

**OCCUPATIONAL SAFETY
AND HEALTH STANDARDS BOARD**

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NOTICE OF PROPOSED MODIFICATION TO
CALIFORNIA CODE OF REGULATIONS

TITLE 8: Chapter 4, Subchapter 4, Article 29, Section 1709
of the Construction Safety Orders

Maximum Allowable Load

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 standards in which modifications are being considered as a result of public comments and/or Standards Board staff consideration.

On August 19, 2010, the Standards Board held a Public Hearing to consider revisions to Title 8, Section 1709 of the Construction Safety Orders. The Standards Board received oral and written comments on the proposed revisions. The standards have been modified as a result of these comments and Standards Board consideration.

Section 1709(a). General Requirements.

This section contains general requirements for the erection and construction of structures, including, but not limited to, load bearing capacity, bracing, wood floor construction, and erection guides for trusses and beams over 25 feet long.

Existing subsection (a) prohibits any building, structure or part thereof, or any temporary support or scaffolding from being overloaded in excess of its designed capacity.

Modifications are proposed. First, the proposal is modified so that the involvement of a qualified person is required only when the load will exceed the design load strength. Second, the term "design load strength" is defined. The proposed modifications are necessary so that employers will not have to obtain the opinions of qualified persons in situations where those opinions do not enhance safety, namely when the load is within the range of loads that the structure (or portion of the structure) is designed to bear. Also, the definition of "design load strength" eliminates ambiguity that otherwise would exist.

A copy of the revised text with these modifications clearly indicated is attached for your information.

Any written comments on these modifications must be received by 5:00 p.m. on November 1, 2010, at the Occupational Safety and Health Standards Board's Office, 2520 Venture Oaks Way, Suite 350, Sacramento, California 95833 or submitted by fax to (916) 274-5743 or e-mailed to

oshsb@dir.ca.gov. This proposal will be scheduled for adoption at a future Business Meeting of the Occupational Safety and Health 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

Date: October 12, 2010

Marley Hart, Executive Officer

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

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

Attachment No. 1

Page 1 of 1

PROPOSED STATE STANDARD,
TITLE 8, CHAPTER 4

Amend Section 1709(a) to read:

§1709. General Requirements.

(a) No building, structure, or part thereof, or any temporary support or scaffolding in connection therewith shall be ~~loaded in excess of its designed capacity~~ subjected to any load **beyond its design load strength**, unless the employer determines, based on information received from a qualified person who is qualified in structural design, that the structure or portion of the structure is capable of safely supporting the load. **For the purpose of subsection (a) the design load strength refers to the load bearing capacity of a structural member(s) computed on the basis of the allowable stresses which are assumed in the design.**

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

Kevin D. Bland, Esq., Hines Smith Carder Dincel Bland, LLP by e-mail dated August 19, 2010

Comment: Mr. Bland stated that upon review of the proposal, the term “any load” is problematic because it is too broad and could restrict construction operations unreasonably. Mr. Bland proposed the term “any excessive load” and stated that without this revision to the proposal neither the California Framing Contractor’s Association nor the Residential Contractor’s Association could support the proposal.

Response: In response to Mr. Bland’s concern and that of Mr. Walker stated below, the proposal has been modified to address stakeholder concerns by qualifying the phrase “any load” and defining the term “design load strength.” The Board thanks Mr. Bland for his participation in the Board’s rulemaking process.

Ken Nishiyama Atha, Regional Administrator, Occupational Safety and Health Administration, by letter dated August 12, 2010

Comment: Mr. Nishiyama Atha stated that following the review, the standard as proposed is at least as effective as the federal standards.

Response: The Board acknowledges Region IX’s determination that the proposal is at least as effective as the federal standards.

II. Oral Comments

Oral comments received at the August 19, 2010, Public Hearing in Sacramento, California.

Chris Walker, The California Sheet Metal and Air Conditioning Contractor’s National Association

Comment: Mr. Walker was concerned over the use of the words “any load” in the proposal meaning that any load cannot be placed on structures unless the employer consults with someone who has structural engineering expertise. Mr. Walker stated this would be onerous and problematic to construction industry employers.

Response: The Board concurs with Mr. Walker’s concern and the proposal is modified accordingly. See also the response to Mr. Bland’s e-mail comment dated August 19, 2010, discussed above.