

**OCCUPATIONAL SAFETY  
AND HEALTH STANDARDS BOARD**

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Attachment No. 3

**INITIAL STATEMENT OF REASONS**

## CALIFORNIA CODE OF REGULATIONS

TITLE 8, Division 1, Chapter 4, Subchapter 5, Group 1, Article 11, Section 2395.6  
of the Low-Voltage Electrical Safety Orders

**Portable and Vehicle-Mounted Generators****SUMMARY**

This proposed rulemaking was initiated as the result of stakeholder input to the effect that the recently adopted verbiage of Section 2395.6 was unduly restrictive. Section 2395.6(a) existing prior to the May 5, 2008, amendments, contained a grounding exception for portable or vehicle-mounted generators rated not more than 5 KW. The earlier standard provided that “under the following conditions, the frame of a portable or a vehicle-mounted generator need not be grounded and shall be permitted to serve as the grounding electrode for a system supplied by the generator:

- (1) The noncurrent-carrying metal parts of equipment located on the vehicle and the equipment grounding conductor terminals of the receptacles are bonded to the generator or vehicle frame, and
- (2) The generator supplies only equipment located on the vehicle or the generator and/or cord- and plug-connected equipment through receptacles mounted on the vehicle or on the generator, and
- (3) The frame of a vehicle-mounted generator is bonded to the vehicle frame, or [*underline added for emphasis*]
- (4) The generator is single-phase, portable or vehicle-mounted, rated not more than 5 KW, and the circuit conductors of the generator are insulated from the generator frame and all other grounded surfaces.”

The May 5, 2008, modification reworded and reformatted Section 2395.6 consistent with federal standards, 29 CFR 1910.304(g)(3)(i) and (ii) as Subsections (a) and (b). However, because the federal wording did not refer to 5 KW portable and vehicle-mounted generators, an existing state provision was retained as an additional condition for systems supplied by portable and/or vehicle mounted generators. However, this inclusion, appended with an “and” rather than an “or” had an unintended consequence of defining portable and vehicle-mounted generators as being not more than 5 KW, thus creating a very restrictive requirement, beyond the provisions of the existing

state standard and the counterpart federal standard which contains no reference to 5 KW portable or vehicle-mounted generators.

A stakeholder comment brought this matter to the Board's attention. In the process of reviewing and researching the genesis of this change, Board staff ascertained from the preamble for the federal rulemaking that the federal omission of the 5 KW generator exception was deliberate, as explained on page 7159 of the Federal Register<sup>1</sup>. Based on the federal rationale, it has been determined that retention of the provision for 5 KW generators as an exception would be inconsistent with the National Electrical Code and the federal standards. The Board, therefore, proposes to delete the 5 KW generator subsections from the standard.

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

### **Section 2395.6. Portable and Vehicle-Mounted Generators.**

#### **Subsection (a).**

This subsection for portable generators provides that the frame of a portable generator need not be grounded and may serve as the grounding electrode for a system supplied by the generator under the following conditions:

- (1) The generator supplies only equipment mounted on the generator or cord- and plug-connected equipment through receptacles mounted on the generator, or both; and
- (2) The noncurrent-carrying metal parts of equipment and the equipment grounding conductor terminals of the receptacles are bonded to the generator frame, and [*underline added for emphasis*]
- (3) The generator is single-phase, portable, rated not more than 5 KW, and the circuit conductors of the generator are insulated from the generator frame and all other grounded surfaces.

It is proposed to delete subsection (a)(3). The purpose and necessity for this change is to correct a modification which inadvertently made the new standard more limiting than federal standards and more restrictive than the state standard existing prior to May 5, 2008. This deletion will also conform California grounding standards for portable and vehicle-mounted generators to counterpart federal standards.

#### **Subsection (b).**

This subsection for vehicle-mounted generators provides that the frame of a vehicle need not be grounded and may serve as the grounding electrode for a system supplied by a generator located on the vehicle under the following conditions:

- (1) The frame of the generator is bonded to the vehicle frame, and
- (2) The generator supplies only equipment located on the vehicle and cord- and plug-connected equipment through receptacles mounted on the vehicle, and

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<sup>1</sup> Federal Register, Vol. 72, No. 30, dated Wednesday, Feb. 14, 2007, Department of Labor (OSHA), 29 CFR Part 1910, Electrical Standard, page 7159.

- (3) The noncurrent-carrying metal parts of equipment and the equipment grounding conductor terminals of the receptacles are bonded to the generator frame, and
- (4) The system complies with all other provisions of Article 11 of these Low-Voltage Electrical Safety Orders, and [*underline added for emphasis*]
- (5) The generator is single-phase, vehicle-mounted, rated not more than 5 KW, and the circuit conductors of the generator are insulated from the generator frame and all other grounded surfaces.

It is proposed to delete subsection (b)(5). The purpose and necessity for this change is to correct a modification which inadvertently made the new standard more limiting than federal standards and more restrictive than the state standard existing prior to May 5, 2008. This deletion will also conform California grounding standards for portable and vehicle-mounted generators to counterpart federal standards.

### **REFERENCE TO COMPARABLE FEDERAL REGULATION**

The Occupational Safety and Health Standards Board is proposing this rulemaking action pursuant to Labor Code Section 142.3, which mandates the Board to adopt regulations at least as effective as federal regulations addressing occupational safety and health issues.

In conformance with Government Code Section 11346.9(c), the Board provides the following information. Federal OSHA promulgated regulations addressing electrical safety orders, including portable and vehicle-mounted generators, on February 14, 2007, as 29 Code of Federal Regulations (CFR), Part 1910 [specifically Section 1910.304(g)(3)]. The Board is relying on the explanation of the provisions of the federal regulations in Federal Register, Volume 72, No. 30, pages 7159-7160 (February 14, 2007), as the justification for the Board's proposed rulemaking action.

### **DOCUMENT RELIED UPON**

- Federal Register, Vol. 72, No. 30, pp. 7159-7160 (February 14, 2007).

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.

This document may also be viewed on the Internet at:

[http://www.osha.gov/FedReg\\_osea\\_pdf/FED20070214.pdf](http://www.osha.gov/FedReg_osea_pdf/FED20070214.pdf)

### **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 amendments will not require local agencies or school districts to incur additional costs in complying with the proposal.

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 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, this 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 state, local and private employers will be required to comply with the prescribed standards.

### **EFFECT ON SMALL BUSINESSES**

The Board has determined that the proposed amendments may affect small businesses. However, no economic impact is anticipated.

### **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.