

BAY AREA  
ENVIRONMENTAL  
SAFETY  
GROUP

# Safety Insider

MAY 2008

MEETING  
TIME AND  
LOCATION

Wednesday

May. 21, 2008

11:30 am— 1:00 pm

Arthur's Restaurant

2875 Lakeview Dr.  
Santa Clara.

For Directions,  
go to  
[www.baesg.org](http://www.baesg.org)

RSVP at

BAESGresv  
@comcast.net

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**May Meeting Announcement**  
**DOT Regulations For The  
Hazardous Waste Generator  
Regulatory Updates and Common  
Generator Misconceptions  
relating to DOT Compliance.**

Presented by

**Mr. Michael Balliet  
Hazmat Specialist III  
Santa Clara County  
Department of Environmental Health**



**Help Plan the 2008 BAESG  
Professional Development Conference**

This year marks our Sixth Annual Professional Development Conference. Michael Hall, Director of the Environmental Training Center at Mission College will be directing the planning efforts for 2008. The meetings will be held on the 4th Thursday of the month from 6:00 PM - 8:00 PM at Mission College. Food and soft drinks will be served. For more information or to get involved, contact Michael at: [Mike\\_Hall@wvm.edu](mailto:Mike_Hall@wvm.edu)

### Internet Reporting Now Available for All Facilities Reporting TRI Data

From the Environmental Resource Center, March 31, 2008

For the first time since the 1987 inception of the TRI, all facilities required to submit data for TRI reporting will be able to do so over the Internet, using EPA's latest TRI software, TRI-MEweb. Reporting facilities will no longer have to mail reports on compact disks or paper to EPA, both of which consume more natural resources and slow down the availability of information to the public.

Reporting facilities are required to submit calendar year 2007 data to EPA and their State Emergency Response Commission (SERC) by July 1, 2008. Facilities will be able to use the Internet to send information directly to EPA through EPA's Central Data Exchange. The TRI-ME software was launched for 2001 TRI reports, and moved to compact discs for 2005 reports. For 2006 reports, in addition to the compact disc, an online version was also offered in states participating in the TRI State Data Exchange.

TRI-MEweb is a Web-based application that may be accessed anywhere there is an Internet connection available. Unlike the desktop version of the TRI-ME software, TRI-MEweb requires no downloads or software installations. The preferred method to report to EPA is using the TRI-MEweb application. TRI-MEweb allows facilities to file a paperless report, significantly reduce data errors, and receive instant receipt confirmation of their submissions.

TRI-MEweb is similar to its predecessor, TRI-MEdesktop, in that it assists facilities with preparing their reporting forms; however, TRI-MEweb offers more assistance than ever before, such as:

- Enhanced Data Quality and Validation assistance
- Facility and Chemical Quick Lists
- Enhanced Section 8 Calculator
- Prior Year revision capability
- Trend Analysis Reports
- Electronic withdrawal

Facilities that use TRI-MEweb and are in a state participating in the TRI State Data Exchange will have their forms sent simultaneously to EPA and their respective state officials via the Environmental Information Exchange Network. Once the TRI submission has been certified, a facility's obligation to report to EPA and their state will be met.

Be aware that if your facility does not reside in a state participating in the TRI State Data Exchange, submitting via the Internet does not satisfy your state SERC's reporting requirements for your facility. In this case, your facility must report to your SERC separately and in the required format specified by your state (i.e., diskette, paper, etc.). Contact your SERC to determine its preference for receiving your 2007 TRI report by going to EPA's TRI State Program website.

## **Publication Covers Guidelines on Selection, Installation of Electrical Outlet Boxes**

**From Occupational Health and Safety, March 24, 2008**

The National Electrical Manufacturers Association (NEMA) has published ANSI/NEMA OS 3-2007 Selection and Installation Guidelines for Electrical Outlet Boxes. It provides designers, installers, and inspectors with the outlet box industry's perspective on appropriate selection and installation criteria, based on the design and intended use of the product. According to David Kendall, chairman of the NEMA Outlet and Switch Box Section that developed the standard, there may be no other component of the electrical distribution system that serves more purposes than electrical outlet boxes.

"They give access to wiring, connect raceway systems, provide mechanical protection, and prevent people from contacting energized parts of the electrical system," Kendall said. "Through these guidelines, industry seeks to develop a closer liaison with installers and electrical inspectors, by providing education and understanding of proper application and installation of boxes. This understanding ensures that the concerns and challenges that face manufacturers, contractors, and 'Authorities Having Jurisdiction' are addressed."

This edition includes revisions to the summary table for support of luminaires, fixtures, and other products; a new table of fan support weight ratings; a list of weight classifications for ceiling-suspended fan boxes; permitted markings on boxes for fan support; rewritten guidelines for boxes and covers in wet and damp locations and adverse environments; revisions of minimum fitting thread engagement with threaded entries for threaded conduit or fittings, to 3-1/2 threads; and removes device boxes as being capable of supporting products weighing 6–49 pounds in or on walls.

An electronic copy of ANSI/NEMA OS 3-2007 may be downloaded at no charge or a hard copy may be purchased for \$75 by visiting [www.nema.org/stds/os3.cfm](http://www.nema.org/stds/os3.cfm).

## **U.S. Fire Administration Endorses Home Fire Sprinklers**

**From Disaster Preparedness E-News, March 1, 2008**

Gregory Cade, the U.S. fire administrator, announced March 28 that his agency is now endorsing residential fire sprinklers. USFA posted the announcement just ahead of a major fire safety forum in Washington, D.C., that is intended to devise a strategy to change America's approach to fire safety and reduce casualties and costs associated with fires. Cade's message says in part, "I would like to address members of the Fire Service, homeowners, home builders, and other interested parties about the powerful protection from fire provided by residential fire sprinkler systems and why all homes should be equipped with them."

