

**OCCUPATIONAL SAFETY
AND HEALTH STANDARDS BOARD**

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**TITLE 8. CALIFORNIA CODE OF REGULATIONS**

General Industry Safety Orders (GISO)
Section 3650(t)(17)
(Published on October 28, 2016)

Powered Industrial Truck Operation - Exception

NOTICE IS HEREBY GIVEN that the Occupational Safety and Health Standards Board (Board) proposes to adopt, amend or repeal the foregoing provisions of Title 8 of the California Code of Regulations in the manner described in the Informative Digest, below.

PUBLIC HEARING

The Board will hold a public hearing starting at 10:00 a.m. on **December 15, 2016**, in the **Auditorium** of the **State Resources Building, 1416 9th Street, Sacramento**. At this public hearing, any person may present statements or arguments orally or in writing relevant to the proposed action described in the Informative Digest.

WRITTEN COMMENT PERIOD

In addition to written or oral comments submitted at the public hearing, written comments may also be submitted to the Board's office. The written comment period commences on **October 28, 2016**, and closes at 5:00 p.m. on **December 15, 2016**. Comments received after that deadline will not be considered by the Board unless the Board announces an extension of time in which to submit written comments. Written comments can be submitted as follows:

By mail to Sarah Money, Occupational Safety and Health Standards Board, 2520 Venture Oaks Way, Suite 350, Sacramento, CA 95833; or

By fax at (916) 274-5743; or

By e-mail sent to oshsb@dir.ca.gov.

AUTHORITY AND REFERENCE

Labor Code Section 142.3 establishes the Board as the only agency in the State authorized to adopt occupational safety and health standards. In addition, Labor Code Section 142.3 requires the adoption of occupational and health standards that are at least as effective as federal occupational safety and health standards.

INFORMATIVE DIGEST OF PROPOSED ACTION/POLICY STATEMENT **OVERVIEW**

Title 8, Section 3650 contains design and construction standards addressing powered industrial trucks (PITs). Section 3650, subsection (t) contains 33 operating rules and instructions. This rulemaking addresses the exception to (t)(17) which has allowed the driver to be out of the driver's seat with the forks raised no more than 42 inches for loading and unloading above the level where the operator/loaders are standing. The exception was initially developed and adopted in 1996 at the request of the Standards Board's chairman following the granting of a variance request for a similar exception (OSHSB Variance File No. 95-V-004). It was determined that allowing the forks to be elevated when the PIT operator was dismounted and loading/unloading the PIT would enhance employee safety because there would be less risk of injury due to repetitive bending, stooping, lifting, and twisting.

It has been determined that a safety hazard exists when the forks are elevated more than 42 inches above the level on which the PIT is located. If loaders are standing on an elevated surface, the forks could be raised to an unsafe level placing workers at risk should the load or the PIT become unstable.

The Board evaluated the proposed regulations pursuant to Government Code section 11346.5(a)(3)(D) and has determined that the regulations are not inconsistent or incompatible with existing state regulations. This proposal is part of a system of occupational safety and health regulations. The consistency and compatibility of that system's component regulations is provided by such things as: (1) the requirement of the federal government and the Labor Code to the effect that the State regulations be at least as effective as their federal counterparts, and (2) the requirement that all state occupational safety and health rulemaking be channeled through a single entity (the Standards Board).

Section 3650. Industrial Trucks. General.

Section 3650 contains design and construction standards addressing PITs, the operation by authorized drivers, and 33 operating rules and instructions (subsection t). Subsection (t)(17) states that "when the operator of an industrial truck is dismounted and within 25 feet (7.6 meters) of the truck which remains in the operator's view, the load engaging means shall be fully lowered, controls placed in neutral, and the brakes set to prevent movement". The exception to (t)(17) states "forks on fork-equipped industrial trucks may be in the raised position for loading and unloading if the forks are raised no more than 42 inches above the level where the operator/loaders are standing, and the power is shut off, controls placed in neutral and the brakes set. If on an incline, the wheels shall be securely blocked".

Amendments are proposed to specify that PIT forks may be in the raised position for loading and unloading by the operator, if the forks are raised no more than 42 inches above the same level on which the PIT is located rather than where the operator/loaders are standing. Further amendments for consistency are proposed to replace the term "forks" with the more inclusive term "load engaging means" which refers to any part of the PIT that comes in contact with the load. This term is also used in subsection (t)(17). The proposal also requires the operator to be in the driver's seat of the PIT when not involved with loading/unloading operations.

The proposed amendments will reduce the risk of the PIT becoming unstable and materials falling and striking employees. It will clarify that loads are not to be elevated more than 42 inches above the level of the PIT, which would subject the PIT and load to tipping. It will ensure the PIT operator will remain in the driver's seat to oversee the process and ensure control of the PIT if not engaged in the actual loading/unloading operation.

