

**State of California  
Office of Administrative Law**

In re:  
Occupational Safety and Health (Cal-OSHA)  
Division

NOTICE OF APPROVAL OF REGULATORY  
ACTION

Regulatory Action:

Government Code Section 11349.3

Title 8, California Code of Regulations

OAL File No. 2010-1208-03 S

Adopt sections:

Amend sections: 344.6, 344.16, 344.18

Repeal sections:

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The Division of Occupational Safety and Health (Cal-OSHA) submitted this rulemaking action to increase the fees charged for inspections, reinspections, and investigations that OSHD performs on permanent amusement rides (rides installed in a fixed location) and portable amusement rides (rides assembled and disassembled at different sites as part of a traveling attraction). The hourly rate for an OSHD inspector's time will increase from \$125.00/hour to \$195/hour, and ride operators will be assessed a graduated annual flat fee for each ride depending on whether the ride is classified as small, medium, large, or extra-large, as specified, to cover administrative costs. The amended regulations are sections 344.6, 344.16, and 344.18 of title 8 of the California Code of Regulations, which will be effective upon filing.

OAL approves this regulatory action pursuant to section 11349.3 of the Government Code. This regulatory action becomes effective on 1/20/2011.

Date: 1/20/2011



Richard L. Smith  
Staff Counsel

For: DEBRA M. CORNEZ  
Assistant Chief Counsel/  
Acting Director

Original: A. Lennox Welsh  
Copy: Christopher Grossgart

# REGULAR

STATE OF CALIFORNIA—OFFICE OF ADMINISTRATIVE LAW

## NOTICE PUBLICATION/REGULATIONS SUBMISSION

(See instructions on reverse)

For use by Secretary of State only

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2011 JAN 20 PM 2:02

*John Bowen*  
JOHN BOWEN  
SECRETARY OF STATE

STD. 400 (REV. 01-09)

OAL FILE NUMBERS	NOTICE FILE NUMBER <b>Z-2010-0301-02</b>	REGULATORY ACTION NUMBER <b>2010-1208-035</b>	EMERGENCY NUMBER
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For use by Office of Administrative Law (OAL) only	
NOTICE	REGULATIONS

AGENCY WITH RULEMAKING AUTHORITY  
Division of Occupational Safety and Health

AGENCY FILE NUMBER (if any)

### A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE	TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other	4. AGENCY CONTACT PERSON	TELEPHONE NUMBER	FAX NUMBER (Optional)
OAL USE ONLY <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn	ACTION ON PROPOSED NOTICE	NOTICE REGISTER NUMBER <b>2010, 112</b>	PUBLICATION DATE <b>3-12-2010</b>

### B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) Amusement Ride Fees	1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S)
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2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)	ADOPT
SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)	AMEND 344.6, 344.16, 344.18
TITLE(S): 8	REPEAL

3. TYPE OF FILING	<input checked="" type="checkbox"/> Regular Rulemaking (Gov. Code §11346) <input type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4) <input type="checkbox"/> Emergency (Gov. Code, §11346.1(b))		
	<input type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute. <input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)		
	<input type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h)) <input type="checkbox"/> File & Print <input type="checkbox"/> Other (Specify):		
	<input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100) <input type="checkbox"/> Print Only		

4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)  
15-Day Notice Mailed/Posted on Web on November 3, 2010; Comment Period Closed November 23, 2010.

5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)
<input checked="" type="checkbox"/> Effective 30th day after filing with Secretary of State <input checked="" type="checkbox"/> Effective on filing with Secretary of State <b>RS/OAL</b> <input type="checkbox"/> §100 Changes Without Regulatory Effect <input type="checkbox"/> Effective other (Specify)

6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY
<input type="checkbox"/> Department of Finance (Form STD. 399) (SAM §6660) <input type="checkbox"/> Fair Political Practices Commission <input type="checkbox"/> State Fire Marshal <input type="checkbox"/> Other (Specify)

7. CONTACT PERSON Chris Grossgart	TELEPHONE NUMBER (415) 972-8678	FAX NUMBER (Optional) (415) 972-8686	E-MAIL ADDRESS (Optional) cgrossgart@dir.ca.gov
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8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE <i>Len Welsh</i>	DATE
TYPED NAME AND TITLE OF SIGNATORY Len Welsh, Chief	

For use by Office of Administrative Law (OAL) only
ENDORSED APPROVED
JAN 20 2011
Office of Administrative Law

**Chapter 3.2. California Occupational Safety and Health Regulations**  
**Subchapter 2. Regulations of the Division of Occupational Safety & Health,**  
**Article 6. Permanent Amusement Rides**

**§344.6. Definitions.**

For purposes of this Article, the following terms are defined as set forth herein:

(a) An "as-built document" is a document signed by a licensed engineer responsible for the construction of the permanent amusement ride stating that the ride has been constructed according to its final plans.

