

**OCCUPATIONAL SAFETY  
AND HEALTH STANDARDS BOARD**

2520 Venture Oaks Way, Suite 350  
Oakland, 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 **March 20, 2014**, 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 **March 20, 2014**, at 10:00 a.m.  
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 **March 20, 2014**, at 10:00 a.m.  
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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DAVE THOMAS, Chairman

NOTICE OF PROPOSED CHANGES TO TITLE 8  
OF THE CALIFORNIA CODE OF REGULATIONS  
BY THE OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

Notice is hereby given pursuant to Government Code Section 11346.4 and Labor Code Sections 142.1, 142.4 and 144.5, that the Occupational Safety and Health Standards Board pursuant to the authority granted by Labor Code Section 142.3, and to implement Labor Code Section 142.3, will consider the following proposed revisions to Title 8, General Industry Safety Orders of the California Code of Regulations, as indicated below, at its Public Hearing on **March 20, 2014**.

1. TITLE 8:     **GENERAL INDUSTRY SAFETY ORDERS**  
Section 4542  
[Guarding of Vertical Food Mixers](#)
  
2. TITLE 8:     **GENERAL INDUSTRY SAFETY ORDERS**  
Section 5155  
[Airborne Contaminants, Hydrogen Chloride](#)

Descriptions of the proposed changes are as follows:

1. TITLE 8:        **GENERAL INDUSTRY SAFETY ORDERS**  
                          Section 4542  
                          [Guarding of Vertical Food Mixers](#)

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

The proposed rulemaking is the result of a Form 9 request for a new or change in existing safety order dated December 18, 2012, from the Division of Occupational Safety and Health (Division). The Division contends that Section 4542 does not adequately address the hazard of entanglement in commercial vertical food mixers and stated that the mixers are frequently operated without covers or guards, permitting workers to be entangled by rotating shafting or attachments.

Vertical mixers are manufactured in various bowl sizes and are separated into those that are designed to operate on a countertop and those that are larger and operated while resting on the floor. Bowl sizes for the larger floor mixers are typically 30 quarts or more. Current regulations, which specifically address vertical food mixers, do not require guarding for the moving spindle or attachments of either the countertop or floor stand mixers.

Several manufacturers of vertical mixers currently supply their mixers with interlocked bowl guards, but there are no Title 8 requirements for the guard to be in place or maintained in working order, nor do all manufacturers make such guarding available. Due to the potential for employee exposure to the rotating parts, the Division has requested that a regulation be written to require the use of the guards supplied with a mixer and for mixers without such guarding to have the guarding installed. To assist Board staff in the development of a rulemaking proposal to address the guarding issue, a representative advisory committee was convened by Board staff on August 27, 2013. The proposal described herein is the consensus proposal of that committee.

For vertical food mixers manufactured after January 1, 2015, the proposal would require employers to use an interlocked bowl guard to prevent employees from contacting the moving parts inside the mixing bowl. Because the advisory committee determined that accident data only showed a necessity for guarding the larger floor model mixers, the proposed amendments would only apply to mixers with a bowl size of 30 quarts or larger. This regulatory proposal is intended to provide worker safety at places of employment in California.

This proposed rulemaking action:

- Is based on the following authority and reference: Labor Code Section 142.3, which states, at subsection (a)(1) that the Board is “the only agency in the state authorized to adopt occupational safety and health standards.” When read in its entirety, Section 142.3 requires that California have a system of occupational safety and health regulations that at least mirror the equivalent federal regulations and that may be more protective of worker health and safety than are the federal occupational safety and health regulations.
- Differs from existing federal standards in that it requires interlocked bowl guarding on certain vertical (stand) mixers where federal standards do not.
- Is not inconsistent or incompatible with existing state regulations. This proposal is part of a system of occupational safety and health regulations. The consistency and compatibility of that

system's component regulations is provided by such things as: (1) the requirement of the federal government and the Labor Code to the effect that the state regulations be at least as effective as their federal counterparts, and (2) the requirement that all state occupational safety and health rulemaking be channeled through a single entity (the Standards Board).

