

**OCCUPATIONAL SAFETY
AND HEALTH STANDARDS BOARD**

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SUMMARY
PUBLIC MEETING AND BUSINESS MEETING
May 17, 2018
Sacramento, California

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

Acting Chairman David Harrison called the Public Meeting of the Occupational Safety and Health Standards Board (Board) to order at 10:07 a.m., May 17, 2018, in the Auditorium of the State Resources Building, Sacramento, California.

ATTENDANCE**Board Members Present**

David Harrison
Chris Laszcz-Davis
Barbara Smisko
Laura Stock

Board Member Absent

Dave Thomas

Board Staff

Marley Hart, Executive Officer
Mike Manieri, Principal Safety Engineer
Peter Healy, Legal Counsel
David Kernazitskas, Senior Safety Engineer
Sarah Money, Executive Assistant

Division of Occupational Safety and Health

Eric Berg, Deputy Chief of Health

Others Present

Dan Leacox, Leacox & Associates
Pamela Murcell, KWA Safety & Hazmat
Michael Donlon, DWR
Michael Benefield, Terracon
Laura O'Heir, SF Public Utilities Comm.
Elizabeth Treanor, PRR
Jamie Carlile, SCE
Kevin Thompson, Cal/OSHA Reporter
Charles Watson, California Strategies
Mark Bailey, Asbestos TEM Laboratories

Michael Musser, CA Teachers Association
Cindy Sato, CEA
Jay Weir, AT&T
Jora Trang, Worksafe
David Jones, AGC of California
Michael Strunk, IUOE Local No. 3
Chris Kirkham, DOSH
Dan Hernandez, Flatiron Corp., Calaveras
Dam Replacement Project

B. OPENING COMMENTS

Mr. Harrison 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.

Pamela Murcell, KWA Safety and Hazmat, representing NOA Regulations Task Group, stated that her task group supports the proposed decision for Petition 568 that grants the petition to the extent that the Division convenes an advisory committee of stakeholders to discuss making changes to Section 1529 of the Construction Safety Orders to better address the hazards that workers face when there is a potential for exposure to asbestos as a naturally-occurring constituent. She said that her organization did an extensive evaluation of the current standard and concluded that changes need to be made within the regulation's framework to address these issues. She stated that the petition contains proposed amendments and recommendations that the advisory committee can use as a starting point for its discussion. She urged the Board to adopt the petition decision.

Mike Benefield, Terracon Consultants, stated that his organization supports sending Petition 568 to an advisory committee. He said that he has seen many people come to radically different interpretations as to how Section 1529 applies to jobs where a lot of dirt is being removed or work is taking place outdoors. He stated that this results in workers being exposed to asbestos when they should not have been exposed. He said that he has seen workers work in these situations, and their exposure was not assessed. He stated that he hopes a clear regulation will be drafted to address asbestos exposure in these kinds of situations.

Jora Trang, Worksafe, stated that her organization supports Petition 568. She said that workers have reported to her organization that they have been exposed to asbestos, but they were not notified by their employer that there was potential for exposure to asbestos. She stated that in some of those cases, employers did not notify the employee of the potential for exposure because the employers themselves were not aware that there was a potential for exposure.

Mark Bailey, Asbestos TEM Laboratories, stated that his organization supports Petition 568 because the current regulation provides no guidance regarding naturally-occurring asbestos. He said that this is an opportunity to address this issue.

Laura O'Heir, San Francisco Public Utilities Commission, stated that her organization fully supports Petition 568. She said that SFPUC is engaged in large and small projects where naturally-occurring asbestos is present, and they have spent many hours trying to understand and apply the requirements of Section 1529 to their projects. She said that employees with her organization perform daily subsurface work near bands of surpetanite, which contains asbestos, and contractors do not understand how Section 1529 applies to their work, which puts a large burden on her organization. She stated that the two main things contractors do not understand are:

- How the AHERA training requirements apply to them when they are just working in dirt. Section 1529 centers around asbestos in building materials.

