

Nicolas Garcia
Body Protection LLC, Satellite Office
322 East Dalton
Spokane, WA 99207
(626) 234-1202

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State of California
Department of Industrial Relations
Occupational Safety and Health Standard Board
2520 Venture Oaks Way, Suite 350
Sacramento, California 95833

**OCCUPATIONAL SAFETY AND HEALTH
STANDARDS BOARD**

Re: Proposed Petition

INTRODUCTION

I Nicolas Garcia, petitioner hereinafter referred to as (“Petitioner”) am bringing forth a petition. I am requesting the Board to make recommended revisions to the California Code of Regulations, Title 8, Construction Safety (CSO), with regard to the use of personal protective equipment to protect employees who handle pneumatic hammers, also known as, jack hammers, and other similar pneumatic tools used for breaking concrete.

Labor Code Section 142.2 permits interested persons to propose new or revised regulations concerning occupational safety and health, and require the Board to consider such proposals, and render a decision no later than six months following receipt. Further, as required by Labor Code Section 147, any proposed occupational safety or health standard received by the Board from a source other than the Division must be referred to the Division for evaluation, and the Division has 60 days after receipt to submit a report for the proposal.

SUMMARY

Petitioner is requesting that the Board revise Title 8, CSO, to propose a new regulation containing a new Section specifically dedicated to addressing issues against hazards associated with pneumatic hammers. The existing code does not address such issues and are found in Section 1707, titled “Power Operated Hand Tools” (b) pneumatic hammer. Petitioner believes that the need to require the use of personal protective equipment to protect operators from hazards associated with pneumatic hammers is warranted and new rule should be implemented to protect workers that regularly handle pneumatic hammers used for breaking concrete.

In addition, Petitioner, requests that if the Board and Division should decide to consider the addition of language to existing sections such as: Section 2940.6 titled “Tools and Protective Equipment”, then specific language should be created to insure complete

protection through a solution combination known to be available on the market and designed to provide full proof protection against hazards associated with pneumatic hammers.

The petitioner, a former construction worker and a former member of the International Association of Bridge, Structural, Ornamental, and Reinforcing Iron Worker Local 416, is aware of a specialized type of Body Protection consisting of protective materials that are worn over the worker's clothing known as the "Hammer Guard". The "Hammer Guard" is designed to protect operators of pneumatic hammers by protecting the thigh area of the operator's leg and providing protection against not only shock absorption but also protection against a variety of other hazards associated with "Pneumatic Hammer" usage.

Petitioner states that, in observation of a typical workday, the operator of a pneumatic hammer will arrive at a predetermined location with the pneumatic hammer. The pneumatic hammer is transported as close as possible to the work location either by hand dolly or vehicle due to its weight. When ready for usage, the pneumatic hammer is then lowered while standing upright and rested on the ground against the preinstalled chisel bit. As a regular practice, the pneumatic hammer is then connected to the air source, and then rested against the operator's leg while the operator causes the hammer to break concrete usually in a unison line while hopping the hammer. Pneumatic hammer hopping is a method practiced by operators lifting the pneumatic hammer using the preferred leg thigh in a swinging motion while pressed firmly against the belly of the pneumatic hammer. This swinging motion causes the pneumatic hammer to move forward to the next further location. This process is necessary and is repeated many times during a shift and at various locations throughout the jobsite.

Petitioner explains that each pneumatic hammer is approximately three feet to four feet in height with the chisel installed. Most pneumatic hammers are approximately sixty-five to ninety-five pounds in weight. The Petitioner also explains that when the pneumatic hammer is in operation, most operators out of convenience immediately rest the hammer onto their thigh for balance and weight relief. This improper habit exposes the operator to several hazards:

First, a hazard exists when the operator's thigh is exposed to vigorous vibrations. The vigorous vibration causes severe bruising. This type of injury is superficial and does not necessarily require hospitalization, however, it is a problem that has not been addressed in rule making.

Second, the pneumatic hammer weight, combined with vigorous vibrations, and hammer hopping not only causes severe bruising but also causes, leg pinching from caught air line, chaffing due to fatigue and hammer hopping, and injury to operator's thigh caused by other taped on, or strapped on objects used in effort to prevent hazards associated with pneumatic hammer hazards. "Jerry Rigged" methods for protection against industry hazards are always unacceptable. Hazards associated with pneumatic hammers are *No* exception to the rule. This to is a problem that has not been addressed in rule making.

