

Cal-OSHA

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California's Occupational Safety and Health Administration (Cal-OSHA) is part of the cabinet-level Department of Industrial Relations (DIR). The agency administers California's programs ensuring the safety and health of California workers.

Cal-OSHA was created by statute in October 1973; its authority is outlined in Labor Code sections 140-49. It is approved and monitored by, and receives some funding from, the federal Occupational Safety and Health Administration (Fed-OSHA). Cal-OSHA's regulations are codified in Titles 8, 24, and 26 of the California Code of Regulations (CCR).

Cal-OSHA's Occupational Safety and Health Standards Board (OSB) is a quasi-legislative body empowered to adopt, review, amend, and repeal health and safety regulations which affect California employers and employees. Under section 6 of the Federal Occupational Safety and Health Act of 1970, California's worker safety and health standards must be at least as effective as Fed-OSHA's standards within six months of promulgation of a given federal standard. Current procedures require OSB to justify its adoption of standards which are more stringent than the federal standards. In addition, OSB is authorized to grant interim or permanent variances from occupational safety and health standards to employers who can show that an alternative process would provide equal or superior safety to employees; consider petitions for new or revised regulations proposed by any interested person concerning occupational safety and health; and hold monthly meetings to permit interested persons to address the Board on any occupational safety and health matter.

The seven members of OSB are appointed by the Governor to four-year terms. Labor Code section 140 mandates the composition of the Board; at this writing, OSB is comprised of occupational health representative Jere Ingram, who serves as Board Chair; occupational safety representative Gwendolyn Berman; management representatives William Jackson and Sopac Tompkins; labor representatives John Foster and Kenneth Young; and public member James Smith.

The duty to investigate complaints and enforce OSB's safety and health regulations rests with the Division of Occupational Safety and Health (DOSH). DOSH issues citations and abatement orders (granting a specific time period for remedying the violation), and levies civil and criminal penalties for serious, willful, and repeated violations. In addition to making routine investigation, DOSH is required by law to investigate employee complaints and any accident causing serious injury, and to make follow-up inspections at the end of the abatement period. The Occupational Health and Safety Appeals Board adjudicates disputes arising out of DOSH's

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enforcement of OSB's standards.

Cal-OSHA's Consultation Service provided onsite health and safety recommendations to employers who request assistance. Consultants guide employers in adhering to Cal-OSHA standards without the threat of citations or fines.

Major Projects

OSB Adopts Emergency Revisions to Bloodborne Pathogens Standard

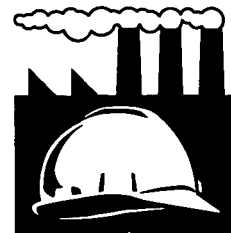
At its December 17 meeting, OSB adopted emergency regulatory amendments to section 5193, Title 8 of the CCR, to satisfy the mandate of AB 1208 (Migden) (Chapter 999, Statutes of 1998) (see LEGISLATION). Existing section 5193 is designed to reduce the incidence of transmission of diseases caused by bloodborne pathogens in the health care workplace; the existing standard identifies the principal

bloodborne pathogens of concern as the human immunodeficiency virus (HIV), which results in AIDS and related disorders, and the Hepatitis B virus (HBV), which causes Hepatitis B.

Effective January 1, 1999, AB 1208 adds section 144.7 to the

Labor Code, which requires OSB to adopt an emergency regulation no later than January 15, 1999 revising section 5193 to increase the protection of health care workers from sharps injuries, by establishing stronger requirements for employers to use needles and other sharps which are engineered to reduce the chances of inadvertent needlesticks or sharps injuries.

According to the Assembly floor analysis of AB 1208, a recent *San Francisco Chronicle* investigation regarding needlestick injuries raised serious questions about the safety of health care workers. The *Chronicle* reported that needles with a simple safety feature, which often costs just pennies more to make, were available at least ten years ago; however, few have reached the hands of health care workers. Only 5%-10% of syringes used for injections by the nation's medical workers have safety features. Nationwide, more than one million accidental needle injuries occur each year; according to Cal-OSHA, health care workers suffer 96,000 needlestick injuries per year in California. Thousands of the injured will contract Hepatitis C and other lethal diseases, including AIDS. In 1992, Fed-OSHA adopted a regulation requiring hospitals and other health care employers to use "engineering controls," such as self-sheathing needles, to protect workers from infection. According to the floor analysis, OSHA has not enforced this regulation; nor has Cal-OSHA, which adopted an almost identical state regulation in the form of section 5193, Title 8 of the CCR, in late 1992. [13:1 CRLR 94; 12:4 CRLR 162]



AB 1208 requires OSB—on an emergency basis—to revise section 5193's definition of "engineering controls" to include sharps prevention technology including, but not limited to, needleless systems and needles with engineered sharps injury protection; and to require that such sharps prevention technology be included as engineering or work practice controls in most cases. The bill also requires OSB to include a requirement that employers' written exposure control plans include an effective procedure for identifying and selecting existing sharps prevention technology of the type specified above, and that they be updated when necessary to reflect progress in implementing sharps prevention technology. Further, AB 1208 requires OSB to require that information concerning exposure incidents be recorded in a sharps injury log, including (but not limited to) the type and brand of device involved in the incident. Following adoption of emergency rule changes by January 15, 1999, AB 1208 requires the Board to complete the formal rulemaking process to adopt permanent rule changes which become effective no later than August 1, 1999.

At its December 17 meeting, OSB revised section 5193's definition of "engineering controls" to mean "controls (e.g., sharps disposal containers, needleless systems and sharps with engineered sharps injury protection) that isolate or remove the bloodborne pathogens hazard from the workplace." The Board also added a new term, "engineered sharps injury protection," to the section, defined to mean either "a physical attribute built into a needle device used for withdrawing body fluids, accessing a vein or artery, or administering medications of other fluids, which effectively reduces the risk of an exposure incident by a mechanism such as barrier creation, blunting, encapsulation, withdrawal or other effective mechanisms" or "a physical attribute built into any other type of needle device, or into a non-needle sharp, which effectively reduces the risk of an exposure incident." OSB also added Hepatitis C (HCV) as a specifically identified bloodborne pathogen wherever HIV and HBV are mentioned in the regulation.

Of significance, the Board amended subsection 5193(d)(3)(A) to require employers—effective August 1, 1999—to use "needleless systems, needle devices with engineered sharps injury protection, and non-needle sharps with engineered sharps injury protection" subject to four exceptions: (1) lack of market availability; (2) information indicating that the device will jeopardize patient care or safety; (3) information indicating that the device is not more effective in reducing sharps injuries than the device currently used by the employer; or (4) lack of sufficient information to determine whether a new device on the market will effectively reduce the chances of a sharps injury.

