

DEPARTMENT OF INDUSTRIAL RELATIONS
Occupational Safety and Health Standards Board
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SUMMARY
PUBLIC MEETING AND BUSINESS MEETING
January 21, 2021
Teleconference in Sacramento, California

I. CALL TO ORDER AND INTRODUCTIONS

Chairman Dave Thomas called the Public Meeting of the Occupational Safety and Health Standards Board (Board) to order at 10:00 a.m., January 21, 2021, in Suite 350 of the Occupational Safety and Health Standards Board Office, Sacramento, California, via Webex/teleconference, in accordance with Executive Order N-29-20 and N-33-20.

ATTENDANCE

<u>Board Members Present at OSHSB Office</u>	<u>Board Members Absent</u>
Dave Thomas	NONE

Board Members Present via
Teleconference and/or Webex

Barbara Burgel
Kathleen Crawford
Dave Harrison
Nola Kennedy
Chris Laszcz-Davis
Laura Stock

Division of Occupational Safety and Health
Staff Present via Teleconference and/or
Webex

Board Staff Present at OSHSB Office
Christina Shupe, Executive Officer
Autumn Gonzalez, Chief Counsel
Michael Nelmidia, Senior Safety Engineer
Sarah Money, Executive Assistant

Eric Berg, Deputy Chief of Health

Board Staff Present via Teleconference
and/or Webex

Mike Manieri, Principal Safety Engineer
Lara Paskins, Staff Services Manager
David Kernazitskas, Senior Safety
Engineer
Jennifer White, Regulatory Analyst

Others Present via Teleconference and/or Webex

Bruce Wick, Housing Contractors of California	Gail Blanchard-Saiger, CA Hospital Association
Maggie Robbins, Worksafe	Kevin Bland, Ogletree Deakins
Bill Benham, Bill Benham Consulting	Anne Katten, CA Rural Legal Assistance Foundation
Cassie Hilaski, Nibbi Brothers General Contractors	Robert Moutrie, CA Chamber of Commerce

Mr. Thomas introduced the Board's newest member, Ms. Kathleen Crawford, and administered the Oath of Office, as well as to Mr. Harrison and Ms. Stock, who have been reappointed by the Governor.

II. PUBLIC MEETING

Mr. Thomas indicated that this portion of the Board's meeting is open to any person who is interested in addressing the Board on any matter concerning occupational safety and health or to propose new or revised standards or the repeal of standards as permitted by Labor Code section 142.2.

A. PUBLIC COMMENT

The following individuals commented during the public meeting. To read their testimony, please refer to the meeting transcript, which will be posted on the Board's website at www.dir.ca.gov/oshsb, as soon as it becomes available.

The following individuals congratulated Ms. Crawford on her appointment to the Board, and Mr. Harrison and Ms. Stock on their reappointments:

- **Bruce Wick, Housing Contractors of California**
- **Maggie Robbins, Worksafe**
- **Robert Moutrie, CA Chamber of Commerce**
- **Cassie Hilaski, Nibbi Brothers General Contractors**
- **Kevin Bland, Ogletree Deakins**

The following individuals commented on the upcoming advisory committee meeting for the COVID-19 emergency temporary standard (ETS):

- **Bruce Wick, Housing Contractors of California**
- **Maggie Robbins, Worksafe**
- **Robert Moutrie, CA Chamber of Commerce**
- **Kevin Bland, Ogletree Deakins**
- **Cassie Hilaski, Nibbi Brothers General Contractors**
- **Eric Frumin, Change to Win**

B. ADJOURNMENT OF THE PUBLIC MEETING

Mr. Thomas adjourned the Public Meeting at 10:39 a.m.

III. BUSINESS MEETING

Mr. Thomas called the Business Meeting of the Board to order at 10:39 a.m., January 21, 2021, in Suite 350 of the Occupational Safety and Health Standards Board Office, Sacramento, California, via teleconference at 844-992-4726, via Webex/teleconference, in accordance with Executive Order N-29-20 and N-33-20.

A. PROPOSED VARIANCE DECISIONS FOR ADOPTION

1. Consent Calendar

Ms. Shupe stated item D needs to be removed from the consent calendar. For items A through C and E through R on the consent calendar, she is aware of no unresolved procedural issues, and she believes that those items are ready for the Board's decision on the question of adoption.

