

UPDATE ON HEALTH RULEMAKING ACTIVITIES AT CAL/OSHA

ASSP San Francisco Chapter
Technical Meeting
November 13, 2018



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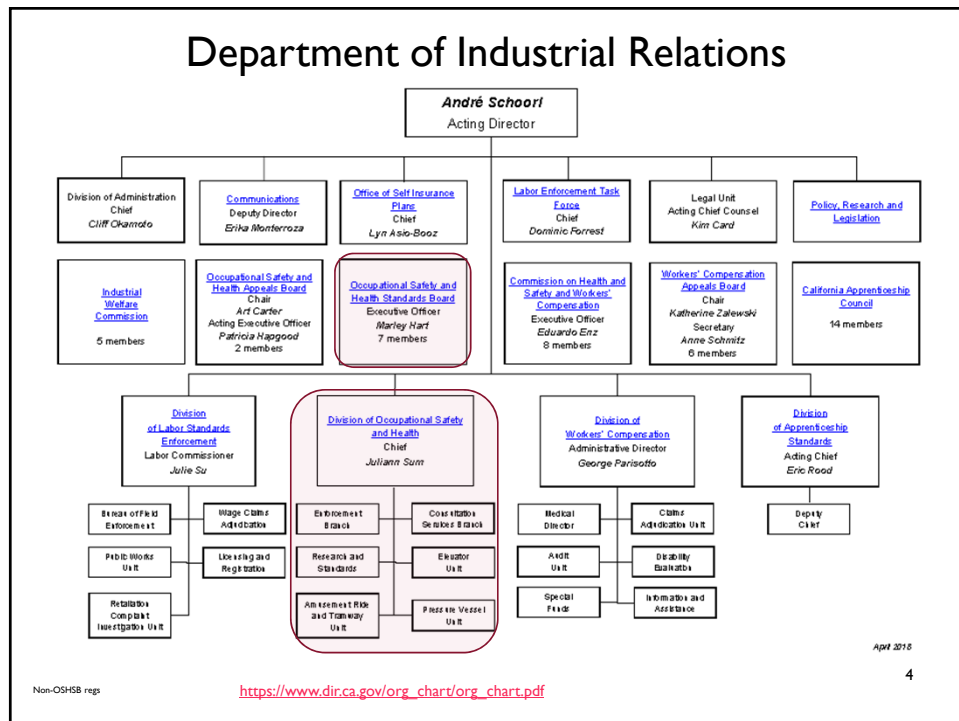
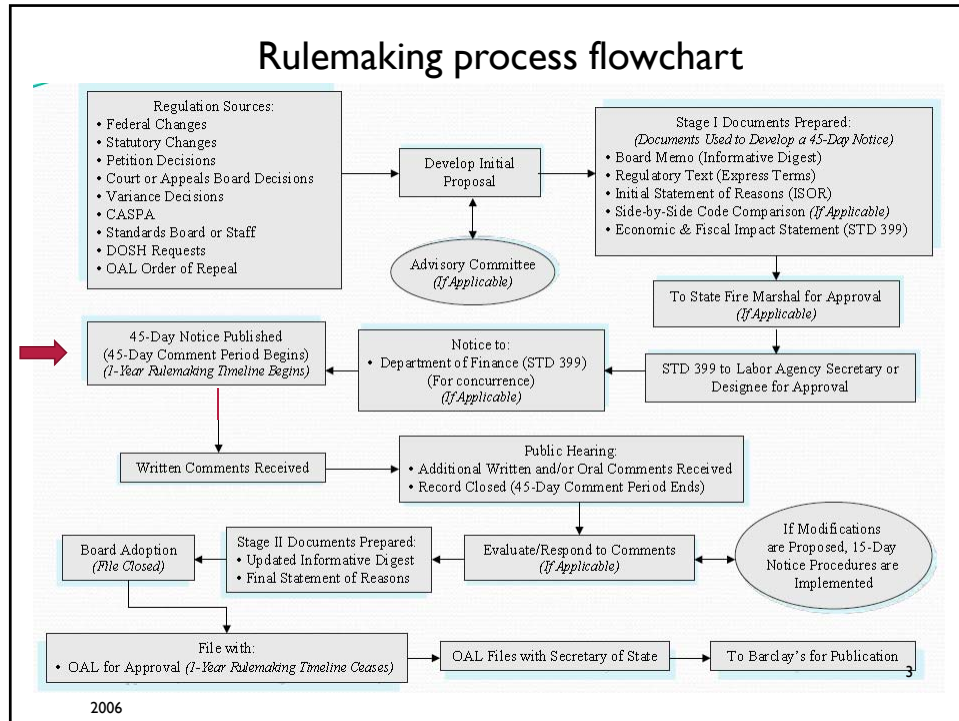
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THIS PRESENTATION

