

**OCCUPATIONAL SAFETY
AND HEALTH STANDARDS BOARD**

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**SUMMARY
PUBLIC MEETING/ BUSINESS MEETING
July 19, 2012
San Diego, California**

I. PUBLIC MEETING

A. CALL TO ORDER AND INTRODUCTIONS

Chairman John MacLeod called the Public Meeting of the Occupational Safety and Health Standards Board (Board) to order at 10:02 a.m., July 19, 2012, in Room 310 of the County Administration Center, San Diego, California.

ATTENDANCE

Board Members Present

John MacLeod
Bill Jackson
Laura Stock
Hank McDermott
David Harrison
Dave Thomas
Barbara Smisko

Board Members Absent

Board Staff

Marley Hart, Executive Officer
Mike Manieri,
Principal Safety Engineer
David Beales, Legal Counsel
David Kernazitskas,
Associate Safety Engineer
Bernie Osburn, Staff Services Analyst
Sarah Money, Executive Assistant

Division of Occupational Safety and Health

Steve Smith, Principal Safety Engineer

Others present

Mark McGrath, AIDS Healthcare Foundation	Larry Pena, SCE
Bruce Wick, CALPASC	Coil Dunn, SCE
Kate Smiley, AGC-CA	Dick Roberts, CAL-OSHA
Mark Stone, Epic Insurance Brokers	Kevin Thompson, Cal-OSHA Reporter
Greg McClelland, Western Steel Council	Russ McCrary, Iron Workers
Kevin Bland, CFCA/RCA	Grace Delizo, DOSH
Dan Leacox, Greenberg Traurig	Vince Hundley, SMART Safety Group
Steve Johnson, Assoc. Roofing Contractors	Terry Thedell, SDG&E
Cheryl Jordan, CSATF	Joan Gaut, CTA
	Dessie Saeger, US DOL OSHA

B. OPENING COMMENTS

Mr. MacLeod 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

Mark Roy McGrath, Public Health Consultant, speaking on behalf of the AIDS Healthcare Foundation, commented in support of Petition 513 - Bloodborne Pathogen Protection, Adult Film Industry. Mr. McGrath outlined the path that this petition has taken since it was filed in March of 2010, and he feels that it is time for the Board to discuss this issue. Mr. McGrath stated that Division Chief Ellen Widess and her predecessor, Len Welsh, both support protecting workers in the adult film industry. He also stated that a similar petition has been filed that will appear on the November ballot and has the support of L.A. citizens.

Kevin Bland, representing the Free Speech Coalition, pointed out that Petition 513 is in process of rulemaking and that he supports the Board's practices, petitions, rulemakings, and advisory committees. He stated that there is a regulation already in place that the Division is using to address this issue and that he believes the rulemaking process is very important to follow when changing what this regulation says for this unique situation.

Ms. Stock asked for an update on the status of this petition, and asked if this item will be coming to the Board in a future meeting. David Beales, Legal Counsel, provided an update, stating that the Board granted the petition several months ago to the extent that the Division was asked to convene an advisory committee, and the next step is for the Division to bring a regulatory proposal to the Board, at which time it will go through the public hearing and adoption process.

C. ADJOURNMENT

Mr. MacLeod adjourned the public meeting at 10:21 a.m.

II. **PUBLIC HEARING**

A. PUBLIC HEARING ITEM

Mr. MacLeod called the Public Hearing of the Board to order at 10:22 a.m., July 19, 2012, in Room 310 of the County Administration Center, San Diego, California.

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

1. TITLE 8: CONSTRUCTION SAFETY ORDERS

Division 1, Chapter 4, Subchapter 4
Article 10, Section 1593

GENERAL INDUSTRY SAFETY ORDERS

Division 1, Chapter 4, Subchapter 7
Article 25, Section 3650

Use of Forklift Trucks and Excavators for Hoisting Loads

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. MacLeod then introduced the next item noticed for Public Hearing:

2. TITLE 8: **GENERAL INDUSTRY SAFETY ORDERS**
Division 1, Chapter 4, Subchapter 7
Article 59, Section 4297
Definitions for Woodworking Machines and Equipment

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

Mr. MacLeod adjourned the Public Hearing at 10:31 a.m.

