

**OCCUPATIONAL SAFETY
AND HEALTH STANDARDS BOARD**

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**NOTICE OF PUBLIC MEETING/PUBLIC HEARING/BUSINESS MEETING
OF THE OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD
AND NOTICE OF PROPOSED CHANGES TO TITLE 8
OF THE CALIFORNIA CODE OF REGULATIONS**

Pursuant to Government Code Section 11346.4 and the provisions of Labor Code Sections 142.1, 142.2, 142.3, 142.4, and 144.6, the Occupational Safety and Health Standards Board of the State of California has set the time and place for a Public Meeting, Public Hearing, and Business Meeting:

PUBLIC MEETING: On **July 17, 2008**, at 10:00 a.m.
in the Costa Mesa City Council Chambers,
77 Fair Drive, Costa Mesa, California.

At the Public Meeting, the Board will make time available to receive comments or proposals from interested persons on any item concerning occupational safety and health.

PUBLIC HEARING: On **July 17, 2008**, following the Public Meeting,
in the Costa Mesa City Council Chambers,
77 Fair Drive, Costa Mesa, California.

At the Public Hearing, the Board will consider the public testimony on the proposed changes to occupational safety and health standards in Title 8 of the California Code of Regulations.

BUSINESS MEETING: On **July 17, 2008**, following the Public Hearing,
in the Costa Mesa City Council Chambers,
77 Fair Drive, Costa Mesa, California.

At the Business Meeting, the Board will conduct its monthly business.

DISABILITY ACCOMMODATION NOTICE: Disability accommodation is available upon request. Any person with a disability requiring an accommodation, auxiliary aid or service, or a modification of policies or procedures to ensure effective communication and access to the public hearings/meetings of the Occupational Safety and Health Standards Board should contact the Disability Accommodation Coordinator at (916) 274-5721 or the state-wide Disability Accommodation Coordinator at 1-866-326-1616 (toll free). The state-wide Coordinator can also be reached through the California Relay Service, by dialing 711 or 1-800-735-2929 (TTY) or 1-800-855-3000 (TTY-Spanish).

Accommodations can include modifications of policies or procedures or provision of auxiliary aids or services. Accommodations include, but are not limited to, an Assistive Listening System (ALS), a Computer-Aided Transcription System or Communication Access Realtime Translation (CART), a sign-language interpreter, documents in Braille, large print or on computer disk, and audio cassette recording. Accommodation requests should be made as soon as possible. Requests for an ALS or CART should be made no later than five (5) days before the hearing.

**OCCUPATIONAL SAFETY AND HEALTH
STANDARDS BOARD**

JOHN D. MACLEOD, Chairman

NOTICE OF PROPOSED CHANGES TO TITLE 8
OF THE CALIFORNIA CODE OF REGULATIONS
BY THE OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

Notice is hereby given pursuant to Government Code Section 11346.4 and Labor Code Sections 142.1, 142.4 and 144.5, that the Occupational Safety and Health Standards Board pursuant to the authority granted by Labor Code Section 142.3, and to implement Labor Code Section 142.3, will consider the following proposed revisions to Title 8, General Industry Safety Orders of the California Code of Regulations, as indicated below, at its Public Hearing on **July 17, 2008**.

1. TITLE 8: **GENERAL INDUSTRY SAFETY ORDERS**
Division 1, Chapter 4, Subchapter 7, Article 3
Section 3248
Mechanical Refrigeration

2. TITLE 8: **GENERAL INDUSTRY SAFETY ORDERS**
Division 1, Chapter 4, Subchapter 7, Article 98
Section 4999
Properly Rigged (Handling Loads)

Descriptions of the proposed changes are as follows:

1. **TITLE 8:** **GENERAL INDUSTRY SAFETY ORDERS**
Division 1, Chapter 4, Subchapter 7, Article 3
Section 3248
Mechanical Refrigeration

