

**OCCUPATIONAL SAFETY
AND HEALTH STANDARDS BOARD**

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**NOTICE OF PUBLIC MEETING/PUBLIC HEARING/BUSINESS MEETING
OF THE OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD
AND NOTICE OF PROPOSED CHANGES TO TITLE 8
OF THE CALIFORNIA CODE OF REGULATIONS**

Pursuant to Government Code Section 11346.4 and the provisions of Labor Code Sections 142.1, 142.2, 142.3, 142.4, and 144.6, the Occupational Safety and Health Standards Board of the State of California has set the time and place for a Public Meeting, Public Hearing, and Business Meeting:

PUBLIC MEETING: On **December 19, 2013**, at 10:00 a.m.
in Auditorium of the State Resources Building
1416 9th Street, Sacramento, California.

At the Public Meeting, the Board will make time available to receive comments or proposals from interested persons on any item concerning occupational safety and health.

PUBLIC HEARING: On **December 19, 2013**, at 10:00 a.m.
in Auditorium of the State Resources Building
1416 9th Street, Sacramento, California.

At the Public Hearing, the Board will consider the public testimony on the proposed changes to occupational safety and health standards in Title 8 of the California Code of Regulations.

BUSINESS MEETING: On **December 19, 2013**, at 10:00 a.m.
in Auditorium of the State Resources Building
1416 9th Street, Sacramento, California.

At the Business Meeting, the Board will conduct its monthly business.

DISABILITY ACCOMMODATION NOTICE: Disability accommodation is available upon request. Any person with a disability requiring an accommodation, auxiliary aid or service, or a modification of policies or procedures to ensure effective communication and access to the public hearings/meetings of the Occupational Safety and Health Standards Board should contact the Disability Accommodation Coordinator at (916) 274-5721 or the state-wide Disability Accommodation Coordinator at 1-866-326-1616 (toll free). The state-wide Coordinator can also be reached through the California Relay Service, by dialing 711 or 1-800-735-2929 (TTY) or 1-800-855-3000 (TTY-Spanish).

Accommodations can include modifications of policies or procedures or provision of auxiliary aids or services. Accommodations include, but are not limited to, an Assistive Listening System (ALS), a Computer-Aided Transcription System or Communication Access Realtime Translation (CART), a sign-language interpreter, documents in Braille, large print or on computer disk, and audio cassette recording. Accommodation requests should be made as soon as possible. Requests for an ALS or CART should be made no later than five (5) days before the hearing.

**OCCUPATIONAL SAFETY AND HEALTH
STANDARDS BOARD**

DAVE THOMAS, Chairman

NOTICE OF PROPOSED CHANGES TO TITLE 8
OF THE CALIFORNIA CODE OF REGULATIONS
BY THE OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

Notice is hereby given pursuant to Government Code Section 11346.4 and Labor Code Sections 142.1, 142.4 and 144.5, that the Occupational Safety and Health Standards Board pursuant to the authority granted by Labor Code Section 142.3, and to implement Labor Code Section 142.3, will consider the following proposed revisions to Title 8, General Industry Safety Orders of the California Code of Regulations, as indicated below, at its Public Hearing on **December 19, 2013**.

1. TITLE 8: **GENERAL INDUSTRY SAFETY ORDERS**
Division 1, Chapter 4, Subchapter 7, Article 61, Section 4355
[Operating Rules for Compaction Equipment](#)

Descriptions of the proposed changes are as follows:

1. TITLE 8: **GENERAL INDUSTRY SAFETY ORDERS**
Division 1, Chapter 4, Subchapter 7, Article 61, Section 4355
[Operating Rules for Compaction Equipment](#)

INFORMATIVE DIGEST OF PROPOSED ACTION/POLICY STATEMENT OVERVIEW

Section 4355 of the General Industry Safety Orders (GISO) contains rules for employees to follow when they operate stationary and mobile compaction equipment used to pick up and compact refuse from residential and commercial locations. Section 4355 requires the employer to develop a written set of operating rules and that such rules are to contain the applicable provisions contained in the various subsections of Section 4355, which include but are not limited to, employee training prior to assignment and operation, use of stationary compactor locks, and observation by the operator of all persons who may be in the mobile compactor vehicle path or point of operation. Subsection (c)(2) prohibits employees from standing on the rear or side steps of the mobile compactor or at any location where the employee cannot be seen by the operator and where the employee could be struck by the mobile compactor or thrown off the vehicle.

