

**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 15, Article 2, Section 6755  
and Article 8, Section 6799.1 of the Petroleum Safety Orders

**Chain or Wire Rope Access Equipment (Jacob's ladders)****SUMMARY**

This rulemaking was initiated as a result of the Occupational Safety and Health Standards Board's (Board) action regarding OSHSB Petition File No. 512 submitted by Ms. Colleen Kraus, Process Safety Director of Valero Refining Company in Benicia, California. In a letter dated October 30, 2009, the Petitioner proposed addressing the use of chain and cable ladders, also known as Jacob's ladders, in the Petroleum Safety Orders. The Petitioner noted that there are no California standards, American National Standards Institute references or American Ladder Institute standards that govern the manufacturing and safe use of chain and cable ladders for the petrochemical industry. Federal regulations refer to the use of Jacob's ladders in the longshoring and construction regulations but not in the petrochemical industry.

The lack of standards could threaten worker safety if the ladder is not manufactured properly, in disrepair or used incorrectly. The Petitioner submitted a proposed chain and cable ladder standard modeled after a Department of Defense Military Specification document dated May 21, 1957. The Division of Occupational Safety and Health (Division) petition evaluation recommended a change in terminology from "chain and cable ladders" to "chain or wire rope access equipment" to minimize confusion in terms of whether these devices are ladders. Further, the Division opined that rather than relying on a 1957 manual, the industry would be better served if this device is approved pursuant to Section 3206 of the General Industry Safety Orders (GISO) which allows for a variety of more conventional approval methods for industrial equipment. These and other comments were carefully considered by Board staff during the advisory committee proceedings held in accordance with the Board's petition decision.

## SPECIFIC PURPOSE AND FACTUAL BASIS OF PROPOSED ACTION

### 6755. Definitions.

#### Subsection (a)

Section 6755 provides definitions applicable to the equipment and operations in the petroleum safety orders pertaining to refining, transport and handling. An amendment is proposed to add a definition of “chain or wire rope access equipment” to refer to specialty devices specifically designed for constricted locations. The proposal includes a definition of “competent person,” a term used in new Section 6799.1. These proposed amendments are consistent with the federal definition in 29 CFR 1926.32(f), Safety and Health Regulations for Construction. The amendments are necessary to establish and clarify a definition for “chain or wire rope equipment” which is unique to the petrochemical industry and “competent person” so that the employer will understand the meaning of standards where the defined terms are used.

#### New Section 6799.1. Use of Chain or Wire Rope Access Equipment.

Proposed Section 6799.1 provides general requirements for the use, load testing, maintenance and inspection of chain or wire rope access equipment, ensuring safe use through administrative procedures (use plan) and employee training.

New subsection (a) addresses the scope and application of the proposed requirements and states explicitly that the use of chain or wire rope access equipment shall only be permitted when no other feasible method of access is available. This subsection is necessary to ensure employers and employees understand when the proposed requirements apply and when chain or wire rope access equipment is permitted for use.

New subsection (b) requires that all chain and wire rope access equipment be approved in accordance with GISO Section 3206. This subsection is necessary to ensure that the equipment used by the employer is built and designed in accordance with good engineering practice and will not fail catastrophically when subjected to a load.

New subsections (c)(1) and (2) address inspection and load testing of chain and wire rope access equipment. These proposed requirements are necessary to ensure that all chain and wire rope access equipment is safe for its intended use and will not fail catastrophically, resulting in serious employee injury or fatality.

New subsection (d) requires that a written equipment use plan be made available to the Division, that the plan describes how and where the chain and wire rope access equipment is to be used and that the plan states why the use of chain and wire rope access equipment is the only feasible method for providing access. In addition, the plan must address installation details, inspection instructions, maintenance instructions and a requirement that the employer keep a maintenance log. The proposed requirements are necessary to ensure that employees will use the chain or

wire rope access equipment in a safe manner and not subject them to excessive loads or stresses that could result in catastrophic failure which could result in serious employee injury or fatality.

New subsection (e) addresses the use of a rescue retrieval system by employees who climb chain and wire rope access equipment. This subsection also addresses the need for secure anchorage of the access equipment with the exception of moments when the equipment must be retrieved or installed. Subsection (e) also addresses safe climbing methods and precautions to ensure that employees do not slip off the equipment or come in contact with energized conductors. These requirements are necessary to ensure employees are reasonably protected from falls and other hazards associated with the use of this equipment.

New subsection (f) addresses employee training and requires employers to assure that those employees who use wire rope and chain access equipment will be able to recognize hazards associated with this equipment and will know the proper use of rescue retrieval equipment. These requirements are necessary to ensure employees will have the knowledge to protect themselves when using chain or wire rope access equipment.

#### DOCUMENTS RELIED UPON

1. Petition letter to the Occupational Safety and Health Standards Board dated October 30, 2009, from Ms. Colleen Kraus, Process Safety Director of Valero Refining Company Benicia, California.
2. Military specifications manual (MIL-L-221C) for Jacob's ladders dated May 21, 1957.
3. Board's Petition Decision for Petition File No. 512 dated April 15, 2010.

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.

#### DOCUMENTS INCORPORATED BY REFERENCE

None.

#### SPECIFIC TECHNOLOGY OR EQUIPMENT

This proposal will not mandate the use of specific technologies or equipment. The use of chain or wire rope access equipment is presented here as an alternative to conventional access means/methods.

#### 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.

### 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. Impact on businesses is minimal as the petroleum industry has been using these devices for decades for routine maintenance and inspection operations. The proposal provides guidance in the manufacturing and safe use of chain or wire rope access equipment strictly for the petrochemical industry.

### 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.

### 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 standard.

#### EFFECT ON SMALL BUSINESSES

The Board has determined that the proposed amendments may affect small businesses. However, no economic impact is anticipated.

#### ASSESSMENT

The adoption of the proposed amendments 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 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.