

**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 4, Article 2, Section 1504,
of the Construction Safety Orders, Division 1, Chapter 4, Subchapter 7, Article 1, Section 3207
of the General Industry Safety Orders.

Definition of Certified Safety Professional (CSP)**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.

SUMMARY AND RESPONSE TO ORAL AND WRITTEN COMMENTS**I. Written Comments**

Mr. Van A. Howell, CSP, Area Director, U.S. Department of Labor, Occupational Safety and Health Administration, by letter dated June 2, 2011.

Comment:

Mr. Howell stated that Federal OSHA has reviewed the proposal and found it to be commensurate with federal protections.

Response:

The Board thanks Mr. Howell for his comment and participation in the Board's rulemaking process.

II. Oral Comments

Oral comments received at the May 19, 2011, Public Hearing in San Diego, California.

Mr. Steve Johnson, Director of Safety and Compliance, representing Associated Roofing Contractors of the Bay Area Counties.

Comment:

Mr. Johnson suggested definitions for Occupational Safety and Health Technologist (OSHT) and Construction Health and Safety Technologist (CHST) be added to the proposal as they are designations monitored by the Board of Certified Safety Professionals.

Response:

The Board notes that there are no Title 8 standards that call for and/or refer to the OSHT and CHST designations. Title 8 standards do refer to and require someone to be a certified safety professional (CSP) in order for the employer to achieve compliance. Therefore, the Board believes it is not necessary to include definitions for OSHT or CHST. Further, adding additional definitions is beyond the scope of the notice of this rulemaking.

The Board thanks Mr. Johnson for his comment and participation in the Board's rulemaking process.

Mr. Joel Foss, Acting Principal Engineer, Division of Occupational Safety and Health (Division).

Comment:

Mr. Foss stated that the petition defines certified safety professional narrowly as someone being certified by a particular group, and there are other safety professional designations that are not defined in Title 8; therefore the proposal serves the career interest of a narrowly defined group.

Response:

With regard to professional designations, there is one and only one official, trademarked professional designation recognized nationally and internationally for those in the safety profession that have demonstrated the highest level of competency in the many rubrics that comprise occupational safety, and that is the one conferred by the Board of Certified Safety Professionals (BCSP). It is this designation and no other that is referred to in the language of Title 8 where at multiple locations in the safety orders the term "CSP" is used. This is not a generic term but one that specifically describes persons who have met educational and experience standards and passed rigorous examinations validated by the practice of hundreds of safety professionals. See also the response to Mr. Steve Johnson's oral comment at the May 19, 2011, Public Hearing.

The Board appreciates the Division's participation in the Board's rulemaking process.

Mr. Hal Lindsey, Asplundh Construction.

Comment:

Mr. Lindsey questioned the necessity of the proposal as there is a reason for the definition of Certified Industrial Hygienist (CIH) as there are portions of Title 8 where a CIH is required to perform certain functions. Mr. Lindsey also indicated there may be portions of Title 8 that require a registered professional engineer to assure on site safety and stated he was unaware of any Title 8 standard that required a CSP.

Response:

The Board notes that staff's research into the use of CSPs in Title 8 revealed that the Tunnel Safety Orders (TSO), Section 8406(g)(2)(B) specifically requires a CSP as one prerequisite for being eligible to be a tunnel safety representative. Staff analysis also revealed General Industry Safety Orders (GISO) Section 5157 Permit Required Confines Spaces, Appendix B(1) which discusses CSPs. GISO Section 5192, Hazardous Waste Emergency Response, in Appendix C(1) urges that a CSP or equivalent professional develop and implement a safety and health program. These standards do not restrict the discharge of their respective required duties to CSP's exclusively in some cases permitting them to be handled by persons who are either certified marine chemists or certified industrial hygienists.

The Board also notes that California's Voluntary Protection Program (VPP) affords construction industry employers the opportunity to administer their own site health and safety program with less frequent inspections and general oversight by the Division of Occupational Safety and Health and assume greater authority and responsibility for their onsite safety and health program provided a number of conditions are met. One of those conditions is for access to professional expertise which specifically includes a CSP available to the employer as needed to oversee the program.

The Board thanks Mr. Lindsey for his comment and participation in the Board's rulemaking process.

Mr. Mark Stone, Vice President of Risk Control Services, Epic, Inc.

Comment:

Mr. Stone stated that he supports the proposed language as more and more contractors and other employers are now requiring CSP's and CIH's to oversee their safety programs.

Response:

The Board acknowledges Mr. Stone's support for the proposal and thanks him for his comment and participation in the Board's rulemaking process.

Mr. Guy Prescott, Occupational Safety and Health Standards Board Member.

Comment:

Mr. Prescott stated that if there are any other agencies or entities that certify safety professionals comparable to the BCSP, they should not be excluded from the proposal.

Response:

The Board notes that the designation of CSP is trademarked and conferred by only one entity and that is the BCSP according to the standards of the BCSP. There is no other professional safety designation conferred by any agency or entity that is comparable to the BCSP designation of CSP. Title 8 standards specifically call for the CSP as discussed in the response to Mr. Hal Lindsey's oral comment. Consequently, the need for defining CSP in accordance with the language of the BCSP as proposed is justified and reasonable.

ADDITIONAL DOCUMENTS RELIED UPON

None.

ADDITIONAL DOCUMENTS INCORPORATED BY REFERENCE

None.

DETERMINATION OF MANDATE

These regulations do 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.