



Memorandum

Date: July 25, 2017

To: Marley Hart, Executive Officer
Occupational Safety and Health Standards Board
2520 Venture Oaks Way, Suite 350
Sacramento, CA 95833

From: Juliann Sum, Chief
Cal/OSHA

A handwritten signature in black ink, appearing to be "JS", written over the name Juliann Sum.

Subject: Request for change in Title 8 sections 1504, 1526, 3364, 3457, 5192 to accommodate Health and Safety Code all-gender single use toilet requirements.

The Title 8 regulations need to be updated to eliminate conflict with Health and Safety Code section 118600. The Health and Safety Code requires single-user toilet facilities with no more than one flushable toilet and one urinal to be identified as all-gender toilet facilities by signage whereas Title 8 regulations specify separate toilet facilities for each sex.

The attached Form 9 proposes language to remedy the inconsistency.

Cal/OSHA 9

State of California
Department of Industrial Relations
Division of Occupational Safety and Health

1. Date: 7/24/17
2. Eng/IH: Eric Berg
3. Region/District/Unit: Research and Standards

REQUEST FOR NEW, OR CHANGE IN EXISTING, SAFETY ORDER

4. Industry:

General Industry, Construction, Agriculture

5. Proposal for New Safety Order or Change in Existing Safety Order:

This is a proposal for an amendment to existing safety orders.

**PART 1
NEW SAFETY ORDER**

6. Hazard Description (include process, condition, machinery, equipment or product involved):

n/a – see Part 2

7. Recommended New Safety Order Language (Use any guidelines, standards or codes of work practices):

n/a – see Part 2

**PART 2
CHANGE IN EXISTING SAFETY ORDER**

8. Reason(s) for request (employer's appeal granted, advice of Legal Unit Staff, Safety Order needs clarification or other):

The Title 8 regulations need to be updated to eliminate conflict with Health and Safety Code section 118600. The Health and Safety Code requires single-user toilet facilities with no more than one flushable toilet and one urinal to be identified as all-gender toilet facilities by signage whereas Title 8 regulations specify separate toilet facilities for each sex.

9. Section/Subsection reference to existing Title 8 Safety Order:

- Section 1504, Definitions
- Section 1526(a), Toilets at Construction Job Sites
- Section 3364(a), Sanitary Facilities
- Section 3457(b), Definitions
- Section 3457(c)(2), Toilet and Hand Washing Facilities
- Section 5192(a)(3), Definitions
- Section 5192(n)(3), Toilet facilities

10. Suggested change(s) to existing Safety Order (exact new wording):

Section 1504. Definitions

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Water Closet. A plumbing fixture (which may be used for both defecation and urination) in which the waste matter is removed by flushing with water.

Section 1526. Toilets at Construction Jobsites.

(a) A minimum of one separate toilet facility shall be provided for each 20 employees or fraction thereof of each sex. Such facilities may include both toilets and urinals provided that the number of toilets shall not be less than one half of the minimum required number of facilities.

EXCEPTION 1: Where there are less than 5 employees, separate toilet facilities for each sex are not required provided the toilet facilities can be locked from the inside and contain at least one toilet.

EXCEPTION 2: Single-user toilet facilities with no more than one water closet and one urinal with a locking mechanism controlled by the user may be identified as all-gender.

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Section 3364. Sanitary Facilities.

(a) Separate toilet facilities shall be provided for each sex according to the following table:

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EXCEPTIONS:

(1) When there are less than five employees, separate toilet rooms for each sex are not required provided toilet rooms can be locked from the inside and contain at least one water closet. (Title 24, Part 5, Section 5-910 (a)(1))

(2) Employees engaged in hand-labor operations at agricultural establishments are subject to the sanitation provisions of Section 3457.

(3) Single-user toilet facilities with no more than one water closet and one urinal with a locking mechanism controlled by the user may be identified as all-gender.

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Section 3457. Field Sanitation

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(b) Definitions

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Water Closet. A plumbing fixture (which may be used for both defecation and urination) in which the waste matter is removed by flushing with water.

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(c) Requirements

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(2) Toilet and handwashing facilities.

(A) Separate toilet facilities for each sex shall be provided for each twenty (20) employees or fraction thereof. One handwashing facility shall be provided for each twenty (20) employees or fraction thereof. Where there are less than five employees, separate toilet rooms for each sex are not required provided toilet rooms can be locked from the inside and contain at least one water closet. Urinals may be installed instead of water closets in toilet rooms to be used only by men provided that the number of water closets shall not be less than two-thirds the minimum number of toilet facilities.

Exception 1: An employer may provide transportation to toilet and handwashing facilities, as an alternative means of compliance if: 1. employees perform field work for a period of less than two (2) hours (including transportation time to and from the field), 2. fewer than five (5) employees in any agricultural establishment are engaged in hand-labor operations on any given day, or 3. employees are not engaged in hand-labor operations.

Exception 2: Single-user toilet facilities with no more than one water closet and one urinal with a locking mechanism controlled by the user may be identified as all-gender.

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Section 5192. Hazardous Waste Operations and Emergency Response.

(a) Scope, Application and Definitions.

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(3) Definitions

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Water Closet. A plumbing fixture (which may be used for both defecation and urination) in which the waste matter is removed by flushing with water.

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(n) Sanitation at Temporary Workplaces.

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(3) Toilet facilities.

(A) A minimum of one separate toilet facility shall be provided for each 20 employees or fraction thereof of each sex. Such facilities may include both toilets and urinals provided that the number of toilets shall not be less than one half of the minimum required number of facilities.

EXCEPTION 1: Where there are less than 5 employees, separate toilet facilities for each sex are not required provided the toilet facilities can be locked from the inside and contain at least one toilet.

EXCEPTION 2: Single-user toilet facilities with no more than one water closet and one urinal with a locking mechanism controlled by the user may be identified as all-gender.

11. 
Signature of Requestor

12. _____
Signature of Supervisor