

# Memorandum

**To** : ALL STANDARDS BOARD MEMBERS

**Date** : March 10, 2008

**From** : Occupational Safety and Health Standards Board  
Conrad E. Tolson, Senior Engineer - Standards

**Subject** : Low-Voltage Electrical Safety Orders - Horcher

At the January 17, 2008 Public Hearing, the Occupational Safety and Health Standards Board considered revisions to California Code of Regulations, Title 8, Division 1, Chapter 4, Subchapter 5, Electrical Safety Orders, Group 1, Low-Voltage Electrical Safety Orders. These standards are substantially the same as federal standards.

Labor Code Section 142.3(a)(3) exempts the Board from providing a comment period when adopting a standard substantially the same as a federal standard. However, as indicated in the Notice and Informative Digest, the Board still provided a comment period for the purpose of identifying only issues related to the following three areas: 1) any clear and compelling reasons for California to deviate from the federal standards; 2) any issues unique to California related to this proposal which should be addressed in this rulemaking and/or subsequent rulemaking; and, 3) solicit comments on the proposed effective date.

As a result of public comments and/or Board staff evaluation, the following changes have been made to the original proposal.

Section 2305.2(b). Extent of application.

This section originally specified that after the date on which these Orders became effective, all installations and equipment were to conform to these Orders except for existing installations and equipment which were in compliance with safety orders, or variances therefrom, in effect prior to the effective date of these Safety Orders.

This provision has been replaced with four categories of requirements that are consistent with corresponding Federal OSHA provisions. The four categories are as follows:

- (1) Requirements applicable to all installations in this category regardless of installation date.
- (2) Requirements applicable to installations made after March 15, 1972.
- (3) Requirements applicable only to installations made after April 16, 1981.
- (4) Requirements applicable only to installations made after the effective date of these Orders.

The purpose and necessity for these changes is to ensure that the standards are at least as effective as those prescribed in the Federal Register [FR Vol. 72, No. 30, Wednesday, February 14, 2007, for 29 CFR 1910, Electrical Standard, Final Rule, Section 1910.302(b)]

Section 2340.12(c). Mechanical Execution of Work.

Subsection (c) as originally proposed read:

“Internal parts of electrical equipment, including busbars, wiring terminals, insulators, and other surfaces, may not be damaged or contaminated by foreign materials such as paint, plaster, cleaners, abrasives, or corrosive residues.”

It is proposed to change “may” to “shall.” The purpose and necessity for this change is to provide regulatory clarity.

Section 2340.22(e) and (f). Identification of Equipment.

The effective date for subsection (e), “Capable of accepting a lock” and subsection (f), “Marking for series combination ratings” is clarified to be based on the date of installation. The purpose and necessity for this change is to provide regulatory clarity.

Section 2360.3. Ground-Fault Circuit Interrupter Protection for Personnel – General Industry.

A comment received during the public comment period observed that, since this Section contains requirements for temporary wiring used during “construction-like activities” there appeared to be areas of overlap and potential conflict between this section and Section 2405.4, “Ground-Fault Circuit Protection-Construction Site.” During review and evaluation of this comment, Board staff determined that Section 2405.4 is outside the scope of the federal rulemaking and the proposed note to Section 2360.3 with a cross-reference to Section 2405.4 is also outside the scope of the Horcher<sup>1</sup> adoption. Therefore the proposed cross-reference from Section 2360.3 to Section 2405.4 is proposed to be withdrawn. The purpose and necessity for this change is to reduce overlap and conflict with existing standards.

Although these proposed changes may reduce, somewhat, the potential overlap that the commenter observed, the distinction between “construction-like” activities and “construction” activities may still be problematic. However, since this rulemaking is a Horcher adoption, any changes to Sections 2360.3 and/or 2405.4 to address this overlap would be outside the scope of this rulemaking. The Board therefore proposes to conduct a separate rulemaking to address the ground-fault circuit interrupter protection for the construction industry.

