

**OCCUPATIONAL SAFETY
AND HEALTH STANDARDS BOARD**

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Attachment No. 2

INITIAL STATEMENT OF REASONS

CALIFORNIA CODE OF REGULATIONS

TITLE 8, Chapter 4, Subchapter 4, Article 21, Section 1637
of the Construction Safety Orders (CSO).

Scaffold LaddersSUMMARY

The Occupational Safety and Health Standards Board (Board) initiates this rulemaking as result of a Form 9, Request For New or Amended Safety Order, submitted by the Division of Occupational Safety and Health (Division) on October 31, 2002, to revise Section 1637 of the Construction Safety Orders (CSO).

Section 1637 contains minimum requirements pertaining to scaffolds including, but not limited to, their design and construction, anchorage and bracing, erection and dismantling, loading, and access. The Division's Form 9 indicates that there is confusion as to what standards apply to access ladders specifically manufactured for, and affixed to, scaffold systems (attachable ladders) referenced in subsection (n)(2). Subsection (n)(2) contains specifications and use requirements for ladders, permanent stairways, prefabricated scaffold steps/stairs, and end frames used as climbing devices, but does not include standards for manufactured "attachable ladders." Attachable ladders, including hook-on ladders, are specifically designed and constructed to be affixed to scaffold systems. Because attachable ladders fall outside the scope of safety orders that regulate ladders or scaffold stair systems contained elsewhere in Title 8, it is necessary to amend this section to add specific standards applicable to attachable scaffold ladders, consistent with Federal OSHA, 29 Code of Federal Regulations (CFR) 1926.451(e).

For the most part, Board staff incorporated the Division's suggested amendments to Section 1637(a)(2). The Division's proposal included a requirement that rungs on hook-on and attachable ladders be spaced a maximum of 12 inches between rungs. Board staff learned that in 1996, Federal OSHA proposed a reduction in rung spacing from 16-3/4 inches to 12 inches in their counterpart standards contained in 29 CFR 1926.451 for attachable ladders. However, they refrained due to industry concerns over the adverse economic impact it would cause. Consequently, in the absence of data or evidence supporting 12 inch rung spacing, Board staff has included the requirement for maximum rung spacing of 16-3/4 inches in the proposal, consistent with federal counterpart requirements.

Also included in the Division's proposal was a request to amend Sections 1637(n)(2)(A) and 1644(a)(8), which require that ladders used for access comply with Article 25 of the Construction Safety Orders. The Division proposed that these standards be specific to "portable" ladders only. In consideration of the Division's request, Board staff concluded that by requiring only portable ladders to conform to Article 25 would remove several valuable safety requirements applicable to all other ladders, e.g., the use of ladders in such a way as to provide safe access to all elevations, prohibiting the use of ladders that are broken or are otherwise faulty or defective, and the mandate that either side rails be extended not less than 36 inches above the landing or grab rails must be installed. Consequently, Board staff declines to incorporate the Division's recommended amendments to Sections 1637(n)(2)(A) and 1644(a)(8).

Also included in this rulemaking action are proposed amendments by Board staff to require that prefabricated scaffold steps or stairs manufactured after the effective date of the standard comply with American National Standard, ANSI A10.8-2001, Safety Requirements for Scaffolding, proposed for incorporation by reference. For those manufactured on or before the effective date, compliance with either the existing, 1988 ANSI standard, or the 2001 ANSI standard already proposed for incorporation by reference is proposed. Other nonsubstantive, editorial changes are proposed for subsection (n)(2)(C)2 for clarification purposes.

This proposed rulemaking action contains additional 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. In addition to these nonsubstantive revisions, the following actions are proposed:

SPECIFIC PURPOSE AND FACTUAL BASIS OF PROPOSED ACTION

Section 1637(n)

Subsection (n) contains a general requirement that safe and unobstructed access must be provided to all scaffold platforms, by a walkway, stair, or ladder. Additionally, subsection (n) contains design and construction standards or references to such standards for ladders, stairs, and horizontal members (rungs) of scaffold end frames used as climbing devices. Subsection (n), however, does not contain standards pertaining to attachable ladders.

