

**OCCUPATIONAL SAFETY  
AND HEALTH STANDARDS BOARD**

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**FINAL STATEMENT OF REASONS**

## CALIFORNIA CODE OF REGULATIONS

TITLE 8: Division 1, Chapter 4, Subchapter 7, Article 11, Sections 3412, 3413, 3414, and 3416  
of the General Industry Safety Orders (GISO)

Outdoor Advertising Structures – Fall Protection**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 except for the following substantive and sufficiently related modifications that are the result of public comments and/or Board staff evaluation.

Section 3412. General.

This section contains the scope statement for Article 11 and two definitions relating to ladders used in the outdoor advertising structure industry. Modifications are proposed to expand the proposal beyond listing Type 1 and Type 1A, to include Type 1AA special duty ladders in the subsection (b) definition of special purpose poster ladders and indicate that they have a working load capacity of 375 pounds.

The proposed modification is necessary to ensure that outdoor advertising industry employers will understand that Type 1AA special duty ladders are recognized as part of the standards for safety contained in Article 11.

Section 3413. Ladders.

As proposed, this section addresses the use of ladders used in the outdoor advertising structure industry and recognizes the Type 1 and 1A ladders. The proposal requires Type 1 and 1A ladders to be designed and constructed in accordance with applicable Title 8 ladder standards contained in Sections 3278 and 3279. Subsection (c) requires Type 1 and 1A special purpose poster ladders purchased after January 1, 1993, to be approved for their intended use and equipped with hooks at the top of the ladder to secure them to the top of the billboard. Modifications are proposed to add Type 1AA special duty ladders to those listed in the proposal in subsections (a) and (c) and to add a reference to Section 3280 which addresses fiberglass ladders. Further modifications are proposed for clarity.

The modifications are necessary to ensure that the employer will understand that Type 1AA special duty ladders must also be designed, constructed and approved for outdoor advertising

structure use and to ensure that the ladders are properly designed and built to provide a safe working platform for the employee. Fiberglass ladders are being added because of their durability, reduced weight and dielectric properties where contact with energized conductors could be a potential problem.

Section 3414. Poster Ladder Scaffolds.

This section consists of seven subsections addressing the use of poster ladder scaffolds, maximum number of employees permitted on a scaffold, scaffold design, scaffold setup using ladders and the use of personal fall protection systems. Modifications are proposed to specify that the employee is to use a full body harness when working from a special purpose poster ladder or poster ladder scaffold. The modification is made in order for Section 3414 to conform with the terms defined in Section 3412(b) and thereby add clarity and consistency to the proposal. The modification will also clarify to the employer that the employee is to be utilizing personal protective equipment when working from the special purpose poster ladder or poster ladder scaffold to prevent a serious fall from an elevation which could result in serious injury or fatality.

Section 3416. Fall Protection.

As proposed, this subsection contains various personal fall protection requirements addressing personal fall protection systems, horizontal safety lines, lanyards, and lifelines in conjunction with the use of Type 1 and 1A poster ladders. Modifications are proposed to delete the word Exception in the statement that follows subsection (a) as unnecessary and add Type 1AA special duty ladders to the list of ladders that may be used with self-retracting lifelines. Further modifications are proposed to add new subsection (f) to require that all personal fall protection system anchorage meet the strength requirements contained in Article 24 of the Construction Safety Orders. An additional modification is proposed to add a new subsection (c)(3) as an option to use special purpose poster ladders equipped with anchor points.

The proposed modifications are necessary to ensure that the employer understands Type 1AA ladders are also permitted to be used in conjunction with self-retracting lifelines, that suitable special purpose poster ladder anchorage is an option for employees working from special purpose poster ladders, and that all anchorage is to meet the strength requirement established by standards contained in Article 24 of the Construction Safety Orders. These changes are necessary to promote the internal consistency of the proposal with regard to Type 1AA ladders, ensure workers are provided with anchorage that will prevent a fall from an elevated location, recognize the availability from manufacturers and use by workers of special purpose poster ladders that are designed with anchor points, all of which ensures conformity to accepted industry practice.

Summary and Response to Oral and Written Comments:

I. Written Comments

Ms. Teresa A. Harrison, Acting Regional Administrator, Region IX, United States Department of Labor, Occupational Safety and Health Administration (Fed OSHA), by letter dated March 5, 2008.

