

**OCCUPATIONAL SAFETY  
AND HEALTH STANDARDS BOARD**

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Attachment No. 2

**INITIAL STATEMENT OF REASONS**

## CALIFORNIA CODE OF REGULATIONS

TITLE 8, Division 1, Chapter 4, Subchapter 7, Article 25, Section 3649 of the  
General Industry Safety Orders

**Definition of Agricultural Tractor****SUMMARY**

The Occupational Safety and Health Standards Board (Board) initiates this rulemaking as the result of a staff initiated proposal, to amend Section 3649 of the General Industry Safety Orders (GISO). This section contains various definitions that pertain to industrial trucks, tractors, haulage vehicles and earthmoving equipment.

Board staff proposes to amend the definition of "agricultural tractor" to address tractors with more than two axles and 4 drive wheels. Newer agricultural tractors that are equipped with more than four drive wheels would be excluded from the existing definition of "agricultural tractor."

This proposal is consistent with language in Section 3651(c) in Article 25 of the GISO, which pertains to the use of rollover protective structures for "wheel-type agricultural tractors".

**SPECIFIC PURPOSE AND FACTUAL BASIS OF PROPOSED ACTION**

This proposal is necessary to update the definition of "agricultural tractor" in Section 3649 to avoid the possible unintended exclusion of agricultural tractors with more than four drive wheels.

This proposed amendment is consistent with the federal requirements in 29 CFR Section 1926.1002, which does not include the phrase "two or four wheel drive" in the definition of "agricultural tractor" and only uses the phrase "wheel-type vehicle."

### **DOCUMENTS RELIED UPON**

1. Proceedings of the Title 8 Reform, advisory agriculture sub-committee meeting of December 9, 2004, held in Sacramento, California with attached agenda, roster, and minutes; specifically, comment and ensuing dialog by Mr. Daniel Castillo, Pan American Underwriters, and Board staff regarding the definition of the term “agricultural tractor,” page 2 of 7 of the minutes.
2. Code of Federal Regulations, Revised July 1, 2007, Section 1910.1002(j), page 502.

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.

### **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 because this rulemaking only proposes to update the definition of “agricultural tractor” to include more than 4 drive wheels. The updating of this definition is consistent with the intent of the affected standard, and will not result in added cost or savings to state agencies.

### **Impact on Housing Costs**

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

### **Impact on Businesses**

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 updating of this definition is consistent with the intent of the affected standard, and will not result in added costs or savings to state agencies. Additionally, this proposed rulemaking makes Section 3649 consistent with the requirements of 29 CFR 1910.1002(j), which renders California requirements, regarding the definition of agricultural tractor, at least as protective as the federal OSHA requirements.

### **Cost Impact on Private Persons or Businesses**

The Board is not aware of any cost impact 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 standard does not impose a local mandate. Therefore, reimbursement by the state is not required pursuant to Part 7 (commencing with section 17500) of Division 4 of the Government Code because the proposed amendments will not require local agencies or school districts to incur additional costs in complying with the proposal. Furthermore, this standard does not constitute a "new program or higher level of service of an existing program within the meaning of Section 6 of Article XIII B of the California Constitution."

The California Supreme Court has established that a "program" within the meaning of section 6 of Article XIII B of the California Constitution is one which carries out the governmental function of providing services to the public, or which, to implement a state policy, imposes unique requirements on local governments and does not apply generally to all residents and entities in the state. (County of Los Angeles v. State of California (1987) 43 Cal.3d 46.)

This proposed standard does not require local agencies to carry out the governmental function of providing services to the public. Rather, the standard requires local agencies to take certain steps to ensure the safety and health of their own employees only. Moreover, the proposed standard does not in any way require local agencies to administer the California Occupational Safety and Health program. (See City of Anaheim v. State of California (1987) 189 Cal.App.3d 1478.)

The proposed standard does not impose unique requirements on local governments. All employers - state, local and private - will be required to comply with the prescribed standard.

### **EFFECT ON SMALL BUSINESSES**

The Board has determined that the proposed amendments will not affect small business as defined in Government Code Section 11342.610. The updating of this definition is consistent with the intent of the affected standard, and will not affect small businesses. Additionally, this proposed rulemaking makes Section 3649 consistent with the requirements of 29 CFR 1910.1002(j), which renders California requirements, regarding the definition of agricultural tractor, at least as protective as the federal OSHA requirements.

### **ASSESSMENT**

The adoption of the proposed amendments to this standard will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California.

### **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.