

OCCUPATIONAL SAFETY
AND HEALTH STANDARDS BOARD
2520 Venture Oaks Way, Suite 350
Sacramento, CA 95833
(916) 274-5721
FAX (916) 274-5743
www.dir.ca.gov/oshsb



Attachment No. 2

INITIAL STATEMENT OF REASONS

CALIFORNIA CODE OF REGULATIONS

TITLE 8: Division 1, Chapter 4, Subchapter 7, Article 4,
Section 3276 of the General Industry Safety Orders

Portable Ladders-Frequency of Inspections

SUMMARY

This rulemaking was initiated as a result of the Occupational Safety and Health Standards Board's (Board) Decision regarding OSHSB Petition No. 521 submitted by Mr. John McCullough, C.S.P., Assistant Vice President, Wells Fargo Risk Management Services, dated May 19, 2011. In a letter dated January 18, 2011, the Petitioner requested that the Board amend Section 3276(e)(2) concerning the frequency of portable ladder inspections. The Petitioner proposed to amend subsection (e)(2) to require that ladder inspections be conducted "at least monthly" rather than "frequently." Board staff notes that federal OSHA ladder regulations do not define frequency in terms of ladder inspections. However, Board staff's discussions with federal OSHA Region IX resolved this issue to the extent that "at least monthly" fits within the federal term "frequently" as used in their portable ladder standards. In his letter to the Board, the Petitioner cites Section 3207 which defines "frequent" as, "For the purpose of these orders frequent shall mean more than twelve times each year unless specifically stated otherwise in individual orders" and states that this regularity does not fit into many employers' current inspection scheduling systems for other pieces of equipment that require inspections.

This rulemaking action proposes amending Section 3276(e)(2) with regard to the frequency of inspections for portable ladders. The proposed amendment is intended to provide specificity and clarity in Title 8 by requiring that portable ladder inspections be conducted at least monthly rather than frequently.

SPECIFIC PURPOSE AND FACTUAL BASIS OF PROPOSED ACTION

Existing Section 3276 prescribes rules and establishes minimum requirements for the design, construction, selection, care, and use of all self-supporting and non-self-supporting portable ladders. Subsection (e)(2) states, "Ladders shall be inspected by a qualified person for visible defects frequently and after any occurrence that could affect their safe use." The proposed amendment will change the frequency at which the ladders are inspected from "frequently" to "at least monthly." This amendment will assist employers by aligning ladder inspection frequency

with fire extinguisher and emergency eyewash unit inspections which are to occur on a monthly basis. The proposed amendment is necessary to clarify to the employer the number of inspections to be conducted and provide a specific interval for inspections commensurate with the employer's current inspection scheduling system.

DOCUMENTS RELIED UPON

1. Petition letter from Mr. John R. McCullough, CSP, Assistant Vice President, Wells Fargo Insurance Services, dated January 18, 2011.
2. Board Petition Decision for Petition File No. 521, dated May 19, 2011, in the matter of Mr. John R. McCullough.
3. E-mail transmission from U.S Department of Labor, Occupational Safety and Health Administration, Region IX to the Board staff dated July 26, 2010, regarding inspection frequency.

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.

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. This amendment aligns scheduled ladder inspections in accordance with other regularly scheduled inspections such as for fire extinguishers and emergency eyewash stations that are conducted on a monthly basis.

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 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 amendments 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. Allstate, 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.