

**OCCUPATIONAL SAFETY
AND HEALTH STANDARDS BOARD**

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ATTACHMENT NO. 3**INITIAL STATEMENT OF REASONS**

CALIFORNIA CODE OF REGULATIONS

TITLE 8: Chapter 4, Subchapter 4, Article 3, Section 1513 of the Construction Safety Orders and Chapter 4, Subchapter 7, Article 4, Section 3273 of the General Industry Safety Orders

Protection from Falling ObjectsSUMMARY

The proposed rulemaking is the result of a request from the Division of Occupational Safety and Health (Division) for rulemaking to address hazards of falling or dropped materials. The Division's request was based on a proposal prepared by the Mining and Tunneling Unit (M&T) following an accident investigation where an employee working below a screen deck at a surface mine was fatally injured when he was struck on the head by a 4 foot by 5 foot screen section (weighing approximately 60 pounds) that had been replaced and was being removed from an elevated work location. At the time of the incident, the fatally injured employee was wearing approved head protection, but still suffered a fractured skull. During the subsequent accident investigation, M&T personnel became aware that an unregulated hazardous condition exists. Existing regulations addressing hazards of objects thrown from elevations are found in the Construction Safety Orders (CSO), but they do not apply to general industry.

Based on the Division's request, the Occupational Safety and Health Standards Board (Board) convened an advisory committee to consider proposed revisions to the General Industry Safety Orders (GISO). The consensus of the advisory committee was that regulations addressing the hazard of thrown objects should be relocated from the CSO into the GISO to create a horizontal standard and that they should be expanded to include not only hazards resulting from the intentional lowering of objects from elevations, but also hazards resulting from accidental displacement of objects.

The effect of the proposed regulations on the regulated public will extend a vertical safety standard for the construction industry into a horizontal safety standard applicable to both construction and general industry. Furthermore, it will add regulatory language to require objects aloft to be secured against accidental displacement when not in use, unless physical barriers and warning

signs are posted and it will also require safe methods for lowering objects from elevated locations including controlled lowering and physical barriers and attendance of the area of exposure.

SPECIFIC PURPOSE AND FACTUAL BASIS OF PROPOSED ACTION

CSO, Section 1513. Housekeeping.

Subsection (g)

This subsection prohibits the throwing of waste, material, or tools from buildings or structures to areas where employees may be located unless the area of impact is guarded by fences, barricades, or other means and/or methods to prevent employees from entering the impact area and being struck by falling objects. It also requires warning signs to be posted.

This rulemaking proposes to amend subsection (g) of the CSO to redirect the regulated public to Section 3273 of the GISO for regulations addressing the prevention of objects from falling on employees and for methods of lowering objects from elevated locations in a safe manner. The effect of the proposed relocation will be to change a vertical standard for construction into a horizontal standard for general industry, including construction, and to address hazards of objects falling or being lowered from overhead work locations. This action will provide protection from falling objects to employees in both construction and general industry that are currently available only to those in the construction industry. The necessity for this proposed change is to address an unregulated hazardous condition that exists in general industry.

GISO, Section 3273. Working Area.

Subsection (e) Preventing objects from falling:

The existing requirement in subsection (e), which limits the size of openings in platforms and runways to prevent materials from falling through the openings, is proposed to be relocated to subsection (e)(2). The purpose of the proposed relocation is to group two existing and one additional requirement for protection from falling objects under a single heading. The relocation of subsection (e) to (e)(2) will have no effect on the regulated public. Additionally, subsection (e) is proposed to be named “preventing objects from falling.” The necessity of the proposed changes is to clearly indicate where regulations may be found which pertain to preventing objects from falling from elevated work areas on employees below.

Subsection (e)(1)

Proposed subsection (e)(1) will require measures to be taken to secure objects, including materials, equipment and tools against accidental displacement by wind, or other foreseeable or unforeseen forces while aloft when there is a potential that they could fall and cause injury to employees below. Such protective measures could include tethers, tie-downs, or netting in the elevated work area, or physical barriers and warning signs at the area of impact. These measures are in addition to currently required head protection (GISO Section 3381).

The necessity of the proposed change is to address currently unregulated hazards in general industry caused by objects which could be accidentally displaced by wind, or other unforeseen forces while aloft and which could fall and cause injury to employees located below.