Comment:

Ms. Harrison stated that the proposed standard contains specific requirements for outdoor advertising structures not found in federal regulations and therefore, is more effective than the federal standard.

Response:

The Board acknowledges the determination that the proposal is at least as effective as the federal standards and appreciates Ms. Harrison's timely participation in the Board's rulemaking process.

Mr. Gerald A. Hook, President, Stokes Ladders, Inc., by letter dated March 24, 2008.

Comment:

Mr. Hook suggested adding language in Sections 3412, 3413 and 3416(e) that recognizes the Type 1AA Special Duty ladder. He also suggested deleting the term "approved" and "approval certification" in Section 3413 because it is unclear what the term approved or approval certification mean.

Response:

The Board staff has proposed amendments to Sections 3412, 3413 and 3416(e) to include language recognizing the Type 1AA Special Duty ladder.

With regard to the term "approved," it is defined in Title 8 in both the General Industry and Construction Safety Orders in Sections 3206 and 1505 respectively. The term "approved" refers to products, materials, devices, systems or installations that have been approved, listed, labeled or certified as conforming to recognized governmental, nationally recognized standards or applicable scientific principles. The approval definition also recognizes that there may be situations where the product, material, device, system or installation is not accounted for by any national consensus or governmental standard, in which case the Division of Occupational Safety and Health (Division) requires the employer to submit technical data to substantiate that the device, material, system, installation or product is safe or suitable for its intended use. The Board notes that there are ANSI standards for metal and fiberglass special purpose ladders as reflected by the ANSI A14.10-2000 and the new ANSI A14.2 and A14.5-2007 standards. Staff is also proposing to modify the proposal to add a reference to GISO Section 3280 in Section 3413(a) to further recognize the importance of using portable fiberglass ladders designed and built in accordance with Title 8 standards. The Board believes ladders used in outdoor advertising structure work should be approved and labeled indicating they are safe for their intended use.

Therefore no modification to delete the terms "approved" or "approval certification" is necessary.

The Board thanks Mr. Hook for his comments and participation in the Board's rulemaking process.

Mr. Jim Read, Owner, High Country Outdoor, by letter dated March 27, 2008.

Comment:

Mr. Read suggested Section 3416(c)(2) be modified to recognize ladder anchorage points that are sufficient in strength to meet a 900 pound load factor. Mr. Read also mentioned a device referred to as a Sheppard's Hook which has become a point of confusion between the industry and the Division over whether or not they conform to existing fall protection standards. They serve as an attachment point for the employee's lanyard when no horizontal line or posting ladder is used. Mr. Read also indicated that he would like to see the proposal modified to prohibit the use of fiberglass ladders as poster ladders, as he believes there are unforeseen dangers such as contact with steel decks, sun deterioration, electric shock and increased weight leading to back injury.

Response:

The Board staff has modified Section 3416 of the proposal to add new subsection (f) to reference the use of fall protection in accordance with the fall protection requirements contained in Article 24 of the Construction Safety Orders. These standards address the use of fall arrest, fall positioning and fall restraint systems, define what is suitable anchorage for personal fall arrest systems (5000 lbs), and prohibit the use of body belts as part of a fall arrest system. In addition, the Board proposes to modify Section 3414 to specify in subsection (g) that anchorage requirements described in subsection (g)(2) apply when working from a special purpose poster ladder or poster ladder scaffold. The Board believes that Sheppard's Hooks are acceptable for use only if they comply with the Article 24 standards for suitable anchorage and the specific anchorage strength criteria. Mr. Read may wish to consult further with the Division on this matter.

The Board is not persuaded to prohibit the use of fiberglass poster ladders. Manufacturers have been manufacturing fiberglass poster ladders with built-in 5000-pound anchorage successfully for a number of years. Board staff is not aware of any documented outdoor advertising structure ladder failures in California. Existing Title 8 general ladder standards require employers to inspect ladders periodically for signs of wear or damage and to repair or replace damaged or defective ladders prior to use. Also, fiberglass poster ladders possess dielectric properties that are effective in preventing shock or electrocution in situations where the potential to contact with energized conductors may exist.

Consequently, the Board believes prohibiting fiberglass ladders from use by the outdoor advertising structure industry is not justified.

The Board thanks Mr. Read for his comments and participation in the rulemaking process.

