

**OCCUPATIONAL SAFETY
AND HEALTH STANDARDS BOARD**

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Attachment No. 2

INITIAL STATEMENT OF REASONS

CALIFORNIA CODE OF REGULATIONS

TITLE 8: Chapter 4, Subchapter 3 of the Compressed Air Safety Orders and Appendices A and B and Subchapter 7, New Article 154 of the General Industry Safety Orders

Transfer of Compressed Air Safety Order
(Title 8 Reform Element 1, Part 1)

BACKGROUND

This rulemaking action was initiated by the Occupational Safety and Health Standards Board (Board) as a result of the implementation of the Title 8 Reform Project. The Reform Project was first considered in response to Executive Orders W-127-95 and W-131-96. The Executive Orders directed all state agencies to review their standards and, where possible, repeal unnecessary standards, consolidate duplicative standards, and amend existing state standards to minimize the negative impact on California business and the economy. As a result and as part of the 1997 Budget Act that the Legislature approved and the Governor signed, the Board was given authority to proceed with Title 8 Reform. Numerous advisory committee meetings were convened to consider the need and scope of reform. During the advisory committee meetings, a consensus was reached that: 1) there was a need to better organize the safety orders in Title 8, Chapter 4, to make the different occupational safety and health requirements easier to locate; 2) any Title 8, Chapter 4, reform activities must be limited to non-substantive changes only; 3) the reform of Title 8, Chapter 4, should include a review and possible reform of all the subchapters in Chapter 4, not just Subchapter 7; and 4) the reform of Title 8, Chapter 4, would consist of eight reform elements as described in Attachment No. 4. This rulemaking is the first of several rulemaking packages that will be developed to implement the Title 8 Reform Project.

Reform Element 1, Parts 1 and 2

Reform Element No. 1, Part 1, includes relocating 14 existing sections titled "Compressed Air Safety Orders," and its two Appendices, currently located in Subchapter 3, into the GISO in Group 26. Additionally, Reform Element No. 1, Part 2, includes identifying all safety orders specific to the agriculture industry and relocating these standards into Subchapter 3, titled "Agriculture Safety Orders (AgSO's)." A separate subchapter containing all agriculture related safety orders would provide one of California's largest industries with an industry specific subchapter that contains safety orders unique to their operations. This reform element will relocate approximately 35 existing sections from other subchapters into Subchapter 3. Both Parts 1 and 2 of Reform Element 1 will be limited to non-substantive changes only.

As previously stated, the goal of the Title 8 Reform Project is to make the safety orders easier to find, more user friendly, and understandable, thereby increasing both employer and employee awareness, understanding, and compliance with the safety orders affecting their workplace.

SUMMARY

The Occupational Safety and Health Standards Board (Board) initiates this rulemaking as part of the implementation of Title 8 Reform Element No.1, Part 1. The proposed rulemaking to transfer the Compressed Air Safety Orders and Appendices A and B from Subchapter 3 to Subchapter 7, General Industry Safety, within Group 26, Diving Operations, as new Article 154 will enhance the organization of Title 8, Chapter 4.

The intent of this proposal is to make the Compressed Air Safety Orders easier to locate and understand, by reorganizing the sections and its Appendices into a more logical order and location. The proposal is intended to increase both employer and employee awareness, understanding, and compliance.

This rulemaking action proposes to transfer all the CASO's from Subchapter 3 into Group 26 of the General Industry Safety Orders as new Article 154, in their entirety. The proposed rulemaking action consists only of non-substantive, editorial, reformatting, and renumbering of articles, sections, subsections, and grammatical revisions associated with the transfer. All proposed revisions are clearly indicated in the regulatory text in underline and strikeout format. Additionally, any additional non-substantive revisions to the regulatory language currently contained in Subchapter 3, CASO, and its Appendices are highlighted in underline and strikeout format in Subchapter 7, Group 26 of the GISO, as new Article 154.

It is noted that because the proposed transfer of the CASO is non-substantive, these proposed changes are considered changes without regulatory effect and could be accomplished using the Section 100 rulemaking process. However, because of the large number of safety orders proposed to be transferred, this proposal will utilize the standard rulemaking process pursuant to the Administrative Procedure Act and Title 1 of the California Code of Regulations.

