

**Chapter 3.2. California Occupational Safety and Health Regulations
(CAL/OSHA) Subchapter 2. Regulations of the Division of Occupational Safety
and Health**

**Article 6. Administration of Permanent Amusement Ride Program
(Permanent Amusement Rides Administrative Regulations)**

§344.5. Application.

(a) This Article governs permanent amusement rides operated anywhere in the State of California.

(b) This Article does not apply to any of the following:

(1) Playground equipment operated by a school or local government.

(2) Museum exhibits or other institutional exhibits principally devoted to the exhibition of products of agriculture, industry, education, science, religion or the arts excluding those determinations made in accordance with Labor Code 7921(a);

(3) Skating rinks, arcade games, laser or paint ball war games, indoor interactive arcade games, bowling alleys, miniature golf courses, mechanical bulls, inflatable rides, trampolines, ball crawls, exercise equipment, jet skis, paddle boats, air boats, helicopters, airplanes, parasails, hot air balloons (tethered or untethered,) movie theaters, amphitheaters, batting cages, stationary spring-mounted fixtures, rider-propelled merry-go-rounds, games, slide shows, live-animal rides, or live-animal shows excluding those determinations made in accordance with 7921(a); or

(4) Permanent amusement rides operated at a private event that is not open to the general public and not subject to a separate admission fee.

(5) Amusement rides that are not permanent amusement rides

NOTE: Authority cited: Labor Code sections 60.5, 7923, and 7928. Reference: Labor Code sections 7920 through 7932.

HISTORY: 1. Renumbering of former article 6 to article 6.1 and new article 6 (sections 344.5-344.17) and section filed 10-30-2001; operative 10-30-2001 pursuant to Government Code section 11343.4 (Register 2001, No. 44).

§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 "Certificate of Compliance" includes all of the information required in 344.7(b) on a form prescribed by the Division, completed and signed by a Qualified Safety Inspector not in the employ of the Division and then submitted with the required fees to the Division for acceptance pending review.

(d) A "Certificate of Inspection" includes the necessary information on a form prescribed by the Division, completed and signed by a Division QSI and submitted to the Division for the purposes of recording the QSI inspection.

(e) A "Certification Proven" permanent amusement ride is a ride previously registered as a temporary permanent amusement ride in the State of California that meets all of the following requirements:

(1) The design of the ride has been reviewed and approved by both the Division and a licensed engineer and has not been modified; and

(2) The permanent installation of the ride does not require a special foundation and/or anchoring system.

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

(g) 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.

(h) 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 the effective date of these administrative regulations.

(i) 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.

(j) 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.

(k) 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.

(l) 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.

(m) "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.

(n) 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: Labor Code sections 60.5, 7923, and 7928. Reference: Labor Code sections 7920 through 7932.

HISTORY

- 1. New section filed 10-30-2001; operative 10-30-2001 pursuant to Government Code section 11343.4 (Register 2001, No. 44).
- 2. New subsection (j) and subsection re-lettering filed 1-20-2011; operative 1-20-2011 pursuant to Government Code section 11343.4 (Register 2011, No. 3).

§344.7. Certificate of Compliance.

(a) Each owner or operator of a permanent amusement ride who does not elect to have a Division QSI perform the annual inspection required by section 344.8(c) shall submit to the Division a Certificate of Compliance together with the fee required by section 344.16(c). A new Certificate of Compliance shall be submitted for each permanent amusement ride prior to an Initial Division Inspection and annually thereafter which shall become due on each anniversary date of the first submission, unless

(1) the owner or operator elects in compliance with section 344.8(c)(2) to have a Division QSI conduct the annual inspection.

(2) the inspection required by section 344.8(c) is performed after the due date, at which point the anniversary date will be one year after the date the inspection is completed.

(b) The Certificate of Compliance shall include each of the following items:

(1) The legal name and address of the owner and his, her or its representative, if any, and the primary place of business of the owner;

(2) The legal name and address of the operator, if different from those of the owner;

(3) The name and a description of the permanent amusement ride, the address at which it is located, the name(s) of the manufacturer(s) of the ride, and if provided by the manufacturer(s), the serial number and model number of the permanent amusement ride; and

(4) A written declaration stating that, within the preceding 12-month period, the permanent amusement ride was inspected by a QSI, together with all of the individuals necessary to competently review the ride's safety-related systems and structural attributes, and that the permanent amusement ride is in conformance with the requirements of Subchapter 6.2 of Chapter 4 of Division 1 (starting at section 3195.1) of this Title. The written declaration shall be executed by a QSI under penalty of perjury.

(5) The QSI shall prepare and provide to the owner or operator a complete record of the QSI inspection for each ride. This record shall include any items found deficient during the inspection that necessitate correction by the owner or operator.

