

**OCCUPATIONAL SAFETY  
AND HEALTH STANDARDS BOARD**

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Attachment No. 2

**INITIAL STATEMENT OF REASONS****CALIFORNIA CODE OF REGULATIONS**

Title 8, Section 1514 of the Construction Safety Orders, and  
Section 3380 of the General Industry Safety Orders

**Personal Protective Devices and Safeguards****SUMMARY**

This rulemaking action was initiated by Board staff upon review of the Construction Safety Orders (CSO), Section 1514. "Personal Protective Devices" and the General Industry Safety Orders (GISO), Section 3380. "Personal Protective Devices." GISO, Section 3380(a) in part, defines the scope of Article 10. "Personal Safety Devices and Safeguards" and also provides that protection for various parts of the body means the use of safety devices and safeguards [e.g. personal protective equipment (PPE)] must be of the proper type for the exposure.

However, an informational "NOTE" that follows Section 3380(a) setting forth certain criteria for PPE is not enforceable, is outdated and contains an obsolete reference to the Bureau of Standards, which no longer exists. The "NOTE" is proposed for deletion and replaced by an amendment that would require PPE to be approved for its intended use. A definition of "approved" and what that means is provided in GISO, Section 3206 and CSO, Section 1505.

Federal standards in 29 CFR 1926.95(a) and 29 CFR 1910.132(a) for construction and general industry, respectively, clarify specific areas of the body, including the extremities that may require PPE and require such protective equipment to be maintained in a safe condition. This rulemaking also proposes similar language to that of the aforementioned federal standards in Title 8, CSO, Section 1514 and GISO, Section 3380.

**SPECIFIC PURPOSE AND FACTUAL BASIS OF PROPOSED ACTION**

This regulatory proposal is intended to improve and provide worker safety at places of employment in California where PPE and other safeguarding devices are used for the protection of employees.

This proposed rulemaking action:

- Is based on the following authority and reference: Labor Code Section 142.3, which states, at subsection (a)(1) that the Board is “the only agency in the state authorized to adopt occupational safety and health standards.” When read in its entirety, Section 142.3 requires that California have a system of occupational safety and health regulations that at least mirror the equivalent federal regulations and that may be more protective of worker health and safety than are the federal occupational safety and health regulations.
- Is consistent with similar federal OSHA provisions related to the use of PPE.
- Is not inconsistent or incompatible with existing state regulations. This proposal is part of a system of occupational safety and health regulations. The consistency and compatibility of that system’s component regulations is provided by such things as: (1) the requirement of the federal government and the Labor Code to the effect that the State regulations be at least as effective as their federal counterparts, and (2) the requirement that all state occupational safety and health rulemaking be channeled through a single entity (the Standards Board).
- The proposal was developed with the review of stakeholders such as, but not limited to, representatives from the Division of Occupational Safety and Health, the Operating Engineers, The International Brotherhood of Electrical Workers, the Associated General Contractors (California), the Phylmar Regulatory Roundtable, and the Public Agency Safety Management Association. The proposal will enhance the safety of employees involved on job sites and operations where employees are safeguarded through the use of PPE.

CSO, Section 1514. Personal Protective Devices.

Existing CSO, Section 1514 includes provisions that require employees to use personal protective equipment that is approved. PPE is required to be used in accordance with the manufacturer’s instructions. Protective equipment is also required to be of a design, fit and durability as to provide adequate protection against the hazards for which they are designed.

Subsection (b)

Existing subsection (b) requires protective equipment to be approved and distinctly marked to facilitate identification. An amendment for clarity is necessary to indicate that the definition of “approved” is provided in Section 1505.

Subsection (d)

Existing subsection (d) states that the employer shall assure that employee owned personal protective equipment complies with applicable standards (regulations) and that this equipment is

maintained in a safe, sanitary condition. This subsection is proposed for deletion because its requirements are located within new proposed subsection (d).