This Section does not address the dangerous practice of employees in front of the operator (direct line of sight) standing or riding on the compactor bins, containers, or attachments in front of the vehicle operator not designed as an employee work station. This omission creates a loophole whereby an employee could be riding on a bin, hopper or other attachment in front of the operator and not be in violation of the standard in (c)(2). Such practice has resulted in a fatal fall from elevation by an employee who was in full view of the operator and rode the work box which was resting on a platform attached to the forks of a refuse truck, fell and struck his head on the box. (See Division of Occupational Safety and Health (Division) Investigative Summary, No. 202485900, Tahoe Truckee Sierra Disposal Co. Inc.). Section 4355(c)(3) currently prohibits employees from riding on a loading sill. The proposal would expand this prohibition to include other areas within the operator's view.

Board staff notes that three editions of the American National Standards Institute (ANSI) Z245.1 standard for mobile compaction equipment, dating back to 1992, contain language that speaks to the issue of unsafe working locations on the vehicle. For example, the 1992, 1999 and 2008 editions of the ANSI Z245.1 standard state in Sections 6.2.1(i), 6.2.3.2 and 6.2.3.2(b) respectively, that riding is only permitted in the cab or on the riding steps and not on any other part of the vehicle. Section 6.2.5.4(c) of the 2008 edition prohibits riding on the loading sill, the loading platform or in the hopper of the vehicle. These practices are consistent with the equipment manufacturer's recommendations. Consequently, staff believes this rulemaking proposal is consistent with those consensus standards. This regulatory proposal is intended to provide worker safety at places of employment in California.

This proposed rulemaking 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.

- Expands the current prohibition on employees riding on the loading sills of mobile refuse compaction equipment to include attachments, containers, or trash bins located in front of the operator. This will ensure that employees are not subjected to the risk of a fall from elevation and/or being struck by and run over by the vehicle or coming into hazardous contact with moving parts of the compactor that could result in a crushing action and serious injury or fatality.
- Is not inconsistent with existing state regulations. It is consistent with established national consensus standards. This proposal is part of a system of occupational safety and health regulations. The consistency and compatibility of that system's component regulations is provided by such things as: (1) the requirement of the federal government and the Labor Code to the effect that the state regulation 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).
- The proposal would ensure that employees involved in mobile compaction vehicle operations are protected from the kinds of injuries described above whether they are behind or in front of the vehicle operator and regardless of whether they are standing or attempting to ride on parts of the equipment not designed for passengers or riders.

Section 4355. Operating Rules for Compaction Equipment.

This section addresses the employer's duty to develop written mobile and stationary compaction equipment operating rules which must be conveyed to the employee via training prior to the employee operating the equipment. The training and instruction is for stationary and mobile equipment respectively and minimally includes stationary compaction lock training, ensuring all persons are clear of the points of operation prior to activation, prohibitions on the location of employees on and around the vehicle, employee riders, use of block out devices to prevent elevated portions of the equipment from falling onto the employee, and compliance with GISO Section 3314 Control of Hazardous Energy standards.

Section 4355(c)(2) currently prohibits the employees from standing in locations where the employee cannot be seen by the operator. Section 4355(c)(3) currently prohibits employees from riding on a loading sill. The proposal would expand the Section 4355(c)(3) prohibition to include, other unsafe locations, specifically, collection bins, containers or attachments in front of the vehicle operator. Employee safety thereby is enhanced by eliminating situations where employees could fall from an elevated location or could be subject to hazardous contact with the equipment, both of which could result in serious injury or death.

