

DEPARTMENT OF INDUSTRIAL RELATIONS
Occupational Safety and Health Standards Board
2520 Venture Oaks Way, Suite 350
Sacramento, CA 95833
Tel: (916) 274-5721 Fax: (916) 274-5743
Website address www.dir.ca.gov/oshsb



INITIAL STATEMENT OF REASONS

CALIFORNIA CODE OF REGULATIONS

TITLE 8: CHAPTER 3.5, SUBCHAPTER 1 Section 411

Applications For Permanent Variances

SPECIFIC PURPOSE AND FACTUAL BASIS OF PROPOSED ACTION

Pursuant to Labor Code section 143.2, the Occupational Safety and Health Standards Board (Board) has adopted a number of regulations that govern Board consideration of permanent variances and appeals from temporary variances from occupational safety and health standards. Changes in technology necessitate an updating of the Board's procedural rules, to eliminate the requirement that employers submit one original and five copies of variance applications. The Board proposes to allow employers to submit one variance application (instead of five copies plus the original), and one copy of any photographs, blueprints or other illustrative materials (instead of six copies), due to the current feasibility of electronic copy distribution.

The elimination of the requisite six copies saves printing and shipping costs for the applicant, and reduces the amount of physical storage the Board needs for these applications. This will help prevent delays in application processing, reduce costs for both applicants and the Board in filing and distributing variance documents to the parties, and contribute to reduction in greenhouse gas emissions that contribute to global climate change.

The Board evaluated the proposed amendments regulation pursuant to Government Code section 11346.5, subdivision (a)(3)(D) and has determined that the changes to the regulation are not inconsistent or incompatible with existing state regulations. Section 411 is a state regulation that is part of a federal system of occupational safety and health regulations that requires: (1) state regulations to be at least as effective as their federal counterparts; and (2) all state occupational safety and health rulemaking be channeled through a single entity (the Standards Board). Therefore, this proposal is intended to ensure the consistency and compatibility with that system's component regulations. The Board proposes to make the following amendments to the administrative regulations pertaining to requests for permanent variances from occupational safety and health standards.

Section 411. Applications for Permanent Variances.

Section 411 specifies the requirements for a completed permanent variance application.

In subsections (b) and (b)(9), the Board proposes to allow employers to submit one variance application (instead of one original and five copies), and one copy of any photographs, blueprints or other illustrative materials (instead of six copies). Due to advancing technology, the Board can scan and electronically distribute the applications to various individuals involved in the evaluation and review process.

The changes are necessary to save printing and shipping costs for the applicant, and reduce the amount of physical storage the Board needs for these applications.

BENEFITS OF THE PROPOSED ACTION

Through the variance process, applicants request permission from the Board to deviate from established safeguards, which are required under title 8. By streamlining the process through elimination of the requirement that applicants send six duplicative copies of their application and supporting materials, the Board will make the application process simpler and less expensive for applicants. Removing the requirement to provide six copies will also eliminate instances where an application is rejected for failure to provide the requisite number of copies. This will make the process more efficient for applicants, employees, and other parties to these proceedings. These improvements to the process will further the goals of the Occupational Safety and Health Act, by making the variance process faster and more efficient.

Lowering paper usage and utilizing electronic distribution can also reduce greenhouse gas emissions that contribute to global climate change and can help sustain the environment.

TECHNICAL, THEORETICAL AND/OR EMPIRICAL STUDIES, REPORTS OR DOCUMENTS RELIED ON BY THE BOARD

None.

PETITION

This proposal was not the result of a petition.

ADVISORY COMMITTEE

The proposal was developed without the assistance of an advisory committee.

FIRE PREVENTION STATEMENT

This proposal does not include fire prevention or protection standards. Therefore, approval of the State Fire Marshal pursuant to Government Code Section 11359 or Health and Safety Code Section 18930(a)(9) is not required.

SPECIFIC TECHNOLOGY OR EQUIPMENT

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

ECONOMIC IMPACT ANALYSIS/ASSESSMENT

The proposed regulation will not affect the: (1) creation or elimination of California jobs, (2) creation of new businesses or elimination of existing California businesses, or (3) expansion of existing California businesses, because the amendments only reduce the number of variance application copies submitted.

**EVIDENCE SUPPORTING FINDING OF NO SIGNIFICANT STATEWIDE ADVERSE ECONOMIC
IMPACT DIRECTLY AFFECTING BUSINESSES**

The Board has made an initial determination that this proposal will not result in a significant, statewide adverse economic impact directly affecting businesses/individuals, including the ability of California businesses to compete with businesses in other states.

Permanent variance applicants provide one original application and five copies as required under the current regulation. The proposed regulatory amendments only reduce the number of applications and illustrative materials Employers are required to submit.

**REASONABLE ALTERNATIVES TO THE PROPOSAL AND THE BOARD'S REASONS FOR REJECTING
THOSE ALTERNATIVES**

No reasonable alternatives to the proposal were identified or brought to the Board's attention.