A new subsection (d) incorporates the provisions in deleted subsection (d) and is consistent with its counterpart federal standard [29 CFR 1926.95(a)] that clarifies specific areas of the body, such as the extremities, that may require PPE. Additionally, the proposal includes words to the effect that equipment such as protective clothing, respiratory protection, and protective shields and barriers required by the safety orders must comply with applicable Title 8 standards and that they are to be maintained in a safe, sanitary condition. The amendments are necessary to provide language for clarity and consistency with the counterpart federal standard and with similar provisions in proposed GISO, Section 3380(d).

#### Subsection (e)

Existing subsection (e) requires that protection used be of such design, fit and durability, and that it is reasonably comfortable and not encumber the employee's movements. An amendment is necessary to provide consistency with GISO, Section 3380(e) to include that the protection provided shall not encumber the employee's movements necessary to perform his or her work.

#### GISO, Section 3380. Personal Protective Devices.

Existing Section 3380 provides a broad range of provisions applicable to the safeguarding of employees primarily through the use of PPE and devices. The provisions include the design and selection criteria for PPE. Further, this section addresses defective and damaged equipment, and covers employee training and hazard assessment. A non-mandatory Appendix A contains sample procedures to assist employers with hazard assessment procedures and the selection of PPE.

#### Subsection (a)

Section 3380(a) in part, defines the scope of Article 10. "Personal Safety Devices and Safeguards" and also provides that protection for various parts of the body means the use of safety devices and safeguards (e.g. personal protective equipment) must be of the proper type for the exposure. For optimal sequential formatting, subsection (a) is proposed to be numbered as subsections (a)(1) and (2). Several non-substantive editorial revisions were made in subsection (a)(1) that are not discussed. However, these editorial or grammatical revisions are clearly shown in the regulatory text.

Amendments proposed in the first two lines of subsection (a)(1) are necessary to clarify that the terms "protection" and "protective" when used in combination with various parts of the body, including the items listed/used in subsection (d) mean that protective equipment must be of the proper type and design to eliminate, preclude or mitigate hazards.

However, an informational “NOTE” that follows Section 3380(a) describes that safeguards, such as personal protective equipment, must be equivalent to standards approved by the American National Standards Institute (ANSI), the Bureau of Standards, or other recognized authorities. The informational “NOTE” is not enforceable and outdated in that there are a number of national consensus standards or organizations other than ANSI that provide the criteria and design for protective equipment. These include, but are not limited to, the National Fire Protection Agency, the American Society of Testing Materials, the National Institute for Occupational Safety and Health, and others. Furthermore, the reference in the “NOTE” to the Bureau of Standards is obsolete as this Bureau no longer exists.

For the aforementioned reasons, the informational “NOTE” is proposed for deletion and replaced by a new Section 3380(a)(2) that would require PPE to be approved for its intended use. A definition of “approved” is provided in GISO, Section 3206 and CSO, Section 1505. In summary, the term “approved” allows for protective equipment to meet the criteria of recognized national consensus standards or to have been certified by a National Recognized Testing Laboratory. Where such approval is not available, the term “approved” also provides that such approval may be based on an evaluation by a registered engineer with appropriate competence. The approval may also be based upon evaluation by the Division of Occupational Safety and Health.

These amendments are necessary to ensure that PPE is designed in conformance with applicable consensus standards for the type of protective equipment provided and/or that such protective equipment is approved for its intended use.

#### Subsection (d)

Existing subsection (d) states that the employer shall assure that all PPE, whether employer provided or employee provided, complies with applicable Title 8 standards and that this equipment is to be maintained in a safe, sanitary condition. The federal standard for general industry in 29 CFR 1910.132(a) clarifies specific areas of the body, including the extremities, that may require PPE and also includes items such as protective clothing, respiratory protection, and shields and barriers. Existing language provides that such protective equipment is required to be maintained in a safe and sanitary condition.