Subsection (n)(2)

Subsection (n)(2) contains specifications and use requirements for portable ladders, permanent stairways, prefabricated scaffold steps/stairs, and horizontal members of end-frames used as a climbing device. However, subsection (n)(2) does not include standards for manufactured metal ladders that are specifically designed and constructed to be affixed to scaffold systems. Because these attachable ladders fall outside the scope of the ladder or stair system types currently under Section 1637(n), this proposal would add specific standards applicable to attachable ladders, consistent with 29 CFR 1926.451(e).

New Subsection (n)(2)(A)

The proposal adds new subsection (n)(2)(A) for manufactured hook-on and attachable ladders, and requires that they be securely attached to the scaffold. In addition, subparagraphs 1 through 3 of new subsection (A) are proposed which require that these attachable ladders be specifically designed for use with the type of scaffold used; have a minimum rung length of 11-1/2 inches (29 cm); and have uniform spaced rungs with a maximum spacing between rungs of 16-3/4 inches. The proposed new subsection is necessary to address a deficiency in the existing standard, i.e., manufactured attachable ladders, and will ensure that: 1) attachable ladders are securely attached to the scaffold, 2) compatible ladders are used specific to the scaffold system used, 3) sufficient footholds are provided for safe access to the scaffold, and 4) adequate, predictable rung spacing is provided for safe access or egress.

Subsection (n)(2)(B)

Existing subsection (n)(2)(B), proposed for relettering as subsection (n)(2)(C), contains a requirement that prefabricated scaffold steps or stairs must comply with the design, manufacture, and installation requirements of ANSI A10.8-1988, Scaffolding- Safety Requirements. An amendment is proposed to require prefabricated scaffold steps or stairs manufactured after a specified effective date to meet the latest ANSI standard, A10.8-2001, proposed for incorporation by reference, while those manufactured on or before the specified effective date would be required to meet either the existing referenced standard, ANSI A10.8-1988, or the 2001 ANSI standard. This proposed amendment is necessary to ensure that newly manufactured prefabricated scaffold steps or stairs meet design, manufacture, and installation requirements of current national standards, consistent with current industry practice.

Subsection (n)(2)(C)

Existing subsection (n)(2)(C), proposed for relettering as subsection (n)(2)(D), permits the horizontal members of scaffold end-frames to be designed and used as a climbing device to access scaffold platforms provided the steps are 1) reasonably parallel and level, 2) continuous climb as required in Section 1644(a)(8) using frames of the like configuration, and 3) provided with sufficient clearance to provide a good handhold and foot space. An amendment is proposed to editorially revise subparagraph 2, consistent with the format of subparagraphs 1 and 3. This amendment is necessary to improve the clarity of the subsection requirements.

DOCUMENTS RELIED UPON

1. Request For New or Amended Safety Order (Form 9), dated October 31, 2002, to revise Section 1637 of the Construction Safety Orders, submitted via Memorandum to the Occupational Safety and Health Standards Board by the Division of Occupational Safety and Health with attachments.
2. Federal Register, Vol. 61, No. 170, dated Friday, August 30, 1996, page 46053.

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

1. American National Standard, ANSI A10.8-2001, Safety Requirements for Scaffolding.

This document is too cumbersome or impractical to publish in Title 8. Therefore, it is proposed to incorporate the document by reference. Copies of this document 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.

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 an initial 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 proposed amendments are consistent with Federal OSHA scaffold access standards. Attachable ladders currently manufactured for use on scaffold systems are being constructed to these federal standards, specifically up to the 16-3/4 inch rung spacing, and therefore are already in compliance with the proposed standard. Additionally, this rulemaking action proposes to incorporate by reference the latest edition of the ANSI A10.8 standard. This amendment will not result in added costs or savings as currently manufactured attachable ladders already meet these national consensus

standards. Attachable ladders manufactured prior to the effective date of the proposed standard are only required to meet the existing referenced ANSI standard. The proposed amendments to Section 1637 will ensure consistency with current industry practice and federal counterpart standards contained in 29 CFR 1926.451.

Cost Impact on Private Persons or Businesses

The Board is not aware of any cost impact 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 standard 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, the standard 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 standard does not require local agencies to carry out the governmental function of providing services to the public. Rather, the standard requires local agencies to take certain steps to ensure the safety and health of their own employees only. Moreover, the proposed standard 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 standard does not impose unique requirements on local governments. All employers - state, local and private - 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 standard 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.