SPECIFIC PURPOSE AND FACTUAL BASIS OF PROPOSED ACTION

Reform Element 1, Part 1 - Subchapter 3, Compressed Air Safety Orders

Subchapter 3, consisting of 14 sections and two Appendices, contains safety orders and corresponding decompression tables that apply to places of employment in California whenever persons are employed in compressed air, exclusive of diving work. The Compressed Air Safety Orders (CASO's) and Appendices A and B in Subchapter 3 and the Diving Operations safety orders in Group 26 of the General Industry Safety Orders (GISO's) address related, if not similar hazards, processes and principles to control the worksite hazards, and at times use similar equipment. Therefore, it is logical to combine these two sets of safety orders under the same

group heading, Group 26 of the General Industry Safety Orders, to improve the organization of Chapter 4, Title 8, CCR. This rulemaking proposes to transfer all the sections and Appendices of Subchapter 3, CASO's, into a more logical order and location.

This rulemaking action would transfer all the CASO sections and Appendices to Group 6 of Subchapter 7, GISO, and is necessary to enhance the organization of these safety orders and its two Appendices, thereby improving the accessibility of the standards by making the CASO's easier to locate. This proposal is non-substantive as the CASO's and related Appendices are proposed for transfer in their entirety into new Article 154, entitled Pressurized Worksite Operations, within Group 26 of the General Industry Safety Orders, with only editorial, reformatting, and renumbering of articles, sections, and subsections, and grammatical revisions associated with this proposed transfer.

Group 26, New Article 154. Pressurized Worksite Operations

This rulemaking proposal will transfer all sections and related Appendices contained in the CASO's, currently located in Subchapter 3, into new Article 154, within Group 26 of the GISO. This proposal, to relocate the CASO's and Appendices A and B into new Article 154, is necessary to enhance the organization of Chapter 4, Title 8, CCR, and thereby improve the accessibility of the standards by making the CASO's easier to locate within Title 8. This proposal is non-substantive as the proposed transfer of the CASO's and related Appendices, currently contained in Subchapter 3, are transferred into new Article 154, in their entirety, with only editorial, reformatting, and renumbering of articles, sections, and subsections, and grammatical revisions associated with this proposed transfer.

Sections 6074, 6075, 6080, 6095, 6105, 6110, and 6115 are verbatim with no proposed revisions and are proposed for transfer from existing Sections 1204, 1205, 1210, 1225, 1240, 1250, and 1270, respectively.

Section 6070. Application.

Existing Section 1200, entitled "Application of Orders" is proposed for transfer to new Section 6070, entitled "Application." Existing Section 1200 contains a description of worksite conditions related to employee exposure to a compressed air environment, which would render the worksite subject to the safety orders in proposed Article 154.

It is proposed to delete the phrase "of Orders" from the title of new Section 6070 as this phrase is unnecessary.

As clearly noted in the text, the proposed amendments editorially change the original wording from "The following Orders" (indicating all safety orders in Subchapter 3) to "The Orders in this Article" (indicating all safety orders in new Article 154). This editorial change limits the application of the relocated CASOs to the safety orders in Article 154. Additionally, it is proposed to delete the wording "Machines, equipment, processes, safety devices, and operations not specifically covered by these Orders shall be governed by other applicable safety orders." This

proposal removes unnecessary wording that is not necessary, since the intent of this requirement is addressed in Sections 3200 and 3202. The proposed technical changes are non-substantive.

Section 6085. Decompression for Normal Conditions, Section 6087. Decompression After Repetitive Exposures, and Section 6089. Decompression by Decanting.

Existing Section 1215, entitled “Normal Condition;” existing Section 1216, entitled “Repetitive Exposures;” and existing Section 1217, entitled “Decanting” are proposed for transfer to new Section 6085, entitled “Decompression for Normal Conditions;” new Section 6087, entitled “Decompression After Repetitive Exposures;” and new Section 6089, entitled “Decompression by Decanting,” contained in new Article 154 entitled “Pressurized Worksite Operations.”

Section 6085, Section 6087, and Section 6089 contain decompression requirements and methodology after employees completed specific types of compressed air exposures as indicated in each of the subject sections.

The proposed editorial changes to the titles of new Section 6085, new Section 6087, and new Section 6089, as clearly noted in the text, will clarify each section’s content. This proposal will clearly indicate that these sections contain safety orders associated with decompression, as identified by the Article’s title of the existing sections and will aid in locating the appropriate safety orders when using the table of contents. The proposed editorial changes are non-substantive; however, this proposal is necessary to improve locating the appropriate safety orders when using the table of content.

Section 6090. Air Locks.

Existing Section 1220 is proposed for transfer to new Section 6090. Section 6090 contains employee decompression and facility requirements when using an air lock system. The required methodologies include references to decompression tables in Appendices A and B; Section 6089, Decompression by Decanting; and Section 5143, General Requirements of Mechanical Ventilation Systems, also in the GISO.