Section 2375.18. Clearance from Ground.

The existing section prescribed clearance distances from ground for open conductors, open multi-conductor cables, and service-drop conductors of not over 600 volts, nominal for two different conditions. Based on a federal OSHA, Region 9, advisory opinion, Board staff is proposing to add a new Table 2375.18. The new table, effective on the date of adoption of these Orders, prescribes clearances for conditions not clearly prescribed by the existing standard. The purpose and necessity for the new Table is to clarify clearance distances for open conductors, open multi-conductor cables, and service-drop conductors of not over 600 volts to assure equivalency with federal standards [29 CFR 1910.304(c)(2)].

Section 2395.6. Portable and Vehicle-Mounted Generators.

Existing Section 2395.6(a) permitted the generator frame to be used as the grounding electrode for portable and vehicle-mounted generators under specified conditions. Section 2395.6(a)(4) limited this grounding method to single-phase, portable or vehicle-mounted generators, rated not

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<sup>1</sup> A “Horcher adoption” is an adoption of standards substantially the same as federal standards pursuant to Labor Code 142.3(a)(3).

more than 5 KW, where the circuit conductors of the generator are insulated from the generator frame and all other grounded surfaces. The federal verbiage contains a similar grounding exception, but does not contain the 5 KW limitation, therefore existing subsection 2395.6(a)(4) is more protective than the federal provisions. This deficiency was noted by a commenter. The Board therefore proposes to reinstate the 5 KW limitation of subsection 2395.6(a)(4). Due to federal formatting, it is necessary to translate this content into new subsections 2395.6(a)(3) and (b)(5). The purpose and necessity for this modification is to retain the state limitation which provides a higher level of safety than the corresponding federal standard [29 CFR 1910.304(g)(3)].

Section 2395.58(a). Electric Equipment Considered Effectively Grounded.

This subsection provides that “for installations made on or before February 25, 1993, electric equipment is also considered to be effectively grounded if it is secured to, and in metallic contact with, the grounded structural metal frame of a building.” A federal OSHA Advisory Opinion indicated that the effective date must be changed to April 16, 1981, to be at least as effective as the counterpart federal standard [29 CFR 1910.304(g)(8)(iii)]. The counterpart federal standard also added a provision that when any element of this branch circuit is replaced, the equipment grounding conductor for the entire branch circuit had to be brought into compliance with all other provisions of Article 11 of these Safety Orders. The 45-Day Notice would have made this requirement effective with the date of adoption of these Safety Orders; however, based on the federal OSHA Advisory Opinion, the Board must also change the effective date for this requirement to April 16, 1981. The purpose and necessity for these changes is to provide worker protection at least as effective as federal standards.

Section 2405.4. Ground-Fault Circuit Protection-Construction Site.

Section 2405.4 specifies ground-fault circuit protection for construction sites. A comment was received during the public comment period, noting a potential overlap and conflict between this section and Section 2360.3, “Ground-Fault Circuit Interrupter Protection for Personnel – General Industry” which contains GFCI requirements for temporary wiring during “construction-like” activities. Since the federal rulemaking only applies to general industry, Board staff determined that Section 2405.4 is outside the scope of the proposed Horcher adoption. The Board therefore proposes to withdraw any changes that were proposed to Section 2405.4. The purpose and necessity for this change are to limit proposed modifications of the Low-Voltage Electrical Safety Orders to only those within the scope of the Horcher adoption process.

Section 2420.3. Exposed Wiring.