Subsections 5193(c)(2)(A) and (c)(2)(B) require employers to keep a sharps injury log, which records—within fourteen working days of the date an incident is reported to the employer—the date and time of each sharps injury resulting in an exposure incident, as well as the type and brand of device involved in the exposure incident, and other pertinent information. Effective August 1, 1999, the sharps injury log must also record the job classification of the exposed employee; the department or work area where the exposure in-

cident occurred; the procedure that the exposed employee was performing at the time of the incident; how the incident occurred; the body part involved in the exposure incident; if the sharp had engineered sharps injury protection, whether the protective mechanism was activated, and whether the injury occurred before the protective mechanism was activated, during activation of the mechanism, or after activation of the mechanism, if applicable; if the sharp had no engineered sharps injury protection, the injured employee's opinion as to whether and how such a mechanism could have prevented the injury; and the employee's opinion about whether any other engineering, administrative, or work practice control could have prevented the injury.

The Board also added subsections (c)(1)(B)(4) through (c)(1)(B)(8) and (c)(1)(D)(2), which add a series of new requirements related to the new provisions described above and improve the effectiveness of the exposure control plan already required by section 5193(c). Under the amendments, the exposure control plan must now be in writing; in addition to components already required, the emergency regulations require the exposure control plan to include—as of August 1, 1999—an effective procedure for gathering the information required to be documented in the sharps injury log; an effective procedure for periodic determination of the frequency of use of the types and brands of sharps involved in the exposure incidents documented on the sharps injury log; an effective procedure for identifying currently available engineering controls, and selecting such controls, where appropriate, for the procedures performed by employees in their respective work areas or departments; an effective procedure for documenting patient safety determinations made pursuant to a specified exception to the required use of engineering controls (*i.e.*, where a licensed health care professional directly involved in a patient's care determines, in the reasonable exercise of clinical judgment, that use of the engineering control will jeopardize the patient's safety or the success of a medical, dental, or nursing procedure involving the patient); and an effective procedure for obtaining the active involvement of employees in reviewing and updating the exposure control plan with respect to the procedures performed by employees in their respective work areas or departments. Effective August 1, 1999, employers must also document in their exposure control plan their progress in implementing the use of needleless systems and sharps with engineered sharps injury protection.

At this writing, OSB staff is preparing the rulemaking record on these emergency regulatory changes for submission to the Office of Administrative Law (OAL); if further changes are needed prior to submission, the Board has time to address them at its January 14, 1999 meeting, just prior to the January 15 deadline mandated by AB 1208.

Orchard Man-Lifts Used for Pruning

Also on December 17, OSB held a public hearing on its proposal to amend subsections 3641(a) and (b), Title 8 of the CCR. Section 3641 contains requirements specifying various criteria for the construction and stability of orchard man-lifts via references to the American National Standards Insti-

tute (ANSI) A92.5-1980 standard, sections 3 and 4. In addition, section 3641 addresses identification requirements (*e.g.*, marking of the equipment) for make, model, rated platform workload, maximum platform height, and other information. Section 3641 requires orchard man-lifts to have legible plates or markings to confirm conformance to the ANSI A92.5-1980, sections 3 and 4 requirements for construction and stability, respectively; and contains numerous other orchard man-life design criteria which must be complied with in addition to the requirements above addressing access openings to the platform, platform design, guardrails, and operating controls.

OSB proposes to revise subsection (a)(1) to require orchard man-lifts manufactured after September 1, 1991, to meet either the ANSI A92.5-1980, sections 3 and 4 requirements or the ANSI/SIA A92.5-1992, section 4 requirements for construction and stability. Subsection (a) will also be revised to require orchard man-lifts manufactured after the effective date of these regulatory changes to meet the 1992 version of the ANSI-SIA A92.5 requirements for construction and stability.

OSB also proposes to revise subsection (b) to reference both the ANSI A92.5-1980 and 1992 standards with regard to providing a legible plate or marking that states conformance of the orchard man-lift with sections 3 and/or 4 standards for construction and stability.

At this writing, OSB has not yet adopted the proposed revisions.

Power Process Pressure Piping

Also on December 17, OSB held a public hearing on its proposal to amend sections 4415, 5468, 5485, and 5504, Title 8 of the CCR, to reference the latest editions of ANSI standards relevant to sewage piping.

Section 4415(a)(2) currently provides that digester (sewage related) piping shall be installed in accordance with the applicable sections of ANSI B31.1-1977 (Power Piping). OSB proposes to revise the regulation and require digester piping installed after the effective date of these regulatory changes to comply with the latest edition of this standard published in 1995; digester piping installed on or before the effective date of these regulatory changes is required to conform to either the ANSI B31.1-1977 standard or the updated version of the standard in effect at the time of installation.

Sections 5468, 5485, and 5504 contain the requirements for piping, tubing, and fittings suitable for hydrogen service. OSB proposes to repeal section 5468, and to relocate its language prohibiting the use of cast-iron pipe and fittings to section 5485(a). Section 5504(b) requires that hydrogen piping and tubing conform to ANSI B31.3-1973 (Code for Pressure Piping, Petroleum Refinery Piping). OSB proposes to update the requirements to the latest 1996 edition of this publication which is now titled "Process Piping." Piping and tubing installed on or before the effective date of this regulatory change must conform to either ANSI B31.3-1973 or the updated version of the ANSI/ASME B31.3 standard in effect at the time of installation.

At this writing, OSB has not yet adopted these regulatory changes.

Training of Construction Site Flaggers

On November 27, OSB published notice of its intent to amend section 1599(f), Title 8 of the CCR. Section 1599 regulates the use of flaggers at construction sites, including the placement of flaggers, placement of warning signs, flagger garments, operations involving flaggers during hours of darkness, and flagger training. Specifically, section 1599(f) provides for proper flagger training before a flagger is assigned to a specific construction site. OSB proposes to amend section 1599(f) to include the following nine training requirements for onsite flaggers: flagger equipment which must be used; layout of the work zone and flagging station; methods to signal traffic to stop, proceed, or slow down; methods of one-way traffic control; trainee demonstration of proper flagging methodology and operations; emergency vehicles traveling through the work zone; handling emergency situations; methods of dealing with hostile drivers; and flagging procedures when a single flagger is used. Employers must maintain documentation of the training in their Injury Illness and Prevention Program (IPPP) required by section 3203, Title 8 of the CCR.

At this writing, OSB is scheduled to consider these regulatory changes at a public hearing on January 14, 1999.

Rollover Protective Structures and Protective Enclosures

Also on November 27, OSB published notice of its intent to amend section 1596, Title 8 of the CCR, which contains requirements consisting of an installation timetable for rollover protective structures (ROPS) and seatbelts for various types of construction equipment (*e.g.*, rollers, compactors, scrapers, tractors, bulldozers, and front-end loaders).

