

**OCCUPATIONAL SAFETY  
AND HEALTH STANDARDS BOARD**

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SECOND NOTICE OF PROPOSED MODIFICATIONS TO  
CALIFORNIA CODE OF REGULATIONS

TITLE 8: Division 1, Chapter 4, Subchapter 7,  
Article 25, Section 3650 of the General Industry Safety Orders

**Powered Industrial Trucks - Excessive Loads**

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 further modifications are being considered.

On August 15, 2013, the Standards Board held a Public Hearing to consider revisions of Title 8, Section 3650 of the General Industry Safety Orders. The Standards Board received written and oral comments on the proposed revisions. The regulation was modified as a result of these comments, and on September 9, 2013, a 15-Day Notice of Proposed Modifications was issued.

In response to comments to the 15-Day Notice, and a directive from Board Members during the Business Meeting portion of the Board Meeting held on November 21, 2013, further modifications are now proposed.

A copy of the regulations with the further modifications clearly indicated is attached for your information. In addition, a summary of all comments regarding this proposal and responses is included.

Pursuant to Government Code Section 11346.8(d), notice is also given of the opportunity to submit comments concerning the addition to the rulemaking file of the following document relied upon:

- Summary of Public Meeting/Public Hearing/Business Meeting, held November 21, 2013, in Sacramento, California.

Any written comments on these modifications must be received by 5:00 p.m. on, February 7, 2014, at the 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](mailto:oshsb@dir.ca.gov). This proposal will be scheduled for adoption at a future Business Meeting of the Standards Board.

The Standards Board's rulemaking file on the proposed action is 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 Marley Hart, Executive Officer at (916) 274-5721.

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

OCCUPATIONAL SAFETY AND HEALTH  
STANDARDS BOARD

Date: January 21, 2014

Marley Hart, Executive Officer

## **Proposed Further Modifications Second 15-Day Notice**

(Further modifications for new language are shown in **bold**, and double underscored and deleted language are shown in **bold**, and double strike-out)

## **Proposed Modifications First 15-Day Notice**

(Modifications for new language are shown in **bold** and underscored and deleted language are shown in **bold** and strike-out)

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

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

Amend Section 3650 to read:

§3650. Industrial Trucks. General.

(1) Loads ~~of excessive width, length or height~~ shall be so balanced, braced, **and or** secured as to prevent tipping and falling. **Loads shall be secured against displacement in accordance with the industrial truck manufacturer's recommendations. Only stable or safely arranged loads shall be handled.** ~~Caution shall be exercised when handling off-center loads which cannot be centered.~~

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

## **SUMMARY AND RESPONSES TO COMMENTS**

## **SUMMARY AND RESPONSES TO COMMENTS RESULTING FROM THE FIRST 15-DAY NOTICE OF PROPOSED MODIFICATIONS**

### I. Written Comments

Mr. David Shiraishi, Area Director, Region IX, OSHA, U.S. Department of Labor, by letter dated September 26, 2013.

#### Comment:

Mr. Shiraishi stated that Federal OSHA has reviewed the modified proposal and found it to be commensurate with the federal standard.

#### Response:

The Board thanks Mr. Shiraishi for his comments.

Mr. Gary Cross, Dunaway & Cross, Counsel to the Industrial Truck Association, in an e-mail, dated September 20, 2013.

#### Comment:

Mr. Cross stated that the International Truck Association supports the proposed modifications.

#### Response:

The Board thanks Mr. Cross for his comments.

Mr. William Jackson, Occupational Safety and Health Standards Board Member, in an email dated September 16, 2014.

#### Comment:

Mr. Jackson stated that he was concerned that the inclusion of the language from the federal standard does not provide additional clarity. Specifically, Mr. Jackson is concerned that neither forklift operators, employers nor enforcement personnel could agree on what action is required or prohibited by the newly proposed last sentence “Caution shall be exercised when handling off-center loads which cannot be centered.” He does not think that even OSHA could explain what that sentence requires of an employer. Mr. Jackson believes the Board must specify what it means when it directs “caution shall be exercised.”

#### Response:

Board staff agrees with the concerns of Mr. Jackson and the proposal will be further modified to delete the provision requiring caution when handling off-center loads which cannot be centered.