The original proposal would have removed existing Title 8 verbiage which limited installation of open exposed wiring to substations, transformer vaults, transformer enclosures, on the supply side of electric furnace electrodes, or in tunnels or similar locations, where such spaces are restricted to electrical use and are accessible only to qualified and authorized persons, and for insulated conductors as permitted in Article 13; Temporary Wiring. A commenter observed that the proposed federal verbiage that would have replaced this provision was less protective and would have allowed exposed wiring in a broader work setting. Also the proposed federal verbiage did not limit the use of open wiring to specific locations like vaults, enclosures, etc, which are only accessible to qualified and authorized persons. The commenter therefore recommended that verbiage of the current Section 2420.3 be retained as it provides a higher level of safety. The Board agrees with the commenter. Accordingly, the existing state verbiage is retained and

federal verbiage that is less effective is no longer proposed to be added to the standard. The purpose and necessity of this modification is to retain a higher level of safety as is already required by existing state standards.

Section 2534.8. Disconnecting Means.

This section, which specified disconnecting means for capacitors, was proposed for repeal. A commenter noted that capacitors can store dangerous amounts of energy and having the means to disconnect them from any equipment during maintenance and repair is essential. The provisions of Section 2534.8 are outside the scope of the federal standards, and thus are also outside the scope of the adoption, the Board will therefore rescind the repeal. The purpose and necessity for retaining this section is to remove proposed changes that are outside the scope of the Horcher adoption and to maintain the level of safety currently required by existing state standards.

Summary and Response to Oral and Written Comments

I. Written Comments

Bradley D. Closson, CRAFT Forensic Services, by letter received December 17, 2007.

Comment No. 1:

Section 2300(b), the definition of “Grounded” uses the phrase “undue hazard.” The commenter opines that this phrase is ambiguous and that “undue hazard” needs to be defined or clarified for the user to be able to understand and comply with the requirements.

Response:

The phrase “undue hazard” does not appear in the definition of “Grounded;” however, it does appear in the definition of “Grounded, Effectively,” and the Board opines this definition was the intended subject of the comment. The proposed verbiage is verbatim from 29 CFR 1910.399, and any modifications of this definition would be outside the scope of the Horcher adoption. The commenter may petition to have this considered separately as a future rulemaking proposal if he chooses.

Comment No. 2:

Section 2305.2(a)(1)(A): The commenter inquired whether the phrase “automotive vehicles” includes equipment such as “mobile cranes” and “rubber-tired gantry cranes.” He opined they should be included.

Response:

The verbiage, “automotive vehicles” is part of underlined text that was added to provide equivalency with the federal standard [29 CFR 1910.302(a)(2)(i)]. Further clarification would be outside the scope of the Horcher adoption. The commenter may wish to direct this request for clarification to the Division of Occupational Safety and Health (Division).

Comment No. 3:

Section 2340.5(a): The commenter asked why “general” wiring is specified. He is of the opinion that all wiring should be insulated unless otherwise allowed in the orders.

Response:

This verbiage is substantively equivalent to federal 29 CFR 1910.305(f)(1), and the modification suggested would be outside the scope of the Horcher adoption.

Comment No. 4:

Section 2340.12(c): The commenter opines that, as worded, this is a confusing, if not unenforceable, requirement and recommends that “may” be changed to “shall.”

Response:

The Board accepts this comment and proposes to change “may” to “shall.”

Comment No. 5:

Section 2340.13(b): The commenter believes that this requirement also applies to installations that may not necessarily be in a “room.” He recommends that the term “room” be deleted as adequate air flow is a safety issue regardless of precise installation location. Furthermore, the commenter opines that the last sentence only addresses the equipment that is “designed” for floor installation. He believes that, regardless of any design issues, adequate clearance for air flow should be provided, and he recommends that reference to the design issue be deleted.

Response:

The proposed verbiage is verbatim from 29 CFR 1910.303(b)(8)(ii). The suggested modifications would be outside the scope of the Horcher adoption; therefore the Board cannot accept this comment.

Comment No. 6:

Section 2340.16(g): The commenter stated that the phrase “dedicated spaces” requires that the space not be used for other purposes. He opines that this is not a safety requirement and may be impossible for spaces designed as “control rooms” for multiple operations. He recommended deletion of the phrase “located in dedicated spaces.”

