

**OCCUPATIONAL SAFETY
AND HEALTH STANDARDS BOARD**

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**NOTICE OF PUBLIC MEETING/PUBLIC HEARING/BUSINESS MEETING
OF THE OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD
AND NOTICE OF PROPOSED CHANGES TO TITLE 8
OF THE CALIFORNIA CODE OF REGULATIONS**

Pursuant to Government Code Section 11346.4 and the provisions of Labor Code Sections 142.1, 142.2, 142.3, 142.4, and 144.6, the Occupational Safety and Health Standards Board of the State of California has set the time and place for a Public Meeting, Public Hearing, and Business Meeting:

PUBLIC MEETING: On **August 18, 2011**, at 10:00 a.m.
in the Auditorium of the State Resources Building,
1416 9th Street, Sacramento, 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 **August 18, 2011**, following the Public Meeting,
in the Auditorium of the State Resources Building,
1416 9th Street, Sacramento, 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 **August 18, 2011**, following the Public Hearing,
in the Auditorium of the State Resources Building,
1416 9th Street, Sacramento, 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, Electrical Safety Orders, and Tunnel Safety Orders of the California Code of Regulations, as indicated below, at its Public Hearing on **August 18, 2011**.

1. TITLE 8: **CONSTRUCTION SAFETY ORDERS**
Division 1, Chapter 4, Subchapter 4, Article 3
Section 1512
ELECTRICAL SAFETY ORDERS
Division 1, Chapter 4, Subchapter 5
Group 1, Section 2320.10 (Low-Voltage Electrical Safety Orders)
Group 2, Section 2940.10 (High-Voltage Electrical Safety Orders)
First Aid for Electrical Workers (Horcher)

2. TITLE 8: **CONSTRUCTION SAFETY ORDERS**
Division 1, Chapter 4, Subchapter 4
Article 4, Section 1533
Article 6, Section 1541
TUNNEL SAFETY ORDERS
Division 1, Chapter 4, Subchapter 20, Article 1
Section 8403
Ventilation Inside Shafts, Culverts, and Pipelines

Descriptions of the proposed changes are as follows:

1. **TITLE 8:** **CONSTRUCTION SAFETY ORDERS**
Division 1, Chapter 4, Subchapter 4, Article 3
Section 1512
ELECTRICAL SAFETY ORDERS
Division 1, Chapter 4, Subchapter 5
Group 1, Section 2320.10 (Low-Voltage Electrical Safety Orders)
Group 2, Section 2940.10 (High-Voltage Electrical Safety Orders)
First Aid for Electrical Workers (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 that the Board adopt standards at least as effective as federal standards addressing occupational safety and health issues.

Federal 29 CFR 1910.269(b) includes first-aid requirements for electrical workers. It has been discovered that there is currently no equivalent safety standard for electrical workers in the California Electrical Safety Orders (ESO). Although the General Industry Safety Orders (GISO) and Construction Safety Orders (CSO) contain generic safety standards, these standards do not adequately address the specific needs of electrical workers who are exposed to the hazards of burns and electrical shock injuries, which are very different and usually much more severe than the hazards that other workers are exposed to. Because of the potential severity of these injuries and the remote locations where electrical workers are often sent to work, immediate medical aid is necessary to stabilize the injured worker until emergency medical technicians or higher level care can be provided.

The Board proposes to adopt standards which are the same as federal standards except for minor editorial and formatting differences. Because California Electrical Safety Orders are divided into Group 1, Low-Voltage and Group 2, High-Voltage ESO, the federal safety standards will be included in each Group. In addition, informative notes will be included in the existing CSO and GISO generic safety standards alerting readers to the additional provisions of the ESO.

This proposed rulemaking action contains non-substantive, editorial, reformatting of subsections, and grammatical revisions. These 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:

CSO Section 1512, Emergency Medical Services.

This section currently prescribes the provision of emergency medical services on construction project. It is proposed to supplement these requirements with an informative note to direct readers to the Electrical Safety Orders for additional requirements for electrical workers. The effect of this amendment will be to clarify medical services and first aid provisions for electrical workers in a construction setting.

Low-Voltage ESO Section 2320.10, Medical Services and First Aid.

This new section will be verbatim of 29 CFR 1910.269(b), Medical Services and First Aid, except for minor editorial and formatting differences. The effect of this new section will be to prescribe medical services and first aid for workers performing work on low-voltage electrical equipment in a construction or general industry setting that is at least as effective as that prescribed by federal standards.

High-Voltage ESO Section 2940.10, Medical Services and First Aid.

This new section will be verbatim of 29 CFR 1910.269(b), Medical Services and First Aid, except for minor editorial and formatting differences. The effect of this new section will be to prescribe medical services and first aid for workers

performing work on high-voltage electrical equipment in a construction or general industry setting that is at least as effective as that prescribed by federal standards.

GISO Section 3400, Medical Services and First Aid.

