Chapter 24

ORDER TO TAKE SPECIAL ACTION

Policy Statement: It is the policy of the Division of Occupational Safety and Health (DOSH), also known as Cal/OSHA or the Division, to consider issuance of an Order to Take Special Action when an unsafe workplace condition, which is covered by an existing Title 8 Safety Order, can only be made safe when the Division requires the employer to take a specific action or to enforce applicable provisions of the California Labor Code.

Authority: DOSH will administer this policy in compliance with all applicable laws, rules, and guidance:

- California Labor Code, Sections 6308 and 6600.5 and Title 8 of the California Code of Regulations Sections 332.3 and 332.4.

PROCEDURES:

A. USE AND APPLICATION

1. Use
   a. An Order to Take Special Action (Cal/OSHA Form 6) is an Order written by the Chief of the Division of Occupational Safety and Health, or his or her authorized representative, requiring the employer to comply with applicable provisions of Division 5 of the California Labor Code or with specific standards or orders of the Occupational Safety and Health Standards Board whose enforcement upon the employer are at the discretion of the Division.
   b. An Order to Take Special Action may be issued:
      1. To remedy an unsafe workplace condition which poses a threat to the health or safety of an employee, and which can be made safe under an existing Title 8 Safety Order only if the Division requires that the employer take a specific action in furtherance of the intent of the applicable Safety Order;

EXAMPLE 1: 8 CCR Sec. 3383(a) states: " Body protection may be required for employees whose work exposes parts of their body, not otherwise protected as required by other orders in this article, to hazardous or flying substances or objects. " If employees are exposed to hazardous substances, the Division may order the employer to provide body protection for the exposed employees by invoking the discretionary requirement found in 8 CCR Sec. 3383(a) in an Order to Take Special Action.

EXAMPLE 2: 8 CCR Sec. 5155(f) states: “Medical Surveillance. A medical surveillance program approved by the division may be required to ensure satisfactory maintenance of employee health and to ascertain the effectiveness of the control method(s).” The Division may order an employer to provide medical surveillance for exposure to contaminants such as toluene diisocyanate, for which there is no vertical standard requiring medical surveillance.

NOTE: It is not necessary to issue an Order to Take Special Action in order to require an employer to pay for required personal protective equipment (PPE). If an employer has failed to pay for PPE, a citation shall be issued under the applicable safety order.

2. To require an employer to comply with a standard, or portions of a standard, where the standard provides the Division with that option.

   EXAMPLE: 8 CCR 5199(a)(1)(H) states that this section applies to “Any other facility, service or operation that has been determined in writing by the Chief of the Division of Occupational Safety and Health through the issuance of an Order to Take Special Action, in accordance with Section 332.3 of these orders, to require application of this standard as a measure to protect employees.” This provision may be used to, for example, order TB testing in accordance with the recommendations of a local health department in a retail workplace which is not normally within the scope of the Aerosol Transmissible Disease Standard.

3. Application

An Order to Take Special Action shall have the same effect as any other Title 8 Safety Order, but shall apply only to the employment or place of employment specified in the Order to Take Special Action.

B. HAZARD IDENTIFICATION AND DOCUMENTATION

1. During the course of an inspection or investigation, if compliance personnel identify a hazardous workplace condition which poses a threat to the health or safety of an employee and which can be rendered safe under an existing Title 8

Safety Order only if the Division requires the employer to take a special action, then compliance personnel shall determine whether circumstances exist to issue an Order to Take Special Action.

2. If the hazardous condition identified during the inspection or investigation which can be rendered safe under an existing Title 8 Safety Order only if the Division requires the employer to take a special action containing medical requirements, compliance personnel shall contact the Medical Unit to determine the need for on-site Medical Unit involvement in the inspection or investigation. If it is determined that on-site Medical Unit evaluation of the hazard is necessary, compliance personnel shall follow the referral procedures set forth in Chapter 4 to obtain a Medical Unit referral. See Chapter 4.

NOTE: Where there is no applicable safety order, a Special Order may be issued. See Chapter 21.

C. INITIAL PREPARATION

1. Prior to preparing an Order to Take Special Action for issuance to the employer, compliance personnel shall first inform the District Manager that a hazardous condition has been identified which can be rendered safe under an existing Title 8 Safety Order only if the Division requires the employer to take a special action.
2. The District Manager shall then review the documentation provided by compliance personnel to verify that the identified hazardous condition is one which can be rendered safe by issuance of an Order To Take Special Action.

NOTE: If assistance is required to make a determination about the applicability of an existing Title 8 Safety Order, the District Manager shall consult with the Regional Senior Safety Engineer or Regional Senior Industrial Hygienist, or with personnel in any other appropriate administrative unit of the Division, e.g., Medical Unit, Crane Unit, Research and Standards, Occupational Carcinogen Control Unit or Legal Unit.