(b) A "California-licensed engineer" is a professional engineer with a certificate of registration issued by the California Board of Professional Engineers and Land Surveyors.

(c) A "licensed engineer" is a California-licensed engineer or a professional engineer with equivalent licensing by another state.

(d) A "major modification" is any change in the structure or operation of a permanent amusement ride that materially alters either the performance of the ride or any safety-related system of the ride. For the purposes of this definition, the disassembly and relocation of a ride is considered to be a major modification of the ride.

(e) A "new permanent amusement ride" is a permanent amusement ride that is placed in operation and opened to the public for the first time on or after November 5, 2001.

(f) An "operational inspection" is an inspection that consists of inspecting the operation of the permanent amusement ride, including its safety-related systems and procedures, and reviewing any other specific information that is substantially related to the safe operation of the ride.

(g) An "owner" or "operator" is a person or entity who owns or controls or has the duty to control the operation of a permanent amusement ride. The terms include the State and every political subdivision of the State, including every state agency, and each county, city, district, and all the public and quasi-public corporations and public agencies therein.

(h) A "permanent amusement ride" is a mechanical device, aquatic device, or combination of devices of a permanent nature that carries or conveys passengers along, around, or over a fixed or restricted course for the purpose of giving its passengers amusement, pleasure, thrills, or excitement. "Permanent amusement ride" includes bungee-jumping services, but does not include dry slides, playground equipment, coin-operated devices, conveyances that operate directly on the ground or on pavement or a surface directly on the ground, or aerial passenger tramways as defined by Labor Code section 7340(a). For the purposes of this definition, the phrase "of a permanent nature" means remaining at a single location for longer than 180 days.

(i) A "qualified safety inspector," or "QSI," is an individual certified by the Division pursuant to section 344.10. A QSI may be a safety inspector employed by the owner or operator of a permanent amusement ride, an employee or agent of the insurance underwriter or insurance broker of a permanent amusement ride, an employee or agent of the manufacturer of a permanent amusement ride, an employee of the Division of Occupational Safety and Health, or an independent consultant or contractor.

(j) A "Ride Footprint" is the surface area, expressed in square feet, that is covered by the ride, itself, and does not include the passenger waiting area or queuing area.

(k) "Safety-Related Systems and Procedures" are systems and procedures that materially affect safety or are designed or intended to increase the safety of a permanent amusement ride, including, but not limited to:

- (1) Ride-control devices, including safety devices;
- (2) Speed-limiting devices;

- (3) Brakes;
- (4) Passenger-carrying devices, including restraint systems;
- (5) Mechanical systems that materially affect the safe operation of the ride;
- (6) Ride electrical or electronic systems, including process-control equipment that are designed or intended to ensure safe operation of the ride;
- (7) Daily pre-operational safety-related tests;
- (8) Owner or operator safety-related maintenance, inspection and operational activities;
- (9) Emergency procedures related to the operation of the ride, including, but not limited to, cessation of operation, evacuation procedures, ingress and egress controls, location of communication devices, and summoning of medical or emergency assistance; and
- (10) Signage.

~~(k)~~ (l) A "structural inspection" is an inspection of a permanent amusement ride, which includes examination of the following structural attributes:

- (1) Structural supports and foundations including wind and seismic integrity;
- (2) Structural bracing; and
- (3) Ride track elements, if any.

NOTE: Authority cited: Sections 60.5, 7923, and 7928, Labor Code. Reference: Sections 7920 - 7932, Labor Code.

**§ 344.16. Permanent Amusement Ride Fee Schedule.**

- (a) The application fee for a QSI Certificate shall be five hundred dollars (\$500.00).
- (b) The fee for the biennial renewal of a QSI Certificate shall be one hundred and twenty-five dollars (\$125.00).

(c) The fee for review of Certificates of Compliance and provision of related notifications shall be two hundred and fifty dollars (\$250.00).

