

**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 7, Article 3, Section 3241(a)  
of the General Industry Safety Orders (GISO)

Live LoadsSUMMARY

Section 3241(a) of the General Industry Safety Orders (GISO) stipulates that in every building or other structure, or portion thereof, used for mercantile, business, industrial or storage purposes, the building owner or representative shall place a durable load plate in a conspicuous location in each space to which they relate. Each plate shall indicate the safe maximum carrying capacity of the applicable space. Subsection (a) also prohibits the removal or defacing of these plates and requires their replacement if removed, defaced or lost.

Title 24, Section 1607.3.5 of the 1998 California Building Code (CBC) addresses the posting of live load information in commercial and industrial buildings. This language clearly indicates that the posting of live load information is to be placed "*...in that part of each story in which they apply...*" In reviewing and comparing the CBC live load posting language with existing Title 8 language, Board staff believes the CBC language is less ambiguous with regard to where building occupants are to post their live load metal signs/plates. The intent of both standards is to simply have the required live load information posted on the floor or portion of the floor to which the information applies and not on individual storage racks, containers, bins, etc., which would create an impractical and unnecessary burden upon employers/building occupants.

However, there is evidence that the Division of Occupational Safety and Health (Division) interprets and enforces Section 3241(a) to mean that live load information is required to be posted on individual storage racks, containers, bins, etc.

Board staff notes that at least one employer has recently been cited by the Division under Section 3241(a) for failing to post live load information on individual storage racks. The Home Depot was cited by the Division on February 5, 1999 for failing to label each and every warehouse storage rack with a sign indicating the live load information. On May 3, 1999, the employer appealed the citation in a timely fashion as indicated by the Occupational Safety and Health Appeals Board Decision for Dockets 99-R1D3-689 and 690. The February 16, 2000 Appeals Board Decision indicates that at the prehearing the Division moved to withdraw its citation

involving Section 3241(a) because it lacked evidence to support a violation of the section charged. This motion was later granted by the Appeals Board.

Board staff also notes that the Standards Board received an Application for Permanent Variance from Section 3241(a) on August 23, 1999 from the Home Depot (Applicant). In the application (OSHSB File No. 99-V-038) the Applicant's representative discussed the Division's citation and opined that Section 3241(a) was not intended to require that each and every storage rack be labeled. The Division's October 18, 1999 evaluation report concluded that the Applicant's proposed equivalent safety method to affix live load information at the ends of storage racks rather than on each individual storage rack constituted compliance with Section 3241(a) and that a variance was not necessary.

### SPECIFIC PURPOSE AND FACTUAL BASIS OF PROPOSED ACTION

To improve the clarity of Section 3241(a) and ensure consistency with existing state building standards, Board staff proposes to replace existing Title 8 language with language essentially verbatim of that contained in CBC Section 1607.3.5. The outdated CBC parenthetical reference is also proposed to be updated to Section 1607.3.5 and appropriately relocated to subsection (a).

In addition, based on a Cal/OSHA Form 9, Request for New, or Change in Existing, Safety Order, dated October 12, 2001 submitted by the Division, Board staff also proposes to add new subsection (e) which would address a separate requirement specifying that storage racks are to be designed to safely support their intended loads and shall not be loaded beyond their designed load capacity as recommended by the manufacturer.

#### Section 3241. Live Loads.

Existing Section 3241 contains requirements pertaining to live loads and addresses the posting of approved loads, the weight-carrying capacity of floors/platforms, how materials are to be safely stored to ensure pile stability, and the maintenance of all prime movers, machines and equipment to safely support the loads imposed upon them.

Subsection (a) requires that durable load plates be supplied and conspicuously placed at all related storage spaces within every building or other structure, or portion thereof, used for mercantile, business, industrial or storage purposes. Each plate is required to list the safe maximum carrying capacity of the applicable space. Subsection (a) prohibits the removal or defacing of these plates and requires their replacement if removed, defaced or lost.

A revision is proposed to replace the existing subsection language with language essentially verbatim of that contained in Title 24, Section 1607.3.5 of the 1998 California Building Code (CBC). The existing CBC parenthetical reference is also proposed to be updated to this current CBC section reference.

A revision is also proposed to add new subsection (e) which specifies that storage racks are to be designed to safely support their intended loads and shall not be loaded beyond their designed load capacity as recommended by the manufacturer.

The proposed revisions are necessary to clarify where to post live load information and ensure that storage racks can both safely support their intended loads and are not loaded beyond their designed load capacity. This will ensure that safe load distribution factors specific to the design of the building are adhered to, thus mitigating catastrophic collapse of storage structures or floors/platforms within the building resulting in serious injury or death to workers therein.

#### DOCUMENTS RELIED UPON

1. 1998 California Building Code, Section 1607.3.5, Live loads posted.
2. Division of Occupational Safety and Health, Inspection Report and Citation and Notification of Penalty, dated February 5, 1999, Inspection No. 125519330.
3. OSHAB Appeal Application, dated May 3, 1999, Docket 99-R1D3 689, filed by Robert D. Peterson, Attorney at Law, on behalf of The Home Depot.
4. OSHSB Application for Permanent Variance, dated August 23, 1999, Docket 99-V-038, filed by The Home Depot.
5. The Division of Occupational Safety and Health Permanent Variance Evaluation Report, dated October 18, 1999, reference OSHSB Docket 00-V-038 – The Home Depot.
6. Occupational Safety and Health Appeals Board Decision, Dockets 99-R1D3-689 and 690, dated February 16, 2000.
7. OSHSB's Decision to Dismiss Without Prejudice, dated October 3, 2000, the Application for a Permanent Variance filed by The Home Depot, reference Docket 99-V-038.
8. Cal/OSHA Form 9, Request for New, or Change in Existing, Safety Order, dated October 12, 2001.

These documents are available for review during normal business hours at the Standards Boards office located at 2520 Venture Oaks Way, Suite 350, Sacramento, California.

#### DOCUMENTS INCORPORATED BY REFERENCE

None.

#### 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 regulation 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 this regulation 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.)

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

The proposed regulation 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 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.