3. After the District Manager verifies that an Order to Take Special Action should be issued, compliance personnel shall prepare a draft of the Order to Take Special Action according to instructions found in Section I of this Chapter.

D. REVIEW

1. District Manager

After compliance personnel prepare a draft of the Order to Take Special Action, the District Manager shall review the draft and forward a copy of the draft Order to Take Special Action to the Regional Manager.

2. Regional Manager
    a. The Regional Manager shall review the draft Order to Take Special Action and approve the Order for issuance.
    b. If approved, the Regional Manager shall forward the draft Order to Take Special Action to the Chief of the Division for approval and entry into the Order to Take Special Action Log.

NOTE: At Headquarters, the draft Order to Take Special Action shall be reviewed by the Legal Unit and, as appropriate, by the Deputy Chief for Field Operations, the Deputy Chief for Health and Engineering Services and any other person deemed appropriate by the Chief.

E. ISSUANCE

1. Final Version

After the draft Order to Take Special Action has been approved for issuance by the Chief, compliance personnel shall prepare the final version of the Order to Take Special Action for issuance to the employer incorporating any changes requested by the Chief.

2. Office Issuance

All Orders to Take Special Action shall be office- issued to the employer via Certified Mail--Return Receipt Requested or a copy given to the employer, or the employer's representative, during the Closing Conference together with the Declaration of Service.

3. Closing Conference

During the Closing Conference, compliance personnel shall inform the employer who has been issued an Order to Take Special Action of the following:

    a. No civil penalties are imposed by the Division in conjunction with issuance of the Order.
    b. The employer is required to:
        1. Post the Order to Take Special Action at or near the referenced site of the hazardous condition giving rise to the Order;
        2. Position the Order to Take Special Action so as to be easily read by employees working nearby; and
        3. Maintain the posting for a period of three working days or until the unsafe condition is abated, whichever is longer.
    c. The employer has the right to appeal the action ordered by the Division in the Order, the abatement periods specified by the Division in the Order, or the reasonableness of the corrective changes required by the Division in the Order by notifying the Occupational Safety and Health Appeals Board in Sacramento within 15 working

days of receipt of the Order to Take Special Action.

F. FOLLOW-UP INSPECTIONS

Compliance personnel shall conduct a follow-up inspection of each employer who is issued an Order to Take Special Action. See Chapter 14.

G. OFFICE PROCEDURES

1. The final version of the Order to Take Special Action shall be typewritten or computer-printed by the preparer (Office Support Staff or compliance personnel).

NOTE: The Cal/OSHA Form 6X shall be used for the second and each succeeding page of the Order to Take Special Action.

2. Office Support Staff shall mail all Orders to Take Special Action to the employer via Certified Mail-- Return Receipt Requested or a copy given to the employer, or the employer's representative, during the Closing Conference together with the Declaration of Service.
3. Office Support Staff shall data enter into IMIS all Orders to Take Special Action from the Cal/OSHA Form 1B.

H. FORM DISTRIBUTION

1. Office Support Staff shall file a copy of the Order to Take Special Action in the employer's case file.
2. Office Support Staff shall also file a copy of the Order to Take Special Action in the District Office's pend file to expedite a follow-up inspection based on the Order.
3. A copy of the Order to Take Special Action and proof of service shall be sent to the Chief. A file of all Orders issued shall be maintained in the Chief’s office.

I. FORM COMPLETION

1. District Office

   Enter the name, address and telephone number of the issuing District Office.

2. Employer Address

   Enter the name and mailing address of the employer.

3. Page Number

   Enter the page number, e.g., 1 of 3. Use the Cal/OSHA Form 6X for additional pages.

4. Worksite Inspected, Inspecting CSE/IH and Inspection Date

   Enter the address of the worksite inspected, the name of the inspecting compliance personnel and the date the inspection was conducted.

5. Item Number and Number of Instances
   a. Item Number
      Enter an item number.
   b. Number of Instances
      Enter the number of instances of the item.

6. Basis of the Order to Take Special Action -- California Code of Regulations

   Enter the section of the California Code of Regulations which forms the basis for the Order to Take Special Action.

7. Special Action

   Enter the text of the Order to Take Special Action.

8. Abatement Date

   Enter the date fixed for compliance with the provisions of the Order to Take Special Action.

9. Signatures and Date of Issuance

   Enter the signature of the issuing compliance personnel and the District Manager together with the date of issuance.

10. Region, District, ID Number, Optional Report Number and Cal/OSHA Form 1 Number
    Enter the Region and District number, the ID Number of the issuing compliance personnel, the Optional Report Number and the preprinted nine-digit Cal/OSHA Form 1 number.