

**OCCUPATIONAL SAFETY
AND HEALTH STANDARDS BOARD**

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**NOTICE OF PROPOSED MODIFICATION TO
CALIFORNIA CODE OF REGULATIONS**

**TITLE 8: Division 1, Chapter 4, Subchapter 17, Article 17, Section 7016(c),
of the Mine Safety Orders**

Brakes on Haulage Vehicles-Maintenance

Pursuant to Government Code Section 11346.8(c), the Occupational Safety and Health Standards Board (Standards Board) gives notice of the opportunity to submit written comments on the above-named standard in which modifications are being considered as a result of public comments and/or Standards Board staff consideration.

On December 13, 2007, the Standards Board held a Public Hearing to consider revisions to Title 8, Section 7016(c) of the Mine Safety Orders. The Standards Board received oral and written comments on the proposed revisions. The standard has been modified as a result of these comments and Standards Board consideration.

A copy of the full text of the standards as originally proposed and a copy of the modifications clearly indicated are attached for your information. In addition, a summary of all oral and written comments regarding the original proposal and staff responses is included.

Any written comments on these modifications must be received by February 19, 2008, at the Occupational Safety and Health Standards Board, 2520 Venture Oaks Way, Suite 350, Sacramento, California 95833. The standards will be scheduled for adoption at a future business meeting of the Standards Board.

The Standards Board's rulemaking files on the proposed action are open to public inspection Monday through Friday, from 8:00 a.m. to 4:30 p.m., at the Standards Board's office.

Inquiries concerning the proposed changes may be directed to the Executive Officer, Marley Hart, at (916) 274-5721.

**OCCUPATIONAL SAFETY AND HEALTH
STANDARDS BOARD**

Original signed by

Date: January 30, 2008

Marley Hart, Executive Officer

STANDARDS AS ORIGINALLY PROPOSED

**STANDARDS PRESENTATION
TO
CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD**

PROPOSED STATE STANDARD,
TITLE 8, DIVISION 1, CHAPTER 4

Amend Section 7016 to read as follows:

§7016. Haulage Vehicle, Construction and Maintenance.

(c) (9-3) All haulage vehicles, including trailers, shall be equipped with brakes or other holding device adequate to hold such vehicle with the maximum load on the maximum grade on which it is used. Brakes shall be maintained in good condition, inspected and maintained as recommended by the manufacturer where such recommendations are available.

NOTE: Authority cited: Section 142.3, Labor Code. Reference: Section 142.3, Labor Code.

PROPOSED MODIFICATIONS
(Modifications are indicated in bold,
double underline wording for new language,
and bold, double strikeout for deleted language.)

**STANDARDS PRESENTATION
TO
CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD**

PROPOSED STATE STANDARD,
TITLE 8, DIVISION 1, CHAPTER 4

Amend Section 7016 to read as follows:

§7016. Haulage Vehicle, Construction and Maintenance.

(c) (9-3) All haulage vehicles, including trailers, shall be equipped with brakes or other holding device adequate to hold such vehicle with the maximum load on the maximum grade on which it is used. Brakes shall be **inspected and** maintained in good condition, ~~inspected and maintained~~ as recommended by the **vehicle** manufacturer ~~where such recommendations are available~~. **If the vehicle manufacturer's recommendations are no longer available, the required inspection, maintenance and repairs shall be performed by a qualified person.**

NOTE: Authority cited: Section 142.3, Labor Code. Reference: Section 142.3, Labor Code.

SUMMARY AND RESPONSE TO COMMENTS

SUMMARY AND RESPONSE TO WRITTEN AND ORAL COMMENTS

I. Written Comments

Mr. Bradley D. Closson, CRAFT Forensic Services, by letter dated October 26, 2007

Comment:

Mr. Closson stated the proposal requires clarification because it is unclear what manufacturer's recommendation is to be followed, the vehicle manufacturer, brake manufacturer or otherwise. He also indicates that the proposal as written does not require the maintenance of brakes in good condition if the manufacturer's recommendations are unavailable.

Response:

The Board agrees with Mr. Closson and proposes to modify the proposal by adding the word "vehicle" before "manufacturer," to delete the phrase "where such recommendations are available" and to add the "qualified person" requirement in the event that manufacturer recommendations are unavailable.

Ms. Nancy Moorhouse, Vice President, Director of Safety, Teichert Construction, by letter dated November 19, 2007

Comment:

Ms. Moorhouse stated she supports the proposed modifications to Section 7016(c) to be consistent with Section 3328(b).

Response:

The Board acknowledges Ms. Moorhouse's support for the proposal and thanks her for her comment and participation in the Board's rulemaking process.

Ms. Teresa A. Harrison, Acting Regional Administrator, Region IX, U.S. Department of Labor, by letter dated December 3, 2007

Comment:

Ms. Harrison stated that Federal OSHA has no specific guidance to ensure brakes are suitable to stop the vehicle. Therefore, the proposed standard is more effective than the federal standard.

Response:

The Board notes federal OSHA's opinion that the proposed amendments to Section 7016(c) are more effective than the counterpart federal standard.

II. Oral Comments

Oral comments received at the December 13, 2007, Public Hearing in Sacramento, California.

Dr. Jonathan Frisch, Occupational Safety and Health Standards Board member

Comment:

Dr. Frisch expressed concern that the phrase “where such recommendations are available” is ambiguous and unnecessary.

Response:

The Board concurs and as noted in the response to Bradley Closson’s written comment, proposes to clarify and modify the proposal to delete the phrase “where such recommendations are available.”