

**OCCUPATIONAL SAFETY  
AND HEALTH STANDARDS BOARD**

2520 Venture Oaks, Suite 350  
Sacramento, CA 95833  
(916) 274-5721  
FAX (916) 274-5743  
[www.dir.ca.gov/oshsb](http://www.dir.ca.gov/oshsb)



Attachment No. 2

**INITIAL STATEMENT OF REASONS**

## CALIFORNIA CODE OF REGULATIONS

TITLE 8, Chapter 4, Subchapter 4, Article 10, Section 1593  
of the Construction Safety Orders (CSO).

Securing Loads on Haulage VehiclesSUMMARY

The Occupational Safety and Health Standards Board (Board) initiates this rulemaking as a result of Board staff evaluation and consideration of the issue of securing loads under Section 1593(f) of the Construction Safety Orders and as described in Occupational Safety and Health Appeals Board (OSHAB) Decision After Reconsideration (DAR), Docket No. 98-R5D2-3674, in the matter of Obayashi Corporation. As indicated in the Appeals Board Decision, there was confusion and uncertainty on the part of the employer with regard to the meaning of subsection (f), entitled “Unstable Loads.” The employer argued that the regulation only requires unstable loads to be secured and not all loads, as is the intent of the regulation. The Appeals Board found the employer’s position to be untenable because such an interpretation would lead to “unwieldy subjective enforcement”, since a load that was stable one moment might be unstable the next and vice versa. Board staff believes the term “unstable” in the title of subsection (f), “Unstable Loads”, leads some to surmise that a load must be unstable before a load must be stabilized and secured. Consequently, Board staff proposes to replace the term “unstable” with “securing” in order to eliminate any possible confusion over the meaning of the regulation.

**SPECIFIC PURPOSE AND FACTUAL BASIS OF PROPOSED ACTION**Section 1593. Haulage Vehicle Operation.

Section 1593 addresses various issues relating to haulage vehicle operations which include, but are not limited to: vehicle speeds, use of mechanical threading devices, vehicle maintenance and tire repair.

Existing Subsection (f), entitled “Unstable Loads,” requires loads on vehicles to be secured against displacement. A revision is proposed to replace the term “unstable” in the subsection title with the term “securing.” The proposed revision is necessary to clarify to the employer that *all* loads are to be secured against displacement.

#### DOCUMENTS RELIED UPON

? Occupational Safety and Health Appeals Board (OSHAB) Decision After Reconsideration (DAR), Docket No. 98-R5D2-3674, in the matter of Obayashi Corporation, dated June 5, 2001.

This document is 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.

##### Impact on Businesses

The Board has made an initial 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.

##### 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 regulation 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 amendment will not require local agencies or school districts to incur additional costs in complying with the proposal. Furthermore, the regulation 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.)

The proposed regulation does not require local agencies to carry out the governmental function of providing services to the public. Rather, the regulation requires local agencies to take certain steps to ensure the safety and health of their own employees only. Moreover, the proposed regulation 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 regulation 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 may affect small businesses.

ASSESSMENT

The adoption of the proposed amendments to this regulation 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.