III. BUSINESS MEETING

Mr. MacLeod called the Business Meeting of the Board to order at 10:32 a.m., July 19, 2012, in Room 310 of the County Administration Center, Sacramento, California.

A. PROPOSED SAFETY ORDERS FOR ADOPTION

1. TITLE 8: **CONSTRUCTION SAFETY ORDERS**
Division 1, Chapter 4, Subchapter 4
Article 3, Section 1512
ELECTRICAL SAFETY ORDERS
Division 1, Chapter 4, Subchapter 5
Group 1, Article 3, Section 2320.10 (Low-Voltage Electrical Safety Orders)
Group 2, Article 36, Section 2940.10 (High-Voltage Electrical Safety Orders)
First Aid for Electrical Workers – Application & Scope
(Heard at the June 21, 2012, 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. Thomas that the Board adopt the proposal.

Ms. Stock stated that it seems like this is a serious hazard for construction workers who do electrical work and asked about the process to address this hazard. She understood that this cannot be addressed with this rulemaking. Mr. Manieri indicated that the industry may want to address the Board through petition regarding those hazards. Ms. Hart noted that the Board staff could consider the issue apart from the petition.

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

2. TITLE 8: **GENERAL INDUSTRY SAFETY ORDERS**
Division 1, Chapter 4, Subchapter 7
Article 109, Section 5189, Appendix A-Mandatory
Section 5192(a)(3) and Section 5198(j)(2)(D)(2)
CONSTRUCTION SAFETY ORDERS
Division 1, Chapter 4, Subchapter 4
Section 1532.1(j)(2)(D)(2)
Federal OSHA Amendments and Technical Corrections
(Heard at the June 21, 2012, 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. Thomas 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 DECISION FOR ADOPTION

1. Aaron Crane
Petition File No. 527

Petitioner requests that the Board amend Title 8, California Code of Regulations, with regard to establishing a whole body vibration quotient for truck drivers.

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

MOTION

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

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

C. PROPOSED VARIANCE DECISIONS FOR ADOPTION

1. Consent Calendar

Mr. Beales asked the Board to modify the consent calendar by deleting the six Gen 2 at 150 items (no proposed decision has been prepared). He asked the Board to adopt the proposed decision in the remaining matters, all of which grant variances.

MOTION

A motion was made by Mr. Thomas and seconded by Mr. Jackson to adopt the consent calendar as modified.

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

D. OTHER

1. Division Update – Possible Rulemakings (Elevator Safety Orders and Other Matters)

Mr. Smith provided an update to 7 rulemaking activities that the Division is working on (items a-g below):

a. Elevator Safety Orders: The Elevator Unit has developed a two-stage plan to update the Elevator Safety Orders:

Stage 1: Within the next 90 days, the Elevator Unit is planning to develop a draft rulemaking proposal in response to the 2010 national consensus standard in order to update Title 8. The proposal will be brought to an advisory committee by the Division in the fall, and the Division anticipates bringing this proposal to the Board before the end of 2012.

Stage 2: Develop a draft rulemaking proposal to address the 2013 national consensus standard, which is due to be published later this year. The Division plans to bring this proposal to the Board by the end of 2014.

b. Tunnel Safety Orders: The rulemaking package has been completed and was sent to the Board’s office last week. (Ms. Hart noted that it had not yet been received.)

c. Petition 513 - Bloodborne Pathogens Protection, Adult Film Industry: The Division is following the November L.A. ballot measure to develop a rulemaking that they plan to bring to the Board by the end of 2012.

Mr. MacLeod stated that the last advisory committee for this rulemaking was held in June of 2011 and asked Mr. Smith if more advisory committees are anticipated. Mr. Smith stated that it is a possibility, and that the Division is still looking at the draft that they have addressing the items noted by the last advisory committee. Mr. Smith stated that, at this time, the Division has not set up any additional advisory committees on this issue and that the Division plans to bring the proposal to the Board by the end of 2012. Mr. MacLeod stated that he feels it is time. Mr. Smith stated that the Division is continuing to enforce the current standard on the adult film industry to protect workers, and they hope that the proposal that they bring to the Board by the end of 2012 will provide clarification and enhancements to the current standard.

d. Petition 519 - Required First Aid Supplies: The Division held an advisory committee on

this item a few years ago. Due to staff resource limitations, the project has been put aside. The staff is expecting to get back to it and could have a revised draft based on the advisory committee input received, send the revised draft to the advisory committee members, and, if necessary, hold another advisory committee meeting. If no further meetings are needed, then the Division will bring a proposed rulemaking to the Board by the end of this year.

