

**OCCUPATIONAL SAFETY
AND HEALTH STANDARDS BOARD**

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Attachment No. 2

INITIAL STATEMENT OF REASONS

CALIFORNIA CODE OF REGULATIONS

TITLE 8: Section 1903
of the Construction Safety Orders

Landing Operations-Note to Section 1903**SUMMARY**

This rulemaking is the result of an Occupational Safety and Health Standards Board (Board) staff initiated proposal to amend Section 1903 of the Construction Safety Orders (CSO). Section 1903 addresses various helicopter landing protocols and landing zone spatial requirements such as, but not limited to: hovering sites, visibility, helicopter access and egress and hillside landings. This section is followed by an informational "NOTE" stating that the requirements of Section 1903 are waived in an emergency. However, the "NOTE" is unenforceable, vague and unclear as to the type of emergency it applies to and when the landing requirements of Section 1903 are waived. Board staff proposes to convert the "NOTE" into an enforceable Exception that would be consistent with Federal Aviation Administration (FAA) standards. These standards permit the pilot in command of the helicopter to deviate from normal landing protocols to the extent required to meet the in-flight emergency and get the helicopter safely to the ground. The proposed Exception to Section 1903 indicates that the requirements of this section would be waived should the helicopter experience an in-flight emergency (e.g. mechanical failure).

SPECIFIC PURPOSE AND FACTUAL BASIS OF PROPOSED ACTION

This regulatory proposal is intended to provide worker safety at places of employment in California.

This proposed rulemaking action:

- Is based on the following authority and reference: Labor Code Section 142.3, which states, at Subsection (a)(1) that the Board is "the only agency in the state authorized to adopt occupational safety and health standards." When read in its entirety, Section 142.3 requires that California have a system of occupational safety and health regulations that at least mirror the equivalent federal regulations and that may be more protective of worker health and safety than are the federal occupational safety and health regulations.

- Differs from existing federal standards, in that the counterpart standards do not address helicopter landing operations pertaining to spatial rotor requirements on prepared hillside sites.
- Is not inconsistent or incompatible with existing state regulations. This proposal is part of a system of occupational safety and health regulations. The consistency and compatibility of that system's component regulations is provided by such things as: (1) the requirement of the federal government and the Labor Code to the effect that the State regulations be at least as effective as their federal counterparts, and (2) the requirement that all state occupational safety and health rulemaking be channeled through a single entity (the Standards Board).
- Is the least burdensome effective alternative. The proposal provides clarity to employers and the Division by providing enforceable language and eliminating confusion over what is considered an emergency.

Section 1903.Landing Operations.

Existing Section 1903 directs landing site operations in regard to site approval, visibility, rotor clearance, and access/egress to the helicopter.

An amendment is proposed to make it clear that the "NOTE" at the end of Section 1903 is really an exception and it specifies that an in-flight emergency is the only circumstance under which the requirements of Section 1903 are waived. The proposed amendment is necessary to clarify to the employer that the requirements of Section 1903 are waived, to allow the pilot and passengers to escape serious injury or death by permitting the pilot to get the craft to ground quickly and safely.

DOCUMENTS RELIED UPON

None.

DOCUMENTS INCORPORATED BY REFERENCE

None.

REASONABLE ALTERNATIVES THAT WOULD LESSEN ADVERSE ECONOMIC IMPACT ON SMALL BUSINESSES

No reasonable alternatives were identified by the Board and no reasonable alternatives identified by the Board or otherwise brought to its attention would lessen the impact on small businesses.

SPECIFIC TECHNOLOGY OR EQUIPMENT

This proposal will not mandate the use of specific technologies or equipment.

COST ESTIMATES OF PROPOSED ACTION

Costs or Savings to State Agencies

No costs or savings to state agencies will result as a consequence of the proposed action.

Impact on Housing Costs

The Board has made an initial determination that this proposal will not significantly affect housing costs.

Economic Impact Analysis

The Board has made a determination that this proposal will not result in a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. The proposal simply replaces the subsection (f) "NOTE" with an Exception which will be enforceable regulatory language and allows pilots to take measures to land their helicopter safely without compliance with Section 1903.

Therefore, the adoption of the proposed amendment to this standard will not have any effect on the creation or elimination of California jobs nor result in the creation or elimination of existing businesses or affect the expansion of existing California businesses. This amendment does not change the substance or operative portion of the note, merely the form in which it is stated.

This regulatory proposal is intended to provide worker safety at places of employment in California.

Cost Impact on Private Persons or Businesses

The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Costs or Savings in Federal Funding to the State

The proposal will not result in costs or savings in federal funding to the state.

Costs or Savings to Local Agencies or School Districts Required to be Reimbursed

No costs to local agencies or school districts are required to be reimbursed. See explanation under "Determination of Mandate."

Other Nondiscretionary Costs or Savings Imposed on Local Agencies

This proposal does not impose nondiscretionary costs or savings on local agencies.

DETERMINATION OF MANDATE

The Occupational Safety and Health Standards Board has determined that the proposed regulations do not impose a local mandate. There are no costs to any local government or school district which must be reimbursed in accordance with Government Code Sections 17500 through 17630.

EFFECT ON SMALL BUSINESSES

The Board has determined that the proposed amendment may affect small businesses. However, no adverse economic impact is anticipated, because the amendments are policy and procedural in nature.

RESULTS OF THE ECONOMIC IMPACT ASSESSMENT

The proposed regulation will not have any effect on the creation or elimination of California jobs or the creation or elimination of California businesses or affect the expansion of existing California businesses. This amendment does not change the substance or operative portion of the note, merely the form in which it is stated.

BENEFITS OF THE REGULATION:

The proposal would provide businesses, small or large, clear instructions in protecting employees and property from vague and confusing, unenforceable guidance. The adoption of this proposal will ensure that expanded and enforceable instructions are provided when employees are engaged in helicopter landing operations in potentially dangerous operating environments.

ALTERNATIVES THAT WOULD AFFECT PRIVATE PERSONS

No reasonable alternatives have been identified by the Board or have otherwise been identified and brought to its attention that would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.