

**OCCUPATIONAL SAFETY
AND HEALTH STANDARDS BOARD**

2520 Venture Oaks Way, Suite 350
Sacramento, CA 95833
(916) 274-5721
FAX (916) 274-5743
Website address www.dir.ca.gov/oshsb



**SUMMARY
PUBLIC MEETING AND BUSINESS MEETING
May 16, 2019
Oakland, 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 10:02 a.m., May 16, 2019, in the Auditorium of the Harris State Building, Oakland, California.

ATTENDANCE

Board Members Present

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

Board Members Absent

Board Staff

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

Division of Occupational Safety and Health

Eric Berg, Deputy Chief of Health

Others Present

Jay Weir, AT&T
David L. Murray, AGCO Corp.
Mike Pankonin, AEM

Matthew Allen, Western Growers
Association
Nicole Marquez, Worksafe

Eric B. Smith, John Deere
Jamie Carlile, SCE
Louis Rocha, Communications Workers of
America, District 9
Pamela Murcell, CA Industrial Hygiene
Council
Chris Kirkham, Cal/OSHA

Others Present

Raul Gil, Collectiva Street Level
Dan Leacox, Leacox & Associates
Steve Johnson, Walters & Wolf
Yancy Yap, Cal/OSHA
Travis Tsunemori, Kubota Tractor Corp.
Chris Foster, CNH Industrial
Eddy Palencia, Street Level
Bruce Wick, CALPASC
Yasin Khan, LOHP
Bryan Little, CFBF
Amalia Neidhardt, DOSH R&S

Robert Moutrie, Cal Chamber
Kevin Bland, Ogletree Deakins
Michael Musser, CA Teachers Association
David Ross, CalTrans
Kevin Thompson, Cal/OSHA Reporter
Peter Wilsey
Barbara McBride, Calpine
Jodi Blom, CFCA
Cassie Hilaski, Nibbi
Michael Strunk, IUOE Union Local No. 3

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.

Mr. Thomas also stated that there are several topics that the Board has been made aware of that people wish to speak about during today's public meeting. In light of this, he said that the Board would like to take the public comments in the following order:

- 1.) Wildfire smoke exposure emergency regulations. A draft of the proposed text was made available to the public [Please see the file copy of the Board packet to view this document].
- 2.) Petition 571 regarding highly automated and autonomous agricultural equipment
- 3.) Petition 572 regarding amendments to the injury and illness prevention plan (IIPP)
- 4.) Other items

WILDFIRE SMOKE EXPOSURE EMERGENCY REGULATIONS

Michael Musser, CA Teachers Association, stated that school districts in Ventura County were affected by wildfire smoke during the Thomas fire. He said that this proposal needs to protect workers in education who regularly work outside during emergency wildfire incidents, including maintenance workers, grounds workers, and others who assist in evacuation of students and staff, such as bus drivers, school site managers, facilities management, and district main office administration. School district employees who work inside do not always have adequate filters in their ventilation systems that are able to protect them from wildfire smoke, so the regulation should include individuals who work indoors and don't have adequate ventilation systems and filters to protect them. This is also something that should be addressed in the permanent rulemaking. He stated that he attended the advisory committee meeting on May 8, and during that advisory committee, there was discussion regarding voluntary and mandatory usage of N95 respirators. He said that the one problem that was continually brought up pertained to the use of these respirators by workers who have facial

hair, and how to address test fitting issues, because it limits the protective aspect of the respirators. He stated that it is important that this issue is addressed in the regulation. The regulation also needs to address how to protect individuals with sensitive health conditions who will have challenges when using respirators due to their medical condition. He also said that it is important to put provisions in the regulation that protect workers from retaliation and make employees feel comfortable coming forward to their employer regarding the hazards that they are facing in the workplace.

