

**OCCUPATIONAL SAFETY  
AND HEALTH STANDARDS BOARD**

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**NOTICE OF PUBLIC MEETING/PUBLIC HEARING/BUSINESS MEETING  
OF THE OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD  
AND NOTICE OF PROPOSED CHANGES TO TITLE 8  
OF THE CALIFORNIA CODE OF REGULATIONS**

Pursuant to Government Code Section 11346.4 and the provisions of Labor Code Sections 142.1, 142.2, 142.3, 142.4, and 144.6, the Occupational Safety and Health Standards Board of the State of California has set the time and place for a Public Meeting, Public Hearing, and Business Meeting:

**PUBLIC MEETING:** On **May 15, 2008**, at 10:00 a.m.  
in the County Administration Center, Room 310,  
1600 Pacific Highway, San Diego, California.

At the Public Meeting, the Board will make time available to receive comments or proposals from interested persons on any item concerning occupational safety and health.

**PUBLIC HEARING:** On **May 15, 2008**, following the Public Meeting,  
in the County Administration Center, Room 310,  
1600 Pacific Highway, San Diego, California.

At the Public Hearing, the Board will consider the public testimony on the proposed changes to occupational safety and health standards in Title 8 of the California Code of Regulations.

**BUSINESS MEETING:** On **May 15, 2008**, following the Public Hearing,  
in the County Administration Center, Room 310,  
1600 Pacific Highway, San Diego, California.

At the Business Meeting, the Board will conduct its monthly business.

**DISABILITY ACCOMMODATION NOTICE:** Disability accommodation is available upon request. Any person with a disability requiring an accommodation, auxiliary aid or service, or a modification of policies or procedures to ensure effective communication and access to the public hearings/meetings of the Occupational Safety and Health Standards Board should contact the Disability Accommodation Coordinator at (916) 274-5721 or the state-wide Disability Accommodation Coordinator at 1-866-326-1616 (toll free). The state-wide Coordinator can also be reached through the California Relay Service, by dialing 711 or 1-800-735-2929 (TTY) or 1-800-855-3000 (TTY-Spanish).

Accommodations can include modifications of policies or procedures or provision of auxiliary aids or services. Accommodations include, but are not limited to, an Assistive Listening System (ALS), a Computer-Aided Transcription System or Communication Access Realtime Translation (CART), a sign-language interpreter, documents in Braille, large print or on computer disk, and audio cassette recording. Accommodation requests should be made as soon as possible. Requests for an ALS or CART should be made no later than five (5) days before the hearing.

**OCCUPATIONAL SAFETY AND HEALTH  
STANDARDS BOARD**

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JOHN D. MACLEOD, Chairman

NOTICE OF PROPOSED CHANGES TO TITLE 8  
OF THE CALIFORNIA CODE OF REGULATIONS  
BY THE OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

Notice is hereby given pursuant to Government Code Section 11346.4 and Labor Code Sections 142.1, 142.4 and 144.5, that the Occupational Safety and Health Standards Board pursuant to the authority granted by Labor Code Section 142.3, and to implement Labor Code Section 142.3, will consider the following proposed revisions to Title 8, Construction Safety Orders and General Industry Safety Orders of the California Code of Regulations, as indicated below, at its Public Hearing on **May 15, 2008**.

1. TITLE 8:     **CONSTRUCTION SAFETY ORDERS**  
Division 1, Chapter 4, Subchapter 4, Article 14  
Sections 1604.24 and 1604.26  
**Construction Personnel Hoists (Car Top Operations)**
  
2. TITLE 8:     **GENERAL INDUSTRY SAFETY ORDERS**  
Division 1, Chapter 4, Subchapter 7, Article 25  
Section 3649  
**Definition of Agricultural Tractor**

Descriptions of the proposed changes are as follows:

1. **TITLE 8:**        **CONSTRUCTION SAFETY ORDERS**  
Division 1, Chapter 4, Subchapter 4, Article 14  
Sections 1604.24 and 1604.26  
**Construction Personnel Hoists (Car Top Operations)**

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

This rulemaking action was initiated by the Division of Occupational Safety and Health (Division). In its Memorandum to the Occupational Safety and Health Standards Board (Board) dated October 17, 2003, the Division indicated that amendments are proposed for the Construction Safety Orders (CSO), Section 1604.24(a) regarding car top operation of construction personnel hoists (CPHs) during inspections. The Division recommended amendments to address practices that have resulted in severe disabling and fatal injuries to construction personnel hoist operators and inspectors in California and elsewhere in the construction industry during car top operations.