Subsection 1596(b) contains requirements for ROPS design criteria; subsection 1596(f) contains labeling requirements for ROPS; and subsection 1596(h) addresses wheel-type agricultural or industrial tractors. All three subsections require ROPS to be in compliance with or equivalent to SAE standards. OSB proposes to update all three subsections by deleting the references to the SAE standards and requiring the employer to determine whether the ROPS has been approved and, if not, to select a method of approval for its ROPS per the approval language in section 1505, Title 8 of the CCR. The proposed revisions will require employers to ensure their ROPS are designed and built to meet nationally recognized consensus standards and have engineering documentation available to substantiate that their ROPS are approved pursuant to section 1505 requirements.

At this writing, OSB is scheduled to consider these regulatory changes at a public hearing on January 14, 1999.

Update of ANSI References for Ladder-Type and Needle-Beam Type Platforms

On November 19, OSB held a public hearing on its proposal to amend sections 1637(n), 1660(f), and 1660(g), Title 8 of the CCR.

Section 1637(n) provides general access requirements for scaffolds. Subsection 1637(n)(2)(B) requires that

prefabricated scaffold steps or stairs comply with ANSI A10.8-1977 (Safety Requirements for Scaffolding). OSB's proposed amendment would add the title of the standard and incorporate by reference the latest edition of this standard.

Subsection 1660(f) provides that ladder-type and needle beam-type platforms be constructed in accordance with ANSI A10-8.1977 (Safety Requirements for Scaffolding). OSB's proposed amendments will incorporate by reference the 1988 edition, the newest publication, of the ANSI A10.8 standard for platforms placed in service after the effective date of the regulation change.

Section 1660(g) requires the use of personal fall protection for employees working from suspended scaffolds within the scope of section 1660 by the use of a safety belt and lanyard. As of January 1, 1998, Article 24 of OSB's Construction Safety Orders prohibits the use of safety belts for use in fall arrests systems. OSB proposes to amend section 1660(g) to clarify that employees must be provided fall protection which meets the requirements of Article 24 of the Construction Safety Orders.

At this writing, OSB has not yet adopted these proposed regulatory changes.

Update of ANSI References for Fixed and Portable Ladders

Also on November 19, OSB held a public hearing on its proposal to amend sections 3277 through 3280, Title 8 of the CCR. These sections reference various ANSI standards pertaining to fixed ladders and portable wood, metal, and reinforced plastic ladders. However, the ANSI standards for these sections have undergone several revisions, and the outdated editions of these standards are no longer in print. OSB proposes to revise these regulation to reference the latest published version of these ANSI standards to ensure that equipment recently placed in service meets the requirements of current national consensus standards.

At this writing, OSB has not yet adopted these proposed revisions.

Report of Use Requirements for Regulated Carcinogens

Also on November 19, OSB published notice of its intent to amend sections 1529, 1532, 1535, 5200-02, 5207-15, 5217-20, and 8358, and adopt new section 5203, Title 8 of the CCR. New section 5203 will set forth new "report of use" requirements for all regulated carcinogens. Currently, 21 different sections contain report of use requirements for various carcinogens; OSB proposes to standardize and consolidate all the report of use requirements for all regulated carcinogens in Title 8. The proposed amendments will delete the report of use requirements from each section and simply refer the employer using any of the listed carcinogens to new section 5203 and its updated report of use requirements for each carcinogen.

New section 5203 would define various terms used in reporting, specify the conditions that trigger an employer's obligation to report, specify when and where a required written report must be filed, provide a reporting alternative for employers with frequent location changes, require more immediate reporting of emergency situations, and require employers to notify affected employees of the information that is provided in the report of use.

At this writing, OSB has not yet adopted the proposed revisions.

Exemption of Certain Explosives Manufacturing Activities from Process Safety Management Regulations

On October 15, OSB held a public hearing on its proposal to revise section 5189(b), Title 8 of the CCR, part of OSB's process safety management (PSM) regulations which currently apply to all types of explosives manufacturing operations, including those conducted in a manner which greatly reduces the risk of a catastrophic release of acutely hazardous chemicals or materials (*i.e.*, operations conducted in separate non-production research or test areas or facilities which cannot cause or contribute to a catastrophic release or interfere with the mitigation of a release).

A February 1998 Fed-OSHA Letter of Interpretation indicates that the provisions of the PSM standard do not apply to certain pre-manufacturing, post-manufacturing, and research and testing activities involving explosives, pyrotechnics, or products containing explosives. To implement the Letter of

Interpretation, Cal-OSHA must engage in rulemaking to amend section 5189(b), Title 8 of the CCR. OSB proposes to add subsection 5189(b)(6), which would exclude nine separate pre-manufacturing, post-manufacturing, and

research and testing activities related to explosives from the PSM standard, including product testing, x-raying, scale-up research, chemical formulation work, and failure analysis tests (provided they are conducted in separate, non-production research or test areas/facilities and cannot cause or contribute to a release or interfere with mitigation of a catastrophic release consequential to explosives manufacturing).

At this writing, OSB has not yet adopted the proposed revisions.

Revisions to Low Voltage Safety Orders

Also on October 15, OSB held a public hearing on its proposal to amend sections 2320.1 and 2320.4, Title 8 of the CCR, part of the Board's low voltage safety orders. Section 2320.1(a) states that only qualified persons shall work on electrical equipment or systems; section 2320.1(b) states that only qualified persons shall be permitted to perform any function in proximity to energized overhead conductors unless accidental contact has been "suitably guarded against." OSB staff believes subsection (b) is vague and ambiguous, and proposes to amend it to provide that "only qualified persons shall be permitted to

New section 5203 will set forth new "report of use" requirements for all regulated carcinogens.

perform any function in proximity to energized overhead conductors unless means to prevent accidental contact have been provided in accordance with Articles 3 and 4 of these orders.”

Section 2320.4 contains requirements which must be met before an employee may work on de-energized equipment or systems; these requirements pertain to notification of personnel, lockout/tagout procedures, disconnection, and blackout/energy dissipation. Section 2320.4 complements requirements in section 3314 of OSB’s General Industry Safety Orders, which apply to equipment/machinery powered by various types of energy sources, including electrical energy. However, section 2320.4 contains nothing to clearly indicate to the employer that these two sections relate to each other in terms of their requirements, and that they must be read together in order to effectively protect employees from the hazards of contact with energized equipment and systems. OSB proposes to add an explanatory note to section 2320.4 stating: “See also section 3314 of the General Industry Safety Orders for lock-out requirements pertaining to the cleaning, repairing, servicing and adjusting of prime movers, machinery and equipment.” OSB also proposes to clarify the language of an exception to the locking requirement.

