

**OCCUPATIONAL SAFETY
AND HEALTH STANDARDS BOARD**

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SUMMARY
PUBLIC MEETING/PUBLIC HEARING/BUSINESS MEETING
October 15, 2015
Sacramento, California

I. PUBLIC MEETING**A. CALL TO ORDER AND INTRODUCTIONS**

Acting Chairman David Harrison called the Public Meeting of the Occupational Safety and Health Standards Board (Board) to order at 10:00 a.m., October 15, 2015, in the Auditorium of the State Resources Building, Sacramento, California.

ATTENDANCE**Board Members Present**

Dr. Robert Blink
David Harrison
Patty Quinlan
John Sacco
Barbara Smisko
Laura Stock

Board Member Absent

Dave Thomas

Board Staff

Marley Hart, Executive Officer
Mike Manieri,
Principal Safety Engineer
Peter Healy, Legal Counsel
David Kernazitskas,
Senior Safety Engineer
Sarah Money, Executive Assistant

Division of Occupational Safety and Health

Eric Berg, Acting Deputy Chief of Research
and Standards

Others Present

Dylan Wright, PG&E
Josefine Soto, Cache Creek
Michael Musser, CA Teachers Association
Walter Goesink, Otis Elevator
Dan Leacox, Greenberg Traurig
Marti Fisher, CalChamber
René Mostert, DWR
Gil Wong, CDCR

Norma Bravo Soto, Unite Here
Linda Taylor, Unite Here
Alexis Smith, PILP, University of San Diego
Law School
Kim Smith, CalTrans – DES
Elizabeth Treanor, Phylmar Reg. Roundtable
Amber Novey, LIUNA
Bob Mahan, PG&E

Isela Martinez, Unite Here Local 49
Amalia Neidhardt, DOSH
Roxane Tapra, Unite Here
Larry Wong, UC Office of the President
Gavin Dillon, CalTrans
Cindy Sato, CEA

Veronica Soto, Cache Creek
Maria Garcia, Unite Here
Harper Otawka, USD
David Jones, AGC of CA
Kevin Thompson, Cal/OSHA Reporter
Rod Teeter, DWR

B. OPENING COMMENTS

Mr. Harrison 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.

Isela Martinez, Unite Here Local 49 Sacramento, stated that her organization supports having a standard to protect hotel housekeepers from injury. She said that it needs to be as protective as possible, and her organization is glad to see that a revised draft of the standard was posted online recently, along with the comments that have been received. She asked the Division to keep the newly proposed language and consider the comments that have been submitted in response to it by her organization, Worksafe, and UCLA LOSH so that the standard is made stronger. **Maria Garcia, Citizen Hotel**, echoed this comment. Ms. Martinez stated that the proposal must identify the tools that hotel housekeepers can use to make their jobs safer, and training on how to do the job safely must be presented in such a way that it makes sense to the housekeepers. She said that her organization is looking forward to the next advisory committee that will take place before the end of the year, and she asked the Division to move forward on this proposal quickly.

Maria Garcia, Citizen Hotel, stated that she has injured her neck, back, and shoulders while lifting heavy mattresses. She said that hotel housekeepers do a lot of heavy lifting and pushing heavy carts loaded with bedding and supplies, and more time is needed to clean rooms. She asked the Division to hold the final advisory committee before the end of the year so that this proposal can move forward.

Mr. Harrison asked Mr. Berg to provide an update on the hotel housekeeping standard. **Mr. Berg** stated that the Division has posted the latest draft of the hotel housekeeping proposal, and the comments received in response to it, on its website. He said that the Division is currently reviewing those comments. He stated that the next advisory committee meeting has been tentatively scheduled for December 3 in Oakland.

Ms. Stock asked Mr. Berg to provide a more detailed timeline with specific information regarding what the next steps may be for this proposal after the final advisory committee meeting. She also asked when it might come before the Board for public hearing. **Mr. Berg** stated that the comments that have been received are widely divergent, so the Division will need to figure out the best way to incorporate them into the standard. He said that the advisory committee in December should be the last one that is needed for this proposal, and after that meeting, more comments will come in that will need to be taken into account before a decision can be made on how to proceed from there. He stated that the proposal should come before the Board for public hearing sometime in 2016. **Ms. Stock** stated that the process to develop this proposal has been going on for about 3 years, and if it does not get heard in 2016,

it will have been going on for 4 or 5 years. She asked the Division to put this rulemaking proposal on a faster track and to provide a more detailed timeline for it at next month's meeting. She asked the Division to find out how long it will possibly take for this proposal to get to public hearing after the last advisory committee meeting in December. She said that she hopes that it will come before the Board for public hearing in the first half of 2016.

