

**OCCUPATIONAL SAFETY
AND HEALTH STANDARDS BOARD**

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**PROPOSED PETITION DECISION OF THE
OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD
(PETITION FILE NO. 530)**

INTRODUCTION

The Occupational Safety and Health Standards Board (Board) received a petition on July 16, 2012, from Mr. Robert Jungers, Union Safety Representative/Certified Miners Representative employed at the Borax Mine (Petitioner). The Petitioner requests the Board to amend Title 8, California Code of Regulations, General Industry Safety Orders, Section 3314 regarding the requirements for hazardous energy control procedures, including machinery and equipment lockout/tagout (LOTO), to include a provision specifying that supervisors must verify that LOTO procedures have been implemented prior to employees performing work in areas where LOTO is in effect.

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 a report on the proposal.

SUMMARY

The Petitioner states that he has worked at the Borax mine for 27 years. For 26 of those years he has worked in a primary processing area. He states that LOTO procedures have changed significantly since he was hired and feels the changes have not maintained a satisfactory level of plant safety. He notes that he has been involved with his company trying to change LOTO procedures for over a decade. He feels a tragedy associated with LOTO could result unless changes to regulate current policies are made.

The Petitioner indicates he has written letters to his company and has contacted the Mine Safety and Health Administration as well as the National Labor Relations Board regarding LOTO concerns. The Petitioner notes that problems started when LOTO polices went from each employee hanging their own lock to a system that uses a lock box and computer generated

isolations.¹ The Petitioner asserts that isolations are incorrect most of the time and that supervisors do not have to verify LOTO isolations are correct. He notes that the work to be isolated is not understood which results in employees going to work on an energized system that should have LOTO procedures in place. The Petitioner states that these concerns could be avoided if isolations are verified prior to the work being performed.

The Petitioner requests an amendment of Section 3314 that would require a supervisor to verify that LOTO is effectively assigned and implemented prior to employees working on affected equipment or systems.

DIVISION'S EVALUATION

The Division's evaluation report dated November 21, 2012, states that Section 3314 was amended in 2005 after an advisory committee process. The Division has investigated the Petitioner's statements regarding the hazards alleged at the workplace mentioned by the Petitioner, most recently in an inspection opened on July 16, 2012. The Division did not find evidence that energy control procedures in this establishment violated Section 3314 or that incidents had occurred which endangered employees due to a failure of these procedures. The Division has not found evidence that the current standard, when followed, is insufficient to protect employees. Therefore, the Division does not recommend adoption of the petition at this time.

STAFF'S EVALUATION

Section 3314 requires that the employer implement procedures to ensure the control of hazardous energy during cleaning, repairing, servicing, setting-up or adjusting of prime movers, machinery and equipment. Additionally, Section 3314 requires the employer to conduct periodic inspections at least annually to evaluate the effectiveness of LOTO procedures and requires each affected employee to be trained in the hazardous control procedures.

Section 3314 is a performance based standard that requires the employer to assign responsibility for effective LOTO procedures to authorized employees or persons that may include supervisory or managerial personnel. Employees concerned about violations of Section 3314 at a mine have recourse by contacting the Division's Mining and Tunneling Unit. Therefore, Board staff does not believe that additional prescriptive amendments are necessary to mandate that supervisors verify LOTO prior to work being performed.

The employer's hazardous control procedures, required inspections and evaluation of such procedures and training are required for all affected employees. These provisions are intended to prevent situations described by the Petitioner, such as employees working on energized

¹ "Isolations" are processing/production areas, systems, or machinery and equipment that are required to be de-energized, or stored energy purged/removed/blocked, so that repair, maintenance or servicing of hazardous equipment or systems can be safely achieved.

equipment/systems when LOTO procedures are required by the aforementioned standards for the safety of personnel. The regulatory changes urged by the Petitioner are unnecessary.

For the reasons stated above, Board staff recommends that the petition be denied.

CONCLUSION AND ORDER

The Board has considered the Petition and the recommendations of the Division and Board staff. For reasons stated in the preceding discussion, the petition is hereby DENIED.