"Commercial buildings such as schools, office buildings, and factories have benefited from fire protection sprinkler systems for over a century," Cade continues. "But what about our homes? Although we protect our businesses from fire, what actions do we take to protect our families, our homes, and our possessions from fire? Millions of Americans have installed smoke alarms in their homes in the past few years, but a smoke alarm can only alert the occupants to a fire in the house. It

cannot contain or extinguish a fire. Residential fire sprinkler systems can."

In 2006, 19 percent of all reported U.S. fires occurred in one- and two-family structures, and they caused 66 percent of the nation's fire fatalities -- more than 2,100 people who died in their homes as a result of a fire. Home fires take the lives of about 25 firefighters per year, as well, Cade points out. He says fire sprinklers have been demonstrated to reduce the chance of dying in a residential fire by 69 percent. When both smoke alarms and fire sprinklers are installed in a home, the risk of dying is reduced by 82 percent versus a home lacking both.

"Much has been written about the reduction of residential fire deaths due to improvements in building codes and the installation of smoke alarms," Cade continues. "Without a doubt, these have had a substantial impact on the home fire problem. The annual number of fire deaths in residential occupancies continues to decline. The trend in fire death data, however, shows that the number of residential fire deaths is declining at a slower rate over the past 10 years than it did in the period 1977 through 1995. Full-scale fire tests in residential settings suggest one explanation for this slowing in the rate of decline in residential fire deaths. The research shows that the available time to escape a flaming fire in a home has decreased significantly from 17 minutes in 1975 to only 3 minutes in 2003. This decrease in time to escape has been attributed to the difference in fire growth rates of home furnishings. In short, a fire involving modern furnishings grows faster than a fire involving older furnishings. The practical impact of this finding is clear -- smoke alarms alone may not provide a warning in time for occupants to escape a home fire.

"We at USFA have carefully reviewed the data and the relevant research and it is our official position that all Americans should be protected against death, injury, and property loss resulting from fire in their residences. All homes should be equipped with smoke alarms and automatic fire sprinklers, and families should prepare and practice emergency escape plans. The Fire Administration fully supports all efforts to reduce the tragic toll of fire losses in this nation by advocating these actions, including the proposed changes to the International Residential Code that would require automatic sprinklers in all new residential construction."

## **USFA Report: 28,300 Residential Electrical Fires Annually**

**From Occupational Health and Safety, March 28, 2008**

As part of its Topical Fire Report Series, the United States Fire Administration issued a special report yesterday examining the causes and characteristics of electrical fires that occur in residential buildings, estimating 28,300 residential building electrical fires occur annually and cause 360 civilian deaths, 1,000 civilian injuries, and \$995 million in direct loss.

The report, titled "Residential Building Electrical Fires," was developed by the National Fire Data Center, part of the USFA, and is based on 2003 to 2005 data from the National Fire Incident Reporting System (NFIRS).

According to the report, 47 percent of the residential building electrical fires, where equipment was involved in the ignition of the fire, are caused by the building's wiring. Thirty-eight percent of electrical fires occur in functional areas of the home. Functional areas include bedrooms, dining rooms, kitchens, bathrooms, laundry areas, etc.

To view a PDF of the report, go to [www.usfa.dhs.gov/downloads/pdf/tfrs/v8i2.pdf](http://www.usfa.dhs.gov/downloads/pdf/tfrs/v8i2.pdf).

## Going Beyond Compliance to Manage Business Risks from Toxic Products

From GreenBiz.com, March, 2008, By Richard Liroff

This column is excerpted from a longer article, "Toxic Lockout" scheduled for publication in the May/June 2008 issue of The Environmental Law Institute's Environmental Forum.

The hollow façade of federal environmental and product safety regulation makes it essential that corporate managers and the investors in their companies, look beyond mere compliance with federal law to effectively and strategically manage the business risks from toxic chemicals in the products they manufacture and retail.

The robust media coverage of product recalls in recent months has highlighted the sad state of federal law and regulation. It's truly like the Potemkin villages of old -- a false front suggesting that the federal government is protecting public health and the environment when in reality existing laws, regulations, staffing and budgets are grossly deficient and have been for many years. The recent congressional uproar over declining staffing and limited budgets at the Consumer Product Safety Commission brings to mind the famous scene in the movie Casablanca, where Captain Renault closes down the gambling in Rick's café and declares "I'm shocked, shocked to find that gambling is going on in here" and is then handed his winnings by the croupier.

The following is just one of many available examples: Eleven years have passed since Congress told EPA to establish a screening and testing program for hormone disrupting chemicals, EPA's chronically, dismally underfunded program still is many years away from completing development of the screens and tests. EPA's program lags even as scientific evidence about the impacts of these chemicals multiplies; without the program in place, EPA's ability to respond is hobbled.

So states are stepping forward to fill the void. California's clearly the leader, inspired by regulatory developments in Europe over the last several years. There are now 27 nations in the European Union; California's adopted so many of Europe's chemical regulations that it's jokingly been suggested that California should consider becoming number 28.

Following the E.U., California has adopted new laws on brominated flame retardants, toxic chemicals in electronics goods, cosmetics safety and phthalates in toys. A senior marketing VP for a major retailer commented on this pattern at a meeting with IEHN participants: "We look over there in Europe because what happens in Europe comes over to the States. We look at California and the East Coast because that's what's going to shape the marketplace for us."

So what do all these developments mean for corporate managers and for the investors assessing their companies? First, a company with a federal compliance mindset has its head in the sand and will be ill-prepared for toxic lockouts of products from various marketplaces. Second, a company needs to systematically gather information from its suppliers on the toxic chemicals in its supply chain, even though this can be quite difficult where supply chains are quite extended and local regulations and political cultures are not supportive of disclosure.

## NFPA Report: Cooking is Leading Cause of Home Fires

From Occupational Health and Safety, March 21, 2008

Cooking was involved in an estimated 146,400 home structure fires in the United States in 2005, according to a new National Fire Protection Association report, Home Fires Involving Cooking Equipment. Cooking fires accounted for 40 percent of the home structure fires in 2005, resulting in 480 deaths, 4,690 injuries, and \$876 million in direct property damage.