- Rulemaking process
- Cal/OSHA health regulations
 - recently adopted
 - under development



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Occupational Safety & Health Standards Board (OSHSB)

The mission of the Occupational Safety & Health Standards Board is to promote, adopt, and maintain reasonable and enforceable standards that will ensure a safe and healthful workplace for California workers.

The Occupational Safety & Health Standards Board, a seven-member body appointed by the Governor, is the standards-setting agency within the Cal/OSHA program. The Standards Board's objective is to adopt reasonable and enforceable standards at least as effective as federal standards. The Standards Board also has the responsibility to grant or deny applications for variances from adopted standards and respond to petitions for new or revised standards. The part-time, independent board holds monthly meetings throughout California.

Meetings, Notices and Petitions

- [Advisory committees](#)
- [Agendas](#)
- [Notice of Proposals & Meeting Schedule](#)
- [2018 Meeting Schedule](#) 
- [Petitions](#)

Standards

- [Approved](#)
- [Emergency](#)
- [Proposed](#)
- [Terminated](#)

Variances

- [Permanent](#)
- [Proposed](#)

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<https://www.dir.ca.gov/oshsb/oshsb.html>

California Occupational Safety and Health Standards Board Meeting



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Steps to Develop an Occupational Health Standard

Regular pre-rulemaking and rulemaking steps for adoption and approval

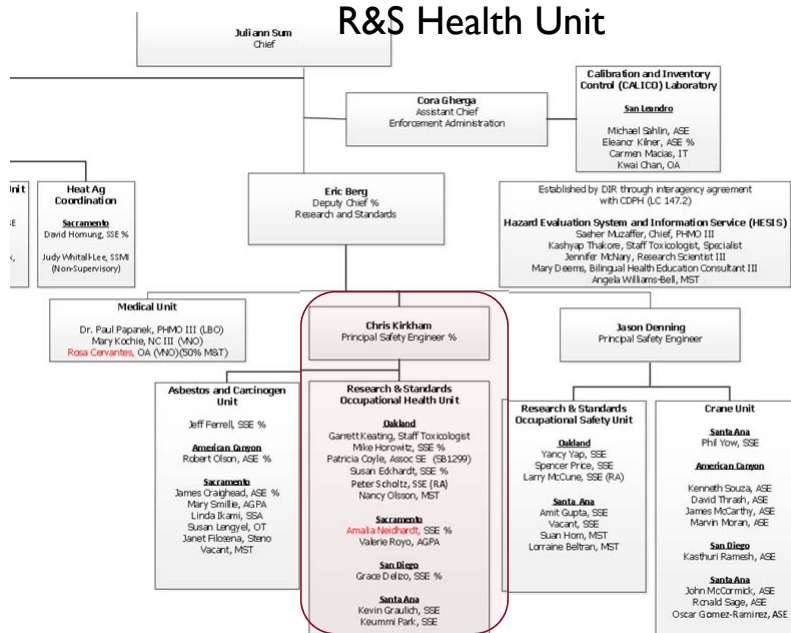
1. Cal/OSHA staff conducts preliminary work to prepare proposed text for a new or updated standard.²
 1. Reviews applicable mandates and other reasons to update or develop a new standard based on sources such as federal standards, California legislation, directive from the Governor, petition from the public, enforcement experience, and staff recommendations
 2. Consults with other state and federal agencies, key stakeholders, and subject matter experts as to whether a standard should be updated or a new standard developed
 3. Researches and reviews current regulations, national guidelines or consensus standards, enforcement data, injury and illness data, and scientific literature
 4. For complex and controversial standards, organizes and conducts advisory committee meetings using a discussion draft developed during the advisory committee process
 5. Based on results of research and input received from advisors, prepares proposed text (or, if appropriate, terminates the process without proposing a new or updated standard)
2. Cal/OSHA and Director's Office staff (Department of Industrial Relations, or DIR) prepare and submit a pre-rulemaking package to Occupational Safety and Health Standards Board (Standards Board) staff that includes the following: (1) proposed text; (2) initial statement of reasons, or ISOR; (3) economic and fiscal impact statement, or form 399; and (4) notice of proposed rulemaking.³ "Major regulation" means a regulation that will have an economic impact on California business enterprises and individuals in an amount exceeding \$50 million.⁴
 1. If the proposed standard is not a major regulation, Cal/OSHA and Director's Office staff prepare an economic impact assessment and include the assessment in the ISOR.⁵
 2. If the proposed standard is a major regulation, Cal/OSHA and Director's Office staff prepare a standardized regulatory impact analysis (SRIA)⁶ and submit the SRIA to the Department of Finance (DOF) at least 60 or 90 days prior to Step 8.⁷ DOF comments on the SRIA within 30 days.⁸ Cal/OSHA and Director's Office staff include the SRIA and a summary and analysis of DOF's comments in the ISOR.⁹
