

01-01: 2001 Regulatory Outlook (Revised 3/15/01)



## Pacific Maritime Association

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# SAFETY BULLETIN 01-01

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## 2001 Regulatory Outlook

(Revised March 15, 2001)

### INFORMATION

The purpose of this Safety Bulletin is to outline the known regulatory and legislative safety initiatives that are underway that may affect PMA employers in 2001. This information may not be all inclusive. It is constantly changing. Separate bulletins or updates will be issued on the individual regulations when additional notification or action is necessary.

Update January 22, 2001: Please note the EPA 2007 Rules were printed in the Federal Register on Jan 18, 2001. The OSHA Record keeping rules were printed in the Federal Register on Jan 19, 2001.

Update March 14, 2001:

California has published it's regulatory agenda which has been included.

The U.S. Congress (Senate on March 7th and House on March 8th) passed resolutions which overturned the Federal OSHA Ergonomics rules.

### Regulatory Outlook 2001

#### OSHA

Record keeping final rules Have been published on Jan 19, 2001 with an effective date of Jan 1, 2002.

Issue: PMA must check existing electronic record keeping to ensure conformance; and Inform employers of any new rules or changes.

OSHA Safety and Health Plan proposed rules should be published in 2001. These regulations are similar in scope to the California IIPP plans.

Issue: Effects of these regulations should be minimal as California and Washington already have similar requirements.

Ergonomics: OSHA published final rules on November 16, 2000. These regulations exempt the maritime industry.

Issue: Congress overturned the Federal Rules on . PMA needs to monitor activities in CA and WA as a result.

Powered Industrial Truck Training Requirements 29 CFR 1910.178(l) and the OSHA-NMSA Federal settlement.

Issue: A joint NMSA-OSHA national settlement for the marine cargo handling industry has been reached and was signed by both PMA and the ILWU. This settlement has compliance dates of July 1, 2001 for new employees, and October 1, 2001 for regular operators. PMA and the ILWU need to implement this settlement.

### Maritime Advisory Committee on Occupational Safety and Health

MACOSH is sponsoring a NIOSH study on ergonomics issues in the marine cargo handling industry. This study may pave the way to extending the Federal Ergonomics rules to the maritime industry.

Issue: PMA needs to monitor and support this study.

MACOSH: Container Pedestal fall protection; OSHA is focused on the fall hazards for lashers working on container pedestals.

Issue: OSHA has no solutions, but advises that employers are responsible for eliminating unguarded edges and or providing fall protection. PMA is working with NMSA to attempt to develop suggested solutions. The outcome and application of the proposed CG cargo Securing proposed rules may supersede OSHA jurisdiction in this area.

MACOSH: OSHA has developed a compliance officer marine terminal operations curriculum with the assistance and input from MACOSH.

Issue: PMA needs to monitor the course.

MACOSH: OSHA is continuing to study operational aspects of Vertical Tandem Lifting. ISO recently revised its standards in ISO 3874:1997 to address the structural aspects of VTL. OSHA will use MACOSH input in formulating future proposed regulations governing VTL.

Issue: PMA needs to monitor and support this study. In the meantime, the "Gurnham Letter" provides the interim guidance for VTL from OSHA.

### National Maritime Safety Association

NMSA amicus brief in the Cooper T. Smith forklift citation.

Issue: Cooper T. Smith was cited for failing to have a forklift capacity plate for the "modification" of installing an attachment onto their forklift under 29 CFR 1910. PMA needs to support the suit limiting OSHA regulations to our vertical standards rather than rules in 1910 regarding forklift capacity plate requirements, and forklift "modifications".

NMSA initiative for one OSHA on the waterfront.

Issue: Attempt to establish a singular Federal OSHA jurisdiction on marine cargo handling facilities.

