

STATE OF CALIFORNIA
DEPARTMENT OF INDUSTRIAL RELATIONS
OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD
2520 Venture Oaks Way, Suite 350
Sacramento, California 95833
(916) 274-5721

In the Matter of a Petition by:)
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Matthew Cross)
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Applicant.)

PETITION FILE NO. 595

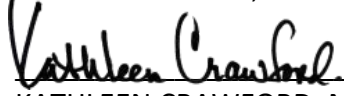
The Occupational Safety and Health Standards Board hereby adopts the attached PROPOSED DECISION.

OCCUPATIONAL SAFETY AND HEALTH
STANDARDS BOARD

DAVID THOMAS, Chairman



BARBARA BURGEL, Member



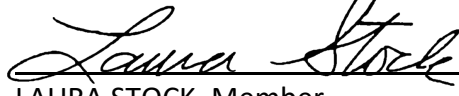
KATHLEEN CRAWFORD, Member

DAVE HARRISON, Member



NOLA KENNEDY, Member

CHRIS LASZCZ-DAVIS, Member



LAURA STOCK, Member

By: 
Christina Shupe, Executive Officer

DATE: May 19, 2022
Attachments

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PROPOSED PETITION DECISION OF THE
OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD
(PETITION FILE NO. 595)

INTRODUCTION

The Occupational Safety and Health Standards Board (Board) received a petition on December 2, 2021, from Matthew Cross (Petitioner). The Petitioner requests the Board to add a new standard to General Industry Safety Orders related to manual material handling (MMH) carts.

Labor Code section 142.2 permits interested persons to propose new or revised regulations concerning occupational safety and health and requires the Board to consider such proposals and render a decision no later than six months following receipt.

Further, as required by Labor Code section 147, any proposed occupational safety and health standard received by the Board from a source other than the Division of Occupational Safety and Health (Cal/OSHA) must be referred to Cal/OSHA for evaluation. Cal/OSHA has 60 days after the receipt to submit an evaluation regarding the proposal.

SUMMARY

The Petitioner requests the Board consider rulemaking related to the following:

- To add a new standard to General Industry Safety Orders:
 - The proposal would require all new manufacturing of MMH carts with loose or removable handles to include a built-in or self-contained means of securing the handholds.
 - The proposal would require that handholds must be secured prior to transporting the load and capable of withstanding the expected forces based on the cart capacity and ground conditions.
 - The proposal would also require MMH cart manufacturers to notify employers who have purchased non-conforming MMH carts to replace or phase-out their non-conforming carts.

The Petitioner states this petition specifically addresses the design, manufacturing, and use of the handles/handholds on all flatbed carts, panel carts, MMH carts, and manually operated platform trucks.

In support of the petition, the Petitioner submitted the following documentation for consideration:

- Results of a survey conducted by Petitioner and Petitioner's union of all delivery drivers at the Martin Brower LLC facility in Stockton, California, of which 66 of 107 responded.
- List of 13 accidents and injuries over a two year timeframe within one company, caused by handles separating from MMH carts. The information was obtained via subpoena as part of a product liability suit involving the manufacturer of an MMH cart with a loose and removable handle.
- White Paper developed by Darcor and Ergoweb entitled *The Ergonomics of Manual Material Handling*, discussing the factors that affect the safe use of MMH carts.

Petitioner concludes the use of carts with unsecured handles have caused and continue to cause worker injuries. The Petitioner attributes these injuries to the handles separating from the cart's platform while moving heavy loads, causing the operators to lose their balance.

CAL/OSHA'S EVALUATION

The Cal/OSHA report dated March 4, 2022, states the Petitioner's proposal for a new regulation requiring MMH carts to have non-removable handles is unnecessary. Existing title 8 regulations address the hazards of MMH carts used with removable handles. Additionally, non-removable handles or permanently fixed handle carts are commercially available for employers when needed to prevent accidents such as those described by the Petitioner.

The report goes on to say that as part of the petition evaluation, Cal/OSHA Research and Standards Safety Unit staff spoke with representatives from various manufacturers and distributors of MMHs. The representatives from these companies collectively indicated the following:

- Customers typically order carts according to their commercial and specific needs.
- Customers who order carts with removable handles do so for storage reasons.
- A majority of customers order removable handle carts so that the handles can be placed on either end of the carts (on carts with such features).
- Carts can be ordered with permanently fixed handles onto the platforms.
- A majority of material handling carts for commercial use are custom ordered with permanently fixed handles.

Cal/OSHA staff also researched serious injuries related to handles separating from MMH carts. This search spanned all industries and included the Federal OSHA accident database, the Cal/OSHA enforcement database and Decisions After Reconsideration of the Occupational

Safety and Health Appeals Board. Cal/OSHA found no information of serious injuries related to handles separating from MMH carts.

