

**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

**TITLE 8. CALIFORNIA CODE OF REGULATIONS**

General Industry Safety Orders

Section 3999(b)

(Published on **March 2, 2018**)**Guarding of Conveyor Belt Support Rollers - Deletion of Note**

NOTICE IS HEREBY GIVEN that the Occupational Safety and Health Standards Board (Board) proposes to adopt, amend or repeal the foregoing provisions of Title 8 of the California Code of Regulations (T8 CCR) in the manner described in the Informative Digest, below.

PUBLIC HEARING

The Board will hold a public hearing starting at 10:00 a.m. on **April 19, 2018** in the **Auditorium** of the **Auditorium** of the **Harris State Building, 1515 Clay Street, Oakland, California**. At this public hearing, any person may present statements or arguments orally or in writing relevant to the proposed action described in the Informative Digest.

WRITTEN COMMENT PERIOD

In addition to written or oral comments submitted at the public hearing, written comments may also be submitted to the Board's office. The written comment period commences on **March 2, 2018** and closes at 5:00 p.m. on **April 19, 2018**. Comments received after that deadline will not be considered by the Board unless the Board announces an extension of time in which to submit written comments. Written comments can be submitted as follows:

By mail to Sarah Money, Occupational Safety and Health Standards Board, 2520 Venture Oaks Way, Suite 350, Sacramento, CA 95833; or

By e-mail sent to oshsb@dir.ca.gov.

AUTHORITY AND REFERENCE

Labor Code Section 142.3 establishes the Board as the only agency in the State authorized to adopt occupational safety and health standards. In addition, Labor Code Section 142.3 requires

the adoption of occupational and health standards that are at least as effective as federal occupational safety and health standards.

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

Section 3999(b) provides the guarding requirement for pulleys, drums, and sprockets in belt conveyors. It includes an advisory Note stating: "*Normally, conveyor belt support rollers need not be guarded unless they create a potential hazard for serious injury*". The Note is vague and detracts from the clarity of subsection 3999(b), and therefore is proposed for deletion.

Anticipated Benefits

Removing the vague Note will contribute to the understanding of an employer's responsibility to guard support rollers as prescribed, and, per T8 CCR Section 4002(a), as otherwise hazardous to employees. Consequently, deletion of the Note will advance the objective of employee protection from potential hazards caused by such support rollers.

Section 3999(b)

Section 3999(b) is the state standard that provides the guarding requirement for most of the parts and components of a belt conveyor. An accompanying Note, being proposed for deletion, states:

"Normally, conveyor belt support rollers need not be guarded unless they create a potential hazard for serious injury".

Per the Final Statement of Reasons (FSOR) included in the Machine Guarding rulemaking file (Public Hearing date: December 12, 1984), this Note had been proposed by an advisory committee, to address certain long conveyors, such as those used in processing plants, having support rollers which were not powered. In the FSOR, Board staff characterized such support rollers as only becoming hazardous when loaded.

The intent of the Note had been to explain that nonhazardous, belt conveyor support rollers need not be guarded. Instead, it served to detract from the prescriptive clarity of Section 3999(b), by resorting to an imprecise key term, "[n]ormally," and by suggesting a hazard threshold, of potential "*serious injury*," which are less protective than additionally applicable requirements for guarding against (simply) "hazardous" rolling equipment and pinch points per T8 CCR Section 4002(a), which states:

"(a) All machines, parts of machines, or component parts of machines which create hazardous revolving, reciprocating, running, shearing, punching, pressing, squeezing, drawing, cutting, rolling, mixing or similar action, including pinch points and shear points, not guarded by the frame of the machine(s) or by location, shall be guarded. "

Thus, it is necessary to delete the Note in Section 3999(b) because it not only detracts from the prescriptive clarity of Section 3999(b), but also from an employer's certainty about the applicability of Section 4002(a) to belt conveyor hazards.

The Board evaluated the proposed regulation pursuant to Government Code Section 11346.5(a)(3)(D) and has determined that the regulation 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: (1) 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, and (2) the requirement that all state occupational safety and health rulemaking be channeled through a single entity (the Standards Board).

DISCLOSURES REGARDING THE PROPOSED ACTION

Mandate on Local Agencies and School Districts: None.

Cost or Savings to State Agencies: None.

Cost to any Local Government or School District Which Must be Reimbursed in Accordance with Government Code Sections 17500 through 17630: None.

Other Nondiscretionary Cost or Savings Imposed on Local Agencies: None.

Cost or Savings in Federal Funding to the State: None.

Cost Impacts on a Representative Private Person or Business:

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.

Statewide Adverse Economic Impact Directly Affecting Businesses and Individuals: Including the Ability of California Businesses to Compete:

The Board has made an initial determination that this proposal will not result in a significant, statewide adverse economic impact directly affecting businesses/individuals, including the ability of California businesses to compete with businesses in other states since no new requirements or changes to the existing requirements are proposed.

Significant Effect on Housing Costs: None.

SMALL BUSINESS DETERMINATION

The Board has determined that the proposed amendment may affect small businesses. However, no economic impact is anticipated since no new requirements or changes to the existing requirements are proposed.

RESULTS OF THE ECONOMIC IMPACT ASSESSMENT/ANALYSIS

The proposed regulation will not have any effect on the creation or elimination of California jobs or the creation of new businesses or the elimination of existing California businesses or affect the expansion of existing California businesses since no new requirements or changes to the existing requirements are proposed.

BENEFITS OF THE PROPOSED ACTION

Removing the vague Note will increase the certainty of an employer's understanding of its responsibility to guard support rollers as prescribed, and as otherwise hazardous to employees. Consequently, its removal will advance the objective of employee protection from potential hazards caused by the support rollers.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code Section 11346.5(a)(13), 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 than the proposed action 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.

The Board invites interested persons to present statements or arguments with respect to alternatives to the proposed regulation at the scheduled public hearing or during the written comment period.

CONTACT PERSONS

Inquiries regarding this proposed regulatory action may be directed to Marley Hart (Executive Officer) and the back-up contact person is Michael Manieri (Principal Safety Engineer) at the Occupational Safety and Health Standards Board, 2520 Venture Oaks Way, Suite 350, Sacramento, CA 95833; (916) 274-5721.

**AVAILABILITY OF STATEMENT OF REASONS, TEXT OF THE PROPOSED
REGULATION AND RULEMAKING FILE**

The Board will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulation, the Initial Statement of Reasons, supporting documents, or other information upon which the rulemaking is based. Copies may be obtained by contacting Ms. Hart or Mr. Manieri at the address or telephone number listed above.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After holding the hearing and considering all timely and relevant comments received, the Board may adopt the proposed regulation substantially as described in this notice. If the Board makes modifications which are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public at least 15 days before the Board adopts the regulation as revised. Please request copies of any modified regulation by contacting Ms. Hart or Mr. Manieri at the address or telephone number listed above. The Board will accept written comments on the modified regulation for at least 15 days after the date on which they are made available.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting Ms. Hart or Mr. Manieri at the address or telephone number listed above or via the internet.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

The Board will have rulemaking documents available for inspection throughout the rulemaking process on its web site. Copies of the text of the regulation in an underline/strikeout format, the Notice of Proposed Action and the Initial Statement of Reasons can be accessed through the Standards Board's website at <http://www.dir.ca.gov/oshsb>.