

Memorandum

To: Marley Hart, Executive Officer
Occupational Safety and Health Standards Board
2520 Venture Oaks Way, Suite 350
Sacramento, CA 95833

Date: March 8, 2016

From: Juliann Sum, Chief
Division of Occupational Safety and Health

Subject: Division Evaluation of Petition 553
James Sherman CWA Local 9400

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On January 14, 2016, the Division of Occupational Safety and Health (Cal/OSHA) received Petition 553 to amend Title 8, California Code of Regulations, section 8615(b) of the Telecommunication Safety Orders. James Sherman, Area Steward, of the Communication Workers of America, Local 9400 filed the petition. The petitioner requests that the Telecommunication Safety Order be revised to require fall protection for workers while climbing wood utility poles to be equivalent to the federal OSHA standards.

Background:

Federal OSHA regulations covering electric power generation, transmission, and distribution were amended on April 1, 2015 to require fall protection for point-to-point travel by employees on poles, towers and similar structures unless the employer can demonstrate that the fall protection is infeasible or creates a greater hazard than climbing or changing location without fall protection. Prior to April 1, 2015, qualified employees were not required to use fall protection for point-to-point travel unless conditions could cause employees to lose their grip or footing.

Current Title 8 regulations are similar to the older federal OSHA regulations and have not been updated to limit the exception to fall protection for point to point travel on poles, towers and similar structures.

Existing California Code of Regulations, Title 8

The Telecommunication Safety Orders require the following:

§8615(g) Fall Protection. When work is performed at elevated locations more than 4 feet (1.2 meters) above ground on poles, towers or similar structures, the employer shall require the employees to use either fall arrest equipment, work positioning equipment, or travel restricting equipment, if other fall protection methods have not been provided (e.g., guardrails, safety nets, etc.). The use of body belts for fall arrest systems is prohibited.

EXCEPTION: Point to point travel by a qualified person, unless conditions such as ice, high winds (as defined in Section 2951(f) of the High Voltage Electrical Safety

Orders), design of the structure, or other conditions (e.g., chemical contaminants) prevent the employee from gaining a firm hand or foothold while traveling.

The High Voltage Electrical Safety Orders require the following:

§2940.6(b) Fall Protection. When work is performed at elevated locations more than 4 feet (1.2 meters) above the ground on poles, towers or similar structures, the employer shall require the employees to use either fall arrest equipment, work positioning equipment, or travel restricting equipment, if other fall protection methods have not been provided (e.g., guardrails, safety nets, etc.). The use of body belts for fall arrest systems is prohibited.

Exception: Point to point travel by a qualified person, unless conditions such as ice, high winds, design of the structure, or other condition (e.g., chemical contaminants) prevents the employee from gaining a firm hand or foothold while traveling.

The Low Voltage Electrical Safety Orders require the following:

§2320.8 (a) Fall Protection. When work is performed at elevated locations more than 4 feet (1.2 meters) above the ground on poles, towers or similar structures, the employer shall require the employees to use either fall arrest equipment, work positioning equipment, or travel restricting equipment, if other fall protection methods have not been provided (e.g., guardrails, safety nets, etc.). The use of body belts for fall arrest systems is prohibited.

Exception: Point to point travel by a qualified person, unless conditions such as ice, high winds, design of the structure, or other condition (e.g., chemical contaminants) prevents the employee from gaining a firm hand or foothold while traveling.

Existing Federal OSHA Regulations

Title 29, Code of Federal Regulations, section 1910.268 applies to work performed at telecommunications centers and at telecommunications field installations.

1910.268(g) Personal climbing equipment --

1910.268(g)(1) General.

Safety belts and straps shall be provided and the employer shall ensure their use when work is performed at positions more than 4 feet above ground, on poles, and on towers, except as provided in paragraphs (n)(7) and (n)(8) of this section. No safety belts, safety straps or lanyards acquired after July 1, 1975 may be used unless they meet the tests set forth in paragraph (g)(2) of this section. The employer shall ensure that all safety belts and straps are inspected by a competent person prior to each day's use to determine that they are in safe working condition.

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1910.268(n)(7)

Outside work platforms. Unless adequate railings are provided, safety straps and body belts shall be used while working on elevated work platforms such as

aerial splicing platforms, pole platforms, ladder platforms and terminal balconies.

1910.268(n)(8)

Other elevated locations. Safety straps and body belts shall be worn when working at elevated positions on poles, towers or similar structures, which do not have adequately guarded work areas.

Title 29, Code of Federal Regulations, section 1910.269 applies to the operation and maintenance of electric power generation, control, transformation, transmission, and distribution lines, equipment and facilities.

1910.269 Electric Power Generation, Transmission, and Distribution.

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1910.269(g)(2)(iv)(C)(2)

Except as provided in paragraph (g)(2)(iv)(C)(3) of this section, each employee in elevated locations more than 1.2 meters (4 feet) above the ground on poles, towers, or similar structures shall use a personal fall arrest system, work-positioning equipment, or fall restraint system, as appropriate, if the employer has not provided other fall protection meeting Subpart D of this part.

1910.269 (g)(2)(iv)(C)(3)

Until March 31, 2015, a qualified employee climbing or changing location on poles, towers, or similar structures need not use fall protection equipment, unless conditions, such as, but not limited to, ice, high winds, the design of the structure (for example, no provision for holding on with hands), or the presence of contaminants on the structure, could cause the employee to lose his or her grip or footing. On and after April 1, 2015, each qualified employee climbing or changing location on poles, towers, or similar structures must use fall protection equipment unless the employer can demonstrate that climbing or changing location with fall protection is infeasible or creates a greater hazard than climbing or changing location without it.