The proposed amendments include modifying existing language that requires CPHs to be operated by an operator inside the car when an inspector is stationed on top of the car. In lieu of the existing requirements, the proposed amendments would require that car top operating devices be used during car top inspections and other activities such as maintenance, repairs, and tower erection and dismantling that require persons to be on the top of cars.

The proposal also provides consistency with industry practices for car top operations and with the recommendations of CPH manufacturers. Several other amendments are proposed to enhance safety for persons operating CPHs from the car top. Additionally, edits are made for clarity in the standards including a revision to the title of Section 1604.26.

#### **Section 1604.24. Operating Devices and Control Equipment.**

CSO Section 1604.24 contains a number of provisions for operating and control equipment that is required for the operation of CPHs.

#### **Subsection (a)(3).**

Existing subsection (a)(3) requires that when an inspector is stationed on top of a car in performance of his normal duties, the car shall be operated, when required, by an operator inside the car by means of the normal operating devices. The car must be operated in response to voice command of the inspector and operated only in the slowest speed. This subsection also contains provisions for a car top emergency stop button and guardrail specifications.

An amendment would require when persons are on top of the car for the purposes of inspection, maintenance, repair, tower erection and dismantling that the car would be operated by a competent authorized operator using car top operating devices. The effect of this amendment would be that an in-car operator would no longer be required for car top inspections and other car top operations listed above. Current requirements for voice command from the inspector to an in-car operator are proposed for deletion.

These amendments reflect current industry practices and manufacturer's recommendations. The proposed amendments are considered safer than existing requirements because the operator on the car top, in control of the car movement, can better identify hazards from the car top and avoid them. Accidents have occurred when there is miscommunication between the person on the top of the car and the operator inside the car. In addition, the proposal would require that the car be operated in the slowest speed during inspection and maintenance. The overall effect of these amendments will mitigate hazards for personnel during car top work.

Existing language in subsection (a)(3)(A) relating to the car top emergency stop button and guardrail requirements are relocated for clarity and formatting purposes to proposed new subsections (a)(3)(B) and (D) respectively.

#### **Subsection (a)(3)(B).**

Proposed new subsection (a)(3)(B) would require that car top operating devices conform to the requirements of existing subsection (a)(2) and that in-car operating devices are not functional when car top operation is selected. The proposal would relocate from existing subsection (b)(6), the requirement for an emergency stop button on the car top which would allow the operator to stop the car travel for any reason. This subsection would have the effect of ensuring safe design features for the controls. The proposal would also ensure that no one would operate the car from inside while an operator was stationed on top of the car doing inspection, repair or maintenance work as this could have serious or fatal consequences.

#### **Subsection (a)(3)(C).**

Proposed new subsection (a)(3)(C) would require car top operating devices to be located and arranged to prevent inadvertent exposure of the operator to hazards of contact with moving counterweights and stationary elements of the hoist tower, tower tie-ins, or adjacent structure. The advisory committee discussed that certain car top operations require exposure to hazards but that training and other procedures such as locking out and tagging out the power can reduce the possibility for injury. Advisory committee discussions also indicated that in the past on some hoist models, the car top controls have been mounted or fixed in locations (e.g., close to the guardrail perimeter) that require the operator to put hands or other body parts where they could inadvertently make contact with the moving counterweights or other stationary elements of the hoist tower and adjacent structure. The proposal would have the effect of promoting the use and location of controls that would reduce bodily exposure to these hazards.

#### **Subsection (a)(3)(D).**

Proposed new subsection (a)(3)(D) would relocate the requirement for guardrails from existing subsection (a)(3). The proposal would require the tops of cars to be enclosed by a standard guardrail and toeboard meeting the specifications of Section 3209 of the General Industry Safety Orders except that the proposal would permit the area between the car top and the midrail to be filled with screen material provided maximum openings will reject a ¾ inch diameter ball. The ¾ inch dimension is consistent with maximum openings permitted for hoistway doors in the ANSI A10.4-2007 consensus standard for CPHs. The proposed amendments provide clarity and would have no other effect upon the regulated public since guardrails are already required and hoist car tops are already equipped with toeboards.

### **Section 1604.24(b).**

Section 1604.24(b) contains standards related to electrical protective devices necessary for the safe operation of CPHs.

### **Subsection (b)(6).**

This subsection requires a stop switch on the top of hoist cars. The provisions in this subsection are proposed for deletion and relocation to proposed subsection (a)(3)(B) for clarity and formatting purposes. The remaining subsections are renumbered accordingly.