Subsection (e)(2)

Existing subsection (e), which limits the size of openings in platforms and runways to prevent materials from falling through the openings, is proposed to be relocated to new subsection (e)(2). This purpose of this editorial revision is to group together requirements for prevention of objects from falling. The necessity of this relocation and grouping is to clarify requirements for protecting employees in both construction and general industry from the hazards of objects falling through openings in platforms and runways overhead.

Subsection (e)(3)

Existing subsection (f) requires measures or means to prevent or protect employees below from the hazards of objects that are of such size that they could fall through platform or runway gratings when they are used as work platforms during repair or maintenance activities. Existing subsection (f) is proposed to be relocated to new subsection (e)(3) and grouped with other subsections pertaining to employee protection from falling objects. The purpose of this editorial revision is to group together requirements for prevention of objects from falling on employees. The necessity of this relocation and grouping is to clarify to the regulated public the requirements for protecting employees from the hazards of objects falling through openings in gratings when they are used as work areas.

Subsection (f) Lowering objects:

The content of existing subsection (f) is proposed to be relocated to new subsection (e)(3) [see above]. Additionally, subsection (f) is proposed to be named “lowering objects,” and to contain regulations pertaining to intentional lowering of objects. It will also address alternative practices in the event controlled lowering is not practical or would subject employees to a greater risk of injury. The necessity of these changes is to clearly indicate where regulations may be found which pertain to protecting employees in both construction and general industry from hazards of objects which are intentionally lowered from overhead.

Subsection (f)(1)

This new subsection will identify controlled lowering of objects as the preferred method of removal from elevations when employees or the general public are exposed to the hazard of being struck. The subsection lists methods such as, but not limited to the use of enclosed chutes, material handling equipment, or hand lines for controlled lowering. The purpose of this subsection coupled with subsection (f)(2) is to discourage the removal of objects from elevations by uncontrolled lowering (i.e., throwing) and to provide examples of acceptable protective measures to be taken when controlled lowering is not practical. The necessity of this proposed change is to reduce employee injuries resulting from being struck by uncontrolled falling objects.

Subsection (f)(2)

This new subsection requires provisions to be made to prevent employees or the general public from entering the area of exposure to uncontrolled falling objects when controlled lowering is not practical, or when controlled lowering would subject employees and/or the general public to a greater risk of injury. The purpose of this subsection is to codify what is common practice on most, though not all, construction sites and to extend these protections to both construction and general industry. The necessity for this proposed change is to provide specific protections for a currently unregulated hazardous condition in general industry.

Subsection (f)(3)

This new subsection requires the posting of warning signs around areas subject to the hazard of objects being lowered in a controlled or uncontrolled manner. The purpose of this new requirement is to make specific a general requirement for accident prevention signs found in GISO Section 3340. The necessity is to clarify the requirement for warning signs when objects are being lowered in a controlled or uncontrolled manner.

DOCUMENTS RELIED UPON

Memorandum dated November 13, 1998 to John MacLeod, Executive Officer, Occupational Safety and Health Standards Board from John Howard, Chief, Division of Occupational Safety and Health with attached Cal/OSHA form 9, Request for New, or Change in Existing Safety Order.

This document is available for review Monday through Friday from 8:00 a.m. to 4:30 p.m. at the Standards Board Office located at 2520 Venture Oaks Way, Suite 350, Sacramento, California.

REASONABLE ALTERNATIVES THAT WOULD LESSEN ADVERSE ECONOMIC
IMPACT ON SMALL BUSINESSES

No reasonable alternatives were identified by the Board and no reasonable alternatives identified by the Board or otherwise brought to its attention would lessen the impact on small businesses.

SPECIFIC TECHNOLOGY OR EQUIPMENT

This proposal will not mandate the use of specific technologies or 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

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.

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.)

These 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, these 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.)

The proposed regulations do not impose unique requirements on local governments. All employers - state, local and private - 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.

ASSESSMENT

The adoption of the proposed amendments to these regulations 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.

ALTERNATIVES THAT WOULD AFFECT PRIVATE PERSONS

No reasonable alternatives have been identified by the Board or have otherwise been identified and brought to its attention that would 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.