

**OCCUPATIONAL SAFETY  
AND HEALTH STANDARDS BOARD**

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Attachment No. 2

**INITIAL STATEMENT OF REASONS**

CALIFORNIA CODE OF REGULATIONS  
TITLE 8: GENERAL INDUSTRY SAFETY ORDERS  
Chapter 4, Subchapter 7, Article 24, Section 3646(e)

**Working From or On Top of an Elevating Work Platform Guardrail****PROBLEM ADDRESSED BY PROPOSED ACTION**

On December 21, 1998, the Occupational Safety and Health Standards Board received a Cal-OSHA Form 9 from the Division of Occupational Safety and Health. The Form 9 requested the Board to amend Section 3646(e) of Article 24 of the General Industry Safety Orders (GISO) to read: "Employees shall not sit or climb on the guardrails of an elevating work platform or use planks, ladders or other devices to gain greater working height."

The Division noted that GISO Section 3648(e) pertaining to aerial devices (not including elevating work platforms) prohibits employees from sitting or climbing on the edge of the basket or from using planks, ladders, or other devices to gain greater working height. However, Section 3646(e), pertaining to elevating work platforms, is silent with respect to sitting, standing or climbing on elevating work platform guardrails, or using other devices (such as planks) for the purpose of extending the vertical capability of the elevating work platform. Furthermore, the Division noted that ANSI A92.3, the American National Standard for Manually Propelled Elevating Aerial Platforms, prohibits the use of platform railings, planks, ladders, or other devices for achieving additional height or reach. Board staff has also found similar prohibitions in ANSI/SIA A92.6-1999, American National Standard for Self-Propelled Elevating Work Platforms.

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

GISO Section 3646(e) prohibits placing ladders or other objects on elevating work platforms to gain greater height. However, the regulation does not specifically prohibit employees from climbing or sitting on the platform guardrails. Some elevating work platform operators have placed planks on the platform guardrails and either stood on those planks for greater work height or they have placed ladders or other objects on the planks to extend work height even further. The aforementioned practices can severely affect stability since elevating work platforms are designed to support workers in a stable manner up to the maximum design work height of the device.

Extending platform work height using makeshift extensions can compromise platform stability, thus endangering the worker and others nearby should the platform topple.

It is proposed to add regulatory language to Section 3646(e) to prohibit sitting, standing or climbing on the guardrails, and to prohibit the use of planks, ladders or other devices to gain greater working height or reach. The proposed amendments to Section 3646(e) are necessary for consistency with 3648(e) and with national consensus standards (ANSI/SIA A92.3-1990, American National Standard for Manually Propelled Elevating Aerial Platforms and ANSI/SIA A92.6-1999, American National Standard for Self-Propelled Elevating Work Platforms) to ensure the safety and wellbeing of employees working on and near elevating work platforms.

### **DOCUMENTS RELIED UPON**

1. Memorandum from the Division of Occupational Safety and Health to the Occupational Safety and Health Standards Board dated December 8, 1998, regarding the Division's proposed amendment to GISO Section 3646, with attached Cal-OSHA Form 9, Request for New, or Change of, Safety Order.
2. ANSI/SIA A92.6-1999, American National Standard for Self-Propelled Elevating Work Platforms.
3. ANSI/SIA A92.3-1990, American National Standard for Manually Propelled Elevating Aerial Platforms.

These documents are available for review during normal business hours at the Standards Board Office located at 2520 Venture Oaks Drive, Suite 350, Sacramento, California.

### **IDENTIFIED ALTERNATIVES THAT WOULD LESSEN ADVERSE IMPACT ON SMALL BUSINESSES**

No adverse impact on small businesses is anticipated from the implementation of the proposed amendments. Therefore, no alternatives which would lessen the impact on small businesses have been identified.

### **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 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 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 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 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. All employers - 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 amendment 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 alternative considered by the Board 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.