

**OCCUPATIONAL SAFETY
AND HEALTH STANDARDS BOARD**

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Attachment No. 2

INITIAL STATEMENT OF REASONS

CALIFORNIA CODE OF REGULATIONS

TITLE 8: GENERAL INDUSTRY SAFETY ORDERS
Chapter 4, Subchapter 7, Article 25, Section 3656(e)

Order Pickers and Stock Pickers**PROBLEM ADDRESSED BY PROPOSED ACTION**

Section 3656 of the General Industry Safety Orders (GISO) addresses requirements pertaining to the design and operation of order pickers and stock pickers. These devices are types of high lift industrial trucks that are used to stack and tier materials and are typically found in warehouses. Employees stand on a platform that can be mechanically elevated to working levels up to 25 feet above the ground or floor. Section 3656(d) requires that a safe work platform be provided with standard guardrails on all open or exposed sides. Section 3656(e) requires that when the use of guardrails is impractical due to the nature of the work being performed or when overhead clearance restrictions are present, employees are to be provided with and use a safety belt or harness with lanyard as a means of fall protection.

Due to the repeal of the use of body/safety belts as part of a fall arrest system in fall protection regulations contained in the GISO and the Construction Safety Orders (CSO), Board staff has determined that Section 3656(e) needs to be amended to clarify that a body/safety belt is not to be used as part of a fall arrest system when working on order pickers or stock pickers. Although a body/safety belt may be used with a lanyard as part of a fall restraint or positioning device system, it cannot be used as part of a fall arrest system. Should an employer choose to have an employee use a fall arrest system, the employee must utilize a body harness with a lanyard to limit a free fall to no more than 4 feet. This proposal would not preclude an employee from wearing a body harness as part of a fall restraint or positioning device system.

Board Staff has discussed the proposed language with a representative of the Division of Occupational Safety and Health who concurred with Board staff's rationale for amending Section 3656(e) and the proposed language.

SPECIFIC PURPOSE AND FACTUAL BASIS OF PROPOSED ACTION

Section 3656. Order Pickers and Stock Pickers.

Existing Section 3656 contains regulations addressing the design and use of order and stock pickers including, but not limited to: maximum horizontal speed of the picker, elevation of the platform while the order picker or stock picker is in motion, use of warning lights, employee fall protection, platform design, and use of guidance systems in storage access aisles to prevent collisions.

Subsection (e) requires that whenever it is impractical to utilize standard guardrails, an employee shall use a safety belt or harness with lanyard that will limit a free fall to a maximum of 4 feet.

A revision is proposed to require an employee to utilize a personal fall protection system (i.e., fall arrest, fall restraint or positioning device system) whenever the use of a standard guardrail is impractical and the employee is exposed to a fall of 4 feet or more. The proposed revision will cross-reference both existing GISO definitions for these approved personal fall protection systems, as well as instructions for the proper use of these systems in the CSO.

The proposed revision is necessary to clearly indicate to the employer that the use of body/safety belts and lanyards as part of a fall arrest system is prohibited. In addition, the proposal is necessary to clarify when and how these fall protection devices are to be used making it consistent with existing GISO and CSO fall protection requirements.

DOCUMENTS RELIED UPON

None.

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 proposed amendments are technical, clarifying editorial revisions which have no new or added effect upon the employer's operations. The proposal merely clarifies when and how personal fall protection equipment is to be used and references the types of personal fall protection equipment available and acceptable for use. 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 (see "Identified Alternatives that Would Lessen Impact on Small Businesses"). The proposal merely

consists of technical, clarifying language which is designed to render personal fall protection requirements for order pickers and stock pickers consistent with other Title 8 fall protection requirements already in effect.

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. The proposed amendment consists of technical and/or clarifying changes which do not have a new or added effect upon the employer with respect to his or her operations. Employers who operate order and/or stock pickers will still need to provide personal fall protection to employees working 4 feet or more above the ground or floor, but will be permitted to use a fall arrest, restraint or positioning device system as defined in the GISO.

Costs Impact on Private Persons or Entities

The proposal will not require 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 nondiscretionary costs or savings on local agencies.

DETERMINATION OF MANDATE

The Occupational Safety and Health Standards Board has determined that the proposed regulation does 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, this regulation 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.)

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

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

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 this regulation 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.