

**OCCUPATIONAL SAFETY AND HEALTH
STANDARDS BOARD**

BOARD STAFF'S REVIEW OF THE PETITION

Petition File No. 554
Miguel Bazan

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Date: April 29, 2016

Introduction

On January 21, 2016, the Occupational Safety and Health Standards Board (Board) received a petition from Miguel Bazan, a product developer with 35 years of experience in the construction field (Petitioner). The Petitioner requests that the Board amend Title 8 to require that all jobsite porta-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 to render its decision no later than six months following their receipt. In accordance with Board policy, the purpose of this evaluation is to provide the Board with relevant information upon which to base a reasonable decision.

History

Portable toilets, or porta-potties, are used in temporary locations and in places where plumbed bathroom facilities are unavailable. Construction sites, remote locations, and large outdoor gatherings, such as concerts or festivals, are places where porta-potties are often found. Some porta-potties are equipped with hand washing stations to improve sanitation.

Reason for the Petition

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 observes that 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, he claims, exposing employees to risks of heat illness. Because employees typically lock the restroom when inside, he says that employees can die from heat effects without anyone noticing.

The Petitioner says that 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.”

To control 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 has 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.

National Consensus Standard

ANSI Z4.3-2005 “American National Standard For Sanitation – Nonsewered Waste-Disposal Systems – Minimum Requirements” requires the following in regard to portable toilet ventilation:

5.5 If the structure contains a tank in which waste is stored, that tank shall be vented to the outside of the structure with a minimum nominal vent area of 45 cm² (7 in²).

5.6 Portable toilet rooms that are not ventilated by mechanical means shall be provided with a screened ventilation opening having a cross-sectional area of at least 0.09 m² (1 ft²) per stool.

The standard does not address heat or gas build up as concerns in portable toilets.

Federal OSHA Standards

Federal OSHA regulation 29 CFR 1926.51(c) addresses the number of toilet facilities required at construction jobsites, but does not discuss ventilation requirements.

Division of Occupational Safety and Health (Division) Report

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 Evaluation

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 “Units 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 a causal factor.

In addition to the sections listed above, other Title 8 regulations requiring employers to protect employees from the hazards alleged by the Petitioner are:

Section 3395 “Heat Illness Prevention” requires employers to train employees on the signs and symptoms of heat illness and provide means to protect them from hazards associated with heat exposures.

Section 5141 “Control of Harmful Exposure to Employees” requires employers to protect employees from dusts, fumes, mists, vapors, or gases in excess of the limits found in Section 5155 or where inhalation of such can result in injury or illness.

Section 5155 “Airborne Contaminants” lists various substances and their exposure limits. Employers are required to control employee exposure to such through engineering and administrative controls, and by personal protection equipment where other control methods are inadequate.

Section 3203 “Injury and Illness Prevention Program” requires employers to provide a safe and healthful workplace to employees.

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. Nothing in Title 8 prohibits employers from choosing to use the Petitioner’s fan, or something similar.

Recommendation

Consistent with the foregoing discussion, Board staff believes the Petitioners’ request should be denied.