

**OCCUPATIONAL SAFETY  
AND HEALTH STANDARDS BOARD**

2520 Venture Oaks Way, Suite 350  
Sacramento, CA 95833  
(916) 274-5721  
FAX (916) 274-5743  
[www.dir.ca.gov/oshsb](http://www.dir.ca.gov/oshsb)



**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 **March 21, 2013**, at 10:00 a.m.  
in the Auditorium of the State Resources Building  
1416 9th Street, Sacramento, 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 **March 21, 2013**, at 10:00 a.m.  
in the Auditorium of the State Resources Building  
1416 9th Street, Sacramento, 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 **March 21, 2013**, at 10:00 a.m.  
in the Auditorium of the State Resources Building  
1416 9th Street, Sacramento, 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**

---

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, General Industry Safety Orders of the California Code of Regulations, as indicated below, at its Public Hearing on **March 21, 2013**.

1. TITLE 8:     **GENERAL INDUSTRY SAFETY ORDERS**  
Division 1, Chapter 4, Subchapter 7, Article 10, Section 3385  
**[Strap-On Foot Protectors](#)**
  
2. TITLE 8:     **GENERAL INDUSTRY SAFETY ORDERS**  
Division 1, Chapter 4, Subchapter 7, Article 98, Section 4994  
**[Hoisting, Use of Cribbing, ASME Reference Correction](#)**

Descriptions of the proposed changes are as follows:

1. TITLE 8:      **GENERAL INDUSTRY SAFETY ORDERS**  
Division 1, Chapter 4, Subchapter 7, Article 10, Section 3385  
**Strap-On Foot Protectors**

### **INFORMATIVE DIGEST OF PROPOSED ACTION/POLICY STATEMENT** **OVERVIEW**

Amendments in 2006 and 2009 that updated national consensus standards references in Section 3385 for foot protection resulted in the unintended consequence of prohibiting the use of strap-on foot protectors as protective footwear. The referenced American National Standards Institute (ANSI) Z41-1999, American National Standard for Personal Protection-Protective Footwear, the American Society for Testing and Materials (ASTM) F2412-05, Standard Test Methods for Foot Protection, and ASTM F2413-05, Standard Specification for Performance Requirements for Foot Protection contain identical performance and test methods for protective footwear that exclude strap-on foot protection devices by mandating that toe caps be an integral and permanent part of the foot wear. Additionally, ANSI Z41-1999, Section 1.4.1 states that strap-on foot protection devices are not considered acceptable foot protection. These 2006 and 2009 changes to Section 3385(c) resulted in variances and led to this proposal, as the above ANSI and ASTM standards excluded the strap-on foot protectors, even though the foot protectors are designed to meet the performance testing mandated under the above ANSI and ASTM standards.

The proposed amendments provide employers and employees with the option to use strap-on foot protectors as an effective means to protect employees exposed to possible foot injuries from falling objects, crushing or penetrating actions as an alternative to conventional safety toe footwear. These provisions were derived in part from conditions imposed in the Board's variance decision regarding OSHSB File Nos. 09-V-124 and 09-V-125.

Federal OSHA's comparable standards contained in 29 CFR 1910.136(b)(2) allow employers to utilize protective footwear that is proven equally effective by the employer and includes strap-on protectors; an alternative practice that is not permitted in California. Additionally, 29 CFR 190.132(h)(3) states that if employers provide metatarsal guards (strap-on foot protectors) and allow employees, at their request, to use shoes or boots with built-in metatarsal protection, the employers are not required to reimburse the employee for the shoes or boots. 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 mirror the equivalent federal regulations and that may be more protective of worker health and safety than are the federal occupational safety and health regulations.
- Harmonizes California's standard with the existing federal regulations, in that the federal regulations contained in 29CFR 1910.136(b) allows employers to utilize protective footwear that is proven equally effective by the employer. The proposal therefore, includes the use of strap-on foot protectors provided the protectors are proven equally

effective, an alternative that is not found in current Title 8 regulations. This proposal would permit the use of strap-on foot protectors.

- 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. Before 2006 strap-on foot protectors were also permitted in California. However, in 2006 and 2009, changes to Section 3385(c) added references to ANSI and ASTM standards that excluded strap-on foot protection devices and thereby inadvertently eliminated the option for employers to provide strap-on foot protectors as foot protectors. This proposal provides employers the flexibility to use strap-on foot protectors as allowed under the comparable federal standard.