The report says cooking equipment left unattended was a factor in ignition in 38 percent of home structure fires for 2002-2005. Unattended cooking was the leading contributing factor in home cooking fires, followed by combustibles too close to a heat source, and equipment being unintentionally turned on or not turned off. Cooking was also the leading cause of home fire injuries, accounting for 36 percent of home structure fire injuries in 2005. These injuries were especially likely to occur during attempts to fight the fire. In home structure fires involving cooking equipment for 2002-2005, 59 percent of injuries occurred while fighting the fire, compared to 35 percent of injuries in all other types of home structure fires.

"Cooking results in more home fires and fire injuries in the United States each year than anything else and nearly all of these fires can be prevented with a little extra care," said Lorraine Carli, NFPA's vice president of communications. "Simply paying attention when you are cooking will keep your dinner and everything else from getting burned." Home cooking fires peak between 5 and 7 p.m. Typically, more cooking fires occur on Thanksgiving than on any other day of the year.

In response to these statistics, NFPA offers the following safety tips:

- Stay in the kitchen when you are frying, grilling, or broiling food. If you leave the kitchen for even a short period of time, turn off the stove.
- If you are simmering, baking, roasting, or boiling food, check it regularly, remain in the home while food is cooking, and use a timer to remind you that you're cooking.
- To prevent cooking fires, you have to be alert. You won't be if you are sleepy, have been drinking alcohol, or have taken medicine that makes you drowsy.
- Keep anything that can catch fire--potholders, oven mitts, wooden utensils, paper or plastic bags, boxes, food packaging, towels, or curtains--away from your stovetop.
- Keep the stovetop, burners, and oven clean.
- Keep pets off cooking surfaces and nearby countertops to prevent them from knocking things onto the burner.
- Wear short, close fitting or tightly rolled sleeves when cooking. Loose clothing can dangle onto stove burners and can catch fire if it comes in contact with a gas flame or electric burner.

For more information, or to download the report, see:

<http://www.nfpa.org/categoryList.asp?categoryID=282&URL=Research%20%20Reports/Fact%20sheets/Cooking>

## 800,000 Eye Injuries Occur Annually, 90% are Preventable

By Laura Walter, March, 05 2008

Every year, 800,000 eye injuries occur on the job, including 36,000 that require time off from work. But according to eye health and safety organization Prevent Blindness America, wearing proper eye protection can prevent 90 percent of all eye injuries.

Common causes of workplace eye injuries include chemical burns, cuts, lacerations and punctures. These injuries most frequently occur in production, transportation and service industries.

“Our vision is something that so many people take for granted until it’s damaged,” said Daniel D. Garrett, senior vice president of Prevent Blindness America. “We hope to encourage employers and employees to make sure that eye protection is on the ‘to do’ list every day.”

Prevent Blindness America recommends the following methods and actions to reduce and prevent eye injuries in the workplace:

- Be aware of potential eye safety hazards at work and complete an eye hazard assessment.
- Appropriate safety glasses or goggles should be worn at all times whenever eye hazards are present.
- Be sure all safety eyewear is clearly marked “ANSI Z87.”
- Workers should know the location of the nearest eye wash station and should be trained in its use.
- Employers should be notified immediately if safety hazards are discovered.
- Employees should have regular eye exams to make sure their vision is adequate to work safely.
- Employees with reduced vision should ask if prescription glasses or goggles can be provided.

According to the Department of Labor, eye injuries are responsible for an estimated loss of \$300 million annually in lost production time, medical expenses and workers’ compensation.

“Not only does practicing eye safety at work make good business sense, most importantly, it is integral in ensuring the health of employees, which is any company’s most valuable asset,” Garrett said.

Prevent Blindness America manages the Wise Owl Eye Safety Recognition Program, a campaign recognizing those who follow eye safety standards every day.

Visit <http://www.preventblindness.org> for more information.

## When OSHA Knocks

From [OccupatiOH\\_Safety\\_Solutions](#) newsletter, by Patricia Poole, February 1, 2008

Will you know what to do if OSHA shows up at your door? Attorney Patricia Poole offers some valuable advice to keep you and your employer out of trouble. With a plethora of investigative agencies that may show up at your company’s door, it is important to understand the purpose of a visit from OSHA. It equally is

It equally is important for employers to take action during the course of the inspection to place themselves in a favorable legal position.

Because OSHA inspections are unannounced, a company should preplan its strategy in the event of an inspection. The federal government looks at OSHA penalties not only as a deterrent, but also as a source of revenue enhancement, so six-figure penalties are not uncommon. In addition, OSHA citations require that employers “abate” violations, and corrective action may, in some cases, be more expensive than the actual penalties.

### **When a Complaint is Received**

In an effort to reduce their caseload and expedite inspections, many local OSHA offices evaluate each incoming complaint to determine the potential risk to employee safety. For low-risk complaints, the OSHA office calls the employer to notify it of the complaint and then follows up with a letter requesting a response within 10 days. Employers should provide a thorough response in a timely manner, as well as evidence of compliance or correction such as photographs, invoices for the purchase of safety equipment or proof of employee training. The employer’s response letter closes virtually all of the phone and fax cases.

If the phone and fax procedures are not being used by a particular OSHA region or state, or if OSHA determines the particular situation warrants more action, the OSHA area office or state may send a complaint letter. The procedure operates much the same as the phone/fax method, except employers are notified by letter instead of by phone. The employer should respond in the same manner as for the phone/fax procedure.

Sometimes, though, OSHA chooses to reach out and touch an employer.

