

**OCCUPATIONAL SAFETY
AND HEALTH STANDARDS BOARD**

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**FINAL STATEMENT OF REASONS****CALIFORNIA CODE OF REGULATIONS**

TITLE 8: Chapter 4, Subchapter 5, Article 40 (new), Sections 2980-2983 of the
High-Voltage Electrical Safety Orders

Electronic News Gathering (ENG)

There are no modifications to the information contained in the Initial Statement of Reasons except for the following substantive and non-substantive modifications that are the result of public comments and Board staff evaluation.

Section 2982. Employee Training.

Subsection (a)(2) was modified to require safety training to be conducted “at least annually.” The previously proposed wording “not less than annually” was subject to misinterpretation. The purpose of the proposed modification is to clarify that the maximum allowable time period between required employee training shall not exceed one year. The necessity for this modification is to prevent misinterpretation of the maximum allowable time period between periodic training required by Section 2982.

Section 2983. Safety Inspections.

Section 3203, subsection (a)(4) requires “periodic” safety inspections; however, it does not specify a maximum or minimum time interval. The purpose of the proposed modification to subsection 2983(a) is to prescribe the maximum time interval between periodic safety inspections which are required by Section 3203(a)(4). Section 2983 as originally proposed would have required quarterly in-the-field safety inspections. Based on public comments received which indicated that quarterly inspections could pose logistical and scheduling problems for operators with large fleets of ENG vehicles, labor and management representatives reached a consensus agreement to change the frequency of periodic ENG inspections to annual. The purpose of subsection 2983(b) is to prescribe a time interval between the annual training required by Section 2982, Employee Training, and the annual field safety inspection required by subsection 2983(a) in order to help maintain safety awareness by management and employees. Subsection 2983(c) is based on a consensus agreement between labor and management. The purpose is to require that additional training in safe work practices shall be provided if it is determined during the course of the field safety inspection to be appropriate or necessary.

The necessity for these proposed modifications is due to the lack of day-to-day supervisory oversight of field crews, rapidly changing technology, continuously changing work conditions, and intense time pressures upon the field crews to get set-up quickly to transmit the news story. The time offset between annual training and the annual field inspection will promote safety awareness by management and employees by requiring at least two periods of special safety emphasis each year. The necessity for the change from quarterly to annual safety inspections is due to an unanticipated logistical, scheduling, and cost burden that would have been imposed by the original proposal.

SUMMARY AND RESPONSE TO ORAL AND WRITTEN COMMENTS

I. Written Comments

Mr. Joseph Manna, Director, Health and Safety, ABC Inc. and Mr. Stan Stratham, President/CEO, California Broadcasters, by letter dated May 16, 2002.

Comment:

The letter expressed support for Sections 2980 through 2982 of the proposed rulemaking. With respect to Section 2983, Safety Inspections, the commenter opined that this section is an unnecessary addition to the existing inspection requirements contained in General Industry Safety Orders (GISO) Section 3203(a)(4). Section 3203. Injury and Illness Prevention Program, contains, in relevant part:

“...every employer shall establish, implement and maintain an effective Injury and Illness Prevention Program (Program). The Program shall be in writing and, shall, at a minimum:

(4) Include procedures for identifying and evaluating work place hazards including scheduled periodic inspections to identify unsafe conditions and work practices. Inspections shall be made to identify and evaluate hazards.

(A) When the Program is first established;

(B) Whenever new substances, processes, procedures, or equipment are introduced to the workplace that represent a new occupational safety and health hazard; and

(C) Whenever the employer is made aware of a new or previously unrecognized hazard.”

Mr. Manna expressed the opinion that Section 2983, which mandates that these inspections be conducted not less than quarterly is an unnecessary addition to the existing requirements of Section 3203 and will unintentionally cause logistical and potential financial hardships to the

news gathering abilities of broadcast entities in California. Mr. Mannetta recommended that affected businesses should be allowed to conform to the current requirements and develop performance-based inspections without numerical constraints. Furthermore, the concern was expressed that the proposed rule, as currently written, could increase the likelihood for inspection practices that focus on quota and not quality. Mr. Mannetta proposed that Section 2983 be amended to read as follows:

“Periodic inspections required by Section 3203(a)(4) shall include safety inspections of the operation of ENG vehicles.”