## Coast Guard

### Cargo Securing Manual Proposed Regulations

Issues: Proposed Rules supercede OSHA regulations at 29 CFR 1918.85 (j); they do not address pedestal safety; they are not specific about when securing must be completed; they don't address "loose gear" inspections for inter-box connectors used to tandem lift containers and they require comments on the proposed options for U.S. vessels on domestic voyages. Comments are due by March 1st, 2001. PMA needs to submit comments reflecting employers' positions.

### Navigation Rule changes for Los Angeles and San Francisco

For Information: these regulations were finalized in 2000 and are in effect.

## EPA

Published Final Rules on Heavy Duty Engine and Vehicle Standards and Highway Diesel Fuel Sulfur Control Requirements "2007 Standards" in the Federal Register on Jan 18, 2000.

Issue: EPA rules only apply to highway vehicles. The EPA is still studying off road vehicles. California CARB has indicated they will follow the Federal EPA time table. These rules require low (15ppm) sulfur diesel in 2006 and new low emission engine requirements to take advantage of this fuel and other new technology starting in 2004, with full implementation in 2007. PMA needs to monitor the actions of EPA and advise members.

EPA published a notice regarding scope determinations on Nov 20, 2000. This notice determined that California regulations for heavy duty non-road engines and vehicles were within the scope of previous authorizations of Federal Preemption granted to California.

Issue: This determination clears the way for California to regulate non road heavy duty engines and vehicles. PMA needs to monitor the actions of EPA and advise members.

## California

### Cal-OSHA Standards Board Proposed Regulations for 2001

Below is the list of "proposed" rules that the Standards Board has listed for possible rule making in 2001. Not all of the below rules will be acted on but all these proposed regulations must be monitored for the possible effect they might have on our Industry.

#### Crane operator qualifications:

The Standards Board Advisory Sub Committee will meet on April 5, 2001 to review only two additional comments regarding this rule. The Longshore Industry is still exempted from this proposed rule.

#### Bulk cargo handlers, hammerhead cranes, and crane operator's cabs that are not integral to the rotating portion of the crane:

This proposed regulation would effect crane cabs and remote crane / bulk handler controls and would apply to all industries. Hearing is scheduled for later this year.

#### Material/equipment thrown or dropped from elevated locations:

This proposed regulation would apply to the Longshore Industry. Possible industry focus: Crane mechanics working above in container cranes equipment.

#### Explosive regulations review and reorganization:

This regulation would consolidate existing rules and regulations concerning the handling, transportation, and use of Explosives. Need to monitor so new rules are not added during this consolidation process that effect our industry.

#### Providing and requiring the use of seatbelts when transporting employees:

This proposed regulation would effect all busses, vans, and any vehicle used to transport longshore workers on the terminal. All such vehicles would be required to install and utilize seatbelts for all longshore workers.

#### Securing of loads prior to release from cranes and other hoisting apparatus:

This is a vertical standard regulation originally initiated for the construction Industry was expanded to include all industries. It will apply on operations such as pipe rolling out from under the hook on steel jobs etc.

#### Forklift operating rules for industrial tow tractors/trucks-application:

This proposed regulation would be in addition to the PIT regulations. It would clarify the Do's & Don'ts of these types of operations. This proposed rule might have possible implications for our industry.

#### Accident prevention tags and tagout devices:

This proposed regulation would clarify existing "general" rules for lock out & tag out devices. This might effect gearmen and mechanics working in our industry. Mostly to do with cranes working adjacent to electrical overhead wires but needs watching as it may grow to other things like maintenance of cranes and large equipment.

#### Crane warning devices:

This proposed regulation would clarify outdated rules concerning crane auto stops, as the crane reaches rated load limits. It would also require warning bells and signals when the crane approached the max limit load.

#### Definition of various types of crane hoists:

This proposed regulation would define what is a crane and what is not, in order to clean up some of the ambiguous language in existing rules. This regulation could spill over to such equipment such as forklifts working as cranes (Top Pickers) Reach Stackers and Straddle carriers etc.