### **If an Inspector Knocks**

The OSHA Field Inspection Reference Manual (FIRM) outlines the majority of inspection duties of federal OSHA inspectors or compliance officers. Many states also have manuals that guide the inspection process. Compliance officers are required to begin inspections with an “opening conference,” presenting credentials and explaining the inspection procedure. If an OSHA inspector shows up at your door, you should consider the following:

- 1) Restrict admittance until management personnel are on site. Never allow the opening conference or the inspection process to commence until the appropriate pre-established management persons are present. Establish procedures for receptionists and facility guards in the event a compliance officer appears on site.
- 2) Determine the reason for the inspection. Is it a complaint-based inspection, fatality-based inspection, targeted inspection (government focus on specific industries), media-based inspection (from a press report of a fire, explosion, incident, etc.) or random inspection?
- 3) Obtain a copy of the complaint. Most inspections are the result of employee complaints. The compliance officer or inspector should provide the employer with a copy of the specific complaint(s). The employee’s name will not appear on the document. Do not comment about the reason for the complaint or about the party who may have made the complaint. Employees who have registered safety complaints or instituted any

proceeding under the OSH Act are protected from discrimination or retaliation by their employer.

4) Distinguish whether the inspection is related to safety or industrial hygiene. If the OSHA officer is a safety specialist or compliance officer, the inspector will not conduct hygiene samplings. If the inspector is an industrial hygienist, it is likely that the inspection will focus on industrial hygiene issues such as noise monitoring, air sampling, etc. If possible, perform simultaneous sampling to verify OSHA results.

5) Identify whistleblower protection inspections. Certain OSHA inspectors in each area office are assigned to conduct investigations into complaints of alleged discrimination and retaliation against employees as a result of safety-related complaints. These investigations generally do not involve any physical inspection of the plant.

6) Designate an employee representative. OSHA inspectors are required to ask for the participation of an employee representative. If the plant is organized, the union safety chairman, shop steward or other union official will be asked to participate. If the facility is not organized, the employer may choose to have an employee representative participate if there is an employee safety committee.

7) Limit the scope of an inspection. Define the areas that the inspector will need to see and confine the visit to those areas or departments. Under no circumstances should you offer a plant tour. OSHA inspectors can cite any violations they see in "plain view," regardless of the purpose of the inspection. For most inspections, escort the compliance officer to the targeted area(s) via a route where he or she is least likely to notice safety violations, even if that route involves walking outdoors.

8) Maintain records. Inspectors will routinely review the current and prior 3 years' illness logs and annual summaries of injuries. They will check to ensure the OSHA poster is in place, as well as for the following programs: hazard communication, lockout/tagout, emergency evacuation and bloodborne pathogens.

9) Take photographs and videos. OSHA inspectors are instructed to take photographs or create videos or DVDs to document safety violations. Most employers allow photographs unless there is a trade secret or security issue. Companies should have cameras available and should take photographs, videos or DVDs of the same items as OSHA.

10) Debrief employees following interviews. OSHA will ask to conduct employee interviews in private during the inspection. Company representatives may be present in any interviews with management employees (generally foreman through plant manager). You should "debrief" hourly employees after their OSHA interviews in an effort to determine the scope of the questioning. This also enables you to prepare other employees prior to their OSHA interviews. The extent to which an employer prepares and debriefs employees will vary depending upon the culture of the workplace.

11) Protect trade secrets. OSHA is required to protect the confidentiality of any items which are asserted to be trade secrets. Verification of trade secrets should be done at the opening conference, and a follow-up letter asserting the trade secret nature of the processes or workplace should be sent to the OSHA area director

12) Demand search warrants. An employer has the right to refuse to allow an inspection without the presentation of a search warrant. Request for a warrant will buy time before OSHA returns to conduct the inspection, but OSHA will obtain a warrant prior to any subsequent inspections.

## **The Inspection Walk-Around**

During the OSHA inspector's walk-around, you should stay with the inspector and accompany him or her at all times with as few personnel as possible.

Do not volunteer information. Take notes on all observations an inspector makes, particularly departments or equipment inspected, approximate times spent in various areas and the individuals who were interviewed.

OSHA compliance officers are authorized to review relevant employer records during inspections. Relevant records include those required to be kept by the employer under the OSHA Act and OSHA standards or regulations. Provide only those records specifically requested (e.g., crane inspection reports). Compliance officers generally agree to accept requested records by mail after the on-site visit.

If OSHA requests a copy of a record or document, make additional copies to keep with your OSHA inspection file. Keep a record of the documents provided to or reviewed by the inspector. Duplicate all pictures that OSHA takes and if OSHA takes a picture of an isolated violation, take pictures of similar areas which show no violation.

Repair any small violations immediately (fix a broken handrail, readjust grinding wheel work rest, etc.). This demonstrates good faith and may prevent a citation.

During an industrial hygiene inspection, determine what tests or monitoring OSHA plans to conduct. Find out OSHA's intended test procedures – the number of individuals to be tested, duration of test, type of equipment being used and chemicals being sampled. Consider simultaneous testing by plant safety personnel or through an outside consultant.

OSHA industrial hygiene inspectors usually are willing to defer sampling for a short period of time if the employer wants to conduct simultaneous testing. Be aware of any unusual production problems or weather conditions that may affect the outcome of industrial hygiene tests.

## **The Closing Conference**

OSHA inspectors are required to conduct a closing conference that immediately may follow after a very simple inspection or may follow a major inspection by several weeks. Industrial hygiene inspection closing conferences generally are delayed because of the need to obtain test results.

The closing conference is an opportunity to promote the company's safety programs and commitment to safety and health. This is a factor OSHA considers in establishing penalty amounts. Be a good listener and take notes on all of the specific alleged violations identified by the compliance officer. \

You may be asked to establish timelines for correcting alleged violations. Be cautious in setting dates and allow ample time. You should point out any obvious mistakes of fact or disputed issues with respect to the allegations, but do not argue with the inspector.

For industrial hygiene inspections, ask for a copy of specific test results and findings. Citations may be issued for items which were not identified at closing and at times items under discussion will not be cited. OSHA has 6 months from the date of its first notice of the alleged violation to issue a citation.

