

**OCCUPATIONAL SAFETY
AND HEALTH STANDARDS BOARD**

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Attachment No. 2

INITIAL STATEMENT OF REASONS

CALIFORNIA CODE OF REGULATIONS

TITLE 8: CONSTRUCTION SAFETY ORDERS
Chapter 4, Subchapter 4, Article 29, Section 1716.1 (f)(1)

Approval of Structural Wood Framing System Erection Plans**PROBLEM ADDRESSED BY PROPOSED ACTION**

Existing CSO Section 1716.1 contains regulations addressing the construction and placement of structural wood framing systems typically associated with commercial structures such as warehouses, gymnasiums or shopping malls.

Section 1716.1(f)(1) pertains to erection procedures and requires the employer's structural wood framing system procedure to be approved by a civil or structural engineer registered in the state of California. The intent of this requirement is to ensure that the placement of the various component parts of the structure are properly assembled in a sequence that will prevent the possibility of catastrophic structural failure and collapse of the structure or portions thereof.

The Standards Board staff has evaluated a petition, OSHSB Petition file No. 393, which was submitted by Robert D. Peterson (Petitioner) on behalf of eight employers engaged in the construction of structural wood framing systems. The Petitioner asserted that it is difficult, if not impossible, to obtain the services of a California registered civil or structural engineer to approve erection plans because of third party and insurance liability concerns. Consequently, the Petitioner proposed amendments to Section 1716.1 to replace the existing requirement described above with one that requires a "designated person" to approve the erection plans. The Petitioner also proposed a definition for the term "designated person".

The petition was granted by the Board to the extent that Board staff convene an advisory committee to consider amending Section 1716.1 as recommended by the Petitioner. This proposal represents the consensus recommendation of the March 15, 2000 Structural Wood Framing Systems Advisory Committee, which included representatives from labor, industry, the Division of Occupational Safety and Health, and two professional associations representing registered civil and structural engineers in California. The committee recommended erection plan approval using existing Title 8, CSO terminology for "qualified person" and "competent person" contained in Section 1504.

SPECIFIC PURPOSE/FACTUAL BASIS OF PROPOSED ACTION

Section 1716.1 Structural Wood Framing Systems.

This section contains various requirements and definitions pertaining to the construction and placement of structural wood framing systems including but not limited to: exposure and protection of employees, use of lift trucks and elevated work platforms, roof or floor openings, and erection procedures.

Subsection (f)(1) requires the structural wood framing system erection procedure to be approved by a California registered civil or structural engineer.

A revision is proposed to replace language specifically referring to plan approval by a California registered engineer with a requirement that a qualified person (as defined in CSO Section 1504) shall prepare a written, site-specific erection plan to be implemented under the supervision of an on-site competent person (also defined in CSO Section 1504).

The proposed revision is necessary to ensure the employer will develop and implement an erection plan that will result in a safe erection and placement of the components that make up the structure to prevent catastrophic collapse which could result in an employee injury or fatality. Most erection plans are provided by the structural wood framing system manufacturer. However, it has been found that structural or civil engineers are reluctant to approve a procedure they did not develop, for liability reasons. Therefore, employers have difficulty complying with the present requirement for structural or civil engineer approval. This revision is necessary to establish a performance standard employers are able to comply with.

DOCUMENTS RELIED UPON

1. Letter from Mr. Robert D. Peterson, Petitioner, dated May 17, 1999.
2. Division Evaluation Report of Petition File No. 393, dated March 11, 1999.
3. OSHSB Petition File No. 393, Amended Proposed Decision, dated June 17, 1999.

These documents are 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 proposal will eliminate the employer requirement to seek the services of a registered civil or structural engineer. It will require the designation of a qualified person to prepare the erection plan (plan), and a competent person to oversee implementation of the plan. The competent person shall be on-site. The proposal does not preclude employers from using a registered civil or structural engineer as the competent person. 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. Board staff has not identified any state agencies that erect structural wood framing systems as defined in Section 1716.1 using state employees.

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 (see also "Identified Alternatives That Would Lessen Impact Upon Small Businesses").

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 (see also "Identified Alternatives That Would Lessen Impact Upon Small Businesses").

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 non-discretionary costs or savings on local agencies.

DETERMINATION OF MANDATE

The Occupational Safety and Health Standards Board has determined that the proposed regulation does 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 amendment will not require local agencies or school districts to incur additional costs in complying with the proposal. Furthermore, this regulation does 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 regulation does not require local agencies to carry out the governmental function of providing services to the public. Rather, the regulation requires local agencies to take certain steps to ensure the safety and health of their own employees only. Moreover, the proposed regulation does 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.)

The proposed regulation does not impose unique requirements on local governments. All employers - state, local and private - will be required to comply with the prescribed standard.

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 amendment to this regulation 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 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 proposed action.