

DEPARTMENT OF INDUSTRIAL RELATIONS

DIVISION OF OCCUPATIONAL SAFETY AND HEALTH

1515 CLAY STREET, SUITE 1901
OAKLAND, CA 94612
(510) 286-7000



ADDRESS REPLY TO:
PO BOX 420603
SAN FRANCISCO 94142-0603

INITIAL STATEMENT OF REASONS**Proposed Amendments to Sections 343 (Fee Schedule) of Title 8 of the California Code of Regulations****PROBLEM ADDRESSED AND SUMMARY**

Pursuant to Labor Code sections 60.5 and 6308, the Division of Occupational Safety and Health ("the Division") of the Department of Industrial Relations is charged with the administration and enforcement of the provisions of the California Occupational Safety and Health Act, commencing with Labor Code section 6300, as well as other provisions of law impacting upon the health and safety of employees and the public in the State of California.

As part of its mandate, the Division regulates the operation, repair and inspection of aerial passenger tramways.

Pursuant to the Aerial Passenger Tramway Law (Labor Code sections 7340 through 7357) the Division is charged with establishing and administering a state system for the permitting and inspection of Aerial Passenger Tramways. The Division is authorized to collect fees for the inspection of Aerial Passenger Tramways as it deems necessary to cover the actual cost it incurs in having the inspection performed by a Division safety engineer.

Currently, the Division's Aerial Passenger Tramway fee schedule (set forth in Title 8, Section 343) is based on a calculated hourly rate of \$125.00 per hour. At the time the Division promulgated its existing aerial passenger tramway fee schedule, it calculated that it must charge \$125 per billed hour of its inspectors' time to adequately fund the aerial passenger tramway program. The Division has not increased its aerial passenger tramway inspection fee since 1992, and that hourly rate is no longer sufficient to fully fund the programs. In fact, as of this date, the program is operating at a deficit.

Thus, the purpose of this rulemaking (hereinafter "the Proposed Rulemaking") is to increase the Division's income from the inspections, major alterations and consultations it performs. The Division proposes to increase its hourly inspection fee from \$125 to \$245 and to begin billing a flat fee to offset its travel costs incurred in connection with its inspection program.

SPECIFIC PURPOSE OF ADOPTION/FACTUAL BASIS**Section 343 - Aerial Passenger Tramway Fee Schedule.**

Since 1992, when the Division last increased its aerial passenger tramway inspection fee, the Division's operating costs and inspectors' salaries have risen sharply. Currently, to adequately fund its Aerial Passenger Tramway program, the Division has determined that it must charge an hourly rate of \$245.00 for inspections, major alterations and consultations of Aerial Passenger Tramways. The Division bases this \$245 hourly rate on its cost detail analysis set forth in the "Hourly Billing Rate for Aerial Tramway Units", attached hereto and incorporated herein by this reference as "Attachment A". The costs reflected in Attachment A represent the costs to the Division of operating its aerial passenger tramway program.

Subsection (4): The Division is proposing the addition of a flat fee for travel in addition to actual inspection charges. The flat fee would be equivalent to one hour (\$245) to be charged for all site visits by inspectors to offset travel time spent by inspectors travelling to and from inspection sites. Establishing a consistent flat fee for travel time will maintain a balance among tramway operators regardless of the time/distance they are from the Division's physical office. Additionally, the Division would bill for actual time or the one hour flat fee, whichever is greater, in the event a rescheduled inspection was required due to the owner/operator failing to show up or not being prepared for a scheduled inspection.

OTHER REQUIRED SHOWINGS - GOVERNMENT CODE 11346.2(b)(2)-(4)

Studies, Reports, or Documents Relied Upon

The Division relied on the cost analysis for its Aerial Passenger Tramway program in formulating the Proposed Rulemaking.

Reasonable Alternatives Considered

The Division has determined that no alternative considered would be more effective in carrying out the purpose that underlies the proposed action, or would be as effective as and less burdensome to affected small businesses than the proposed action. Moreover, the Division did not consider a performance standard as a reasonable alternative for a fee regulation.

Reasonable Alternatives That Would Lessen the Impact on Small Businesses

None.

Evidence Relied Upon to Support the Initial Determination That the Proposed Regulations Will Not Have a Significant Adverse Economic Impact on Business

The Proposed Rulemaking will not result in significant adverse economic impacts to private persons or businesses. The Division bases this conclusion on the following:

The Division has not raised its hourly inspection rate since 1992 – a period of 18 years. During that same time period, most of the aerial passenger tramway owners/operators have raised their prices significantly. The Division anticipates that owners/operators will be able to absorb the proposed fee increase or else mitigate or cancel any economic impact that the proposed fee increase may have on their businesses through modest price adjustments.