

**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 **June 16, 2011**, at 10:00 a.m.  
in the Auditorium of the Harris State Building,  
1515 Clay Street, Oakland, 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 **June 16, 2011**, following the Public Meeting,  
in the Auditorium of the Harris State Building,  
1515 Clay Street, Oakland, 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 **June 16, 2011**, following the Public Hearing,  
in the Auditorium of the Harris State Building,  
1515 Clay Street, Oakland, 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, General Industry Safety Orders and the Telecommunication Safety Orders of the California Code of Regulations, as indicated below, at its Public Hearing on **June 16, 2011**.

1. TITLE 8:     **GENERAL INDUSTRY SAFETY ORDERS**  
Division 1, Chapter 4, Subchapter 7, Article 7  
Sections 3302 and 3308  
**Hazardous Liquids**
  
2. TITLE 8:     **TELECOMMUNICATION SAFETY ORDERS**  
Division 1, Chapter 4, Subchapter 21, Article 1  
Section 8608  
**Fixed Ladders and Steps for Telecommunication Towers and Poles**

Descriptions of the proposed changes are as follows:

1. TITLE 8:        **GENERAL INDUSTRY SAFETY ORDERS**  
Division 1, Chapter 4, Subchapter 7, Article 7  
Sections 3302 and 3308  
**Hazardous Liquids**

### **INFORMATIVE DIGEST OF PROPOSED ACTION/POLICY STATEMENT OVERVIEW**

This rulemaking proposal is the result of an Occupational Safety and Health Appeals Board (OSHAB) Decision in the Matter of AB & I Foundry, Docket No. 08-R1D4-380 dated March 23, 2009. The Division of Occupational Safety and Health cited the employer under Section 3308 Hot Pipes and Hot Surfaces, for failing to protect the employee from contact with hot surfaces. Existing Section 3308 stipulates that exposed surfaces having an external surface temperature of 140 degrees F or higher shall be covered with a thermal insulating material or otherwise guarded against contact. The OSHAB decision stated that the citation raises the question of whether the standard applies to only solid surfaces or also to liquid surfaces or a combination of solid and liquid surfaces.

Board staff notes that the GISO Section 3480 pertains to liquid hazards employees can fall into, as would be the case when they work above such materials. However, these standards only apply to vats, pans, tanks and similar vessels and would not apply to hazardous liquids contained in such locations as a slag pond.

#### **Section 3302. Hazardous Liquids.**

It is proposed that existing Section 3302 be renamed “Hazardous Liquids.” The intent of this proposal is to provide a general, performance-based requirement to prevent injuries from employee contact with hazardous liquids for situations other than those addressed by GISO Section 3480. The proposal defines a hazardous liquid as a substance capable of inflicting physical injury. The proposal gives examples of those injuries. This proposal will clarify to employers and enforcement personnel that hazardous liquids are capable of inflicting physical injury throughout a range of temperatures and that employees must be protected from contact. The amendment provides a standard specifically for liquid substances, which are not covered under Section 3308. It also provides an exception for situations where compliance with the performance-based requirement is impracticable, in which case the employer is required to provide personal protective equipment and safeguards in accordance with GISO Article 10.

#### **Section 3308. Hot Pipes and Hot Surfaces.**

Existing Section 3308 provides distance and temperature requirements in regard to exposures to hot pipes and hot surfaces having an external surface temperature of 140 degrees F or higher. An informative Note regarding liquids is proposed for Section 3308 to refer to Section 3302.

### **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.

### **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 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 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, these 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:**      **TELECOMMUNICATION SAFETY ORDERS**  
Division 1, Chapter 4, Subchapter 21, Article 1  
Section 8608  
**Fixed Ladders and Steps for Telecommunication Towers and Poles**

### **INFORMATIVE DIGEST OF PROPOSED ACTION/POLICY STATEMENT OVERVIEW**

This rulemaking action was initiated in part as a result of Petition No. 510 that was submitted by Mike Coghlan, Vice President – Sales and Marketing, for Sabre Towers and Poles. The petition noted that there are numerous telecommunication towers in California that comply with federal standards but do not comply with current California Title 8 standards.

