

**OCCUPATIONAL SAFETY
AND HEALTH STANDARDS BOARD**

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**SUMMARY
PUBLIC MEETING/PUBLIC HEARING/BUSINESS MEETING
October 21, 2010
Oakland, California**

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

Chairman MacLeod called the Public Meeting of the Occupational Safety and Health Standards Board (Board) to order at 10:00 a.m., October 21, 2010, in the Auditorium of the Harris State Building, Oakland, California.

ATTENDANCE

Board Members Present
Chairman John MacLeod
Bill Jackson
Jack Kastorff
Hank McDermott
Guy Prescott
Dave Thomas
Willie Washington

Board Members Absent

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

Division of Occupational Safety and Health
Len Welsh, Chief
Steve Smith, Principal Safety Engineer
Mike Horowitz, Senior Industrial Hygienist

Others present

Elizabeth Treanor, PRR
Steve Johnson, ARC-BAC
Patrick Bell, DOSH
Royl Roberts
Joel Foss, DOSH

Marc Sinclair, Jensen Instruments
Bob Hornauer, NCCCO
Larry Pena, SoCal Ed
Joan Gaut, CTA
Jay Weir, AT&T

Jogen Bhalla, AMOT
Terry Thedell, Sempra Energy Utilities
Jonathan Frisch, Ph.D., PG&E
Kate Smiley, AGC

Curtis Fitzgerald, San Diego Gas & Electric
Russ McCrary, IW Trust ADR
Jody Blom, California Framing Contractors
Perry Churchill, Bragg Crane

B. OPENING COMMENTS

Chair 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

Chair MacLeod presented Dr. Frisch with a plaque outlining his years of service on the Board and thanked him for his dedication and hard work over the last four years. Dr. Frisch stated that it was an honor to serve the Board and thanked the staff for their assistance.

Elizabeth Treanor, Director of the Phylmar Regulatory Round Table, commended the Board staff for its work on the proposed Portable Ladders standard and spoke in favor of adoption of the proposal.

Royl Roberts, a law student with an interest in OSHA procedures, stated that after looking at the various Titles, he wanted to see if, at some time in the future, the Board would address the occupational safety risks associated with pile driving and see if there is a way to look at either permits or certifications associated with large pile driving equipment.

Jogen Bhalla, Vice President of AMOT, spoke in favor of the adoption of the proposed decision for Petition 516.

C. ADJOURNMENT

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

II. PUBLIC HEARING

A. PUBLIC HEARING ITEM

Chair MacLeod called the Public hearing of the Board to order at 10:23 a.m., October 21, 2010, in the Auditorium of the Harris State Building, Oakland, California.

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

1. TITLE 8: **GENERAL INDUSTRY SAFETY ORDERS**
Division 1, Chapter 4, Subchapter 7, Article 116
Section 5291
Firing of Explosive Materials (Blasting Operations)

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

There was no public comment on this item.

Mr. Jackson stated that, as written, the proposal makes the audibility of the alarm very similar to the standard for automatic back-up alarms on heavy equipment. He stated that the question is not whether the warning is heard but whether it is capable of being heard by those in the vicinity of the blasting operation. Mr. Beales stated that it is appropriate for Mr. Jackson's and other Board members' comments to be treated as public comments, and the appropriate response would be given in the Summary and Response to Comments. Mr. Jackson stated that his intent was for his concern to be addressed in that document.

B. ADJOURNMENT

Chair MacLeod adjourned the Public Hearing at 10:28 a.m.

III. BUSINESS MEETING

Chair MacLeod called the Business Meeting of the Board to order at 10:28 a.m., October 21, 2010, in the Auditorium of the Harris State Building, Oakland, California.

A. PROPOSED SAFETY ORDERS FOR ADOPTION

1. TITLE 8: **CONSTRUCTION SAFETY ORDERS**
Division 1, Chapter 4, Subchapter 4, Article 32
Section 1742
Definitions of "Manifold" and "Header"
(Heard at the August 19, 2010, Public Hearing)

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

MOTION

A motion was made by Mr. Thomas and seconded by Mr. Jackson that the Board adopt the proposal.

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

2. TITLE 8: **HIGH-VOLTAGE ELECTRICAL SAFETY ORDERS**
Division 1, Chapter 4, Subchapter 5, Article 17
Section 2813
Underground Vaults—Headroom Clearance
(Heard at the September 16, 2010, Public Hearing)

Mr. Manieri summarized the history and purpose of the proposal and indicated that the package is now ready for the Board’s adoption.

MOTION

A motion was made by Mr. Thomas and seconded by Mr. Kastorff that the Board adopt the proposal.

