

INITIAL STATEMENT OF REASONS
PROPOSED TEXT OF REGULATIONS OF THE
DIVISION OF OCCUPATIONAL SAFETY AND HEALTH
CALIFORNIA CODE OF REGULATIONS

Title 8: Chapter 3.2
Subchapter 2, Regulations of the Division of Occupational Safety and Health
Article 2.7 Approval of Asbestos Training and Course Providers

The Division proposes the adoption and incorporation of **Section 341.17: Approval of Asbestos Cement Pipe Training and Asbestos Cement Pipe Course Providers for the Purpose of Employer Exemption from Registration Requirements** into Article 2.7 to specify the requirements for approval of training conducted to qualify for exemption from Registration.

PROBLEM ADDRESSED BY PROPOSED ACTION

LC 9021.9 and 8 CCR section 1529(k)(9)(B) require that asbestos training courses and course purveyors providing training for Asbestos Cement (AC) Pipe Workers be approved by the Division as one of the conditions for exemption of this activity from registration requirements.

SPECIFIC PURPOSE OF PROPOSED ACTION FACTUAL BASIS OF PROPOSED ACTION

The purpose is to propose regulations that will establish:

- ? California State criteria for AC Pipe Worker asbestos training courses.
- ? A means for Division approval of AC Pipe Worker asbestos training courses meeting California State criteria.

California Labor Code sections 6501.8 and 9021.9 establish that work with AC pipe does not require employer registration under certain conditions. One of the conditions is that employees be trained under a Division approved training program.

Section 341.17: Approval of Asbestos Cement Pipe Training and Asbestos Cement Pipe Course Providers for the Purpose of Exemption from Registration Requirements.

Subsection (a) Scope and Application.

Requires that asbestos course providers submit training programs to the Division for approval. Such training is needed to qualify for registration exemption under Section 1529 (r) and California Labor Code (LC) sections 6501.8(c) and 9021.9.

Purpose. To make available to contractors one of the elements required for exemption from registration requirements.

Rationale. Course providers desiring to provide training required for registration exemption must apply to the Division.

Subsection (b) Criteria for Asbestos Cement Pipe Course Approval.

Establishes the minimum set of topics (5) and number of hours (4) to be covered in AC pipe training.

Purpose. To establish minimum requirements for the course by indicating what topics and the number of hours that are required to qualify for Division approval of an AC pipe training course.

Rationale. The list of training topics included in this subsection is mandated in LC section 9021.9(a). An advisory committee agreed upon the number of hours (4) as the appropriate amount of time to train employees on the course material for the initial course and (2) hours for the refresher.

Subsection (c) Applying for Course Approval.

Sets forth the information and materials which must be sent to the Division by any individual or entity which desires approval to provide AC pipe training.

Purpose. To implement the process for obtaining approval to provide AC pipe training.

Rationale. LC 9021.9 (a) and (b) require the Division to approve training entities and course content for AC pipe workers to assure that employees engaged in regulated work with AC pipe are adequately trained even though their employers are not registered abatement contractors.

Subsection (d) Application Fee.

Specifies the fee for approval of AC pipe training courses.

Purpose. To cover the Division's costs in administering the approval program.

Rationale. LC 9021.9 (c) directs the Division to charge training entities an appropriate fee to administer the approval of training courses directed to workers engaged in operations involving asbestos-containing construction materials. The fee schedule is based on estimated Division operational costs to administer the program and is consistent with the fee required for similar training approvals included in Section 341.16.

Subsection (e) Processing of Application.

Requires that the Division informs any course approval applicant, within 30 days of receipt of the application, that the application is approved or that it is deficient and what additional information is required. It also requires the Division to notify the applicant within 20 business days that the application is approved and issue a course approval number, or specify the reasons the application is denied.

Purpose. To inform the applicant in a timely manner whether or not additional information is needed to process the application. The 20 business days will allow the Division time to review the course materials and to inform the applicant in a timely matter of the outcome.

Rationale. Experience with similar reviews indicates that 30 days is a reasonable turn-around time for the Division's initial response to an applicant. Twenty business days was also considered a reasonable turn-around time to notify the applicant of the reviews outcome.

Subsection (f) Training Records.

For Division approved AC pipe training, this subsection requires the training provider to record the names of trainees, training dates, and instructor identity. It requires that copies of training records be provided to the Division upon request.

Purpose. To create documentation that the required training has been performed.

Rationale. One of the conditions set forth in LC 6501.8 (c) for being excluded from the “asbestos-related work” definition (and therefore exempt from registration requirements) is that Division approved training must be provided to AC pipe workers. Records required in this subsection will enable providers to show that they have met this condition.

Subsection (g) Revocation of Course Approval.

This subsection provides that the Division may revoke any course approval for good cause and after giving the course provider written notice and a hearing opportunity. It also provides that the Chief of the Division or authorized designee shall preside over the hearing, and that failure to provide the required training constitutes good cause. The Chief’s decision may be appealed to the Director who decision is final except for any rehearing or judicial review provided by law.

Purpose. To establish a process that protects course providers from arbitrary adverse action by the Division, but allows the Division to withdraw approval in the event that a course provider claims falsely to have performed training required under this section.

Rationale. Due process is a statutory requirement of state and federal law.

Technical Documents Relied Upon

None.

IDENTIFIED ALTERNATIVES THAT WOULD LESSEN ADVERSE
ECONOMIC IMPACT ON SMALL BUSINESS

No alternatives considered would lessen economic impact. It is anticipated that there will be no adverse economic impact on small businesses due to implementation of these proposed regulations.

Specific Technology or Equipment

This proposal will not mandate the use of specific technologies or equipment.

Business Impact

This regulation will not have a significant adverse economic impact on businesses.