Ms. Hart stated that a more detailed timeline from the Division would be appreciated, but there are administrative requirements and time constraints that are outside of the Board staff's and Division's control that will affect when this proposal comes before the Board for public hearing. She said that because of that, it will be very difficult to get the proposal noticed for public hearing in the first half of 2016. She stated that a more reachable goal would be for the Division to get the proposal to the Board staff for review and preparation for noticing in the first half of 2016. **Ms. Stock** stated that that makes sense, and she asked the Division to provide a detailed timeline at next month's meeting to indicate when this proposal may get to the Board staff for review and preparation for noticing.

C. ADJOURNMENT

Mr. Harrison adjourned the public meeting at 10:15 a.m.

II. PUBLIC HEARING

A. PUBLIC HEARING ITEMS

Mr. Harrison called the Public Hearing of the Board to order at 10:15 a.m., October 15, 2015, in the Auditorium of the State Resources Building, Sacramento, California.

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

1. TITLE 8: **CONSTRUCTION SAFETY ORDERS**
New Article 37, New Sections 1950 through 1962
Confined Spaces in Construction (Horcher)

Mr. Manieri summarized the history and purpose of the proposal 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.

Mr. Sacco stated that several written comments were received that indicated that section 5156 will need to be revised to indicate that construction will now be subject to Article 37 instead of section 5158. He also said that he agrees with the written comments submitted by AT&T asking for an exemption to the construction standard for the telecommunication industry. He stated that section 1950 should have exemptions for the telecommunication, natural gas, and electrical utility industries. He said that by doing that, it will clarify which confined space standard applies to which industries. He also stated that the word "simultaneously" should be included in the areas of the proposal where the federal standard for air monitoring is included.

Ms. Hart stated that since this proposal is going through the Horcher process, instead of the normal rulemaking process that must follow the Administrative Procedure Act, Board Members are welcome to reach out to the Board staff to express their concerns.

B. ADJOURNMENT

Mr. Harrison adjourned the Public Hearing at 10:26 a.m.

III. BUSINESS MEETING

Mr. Harrison called the Business Meeting of the Board to order at 11:32 a.m., October 15, 2015, in the Auditorium of the State Resources Building, Sacramento, California.

A. PROPOSED VARIANCE DECISIONS FOR ADOPTION

1. Consent Calendar

Mr. Healy stated that he sees no issues that could prevent the Board from adopting the items on the consent calendar.

MOTION

A motion was made by Ms. Stock and seconded by Ms. Quinlan to adopt the consent calendar.

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

B. OTHER

1. Division Update on Hotel Housekeeping Timeline and Other Possible Rulemakings and Advisory Committees

Mr. Berg provided the following updates in addition to those listed on the written report that the Division provided [Please see the file copy to view the Division’s written report]:

Workplace Violence in Healthcare: This proposal is currently being reviewed by the Labor and Workforce Development Agency (LWDA) and is waiting for the approvals that are necessary before it can be noticed for public hearing.

Sexually Transmitted Infections: A 15-day notice was issued for this proposal on October 14, and the deadline to submit written comments on the proposed changes is November 3.

Lead: The latest draft of this proposal is posted on the Division’s website. The final advisory committee for this proposal is scheduled for November 10 in Oakland.

Permissible Exposure Limits (PEL's): The Division is planning to get rulemaking packages to the Board for trichloroethylene and tetrabromoethane later this year. **Ms. Hart** stated that the Board staff has received rulemaking packages from the Division for benzyl chloride and wood dust.

Antineoplastic Drugs: The Division has posted a discussion draft of this proposal on its website. The next advisory committee meeting is scheduled for October 28.

First Aid Kit Contents: This proposal is with the Division staff and the Economic and Fiscal Impact Statement is being revised.

Process Safety Management: This proposal will be ready to submit to the Board staff in the next month or so. The advisory committee process is complete, and the Division is reviewing and responding to comments.

Ms. Quinlan asked Mr. Berg when the proposal for workplace violence prevention in healthcare might come before the Board for public hearing. **Ms. Hart** stated that that will depend on when the paperwork is signed by the LWDA Secretary. She said that after the paperwork is approved, the notice will be taken to the Office of Administrative Law for publication. She stated that the deadline to get the notice to the Office of Administrative Law to have it published for December public hearing is October 20. She said that if the paperwork is approved by the LWDA by then, this proposal will be heard at the December public hearing, otherwise it will be heard at the January public hearing.

Ms. Stock asked Ms. Hart if having the public hearing on this proposal in January will still allow the Board enough time to meet the July 1, 2016 deadline that has been set by SB 1299. **Ms. Hart** stated that that would depend on the number of comments received regarding the proposal, and whether or not the Division would need to make changes to the proposal through the 15-day notice process. She said that if things move very expeditiously, there is enough time to have a 15-day notice if necessary and still bring the proposal to the Board for adoption by June 2016.

Ms. Stock said that since the proposal for workplace violence prevention in healthcare is close to coming before the Board for public hearing, it would be a good idea to begin convening an advisory committee to begin working on the proposal for workplace violence prevention in general industry. **Ms. Hart** asked Mr. Berg to add that to the list for future Division updates.