Response:

Upon further study, the Board is in agreement that quarterly safety inspections could unintentionally cause unanticipated logistical and financial hardships; therefore the Board accepts Mr. Mannetta’s comments in-part. Rather than amending Section 3203(a)(4), the Board is of the opinion that training requirements specific for ENG should be contained within the vertical standard in HVESO Article 40 in order to simplify use by the regulated public. Therefore, Section 2983 has been modified based on a consensus agreement between management and labor to change safety inspection frequency to annual. The Board thanks Mr. Mannetta for his comments and participation in the Board’s rulemaking process.

Mr. J. Kevin King, President, Hazard Information Foundation, Inc. (HIFI), by letter dated May 10, 2002:

Comment:

HIFI is of the opinion that the Board may not have been provided with adequate information regarding the engineering alternatives to eliminate or minimize the serious risk of injury to humans and property, and therefore submitted additional information, including reports of accidental contact with high-voltage power lines by ENG vehicle masts, cranes and concrete pumping vehicles. HIFI also provided information on problems in the perception of overhead power lines, and on the Sigalarm™ proximity detection and alarm system. HIFI expressed their opinion that relying on training to modify user behavior is not sufficient to prevent future unintended elevation of ENG masts into power lines. HIFI is of the opinion that an engineering alternative should be considered: an electrostatic type of proximity alarm known as “Sigalarm™.” The HIFI letter also identified entities, both private and governmental, that have employed the “Sigalarm™” device to prevent accidental contact with overhead power lines.

HIFI concluded by stating that the proposed regulations need to have some means to ensure that employees and employers be informed of engineering safeguards available to prevent inadvertent contact with high voltage power lines. They proposed that the regulations incorporate the following:

“1. Provide and install an electric (electrostatic) field detector to prevent the mast from being raised when the ENG van is parked under or immediately adjacent to overhead

power lines. Such detector should also prevent the mast from being raised until the van is positioned at least thirty feet lateral distance from the power line. Further, the manufacturer shall certify the installation is calibrated and locked into adjustment for that particular van to ensure that the mast cannot be activated when the ENG van is parked under power lines or immediately adjacent to them.

2. For failsafe redundancy, insulating materials should be incorporated in the design of accessories that are mounted on the top of the pneumatic mast to prevent current flow in excess of five (5) milliamps when contact is made with 7500 volt power lines.

3. Training needs to include (a) a summary of previous injuries due to inadvertent raising of pneumatic masts on ENG vans into power lines, (b) the propensity for error-provocative circumstances during use of ENG vans, and (c) the need for proven safety accessories on ENG vans as standard equipment.”

Response:

With respect to the first part of the HIFI proposal, the Board rejects the recommendation to specifically require electric (electrostatic) field detection systems. The June 2001, ENG advisory committee extensively reviewed and considered requiring the use of proximity detection and alarm systems utilizing electrostatic and/or electromagnetic principles. The consensus of the committee was that the use of such devices should not be mandated for the following reasons:

1. There are no nationally recognized standards for testing proximity detectors. Without a requirement for testing to a nationally recognized standard, there is no assurance that the device will function in a consistent and effective manner.
2. The use of proximity detection devices could give crews a false sense of security; there is no substitute for observation.
3. Concerns were expressed about reliability and accuracy of systems currently on the market.
4. Concerns were expressed about false alarms, and the potential for employees to over-ride or disable the system to eliminate false or nuisance alarms.

In addition, the HIFI proposal recommends adoption of a standard that may require use of a specific product. At the present time, Board staff is only aware of one manufacturer in the US that makes an electrostatic field detector, Sigalarm™. The consensus of the advisory committee was that the regulation should not contain a specific requirement for proximity detection systems; however, their use should be permitted as an available option (as is permitted by the proposed Article 40).