### **Section 1624.26. Inspection and Tests of Personnel Hoists.**

Section 1624.26 contains standards for hoist acceptance tests, periodic inspections and tests, and for operation of hoists. An amendment is proposed for clarity to add the words “and operation” to the title of this section to better reflect the provisions in subsection (c).

## **SPECIFIC TECHNOLOGY OR EQUIPMENT**

This proposal will not mandate the use of specific technologies or equipment. The proposal makes clarifying and technical revisions that are consistent with industry practice and the recommendations of personnel hoist manufacturers.

## **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.

### **Impact on Housing Costs**

The Board has made an initial determination that this proposal will not significantly affect housing costs.

### **Impact on Businesses**

The Board has made an initial determination that this proposal will not result in a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. Also, see the statement under the heading, “Specific Technology or Equipment.”

### **Cost Impact on Private Persons or Businesses**

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.

### **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 standards do not impose a local mandate. Therefore, 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, these standards do not constitute a “new program or higher level 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.)

These proposed standards do not require local agencies to carry out the governmental function of providing services to the public. Rather, the standards require local agencies to take certain steps to ensure the safety and health of their own employees only. Moreover, these proposed standards do 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.)

These proposed standards do not impose unique requirements on local governments. All state, local and private employers will be required to comply with the prescribed standards.

### **EFFECT ON SMALL BUSINESSES**

The Board has determined that the proposed amendments may affect small businesses. However, no economic impact is anticipated as the proposal makes clarifying and technical revisions only that are consistent with industry practice and the recommendations of personnel hoist manufacturers.

### **ASSESSMENT**

The adoption of the proposed amendments to these standards 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.

### **REASONABLE ALTERNATIVES CONSIDERED**

Our Board must determine that no reasonable alternative considered by the Board or that has otherwise been identified and brought to the attention of the Board would be more effective in carrying out the purpose for which the action is proposed or would be as effective as and less burdensome to affected private persons than the proposed action.

2. **TITLE 8:**      **GENERAL INDUSTRY SAFETY ORDERS**  
Division 1, Chapter 4, Subchapter 7, Article 25  
Section 3649  
**Definition of Agricultural Tractor**

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

The Occupational Safety and Health Standards Board (Board) initiates this rulemaking as the result of a staff initiated proposal, to amend Section 3649 of the General Industry Safety Orders (GISO). This section contains various definitions that pertain to industrial trucks, tractors, haulage vehicles and earthmoving equipment.

Board staff proposes to amend the definition of “agricultural tractor” to address tractors with more than two axles and 4 drive wheels. Newer agricultural tractors that are equipped with more than four drive wheels would be excluded from the existing definition of “agricultural tractor.”

This proposal is consistent with language in Section 3651(c) in Article 25 of the GISO, which pertains to the use of rollover protective structures for “wheel-type agricultural tractors”.

#### **Section 3649. Definitions in Article 25 of the General Industry Safety Orders.**

This proposal updates the definition of “agricultural tractor” in Section 3649 in order to avoid the possible unintended exclusion of agricultural tractors with more than four drive wheels.

This proposed amendment is consistent with the federal requirements in 29 CFR Section 1926.1002, which does not include the phrase “two or four wheel drive” in the definition of “agricultural tractor” and only uses the phrase “wheel-type vehicle.”

### **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 because this rulemaking only proposes to update the definition of “agricultural tractor” to include more than 4 drive wheels. The updating of this definition is consistent with the intent of the affected standard, and will not result in added cost or savings to state agencies.

#### **Impact on Housing Costs**

The Board has made an initial determination that this proposal will not significantly affect housing costs.

#### **Impact on Businesses**

The Board has made an initial determination that this proposal will not result in a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. The updating of this definition is consistent with the intent of the affected standard, and will not result in added costs or savings to state agencies. Additionally, this proposed rulemaking makes Section 3649 consistent with the requirements of 29 CFR 1910.1002(j), which renders California requirements, regarding the definition of agricultural tractor, at least as protective as the federal OSHA requirements.

### **Cost Impact on Private Persons or Businesses**

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

### **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 standards do not impose a local mandate. Therefore, 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 standard 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.)

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

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

### **EFFECT ON SMALL BUSINESSES**

The Board has determined that the proposed amendments will not affect small business as defined in Government Code Section 11342.610. The updating of this definition is consistent with the intent of the affected standard, and will not affect small businesses. Additionally, this proposed rulemaking makes Section 3649 consistent with the requirements of 29 CFR 1910.1002(j), which renders California requirements, regarding the definition of agricultural tractor, at least as protective as the federal OSHA requirements.

### **ASSESSMENT**

The adoption of the proposed amendments to this standard 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.

