

How Occupational Health Standards Are Developed?

The Occupational Safety and Health Standards Board is the agency in California authorized to adopt Cal/OSHA regulations. See Labor Code Section 142.3(a)(1). However, another state agency or a local agency may adopt and enforce higher standards relating to occupational safety and health for their own employees. See Labor Code Section 144(c).

Standards regarding toxics and harmful physical agents (radiation, repetitive motion, etc.) shall assure, to the extent feasible, that no worker will suffer material impairment of health or functional capacity even if exposed for one's working life. See Labor Code Section 144.6.

The OSH Standards Board may act based on the following"

1. Federal Standards. Labor Code Sections 142.3(a) (2) - (4) and 147.1(a).

2. Petitions. Labor Code Sections 142.2 and 147.1 (d).

3. Genly applicable variances.

4. Decisions of the OSH Appeals Board or of the Courts.

5. Recs from OSH Standards Board staff or DOSH staff.

6. Health regulations proposed pursuant to Labor Code Section 147.1(c) which requires DOSH to maintain surveillance of occupational health issues not covered by federal regs.

NOTE: Generally, the OSH Standards Board staff handles safety proposals and the DOSH staff handles health proposals. Once staff has developed health standards, staff presents them to the Occupational Safety and Health Standards Board, the only agency in California authorized to adopt occupational safety and health regulations (Labor Code Section 142.3).

HOWEVER, by memorandum of understanding, rule making responsibility is divided so DOSH has jurisdiction for all health and safety regulations regarding:

*Elevators, Trams, Amusement Rides
*Fired and Unfired Pressure Vessels and Compressed Air

*Mining and Tunneling

*Ship and Boat Building

*Oil Well Drilling, Petroleum Refining

Developing occupational health standards involves 1) risk assessment and 2) rule making.

I. There are four stages in the Risk Assessment Process

A. Early Alert. This continuing process may last for a short time or many years. The early alert phase uses compliance findings, medical recommendations, research papers, accident investigations, data from federal and other state agencies, etc.

B. Hazard Evaluation. This phase studies exposure data in workplaces. Data may come from special studies DOSH performs; reports by NIOSH, OSHA, DOSH, or HESIS; or literature review.

C. Risk Assessment. This is a critical review of toxicology, epidemiological studies, clinical evaluations, and animal studies extrapolated to estimate human risk.

D. Hazard Assessment. If information accumulated during the first three phases indicates a standard is necessary, hazard assessment proceeds; with input from the Medical Unit, Field Inspection staff, HESIS, Special Studies, and the Standards Unit, a draft standard is developed.

II. The Rule-Making Process

A. DOSH Advisory Committee. DOSH convenes an advisory committee of experts from industry and workers potentially affected. Frequently, outside experts from other governmental agencies or universities contribute. Advisory Committees review the proposed regulation to assure it is necessary and effective to accomplish its purpose. DOSH is not obligated to accept committee advice, however. DOSH recognizes a well-chosen committee will reflect concerns which will surface at the subsequent public hearing. After consensus is sought on a proposed standard, a notice is prepared along with other documents required in the rule-making file and submitted to the Standards Board.

B. Public Hearing. The Standards Board meets monthly around the State. There are three parts to each meeting: a public meeting at which the public is invited to recommend actions by the Board, a public hearing at which persons interested in the standard being heard can testify for or against the proposal, and a business meeting which is limited to Board discussion and voting on previously heard standards, variances, and petitions.

C. DOSH Response to Comments. Minutes of the public hearing are sent to DOSH so that changes recommended at the hearing can be incorporated in the standard for DOSH or to explain why the change should not be made if there is a good reason. A revised standard and a final general statement are then prepared for the rule-making file.

D. Standards Board Adoption. At a subsequent business meeting, the Board votes to adopt the proposed standard, not to adopt it, or to return it to DOSH and the advisory committee to work out conflicts. If it is adopted by the Board, the standard is sent to the Office of Administrative Law (OAL).

E. Office of Administrative Law Action. The procedures required by the law are checked by OAL.

*Was public comment adequately addressed?

*Were the reasons for the standard properly documented?

*Were the impact statements reasonable?

*Was the regulation properly referenced and within the charter of the agency?

OAL may reject the standard or file it with the Secretary of State. If it is filed with the Secretary of State, the standard becomes effective in 30 days.

The Division's responsibility in the standards development process is to be objective and to propose standards that will prevent injury or disease to the extent that the nature of the work reasonably permits.

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