

**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/PUBLIC HEARING/BUSINESS MEETING
February 21, 2013
Sacramento, 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., February 21, 2013, in the Auditorium of the State Resources Building, Sacramento, California.

ATTENDANCE**Board Members Present**

Dave Thomas
Hank McDermott
Barbara Smisko
David Harrison
Laura Stock
Patty Quinlan

Board Members Absent

Bill Jackson

Board Staff

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

Division of Occupational Safety and Health

Steve Smith, Principal Safety Engineer

Others present

David Shiraishi, Fed OSHA
Michael Musser, California Teachers
Association
Larry Pierce, SMUD
Paul Myers, Sac County Safety
Wendy Holt, CSATF/AMPTP
Alex Miller, InterWest

Marti Fisher, CalChamber
Shradha Patel, CPIL
Terry Thedell, San Diego Gas & Electric
Louis Rennor, Pacific Gas & Electric
Company
Catherine Simonsen, SMUD
Bruce Wick, CALPASC

Steve Johnson, Associated Roofing Contractors of the Bay Area Counties, Inc. Roy Berke, Caltrans Dan Leacox, Greenberg Traurig

Mr. Thomas introduced the Board's newest member, Patty Quinlan, and administered the Oath of Office.

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.

C. ADJOURNMENT

Mr. Thomas adjourned the public meeting at 10:05 a.m.

II. PUBLIC HEARING

A. PUBLIC HEARING ITEMS

Mr. Thomas called the Public Hearing of the Board to order at 10:06 a.m., February 21, 2013, in the Auditorium of the State Resources Building, Sacramento, California.

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

1. TITLE 8: **HIGH VOLTAGE ELECTRICAL SAFETY ORDERS**
Division 1, Chapter 4, Subchapter 5, Article 36, Section 2940.8
The Securing of Poles During Removal Operations

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.

Mr. Thomas then introduced the next item noticed for Public Hearing:

2. TITLE 8: **GENERAL INDUSTRY SAFETY ORDERS**
Division 1, Chapter 4, Subchapter 7, Group 16, Article 109
Section 5199(g)(3)(B), Exception 2
Aerosol Transmissible Diseases Respirator Exception

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.

Bill Taylor, PASMA, stated that his organization submitted the original petition that resulted in this proposal. He said that his organization and fire departments that it has worked with support this proposal because it gives them the option to use N100 and P100 respirators in certain environments. He thanked the staff for their work on this proposal, as did **Mr. McDermott**, who stated that this proposal is a good move. He stated that he served on the variance hearing panel for several variance applications pertaining to this issue, and that the original wording for this proposal regarding the oil-proof P100 came from an international fire chief association publication that indicated it was prudent to require the P100s until more is known.

B. ADJOURNMENT

Mr. Thomas adjourned the Public Hearing at 10:19 a.m.

III. BUSINESS MEETING

Mr. Thomas called the Business Meeting of the Board to order at 10:20 a.m., February 21, 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 10, Section 3381
 Federal OSHA Direct Final Rule – Head Protection

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

MOTION

A motion was made by Ms. Stock and seconded by Mr. Harrison to 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. Beales stated that there was a variance hearing before today's meeting, and the hearing panel recommends that all variances heard at the hearing be granted. With that information, Mr. Beales recommended that the Board approve the matters on the consent calendar.

MOTION

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

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

C. OTHER

1. Legislative Update

Mr. Beales stated that there are 3 additional bills to update the Board on in addition to what is listed in the written Legislative Update.

- Assembly Bill 332 would amend the Labor code to require the use of condoms in the adult film industry. If this bill is passed, it may require the Board to make a rulemaking in order to facilitate enforcement by the Division.
- Assembly Bill 326 states that the Standards Board shall amend provisions of Title 8 that deal with the definition of “serious injury or illness”, especially Sections 330(h) and 342, to ensure that the state’s definition of this term is commensurate with the federal standard. The problem is that Sections 330(h) and 342 are regulations adopted by the Director, not the Standards Board.
- Assembly Bill 376 would require an agency enforcing a regulation promulgated on or after January 1, 2014 to notify businesses that are required to comply with that regulation of the existence of that regulation 30 days prior to the effective date of the regulation. This may impact what the Board decides to do with its regulatory adoptions, and it may also cause a significant burden on the Division when doing enforcement.