At this writing, OSB has not yet adopted these proposed revisions.

Use of Cylinders Associated with Welding and Cutting Operations

On September 17, OSB held a public hearing on its proposal to amend sections 1740(m), 4649, and 4821, Title 8 of the CCR.

Section 1740 contains the requirements for the storage and use of cylinders. Subsection 1740(m) sets forth requirements which must be met when leaking fuel gas cylinders are detected; the subsection states that if a regulator attached to the cylinder valve will effectively stop a leak through the valve seat, the cylinder need not be removed from the work area. An advisory committee appointed by OSB reached a consensus opinion that a fuel gas cylinder with a leaking valve seat should be removed from the work area to an isolated area, away from personnel and sources of ignition. The committee’s recommendations are reflected in OSB’s proposed amendments to section 1704(m), which would delete the language permitting the leaking fuel gas cylinder to remain in the work area and require such leaking cylinders to be taken outdoors, to an isolated area, and that the supplier be notified. The revision may require minor procedural modifications to an employer’s IIPP to implement instruction and training to ensure that cylinders leaking at the valve seat are removed from the work area to a safe location even if the leak can be stopped by the use of a regulator.

Section 4649 contains the requirements for the construction and marking of cylinders. Existing subsection (b) requires compressed gas cylinders to be equipped with connections

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complying with ANSI B 57.1–1965 (Compressed Gas Cylinder Valve Outlet and Inlet Connections). OSB’s proposed amendment would require that connections for compressed gas cylinders be “approved” as defined in section 3206, Title 8 of the CCR. The term “approved” means conformance with applicable nationally recognized standards; cylinder connections are currently manufactured and designed in accordance with the Compressed Gas Association (CGA), CGA V–1 publication (Compressed Gas Cylinder Valve Outlet and Inlet Connections). OSB proposed the amendment to ensure that connections currently placed in use conform to applicable national consensus standards.

Subsection 4821(c) requires copper tubing used in welding and cutting gas systems piping to be types K and L in accordance with the Standard Specification for Seamless Copper-Alloy Water Tube, ANSI/ASTM B 586–1980. OSB proposes to amend subsection 4821(c) to state that copper tubing shall be Types K or L in accordance with the Standard Specification for Seamless Copper Water Tube, ASTM B 88–96.

At its November 19 business meeting, OSB adopted the proposed revisions to sections 1740(m), 4649(b), and 4821(c) as published; staff prepared the rulemaking file on the proposed regulatory changes and submitted it in late November to OAL, where it is pending at this writing.

Guarding of Meat Band Saw Blades

Also on September 17, OSB held a public hearing on its proposal to amend section 4310 and adopt new section 4543, Title 8 of the CCR, to specifically address the guarding of meat band saw blades. Current OSB rules do not specifically address the guarding of these blades; instead, DOSH enforces the blade guarding requirements of section 4310, Title 8 of the CCR, which pertains to band saws used in workworking,

on employers who use meat band saws to prepare meat for packaging and sale to the general public via supermarkets, grocery stores, and large warehouse food/merchandise retailers. However, meat band saws are not designed with a guard which completely encloses the cutting blade, as required by section 4310(a)(1);

meat band saw blades are guarded to one side of the blade and the front or the teeth of the blade. Fed-OSHA regulations are similar to section 4310; however, the federal regulations specifically permit band saws to utilize a blade guard which is “L”-shaped, open on two sides for all band saws, including those used to cut meat.

Thus, OSB has proposed to amend section 4310 to exclude meat band saw blades from the full enclosure requirement in subsection (a)(1) and refer the employer to new section 4543, which allows for partial enclosure of the saw blade or knife blade (by a “L”-shaped guard) on meat band saws. The new section is consistent with federal standards and clarifies to the employer where the meat band saw blade guarding

requirements are found and that they apply in lieu of the wood-working band saw blade guarding requirement contained in section 4310(a)(1).

Following the September 17 public hearing, OSB adopted the proposed changes at its October 15 business meeting; OAL approved the revisions on December 2.

ROPS for Equipment Used in Logging Operations

Also at its September 17 meeting, OSB held a public hearing on its proposal to amend section 6309, which contains regulations requiring the use of canopy protection for tractors, skidders, scrapers, motor-graders, and front-end loaders used to break lines or rocks in logging operations. Section 6309(h) mandates the use of seat belts meeting the requirements of the SAE J-386 standard for all equipment for which rollover protective structures (ROPS) are required, and employees are to be instructed in their use. The current regulation excludes the seat belt requirement for older pieces of equipment that are retrofitted with ROPS. OSB amended section 6309(h) by deleting the word "required" and replacing it with the term "installed." The revision clearly indicates to the employer that all logging equipment equipped with ROPS must have a seat belt for use by the equipment operator; if pieces of equipment currently in service and equipped with ROPS do not have seat belts, the employer will have to install the required seat belt.

Following the September 17 public hearing, OSB adopted the proposed change at its November 19 meeting; OAL approved it on December 9.

Power Lawn Mower Labeling

At its August 20 meeting, OSB held a public hearing on its proposal to amend section 3563, Title 8 of the CCR, regarding the labeling of power lawn mowers. OSB intends to delete what it considers unnecessary language from subsection 3563(b)(1), which requires power lawn mowers to be labeled as meeting the requirements of ANSI B71.1-1972 and B71.1a-1974, and to relocate language from subsection (b)(2) into subsection (b)(1) requiring such labeling to meet the requirements of ANSI B71.1-1980 (Safety Specifications for Power Lawn Mowers, Lawn and Garden Tractors and Lawn Tractors). OSB also proposes to amend subsection (b)(2) to provide that power mowers placed in service after the effective date of this regulatory change must be approved as defined in section 3206, Title 8 of the CCR; the term "approved" means that products or equipment must conform to applicable governmental or other nationally recognized standards. This proposal will ensure that later model power mowers placed into service meet applicable national consensus safety standards such as ANSI-OPEI B71.1-1996 and B71.4-1990 standards for consumer and commercial turf care equipment, respectively.

Following the August 20 public hearing, OSB adopted these proposed changes at its October 15 meeting; at this writing, OSB staff is preparing the rulemaking file on these changes for submission to OAL.

End Rail Materials for Metal Scaffolds

Also on August 20, OSB held a public hearing on its proposal to amend section 1644(a), Title 8 of the CCR, regarding end rail materials for metal scaffolds. At the time, OSB's regulations required that securely attached railings, either provided by a scaffold manufacturer or made from material with a strength equivalent to standard 2x4" wood, be attached to open ends and sides of work platforms that are 7.5 feet or more above grade. OSB's amendments to section 1644(a)(6) provide an exception to this requirement to accommodate the common industry practice of using iron wire or wire rope for small end rail openings. The exception reads: "For end rail openings less than 3 feet, double-wrapped iron wire at least 12 gauge in thickness, or wire rope at least one-quarter inch in diameter is permitted, provided the wire or wire rope is securely fastened."