- Was determined to be the least burdensome effective alternative by consensus of an advisory committee.

### **Section 4542. Mixers.**

This section includes various standards that apply to horizontal and vertical dough and food mixers, which include, but are not limited to, interlocking covers/enclosures, means and methods to prevent inadvertent contact by the operator with moving parts, and the use of bowl locking devices.

A new subsection (e) is proposed to require employers utilizing a vertical food mixer with a bowl size of 30 quarts or larger and manufactured after January 1, 2015, to utilize a manufacturer-supplied interlocked bowl guard, or its equivalent, and be so arranged that power cannot be applied to the agitators unless the cover/enclosure and the bowl are in place on the mixer.

The proposed regulation would reduce the likelihood of employee injury by guarding the rotating parts in the mixing bowl and preventing the operation of the mixer while the bowl guard is not in place.

Federal regulations do not have a corresponding requirement for bowl guards on vertical mixers, so the proposed regulation is more protective than current federal requirements.

## **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/Significant Statewide Adverse Economic Impact Directly Affecting Businesses Including the Ability of California Businesses to Compete**

The Board has made a determination that this proposal will not result in a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. The proposal requires the use of bowl guards which are presently supplied as standard equipment with the majority of stand mixers sold in California. Because several manufacturers supply mixers with the proposed guarding, employers would not experience an economic impact because they could choose from several makes and models when purchasing a newly manufactured mixer. This determination is based upon input from attendees at the advisory committee meeting.

### **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. There are no costs to any local government or school district which must be reimbursed in accordance with Government Code Sections 17500 through 17630.

### **EFFECT ON SMALL BUSINESSES**

The Board has determined that the proposed amendment may affect small businesses. However, no economic impact is anticipated because the amendment does not require retrofitting, nor is presently-used equipment rendered illegal by the regulation, and several manufacturers produce equipment that complies with the proposal. The new equipment may be put into service as the useful life of present equipment ends.

### **RESULTS OF THE ECONOMIC IMPACT ANALYSIS/ASSESSMENT**

The proposed regulation 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.

### **BENEFITS OF THE REGULATION**

The proposal will protect employees by requiring that floor stand mixers be operated with the bowl guard supplied with the mixer or its equivalent.

### **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.

2. TITLE 8:     **GENERAL INDUSTRY SAFETY ORDERS**  
                  Section 5155  
                  [Airborne Contaminants, Hydrogen Chloride](#)

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

Section 5155, Airborne Contaminants, establishes minimum requirements for controlling employee exposure to specific airborne contaminants. California periodically amends the airborne contaminants table (Table AC-1) in this standard to keep it consistent with current information regarding harmful effects of exposure to these substances and other new substances not listed.

The substance hydrogen chloride with an amended permissible exposure limit (PEL) in this proposal was considered first by the Division of Occupational Safety and Health's (Division) Health Expert Advisory Committee (HEAC) in five meetings in 2008 and 2009. The HEAC discussed the health basis of possible changes in the PEL based on a range of scientific information. Technical assistance was provided to the Division by staff of the Office of Environmental Health Hazard Assessment in the California Environmental Protection Agency and the Hazard Evaluation System and Information Service in the California Department of Public Health. In addition, informal public comment was invited on the PEL recommended by the HEAC for potential feasibility and cost issues at a meeting of the Division's Feasibility Advisory Committee (FAC) on December 8, 2009. The meetings of both the HEAC and the FAC were open to the public.

The effect of these amendments is to reduce the risk of material impairment of health or functional capacity of employees exposed to hydrogen chloride.

The proposed changes to Section 5155 are considered to be at least as effective as, or more stringent than, the federal OSHA requirements for these substances found at 29 CFR 1910.1000 for Air Contaminants. This regulatory proposal is intended to provide worker safety at places of employment in California.