Specifically, federal OSHA telecommunication standards in 29 CFR 1910.268(h)(2) state that fixed ladder rungs shall have a minimum clear width of 12 inches. The federal standard further states that fixed ladder rungs and step rungs for poles and towers shall have a minimum diameter of 5/8 inch. California's counterpart standards in the Telecommunication Safety Orders (TSO) Section 8608(a) do not address the requirements for fixed ladders that are permanently attached to telecommunication towers. Consequently, those provisions for fixed ladders are provided in the General Industry Safety Orders (GISO) Section 3277(d), which requires fixed ladder rungs to have minimum diameter of 3/4 inch and a minimum clear length (width between the side rails) of 16 inches, and which requires that ladder rungs shall be uniformly spaced not to exceed 12 inches between the top surfaces of rungs.

It is evident through observation and discussions with stakeholders in the communications industry, including tower and pole manufacturers, that there are a significant number of California communication towers that have fixed ladders with rungs 5/8 inch in diameter and that are 12 inches in width between the side rails. Without this proposal, a large number of telecommunication towers could require retrofitting or modifications to their existing fixed ladders to meet greater dimensions and wider spacing specified in Section 3277. Many of these communication towers reach significant heights and are not

designed with enough space and/or structural support to accommodate the size and weight of heavier fixed metal ladders.

The proposal was developed with the assistance of an advisory committee, and it addresses requirements for fixed ladders installed on telecommunication towers and poles and also includes amendments for clarity in Section 8608(a) related to permanent and detachable steps on poles and towers. Additionally, the proposal updates the reference to the California Public Utilities Commission (CPUC) General Order (G.O.) No. 95 which includes stepping requirements for certain poles that have strand mounted or pole mounted equipment installed.

### **Section 8608. Poles, Towers and Ladders.**

Section 8608 of the TSO contains general requirements for the installation and spacing of steps installed on poles and towers and also provides requirements for the use of certain portable ladders.

#### **Subsection (a)**

Existing subsection (a) provides various dimensional, spacing and installation requirements for permanent and detachable steps that are used for climbing poles and towers. All of the requirements for existing subsection (a) are contained in one paragraph making it difficult to make amendments or modifications with clarity. The proposal deletes existing subsection (a) and relocates the existing requirements with edits and modifications into separate subsections for clarity.

A definition applicable to subsection (a) is proposed for the term “steps” to avoid confusion with respect to the specific requirements for steps on poles and towers. Steps on poles are typically installed in a uniform pattern on both sides of the pole. Steps on towers are typically installed on one or more of the supporting leg structures of a tower. The definition will have the effect of providing clarity and avoid confusion because the term “steps” is sometimes used in describing stairways and certain ladders which are not related to the provisions in subsection (a).

#### **Subsections (a)(1) through (a)(4)**

Proposed subsection (a)(1) provides the design requirements for permanent steps on poles and towers, and its requirements are relocated from existing subsection (a). Subsection (a)(2) provides certain design requirements for detachable steps on poles and towers and requires that they be properly secured when in use. Detachable steps typically provide access from the ground level to permanent steps and are designed such that some would not be 5/8 inch in diameter as specified for permanent steps. Therefore, the design requirements for permanent steps and detachable steps [subsections (a)(1) and (a)(2)], are provided in separate subsections. Subsection (b)(3) is relocated from existing subsection (a) and provides the spacing requirements for permanent and detachable steps.

Language proposed for subsection (a)(4) is relocated in large part from existing subsection (a). Also, if there is a footing or foundation, the lowest detachable step shall be no more than 24 inches above the top surface of the footing/foundation, which is necessary to address situations where a pole or the support legs of a tower have a substantial footing/foundation that would make it difficult or impossible, and of no use to install a detachable step 24 inches above the ground line (e.g. a footing/foundation is 20 inches from the ground to the top surface would require a detachable step only 4 inches from the top of the footing/foundation).

The proposed amendments for subsections (a)(1) through (a)(4) will have the effect of providing clarity to the requirements for permanent and detachable steps for poles and towers.

### **Subsection (a)(5)**

Existing Section 8608(b) is proposed to be re-designated as subsection (a)(5) for optimal numerical sequencing and formatting of the proposal. The existing language in subsection (b) provides that wood poles with pole or strand mounted terminals (e.g. equipment or junction boxes providing access points for communication services) expected to be frequently climbed for maintenance or operating purposes shall be stepped in accordance with the CPUC G.O. No. 95, March 1980.