INFORMATIVE DIGEST OF PROPOSED ACTION/POLICY STATEMENT OVERVIEW

This rulemaking was initiated as a result of Petition File No. 490, which was granted by the Occupational Safety and Health Standards Board (Board) on April 19, 2007. Labor Code Section 142.2 allows interested persons to propose new safety orders or revisions of existing safety orders. David W. Smith, the author of the petition that is the subject of Petition File No. 490, expressed concern that Uniform Mechanical Code (UMC) standards incorporated by reference into Section 3248(a), regarding mechanical refrigeration systems, are no longer readily available to the regulated public. He suggested that the provisions of those national consensus standards be printed in Title 8. He also stated that references to other national consensus standards in Section 3248(b) should be omitted absent a strong reason for retaining them. This proposal would eliminate outdated UMC references in Section 3248 and would harmonize Section 3248 with the California Mechanical Code (CMC).

Section 3248 sets forth requirements for the design, installation, testing and maintenance of mechanical refrigeration systems. Subsection (a) presently requires that installations placed in service prior to March 13, 1999 comply with portions of the 1982 UMC, and subsection (b) requires that installations placed in service on or after March 13, 1999 comply with portions of the 1997 UMC. The 1982 UMC is old and copies are hard to find, and the 1997 UMC will have ever greater obsolescence as time passes.

This proposal would delete both existing subsections (a) and (b) and thereby eliminate the problem of outdated references. Instead, pursuant to new subsection (a), the benchmark standard would be the current CMC. An exception would allow mechanical refrigeration systems to remain in service if those systems were designed, installed, tested and maintained in accordance with the CMC in effect at the time of installation, so long as the system does not pose a hazard. In any event, pursuant to new subsection (b), modifications of all mechanical refrigeration systems must be made in accordance with the CMC in effect at the time of modification. The proposal promotes safety, makes mechanical refrigeration systems subject to versions of the CMC that actually govern the system at key times (installation and modification), and eliminates references to ever-less-relevant and obtainable versions of the UMC.

COST ESTIMATES OF PROPOSED ACTION

Costs or Savings to State Agencies

No costs or savings to state agencies will result as a consequence of the proposed action.

Impact on Housing Costs

The Board has made an initial determination that this proposal will not significantly affect housing costs.

Impact on Businesses

The Board has made a determination that this proposal will not result in a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

Cost Impact on Private Persons or Businesses

The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Costs or Savings in Federal Funding to the State

The proposal will not result in costs or savings in federal funding to the state.

Costs or Savings to Local Agencies or School Districts Required to be Reimbursed

No costs to local agencies or school districts are required to be reimbursed. See explanation under “Determination of Mandate.”

DETERMINATION OF MANDATE

The Occupational Safety and Health Standards Board has determined that the proposed regulation does not impose a local mandate. Therefore, reimbursement by the state is not required pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code because the proposed amendment will not require local agencies or school districts to incur additional costs in complying with the proposal. Furthermore, this regulation does not constitute a “new program or higher level of service of an existing program within the meaning of Section 6 of Article XIII B of the California Constitution.”

The California Supreme Court has established that a “program” within the meaning of Section 6 of Article XIII B of the California Constitution is one which carries out the governmental function of providing services to the public, or which, to implement a state policy, imposes unique requirements on local governments and does not apply generally to all residents and entities in the state. (County of Los Angeles v. State of California (1987) 43 Cal.3d 46.)

The proposed regulation does not require local agencies to carry out the governmental function of providing services to the public. Rather, the regulation requires local agencies to take certain steps to ensure the safety and health of their own employees only. Moreover, the proposed regulation does not in any way require local agencies to administer the California Occupational Safety and Health program. (See City of Anaheim v. State of California (1987) 189 Cal.App.3d 1478.)

The proposed regulation does not impose unique requirements on local governments. All employers - state, local and private - will be required to comply with the prescribed standard.

EFFECT ON SMALL BUSINESSES

The Board has determined that the proposed amendment may affect small businesses. However, no economic impact is anticipated.

