



December 28, 2006

Mr. Keith Umemoto
Executive Director
Occupational Safety and Health Standards Board
2520 Venture Oaks Way, Suite 350
Sacramento, CA 95833

RECEIVED

JAN 02 2007

OCCUPATIONAL SAFETY AND HEALTH
STANDARDS BOARD

Re: Petition for Modification
8 CCR § 3248(a)
Mechanical Refrigeration Systems

Dear Mr. Umemoto:

I am a former member of the Standards Board and a consulting safety engineer in private practice. I am raising a need on my own behalf and not am not claiming any affiliation with any industry or labor group.

Recently, I represented a client in an appeal of citations issued by the Division of Occupational Safety and Health, Process Safety Unit. Amongst the citations was one for § 3248(a). Upon examining this regulation closely and in an attempt to assist my client there became an obvious problem with the regulatory text. The standard incorporates by reference specified chapters of the 1982 Uniform Mechanical Code. I attempted to secure a copy of the referenced 1982 UMC through my usual engineering document resources, i.e. Global Engineering Documents, IHS Global, International Conference of Building Officials, etc. I also searched the Internet. I was informed that the 1982 UMC is no longer supported or available. This was indeed an objective comprehensive search but not exhaustive. Regardless, I am certain that most of the regulated public with an interest to obtain the referenced Code at this time would encounter a significant problem in doing so.

It is my opinion that the incorporated referenced standard is no longer in the public domain. If this is the case, the regulation is no longer enforceable and in violation of the Administrative Procedures Act, specifically Government Code § 11349.1.

Should my petition be found to have merit, I recommend that the text from the referenced chapters of the 1982 Code be promulgated in their entirety as subsections of § 3248(a). This way, there would be no additional burden for those with refrigeration systems placed in service before March 13, 1999. This would also clarify the matter for the regulated public. I do not recommend using the 1997 UMC unless there is a definite showing of a need and perhaps an advisory committee.

Petition for Modification, 8 C.R. § 3248(a)

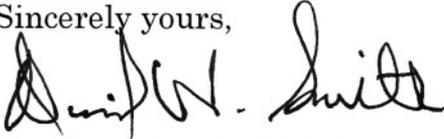
December 28, 2006

Page 2

I have discussed this dilemma with Mr. Clyde J. Trombetta, DOSH Process Safety,
Northern Unit District Manager.

Thank you for your consideration of this matter.

Sincerely yours,

A handwritten signature in black ink, appearing to read "David W. Smith". The signature is written in a cursive style with a large initial "D" and "S".

David W. Smith, CSP, P.E.
Safety Engineer

DWS/bs