INITIAL STATEMENT OF REASONS

CALIFORNIA CODE OF REGULATIONS

Title 8, Division 1, Chapter 4, Subchapter 5, Article 36, Section 2940.8 of the High Voltage Electrical Safety Orders.

The Securing of Poles During Removal Operations

SUMMARY

This rulemaking action is initiated by the Occupational Safety and Health Standards Board (Board) staff. The proposal results from discussions with stakeholders, including utility representatives, and in part, from a review of the Occupational Safety and Health Appeals Board Decision dated August 18, 2010, Docket Nos. 08-R2D1-4887 through 4889 in the appeal of SMUD for citations issued by the Division of Occupational Safety and Health (Division). The Appeals Board Decision indicates that the citations are related to the removal of a damaged power line pole that was hit by a vehicle leaving the butt of the pole missing and the rest of the pole suspended in air and supported only by the power lines. In the removal of this pole, employees did not secure the suspended pole with a winch line/load line of an electric line truck prior to removing the conductors that supported the pole. The pole slipped through the truck pole guides (grabbers), fell to the ground and hit an employee who sustained a serious injury.

The Division issued citations related to the General Industry Safety Orders, Article 13 for Cranes and Other Hoisting Equipment. One of the citations concerned Section 4999 “Handling Loads,” which requires that a load be properly attached by means of slings or other effective and suitable means. Another citation was issued under Section 5002 “Overhead Loads,” which in part requires hoisting operations to be conducted in a job controlled manner that will avoid exposure of employees to the hazards of overhead loads. The Appeals Board decision indicated that neither of these crane orders applied, since the damaged pole being removed was not being hoisted or being passed directly over workers at the time of the accident. The proposal is necessary to ensure that poles being removed are secured not only during the actual hoisting of the pole but also in preparing and securing of the pole for the lift.

Utility representatives indicate that poles are frequently damaged or compromised from accidents related to motor vehicles hitting them. It is important that such poles or pole sections are secured
not only during the actual lifting/hoisting process but also in preparing these poles for removal. An amendment is proposed for the High Voltage Electrical Safety Orders (HVESO), Section 2940.8 which is related to the handling of poles. The proposal would require that damaged or unstable poles or sections of poles encountered during removal operations be securely supported.

**SPECIFIC PURPOSE AND FACTUAL BASIS OF PROPOSED ACTION**

This regulatory proposal is intended to improve and provide worker safety at places of employment in California involved in operations that are involved in the removal of utility poles.

This proposed rulemaking action:

- Is based on the following authority and reference: Labor Code Section 142.3, which states, at Subsection (a)(1) that the Board is “the only agency in the state authorized to adopt occupational safety and health standards.” When read in its entirety, Section 142.3 requires that California have a system of occupational safety and health regulations that at least mirror the equivalent federal regulations and that may be more protective of worker health and safety than are the federal occupational safety and health regulations.

- Differs from existing federal regulations in that federal OSHA does not have provisions proposed in Section 2940.8(f) that are related to the securing of poles or pole sections during the process of pole removal operations.

- Is not inconsistent or incompatible with existing state regulations. This proposal is part of a system of occupational safety and health regulations. The consistency and compatibility of that system’s component regulations is provided by such things as the requirements of federal law and the Labor Code.

- Is the least burdensome effective alternative. It is a performance based proposal that was developed with the assistance of stakeholders including several major utilities, the Division and labor representatives from the International Brotherhood of Electrical Workers. The proposal will enhance the safety of employees involved in the removal of utility poles.

**Section 2940.8. Material Handling.**

**New Subsection (f)**

Existing Section 2940.8 includes provisions related to the unloading of poles, pole hauling, storage, the use of tag lines, and attaching/hoisting the load.

A new subsection (f) would require damaged or unstable poles, or sections of poles to be guyed, braced or otherwise securely supported during pole removal operations. The proposal is necessary to protect employees from hazards during pole removal operations. Employers
complying with the proposal could, for instance, use an electric line truck with the load line attached to secure the pole or pole section.

**DOCUMENTS RELIED UPON**

- Occupational Safety and Health Appeals Board Decision dated August 18, 2010, in the Matter of the Appeal of SMUD, Docket Nos. 08-R2D1-4887 through 4889.

This document is available for review Monday through Friday from 8:00 a.m. to 4:30 p.m. at the Standards Board Office located at 2520 Venture Oaks Way, Suite 350, Sacramento, California.

**REASONABLE ALTERNATIVES THAT WOULD LESSEN ADVERSE ECONOMIC IMPACT ON SMALL BUSINESSES**

No reasonable alternatives were identified by the Board and no reasonable alternatives identified by the Board or otherwise brought to its attention would lessen the impact on small businesses.

**SPECIFIC TECHNOLOGY OR EQUIPMENT**

This proposal will not mandate the use of specific technologies or equipment.

**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.

**Economic Impact Analysis**

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. The proposal adds a provision to ensure that utility poles and/or pole sections are securely supported during pole removal operations. The proposal is administrative and procedural in nature and is not inconsistent with industry practice. The proposal does not encumber the employer to incur added costs by having to purchase or otherwise acquire special equipment or tools.
Therefore, the adoption of the proposed amendments to these standards 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.

This regulatory proposal is intended to provide worker safety at places of employment in California.

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 standard 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, this standard 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.)

This proposed standard does not require local agencies to carry out the governmental function of providing services to the public. Rather, the standard requires local agencies to take certain steps to ensure the safety and health of their own employees only. Moreover, this proposed standard
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.)

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

**EFFECT ON SMALL BUSINESSES AND RESULTS OF THE ECONOMIC IMPACT ASSESSMENT**

The Board has determined that the proposed amendments may affect small businesses. However, no economic impact is anticipated. The proposal is consistent with utility company safe work practices and procedures.

**ALTERNATIVES THAT WOULD AFFECT PRIVATE PERSONS**

No reasonable alternatives have been identified by the Board or have otherwise been identified and brought to its attention that would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.