Mr. David E. Plotner, Werner Ladder, Inc., by e-mail transmission dated March 30, 2008.

Comment:

Mr. Plotner stated that he had reviewed the proposal and that he did not see any issues with the language. He also updated Board staff on the national consensus standards addressing special purpose ladders which have been incorporated into the American National Standards Institute (ANSI) A14.2 (aluminum) and A14.5 (fiber-reinforced plastics) in 2007. He indicated for future reference that posting ladders are addressed under the ANSI special purpose ladder standards depending on whether they are constructed of metal or fiberglass.

Response:

The Board acknowledges Mr. Plotner's support for the proposal and the information clarifying the status of the respective ANSI metal and fiberglass ladder standards as they relate to poster ladders.

The Board thanks Mr. Plotner for his comment and participation in the rulemaking process.

Mr. Chuck Wigger, CSP, Assistant Corporate Safety Director, Lamar Advertising Company, by letter dated March 31, 2008.

Comment:

Mr. Wigger suggested incorporating the language of the Exception to Section 3416(a) into subsection (a) since he contends the working conditions described in the Exception statement are practiced by the outdoor advertising industry. He indicated that he has not seen a billboard that is equipped with a horizontal lifeline at the top of the billboard.

Response:

The Board agrees with Mr. Wigger and proposes to modify subsection (a) to delete the Exception and add the language to subsection (a).

The Board thanks Mr. Wigger for his comment and participation in the rulemaking process.

## II. Oral Comments

Oral comments received at the March 20, 2008, Public Hearing in Glendale, California.

Mr. Chuck Wigger, Assistant Corporate Safety Director, representing Lamar Advertising Company, Mr. Jim Read, High Country Outdoor Advertising.

Comment:

Mr. Wigger and Mr. Read both commented on Section 3416(c)(1) regarding horizontal lifelines. However, after the Board asked the commenters for specific changes to the wording of the proposal Mr. Wigger stated that he was not asking for changes to the proposal. Mr. Read stated that the requirement for a horizontal lifeline at the top of the billboard was a mistake missed by the 1991 advisory committee. It is also noted that Mr. Wigger proposed a modification that

would stipulate that poster ladders be equipped with anchorage tie-off points as provided on poster ladders manufactured by the Werner Ladder Company. Mr. Wigger stated that language from the Werner Ladder Company requiring anchor points on poster ladders should be added to the proposal.

As a result of the Board's extension of the Public Comment period to April 3, 2008, written comments from both commenters were received by the Board and responded to in the response to written comments (see above).

Response:

The Board does not agree that the horizontal safety line requirement should be restricted to the lower portion of the billboard as there may be situations where an upper horizontal lifeline could be of benefit as an anchor point for employees working from the upper portion of the advertising structure.

The ladder language Mr. Wigger suggested is contained in a document by the Werner Ladder Company and describes federal OSHA standards pertaining to what constitutes suitable anchorage. California's comparable anchorage requirements are contained in Title 8, Construction Safety Orders, Article 24. The proposal has been modified to include language in Section 3416(c)(3) to address ladders equipped with anchorage and again in subsection (f) which would require all personal fall protection anchorage to meet the strength requirements for anchorage specified in Article 24 of the Construction Safety Orders.

The Board agrees with Mr. Wigger to the extent that staff has proposed a modification to Section 3416(c) to add a new subsection (3) which addresses the use of special purpose poster ladders that are designed with built-in anchor points.

The Board thanks Mr. Wigger and Mr. Read for their participation in the Board's rulemaking process.

Mr. John MacLeod, Chairman, Occupational Safety and Health Standards Board (OSHSB).

Comment:

Chairman MacLeod asked how the requirement for a horizontal lifeline became part of the outdoor advertising structure standard.

Response:

Most likely the language resulted from concerns over providing suitable anchorage for employees working from platforms on the outdoor advertising structure. Please see the response to Mr. Wigger's and Mr. Read's oral comments above.

Mr. Willie Washington, OSHSB member

Comment:

Mr. Washington noted that the minutes of the advisory committee meeting state that Mr. McCune of the Division had a question about the material to be used for the horizontal lifeline specified in Section 3416(c)(2) of the standard and that there was a discussion about the requirement in Section 3416(c)(2) being intended to address safe ladder access. Mr. Washington was unclear how the Division's response related to Mr. Read's earlier comment that a ladder anchor point should be required in the proposal.

