

**OCCUPATIONAL SAFETY
AND HEALTH STANDARDS BOARD**

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**PROPOSED PETITION DECISION OF THE
OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD
(PETITION FILE NO. 521)****INTRODUCTION**

The Occupational Safety and Health Standards Board (Board) received a petition on January 20, 2011, from Mr. John McCullough, Assistant Vice President, Wells Fargo, (Petitioner). The Petitioner requests the Board to amend Title 8, California Code of Regulations, Section 3276(e)(2) of the General Industry Safety Orders, concerning the frequency of portable ladder inspections.

Labor Code section 142.2 permits interested persons to propose new or revised regulations concerning occupational safety and health and requires the Board to consider such proposals, and render a decision no later than six months following receipt. Further, as required by Labor Code section 147, any proposed occupational safety or health standard received by the Board from a source other than the Division must be referred to the Division for evaluation, and the Division has 60 days after receipt to submit a report on the proposal.

SUMMARY

The Petitioner proposes amending subsection (e)(2) of Section 3276, Portable Ladders, to require that ladder inspections be conducted "at least monthly" rather than "frequently." He notes that Section 3207(a) defines "frequent" to mean more than twelve times a year, and asserts that such a requirement does not fit into many employers' systems for conducting monthly workplace inspections of equipment such as eye washes and fire extinguishers.

DIVISION'S EVALUATION

The Division's evaluation report dated April 4, 2011, states the Division supports the petition.

STAFF'S EVALUATION

Section 3276(e)(2), Inspection, states, "Ladders shall be inspected by a qualified person for visible defects frequently and after any occurrence that could affect their safe use." Section 3207(a) states in part that, "For the purpose of these orders frequent shall mean more than twelve times each year unless specifically stated otherwise in individual orders." That portion of Section 3207(a) applies to Section 3276(e)(2), and as a result, ladders are required to be inspected more than twelve times each year.

The Petitioner states that having to inspect ladders at least thirteen times a year does not fit a regular logical scheduling system that also must address the inspection of items such as fire extinguishers and eye washes. Section 6151(e)(2) provides that portable fire extinguishers or fire hoses shall be visually inspected monthly. Section 5162(e) provides that plumbed eyewash and shower equipment shall be activated at least monthly to flush the line and to verify proper operation.

Section 3276, was amended in 2010 to consolidate the existing portable ladder standards in the Construction Safety Orders and the General Industry Safety Orders into one standard that applies to all industries. That rulemaking initially proposed that ladders shall be inspected “prior to the start of the shift.” Employers commented that it would not be feasible to implement the proposed inspection schedule at facilities with flexible shifts and that the number of inspections required and the documentation of those inspections would be unnecessarily burdensome. To provide some flexibility for employers, the proposal was modified to require that ladders be inspected “periodically.” Federal OSHA commented that the proposed modification was not as effective as Federal 29CFR 1910.25(d)(1)(x), which applies to portable wood ladders used in general industry. That federal standard provides that “ladders shall be inspected frequently.” Federal OSHA stated that, where federal standards provide a specific interval for inspections, “periodic” refers to intervals ranging from one to twelve months and “frequent” refers to intervals ranging from daily to monthly. These definitions of “periodic” and “frequent” do not appear in the federal ladder standards, but appear in general industry standards pertaining to crane inspections. In response to federal OSHA’s opinion, the Board modified the proposed provision a second time to require that ladders be inspected by a qualified person for visible defects frequently and after any occurrence that could affect their safe use.

Section 3203(a) provides that every employer shall implement an injury and illness prevention plan (IIPP), and Section 3203(a)(4) provides that the IIPP shall include scheduled periodic inspections to identify unsafe conditions and work practices. Also, Section 3203(b)(1) provides that records of the regular and periodic inspections required by subsection (a)(4) shall be maintained. To meet the inspection requirements in Sections 3203 and 3276, an employer can choose to conduct ladder inspections separately from IIPP workplace inspections or integrate the two. For many employers, the latter choice may be the most reliable and efficient. Where possible, it would also be reasonable to try and coordinate the inspection of equipment which requires monthly or periodic inspections.

If the definition of “frequent” in Section 3207(a) is applied to the use of the term “frequently” in Section 3276(e)(2), then ladder inspections are required a minimum of thirteen times a year. Amending 3276(e)(2) to change “frequently” to “at least monthly” would reduce the required minimum number of ladder inspection per year from 13 to 12 and would be consistent with the way in which federal OSHA treats the concept of “frequent.” In practice, employers might not be aware that “frequent” is defined in Section 3207, and therefore, they do not interpret Section 3276(e)(2) as requiring a minimum of 13 inspections a year. Amending Section 3276(e)(2) to require that employers inspect ladders at least monthly would increase clarity and may even increase the number of ladder inspections conducted.

CONCLUSION AND ORDER

For reasons stated in the preceding discussion, the Petition is hereby GRANTED to the extent that the Board direct staff to develop a rulemaking proposal to amend Section 3276(e)(2) to require that ladder inspections be conducted “at least monthly” rather than “frequently.”