3. Standards Board staff reviews and finalizes the package for conformance with Administrative Procedure Act requirements.
4. Standards Board staff prepares a Secretary's Office Action Request (SAR) and routes the completed package to Director's Office staff.
5. Director's Office sends the package to Labor and Workforce Development Agency (Labor Agency) staff, allowing 45 days for approval.
6. Labor Agency approves and returns the package to Standards Board staff.
7. The form 399, signed by the fiscal officer of DIR and the Secretary of the Labor Agency, is sent to DIR Budget Office staff, who sends the form to DOF.¹⁰
8. Standards Board staff submits the package to the Office of Administrative Law (OAL).¹¹
9. OAL publishes the notice of proposed rulemaking in the California Regulatory Notice Register. Standards Board staff posts the notice and other documents and notifies interested parties.¹²
10. Standards Board staff holds a public hearing with advance public notice of at least 45 days.¹³ Cal/OSHA representative briefs the Standards Board on the proposal.¹⁴
11. Cal/OSHA staff responds to public comments. If necessary, Cal/OSHA staff modifies the proposed text accordingly, in collaboration with Standards Board staff.
12. If Cal/OSHA staff makes substantial changes that are sufficiently related to the public comments, Standards Board staff makes the changes available for public comment for at least 15 days.¹⁵
13. Director's Office staff obtains DOF approval of the Fiscal Impact Statement on the form 399, allowing approximately three months for approval.¹⁶ If the fiscal cost estimates on the original form 399 change, Cal/OSHA staff prepares an updated form 399 for DOF review and approval. The form 399 must be approved by DOF before OAL will approve the rulemaking action (in Step 19).
14. In collaboration with Cal/OSHA staff, Standards Board staff prepares and posts a notice of any additional documents relied on and notifies interested parties at least 15 days before the proposed standard is adopted.¹⁷
15. Cal/OSHA staff prepares a rulemaking package that includes the following: (1) final text; (2) final statement of reasons, or FSOR; (3) amended form 399 if necessary; and (4) updated informative digest.¹⁸
16. Standards Board staff reviews the package for consideration by the Standards Board.
17. Standards Board adopts the standard at a monthly public meeting.¹⁹
18. Standards Board staff submits the package to OAL within one year after publication in the California Regulatory Notice Register.²⁰
19. Within 30 working days, OAL reviews and approves the rulemaking action and transmits the standard to the Secretary of State for filing.²¹ If OAL disapproves the proposed standard, the Standards Board may:
 1. Rewrite and resubmit the standard within 120 days;²²
 2. Initiate review by the Governor's office.²³
20. The standard goes into effect on one of the following dates, unless otherwise specified:²⁴
 1. January 1, if OAL approves the standard by November 30
 2. April 1, if OAL approves the standard by February 29
 3. July 1, if OAL approves the standard by May 31
 4. October 1, if OAL approves the standard by August 31

<https://www.dir.ca.gov/dosh/steps-to-develop-an-ohs.html>

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Division of Occupational Safety and Health (Cal/OSHA)

R&S Health Unit



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Attend an Advisory Meeting

The Cal/OSHA Advisory Committee meets quarterly, for your information a [list of meetings and their venues is available](#). For more information contact Grace Virrey, gvirrey@dir.ca.gov, or call 510-286-7000.