Nicole Marquez, Worksafe and CA Rural Legal Assistance Foundation, stated that her organizations support the current draft of the proposal because it is very strong, and they feel that using the AQI measurement as a threshold in this standard is appropriate. She said that they also support the Division's incorporation of using feasible engineering and administrative controls, as well as the respiratory requirements, in the proposal. She stated that one thing that could be improved is lowering the trigger threshold for the standard from an AQI of 150 to an AQI of 101. She said that workers, especially those in sensitive health groups and those who are very vulnerable, should not have to wait for the AQI to reach unhealthy levels before they receive protection from wildfire smoke.

Robert Moutrie, CA Chamber of Commerce, stated that employers are in favor of providing masks to their employees, but Section 5144, as it is currently written, does not allow them to do so without getting the employee medically evaluated and fit tested first, so he is glad that this regulation will help them be able to hand out masks. However, he said that they are concerned about maintaining the feasibility and clarity in the regulation so that employers know when and how to protect their workers from wildfire smoke so that they can plan ahead and comply consistently. He said that it is good that the regulation excludes first responders so that it can focus on outdoor workers who are the most vulnerable, but his organization is concerned about the trigger point listed in the regulation because it does not require wildfire smoke advisories to be proximate to a worksite or even have a locational element to it. It only requires that a smoke advisory exist and that the AQI be at a certain number. This regulation needs to be narrowed and clarified to indicate where employers must look for advisories, whether county or statewide, so that they know where the advisory begins. He also stated that respirators are the only practical solution in wildfire smoke situations. Wildfire situations can arise quickly, and there is not enough time to develop administrative or engineering solutions in a feasible way at all worksites. N95 masks are the most feasible for planning ahead and providing protection for workers. He also said that his organization supports maintaining the regulation in the present standard that requires protection to be triggered when the AQI reaches unhealthy levels. If it is lowered for sensitive groups, employers will be required to collect, verify, and track health information for employees who want masks when the AQI is at that lower level. This would be cumbersome for employers, especially in the context of the emergency regulation. It is something that is better suited for the permanent regulation.

Louis Rocha, Communication Workers of America, stated that his organization supports the proposal and opposes any exceptions in it for utility workers. He said that fires are getting larger and more destructive every time, and technicians are out there rebuilding communication networks as the fires are still burning. The wind is unpredictable and can often bring smoke to areas dozens of miles away where a crew is working, and the smoke can have hazardous materials in it that measure as high as 400 ppm, and exposure to wildfire smoke can have lingering effects, such as sore throat, cough, and sinus infections. He stated that many workers are frustrated when the public is given protective equipment to protect themselves

from wildfire smoke exposure, but their employer does not provide them with any protection. He said that during the Camp fire, AT&T was given conflicting information about whether or not they could give, or needed to give, masks to their employees. As a result, some employees were fit tested for masks, and some were not. He stated that many employers are good about keeping their employees safe, but in extreme situations such as wildfires, they need assistance and resources to develop best practices for personal protective equipment. He also said that training is essential and should be very intensive, instead of online. Online training does not allow for thorough understanding of the subject matter.

James Mackenzie, Southern CA Edison, stated that his organization continues to have concerns about the emergency wildfire regulation. First, regarding the scope of the regulation, his organization feels that workers who provide urgent emergency utility services should be included in the exclusions for first responders. He said that utilities have a long-standing history of protecting their workers through voluntary respirator use. These workers often accompany first responders so that they can do their jobs safely, and adding administrative burdens will not provide any additional protection for these workers. It may, in fact, delay important response efforts, which could impact public and worker safety. His organization also wants to ensure that the exemption for short duration work remains in the final version of the regulation. He said that for exposures that are only a matter of minutes, the burden of training and engineering and administrative controls outweighs the benefits of these minor exposures for workers who mostly work indoors and are protected from wildfire smoke hazards. The emergency standard is for outdoor workers, not indoor workers. However, it could be considered for the permanent regulation.

Another concern that Mr. Mackenzie's organization has pertains to the mandatory use provisions. His organization feels that these provisions should be omitted from the emergency regulation, but they could be considered for the permanent regulation. He said that there is much to be learned from applying the environmental AQI index to occupational safety and health, and by omitting these provisions from the emergency standard, it will allow time for more understanding regarding the voluntary use provisions and application of the AQI.

