

LEGAL NOTICE
Notice of Proposed Rulemaking
Public Hearing

Notice is hereby given of proposed rulemaking and public hearing by the Department of Labor and Industrial Relations, Hawaii Occupational Safety and Health Division (HIOSH), to Parts 1, 2, 3, 5, 6, 7 and 8 of Title 12, Subtitle 8, Hawaii Administrative Rules (HAR), pursuant to the Hawaii Occupational Safety and Health Law, Section 396-4, Hawaii Revised Statutes (HRS), and the Hawaii Administrative Procedure Act, Chapter 91, HRS.

The purpose of these rules is to promulgate safety and health standards that meet or exceed Federal Occupational Safety and Health Administration (OSHA) standards in providing safe and healthful work places for Hawaii's workers.

The public hearing will consider the amendments to the General, Legal, and Administrative Provisions Standard 12-50, General Industry Standards, 12-63.1, 12-64.1, 12-69.1, 12-73.1, 12-89.1, Construction Standard 12-133.2, 12-145.1, 12-146, 12-147, 12-148.1, 12-157, Shipyard Standard 12-170, Marine Terminals Standard 12-180, Longshoring Standard 12-190, and Health Standards 12-200.1, 12-202, 12-205.1 and 12-206.

The proposed amendments are:

1. Chapter 12-50, General Provisions and Definitions, a new section will be added to address the amendment to the personal protective equipment (PPE) standards that require the employer to provide PPE for each employee required to use the PPE and also informs the employers that each instance of failure to provide PPE may be considered a separate violation. This new section also notifies employers that standards that require training or a training program must be implemented. The employer must train each affected employee in the manner required by the standard and each failure to train an employee may be considered a separate violation.
2. Chapters 12-63.1, Fire Protection, 12-64.1, Personal Protective Equipment, 12-133.2, Steel Erection, 12-145.1, Asbestos, 12-146, 4,4-Methylenedianiline, 12-147 Cadmium, 12-148.1, Lead, 12-157, Chromium (VI), 12-200.1, Occupational Noise Exposure, 12-202, Toxic Materials and Harmful Physical Agents, 12-205.1, Bloodborne Pathogens, and 12-206 Asbestos, are being amended to include language that requires the employer to provide PPE to each employee, implement any program required by the standard, and provide any training required by the standard for each employee.
3. Chapter 12-73.1, Materials Handling and Storage, is being amended to restore 3 paragraphs that were mistakenly deleted previously.
4. Chapters 12-170, Shipyard, 12-180, Marine Terminals, and 12-190, Longshoring, are being amended to include the same changes mentioned in 1 and 2 above.

5. Chapters 12-170, Shipyard, and 12-180, Marine Terminals, are also being amended to adopt new requirements related to the practice of lifting two intermodal containers together, one on top of the other, connected by semiautomatic twistlocks.
6. Chapter 12-89.1, Electrical is being amended to clarify the scope of “construction-like” activities and corrects some typographical errors.
7. Chapter 12-69.1, Ventilation, is being amended to delete the section on open surface tanks. The standards for open surface tanks are covered in Chapter 12-74.1, Hazardous Materials, under Dipping and Coating Operations.
8. Chapters 12-63.1, Fire Protection, 12-64.1, Personal Protective Equipment, 12-69.1, Ventilation, 12-89.1, Electrical, 12-157, Chromium (VI), 12-170, Shipyard, 12-180, Marine Terminals, 12-190, Longshoring, and 12-202, Toxic Materials and Harmful Physical Agents are being amended to correct housekeeping errors.

A copy of the proposed rule changes will be made available for public viewing from the first working day that the legal notice appears in the Honolulu Star Bulletin, The Honolulu Advertiser, Hawaii Tribune Herald, West Hawaii Today, The Maui News, and The Garden Island, through the day the public hearing is held, from Monday – Friday, between the hours of 1:00 p.m. - 4:00 p.m., at the following locations: 830 Punchbowl Street, Room 425, Honolulu, Hawaii 96813; 2264 Aupuni Street, Wailuku, Hawaii 96793; 75 Aupuni Street, Hilo, Hawaii 96720; and 3060 Eiwa Street, Lihue, Hawaii 96766. A copy of the proposed rules may be viewed at our website at <http://hawaii.gov/labor>, or obtained by submitting a request with a prepaid fee of \$1.05 for the copy and \$.88 postage to 830 Punchbowl Street, Room 425, Honolulu, Hawaii 96813 or by calling (808) 586-9086.

Interested persons may present, at the public hearing, any written or oral data, views, arguments, comments, and objections concerning the proposals at:

HONOLULU, OAHU June 26, 2009, 1:00 p.m.
Keelikolani Building
830 Punchbowl Street
Room 427
Honolulu, Hawaii 96813

The public hearing will be continued, if necessary, to a time, date, and place announced at the scheduled hearing.

Interested persons unable to attend the public hearing, may submit written data, views, arguments, comments, and objections concerning the proposals to the Hawaii Occupational Safety and Health Division, 830 Punchbowl Street, Room 425, Honolulu, Hawaii 96813. All submissions for the record must be received at or prior to the scheduled public hearing.

Auxiliary aids and services are available upon request by calling the Administration and Technical Support Branch at (808) 586-9086 (voice), (808) 586-8847 (TTY), or 1-888-569-6859 (TTY neighbor islands). A request for reasonable accommodations should be made no later than ten working days prior to the needed accommodations.

Dated: May 26, 2009

DARWIN L.D. CHING
Director
Department of Labor and
Industrial Relations