With respect to the second part of the HIFI recommendation, the Board rejects the recommendation for failsafe redundancy and prevention of current flow in the mast or in mast-mounted accessories because such protections could give the crew a false sense of security, and the goal of the regulation is to avoid contact with overhead power lines. Furthermore, even if it were possible to provide a non-conductive mast and accessories, they could be defeated by moisture, dirt, oil, atmospheric pollutants and other conductive substances that could accumulate on the mast and accessories in normal operational use.

With regard to the third part of HIFI's proposal (training), the Board is of the opinion that these concerns are addressed by the proposed training criteria contained in Section 2982. Furthermore, the Board is of the opinion that concerns identified in part 3(c) have also been addressed in Section 2981, which prescribes minimum equipment that has been determined to be necessary for safe operation of ENG vehicles. Therefore the Board declines to implement the HIFI recommendation.

For the reasons listed above, the Board believes modification of the proposal to include the language proposed by HIFI is unnecessary and inadvisable. The Board thanks Mr. King and HIFI for their comments and participation in the Board's rulemaking process.

Ms. Gena Stinnett, President, NABET/CWA Local 57; Ms. Leslie Simon, Director of Broadcast Organizing, AFTRA, Los Angeles Local; Mr. Keith Hendricks, Vice President, Region 5, NABET/CWA Local 53; Mr. Tim Wade, Western Region Business Representative, IATSE Local 600; Mr. Gary Johnson, ENG Safety Representative, IBEW, Local 45, by letter dated April 30, 2002:

Comment:

The foregoing individuals represent the union coalition that filed the petition for ENG Safety Regulations, and their letter was written in support of quick passage of the proposed regulations "as-is" to avoid any further delay in implementation of the regulations which will bring consistent, statewide safety standards to the industry.

Response:

The Board thanks Ms. Stinnet, Ms. Simon, Mr. Hendricks, Mr. Wade, and Mr. Johnson, and their respective Locals for their support and participation in the Board's rulemaking process.

Mr. Lance Burney, CEO, Sigalarm™, by letter dated May 13, 2002:

Comment:

Mr. Burney stated that an operator cannot humanly judge the distance between equipment and overhead power lines, and for this reason alone, an electrical field monitor, such as Sigalarm™ should be incorporated as an operator aid. He opined that when the detection system is used as the manufacturer recommends, it can effectively alert the operator of overhead danger. Mr. Burney goes on to state that while there is no existing national standard for proximity warning devices (PWD), the use of such devices does not violate any known standard, including OSHA, NIOSH and NFPA. Further, he believes that the Sigalarm™ product does, in fact, meet Title 8, Section 3206 approvals requirement and that it should not be excluded from use because there is no nationally recognized approval standard. Mr. Burney also noted that the AM Best underwriting guide recommends the use of Sigalarm™ by name as a benefit in the avoidance of overhead power lines. Furthermore, he stated that hundreds of Sigalarm™ users and customers around the world believe the use of Sigalarm™ is beneficial to their safety programs. Mr.

Burney concludes by suggesting that the Board should consider recognizing the need for an electronic backup to a trained operator in a future rulemaking.

Response:

The proposed regulation does not prohibit the use of Sigalarm™ systems for ENG. Furthermore, for the reasons identified in the response to Mr. King's letter above, the Board is not persuaded that mandating the use of electronic proximity detection for ENG is appropriate at this time. Mr. Burney suggested that the Board revisit the issue of proximity detection systems in a future rulemaking. Mr. Burney's attention is directed to Labor Code Section 142.2, which provides a procedure for interested persons to propose new or revised orders or standards for adoption. The Board thanks Mr. Burney for his interest and participation in the ENG Advisory Committee and in the rulemaking process.

