

Memorandum

To : ALL STANDARDS BOARD MEMBERS

Date : May 30, 2025

From : **Occupational Safety and Health Standards Board**
Amalia Neidhardt, Principal Safety Engineer, OSHSB

Subject : Section 1514: Proper Fit of Personal Protective Equipment in Construction (Horcher)

At the May 15, 2025, Public Hearing, the Occupational Safety and Standards Board considered revisions to California Code of Regulations, Title 8, Construction Safety Orders, section 1514, Proper Fit of Personal Protective Equipment (PPE) in Construction (Horcher). This standard is substantially the same as the federal standard.

Labor Code section 142.3(a)(3) exempts the Board from providing a comment period when adopting a standard substantially the same as a federal standard. However, as indicated in the Notice (Informative Digest), the Board still provided a comment period for the purpose of identifying only issues related to the following three areas:

- 1) Any clear and compelling reasons for California to deviate from the federal standards;
- 2) Any issues unique to California related to this proposal which should be addressed in this rulemaking and/or subsequent rulemaking; and
- 3) Solicit comments on the proposed effective date.

Federal OSHA reviewed the proposed changes to title 8, section 1514 and found them to be at least as effective as their federal standards.

One written comment and three oral comments were provided during the May 15, 2025 Public Hearing and no modifications were necessary in response to those comments. The proposal as originally proposed will ensure that California standards are at least as effective as federal OSHA for proper fit of PPE in Construction by including language that is verbatim of 29 CFR 1926.95, Appendix A.

SUMMARY OF WRITTEN AND ORAL COMMENTS

I. Written Comments

Abby Lopez, Assistant Regional Administrator, Federal OSHA, by letter dated May 13, 2025.

Comment:

Abby Lopez stated that they completed their review of the revisions to the regulations. The proposed occupational safety and health standard appears to be at least as effective as the federal standards.

Response:

The Board thanks Federal OSHA for their review and finding that the proposal is at least as effective as their federal standard.

Matthew Brush, Public Health Professional in Los Angeles by letter dated May 15, 2025.

Comment:

Matthew Brush supports the proposal and encourages the Board to adopt.

Response:

The Board thanks Matthew Brush for the support of the proposal.

II. Oral Comments

Dave Thomas, OSHSB Board Member dated May 15, 2025.

Comment:

Dave Thomas stated that in the past, many construction workers considered PPE as optional and injured themselves when not wearing it. However, now PPE is more accepted and required which is good and will reduce injuries.

Response:

The Board appreciates Board Member Thomas' statements.

Steve Johnson, Associated Roofing Contractors of the Bay Area Counties dated May 15, 2025.

Comment:

Steve Johnson pointed out that it's hard to find properly fitting PPE for women. He hopes that the new standard will make such PPE more available. However, in the meantime he encourages Cal/OSHA to keep that limited availability in mind when they enforce the new requirement.

Response:

The Board appreciates Steve Johnson's comments about availability of PPE for women and refers him to similar comments made in the preamble to the final federal rule. Federal OSHA in response to those comments indicated that new national requirements should promote more availability of PPE for women. The Board declines to make any modifications to the proposal in response to the comment.

Michael Wissig, no stated affiliation dated May 15, 2025.

Comment:

Michael Wissig stated that fall protection harnesses are only protective of a range of weights of the employee. Employees who do not weigh enough or weigh too much are not protected by the harnesses available on the market. Therefore, employers should not be required to provide harnesses to employees who exceed the weight limit.

Response:

The comment is not unique to California and refers Michael Wissig to similar comments made in the preamble to the final federal rule. Federal OSHA in response to those comments indicated that new national requirements should promote more availability of fall protection equipment. The Board declines to make any modifications to the proposal in response to the comment.

DETERMINATION OF MANDATE

This regulation does not impose a mandate on local agencies or school districts as indicated in the Informative Digest.