Dan Leacox, Leacox & Associates, stated that this is a temporary regulation, but eventually, when the permanent regulation is developed, it will have to meet the requirements of the APA (Administrative Procedures Act), so with the temporary regulation, his organization feels that this situation should not be used as an opportunity to experiment with things that would not pass APA requirements. He said that engineering controls could be a disaster for some employers to use under the temporary emergency regulation and that don't meet APA requirements. He stated that this temporary regulation needs to be a measured response.

Bruce Wick, CALPASC, stated that employers agree that this emergency regulation is needed. He said that they want to protect their workers, so they want for this emergency regulation to go into effect as soon as possible. However, it is an emergency regulation for a temporary emergency condition, so they need to have the logistics in place ahead of time so that they can supply their workers with protection in a timely fashion. He stated that the more information that they can get before this is adopted, and the simpler the regulation is, the better for everyone. He said that the provisions in the regulation regarding communication are an issue because superintendents will be trying to get protection to workers, and these provisions will add extra burdens that won't help. He also stated that if this regulation goes into effect in July, employers will need to be able to prepare for it in June, so the more

information that they can get now, the easier it will be for them to comply when the regulation takes effect.

Kevin Bland, representing the Western Steel Council, the CA Framing Contractors Association, and the Residential Contractors Association, stated that although this regulation is not perfect, it is good and provides a great accomplishment that allows some relief from the technical aspects of the respirator program in order to allow some additional protection to workers who may be exposed to wildfire smoke. He said that it is infeasible to implement the use of a hierarchy of controls at any AQI level, regardless of what it is. He stated that exposure to wildfire smoke can change for employees in a matter of minutes or hours, leaving them with not very much time to take precautions. He also said that in an emergency situation, it is infeasible to require employers to conduct medical evaluations and fit testing on employees who wear masks or respirators. He recommended that the Board treat this regulation as an emergency regulation, and then add to it or adjust it in the permanent regulation.

Pamela Murcell, CA Industrial Hygiene Council, stated that her organization understands that the intent of the emergency regulation is to define emergency procedures for the protection of outdoor workers from wildfire smoke, and that employers fall under the scope of the regulation when a wildfire smoke advisory is issued and there is a possibility that outdoor employees will be exposed to wildfire smoke. Her organization also understands that when an employer falls within the scope of this regulation, procedures must be implemented, including employee training using information from Appendix A and the provision that N95 respirators must be provided for voluntary use by all outdoor employees. Her organization submitted comments back in April discussing their views on using the AQI. She said that it is easier to add things to a regulation than it is to remove things. Her organization has recommended several changes to the regulation in their previous comments, and these changes are intended to afford protection for employees in a responsive, uncomplicated manner to provide a regulation that is easy to interpret by the affected employers, promote prompt implementation in an emergency situation, and allow for adoption of the emergency regulation within the required time constraints. One of the changes that her organization suggests is changing the name of the regulation to “Emergency Procedures for Protecting Outdoor Workers from Wildfire Smoke”. She said that this will emphasize that the regulation is for emergency purposes and will help set the context and implementation of the regulation.

PETITION 571 REGARDING HIGHLY AUTOMATED AND AUTONOMOUS
AGRICULTURAL EQUIPMENT

Michael Pankonin, Association of Equipment Manufacturers, stated that his organization supports granting the petition to the extent that an advisory committee is convened to discuss what is required for the use of highly automated agricultural machines (HAAM), which will help map a course forward in the use of this technology. He said that his organization submitted this petition because many of its members market a wide variety of agricultural machines that are used to do many different things, but the current standard has the potential to stop their use in California. He stated that convening an advisory committee will help to identify and address the challenges with using HAAM’s as we move forward. He also said that HAAM’s can be valuable in protecting employees from hazards such as exposure to pesticides.

