

**OCCUPATIONAL SAFETY  
AND HEALTH STANDARDS BOARD**

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**Attachment No. 3****INITIAL STATEMENT OF REASONS**

## CALIFORNIA CODE OF REGULATIONS

TITLE 8, Chapter 4, Subchapter 7, Article 15, Section 3482  
of the General Industry Safety Orders (GISO).

**Bulk Storage of Loose Material****PROBLEM ADDRESSED BY PROPOSED ACTION**

Section 3482 of the General Industry Safety Orders contains regulations pertaining to the bulk storage of loose material. The regulation addresses the issue of employees working on piles of loose materials and protecting them from the hazards of becoming engulfed by stored, piled material or having their bodies entrapped as a result of a cave-in.

Section 3482 requires employers to prohibit employees from working on or over loose material until the employee has been instructed in the hazards involved in and the precautions that must be taken to prevent being caught in caved-in material. Such methods, as outlined in subsections (b) through (f), include but are not limited to: special walkways, platforms, hoists, and body harnesses with attached lifeline. In addition, Section 3482 states that no employee shall be required or permitted to work or climb on granular or free flowing (loose) material piled on a level deck or on the ground unless the employer has made provisions for safe access to and egress from the piled material and that protection from engulfment/entrapment hazards is provided as described in subsection 3482(b).

Subsection (b) requires fuel houses, silos, bins, bunkers, hoppers and similar structures to be constructed or equipped with tunnels, chains, mechanical diggers, vibrators or other effective means of removing material so that employees are not required to work where the hazard of engulfment or entrapment exists. Subsection (b) also provides the option that platforms or walkways be provided and requires that employees remain on such structures while working over loose material within the aforementioned containers unless the employees are protected as required by subsections (c) or (d). Subsection (b) contains an outdated Title 24 building standard reference which has since been replaced in Title 24 with language essentially verbatim to what already exists in subsection (b). Thus, Board staff proposes to update the building standard reference and make minor editorial revisions to this subsection.

Subsection (e) requires concrete bulk storage bins, containers, or silos to have a conical or tapered bottom with a mechanical or pneumatic means of starting the flow of material. Staff learned in the course of the evaluation of OSHSB Variance File No. 98-V-034, that subsection

(e) contains an obsolete Title 24 building standard reference. Therefore, Board staff proposes to delete the unnecessary requirement in existing subsection (e) and re-letter existing subsection (f) as (e) consistent with Title 8 format. In addition, staff proposes to make editorial revisions to subsections (b) and (e) for clarity purposes.

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

This proposed rulemaking action contains numerous nonsubstantive, editorial, reformatting of subsections, and grammatical revisions. These nonsubstantive revisions are not all discussed in this Informative Digest. However, these proposed revisions are clearly indicated in the regulatory text in underline and strikeout format. In addition to these nonsubstantive revisions, the following actions are proposed:

#### **Section 3482. Bulk Storage of Loose Material.**

Section 3482 is comprised of six subsections containing requirements addressing measures to prevent accidental employee engulfment/entrapment caused by piled material and include: instruction requirements for employees who must work on piles of loose materials; the use of mechanical means/methods of moving stored material out of bins, silos, fuel houses, bunkers, etc.; the means to control or stop the flow of materials; the use of platforms or walkways; the use of hoists to support and lift the employee working on piles; and the use of boatswain's chairs, body harnesses or safety belts with lifelines. In addition, this Section requires all concrete storage bins, containers, and silos to be equipped with conical or tapered bottoms and a means of starting the flow of material. This Section also contains outdated Title 24 references.

Revisions are proposed in subsection (b) to delete the phrase "...such a manner as to restrict breathing..." and to replace the outdated Title 24, Part 2, Section 2-1134(a) reference with the current reference found in Section 441A. The proposed revisions are necessary to clarify that all entrapments and engulfments pose a hazard and not just those that restrict breathing and to clarify which current Title 24 regulation corresponds to the requirements contained in subsection (b).

A revision is proposed to delete subsection (e) and re-letter the remaining subsections consistent with Title 8 format. The proposed revision is necessary to eliminate the outdated Title 24, Part 2, Section 2-1134(c) reference requiring conical or tapered bottoms, as this is no longer a Title 24 Building Code requirement, and to maintain consistency between existing Title 24 building standards and Title 8 with regard to the construction of bulk storage structures.

Revisions are proposed for subsection (f) to re-letter it as subsection (e) and add the term "engulfment/entrapment" before the word "hazards". The proposed editorial revisions are necessary to clarify the hazards addressed in the regulation and the requirements contained in this subsection.

### **DOCUMENTS RELIED UPON**

- 1994 Uniform Building Code, Volume 1, 1995 California Building Code, Division 5, Section 441A, Bins, Bunkers, Hoppers, Fuel Houses, Silos and Similar Structures, page 1-83.44.
- Proposed Decision, OSHSB Variance File No. 98-V-034, Farmers' Rice Cooperative, adoption date: March 18, 1999.

These documents are available for review during normal business hours at the Standards Board Office located at 2520 Venture Oaks Way, Suite 350, Sacramento, California.

### **IDENTIFIED ALTERNATIVES THAT WOULD LESSEN ADVERSE IMPACT ON SMALL BUSINESSES**

No adverse impact on small businesses is anticipated from the implementation of the proposed amendments. The proposal merely updates one building standard reference and eliminates another obsolete building standard reference and provides minor editorial revisions for clarity purposes. No new or added requirements to the body of existing Title 8 regulations have been imposed. Therefore, no alternatives which would lessen the impact on small businesses have been identified.

### **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. Board staff has not identified any state agency that utilizes concrete storage structures such as silos or requires employees to walk on or work from piled material.

#### **Impact on Housing Costs**

The proposal will not significantly affect housing costs.

#### **Impact on Businesses**

This proposal will not result in a significant adverse economic impact on businesses, including the ability of California businesses to compete with businesses in other states.

**Cost Impact on Private Persons or Entities**

The proposal will not require private persons or entities to incur additional costs in complying with the proposal.

**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 non-discretionary costs or savings on local agencies.

**DETERMINATION OF MANDATE**

The Occupational Safety and Health Standards Board has determined that the proposed regulations do not impose a local mandate. 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, these regulations do 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.)

These 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, these 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.

**PLAIN ENGLISH STATEMENT**

It has been determined that the proposal may affect small business. The express terms of the proposal written in plain English have been prepared by the Board pursuant to Government Code Sections 11342(e) and 11346.2(a)(1) and are available from the agency contact person named in the notice. The informative digest for this proposal constitutes a plain English overview.

### **ASSESSMENT**

The adoption of the proposed amendments to these regulations 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.

### **ALTERNATIVES THAT WOULD AFFECT PRIVATE PERSONS**

No alternatives considered by the Board 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.