

**OCCUPATIONAL SAFETY
AND HEALTH STANDARDS BOARD**

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Attachment No. 2

INITIAL STATEMENT OF REASONS

CALIFORNIA CODE OF REGULATIONS

TITLE 8: Chapter 7, Subchapter 4, Article 11, Section 1597
of the Construction Safety Orders (CSO)

Jobsite Vehicles-Scope and Application**SUMMARY**

This rulemaking proposal is the result of a Division of Occupational Safety and Health (Division), Request for New or Change to Existing Safety Order, Form 9-038, dated October 26, 2004. The Division requested the Standards Board (Board) consider amending the scope and application paragraph that precedes the requirements of Section 1597-Jobsite Vehicles. The Board staff and Division agree that Section 1597, which contains various vehicular safety equipment requirements, was never intended to apply to construction haulage vehicles, loaders, crawlers, bulldozers, scrapers and similar equipment. The Division is aware of concerns expressed by stakeholders regarding the application of Section 1597 to such vehicles. Consequently, the Division proposed language stating that vehicles covered by Article 10 of the CSO, which applies to haulage vehicles and earthmoving vehicles, are not subject to the vehicular safety equipment requirements contained in Section 1597, which apply to light trucks, vans, other types of jobsite vehicles used to transport employees, passenger automobiles, sport utility vehicles and vehicles not designed as haulage vehicles.

The Board staff's proposal differs slightly from that of the Division's as stated in the Form 9-038 to the extent that the wording has been revised for improved readability. This proposal is consistent with 29 CFR 1926.601(a) and 29 CFR 1926.602(a), federal OSHA standards that provide separate standards for jobsite vehicles that are, and are not, haulage and earthmoving equipment.

SPECIFIC PURPOSE AND FACTUAL BASIS OF PROPOSED ACTIONSection 1597. Jobsite Vehicles.

This section consists of an opening “scope and application” statement followed by eleven subsections that address specific safety requirements.

An amendment is proposed to add language in the scope and application statement to clarify that Section 1597 does not apply to jobsite vehicles covered by Article 10 of the CSO which pertains to earthmoving and haulage vehicles. The proposed amendment is necessary to provide this clarification.

DOCUMENTS RELIED UPON

1. Division of Occupational Safety and Health, Form 9, F9-038, Request for New or Change to Existing Safety Order, regarding CSO, Section 1597, Jobsite Vehicles, Scope and Application, dated October 26, 2004.

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 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.

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. 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, 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 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 amendment will not affect small businesses as defined in Government Code Section 11342.610.

ASSESSMENT

The adoption of the proposed amendment 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.