

**OCCUPATIONAL SAFETY  
AND HEALTH STANDARDS BOARD**

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**SUMMARY  
PUBLIC MEETING/PUBLIC HEARING/BUSINESS MEETING  
April 18, 2013  
Sacramento, California**

**I. PUBLIC MEETING**

**A. CALL TO ORDER AND INTRODUCTIONS**

Acting Chair Laura Stock called the Public Meeting of the Occupational Safety and Health Standards Board (Board) to order at 10:04 a.m., April 18, 2013, in the Auditorium of the State Resources Building, Sacramento, California.

**ATTENDANCE**

**Board Members Present**

Laura Stock  
Bill Jackson  
Hank McDermott  
David Harrison  
Barbara Smisko  
Patty Quinlan

**Board Member Absent**

Dave Thomas

**Board Staff**

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

**Division of Occupational Safety and Health**

Steve Smith, Principal Safety Engineer

**Others present**

Michael Musser, California Teachers  
Association  
Dan Leacox, Greenberg Traurig  
Kevin D. Bland, Ogletree, Deakins, Nash,  
Smoak & Stewart, P.C.  
Paul Myers, Sacramento County  
Michael Strunk, OE3

Steve Johnson, Associated Roofing  
Contractors  
Jay Weir, AT&T  
Elizabeth Treanor, Phylmar Regulatory  
Roundtable  
Wendy Holt, CSATF/AMPTP  
Amalia Neidhardt, DOSH

Dan Mooney, USDOL-OSHA  
Kate Smiley, AGCCA  
Marti Fisher, CalChamber  
Carlos Ramirez, CALSEIA

Shradha Patel, CPIL  
Jason Hanson, CALSEIA  
Sanjay Ranchod, CALSEIA

**B. OPENING COMMENTS**

Ms. Stock 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.

**Jason Hanson, CALSEIA**, commented on Petition 531. He supported the proposed decision to grant the petition and convene an advisory committee to explore possible alternatives. He stated that the provisions in Section 3212 apply to solar installers even though the standard was not designed with the specific fall protection challenges in mind that apply to the solar industry. He said that the industry needs an alternative means of compliance.

**Carlos Ramirez, CALSEIA**, commented on Petition 531. He said that he has seen an increase in the number of incidents in the industry that pertain to working around skylights. His organization did a study to find out what caused these incidents, and from that study, it learned that there are better protective measures that it would like to consider using to protect their employees. He shared two photos illustrating some of the challenges that solar installers face when working around skylights. He stated that the industry needs options for employee protection that will be less challenging to the installation process and supported the proposed decision and convening an advisory committee.

**Dan Leacox, Greenberg Traurig**, commented on Petition 531. He supported the proposed decision and convening an advisory committee. He said that there are several reasons to engage in discussion during an advisory committee on this petition. He stated that clarity and practicality could be improved in several areas. He also stated that the contradiction between options that allow for glass to break and those that do not needs to be addressed. He said that the design and materials used to build skylights can affect this as well and provide opportunities to improve the rule. He also mentioned that screens on top of skylights can present a fire safety risk.

**Steve Johnson, Associated Roofing Contractors of the Bay Area Counties**, commented on Petition 531 and supported the proposed decision and convening an advisory committee. He stated that employers want more compliance options regarding this, not fewer. He also stated that he is interested in participating in the advisory committee.

**Kevin Bland, representing the California Framing Contractors Association and the Residential Contractors Association, and Kate Smiley, AGC**, also supported granting the decision regarding Petition 531 and convening an advisory committee. They both agreed with the other speakers' comments and stated that convening an advisory

committee will help clarify a lot of things.

C. ADJOURNMENT

Ms. Stock adjourned the public meeting at 10:18 a.m.

II. **PUBLIC HEARING**

A. PUBLIC HEARING ITEMS

Ms. Stock called the Public Hearing of the Board to order at 10:19 a.m., April 18, 2013, in the Auditorium of the State Resources Building, Sacramento, California.

Ms. Stock opened the Public Hearing and introduced the first item noticed for public hearing.

1. TITLE 8:     **GENERAL INDUSTRY SAFETY ORDERS**  
Division 1, Chapter 4, Subchapter 7, Article 7, Section 3329  
**Working on (Dismantling) Pressurized Pipe**

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 or Board comments on this proposal.

Ms. Stock then introduced the next item noticed for Public Hearing:

2. TITLE 8:     **GENERAL INDUSTRY SAFETY ORDERS**  
Chapter 4, Subchapter 7, Article 109, Section 5197 – Appendix A,  
Subsection (c)(1)  
**Laboratory Accreditation for Diacetyl Analysis**

Mr. Smith 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 or Board comments on this proposal.

Ms. Stock then introduced the next item noticed for Public Hearing:

3. TITLE 8:     **SHIP BUILDING, SHIP REPAIRING AND SHIP BREAKING SAFETY ORDERS**  
Division 1, Chapter 4, Subchapter 18, Article 2, Section 8352  
**Scope and Application – Ship Building**

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 or Board comments on this proposal.

