

**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](http://www.dir.ca.gov/oshsb)



**SUMMARY  
PUBLIC MEETING/PUBLIC HEARING/BUSINESS MEETING  
July 17, 2014  
Oakland, 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 10:02 a.m., July 17, 2014, in the Auditorium of the Harris State Building, Sacramento, California.

**ATTENDANCE**

**Board Members Present**

Dave Thomas  
Laura Stock  
David Harrison  
Barbara Smisko  
Patty Quinlan

**Board Member Absent**

Bill Jackson  
Hank McDermott

**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 Strunk, IUOE Local Union 3  
Michael Musser, CA Teachers Association  
Kevin Bland, Esq., Ogletree, Deakins, Nash,  
Smoak & Stewart  
John L. Bobis, Gen Corp.  
Mitch Seaman, CA Labor Federation  
Kevin Thompson, Cal/OSHA Reporter  
Adam Cohen, AIDS Healthcare Foundation  
Elizabeth Treanor, PRR

Dan Mooney, Fed OSHA  
Dan Leacox, Greenberg Traurig  
James Dufour, Attorney for Waste  
Management  
Jim Rucker, Safeway, Inc.  
Meleah Hall, Teacher  
Mike Wilson, DIR OD  
Dorothy Wigmore, Worksafe  
Bob Hornauer, NCCCO



bar or strap be in place, and if this proposal is passed, it will make the California standard less safe than the ANSI standard.

**Mr. Thomas** asked Mr. Berg if the Division suggested the idea of reducing the maximum speed to 10 mph under which the safety chain would not have to be used. **Mr. Berg** stated that it was his mistake going along with that during the advisory committee. He realized his error upon further discussion of this issue with the legal unit and enforcement unit, and that is why the Division has changed its position on that.

**Ms. Quinlan** asked if there is or is not a reference in the ANSI standard to the lack of a safety bar or allowing a safety bar. **Ms. Hart** stated that this question will be addressed in the Final Statement of Reasons.

**Mitch Seaman, California Labor Federation**, stated that his organization opposed this standard because this rulemaking was created in response to a worker fatality, and it is an inappropriate response. He said that it allows employers to commit the same violation that killed the worker. He also stated that he would like to see the Board staff involve more labor groups, such as the California Labor Federation, Worksafe, and the State Building Construction Trades Council, in future advisory committees so that all parties who might be affected by a proposed standard can be heard. **Ms. Hart** stated that Worksafe, California Labor Federation, and the State Building Construction Trades Council have been added to the Board staff's advisory committee roster, and the Board staff continuously seeks out labor representatives to get them involved in advisory committees.

**William Martin, Waste Management Safety Services**, stated that his organization supports the proposal. He stated that the current ANSI standard does not require that a safety bar be used unless the truck is going faster than 20 mph. He said that even though companies work hard to properly train their employees on how to operate equipment safely, they will always have to battle the human factor.

**Ms. Wigmore** stated that her organization has no problem with putting plates on trucks to say that they are designed and constructed in accordance with the current ANSI standard. However, there are parts of the ANSI standard that her organization feels are very relevant to this issue that have been left out of the current proposal. She said that if this proposal is approved, it will cause the 2011 fatality case that is currently under appeal to be dismissed, and the employer will win. She said that this proposal does not protect workers because it does not recognize the key hazards and root causes of many injuries that occur in this industry, nor does it recognize the pressure that employees face to get in and out of the truck quickly and get the job done. She asked that the Board staff remove the proposed amendment to Section 4354 because it allows employers to include known hazards in their work practices. She also asked the Board to implement a policy that requires the Board staff to go to individual Board Members, the California Labor Federation, State Building Construction Trades Council, and Worksafe when looking for people to participate in advisory committees.

**Mr. Thomas** stated that while there was an agreement between the parties at the advisory committee, this proposal does not now seem to work for all of the parties involved, and it is not the safest way to go. He recommended that the Board staff take it back and amend it to do what is safest for the workers.