Following the August 20 hearing, OSB adopted the proposed changes at its September 17 meeting. OAL approved the amendments on October 28; they became effective on November 27.

Industrial Truck Labeling

Also on August 20, OSB held a public hearing on its proposal to revise subsections 3650(b) and (d), Title 8 of the CCR, regarding industrial trucks. Current section 3650(b) requires that certain industrial trucks be labeled as conforming to the appropriate national consensus standards. Most of the national consensus standards in subsection (b) have been updated with more recent publications; thus, OSB's revisions to subsection (b) update the national consensus standards and require employers to label industrial trucks appropriately. OSB also proposes to make a nonsubstantive change to subsection 3650(d) to delete an unnecessary reference to the ANSI B56.1-1975 standard.

At this writing, OSB is scheduled to consider these proposed changes at its January 1999 meeting.

OSB Updates Illumination Regulation

At its July 16 meeting, OSB held a public hearing on its proposal to amend section 3317, Title 8 of the CCR, which requires that working areas, stairways, aisles, passageways, work benches, and machines be provided with either natural or artificial illumination which is adequate and suitable to provide a reasonably safe place of employment. Included in the regulation is a table that describes the amount of illumination necessary in several settings. Previously, if a setting were not listed on the table, the employer was referred to ANSI A11.1-1973 (Practice for Industrial Lighting) and ANSI A132.1-1973 (Practice for Office Lighting). OSB's amendments update these references to the latest available editions (ANSI/IES RP-7-1991 and ANSI/IES RP-1-1993, respectively).

At its August 20 meeting, OSB adopted these changes; at this writing, the rulemaking file on these changes is pending at OAL.

Fall Protection at Elevated Locations

At its July 16 meeting, OSB held a public hearing on its proposal to amend sections 3210 and 3388, Title 8 of the CCR. Section 3210 sets forth requirements for the use of guardrails

and toeboards on elevated locations (such as roof openings, open sides of landings, platforms, and runways) that are more than 30 inches above the floor. OSB proposes to amend section 3210(a), which contains 15 exceptions to the requirements for guardrails and toeboards at elevated locations, to clarify that it applies only to buildings (thus requiring the relocation of two of subsection (a)'s exceptions to subsection (b), which contains exceptions to the fall protection requirement in settings that are not building-related). New subsection (b) sets forth the requirements for guardrails and toeboards when necessary for the unprotected sides of other elevated locations that are not building structures and where the work is taking place more than four feet above the floor or working level. New subsection (c), previously subsection (b), provides that where guardrails are impractical due to machinery requirements or work processes, an alternate means of protecting employees from falling, such as nets, shall be used.

Section 3388 defines the requirements for approval of safety belts used by employees and the strength requirements for life lines. OSB proposes to repeal this section because its proposed amendments to section 3210 will state that fall restraint/fall arrest systems must comply with the requirements in Article 24 of the Construction Safety Orders (Fall Protection).

Following the July 16 public hearing, OSB approved the proposed regulatory changes at its December 17 meeting. At this writing, staff is preparing the rulemaking file on the proposed amendments for submission to OAL.

Glass and Glazing and Mechanical Refrigeration Systems

At its August 1998 meeting, OSB adopted amendments to sections 3242 and 3248, Title 8 of the CCR, regarding glass and glazing and mechanical refrigeration systems; the proposed amendments had been published in May, and were the subject of a June 18, 1998 public hearing.

The Board's amendments to section 3242 would require glass and glazing installed before the effective date of these regulatory changes to meet the requirements of Chapter 54 of the 1982 Uniform Building Code; specifications and requirements for glass and glazing installed on or after the effective date of these changes must meet the requirements of Chapter 24 of the 1997 Uniform Building Code.

The Board's changes to section 3248 would require mechanical refrigeration systems placed in service before the effective date of these regulatory changes to be designed, installed, tested, and maintained in accordance with Chapters 4, 15, and 16 of the 1982 Uniform Mechanical Code (UMC). Mechanical refrigeration systems placed in service on or after the effective date of these changes must be designed, installed, tested, and maintained in accordance with Chapters 2 and 11 of the 1997 Uniform Mechanical Code. OSB also notes that section 3248 is not intended to apply to the use of water or air as a refrigerant, nor to refrigerating systems installed on railroad cars, motor vehicles, motor-drawn vehicles, or on shipboard.

At this writing, OSB staff is preparing the rulemaking file on these changes for submission to OAL.

OSB Amends Hoist and Tilt-Frame Refuse and Trash Collection Equipment Regulation

On November 2, OAL approved OSB's amendment to section 4345, Title 8 of the CCR, which contains the requirements for hoist and tilt-frame equipment used to load, unload, and/or transport refuse and trash containers. The Board's amendments to section 4345(a) require hoist and tilt-frame equipment and trash collection equipment manufactured on or after December 2, 1998 to meet the requirements of ANSI Z245.1-1992 and be labeled as such. OSB also added new subsection (b) to section 4345, which requires hoist and tilt-frame equipment manufactured before December 2, 1998 to be labeled as meeting the applicable ANSI Z245.1 standard in effect at the time the equipment was manufactured.

OSB Amends Respiratory Protection Requirements for All Workplaces

On August 25, OAL published OSB's amendments to sections 1529, 1531, 1532, 1532.1, 1535, 3409, 3411, 5144, 5147, 5190, 5200, 5201, 5202, 5207-5214, 5216-5218, 5220, and 8358, Title 8 of the CCR, to update its respiratory protection requirements for all workplaces; the Board had conducted a public hearing on the proposed changes at its May 1998 meeting, and adopted them in June 1998. OSB acted after Fed-OSHA promulgated regulations addressing respiratory protection on January 8, 1998. OSB's new standards revise the requirements for a written program, selection, approval, fit testing, training, medical evaluation, use, and care for respirators. Because OSB's amendments are substantially the same as the final rules promulgated by Fed-OSHA, they are exempt from the Administrative Procedure Act's rulemaking requirements. These amended sections became effective on November 23.

Flywheel Speed Regulation Repealed

On July 28, OAL approved OSB's repeal of section 3513, Title 8 of the CCR, which stated that no flywheel shall be operated at a speed which will develop excessive stresses. OSB repealed section 3513 because section 3328, Title 8 of the CCR, already requires the safe use of machinery and equipment in conformance with the manufacturer's recommendations. The repeal became effective on August 22, 1998.