Eric Smith, John Deere, stated that his organization supports Petition 571. He said that he

was a member of the working group that established the ISO 18497 standard, and it covers the following things:

- It tells what the machine is supposed to do when the automated system loses communication. It is supposed to go into a “safe” state.
- It explains the operator’s ability to override the automated operation if something goes wrong.
- It has provisions for alerting bystanders that the machine is in the autonomous mode.
- It describes what a test object is and how it mimics the human body. It is used to verify the reception system of the automated machine and consider the type of environment that the machine will work in, including weather conditions.

Mr. Smith stated that ISO 18497 is a simple safety standard for designing HAAM’s that are working near employees or isolated from employees. The scope of ISO 18497 covers self-propelled agricultural equipment that is covered in Title 8, Section 3441.

Matthew Allen, Western Growers Association, stated that his organization supports the petition for several reasons:

- There is currently a labor shortage in the agricultural industry.
- The current standard is too limiting for future work in the fields.
- Automation is a safe way to move the industry forward.
- The fields are controlled environments, and therefore, are the perfect environments to perfect and improve this technology.

Mr. Allen recommended that the Board go with a phased-in approach to implementing HAAM’s to allow for pilot projects to take place in the fields, and that the Board look into creating long-term regulations regarding HAAM’s.

Chris Foster, C&H Industrial, stated that his organization supports the petition because improvements in technology and safety for farm workers are rapidly evolving and changing. There are several existing regulations regarding HAAM’s, including:

- IEC 61508
- ISO 25119
- ISO 18497

He said that his organization has developed autonomous technology that can be used under the close supervision of an operator, and the future is going in the direction of humans and autonomous machines working together. He stated that customers have expressed an interest in HAAM’s and agree that these machines will address the challenges that they are facing, as well as make more effective use of their labor that they already employ.

Travis Tsunemori, Kubota Tractor Corporation, stated that ISO 18497 is being used

successfully in Japan for automated tractors, and the same standard will be applied by the industry in North America for automated machines. He said that the Japanese Ministry of Agriculture, Forestry, and Fisheries requires each model of Kubota automated tractors to meet the ISO 18497 standard. This test validates the tractor's ability to detect the test object and includes testing of the ability to detect the test object in various crop, weather, and field conditions. Each manufacturer rigorously tests the control systems and technology used to automate the tractor to ensure safe operation, and during automated operation, tractors are supervised by human operators who can stop the machine if necessary. He stated that Kubota has successfully tested automated tractors for over 2 years in Japan without a single injury occurring from their use. He asked the Board to vote "aye" on Petition 571.

Dave Murray, AGCO Corporation, stated that he helped chair the international working group that developed ISO 25119, which is a series of standards dealing with functional safety of electronically-controlled systems that was added to the ISO 12100 standard, which is a risk hazard analysis standard. He said that ISO 25119 and 12100 discuss how to conduct risk assessments on a machine considering its risks to, and interactions with, bystanders and operators. The risk of harm is categorized by the severity of the harm, frequency and duration of exposure to the harm, and how well the operator or bystander can avoid the harm. It includes a well-known design hierarchy of solutions that remove the harm, guard against it, and/or warn against it. This hierarchy is used to reduce the risk to acceptable levels, and solutions need to vary with the speed, size, and power of the machine, as well as the environment in which the machine is being used. Some examples of these types of machines are:

- Robotic feed refresher: This small device is used in barns to push feed up to the cows. It operates very slowly and by itself in a controlled access environment. Solutions that could be used for this might be similar to what is used in industrial robots and environments with high worker density.
- Dino robotic weeders: This machine operates by itself in row crops where the density of workers is low and operator interaction is minimal. Solutions that could be used for this are the principles listed in ISO 18497. These robotic weeders can replace chemical weed control measures that expose workers to pesticides during spraying and harvesting.
- Operator-controlled lead machines: These machines operate with an operator-controlled lead machine that is wirelessly connected to a follower machine.