Anticipated Benefits

The benefits of the proposal include but are not limited to:

1. clarifying to employer the need for the loading/unloading process to take place at the same level the PIT is located with the operator in attendance.
2. ensuring PITs are not left unattended causing struck-by/rollover accidents from inadvertent movement from the units.
3. lessening the hazard from materials falling, property damage, and additional injuries to co-workers and third parties.

DISCLOSURES REGARDING THE PROPOSED ACTION

Mandate on Local Agencies and School Districts: None.

Cost or Savings to State Agencies: None.

Cost to any Local Government or School District which must be Reimbursed in Accordance with Government Code Sections 17500 through 17630: None.

Other Nondiscretionary Cost or Savings Imposed on Local Agencies: None.

Cost or Savings in Federal Funding to the State: None.

Cost Impacts on a Representative Private Person Or Business:

The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Statewide Adverse Economic Impact Directly Affecting Businesses and Individuals: Including the Ability of California Businesses To Compete:

The Board has made an initial determination that this proposal will not result in a significant, statewide adverse economic impact directly affecting businesses/individuals, including the ability of California businesses to compete with businesses in other states. The proposed amendment is necessary to ensure PITs are operated in a safe manner in accordance with established operating rules.

Significant Affect on Housing Costs: None.

DETERMINATION OF MANDATE

The Occupational Safety and Health Standards Board has determined that the proposed standard does not impose a local mandate. There are no costs to any local government or school district which must be reimbursed in accordance with Government Code Sections 17500 through 17630.

SMALL BUSINESS DETERMINATION

The Board has determined that the proposed amendment may affect small businesses. However, no economic impact is anticipated. The proposal adds requirements to reduce injuries by ensuring PITs are not left unattended and that employees are unloading and loading materials safely.

RESULTS OF THE ECONOMIC IMPACT ASSESSMENT/ANALYSIS

The proposed regulation will not have any effect on the creation or elimination of California jobs or the creation of new businesses or the elimination of existing California businesses or affect the expansion of existing California businesses. Therefore, the rulemaking will not impact the following:

- The creation or elimination of jobs within the State of California,
- The creation of new businesses or the elimination of existing businesses within the State of California,
- The expansion of businesses currently doing business within the State of California.

BENEFITS OF THE PROPOSED ACTION

Benefits of the proposed action are as follows:

- The risk of the powered industrial truck becoming unstable due to a load that has been excessively elevated is averted and ensures workers will not be struck by and/or crushed by the load and truck as a result of tipping and toppling.
- The proposed action will ensure that it is clear to the regulated public that elevating the forks for loading and unloading is never to exceed 42 inches above the level the industrial truck is parked on.
- The proposal further clarifies that the operator will remain present in control of the industrial truck when not involved in loading and unloading to prevent vehicle instability.
- There are no anticipated benefits to the state's environment.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code Section 11346.5(a)(13), the Board must determine that no reasonable alternative it considered to the regulation or that has otherwise been identified and brought to its attention would either 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 or would be more cost-effective to affected private persons and equally

effective in implementing the statutory policy or other provision of law than the proposal described in this Notice.

The Board invites interested persons to present statements or arguments with respect to alternatives to the proposed regulation at the scheduled public hearing or during the written comment period.

CONTACT PERSONS

Inquiries regarding this proposed regulatory action may be directed to Marley Hart (Executive Officer) and the back-up contact person is Michael Manieri (Principal Safety Engineer) at the Occupational Safety and Health Standards Board, 2520 Venture Oaks Way, Suite 350, Sacramento, CA 95833; (916) 274-5721.

AVAILABILITY OF STATEMENT OF REASONS, TEXT OF THE PROPOSED REGULATIONS AND RULEMAKING FILE

The Board will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations, the Initial Statement of Reasons, supporting documents, or other information upon which the rulemaking is based. Copies may be obtained by contacting Ms. Hart or Mr. Manieri at the address or telephone number listed above.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After holding the hearing and considering all timely and relevant comments received, the Board may adopt the proposed regulations substantially as described in this notice. If the Board makes modifications which are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public at least 15 days before the Board adopts the regulations as revised. Please request copies of any modified regulations by contacting Ms. Hart or Mr. Manieri at the address or telephone number listed above. The Board will accept written comments on the modified regulations for at least 15 days after the date on which they are made available.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting Ms. Hart or Mr. Manieri at the address or telephone number listed above or via the internet.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

The Board will have rulemaking documents available for inspection throughout the rulemaking process on its web site. Copies of the text of the regulations in an underline/strikeout format, the Notice of Proposed action and the Initial Statement of Reasons can be accessed through the Standards Board's website at <http://www.dir.ca.gov/oshsb>.