B. ADJOURNMENT

Ms. Stock adjourned the Public Hearing at 10:27 a.m.

**III. BUSINESS MEETING**

Ms. Stock called the Business Meeting of the Board to order at 10:28 a.m., April 18, 2013, in the Auditorium of the State Resources Building, Sacramento, California.

A. PROPOSED SAFETY ORDERS FOR ADOPTION

1. TITLE 8:     **GENERAL INDUSTRY SAFETY ORDERS**  
Division 1, Chapter 4, Subchapter 7, Article 98, Section 4994  
**Hoisting, Use of Cribbing, ASME Reference Correction**  
(Heard at the March 21, 2013, Public Hearing)

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 Mr. Jackson and seconded by Mr. Harrison that the Board adopt the proposal.

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

B. PROPOSED PETITION DECISIONS FOR ADOPTION

1. Bryan Crabb/Dan Leacox  
CA. Solar Energy Industry Association  
**Petition File No. 531**

Petitioner requests that the Board amend the General Industry Safety Orders, Section 3212, regarding the use of alternatives to personal fall protection systems (screens, nets) for employees working within 6 feet of a skylight.

Ms. Hart summarized the history and purpose of the petition, and asked the Board to grant the decision proposed by the Board staff to convene an advisory committee. She stated that the Division recommended denying the petition, because the use of nets could be inconsistent with the requirements of the federal standard and result in Title 8 being less effective than the federal standard, but the Division's report did not evaluate all of the methods presented by the petitioner. She stated that the Board staff agrees that use of nets

may be prohibited by the federal standard, but recognizes that skylight materials have changed since the standard was adopted in 2004. Therefore, the Board staff recommends convening an advisory committee to discuss the petitioner's suggestions.

MOTION

A motion was made by Mr. McDermott and seconded by Mr. Jackson that the Board adopt the proposed decision.

**Mr. Harrison** stated that he would like to see the advisory committee strive for equivalent or improved safety, not just what works for the employer, and would like for the Board staff to include all areas of labor that are affected by this petition, not just roofers.

**Ms. Stock** echoed Mr. Harrison's comments.

**Mr. McDermott** stated that he supports the petition decision and feels it is important to bring everybody together to discuss this issue.

**Ms. Quinlan** stated that she is concerned about the fact that the Division feels that this petition would result in the standard being less effective than the federal standard. **Ms. Hart** stated that this concern pertained to only one aspect of the petition.

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

Ms. Stock then introduced the next petition:

2. Bill Loupe  
Safety Consultant  
**Petition File No. 532**

Petitioner requests that the Board amend the General Industry Safety Orders, Section 3212(f), regarding the necessity for personal fall protection systems even when a glazed surface skylight has been tested and documented by a registered engineer as being able to support all anticipated loads.

Ms. Hart summarized the history and purpose of the petition, and asked the Board to deny the petition for the reasons stated by the Board staff and the Division.

MOTION

A motion was made by Mr. Harrison and seconded by Mr. Jackson that the Board adopt the proposed decision.

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

C. PROPOSED VARIANCE DECISIONS FOR ADOPTION

3. Consent Calendar

Mr. Beales stated that there was a variance hearing before today's meeting, and the hearing panel recommends that the Board grant all of the variances that are listed in the Board packet.

MOTION

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

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

D. OTHER

1. Legislative Update

Mr. Beales stated that there are 3 items to mention that are not listed in the written Legislative Update.

- Assembly Bill 332 regarding the adult film industry has been significantly amended to reach independent contractors as well as employees.
- Assembly Bill 653 has been amended in such a way that makes it no longer of concern to the Board, because it now deals with economic revitalization and tax matters instead of the Board's regulatory process.
- Assembly Bill 811 has been amended to remove the requirement that the Contractors' State License Board have certification or other requirements for excavators.

2. Executive Officer's Report

Ms. Hart stated that Maryrose Chan began working as a Senior Safety Engineer on the Board staff on April 15. Ms. Hart also stated that she and Senior Safety Engineer David Kernazitskas attended the Division's April 9 advisory committee meeting in Oakland regarding GHS and that the Division is accepting comments until May 3. She said that a rulemaking should come shortly after that. She also stated that the Board staff received the rulemaking regarding Safe Patient Handling on April 4 and is reviewing it. She said that it will probably come up for public hearing in the fall. She also said that the Division's update will now occur on a quarterly basis instead of a monthly basis. She also mentioned that Senior Safety Engineer Conrad Tolson is working on combining the General Industry Safety Orders and Construction Safety Orders regarding CDAC, as was brought up by Mr. Harrison at the last meeting. She also stated that the Division will be doing its presentation

on the Feasibility Advisory Committee process at next month's meeting.

3. Future Agenda Items

None were suggested.

E. ADJOURNMENT

Ms. Stock adjourned the Business Meeting at 10:48 a.m.