(c) The owner or operator of multiple permanent amusement rides at one address may submit a single Certificate of Compliance that provides the information required in section 344.7(b) for all of the permanent amusement rides located at that address.

(d) Upon receipt of the Certificate of Compliance, the Division shall notify the owner or operator in writing within five (5) business days that the Certificate of Compliance has been received and whether it meets the requirements of this Article. If a Certificate of Compliance is determined to be deficient, the Division's written notification shall enumerate the deficiencies and the information required to correct such deficiencies.

(e) A Certificate of Compliance will be found deficient and will not be accepted if at the time of receipt by the Division, the ride or rides listed upon the certificate have outstanding requirements or requirements to abate issued by the Division or any fees due the Division in connection with the ride or rides listed on the certificate are past due by a period of 60 days or more from the date of invoice.

(f) Upon determining a Certificate of Compliance is valid, that there are no outstanding requirements or requirements to abate and all fees have been paid as set forth in this chapter, the Division will issue a ~~Certificate to Operate~~ Notice of Receipt of Certificate for the ride or rides listed on the Certificate of Compliance.

(g) All current written notifications issued by the Division pursuant to subsection (d), (e) and (f) shall be available for public inspection during normal business hours at a readily accessible location at the site where the permanent amusement ride is located. Such documents may either be posted at the entrance to each permanent amusement ride, or at the election of the owner or operator, located at a readily accessible central location. If the owner or operator chooses not to maintain the documents at the entrance to a ride, a sign shall be posted at the entrance to the ride notifying the public of the location where the documents can be viewed.

(h) No person shall operate a permanent amusement ride unless the permanent amusement ride complies with all applicable requirements of this Article and Subchapter 6.2 of Chapter 4 of Division 1 (starting at section 3195.1) of this Title.

(i) An owner or operator who has not elected in compliance with sections 344.8(c)(1) and (c)(2) to have the Division conduct the annual inspection required by section 344.8(c) shall not operate an amusement ride with passengers unless a valid Notice of Receipt of Certificate applicable to the ride has been issued by the Division as required by section 344.7(f).

Exception No 1: If the Division fails to notify the owner or operator within 5 business days of receipt of a Certificate of Compliance that the Certificate has been received and whether it meets the requirements of this Article as required by subsection (d), the owner or operator may continue to operate the ride, unless and until the Division notifies the owner or operator that the Certificate is deficient.

Exception No. 2: If a tardy request for a Division-conducted annual inspection is made, and the Division can accommodate the request, the ride may be operated after the

inspection has been initiated and the Division informs the owner or operator that the ride may be operated.

NOTE: Authority cited: Labor Code sections 60.5, 7923, and 7928. Reference: Labor Code sections 7920 through 7932.

NOTE: Authority cited: Labor Code sections 60.5, 7923, and 7928. Reference: Labor Code sections 7920 through 7932.

DRAFT

§ 344.8. Inspections.

(a) Initial Division Inspection of New Permanent Amusement Rides. A Division QSI shall conduct an operational inspection of each new permanent amusement ride before the ride is placed in operation and opened to the public to evaluate the safety of the ride.

(1) The owner or operator of the ride shall notify the Division, in writing, at least 60 days prior to opening the ride to the public.

(2) The notification shall state the location of the ride, the date the owner or operator intends to commence public operation, and the earliest date the ride will be ready for inspection by the Division.

(3) If the Division receives notification in compliance with section 344.8(a)(1), the Division shall initiate the inspection before the date indicated by the operator for the commencement of public operation of the ride and shall make a reasonable effort to complete the inspection prior to that date. If the Division is unable to complete the inspection within 60 days of receiving notification by the owner or operator, and the lack of completion of the inspection is not attributable to the action or inaction of the owner or operator, the ride may be opened to the public until the inspection is completed, unless there is a substantial reason to question the safety of the ride.

(4) The ride owner or operator shall ensure that a representative is present to operate the ride and perform the tests required by the Division QSI as necessary to complete the operational inspection.

(5) In conjunction with the inspection, the owner or operator of the ride shall make available to the Division each of the following:

(A) A written certification from a licensed engineer that the ride meets all the applicable design requirements set forth in Subchapter 6.2 of Chapter 4 of Division 1 (starting at section 3195.1) of this Title.

(B) An as-built document.

Note: If during the inspection, the Division QSI determines that the ride does not meet all the applicable design requirements set forth in Subchapter 6.2 of Chapter 4 of Division 1 (starting at section 3195.1) of this Title or the ride has not been constructed according to the final plans, the provided design certification and/or as-built document will be considered as non-conforming and new letter(s) shall be required after such time the ride meets the design requirements set forth in Subchapter 6.2 of Chapter 4 of Division 1 (starting at section 3195.1) of this title and/or the ride has been constructed according to the final plans.