#### Personal floatation devices:

Proposed regulation would require all linesmen and longshore workers who are exposed to possible falls into the waters (Log operations/Lines persons) to wear a Coast Guard approved type 1 or 2 life jacket. This type of life jackets keeps the wearer's head out of the water even if he is unconscious. Problem with this type of unit is that it limits the ability to turn ones head and thus limits the peripheral vision.

#### Winches equipped with level winders:

Proposed regulation. Would affect all winches, possibly even winches contained in cranes will have to have devices that forces the wire to lay down on the drum to a prescribed track. This may be a problem on some of the older cranes and on many of the highway type cranes we sometimes use on the waterfront. It will not apply to ships gear.

#### Riding a load:

This proposal is designed to rewrite (clarify) the existing regulations. OSHA lost a court case due to unclear definitions within the existing language. This rewrite might interfere with our ability to hoist men on top of spreader beams.

### Free rigging of powered industrial trucks:

This proposed regulation addresses jury-rigged devices and other non-official attachments to forklifts that have no formal safe working load. The proposal could cover such things as Torpedoes for steel ships, Glass racks, drum, roll and pipe special attachments etc.

### Lockout/tagout, cleaning, minor servicing:

In this proposed regulation, OSHA may require that mechanics working on our equipment receive retraining when servicing equipment that require lockout/tagout devices.

### Load indicating devices/load moment devices used in cranes:

This proposed regulation is of major concern to our industry. This rule could increase the jurisdiction to other pieces of equipment utilized by our industry; by how they define what is a crane? (See "Definition of various types of cranes).

### Inspection and maintenance of cranes:

OSHA wants to clean up language on existing regulations, regarding the inspection of cranes by qualified individuals. This will include daily inspections. We need to watch what they define as qualified individuals etc. Hearing February 02.

### Alloy steel chains/slings, metal mesh slings, defective hoist, or sling hooks and rings:

OSHA proposed that the existing regulation be updated to reflect the current tables and information of today's conditions. This proposed regulation could have significant impact on our break-bulk operations.

### Crane and derrick adjustments and repairs:

OSHA wants to update their language and make it less ambiguous due to a recent court decisions.

### Storage of hazardous substances:

Possible implications in regards to shipping of hazardous material via containers.

### Exposure to environmental heat:

This proposal, originally developed in response to an injury in agriculture, would add rules to our industry that are not needed. Our Industry has had one heat related illness within the last 5 years. Rulemaking for this proposal is the responsibility of DOSH

### Keys for doors to access elevator machine rooms and machinery space enclosures:

Possible implications to our industry Rulemaking for this proposal is the responsibility of DOSH

### Propane Safety Orders (LPG):

Possible implications to our industry Rulemaking for this proposal is the responsibility of DOSH

### Revision and update of Compressed and Liquefied Natural Gas Storage Safety Orders:

Possible implications to our industry Rulemaking for this proposal is the responsibility

### Ergonomics Rules

California has published State Ergonomics rules. Rules have passed all legal hurdles, and are enforceable. PMA needs to monitor enforcement actions and advise members. A request has been made to the Board that California's Ergonomics Rule be reopened for additional rulemaking with labor pushing for a more restrictive rule. If passed, this Regulation would have a significant impact on our industry.

## Powered industrial truck training for marine terminal operations/California PIT Variance.

PMA has applied for a variance to the California PIT regulations. California has granted the variance for the implementation dates (to October 1, 2001) Cal OSHA has stated, that they plan (with Employer & Union Agreement) to use the Federal Settlement as a referral document for their own rules. We are encouraged by the State's intention to use the Federal PIT settlement for our industry. This will require regulatory action. We will need to monitor this regulation closely.