Note 1 to paragraphs (g)(2)(iv)(C)(2) and (g)(2)(iv)(C)(3): These paragraphs apply to structures that support overhead electric power transmission and distribution lines and equipment. They do not apply to portions of buildings, such as loading docks, or to electric equipment, such as transformers and capacitors. Subpart D of this part contains the duty to provide fall protection associated with walking and working surfaces.

Note 2 to paragraphs (g)(2)(iv)(C)(2) and (g)(2)(iv)(C)(3): Until the employer ensures that employees are proficient in climbing and the use of fall protection under paragraph (a)(2)(viii) of this section, the employees are not considered "qualified employees" for the purposes of paragraphs (g)(2)(iv)(C)(2) and (g)(2)(iv)(C)(3) of this section. These paragraphs

require unqualified employees (including trainees) to use fall protection any time they are more than 1.2 meters (4 feet) above the ground.

Discussion:

In Title 8, the Telecommunication Safety Orders (section 8615) do not require fall protection for workers during point-to-point travel on poles and towers unless conditions prevent the employee from obtaining a firm grip or foothold. The High Voltage Electrical Safety Orders (section 2940.6) and Low Voltage Electrical Safety Orders (section 2320.8) contain the same exception to fall protection requirements as the Telecommunication Safety Orders for work on poles, towers and similar structures.

The existing federal OSHA regulation for fall protection on poles, towers and similar structures for telecommunication workers (1910.268) does not contain an exemption for fall protection during point-to-point travel. Fall protection above 4 feet is always required, but the language of section 1910.268 is out of date as it refers to safety belts and straps that are no longer allowed to be used in personal fall arrest systems.

The federal regulation for fall protection in electric generation, transmission and distribution on poles, towers and similar structures (1910.269) requires personal fall arrest systems, work-positioning equipment, or fall restraint systems and does not contain the outdated language found in 1910.268. Prior to March 31, 2015, section 1910.269 exempted qualified workers from fall protection requirements during point-to-point travel under the same conditions as in the Title 8 exception. Unqualified workers were not covered by the exception pursuant to Note 2 to 1926.269 (g)(2)(iv)(C)(2) and (g)(2)(iv)(C)(3). After March 31, 2015, all workers (not just unqualified workers) must use fall protection requirements during point-to-point travel as the exception and Note 2 are no longer applicable.

Due to the outdated language of the federal telecommunication regulations, the petitioner is requesting that the Title 8 telecommunication personal fall protection requirements be amended to reflect language equivalent to the federal OSHA section 1910.269 for electric generation, transmission and distribution.

Conclusion:

The Division recommends that this petition be granted to revise the fall protection requirements for the Telecommunications Safety Orders as well as the High Voltage and Low Voltage Electrical Safety Orders to require personal fall protection when climbing or changing work locations on poles towers or similar structures. Sections, 2320.8(a), 2940.6 and 8615(g) should be revised to be as effective as the Federal Standards.

The following changes to Title 8 are recommended:

§2320.8(a) Fall Protection. When work is performed at elevated locations more than 4 feet (1.2 meters) above the ground on poles, towers or similar structures, the employer shall require the employees to use either fall arrest equipment, work positioning equipment, or travel restricting equipment, if other fall protection methods have not been provided (e.g., guardrails, safety nets, etc.). The use of body belts for fall arrest systems is prohibited.

Exception: Fall protection is not required where the employer can demonstrate that climbing or changing location with fall protection is infeasible or

creates a greater hazard than climbing or changing location without it. ~~Point to point travel by a qualified person, unless conditions such as ice, high winds, design of the structure, or other condition (e.g., chemical contaminants) prevents the employee from gaining a firm hand or foothold while traveling.~~

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2940.6(b) Fall Protection. When work is performed at elevated locations more than 4 feet (1.2 meters) above the ground on poles, towers or similar structures, the employer shall require the employees to use either fall arrest equipment, work positioning equipment, or travel restricting equipment, if other fall protection methods have not been provided (e.g., guardrails, safety nets, etc.). The use of body belts for fall arrest systems is prohibited.

Exception: Fall protection is not required where the employer can demonstrate that climbing or changing location with fall protection is infeasible or creates a greater hazard than climbing or changing location without it. ~~Point to point travel by a qualified person, unless conditions such as ice, high winds, design of the structure, or other condition (e.g., chemical contaminants) prevents the employee from gaining a firm hand or foothold while traveling.~~

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§8615(g) Fall Protection. When work is performed at elevated locations more than 4 feet (1.2 meters) above ground on poles, towers or similar structures, the employer shall require the employees to use either fall arrest equipment, work positioning equipment, or travel restricting equipment, if other fall protection methods have not been provided (e.g., guardrails, safety nets, etc.). The use of body belts for fall arrest systems is prohibited.

EXCEPTION: Fall protection is not required where the employer can demonstrate that climbing or changing location with fall protection is infeasible or creates a greater hazard than climbing or changing location without it. ~~Point to point travel by a qualified person, unless conditions such as ice, high winds (as defined in Section 2951(f) of the High Voltage Electrical Safety Orders), design of the structure, or other conditions (e.g., chemical contaminants) prevent the employee from gaining a firm hand or foothold while traveling.~~