

DEPARTMENT OF INDUSTRIAL RELATIONS
Occupational Safety and Health Standards Board
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INITIAL STATEMENT OF REASONS

CALIFORNIA CODE OF REGULATIONS

Construction Safety Orders

Sections 1504 and 1526

General Industry Safety Orders

Sections 3361, 3364, 3437, 3457 and 5192

Single-User Toilet Facilities

SPECIFIC PURPOSE AND FACTUAL BASIS OF PROPOSED ACTION

The purpose of the proposal is to allow for employer compliance with Title 8 toilet facility requirements by means of single-user facilities designated for all-gender use while also in compliance with all-gender designation requirements pursuant to Health and Safety Code (HSC) Section 118600.

As a result of California Assembly Bill 1732, Chapter 818, which became effective on March 1, 2017, changes to Title 8 are necessary to address potential conflicts between Title 8 toilet facilities requirements, and those of the HSC Section 118600 concerning single-user facilities. The proposal does so by making allowance for additional gender-neutral means of compliance with pre-existing Title 8 requirements, while conforming to the single-user toilet facility requirements of HSC Section 118600.

Existing Title 8 regulations require, with limited exception, that toilet facilities be designated by sex. Proposed changes allow for compliance with Title 8 toilet facility requirements by means of single-user facilities designated for all-gender use while also in compliance with all-gender designation requirements pursuant to HSC Section 118600, as amended with passage of Assembly Bill 1732, Chapter 818 (effective March 1, 2017). Also toward that purpose, the proposal includes an addition to Title 8 definitions for the term "single-user toilet facility" which conforms to the term as defined per HSC Section 118600. The existing exception provided to employers having fewer than five employees from the requirement to have separate toilet facilities for each sex, is made clearer in allowing employers to designate single-user toilets as all-gender without changing the number of toilets required.

The proposed changes are necessary for the purpose of removing a potential conflict between Title 8 and HSC Section 118600 single-user toilet facility regulations. The proposal also serves the purpose of allowing more employers to meet Title 8 toilet facility requirements by means of single-user toilet facilities also compliant with HSC Section 118600 gender-neutral designation requirements.

The proposed amendments to Title 8 are as follows:

Section 1504(a). A definition is added for the term “Single-User Toilet Facility,” to conform to the term as defined per HSC Section 118600.

Section 1526(a). The existing exception provided to employers having fewer than five employees from the requirement to have separate toilet facilities for each sex, is made clearer in allowing employers to designate single-user toilets as all-gender without changing the number of toilets required.

A second exception is added to allow employers having any number of employees to designate single-user toilet facilities for all-gender use, so long as the total quantity of provided toilet facilities is no fewer than otherwise required. Gender-specific multi-user facilities are provided in equal number to each sex, so that men and women have access to the same total number of toilet facilities.

Section 3361. A definition is added for the term “Single-User Toilet Facility,” to conform to the term as defined per HSC Section 118600.

Section 3364(a). The existing exception provided to employers having fewer than five employees from the requirement to have separate toilet facilities for each sex, is made clearer in allowing employers to designate single-user toilets as all-gender without changing the number of toilets required.

A second exception is added to allow employers having any number of employees to designate single-user toilet facilities for all-gender use, so long as the total quantity of provided toilet facilities is no fewer than otherwise required. Gender-specific multi-user facilities are provided in equal number to each sex, so that men and women have access to the same total number of toilet facilities.

Existing exception (a)(2) is re-numbered to (a)(3).

Section 3437. A definition is added for the term “Single-User Toilet Facility,” to conform to the term as defined per HSC Section 118600.

Section 3457(b). A definition is added for the term “Single-User Toilet Facility,” to conform to the term as defined per HSC Section 118600.

Section 3457(c)(2)(A). The allowance provided to employers having fewer than five employees from the requirement to have separate toilet facilities for each sex, is deleted and added as exception (1) to be consistent with other toilet requirement sections in Title 8.

A second exception is added to allow employers having any number of employees to designate single-user toilet facilities for all-gender use, so long as the total quantity of provided toilet facilities is no fewer than otherwise required. Gender-specific multi-user facilities are provided

in equal number to each sex, so that men and women have access to the same total number of toilet facilities.

The existing exception is re-numbered to (3).

Section 5192(a)(3). A definition is added for the term “Single-User Toilet Facility,” to conform to the term as defined per HSC Section 118600.

Section 5192(n)(3)(A). The existing exception provided to employers having fewer than five employees from the requirement to have separate toilet facilities for each sex, is made clearer in allowing employers to designate single-user toilets as all-gender without changing the number of toilets required.

A second exception is added to allow employers having any number of employees to designate single-user toilet facilities for all-gender use, so long as the total quantity of provided toilet facilities is no fewer than otherwise required. Gender-specific multi-user facilities are provided in equal number to each sex, so that men and women have access to the same total number of toilet facilities.

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

1. Memorandum dated July 25, 2017 from the Division of Occupational Safety and Health and an attached “Request for New or Change in Existing Safety Order.”
2. California Assembly Bill 1732, Chapter 818, dated September 29, 2016.
3. Notice of Proposed Emergency Regulations dated July 25, 2017, issued by the Department of Fair Employment and Housing, Fair Employment and Housing Council for implementation of Title 24 signage requirements.

These documents are available for review Monday through Friday from 8:00 a.m. to 4:30 p.m. at the Occupational Safety and Health Standards Board Office located at 2520 Venture Oaks Way, Suite 350, Sacramento, California.

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 proposal results in no additional costs or savings beyond those imposed by existing regulations. The proposed changes to Title 8 do not impose any new mandates upon employers, but rather makes allowance for compliance with existing Title 8 requirements, which conforms with the single-user toilet facility requirements of HSC Section 118600, as amended by Assembly Bill 1732, Chapter 818, effective March 1, 2017. The proposed regulation ultimately protects the health and safety of California workers but does not offer a direct benefit to the state's environment. Accordingly, this proposal will have no economic impact on California businesses and more specifically not impact the following:

- The creation or elimination of jobs within the State of California,
- The creation of new businesses or the elimination of existing businesses within the State of California, and
- The expansion of businesses currently doing business within the State of California.

BENEFITS OF THE PROPOSED ACTION

A key benefit to the regulated public results from addressing a potential conflict between existing Title 8 regulations and the HSC Section 118600 requirements concerning single-user toilet facilities. It will benefit the regulated public by making allowance for gender-neutral compliance with pre-existing Title 8 toilet facilities requirements, consistent with the public policy promulgated pursuant to HSC Section 118600, as amended by Assembly Bill 1732, Chapter 818, effective March 1, 2017. The proposed regulation ultimately protects the health and safety of California workers but does not offer a direct benefit to the state's environment.

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. The proposal comprises conditional allowances, rather than mandates.

There is no anticipated cost to the regulated public to comply with the changes to Title 8. The changes are needed in order to resolve a potential conflict between Title 8 and HSC Section 118600, by allowing for compliance with pre-existing Title 8 requirements, in conformity with the single-user toilet facility requirements of HSC Section 118600, as amended by Assembly Bill 1732, Chapter 818, effective March 1, 2017.

**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.