

DEPARTMENT OF INDUSTRIAL RELATIONS
Occupational Safety and Health Standards Board
2520 Venture Oaks Way, Suite 350
Sacramento, CA 95833
Tel: (916) 274-5721 Fax: (916) 274-5743
Website address www.dir.ca.gov/oshsb



NOTICE OF PROPOSED MODIFICATION TO
CALIFORNIA CODE OF REGULATIONS

TITLE 8: Section 8615(g)
of the Telecommunication Safety Orders

Fall Protection in Telecommunications

Pursuant to Government Code Section 11346.8(c), the Occupational Safety and Health Standards Board (Standards Board) gives notice of the opportunity to submit written comments on the above-named standards in which modifications are being considered as a result of public comments and/or Board staff consideration.

On January 17, 2019, the Standards Board held a Public Hearing to consider revisions to Title 8, Section 8615(g), of the Telecommunication Safety Orders. The Standards Board received oral and written comments on the proposed revisions. The standard has been modified as a result of these comments and Board consideration.

A copy of the full text of the standards as originally proposed, with the modifications clearly indicated, is attached for your information. In addition, a summary of all comments regarding the original proposal and staff responses is included.

Any written comments on these modifications must be received by 5:00 p.m. on April 23, 2019 at the Occupational Safety and Health Standards Board, 2520 Venture Oaks Way, Suite 350, Sacramento, California 95833 or submitted by fax to (916) 274-5743 or e-mailed to oshsb@dir.ca.gov. This proposal will be scheduled for adoption at a future business meeting of the Standards Board.

The Standards Board's rulemaking files on the proposed action are open to public inspection Monday through Friday, from 8:00 a.m. to 4:30 p.m., at the Standards Board's office at 2520 Venture Oaks Way, Suite 350, Sacramento, California 95833.

Inquiries concerning the proposed changes may be directed to the Executive Officer, Christina Shupe, at (916) 274-5721.

OCCUPATIONAL SAFETY AND HEALTH
STANDARDS BOARD

Date: April 3, 2019

Christina Shupe, Executive Officer

PROPOSED MODIFICATIONS

(Regulatory language to be deleted is shown in **bold** strike-out and new language is shown in **bold** underline.)

STANDARDS PRESENTATION
TO
CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

TITLE 8, DIVISION 1, CHAPTER 4

Amend Section 8615(g) to read as follows:

§8615. Overhead Lines.

(g) Fall Protection.

(1) 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 a fall arrest system equipment, work positioning system equipment, or fall restraint system 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.~~

(2) Qualified telecommunications workers climbing or changing location on poles, towers, or similar structures shall use fall protection as required in subsection (g)(1).

EXCEPTION to subsection (g)(2): The employer demonstrates that fall protection is infeasible or creates a greater hazard, and provides fall injury risk control equivalent in effectiveness to that provided by subsection (g)(1).

(3) Personal fall protection systems listed in subsection (g)(1) shall meet the applicable requirements in Section 1670 of ~~the Construction Safety Orders, Article 24,~~ ~~except linemen's body belts used for climbing poles, towers or similar structures, and work positioning shall comply with the requirements of Section 2940.6(c) of the Electrical Safety Orders.~~

(4) Linemen's body belts, safety straps, lanyards, and fall restriction systems used for climbing or changing location on poles, towers or similar structures shall meet the requirements of Section 2940.6(c) of the Electrical Safety Orders, Article 36.

(45) The use of body belts for fall arrest systems is prohibited.

NOTE: Authority cited: Section 142.3, Labor Code. Reference: Section 142.3, Labor Code.

**SUMMARY OF AND RESPONSES TO
WRITTEN AND ORAL COMMENTS**

SUMMARY OF AND RESPONSES TO WRITTEN AND ORAL COMMENTS

I. Written Comments

Amber Rose, Area Director, Occupational Safety and Health Administration, by letter dated January 7, 2019.

Comment:

Ms. Rose comments the proposed standards appear to be commensurate with the federal standard.

Response:

The Board thanks Ms. Rose for her comment and participation in the Board's rulemaking process.

Jay Weir, Senior Manager-Environment, Health & Safety, AT&T Services, Inc., by letter dated January 16, 2019.

Mr. Weir comments that AT&T supports the Board's efforts to protect employee safety; however, they have some concerns. The concerns are listed below as Comments 1 through 5. Board staff's responses follow the comments.

Comment 1:

Mr. Weir writes the proposal does not include a timeline for compliance. He requests one year from the effective date for implementation of the required changes in Section 8615(g) by noting federal OSHA provided one year for the Electrical Industry to comply with similar fall protection requirements. This will allow the regulated community to address the equipment demand and related training to impacted employees.

Response 1:

Telecommunication workers need fall protection during point-to-point travel for protection against potential falls. Therefore, the proposed requirements need to be effective as soon as possible given the urgency to protect employees from serious injury or death. Board staff notes the proposal will follow the remaining steps in the rulemaking process, and will be considered for adoption by the Board at a future business meeting. If the proposal is adopted by the Board, it will be submitted to the Office of Administrative Law for review and approval, and then sent to the Secretary of State for filing. Depending on the date the proposal is received by the Secretary of State, the effective date will be between one and four months from receipt. This multi-step process could take anywhere from two to six months following adoption by the Board. Consequently, Board staff believes the rulemaking process provides sufficient time for AT&T and others in the regulated community to comply with the proposal without the Board extending the effective date.

