

**OCCUPATIONAL SAFETY  
AND HEALTH STANDARDS BOARD**

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**FINAL STATEMENT OF REASONS**

## CALIFORNIA CODE OF REGULATIONS

TITLE 8: Division 1, Chapter 4, Subchapter 7, Article 25, Section 3657  
of the General Industry Safety Orders

**Elevating Employees with Lift Trucks****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.

**Summary and Response to Oral and Written Comments:****I. Written Comments**

**Mr. Ken Nishiyama Atha, Regional Administrator – Region IX, United States Department of Labor, Occupational Safety and Health Administration, by letter dated November 15, 2010.**

**Comment:**

Mr. Atha stated that the proposal regarding Section 3657 does not include all the federal requirements for lifting employees using Low and High Lift Trucks and Rough Terrain Fork Lifts as found in the American National Standards (ANSI) B56.1 and B56.6 standards. Therefore, it is federal OSHA's opinion that this proposal is not commensurate with the federal standards for this issue.

**Response:**

This letter is superseded by the letter from Mr. Van Howell, CPS, United States Department of Labor, Occupational Safety and Health Administration, by letter dated February 28, 2011, which stated that Federal OSHA Region IX has re-evaluated its November 15, 2010 advisory opinion and has determined following discussion with Board staff and consideration of additional information, that the proposal is commensurate with federal standards for this issue.

The Board acknowledges Region IX approval of the proposal as being commensurate with federal standards.

## II. Oral Comments at the November 18, 2010, Public Hearing in Costa Mesa, California

Board Member, Mr. Guy Prescott

Comment:

Mr. Prescott stated that language in subsections (j)(7) and (k)(5)(C) appear to be duplicative.

Response:

Proposed subsection (j)(7) would apply to all lift trucks used to elevate personnel, including vertical mast lift trucks and variable reach (boom type) rough terrain lift trucks. Existing subsection (j)(7) prohibits traveling with personnel on the work platform other than to make minor movements for final positioning of the platform. Because vertical mast lift trucks are limited as to their ability to position the platform while the truck is stationary, minor movement of the lift truck is allowed. The proposal would leave this provision unchanged but add an exception to permit minor movement of a variable reach rough terrain lift truck used for construction operations when positioning the platform along a straight line where the path of movement is free from excavations, holes, obstructions and debris. The proposed exception is necessary to allow employees on work platforms supported by variable reach lift trucks to perform construction activities such as nailing or installing materials on the side of a residential building without having to get on and off the work platform each time the truck is moved a minor distance to reposition the platform along a straight line. Note that subsection (k)(4) provides that each person on a work platform supported by a variable reach rough-terrain lift truck shall use a personal fall restraint system or positioning device system.

New proposed subsection (k)(5)(C) applies only to variable reach rough terrain lift trucks. It would prohibit traveling with personnel on the work platform. It would not allow minor movement of the truck for final positioning of the platform because that is not necessary with variable reach lift trucks. It would provide the same exception provided in subsection (j)(7) for the reason explained above.

Mr. Kevin Bland, Attorney, representing the Residential Contractors Association and the California Framing Contractors Association and representing Bruce Wick of the California Professional Association of Specialty Contractors.

Comment:

Mr. Bland expressed support for the proposal as written.

Response:

The Board thanks Mr. Bland for his support and participation in the rulemaking process.

Mr. Steve Johnson, Director of Safety and Compliance Services for the Associated Roofing Contractors of the Bay Area Counties.

Comment:

Mr. Johnson expressed support for the proposal as written.

Response:

The Board thanks Mr. Johnson for his support and participation in the rulemaking process.

ADDITIONAL DOCUMENTS RELIED UPON

None.

DOCUMENTS INCORPORATED BY REFERENCE

None.

DETERMINATION OF MANDATE

This regulation does 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 regulation. No alternative 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 adopted action.