



Chemical Safety and Hazard Investigation Board

Office of General Counsel

Memorandum

To: Board Members

From: Christopher Warner

Cc: Leadership Team

Subject: Board Action Report – Notation Item 916

Date: February 29, 2012

On February 27, 2012, the Board approved Notation Item 916, thereby amending Board Order 040, *Investigation Protocol*, by incorporating a new Procedure H, “Employee Participation in Investigations.”

Voting Summary – Notation Item 916

Disposition: APPROVED

Disposition date: February 27, 2012

	Approve	Disapprove	Calendar	Not Participating	Date
R. Moure-Eraso	X				2/17/2012
J. Bresland	X				2/23/2012
M. Griffon	X				2/27/2012



U.S. Chemical Safety and Hazard Investigation Board

MEMORANDUM

February 17, 2012

To: Board Members
From: Rafael Moure-Eraso
Cc: Leadership Team
Subject: Notation Item 916

A handwritten signature in cursive script, appearing to read "Rafael Moure-Eraso", written over the printed name in the "From:" field.

Attached for your review and vote is Notation Item 916. This item provides for the addition to the CSB Investigation Protocol, Board Order 040, of a new procedure on employee participation in investigations.

Under the CSB's statute, 42 U.S.C. § 7412(r)(6)(L), employees of facilities where an incident has occurred, and their representatives, have a right to participate in the CSB inspection of the facility that is the same as their right to participate in an inspection under the Occupational Safety and Health Act, 29 U.S.C. § 651 *et seq.* The new investigation protocol section proposed by this item would provide guidance to CSB personnel on involvement by facility employees and their representatives in CSB investigations. Like the rest of the protocol, this procedure is intended only for internal direction to CSB staff. However, I expect that, if this procedure is approved by the Board, the CSB will publish a separate informational document on employee/representative participation in its investigations.

You may direct any questions about this item to Daniel Horowitz. Please return your completed vote sheets to Chris Kirkpatrick by the close of business on February 27, 2012. Thank you for your attention to this item.

**U.S. Chemical Safety and
Hazard Investigation Board**



Hon. Rafael Moure-Eraso
Chairperson

Hon. John S. Bresland
Board Member

Hon. Mark Griffon
Board Member

**CHEMICAL SAFETY AND HAZARD INVESTIGATION BOARD
MEMBER VOTING RECORD**

Notation No.: 916

Voting Period: February 17 – February 27, 2012

Subject: Investigation Protocol Procedure H – Employee Participation in Investigations

Whereas,

1. Board Order 040 (adopted by Notation Item 425 on March 31, 2006; amended by Notation Item 894 on December 7, 2011) establishes the investigation protocol for the CSB;
2. The CSB's enabling statute, 42 U.S.C. § 7412(r)(6)(L), provides that facility employees and their representatives have a right to participate in CSB inspections of the facility to the same extent as they have a right to participate in inspections under the Occupational Safety and Health Act, 29 U.S.C. § 651 *et seq.*; and
3. The attachment to this item sets out a proposed new section (Procedure H) of the investigation protocol for the purpose of providing guidance to CSB personnel on participation by facility employees and their representatives in CSB investigations.

Therefore, the Board, pursuant to its authority under 42 U.S.C. § 7412(r)(6)(N), hereby votes to amend Board Order 040, *Investigation Protocol*, by incorporating the new Procedure H, "Employee Participation in Investigations," as shown in the attachment to this item.

_____ I **APPROVE** this notation item **AS PRESENTED**.

_____ I **CALENDAR** this notation item for discussion at a Board meeting.

_____ *Some of my concerns are discussed below or on the attached memorandum.*

_____ I **DISAPPROVE** this notation item.

_____ *A dissent is attached.*

_____ *I will not file a dissent.*

_____ I am **NOT PARTICIPATING**.

Date: _____

Member: _____