

**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

November 15, 2007
Glendale, California

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

Chair MacLeod called the Public Meeting of the Occupational Safety and Health Standards Board (Board) to order at 10:00 a.m., November 15, 2007, in the Glendale City Council Chambers, 613 East Broadway, Glendale, California.

A. ATTENDANCE**Board Members Present**

Chairman John MacLeod
Jonathan Frisch, Ph.D.
Bill Jackson
Jack Kastorff
Willie Washington

Board Members Absent

Jose Moreno
Steve Rank

Board Staff

Marley Hart, Executive Officer
Michael Manieri, Principal Safety Engineer
David Beales, Legal Counsel
Tom Mitchell, Senior Industrial Hygienist
Bernie Osburn, Staff Services Analyst
Chris Witte, Executive Secretary

Division of Occupational Safety and Health

Steven Smith, Principal Safety Engineer

Others present

Jay Weir, AT&T
Dan Ford, Safety Consultant
Tom Butler, ASSE
Bob Hornauer, NCCCO
Kevin Bland, CFCA/RCA

Shauna Boehm, CPIL
Bruce Wick, CALPASC
Bo Bradley, AGC of California
Elizabeth Treanor, Phylmar Group Roundtable
Lynne Formigli, CTA

B. OPENING COMMENTS

Chairman MacLeod welcomed Ms. Hart back as Executive Officer and administered the Oath of Office. The Chair then thanked Dr. Frisch and Mr. Jackson for participating in the Executive Officer Recruitment Committee, and he thanked Mr. Manieri for "juggling" so many responsibilities during the last few months as the interim executive officer.

Bob Hornauer, Manager of Test Integrity and California Liaison for the National Commission for the Certification of Crane Operators (NCCCO), stated that NCCCO has been awarded ANSI certification in the personnel area of their certification process, stating that this a major milestone in NCCCO's history. He indicated that this involves accreditation at the national level, as well as meeting the ISO/IEC 17024 standard for international accreditation.

C. ADJORNMENT

Chairman MacLeod adjourned the Public Meeting at 10:08 a.m.

II. **PUBLIC HEARING**

A. PUBLIC HEARING ITEM

Chair MacLeod called the Public Hearing of the Occupational Safety and Health Standards Board (Board) to order at 10:08 a.m., November 15, 2007, in the Glendale City Council Chambers, 613 East Broadway, Glendale, California.

Chair MacLeod opened the Public Hearing and introduced the first item on the agenda.

1. TITLE 8: **CONSTRUCTION SAFETY ORDERS**
Chapter 7, Subchapter 4, Article 11
Section 1597
Jobsite Vehicles—Scope and Application

Mr. Manieri summarized the history and purpose of the proposal and indicated that it is now ready for public comment and the Board's consideration.

Dan Ford, Safety Consultant, read written comments asking for changes to the proposal, which were then entered into the rulemaking record. Among the topics of concern were the applicability of the proposal to different types of vehicles and the way the proposal fits in with other safety orders.

Dr. Frisch asked whether staff had considered an advisory committee for this proposal. Mr. Manieri responded that staff and the Division did not recommend an advisory committee, as the proposed change was intended simply to clarify existing safety orders regarding vehicles used exclusively on jobsites.

Mr. Jackson stated that part of the problem appears to be the lack of a definition of jobsite vehicles and suggested that such clarification could be achieved simply by including definitions in the proposal. Mr. Manieri agreed that a definition of jobsite vehicles would be helpful. He expressed his belief that haulage vehicles are already defined in the safety orders.

Mr. Jackson expressed uncertainty regarding the problem the proposal solves. Mr. Manieri responded that the proposal came about from a Division Form 9 stating that there was confusion regarding vehicles used on jobsites. Mr. Jackson expressed his opinion that the proposal as written did not add the intended clarity sought by the Division, and he suggested that the proposal be brought back to an

advisory committee. He also indicated that the addition of appropriate definitions might improve the proposal.

Chair MacLeod asked whether the desired clarification could be achieved with a 15-day notice. Mr. Manieri responded that face-to-face meetings are always more efficient, and he agreed that it would be more effective to take the proposal to the advisory committee and then follow up with a 15-day notice, if necessary.

Subsequent to this discussion, Chair MacLeod directed that staff review the proposal in light of the comments received and determine whether or not an advisory committee is necessary and determine whether or not the proposal as written solves the problem indicated in the Division Form 9 request.

Mr. Kastorff asked whether a standard transmission pick-up truck would be excluded from the proposal. Mr. Manieri responded that he was unsure whether or not such a vehicle would be excluded from the proposal. He indicated that the brake system requirement in the proposal is similar to the brake system requirement for the heavier haulage vehicles. He stated that that would be one of the issues explored in the advisory committee process.

Dr. Frisch asked whether a vehicle licensed for operation on roads would be included in the proposal. Mr. Manieri responded that the current standard applies to all jobsite vehicles, including vehicles licensed by the DMV.

2. TITLE 8: **GENERAL INDUSTRY SAFETY ORDERS**
 Chapter 4, Subchapter 7, Article 4
 Section 3270
 Safe Access to Elevated Locations

Mr. Manieri summarized the history and purpose of the proposal and indicated that it is now ready for Board consideration and public comment.

Bo Bradley, Director of Safety, Health, and Regulatory Services for the AGC of California, asked that the proposal be amended to clarify that it applies only after the certificate of occupancy has been issued, and that it does not apply to temporary structures such as those used during construction.

Kevin Bland, representing the Construction Framers Association and the Roofing Contractors Association, expressed agreement with and support for Ms. Bradley's comments.

ADJOURNMENT

Chair MacLeod adjourned the Public Hearing at 10:44 a.m.