This proposed rulemaking action:

- Is based on the following authority and reference: Labor Code Section 142.3, which states, at subsection (a)(1) that the Board is "the only agency in the state authorized to adopt occupational safety and health standards." When read in its entirety, Section 142.3 requires that California have a system of occupational safety and health regulations that at least mirror the equivalent federal regulations and that may be more protective of worker health and safety than are the federal occupational safety and health regulations.
- Differs from existing federal standards, in that the PEL Ceiling value proposed for HCl is lower than that found in the federal air contaminants standard at 29 CFR 1910.1000, and that federal standard also does not include an 8-hour TWA value as is being proposed in this rulemaking. Labor Code section 147.1(c) mandates with respect to occupational health issues not covered by federal standards that the Division maintain surveillance, determine the necessity for standards, and develop and present proposed standards to the Standards Board. For a variety of reasons, the federal standards for air contaminants have remained largely unrevised since their promulgation in the early 1970s, with the exception of substances for which individual comprehensive chemical hazard control standards have been promulgated, primarily for carcinogens. Since the federal standards were promulgated over 40 years ago, scientific studies with experimental

animals have shown that HCl has the potential to cause acute and chronic health effects. The Standards Board believes the Division appropriately carried out its mandate under Labor Code section 147.1 to present to the Standards Board the PEL proposed for HCl in this rulemaking, including a determination of necessity for the proposed amendment. In addition, the Standards Board believes that with this proposal, it is carrying out its mandate under Labor Code section 144.6 to adopt standards dealing with toxic materials which most adequately assure, to the extent feasible, that no employee will suffer material impairment of health or functional capacity, taking into account the latest available scientific data in the field and the reasonableness of the standard.

- Is not inconsistent or incompatible with existing state regulations. This proposal is part of a system of occupational safety and health regulations. The consistency and compatibility of that system's component regulations is provided by such things as the requirement of the federal government and the Labor Code to the effect that the State regulations be at least as effective as their federal counterparts.
- This rulemaking proposal was developed with the assistance of two technical advisory committees: one that considered scientific data on health risks associated with exposure to HCl, and a second that considered concerns of cost and feasibility of implementation in the workplace. These committees were comprised of subject matter experts with expertise relevant to the concerns they were considering and from a range of different institutional orientations most notably health and chemical exposure science, industry, medicine, and government. The PEL amendments proposed are performance based and thus is consistent with the preference stated for this type of standard in Labor Code section 144.6 when dealing with toxic materials.

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

This rulemaking proposes to amend the existing Permissible Exposure Limit (PEL) for hydrogen chloride (HCl) in workplace air. Employers with workplaces where there may be worker exposures to HCl in California operate primarily in the private industrial and chemical sectors. The proposed PEL Ceiling for HCl is the same as the ACGIH TLV Ceiling value adopted in 2003 and so professional health and safety staff and consultants of affected employers should be aware of, and are probably already in compliance with, this value at most California workplaces.

The 8-hour TWA PEL value being proposed is based on scientific findings of which professional health and safety staff and consultants should be cognizant as it is based on the same study as that on which OEHHA bases its current chronic REL value for hydrogen chloride and on which the U.S. Environmental Protection Agency bases its Reference Concentration for Chronic Inhalation Exposure (RfC).

The only written comment on HCl received from an interested party for the FAC meeting was a letter from WorkSafe addressing three substances discussed in this FAC meeting, which noted briefly that HCl is used in a wide variety of cleaning applications and that there are many relatively non-toxic cleaning products and processes that may substitute for many of the uses of HCl. No other comments on cost or feasibility were provided to the FAC meeting and the FAC discussion did not raise objection to the PEL amendments proposed in this rulemaking. In addition, the Division contacted affected industry representatives, reviewed past inspection data and relevant literature. Based on the FAC recommendations and the Division's additional research, it is not anticipated that the reduced PEL will create a significant cost impact on the employers who use HCl in California.

