

**OCCUPATIONAL SAFETY
AND HEALTH STANDARDS BOARD**

2520 Venture Oaks, Suite 350
Sacramento, CA 95833
(916) 274-5721
FAX (916) 274-5743
www.dir.ca.gov/oshsb



NOTICE OF PROPOSED MODIFICATIONS TO
CALIFORNIA CODE OF REGULATIONS

TITLE 8: Section 1903 of the Construction Safety Orders

Landing Operations-Note to Section 1903

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 standard in which modifications are being considered as a result of public comments and/or Board staff consideration.

On May 15, 2014, the Standards Board held a Public Hearing to consider revisions of Title 8, Section 1903 of the Construction Safety Orders. The Standards Board received written and oral 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 standard, with the modifications clearly indicated, is attached for your information. In addition, a summary of written 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 July 28, 2014, at the Standards Board's Office, 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 file on the proposed action is open to public inspection Monday through Friday, from 8:00 a.m. to 4:30 p.m. at the Standards Board's Office. Inquiries concerning the proposed changes may be directed to Marley Hart, Executive Officer at (916) 274-5721.

OCCUPATIONAL SAFETY AND HEALTH
STANDARDS BOARD

Date: July 11, 2014

Marley Hart, Executive Officer

PROPOSED MODIFICATIONS
(New language is shown in bold underline.)

**STANDARDS PRESENTATION
TO
CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD**

PROPOSED STATE STANDARD,
TITLE 8, DIVISION 1, CHAPTER 4

Amend Section 1903 to read:

§1903. Landing Operations.

- (a) Landing and hovering sites shall be chosen with approval of the pilot or pilot's representative.
- (b) All such sites shall have at least a 200-foot diameter area clear of all loose materials and objects which could be hazardous if displaced by rotor downwash. The helicopter shall be required to deposit or lift loads in the center of the approved area.
- (c) Precautions shall be taken by the employer to eliminate as far as practical reduced visibility.
- (d) Access and egress to the helicopter shall be from the front and along the same level or to a level lower than the helicopter. No one shall be permitted to approach or leave the helicopter while the engine is running or the rotor is turning without a permissive signal or instruction from the pilot or pilot's designee.
- (e) Built-up landing sites shall be capable of supporting a helicopter on any single square foot of the landing surface and provide good footing.
- (f) Prepared landing sites on hillsides shall be no less than 12 feet by 12 feet and shall be large enough to land the helicopter so that the largest rotor clears the hillside by a distance equal to its radius measured horizontally from the tip of the rotor.

~~NOTE: Except in emergency.~~ **EXCEPTION to Section 1903:** Except in an in-flight emergency.

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

SUMMARY OF AND RESPONSE TO COMMENTS

SUMMARY AND RESPONSE TO WRITTEN COMMENTS

I. Written Comments

Mr. David Shiraishi, Area Director, Region IX, OSHA, U.S. Department of Labor, by letter dated May 14, 2014.

Comment:

Mr. Shiraishi commented that Federal OSHA has reviewed the proposal and found it to be commensurate with federal standards.

Response:

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

Mr. Sutter Fox, Captain, US Coast Guard Retired, by e-mail with attachment to Mr. Jack Kastorff, dated May 4, 2014 and forwarded to the Standards Board by e-mail dated May 8, 2014.

Comment:

Mr. Fox commented he is not sure that the proposal targets the right paragraphs, or if the wording change in the Exception is an improvement. Mr. Fox shared his concerns regarding subsections (e) and (f) of Section 1903 of the Construction Safety Orders stating that subsection (e) isn't part of the proposed change, but asked if he would be "able to land a helo on a single square foot?"

He suggested that subsection (f), which addresses 12x12 landing sites, should require a consideration of wheel or skid configurations and dimensions.

Mr. Fox further stated regarding the new exception change from emergency to inflight emergency, that there are many times when a ground emergency might induce a change for safety. Considering fire, engine fire, ground resonance, landing gear collapse, etc., might not be covered by the new wording.

Response:

In regard to Mr. Fox's comment considering whether the proposal targets the right paragraphs, the purpose of the amendment is to replace the informational "NOTE" with an enforceable "Exception". The Exception pertains to all of the Section 1903 regulatory text that immediately precedes it.

The amendment does not apply to ground based emergencies triggered by emergency medical or search and rescue actions, law enforcement, or emergencies created by some type of natural disaster such as flood, fire or earthquake. The preceding activities do not fall within the scope of the Construction Safety Orders and are generally not subject to Section 1903. FAA helicopter landing protocols take precedence over any Title 8 standard and stipulate that at any given time,

the pilot-in-command of the helicopter is to exercise discretion in deciding when and where it is safe to land the helicopter.

The thoughts expressed by Mr. Fox pertaining to subsections (e) and (f) are outside the scope of the proposal.

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

Mr. Steve Workman, Departmental Safety Coordinator and Deputy Darren Dollard, Aerial Support Detail, San Diego County Sheriff's Department, by letter dated May 5, 2014.

Comment:

The commenters stated that the rationale of the State of California for this proposal is "to clarify that consistent with FAA standards, Section 1903 landing zone requirements are waived in the event of an in-flight emergency." Their position is that the current language in Section 1903(a) already covers this matter in any circumstance, including in-flight emergencies. The foundation of their opposition is the possible future interpretation of the language in the proposal if adopted as currently stated. They are concerned that changing a "NOTE" to an enforceable "Exception" and limiting that exception to in-flight emergencies adds unnecessary challenges to their current standard operating procedures which they believe to be in compliance with FAA regulations. They consider operations such as Search and Rescue and Fire Suppression to be emergencies and apply the exception as currently noted.

The commenters also state that during Search and Rescue and Fire Suppression operations their Aerial Support To Regional Enforcement Agencies (ASTREA) pilots choose safe landing sites that may not specifically meet Section 1903(b). ASTREA pilots often are landing in some extremely unconventional locations and this proposal would remove their discretion during emergency operations. The commenters opined that perhaps it would suit both the State's and the public safety agencies' concerns to change the proposal to the following: EXCEPTION: Except in an in-flight emergency, or during Search and Rescue, Law Enforcement, and Fire Suppression operations performed by public safety agencies.

Response:

This proposal pertains to construction-related helicopter operations and does not concern public safety agency operations. (See the above response to Mr. Sutter Fox by e-mail May 18, 2014).

The proposal is needed to render what is an exception by the nature of the construction of the sentence in the Note which is unenforceable, to an enforceable exception statement.

The Board thanks Mr. Workman and Deputy Dollard for their comments and participation in the Board's rulemaking process.

II. Oral Comments

Oral comments received at the May 15, 2014, Public Hearing in Walnut Creek, California.

Mr. Bill Jackson, Board Member.

Comment:

Mr. Jackson asked Board staff to explain in their response to comments why they are changing from “emergencies” to only “in-flight emergencies.”

Response:

The fundamental purpose of this rulemaking proposal is to covert an unenforceable Note into an enforceable Exception. There is also a distinction between search and rescue, law enforcement, medical emergencies (EMT) and an in-flight emergency where the rotorcraft (helicopter) experiences a mechanical, hydraulic or electrical failure which threatens to bring the aircraft down uncontrollably, or make a landing perilous. In the latter case, Section 1903 landing protocols are waived in deference to the pilot-in-command getting a compromised helicopter on the ground safely. This proposal does not concern public safety agency operations. The Division and Board staff are in agreement that waiving Section 1903 landing protocols is reasonable in an in-flight emergency but not in situations where poor landing site conditions may threaten the safety of both the helicopter occupants and victims and personnel on the ground.