

**OCCUPATIONAL SAFETY
AND HEALTH STANDARDS BOARD**

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**NOTICE OF PUBLIC MEETING/PUBLIC HEARING/BUSINESS MEETING
OF THE OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD
AND NOTICE OF PROPOSED CHANGES TO TITLE 8
AND TITLE 24 OF THE CALIFORNIA CODE OF REGULATIONS**

Pursuant to Government Code Section 11346.4 and the provisions of Labor Code Sections 142.1, 142.2, 142.3, 142.4, and 144.6, the Occupational Safety and Health Standards Board of the State of California has set the time and place hereinafter set forth for a Public Meeting, Public Hearing, and Business Meeting:

PUBLIC MEETING: On **July 20, 2000**, at 10:00 a.m.
in the Auditorium of the California State Building,
1350 Front Street, San Diego, California.

At the Public Meeting, the Board will make time available to receive comments or proposals from interested persons on any item concerning occupational safety and health.

PUBLIC HEARING: On **July 20, 2000**, following the Public Meeting,
in the Auditorium of the California State Building,
1350 Front Street, San Diego, California.

At the Public Hearing, the Board will consider the public testimony on the proposed changes to occupational safety and health standards in Title 8 of the California Code of Regulations.

BUSINESS MEETING: On **July 20, 2000**, following the Public Hearing,
in the Auditorium of the California State Building,
1350 Front Street, San Diego, California.

At the Business Meeting, the Board will conduct its monthly business.

DISABILITY ACCOMMODATION NOTICE: Disability accommodation is available upon request. Any person with a disability requiring an accommodation, auxiliary aid or service, or a modification of policies or procedures to ensure effective communication and access to the public hearings/meetings of the Occupational Safety and Health Standards Board should contact the Disability Accommodation Coordinator at (916) 274-5721 or the state-wide Disability Accommodation Coordinator at 1-866-326-1616 (toll free). The state-wide Coordinator can also be reached through the California Relay Service, by dialing 711 or 1-800-735-2929 (TTY) or 1-800-855-3000 (TTY-Spanish).

Accommodations can include modifications of policies or procedures or provision of auxiliary aids or services. Accommodations include, but are not limited to, an Assistive Listening System (ALS), a Computer-Aided Transcription System or Communication Access Realtime Translation (CART), a sign-language interpreter, documents in Braille, large print or on computer disk, and audio cassette recording. Accommodation requests should be made as soon as possible. Requests for an ALS or CART should be made no later than five (5) days before the hearing.

**OCCUPATIONAL SAFETY AND HEALTH
STANDARDS BOARD**

JERE W. INGRAM, Chairman

NOTICE OF PROPOSED CHANGES TO TITLE 8
OF THE CALIFORNIA CODE OF REGULATIONS
BY THE OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

Notice is hereby given pursuant to Government Code Section 11346.4 and Labor Code Sections 142.1, 142.4 and 144.5, that the Occupational Safety and Health Standards Board pursuant to the authority granted by Labor Code Section 142.3, and to implement Labor Code Section 142.3, will consider the following proposed revisions to Title 8, Construction Safety Orders and Elevator Safety Orders and Title 24, Part 7, California Elevator Safety Construction Code of the California Code of Regulations, as indicated below, at its Public Hearing on **July 20, 2000**.

1. TITLE 8: **CONSTRUCTION SAFETY ORDERS**
Chapter 4, Subchapter 4, Article 21, Section 1637, and
Article 23, Section 1658
Scaffolds Used in the Construction Industry

2. TITLE 8: **ELEVATOR SAFETY ORDERS**
Chapter 4, Subchapter 6, Article 9
Section 3071(j)1.E

- TITLE 24: **CALIFORNIA ELEVATOR SAFETY CONSTRUCTION CODE**
Part 7, Section 7-3071(j)1.E
Test of Firefighters' Service

Descriptions of the proposed changes are as follows:

1. **TITLE 8:** **CONSTRUCTION SAFETY ORDERS**
Chapter 4, Subchapter 4, Article 21, Section 1637, and
Article 23, Section 1658
Scaffolds Used in the Construction Industry

INFORMATIVE DIGEST OF PROPOSED ACTION/PLAIN ENGLISH OVERVIEW

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 regarding access, anchorage and bracing, 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 new subsection will require employers to select a qualified person to make the determination as to whether or not it is safe for employees to work on a scaffold during periods of inclement weather (high winds, storms, etc.). Once it has been determined that it is safe for employees to be on the scaffold, the employer must provide personal fall arrest protection or windscreens to those employees working from the scaffold. If windscreens are used, the employer must also ensure that the scaffold is secured against any anticipated wind forces imposed on the scaffold.

A new subsection (v) is proposed to prohibit wood platforms to be 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 planking.

The proposed subsection (v) will require employers to modify work practices to the extent necessary to ensure that prohibited coatings are not applied to, and/or will be 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.

The proposed revision will require employers to modify inspection procedures of suspension ropes to ensure that repaired wire rope is not used to support a scaffold.