~~(d) A fee of one hundred and twenty-five dollars (\$125.00) per hour, or fraction thereof, shall be charged for all work performed in connection with audits, inspections and investigations conducted pursuant to section 344.8.~~

(d) Inspection Fees.

(1) A fee of one hundred and ninety-five dollars (\$195.00) per hour shall be charged for all on-site work performed in connection with audits, inspections, reinspections, and investigations pertaining to permanent amusement rides. The Division shall bill an inspector's time in quarter-hour increments, rounded up to the nearest quarter hour.

(2) Fees shall be charged for actual inspection time. Actual inspection time begins from the time a Division engineer arrives, generally by appointment, in the area where the Division's information indicates the inspection is to be conducted, and continues until the engineer has completed the Division's report and is ready to leave the area.

(3) The Division shall not bill at the hourly rate for an inspector's travel time in connection with routine inspections. However, if the owner or operator of a permanent amusement ride or rides, or his or her designee, fails to appear at the designated site for a scheduled inspection, or is not ready for the inspection at the designated time, and the Division is therefore required to reschedule the inspection, the Division may bill for the time its inspector spends traveling to the site of the rescheduled inspection(s) at the one hundred and ninety-five dollar (\$195.00) hourly rate.

(e) Annual Fee. In addition to the hourly fee for inspections, reinspections and investigations, each permanent amusement ride shall pay an annual fee to offset the Division's travel and administrative costs. The Division shall base the amount of the annual fee on the classification of the permanent amusement ride as either "Class I (Small)," "Class II (Medium)," "Class III (Large)," or "Class IV (Extra Large)," as follows:

- (1) Small rides – Twenty-five dollars (\$25.00)
- (2) Medium rides – Three hundred and sixty-five dollars (\$365.00)
- (3) Large rides – Seven hundred and forty dollars (\$740.00)
- (4) Extra-large rides – One thousand four hundred and seventy-five dollars (\$1,475.00).

(f) Classification of Permanent Amusement Rides. For purposes of this section, each permanent amusement ride shall be classified according to the criteria set forth below. A ride will be placed into the largest classification for which it satisfies two or more of the evaluation criteria. However, if a permanent amusement ride satisfies any single criterion in a classification, then the ride cannot fall into a classification more than one classification below, even if it satisfies two or more criteria in a lower classification.

(1) Class I (Small): A permanent amusement ride shall be classified as "Small" if it:

(A) has a footprint of 699 square feet, or less;

(B) operates at ten or fewer revolutions per minute ("RPM");

(C) is a "Kiddie Coaster" (a ride designed for children age 12 or younger).

(2) Class II (Medium): A permanent amusement ride shall be classified as "Medium" if it:

(A) has a footprint of greater than 699 square feet and up to and including 2,000 square feet;

(B) is a non-elevated ride that carries its own means of propulsion while towing one or more units (i.e., trains);

(C) elevates passengers up to and including sixty feet off the ground.

(3) Class III (Large): A permanent amusement ride shall be classified as "Large" if it:

(A) has a footprint of greater than 2,000 and up to and including 8,000 square feet;

(B) elevates passengers higher than 60 feet and up to 120 feet off the ground, and/or travels a distance of up to and including 1,500 feet;

(C) consists of more than 50 units and/or has a capacity equal to, or greater than, 50 passengers;

(4) Class IV (Extra-Large): A permanent amusement ride shall be classified as "Extra-Large" if it:

(A) has a footprint of greater than 8,000 square feet;

(B) elevates passengers higher than 120 feet off the ground and/or travels a distance of greater than 1,500 feet;

(C) has complex features or controls (i.e., programmable logic controllers with safety features that interface with computer controllers or similar features or controls).

NOTE: Authority cited: Sections 60.5, 7923, 7928 and 7929, Labor Code. Reference: Sections 7920 – 7932, Labor Code.

## **Title 8, Chapter 3.2**

### **Subchapter 2. Regulations of the Division of Occupational Safety and Health**

#### **Article 6.1. Amusement Ride Inspection Fee Schedule Portable Amusement Ride Fees**

##### **§344.18. Portable Amusement Ride Fee Schedule.**

(a) Inspection Fees.

(1) A fee of \$125.00 per hour or fraction thereof shall be charged for all inspections, reinspections, and accident investigations pertaining to amusement rides. A minimum fee of \$125.00 will be charged per amusement ride.