(C) A copy of the certificate of occupancy issued by the local building authority, if the local building authority has such a requirement.

(D) A Certificate of Compliance meeting the requirements of this Article unless the owner or operator has elected to have the Division perform the QSI inspection in conjunction with the operational inspection of the new ride.

(b) Division Inspection of Major Modifications. After any major modification has been made to a permanent amusement ride, a Division QSI shall conduct an operational inspection of the ride before the ride is reopened to the public.

(1) The owner or operator of the ride shall provide the Division with at least 30 days advance written notice of the anticipated date of reopening the ride to the public following the major modification.

(2) The advance written notice shall state the date the owner or operator intends to resume public operation, and the earliest date the ride will be ready for Division inspection.

(3) If the Division receives notification in compliance with section 344.8(b)(1), the Division shall initiate the inspection before the date indicated by the operator for reopening of the ride to the public, and shall make a reasonable effort to complete the inspection prior to that date. If the Division is unable to complete the inspection within 30 days of receiving notification by the owner or operator, and the lack of completion of the inspection is not attributable to the action or inaction of the owner or operator, the ride may be opened to the public until the inspection is completed, unless there is a substantial reason to question the safety of the ride.

(4) In conjunction with the Division's major modification inspection, the owner or operator of a permanent amusement ride shall make available to the Division each of the following:

(A) A written certification from a licensed engineer that the ride as modified meets all applicable design requirements set forth in Subchapter 6.2 of Chapter 4 of Division 1 (starting at section 3195.1) of this Title.

(B) An as-built document.

Note: If during the inspection, the Division QSI determines that the ride does not meet all the applicable design requirements set forth in Subchapter 6.2 of Chapter 4 of Division 1 (starting at section 3195.1) of this Title or the ride has not been constructed according to the final plans, the provided design certification and/or as-built document will be considered as non-conforming and new letter(s) shall be required after such time the ride meets the design requirements set forth in Subchapter 6.2 of Chapter 4 of

Division 1 (starting at section 3195.1) of this title and/or the ride has been constructed according to the final plans.

(C) A copy of the certificate of occupancy issued by the local building authority if the local building authority has such a requirement.

Exception: If no change or alteration has been made to the ride structure, ride vehicles, ride controls, or structures adjacent to and/or above the ride envelope, the Division may not require a written certification and/or as-built letter from a licensed engineer.

(c) Annual QSI Inspection. An annual QSI inspection shall be conducted of each permanent amusement ride at least once each year by either a QSI selected by the owner/operator or by a Division QSI at the election of the owner or operator.

(1) If the owner or operator elects to have a Division QSI conduct the Annual QSI Inspection, the owner or operator shall submit a written request that the Division conduct the inspection. The request shall be submitted to the Division no later than 60 days prior to the date the Certificate of Compliance becomes due.

(2) Whenever an owner or operator elects to have a Division QSI conduct an annual inspection, the date of completion of the Division's inspection shall become the permanent anniversary date by which the owner or operator's Certificate of Compliance becomes due the following year if a request for a Division-conducted QSI inspection is not made pursuant to subsection (c)(1).

(3) The annual QSI inspection shall include both a structural inspection and an operational inspection.

(4) Upon successful completion of the Division QSI inspection, the Division shall issue a Certificate of Inspection for the permanent amusement ride.

(5) A permanent amusement ride found on inspection to be unsafe shall be closed to the public and shall not be reopened to the public until all necessary repairs and modifications have been completed and certified as completed by a QSI.

(6) A QSI shall fulfill all requests for information from the Division regarding any amusement ride inspected, audited, evaluated or otherwise assessed by the QSI.

(7) A permanent amusement ride found at the time of the annual QSI Division inspection to have outstanding requirements to abate issued by the Division or to have fees due to the Division in connection with the ride which are past due by a period of 60 days or more from the invoice date shall be closed until the requirements issued by the Division have been completed and/or all fees past due for 60 days or more from the invoice date have been paid. If the operation of a permanent amusement ride during

the making of repairs or alterations is not immediately dangerous to the safety of persons, the division may issue a temporary Certificate of Inspection for a period not to exceed 30 days during the making of repairs or alterations.

(d) Annual Division Records Audit and Inspection.

(1) A Division QSI shall annually audit the records pertaining to each permanent amusement ride, including, but not limited to, records of accidents, records of employee training, and records of maintenance, repair, and inspection of the ride.

