

**OCCUPATIONAL SAFETY
AND HEALTH STANDARDS BOARD**

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**SUMMARY
PUBLIC MEETING/PUBLIC HEARING/BUSINESS MEETING
June 21, 2018
Pasadena, California**

I. PUBLIC MEETING

A. 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., June 21, 2018, in the Council Chambers, Room S249 of the Pasadena City Hall, Pasadena, California.

ATTENDANCE

Board Members Present

Dave Thomas
Chris Laszcz-Davis
Barbara Smisko
Laura Stock

Board Member Absent

David Harrison

Board Staff

Marley Hart, Executive Officer
Mike Manieri, Principal Safety Engineer
Peter Healy, Legal Counsel
Lara Paskins, Staff Services Manager I
David Kernazitskas, Senior Safety Engineer
Sarah Money, Executive Assistant

Division of Occupational Safety and Health

Kevin Graulich, Senior Safety Engineer

Others Present

Najma Bashar, Local Gov't.	Michael Musser, CA Teachers Association
Bob Mahan, PG&E	Jay Weir, AT&T
Jamie Carlile, Southern CA Edison	Daniel Choy, City of Los Angeles
David Morris, DOSH Elevator Unit	Benjamin Kim, Nixon Peabody
Kevin Bland, Ogletree Deakins	Don Myers, So. Cal. Gas
Kristyn Russell, City of Pasadena – Water & Power, Southern CA Public Power Authority	Dan Leacox, Leacox & Associates
Daniel Aeschleman, LADWP	Michael Hall, Pacific Maritime Association
Elizabeth Treanor, PRR	Nazir Fazli, LADWP
Suzanne Seivright, CalCIMA	Greg Dubois, AT&T
	David Jones, AGC of California
	Tim Shadix, Worksafe

Nola Kennedy, CSUN
Chris Moulton, Contract Services
Christina Shupe

Denise Garcia, City of Pasadena – Water &
Power
Kevin Thompson, Cal/OSHA Reporter

Ms. Hart administered the Oath of Office to Mr. Thomas and Ms. Laszcz-Davis, who have been reappointed by the Governor.

B. OPENING COMMENTS

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.

There were no public comments.

C. ADJOURNMENT

Mr. Harrison adjourned the public meeting at 10:05 a.m.

II. **PUBLIC HEARING**

Mr. Thomas called the Public Hearing of the Board to order at 10:05 a.m., June 21, 2018, in the Council Chambers, Room S249 of the Pasadena City Hall, Pasadena, California.

Mr. Thomas opened the Public Hearing and introduced the first item noticed for public hearing.

1. TITLE 8: **HIGH VOLTAGE ELECTRICAL SAFETY ORDERS**
 Sections 2941 and 2942
 ELEVATOR SAFETY ORDERS
 Section 3016
 GENERAL INDUSTRY SAFETY ORDERS
 Sections 3207, 3214, 3231, 3234, 3276, 3277
 New Section 3279, 3621, and 3622
 PETROLEUM SAFETY ORDERS – DRILLING AND
 PRODUCTION
 Sections 6564, 6599, 6600, and 6632
 TELECOMMUNICATION SAFETY ORDERS
 Section 8608
 Walking-Working Surfaces (HORCHER)

Mr. Manieri summarized the history and purpose of the proposal, as set out in the Informative Digest Notice, and indicated that the proposal is ready for the Board’s consideration and the public’s comment.

Ben Kim, Nixon Peabody, representing the Pacific Maritime Association, stated that PMA would like for the Board to adopt the federal standard that is similar to the proposed standard and that exempts the maritime industry. He said that this proposal does not have exemptions

for maritime terminals like the federal rules do, and if the Board intends to continue with this proposal and the Horcher process, further clarification and analysis of the rule, and how it compares to the federal standard as the federal rule is written, needs to be done. He stated that this clarification will also need to be done on future proposals that the Board intends to adopt that deal with walking working surfaces. He asked the Board staff to look at the entire federal standard, see how federal OSHA has addressed these issues, how and why federal OSHA has exempted certain industries such as maritime, and create a standard that addresses those issues in the same way, instead of using the Horcher process.