### **REASONABLE ALTERNATIVES CONSIDERED**

Our Board must determine that no reasonable alternative considered by the Board or that has otherwise been identified and brought to the attention of the Board would be more effective in carrying out the purpose for which the action is proposed or would be as effective as and less burdensome to affected private persons than the proposed action.

A copy of the proposed changes in STRIKEOUT/UNDERLINE format is available upon request made to the Occupational Safety and Health Standard Board's Office, 2520 Venture Oaks Way, Suite 350, Sacramento, CA 95833, (916) 274-5721. Copies will also be available at the Public Hearing.

An INITIAL STATEMENT OF REASONS containing a statement of the purpose and factual basis for the proposed actions, identification of the technical documents relied upon, and a description of any identified alternatives has been prepared and is available upon request from the Standards Board's Office.

Notice is also given that any interested person may present statements or arguments orally or in writing at the hearing on the proposed changes under consideration. It is requested, but not required, that written comments be submitted so that they are received no later than May 9, 2008. The official record of the rulemaking proceedings will be closed at the conclusion of the public hearing and written comments received after 5:00 p.m. on May 15, 2008, will not be considered by the Board unless the Board announces an extension of time in which to submit written comments. Written comments should be mailed to the address provided below or submitted by fax at (916) 274-5743 or e-mailed at [oshsb@dir.ca.gov](mailto:oshsb@dir.ca.gov). The Occupational Safety and Health Standards Board may thereafter adopt the above proposals substantially as set forth without further notice.

The Occupational Safety and Health Standards Board's rulemaking file on the proposed actions including all the information upon which the proposals are based are open to public inspection Monday through Friday, from 8:30 a.m. to 4:30 p.m. at the Standards Board's Office, 2520 Venture Oaks Way, Suite 350, Sacramento, CA 95833.

The full text of proposed changes, including any changes or modifications that may be made as a

result of the public hearing, shall be available from the Executive Officer 15 days prior to the date on which the Standards Board adopts the proposed changes.

Inquiries concerning either the proposed administrative action or the substance of the proposed changes may be directed to Marley Hart, Executive Officer, or Michael Manieri, Principal Safety Engineer, at (916) 274-5721.

You can access the Board's notice and other materials associated with this proposal on the Standards Board's homepage/website address which is <http://www.dir.ca.gov/oshsb>. Once the Final Statement of Reasons is prepared, it may be obtained by accessing the Board's website or by calling the telephone number listed above.

OCCUPATIONAL SAFETY AND HEALTH  
STANDARDS BOARD

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JOHN D. MACLEOD, Chairman

NOTICE OF ADOPTION OF  
REGULATIONS  
INTO TITLE 8, CALIFORNIA CODE OF REGULATIONS  
BY THE  
OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

After proceedings held in accordance with and pursuant to the authority vested in Sections 142, 142.3 and 142.4, of the Labor Code to implement, interpret, or make specific, the Occupational Safety and Health Standards Board, by a majority vote, adopted additions, revisions, or deletions to the California Code of Regulations as follows:

1. Title 8, Division 1, Chapter 4, Subchapter 7, General Industry Safety Orders, Article 2, Section 3228, **Number of Exits.**

Heard at the October 18, 2007, Public Hearing; adopted on January 17, 2008; filed with the Secretary of State on March 5, 2008; and will become effective on April 4, 2008.

2. Title 8, Division 1, Chapter 4, Subchapter 4, Construction Safety Orders, Articles 2 and 11, Sections 1504 and 1597, **Jobsite Vehicles-Scope and Application.**

Heard at the November 15, 2007, Public Hearing; adopted on January 17, 2008; filed with the Secretary of State on March 5, 2008; and will become effective on April 4, 2008.

3. Title 8, Division 1, Chapter 4, Subchapter 7, General Industry Safety Orders, Article 4, Section 3270, **Safe Access to Elevated Locations.**

Heard at the November 15, 2007, Public Hearing; adopted on January 17, 2008; filed with the Secretary of State on February 29, 2008; and will become effective on March 30, 2008.

Copies of these standards are available upon request from the Occupational Safety and Health Standards Board, 2520 Venture Oaks Way, Suite 350, Sacramento, CA 95833, (916) 274-5721.

If you have Internet access, visit the Occupational Safety and Health Standards Board by going to: <http://www.dir.ca.gov/oshsb> and follow the links to the Standards Board. This information is updated monthly. The Standards Board's e-mail address is: [oshsb@dir.ca.gov](mailto:oshsb@dir.ca.gov).

OCCUPATIONAL SAFETY AND HEALTH  
STANDARDS BOARD

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Marley Hart, Executive Officer