

DEPARTMENT OF INDUSTRIAL RELATIONS
DIVISION OF OCCUPATIONAL SAFETY AND HEALTH
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November 13, 2015

Gurpaul Bath
gbath@co.fresno.ca.us

Re: Title 8 section 3381: Head Protection

Dear Mr. Bath:

This letter is provided in response to your inquiry to the Division of Occupational Safety and Health (Cal/OSHA) on October 6th, 2015 regarding the requirement for head protection when an employee objects to wearing a hardhat for personal religious convictions. The content and conclusions of this letter are based only on the facts described below and responsive only to the initial requester. They may not be construed as a statement of general Division policy or general interpretation of the regulations referenced in this letter.

In your email you asked:

Could you please provide a recommendation for wearing a hard hat, when the person is wearing a turban for personal religious convictions?

California Code of Regulations Title 8 section 3381 requires employers to ensure employees wear head protection where there is a risk of receiving head injuries:

§3381. Head Protection.

(a) Employees working in locations where there is a risk of receiving head injuries from flying or falling objects and/or electric shock and burns shall wear approved head protection in accordance with this section.

Federal OSHA has developed a policy for employees who do not wear a hard hat for religious reasons. In that policy, Federal OSHA states:

...OSHA has decided to grant an exemption from citations to employers of employees who, for reasons of personal religious convictions, object to wearing hard hats in the workplace. There may be, however, circumstances in the future that would involve a hard hat hazard sufficiently grave to

raise a compelling governmental interest for requiring the wearing of hard hats, notwithstanding employee personal religious convictions...

The complete policy is located at:

https://www.osha.gov/pls/oshaweb/owadisp.show_document?p_table=DIRECTIVES&p_id=1789

Cal/OSHA's position is generally similar to that of Federal OSHA in that it will not cite the employer for a violation of section 3381 for employees who object to wearing of hard hats for religious reasons.

However, this does not absolve the employer from responsibility to provide a safe workplace for the exempted employees as required by California Labor Codes 6400 and 6401. Before assigning an exempted employee to a work situation where there is a likelihood of head injuries due to not wearing a hard hat, the employer must implement alternative preventative measures to protect the employee's head. Such alternative measures may include the provision of overhead protection in hazardous areas. Employer's who do not provide alternative measures for head protection for exempted employees may be cited for violations of Title 8 section 3203 Injury and Illness Prevention Program.

Thank you for your interest in occupational safety and health. Feel free to contact me if you have additional questions.

Sincerely,



Eric Berg
Acting Deputy Chief
Research and Standards

File: GISO