ASSESSMENT

The adoption of the proposed amendments to this regulation will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California.

REASONABLE ALTERNATIVES CONSIDERED

Our Board must determine that no reasonable alternative considered by the Board or that has otherwise been identified and brought to the attention of the Board would be more effective in carrying out the purpose for which the action is proposed or would be as effective as and less burdensome to affected private persons than the proposed action.

2. **TITLE 8:** **GENERAL INDUSTRY SAFETY ORDERS**
Division 1, Chapter 4, Subchapter 7, Article 98
Section 4999
Properly Rigged (Handling Loads)

INFORMATIVE DIGEST OF PROPOSED ACTION/POLICY STATEMENT OVERVIEW

This staff-initiated rulemaking proposal is the result of an Occupational Safety and Health Appeals Board (OSHAB) Decision in the Matter of Modern Stainless Design, Inc., Docket Nos. 01-R1D5-3834 and 3835. The employer was cited by the Division of Occupational Safety and Health (Division) for failing to properly rig a 4,320 pound steel tank suspended by 4 overhead cranes. The load released suddenly, dropped and came in contact with an employee who was aligning tank sections and seriously injured him. The Division alleged the tank had been “improperly and unsafely rigged.” OSHAB hearing testimony indicates employer difficulty in discerning when a load has been properly rigged. The Appeals Board Decision (Decision) also states that the Division had created an interpretation of Section 4999(b)(1) that is stricter than what is contained in the text of that section imposing several rigging requirements not contained in the cited safety order. The Decision indicated that the employer had not trained the employee who was injured in rigging procedures and could not produce any training records.

Board staff believes that to prevent accidents like the one described above, Section 4999 must be very clear about requiring that loads be rigged only by persons trained and competent to do so. In the absence of specific training or competency requirements, the proposal requires a qualified person, as defined in the General Industry Safety Orders (GISO),¹ to be trained to safely perform rigging operations. Board staff notes there are national consensus standards that address this issue such as the American National Standards Institute (ANSI) A10.42-2000, Safety Requirements for Rigging

¹ A “qualified person, attendant, or operator” is defined in the GISO as an employer-designated person who by reason of his/her training and experience has demonstrated the ability to safely perform duties and where required, is licensed in accordance with federal, state, or local laws and regulations.

Qualifications and Responsibilities – American National Standard for Construction and Demolition Operations that provide employer guidance.

This proposed rulemaking action also includes non-substantive revisions such as editorial, grammatical, and re-formatting. These non-substantive revisions are not all discussed in this informative digest but are clearly indicated in the regulatory text in underline and strikeout format. In addition to these non-substantive revisions, the following actions are proposed:

Section 4999. Handling Loads.

This section prohibits cranes, derricks or hoists from being loaded beyond their rated capacity and addresses the responsibility of qualified persons to determine the magnitude of the load, except for cases where the crane or derrick is equipped with a load weighing device. This section also prohibits crane operators from lifting loads of unknown weight unless a qualified person informs the operator of the weight prior to the lift. Section 4999 also addresses procedures for attaching the load, pre-lift procedures, procedures during the hoisting process, side loading, releasing and holding loads, preventing inadvertent contact of employees by the moving parts of cranes and lifting loads using a truck crane.

A new subsection (a) is proposed that requires the qualified person (rigger) to be trained and capable of safely rigging loads and that loads are to be rigged by a qualified person (rigger) or a trainee under the supervision of a qualified person (rigger).

The proposed amendments will clarify to the employer that within the context of Section 4999 that the term “qualified person” is referring to the “rigger” and that the qualified person (rigger) or trainee under a qualified person’s (rigger’s) supervision are the only persons who can rig loads and that they must be specifically trained and be able of conducting rigging operations safely.

Amendments are proposed to re-numbered subsection (b) to include the term “(rigger)” after the phrase “qualified person” in two different locations in subsection (b). The proposed amendments clarify that the term “qualified person” is a “rigger”. This proposal will be consistent with language proposed in new subsection (a) and specifies that the rigger is a person who by virtue of training is capable of safely performing rigging operations.

