

DEPARTMENT OF INDUSTRIAL RELATIONS  
Occupational Safety and Health Standards Board  
2520 Venture Oaks Way, Suite 350  
Sacramento, CA 95833  
Tel: (916) 274-5721  
Website address [www.dir.ca.gov/oshsb](http://www.dir.ca.gov/oshsb)



## **FINAL STATEMENT OF REASONS**

### **CALIFORNIA CODE OF REGULATIONS**

TITLE 8: Section 1635  
of the Construction Safety Orders

### **Cone and Bar Barricades**

### **MODIFICATIONS AND RESPONSE TO COMMENTS RESULTING FROM THE 45-DAY PUBLIC COMMENT PERIOD (November 1, 2024 - December 19, 2024)**

There are no modifications to the information contained in the Initial Statement of Reasons.

### **Summary of and Responses to Written and Oral Comments:**

#### **I. Written Comments**

#### **1. Peter Wilsey, Area Director, Occupational Safety and Health Administration (OSHA).**

##### **Comment 1.1:**

Commenter OSHA completed their review and stated that the proposed occupational safety and health standard appears to be at least as effective as the federal standards.

##### **Response to Comment 1.1:**

The Board thanks OSHA for their review of the proposed standards.

#### **II. Oral Comments**

Oral comments received at the December 19, 2024 Public Hearing in Rancho Cordova, California.

#### **1. Greg McClelland, Executive Director, representing Western Steel Council.**

##### **Comment 1.1:**

Commenter Greg McClelland, cosigner of [Petition 570](#) is in support of this rulemaking proposal. The Petition was submitted in response to many unnecessary fatalities of workers, mostly apprentices, who picked up a sheet of plywood or a long plank covering the opening and walked forward due to natural habit and fell through the opening.

Since cone and bar barricades (CBB) implementation in 2014, starting with the foremost implementors Herrick Corporation (one of the member employers of Western Steel Council), district council wide workers worked 170-million-man hours, and 2/3 of that is structural steel erection, which would be 112-million-man hours. Based on Western Steel Council's knowledge, there is zero fatalities associated with cone and bar barricades. The use of the CBB system is one of the most significant safety changes in the steel erection industry.

Response to comment 1.1:

The use of CBB as a barricade was permissible, but existing rules did not specify the type of materials (size, weight, color, etc.), rules regarding their use, inspection and training.

As stated in the Notice, existing section 1635(c)(2) requires floor openings to be barricaded, but it does not specify the type of materials that can be used to create a barricade. The effect of the proposal is to clarify that no other form or type of barricade is permitted other than guardrails and the CBB system.

The Board acknowledges Greg McClelland's support for this proposal and thanks him for his input and participation in the Board's rulemaking process.

**2. Michael Donlon representing Construction Employers Association (CEA).**

Comment 2.1:

The CBB is the only form of protection from a fall hazard when iron workers are not actively working or even in the area. The bar is 22 inches high, which is about the height of a midrail.

Response to Comment 2.1:

The Board does not agree with the commenter's statement because the CBB system is one of the permissible options of protecting employees from the fall hazard due to openings when work is in progress. CBB is not the only form of protection from fall hazards. As stated in proposed text in subsection (c)(2), "the floor opening shall be barricaded by guardrails, the cone and bar barricade (CBB) system or be covered when not attended by steel erection personnel."

Regarding the height of the bar, the CBB is not intended to be a guardrail, rather it is meant to communicate and demarcate the area where there is an opening and personal fall protection is required.

Comment 2.2:

The CBB is allowed to remain in place for days or weeks as long as there is work in progress and there is no consensus as to what work in progress means.

Response to Comment 2.2:

The Board respectfully disagrees with the commenter's arguments and notes that although the proposal does not include a time limit, subsection (c)(5) requires that the placement of CBB be verified by a qualified person prior to each shift and following strong wind conditions.