Controlled Descent Apparatus Regulations

On July 23, OAL approved OSB's amendments to sections 3281, 3282, 3286, 3291, and Appendix A, Title 8 of the CCR, regarding a "controlled descent apparatus" (CDA), defined as a device used by window cleaners to achieve a controlled descent during window cleaning operations. OSB approved these regulatory changes at its June 1998 meeting, following a public hearing in April.

Amended section 3281 sets forth definitions of the terms "controlled descent apparatus," "danger zone," "height of suspension," and "manual boatswain's chair." OSB amended section 3282, which sets forth general requirements for all window cleaning operations, to require inspection of the safety

devices and equipment considered in the written assurance provided by the building owner to the window cleaner at least every twelve months; all other safety devices and equipment, such as building support structures, must be inspected and tested as necessary to determine if they are safe to use or operate. Amended section 3282 also requires that owners of buildings 36 feet or more in height have an Operating Procedures Outline Sheet (OPOS) if one or more of the following conditions are present: The building does not have an established window cleaning system or procedures meeting the requirements of Articles 5 and 6; the building's original window cleaning procedures prepared in accordance with the requirements in Articles 5 and 6 have been changed because of building modifications; or the building either has extreme architectural features which require the use of complex rigging or equipment, or uses rigging or equipment not covered by this section. A person knowledgeable in the design, installation, and use of building maintenance equipment must prepare the OPOS. Appendix A outlines the essential elements of an OPOS.

Amended Section 3286 now applies to all types of CDAs (previously, it pertained only to "boatswain's chairs," defined as a seat for one person suspended by a single line or tackle, which is designed to be raised or lowered by the user). Section 3286 specifies that a boatswain's chair or CDA may only be used when the window cannot be safely and practicably cleaned by other means. Conditions for use were added to section 3286(a)(1)(B): Boatswain's chairs shall not be used where the height of suspension exceeds 75 feet unless otherwise accepted by DOSH; CDAs shall not be used where the height exceeds 130 feet unless otherwise accepted by DOSH in writing; roof tiebacks or other approved independent anchorages must be provided for each support line(s) and safety line; each support line(s) and safety line shall be connected to approved independent anchorages; and an OPOS must be developed.

Section 3286 also defines the type of training that is required before employees may use boatswain's chairs or CDAs. This training must include proper rigging of support lines, inspection of primary support and safety line(s) and anchorage, safe use of CDAs or boatswain's chairs, fall arrest systems, and self-rescue methods. As part of their personal fall arrest systems, these employees must now wear full body harnesses that are secured to an independent safety line attached to the approved anchorage.

Amended section 3291(d) sets forth standards for the use of counterweighted outrigger beams. The revisions require the employer to prepare an OPOS, evaluate his/her outrigger beam system against the design and set-up criteria as contained in the regulation, establish new set-up procedures and, if necessary, replace incompatible outrigger beam parts in accordance with the manufacturer's recommendation.

These amendments became effective on August 22, 1998.

OSB Amends Abrasive Wheels Regulations

On July 28, OAL approved OSB's amendment to section 3575(a) and repeal of section 3581, Title 8 of the CCR, relating to abrasive wheels; these amendments were published in March 1998 and were the subject of a public hearing at

OSB's June 1998 meeting. The Board's amendments to section 3575(a) provide that abrasive wheels manufactured on or before July 1, 1998 must meet the requirements of either ANSI B7.1-1978 or ANSI B7.1-1988; and state that abrasive wheels manufactured after July 1, 1998 must be labeled as meeting the requirements of ANSI B7.1-1988. OSB repealed section 3581(a), which previously stated that the manufacturer's recommended maximum speed for abrasive wheels shall not be exceeded, because it believes that the section duplicates section 3328, Title 8 of the CCR, which prohibits the operation of machinery and equipment at speeds which would endanger employees. These regulatory changes became effective on August 27.

Personal Fall Protection in the Construction Industry

On July 2, OAL approved OSB's amendments to sections 1538(g), 1635(b)(14), 1660(g)(1), 1663(a)(5), 1664(a)(12), 1710(g)(1) and (2), 1724(f)(1), and 1730(b), (c)(2), and (f)(2), Title 8 of CCR, regarding personal fall protection in the construction industry. In these amendments, the Board deleted references to safety belts and lifelines/lanyards and replaced them with the phrase "personal fall protection as described in Article 24." The Board believes that these amendments will minimize confusion because employers are now referred to Article 24 for acceptable means of personal fall protection. The Board classified these amendments as editorial in nature because they do not impose any additional requirements upon an employer given the existing language of Article 24, which became effective on August 29, 1997. These amendments became effective on August 1.

OSB Consolidates Fire Exit Maintenance Regulations

On August 17, OAL approved OSB's amendments to sections 3219 and 3225(a), Title 8 of the CCR, which pertain to the maintenance of all workplace exits in a manner which will provide unobstructed access to full, instant use in case of fire or other emergency. OSB consolidated section 3219(a) with 3225(a) so that all of the regulations regarding exit maintenance are in the same section. OSB also replaced a reference to "National Fire Protection Association pamphlets" with a reference to Title 19 regulations which also address fire protection issues. These regulatory changes became effective on September 16.

OSB Updates and Restructures Elevator Safety Orders

On September 25, OAL approved OSB's amendments to its elevator safety orders in Titles 8 and 24 of the CCR. These regulatory changes were the subject of a public hearing at OSB's February 1998 meeting, and were adopted by the Board at its May 1998 meeting.

OSB revised the existing elevator safety orders to incorporate the latest methods of safe installation, maintenance, and operation of elevator equipment, based on newer designs of elevators and escalators as developed by the American Society

of Mechanical Engineers (ASME). The latest publication is the 1996 edition, ASME A17.1-1996 (Safety Code for Elevators and Escalators). These revisions update OSB's existing elevator safety orders and apply only to new installations.

Significantly, OSB regrouped the existing elevator safety orders into three subsections. Group I, including sections 3000, 3001, 3003, and 3009, contains regulations that are administrative in nature and applies to all elevators, whether existing or new installations. Group II regulations apply to pre-existing elevator installations and exclude such installations from the updated ASME standards. Group III, including sections 3120-3139, applies to new elevator installations and incorporates the latest ASME standards.

Legislation

AB 1208 (Migden), as amended August 24, requires OSB—no later than January 15, 1999—to adopt emergency regulatory changes to its regulation containing general industry safety orders pertaining to occupational exposure to blood or infectious material. The bill requires OSB to complete the regulation adoption process such that the final regulation is operative no later than August 1, 1999 (see MAJOR PROJECTS).

AB 1208 also requires DOSH to create an advisory committee with prescribed membership to review the changes in OSB's regulation mandated by the bill, and to report thereon to the legislature by December 31, 2002. The bill also requires DOSH and the Department of Health Services to jointly compile and make available a list of needless systems and needles with engineered needle stick protection. The Governor signed AB 1208 on September 29 (Chapter 999, Statutes of 1998).

