

**OCCUPATIONAL SAFETY
AND HEALTH STANDARDS BOARD**

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Attachment No. 3

INITIAL STATEMENT OF REASONS

CALIFORNIA CODE OF REGULATIONS

TITLE 8: Chapter 4, Subchapter 5, Article 3,
Section 2320.2 of the Low Voltage Electrical Safety Orders

Energized Equipment or Systems with Respect to the Use of
Personal Protective Equipment and SafeguardsSUMMARY

This rulemaking action is the result of a Complaint About State Plan Administration (CASPA) [Ref: CASPA 2001/C-02] submitted by the International Brotherhood of Electrical Workers (IBEW) by letter dated February 5, 2001 to federal OSHA, Region IX.

The complaint was filed subsequent to the state's newly revised regulation for Section 2320.2, effective February 15, 2001. The complaint asserts that the state's requirements in Section 2320.2 permit employees to work on energized parts between 50 and 250 volts without the use of hand protection.

Board staff discussed the CASPA complaint with representatives from IBEW and federal OSHA. As a result of an agreement reached during the discussions to resolve the complaint, amendments are proposed for Section 2320.2(a)(3) to clarify that hand protection is required when employees are exposed to energized parts at voltages of 250 and below, essentially clarifying to the employer what is meant by the term "suitable" as used in existing Section 2320.2(a)(3).

SPECIFIC PURPOSE AND FACTUAL BASIS OF PROPOSED ACTIONSection 2320.2. Energized Equipment or Systems.Subsection (a)(3)

Section 2320.2 provides the conditions that must be met when work is performed on exposed energized parts of equipment or systems. Existing subsection (a)(3) requires that suitable personal protective equipment be provided and used. In addition, the second sentence in this subsection requires that approved insulated gloves be worn for voltages in excess of 250 volts to ground.

Concerns were expressed that because approved insulated gloves must be worn for voltages in excess of 250 volts to ground that one might infer personal protective equipment or other safeguards are not required below that trigger point. Therefore, an amendment is proposed for subsection (a)(3) that will specify personal protective equipment and safeguards (i.e., approved insulated gloves or insulated tools) are to be provided and used. New subsections (a)(3)(A) and (B) are proposed to ensure that rubber insulating gloves meet the provisions of ASTM D120-95, Standard Specification for Rubber Insulating Gloves, and that insulated tools meet the provisions of ASTM F 1505-94, Standard Specification for Insulated and Insulating Hand Tools, respectively. It is also proposed that the second sentence in existing subsection (a)(3) will be designated as proposed new subsection (a)(4) and the remaining subsections appropriately renumbered.

The proposed amendments are necessary to clarify that protective equipment and safeguards are required for employee exposure to voltages 250 volts to ground and below.

DOCUMENTS RELIED UPON

1. Letter dated February 5, 2001 from Mr. Edwin D. Hill, International President, International Brotherhood of Electrical Workers to Mr. Frank Strasheim, Region IX Administrator, Occupational Safety and Health Administration, U.S. Department of Labor, regarding CASPA 2001/C-02.
2. Letter dated April 19, 2001 from Mr. Alan Traenkner, Director, Analysis & Evaluation U.S. Department of Labor, OSHA to Mr. John MacLeod, Executive Officer, Occupational Safety and Health Standards Board, regarding CASPA 2001/C-02.
3. Letter dated May 25, 2001 from John D. MacLeod, Executive Officer, Occupational Safety and Health Standards Board to Mr. Alan Traenkner, Director, Analysis & Evaluation U.S. Department of Labor, OSHA, regarding CASPA 2001/C-02.

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. The proposal makes clarification revisions to ensure that personal protection and safeguards are required to protect employees from exposure to energized parts below 250 volts.

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.

Cost Impact on Private Persons or Businesses

The Board is not aware of any cost impacts 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 regulations 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 the proposed amendments will not require local agencies or school districts to incur additional costs in complying with the proposal. Furthermore, these regulations 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.”

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

ASSESSMENT

The adoption of the proposed amendments to these regulations 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.