Subject-matter advisory meetings

8 CCR Section	Subject	Meeting dates & locations	Staff contact
5155	Airborne Contaminant Permissible Exposure Limits (PELs) Meeting announcements and handouts	December 4, 2018 10:00 am - 3:30 pm Harris State Building 1515 Clay St. 13th Floor, Rm 1304 Oakland, CA	Garrett Keating 510-286-6874 Mike Horowitz 510-286-7009
New Section	Antineoplastic Drugs in Healthcare Meeting announcements and documents	TBA	Grace Delizo 619-278-3770
Elevator Safety Orders	Elevator Safety Orders Meeting announcements and documents	TBA	Debra Tudor 408-362-2120
New Section	Heat Illness Prevention in Indoor Places of Employment Meeting announcements and documents	TBA	Amalia Neidhardt 916-574-2993
3345	Housekeeping in the Hotel and Hospitality Industry Meeting announcements and documents	TBA	Amalia Neidhardt 916-574-2993

https://www.dir.ca.gov/dosh/DoshReg/advisory_committee.html

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Example Subject-Matter Advisory Meeting Webpage

Occupational Exposure to Antineoplastic Drugs Advisory Meetings

General Industry Safety Orders
Chapter 4, subchapter 7, new section

October 28, 2015 10:00 am - 3:00 pm	Elihu Harris State Building 1515 Clay St. 13th floor, Room 1304 Oakland, CA
<p>The 2nd meeting sought advice on a new discussion draft that is intended to meet the requirements of AB 1202 and was in response to the advice provided during the 1st meeting.</p> <p>Meeting Documents</p> <ul style="list-style-type: none"> • Minutes • Agenda • Draft discussion as of 10/13/2015 <p>For questions or more information about the meeting contact Grace Delizo at 619-278-3770</p>	
June 17, 2014 10:00 am - 3:00 pm	Elihu Harris State Building 1515 Clay St. 2nd floor, Room 1 Oakland, CA
<p>Meeting Documents</p> <ul style="list-style-type: none"> • Minutes • Agenda • Additional meeting Handouts: <ul style="list-style-type: none"> ◦ AB 1202 ◦ NIOSH Guidelines ◦ WA State guidelines and regulation <p>For questions or more information about the meeting contact Grace Delizo at 619-278-3770</p>	

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Cal/OSHA Advisory Meeting Example



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Recently Adopted Cal/OSHA Health Regulations

Title 8 CCR Regulation(s)	Date(s) Enforceable
Airborne Contaminants, Crystalline Silica, 5155	10-17-16
Violence Prevention in Health Care, 3342	4-1-17 & 7-1-17 partial, 4-1-18 remainder
Airborne Contaminants, Wood Dust, 5155	7-1-17
Respirable Crystalline Silica, 1532.3	10-23-17 majority, 6-23-18 remainder
Beryllium, 5155 & 5205 & 8359.1 & 1535.1	10-2-17 STEL, 3-12-18 majority, 3-11-19 & 3-10-20 remainder
Airborne Contaminants, Benzyl Chloride, 5155	4-1-18
Respirable Crystalline Silica, 5204	6-23-18 majority, 6-23-20 & 6-23-21 remainder
Hotel Housekeeping Musculoskeletal Injury Prevention, 3345	7-1-18

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HEALTH REGULATIONS UNDER DEVELOPMENT

1. Antineoplastic drugs
2. First-aid kit contents
3. Indoor heat
4. Lead
5. Limits for airborne contaminants
6. Naturally occurring asbestos
7. Workplace violence in general industry

The following summaries are partial listings, refer to relevant discussion draft for the complete language

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Cal/OSHA Rulemaking Updates

STATE OF CALIFORNIA

EDMUND G. BROWN, JR., Governor

DEPARTMENT OF INDUSTRIAL RELATIONS
DIVISION OF OCCUPATIONAL SAFETY AND HEALTH
1515 CLAY STREET, SUITE 1901
OAKLAND, CA 94612
(510) 286-7000 FAX: (510) 286-7037



Cal/OSHA Health, Safety, and Administrative Rulemaking Updates October 26, 2018

Antineoplastic Drugs. Labor Code section 144.8 requires Cal/OSHA to develop a regulation to protect employees exposed to antineoplastic drugs. Advisory committee meetings were held in June 2014 and October 2015. Advisory committee discussion drafts, supporting documentation, and meeting minutes are available at <http://www.dir.ca.gov/dosh/doshreg/Antineoplastic-Drugs/>. Cal/OSHA and Director's Office staff are researching the economic impact of the proposal and preparing documents for a proposed rulemaking package that is expected to be submitted to Occupational Safety and Health Standards Board (Standards Board) staff in 2019.