Ms. Gena Stinnett, President, NABET-CWA Local 57, by e-mail dated May 16, 2002:

Comment:

Ms. Stinnett wrote regarding the need for the quarterly in-the-field safety inspections. She stated that they are necessary not just to verify that safety equipment is working, but also to require the employer to observe field operations in order to determine whether the crews are operating within the scope of safe ENG work practices. She went on to say that this requirement is necessary since ENG crews normally work at remote locations and are not visually observed by management or other supervisors as they work. The quarterly inspection will afford management with an opportunity to enforce their safe work practice rules and to determine whether those rules are actually being applied, or whether they need modification. She concluded by saying that the average station should be able to conduct the proposed inspections on all operating crews under operating conditions within a period of one or two days, and thus the regulations are not onerous on the employer and will help improve both employee and public safety.

Response:

Section 2983 has been modified based on a consensus agreement between labor and management to which Ms. Stinnett was a participant. The Board thanks Ms. Stinnett for her comments and participation in the Board's rulemaking process.

The following employees of KABC-TV submitted a petition dated April 16, 2002:

David Putnam
Edgar Alcala
Stephan Coleman
Marie Hernandez-Moore
Bruce Weiner
Bruce Bonnett

David Busse
Edwin Donald Smith
Martin Powell
Michal Juras
James Evans
Martin Orozco

Shawn F. McCarthy
Robert Cheung
Tim Matthews
David Dahlquist
David A. Klein
David M. Wood

Russel M. Yu
George Izquierdo

David Kunz
Stephen Chacon

John Bush
David Watts

Comment:

The aforementioned proponents signed a letter in support of the proposed regulations, and urged that they be approved “as-is” so that they can begin receiving the benefit of the proposed safety provisions. The letter indicated that other issues, such as conditions when a two-person crew should be assigned, could be addressed under a new petition if needed. Their letter concluded by stating that each month’s delay in adoption means the safety equipment retrofitting, safety signs, manuals and other safety features of this proposal would be further delayed, and they hoped the regulations would be approved as proposed at the May 16, 2002 hearing.

Response:

The Board thanks the aforementioned individuals for their participation in the Board’s rulemaking process.

The Board received a letter dated April 29, 2002, signed by the following 23 individuals in New York and New Jersey who are employed in the broadcast industry:

Orlando Burgos
John Cirillo
James Lieu
Leonard Shir
Walter Hurst
Paul J. Hurney
Joseph Longo
Thomas Rebilh

Paul Jennings
Tom Budai
Thomas Onofrio
Oswald Wilson
P.D. Kaltabuh
Naris Pinoran
Hernon Lucas
Brian E. Kelly

Albert Gagliardi
Joe Misiti
Bob Sconza
Jerry Cidmon
Frank E. Hatch
Anthony C. Uzupes
Gilbert Valentin

Comments:

The letter expressed full support for adoption of Title 8, Article 40, Electronic News Gathering, as proposed. The proponents expressed hope that adoption will lead other states to follow suit. The letter went on to say that the proposal calls for much-needed safety regulations in the highly dangerous area of ENG. The letter stated that the lack of safety training for ENG workers is appalling and that many ENG workers are thrust into the field with little or no formal safety training. The proponents were in favor of the detailed safety training requirements and felt that the proposal would go a long way toward remedying the problem. With regard to the proposed safety devices, the proponents stated that they needed them today; however they understand the necessity to allow a phase-in period. For these reasons they urged approval of the proposal at the May 16, 2002 hearing.

Response:

The Board thanks these members of the broadcast industry in New York and New Jersey for their participation in the Board's rulemaking process.

The Board received a letter dated April 29, 2002, signed by the following 22 individuals in New York, New Jersey, and Connecticut who are employed in the broadcast industry:

David Elliott	Kevin M. Pultz	Hector A. Muniz Jr.
Fred Mason	Neal R. Balas	Roger L. Anderson
William J. Lind	Bob Merritt	Todd D. Pierle
Angelo Martin	Mandy Clembitehy	Joe Tesauro
Bryan White	Glenn Mayrose	Gregory Cintron
David Wolfson	Israel Jacob Mora	Albert M. Webber
John G. McCurdy Jr.	Calvin B. deMond	Robert J. Cantwell
Mark Abrahams		

Comments:

The subject letter expressed full support for adoption of the proposed ENG regulations. Their comments are substantially similar in content to the letter from the 23 New York and New Jersey broadcast employees described above.