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

The proposed subsection (v) will require employers to amend existing work practices so as to exclude the use of gasoline-powered equipment on suspended scaffolds and switch to equipment that is powered by other energy sources such as electric, pneumatic, manual, etc.

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) will require employers to modify existing work practices and/or procedures to prohibit the use of emergency rescue equipment as a working platform unless the manufacturer has designed the emergency equipment to serve both purposes.

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 CONSIDERED

Our agency must determine that no alternative considered by us 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.

2. TITLE 8: **ELEVATOR SAFETY ORDERS**
Chapter 4, Subchapter 6, Article 9
Section 3071(j)1.E

TITLE 24: **CALIFORNIA ELEVATOR SAFETY CONSTRUCTION CODE**
Part 7, Section 7-3071(j)1.E
Test of Firefighters' Service

INFORMATIVE DIGEST OF PROPOSED ACTION/PLAIN ENGLISH OVERVIEW

This proposed rulemaking action contains minor nonsubstantive, editorial, reformatting of subsections, and grammatical revisions. These nonsubstantive revisions are not all discussed in this Informative Digest. However, these proposed revisions are clearly indicated in the regulatory text in underline and strikeout format. Furthermore, the informative digest contains occupational safety and health regulations which are building standards for codification in Title 24, Part 7, California Elevator Safety Code. The building standard section, herein, will be identified in **bold** type following the corresponding Title 8 informative digest.

Article 9. Hydraulic Elevators

Section 3071. Operation, Operating Devices and Control Equipment.

Section 3071(j) Load Test Requirements.

Section 3071(j)(1)(E)

Existing Section 3071(j) requires a load test on elevators every five years. Subsection 3071(j)(1)(E) requires the elevator firefighters' service be tested, in conjunction with the five-year load test, to demonstrate that the firefighters' service, if provided, functions under fire and other emergency conditions specified in Section 3041(c) and Section 3071(l).

Title 24, Part 7, Section 7-3071(j)1.E.

The proposal deletes subsection 3071(j)(1)(E). Deletion of subsection 3071(j)(1)(E) will have the effect of improving clarity in the Elevator Safety Orders by eliminating confusing and unnecessary cross references to Sections 3041(c) and 3071(l). This action will have no other effect because monitoring of the firefighters' service, if provided, is still required by Rule 1206.7 in Part XII of ASME A17.1-1996. ASME A17.1-1996 was incorporated by reference in Section 3000(h) in 1998. ASME A17.6-1996 Rule 1206.7 specifies in part "All elevators provided with firefighters' service shall be subjected to a monthly Phase I recall and a minimum of one-floor operation on Phase II to assure the system is maintained in proper operating order."

COST ESTIMATES OF PROPOSED ACTION

Cost 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 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.

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 Saving 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 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 government 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.)

This 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, this 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.)

This proposed regulation does not impose unique requirements on local governments. All employees - 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 amendments to this regulation will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses in the State of California.

ALTERNATIVES CONSIDERED

Our agency must determine that no alternative considered by us 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.

There are building standards contained in the proposed revisions as defined by Health and Safety Code Section 18909.

A copy of the proposed changes in STRIKEOUT/UNDERLINE format is available upon request made to the Occupational Safety and Health Standards Board's Office, 2520 Venture Oaks Way, Suite 350, Sacramento, CA 95833, (916) 274-5721. Copies will also be available at the Public Hearing.

An INITIAL STATEMENT OF REASONS containing a description of the problems addressed by the proposed actions, a statement of the purpose and factual basis for the proposed actions, identification of the technical documents relied upon, and a description of any identified alternatives to lessen the impact on small businesses is also available upon request from the Standards Board's Office.

Notice is also given that any interested person may present statements or arguments orally or in writing at the hearing on the proposed changes under consideration. It is requested, but not required, that written comments be mailed so that they are received no later than July 14, 2000. The official record of the rulemaking proceedings will be closed at the conclusion of the public hearing and written comments received after 5:00 p.m. on July 20, 2000 will not be considered by the Board unless the Board announces an extension of time in which to submit written comments. Written comments should be mailed to the address provided in the following paragraph. The Occupational Safety and Health Standards Board may thereafter adopt the above proposal substantially as set forth without further notice.

The Occupational Safety and Health Standards Board's rulemaking file on the proposed actions including all the information upon which the proposals are based are open to public inspection Monday through Friday, from 8:30 a.m. to 4:30 p.m. at the Standards Board's Office, 2520 Venture Oaks Way, Suite 350, Sacramento, CA 95833.

The full text of proposed changes, including any changes or modifications that may be made as a result of the public hearing, shall be available from the Executive Officer 15 days prior to the date on which the Standards Board adopts the proposed changes.

Inquiries concerning the proposed action may be directed to the Executive Officer, John D. MacLeod at (916) 274-5721.

OCCUPATIONAL SAFETY AND HEALTH
STANDARDS BOARD

JERE W. INGRAM, Chairman