

**OCCUPATIONAL SAFETY  
AND HEALTH STANDARDS BOARD**

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Attachment No. 2

**INITIAL STATEMENT OF REASONS****CALIFORNIA CODE OF REGULATIONS**

TITLE 8: Division 1, Chapter 4, Subchapter 7, Article 3, Section 3248  
of the General Industry Safety Orders

**Mechanical Refrigeration****SUMMARY**

This rulemaking was initiated as a result of Petition File No. 490, which was granted by the Occupational Safety and Health Standards Board (Board) on April 19, 2007. Labor Code Section 142.2 allows interested persons to propose new safety orders or revisions of existing safety orders. David W. Smith, the author of the petition that is the subject of Petition File No. 490, expressed concern that Uniform Mechanical Code (UMC) standards incorporated by reference into Section 3248(a), regarding mechanical refrigeration systems, are no longer readily available to the regulated public. He suggested that the provisions of those national consensus standards be printed in Title 8. He also stated that references to other national consensus standards in Section 3248(b) should be omitted absent a strong reason for retaining them. This proposal would eliminate outdated UMC references in Section 3248 and would harmonize Section 3248 with the California Mechanical Code (CMC).

**SPECIFIC PURPOSE AND FACTUAL BASIS OF PROPOSED ACTION**

Section 3248 sets forth requirements for the design, installation, testing and maintenance of mechanical refrigeration systems. Subsection (a) presently requires that installations placed in service prior to March 13, 1999 comply with portions of the 1982 UMC, and subsection (b) requires that installations placed in service on or after March 13, 1999 comply with portions of the 1997 UMC. The 1982 UMC is old and copies are hard to find, and the 1997 UMC will have ever greater obsolescence as time passes.

This proposal would delete both existing subsections (a) and (b) and thereby eliminate the problem of outdated references. Instead, pursuant to new subsection (a), the benchmark standard would be the current CMC. An exception would allow mechanical refrigeration systems to remain in service if those systems were designed, installed, tested and maintained in accordance with the CMC in effect at the time of installation, so long as the system does not pose a hazard. In any event, pursuant to new subsection (b), modifications of all mechanical refrigeration

systems must be made in accordance with the CMC in effect at the time of modification. The proposal promotes safety, makes mechanical refrigeration systems subject to versions of the CMC that actually govern the system at key times (installation and modification), and eliminates references to ever-less-relevant and obtainable versions of the UMC.

#### DOCUMENTS RELIED UPON

1. Petition letter from David W. Smith (Petitioner) to the Occupational Safety and Health Standards Board (Board), dated December 28, 2006 (OSHSB Petition File No. 490).
2. Memo received by the Board from the Division of Occupational Safety and Health on March 19, 2007, regarding OSHSB Petition File No. 490.
3. Board Staff's Review of OSHSB Petition File No. 490, dated March 12, 2007.
4. Board's Petition Decision regarding OSHSB Petition File No. 490, dated April 19, 2007.
5. 29 CFR 1910.111, Storage and Handling of Anhydrous Ammonia.
6. List of reference documents - 1910 CFR Subpart S, Appendix A.
7. California Code of Regulations, Title 24, Part 4, (2007 California Mechanical Code), Chapter 11, Refrigeration and Appendix Chapter 1, Section 104.2, Existing Installations.

These documents are 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 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.

### 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."

## 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 the proposed amendment will not require local agencies or school districts to incur additional costs in complying with the proposal. Furthermore, 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. However, no economic impact is anticipated.

#### ASSESSMENT

The adoption of the proposed amendments to this regulation 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.