Third, hazard exists when operators are exposed to extreme high-pressure exhaust air. This high-pressure exhaust air is forced into the operator's thigh while pneumatic hammer is rested on operator's leg. This is the area where all pneumatic hammers have the exhaust (muffler/port) located. Combined with weight, and rested against operator's thigh, this provides for an extremely unsafe condition that forces dirt and other particles into the bloodstream through clothing and through skin. The human body has a femur artery that runs along the inside of our thigh and this area also needs to be protected.

Fourth, a hazard exists when *No Rules Exist* that is designed to protect operator's of pneumatic hammers as a general safety precaution against accidental electrocution. At minimum, a rule must be implemented, as a proactive measure designed to combat possible death by electrocution through a pneumatic hammer. The idea that a pair of special rubber gloves will prevent electrical shock is inadequate against hazards associated with the operation of a pneumatic hammer. It is only through a good understanding of work related habits associated with the field management and usage of a pneumatic hammer that we begin to understand how best to protect our workers. In this case, hammer hopping is where the opportunity for electrical shock most likely will occur. It is during this process that the ideal opportunity exists for both the worker and the pneumatic hammer chisel to come in contact with an unexpected power source, or under ground power line, or even a known power source believed to be non-active.

While pneumatic hammers are primarily used for breaking concrete and asphalt, without proper protection worn by operators, a pneumatic hammer rested against the operators thigh with perspiration or not, the belly of a pneumatic hammer will always make an excellent conductor for electricity and electrical shock. This problem can be minimized and/or eliminated with new rule requiring specialized Body Protection designed to protect against these types of hazards.

As a result of the above described "pneumatic hammer hazards", petitioner believes that there is a need for a protective device system that can be used by the pneumatic hammer operator that will provide a full proof measure against these types of serious hazards.

The Petitioner proposes the following language to be incorporated into Title 8, (OSC)

"When workers are required to handle a pneumatic hammer, where workers are likely to rest such pneumatic hammer on the operators thigh, protective wear must be worn to prevent exposure to vigorous vibrations, high pressure exhaust air, superficial injuries such as: bruising, pinching, chaffing, clothing damage, and even possible electrocution due to the aforementioned act."

The Petitioner submits to the Board a series of photographs depicting such findings as noted during field investigations. Photo file marked "**Exhibit A**", contains images of pneumatic hammers found in the field with rags and other materials taped on. Photo file marked "**Exhibit B**", contains images of "Solutions In Use" as they are providing

protection against these hazards associated with pneumatic hammers and operators in the field.

Onsite interviews have revealed that workers from various electrical, gas, and concrete companies have used tied-shirts, towels, rags, pvc pipe cut lengthwise, and other materials secured by duck tape and/or black electrical tape around pneumatic hammer belly to prevent discomfort and prevent injury. Petitioner states that this would be consistent with efforts made by workers in an attempt to solve problems when they have no access or known available solutions. It is necessary to implement new rule requiring employers to take measure to protect their workers against this problems.

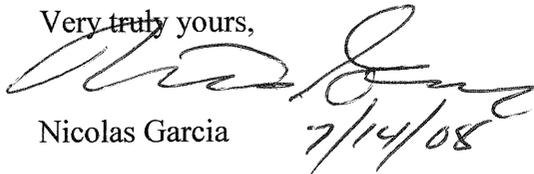
Petitioner further states that there is commercially designed body protection available that provides superior body protection for both the operator handling the pneumatic hammer as well as a specialized fitted boot that connects to the hammer itself as an added measure of protection against electrocution and a more full proof protection system. This gear combined is well fitted for comfort, design, and functionality without opportunity for further hazard relating to caught straps or material snags on adjacent objects. This specialized combination of body protection does not encumber the workers movement at all in anyway.

Petitioner states that employers are required to take measures to prevent these work related injuries, however Current body protection requirements (i.e. CSO Section 1522, 2940.6, and 1707 (b)) are not specific enough to insure that employers understand their obligation to protect their employees not adequately protected from hazards related to handling pneumatic hammers in the field.

Petitioner requests that Cal/OSHA standards board take the proposed rule under submission for review and adoption. If the standards board appoints an advisory committee to consider the proposal, I would be honored to serve on it, as would other members of my investigative staff.

Thank you for your consideration in this important matter.

Very truly yours,



Nicolas Garcia 7/14/08

Cc: Michael J. Manieri Jr. - Principal Safety Engineer
Hans Boersma - Senior Safety Engineer