Dan Leacox, Leacox & Associates, representing the National Elevator Industry, Inc., stated that this is a general industry standard being changed at the federal level, yet it is pushing some of the general industry rules into special industries and codes, such as elevators, and NEI feels that the federal record is not sufficient for the rulemaking. He said that there is a potential for conflict between two requirements, One requirement is for Group II elevators in the elevator code, which applies to elevators that were built between 1972 and 1998 (about 50,000 elevators), that pushes the pit ladder rungs out an additional ½ inch from the hoistway wall. He stated that the current rule requires them to have 4 inches of clearance, and if this proposal is adopted, it will require them to have 4½ inches of clearance. This would conflict with another requirement that says elevator cars must have 1 inch of clearance from all projections from the hoistway wall. He said that pushing the pit ladder rungs out an additional ½ inch from the hoistway wall, as required in the first requirement, would create a violation of the second requirement, and in some cases, the only way to remedy this conflict would be to rebuild the elevator and hoistway. He stated that these issues were not reviewed or addressed at the federal level because the federal code does not have an elevator safety order, and therefore, they were not considered in terms of cost, safety, and workability. He said that NEI feels it is appropriate to remove this portion from the rulemaking.

Elizabeth Treanor, Phylmar Regulatory Roundtable, thanked the Board staff for its work on this proposal. She said that her organization supports the proposal, especially the portion that pertains to mobile ladder stands. She stated that many manufacturers use these and have identical operations in all states, but for their manufacturing operations, the requirements in California are different from those in other states, which makes it very difficult for them to manage safety-wise. She said that her organization appreciates the proposal's consistency with the federal standard, and her organization feels that this proposal will improve understanding of the requirements and compliance with them, and it will improve employee safety.

Tim Shadix, Worksafe, stated that his organization supports the proposal, and he thanked the Board staff for its work on this proposal. He said that in this case, the federal rule is more effective in some places than the California rule, but there are a few places in the federal rule that, if adopted, would weaken the protections in the California rule:

- Adopting the federal rule involves striking out sections (g)(2) to (g)(6) in Section 3277 regarding fixed ladders. These requirements are specific requirements for the dimensions of fixed ladders and cages, and the federal rule replaces them with broader requirements. He stated that his organization is worried that by doing this, there will be a loss of specificity. He said that it does still direct employers to follow the dimensions in Figures 1, 10, and 11 in the section, and those do include most of the same requirements that were struck out in the text, but a few things are missing there, such as the requirement in (3)(B)(1) requiring that a ladder extension be capable of

withstanding a force of at least 200 lbs., and that they are free of hazardous projections. He said that it is important that these protections are not left out.

- It is less protective and less effective to only have dimension requirements in the figures and not still have the textual explanation of what they actually mean.
- In the section on derrick ladders, there are requirements about the amount of horizontal lean that's allowed. There are similar requirements in Section 3277 that would replace those specific requirements. Also, the requirement that states "every derrick shall be equipped with a fixed ladder" has been struck out, and it is unclear if there is a place somewhere else in the code where it specifies that, or if it has been replaced with language from the general fixed ladder standard.

Mr. Shadix also stated that some of the stakeholders his organization spoke with were confused about what was being noticed for public hearing. He said that the rule packet included things such as fixed and portable ladders, mobile ladders, stairways, and step bolts, but not things such as high voltage lines. He recommended that the Board extend the comment period for a few days so that stakeholders who were confused by the notice could still submit their comments.

Kristyn Russell, Southern California Public Power Association, stated that further clarification is needed regarding step bolts that are installed on, or after, the effective date and must be capable of supporting 4 times the weight of the intended load. She said that clarification is needed on how someone is supposed to know what type of load a wood bolt can support at any given moment, at any given spot on a pole.

Ms. Stock stated that it is important to make sure that this standard brings the California standard up to be at least as effective as the federal standard, but it is also important to preserve the areas of the California standard that are more effective than the federal standard. She said that there are several areas in the proposal that would make the California standard at least as effective as the federal standard, but at the same time, there are areas where the California standard is more protective, and if those areas are not preserved, they could weaken the California standard.

A. ADJOURNMENT

Mr. Thomas adjourned the Public Hearing at 10:30 a.m.

III. BUSINESS MEETING

Mr. Thomas called the Business Meeting of the Board to order at 10:30 a.m., June 21, 2018, in the Council Chambers, Room S249 of the Pasadena City Hall, Pasadena, California.

A. PROPOSED VARIANCE DECISIONS FOR ADOPTION

1. Consent Calendar

Mr. Healy stated he is aware of no unresolved procedural or legal issues regarding items A-L on the consent calendar, and he believes that those items are ready for the Board's decision on

the question of adoption.

