

**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](http://www.dir.ca.gov/oshsb)



Attachment No. 2

**INITIAL STATEMENT OF REASONS**

CALIFORNIA CODE OF REGULATIONS  
TITLE 8: CONSTRUCTION SAFETY ORDERS  
Chapter 4, Subchapter 4, Article 21, Section 1637  
and Article 23, Section 1658

**Scaffolds Used in the Construction Industry****PROBLEM ADDRESSED BY PROPOSED ACTION**

On Friday, August 30, 1996, the U.S. Department of Labor, Occupational Safety and Health Administration (Federal OSHA), promulgated its Final Rule regarding revisions to Subpart L of the Safety Standards for Scaffolds Used in the Construction Industry (Federal Register, Volume 61, No. 170, pages 46026-46126). These Subpart L revisions became effective on November 29, 1996, and are intended to protect employees who work on scaffolds from accidents attributable to unsafe conditions caused by bad weather, damaged wire suspension ropes, unsafe scaffold platform planking, misuse of emergency rescue equipment, etc.

Shortly after the promulgation of the revised Subpart L regulations, Board staff performed a side-by-side code comparison of Subpart L with existing California scaffold regulations and determined that there were five specific safety issues not adequately addressed by the state's standards. These safety issues include: scaffold work during inclement weather, use of repaired wire rope as suspension rope, application of finishes to scaffold platform planking, use of gasoline-powered equipment and hoists in scaffold work, and the use of emergency rescue/escape devices as working platforms. These issues are addressed by Federal OSHA Subpart L regulations in 29 CFR 1926.451(b)(9), (d)(7), (d)(14), (d)(19) and (f)(12).

To address the aforementioned deficiencies, Board staff proposes to amend the state's regulations, contained in the Construction Safety Orders (CSO), to include language that is substantially similar to the federal language contained in 29 CFR 1926 Subpart L.

**SPECIFIC PURPOSE AND FACTUAL BASIS OF PROPOSED ACTION****Section 1637. General Requirements.**

This Section contains regulations addressing the use, construction, design, erection and dismantling of scaffolds. More specifically, these regulations include, but are not limited to, topics involving access, anchorage, loading, prohibited scaffold types, slippery conditions, sloped platforms, etc.

A new subsection (u) is proposed to prohibit work on scaffolds during inclement weather unless a qualified person has determined that it is safe to do so and the employees are provided with a personal fall arrest system or windscreens. The proposed subsection (u) will also require that the scaffold be secured from movement when windscreens are used.

The proposal is necessary to prevent falls and injuries to employees that are the result of inclement weather.

A new subsection (v) is proposed to prohibit wood platforms from being covered with opaque finishes except for identifying marks placed on the edges of the platforms. The proposed subsection (v) will permit the use of wood preservatives or the application of fire-retardant coatings and slip-resistant finishes, provided they do not obscure the top and bottom surfaces of the platform.

The proposed subsection (v) is necessary to ensure that prohibited coatings are not applied to, and/or are removed from, scaffold platforms which could conceal any defects such as cracks.

### **Section 1658. Suspended Scaffolds.**

Section 1658 contains various requirements pertaining to the use of suspended scaffolds in construction operations. These requirements include, but are not limited to, the use of hoisting machines/equipment, hanging scaffolds to minimize swaying, scaffold design, the use of ladders, supporting ropes and outrigger beams, scaffold inspection, etc.

Existing subsection (e) requires that all ropes supporting suspended scaffolds possess a safety factor of 6 and are to be inspected on each job prior to use to determine whether they are safe for use.

A revision is proposed to prohibit the use of repaired wire rope as a suspension rope. This revision is necessary to ensure that the wire ropes used to support a scaffold will not fail causing the scaffold to collapse, subjecting employees working from the scaffold to a serious, potentially fatal fall and persons at ground level to serious injury or death caused by falling debris.

A new subsection (v) is proposed that will prohibit the use of gasoline-powered equipment on suspended scaffolds.

The proposed subsection (v) is necessary to prevent the possibility of a fire on a scaffold which could make employee escape and/or rescue difficult, if not impossible, and result in serious employee injury or death.

A new subsection (w) is proposed that will prohibit the use of an emergency escape/rescue device as a working platform unless it is specifically designed to serve as both. The proposed subsection clarifies to the employer that scaffold systems designed to function as both a working platform and an emergency system are not precluded from use.

The proposed subsection (w) is necessary to ensure that single-function emergency/rescue devices are not to be used as a working platform.

### **REFERENCE TO COMPARABLE FEDERAL REGULATION**

The Occupational Safety and Health Standards Board is proposing this rulemaking action pursuant to Labor Code Section 142.3, which mandates the Board to adopt regulations at least as effective as federal regulations addressing occupational safety and health issues.

In conformance with Government Code Section 11346.9(c), the Board provides the following information. Federal OSHA promulgated regulations addressing the use of scaffolds in the construction industry on August 30, 1996, as 29 Code of Federal Regulations, Subpart L, Sections 1926.450-454. The Board is relying on the explanation of the provisions of the federal regulations in Federal Register, Volume 61, No. 170, pages 46026-46104, August 30, 1996, as the justification for the Board's proposed rulemaking action.

### **DOCUMENTS RELIED UPON**

1. Federal Register, Volume 61, No. 170, pages 46026-46126, dated August 30, 1996

This document is available for review during normal business hours at the Standards Board Office located at 2520 Venture Oaks Drive, Suite 350, Sacramento, California.

### **IDENTIFIED ALTERNATIVES THAT WOULD LESSEN ADVERSE IMPACT ON SMALL BUSINESSES**

No adverse impact on small businesses is anticipated from the implementation of the proposed amendments. The proposed amendments to the CSO will render the state's scaffold regulations consistent with their federal counterpart language contained in the revised Subpart L. The amendments consist of technical and clarifying changes to existing CSO scaffold regulations and are essentially consistent with industry practice. Therefore, no alternatives which would lessen the impact on small businesses have been identified.

### **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 proposal merely makes technical, largely non-substantive, clarifying changes to the state's existing scaffold regulations pertaining to issues which are for the most part consistent with industry practice. Board staff has not identified any state agency that employs persons who perform work involving suspended scaffolds or use the types of scaffolding addressed by the

proposed revisions. Consequently, the impact upon state agencies resulting from the proposed revisions is expected to be insignificant.

### **Impact on Housing Costs**

The proposal will not significantly affect housing costs.

### **Impact on Businesses**

This proposal will not result in a significant adverse economic impact on businesses, including the ability of California businesses to compete with businesses in other states.

### **Cost Impact on Private Persons or Entities**

The proposal will not require private persons or entities to incur additional costs in complying with the proposal. For the most part, the proposed amendments represent standard industry practice with respect to scaffold operations and are therefore not expected to result in private persons or entities incurring additional, significant costs to comply with the proposed amendments.

### **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. 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.)

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 employers - state, local and private - will be required to comply with the prescribed standards.

### **PLAIN ENGLISH STATEMENT**

It has been determined that the proposal may affect small business. The express terms of the proposal written in plain English have been prepared by the Board pursuant to Government Code Sections 11342(e) and 11346.2(a)(1) and are available from the agency contact person named in this notice. The informative digest for this proposal constitutes a plain English overview.

### **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 alternatives 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 proposed action.