

**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](http://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 **November 15, 2012**, at 10:00 a.m.  
in the Auditorium of the State Resources Building,  
1416 9<sup>th</sup> 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 **November 15, 2012**, following the Public Meeting,  
in the Auditorium of the State Resources Building,  
1416 9<sup>th</sup> 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 **November 15, 2012**, following the Public Hearing,  
in the Auditorium of the State Resources Building,  
1416 9<sup>th</sup> 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**

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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; and Ship Building, Ship Repairing and Ship Breaking Safety Orders of the California Code of Regulations, as indicated below, at its Public Hearing on **November 15, 2012**.

1. TITLE 8:     **CONSTRUCTION SAFETY ORDERS**  
Division 1, Chapter 4, Subchapter 4  
Article 4, Sections 1529, 1532,  
and 1532.1,  
Appendix B of Section 1532.1, Sections 1532.2 and 1535;  
**GENERAL INDUSTRY SAFETY ORDERS**  
Division 1, Chapter 4, Subchapter 7  
Article 107, Section 5150  
Article 109, Sections 5189, 5190, 5191, 5192, and 5194, Appendices A through G  
of Section 5194, Section 5198, and Appendix B of Section 5198, Article 110,  
Sections 5200, 5201 and 5202, Appendix A of Section 5202, Sections 5206, 5207,  
5208, 5209, 5210, 5211, 5212, 5213, 5214, 5217, 5218 and 5220;  
**SHIP BUILDING, SHIP REPAIRING AND SHIP BREAKING SAFETY  
ORDERS**  
Division 1, Chapter 4, Subchapter 18, Article 4, Sections 8358 and 8359  
[Globally Harmonized System Update to Hazard Communication – Health  
\(Horcher\)](#)

Descriptions of the proposed changes are as follows:

1. **TITLE 8:**      **CONSTRUCTION SAFETY ORDERS**  
Division 1, Chapter 4, Subchapter 4  
Article 4, Sections 1529, 1532,  
and 1532.1,  
Appendix B of Section 1532.1, Sections 1532.2 and 1535;  
**GENERAL INDUSTRY SAFETY ORDERS**  
Division 1, Chapter 4, Subchapter 7  
Article 107, Section 5150  
Article 109, Sections 5189, 5190, 5191, 5192, and 5194, Appendices A through G  
of Section 5194, Section 5198, and Appendix B of Section 5198, Article 110,  
Sections 5200, 5201 and 5202, Appendix A of Section 5202, Sections 5206, 5207,  
5208, 5209, 5210, 5211, 5212, 5213, 5214, 5217, 5218 and 5220;  
**SHIP BUILDING, SHIP REPAIRING AND SHIP BREAKING SAFETY  
ORDERS**  
Division 1, Chapter 4, Subchapter 18, Article 4, Sections 8358 and 8359  
[Globally Harmonized System Update to Hazard Communication – Health  
\(Horcher\)](#)

### **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 on March 26, 2012, addressing Globally Harmonized System (GHS) updates of the Hazard Communication Standard (HCS) and related sections. The changes impact 29 CFR, Parts 1910 (general industry), 1915 (shipyards), and 1926 (construction). The Board is relying on the explanation of the provisions of the federal regulations in Federal Register, Volume 77, No. 58, pages 17574-17896, March 26, 2012, 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 hazard communication as it pertains to updating HCS warning labels, signs and safety data sheets, which are to be consistent with the United Nations GHS classification, and labeling of chemicals to inform workers and other downstream users of manufactured and imported chemical products. The proposed standards also update hazard communication standards for welding, brazing and cutting.

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 issues unique to California related to this proposal which should be addressed in a subsequent rulemaking and (2) 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 federal final rule includes changes to the following sections which, due to significant differences with state standards (i.e., state standards may be more protective), cannot be adopted as part of the state's expedited rulemaking process under Labor Code section 142.3(a)(3). Federal changes to the following sections are proposed to be considered and potentially adopted in whole, or in part, separately using the state's normal public notice and comment period procedures in order to assure that more protective state standards are preserved and to afford stakeholders with an opportunity to evaluate and comment on the proposed changes.

- 1910.106, Flammable and combustible liquids,
- 1910.107, Spray finishing using flammable and combustible materials,
- 1910.119 Process safety management of highly hazardous chemicals,
- 1910.123 Dipping and coating operations: Coverage and definitions,
- 1910.124 General requirements for dipping and coating operations,
- 1910.125 Additional requirements for dipping and coating operations that use flammable liquids or liquids with flashpoints greater than  $199.4 \geq F$  ( $93 \geq C$ ), 1926.152 Flammable liquids,
- 1926.155 Definitions applicable to Part 1926, Subpart F, Fire Protection and Prevention.

The effective date is proposed to be upon filing with the Secretary of State. 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. This regulatory proposal is intended to provide worker safety at places of employment in California.

### **COST ESTIMATES OF PROPOSED ACTION**

According to Section H of the Final Economic Analysis and Voluntary Regulatory Flexibility Analysis of the Final Rule (page 17653), Federal OSHA has determined that the economic impact of the final rule is most likely to consist of a very small increase in prices for affected hazardous chemicals, of about 0.001 percent on average. Chemical manufacturing companies, all of whom must incur the costs of compliance unless they are already doing so, should be able to pass through costs to customers. The additional costs of a one-time revision to safety data sheets and labeling criteria and one-time investments in printing technology are extremely small in relation to the value of the corresponding products, and there are generally no economic substitutes, or alternatives, that would not be subject to the same requirements. It is unlikely that a price increase of this magnitude would significantly alter the types or amounts of goods and services demanded by the public or any other affected customers or intermediaries. If the compliance costs of the final rule can be substantially recouped with a minimal increase in prices, there would be little or no effect on profits. California will be commensurate with federal OSHA regarding these costs.

### **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 BUSINESSES AND RESULTS OF THE ECONOMIC IMPACT ASSESSMENT**

The Board has determined that the proposed amendments may affect small businesses. However, no significant economic impact is anticipated because it is unlikely that a price increase of this magnitude would significantly alter the types or amounts of goods and services demanded by the public or any other affected customers or intermediaries.

Therefore, the proposed regulations will not have any effect on the creation or elimination of California jobs or the creation or elimination of California businesses or affect the expansion of existing California businesses.

### **ALTERNATIVES STATEMENT**

The Board must determine that no reasonable alternative it considered to the regulation or that has otherwise been identified and brought to its attention would either be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law than the proposal described in this Notice.

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 9, 2012**. 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 15, 2012**, 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](mailto: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

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JOHN D. MACLEOD, Chairman