

**OCCUPATIONAL SAFETY
AND HEALTH STANDARDS BOARD**

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**SUMMARY
PUBLIC MEETING, PUBLIC HEARING, AND BUSINESS MEETING
November 21, 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 10:00 a.m., November 21, 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

NONE

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

Division of Occupational Safety and Health

Eric Berg, Deputy Chief of Health

Others Present

Louis Rocha, Communication Workers of America	Edward Persico, ThyssenKrupp
Karen Tynan, Ogletree Deakins	Del Garner, International Union of Elevator Constructors Local 8
Pamela Murcell, CA Industrial Hygiene Council	Taylor Jackson, California Nurses Association
Dan Leacox, Leacox & Associates	Jay Weir, AT&T
Cassie Hilaski, Nibbi Brothers	James Mackenzie, Southern CA Edison
Jamie Carlile, Southern CA Edison	Kathleen Finnerty, Finnerty Law
Chris Kirkham, Division of Occupational Safety and Health	Kevin Thompson, Cal/OSHA Reporter
Nicole Marquez-Baker, Worksafe	Karin Umfrey, Worksafe
Benjamin Sanchez, Littler Law Firm	George Eason, Buckingham Manufacturing

B. 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.

Dan Leacox, Leacox & Associates, representing the National Elevator Industry, Inc., commented on the upcoming proposal pertaining to the Group V Elevator Safety Orders.

The following individuals commented in support of the proposal for Fall Protection in Telecommunications:

- **Louis Rocha, Communication Workers of America**
- **Nicole Marquez-Baker, Worksafe**

Nicole Marquez-Baker, Worksafe, spoke about some gaps that her organization has witnessed in the emergency regulation pertaining to protection from wildfire smoke:

- Resources need to be available to workers in languages other than English, have more visuals and be literacy-appropriate. This includes the ability to get AQI data in languages other than English.
- Clarity regarding where workers can be in mandatory evacuation areas.
- Domestic workers having to engage in work that is not traditionally domestic work.

She asked the Board and Division to consider these things as the permanent wildfire smoke regulation is developed.

C. ADJOURNMENT

Mr. Thomas adjourned the public meeting at 10:24 a.m.

II. **PUBLIC HEARING**

Mr. Thomas called the Public Hearing of the Board to order at 10:24 a.m., November 21, 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: **GENERAL INDUSTRY SAFETY ORDERS**
 Sections 3420 and 3425
 Tree Work, Maintenance or Removal - Use of Portable Power Saws

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 10:29 a.m.

III. BUSINESS MEETING

Mr. Thomas called the Business Meeting of the Board to order at 10:29 a.m., November 21, 2019, in the Auditorium of the Harris State Building, Oakland, California.

A. PROPOSED SAFETY ORDERS FOR ADOPTION

1. TITLE 8: TELECOMMUNICATION SAFETY ORDERS
Section 8615(g)
Fall Protection in Telecommunications

Mr. Manieri summarized the history and purpose of the proposal and indicated that the proposal is now ready for the Board's adoption.

MOTION

A motion was made by Ms. Laszcz-Davis and seconded by Ms. Stock that the Board adopt the proposal.

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

B. PROPOSED VARIANCE DECISIONS FOR ADOPTION

1. Consent Calendar

Mr. Healy advised the Board to vote on item M on the consent calendar, OSHSB File No. 18-V-364, separately after the Board votes on the remainder of the consent calendar. For the remaining items on the consent calendar, items A-L, he is aware of no other unresolved procedural issues regarding these items, and he 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. Laszcz-Davis to adopt items A-L on the consent calendar.

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

Regarding item M on the consent calendar, Mr. Healy stated that on November 20, clerical corrections were made to the proposed decision, and the clerically corrected first amended proposed decision was provided to each of the Board Members prior to today's meeting. He said that there are no other unresolved procedural issues regarding this item, and he believes that this item is 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 item M on the consent calendar.

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

C. OTHER

1. Division Update on Rulemakings and Advisory Committees

In addition to the written update provided in the Board packet [Please see the file copy of the Board packet to view this document], Mr. Berg provided updates on the following Division projects:

- Adult Film – Bloodborne Pathogens
- Antineoplastic Drugs
- Indoor Heat
- Lead
- Permissible Exposure Limits
- Wildfire Smoke Detection
- Workplace Violence in General Industry

2. Legislative Update

Mr. Healy stated that since the legislature is not active at this time, there is nothing to report to the Board.

3. Executive Officer’s Report

Ms. Shupe stated that the handouts for today’s meeting include an update in the Board’s rulemaking activity. In addition to this, she provided the following updates:

- Outdoor Agricultural Operations During Hours of Darkness: The Board staff is currently clarifying some of the language in the proposal and anticipates sending out a second 15-day notice soon.
- Protection from Wildfire Smoke: The first of two anticipated 90-day re-adoptions of the emergency regulation will be voted on next month by the Board.
- Elevators for Hoisting Workers: The Board staff prepared the initial rulemaking documents and submitted them to DIR for fiscal approval on August 9. On September 18, the Board staff received the original signed Form 399 (Economic and Fiscal Impact Statement), but not the required approved Secretary Action Request (SAR) form from the Labor and Workforce Development Agency. On October 2, the Board staff received new questions on the cost estimates, and the Board staff responded within 2 days. The Board staff is continuing to work with the LWDA regarding the cost impact of the rulemaking.

- Firefighter Personal Protective Equipment: The Board staff worked with Berkeley Economic Advising and Research (BEAR) to prepare the cost estimate analysis, and the Department of Finance gave the Board staff language to address the state mandate issue on the Form 399. The finalized package was sent to the State Fire Marshal and approved, and then a SAR was submitted to DIR and LWDA. LWDA has some additional cost estimate requests and questions, so the Board staff is working with BEAR again to address those issues.

4. Future Agenda Items

Ms. Burgel stated that she would like to have an open discussion regarding the wildfire smoke exposure regulation and how it worked during the Kincade and Simi Valley fires. She asked if any enforcement action took place on this standard and what lessons were learned as a result. She asked Mr. Berg if the Division plans to do any more outreach regarding this standard, as well as if the Division plans to translate the materials on its website into any languages other than English. She also wanted to know if the Division is aware of any AQI websites that are available in languages other than English. **Mr. Berg** stated that he was not sure if there are any AQI websites available in languages other than English, but he would look into it and report back to the Board in the future. He said that DIR did issue press releases during the wildfires to inform people about the wildfire smoke regulation, and it did update its website. **Ms. Burgel** stated that she didn't see any news media coverage regarding the wildfire smoke standard, and she did not see any of the journalists wearing N95 masks while they were working near the Kincade fire.

Ms. Stock stated that she would be interested to hear about enforcement activities that took place during the fires and what things the enforcement people found as a result. She said that she would like to hear about the issues regarding mandatory evacuations and whether or not it is legal for employers or homeowners to require their workers to stay and work in evacuation zones. She stated that she would also like to know how the regulation does or does not apply to domestic workers, and in cases where it does not apply, if there are other regulations that cover them.

Mr. Thomas stated that he would like to know how many citations were issued, complaints received, and inspections done pertaining to the wildfire smoke regulation.

Ms. Laszcz-Davis asked for an update on the process regarding the permanent standard for wildfire smoke. She said that she wants to ensure that it is an interactive process that engages feedback on all sides so that the permanent standard will be a viable and practical one.

D. CLOSED SESSION

Mr. Healy stated that the need for a closed session did not develop, so a closed session was not held.

E. ADJOURNMENT

Mr. Thomas adjourned the Business Meeting at 10:57 a.m.