## **After Citations are Received**

Most citation items are for alleged violations of specific OSHA standards. However, the general duty clause, Section 5(a)(1), requires that every employer furnish to each employee “employment and a place of employment which are free from recognized hazards that are causing or are likely to cause death or serious physical harm.” The clause covers “serious” hazards for which no specific standard applies. Therefore, if a specific standard applies, a general duty citation is inappropriate. OSHA also has the authority to impose criminal penalties. The most common classifications are:

**Other** – Lowest OSHA classification, defined as not likely to cause serious injury. The maximum penalty is \$7,000; most “other” penalties are either zero or a few hundred dollars.

**Serious** – Most common form of citation and classified as any condition that may cause serious physical harm, but this is broadly defined by OSHA. This essentially is the same definition as the “general duty” clause. The maximum penalty maximum is \$7,000. Under OSHA penalty calculation guidelines, virtually every serious penalty will exceed \$1,000.

**Repeat** – Any violation of the same standard within 3 years of a final order of a previous citation, or within 3 years of the final abatement date of the citation, whichever is later. The violations must be “substantially similar” to be considered to be “repeated.” The maximum penalty for a repeat or willful violation is \$70,000.

**Willful** – Not necessarily an intentional flaunting of regulations. This may mean an employer is found to knowingly commit non-compliance while understanding OSHA requirements.

## **Penalties**

OSHA will consider certain factors such as the gravity of the violation, the size of the business, the company’s history of violations and the company’s good faith in its dealings with OSHA when calculating penalty amounts.

Abatement dates for alleged violations either will be immediate (i.e., immediately upon receipt of the citation) or OSHA will specify a future date.

## **The Employer’s Options**

An employer receiving notice of citations from OSHA has several available options. Employers may request an informal conference with the area director within 15 working days of the receipt of citation. Attorneys sometimes participate, but it is not necessary. If the company employees are represented, the union will be invited by OSHA to participate.

There are advantages to an informal conference, including possible penalty reduction, possible extension of abatement dates, possible deletion and/or reclassification of citations, discovery of more facts to ascertain whether to contest the citation and the opportunity to create open communication with the area director.

OSHA expects the employer to make the presentation. Time is limited, so employers should focus only on items where there is a controversy. Point out facts in dispute or interpretive questions. Employers should conclude by stating exactly what form of relief they want.

The area director may propose amendment to citations and likely will ask for the employer to sign a pre-printed settlement agreement. Employers can negotiate with OSHA and make counterproposals. Informal conference settlement agreements must be posted in the facility. A non-admission clause should be included in any settlement agreement to indicate that the employer does not admit to any violations or wrongdoing under the OSH Act.

If an informal settlement is not reached, employers must file a Notice of Contest within 15 working days from date of receipt. There are no exceptions to this requirement. There is no specified form and a simple letter generally is used. Refer to the date and OSHA identification number of the citation and list the specific items, penalties and abatement dates being contested. When in doubt, employers should file a Notice of Contest as it can be withdrawn at any time.

Employees have the right to participate in a contested OSHA case. The employer must post the Notice of Contest on a company bulletin board and must subsequently post a notice to employees advising them of their right to participate in the OSHA process.

Once an OSHA case is contested, it is assigned to an Administrative Law Judge from the Occupational Safety and Health Review Commission. An attorney from the solicitor's office of the U.S. Department of Labor will act as prosecutor. Companies will require legal representation to participate in this administrative proceeding.

A complaint will be filed by the Solicitor and an answer filed by the company's counsel. Eventually, the case will be set for hearing before the Administrative Law Judge. Many OSHA cases are settled prior to formal hearings, but the agreement must be approved by the Administrative Law Judge. Although infrequent, highly contested cases may be appealed to court.

*Patricia A. Poole is a partner with Baker Hostetler, and concentrates her legal practice in the area of employment litigation, including occupational safety and health, workers' compensation, employment intentional tort and emergency response.*

### **When an Inspector Shows up at Your Door**

1. Restrict admittance until management personnel are on site.
2. Determine the reason for the inspection.
3. Obtain a copy of the complaint.
4. Distinguish whether the inspection is related to safety or industrial hygiene.
5. Identify whistleblower protection inspections.
6. Designate an employee representative.
7. Limit the scope of an inspection if possible.
8. Have injury and illness logs ready for review.
9. Take the same photographs and videos as the OSHA inspector.
10. Have company representatives present during interviews with management employees and debrief other employees following OSHA interviews.
11. Verify trade secrets during the opening conference.
12. Remember your right to refuse to allow an inspection without a search warrant.

## VTA'S Sustainability Program

Santa Clara County Valley Transportation Authority (VTA) is committed to creating a greener Santa Clara Valley. VTA's Sustainability Program will strengthen VTA's commitment to the environment through the conservation of natural resources, the reduction of greenhouse gases, the prevention of pollution, and the use of renewable energy and materials.

VTA's goal and the strategies that follow, are designed to improve the sustainability of VTA's operations by achieving the Bay Area Green Business Program's objectives; complying with all applicable environmental regulations and striving to exceed compliance; conserving energy, water and other natural resources; developing and implementing practices that prevent pollution and waste; and acting as an environmentally responsible business within the community.

### **Goal:**

To proactively reduce the consumption of natural resources, the creation of greenhouse gases, and the generation of pollution in the provision of public transportation services.

