

**OCCUPATIONAL SAFETY
AND HEALTH STANDARDS BOARD**

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FINAL STATEMENT OF REASONS

CALIFORNIA CODE OF REGULATIONS

**TITLE 8: Chapter 4, Subchapter 7, Article 2, Section 3214, and Figure E-1 to Section 3231
Of the General Industry Safety Orders (GISO) and Subchapter 4, Appendix B, Plate B-17 of the
Construction Safety Orders (CSO)**

Stair Railing Design

**MODIFICATIONS AND RESPONSE TO COMMENTS RESULTING FROM
THE 45-DAY PUBLIC COMMENT PERIOD**

There are no modifications to the information contained in the Initial Statement of Reasons.

Summary and Response to Written or Oral Comments:

I. Written Comments

**Mr. Frank Strasheim, Regional Administrator, Region IX, U.S. Department of Labor,
Occupational Safety and Health Administration, by letter dated August 15, 2007.**

Comment:

Mr. Strasheim stated that the proposed standards provide protection at least as effective as the federal standards.

Response:

The Board staff thanks Mr. Strasheim for his participation and support of the proposed standards.

II. Oral Comments

Oral comments received at the August 16, 2007, Public Hearing in Sacramento, California.

Mr. William Jackson, Occupational Safety and Health Standards Board (OSHSB) Member

Comments:

Mr. Jackson asked why a stair rail installed prior to April 3, 1997 provided adequate safety at a minimum of 30 inches above the stairway tread nosing as opposed to a stair rail installed on or after April 3 which would have to be a minimum 34 inches above the stair way tread. In addition, Mr. Jackson stated that the diagrams illustrating the required stairway spatial configurations do not contain an exception for stairways installed prior to April 3, 1997.

Responses:

The proposal is intended to grandfather stair railings in stairways in older (prior to April 3 1997), existing buildings where the installation of stair rails 30 inches above the stairway was permitted when the building was constructed. The difference of 4 inches in railing height has not resulted in any discernable reduction in the safety of pedestrians using the stair way, however, it is very reasonable to expect that requiring all stair railings in all buildings meet the 34-38 inch high railing requirement could result in a significant cumulative cost impact upon building owners throughout California. Federal OSHA has issued an advisory opinion stating that the proposal is at least as effective as the counterpart federal standard which has a maximum railing height of 34 inches. Federal OSHA was not able to demonstrate any reduction in the safety of pedestrians using stair railings that are 38 inches high versus 34 inches high. The proposal was also intended to render Title 8 stair railing standards and newer (post 1997) stair rail installations consistent and in harmony with the 2006 International Building Code upon which the 2007 California Building Code is based, which becomes enforceable by local jurisdictions throughout California on January 1, 2008.

Finally, the Board staff notes that Federal OSHA and Title 8 address numerous standards which provide either alternative methods to provide employee safety or specify one standard for installation materials, machinery or equipment manufactured, purchased or placed in service before a specified date and another standard that applies on or after a specified date. No Title 8 standards that provide this “grandfathering feature” have ever resulted in a diminished or compromised level of employee safety.

With regard to Mr. Jackson’s second comment, the Board staff believes it is sufficiently clear to the regulated public which standards apply in relation to the April 3, 1997 date specified in Section 3214. The stairway illustrations are not misleading even without an exception statement since the regulatory text is clear about which railing height specification applies and when. The reader normally consults the regulatory text first. The Board staff also notes that the regulatory text does not reference the illustrations in Figure E-1 or Plate B-17; both are contained in informative appendices which are a secondary source of reference.

Therefore, the Board staff believes that no modification of the proposed language or illustrations is necessary.

Mr. Jack Kastorff, OSHSB Member and Dr. Jonathan Frisch, OSHSB Member

Comments:

Mr. Kastorff had two separate comments: 1) Mr. Kastorff questioned the difference between the 70 degree and 75 degree angle for ladder criteria specified in Figure E-1 (GISO) and Plate B-17 (CSO), and 2) Mr. Kastorff stated that the proposal should not require employers to have vertical intermediate rails when there are other methods to ensure safety.

Responses:

Amending (updating) both Figure E-1 and Plate B-17 to specify a ladder inclination of 75 degrees would constitute a change that is outside the scope of this rulemaking which is specific to stair railings. However, both diagrams are supposed to indicate the same angle of inclination. As a result of a typographical error, Plate B-17 indicates an angle of inclination of 70 degrees instead of 75 degrees as indicated in Figure E-1. Therefore, the inadvertent inconsistency in the angle of inclination between Figure E-1 and Plate B-17 will be addressed as part of the Title 8 Reform Project, Reform Element No. 5, to update all graphics for presentation to the Board at a future Public Hearing.

With regard to the issue of intermediate vertical members, the proposal does not require their use. The “Note” merely informs the employer that in the event the local buildings require them, they would need to be designed with 4-inch minimum spacing at the members. Therefore, the Board staff believes no modification to the proposed language is necessary.

ADDITIONAL DOCUMENTS RELIED UPON

None.

ADDITIONAL DOCUMENTS INCORPORATED BY REFERENCE

None.

DETERMINATION OF MANDATE

These standards do not impose a mandate on local agencies or school districts as indicated in the Initial Statement of Reasons.

ALTERNATIVES CONSIDERED

The Board invited interested persons to present statements or arguments with respect to alternatives to the proposed standards. No alternative considered by the Board would be more effective in carrying out the purpose for which the action is proposed or would be as effective as and less burdensome to affected private persons than the adopted action.