The proposal deletes the reference to “wood poles” and replaces it with “poles” in order to include poles other than wood, such as steel poles that may in some cases be equipped with mounted communication terminals. The term “frequently” is deleted, as this term is not defined in the TSO and makes the existing standard vague.

Also, the proposal references the 2009, rather than the 1980, version of CPUC G.O. No. 95. There have been only minor changes between CPUC G.O. No. 95 - March 1980 provisions and the current August 2009 edition. It is apparent none of the minor changes would cause any need for material changes, retrofitting or a phase-in effective date in order to reference the 2009 edition. However, the 1980 version is very difficult to obtain, while the August 2009 version is available free on the CPUC website. The proposal also identifies the applicable sections from CPUC G.O. No. 95 – 2009 that pertain to steps on poles and incorporates them by reference.

The proposed amendment will add clarity to the standard and make it easier to identify and obtain the applicable sections from G.O. No. 95 that pertain to step requirements on poles.

### **Subsection (b)(1)**

Proposed new language for subsection (b) addresses the requirements for fixed ladders that are installed on poles and towers. It should be noted that because some telecommunication poles can be wide in diameter, a fixed ladder is often installed when climbing is required. Subsection (b)(1) states that fixed ladders shall be “approved” as provided in Section 3206 of the GISO. The effect of this provision is to ensure that fixed ladders are appropriately designed and installed for their intended use.

### **Subsection (b)(2)**

Subsection (b)(2) is consistent with similar provisions in the counterpart federal standard, 29 CFR 1910.268(h)(2). Existing standards in TSO Section 8608 do not address requirements for fixed ladders installed on towers. The proposal states that fixed ladder rungs for poles and towers shall have a minimum diameter of 5/8-inch and a minimum clear width of 12 inches between the side rails. The effect of this proposal is to provide consistency with the ladder width requirements specified in the federal standard and to address the concern that a number of California telecommunication towers could possibly require retrofitting or modifications to their existing fixed ladders in order to meet greater dimensions and wider spacing specified in GISO Section 3277(d). No indication was given in the advisory committee that the use of the dimensions in the federal standard diminishes safety.

### **Subsection (b)(3)**

Proposed subsection (b)(3) provides the maximum vertical spacing (distance) between the top surfaces of rungs shall not exceed 12 inches and shall be uniform throughout the length of the ladder. This is the accepted and observed spacing for fixed ladder rungs installed on towers. The effect of this amendment is to require that fixed ladders have a maximum vertical rung spacing that provides for safe access and that is uniformly spaced throughout the ladder.

### **DOCUMENT INCORPORATED BY REFERENCE**

- California Public Utilities Commission, General Order No. 95 – August 2009, Sections 51.7, 81.6, 84.7-E, and 91.3.

This document is too cumbersome or impractical to publish in Title 8. Therefore, it is proposed to incorporate this document by reference. Copies of this document are available for review Monday through Friday from 8:00 a.m. to 4:30 p.m. at the Standards Board Office located at 2520 Venture Oaks Way, Suite 350, Sacramento, California.

### **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 rationale for this statement is provided in the comments under the heading “Specific Technology or Equipment”.

#### **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 standard does 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, this standard does 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 standard does not require local agencies to carry out the governmental function of providing services to the public. Rather, the standard requires local agencies to take certain steps to ensure the safety and health of their own employees only. Moreover, the proposed standard does 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 standard does not impose unique requirements on local governments. All state, local and private employers will be required to comply with the prescribed standard.

### **EFFECT ON SMALL BUSINESSES**

The Board has determined that the proposed amendments may affect small businesses. However, no economic impact is anticipated. Also see comments under the heading “Specific Technology or Equipment”.

### **ASSESSMENT**

The adoption of the proposed amendments to this standard 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 June 10, 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 June 16, 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](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

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 10, Section 3380 of the General Industry Safety Orders, **Personal Protective Devices—Hazard Assessment and Equipment Selection.**

Heard at the January 20, 2011, Public Hearing; adopted on March 17, 2011; filed with the Secretary of State on April 13, 2011; and became effective on April 13, 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/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](mailto:oshsb@dir.ca.gov).

OCCUPATIONAL SAFETY AND HEALTH  
STANDARDS BOARD

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Marley Hart, Executive Officer