

**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 **May 18, 2006**, at 10:00 a.m.
in the Council Chambers, Second Floor, of the Glendale City Hall,
613 E. Broadway, Glendale, California 91026.

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 **May 18, 2006**, following the Public Meeting
in the Council Chambers, Second Floor, of the Glendale City Hall,
613 E. Broadway, Glendale, California 91026.

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 **May 18, 2006**, following the Public Hearing
in the Council Chambers, Second Floor, of the Glendale City Hall,
613 E. Broadway, Glendale, California 91026.

At the Business Meeting, the Board will conduct its monthly business.

DISABILITY ACCOMMODATION NOTICE: Disability accommodation is available upon request. Any person with a disability requiring an accommodation, auxiliary aid or service, or a modification of policies or procedures to ensure effective communication and access to the public hearings/meetings of the Occupational Safety and Health Standards Board should contact the Disability Accommodation Coordinator at (916) 274-5721 or the state-wide Disability Accommodation Coordinator at 1-866-326-1616 (toll free). The state-wide Coordinator can also be reached through the California Relay Service, by dialing 711 or 1-800-735-2929 (TTY) or 1-800-855-3000 (TTY-Spanish).

Accommodations can include modifications of policies or procedures or provision of auxiliary aids or services. Accommodations include, but are not limited to, an Assistive Listening System (ALS), a Computer-Aided Transcription System or Communication Access Realtime Translation (CART), a sign-language interpreter, documents in Braille, large print or on computer disk, and audio cassette recording. Accommodation requests should be made as soon as possible. Requests for an ALS or CART should be made no later than five (5) days before the hearing.

**OCCUPATIONAL SAFETY AND HEALTH
STANDARDS BOARD**

JOHN D. MACLEOD, Chairman

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

Notice is hereby given pursuant to Government Code Section 11346.4 and Labor Code Sections 142.1, 142.4 and 144.5, that the Occupational Safety and Health Standards Board pursuant to the authority granted by Labor Code Section 142.3, and to implement Labor Code Section 142.3, will consider the following proposed revisions to Title 8, Construction Safety Orders of the California Code of Regulations, as indicated below, at its Public Hearing on **May 18, 2006**.

A description of the proposed changes is as follows:

1. **TITLE 8:** **CONSTRUCTION SAFETY ORDERS**
Chapter 4, Subchapter 4, Article 30, Section 1730 and
New Section 1731
Trigger Height for Production Residential Roofing

INFORMATIVE DIGEST OF PROPOSED ACTION/POLICY STATEMENT OVERVIEW

This proposed rulemaking is the result of a petition (OSHSB Petition File No. 462) by Mr. Bruce Wick, on behalf of the California Professional Association of Specialty Contractors (Cal PASC). On November 18, 2004, the Standards Board granted the petition to the extent that it directed staff to convene an advisory committee to consider the Petitioner's recommended revisions to the Construction Safety Orders.

The current fall protection trigger height for roofing operations is 20 feet. The Petitioner is requesting that the trigger height be reduced to 15 feet for new, production-type residential roofing operations only.

The Petitioner listed three concerns as the basis for the petition:

1. Worker safety. The Petitioner noted that, although it has been problematic in the past to provide fall protection for roofers on new, two-story production housing, most problems have been solved by significant advances in fall protection devices that are now available.
2. Insurance costs. The Petitioner states that minimizing accidents and the related injury costs will benefit both employers and employees.
3. Bidding issues. The existing 20-foot trigger height clearly involved dwellings three-stories or higher. However, due to the trend toward higher ceiling heights in California, it is no longer uncommon for two-story dwellings to have a 20-foot height from eave line to the ground level below. Furthermore, a much higher percentage of residential construction today is two-story due to cost and limited availability of land in California. This is problematic for bidding because contractors often may not know until well into construction if the 20-foot roofing trigger height will apply.

Existing Section 1730, Roof Hazards, prescribes a trigger height of 20 feet for all roofing operations. This proposal would create an exception to Section 1730 which would direct the public to proposed new Section 1731 for roofing work on new production-type residential construction with roof slopes 3:12 or

greater. New Section 1731 is proposed to apply only to new production-type (i.e., tract-type) housing, condominium structures and apartment buildings. It is not proposed to apply to custom-built homes, re-roofing operations or additions to existing residential dwelling units.

This proposed rulemaking action contains nonsubstantive, editorial, reformatting of subsections, and grammatical revisions. These nonsubstantive revisions are not all discussed in this Informative Digest. However, these proposed revisions are clearly indicated in the regulatory text in underline and strikeout format. In addition to these nonsubstantive revisions, the following actions are proposed:

Section 1730, Roof Hazards.

An exception is proposed to be added at the end of Section 1730. The exception would refer the regulated public to Section 1731 for roofing work on new production-type residential construction with roof slopes 3:12 or greater. The effect of this exception would be to clarify that provisions for roofing work on new, production-type residential construction are covered by a vertical (industry-specific) standard.

Section 1731 – Roof Hazards - New Production-Type Residential Construction.

This proposed new section is added to harmonize the fall protection trigger height for roofing work on production-type residential roofing with the trigger height for residential-type framing activities which are covered in Section 1716.2. The effect of this new section would be to provide a single uniform 15-foot trigger height for the majority of work performed during the early phases of production-type residential construction work; i.e., during framing and roofing operations and it would improve worker safety.