Response:

Since, the letter is substantially similar to that of the April 29, 2002 letter from the 23 New York and New Jersey broadcast industry employees above, the Board refers the reader to the comments contained in the response to that letter. The Board thanks these members of the broadcast industry in New York, New Jersey and Connecticut for their participation in the Board's rulemaking process.

Ms. Susan Boyd, President, American Federation of Television and Radio Artists (AFTRA), Los Angeles Local, by letter dated May 3, 2002:

Comment:

Ms. Boyd expressed strong support for the proposed rulemaking. She stated that prior to the May 22, 2000 KABC accident, many of their members had not received safety training on the vans in which they work. She indicated that the subjects of crew size, the location of personnel when the mast is raised and lowered, and proximity detectors may be the subjects of future petitions; however, she said it is important for the proposed regulations to be adopted without delay. With regard to proximity detectors, she expressed hope that the rulemaking process will be the impetus for development of a national consensus standard. Once such a national standard is developed and devices are approved, she is hopeful that management will be supportive of requiring installation of these devices on all ENG vehicles in California.

Response:

With regard to proximity detectors, the normal channel for an interested party to initiate the rulemaking process to include proximity detection at some future date would be via petition as permitted by Labor Code Section 142.2.

The Board thanks Ms. Boyd for her participation and the participation of her Local in the Board's rulemaking process.

Mr. John P. Connolly, President, American Federation of Television and Radio Artists (AFTRA), National Office, by letter dated May 3, 2002:

Comment:

Mr. Connolly expressed strong support for the proposed rulemaking. He indicated that the subjects of crew size, the location of personnel when the mast is raised and lowered, and proximity detectors may be the subjects of future petitions; however, he said it is important for the proposed regulations to be adopted without delay. With regard to proximity detectors, he expressed hope that the rulemaking process will be the impetus for development of a national consensus standard. Once such a national standard is developed and devices are approved, he is hopeful that management will be supportive of requiring installation of these devices on all ENG vehicles in California.

Response:

With regard to proximity detectors, the normal channel for an interested party to initiate the rulemaking process to include proximity detection at some future date would be via petition as permitted by Labor Code Section 142.2.

The Board thanks Mr. Connolly for his participation and the participation of his organization in the Board's rulemaking process.

Mr. Larry Cohen, Executive Vice President, Communications Workers of America (CWA), Washington, D.C., by letter dated April 30, 2002:

Comment:

The CWA represents some 13,000 U.S. and more than 3,000 California workers within the media and broadcasting sector. CWA District 9 and CWA-NABET Locals 57 and 53 have been very involved in the ENG rulemaking process. Mr. Cohen noted that the necessity for ENG safety standards has been demonstrated by the many cases of serious occupational injuries and fatalities that have occurred among ENG workers, both in California and throughout the United States. Mr. Cohen expressed strong support for the proposed regulations and praise for the state taking the lead in this important standards setting activity. He is hopeful this will spur similar efforts throughout the United States.

Response:

The Board thanks Mr. Cohen for his participation and the participation of his organization in the Board's rulemaking process.

Mr. Michael Hartigan, President, Communications Workers of America, Local 9400, by letter dated May 1, 2002:

Comment:

Mr. Hartigan's organization is a statewide local with a large part of their membership in the communications industry where aerial electrical hazards are a major focus of ongoing safety training. While he did not believe that the proposed regulations address all their concerns, he believes they are a good starting point and urged the Board to support their adoption.

Response:

The Board thanks Mr. Hartigan for his participation and the participation of his organization in the Board's rulemaking process.