### **Section 3385. Foot Protection.**

Section 3385 contains protective footwear standards to control worker exposure to foot injuries from electrical hazards, hot, corrosive, poisonous substances, falling objects, excessive moisture, crushing or penetrating actions.

This proposal amends Section 3385 by adding a title to existing subsection (c) to read "Protective Footwear" and adding subsections (c)(3) and (c)(4). The proposed subsection (c)(3) contains proposed protective footwear standards which require maintenance in accordance with the manufacturer's recommendations, and proposed subsection (c)(4) prohibits the use of damaged, defective or deformed protective footwear. These proposed amendments will ensure that workers are not injured from improperly maintained or defective protective footwear. Additionally, subsection (c)(2) is amended for clarity and consistency with proposed subsection (d)(2).

The proposed subsection (d), titled "Strap-On Foot Protectors," contains proposed foot protector standards which address the following:

- Performance testing that meets impact, compression and clearance standards in the referenced ANSI and ASTM standards;
- Labeling and marking requirements;
- Effective use and maintenance requirements in accordance with the manufacturer's recommendations;
- Prohibiting the use of damaged, defective or deformed foot protectors;
- Selection requirements to ensure proper fit of foot protectors;
- Employee training requirements for proper fit, selection, inspection and use for those who use the strap-on foot protectors.

The proposed subsection (d) will ensure that, when used, the strap-on foot protectors are effective in protecting the worker's feet from injury. Among other things, subsection (d) ensures that the strap-on protectors selected provide equivalent safety to ANSI and ASTM compliant class 75 protective footwear by mandating the strap-on foot protectors meet the same performance testing requirements, that the strap-on foot protectors are properly maintained, that employees do not use damaged, defective or deformed foot protectors, that the selected foot protectors properly fit the wearer and employees using the strap-on foot protectors are properly trained. It is noted, that, while footwear with built-in protection is cumbersome and causes discomfort or fatigue in certain work situations, the use of lighter, less restrictive strap-on foot protectors might enhance safety.

## **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 removes inflexibility from the standard by permitting the use of alternative foot protection devices. The employer may choose to continue use of currently mandated foot protection and not supply strap-on foot protectors. For employers who provided the strap-on foot protectors before 2006, they will again be able to utilize these devices.

### **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 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.)

This proposed regulation 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 adverse economic impact is anticipated. This proposal will create consistency with foot protection practices permitted under federal OSHA standards and under States’ standards that use the federal standards that allow the use of strap-on foot protection devices. This consistency will support and encourage intrastate and interstate commerce while providing effective foot protection at places of employment in California.

Therefore, the proposed regulation 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 98, Section 4994  
**Hoisting, Use of Cribbing, ASME Reference Correction**

**INFORMATIVE DIGEST OF PROPOSED ACTION/POLICY STATEMENT**  
**OVERVIEW**

Title 8, Section 4994(b)(4) requires the use of cribbing (i.e. rigid plates, sheets, timbers, used to distribute the load and provide a level, secure surface for the stabilizer or outrigger to rest upon when underlying ground conditions are inadequate to provide a safe and secure surface capable of supporting the load) at all times. Previously, cribbing had been based upon the need for additional support after considering the existing ground surface conditions and supporting strata and whether the existing ground conditions can support the crane’s load. In his January 16, 2009, e-mail transmission to the Board staff, Mr. Bradley Closson suggests the phrase, “If needed,” be inserted at the beginning of subsection (b)(4) to require cribbing only when needed as dictated by ground conditions. He further states that subsection (b)(5) incorrectly cites a section of the American Society of Mechanical Engineers (ASME) B30.22-2000 standard, which applies only to articulating boom cranes and not the majority of cranes that have straight booms.

Mr. Closson also observed, and staff agrees, that Section 4994 addresses only “outriggers” but not “stabilizers.” In fact, outriggers and stabilizers, while similar, are not the same pieces of equipment. Stabilizers were initially used on older cranes and commercial truck mounted cranes to compensate for the weight of the vehicle or crane and prevent it from going out of level; a shorter hydraulic ram lift “stabilized” the crane or vehicle. Since the truck tires remained touching the ground, the vehicle’s brakes kept lateral movement under control allowing the stabilizers to not take much of the lateral load. As technology progressed, these devices were made more structurally competent, making it possible to lift the entire vehicle and crane/load.