All of these machines are not allowed by Section 3441(b) as it is currently written. He asked the Board to vote "aye" on Petition 571.

Nicole Marquez, Worksafe and CA Rural Legal Assistance Foundation, stated that her organizations recommend denying the petition because autonomous vehicles are an emerging technology, and the petitioners have not provided comprehensive performance data that conclusively demonstrates that automated and autonomous equipment is safe and conforms with applicable consensus standards. Her organizations share the Division's concerns that agricultural workers who work in proximity to these machines are at risk for debilitating or serious injuries if they get hit or run over by these machines. They also feel that conducting an advisory committee to discuss this is not a good use of stakeholders' and staff's time.

PETITION 572 REGARDING AMENDMENTS TO THE IIPP

Pamela Murcell, CA Industrial Hygiene Council, stated that her organization is the petitioner for this petition, and her organization disagrees with the proposed decision to deny the petition. She said that the petition evaluations agreed with several recommendations that her organization made, but the main point of the petition, which was a request to convene an advisory committee to consider changes to the IIPP regulations, was not evaluated. Her organization's recommendations were examples of changes to the regulations that should be considered by an advisory committee. She stated that the IIPP requirements are not effective, and a 2012 RAND report review and 28-year enforcement history prove this. She said that the 28-year enforcement history is rife with thousands of citations that were issued based on lack of compliance with Sections 3203 and 1509. From 2014 to 2018, 9,883 citations were issued that pertained to Sections 3203 and 1509, and 4,080 of these were violations of 3203(a), which requires employers to establish an effective IIPP. She said that her organization wants to know if IIPP requirements are effective as they are currently written, why is there a rash of bills and regulatory actions pertaining to these issues? Her organization feels that these issues consume the Division's time and resources while these hazards can be identified, evaluated, and controlled through effective IIPP's. She stated that more effective guidance is needed on how to implement an effective IIPP, and examples of written programs would be helpful to employers. She said that the documents the Division currently provides online are not sufficient, and her organization understands using a performance standard approach when there are multiple ways to achieve the goal, but the performance standards in this case is not achieving the goal of injury and illness prevention. Her organization would like to see educational programs, such as webinars and seminars, made available to the regulated community, with availability of these programs made known through proactive advertising and social media venues.

Dan Leacox, Leacox & Associates, stated that if someone did a root cause analysis of all injuries and illnesses, it may not be possible to determine for sure whether any of them could be attributed to whether or not an IIPP failed or was ineffective. He said that if the number of citations and violations is the reason why these regulations need to be redone, making the rules more complex and burdensome will not reduce the number of citations issued in the future. In fact, it will make it much more difficult to comply with and introduce more uncertainty.

Bruce Wick, CALPASC, stated that his organization feels the Board staff arrived at the correct conclusion, which is to deny the petition, and the Board should follow that recommendation.

Kevin Bland, representing the Residential Contractors Association, the CA Framing Contractors Association, and the Western Steel Council, stated that he has handled many appeals dealing with IIPP, but he cannot recall one where the root cause or contributing factor was the IIPP. He said that a company's IIPP is often confused with its safety program. The IIPP is the skeletal base structure of a safety program that helps to drive it. It is not the answer and is completely over-cited. He said that the current standard clearly spells out what an IIPP is supposed to do and allows companies to tailor their IIPP to suit their needs. He asked the Board to follow the staff's recommendation and deny the petition.

Michael Musser, CA Teachers Association, stated that his organization supports the petition

decision, but they also feel that it is important to make sure that employers and employees have the resources that they need to do their jobs safely. He said that when standards like IIPP are implemented, we need to be sure that they can be enforced, look at all of the options available to do that, and make sure that employers and employees are involved in the development of the IIPP.