Response:

See the response to Mr. Wigger's and Mr. Read's oral comments. It is clear from the existing Section 3416(c)(2) language that the standard currently requires the cable referred to in the standard to be made of ¼-inch improved plow steel. The proposal will be modified to permit the use of poster ladders equipped with anchor points that conform to the anchorage strength requirements contained in Article 24 of the Construction Safety Orders. This will provide the worker with three methods for securing themselves against a fall as shown in Section 3416(c)(1)-(3).

Mr. Steve Rank, Mr. Bill Jackson, OSHSB members

Comment:

Mr. Rank stated that the proposal should not rule out any type of effective personal fall arrest systems or positioning devices. Mr. Rank added that the strength requirement in Section 3416(b) should be expanded to specify anchorage meeting the 5000-pound strength requirement for suitable anchorage in Article 24 of the CSO. Mr. Jackson stated the proposal appeared to be aimed at eliminating body belts from use on outdoor advertising structures and that the proposal may need further work by an advisory committee.

Response:

Amendments to Section 3416(a) require the use of personal fall protection systems when guardrails are not provided. By definition personal fall protection systems consist of fall restraint systems, fall positioning systems and fall arrest systems. A body belt or full body harness may be worn as part of a fall restraint system and a positioning system. However, body belts cannot be used as part of a fall arrest system. Use of body belts is not being eliminated. The proposal requires workers on the advertising structure platform to wear personal fall protection, meaning the worker may choose to wear a body belt or a body harness depending on the type of personal fall protection system used. It is only when workers are elevated from a special purpose poster ladder or poster ladder scaffold where they may be exposed to falls from even greater elevations that they are required by Section 3414(g) to wear a full body harness. This is consistent with industry practice.

The proposal has been modified to add new subsection (c)(3) providing for the use of special purpose poster ladder anchor points for personal fall protection systems and a new subsection (f) that contains a reference to the anchorage strength requirements of Article 24 of the Construction Safety Orders. Based on the foregoing proposed modifications to the proposal, it is not necessary

to send the proposal back to an advisory committee. Staff believes the issues raised at the March 2008 Public Hearing can be addressed via the 15-Day Notice process. The Board extended the comment period to ensure that there are no unintended consequences and to ensure that those others who may wish to comment, particularly ladder manufacturers, have had the opportunity to provide comments.

MODIFICATIONS AND RESPONSE TO COMMENTS RESULTING FROM  
THE 15-DAY NOTICE OF PROPOSED MODIFICATIONS

No further modifications to the information contained in the Initial Statement of Reasons are proposed as a result of the 15-day Notice of Proposed Modifications mailed on June 9, 2008.

Summary and Response to Written Comments:

Mr. Jerry Hook, President, Stokes Ladders, Inc., by letter dated June 12, 2008

Comment:

Mr. Hook asked if an employee can attach his lanyard to a Type 1, Type 1A or Type 1AA ladder, or must it be attached to an anchor point rated at 5000 pounds. Mr. Hook stated that it seems without purpose to rate a ladder as being Type 1, 1A or 1AA if the anchor requirement is 5000 pounds.

Response:

Suitable anchorage meeting the 5000-pound strength requirement contained in Article 24 of the Construction Safety Orders only becomes necessary if the employer intends to use a personal fall arrest system when working from the ladder. An employee can attach the lanyard to the ladder anchor point when using a personal fall arrest system regardless of the type of ladder provided the anchorage meets the 5000-pound strength requirement. If the employer intends to use a fall restraint or positioning device system, ladder anchorage is not required to meet the 5000-pound anchor strength standard.

Ladders are rated by the manufacturer in accordance with the ANSI A14.10 consensus standard for portable special duty ladders and pertain to the duty rating or overall strength (e.g., safely supporting intended loads when climbing and descending) and durability of the ladder in everyday use. Clearly, duty rating and anchorage strength are two separate issues. To further support this, Board staff's research indicates the existence of Type 1A poster ladders (designed, built and labeled per the ANSI A14.10 standard with a 300-pound duty rating) that are designed with anchor points meeting the 5000-pound anchorage requirement (Werner SPF/TPF series poster ladder).

The Board thanks Mr. Hook for his comment and participation in the rulemaking process.

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 standard. 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 and less burdensome to affected private persons than the adopted action.