## California Air Resources Board

CARB published and approved a Risk Reduction Plan to Reduce Particulate Matter Emissions from Diesel Fueled Engines and Vehicles. CARB will be developing regulations to implement the plan in 2001. The plan calls for low sulfur diesel fuel and emission reductions on new and existing on and off road diesel engines. The stated CARB timeframe is roughly equivalent to the EPA timeframe for on road vehicles.

Issue: PMA needs to monitor the development of these regulations. PMA needs to work with employers to develop a diesel retrofit strategy and comment on the regulations as appropriate.

## South Coast Air Quality Management District

SCAQMD has passed several regulations requiring alternate fueled vehicles to replace Local, State, and Federal government diesel fleet vehicles (not the private sector.) This agency has attempted to implement the low sulfur and engine emission reduction regulations on a much shorter timeframe than EPA or CARB.

Issue: PMA need s to monitor the actions of the SCAQMD and attempt to stop any proposals that would regulate off road terminal equipment in advance of the CARB regulations, or which would limit the fuel options.

## Workers Compensation Conference Committee

AB 435 (Corbett) was passed in 1999 restricting access to medical records. The language enacted caused many third party administrators and insurers to restrict from the employer all medical information related to a worker's compensation claim. The Senate Industrial Relations Committee referred the cleanup of enacted AB 435 language to the worker's compensation conference committee. Proposals to expand the restriction to enable employers access to worker's medical records may be included in SB 71 (Burton) which will be an amalgamation of all workers compensation issues for 2001. Monitor the progress on [www.cronline.org](http://www.cronline.org) the website of the California Coalition of Workers Compensation.

Issue: PMA needs to monitor the progress of this bill and advise the employers as appropriate.

## Washington State

### WISHA

Ergonomics Rules: Rules published on May 26, 2000. Employers in Washington state must follow the state's ergonomics rule. Within the state, the Fed OSHA rule only applies to federal agencies, post offices and employers on federal reservations. State officials do not believe Fed OSHA will require changes to the state rule. PMA has joined the WECARE organization to challenge the rules.

Issue: Participate with WECARE, and advise members of the status of this challenge.

Core Rules: WISHA project to develop a user-friendly rule book of core requirements that apply to most employers in the state of Washington. WISHA will not change or increase requirements as part of this rulemaking effort. *Proposal 11-21-00, Hearings: 1-24-01 - Vancouver, 1-25-01 - Spokane, 1-26-01 - Yakima, 1-29-01 - Seattle, 1-30-01 - Tumwater, Adoption 5-9-01, Effective 8-31-01.*

<http://www.lni.wa.gov/wisha/innovations/default.htm>

Issue: PMA needs to study and comment as appropriate so no unintended consequence results from the re-writes.

Emergency Response: Chapter 296-62 WAC will be reviewed for possible updates to Part R for requirements relating to Emergency Response. *Proposal 5-01, Hearing 7-01, Adoption 9-01, Effective 12-01.*

Issue: PMA needs to study and comment as appropriate so no unintended consequence results from the re-writes.

Hearing Conservation: WISHA plans to review the hearing conservation requirements in chapter 296-62 WAC for possible updates. *Timeline to be determined.*

Issue: PMA needs to review noise studies already conducted on the waterfront, study the proposed rules and comment as appropriate so no unintended consequence results from the re-writes.

Respiratory Protection: WISHA plans to review the respiratory protection requirements in chapter 296-62 WAC for possible updates. *Timeline to be determined*

Issue: PMA needs to study and comment as appropriate so no unintended consequence results from the re-writes.

Railroads: WISHA plans to review the railroad requirements in chapter 296-28 WAC for possible updates. *Proposal 1-24-01, Hearing 2-27-01, Adoption 4-24-01, Effective 8-1-01.*

<http://www.lni.wa.gov/rules/WISHA/RailroadsCR101.htm>

Issue PMA needs to study and comment as appropriate as the proposed changes affect clearances in private rail yards.

#### **ACTION**

Employers should familiarize themselves with the pending regulatory and legislative initiatives, and comment as appropriate.