(2) A Division QSI shall conduct an operational inspection in conjunction with the annual records audit. The operational inspection shall be conducted in two phases, as follows:

(A) One phase shall consist of an unannounced inspection conducted during business hours to observe the normal operation of the ride with passengers.

(B) The other phase, consisting of all other aspects of the operational inspection, shall be pre-announced and conducted without passengers present.

(e) Exception to subsections (a), (b), (c), and (d): The following provisions shall apply to each permanent amusement ride that is located within a county or other political subdivision of the State that, as of April 1, 1998, has adopted the provisions of Chapter 66 (commencing with section 6601.1) of the 1994 Uniform Building Code providing for the routine inspection of permanent amusement rides by counties and other political subdivisions of the State, provided that the Division determines that these inspections meet or exceed the inspection standards set forth in this Article:

(1) The ride shall not be subject to the inspection or records audit requirements of subsections (a), (b), or (d), to the extent that the county or other political subdivision provides inspections according to the same criteria as those specified in each of these subsections.

(2) The ride shall be subject to the requirements of subsection (c). However, the owner or operator may elect to have the county or other political subdivision conduct the Annual QSI Inspection on the same basis that it may elect to have the Division conduct the Annual QSI Inspection, provided that the county or other political subdivision provides inspections according to the same criteria as those specified in subsection (c) and the owner or operator complies with all applicable deadlines for making written requests.

(f) Discretionary Division Inspections. A Division QSI may conduct an inspection to determine the safety of a permanent amusement ride, in a manner consistent with any

reasonable safety concern raised by the information available to the Division, whenever the Division:

- (1) Receives notification, or otherwise learns, of an accident involving the permanent amusement ride required to be reported pursuant to section 344.15;
 - (2) Determines that a fraudulent Certificate of Compliance for the permanent amusement ride was submitted;
 - (3) Determines, based on factors such as ride cycles or number of riders, that a permanent amusement ride has a disproportionately high incidence of accidents when compared to other rides of similar type and design in the State of California; or
 - (4) Receives a complaint or otherwise becomes aware of information, when the complaint or information reasonably appears to be reliable and credible, that one of the safety-related systems or structural components of a ride is unsafe, or that a particular practice associated with a ride is unsafe.
- (g) The Division shall cause the least possible disruption to the regular operation of a permanent amusement ride consistent with the effective completion of an inspection.
- (h) After any Division inspection, the Division shall prepare a written report identifying compliance requirements and any pertinent notes and/or comments.

NOTE: Authority cited: Labor Code sections 60.5, 7923, and 7928. Reference: Labor Code sections 7920 through 7932.

§344.9. Order Prohibiting Use and Requirements to Abate.

(a) If, after inspection by a Division QSI, the Division determines that a permanent amusement ride, or any part thereof, presents an imminent hazard or is otherwise unsafe for patrons, the Division may prohibit the use of the ride, or any affected part thereof. The Division shall frame the scope of the prohibition with the narrowest scope reasonably necessary to ensure the protection of the public.

Exception No. 1: The Division shall not issue an Order Prohibiting Use if the hazardous or unsafe condition can be corrected immediately and the operator, after being informed of the condition by the Division, immediately abates the hazardous or unsafe condition.

Exception No. 2: If an unsafe condition does not constitute an imminent hazard to patrons, the Division shall, prior to issuing an Order Prohibiting Use, engage in an informal consultation with the owner or operator in an effort to resolve any factual questions or gather information relevant to determining whether the public operation of the amusement ride should be prohibited and/or issue to the owner or operator a Field Report with Requirements to Abate the non-compliant condition, along with a specified time frame allowed for the abatement.

(b) The Division shall notify the owner or operator in writing of the grounds for prohibition of use and of the conditions in need of abatement at the time it issues the Order Prohibiting Use.

(c) Operation of the permanent amusement ride shall not be reopened to the public until the conditions cited in the Order Prohibiting Use have been abated and approved by an authorized Division representative.

(d) The owner or operator may appeal any Order Prohibiting Use. The Division shall conduct appeal proceedings in accordance with Labor Code Section 6327.

(e) When the Division issues the owner or operator a Field Report with Requirements to Abate, the owner or operator shall prior to or on the date of required compliance, notify the Division in writing that the item to be abated has or has not been abated and the steps taken to abate the item or the reason the item has not been abated. If the item has not been abated, the owner or operator may request an extension to abate the item. If the item is not abated by the date of required compliance the Division may at that time issue an Order Prohibiting Use if continued operation of the ride creates a hazard to patrons.

(f) Whenever an Owner/Operator of a permanent amusement ride fails to pay the fees required under this chapter within 60 days after the date of notification, they shall pay, in addition to the fees required under this chapter, a penalty fee equal to 100 percent

of the fee. Failure to pay fees within 60 days after the date of notification constitutes cause for the Division to prohibit use of the permanent amusement ride.

