

**OCCUPATIONAL SAFETY
AND HEALTH STANDARDS BOARD**

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Attachment No. 2

INITIAL STATEMENT OF REASONS

CALIFORNIA CODE OF REGULATIONS

TITLE 8: Sections 4345, 4351, 4352, and 4354
of the General Industry Safety Orders

Stationary and Mobile Compaction Equipment and Balers**SUMMARY**

To ensure that the latest consensus safety standards regarding the operation of mobile trash compaction equipment, including dual control mobile compaction equipment and balers which are covered by the American National Standards Institute (ANSI) Z245 standards, are addressed in Title 8, Board staff has initiated this rulemaking in response to changes in technology and industry practice. At present, the ANSI Z245.1-1992 standard entitled "American National Standard for Refuse Collection, Processing and Disposal Equipment-Mobile Refuse Collection Compaction Equipment-Safety Requirements, the ANSI Z245.2-1992 standard entitled "American National Standard for Refuse Collection, Processing, and Disposal Equipment-Stationary Compactors-Safety Requirements," and the ANSI Z245.5-1990 standard entitled "American National Standard for Refuse Collection, Processing, and Disposal-Baling Equipment-Safety Requirements" are referenced by Articles 60 and 61. The listed standards have been superseded, respectively, by ANSI Z245.1-2012, ANSI Z245.21-2013, and ANSI Z245.51-2013.

Because refuse collection and compaction equipment manufacturers build to the latest consensus standards available, the references in Title 8 will be updated to reflect current practice. This proposal will amend Title 8, Sections 4345, 4351, 4352 and 4354 to reference the most current ANSI Z245 editions and establish operating procedures for dual control mobile compaction equipment, currently unaddressed in Title 8.

The proposal also contains three new definitions related to the operation of dual control mobile compaction equipment based on the aforementioned consensus standards and discussion by a representative advisory committee convened by staff on December 6, 2013 and who provided assistance in the development of the proposal.

SPECIFIC PURPOSE AND FACTUAL BASIS OF PROPOSED ACTION

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

The 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.
- Differs from existing federal standards in that it regulates specialized waste and recycling equipment and balers for which federal standards do not exist.
- 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 are 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).
- Was determined to be the least burdensome effective alternative by consensus of an advisory committee.

Section 4345. Hoist and Tilt-Frame Refuse and Trash Collection Equipment.

This section contains standards requiring hoist and tilt-frame refuse and trash collection equipment placed in service after December 2, 1998 to bear a plate or marking indicating it was designed and constructed in accordance with ANSI Z245.1-1992. It also contains provisions for the use of back up warning devices, safe riding positions on the vehicle, and operation of hoist tilt-frame equipment controls.

A new subsection (a) is proposed to require a manufacturer-installed plate or marking which states that the equipment is designed and constructed in accordance with the 2012 version of ANSI Z245.1 for equipment placed in service on or after April 1, 2015. Subsection (b) would be amended to address such equipment placed in service before April 1, 2015 to be labeled as meeting the ANSI Z245.1 standard in effect at the time the equipment was manufactured.

The proposed amendments are necessary to ensure that the employer understands which edition of the ANSI Z245.1 safety standard applies to his/her vehicles. The April 1, 2015 date is used to allow sufficient time for manufacturers to comply with the updated ANSI standard after its effective date.

Section 4351. Definitions.

This section contains various definitions relating to all types of compaction equipment that are regulated by the provisions of Article 61.

Amendments are proposed to add definitions for the terms collection mode, secondary position and work brake, which relate directly to the safety standards for dual control mobile compaction equipment addressed by ANSI Z245.1-2012.

The proposed definitions are necessary to clarify to the employer the meaning of the standards in which they are used and help to ensure compliance with those standards. The necessary safeguarding of employees is accomplished.

Section 4352. Construction, Reconstruction and Modification.

Subsection (a) contains standards that address the design and construction of stationary and mobile refuse compaction equipment placed in service after January 3, 1996 and requires that such equipment be provided with a permanent plate or marking indicating the equipment was designed and constructed in accordance with the applicable provisions of the ANSI Z245.2-1992 for stationary compactors and the ANSI 245.1-1992 for mobile refuse and compaction equipment. For equipment placed in service before January 3, 1996, the standard states that such equipment shall be equipped with a permanent plate or marking stating that it was designed and constructed in accordance with the applicable ANSI Z245 safety standard in effect at the time the compaction equipment was manufactured.

Amendments are proposed to reorganize subsection (a) by adding a new paragraph (1) which would require stationary and mobile compaction equipment placed in service on or after April 1, 2015 to be equipped with a manufacturer-installed plate or marking that states that the compactor is designed and built in accordance with the applicable provisions of the ANSI Z245.21-2013 for stationary compactors and the ANSI Z245.1-2012 for mobile wastes and recyclable materials collection in addition to the other requirements of the Orders.

