

**OCCUPATIONAL SAFETY  
AND HEALTH STANDARDS BOARD**

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**SUMMARY  
PUBLIC MEETING/PUBLIC HEARING/BUSINESS MEETING  
May 15, 2014  
Walnut Creek, 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., May 15, 2014, in the Council Chambers of the Walnut Creek City Hall, Walnut Creek, California.

**ATTENDANCE**

**Board Members Present**

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

**Board Member Absent**

**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**

Joseph Frisina, Teamsters Union  
Michael Musser, CA Teachers Association  
Kevin Bland, Esq., Ogletree, Deakins, Nash,  
Smoak & Stewart  
Ken Clark, ASSE – SF BB&T  
Peter Scholz, Cal/OSHA - RSHU  
Amber Rose, Fed OSHA  
Mike Easter, Naphthalene Research Program

Marti Fisher, CalChamber  
Dan Leacox, Greenberg Traurig  
Lawanda Riesling – Franklin, ASSE -  
CGAG  
Kevin Thompson, Cal/OSHA Reporter  
Morena Tumiaty, CalTrans  
Katherine Hughes, SEIU 121 RN  
Dorothy Wigmore, Worksafe

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.

**Richard Negri, SEIU 121 RN**, stated that there is a need for Petition 538 to go to an advisory committee right away and asked that it be put on the June agenda for the Board to vote on. He stated that Petition 538 contains administrative and engineering controls that are much needed. He said that on Easter Sunday, there were two incidents of nurses being stabbed, and that the provisions in Petition 538 might have prevented, or allowed better control of, both situations. He also stated that an employee was recently disciplined for getting involved and defending a nurse who was being attacked. He said that an all-encompassing standard is necessary to protect healthcare workers against these types of workplace violence. **Katherine Hughes, SEIU Local 121 RN**, echoed Mr. Negri's comments.

**Michael Easter, Naphthalene Research Program**, asked the Board to send the proposal regarding Airborne Contaminants, Naphthalene, back to the Health Experts Advisory Committee (HEAC) for further review and discussion. He said that the proposed permissible exposure limit (PEL) of 0.1 ppm is not feasible. He stated that it is not scientifically defensible and will be technically challenging to monitor and economically harmful. His organization feels that is not consistent with the latest research regarding cancer and non-cancer endpoints for naphthalene.

**Dorothy Wigmore, Worksafe**, stated that her organization recommends adopting the proposed standard for Naphthalene, and then lowering it further from there. She said that there is evidence that the recommended 0.1 ppm PEL will not protect workers and agrees with the PEL that was recommended by Dr. Julia Quint during the HEAC that is three times lower.

**Dan Leacox, Greenberg Traurig, representing the Styrene Information and Research Council**, stated that the main disagreement regarding the PEL for Naphthalene is regarding the relevance of cancer findings in rodents. He said that having a list of hazards is not an indication of risk. He also stated that when it comes to feasibility, there is a burden of proof on the Division and the Board to demonstrate the feasibility of a chemical's PEL, and statute requires that they use the lowest feasible level. He said that data is difficult to find when trying to demonstrate the feasibility of a PEL that is lower than that in the current standard.

C. ADJOURNMENT

Mr. Thomas adjourned the public meeting at 10:32 a.m.

II. **PUBLIC HEARING**

A. PUBLIC HEARING ITEMS

Mr. Thomas called the Public Hearing of the Board to order at 10:32 a.m., May 15, 2014, in the Council Chambers of the Walnut Creek City Hall, Walnut Creek, California.

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

1. TITLE 8:        **CONSTRUCTION SAFETY ORDERS**  
                                 Section 1903  
                                 **Landing Operations-Note to Section 1903**

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 comments on this proposal.

**Mr. Jackson** asked the Board staff to explain in their response to comments why they are changing it from "emergencies" to only "in-flight emergencies".

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

2. TITLE 8:        **GENERAL INDUSTRY SAFETY ORDERS**  
                                 Section 3314  
                                 **Lockout Tagout (LOTO) – Group Lockout**

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.

**Ms. Wigmore** stated that she is curious about the data showing the effectiveness of the federal standard, and if this proposal is good enough. She also asked the Board staff to make it clear as to what the responsibilities are for the employer and the employee.

**Kevin Bland** stated that he has no opposition to this proposal, but urged the Board to be cautious in adopting this proposal. He said that this proposal is good as long as the group lockout remains optional instead of required.

B. ADJOURNMENT

Mr. Thomas adjourned the Public Hearing at 10:43 a.m.