Subsection (a), Scope and Application.

This proposed new subsection identifies the scope and application of this section. It would apply only to roofing work on new production-type residential construction with roof slopes 3:12 or greater. It would not apply to custom-built homes, re-roofing operations, roofing replacements or additions on existing residential dwelling units. A note directs the regulated public to Section 1730 for other roofing operations not covered by this section. The effect of this subsection would be to identify the scope and application of Section 1731.

Subsection (b), Definitions.

This proposed new subsection defines the terms: “custom-built home,” “eaves,” “production-type residential construction,” “roof,” “roof slope,” and “roofing work.” The effect of these definitions would be to describe the terms used in the application of Section 1731 in order to facilitate compliance.

Subsection (c), Fall Protection for Roofing Work.

This proposed new subsection prescribes fall protection requirements for construction: (1) where the roof slope is between 3:12 and 7:12, and (2) where the roof slope is 7:12 or greater. The effect of these provisions would be to provide fall protection that is at least as effective as that required by Federal OSHA Instruction STD 3-0.1A, Plain Language Revision of OSHA Instruction STD 3.1, Interim Fall Protection Compliance Guidelines for Residential Construction, Section XII, Alternative procedures for

Group 4: Roofing Work (Removal, repair, or installation of weatherproofing roofing materials such as

shingles, tile and tar paper). Therefore, these provisions would improve worker safety.

Subsection (d), Training.

This new subsection is proposed to supplement the Illness and Injury Prevention Programs prescribed in CSO Section 1509 and GISO Section 3203 by specifying industry-specific hazards in new production-type residential roofing activities for affected employees to receive training. The effect of this subsection would be to improve worker safety by ensuring that employees engaged in new production-type residential roofing operations receive training to provide specific awareness of the fall hazards associated with the roofing work the employee will be performing.

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 has made an initial determination that this proposal will not result in a significant, statewide adverse economic impact on private persons or businesses. Costs that may be incurred for the incremental reduction in trigger height from 20 to 15 feet cannot be accurately determined; however, the Petitioner (Cal PASC) indicates that their experience to-date has shown that incremental costs are equaled or exceeded by savings resulting from reduced workers compensation and liability insurance costs.

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 standards 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.)

The proposed standards do not require local agencies to carry out the governmental function of providing services to the public. Rather, the standards require local agencies to take certain steps to ensure the safety and health of their own employees only. Moreover, the proposed standards do not in any way require local agencies to administer the California Occupational Safety and Health program. (See City of Anaheim v. State of California (1987) 189 Cal. App.3d 1478.)

These proposed standards do not impose unique requirements on local governments. All state, local and private employers will be required to comply with the prescribed standards.

EFFECT ON SMALL BUSINESSES

The Board has determined that the proposed standards may affect small businesses; however, no economic impact is anticipated.

ASSESSMENT

The adoption of the proposed 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.

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 May 12, 2006. 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 May 18, 2006, will not be considered by the Board unless the Board announces an extension of time in which to submit written comments. Written comments should be mailed to the address provided below or submitted by fax at (916) 274-5743 or e-mailed at oshsb@dir.ca.gov. The Occupational Safety and Health Standards Board may thereafter adopt the above proposal 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 Keith Umemoto, Executive Officer, or Michael Manieri, Principal Safety Engineer, at (916) 274-5721.

You can access the Board's notice and other materials associated with this proposal on the Standards Board's homepage/website address which is <http://www.dir.ca.gov/oshsb>. Once the Final Statement of Reasons is prepared, it may be obtained by accessing the Board's website or by calling the telephone number listed above.

OCCUPATIONAL SAFETY AND HEALTH
STANDARDS BOARD

JOHN D. MACLEOD, Chairman

TITLE 8

CONSTRUCTION SAFETY ORDERS

CHAPTER 4, SUBCHAPTER 4 ARTICLE 30

SECTION 1730 and NEW SECTION 1731

TRIGGER HEIGHT FOR PRODUCTION RESIDENTIAL ROOFING

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; Chapter 4; Subchapter 18; Ship Building; Ship Repairing and Ship Breaking Safety Orders; Article 3; Section 8354 and Article 8; Section 8397.12 and New Sections 8397.14, 8397.15 and 8397.16; Fire Protection in Shipyard Employment II.

Heard at the October 20, 2005 Public Hearing; adopted on January 19, 2006; filed with the Secretary State on February 22, 2006; and became effective on February 22, 2006.

2. Title 8; Chapter 4; Subchapter 7; General Industry Safety Orders; Article 24; Sections 3637, 3638, 3639, 3640, 3642 and 3646; Mast-Climbing Work Platforms.

Heard at the June 16, 2005, Public Hearing; adopted on January 19, 2006; filed with the Secretary of State on February 27, 2006; and will become effective on March 29, 2006.

3. Title 8, Chapter 4, Subchapter 4, Construction Safety Orders, Article 24, Section 1644, Metal Scaffo

Heard at the October 20, 2005, Public Hearing; adopted on January 19, 2006; filed with the Secretar State on February 28, 2006; and will become effective on March 30, 2006.

A copy of these standards 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**.

OCCUPATIONAL SAFETY AND HEALTH
STANDARDS BOARD

Keith Umemoto, Executive Officer