Further amendments are proposed to require stationary and mobile refuse compaction equipment placed in service before April 1, 2015 to be identified as being designed and constructed in accordance with the ANSI Z245.1 and ANSI Z245.2 standards in effect at the time the compaction equipment was manufactured.

Finally, subsection (b) addresses other compaction equipment such as balers placed in service on or after January 3, 1996, requiring that such equipment be provided with a permanent plate or marking stating the baler meets the requirements of ANSI Z245.5-1990.

Amendments are proposed to delete the existing regulatory text of subsection (b) for replacement by a new paragraph (1) which would require balers placed in service on or after April 1, 2015 to be provided with a manufacturer-installed plate or marking stating the baler meets the minimum safety requirements of ANSI Z245.51-2013. A new paragraph numbered as (2) is proposed consisting of the existing language of subsection (b) addressing balers placed in service before April 1, 2015 to indicate that they meet the requirements of the ANSI Z245.5 standard in effect at the time baling equipment was manufactured. A requirement that compaction equipment not specifically addressed in this standard be designed and constructed in an approved manner is also added.

The proposed amendments are necessary to ensure that the employer understands which edition of the ANSI Z245 safety standard applies to his/her vehicles. They will also ensure that

compaction equipment not specifically addressed in this standard be designed and constructed in an approved manner. The April 1, 2015 date is used to allow sufficient time for manufacturers to comply with the updated ANSI standards after their effective dates.

Section 4354. Mobile Compaction Equipment.

Two new subsections (i) and (j) will be added to address the operation of dual control mobile compaction equipment when driven from the stand-up position. Based upon consensus from the December 6, 2013 advisory committee meeting between stakeholders and the Division, and in order to reduce the likelihood of the equipment operator seriously injuring him- or herself by falling out of the vehicle, subsection (i) will require that vehicles be driven 10 miles per hour (mph) or less when operated from the secondary position during collection mode. Seatbelts, locking or latching bars, safety chains, or straps must also be utilized during operation, except when the vehicle is travelling less than 10 mph. Only qualified operators will be permitted to drive in the secondary position. The reason for the 10 mph limit and exceptions to seatbelts, locking or latching bars, safety chains, or straps is to allow the operator to enter and exit the vehicle quickly and efficiently during collection mode where refuse or recycling collection stops are close to one another.

Subsection (j) applies to those vehicles equipped with a work brake and prohibits an operator from using the work brake as the primary means for stopping the vehicle. The work brake will instantly stop the wheels on the equipment, which can not only damage the equipment, but can also cause the operator to be jolted forward, possibly losing balance and falling.

The proposed amendments are necessary to establish operating procedures for dual control mobile compaction equipment in order to prevent misuse of equipment that could lead to employee injury.

DOCUMENTS RELIED UPON

1. ANSI Z245.1, "Mobile Wastes and Recyclable Materials Collection, Transportation, and Compaction Equipment—Safety Requirements", 2012.
2. ANSI Z245.21, "Stationary Compactors -- Safety Requirements for Manufacturing and Reconstruction", 2013.
3. ANSI Z245.51, "Baling Equipment -- Safety Requirements", 2013.
4. December 6, 2013 Advisory Committee minutes, members roster and attendance sheets.
5. Attachment 7 of Variance Application from Waste Management, Inc. (OSHSB File No. 12-V-007), received 1 February 2012.
6. OSHSB Evaluation Report for OSHSB File No. 12-V-007 – 12-V-011 (Waste Management, Inc.), August 22, 2012.

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. The proposal adopts best practices obtained from consensus standards and input from stakeholders in an advisory committee meeting. Employers currently train employees on the use of collection, compaction, and baling equipment and may or may not need to update their procedures as a result of these regulations, but there is no additional regulatory impact. Furthermore, labeling requirements are already performed by equipment manufacturers; the current proposal merely updates Title 8 regulations to reflect current practice.

The adoption of the proposed amendments to these standards 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 because the amendments update Title 8 regulations to reflect current consensus standard editions and codify operating rules which are already in practice for the affected equipment.

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 standard does 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 economic impact is anticipated. The equipment is supplied from the manufacturer with the appropriate labeling required by the standard. The employer only needs to ensure that the appropriate labels or marking remain present and legible. Additionally, many aspects of the proposed operating rules are already in practice; the amendment serves only to codify and standardize them.

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 because it merely updates already-required labeling requirements to reflect the current versions of standards to which the equipment is already built. Additionally, the remainder of the proposed changes may require an employer to update its operating procedures, but were determined by the advisory committee to pose no economic impact.

BENEFITS OF THE REGULATION

The proposal will protect employees by requiring that new waste and recycling equipment and balers are labeled as being manufactured according to the latest consensus standards.

Additionally, the proposal protects employees by codifying safe operating rules for said equipment not currently addressed by Title 8 regulations.

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.