### **Strategies:**

1. Develop and implement public educational programs that promote the environmental benefits of public transit.
2. Support sustainable, transit-oriented development along major transit corridors to maximize the use of VTA's buses and light rail system as environmentally friendly alternative to the single-occupant automobile.
3. Evaluate the sustainability of VTA's existing facilities. Implement cost-effective sustainable maintenance and operational measures that recognizes life-cycle returns on investments from the efficient use of energy, the reduction of waste, and the conservation of natural resources.
4. Incorporate sustainability and green building principles and practices in the planning, design, construction and operation of new VTA facilities.
5. Develop procurement strategies that incorporate sustainability criteria compatible with federal and state regulations.
6. Establish benchmarks to measure the progress and performance of VTA's sustainability program and report back to the VTA Board of Directors on an annual basis. Among other actions, this report will involve re-assessing VTA's fuel, electrical, and water usage on a regular basis

## Managing Nanotech Hazards with Green Chemistry

**From Occupational Hazards, April 3, 2008, By Laura Walter**

Chemist and materials scientist Jim Hutchison, Ph.D., urges those in the nanotechnology industry to adopt a proactive approach involving collaboration and green chemistry to explore the health and environmental implications of nanotechnology.

Hutchison, a professor of organic, organometallic and materials chemistry at the University of Oregon, explained in the American Chemical Society journal ACS Nano that nanotechnology developments prompt safety and environmental concerns. The current dearth of comprehensive data, however, can prohibit well-informed decisions involving risk and safety.

"Without relevant data, innovators are forced to rely on 'reasonable worst-case scenarios' in applying risk-management frameworks or may not discover product hazards until late in product development," Hutchison

wrote. "The lack of information on material safety hinders innovation and places companies at considerable risk of failure."

He added that absent and conflicting data, such as research articles and media reports that contribute to the uncertainty of carbon nanotube hazards, can "reduce public confidence in product safety and invigorate activist groups that aim to prevent the use of nanomaterials in products of commerce."

Instead of remaining isolated in their labs, researchers need to work collaboratively to address design, synthesis, characterization and biological and environmental impacts, Hutchison said. He argued that that life, environmental and nonmaterial scientists must work together "to define standard approaches and share expertise to accelerate the collection of definitive data on nanomaterial hazards."

### **A Green Solution**

Hutchison suggested green chemistry may be an answer to nanotech hazard concerns. According to EPA, green or sustainable chemistry uses environmentally friendly processes and chemicals. Green chemistry results in reduced waste, safer products and reduced use of energy and resources.

In his article, Hutchison explained that green chemistry can reduce byproducts and simplify purification. For example, he cited that when using conventional chemistry, a particular material can be purified in 3 days to result in 15 liters of solvent per gram of nanoparticle. Green chemistry, however, can accomplish the same thing in 15 minutes.

Hutchison said the principles of green chemistry can guide the design, production and use of nanomaterials. This approach, he explained, initially should focus on determining the hazards of a narrow subset of nanomaterials that are closest to commercialization.

He also stressed that green chemistry should be implemented in nanotechnology before the industry exists its "discovery" phase, when only small quantities of nanomaterials are being produced. Once the industry enters the production phase, large quantities of nanomaterials will be created. Hutchison pointed out that this large-scale production potentially could cause health and environmental problems. "The time to implement green chemistry into nanotechnology is now," he said.

## **Safety Outside The Workplace**

### **How to Create an Off-the-Job Safety Program**

**From SafetyXchange, written by John Bruce, HEI, AHC**

From the compassionate, humanitarian and moral standpoints, employers want to keep their employees whole and healthy. And they want the same thing for good economic reasons, too. Healthy workers are productive workers, and when workers are productive, their company prospers. It's in everyone's best interest to do everything possible to keep all injury rates as low as we can, on the job and off. To do that, you should consider creating an off-the-job (OTJ) safety program. Here are a few ideas to help you get started.

### **Why You Need an OTJ Safety Program**

We all know that work-related injuries cost employers money - increased workers' comp premiums, lost productivity and the additional burden on other employees who have to pitch in to cover the spot and duties of the injured worker.

But OTJ injuries are often more serious than those incurred on the job and may take longer to recover from. The employer may provide long-term disability insurance and if enough claims are paid under these contracts, the premiums are likely to go up. And, again, the issue of lost productivity and an increased burden on other workers comes into play. If the injured worker is a key employee, then the loss becomes even more critical.

What's more, workers are injured and killed at a much higher rate off the job than they are on the job. Why? Mainly because the workplace environment is controlled, safety rules are in place and followed (for the most part) and the workers are performing very familiar tasks. Off the job, conversely, the environment is much more lax, safety rules are often disregarded or unknown and people are often performing tasks with which they have little, if any, familiarity.

### **Creating an OTJ Safety Program**

When establishing an off-the-job safety program for your company, it's important to avoid any appearance of heavy-handedness. OTJ safety programs must be delivered as a series of suggestions and helpful hints, rather than as a series of mandates.

There are two ways to implement an OTJ safety program. There's the subtle approach and the not-so-subtle approach.

#### **The Subtle Approach**

Probably the simplest way to get an OTJ safety program started is just to begin providing information to employees via:

- Payroll stuffers;
- E-mails; or
- Articles in the company newsletter.

This way, the information is out there for people to use or not use as they please, with little fanfare.

#### **The Not-So-Subtle Approach**

The passive approach of just sending off e-mails and including off-the-job safety material in payroll stuffers without any discussion about the new focus can be effective. But a more effective means is to be more active. For instance, launch your OTJ program by holding some type of "kick off" observance. You can start in department meetings and provide managers with:

- A script to help them explain to workers the rationale behind the program;
- A description of what you intend to provide in the months to come; and
- A summary of what you hope to accomplish.

Consider holding a competition among departments or individual employees to see who can develop the best slogans, posters and name for the program. This approach involves the employees and gives them some ownership.

You should also form an OTJ Steering Committee to manage the program and select topics. The program can be managed through your organization's Employee Health department or Human Resources. It can also be a logical extension of the safety or wellness program already in place.

## Selecting Topics

One of the mainstays of the OTJ safety program is addressing seasonal safety topics, such as:

- Winter driving;
- Holiday safety;
- Recreational safety;
- Preventing sunburn; and
- Lawn and garden work.

Your OTJ program can also address the safe use of power equipment, such as mowers, trimmers, chainsaws and power tools, including saws and drills.