MOTION

A motion was made by Mr. Harrison and seconded by Ms. Stock to adopt the consent calendar as modified.

A roll call was taken, and all members present voted "aye." The motion passed.

B. REPORTS

1. Division Update

Mr. Berg provided the following updates:

COVID-19 Emergency Temporary Standard (ETS): The Division is working on the new draft of the COVID-19 ETS and making revisions based on the comments received at the December advisory committee meeting. Once the Division is done, they will post the revised draft for everyone to review and will schedule another advisory committee meeting to discuss further revisions, most likely sometime in mid-February.

2. Legislative Update

To view a more detailed version of this update, please refer to the meeting transcript, which will be posted on the Board's website at www.dir.ca.gov/oshsb, as soon as it becomes available.

Ms. Shupe stated that the Legislature briefly reconvened on December 7 to swear in new members and introduce new bills. Board staff has determined that the following bills may potentially impact the Board and its work:

- AB 7
- AB 62
- AB 73
- SB 46

As the Legislature had only been in session a few days before the Legislative Update was prepared, a more substantial briefing will be provided for the February meeting.

3. Executive Officer's Report

Ms. Shupe stated that the Board staff welcomed Autumn Gonzalez to the Chief Counsel position on December 21. The Board has been named as a defendant in two lawsuits challenging the COVID-19 ETS, and as noted on the agenda, the Board will meet in closed session to receive briefing on the pending litigation.

Ms. Shupe stated that the Board staff continues to experience an unprecedented workload. In addition to the Board staff's regular duties and litigation, a record number of petitions and variance applications were received in 2020. The Board staff also processed a record number of emergency actions through the wildfire smoke emergency regulation and the COVID-19 ETS. All of this has been done while dealing with the realities of the COVID-19 pandemic. She thanked the Board and stakeholders for their patience through it all.

Ms. Shupe stated that next month, the Board will consider a proposed decision for Petition 581, which seeks to amend Title 8 to enact regulatory protection specific to COVID-19 for rail and transit carriers in California.

Ms. Stock stated that she is glad to hear that the Governor's recently released budget includes an increase in funding for the Standards Board. She asked Ms. Shupe if any of that funding will be used to increase staffing or bring more resources to the Board staff.

Ms. Shupe stated that there has been some staffing allocated to the Board staff, but more staffing is needed, especially in terms of legal support, so the Board staff will monitor the Governor's budget as it goes through the May revise and will probably submit a list of suggested budget changes going forward.

C. NEW BUSINESS

1. Future Agenda Items

Ms. Stock asked the Division to report on how their enforcement experience has been since the passage of the COVID-19 ETS and what the outcomes of their inspections have been regarding that.

Ms. Burgel asked for an update on the status of the indoor heat standard. **Mr. Berg** stated that the Division has contracted with a third party to have the Standardized Regulatory Impact Analysis (SRIA) done, and once that is done, the Division will proceed with finishing the rulemaking documents.

D. CLOSED SESSION

Pursuant to Government Code Sections 11126(e)(1) and 11126(a)(1), the Board conferred with counsel regarding the pending litigation matters listed on the agenda and consideration of personnel matters. Closed Session began at 10:49 a.m.

E. RETURN TO OPEN SESSION

1. Report on any Closed Session Action

Open session resumed at 11:55 a.m. No action was taken during the Closed Session.

Mr. Thomas stated that Ms. Gonzalez recommended that the Board formalize its practice and authority delegated to the Executive Officer.

MOTION

A motion was made by Ms. Laszcz-Davis and seconded by Ms. Stock that the Board provide the Executive Officer the limited authority to take positions on litigation matters on behalf of the Board where time constraints do not allow the matter to be considered at a Board Meeting. In these circumstances, the Executive Officer shall consult with the Board Chair when invoking this delegated authority and report to the Board on the position taken at the next meeting.

A roll call was taken, and all members present voted "aye." The motion passed.

F. ADJOURNMENT OF THE BUSINESS MEETING

Mr. Thomas adjourned the Business Meeting at 11:58 a.m.