

Memorandum

To: Marley Hart, Executive Officer
Occupational Safety and Health Standards Board
2520 Venture Oaks Way, Suite 350
Sacramento, CA 95833

Date: May 14, 2015

From: Juliann Sum, Chief
Division of Occupational Safety and Health

Subject: Division Evaluation of Petition File No.546
Steeve Inagaki, PE, Petitioner - Title 8, Section 8407

The Division reviewed Petition File No. 546 submitted by Steeve Inagaki, PE. The Petitioner indicated that the requirements for tunnel construction worker training contained in Title 8, section 8407(a) were not sufficient and should include requirements for retraining every 5 years. The following retraining requirement is requested:

8407(c) Each employee shall receive refresher training every 5 years including, but not limited to, the following subjects:

1. Ventilation
2. Recognition of Hazardous Atmospheres
3. Illumination
4. Communications
5. Mechanical Equipment
6. Personal Protective Equipment
7. Explosives (if applicable)
8. Fire Prevention and Protection
9. Emergency Procedures, including evacuation plans and a check-in /check-out system

Existing Standards:

The Division has existing standards in Title 8 sections 8407 and 3203 as follows:

§8407. Safety Training and Instruction.

(a) When an employee is first hired, or assigned to a new task, the person in charge shall determine the extent of the employee's experience and instruct him/her in recognition of any hazardous conditions present and the protective measures to be taken to eliminate the hazards associated with underground construction activities including, where appropriate, the following subjects.

- (1) Air Monitoring;
- (2) Ventilation;
- (3) Illumination;
- (4) Communications;
- (5) Ground Control;
- (6) Flood Control;
- (7) Mechanical Equipment;



- (8) Personal Protective Equipment;
- (9) Explosives;
- (10) Fire Prevention and Protection; and
- (11) Emergency Procedures, including evacuation plans and a check-in/check-out system.

(b) Each employee, when first engaged, shall have his/her attention directed to the provisions of a "Safe Practices and Operations Code" and he/she shall be given a copy. Employee safety instruction shall be in accordance with Section 3203 of the General Industry Safety Orders.

Title 8, section 3203(a)(7) requires the employer's Injury and Illness Prevention Program to also provide training and instruction as follows:

- (A) When the program is first established;
- (B) To all new employees;
- (C) To all employees given new job assignments for which training has not previously been received;
- (D) Whenever new substances, processes, procedures or equipment are introduced to the workplace and represent a new hazard;
- (E) Whenever the employer is made aware of a new or previously unrecognized hazard; and,
- (F) For supervisors to familiarize themselves with the safety and health hazards to which employees under their immediate direction and control may be exposed.

Tunnel Safety Order Appendix "A" requires employers to have a Safe Practices and Operations Code that includes frequent accident prevention instructions to be provided at least once a month.

Federal and Other Standards:

The Federal OSHA standard 1926.800 (d) also requires Safety instruction. All employees shall be instructed in the recognition and avoidance of hazards associated with underground construction activities including, where appropriate, the following subjects:

Air monitoring, Ventilation, Illumination, Communications, Flood control, Mechanical equipment, Personal protective equipment, Explosives, Fire prevention and protection and Emergency procedures, including evacuation plans and check- in/check-out systems.

Discussion:

It is the Division's opinion that the training required by Title 8 in the Tunnel Safety Order section 8407(c) and General Industry Safety Orders section 3203 exceed the training required by Federal OSHA for underground construction. The retraining of employees every five years would be extremely rare situation because tunnel construction projects generally do not exceed five years with the same employer. In addition, the 5 year retraining proposal is unnecessary as any new hazards or changes in working condition which create hazards already require retraining pursuant to section 3203..

Conclusion:

The Division recommends that the Board should deny the petition because frequent training is required by existing regulations.

cc: Eric Berg, PSE