NOTE: Authority cited: Labor Code sections 60.5, 7923, and 7928. Reference: Labor Code sections 7920 through 7932.

§344.10. Certification of a QSI.

(a) No person shall perform the services of a QSI for permanent amusement rides unless he or she possesses a current, valid QSI Certificate issued by the Division.

(b) An application for certification as a QSI shall be made to the Division on a form prescribed by the Division, which shall require the applicant to provide information limited to his or her name, State issued Driver License Number or State issued Identification Number, mailing address, daytime telephone number, one digital photograph, in portrait, and information required to satisfy subsection (c).

(1) All statements on the application shall be made under penalty of perjury.

(2) Each application shall be accompanied by the application fee fixed by section 344.16(a).

(3) Within 20 business days of receipt of an application for certification as a QSI, the division shall notify the applicant in writing that the application is complete and accepted for filing or incomplete and what additional evidence, documentation, or information is necessary to complete the application. An application shall be considered to be complete once all evidence, documentation, and information required by subsection (c)(1) or (c)(2) have been submitted.

(4) Within 20 business days of receipt of a completed application, the Division shall notify the applicant in writing of its decision to approve or disapprove the application. The Division shall, upon approval of the application, allow the applicant to sit for an examination pursuant to subsections (c)(1)(D) or (c)(2)(E).

(5) The Division shall issue a QSI Certificate to the applicant upon completion of the QSI Examination with a score of at least 80% as required by subsection (c)(1)(D) or (c)(2)(E).

(c) To be eligible for certification as a QSI, an applicant shall qualify as either a licensed engineer or as a non-engineer.

(1) To qualify as a licensed engineer, the applicant shall do all of the following:

(A) Provide satisfactory evidence that the applicant is a licensed engineer and has completed at least two years of experience in the amusement ride field, consisting of at least one year of actual inspection of amusement rides for a manufacturer, government agency, amusement ride owner or operator, or insurance underwriter, and an additional year of practicing any combination of amusement ride inspection, design, fabrication, installation, maintenance, testing, repair, or operation.

(B) Provide any additional relevant information substantiating the qualifications of the licensed engineer as required by the Division.

(C) Provide evidence on a form prescribed by the Division, verifying the applicant's close visual acuity to Jaeger J2 (or equivalent) specifications at a distance of 20 inches or greater with or without correction. The eye examination form shall include the applicant's name, date of examination, examiner name, examiner phone number, examiner address, examiner professional status, examiner signature, examiner license/qualification number, vision acuity results and applicant's signature indicating the information on the form is true and correct.

(D) Achieve a score of at least 80% on a written examination (QSI Examination) pertaining to the subjects addressed in this Article and Subchapter 6.2 of Chapter 4 of Division 1 (starting at section 3195.1) of this Title and subject matter applicable to the safe operation of permanent amusement rides. The examination shall be given during the Division's normal business hours in Sacramento or Santa Ana at a time convenient to the applicant.

(2) To qualify as a non-engineer, the applicant shall do all of the following:

(A) Provide satisfactory evidence of completing a minimum of five years of experience in the amusement ride field, at least two years of which consisted of actual inspection of amusement rides for a manufacturer, government agency, amusement ride owner or operator, or insurance underwriter. The remaining experience may consist of any combination of amusement ride inspection, design, fabrication, installation, maintenance, testing, repair, or operation.

(B) Provide evidence on a form prescribed by the Division, verifying the applicant's close visual acuity to Jaeger J2 (or equivalent) specifications at a distance of 20 inches or greater with or without correction. The eye examination form shall include the applicant's name, date of examination, examiner name, examiner phone number, examiner address, examiner professional status, examiner signature, examiner license/qualification number, vision acuity results and applicant's signature indicating the information on the form is true and correct.

(C) Provide any additional relevant information substantiating the qualifications of the non-engineer as required by the Division.

(D) Produce a valid certificate from a QSI Training Program approved by the Division pursuant to section 344.11, evidencing the applicant's successful completion of 80-hour QSI certification training. For the purposes of this subsection, the training must have been completed within the past five years as of the time the application is made.