AB 1307 (Bordonaro) clarifies existing law regarding the Industrial Welfare Commission (IWC). Existing law requires IWC, which performs various functions related to wages, hours, employment conditions, and the health, safety, and welfare of employees in California, to consult with OSB to determine those areas and subjects where their respective jurisdictions overlap. This bill specifies that the consultation need not take the form of a joint meeting. The Governor signed this bill on July 17 (Chapter 150, Statutes of 1998).

Litigation

At this writing, OSB's "ergonomics" regulation—section 5110, Title 8 of the CCR, the nation's first regulatory attempt to prevent so-called "cumulative trauma disorders" (CTDs) or "repetitive motion injuries" (RMIs) to employees—remains the subject of litigation pending in the Third District Court of Appeal.

OSB's ergonomics standard has a lengthy and tortured history. In 1993, the legislature—in AB 110 (Peace) (Chapter 121, Statutes of 1993), part of a five-bill package aimed at reforming California's workers' compensation system by pre-

venting occupational injuries—added section 6357 to the Labor Code, which required OSB to adopt a statewide ergonomics standard by January 1, 1995 to prevent CTDs, injuries caused by poor workplace design and/or practices for jobs that require long periods of repetitive physical movement, such as typing or assembly line work. [13:4 CRLR 133] AB 110's requirement was timely; in 1994, approximately 31,800 Californians reported strain injuries from computer key stroking, scanning grocery items, and other repetitive tasks; these reports accounted for 47.1% of all workplace illnesses that year.

Although it drafted a proposed standard by November 1993 and held numerous public hearings on the proposal throughout 1994 and 1995, OSB was paralyzed by opposition to the proposal—first, by opposition from the business community to its original proposal, and then by opposition from the labor community to a watered-down version of the proposal. [15:1 CRLR 120; 14:4 CRLR 136-37; 14:2&3 CRLR 145-146] As a result, OSB failed to meet the January 1, 1995 deadline. In February 1995, several labor organizations filed suit in Sacramento County Superior Court, seeking a court order requiring the agency to comply with the legislative mandate. In May 1995, the court issued an order giving OSB six more months to develop a proposed ergonomics standard, and one additional year in which to complete the rulemaking process for adopting the standard. [15:4 CRLR 160, 164]

In November 1996, OSB finally adopted section 5110, Title 8 of the CCR, its ergonomics standard. As adopted, the rule would have required employers with at least ten workers to start a training program on how to reduce RMI disorders when two or more workers are injured under similar circumstances within a twelve-month period. The rule also encouraged employers to "consider" redesigning workstations, adjusting the pace of work, rotating jobs, and offering more breaks. Thus, employers with nine or fewer employees were exempt from the regulation entirely, employers with ten or more employees were subject to its requirements only when two or more employees were actually injured within a twelve-month period, and the only substantive requirement upon multiple employee injury was the commencement of a training program. The California Labor Federation immediately filed suit, asking the court to hold OSB in contempt of its order; the court dismissed the lawsuit as premature—as OAL had not yet approved the regulation.

On January 2, 1997, OAL rejected section 5110, primarily for its failure to satisfy the clarity standard of the Administrative Procedure Act, sending the regulation back to OSB and the Board back to the drawing board. Responding to OAL's concerns, OSB released a revised version of the regulation in March and adopted it by a 4-2 vote at its April 17, 1997 meeting. Under subsection (a), the modified regulation applies to employers with ten or more employees, and where more than one employee has suffered an RMI under all of the

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following conditions: (1) the RMI is "predominantly caused (*i.e.*, 50% or more)" by a repetitive job, process, or operation; (2) the employees incurring the RMI were performing "a job process, or operation of identical work activity," defined to mean the employees were performing the same repetitive motion task, "such as but not limited to word processing, assembly, or loading"; (3) the RMIs are musculoskeletal injuries that a licensed physician has objectively identified and diagnosed; and (4) the RMIs are reported by the employees to the employer within the last twelve months (but not before the effective date of section 5110). Should the above conditions occur, the requirements of subsection 5110(b) are triggered: The employer must establish and implement a program designed to minimize RMIs, including a worksite evaluation ("each job, process, or operation of identical work activity covered by this section or a representative number of such jobs, processes, or operations of identical work activities shall be evaluated for exposures which have caused RMIs"), control of exposures which have caused RMIs ("any exposures that caused RMIs shall, in a timely manner, be corrected or if not capable of being corrected have the exposures limited to the extent feasible; the employer shall consider engineering controls, such as workstation redesign, adjustable fixtures, or tool redesign, and administrative controls, such as job rotation, work pacing, or work breaks"), and training (employees must be given a training program that includes an explanation of the employer's program, the exposures which have been associated with RMIs, the symptoms and consequences of injuries caused by repetitive motion, the importance of reporting symptoms and injuries to the employer, and methods used by the employer to minimize RMIs). Subsection 5110(c) states that measures implemented under subsection (b) will satisfy the employer's obligations under that subsection, "unless it is shown that a measure known to but not taken by the employer is substantially certain to cause a greater reduction in such injuries and that this alternative measure would not impose additional unreasonable costs." OAL approved the new standard on June 3, 1997, and it became effective on July 3, 1997.

Calling the standard weak and loophole-ridden, labor groups reinstated *Pulaski, et al. v. California Occupational Safety and Health Standards Board*, No. 95-CS-00362 (Sacramento County Superior Court), their ongoing effort to invalidate the regulation; in opposition, the American Trucking Association and a number of management groups argued that the rule is too onerous and that too little is known about RMIs to justify the imposition of potentially costly regulations.

On October 16, 1997, Sacramento County Superior Court Judge James T. Ford released a decision which essentially rewrites section 5110. Instead of upholding it or striking it entirely, Judge Ford found that certain phrases and sections of the rule exceed OSB's statutory authority, and directed OSB to "refrain from giving legal force and effect to them" while enforcing the remainder of the regulation. Specifically, Judge Ford ruled that OSB is forbidden to enforce subsection (a) to the extent that it requires work-related causation of RMIs to be "predominantly caused (*i.e.*, 50% or more)" by repetitive

tasks, and to the extent that it permits work-related causation to be determined by the employer rather than by a licensed physician pursuant to subsection (a)(3). The court also struck the word "objectively" from subsection (a)(3) (which required a physician to "objectively" identify and diagnose an RMI). Finally, Judge Ford expanded the scope of the standard to every worker and employer in the state by striking the exception for employers with nine or fewer employees. Judge Ford ruled that these "invalid parts" of section 5110 are severable from the remaining provisions of the regulation "which are valid and can be given full legal force and effect."

