

**OCCUPATIONAL SAFETY
AND HEALTH STANDARDS BOARD**

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Attachment No. 2

INITIAL STATEMENT OF REASONS

CALIFORNIA CODE OF REGULATIONS

TITLE 8: Chapter 4, Subchapter 7, Article 61, Section 4355
of the General Industry Safety Orders

Operating Rules for Compaction Equipment**SUMMARY**

Section 4355 of the General Industry Safety Orders (GISO) contains rules for employees to follow when they operate stationary and mobile compaction equipment used to pick up and compact refuse from residential and commercial locations. Section 4355 requires the employer to develop a written set of operating rules and that such rules are to contain the applicable provisions contained in the various subsections of Section 4355, which include but are not limited to, employee training prior to assignment and operation, use of stationary compactor locks, and observation by the operator of all persons who may be in the mobile compactor vehicle path or point of operation. Subsection (c)(2) prohibits employees from standing on the rear or side steps of the mobile compactor or at any location where the employee cannot be seen by the operator and where the employee could be struck by the mobile compactor or thrown off the vehicle.

This Section does not address the dangerous practice of employees in front of the operator (direct line of sight) standing or riding on the compactor bins, containers, or attachments in front of the vehicle operator not designed as an employee work station. This omission creates a loophole whereby an employee could be riding on a bin, hopper or other attachment in front of the operator and not be in violation of the standard in (c)(2). Such practice has resulted in a fatal fall from elevation by an employee who was in full view of the operator and rode the work box which was resting on a platform attached to the forks of a refuse truck, fell and struck his head on the box. (See Division of Occupational Safety and Health (Division) Investigative Summary, No. 202485900, Tahoe Truckee Sierra Disposal Co. Inc.). Section 4355(c)(3) currently prohibits employees from riding on a loading sill. The proposal would expand this prohibition to include other areas within the operator's view.

Board staff notes that three editions of the American National Standards Institute (ANSI) Z245.1 standard for mobile compaction equipment, dating back to 1992, contain language that speaks to the issue of unsafe working locations on the vehicle. For example, the 1992, 1999 and 2008 editions of the ANSI Z245.1 standard state in Sections 6.2.1(i), 6.2.3.2 and 6.2.3.2(b)

respectively, that riding is only permitted in the cab or on the riding steps and not on any other part of the vehicle. Section 6.2.5.4(c) of the 2008 edition prohibits riding on the loading sill, the loading platform or in the hopper of the vehicle. These practices are consistent with the equipment manufacturer's recommendations. Consequently, staff believes this rulemaking proposal is consistent with those consensus standards.

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 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.
- Expands the current prohibition on employees riding on the loading sills of mobile refuse compaction equipment to include attachments, containers, or trash bins located in front of the operator. This will ensure that employees are not subjected to the risk of a fall from elevation and/or being struck by and run over by the vehicle or coming into hazardous contact with moving parts of the compactor that could result in a crushing action and serious injury or fatality.
- Is not inconsistent with existing state regulations. It is consistent with established national consensus standards. 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 regulation 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).
- The proposal would ensure that employees involved in mobile compaction vehicle operations are protected from the kinds of injuries described above whether they are behind or in front of the vehicle operator and regardless of whether they are standing or attempting to ride on parts of the equipment not designed for passengers or riders.

Section 4355. Operating Rules for Compaction Equipment.

This section addresses the employer's duty to develop written mobile and stationary compaction equipment operating rules which must be conveyed to the employee via training prior to the employee operating the equipment. The training and instruction is for stationary and mobile equipment respectively and minimally includes stationary compaction lock training, ensuring all persons are clear of the points of operation prior to activation, prohibitions on the location of

employees on and around the vehicle, employee riders, use of block out devices to prevent elevated portions of the equipment from falling onto the employee and compliance with GISO Section 3314 Control of Hazardous Energy standards.

Section 4355(c)(2) currently prohibits the employees from standing in locations where the employee cannot be seen by the operator. Section 4355(c)(3) currently prohibits employees from riding on a loading sill. The proposal would expand the Section 4355(c)(3) prohibition to include, other unsafe locations, specifically, collection bins, containers or attachments in front of the vehicle operator. The proposal is necessary to eliminate situations where employees could fall from an elevated location or could be subject to hazardous contact with the equipment, both of which could result in serious injury or death.

The amendment to change the wording in Section 4355(c)(2) to eliminate gender references is necessary to ensure the language is consistent with Title 8 formatting. It is noted that by virtue of the wording of Section 4355(a), the change proposed for Section 4355(c)(3) would cause the employer's operating procedures, and employee training to be modified as well in a manner that promotes safety.

DOCUMENTS RELIED UPON

1. National Institute for Occupational Safety and Health (NIOSH) Alert, "Preventing Worker Injuries and Deaths from Moving Refuse Collection Vehicles", May 1997, DHHS (NIOSH) Publication No. 97-110.
2. ANSI Z245.1-1992, American National Standard for Refuse Collection, Processing, and Disposal Equipment-Mobile Refuse Collection and Compaction Equipment-Safety Requirements.
3. ANSI Z245.1-1999, American National Standard for Equipment Technology and Operations for Wastes and Recyclable Materials-Mobile-Wastes and Recyclable Materials Collection, Transportation, and Compaction Equipment-Safety Requirements.
4. ANSI Z245.1-2008, American National Standard for Equipment Technology and Operations for Wastes and Recyclable Materials-Mobile Wastes and Recyclable Materials Collection, Transportation, and Compaction Equipment-Safety Requirements.
5. Division, Investigation Summary (with attached photographs page), Reporting ID 0950621, Investigation No. 202485900, Truckee Tahoe Sierra Disposal Co., Inc., dated January 30, 2008.

These documents are available for review Monday through Friday from 8:00 a.m. to 4:30 p.m. at the Standards Board Office located at 2520 Venture Oaks Way, Suite 350, Sacramento, California.

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. This proposal would require the employer to amend a portion of its administrative safety program, which includes employee instruction and training to clearly indicate to employees, consistent with the proposal, that employees must never ride or otherwise position themselves on the bins, hoppers or mobile compactor front-end attachments that are in the direct line of sight of the vehicle operator. There is no specific technology, hardware or other devices that are required to comply with this proposal. Other than the time to re-write or amend the employer's existing Injury and Illness Prevention Program to address this proposed amendment, there are no discernible compliance costs. However, there could be significant savings to the employer through improved accident prevention for this issue in terms of avoiding the direct and indirect costs associated with a serious injury or fatality.

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 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 standards 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 amendments may affect small businesses. However, no economic impact is anticipated.

RESULTS OF THE ECONOMIC IMPACT ANALYSIS

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.

BENEFITS OF THE REGULATION

The proposal will assure that the risk of employees being struck by and/or run over by mobile compaction equipment during operations will be effectively controlled by prohibiting employees who operate and work on mobile refuse compaction from standing or riding on equipment attached to the vehicle in front of the vehicle driver. The overall safety of mobile compaction equipment operations will be enhanced and struck-by/run over accidents shall be prevented.

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 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.