2. Division Update on Advisory Committees and Possible Rulemakings

Mr. Smith provided an update regarding the following activities that the Division is working on:

- a. Tramway Safety Orders: The Division is preparing revisions to update these safety orders and expects to have a package sent to the Board no later than June 1, 2013.
- b. Elevator Safety Orders: The Division is currently reviewing comments received during the Advisory Committee meeting that was held in December.

- c. Tunnel Safety Orders: The Mining and Tunneling Unit is currently working with the Research and Standards Safety Unit to review the Board staff's comments. A rulemaking package is expected to come back to the Board next month.
- d. Safe Patient Handling: The Division anticipates bringing a rulemaking package to the Board staff next month.
- e. Hotel Housekeeping: The Division has scheduled an advisory committee meeting for March 19 in Los Angeles.
- f. Globally Harmonized System: The Division's response to comments and revisions to the Horcher rulemaking package have been worked on by the Division and Board staff, and a final draft should be submitted to the Board by the end of this week. This draft will include corrections that were issued by Federal OSHA on February 8, 2013. An Advisory Committee meeting has been scheduled for April 9, 2013 in Oakland to discuss the non-Horcher items.
- g. Section 5155 – Airborne Contaminants: The rulemaking documents for n-Methyl-2-pyrrolidone, Hydrogen Chloride, and Naphthalene are being worked on by Board and Division staff. In regards to Ethylbenzene, the Division is responding to comments that were heard at the January Board Meeting. The Division is also preparing the information requested by the Board regarding determining feasibility. This information should be ready for the Board in time for the May Board Meeting.
- h. Petition 513 - Bloodborne Pathogens Protection, Adult Film Industry: The Division continues to conduct inspections under the existing regulations. The Division is working on a new draft of the regulation and will circulate it to interested parties.
- i. Section 5197 – Diacetyl Analysis: A rulemaking to amend Appendix A has been submitted to the Board and should be coming up for public hearing shortly.
- j. Form 9's regarding Night Work in Agriculture: The Division has revised this Form 9 and will submit it to the Board by March 1, 2013.

3. Executive Officer's Report

Ms. Hart congratulated Mr. Thomas on his appointment as Chair and welcomed Ms. Quinlan to the Board. She stated that as of January 1, 2013, the law has changed regarding effective dates for approved rulemakings. The Office of Administrative Law will still have 30 working days to approve a rulemaking and then file it with the Secretary Of State, but instead of the rulemaking becoming effective 30 days after it is approved, it will become effective on a quarterly basis. The first quarterly effective date will be April 1, 2013. The Office of Administrative Law has issued a Notice of Proposed Action to define what good cause is if an agency wants something to be effective sooner (such as Horcher rulemakings).

Ms. Hart also stated that hiring interviews are being conducted on Friday of this week and Monday of next week to fill the vacant Senior Safety Engineer position that was vacated by Hans Boersma in December.

Ms. Hart also talked about the 2012 Year in Review that was included in the Board Packets which summarizes the activities of the Board staff in 2010, 2011, and 2012. She stated that the numbers have been consistent despite furlough days, retirements, and lack of staffing at certain times. She said that the flow of work has been very consistent. She also stated that the high number of variances is due to the Elevator Safety Orders, and that once the Elevator Safety Orders are revised, this number should come down.

Ms. Hart also discussed the different sources for rulemakings.

4. Future Agenda Items

Ms. Hart stated that, as the Division stated in its update today, the information that the Board requested regarding determining feasibility for ethylbenzene and other chemicals will be brought to the Board at the May Board Meeting.

A. ADJOURNMENT

Mr. Thomas adjourned the Business Meeting at 10:43 a.m.