III. BUSINESS MEETING

Chair MacLeod called the Business Meeting of the Occupational Safety and Health Standards Board (Board) to order at 10:44 a.m., November 15, 2007, in the Glendale City Council Chambers, 613 East Broadway, Glendale, California.

A. PROPOSED SAFETY ORDER FOR ADOPTION

1. TITLE 8: **GENERAL INDUSTRY SAFETY ORDERS**
Chapter 4, Subchapter 7, Article 2
Section 3228
Number of Exits
(Heard at the October 18, 2007, Public Hearing)

Mr. Manieri summarized the history and purpose of the proposal. He stated, however, that the State Fire Marshal had conditionally approved the proposal, asking for some apparently nonsubstantive, clarifying revisions, and he asked to postpone adoption consideration until staff has had a chance to review the requested changes to determine whether they would require a 15-day notice period.

2. TITLE 8: **GENERAL INDUSTRY SAFETY ORDERS**
Chapter 4, Subchapter 7, Article 25
Section 3650
Industrial Trucks, General (Blue Signal Protection)
(Heard at the October 18, 2007, Public Hearing)

Mr. Manieri summarized the history and purpose of the proposal, stating that no public comment had been received, and he asked that the Board adopt the proposal as written.

MOTION

A motion was made by Mr. Jackson and seconded by Dr. Frisch that the Board adopt the proposed safety order.

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 summarized the 16 variance applications on the consent calendar and asked that the Board adopt the proposed variance decisions as written.

MOTION

A motion was made by Mr. Kastorff and seconded by Dr. Frisch to adopt the consent calendar as proposed.

Dr. Frisch asked whether there was discussion during the Pratt & Whitney Rocketdyne hearing as

to whether or not earthquake activity would compromise the clearance points. Mr. Beales stated that the conditions were written with the intention that if the clearances were compromised to the point that it was less than one inch, the switch devices would not permit the crane to work. Mr. Manieri added that when the crane is under load, the clearance is increased, therefore providing an additional safety measure.

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

C. OTHER

1. Health Expert Advisory Committee (HEAC)
PEL Update
Division of Occupational Safety and Health

Mr. Smith distributed a list of the members of the HEAC and a list of the substances most recently considered. He stated that the most recent meeting had been held on November 2, 2007, and it was determined that further discussions of the three substances under consideration would be necessary at the next meeting, which is scheduled for January 29, 2008.

Dr. Frisch asked how many substances were on the list and how they were prioritized. Mr. Smith responded that there were approximately 200 substances in four priority categories. He indicated that the HEAC probably will be able to discuss only the first two priorities, which includes 50 to 60 substances. The priorities were based on staff review of the chemical's possible usage in California, the type of health hazard or potential health hazard, the relative amount of change, and/or whether it was a new substance. These substances were presented at a public advisory committee in June to solicit comments from all stakeholders regarding prioritization. Changes were made based on the recommendations received, and the list was revised. The prioritization list can be revised based upon either public comment or the recommendation of the HEAC.

Dr. Frisch asked when the HEAC anticipated bringing proposed changes to the Board. Mr. Smith responded that the process was expected to go through 2008, to be brought before a feasibility advisory committee toward the end of 2008, and subsequently to be brought before the Board in 2009.

Dr. Frisch then asked why the HEAC was acting on the substances in groups rather than passing some substances through more rapidly. Mr. Smith responded that it was based upon staff's time and resources and past practice.

Dr. Frisch asked whether any of the members of the HEAC had concerns about how quickly some the substances were coming up for consideration. Mr. Smith responded in the negative, indicating that there had been a couple of substances that had been recommended for their own substance-specific advisory committee for more specific consideration.

2. Legislative Update

Mr. Beales stated that there had been no revisions to the written legislative update included in the Board packets.

Dr. Frisch asked what would change for the Division and the Board with respect to temporary amusement rides in light of SB 783 being approved by the governor. Mr. Beales expressed his belief that the bill does expand the authority of the Division to regulate rides that are not presently within the scope of their authority. He does not believe that the legislation mandates the adoption of certain regulations within specified time frames. Dr. Frisch asked for clarification as to the bill's impact on the rulemaking process. Mr. Beales and Mr. Smith indicated that the matter would be researched and a response made after the meeting.

3. Executive Officer's Report
a. Calendar of Activities

Ms. Hart thanked the Board for the opportunity to serve as Executive Officer, and stated that she looks forward to working with the Board members and staff, the Division, and the stakeholders. She then summarized the Calendar of Activities included in the Board packets.

Ms. Hart stated that in 2006, the Board Noticed 22 rulemakings for Public Hearing. As of November, all of those rulemakings have been adopted, approved by the Office of Administrative Law, and filed with the Secretary of State. Board staff continues to review two outstanding petitions that will come before the Board in the next few months. To date, 232 variance applications have been docketed for 2007, only ten of which are for safety orders other than elevators. Governor Schwarzenegger has requested that all state agencies undergo a budget exercise drill, and Board staff continues to work with the Budget Office of DIR on it.

4. Future Agenda Items

Dr. Frisch asked for some instruction regarding amusement rides, both permanent and temporary. He specified that he would like clarification as to what they are, what the issues are, why rulemaking activity may be necessary, and what concerns should be considered in the rulemaking process. He stated that such instruction need not be in the form of a formal presentation to the Board.

Mr. Jackson suggested that, as the Amusement Ride Unit is headquartered in Southern California, that briefing could be included on the agenda for the next Board meeting to be held in the area. Chair MacLeod concurred.

ADJOURNMENT

Chair MacLeod adjourned the Business Meeting at 11:11 a.m.