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

3. TITLE 8: **CONSTRUCTION SAFETY ORDERS**
Division 1, Chapter 4, Subchapter 4, Article 22
Section 1648; and Article 25
Sections 1675 and 1678
GENERAL INDUSTRY SAFETY ORDERS
Division 1, Chapter 4, Subchapter 7, Article 4
Sections 3276, 3277, 3278, 3279, and 3280;
Article 5, Section 3287; and Article 11, Section 3413
Portable Ladders
(Heard at the December 17, 2009, Public Hearing)

Mr. Manieri summarized the history and purpose of the proposal and indicated that the package is now ready for the Board’s adoption.

MOTION

A motion was made by Mr. Jackson and seconded by Mr. Prescott that the Board adopt the proposal.

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

B. PROPOSED PETITION DECISIONS FOR ADOPTION

1. John McCullough, CSP
Assistant Vice President
Wells Fargo
Petition File No. 515

The Petitioner requests that the Board amend Title 8, California Code of Regulations, to adopt a definition of Certified Safety Professional.

Ms. Hart reviewed the history and purpose of the petition, and she asked that the Board adopt the proposed petition decision, which grants the petition by directing Board staff to develop a rulemaking proposal.

MOTION

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

Mr. Prescott questioned the necessity of the definition discussed in the petition. Ms. Hart responded that the abbreviation CSP is used in certain sections of Title 8, such as GISO 5192 and TSO 8406, with no definition provided. She further stated that the abbreviation would be added to the comprehensive online Title 8 index.

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

2. Jogen Bhalla, Vice President
AMOT
Petition File No. 516

The Petitioner requests that the Board (1) amend the drilling and production portion of the Petroleum Safety Orders (PSO) to add a requirement that internal combustion engines be equipped with cyclone type spark arresters, and (2) amend the refining, transportation, and handling portion of the PSO to require that diesel engines be equipped with automatic air intake shutoff valves.

Ms. Hart reviewed the history and purpose of the petition, and she asked that the Board adopt the proposed petition decision, which directs that an advisory committee be convened regarding the part of the Petitioner's proposal that concerns drilling and production.

MOTION

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

Mr. Prescott expressed concern that an advisory committee convened under this petition would have the same result as that convened regarding Petition 505 by the same Petitioner, and with the Board staff's personnel and financial resources stretched so thin, it would not be a productive use of the Board staff's time.

A roll call was taken, and all members present voted "aye," with the exception of Mr. Prescott, who voted "no." The motion passed.

3. Michael Geyer, PE, CIH, CSP
Project Director-President
KERNTEC Industries, Inc.
Petition File No. 517

The Petitioner requests the Board to amend Title 8 regarding the use of the English language in the workplace.

Ms. Hart reviewed the history and purpose of the petition. She stated that Mr. Geyer sent the Board a letter dated October 18, 2010, in which he states his disagreement with the proposed petition decision denying the petition. Copies of that letter have been provided to the Board members. Mr. Geyer's letter led Board staff to ascertain that some of the wording from the Board staff's evaluation, which was intended for the proposed petition decision, was inadvertently omitted. The omitted wording has been added, a revised version of the proposed decision has been provided to the Board members, and a copy has been made available for public review. She asked that the Board adopt the proposed petition decision as revised.

MOTION

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

Mr. Kastorff asked whether the revised decision had been provided to the public. Ms. Hart responded affirmatively, stating that it has been provided in the Board packet today.

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 adopt the decisions listed on the consent calendar, stating that the unsigned proposed decisions have been signed as the result of a variance hearing held just prior to today's Board meeting.

MOTION

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

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

D. OTHER

1. Legislative Update

Mr. Beales stated that he had nothing to add to the written materials in the Board packet.

2. Executive Officer's Report

Ms. Hart stated that there is an advisory committee scheduled for Monday, October 25, 2010, in the Harris Building, to discuss bloodborne pathogens in the adult film industry. This is the final advisory committee meeting the Division intends to convene regarding this subject.

She further stated that the budget was signed by Governor Schwarzenegger on October 8, 2010, so TEC checks would be issued soon. What remains unresolved is the status of the furlough days. Within the Board staff, employees represented by Bargaining Units 1 and 4 and non-represented employees will now have one self-directed furlough day per month; however, employees represented by Bargaining Units 2 and 9 have not yet reached an agreement with the Governor, and they will continue to have three furlough days per month. There is still a hiring freeze, which does not impact the Board staff as there are no vacancies.

Mr. Prescott asked if the office would remain open despite the staggered furloughs, and Ms. Hart responded affirmatively, that the office would remain open every working day.

3. Future Agenda Items

None requested.

E. CLOSED SESSSION

The Board discussed only the closed session item listed on the Agenda, and no action was taken during the closed session.

F. ADJOURNMENT

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