The Board does not believe there are significant costs associated with this regulatory proposal. The Board also believes any possible unforeseen costs would be offset by the potential savings associated with limiting exposures to HCl to the PEL values proposed resulting in reduced Workers Compensation and other costs associated with the health effects intended to be prevented or minimized.

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

### **Impact on Businesses/Significant Statewide Adverse Economic Impact Directly Affecting Businesses Including the Ability of California Businesses to Compete**

The Standards Board has made a 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.

For the FAC meeting at which HCl was discussed, a brief written comment was submitted by WorkSafe suggesting that less toxic alternatives exist for some uses of this chemical. The FAC generally concluded on a consensus basis that the PEL amendments proposed in this rulemaking should not pose problems of feasibility and the Division's further research concurs.

In light of the limited economic impact of the proposal (as a result of the FAC feasibility determination and Division further research), the adoption of the proposed amendments to these standards 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.

This regulatory proposal is intended to provide worker safety at places of employment in California.

### **Cost Impact on Private Persons or Businesses**

The Standards Board is not aware of any cost impact 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. There are no costs to any local government or school district which must be reimbursed in accordance with Government Code Sections 17500 through 17630.

## **EFFECT ON SMALL BUSINESSES**

The Standards Board has determined that the proposed amendments may affect small businesses. The feasibility and cost of implementation of the proposed PEL for HCl was discussed by the FAC. Based on the FAC committee discussion and its own research, the Division concluded that no information had been presented or discovered to suggest that the proposed amended Ceiling limit value nor the new 8-hour TWA PEL would be infeasible in any particular industrial sector or operation. In light of this, the Standards Board believes there will be no adverse economic impact on small businesses as a result of the PEL proposed for HCl.

## **RESULTS OF THE ECONOMIC IMPACT ANALYSIS/ASSESSMENT**

The proposed regulation 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.

## **BENEFITS OF THE REGULATION**

Setting a Permissible Exposure Limit for hydrogen chloride that is up-to-date and consistent with current scientific information and state policies on risk assessment will send appropriate market signals to employers with respect to the costs of illness and injury which chemicals can impose on workers and their families, the government, and society at large. With appropriate market signals, employers may be better able to choose chemicals for use in the workplace that impose less of a burden on workers and society.

## **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.

Labor Code section 144.6 provides that standards dealing with toxic materials be adopted that are most adequately protective of employee health "to the extent feasible." Discussions were held in public meetings with advisory committees for both health and feasibility assessment. These discussions addressed a number of factors relevant to consideration of a particular value for the PEL proposed in this rulemaking. These discussions are described in the minutes included in Attachment No. 4. Labor Code section 144.6 also provides that whenever practicable, standards for toxic materials be expressed in terms of objective criteria and of the performance desired. The proposal in this rulemaking is consistent with that stated preference in that it does not require particular specified equipment or methods for exposure level control, but rather provides an objectively stated performance criteria with affected employers determining the alternatives to use to achieve compliance in their particular operations involving employee exposure to the toxic material. The preference of Labor Code section 144.6 for

performance based standards for toxic materials is consistent with the same stated preference contained in such Government Code section 11340.1(a).

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, Oakland, CA 95833, (916) 274-5721. Copies will also be available at the Public Hearing.

An INITIAL STATEMENT OF REASONS containing a statement of the purpose and factual basis for the proposed actions, identification of the technical documents relied upon, and a description of any identified alternatives has been prepared and is available upon request from the Standards Board's Office.

Notice is also given that any interested person may present statements or arguments orally or in writing at the hearing on the proposed changes under consideration. It is requested, but not required, that written comments be submitted so that they are received no later than **March 14, 2014**. The official record of the rulemaking proceedings will be closed at the conclusion of the public hearing and written comments received after 5:00 p.m. on **March 20, 2014**, 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, Oakland, 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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DAVE THOMAS, Chairman