

**OCCUPATIONAL SAFETY  
AND HEALTH STANDARDS BOARD**

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May 23, 2016

Miguel Bazan  
1717 E. Birch St. Apt. G-G-103  
Brea, CA 92821

Dear Mr. Bazan:

SUBJECT: Petition File No. 554

Attached is the proposed petition decision concerning your petition to the Occupational Safety and Health Standards Board to make recommended changes to Title 8, Construction Safety Orders, pertaining to porta potties to require the use of solar powered ventilation systems that can be affixed to the stack of the porta potty unit for better temperature and ventilation control.

The Standards Board will consider the proposed petition decision at its June 16, 2016, Business Meeting in the Auditorium of the State Resources Building, 1416 Ninth Street, Sacramento, CA at 10:00 a.m.

You are welcome to address any written comments you may have regarding the proposed decision to the Standards Board prior to the June 16, 2016 meeting date. You may also wish to attend the monthly meeting to address the Standards Board before it considers the matter, although it is not necessary to do so. Should you wish to address the Standards Board, please do so during the Public Meeting portion of the monthly meeting which begins precisely at 10:00 a.m.

Should you have any questions regarding this matter, please do not hesitate to contact this office.

Sincerely,

A handwritten signature in blue ink that reads "Marley Hart".

Marley Hart  
Executive Officer

Attachments

cc: All Standards Board Members  
Christine Baker, Director, DIR  
Juliann Sum, Chief, DOSH  
David Kernazitskas - Senior Engineer

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**PROPOSED PETITION DECISION OF THE  
OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD  
(PETITION FILE NO. 554)**INTRODUCTION

The Occupational Safety and Health Standards Board (Board) received a petition on January 21, 2016, from Miguel Bazan (Petitioner). The Petitioner requests the Board to amend Title 8 to require all jobsite port-potties to be fitted with a solar-powered 50 cubic feet per minute fan.

Labor Code section 142.2 permits interested persons to propose new or revised regulations concerning occupational safety and health and requires 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 of Occupational Safety and Health (Division) must be referred to the Division for evaluation, and the Division has 60 days after receipt to submit an evaluation regarding the proposal.

SUMMARY

The Petitioner states that in his 35 years in the construction field he has seen many improvements in porta-potty comfort, including “handwash stations, hand sanitation lotions, [and] toilet seat covers.”

He asserts:

- Some employees seek refuge in the [porta-potty] to rest and hide from their superiors.
- The temperature in the porta-potty can be 10-20 degrees higher than the outside environment exposing employees to risks of heat illness and because employees typically lock the restroom when inside, employees can die from heat effects without anyone noticing.
- There can be dangerous levels of methane and ammonia gases in the porta-potty interior, which exceed permissible exposure limits and threshold limit values. He compares the porta-potties to “hot boxes” where employees go “at least 3 times a day.”

As his proposed means of controlling such hazards, the Petitioner has developed a solar powered porta-potty exhaust fan, which connects to the tank exhaust pipe on the bathroom housing. The 50 cubic feet per minute fan fits into the existing porta-potty vent and draws air out of the waste holding tank. He describes making battery powered fans for night time work as well.

The Petitioner requests that the Board amend Title 8 to require his fans on porta-potties throughout the state.

#### DIVISION'S EVALUATION

The Division report, dated March 22, 2016, recommends that the petition to require mechanical ventilation of portable toilets be denied. The Division concedes that "on hot days, it may be beneficial for the prevention of heat illness to equip portable toilets with solar-powered exhaust fans," and suggests that employers may consider their use as part of their Injury and Illness Prevention Plan, but concludes that "it is not necessary to require [fans] on all portable toilets at construction sites."

#### STAFF'S EVALUATION

Board staff also believes the Petitioners' request should be denied.

Title 8 has various regulations covering restroom facilities, most of which address the minimum number of water closets for a given number of employees present (See Sections 1526, 3364, and 3457). In all cases, the toilet facilities are required to be clean, maintained in working order, and supplied with toilet paper.

The only regulation that mentions ventilation of a water closet is found in subsection 3457(c)(2)(B)(2), which states that "[u]nits housing toilet and handwashing facilities shall be ventilated and provided with self-closing doors, lockable from the inside, and shall be otherwise constructed to ensure privacy." Section 3457 "Field Sanitation" applies to all agricultural employers.

The Petitioner's claims of gas and heat buildup inside the porta-potties, as well as the fans ability to control such conditions, are unsubstantiated by documented scientific testing. Board staff is unable to locate any instances of heat illness where time spent in a porta-potty was cited as a causal factor.

While the Petitioner's fan may be helpful in providing fresh air to porta-potties, Board staff is not persuaded that the fans should be mandated in all places of employment. However, nothing in Title 8 prohibits employers from choosing to use the Petitioner's fan, or something similar.

#### CONCLUSION AND ORDER

The Occupational Safety and Health Standards Board has considered the petition of Miguel Bazan, to make changes to Title 8 to require all jobsite port-potties to be fitted with a solar-powered 50 cubic feet per minute fan. The Board has also considered the recommendations of the Division and Board staff. For reasons stated in the preceding discussion, the Petition is hereby DENIED.