

**OCCUPATIONAL SAFETY
AND HEALTH STANDARDS BOARD**

2520 Venture Oaks, Suite 350
Sacramento, CA 95833
(916) 274-5721
FAX (916) 274-5743
www.dir.ca.gov/oshsb

**FINAL STATEMENT OF REASONS**

CALIFORNIA CODE OF REGULATIONS

TITLE 8: Sections 8495, 8496, 8497 and 8500 of the Tunnel Safety Orders

Cranes and Derricks in Construction – Underground and Demolition**MODIFICATIONS AND RESPONSE TO COMMENTS RESULTING FROM
THE 45-DAY PUBLIC COMMENT PERIOD**

There are no modifications to the information contained in the Initial Statement of Reasons except for the following substantive and sufficiently related modifications that are the result of public comments and Board staff evaluation.

Section 8495, Hoisting Equipment and Systems, Subsection (a), General Requirements.

Subsection (a)(16), not previously proposed for modification, has been added to the proposal to clarify that brakes shall be automatically applied on power release or failure. The purpose and necessity for this modification is to clarify the requirement for automatic brakes on hoists and to provide equivalency with federal standard, 29 CFR 1926.800(t)(3)(i).

Section 8495, Hoisting Equipment and Systems, Subsection (b), Personnel Hoisting Systems.

Subsection (b)(5), as originally proposed, would have modified the requirement for automatic brakes to require “at least one” brake to be automatically applied. As a result of reviewing federal comments and provisions, subsection (a)(16) will be modified, and the phrase “at least” is proposed to be removed from this subsection, thus returning the verbiage for the second sentence to its existing (pre-rulemaking) text. The purpose and necessity for this modification, and the modifications proposed for subsection (a)(16), is to clarify requirements for manual and automatic braking systems.

Section 8496. Shafts and Raises Under Construction.

Subsection (c)(3) as originally proposed would have required the use of governor controls to limit travel speed for personnel hoisting to 200 ft/min “where practicable.” A federal OSHA Advisory Opinion (AO) recommended the removal of “where practicable” from a sentence requiring that governor controls to be set at 200 ft/min. In response to the federal AO, the Board proposes to modify subsection (c)(3) and add a new subsection (c)(4) to clarify that governor controls shall be used on mine-type hoists when they are used for personnel hoisting. The purpose and necessity for these modifications is to provide safety at least as effective as federal standard, 29 CFR 1926.800(t)(4)(vii).

Summary and Response to Oral and Written Comments:

I. Written Comment

David Shiraishi, MPH, Area Director, U.S. Department of Labor, Occupational Safety and Health Administration, Oakland Area Office, by letter dated July 17, 2013.

Comment No. 1:

Section 8495(b)(5) states that at least one brake shall be an automatic brake that will be applied whenever the power fails or is shut off or when the power control lever is in the “off” position. 29 CFR 1926.800(t)(3)(i) states that hoists shall be designed so that “brakes” are automatically applied upon power release or failure. The commenter interprets the federal standard to require both brakes to be automatic.

Response:

Section 8495(b) applies to personnel hoisting with a mine-type hoisting system. The Mining and Tunneling Unit has carefully reviewed OSHA’s comment and has informed Board staff that a mine-type hoist always has an automatic brake and a non-automatic operating brake (the operating brake is a hand-lever brake). If power should fail to the mine-type hoist, the automatic brake will immediately stop the hoist drum, independent of the manual brake. We believe the federal verbiage (“brakes”) may have been taken out of context and that there is no federal OSHA requirement for a secondary automatic braking system on a fixed/anchored wire rope personnel hoist (mine hoist). The term “brakes” may be intended for operations using a crane suspended personnel platform which would be covered by 29 CFR 1926.1431(d)(5)(vi) and previously approved state counterpart CSO Section 1616.6(d)(5). Board staff has also discussed this matter with the federal OSHA Area Office and believe that modifications being proposed to Section 8495(a)(16) and (b)(5) will satisfactorily address federal OSHA’s concerns.

Comment No. 2:

Regarding Section 8496(c)(3) which, as originally proposed, stated: “Where practicable, governor controls set for 200 feet (60.96 m) per minute shall be installed in the control system and shall be used during personnel hoisting.” OSHA recommends that “where practicable” be deleted from the state proposal.

Response:

The Board accepts this comment and proposes to revise Section 8496(c)(3) to remove “where practicable.” The modified verbiage will be consistent with a proposed update for the Tunnel Safety Orders (to be noticed for public comment at a future date yet to be determined).

The Board thanks OSHA for their participation in the rulemaking process.

II. Oral Comments

No oral comments were received at the July 18, 2013 Public Hearing in Costa Mesa, California.

MODIFICATIONS AND RESPONSE TO COMMENTS RESULTING FROM
THE 15-DAY NOTICE OF PROPOSED MODIFICATIONS

No further modifications to the information contained in the Initial Statement of Reasons are proposed as a result of the 15-Day Notice of Proposed Modifications mailed on October 2, 2013.

Summary and Response to Written Comments:

No written comments were received.

ADDITIONAL DOCUMENTS RELIED UPON

None.

ADDITIONAL DOCUMENTS INCORPORATED BY REFERENCE

None.

DETERMINATION OF MANDATE

These standards do not impose a mandate on local agencies or school districts as indicated in the Initial Statement of Reasons.

ALTERNATIVES CONSIDERED

The Board invited interested persons to present statements or arguments with respect to alternatives to the proposed standard. No alternative considered by the Board would be more effective in carrying out the purpose for which the action is proposed, would be as effective as and less burdensome to affected private persons than the adopted action, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.