**III. BUSINESS MEETING**

Mr. Thomas called the Business Meeting of the Board to order at 10:43 a.m., May 15, 2014, in the Council Chambers of the Walnut Creek City Hall, Walnut Creek, California.

A. PROPOSED SAFETY ORDERS FOR ADOPTION

2. TITLE 8:        **GENERAL INDUSTRY SAFETY ORDERS**  
                                 Division 1, Chapter 4, Subchapter 7, Article 107, Section 5155  
                                 **Airborne Contaminants, Naphthalene**

Mr. Smith summarized the history and purpose of the proposal and indicated that the proposal

is now ready for the Board's adoption.

**Ms. Quinlan** asked the Board to adopt the proposal. She stated that it went through several significant meetings, and there is a lot of disagreement between scientific bodies on the proposed PEL, but it has all resulted in the 0.1 ppm PEL being proposed. She said that if this proposal is sent back, it will take several years to get another proposed PEL before the Board. She stated that the PEL is not as effective as 0.3 ppm, but she is willing to adopt the 0.1 ppm for now, and it can be revised later.

**Ms. Stock** echoed Ms. Quinlan's comments. She also stated that she did not see any evidence in the Final Statement of Reasons that said why 0.3 ppm is not feasible. She asked the Division to provide more information to the Board regarding the guidelines for determining feasibility. In those guidelines, she asked the Division to specifically set out some procedures that answer the following questions:

- Who has the burden of proof?
- What is considered standard evidence?
- Will the determination of feasibility include consideration of all controls and strategies, including administrative controls and personal protective equipment?

#### MOTION

A motion was made by Ms. Quinlan and seconded by Ms. Stock that the Board adopt the proposal.

A roll call was taken. Mr. Jackson voted "no" and all other members present voted "aye." The motion passed.

#### B. PROPOSED VARIANCE DECISIONS FOR ADOPTION

##### 1. Consent Calendar

Mr. Beales stated that the recommendation is to grant all the variances listed in the consent calendar, as indicated in the proposed decisions contained in the Board packet. He also stated that case number 14-V-089 concerning Kaiser Foundation Health Plan should be removed from the consent calendar and voted on separately because Ms. Smisko works for Kaiser and is absenting herself from the discussion and vote on that case.

#### MOTION

A motion was made by Mr. Harrison 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.

Ms. Smisko left the room while the Board discussed and voted on case number 14-V-089.

Mr. Beales recommended granting the variance decision for 14-V-089.

### MOTION

A motion was made by Mr. Jackson and seconded by Mr. Harrison to adopt the proposed decision.

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

Ms. Smisko returned to the room.

### C. OTHER

#### 1. Legislative Update

Mr. Beales had nothing to add to the written update in the Board packet.

#### 2. Executive Officer’s Report

Ms. Hart stated that both GHS rulemakings were approved by the Office of Administrative Law on May 5 and became effective on May 6. She said that the 15-day notice comment period for Safe Patient Handling ended on May 5, and the Division is reviewing and responding to comments. If the Division’s summary and response to comments is received in time, Safe Patient Handling will be on the June agenda for adoption.

Ms. Hart also stated that the Division and Board staff evaluations for Petitions 538 and 539 regarding workplace violence have been completed and sent to the petitioners. A proposed decision should be ready for June adoption.

Ms. Hart also stated that Conrad Tolson is still working on the revisions to the CDAC, and Conrad anticipates that a 2-day advisory committee meeting will be held in August or September. He is 92% done with the side-by-side document and text. She said that when they are completed, they will be sent to the Division for a response.

**Ms. Stock** asked for an update on the Hotel Housekeeping rulemaking. **Ms. Hart** stated that according to the Division’s update at last month’s meeting, the Division is reviewing the information that it received from stakeholders and deciding whether or not another advisory committee meeting is necessary. **Mr. Smith** added that the Division is still waiting on additional information from a few key stakeholders. **Ms. Stock** asked when that decision will be made. **Mr. Smith** stated that he suspects the decision will be made by this fall.

**Ms. Hart** also stated that Deborah Gold will be retiring at the end of June and will hopefully attend the June meeting before she goes.

3. Future Agenda Items

**Ms. Hart** acknowledged Ms. Stock's request for the Division to provide more information on the guidelines for determining PEL feasibility.

A moment of silence was held in memory of Jose Mejia's secretary's husband, who was killed in a boating accident.

D. ADJOURNMENT

Mr. Thomas adjourned the Business Meeting at 11:03 a.m.