Exception: An applicant may apply up to 40 hours of successfully completed nondestructive testing (NDT) training toward completion of the requirement for 80 hours of QSI certification training from an approved QSI Training Program. For the purposes of this exception, an acceptable NDT training course is one offered by an instructor certified by the American Society for Nondestructive Testing, Inc. ("ASNT") Nondestructive Training Level III, and covering the test method body of knowledge as described in the ASNT Recommended Practice No. SNT-TC-1A, 1996. The applicant shall provide all documentation or evidence reasonably necessary to demonstrate that the NDT training sought to be applied toward the 80-hour requirement meets these criteria. Other NDT courses shall be considered to be acceptable if the QSI applicant can demonstrate that the course instructor and content are equally effective in imparting skills and subject matter to attendees that are necessary for competent inspection of permanent amusement rides. No course shall be considered acceptable if the Division reasonably determines that the subject matter is insufficiently related to the inspection of permanent amusement rides to qualify as substitutable NDT training, or if the Division reasonably determines that the manner of instruction is insufficiently managed or monitored to be considered bona fide training.

(E) Achieve a score of at least 80% on a written examination (QSI Examination) pertaining to the subjects addressed in this Article and Subchapter 6.2 of Chapter 4 of Division 1 (starting at section 3195.1) of this Title and subject matter applicable to the safe operation of permanent amusement rides. The examination shall be given during the Division's normal business hours in Sacramento or Santa Ana at a time convenient to the applicant.

(d) A QSI Certificate shall be valid for a period of two years from the date of issuance.

(e) Application for renewal of a QSI Certificate shall be made to the Division on a form prescribed by the Division, which shall require the certificate holder to provide his or her name, mailing address, daytime telephone number and one digital photograph in portrait.

(1) All statements on the renewal application shall be made under penalty of perjury.

(2) Each application shall be accompanied by the application fee fixed by section 344.16(b).

(3) The renewal applicant shall provide evidence of having completed, during the previous biennial renewal cycle, at least 30 hours of training from the continuing education component of a QSI Training Program approved pursuant to section 344.11(c). This training shall include in-service industry or manufacturer updates and seminars.

(4) The renewal applicant shall provide satisfactory evidence demonstrating that during the previous biennial renewal cycle, the applicant has conducted amusement ride inspections or has been directly responsible for and managed the performance of QSI's in the actual inspection of amusement rides for a manufacturer, government agency, amusement ride owner or operator, or insurance underwriter.

(5) The renewal applicant shall provide satisfactory evidence demonstrating current certification as a QSI on the date of the application or within the 180 days prior to the date of the application.

(6) If within the previous two year period, the content of this Article and/or the content of Subchapter 6.2 of Chapter 4 of Division 1 (starting at section 3195.1) of this title has been materially amended, the renewal applicant shall achieve a score of at least 80% on a written examination pertaining to the content of this Article and/or Subchapter 6.2 of Chapter 4 of Division 1 (starting a section 3195.1) of this title. The examination shall be given during the Division's normal business hours in Sacramento or Santa Ana at a time convenient to the renewal applicant.

Note: The Division shall make the determination whether amendments made are material and this determination shall apply equally to all applicants.

(7) Provide evidence on a form prescribed by the Division verifying the renewal applicant's close visual acuity to Jaeger J2 (or equivalent) specifications at a distance of 20 inches or greater with or without correction. The eye examination form shall include the applicant's name, date of examination, examiner name, examiner phone number, examiner address, examiner professional status, examiner signature, examiner license/qualification number, vision acuity results and applicant's signature indicating the information on the form is true and correct.

(8) The renewal applicant shall provide any additional information reasonably required by the Division.

(9) Within 10 business days of receipt of an application for renewal of a QSI certificate, the Division shall notify the applicant in writing either that the application is complete and accepted for filing or deficient and what specific information is required to complete the application. Within 10 business days of receipt of a completed application for certification as a QSI or an application for renewal of a QSI certificate, the Division shall

notify the applicant of its decision to approve or disapprove the application and whether the applicant is required to sit for an examination pursuant to 344.10(e)(6).

(f) The Division shall determine whether the applicant meets the criteria necessary for certification or renewal of certification pursuant to this Article and Part 8.1 of Division 5 of the Labor Code, and shall approve or disapprove the application for certification or renewal of certification accordingly.

(g) The Division may revoke permanently or suspend for a period of not less than one year, the certification of a QSI, upon determining that the holder:

(1) Has submitted a fraudulent inspection report to the Division or to the owner or operator of a permanent amusement ride; or

(2) Has not performed competently as a QSI.

(3) Has failed to fulfill all requests for information from the Division regarding any amusement ride inspected, audited, evaluated or otherwise assessed by the QSI.

(h) Prior to lifting the suspension of a QSI certification, the Division may require additional training and/or apply restrictions to the QSI certification.

NOTE: Authority cited: Labor Code sections 60.5, 7923, and 7928. Reference: Labor Code sections 7920 through 7932.

§344.11. Approval of QSI Certification Courses.