Amendments proposed for subsection (d) provide that required safety devices and safeguards, including PPE for the eyes, face, head, hand, foot, and extremities (limbs), protective clothing, respiratory protection, and protective shields and barriers, comply with applicable Title 8 standards and are maintained in a safe and sanitary condition.

The listing of specific body areas mentioned above and the inclusion of protective clothing, respiratory protection, protective shields and barriers in the proposal have the effect of providing clarity and consistency with similar provisions in proposed Section 1514(d) and those listed in the federal standard. The proposal also clarifies that “required safety devices and safeguards”

must meet applicable Title 8 standards and is necessary to clarify that this equipment is also subject to Title 8 provisions.

Language referencing whether PPE is employer or employee provided is relocated within proposed subsection (d). Language that pertains to employer assurances for equipment in the second to the last line of subsection (d) is unnecessary with respect to subsection (d) as proposed and, therefore, is deleted.

#### Subsection (e)

Existing subsection (e) requires in part that protection be reasonably comfortable and not encumber the employee's movements necessary to perform "his" work. A revision is made to correct the male gender reference so that the provision applies to his or her work.

#### DOCUMENTS RELIED UPON

- Federal provisions pertaining to protective equipment are in 29 CFR 1926.95(a) and 29 CFR 1910.132(a) for Construction and General Industry Standards, respectively.  
<https://www.osha.gov>

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.

#### REASONABLE ALTERNATIVES THAT WOULD LESSEN ADVERSE ECONOMIC IMPACT ON SMALL BUSINESSES

No reasonable alternatives were identified by the Board and no reasonable alternatives identified by the Board or otherwise brought to its attention would lessen the impact on small businesses.

#### 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.

### Impact on Housing Costs

The Board has made an initial determination that this proposal will not significantly affect housing costs.

### Economic Impact Analysis

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. The proposal deletes an outdated informational "NOTE" in Section 3380 and provides that PPE must be approved for its intended use. PPE is typically manufactured in conformance with national consensus standards for the type of protection provided, and thus, nearly all PPE meets the definition of "approved" provided in the Construction and General Industry Safety Orders. The proposal also clarifies parts of the body that may require protective equipment consistent with existing regulatory requirements, and thus, will not have an economic impact.

Therefore, the adoption of the proposed amendments to these standards 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.

This regulatory proposal is intended to provide worker safety at places of employment in California.

### 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 standards do not impose a local mandate. There are no costs to any local government or school district which must be reimbursed in accordance with Government Code Sections 17500 through 17630.

### EFFECT ON SMALL BUSINESSES

The Board has determined that the proposed amendments may affect small businesses. However, no adverse economic impact is anticipated. The proposal clarifies parts of the body that may require personal protective devices consistent with existing regulations that require body protection from hazards and, therefore, no adverse economic impact is anticipated.

### RESULTS OF THE ECONOMIC IMPACT ASSESSMENT

The proposed regulations will not have any effect on the creation or elimination of California jobs or the creation or elimination of California businesses or affect the expansion of existing California businesses.

### BENEFITS OF THE REGULATION

An informational “NOTE” that follows existing GISO, Section 3380(a) and sets forth certain criteria for PPE is not enforceable, is outdated and contains an obsolete reference to the Bureau of Standards, which no longer exists. The “NOTE” is proposed for deletion and replaced by an amendment [proposed Section 3380(a)(2)] that would require PPE to be approved for its intended use. A definition of “approved” and what that means is provided in GISO, Section 3206 and CSO, Section 1505. This proposal affords the employer more options in the selection of PPE such as protective equipment meeting the provisions published by the American Society of Testing Materials or the National Institute for Occupational Safety and Health and others. The

proposal will also assist the Division with its enforcement activities, in that the criteria for PPE would be provided in a regulation rather than an informational “NOTE.”

Several other amendments in Sections 1514(d) and 3380(d) provide clarity and awareness by listing specific areas of the body that require protection when there are hazards.

#### 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, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.