Response:

The requirements of this provision are verbatim from 29 CFR 1910.303(g)(1)(vii) and the suggested modification would be outside the scope of a Horcher adoption; therefore the Board cannot accept this comment.

Comment No. 7:

Section 2340.17(a)(3): The commenter opines that the term “unqualified” is an incorrect criteria and opens the unanswered question as to “what” qualification is necessary before the person is acceptable. He believes the correct term should be “unauthorized” as it entails both the need for the person to be there and an evaluation as to the qualifications required to be at the location.

Response:

This verbiage is substantially verbatim from 1910.303(g)(2)(i)(C) and cannot be modified as part of the Horcher adoption; however, we refer the commenter to Section 2300, the definition for “Qualified Person.” Note 1 clarifies “Unqualified” and it may address the commenter’s concerns. Any further clarification will have to be the subject of a separate rulemaking outside the Horcher adoption process.

Comment No. 8:

Section 2340.21(b): The commenter opines that the safety need is for the label to remain “legible” in the environment so that it can perform its intended purpose of providing information. He recommends adding the phrase “and be legible” to the end of the sentence.

Response:

This verbiage is verbatim from the second sentence of existing Section 2340.21. Since it is also verbatim from the federal verbiage [1910.303(e)(2)], the suggested modification would be outside the scope of the Horcher adoption and therefore cannot be accepted.

Comment No. 9:

Section 2340.22(d): The commenter had the same comment as for Section 2340.21(b), above.

Response:

This verbiage is verbatim from the second sentence of existing Section 2340.22(a). Since it is also verbatim from the federal verbiage [1910.303(f)(3)], the suggested modification would be outside the scope of the Horcher adoption and therefore cannot be accepted.

Comment No. 10:

Section 2360.3: The commenter requested clarification whether “overhead cranes and hoists” are considered within the context of “structures.”

Response:

Board staff believes this comment refers to the use of the term “structures” in Section 2360.3(b). Subsection 2360.3(b) is verbatim from the federal standard [1910.304(b)(3)(ii)]. Further clarification, as requested, would be outside the scope of the Horcher adoption. However, the commenter may contact the Division of Occupational Safety and Health (Division) for an interpretation.

Comment No. 11:

Section 2561.1: The commenter states that no rationale has been provided to support removing the long established lower capacity limit of “one ton” from the scope. He requested that a rationale be provided for removing this previously approved criterion.

Response:

These modifications are substantially verbatim from 29 CFR 1910.306(b). The federal verbiage does not contain the lower capacity limit and is thus broader in application. California is required to be at least as effective as the federal counterpart. The removal of the one ton lower capacity limit is therefore necessary as part of the Horcher adoption.

Comment No. 12:

Section 2561.1: The commenter opines that requirements within the scope apply beyond the “installation” activity. He recommends deletion of this term and the limitation.

Response:

In Board staff’s opinion, the contents of this Article all appear to fall within the scope of “installation” in its broader sense. Furthermore, this Article has been modified to be equivalent to the federal verbiage found in 29 CFR 1910.306(b), and the modification sought would be outside the scope of a Horcher adoption.

Comment No. 13:

Section 2561.1: The commenter opines that the phrase “used in connection with” would make this section apply to portable tools such as magnets and turners which are addressed elsewhere. He requested that the phrase be deleted and the word “of” be inserted in its place to clarify that the requirement applies only to the electrical systems of cranes and/or hoists.

Response:

The commenter’s concern appears to be in how the verbiage “used in connection with” would be interpreted. Board staff does not believe a reasonable interpretation would extend to portable tools. Furthermore, since this verbiage is verbatim from the federal provisions, it must necessarily remain unchanged as part of the Horcher adoption.

Comment No. 14:

Section 2561.1: The commenter recommended changing the term “all” to “their” for correct application.