## 3 Ways to Go Beyond Print

Delivering safety advice via e-mails and articles just scratch the surface. To add some dimension to your OTJ safety program, you can:

1. Provide PPE: Offer personal protective equipment to employees who have weekend projects planned. Even if it's just limited to safety goggles and earplugs, the offer of PPE for OTJ activities reinforces the need to use them. (Note: Never lend equipment, tools or vehicles to employees. This can present a tremendous liability exposure if the employee is injured while using it.)
2. Provide Manuals: Compile a library or identify sources of owner's manuals for power equipment. It's not uncommon for manuals to disappear into the dark recesses of a home, never to be seen again. However, with a company safety library, an employee can quickly find how to safely use a particular piece of equipment.
3. Provide Training: Many people undertake home maintenance in the springtime, so you might consider offering training on power tool safety basics. Or in November, before workers start stringing up the holiday lights, you can provide demonstrations on how to safely use a ladder.

## Conclusion

Off-the-job safety programs can pay big dividends all around, but they need to be sustained and hold interest. You can accomplish this best by giving employees some ownership of the program and with constant reminders of the need to stay safe all the time.

## OSHA Revises VPP Policies & Procedures Manual

Occupational Health and Safety eNewsletter, April 22, 2008

Approval into the federal Voluntary Protection Programs is OSHA's official recognition of the outstanding efforts of employers and employees who have created exemplary worksite safety and health management systems. Now OSHA has issued an Instruction, CSP 03-01-003, which revises and clarifies the overall framework of policy and procedures for administering VPP.

To view the VPP Instruction, visit [www.osha.gov/OshDoc/Directive\\_pdf/CSP\\_03-01-003.pdf](http://www.osha.gov/OshDoc/Directive_pdf/CSP_03-01-003.pdf)

## Upcoming Events

If you'd like to see your events advertised in this space, and on our website, email your announcement to: [baesg.jobs@gmail.com](mailto:baesg.jobs@gmail.com)

### Local Events:

**Environmental Training Center** has the following training courses/seminars coming up at Mission College  
For more information see: [www.envtraining.org](http://www.envtraining.org)

May 6	<b>Managing Medical Waste</b>
May 16	<b>OSHA HAZWOPER 8 HR Refresher</b>
May 16-23	<b>HAZWOPER 24 Hour Certification</b> (Fridays & Saturdays)
May 16-30	<b>HAZWOPER 40 Hour Certification</b> (Fridays & Saturdays)
Jun 6	<b>Heat Illness</b>
Jun 13	<b>Title 22 Hazardous Waste Management</b>
Jun 20	<b>DOT Transporting Hazardous Materials</b>

**UC Santa Cruz Extension** has the following training courses/seminars coming up in Cupertino  
For more information see: <http://www.ucsc-extension.edu/>

May 07- Jun 04	<b>Industrial Hygiene and Health</b> (Wednesdays)
Jun 11 – 19	<b>Applied Ergonomics: Human Factors of Safety and Health</b> (4 Sessions- Wednesdays and Thursdays)
Jun 27&28 Jul 11&12,	<b>Principles of Toxicology</b> (4 Sessions- Fridays and Saturdays)
Jul 11	<b>8-Hour Annual HAZWOPER Refresher</b>
May 14	<b>AIHA - Northern California Section 2008 Symposium: Occupational Health Aspects of Nanotechnology.</b> Dr John Howard, Director NIOSH, is the keynote speaker. Wednesday, May 14, 2008, at SRI International in Menlo Park. For more information see: <a href="http://www.aiha-ncs.org/cde.cfm?event=184402">http://www.aiha-ncs.org/cde.cfm?event=184402</a>
May 28	<b>DOT &amp; NRC Requirements for Shipping Radioactive Materials</b> (co-sponsored by the Radiation Safety Academy and PIBA 7:45am – 5:00pm; Roche Palo Alto 3431 Hillview Ave, (call <b>800-871-7930</b> to register) For more information see: <a href="http://www.piba.org/">http://www.piba.org/</a>

### California Events:

May 5-6	<b>California/Federal Environmental Regulations seminars</b> Join over 1500 environmental professionals who have attended our environmental regulations Seminars.. You will also receive a 370-page electronic reference book (searchable and printable) written in plain English and over 250 useful guidance documents on a CD-ROM. For more information, see: <a href="http://www.proactenv.com/California_seminar.htm">http://www.proactenv.com/California_seminar.htm</a>
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## National Events:

- May 31 – Jun 05,** **American Industrial Hygienists Conference and Exposition (AIHce)**  
Presented by the American Industrial Hygiene Association (AIHA) and the American Conference of Governmental Industrial Hygienists (ACGIH) at the Minneapolis Convention Center. AIHce offers general sessions, lectures, technical sessions lunch sessions, professional development courses and the opportunity to earn up to 6.5 certification maintenance points, as well as an expo featuring more than 300 exhibitors. For more information see: <http://www.aiha.org/aihce08/>
- June 2 – 6** **2008 World Safety Conference and Exposition, National Fire Protection Association,** Las Vegas; For more information see: <http://www.nfpa.org/wsce>
- Jun 9–12** **Safety 2008 Professional Development Conference and Exposition,** Las Vegas, American Society of Safety Engineers. For more information see: <http://www.asse.org/speakerpage08>



## Employment Opportunities

The following positions were collected from a variety of internet job listings and/or postings received directly by the BAESG Jobs Coordinator. BAESG has not verified the informational content of all of these ads.

This newsletter only publishes partial descriptions in the interest of saving space. For more detailed information, phone or email the listed contact. BAESG members who subscribe to the Jobs Announcements Distribution List also receive full descriptions by email. To subscribe, send your request to [baesg.jobs@gmail.com](mailto:baesg.jobs@gmail.com).