As clearly noted in the text, the proposed amendments change the section references in subsection (a) from Section 1217 to Section 6089, and in subsection (b) from Section 1280 to Section 6120. This proposal accommodates the section number changes of the subject safety orders as the result of the proposed relocation of the CASO’s into the GISO. Additionally, this proposal deletes the phrases “the CCR, Title 8,” and “of the General Industry Safety Orders” from the reference to Section 5143 in subsection (p). These amendments are proposed as both the referencing and referenced section are located in the same subchapter (GISO), and therefore the references to the CCR, Title 8, and the GISO, by convention, are unnecessary. The proposed revisions are non-substantive.

Section 6100. Temperature, Illumination, Sanitation and Ventilation.

Existing Section 1220 is proposed for transfer to new Section 6090. Section 6100 contains minimum facility requirements for working chambers operated under compressed air conditions.

As clearly noted in the text, amendments are proposed in subsection (e) to delete the reference to the phrase “of the General Industry Safety Orders” as it refers to Section 5144(e) and in subsection (g) to delete the references to the phrases “CCR, Title 8,” and “of the General Industry Safety Orders” as these phrases refer to Section 5155. This proposal eliminates unnecessary wording, as both the referencing and referenced section are located in the same subchapter (GISO) and references to the CCR, Title 8, and the GISO, by convention, are unnecessary. The proposed revisions are non-substantive.

Section 6120. Medical Control.

Existing Section 1280 is proposed for transfer to new Section 6120. Section 6120 contains requirements for medical attendance by a physician under compressed air conditions.

As clearly noted in the text, amendments are proposed in subsection (a)(2) to delete the reference to the phrase “of the General Industry Safety Orders” as it refers to Section 6053 and in subsection (a)(5) to delete the reference to the phrase “of the General Industry Safety Orders” as it refers to Section 6058. This proposal eliminates unnecessary wording, as both the referencing and referenced section are located in the same subchapter (GISO) and references to the GISO, by convention, are unnecessary. The proposed revisions are non-substantive.

Appendices A and B

Appendix A contains numerous decompression tables consistent with corresponding decompression tables in federal standard 29 CFR, §1926, Subpart S, Appendix A. Appendix B contains tables used to tabulate the adjusted compressed air exposure times for employees to be in compressed air more than once in a 12-hour period. These tables were adapted from the U.S. Navy Diving Tables.

All tables in Appendices A and B are proposed for relocation in its entirety into new Article 154, Group 26, of the General Industry Safety Orders. Additionally, Appendices A and B are proposed for editorial reformatting to improve clarity and readability.

Appendix B, Table 3, contains an omission in the instructions for use of Table 3 paragraph. The example statement in this paragraph inadvertently omitted part of the steps to arrive at the repetitive Group “H.” This proposal will correct the existing example by adding language immediately following the phrase “enter the table at 27 psig” that states “(the next higher pressure, as 26 psig is not listed) and move horizontally until 50 minutes”. The proposal is necessary to render the example for the instructions complete and understandable.

DOCUMENTS RELIED UPON

- 1) Executive Order W-127-95.
- 2) Executive Order W-131-96.

These documents are 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.

This proposal is non-substantive and is intended to enhance the format and order of the Compressed Air Safety Orders. Therefore, this rulemaking is proposed to provide a positive impact on California businesses by making the standards easier to locate and understand by the regulated public.

Cost Impact on Private Persons or Businesses

The Board is not aware of any cost impact 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. Therefore, reimbursement by the state is not required pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code because these standards do 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.” Because the transfer of the CASO is non-substantive, this proposal 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.)

These proposed standards do not require local agencies to carry out the governmental function of providing services to the public. Rather, the standards require local agencies to take certain steps to ensure the safety and health of their own employees only. Moreover, these proposed standards do 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.)

These proposed standards do not impose unique requirements on local governments. All employers - state, local and private - will be required to comply with the prescribed standards.

EFFECT ON SMALL BUSINESSES

The Board has determined that the proposed amendments will not affect small businesses because the proposed changes are non-substantive. The Compressed Air Safety Orders and Appendices A and B are proposed for transfer in their entirety into new Article 154, Group 26, of the General Industry Safety Orders, with only editorial, reformatting, and renumbering of articles, sections, and subsections, and grammatical revisions associated with this proposed transfer.

ASSESSMENT

The adoption of the proposed amendments to these standards 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.