The proposal also makes a wording change in Section 4355(c)(2) in order to make the wording gender neutral. It is noted that by virtue of the wording of Section 4355(a), the change proposed for Section 4355(c)(3) would cause the employer's operating procedures, and employee training to be modified as well in a manner that promotes safety.

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/Significant Statewide Adverse Economic Impact Directly Affecting Businesses Including the Ability of California Businesses to Compete

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. This proposal would require the employer to amend a portion of its administrative safety program, which includes employee instruction and training to clearly indicate to employees, consistent with the proposal, that employees must never ride or otherwise position themselves on the bins, hoppers or mobile compactor front-end attachments that are in the direct line of sight of the vehicle operator. There is no specific technology, hardware or other devices that are required to comply with this proposal. Other than the time to re-write or amend the employer's existing Injury and Illness Prevention Program to address this proposed amendment, there are no discernible compliance costs. However, there could be significant savings to the employer through improved accident prevention for this issue in terms of avoiding the direct and indirect costs associated with a serious injury or fatality.

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 standards do 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 amendments may affect small businesses. However, no economic impact is anticipated.

RESULTS OF THE ECONOMIC IMPACT ANALYSIS

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.

BENEFITS OF THE REGULATION

The proposal will assure that the risk of employees being struck by and/or run over by mobile compaction equipment during operations will be effectively controlled by prohibiting employees who operate and work on mobile refuse compaction from standing or riding on equipment attached to the vehicle in front of the vehicle driver. The overall safety of mobile compaction equipment operations will be enhanced and struck-by/run over accidents shall be prevented.

ALTERNATIVES STATEMENT

The Board must determine that no reasonable alternative it considered to the regulation or that has otherwise been identified and brought to its attention would either 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 or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law than the proposal described in this Notice.

A copy of the proposed changes in STRIKEOUT/UNDERLINE format is available upon request made to the Occupational Safety and Health Standard Board's Office, 2520 Venture Oaks Way, Suite 350, Sacramento, CA 95833, (916) 274-5721. Copies will also be available at the Public Hearing.

An INITIAL STATEMENT OF REASONS containing a statement of the purpose and factual basis for the proposed actions, identification of the technical documents relied upon, and a description of any identified alternatives has been prepared and is available upon request from the Standards Board's Office.

Notice is also given that any interested person may present statements or arguments orally or in writing at the hearing on the proposed changes under consideration. It is requested, but not required, that written comments be submitted so that they are received no later than **December 13, 2013**. The official record of the rulemaking proceedings will be closed at the conclusion of the public hearing and written comments received after 5:00 p.m. on **December 19, 2013**, will not be considered by the Board unless the Board announces an extension of time in which to submit written comments. Written comments should be mailed to the address provided below or submitted by fax at (916) 274-5743 or e-mailed at oshsb@dir.ca.gov. The Occupational Safety and Health Standards Board may thereafter adopt the above proposals substantially as set forth without further notice.

The Occupational Safety and Health Standards Board's rulemaking file on the proposed actions including all the information upon which the proposals are based are open to public inspection Monday through Friday, from 8:30 a.m. to 4:30 p.m. at the Standards Board's Office, 2520 Venture Oaks Way, Suite 350, Sacramento, CA 95833.

The full text of proposed changes, including any changes or modifications that may be made as a result of the public hearing, shall be available from the Executive Officer 15 days prior to the date on which the Standards Board adopts the proposed changes.

Inquiries concerning either the proposed administrative action or the substance of the proposed changes may be directed to Marley Hart, Executive Officer, or Mike Manieri, Principal Safety Engineer, at (916) 274-5721.

You can access the Board's notice and other materials associated with this proposal on the Standards Board's homepage/website address which is <http://www.dir.ca.gov/oshsb>. Once the Final Statement of Reasons is prepared, it may be obtained by accessing the Board's website or by calling the telephone number listed above.

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STANDARDS BOARD

DAVE THOMAS, Chairman