Response:

The subject verbiage is verbatim from the federal standard [29 CFR 1910.306(b)] and it cannot be changed within the scope of a Horcher adoption. The Board therefore declines to incorporate this change at this time; however, the comment will be considered as part of a possible “clean-up” rulemaking after the Horcher adoption.

Comment No. 15:

Section 2561.31(a): The commenter recommended reinsertion of the term “suitable” between “A” and “disconnecting” as there are many types of disconnectors but only those suitable for the system should be used.

Response:

The proposed verbiage is verbatim from 29 CFR 1910.306(b)(1). Although the term “suitable” is not used in the federal verbiage, the federal verbiage is much more descriptive and effectively defines what is “suitable.” The Board is of the opinion that re-insertion of this term would be outside the scope of the Horcher adoption, and therefore declines this request.

Comment No. 16:

Section 2561.50: The commenter stated that no rationale was provided for why this section was deleted or where the safety requirements that the section addressed are now located. He

requested this information.

Response:

This Section is proposed for deletion from the Low-Voltage Electrical Safety Orders because it was not found in the counterpart federal standard, nor was it found in the National Electrical Code. However, this requirement has not been discarded. It currently exists in GISO Section 4896.

The Board thanks Mr. Closson for his comments and participation in the rulemaking process.

Larry McCune, Principal Safety Engineer, Division of Occupational Safety and Health, by letter received January 17, 2008.

Comment No. 1:

2360.3, Ground Fault Circuit Interrupter (GFCI) Protection for Personnel: The commenter observed that this new standard mirrors 29 CFR 1910.304(b)(3), and it requires GFCI's on "temporary wiring installations that are used in maintenance, remodeling, or repair of buildings, structures, or equipment or during construction-like activities." The commenter believes that this conflicts with current Title 8 regulation Section 2405.4, Ground Fault Circuit Protection-Construction Site. Section 2405.4(a) states that:

"...for purposes of this Section, a construction site is a place of employment where erection, demolition, modification, alteration or excavation is being performed on a building, structure or underground facility, other than mining."

The commenter opines that there is an overlap between the two sections, and trying to determine which activity is covered by Section 2360.3(b) and which one is covered by Section 2405.4 will be confusing for the regulated public.

The commenter notes that there is also a fundamental difference in the requirements of 2360.3(b) and 2405.4(b) relative to GFCI's. In addition to requiring GFCI's on 120 volt, single-phase, 15, 20, and 30 amp receptacles, Section 2360.3(b) explicitly requires the use of GFCI's on receptacles other than 120 volt, single-phase, 15, 20, and 30 amp receptacles, and if GFCI's are not available, then an assured equipment grounding protection program must be established and implemented. On the other hand, Section 2405.4(b), as originally proposed, only requires GFCI's on 120 volt AC, single-phase, 15 and 20 amp receptacles and is silent on receptacles of other voltages and amperages.

Mr. McCune requested that Section 2405.4(b) be modified to make it equivalent to Section 2360.3(b) to resolve any issues that may arise from the scope language of both sections.

Response:

The federal rulemaking only addresses electrical safety orders for general industry. Section 2405.4 applies specifically to construction. During review and evaluation of this comment, Board staff determined that Section 2405.4 is outside the scope of the federal rulemaking and the cross-reference to Section 2360.3 proposed in the exception to subsection 2405.4(b) was outside the scope of the Horcher rulemaking. Since the Horcher adoption process does not allow the Board to adopt any standards beyond those promulgated by federal OSHA, the proposed

modifications to Section 2405.4 are proposed to be withdrawn. Likewise, the cross-reference in Section 2360.3 to Section 2405.4 is also proposed for withdrawal.

The commenter's observations of the overlap and potential areas of conflict between these sections have merit. Sections 2360.3 and 2405.4 contain different standards for "construction" and "construction-like" activities. However, the Board is unable to address these potential problem areas within the scope of the Horcher adoption. The Board does, however, propose to address them by including them in a post-Horcher adoption clean-up rulemaking.