Amendments are proposed to re-numbered subsection (c)(1) to delete the term “properly” and to specify that when required by GISO, Section 5002, the hook latch or gate be in the closed position to prevent hook displacement. These proposed amendments will eliminate vague and ambiguous terminology to improve clarity and to ensure that the load is handled securely when being lifted.

An informative “NOTE” is proposed to follow re-numbered subsection (c)(1) to clarify that there are rigging requirements discussed in the Construction Safety Orders, Section 1710, that pertain to the erection of structures and that signaling requirements are located in Section 5001.

Re-numbered subsection (c)(2) requires slings to be free of kinks or twists. An additional provision is proposed to follow the existing requirement which refers the employer to the sling requirements in Article 101 to further ensure rigging devices such as slings are used properly and are effective in securing the load.

Re-numbered subsection (d) is proposed to include new subsection (d)(4) to prohibit the practice of side loading crane booms with the exception of what is permitted in re-numbered subsection (g). This proposal will allow side loading only as permitted in re-numbered subsection (g) to reduce the possibility the load could become unstable and come in contact with persons on the ground resulting in serious injury or fatality.

Amendments are proposed to re-numbered subsection (h) pertaining to loads from being released or detached from a crane. The proposed amendments would specify that the load shall not be released or detached from the crane unless a qualified person (rigger) indicates that it is safe to do so. The proposed amendments clarify that the term “person” must be a “qualified person (rigger)” which will ensure that only trained, and therefore, competent employees will handle and rig loads safely to ensure load handling and employee safety.

All of the foregoing proposed amendments add to the clarity of the standard and enhance employee safety.

COST ESTIMATES OF PROPOSED ACTION

Costs or Savings to State Agencies

No costs or savings to state agencies will result as a consequence of the proposed action.

Impact on Housing Costs

The Board has made an initial determination that this proposal will not significantly affect housing costs.

Impact on Businesses

The Board has made an initial determination that this proposal will not result in a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

Cost Impact on Private Persons or Businesses

The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Costs or Savings in Federal Funding to the State

The proposal will not result in costs or savings in federal funding to the state.

Costs or Savings to Local Agencies or School Districts Required to be Reimbursed

No costs to local agencies or school districts are required to be reimbursed. See explanation under “Determination of Mandate.”

Other Nondiscretionary Costs or Savings Imposed on Local Agencies

This proposal does not impose nondiscretionary costs or savings on local agencies.

DETERMINATION OF MANDATE

The Occupational Safety and Health Standards Board has determined that the proposed regulation does not impose a local mandate. Therefore, reimbursement by the state is not required pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code because the proposed amendments will not require local agencies or school districts to incur additional costs in complying with the proposal. Furthermore, the regulation does not constitute a “new program or higher level of service of an existing program within the meaning of Section 6 of Article XIII B of the California Constitution.”

The California Supreme Court has established that a “program” within the meaning of Section 6 of Article XIII B of the California Constitution is one which carries out the governmental function of providing services to the public, or which, to implement a state policy, imposes unique requirements on local governments and does not apply generally to all residents and entities in the state. (County of Los Angeles v. State of California (1987) 43 Cal.3d 46.)

The proposed regulations do not require local agencies to carry out the governmental function of providing services to the public. Rather, the regulations require local agencies to take certain steps to ensure the safety and health of their own employees only. Moreover, the proposed regulations do not in any way require local agencies to administer the California Occupational Safety and Health program. (See City of Anaheim v. State of California (1987) 189 Cal.App.3d 1478.)

These proposed regulations do not impose unique requirements on local governments. All employers - state, local and private - will be required to comply with the prescribed standards.

EFFECT ON SMALL BUSINESSES

The Board has determined that the proposed amendment may affect small businesses. However, no economic impact is anticipated.