(2) Fees shall be charged for actual inspection time. Actual inspection time begins from the time the Division engineer arrives, generally by appointment, in the area and continues until the engineer has completed the Division's report and is ready to leave the area.

(b) The Division will charge no fee for an inspection performed by a certified insurance inspector except a charge of \$10.00 to cover the cost of processing the permit to operate.

(a) Inspection Fees.

- (1) A fee of one hundred and ninety-five dollars (\$195.00) per hour shall be charged for all on-site work performed in connection with audits, inspections, reinspections, and investigations pertaining to portable amusement rides. The Division shall bill an inspector's time in quarter-hour increments, rounded up to the nearest quarter hour.
- (2) Fees shall be charged for actual inspection time. Actual inspection time begins from the time a Division engineer arrives, generally by appointment, in the area where the Division's information indicates the inspection is to be conducted, and continues until the engineer has completed the Division's report and is ready to leave the area.
- (3) The Division shall not bill at the hourly rate for an inspector's travel time in connection with routine inspections. However, if the owner or operator of a portable amusement ride or rides, or his or her designee, fails to appear at the designated site for a scheduled inspection, or is not ready for the inspection at the designated time, and the Division is therefore required to reschedule the inspection, the Division may bill for the time its inspector spends traveling to the site of the rescheduled inspection(s) at the one hundred and ninety-five dollar (\$195.00) hourly rate.
- (b) Annual Fee. In addition to the hourly fee for inspections, reinspections and investigations, each portable amusement ride shall pay an annual fee to offset the Division's travel and administrative costs. The Division shall base the amount of the annual fee on the classification of the portable amusement ride as either "Class I (Small)," "Class II (Medium)," "Class III (Large)," or "Class IV (Extra Large)," as follows:
- (1) Small rides – Twenty-five dollars (\$25.00)
- (2) Medium rides – Three hundred and sixty-five dollars (\$365.00)
- (3) Large rides – Seven hundred and forty dollars (\$740.00)
- (4) Extra-large rides – One thousand four hundred and seventy-five dollars (\$1,475.00).
- (c) Classification of Portable Amusement Rides. For purposes of this section, each portable amusement ride shall be classified according to the criteria set forth below. A ride will be placed into the largest classification for which it satisfies two or more of the evaluation criteria. However, if a portable amusement ride satisfies any single criterion in a classification, then the ride cannot fall into a classification more than one classification below, even if it satisfies two or more criteria in a lower classification.
- (1) Class I (Small): A portable amusement ride shall be classified as "Small" if it:
- (A) has a footprint of 699 square feet, or less. (For purposes of this section, a "ride footprint" is the surface area, expressed in square feet, that is covered by the ride, itself, and does not include the passenger waiting area or queuing area);
- (B) operates at ten or fewer revolutions per minute ("RPM");
- (C) is a "Kiddie Coaster" (a ride designed for children age 12 or younger).
- (2) Class II (Medium): A portable amusement ride shall be classified as "Medium" if it:
- (A) has a footprint of greater than 699 square feet and up to and including 2,000 square feet;
- (B) is a non-elevated ride that carries its own means of propulsion while towing one or more units (i.e., trains);
- (C) elevates passengers up to sixty and including 60 feet off the ground.
- (3) Class III (Large): A portable amusement ride shall be classified as "Large" if it:
- (A) has a footprint of greater than 2,000 and up to and including 8,000 square feet;
- (B) elevates passengers higher than 60 feet and up to 120 feet off the ground, and/or travels a distance of up to and including 1,500 feet;
- (C) consists of more than 50 units and/or has a capacity equal to, or greater than, 50 passengers;
- (4) Class IV (Extra-Large): A portable amusement ride shall be classified as "Extra-Large" if it:
- (A) has a footprint of greater than 8,000 square feet;
- (B) elevates passengers higher than 120 feet off the ground and/or travels a distance of greater than 1,500 feet;

(C) has complex features or controls (i.e., programmable logic controllers with safety features that interface with computer controllers or similar features or controls).

(d) The Division will charge no fee for an inspection performed by a certified insurance inspector except a charge of \$10.00 to cover the cost of processing the permit to operate.

NOTE: Authority cited: Sections 60.5, 6308 and 7904, Labor Code. Reference: Section 7904, Labor Code.