Mr. Jelger Kalmijn, President, University Professional and Technical Employees, UPTE-CWA Local 9119, Berkeley, CA, by letter received May 7, 2002:

Comment:

Mr. Kalmijn's organization represents employees in the University of California Schools of Journalism and Communications. He wrote in support of adoption of the proposed regulations. He noted that they are a clear, specific proposal that calls for much needed safety regulations and training in the highly dangerous area of ENG. He noted that the regulations will provide a "floor" of training requirements that will promote consistency and quality in training across the state. While he would prefer that the proposed safety equipment would be required immediately; he understands the administrative realities for the phase-in period. Mr. Kalmijn concluded by urging approval of the proposed regulations immediately.

Response:

The Board thanks Mr. Kalmijn for his participation in the Board's rulemaking process.

Mr. Louie H. Rocha, President, Communications Workers of America, Local 9423, by letter received May 15, 2002:

Comment:

Mr. Rocha's organization represents 3000 communications workers in Northern and Central California. Mr. Rocha's letter was substantially similar in content to Mr. Kalmijn's letter. He expressed support for adoption of the proposed ENG regulations.

Response:

The Board thanks Mr. Rocha for his participation in the Board's rulemaking process.

Mr. Timothy E. Wade, Business Representative, International Cinematographers Guild (IATSE) Local 600, by letter dated April 30, 2002:

Comment:

IATSE Local 600 represents members who work in the broadcast industry, not only in California, but across the entire United States. Mr. Wade expressed the organization's support for the ENG regulations as proposed. He highlighted the proposal's specific training requirements, which, he believes, will provide a "floor" of information for all ENG employees, crews, reporters, and management. He also expressed their support for the proposed requirements for safety equipment. He stated that his organization would prefer to see the requirements implemented immediately; however, they understood the administrative realities and the necessity to allow time for companies to comply. He concluded by stating that they understood that the regulations would not require EMF proximity detectors due to the lack of nationally recognized standards, and expressed hope that these regulations would provide an impetus for manufacturers to get their devices approved, at which time he stated that his organization would return, hopefully with the support of management, to petition for these devices to be installed on all ENG vehicles.

Response:

The Board thanks Mr. Wade for his comments and participation in the Board's rulemaking process.

Mr. Rick Chambers, KCOP-TV, by letter received May 13, 2002:

Comment:

Mr. Chambers is a reporter/anchor at KCOP-TV and wrote expressing support for quick adoption of the ENG regulations as proposed. He emphasized the necessity of the proposed training requirements and the fact that they will provide a "floor" of information for all ENG employees. He stated that training is necessary for managers and assignment personnel to be included in the training requirements so they understand the risks the crews face in getting news stories. He also expressed support for the proposed required safety devices, and stated that he understood the need for a phase-in period. He concluded by stating that the regulatory process has taken long enough and that the industry needs the safety regulations now; he therefore urged Board approval of the proposed regulations.

Response:

The Board thanks Mr. Chambers for his comments and participation in the Board's rulemaking process.

The Board received letters substantially similar in content to Mr. Chambers' letter from the following individuals employed in the broadcast and telecommunications industries:

Robert Arellano, Sunland, CA	Suzanne Albert, Burbank, CA
Victor Anastasia, Agua Dulce, CA	Catherine Anaya, KCBS-TV, Los Angeles, CA
Daniel Ayala, Corona, CA	Kim Baldonado, KNBC, Burbank, CA
Larry Beck, Bellflower, CA	Richard Becker, Merced, CA
Steve Bedaux, Castaic, CA	Robert Bessolo, Westlake Village, CA
Cecilia Bogran, KMEX-TV, Los Angeles, CA	Joshua Bradford, Studio City, CA
Michael Brandon, Los Angeles, CA	Michael Brownlee, KCBS, Los Angeles, CA
Dave Bryan, KCAL-TV, Hollywood, CA	Fernando Burruss, Torrance, CA
Theodore Chen, KNBC-TV, Burbank, CA	William Cooper, La Crescenta, CA
Sonya Crawford, KNBC-TV, Burbank, CA	Steve Crawford, KCBS, Burbank, CA
David Cruz, KNBC-TV, Agoura, CA	Richard Daszkowski, Valencia, CA
Patricia Del Rio, KTLA, Los Angeles, CA	Stuart Drexler, Sherman Oaks, CA
John Dugan, San Francisco, CA	Jesse Ettinger, Valley Village, CA
Juan M. Fernandez, KCBS-TV, LA, CA	Ted Garcia, KTLA-TV, Los Angeles, CA
Jaime Garza, KCAL-TV, Hollywood, CA	Michele Gile, KCAL-TV, Los Angeles, CA
Willard E. Gleeson, KABC-TV, Glendale, CA	Arnold Gordon, Los Angeles, CA
Larry Greene, Agoura, CA	Harold Greene, KCBS-TV, Hollywood, CA
Drew Griffin, KCBS-TV, Los Angeles, CA	Jaime Guerrero, Santa Clarita, CA
Pat Harvey, KCAL-TV, Hollywood, CA	Charles Hastings, Redwood City, CA
Patrick Healy, KNBC, Burbank, CA	John Huck, KCBS, Los Angeles, CA
Rodney Gregg Hunt, Hollywood, CA	Gary C. Johnson, Burbank, CA
Tim Kimball, Foothill Ranch, CA	Douglas P. Kriegel, KNBC-TV, Burbank, CA
David S. Lopez, KCBS-TV, Hollywood, CA	Sylvia Lopez, KCAL-TV, Hollywood, CA
Dan Mahoney, CWA, Alexandria, VA	Michael Majer, Burbank, CA
Jo Mayer, Topanga, CA	Larry McCormick, KTLA, Los Angeles, CA
Steve Medina, Hollywood, CA	Don Menzel, Glendale, CA
Sandra Mitchell, KCAL 9, Hollywood, CA	Al Naipo, KTTV, Los Angeles, CA
Conan P. Nolan, KNBC-TV, Burbank, CA	Ron Olsen, KTLA-TV, Hollywood, CA
Wilson Posey, Laguna Hills, CA	Ronald Price, Los Angeles, CA
Natalie Puji, KCBS	Ricardo O. Romero, KABC-TV, Glendale, CA
Norma Roque, KMEX 34, Los Angeles, CA	Kevin Scalia, Stevenson Ranch, CA
Monroe L. Sharaf Jr., Pacific Palisades, CA	Scott Shulman, ABC News, Los Angeles, CA
David D. Sheehan, KCBS-TV, Hollywood, CA	Glenn Y. Shimada, Los Angeles, CA
Eric Spillman, KTLA, Los Angeles, CA	Shelly Staniec, San Luis Obispo, CA
Tricia Takasugi, KTTV, Los Angeles, CA	Chuck Taylor, Studio City, CA
Stuart Tropp, North Hollywood, CA	Joe Turner, Gardena, CA
Michelle Tuzee, KABC, Glendale, CA	Louis Varela, Simi Valley, CA
Vikki Vargas, NBC-4 TV, Burbank, CA	Herman Vazquez, Glendale, CA
John E. Vincent, Sherman Oaks, CA	Andrew M. Weintraub, Hollywood, CA

Ron Wening, Irvine, CA
Monica Wyatt, Santa Monica, CA

Beverly White, KNBC-TV, Burbank, CA
Jane Yamamoto, KTTV, Los Angeles, CA

Response:

The Board thanks the forenamed individuals for their comments and participation in the Board's rulemaking process.

II. Oral Comments

Oral comments received at the May 16, 2002, Public Hearing.

Ms. Liz Arioto, Standards Board Member.

Comment No. 1:

Since staff's Proposed Decision for Petition No. 422, the source for this rulemaking, had not recommended inclusion of the requirement for quarterly, in-the-field safety inspections, Board Member Arioto asked staff why Section 2983, which requires quarterly in-the-field safety inspections, had been included in the proposed rulemaking. She also asked what would be involved in the inspection process.

Response:

The Board granted the Petition at the January 18, 2001, Public Meeting, to the extent of directing staff to convene an advisory committee to consider seven of the nine elements originally proposed in Petition No. 422, including the issue of quarterly in-the-field safety inspections.