Comment 2:

Mr. Weir believes the cost of the regulatory change is underestimated and requests correction to reflect a more accurate total cost. Mr. Weir mentions the Board's estimate of the training cost does not take into account the time and cost of having employees off the job. He provides

AT&T's estimates of training costs to be \$960 per employee, and the equipment costs to be \$700 per employee, resulting in a total cost of \$9,960,000 for its 6,000 employees that will need new equipment and training.

Response 2:

Board staff estimated the training cost as \$64 per person based on the average cost used by federal OSHA for similar training needs and adjusted for California's Consumer Price Index (CPI) and wage differential. Board staff believes the federal data developed for the climbers in the electrical industry adequately represents the average cost of training a telecommunication pole climber in California when adjusted for the CPI and wage differential.

Board staff estimated the equipment cost based on the price of Bashlin Pole Lariat provided at J. Harlen Co.'s website on January 11, 2018. As of February 1, 2019, this product was discontinued per Bashlin's website. Taking this into consideration, Board staff has revised the equipment cost based on the price of a Jelco Pole Choker, a product similar to the Bashlin Pole Lariat that is currently available. Board staff estimates the cost of each Jelco Pole Choker to be \$570, and the revised total cost for the equipment to be \$4,389,000 (7,700 X \$570) which is higher than the previous estimate of \$2,849,000.

Board staff considers its estimates valid as the training cost is based on federal data adjusted for California and the equipment cost is based on the current price of a Jelco Pole Choker which, like the Bashlin Pole Lariat, federal OSHA considers an example of a suitable wood pole fall-restricting device for climbing poles.

Comment 3:

Mr. Weir states Section 8615(g)(1) as proposed uses the words "work positioning equipment" and proposes to change it to "work positioning system" for consistency.

Response 3:

Subsection (g)(1) as proposed already uses the words "work positioning system" in place of "work positioning equipment." Therefore, no modification to this portion of the proposal is necessary.

Comment 4:

Mr. Weir states the use of the word "except" in Section 8615(g)(3) is confusing, and recommends deleting "except" and placing the language following "except" into new Section 8615(g)(4).

Response 4:

Board staff agrees with Mr. Weir, and proposes to remove the word "except" from subsection (g)(3), add "Construction Safety Orders" in subsection (g)(3) for clarity and consistency, and move the language concerning linemen's fall protection from subsection (g)(3) to a new subsection (g)(4). In addition, Board staff proposes to modify the language in new subsection (g)(4) to make it consistent with the existing language concerning linemen's fall protection in Section 2320.8(b) of the High-Voltage Electrical Safety Orders, and add "Article 36" at the end of new subsection (g)(4) for clarity and consistency.

Comment 5:

Mr. Weir believes Section 8615(g)(4) of the proposal repeats a requirement already stated in Section 1670 of Article 24 and may result in questions or confusion, and proposes its deletion.

Response 5:

The proposed language in subsection (g)(4) is not the same as the requirement concerning body belts in Section 1670. Section 1670 provides an exception while using body belts as part of a personal fall arrest system, whereas the proposal's subsection (g)(4) does not provide any exception. Therefore, Board staff proposes to keep the language as is, however within a renumbered subsection (g)(5).

The Board thanks Mr. Weir for his comments and participation in the Board's rulemaking process.

II. Oral Comments

Oral comments received at the January 17, 2019, Public Hearing in Rancho Cordova, California.

Jay A. Weir, Senior Manager Environment Health & Safety, AT&T Environment Health and Safety Corporate Compliance.

Comment:

Mr. Weir stated AT&T supports the proposed changes, although they have some concerns. Mr. Weir voiced concerns similar to those he mentioned in his letter dated January 16, 2019. His oral comments are listed below as Comments 1 through 5. Board staff's responses follow the comments.

Comment 1:

Mr. Weir stated the proposal does not give AT&T enough time for compliance. This comment is similar to his written comment. Please see Mr. Weir's written comment, Comment 1, for the summary of the comment.

Response 1:

Please see Response 1 to Mr. Weir's written comment.

Comment 2:

Mr. Weir commented on the inaccuracy of the proposal's equipment and training costs. This comment is similar to his written comment. Please see Mr. Weir's written comment, Comment 2, for the summary of the comment.

Response 2:

Please see Response 2 to Mr. Weir's written comment.

Comment 3:

Mr. Weir proposed to change the word "equipment" to "system" within subsection (g)(1) for consistency. Please see his written comment, Comment 3, for the summary of the comment.

Response 3:

Please see Response 3 to Mr. Weir's written comment.

Comment 4:

Mr. Weir stated the word "except" in subsection (g)(3) created confusion and recommended deleting it, and moving the requirement concerning linemen's fall protection out of subsection (g)(3). This comment is similar to his written comment. Please see Mr. Weir's written comment, Comment 4, for the summary of the comment.

Response 4:

Please see Response 4 to Mr. Weir's written comment.

Comment 5:

Mr. Weir commented subsection (g)(4) of the proposal was redundant and should be deleted. Please see Mr. Weir's written comment, Comment 5, for the summary of the comment.

Response 5:

Please see Response 5 to Mr. Weir's written comment.

The Board thanks Mr. Weir for his comments and participation in the Board's rulemaking process.

Jerome Candelaria, California Cable and Telecommunications Association.

Comment:

Mr. Candelaria commented the cable industry in California is aware of the proposed changes and has already started transitioning to using the fall protection climbing systems. He mentioned California Cable and Telecommunications Association could be contacted for questions concerning training and equipment.

Response:

The Board thanks Mr. Candelaria for his comments and participation in the Board's rulemaking process.