This section currently prescribes applicable requirements regarding medical services and first-aid in general industry. It is proposed to supplement these requirements with an informative note to direct readers to the Electrical Safety Orders for additional requirements for electrical workers. The effect of this amendment will be to clarify medical services and first aid provisions for electrical workers in general industry.

The proposed standards 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 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 standards 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.

DETERMINATION OF MANDATE

The Occupational Safety and Health Standards Board has determined that the proposed standards and amendments do not impose a local mandate. Therefore, reimbursement by the state is not required pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code because the proposed amendments will not require local agencies or school 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 BUSINESS

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

ASSESSMENT

The adoption of the proposed standards and amendments will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California.

REASONABLE ALTERNATIVES CONSIDERED

Our Board must determine that no reasonable alternative considered by the Board or that has otherwise been identified and brought to the attention of the Board would be more effective in carrying out the purpose for which the action is proposed or would be as effective as and less burdensome to affected private persons than the proposed action.

2. TITLE 8: **CONSTRUCTION SAFETY ORDERS**

Division 1, Chapter 4, Subchapter 4

Article 4, Section 1533

Article 6, Section 1541

TUNNEL SAFETY ORDERS

Division 1, Chapter 4, Subchapter 20, Article 1

Section 8403

Ventilation Inside Shafts, Culverts, and Pipelines

INFORMATIVE DIGEST OF PROPOSED ACTION/POLICY STATEMENT OVERVIEW

Tunnel Safety Orders (TSO) Section 8403(a)(4) states that the TSO apply to all shafts that exceed 20 feet in depth. This standard refers to the Construction Safety Orders for shafts 20 feet or less in depth and excavations unrelated to the TSO. TSO Section 8470 addresses internal combustion engines used underground and specifies ventilation requirements. The intent of this standard is to ensure that workers are provided with air that is safe and healthful to breathe. In its Memorandum to the Standards Board and Form 9-60 dated December 30, 2010, the Division of Occupational Safety and Health (Division) notes that the existing Construction Safety Orders (CSO) requirements for internal combustion engines are contained in Section 1533 but only apply to work inside buildings or enclosed structures. The CSO are silent with regard to ventilation for shafts 20 feet or less in depth and construction-related excavations. The Division requests the Board to amend CSO Sections 1533 and 1541 to address this issue. An amendment to Section 8403(a)(4) of the TSO is proposed to refer to Section 1533(b) of the CSO for tunnels and excavations unrelated to the TSO.

Section 1533. Internal Combustion Engines.

Subsection (b)

Section 1533 describes methods of controlling dangerous gasses or fumes from internal combustion engine-driven equipment when operated inside buildings or enclosed structures.

A new subsection (b) is proposed that applies to employees working in shafts, culverts and pipelines and requires an exhaust ventilation system to be provided to prevent employee exposures to internal combustion engine emissions through the use of exhaust ventilation or forced air ventilation or both. The amendment will ensure that when internal combustion engine-driven equipment is operated inside shafts, culverts or pipelines, ventilation is provided at specific minimum airflow rates of fresh air to maintain concentrations below acceptable limits. These provisions are consistent with TSO Section 8470(c). An informative Note is proposed to tell the employer that the TSO applies to shafts greater than 20 feet in depth and excavations unrelated to the CSO.

Section 1541. General Requirements.

Subsection (g)(3)

Existing Section 1541 addresses general requirements regarding excavations. A new subsection (g)(3) is proposed requiring that ventilation as specified in Section 1530 and the proposed Section 1533(b) be provided when internal combustion engine-driven equipment is operated inside a shaft regulated under Section 1542. The amendment will ensure that ventilation is provided so that internal combustion engines used in enclosed spaces do not cause harmful exposures. An informative Note is proposed to tell the employer that the TSO applies to shafts greater than 20 feet in depth and excavations unrelated to the CSO.

Section 8403. Scope and Application.

Subsection (a)(4)

Section 8403 of the TSO establishes minimum safety standards for underground operations involving excavations, construction, alteration, repairing, renovating or demolishing. An amendment to existing subsection (a)(4) is proposed to add a reference to Section 1533 of the CSO for shafts 20 feet or less in depth and excavations unrelated to the TSO. The amendment will provide clarity to the employer that tunnels and excavations not covered by the TSO are addressed by Section 1533 as well as Article 6 of the CSO.

COST ESTIMATES OF PROPOSED ACTION

Costs or Savings to State Agencies

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

Impact on Housing Costs

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

Impact on Businesses

The Board has made an initial determination that this proposal will not result in a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. The requirement is worded such that it would only become an issue for employers that elect to operate such equipment below ground and also allows options in meeting the ventilation criteria.

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, 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.]

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 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 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 August 12, 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 August 18, 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 7, Article 25, Section 3657 of the General Industry Safety Orders, **Elevating Employees with Lift Trucks.**

Heard at the November 18, 2010, Public Hearing; adopted on March 17, 2011; filed with the Secretary of State on May 3, 2011; and became effective on June 2, 2011.

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/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**.

OCCUPATIONAL SAFETY AND HEALTH
STANDARDS BOARD

Marley Hart, Executive Officer