Ms. Quinlan asked what will happen with the proposal for sexually transmitted infections after the November 3 comment deadline. **Ms. Hart** stated that the comments received will be reviewed and responded to in the Final Statement of Reasons (FSOR). She said that if another 15-day notice is not needed after that, the FSOR will be finalized and the proposal will be brought to the Board for adoption. She said that the deadline by which the proposal must be adopted is the March 2016 meeting.

Ms. Quinlan asked if the Division plans to hold an advisory committee to discuss any new PEL recommendations. **Mr. Berg** stated that once the Division finishes proposals for all of the chemicals discussed in the last advisory committee meeting, and the Division gets more staff

to work on it, the Division will reconvene the PEL advisory committee next year to discuss new PEL recommendations.

Ms. Stock stated that some of the items on the Division's written report have target dates by which things may be done, and some do not. She said that the proposal for first aid kit contents does not have a target date listed. She asked Mr. Berg when the revisions to the Economic and Fiscal Impact statement will be made so that the process for that proposal can move forward. **Mr. Berg** stated that he will follow up with the Division staff on that proposal and get a target date for it.

Mr. Berg stated that he did not have any further information regarding the other items listed on the Division's written update. **Ms. Hart** provided the following information on those items:

Mining Safety Orders: Steve Hart, Principal Safety Engineer for the Mining and Tunneling Unit, led 8 or 9 advisory committees over the last year and a half for this proposal before he retired. The Division is putting together a rulemaking package for this proposal, and it is nearing completion, but due to staffing issues, it has been delayed. Once it is completed, it will need to go through the Division's approval process before it is sent to the Board staff.

Tunnel Safety Orders: The rulemaking package for this proposal is done, but because the requirements have changed drastically for outlining the economic and fiscal impacts of the proposal since the process started in 2008, there is more comprehensive work that needs to be done on the Economic and Fiscal Impact Statement for the proposal. The Division's management staff is currently doing that work so that the process may move forward.

Elevator Safety Orders: A draft of this proposal has not been sent to the Board staff yet, but the Division's management staff is working on it.

2. Executive Officer's Report

Ms. Hart stated that the Board staff has three upcoming advisory committees:

- Personal Protective Equipment for Firefighters: This advisory committee meeting will be held on October 22-23 and will be chaired by Maryrose Chan.
- Residential Fall Protection Trigger Heights: This advisory committee will be held on November 3-4 and will feature a roundtable discussion regarding information received from federal OSHA, the Division, and the regulated public. There will be no proposed language to discuss. Mr. Manieri will chair this meeting.
- Working Alone in Construction: This will be a subcommittee meeting. It will be held on November 12 and chaired by Michael Nelmda.

Ms. Hart also stated that Marty Tamayo, Associate Safety Engineer, and Conrad Tolson, Senior Safety Engineer, are retiring at the end of this year. She said that these retirements will have a substantial impact on the Board's budget. She stated that the Board staff plans to do

outreach for both positions, but will probably only be able to fill one of the positions. She said that the Board's budget will have to be carefully reviewed to find out which of the two positions can be filled. She stated that the Board staff is going to wait to post these positions until the new merged Senior Safety Engineer eligibility list comes out later this year so that the Board staff can reach out to as many qualified people as possible for the Senior Safety Engineer position.

Ms. Stock stated that when there is a loss of staff, it impacts the timeframes for proposals to get through the process. She said that the amount of time it takes to get a proposal through the process is a continuing frustration for the Board and for the public. **Ms. Hart** stated that the Board staff hired Dirk Duchscherer as an Associate Safety Engineer in preparation for Marty's and Conrad's departure. She said that he began working with the Board staff at the beginning of this month, and Marty and Conrad are cross-training him and other staff on their projects in preparation for their departure. She stated that things will slow down a little bit, but she feels that the Board staff is on the right track. She said that she hopes the Board staff will be fully staffed again by July 2016.

Ms. Stock asked Mr. Berg if the Division is going to hire any additional staff. **Mr. Berg** stated that the Division is going to hire someone to work in the Research and Standards Unit to accumulate data regarding workplace violence incidents, and as soon as the new Senior Safety Engineer eligibility list comes out, the Division is going to hire a new Senior Safety Engineer for that unit. He also said that the Division is going to hire someone to work on the PEL projects.

Ms. Smisko stated that she appreciates the Board staff's hard work and dedication to what they do. She said that the Board staff's work is high-caliber, and the Board understands the constraints of working in government, and they do the best that they can to work around those constraints. She stated that the Board staff works hard to get qualified candidates for open positions and does well prioritizing its work. She said that the Board staff's projects come with many different deadlines from different places, but the Board staff is successful in juggling projects so that it can meet those deadlines.

3. Future Agenda Items

No future agenda items were suggested.

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. ADJOURNMENT

Mr. Harrison adjourned the Business Meeting at 11:25 a.m.