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### Environmental Health and Safety Consultant

The Cohen Group, one of the oldest occupational health and safety consulting firms in the San Francisco Bay Area has an opening for a full-time, entry-level environmental health and safety consultant. The individual will work under the direction of certified industrial hygienists. The position requires the performance of general industrial hygiene duties, including conducting field sampling surveys, calibrating sampling and measuring apparatus, assisting in the investigation of work conditions, and developing recommendations for corrective action; reviewing and summarizing deposition transcripts and other documents involved in litigation support; providing training and instruction in such areas as fit testing for respiratory protection; and assisting in the collection of data and preparation of reports. Some travel is required.

The ideal candidate will have a bachelor's degree in a related-science, a graduate degree in environmental health or industrial hygiene, and will have at least one year of experience in a health and safety position.

There is some flexibility in daily work hours, as well as the ability to telecommute. We offer an excellent benefits package and salary commensurate with experience.

Please forward your cover letter, resume, and salary requirements by email to:

Joel Cohen, MPH, CIH  
The Cohen Group  
3 Waters Park Drive, Suite 226  
San Mateo, CA 94403  
(650) 349-9737  
[jcohen@thecohengroup.com](mailto:jcohen@thecohengroup.com)

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### Environmental Engineer (Refinery) -

Position includes the following major duties:

- o Wastewater Programs, Stormwater, SARA 313, TRI, TSCA, SPCC, SWPPP, Air Emissions Report (AER), and Greenhouse Gas Program.
- o Manages the environmental review of the MSDS system and tracks all South Coast Air Quality Management District Rule 219 exemptions.
- o Responsible for leading all stormwater/wastewater inspections/audits by external agencies such as EPA or LACSD.
- o Responsible for responding to any internal or external audit findings in Subject Matter Expert area.

If interested send resume and cover letter to [jimi@wtsnetworking.com](mailto:jimi@wtsnetworking.com)

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Environmental Health and Safety Technician - I- Full-time (Job Code: CT12077)

The Buck Institute for Age Research, located in Novato in northern Marin County is recruiting a EH&S Technician to do day to day laboratory environmental health functions and conduct employee EH&S training sessions. This is an excellent opportunity for a motivated and versatile EH&S technician with skills, experience, training and/or coursework in the functions of environmental health, including biological, chemical, radiation and safety. Applicants must have good interpersonal communication skills, enjoy working with diverse groups of employees, and have experience or the ability to provide training sessions.

To Apply: Please send resume and cover letter to [hr@buckinstitute.org](mailto:hr@buckinstitute.org). Please indicate on the subject heading of your email CT12077 for your information to be considered.

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The Valley Transportation Authority is seeking to fill the position of Safety Manager

The Safety Manager is a single position Non Rep Management classification with management responsibility over programs involving the identification, evaluation, and mitigation of public and industrial safety risks associated with all VTA operations. The position is also responsible for assuring VTA's compliance with all applicable local, state, and federal regulations. Subordinate supervisors are responsible for one functional area within the unit, whereas this position is responsible for the overall functional efficiency of the entire Safety Department.

For more information, go to <http://www.vta.org/jobs/index.html>

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Pendleton Resources, Inc (a recruiting firm) is looking to fill the position of Safety Manager 2 in the San Francisco

The Safety Manager oversees the planning, direction, and implementation of the occupational safety and health and fleet safety programs for multiple subsidiary companies.

Oversees the management of all occupational safety and health program elements and activities to achieve safety goals and objectives while ensuring each company maintains a comprehensive safety program fitted to its unique operations and exposures, and complies with applicable regulatory agency and corporate requirements. Ensures the following duties are carried out by subordinate safety personnel and by performing the duties personally as needed.

If interested, contact and send resume to Wanda M. Quallo at [wmq@pendres.com](mailto:wmq@pendres.com)

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Senior Safety Engineer , Req Number: 34624

Responsibilities

This Industrial Safety Engineer position is SLAC's institutional program manager for numerous industrial safety programs. This position develops safety programs; assists laboratory management, line management, and staff in their implementation; continuously evaluates their effectiveness; and regularly recommends improvements to management. This position reports to the Industrial Safety Group Leader. This position is required to develop and provide training and make safety presentations to all levels of management, up to and including the Laboratory Director, and respond to their direction. Duties include: Lead and manage the development, documentation, and continuous improvement of numerous site wide safety programs, which may include (but is not limited to): Pressure Safety; Control of Hazardous Energy; Process Safety; Injury and Illness Prevention; Confined Space Entry; Ergonomics (Industrial and Office); Hazard Control; Oxygen Deficiency Hazards; Fall Protection; Machine Guarding;

For more information, contact Diedre Webb. 650.926.4744.

# BAESG MEMBERSHIP APPLICATION

for both new and renewing members

Annual membership dues are \$25.00. (\$12.50 for full-time students and retired EH&S professionals).  
Make your check payable to BAESG and return with this application to:

Membership Director  
Bay Area Environmental Safety Group  
P. O. Box 60363  
Sunnyvale, CA 94088-0363

**Personal Information and Company Address (to be listed in the Membership Directory)**

Name: \_\_\_\_\_

Full-time Student? Yes \_\_\_ No \_\_\_

Certifications (such as CIH, CSP) \_\_\_\_\_

Job Title (or field of study): \_\_\_\_\_

Company (or College/University): \_\_\_\_\_

Address: \_\_\_\_\_

City, State, and ZIP CODE: \_\_\_\_\_

Daytime Phone (with area code): \_\_\_\_\_ FAX: \_\_\_\_\_

Email address: \_\_\_\_\_

Sponsor: \_\_\_\_\_

Monthly newsletters will be sent to the above email address.

**Areas of Interest:**

Please indicate any areas of special interest that you would like to see covered during the monthly meetings, or topics that you would be interested in presenting.

TOPIC: \_\_\_\_\_

PRESENTING? Yes \_\_\_ No \_\_\_

Please check here if you would like to be placed on the Jobs eMail Distribution List to receive Updates of job listings between the monthly publication of the newsletter.

Email address to which listings should be sent: \_\_\_\_\_