Boilers and Fired Pressure Vessel Permitting Fees. Cal/OSHA and Director's Office staff have prepared an emergency rulemaking package under recent amendments to Labor Code section 7721 to implement permit fee increases. On October 12, 2018, the Labor and Workforce Development Agency approved the filing of the package with the Office of Administrative Law (OAL). Cal/OSHA expects to file the package with OAL on or before November 9, 2018.

Boilers and Fired Pressure Vessel Safety Orders. Cal/OSHA held advisory committee meetings in September 2015 and February and August 2016 and expects to send the draft rulemaking package to Standards Board staff in 2019. Advisory committee discussion drafts are available at <http://www.dir.ca.gov/dosh/doshreg/Pressure-Vessel-Safety-Orders/>.

Elevator Safety Orders. Cal/OSHA held advisory committee meetings in April 2014 and February, April, and June 2015. DIR and DOSH initially identified the draft regulation as a major regulation, and a Standardized Regulatory Impact Assessment (SRIA) was submitted on July 14, 2017, to the Department of Finance (DOF) for review and comment. DOF completed its review of the SRIA and provided comments on August 4, 2017. DOSH subsequently revised the draft regulation, and DIR and DOSH no longer consider the draft regulation to be a major regulation. A new economic and fiscal impact statement (form 399) will be submitted to DOF for review, and a draft rulemaking package will be submitted to Standards Board staff later this year. Advisory committee discussion drafts are available at <http://www.dir.ca.gov/dosh/doshreg/elevators/sc-meetings.html>.

First Aid Kit Contents. In response to Petition 519, an advisory committee meeting was held on June 29, 2011. The Labor and Workforce Development Agency is currently reviewing the proposed rulemaking package. Once approved, formal rulemaking will begin. The advisory committee discussion draft, supporting documentation, and meeting minutes are available at <http://www.dir.ca.gov/dosh/doshreg/FirstAid.html>.

Indoor Heat. Labor Code section 6720 requires Cal/OSHA to propose an indoor heat regulation to the Standards Board by January 1, 2019. Cal/OSHA convened advisory committee meetings on February 28, 2017, in Oakland, May 25, 2017, in Ontario, and February 8, 2018, in Oakland.

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<https://www.dir.ca.gov/dosh/documents/rulemaking-updates.pdf>

ANTINEOPLASTIC DRUGS



- Labor Code section 144.8 requires the Standards Board to adopt a regulation
- Advisory committee meetings held in 2014 and 2015
- Current discussion draft proposes:
 - Application to all healthcare settings with exposure to antineoplastic drugs
 - Several activity-driven engineering controls such as closed-system drug transfer devices
 - PPE such as approved chemotherapy gloves, disposable gowns, and/or respirators specified for particular activities, such as spill cleanup and compounding topical drugs
 - Work practices for receiving, storage, prep., administration, housekeeping, disposal, & spills
 - Written plan, medical surveillance, training and record-keeping
- The agency is researching economic impacts and preparing documents for a proposed rulemaking package
- See <http://www.dir.ca.gov/dosh/doshreg/Antineoplastic-Drugs/> NIOSH draft

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FIRST-AID KIT CONTENTS



- In response to a petition, an advisory committee meeting was held in 2011
- The agency is currently reviewing the proposed rulemaking package. Once approved, formal rulemaking will begin
- Current discussion draft proposes:
 - section 1512: add some supplies (such as antiseptics, antibiotics, & devices for responder safety), and remove some others (such as tongue depressors and portable O₂)
 - section 3400: physician approval now only required if supplies are other than those specified in a new table I
- See <http://www.dir.ca.gov/dosh/doshreg/MedServFirstAid.html>

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draft

INDOOR HEAT



- Labor Code section 6720 requires Cal/OSHA to propose a regulation to the Standards Board by 1-1-19
- Cal/OSHA held 3 advisory meetings between 2017 and 2018
- Revised discussion draft posted, public comments due 11-20-18
- Current draft proposes:
 - application to all indoor work areas >82°F where employees are present
 - emergency response procedures, observation during acclimatization, water, cool-down areas, training, and written plan, similar to section [3395](#)
 - no subsection titled "high heat procedures" like section [3395](#)
 - under limited conditions e.g. >90°F: measure and record temperatures, identify and evaluate risk factors, and control exposures
- See <http://www.dir.ca.gov/dosh/doshreg/Heat-illness-prevention-indoors/> draft

