

**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



Attachment No. 2

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

**TITLE 8: Division 1, Chapter 4, Subchapter 7, Article 4, Sections 3276 and 3278
of the General Industry Safety Orders; and Subchapter 4, Article 25,
Section 1675 of the Construction Safety Orders**

Single-Rail Ladders**SUMMARY**

The proposed amendments are the result of a Division of Occupational Safety and Health (Division) Form 9-070, dated April 7, 2011, to correct an unintended consequence of the recent reorganization of the Title 8 ladder standards. Prior to the reorganization, single-rail ladders (portable and fixed) were prohibited by General Industry Safety Orders (GISO), Section 3278, Use of Ladders. A single-rail ladder is a ladder with rungs, cleats or steps mounted on a single-rail instead of the normal two rails used on most other ladders. Following the January, 2010 reorganization of the ladder standards, the title of Section 3278 changed to "Use of Fixed Ladders." As a result of this change, the use of single-rail fixed ladders remained prohibited, whereas single-rail portable ladders arguably were permitted. The Division is concerned that the unintended change to Section 3278 is not at least as effective as (ALAEA) federal OSHA standards for portable ladders. Federal OSHA ladder regulations under 29 CFR Parts 1910 and 1926 prohibit the use of single-rail ladders.

The Division proposes to correct this oversight by adding a prohibition on single-rail ladders to GISO, Section 3276, Portable Ladders, and by adding definitions of "single-rail ladder" to both Sections 3276 and 3278. According to the Division, definitions are needed in both sections because the term "single-rail ladder" is often confused with the term "single ladder" which is used in both sections.

Board staff proposes to include a GISO definition for single-rail ladder in Section 3276 and a prohibition on the use of such ladders. In addition, staff proposes to define single-rail ladders in Section 3278 consistent with the exiting prohibition on single-rail ladder use and prohibit single-rail ladder use in the Construction Safety Orders (CSO) to ensure that California is ALAEA federal OSHA construction standards for this issue. Single-rail ladders are already defined in the CSO, Section 1504, definitions for ladders.

SPECIFIC PURPOSE AND FACTUAL BASIS OF PROPOSED ACTION

Section 3276. Portable Ladders.

Subsection (b) of this section consists of definitions of terminology used in the standards that comprise this section. An amendment is proposed to add a definition for the term “single-rail ladder.” This definition is necessary to clarify to the employer the meaning and application of the proposed standard prohibiting single-rail ladder use in new subsection (d). An amendment is proposed for Section 3276 (d)(1) which pertains to the selection and use of portable ladders to add language that prohibits single-rail ladder use. The proposed amendment is necessary to prevent employee falls from inherently unstable single-rail ladders.

Section 3278. Use of Fixed Ladders.

Subsection (a) of this section contains general safety requirements for fixed ladders intended to ensure such ladders are used safely by workers. A new subsection (b) is proposed to define what is meant by the term single-rail ladder as used in Section 3278. This proposal is necessary to clarify to the employer the meaning of the prohibition on single-rail ladder use contained in existing subsection (a)(4).

Section 1675. General.

Existing Section 1675 requires all portable and fixed ladders used in construction to comply with Section 3276 and Section 3277, respectively. An amendment is proposed to include a reference to Section 3278, in addition to the existing reference to Section 3277, on the use of fixed ladders in Section 1675(c). The proposed amendment is necessary to clarify to the employer that the fixed ladder use requirements of Section 3278, which includes a prohibition on the use of single-rail ladders, and other important safety requirements, applies to the CSO. In addition, an amendment is proposed that adds a new subsection (d) at the end of Section 1675 stating, “Single-rail ladders shall not be used,” which is necessary to ensure that workers do not use an inherently unsafe ladder and which will remove any question as to whether Section 1675 is ALAEA the federal construction standards in 29 CFR1926.1053(b)(19) that prohibits the use of single-rail ladders.

DOCUMENTS RELIED UPON

1. Division Form 9-070, dated April 7, 2011.
2. ANSI A14.1-2007, American National Standard for Ladders-Wood Safety Requirements.
3. ANSI A14.2-2007, American National Standard for Ladders-Portable Metal-Safety Requirements.
4. ANSI A14.5-2007, American National Standard for Ladders-Portable Reinforced Plastic-Safety Requirements.

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 proposal amends GISO, Sections 3276 and 3278 to clarify to the employer the prohibition on single-rail ladder use and CSO, Section 1675 to prohibit the use of single-rail ladders commensurate with the federal prohibition; thereby, rendering Title 8 ALAEA the federal standard. No cost impacts are anticipated as this revision only remedies an unintended consequence of the recent reorganization of Title 8 portable ladder standards and restores the previous regulatory requirements.

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.”

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 regulations do 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, these standards do 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.)

These proposed regulations do not require local agencies to carry out the governmental function of providing services to the public. Rather, the regulations require local agencies to take certain steps to ensure the safety and health of their own employees only. Moreover, these proposed regulations do 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.)

These proposed regulations do 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

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 these regulations 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.