Subsection (c) has been in effect since 2006, and the Petitioner and committee members, mostly made of labor and management representatives from the structural steel industry, did not express the need to define "work in progress".

Comment 2.3:

CEA acknowledges that personal fall protection is required when inside the area demarcated by CBB and that it works for steel erectors. However, CEA is of the opinion that the hole should be covered at the end of the day. Other trades may need to access the area, pass through these areas and be exposed to the hazard. Superintendents survey their worksite at the beginning of the day and the end of the day and are exposed to the hazard.

Response 2.3:

The Board respectfully disagrees with the comment. Other trades should not be present on the floor or working level where steel erection workers are working in the openings. Section 1635(c)(1) requires that the work area where work is in progress be under the exclusive control of the steel erection employer. After the work has been completed, section 1635(c)(7) requires the guards and covers of floor opening be in place prior to allowing other trades in the work area.

Comment 2.4:

Construction sites attract nuisance despite the fencing and actively monitored cameras and roving security. Although the proposal is not intended to protect the public, the safety of the public should be considered.

Response to 2.4:

The Board is not persuaded by commenter's arguments. The safety measures cited, such as fencing, monitored cameras, and roving security, are intended to keep the public out of the area.

Comment 2.5:

The 2-inch lettering on the cone is not adequate in comparison to the danger sign for asbestos work and controlled decking zone. Commenter cites section 3340(c)(1). Accident Prevention Signs.

Response to 2.5:

The Board respectfully disagrees with the commenter's arguments. The high visibility color or pattern of the cones and bars, lettering on the cones, and the training required under subsection(c)(2)(B)7. is sufficient to inform employees of the hazard. The size of the lettering required on the cone is larger than what is required in section 1632(b)(3), which requires covers to be marked by legible letters not less than one inch high, stating: "Opening--Do Not Remove."

The Board thanks Michael Donlon for his input and participation in the rulemaking process.

**3. Kevin Bland representing Western Steel Council, Residential Contractors Association, and California Framing Contractors Association.**

Comment 3.1:

Commenter Kevin Bland participated in the advisory committee and is in support of the rulemaking. Kevin Bland respectfully disagrees with Michael Donlon. The CBB has been a proven safety measure on job sites as stated by Greg McClelland with amazing statistics.

Regarding attracting nuisance and the public wandering through, commenter stated that they would have to wander through the CBB and it is very clear that one should not enter unless authorized. Entrance to the work area is limited to the iron workers, and it is clearly stated in the regulation that no other trades should be present. The proposal requires that the CBB be set up at a certain distance from the opening. Commenter disagrees with covering the opening at the end of the day, because it defeats the purpose of the safety measures. Commenter states that his father was severely injured when he accidentally stepped into the opening while removing a plywood cover.

Commenter states that the committee discussed the safety concerns that were raised and came to a consensus.

Response to 3.1:

The Board thanks Kevin Bland for his input and participation in the rulemaking process.

**4. Len Welsh, Ironworker Management Progressive Action Cooperative Trust (IMPACT).**

Comment 4.1:

Commenter Len Welsh is in support of the proposal and respectfully disagrees with Michael Donlon. Unlike other safety measures, the CBB has a proven track record. The safety issues were discussed with the Cal/OSHA in 2014 when it was first used and during the advisory committee process.

Response 4.1:

The Board thanks Len Welsh for his input and participation in the rulemaking process.

**ADDITIONAL DOCUMENTS RELIED UPON**

None.

**ADDITIONAL DOCUMENTS INCORPORATED BY REFERENCE**

None.

**DETERMINATION OF MANDATE**

This standard does not impose a mandate on local agencies or school districts.

**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: (1) more effective in carrying out the purpose for which the action is proposed, or (2) would be as effective as and less burdensome to affected private persons than the adopted action, or (3) would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law. Board staff were unable to come up with any alternatives or no alternatives were proposed by the public that would have the same desired regulatory effect.