OTHER ITEMS

Kevin Bland, representing the Residential Contractors Association and the CA Framing Contractors Association, stated that the new administration for federal OSHA is going to have a meeting with the National Framers Association, the National Builders Association, and the National Carpenters Union in July to move forward with a national standard that is similar to what is in Section 1716.2 of the California standard for residential framing contractors fall protection. He said that 1716.2 was originally adopted in California in 2002, and it changed the culture for the better in the industry. However, federal OSHA forced California to change the standard or lose budget money because it was not at least as effective as the federal standard. He said that there is a lot of union and management support for this meeting that will take place in July with federal OSHA.

Verta, former Adult Film Performer, stated that she took a huge personal risk submitting Petition 576 to the Board, admitting to the industry that she submitted it, and asking other performers to come before the Board to voice their concerns, and she now regrets bringing the petition to the Board. She said that if Mind Geek is not considered to be an employer when it owns most of the adult film companies and the industry, then no one in the adult film industry can be considered an employer. She stated that when it comes to performer safety, the Division focuses mostly on the transmission of infectious diseases, but there are other responsibilities for ensuring performer safety that the Division needs to focus on more clearly. She said that she no longer wants to be affiliated with petition 576 and that she will revise and resubmit her petition to the Division of Labor Standards Enforcement. She hopes that if performers like her come to the Board in the future, that the Board will listen to them.

C. ADJOURNMENT

Mr. Thomas adjourned the public meeting at 11:27 a.m.

Mr. Thomas called for a break at 11:27 a.m. and reconvened the meeting at 11:43 a.m.

II. PUBLIC HEARING

Mr. Thomas called the Public Hearing of the Board to order at 11:43 a.m., May 16, 2019, in the Auditorium of the Harris State Building, Oakland, California.

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

1. TITLE 8:

LOW VOLTAGE ELECTRICAL SAFETY ORDERS

Sections 2300 and 2305.2

HIGH VOLTAGE ELECTRICAL SAFETY ORDERS

Sections 2940.2 and Appendix A to Article 36

**Electric Power Generation, Transmission,
and Distribution; Electrical Protective Equipment: Final rule - Corrections**

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.

There were no public comments on this proposal.

A. ADJOURNMENT

Mr. Thomas adjourned the Public Hearing at 11:50 a.m.

III. BUSINESS MEETING

Mr. Thomas called the Business Meeting of the Board to order at 10:57 p.m., May 16, 2019, in the Auditorium of the Harris State Building, Oakland, California.

A. PROPOSED PETITION DECISIONS FOR ADOPTION

1. Michael Pankonin, Sr. Director, Tech & Safety Services
Association of Equipment Manufacturers
Petition File No. 571

Petitioner requests the Board to amend Title 8, General Industry Safety Orders, Section 3441(b) to permit the use of highly automated and autonomous agricultural equipment in accordance with the manufacturer's instructions and guidance.

Ms. Shupe summarized the history and purpose of the petition, and stated that the proposed decision is to grant the petition to the limited extent that the Board staff shall convene an advisory committee meeting to discuss the issues raised by the petition, as well as the subsequent evaluations by the Division and Board staff.

Mr. Harrison stated that while it is inevitable that these machines and artificial intelligence will be used in the future, he feels he cannot support the petition decision as proposed. He said that great minds have developed driverless cars and other autonomous things, and those who developed them claimed that they were safe, but when these devices and vehicles entered the test phase, there were injuries and fatalities that occurred during their use. He also stated that he doesn't think there is a labor shortage, but rather a shortage of good-paying jobs. He wished to make an alternate motion. He encouraged the petitioner to reach out to labor folks and include them in the discussion, regardless of what happens with the petition today. **Ms. Stock** stated that while she does not want to impede the advancement of technology, she has concerns about this petition. She said that there is an existing regulation that addresses this

issue, and in order to change it, there needs to be clear safety data available to support the change. She stated that there isn't evidence to prove that these machines can be operated safely, and the Division requested information from the petitioners, but they were unable to provide it because they have no sources from which to get this information. She said that it is very premature to look at this petition now and use staff resources on it, and it would result in the staff deferring to the advisory committee to get the information that the petitioner was not able to provide. She said it would be better to come back and look at this when the information is available that provides clear evidence that these machines are safe.