MOTION

A motion was made by Ms. Laszcz-Davis and seconded by Ms. Stock to adopt the consent calendar.

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

B. OTHER

1. Status Update: Title 8, Section 3999(b), Guarding of Conveyor Support Rollers, Rulemaking

Ms. Hart stated that a public hearing was held on April 19, 2018 to discuss the proposal for Guarding of Conveyor Support Rollers – Deletion of Note. She said that deletion of the note was recommended for various reasons, including:

- The note lacks clarity.
- The note’s exclusion of injuries not deemed to be serious lacks conformity with various sections of the Labor Code, as well as the Board’s policy of promulgating standard that protect workers from all injuries.
- The note may make it less clear to the reader that otherwise existing guarding requirements found in Section 4002 apply as well to the support rollers in question.

Ms. Hart stated that several oral and written comments were received regarding the proposal, and those comments centered around several things, including:

- The note can be helpful in clarifying equipment and technical terms.
- The note clarifies what does require guarding and what doesn’t require guarding.
- Depending on the location and design, the injury risk presented by a conveyor support roller is low.
- The cost to retrofit conveyor support rollers with guards would be considerable.

Mr. Hart stated that after considering the intent of the proposal, and the comments received, the Board staff has determined that deleting the note is not the best way to move forward, but revisions are needed to address the flaws in the note. She said that the Board staff recommends addressing these problems through a 15-day notice outlining the regulatory changes that are needed to address them. She stated that this will give the Board a chance to vote on the amended proposal at a later date.

There was an absence of object from Board Members to staff moving forward with a 15-day notice to address these issues.

2. Legislative Update

In addition to the written version of the legislative update, Mr. Healy provided the following additional updates:

- AB 1761 pertains to hotel worker safety and workplace violence prevention. This bill includes proposed means of addressing these issues, including providing panic buttons for employees to use who are working alone, as well as post-incident accommodations for victimized employees. This bill was amended in late May to expressly exclude employers from certain potential criminal penalties for serious violations of the act, and instead, impose civil penalties not to exceed \$1,000. On May 31, the amended bill was passed out of the Assembly and is now with the Senate, where it has been referred to the Judiciary, Labor and Industrial Relations, and Appropriations Committees.
- AB 2934 pertains to program certification for residential lead paint hazard reduction. This bill would require the California Department of Public Health (DPH) to request permission from the federal Environmental Protection Agency (EPA) to modify the federal state lead-related construction program agreement to expand the California DPH authority to contract with counties for county health department-administered certification of workers who are engaged in lead-related construction. This bill would also require the Division to complete rulemaking by July 1, 2019 to revise permissible exposure limits for lead within the Construction and General Industry Safety Orders. On May 31, this bill passed out of the Assembly and moved to the Senate. On June 13, the Senate referred the bill to the Environmental Quality Committee. On June 14, a provision was added to the bill stating that: "The Division may promulgate emergency regulations as necessary to implement the new law."

3. Executive Officer's Report

Ms. Hart stated that the next Board Meeting will be held in Oakland at the Harris State Building. She said that the copy of the July notice that was published in the California Regulatory Notice Register had the correct address, but the city said Sacramento instead of Oakland. A corrected notice will be published in the California Regulatory Notice Register next Friday, and folks on the Board staff's mailing list have already received a copy of the revised notice.

Ms. Hart stated that the Board staff's new Staff Services Manager I, Lara Paskins, is here at today's meeting. She said that Ms. Paskins will be taking on some of Ms. Hart's tasks, such as managing the analysts and support staff, assisting with rulemakings and petitions, and working closely with the new Executive Officer when Ms. Hart retires.

C. CLOSED SESSION

The Board discussed only the closed session item listed on the Agenda, and no action was taken during the closed session.

D. OTHER

4. Future Agenda Items

Ms. Stock asked for an update regarding the proposals for indoor heat illness and workplace violence prevention in general industry. Ms. Hart stated that the Division will provide its quarterly update on rulemakings and advisory committees at next month's meeting.

Mr. Thomas stated that next month's meeting will be Ms. Hart's last meeting before she retires. He encouraged everyone who has worked with Ms. Hart over the last 20 years to come and wish her well.

E. ADJOURNMENT

Mr. Thomas adjourned the Business Meeting at 10:59 a.m.