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LEAD

- CDPH* requested revisions to sections 1532.1 and 5198
- Current standards based on outdated health data
 - Current regulations require medical removal at BLLs* ≥ 50 -60 ug/dl
 - Prolonged BLLs at much lower levels cause effects, such as:
 - cardiovascular mortality, and adverse female reproductive outcomes
 - cognitive dysfunction in later life
- Cal/OSHA held 6 advisory meetings between 2011 and 2015
- Cal/OSHA currently analyzing economic impacts of proposed changes
- See www.dir.ca.gov/dosh/DoshReg/5198Meetings.htm



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PROPOSED REVISIONS TO THE LEAD STANDARDS

(FROM 2016 DISCUSSION DRAFTS)



- Lower action level from 30 to 2 $\mu\text{g}/\text{m}^3$
- Lower permissible exposure limit from 50 to 10 $\mu\text{g}/\text{m}^3$
- Expand general hygiene to all lead exposure
- Add or expand trigger task (interim) protections
- Lower d/y above action level that require medical surveillance
- Add response plan for BLLs $>10 \mu\text{g}/\text{dl}$
- Lower BLLs at which frequent BLL testing required
- Lower BLLs ($\geq 20\text{-}30 \mu\text{g}/\text{dl}$) that require medical removal

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draft.c draft.g

LIMITS FOR AIRBORNE CONTAMINANTS



- An advisory committee is convened quarterly to evaluate adding or revising limits in section 5155. Evaluates health effects and feasibility
- Cal/OSHA preparing formal rulemaking documents for aluminum, 2-butoxyethyl acetate, 2-butoxyethanol, trichloroethylene, tetrabromoethane, n-propanol, cyclohexane, trimellitic anhydride, peracetic acid, and hydrogen sulfide
- Committee is in various stages of discussion on manganese; n-, sec-, tert-, and iso-butyl acetate; methyl isobutyl ketone; n- and tert-butanol; and sulfur dioxide
- See <http://www.dir.ca.gov/dosh/doshreg/5155Meetings.html>

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AC-I

NATURALLY OCCURRING ASBESTOS



- The Standards Board granted a petition in 2018
- Petition requested clarifications and additions to subsections in 1529, such as scope, classes of work, regulated areas, hygiene, decontamination, training, competent persons, and control methods
- Cal/OSHA is planning the first advisory meeting for 2019
- See <https://www.dir.ca.gov/dosh/doshreg/Natural-Asbestos-in-Construction/default.html>

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SURGICAL PLUME

- Petition granted in early 2018
- Cal/OSHA held the first advisory meeting on 11-8-18
- Discussion draft proposes (public comments due 1-15-19):
 - application to general acute care, psychiatric, and special hospitals
 - LEV at the site of origin; if doesn't prevent smoke from getting in eyes/respiratory tract, use administrative and lastly respirator controls
 - written procedures for LEV, training, & record-keeping
- See <https://www.dir.ca.gov/dosh/doshreg/Surgical-Plume-and-Smoke/> draft

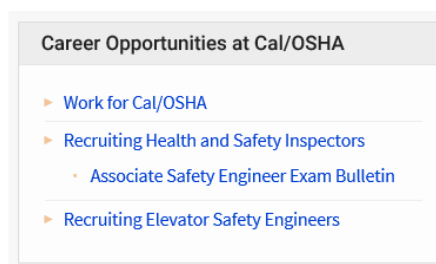


WORKPLACE VIOLENCE IN GENERAL INDUSTRY

- The Standards Board granted a petition in 2014
- Cal/OSHA convened advisory 3 meetings between 2017 and 2018
- Revised discussion draft posted, public comments due 12-14-18
- Current discussion draft proposes:
 - application to 4 types of workplace violence and all employers, except certain healthcare facilities, DDS facilities, CDCR facilities, & law enforcement agencies
 - requires a written, established, implemented, and maintained prevention plan; violent incident log; training; and record-keeping
- See <http://www.dir.ca.gov/dosh/doshreg/Workplace-Violence-in-General-Industry/>



For Cal/OSHA career opportunities,
see <https://www.dir.ca.gov/dosh/>



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|--|------------------------------------|
| • Medical, dental, and vision insurance | • Union representation |
| • Pension plan | • Professional development support |
| • 401(k)/457 retirement plans | • Multitude of units |
| • Short-term & long-term disability coverage | • Locations throughout the state |
| • Flexible spending account | • Job stability |
| • Paid vacation and holidays | • Job satisfaction |

QUESTIONS OR COMMENTS?



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