MOTION

A motion was made by Mr. Harrison and seconded by Ms. Stock that the Board deny the petition.

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

2. Pamela Murcell, President
California Industrial Hygiene Council
Petition File No. 572
Petitioner requests amendment to the Injury and Illness Prevention Program (IIPP) Section 3203(a) to define the term "effective", address expanded use of safety committees, and enhanced qualifications of IIPP program administrators.

Ms. Kennedy left the room, recusing herself from discussion of this petition, and abstaining from voting on it, because at the time that the petition was drafted and submitted, she was on the CIHC board.

Ms. Shupe summarized the history and purpose of the petition, and stated that the proposed decision is to deny the petition.

Ms. Stock stated that this is a very critical regulation that is not meeting its potential for many reasons, some of which have resulted in changes being made to the regulation, such as requiring employee access to, and involvement in developing, the IIPP. She said that it might be appropriate to go to advisory committee to identify what is working and what is not, and then to hone in on fixing those parts of the regulation that are not working so that this regulation can be as effective as possible.

Ms. Laszcz-Davis stated that the IIPP provides the structure for a health and safety program, but the real meat of the program is in the safety and health procedural elements. She said that the IIPP is critical when it comes to identifying critical elements, but it is not the driver on the floor, and she was not sure that an advisory committee will help advance the safety of the IIPP. She said that the Board needs to consider other opportunities to address this.

MOTION

A motion was made by Mr. Harrison and seconded by Ms. Laszcz-Davis that the Board adopt the petition decision.

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

Ms. Kennedy returned to the room.

B. PROPOSED VARIANCE DECISIONS FOR ADOPTION

1. Consent Calendar

Mr. Healy stated he is aware of no unresolved procedural issues regarding items A-M 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 Mr. Harrison to adopt the consent calendar.

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

C. OTHER

1. Legislative Update

Mr. Healy provided an update on legislative activity and status, in the past month, of the following bills:

- AB 457
- AB 1124
- SB 1
- SB 363

2. Executive Officer's Report

Ms. Shupe stated that the Board staff and Division have continued to work on the emergency regulation pertaining to wildfire smoke, and she anticipated that the language will be finalized in time for the June Board Meeting. There will be an item on the June agenda for the Board to discuss it. In addition to that, there will be a public hearing item on the June agenda that pertains to crane operator certification, as well as Petition 574, which pertains to the construction of towers, masts, and hoistway enclosures.

3. Future Agenda Items

Ms. Burgel asked for an update on the proposals pertaining to indoor heat and lead. She also asked if a second advisory committee will be held for the emergency wildfire smoke regulation. **Mr. Berg** stated that the Division contracted with an outside company to do the Standardized Regulatory Impact Analysis (SRIA) for the lead proposal. The SRIA has been completed, approved by the Labor and Workforce Development Agency (LWDA) on May 13,

and has been sent to the Department of Finance (DOF) for review, which will take about 60 days. Once DOF completes its review, the rulemaking process can begin. Regarding the indoor heat proposal, the Division published the draft that will be used for rulemaking on April 12. The Division has contracted with an outside company to do a threshold analysis to determine if a SRIA is needed. This analysis will be completed in about 3 weeks.

Ms. Stock asked for an update on the proposal for workplace violence prevention in general industry. **Mr. Berg** stated that the Division is working on updating the draft language and posting it to get more comments in the next few months. The amount of time that it will take will depend on the Division's workload regarding the emergency wildfire smoke and lead proposals. **Ms. Stock** also asked that if it is determined that a SRIA is not needed for the indoor heat proposal, will the Division will be able to report back to the Board as to when the proposal may come up for public hearing? **Mr. Berg** stated that the Division can begin developing the rulemaking documents for it, but the economic impact assessment will be very challenging. He said that he may have more information about that at next month's meeting.

D. ADJOURNMENT

Mr. Thomas adjourned the Business meeting at 12:17 p.m.