ASSESSMENT

The adoption of the proposed amendments to this standard will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California.

REASONABLE ALTERNATIVES CONSIDERED

Our Board must determine that no reasonable alternative considered by the Board or that has otherwise been identified and brought to the attention of the Board would be more effective in carrying out the purpose for which the action is proposed or would be as effective as and less burdensome to affected private persons than the proposed action.

A copy of the proposed changes in STRIKEOUT/UNDERLINE format is available upon request made to the Occupational Safety and Health Standard Board’s Office, 2520 Venture Oaks Way, Suite 350, Sacramento, CA 95833, (916) 274-5721. Copies will also be available at the Public Hearing.

An INITIAL STATEMENT OF REASONS containing a statement of the purpose and factual basis for

the proposed actions, identification of the technical documents relied upon, and a description of any identified alternatives has been prepared and is available upon request from the Standards Board's Office.

Notice is also given that any interested person may present statements or arguments orally or in writing at the hearing on the proposed changes under consideration. It is requested, but not required, that written comments be submitted so that they are received no later than July 11, 2008. The official record of the rulemaking proceedings will be closed at the conclusion of the public hearing and written comments received after 5:00 p.m. on July 17, 2008, will not be considered by the Board unless the Board announces an extension of time in which to submit written comments. Written comments should be mailed to the address provided below or submitted by fax at (916) 274-5743 or e-mailed at oshsb@dir.ca.gov. The Occupational Safety and Health Standards Board may thereafter adopt the above proposals substantially as set forth without further notice.

The Occupational Safety and Health Standards Board's rulemaking file on the proposed actions including all the information upon which the proposals are based are open to public inspection Monday through Friday, from 8:30 a.m. to 4:30 p.m. at the Standards Board's Office, 2520 Venture Oaks Way, Suite 350, Sacramento, CA 95833.

The full text of proposed changes, including any changes or modifications that may be made as a result of the public hearing, shall be available from the Executive Officer 15 days prior to the date on which the Standards Board adopts the proposed changes.

Inquiries concerning either the proposed administrative action or the substance of the proposed changes may be directed to Marley Hart, Executive Officer, or Michael Manieri, Principal Safety Engineer, at (916) 274-5721.

You can access the Board's notice and other materials associated with this proposal on the Standards Board's homepage/website address which is <http://www.dir.ca.gov/oshsb>. Once the Final Statement of Reasons is prepared, it may be obtained by accessing the Board's website or by calling the telephone number listed above.

OCCUPATIONAL SAFETY AND HEALTH
STANDARDS BOARD

JOHN D. MACLEOD, Chairman

NOTICE OF ADOPTION OF
REGULATIONS
INTO TITLE 8, CALIFORNIA CODE OF REGULATIONS
BY THE
OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

After proceedings held in accordance with and pursuant to the authority vested in Sections 142, 142.3 and 142.4, of the Labor Code to implement, interpret, or make specific, the Occupational Safety and Health Standards Board, by a majority vote, adopted additions, revisions, or deletions to the California Code of Regulations as follows:

1. Low-Voltage Electrical Safety Orders, Chapter 4, Subchapter 5, Electrical Safety Orders, Group 1, Low-Voltage Electrical Safety Orders

Heard at the January 17, 2008, Public Hearing; adopted on March 20, 2008; filed with the Secretary of State on May 5, 2008; and became effective on May 5, 2008.

Copies of these standards are available upon request from the Occupational Safety and Health Standards Board, 2520 Venture Oaks Way, Suite 350, Sacramento, CA 95833, (916) 274-5721.

If you have Internet access, visit the Occupational Safety and Health Standards Board by going to: **<http://www.dir.ca.gov/oshsb>** and follow the links to the Standards Board. This information is updated monthly. The Standards Board's e-mail address is: **oshsb@dir.ca.gov**.

OCCUPATIONAL SAFETY AND HEALTH
STANDARDS BOARD

Marley Hart, Executive Officer