Mr. MacLeod pointed out that in March, the Division promised to have a proposed rulemaking to the Board in May. Mr. Smith replied that the staff person working on this project had another large final federal rule for global harmonization on his desk that needed to be addressed, which further delayed him from getting back to this project. Mr. Smith apologized for the delay.

e. Petition 520 – Certified Inspectors and Inspections of Portable Amusement Rides:

Mr. Smith stated that the Division determined that adoption of additional regulations is necessary to certify independent inspectors for portable amusement rides. They are developing a proposal to address the content of inspections, qualifications of inspectors, and how to assure the quality of independent inspectors. The Division anticipates that an advisory committee will be held before the end of 2012.

Mr. MacLeod pointed out that in March, the Board was told that a proposal would be presented to them in June of this year and asked what happened. Mr. Smith stated that he was not well versed in this topic, but that he would bring the Board's concerns back to the Deputy Chief and let the Board know what the answer is.

Mr. Jackson pointed out that some citizens have paid the state \$600 to take a test to become certified to perform these inspections, but the state still will not allow them to do so. He asked Mr. Smith if the Division plans to refund that money to those people, since the Division continues to delay the process and not allow these people to perform these inspections. He stated that the Division needs to address this expeditiously.

f. Safe Patient Handling: Two advisory committees have been held regarding this item, the most recent on March 29, 2012. At the March meeting, participants gave the Division additional comments, and the Division is reviewing them. By the end of next month, the Division will circulate a revised draft to all participants and interested parties for feedback. Based on the feedback received, the Division will determine whether or not another advisory committee is needed or if the proposal can be submitted to the Board. The Division hopes to send this proposal to the Board this fall.

Mr. MacLeod pointed out that in March, the Board was told that a proposal would be presented to them in June of this year and asked why the Division is going to hold additional advisory committees. Mr. Smith stated that the Division hopes that additional advisory committees will not be necessary and that the revisions made following the last advisory committee will be sufficient. The Division has received several comments from the March advisory committee members that necessitated further changes to the draft, and that is why they feel they need to send out a revised draft to the committee members and then decide whether to have another advisory committee or send the proposal on to the Board.

g. Petition 524 – Respiratory Protection for Emergency Responders, Section 5199: An

advisory committee was held in March of 2012, and the Division staff developed rulemaking documents to amend the regulation to be consistent with the petition. The Division expects to send these documents to the Board early next month.

Mr. MacLeod asked the Board if they had any further questions for Mr. Smith. At this time, Mr. Jackson asked about the Elevator Safety Orders that Mr. Smith spoke about earlier in his briefing. Mr. Jackson stated that there seems to be a long delay between the adoption of updated ANSI standards and the Elevator Unit's ability to get there, and he wondered if the Division is represented on the ANSI panel. Mr. Smith stated that he did not know, but that he would find out. Mr. Jackson stated that if the Division is represented on the ANSI panel and engaged in the rulemaking at that level, it might know quicker when changes occur, which would shorten the process and eliminate a lot of elevator variances. He suggested that the Division get represented on the ANSI panel if they have not already. Mr. MacLeod stated that he would like to carry this item forward.

2. Legislative Update

Mr. Beales stated that Assembly Bill 338 failed to pass a Senate policy committee, and Assembly Bill 2676 successfully passed a Senate policy committee.

3. Executive Officer's Report

Ms. Hart stated that the state has a budget, but that from July 1, 2012 to June 30, 2013, state employees are required to take 1 furlough day per month, which equals just under a 5 percent pay cut. Employees are free to choose the day that they take their furlough, but it must be used in the month that it is incurred. Ms. Hart stated that the Board is now fully staffed, with the addition of David Kernazitskas and Sarah Money.

Ms. Hart also stated that if many of the projects noted during the Division Update come to the Board at the end of the year, this will create a lot of work for the Board staff, and she would like the Division to inform Board staff as soon as possible when dates change.

4. Future Agenda Items

None were suggested.

E. ADJOURNMENT

Mr. MacLeod adjourned the Business Meeting at 11:05 a.m.