Comment No. 2:

Section 2420.3, Exposed Wiring: The commenter states that the federal verbiage allows the use of open wiring in a very broad work setting – industry and agriculture and is therefore less restrictive than the existing state standard. He also notes that the federal standard does not limit the use of open wiring to specific locations like vaults, enclosures, etc, which are only accessible to qualified and authorized persons. The commenter therefore opines that the existing Section 2420.3 provides a higher level of safety and should be retained.

Response:

The Board accepts this comment. Existing Section 2420.3 is more protective and will be retained since the Horcher adoption process requires state standards to be at least as effective as proposed federal standards. Since existing Section 2420.3 is more effective/protective, it is not necessary to adopt the federal counterpart in this case.

Comment No. 3:

Section 2480.8, Accessibility and Grouping: This section is proposed for repeal. The commenter questioned its repeal since he opines there is no federal language to replace it.

Response:

This provision has not been repealed; it has been relocated to Section 2405.2(e).

Comment No. 4:

Section 2534.8, Disconnecting Means: This section was proposed for repeal. The commenter notes that capacitors can store dangerous amounts of energy and having the means to disconnect them from any equipment during maintenance and repair is essential. The commenter recommended retention of this section since there is no federal verbiage that will provide safety equivalent to the existing state provisions.

Response:

Board staff has determined that this provision is outside scope of federal standards. It is similar to NFPA 70-2005 (2005 NEC), paragraph 460.8(C); however Section 2534.8(b) is contrary to NEC 460.8(C)(1). Since Section 2534.8 is outside the scope of the federal standards, the Board accepts this comment and will withdraw the proposed repeal; however, due to the inconsistency with the NEC, Board staff proposes to place it on a list of items requiring review as part of a post-Horcher adoption clean-up rulemaking.

Comment No. 5:

Section 2395.6, Portable and Vehicle-Mounted Generators. The commenter noted that Section 2395.6(a)(4) was eliminated in the proposed revision and, in his opinion, the revision is not as effective as the existing standard.

Response:

Section 2395.6(a) permitted the generator frame to be used as the grounding electrode for portable and vehicle-mounted generators under specified conditions. Existing Section 2395.6(a)(4) limited this grounding exception to single-phase, portable or vehicle-mounted generators, rated not more than 5 KW, where the circuit conductors of the generator are insulated from the generator frame and all other grounded surfaces. The federal verbiage contains a similar grounding exception, but does not limit it to 5 KW generators, therefore State subsection 2395.6(a)(4) is more protective. The Board therefore accepts this comment and proposes to reinstate the 5 KW limitation of subsection 2395.6(a)(4). Due to federal formatting, it is necessary to translate this content into new subsections 2395.6(a)(3) and (b)(5).

The Board thanks Mr. McCune for his interest and participation in the rulemaking process.

Advisory Opinion from U.S. Department of Labor, Occupational Safety and Health Administration, Region 9, Teresa A. Harrison, Acting Regional Administrator, by letter dated February 19, 2008 (received February 22, 2008).

Comment No. 1:

Section 2305.2(b)'s proposed adoption dates are not equivalent to the dates found in federal standard 29 CFR 1910.302(b)(1)-(3) for implementation of the standard. The State standard also allows existing installations and equipment compliant with previous safety orders or variances to be exempt from the proposed standard, unless determined otherwise by the Chief of the Division. Federal Subpart S does not allow an exemption, thus the proposed state standard is not at least as effective.

Response:

The Board accepts this comment. The dates prescribed in 29 CFR 1910.302(b)(1)-(3) have been incorporated into Title 8, Section 2305.2(b), using state counterpart sections.

Comment No. 2:

Section 2375.18 utilizes the term "thoroughfares" without identifying the specific types of vehicular or pedestrian areas intended to be included in the term. Without clarification it cannot be determination if the section is equivalent to federal requirements. No clearance distance equivalent to the eighteen (18) feet required in 29 CFR 1910.304(c)(2) exists in the proposed standard.

