

**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 **July 19, 2012**, at 10:00 a.m.
in Room 310 of the County Administration Center
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 **July 19, 2012**, following the Public Meeting,
in Room 310 of the County Administration Center
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 **July 19, 2012**, following the Public Hearing,
in Room 310 of the County Administration Center
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**

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 as indicated below, at its Public Hearing on **July 19, 2012**.

1. TITLE 8: **CONSTRUCTION SAFETY ORDERS**
Division 1, Chapter 4, Subchapter 4
Article 10, Section 1593
GENERAL INDUSTRY SAFETY ORDERS
Division 1, Chapter 4, Subchapter 7
Article 25, Section 3650
Use of Forklift Trucks and Excavators for Hoisting Loads

2. TITLE 8: **GENERAL INDUSTRY SAFETY ORDERS**
Division 1, Chapter 4, Subchapter 7
Article 59, Section 4297
Definitions for Woodworking Machines and Equipment

Descriptions of the proposed changes are as follows:

1. **TITLE 8:** **CONSTRUCTION SAFETY ORDERS**
Division 1, Chapter 4, Subchapter 4
Article 10, Section 1593
GENERAL INDUSTRY SAFETY ORDERS
Division 1, Chapter 4, Subchapter 7
Article 25, Section 3650
Use of Forklift Trucks and Excavators for Hoisting Loads

INFORMATIVE DIGEST OF PROPOSED ACTION/POLICY STATEMENT OVERVIEW

This rulemaking is an Occupational Safety and Health Standards Board (Board) staff initiated proposal with regard to the use of forklift trucks and excavators for lifting loads. Construction Safety Orders (CSO), Section 1593 and General Industry Safety Orders (GISO), Section 3650 are silent as to the use of industrial trucks and haulage vehicles, respectively, for lifting suspended loads. The proposal will amend Sections 1593 and 3650 to require that slings used for lifting meet the sling standards contained in Article 101 of the GISO. Article 101 applies to slings used in conjunction with material handling equipment for the movement of material by hoisting and addresses alloy steel, wire rope, metal mesh, natural or synthetic fiber rope and synthetic web slings. Article 101 also addresses safe operating practices and inspection maintenance of slings. The misuse of slings on these vehicles could result in toppling of the vehicle and its load and cause serious injury or fatality to the operator and others in the vicinity. This regulatory proposal is intended to provide worker safety at places of employment in California.

This proposed rulemaking action:

- Is based on the following authority and reference: Labor Code Section 142.3, which states, at Subsection (a)(1) that the Board is “the only agency in the state authorized to adopt occupational safety and health standards.” When read in its entirety, Section 142.3 requires that California have a system of occupational safety and health regulations that at least mirrors the equivalent federal regulations and that may be more protective of worker health and safety than are the federal occupational safety and health regulations.
- Differs from existing federal regulations, in that federal regulations do not include provisions that are equivalent to this proposal. However, this proposal adds clarity to existing State standards and does not contradict any federal standard.
- Is 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 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.
- Is the least burdensome effective alternative because the proposal is a clarification of existing Title 8 standards governing the use of slings to ensure that the employer knows that existing GISO Article 101 sling standards are meant to be applied to forklifts, excavators, loaders and similar equipment. The GISO and CSO are silent as to the use of industrial trucks and haulage vehicles, respectively, for lifting suspended loads. No alternative proposal for going forward has been suggested.

Section 1593. Haulage Vehicle Operation.

Existing Section 1593 of the CSO prescribes safe operating procedures for haulage vehicles. A new subsection (n) is proposed to specify that the use, care and maintenance of slings used in lifting suspended loads with excavators, loaders and similar equipment shall comply with Article 101 of the GISO. This proposed amendment will promote the safe use of slings in conjunction with this sort of equipment.

Section 3650. Industrial Trucks. General.

Existing Section 3650 contains design and construction requirements referencing national consensus standards that apply to various types of powered industrial trucks (forklifts). This section also contains operating rules for safe use including modifications and structural changes that affect the capacity and safe handling of these vehicles.

An amendment is proposed to add a new subsection (u) for the use, care and maintenance of slings, requiring compliance with Article 101 of the GISO. This proposal will clarify that whenever any sling is used in conjunction with material handling equipment, safe operating practices shall be enforced. The amendment will promote the safe use of slings in conjunction with forklifts.

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/Significant Statewide Adverse Economic Impact Directly Affecting Businesses Including the Ability of California Businesses to Compete

The Board has made a 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 proposal provides direction to use existing standards already in Title 8 for the use, care and maintenance of slings when operating forklift trucks, excavators and similar equipment for lifting loads. The Board believes the proposal will have insignificant, if any, adverse cost impact upon the employer's operations, since the thrust of the proposal is to ensure that employers are adequately aware of requirements that already exist in GISO Article 101.

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 regulations 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 regulations do 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 regulations do not require local agencies to carry out the governmental function of providing services to the public. Rather, the regulations require local agencies to take certain steps to ensure the safety and health of their own employees only. Moreover, the proposed regulations 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 regulations do not impose unique requirements on local governments. All state, local and private employers will be required to comply with the prescribed standard.

EFFECT ON SMALL BUSINESSES AND RESULTS OF THE ECONOMIC IMPACT ASSESSMENT

The Board has determined that the proposed amendments may affect small businesses. However, no adverse economic impact is anticipated. The proposal would provide businesses, small or large, specific guidance in regard to the safe use of slings by industrial trucks (forklifts) and haulage vehicles (excavators). The amendments do not create new requirements, but rather, add clarification as to which existing standards apply to these slings. The proposal will promote worker safety by directing employers to standards in GISO, Article 101, that will require that slings be used safely.