On December 12, 1997, OSB appealed Judge Ford's order to the Third District Court of Appeal, and stated its position that the order would be stayed pending a decision by the appellate court. However, on January 30, 1998, Judge Ford further ruled that his order would remain in effect and not be stayed pending a decision by the court of appeal. OSB appealed this decision as well, and—on March 13, 1998—the Third District overturned Judge Ford's January 30, 1998 ruling. At this writing, section 5110—as originally adopted by OSB on April 17, 1997, and approved by OAL on July 3, 1997—is effective and will remain so until the case is decided by the Third District.

Recent Meetings

At its July 16 meeting, OSB considered Petition No. 383, submitted by Joe Enos of the UAW Local 2244, which requested that OSB amend section 3272(e), Title 8 of the CCR, regarding the width of aisles and walkways. Petitioner requested that section 3272(e) be amended to include the following sentence: "Where vehicles customarily carry loads wider than the vehicle itself, the width of the load rather than of the vehicle shall be used in determining clearances." DOSH concluded that the petition has merit and recommended that an advisory committee be convened to consider it. OSB staff, however, felt that the proposed amendment would make the design and layout of acceptable aisles very difficult for the regulated public because load widths could change many times in a workday and the calculated minimum aisle width would be in a continual state of flux. OSB staff also referred Petitioner to section 3272(f) of the regulation, which addresses situations where an excessively wide or bulky load may present hazards during transport. Pursuant to staff's recommendation, OSB denied the petition.

At its August 20 meeting, OSB considered Petition No. 386, submitted by Mahendra M. Jhala of the California Public Utilities Commission, which requested that OSB adopt new section 3439.1, Title 8 of the CCR, regarding overhead electrical hazards. The proposed section would require posting of "warning" and "caution" signs on orchard trees, irrigation pipes, and designated "danger zone" areas near power lines; signs would also be required at the entrance of employment areas having a "danger zone" designation. The proposed section would also require electrical hazard training for employees who work in a "danger zone." OSB granted the petition and an advisory committee will be convened to consider Petitioner's proposed language.

Also at its August 20 meeting, OSB tabled Petition No. 387, submitted by George J. McCafferty of Foothill Industrial and Mechanical Incorporated, which asked OSB to amend section 3583(d), Title 8 of the CCR, regarding guards for wire wheels, sanding discs, and cut-off abrasive wheels. Petitioner requested that the petition be tabled until he has another opportunity to speak with OSB staff.

At its October meeting, OSB considered Petition No. 388, submitted by Craig Goodall, which asked the Board to amend section 4313, Title 8 of the CCR, to reduce the required clearance between the wheel and the work rest of disc grinding equipment to 1/16-1/4 inch. DOSH noted that section 4313 relates to woodworking, whereas Petitioner sought a regulation pertaining to metal grinding equipment. Both DOSH and OSB staff agreed that section 3577, Title 8 of the CCR, pertains more adequately to metal grinding operations; section 3577 states in part: "The work rest shall be adjusted such that the gap between the work rest and the grinding face of the abrasive wheel shall not exceed 1/8 inch." OSB denied the petition.

Also in October, OSB considered Petition No. 389, submitted by Greg Walker of the Otis Elevator Company, which recommends amendments to sections 3041 and 3071, Title 8 of the CCR, part of the Board's elevator safety orders, concerning the operations of elevators under fire and other emergency conditions, commonly known as the "firefighter's ser-

vice." Section 3071(j) requires a load test of all hydraulic elevators to be performed at intervals not to exceed five years. Petitioner seeks the relocation of the requirement to test firefighter's service from the hydraulic system testing requirement in section 3071 to section 3041. Both DOSH and OSB staff concurred that the petition has merit, and OSB granted it to the extent that an advisory committee will be formed to investigate the matter.

Future Meetings

- January 14, 1999 in Los Angeles.
- February 18, 1999 in Oakland.
- March 18, 1999 in San Diego.
- April 15, 1999 in Sacramento.
- May 20, 1999 in Los Angeles.
- June 17, 1999 in Oakland.
- July 15, 1999 in San Diego.
- August 19, 1999 in Sacramento.
- September 17, 1999 in Los Angeles.
- October 21, 1999 in Oakland.
- November 18, 1999 in San Diego.
- December 16, 1999 in Sacramento.

Department of Corporations

Commissioner: Dale E. Bonner ♦ (916) 445-7205 ♦ (213) 576-7500 ♦ Internet: www.corp.ca.gov/



The Department of Corporations (DOC) is part of the cabinet-level Business, Transportation and Housing Agency, and is empowered under section 25600 of the California Code of Corporations. The Commissioner of Corporations, appointed by the Governor, oversees and administers the duties and responsibilities of the Department. The rules promulgated by the Department are set forth in Division 3, Title 10 of the California Code of Regulations.

The Department administers several major statutes, including the Corporate Securities Law of 1968, which requires the qualification of all securities sold in California. "Securities" are defined quite broadly, and may include business opportunities in addition to more traditional stocks and bonds. Many securities may be "qualified" through compliance with the Federal Securities Acts of 1933, 1934, and 1940. If the securities are not under federal qualification, the Commissioner may issue a permit for their sale in California.

Through DOC's Securities Regulation Division, the Commissioner licenses securities agents, broker-dealers, and investment advisers, and may issue "desist and refrain" orders to halt unlicensed activity or the improper sale of securities. Deception, fraud, or violation of any DOC regulation is cause for license revocation or suspension of up to one year. Also, any willful violation of the securities law is a felony, and DOC

refers these criminal violations to local district attorneys for prosecution.

The Commissioner also enforces a group of more specific statutes involving similar kinds of powers: the California Finance Lenders Law (Financial Code section 22000 *et seq.*), the California Residential Mortgage Lending Act (Financial Code section 50000 *et seq.*), the Franchise Investment Law (Corporations Code section 31000 *et seq.*), the Security Owners Protection Law (Corporations Code section 27000 *et seq.*), the California Commodity Law of 1990 (Corporations Code section 29500 *et seq.*), the Escrow Law (Financial Code section 17000 *et seq.*), the Check Sellers, Bill Payers and Proraters Law (Financial Code section 12000 *et seq.*), the Securities Depository Law (Financial Code section 30000 *et seq.*), and—effective July 1, 1999—the Capital Access Company Law (Corporations Code section 28000 *et seq.*) (see below).

The Corporations Commissioner also administers the Knox-Keene Health Care Service Plan Act of 1975, Health and Safety Code section 1340 *et seq.*, which is intended to promote the delivery of health and medical care to Californians who enroll in or subscribe to services provided by a health care service plan or specialized health care service plan; coverage of these DOC activities is found above, under "Health Care Regulatory Agencies."