

**OCCUPATIONAL SAFETY  
AND HEALTH STANDARDS BOARD**

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Attachment No. 2

**INITIAL 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

**Outdoor Advertising Structures-Fall Protection****SUMMARY**

This rulemaking proposal is the result of a Division of Occupational Safety and Health (Division) Memorandum dated December 28, 2001, to the Occupational Safety and Health Standards Board (Board) regarding General Industry Safety Orders (GISO) Section 3416 and fall protection on outdoor advertising structures. The Division's memorandum references a letter from Mr. Mark Chen, representing John A. Batchelor Co. Inc, a fall protection equipment vendor who provides fall protection systems used by employers to protect their workers from falls from elevated locations while performing work on outdoor advertising structures (billboards). Mr. Chen stated that existing Title 8 outdoor advertising structure (OAS) fall protection standards are out of date and inconsistent with current industry practice. The OAS standards reference the use of body belts in an environment where the use of fall arrest systems are the norm as opposed to fall restraint or positioning devices which can be used with body belts and a 5 foot lanyard length restriction which unduly restricts the mobility of employees working from billboard platforms.

On July 26, 2007, the Board staff convened a representative advisory committee (committee) which included OAS labor and management representatives and persons representing fall protection equipment manufacturers. The committee reached consensus on a number of recommended amendments to Sections 3412, 3413, 3414 and 3416.

The proposal contains a number of amendments which include but are not limited to: updated terminology associated with OAS work based on American National Standard for Ladders - Portable Special Duty Ladders (ANSI) A14.10-2000 definitions for Type 1 and Type 1A ladders contained in Marking No. 4 of the ANSI A14.10 standard, a clarification of the applicability of the proposal by including a reference to the Construction Safety Orders (CSO) for standards that would apply to OAS construction, and fall protection for ladders, and use of personal fall protection systems.

## SPECIFIC PURPOSE AND FACTUAL BASIS OF PROPOSED ACTION

### Section 3412. General.

The existing section contains information pertaining to the scope and application of Article 11 standards. An amendment is proposed to add a Note to subsection (a) to make it clear that standards governing the construction of OAS are contained in the CSO.

An amendment is proposed for subsection (b) to augment the existing definition of “Special Purpose Poster Ladder” to include “Type 1A industrial extra heavy-duty” in addition to “Type 1 industrial heavy-duty” ladder and to define the two types of duty rating in terms of their respective working load capacities based on information contained in the ANSI A 14.1-2000 standard. The proposed amendment is necessary to clarify to the employer the definitions of heavy duty and extra heavy duty and to be consistent with current national consensus standards.

Subsection (b) is also amended to delete the word “aluminum” in recognition of the fact that these ladders may be made of other materials.

### Section 3413. Ladders.

This section contains safety requirements for ladders used in OAS work.

Amendments are proposed to clarify to the employer that all portable ladders are to be Type 1 or Type 1A as shown in subsection (c) of Section 3413. An additional clarifying amendment is proposed in subsection (c) which addresses industrial special purpose ladder approval, and indicates to the employer that the ladder is not restricted to aluminum construction but can be an extra heavy-duty type.

### Section 3414. Poster Ladder Scaffolds.

This section contains standards addressing the safe use of poster ladder scaffolds.

Amendments are proposed in subsection (g) to clarify that a full body harness rather than a safety belt is to be used in conjunction with lanyards attached to independently-anchored safety lines or self-retracting lifelines attached to approved anchorages.

The proposed amendments are necessary to clarify to the employer how personnel working on OAS are to be protected from the hazard of a fall from an elevated location and to be consistent with industry practice, existing Title 8 fall protection requirements and applicable national consensus standards.

### Section 3416. Fall Protection.

This section addresses fall protection requirements.

A proposed amendment of subsection (a) is necessary to clarify that employees are to be provided and wear an approved personal fall protection system when working at certain heights from OAS platforms not provided with guardrails. The proposed amendment is necessary to make sure that the employer understands his/her responsibility to implement administrative procedures to ensure each affected employee wears fall protection.

The proposed amendment to the Exception statement is necessary to clarify that safety belts are not permitted as part of a special purpose ladder fall protection system.

Existing subsection (c)(1) requires a removable horizontal safety line to permit attachment of a safety belt and lanyard when employees work from a special purpose ladder. The proposed amendments are necessary to clarify in subsection(c)(1) that safety belts are not permitted to be worn and that body harnesses must be connected by lanyard to a non-removable horizontal safety line when working from the upper half of the ladder. The proposed amendments are consistent with industry practice and will require the permanent attachment of independently-anchored safety lines when they are used.

Subsection (d) requires that lanyards not exceed 5 feet in length. It is proposed that subsection (d) be amended to require that a shock-absorbing device be installed in the lanyard and that the lanyard not exceed 6 feet in length, consistent with the design and construction of lanyards used by workers in the outdoor advertising industry. An exception statement is proposed to subsection (d) that would allow the use of self-retracting lifelines in lieu of shock absorbing lanyards. The proposed exception is necessary to allow employers flexibility in selecting the most effective system for their operation.

A new subsection (e) is proposed that informs the employer that self-retracting lifelines may be used with Type 1 or Type 1A ladders or when attached to an approved anchorage. The proposed amendment is necessary to clarify that when the self-retracting lifeline option provided in subsection (d) is used, they may be used with either type of poster ladder or attached to an approved anchorage.

#### DOCUMENTS RELIED UPON

1. Memorandum from the Division of Occupational Safety and Health dated December 28, 2001, to the Occupational Safety and Health Standards Board, regarding Title 8, CCR Section 3416, Fall Protection on Outdoor Advertising Structures with attached letter from Mr. Mark Chen, representing John A. Batchelor Co. Inc.
2. American National Standard (ANSI) for Ladders - Portable Special Duty Ladders, ANSI A14.10-2000, Marking No. 4.
3. Facsimile transmission dated July 25, 2007, from the United States Department of Labor, Occupational Safety and Health Administration, STD 01-01-014 - STD 1-1.14, Fixed Ladders Used on Outdoor Advertising Structures/Billboards in the Outdoor Advertising Industry. Includes the Gannett Outdoor Companies' Apprenticeship Program for Climbers and Introduction for General Billposting Procedures.
4. United States Department of Labor, Occupational Safety and Health Administration, Standard Interpretation, dated December 18, 1991-Fixed Ladders in Outdoor Advertising.

5. United States Department of Labor, Occupational Safety and Health Administration, Application of Gannett Outdoor Companies for a Variance Concerning Fixed Ladders. - 55:26796-97.
6. E-mail transmission from Mr. Mark Chen, John A. Batchelor Co. Inc to the Occupational Safety and Health Standards Board dated July 25, 2007.

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. The proposal updates, clarifies and corrects current practices consistent with industry practice.

#### 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. The State of California does not construct, maintain or operate its own outdoor advertising structures.

##### Impact on Housing Costs

The Board has made an initial determination that this proposal will not significantly affect housing costs.

##### Impact on Businesses

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. The proposal updates, clarifies and corrects current practices consistent with industry practice.

#### 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. The proposal updates, clarifies and corrects current practices consistent with industry practice and national consensus standards.

#### 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 regulations 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.)

The 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, the 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. The proposal updates, clarifies and corrects current practices consistent with industry practice.

### 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.