Cranes that historically used stabilizers now use outriggers and the industry mistakenly uses the words almost interchangeably. In general, a “stabilizer” is intended to alleviate some of the weight of the crane off of the support surface, and an “outrigger” is designed to be able to lift its portion of the crane off of the ground.

This rulemaking action proposes amending Section 4994 to resolve the issues identified by Mr. Closson. The proposed amendment is intended to provide specificity and clarity in Title 8 by deleting incorrect and outdated references, distinguishing between “outriggers” and “stabilizers,” and allowing the use of cribbing based upon necessity, given the fact that some ground surface conditions are able to provide firm, secure support. 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 mirror 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 the federal regulations do not address General Industry requirements for cranes and do not distinguish between outriggers and stabilizers, which are not interchangeable pieces of equipment. This proposal will relieve the full time requirement to use cribbing regardless of conditions or necessity.
- 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. Although similar in function, the proposal removes any doubt that outriggers and stabilizers are not considered equivalent devices. This proposal will also allow employers the ability to use cribbing for additional support based on necessity and the crane's load and support material.

### **Section 4994. Hoisting**

Existing Section 4994 establishes operating rules for hoisting with cranes and other hoisting equipment.

#### **Subsection (a)**

Existing subsection (a) requires that a crane's wheels or tracks cannot be off the ground unless the crane is properly bearing on outriggers. This amendment will add the word "stabilizers" as an alternative to the word "outriggers" where mentioned in the text. This change improves technical accuracy, and hence clarity by removing the incorrect implication that outriggers and stabilizers are interchangeable words.

#### **Subsection (b)**

Existing subsection (b) concerns the use of outriggers when the load to be handled is exceeded. Subsection (b)(2)(C) is proposed for deletion because the issues of stabilizer pad sufficiency and crane stability are addressed in ASME consensus standards that are proposed for incorporation by reference in subsection (b)(5). Existing (b)(4) is firm in requiring the use of cribbing at every job. The proposed amendment inserts the phrase, "If needed..." to allow for situations where substantial cribbing (cribbing free of defects that is of sufficient thickness, length and strength) is not necessary for additional support. Existing (b)(5) cites an incorrect section of ASME B30.22-2000 which applies only to articulating boom cranes. This amendment deletes the incorrect citation of ASME B30.22, adds ASME B30.5 as a reference to include cranes with fixed booms, and updates the reference to the latest edition of both standards. Further, a reference to Section 1611.2(q) has been added for construction industry use of outriggers and stabilizers. Revising the regulatory language will ensure employers are not unnecessarily required to provide cribbing in situations when it is not needed to safely support the load, ensure that cribbing is in fact substantial enough to support the load when used, and to provide the correct consensus standard references, thus improving clarity and eliminating the inconsistencies identified above.

## **DOCUMENTS INCORPORATED BY REFERENCE**

1. The American Society of Mechanical Engineers, ASME B30.22-2010, Articulating Boom Cranes, Section 22-3.2.4.
2. The American Society of Mechanical Engineers, ASME B30.5-2011, Mobile and Locomotive Cranes, Section 5-1.2.

These documents are too cumbersome or impractical to publish in Title 8. Therefore, it is proposed to incorporate the documents by reference. Copies of 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.

## **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 allows flexibility to determine the proper use of cribbing based on necessity and not at all times. The amendment clarifies that stabilizers and outriggers perform similar functions but are not the same devices. The proposal also removes an inaccurate citation to an ASME standard which by its scope only applies to a specific class of cranes.

### **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 the proposed amendments 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.)

This 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, this 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.)

This proposed regulation does not impose unique requirements on local governments. All state, local and private employers will be required to comply with the prescribed standards.

### **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 would provide businesses, small or large, clear direction in the proper use of cribbing based upon the need for additional support. This regulatory proposal removes a referral to a national consensus standard that is not applicable to all affected cranes equipped with stabilizers. In addition, the proposal clarifies that a stabilizer is not the same as an outrigger.

Therefore, the proposed regulation 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 **March 15, 2013**. 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 **March 21, 2013**, 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](mailto: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

---

Chairman