Title 8 section 3203 (Injury and Illness Prevention Program) currently requires employers to identify, evaluate and correct workplace hazards, investigate occupational injuries and illnesses and includes training requirements for new employees or employees given new work assignments and when new substances, processes, procedures or equipment are introduced to the workplace and represent a new hazard.

The Petitioner was involved in an incident in 2014 resulting in a serious injury while using an MMH cart. At the time of the incident, the handle of the cart separated from the platform causing the Petitioner to lose his balance and fall backwards. Pursuant to title 8 section 3203, the employer had a duty to investigate the Petitioner's injury, identify any related hazards, correct the hazards identified and provide training for employees using MMH carts. Compliance with this section could effectively address this hazard by identifying the root cause for the separation of the MMH cart handle and prevent future occurrences by correcting the related hazard. This requirement would apply whether the hazard is due to a maintenance issue, lack of training, use of an inappropriate cart design or any other potential condition rendering the cart unsafe for a particular operation.

Title 8 section 3328 (Machinery and Equipment) also addresses the hazards described by the Petitioner. Section 3328 requires machinery and equipment to be designed or engineered to sustain all reasonably anticipated loads and machinery and equipment not be operated under speeds, loads or stresses that are contrary to the manufacturer's recommendations. Section 3328 also requires equipment to be designed and secured to prevent loosening and requires all machinery and equipment to be maintained in a safe operating condition.

Additionally, title 8 section 3556(a) holds employers responsible to ensure the safe condition of equipment used by their employees.

BOARD STAFF EVALUATION

The Board staff's evaluation also describes Petitioner's request for the adoption of design criteria for MMH carts and specific work practice requirements for MMH cart handles. Board staff believes a separate regulation addressing the design of MMH cart handles is unnecessary, for the reasons discussed below.

Title 8, section 3328, a machinery and equipment regulation, addresses concerns raised by the Petitioner:

(e) Machinery and equipment components shall be designed and secured or covered (or both) to minimize hazards caused by breakage, release of mechanical energy (e.g., broken springs), or loosening and/or falling unless the employer can demonstrate that to do so would be inconsistent with the

manufacturer's recommendations or would otherwise impair employee safety. [Emphasis added]

Board staff states coverage under section 3328(e) is sufficient to protect employees. Employers are to ensure that machinery and equipment components such as handles on MMH carts are designed and secured to minimize hazards. In practice, few employers are involved in the design of the machinery and equipment used in their facility. It is incumbent for the employer to assess what hazards are posed when machinery or equipment are introduced into the workplace.

Further, the Petitioner requests the handles be secured prior to propelling the cart under load. "Securing" the handle prior to driving the load is also addressed under section 3328(e).

Board staff reviewed Federal OSHA published accident data and narratives, which yielded no relevant accidents. Similarly, the Board staff review of the National Electronic Injury Surveillance System (NEISS) yielded no significant reported injuries attributed to MMH carts.

The Petitioner also requests the Board adopt a regulation which requires manufacturers of MMH carts sold with loose or removable handles used in commercial applications to contact their customers to replace, phase out, or retro-fit the carts purchased. The Board's mission is to adopt reasonable and enforceable regulations, however the Petitioner has failed to establish necessity for such a specific regulation.

Consistent with and based upon the foregoing discussion, Board staff does not believe the Petitioners' requests are necessary. Board staff recommends the Petitioner's requests be denied.

DISCUSSION

Cal/OSHA and Board staff are in agreement that Petition 595, and Petitioner's request for a new regulation requiring non-removable handles for MMH carts, should be denied. As noted by both Cal/OSHA and Board staff, existing title 8 regulations require machinery and equipment to be designed or engineered to sustain all reasonably anticipated loads and holds employers responsible to ensure the safe condition of equipment used by their employees.

The Board takes note of Petitioner's survey of delivery drivers reporting injuries, and finds that the data collected is not insignificant. Data from a single worksite, however, does not indicate an industry-wide trend. Neither Federal OSHA published accident data and narratives, nor NEISS data, indicate serious injuries attributable to MMH carts are common across industries. The Board appreciates Petitioner's concern for the safety of workers at the surveyed workplace, however, and encourages engagement with Cal/OSHA Consultation services to evaluate and remedy any areas of non-compliance with existing title 8 regulations.

Proposed Petition Decision

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CONCLUSION AND ORDER

Having considered Petition 595, and evaluations of it by Cal/OSHA and Board staff, the Board hereby DENIES the Petitioner's request to add a new standard to General Industry Safety Orders related to manual material handling carts.