The issue of quarterly in-the-field safety inspections was discussed at an advisory committee convened June 12-13, 2001, in Burbank, CA, and, since the committee expressed no objections, quarterly safety inspections were incorporated into the proposed regulation. The quarterly inspections were designed to monitor the effectiveness of the program to protect the employees.

Comment No. 2:

Board Member Arioto asked for clarification of the term “field inspection.”

Response:

The intent of field inspection is to evaluate the implementation of training and compliance with safe work practices of Section 2982 in actual work conditions (in-the-field).

Comment No. 3:

Board Member Arioto asked whether it would be more effective to perform the inspections in one designated area or out in the field.

Response:

Since ENG vehicles operate in-the-field, normal supervisory oversight of daily operations is not practical. Safety inspections in-the-field will help provide a means for managerial personnel to verify that safe work practices are being employed while the crew is working under actual conditions involving intense time pressures to get news stories and continuously changing work conditions in the field.

The Board thanks Board Member Arioto for her interest and participation in the rulemaking process.

Ms. Leslie Simon, representing the American Federation of Television and Radio Artists (AFTRA), Los Angeles Local.

Comment:

Ms. Simon spoke in support of the proposed regulations and urged prompt adoption. She also stated that although she understands and agrees that EMF detectors should not be included in the proposed regulations since there is no nationally recognized testing standard, AFTRA is hopeful that this will encourage manufacturers to work to develop such a standard and to get their detection devices tested to a nationally recognized standard. She stated that she hopes that the Board will add EMF detectors to the regulations when this occurs.

Response:

The normal channel for an interested party to initiate the rulemaking process to include proximity detection at some future date would be via petition as permitted by Labor Code Section 142.2. The Board thanks Ms. Simon for her interest, comments and participation in the rulemaking process.

Ms. Gena Stinnett, President, NABET-CWA Local 57.

Comment:

Ms. Stinnett spoke in support of Ms. Simon, and in support of the proposed regulations and urged prompt enactment.

Response:

The Board thanks Ms. Stinnett for her interest, comments and participation in the rulemaking process.

Mr. David Putnam, Engineer, KABC-TV.

Comment:

Mr. Putnam spoke in support of the proposed regulations and urged prompt enactment.

Response:

The Board thanks Mr. Putnam for his comments and participation in the rulemaking process.

Mr. Gary Johnson, Engineer Field Technician, KCBS-TV.

Comment:

Mr. Johnson stated that there is a need for quarterly inspections and training for the operators of ENG vehicles. He stated that free-lance and temporary employees also need to be trained.

Response:

With regard to quarterly safety inspections, see response to written comment by Mr. Joe Manna, ABC. Labor and management reached consensus to change frequency of safety inspections to annual due to logistical and financial impacts; therefore the Board declines to implement this part of Mr. Johnson's comments.

With regard to the necessity for training free-lance and temporary (casual) employees, this concern was addressed at the June 2001 advisory committee, and the Board is of the opinion that such employees are covered under the provisions of Section 2982(a).

The Board thanks Mr. Johnson for his comments and participation in the rulemaking process.

Mr. Mark Bell, Safety Awareness Certification Association.

Comment:

Mr. Bell spoke in support of the proposed regulations and pointed out to the Board the public safety issues with ENG; he explained that ENG vehicles go where the news is, and that there may be crowds at those locations. Should an ENG vehicle make contact with an overhead power line in a crowded area, there would be danger not only to the ENG crew, but also to the surrounding crowd.

Response:

The Board thanks Mr. Bell for his comments and participation in the rulemaking process.

DETERMINATION OF MANDATE

As indicated in the Initial Statement of Reasons, these regulations do not impose a mandate on local agencies or school districts.

ALTERNATIVES CONSIDERED

The Board invited interested persons to present statements or arguments with respect to alternatives to the proposed regulation. No alternative considered by the Board would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the adopted action.