

**OCCUPATIONAL SAFETY
AND HEALTH STANDARDS BOARD**

2520 Venture Oaks Way, 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: Division 1, Chapter 4, Subchapter 7, Article 2, Section 3210 and
Article 35, Section 3900 of the General Industry Safety Orders

Elevated Locations - Guardrail Exception for Portable Amusement Rides

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 regulations in which further modifications are being considered as a result of public comments and/or Board staff evaluation.

On October 18, 2012, the Occupational Safety and Health Standards Board held a Public Hearing to consider revisions to Title 8, Division 1, Chapter 4, Subchapter 7, Article 2, Section 3210 and Article 35, Section 3900 of the General Industry Safety Orders

The Standards Board received written comments and no oral comments on the proposed amendments. The proposed regulations have been modified as a result of these comments. A copy of the full text with the modifications clearly indicated is attached for your information. In addition, a summary of all written comments regarding the original proposal and responses is included.

Any written comments must be related to these modifications and be received by 5:00 p.m. on **November 23, 2012** at the Occupational Safety and Health Standards Board's Office, 2520 Venture Oaks Way, Suite 350, Sacramento, California 95833 or submitted by fax at (916) 274-5743 or e-mailed at oshsb@dir.ca.gov. This proposal will be scheduled for adoption at a future Business Meeting of the Occupational Safety and Health Standards Board.

The Occupational Safety and Health 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, 2520 Venture Oaks Way, Suite 350, Sacramento, California.

Inquiries concerning the proposed modifications may be directed to the Executive Officer, Marley Hart at (916) 274-5721.

OCCUPATIONAL SAFETY AND HEALTH
STANDARDS BOARD

Marley Hart, Executive Officer

Date: November 5, 2012

Proposed Modifications

(Modifications for new language are shown in **bold** and double underscored and deleted language are shown in **bold** and double striked-out)

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

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

Amend Section 3210 to read:

§3210. Guardrails at Elevated Locations.

(b) Other Elevated Locations. The unprotected sides of elevated work locations that are not buildings or building structures where an employee is exposed to a fall of 4 feet or more shall be provided with guardrails. Where overhead clearance prohibits installation of a 42-inch guardrail, a lower rail or rails shall be installed. The railing shall be provided with a toeboard where the platform, runway, or ramp is 6 feet or more above places where employees normally work or pass and the lack of a toeboard could create a hazard from falling tools, material, or equipment.

EXCEPTIONS:

1. Runways used exclusively for oiling, adjusting or otherwise maintaining shafting or other machinery may have the guardrail on the side adjacent to the machinery omitted provided that additional guarding as required by Group 6-Power Transmission Equipment, Prime Movers, Machines and Machine Parts is complied with.

9. On mobile vehicles/equipment, where the design or work processes make guardrails impracticable, the use of sufficient steps and attached handholds or structural members which allow the user to have a secure hand grasp shall be permitted. Work from the decks, permanent/stationary platforms, runways, or walkways of mobile vehicles/equipment shall be excluded from the requirements of subsection (b) where it can be shown that guardrails or handholds are impracticable by the design or work processes.

10. Where design or erection, dismantling, inspection, repair, maintenance and adjustment processes make installation of guardrails impracticable on portable amusement rides, employees shall be provided and shall **install and** use personal fall protection equipment ~~meeting in accordance with~~ the requirements of Section 1670 of the Construction Safety Orders. ~~The employer shall designate, or provide, appropriate anchorage(s) for the personal fall protection system.~~

(c) Where the guardrail requirements of subsections (a) and (b) are impracticable due to machinery requirements or work processes, an alternate means of protecting employees from falling, such as personal fall protection systems, shall be used.

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

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

Attachment No. 1

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

Amend Section 3900 to read:

§3900. Purpose.

These Orders establish minimum standards for design, maintenance, construction, alteration, operation, repair, inspections, assembly, disassembly, and use of amusement rides for the protection of persons using such rides. These Orders do not replace or supersede any existing Safety Orders affecting employee safety.

NOTE: Where the use of guardrails is impracticable for personal fall protection, see Section 3210(b), Exception No. 10 of these orders.

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

SUMMARY OF AND RESPONSES TO COMMENTS

Summary of and Responses to Oral and Written Comments

I. Written Comments

Mr. David Shiraishi, MPH, Oakland Area Director, United States Department of Labor, Occupational Safety and Health Administration (OSHA), Region IX, by letter dated October 17, 2012.

Comment:

Federal OSHA, Region IX advisory opinion dated October 17, 2012 stated that the proposal is not commensurate with the federal standard because it only specified that the personal fall protection system (PFPS) meet the requirements of Section 1670 of the Construction Safety Orders (CSO) without specifying that Section 1670 anchorage requirements also be addressed. Region IX also suggested deleting the last sentence regarding designating appropriate anchorage points in proposed Exception 10, as it is vague. Lastly, Federal OSHA suggested adding a fall arrest training requirement.

Response:

The Board concurs with Federal OSHA that a modification to spell out that the PFPS be installed in accordance with Section 1670 be stated. The Board also concurs that the last sentence in proposed Exception No. 10 is vague, ambiguous, and redundant and is, therefore, unnecessary and should be deleted.

The Board does not agree with Federal OSHA's request that language be added to address employee training on the use of fall arrest systems as this is addressed through the requirements for employee training and recordkeeping as set forth in General Industry Safety Orders, Section 3203, Injury Illness Prevention Program (IIPP) which explicitly addresses employee training. Federal OSHA has no counterpart to the State's IIPP standard.

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

II. Oral Comments

There were no oral comments received at the October 18, 2012 Public Hearing in Burbank, California.