B. PROPOSED VARIANCE DECISIONS FOR ADOPTION

1. Consent Calendar

Mr. Beales stated that all of the cases listed on the consent calendar need to be removed from the consent calendar except for the following 4 cases:

- 14-V-129 CalPERS – Lincoln Plaza North
- 13-V-186 Air Products and Chemicals, Inc.
- 13-V-227 Jett Harvest, Inc.
- 14-V-007 CalTrans

Mr. Beales stated that the recommendation is to grant the variances in 14-V-129, 13-V-186, and 14-V-007, and deny the variance in 13-V-227. With those changes, he asked that the consent calendar as modified be adopted.

MOTION

A motion was made by Ms. Stock and seconded by Mr. Harrison 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 AB 326, which pertains to employer notification of the Division regarding an employee death or serious injury, as well as SB 1360, which pertains to rest and recovery periods, has become law.

2. Division Update on Possible Rulemakings and Advisory Committees

Mr. Smith provided a brief update of the possible rulemakings and advisory committees that the Division is working on based on the written update provided by Acting Chief Juliann Sum in the Board packet. [Please see the Board’s file copy to view the written update].

**Ms. Stock** asked Mr. Smith for a more specific timeline regarding the Bloodborne Pathogens standard, and when it might come before the Board for public hearing. **Mr. Smith** stated that after the Board staff returned the package with their comments, the Division received additional concerns from stakeholders in the medical arena. He stated that Deputy Chief Deborah Gold, who is now working part-time, is working with Board staff to respond to those comments. He said that Ms. Gold has indicated that the Board staff will have the package back in the next few months. **Ms. Stock** asked him what will happen after that. **Ms. Hart** stated that upon receiving the package back, the Board staff will review the changes that the Division made and will incorporate them into the necessary documents. She said that after all of the documents are finalized, there is usually a 3-4 month turnaround time before it will

come before the Board for a public hearing, which includes a 45-day comment period. She said that if the documents are received from the Division by the end of August, and the Board staff makes the necessary changes by the end of September, a public hearing on this issue may occur sometime during the first quarter of 2015.

**Ms. Stock** also asked Mr. Smith when a decision will be made as to whether or not to hold another advisory committee meeting regarding Hotel Housekeeping. **Mr. Smith** stated that the Division staff person who is working on that is currently working on the Bloodborne Pathogen standard, which is the Division's top priority at the moment. **Ms. Stock** stated that she is concerned about the length of time that it takes for things such as the Bloodborne Pathogens standard to move forward, and she hopes that the Division is working to increase staffing, especially for development of standards.

**Ms. Smisko** asked Mr. Smith if the revision to the Elevator Safety Orders is geared toward reducing the number of elevator variance requests. Mr. Smith stated that it is.

**Ms. Quinlan** asked Mr. Smith how many hazardous substances still have to go through the PEL process. **Mr. Smith** stated that there are 6 substances. He stated that 3 of those substances have not gone through the FAC process and that the FAC would need to be re-established in order to do that. The other 3 chemicals have already been through the FAC process, and the Division is determining whether or not another FAC is needed before they proceed to rulemaking.

**Mr. Thomas** stated that 5 years has been too long to get the Bloodborne Pathogens standard to public hearing and asked Mr. Smith who the Board needs to talk to about expediting the process for that standard. **Mr. Smith** stated that he will take Mr. Thomas's concerns back to the Division.

### 3. Working Alone in Remote or Congested Locations (Dave Harrison)

Mr. Harrison requested that the Board staff develop a proposal to address hazards that people encounter while working alone in remote or congested locations. He stated that this is a big problem in all industries. He said that a survey of 2,000 public employees was conducted, and 50-60% of those employees reported encountering serious hazards while working alone in remote or congested locations. He asked the Board staff to convene an advisory committee to help develop a proposal to address this.

### 4. Executive Officer's Report

Ms. Hart stated that a draft proposal of the Crane Safety Orders has been completed by Conrad Tolson and sent to the Division for review. She said that the Board staff requested the Division to expedite reviewing some parts of it, because an advisory committee for it will be held in September. She stated that the September advisory committee meeting will take place over two days and that the Board staff is trying to find space in Oakland or Sacramento to accommodate the meeting. The second advisory committee meeting for it will be held in southern California, if necessary.

5. Future Agenda Items

No future agenda items were mentioned.

D. ADJOURNMENT

Mr. Thomas adjourned the Business Meeting at 11:35 a.m.