

# MAINE STATE LEGISLATURE

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20

August 8, 1956

To Marion E. Martin, Commissioner of Labor and Industry  
Re: Construction Safety Rules and Regulations

. . . You ask for our opinion relative to certain portions of a tentative code which the Board of Construction Safety Rules and Regulations have been working on. You ask:

"Assuming that all requirements for public hearings and promulgation are met, would Rules and Regulations as vague as the following be upheld in case of challenge as provided by law?

"2.3B 'heavier as required to support a working load of 25 pounds per square foot.'"

Section 2.3B complements Section 2.3A and defines the poles or uprights to be used for light-duty scaffolds more than 24 feet in height and not more than 40 feet in height, over 40 feet requiring 4 x 4 inches in cross section or heavier as required to support a working load of 25 pounds per square foot.

Great pains appear to have been taken in describing in Section 2.3A the materials to be used for light-duty scaffolds, and it would appear to us that, if possible, specific dimensions should be given for maximum as well as minimum heights.

"2.5 'suitable design and manufacture' and particularly 'recommended by the manufacturer and shall be used in accordance with his instructions'."

'firm foundations'. . . 'casters made especially for this purpose.'"

It would appear to us that the words as used, "specific design and manufacture' and "shall be used only for the purposes and loadings for which they are recommended by the manufacturer" are insufficient to be proper rules and regulations. Rather than delegate safety designs to the manufacturer it would be more proper that such tubular pole scaffolds shall be of a design approved by the Board of Construction Safety Rules and Regulations.

We find no fault with the phrase "firm foundations or on wheels or casters made especially for this purpose".

"3.1C 'The outside of platforms shall be protected with a guard rail or rope and an intermediate guard rail or rope capable of withstanding a force of 200 pounds applied in any direction. The outside of platforms shall also be provided with a toeboard at least 6 inches high'."

It is our belief that rules and regulations should be so written that one bound by such rules and regulations should be able to read them with understanding and know what is required. We would therefore recommend that the guard rail and ropes be defined both as to size

and tensile strength or other appropriate characteristics, so that it can be easily ascertained what material should be used under this section.

"3.3 'The scaffold machines and outriggers shall be of standard design and manufacture and shall be used in accordance with the manufacturer's instructions. The outriggers shall be spaced to safely support the platform and shall be carefully blocked and secured with the standard U bolt connection or other equally strong method.'"

We find the same fault with this section as we noted in 2.5 above. We would hesitate at any time to recommend that safety factors be such as are recommended by the manufacturer. Either safety factors and design should be specifically set forth or, as in 2.5 above, material and design should be subject to approval by the Board.

"4.5 'Roofing bracket scaffold shall be triangular in shape and of standard design. . .'"

See answers to 3.5 and 2.5

James Glynn Frost  
Deputy Attorney General

jgf/c