Therefore, the proposed regulations will not have any effect on the creation or elimination of California jobs or the creation or elimination of California businesses or affect the expansion of existing California businesses.

ALTERNATIVES STATEMENT

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 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.

2. **TITLE 8:** **GENERAL INDUSTRY SAFETY ORDERS**
Division 1, Chapter 4, Subchapter 7
Article 59, Section 4297
[Definitions for Woodworking Machines and Equipment](#)

INFORMATIVE DIGEST OF PROPOSED ACTION/POLICY STATEMENT OVERVIEW

The proposed amendments for this rulemaking action were initiated by the Division of Occupational Safety and Health (Division) in its memorandum to the Board dated May 11, 2011 with an attachment that included a number new proposed definitions recommended for addition to the General Industry Safety Orders (GISO) Article 59, Section 4297 “Definitions” for woodworking machinery and equipment.

The intent of this rulemaking action is to add definitions in Section 4297 to clarify the existing standards which, in part, include provisions that address older equipment and machinery that is still in use, but not defined in Article 59. The proposed definitions also include terms for some commonly used woodworking machinery and equipment that are undefined. Other added definitions are either trade terms used by professionals in woodworking shops and mills or terms for equipment that, in some cases, are rarely used but are still encountered by Division compliance personnel and therefore, the Division finds it necessary to define these terms and/or equipment.

The definitions are applicable to existing Article 59 standards, and consequently, may not be verbatim of, or necessarily included in, the latest editions of consensus standards for woodworking equipment. In some cases, particularly for older and less common woodworking operations, some definitions are unique and were drafted with the assistance of the Division and reviewed by several power tool manufacturers. The addition of these definitions will provide clarity for Division personnel and stakeholders in woodworking industries that are subject to the provisions in Article 59. This regulatory proposal is intended to provide worker safety at places of employment in California.

This proposed rulemaking action:

- Is based on the following authority and reference: Labor Code Section 142.3, which states, at Subsection (a)(1) that the Board is “the only agency in the state authorized to adopt occupational safety and health standards.” When read in its entirety, Section 142.3 requires that California have a system of occupational safety and health regulations that at least mirrors the equivalent federal regulations and that may be more protective of worker health and safety than are the federal occupational safety and health regulations.
- Differs from existing federal regulations in that federal OSHA does not have specific counterpart definitions for the majority of these definitions of terms and equipment used in woodworking operations. Further, the federal woodworking standards do not specifically address some of the equipment and machinery that is defined in this proposal.

- Is 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 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.
- Is the least burdensome effective alternative. The proposed definitions were developed with the assistance of the Division and several woodworking equipment manufacturers and reviewed by a stakeholder organization representing employers that use woodworking equipment and machinery. The proposal, thereby, will enhance understanding on the part of stakeholders impacted by these woodworking definitions. No alternative proposal has been suggested.

GISO, Article 59. Woodworking Machines and Equipment.
Section 4297. Definitions.

Existing Section 4297 contains five definitions specific to Article 59 standards. However, Article 59 contains a broad range of woodworking machinery and associated woodworking terms. The proposal adds a number of new definitions for some commonly used terms or equipment such as, but not limited to, "arbor," "band saw," "dado," "jointer" and "miter saw" etc.

The proposal also adds a number of definitions for more obscure or antiquated types of woodworking equipment that are still in use and occasionally encountered by Division staff and other stakeholders. An example is "cordwood saw", which is a circular saw powered by an agricultural tractor power take-off or other drive mechanism usually associated with a tractor or farm vehicle/equipment. Another example is the "box shook cut-off saw", which was once commonly used to cut wood slats to be banded up and assembled into fruit boxes in orchards or packing houses. These saws feature a rolling tray on which the stock is stacked and moved through the saw blade. While these saws are uncommon, the Division notes that the rolling tray configuration has now begun to reappear on certain saws that are encountered. An additional example is the "wobble saw", which is a saw prohibited by Section 4323, and yet not many individuals understand its design or use.

With respect to the existing definitions in Article 59, amendments are proposed for the definition of "block", to acknowledge that it is more commonly referred to as a "push block." Additional language for this definition is provided for clarity, stating that it can be designed with one or more handles and can be made of wood or other non-metallic material.

It is not expected that the amendments or proposed definitions will change the regulatory requirements in Article 59 but will have the effect of providing clarity and a better understanding of the existing provisions applicable to woodworking machinery and 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.

Impact on Housing Costs

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

Impact on Businesses/Significant Statewide Adverse Economic Impact Directly Affecting Businesses Including the Ability of California Businesses to Compete

The Board has made a 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 proposal concerns the definition of woodworking terms and equipment for clarity. It does not add regulatory requirements or alter existing regulatory requirements, and thus, will not have an economic impact.

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 standard does 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, this standard requires local agencies to take certain steps to ensure the safety and health of their own employees only. Moreover, this 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 state, local and private employers will be required to comply with the prescribed standard.

EFFECT ON SMALL BUSINESSES AND RESULTS OF THE ECONOMIC IMPACT ASSESSMENT

The Board has determined that the proposed amendments may affect small businesses. However, no economic impact is anticipated. The proposal does not add regulatory requirements. However, the additional definitions provided will improve understanding of the requirements and simplify compliance for businesses of all sizes.

Therefore, the proposed regulations will not have any effect on the creation or elimination of California jobs or the creation or elimination of California businesses or affect the expansion of existing California businesses.

ALTERNATIVES STATEMENT

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 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.

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 July 13, 2012. 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 July 19, 2012, 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. 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 Mike 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

JOHN D. MACLEOD, Chairman