

**OCCUPATIONAL SAFETY
AND HEALTH STANDARDS BOARD**

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**FINAL STATEMENT OF REASONS**

CALIFORNIA CODE OF REGULATIONS

TITLE 8: Division 1, Chapter 4, Subchapter 7, Article 116, Section 5306
of the General; Industry Safety Orders

Electric Blasting in Proximity to Radio, Television or Radar Transmitters

**MODIFICATIONS AND RESPONSE TO COMMENTS RESULTING FROM
THE 45-DAY PUBLIC COMMENT PERIOD**

There are no modifications to the information contained in the Initial Statement of Reasons except for the following substantive and sufficiently related modifications that are the result of public comments and/or Board staff evaluation.

Section 5306(a)

A comment received at the June 18, 2009, Public Hearing noted that the language of the California MUTCD and Section 5306 were requiring the same thing and that there should be one consolidated requirement. Board staff agrees with the comment and proposes modifications to delete language making subsection (a) applicable to roads subject to the CA-MUTCD and requiring that blasting area warning signs be posted in accordance with the CA-MUTCD, without regard to whether they are public or private roads.

The proposed modifications are necessary to improve clarity by avoiding confusion as to which Section 5306 blasting area warning requirements apply to public and private roads.

A second comment received at the June 18, 2009, Public Hearing, expressed concern over the necessity to post blasting area warning signs along pedestrian access routes. Board staff agrees with the concern and proposes to modify subsection (a) further by including language that requires all access routes to be posted with a blasting area warning sign at least 1000 feet from the blasting area and that the sign comport with the requirements of the CA-MUTCD referenced in subsection (a). Existing subsection (c) is re-lettered as subsection (b) in accordance with Title 8 format.

These modifications are necessary to ensure that vehicles and pedestrians are warned of the blasting operation and the prohibition on the use of radio frequency devices which could accidentally trigger a detonation.

Summary and Response to Written and Oral Comments:

I. Written Comments

Mr. Ken Nishiyama Atha, Regional Administrator, U.S. Department of Labor, Occupational Safety and Health Administration, Region IX, by letter dated June 5, 2009.

Comment:

Federal OSHA indicated it had reviewed the proposed changes and concluded that the proposed changes provide protection at least as effective as the federal standard.

Response:

The Board thanks Mr. Atha, and Federal OSHA for their input and for their participation in the rulemaking process.

II. Oral Comments

Oral comments received at the June 18, 2009, Public Hearing in Oakland, California.

Mr. William Jackson, Board Member.

Comment:

Mr. Jackson stated that if the language of the California MUTCD and the language of Section 5306 were requiring the same thing as far as posting and design of the blasting signage, then there should be one consolidated requirement for all roads. This way the employer is not left with the task of determining which requirements apply.

Response:

Board staff concurs with Mr. Jackson and has modified the proposal as recommended.

Dr. Jonathan Frisch, Board Member.

Comment:

Dr. Frisch posed the question of whether there is necessity to address the issue of posting signs along pedestrian traffic routes (e.g. hiking trails) that may lead into blasting areas as well as vehicular traffic routes.

Response:

The proposal has been revised to require that blasting signs be posted along all access routes which includes pedestrian access routes.

Mr. Willie Washington, Board Member.

Comment:

Mr. Washington asked why roads not governed by the MUTCD (i.e., private property/roads), would be subject to enforcement by the Division of Occupational Safety and Health.

Response:

The Division has jurisdiction over employer operations that take place on private property.

MODIFICATIONS AND RESPONSE TO COMMENTS RESULTING FROM
THE 15-DAY NOTICE OF PROPOSED MODIFICATIONS

No further modifications to the information contained in the Initial Statement of Reasons are proposed as a result of the 15-day Notice of Proposed Modifications mailed on August 4, 2009.

Summary and Response to Written Comments

No written comments were received.

ADDITIONAL DOCUMENTS RELIED UPON

None.

ADDITIONAL DOCUMENTS INCORPORATED BY REFERENCE

None.

DETERMINATION OF MANDATE

This standard does not impose a mandate on local agencies or school districts as indicated in the Initial Statement of Reasons.

ALTERNATIVES CONSIDERED

The Board invited interested persons to present statements or arguments with respect to alternatives to the proposed regulation. No alternative considered by the Board 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 adopted action.