(a) Training Program (referred to in this section as "Program") by submitting the following information:

(1) The name(s) of the training courses offered by the Program.

(2) The name, title, business address, and phone number of the person whom the Division will contact regarding Program approval matters, a statement certifying that the information provided with the application is true and correct to the best of the applicant's knowledge, and the name, title, business address, and phone number of the person signing the declaration if different from the person who will be the Division's contact.

(3) Materials describing the subject matter and hours of instruction of each course required by the Program, with an explanation as to which courses are to apply toward:

(A) The QSI certification training requirements of section 344.10(c)(2)(D);

(B) QSI certification training requirements based on completion of up to 40 hours of NDT training as allowed by the exception to section 344.10(c)(2)(D); and

(C) The QSI continuing education requirements of section 344.10(e)(3).

Note: A school or training provider may offer any or all of the above three options.

(4) The name(s) and qualifications of the instructor(s) of the Program.

(5) Any other information reasonably required by the Division.

(b) Processing of Application.

(1) Within 20 business days of receipt of an application for approval, the Division shall inform the applicant in writing whether the submitted application information is complete or additional information needs to be submitted.

(2) Within 45 business days of receipt of a completed application for approval, the Division shall inform the applicant that the Program is approved or inform the applicant that the application for approval is denied, specifying the reasons for denial.

(c) Criteria for Approval. Upon receiving complete application materials from the provider, the Division shall determine whether the applicant meets the criteria necessary for approval pursuant to this Article and the Permanent Amusement Ride Safety Inspection Program, Labor Code section 7920 et seq., and shall approve or disapprove the application accordingly. The approval shall specify each component of

QSI Training, as described in section 344.11(a)(3), to which the approval applies. To qualify for approval, the applicant shall demonstrate that its Program will meet all of the following requirements:

(1) Ensure that the instructor for each course required by the Program is experienced in the subject matter of the course.

(2) Ensure that the course content is current and will be kept current.

(3) Require Program participants to attend each course required by the Program for its full duration so that the applicable requirements for hours of instruction as described by sections 344.10(c)(2)(D) and 344.10(e)(3) are met.

(4) Utilize a reliable testing method to determine whether the course participants have learned the subject matter presented by the course.

(5) Provide a certificate of completion to all successful participants at the completion of the Program.

(6) Ensure that the courses required by the Program provide classroom training related to the inspection, design, maintenance, testing, and operation of permanent amusement rides and applicable provisions of Title 8 of this Code, ensure that the subject matter of the training is current and will be kept current, and ensure that the overall content of courses required by the Program meets the intent of the Permanent Amusement Ride Safety Inspection Program, Labor Code section 7920, et seq., that QSIs receive training allowing them to perform competent and effective inspections of permanent amusement rides for the purpose of ensuring the safety of patrons.

(d) To maintain QSI Training Program approval, a school or training provider shall promptly notify the Division in writing each time the provider makes a substantive change to any of the information required pursuant to subsection (a).

(e) The Division may suspend or revoke the approval of a QSI Training Program upon determining that the Program has substantially failed to comply with approval requirements.

NOTE: Authority cited: Labor Code sections 60.5, 7923, and 7928. Reference: Labor Code sections 7920 through 7932.

§ 344.12. Suspension and Revocation Procedure.

All suspension and revocation proceedings conducted by the Division shall be initiated by the provision of written notice of the Division's intent to conduct a hearing to determine whether a certification or approval will be suspended or revoked.

(a) The written notice shall be served at least 48 hours in advance of the scheduled hearing date.

(b) Service shall be by personal service or certified mail to the address shown on the application for certification or approval, or to any other address known to the Division and reasonably believed to be the current address of the certificate holder or course provider.

(c) The written notice shall specify the time, date, and location of the hearing, and the reasons for the action proposed by the Division.

(d) At the hearing the Division shall have the burden of establishing good cause for the action taken by it. Good cause shall be deemed to exist if the Division establishes that the holder of a certification has substantially failed to comply with the requirements for certification pursuant to section 344.10(g), or that the holder of an approval has substantially failed to comply with the requirements of approval pursuant to section 344.11(e).

NOTE: Authority cited: Labor Code sections 60.5, 7923, and 7928. Reference: Labor Code sections 7920 through 7932.

§ 344.13. Appeals to the Director.

(a) The following may be appealed to the Director:

(1) Suspensions and revocations by the Division.

(2) Denials of applications for QSI certification or QSI Training Program approval.

(3) Any final decision after hearing by the Division to uphold an Order Prohibiting Use.

(b) All appeals to the Director shall be in writing and shall be served within 5 business days of receipt of the notification of the Division's decision resulting in a denial, suspension, or revocation.