- They do not know where they can get training regarding naturally-occurring asbestos for their crews. There are very few professionals with an adequate amount of experience to offer these trainings.

She said that her organization is looking forward to participating in the advisory committee process so that the requirements of Section 1529 can be clarified regarding how they apply to work in areas where naturally-occurring asbestos may be present.

The following individual was also introduced as part of the NOA Task Group and commented in support of Petition 568:

- **Dan Hernandez, Calaveras Dam Replacement Project**

C. ADJOURNMENT

Mr. Harrison adjourned the public meeting at 10:19 a.m.

II. BUSINESS MEETING

Mr. Harrison called the Business Meeting of the Board to order at 10:19 a.m., May 17, 2018, in the Auditorium of the State Resources Building, Sacramento, California.

A. PROPOSED PETITION DECISIONS FOR ADOPTION

1. Pamela Murcell
NOA Regulations Task Group
Petition File No. 568

Petitioner requests the Board amend Title 8, Construction Safety Orders, Section 1529, with regard to workers exposed to naturally occurring asbestos.

Ms. Hart summarized the history and purpose of the petition, and stated that the proposed recommendation is to grant the petition to the extent the Board ask that an advisory committee be convened by the Division to consider potential revisions to Title 8, Construction Safety Orders, to better protect employees working on construction projects from hazards of exposure to naturally-occurring asbestos.

MOTION

A motion was made by Ms. Laszcz-Davis and seconded by Ms. Stock that the Board adopt the petition.

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

B. PROPOSED VARIANCE DECISIONS FOR ADOPTION

1. Consent Calendar

Mr. Healy stated he is aware of no unresolved legal issues regarding items A-O on the consent

calendar, and he believes that those items are ready for the Board's decision on the question of adoption.

MOTION

A motion was made by Ms. Stock and seconded by Ms. Laszcz-Davis to adopt the consent calendar.

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

C. OTHER

1. Legislative Update

In addition to the written version of the legislative update, Mr. Healy provided the following additional updates:

- AB 1761 pertains to hotel worker safety and workplace violence prevention. This bill includes proposed means of addressing these issues, including providing panic buttons for employees to use who are working alone, as well as post-incident accommodations for victimized employees. This bill has been amended to remove the requirement that employers keep record of, and refuse service to, guests accused of violence or harassment toward employees, as well as expand upon required accommodations available to employees who are victims of guest violence or harassment. On May 10, this bill was ordered to a third reading and is getting close to being voted on by the full Assembly.
- AB 2934 pertains to program certification for residential lead paint hazard reduction. This bill would require the California Department of Public Health (DPH) to request permission from the federal Environmental Protection Agency (EPA) to modify the federal state lead-related construction program agreement to expand the California DPH authority to contract with counties for county health department-administered certification of workers who are engaged in lead-related construction. This bill would also require the Division to complete rulemaking by July 1, 2019 to revise permissible exposure limits for lead within the Construction and General Industry Safety Orders. In April, this bill was amended to address the need for federal EPA approval of the program changes so that California DPH can have the authority, as the bill intends, to contract for counties to administer worker certification. On April 30, this bill was re-referred to the Assembly Appropriations Committee.

2. Executive Officer's Report

Ms. Hart stated that the Board staff has hired Lara Paskins to the Staff Services Manager position. She said that Ms. Paskins would start the next week.

Ms. Hart stated that the Board staff received a letter yesterday from Governor Brown asking the Board to rename the heat illness prevention standard to be the "Maria Isabel Vasquez Jimenez Heat Illness Prevention Regulation". She said that the Board staff has received a large number of emails in the OSHSB mailbox commenting in support of the Governor's request.

She stated that since this letter just arrived yesterday, the Board will consider and discuss this request at a future Board Meeting. She said that the Board staff would look into this issue further and come back to the Board at a future meeting with suggestions on how the Board may wish to address this.

D. OTHER

3. Future Agenda Items

No future agenda items were mentioned by the Board.

E. CLOSED SESSION

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

F. ADJOURNMENT

Mr. Harrison adjourned the Business Meeting at 10:53 a.m.