administrative procedures to ensure each affected employee wears fall protection.

The proposed amendment to the Exception statement clarifies that safety belts are not permitted as part of a special purpose ladder fall protection system.

Existing subsection (c)(1) requires a removable horizontal safety line to permit attachment of a safety belt and lanyard when employees work from a special purpose ladder. Amendments are proposed to clarify in subsection (c)(1) that safety belts are not permitted to be worn and that body harnesses must be connected by lanyard to a non-removable horizontal safety line when working from the upper half of the ladder. The effect of the proposed amendments is to be consistent with industry practice and will require the permanent attachment of independently- anchored safety lines when they are used.

Subsection (d) requires that lanyards not exceed 5 feet in length. It is proposed that subsection (d) be amended to require that a shock-absorbing device be installed in the lanyard and that the lanyard not exceed 6 feet in length, consistent with the design and construction of lanyards used by workers in the outdoor advertising industry. An exception statement is proposed to subsection (d) that would allow the use of self-retracting lifelines in lieu of shock absorbing lanyards. The effect of the proposed exception is to allow employers flexibility in selecting the most effective system for their operation.

A new subsection (e) is proposed that informs the employer that self-retracting lifelines may be used with Type 1 or Type 1A ladders or when attached to an approved anchorage. The proposed amendment clarifies that when the self-retracting lifeline option provided in subsection (d) is used, they may be used with either type of poster ladder or attached to an approved anchorage.

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. The State of California does not construct, maintain or operate its own outdoor advertising structures.

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 proposal updates, clarifies and corrects current practices consistent with industry practice.

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. The proposal updates, clarifies and corrects current practices consistent with industry practice and national consensus standards.

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, 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.)

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.)

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 BUSINESSES

The Board has determined that the proposed amendments may affect small businesses. However, no economic impact is anticipated. The proposal updates, clarifies and corrects current practices consistent with industry practice.

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 March 14, 2008. 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 March 20, 2008, 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 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 Marley Hart, 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.

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STANDARDS BOARD

JOHN D. MACLEOD, Chairman