Response:

The Board accepts this comment. Section 2375.18 has been amended with a new table (Table 2375.18) to clarify application of clearance distances and to provide equivalency with the federal standard effective with the date of adoption of this standard.

Comment No. 3:

Section 2395(a)(1) allows use of buildings with grounded structural metal frames until February 25, 1993 before use of equipment grounding conductors considered more protective and safer are required. Federal standards 1910.304(g)(8)(iii) allows the use of buildings with grounded structural metal frames only through April 16, 1981. As proposed, the state standard does not provide equivalent protection for installations made between April 16, 1981 and February 25, 1993. The section also does not require employers to replace the entire branch circuit with an equipment grounding conductor meeting the current standards whenever any element of the branch circuit is replaced until the effective date of the orders or later. Federal regulations require the entire branch circuit be replaced when any element of the circuit is replaced after April 18, 1981; as required in the 29 CFR 1910.304(g)(8)(iii).

Response:

The Board believes this comment actually refers to Section 2395.58(a)(1). The Board accepts this comment and proposes to modify the adoption dates per the Advisory Opinion.

II. Oral Comments

Oral comments received at the January 17, 2008 Public Hearing in San Diego, California.

Peter Kuchinsky, Senior Risk Management Consultant, representing the Association of California Water Agencies Joint Powers Insurance Authority (ACWA/JPIA).

Comment:

Mr. Kuchinsky asked for a more detailed definition of the term “qualified person,” in order provide specific guidance to employers as to a minimum training standards.

Response:

The proposed definition of “qualified person” in Section 2300 is essentially verbatim to the comparable definition contained in 29 CFR 1910.399.

The Board is limited by the Horcher adoption process to only adopt federal verbiage (where more effective than existing state verbiage). Any further definition of this term would be outside the scope of the Horcher adoption process. However, Board staff contacted the commenter and discussed his concerns. The commenter would like more specific training guidance for association member agencies. Board staff believes these concerns can best be dealt with by contacting the Division of Occupational Safety and Health for assistance in developing training standards for their specific trades. Should the commenter still prefer to modify the definition for more specificity, he may wish to consider submitting a petition to the Board to this effect.

The Board thanks Mr. Kuchinsky for his interest and participation in the rulemaking process.

Larry McCune, Principal Safety Engineer, Division of Occupational Safety and Health.

Comment:

Mr. McCune commented regarding differing GFCI requirements for construction (Section 2405.4) and those for general industry (Section 2360.3). He presented a letter outlining the areas of concern with the rulemaking proposal.

Response:

Responses to the commenter's concerns are addressed in the Board's response to Mr. McCune's written comment No. 1, above.

The Board thanks Mr. McCune for his interest and participation in the rulemaking process.

Harvey Porter, Health and Safety Manager, representing Continental Maritime of San Diego.

Comment:

Mr. Porter asked whether the requirement for a locking mechanism on page 27 in Section 2342.22(e) would "grandfather in" older equipment that did not have such a locking mechanism.

Response:

There is no Section 2342.22(e) in either the existing standards or in the proposed standards. The Board notes, however, that there is a Section 2340.22(e) on page 27 of the proposed standards, and the Board surmises that this is the section that Mr. Porter was referring to. Section 2340.22(e) requires that "...[effective date of these orders] disconnecting means required by these Orders shall be capable of being locked in the open position." The counterpart federal standard became effective on August 13, 2007. The Board's intention is not to make this provision retroactive, therefore, Section 2340.22(e) will be modified to clarify that this provision will apply only to installations made after the effective date of these orders.

The Board thanks Mr. Porter for his interest and participation in the rulemaking process.

DETERMINATION OF MANDATE

These regulations do not impose a mandate on local agencies or school districts as indicated in the Staff Development Memorandum.