(c) The Director or authorized representative shall schedule a hearing to be held within 5 business days of receipt of an appeal. At the hearing, the appellant shall have the burden of establishing that the Division's decision is in error.

(d) Within 3 business days of completing the hearing, the Director shall issue a decision. The Director's decision shall be final except for any rehearing or judicial review provided for by law.

NOTE: Authority cited: Labor Code sections 60.5, 7923, and 7928. Reference: Labor Code sections 7920 through 7932.

§ 344.14. Insurance Requirements.

A person or entity may operate a permanent amusement ride only if, at the time of operation, he, she, or it:

(a) Has obtained a valid insurance policy in an amount not less than one million dollars (\$1,000,000) per occurrence, and;

(1) Has submitted to the Division a copy of the policy;

(2) Has clearly identified in the policy the permanent amusement rides included and excluded; and

(3) Does not operate permanent amusement rides for which coverage is not provided; or

(b) Has obtained a bond in an amount not less than one million dollars (\$1,000,000), except that the aggregate liability of the surety under that bond shall not exceed the face amount of the bond. A copy of the bond shall be submitted to the Division; or

(c) Qualifies as self-insured. Qualification as self-insured shall be demonstrated by providing a letter to the Division attesting that the owner has total assets of at least ten million dollars (\$10,000,000), and that the owner's total assets exceed the owner's total liabilities by either a minimum of two million dollars or a ratio of at least ten to one. All statements in the attestation letter to the Division shall be made under penalty of perjury.

Exception: State and local governmental entities shall be deemed to qualify as self-insured.

NOTE: Authority cited: Labor Code sections 60.5, 7923, and 7928. Reference: Labor Code sections 7920 through 7932.

§ 344.15. Accident Response and Notification.

(a) Reporting of Accidents and Preservation of the Accident Scene.

Each owner or operator of a permanent amusement ride shall report or cause to be reported to the Division's Santa Ana or Sacramento Amusement Ride Section Office immediately by telephone each known accident where maintenance, operation, or use of the permanent amusement ride results in a death or "serious" injury to any person unless the injury does not require medical service other than ordinary first aid. If a death or "serious" injury results from the failure, malfunction, or operation of a permanent amusement ride, the equipment or conditions that caused the accident shall be preserved for the purpose of an investigation by the Division.

Note: "Serious" injury is defined as any injury that requires medical service other than ordinary first aid is applicable to subsection (a) of this Section only.

(b) Determination of Preservation and Inspection by the Division.

(1) Upon receiving a report of an accident from an owner or operator, the Division shall make a determination as to whether preservation is necessary and inform the owner or operator of its determination.

(A) If the Division determines that preservation is necessary, the Division shall make a reasonable effort to initiate the inspection within 24 hours of receipt of the report from the owner or operator.

(B) Upon initiating the inspection, the Division shall provide the owner or operator with an instruction as to how long the equipment or conditions shall continue to be preserved.

(c) Notification of the Division by Emergency Responders.

Whenever a state, county, or local fire or police agency is called to an accident involving a permanent amusement ride covered by this Article where the death of a patron or a patron injury requiring medical service other than first aid has occurred, the Santa Ana or Sacramento Amusement Ride Section Office of the Division shall be notified by telephone immediately by the responding agency.

NOTE: Authority cited: Labor Code sections 60.5, 7923, and 7928. Reference: Labor Code sections 7920 through 7932.

§ 344.16. 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) Inspection Fees.

(1) A fee of one hundred and ninety-five dollars (\$195.00) per hour shall be charged for all 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. Fees may also be charged for time spent in relation to inspections, including interviewing witnesses, reviewing documentation, and completing reports as necessary. For complex audits, inspections, reinspections, and investigations requiring the Division to conduct portions away from the area of the ride, the Division may charge for inspection time associated directly with that inspection, including completion of the report.

(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, the Division is therefore required to reschedule the inspection, the Division may bill for the time its inspector spends traveling to and from 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 owner or operator of a 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.

HISTORY 1. New section filed 10-30-2001; operative 10-30-2001 pursuant to Government Code section 11343.4 (Register 2001, No. 44).

2. Amendment of section heading, repealer of subsection (d) and new subsections (d)-(f)(4)(C) filed 1-20-2011; operative 1-20-2011 pursuant to Government Code section 11343.4 (Register 2011, No. 3).

DRAFT

§ 344.17. Confidentiality.

The Division shall maintain the confidentiality of all documentation received pursuant to this Article to the extent that such documentation is protected by Labor Code Section 6322 or any other applicable provision of law.

NOTE: Authority cited: Labor Code sections 60.5, 7923 and 7928. Reference: Labor Code sections 6322, and 7920 through 7928.

DRAFT