

## OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

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### SUMMARY PUBLIC MEETING/PUBLIC HEARING/BUSINESS MEETING

April 16, 2009  
Sacramento, 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., April 16, 2009, in the Auditorium of the State Resources Building, 1415 9<sup>th</sup> Street, Sacramento, California.

#### ATTENDANCE

##### Board Members Present

Chairman John MacLeod  
Jonathan Frisch, Ph.D.  
Bill Jackson  
Jack Kastorff  
José Moreno

##### Board Members Absent

Willie Washington

##### Board Staff

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

##### Division of Occupational Safety and Health

Steve Smith, Principal Safety Engineer

##### Others present

Dan Leacox, Greenberg Traurig  
Steve Johnson, ARC-BAC  
Elizabeth Treanor, Phylmar Regulatory Roundtable

Kevin Bland  
Patrick Bell, DOSH  
Guy Prescott, Operating Engineers Local 3

##### B. OPENING COMMENTS

Chairman 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.

Kevin Bland, representing the California Framing Contractors Association and the Residential Contractors Association, stated that the language in the High Visibility Apparel focusing on a required label identifying a garment as being in compliance with an American National Standards Institute (ANSI) standard places too much focus on the label, rather than the design and manufacture of the garment. He stated that while the label should be present at the time of purchase, the focal point of the proposal should be that the design and manufacture of the garment is compliant with the ANSI standard. He expressed concern that if the label were faded or illegible or had been removed, the absence or illegibility of the label would be a citable offense in the eyes of the Division of Occupational Safety and Health (Division).

C. ADJOURNMENT

Chairman MacLeod adjourned the meeting at 10:03 a.m.

II. **BUSINESS MEETING**

Chairman MacLeod called the Business Meeting of the Board to order at 10:03 a.m., April 16, 2009, in the Auditorium of the State Resources Building, 1415 9<sup>th</sup> Street, Sacramento, California.

A. PROPOSED SAFETY ORDERS FOR ADOPTION

1. TITLE 8:        **CONSTRUCTION SAFETY ORDERS**  
Division 1, Chapter 4, Subchapter 4, Article 11  
Sections 1598 and 1599  
**Use of High Visibility Apparel**  
(Heard at the October 16, 2008, Public Hearing)

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

MOTION

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

Mr. Jackson expressed concern that the modifications have created a standard that is focused on the label rather than the garment. He cited the labels that are placed on household furniture and mattresses, which must be placed on the item by the manufacturer but can be removed by the end consumer. He stated that one of the first things that gets worn out or torn out of warning apparel is the label if it creates discomfort for the wearer, and he wants to ensure that the Board does not adopt a standard that makes employers responsible for the maintenance of the label. He stated that he is opposed to the proposal because it creates a standard that is not focused on safety and health but is focused on maintenance of a label and requires somebody to ensure that the employee does not take the label out.

Dr. Frisch asked whether staff had considered the concept of labeling at the point of purchase; he also asked about enforcement of the "other appropriate source of such information"

described in Sections 1598(e) and 1599(f). He expressed confusion regarding enforcement of those sections. Mr. Manieri responded that staff did not consider labeling at the time of purchase. The garments are labeled at the time they are created at the manufacturing plant in accordance with the ANSI standard. The labeling requirement is built into the ANSI standard, and that standard is customary and contains a very prescriptive labeling requirement stating that specific information has to be provided on the garment. At the time of purchase, in addition to the garment labeling requirement, which is met by sewing in or embossing the information, the garments are also tagged with information regarding the class and care of the garment. The care of the garment is very important and relates to the quality and the maintenance of the label itself. If the garments are not laundered properly, the labeling information would probably begin to deteriorate and become illegible. At the same time, if the garments are not laundered properly, it will impair and diminish the quality of the coloration and even the reflectivity. Staff's thinking is that if the laundering and care instructions are followed, the labeling information as well as the garment quality will be maintained to the fullest extent possible. Mr. Manieri stated that the labels are not designed to be uncomfortable; they are made of fabric and are not expected to create any sort of irritation to the worker. He stated that staff was trying to avoid the necessity of the employer having to obtain the ANSI standard by simply stating that the garment must be labeled. There are labeling requirements throughout Title 8 standards.

Mr. Bell addressed the enforcement concerns. He stated that the Division understands that the standard includes labeling requirements, and if enforcement personnel should find that the label is so degraded that it would be unreadable or if it is missing from the garment, that could lead to a citation. He also stated that the information contained on the label is important in terms of being able to properly select and care for the garments. However, once the Division's personnel have been trained as to what the various classes of garments required under the standard look like, what their performance characteristics are, and when they should be chosen and properly used, he doubts that the labeling issue will be of primary concern. Mr. Bell stated that he does not often see compliance personnel looking for labels on high visibility garments.

Dr. Frisch asked Mr. Bell about the requirement for "other appropriate source of such information" in subsections 1598(e) and 1599(f) in determining the most appropriate personal protective equipment. Dr. Frisch stated that, in the Final Statement of Reasons, examples had been provided from the Manual on Uniform Traffic Code Devices (MUTCD) or the American Traffic Safety Services Association (ATSSA). Dr. Frisch expressed confusion about how the Division would enforce these subsections, as "other appropriate sources of such information" is an extremely vague term that it could be interpreted to mean almost anything the reader wanted it to mean. Mr. Bell responded that the other appropriate sources of information would be the MUTCD or the ATSSA.

Dr. Frisch asked whether the Division would look for documentation that the garments had been manufactured in compliance with the ANSI standard or whether the Division would take other enforcement approaches. Mr. Bell responded that he would first check to see whether the garments are being worn and that they have appropriate, required characteristics for the type of work and the environment. He stated that there are three different levels of garments that are required based on the hazard exposure. As far as identifying other appropriate standards, the MUTCD and the International Safety Equipment Association (ISEA) both include examples

and illustrations of how these garments look and they can be used for reference in determining whether or not the class of garment is appropriate for the exposure.

Chair MacLeod asked staff whether Mr. Bland's suggestion had been raised in the development of the proposal. Mr. Manieri responded that it had not.

A roll call was taken in which Dr. Frisch and Mr. Jackson voted "no," and Mr. Kastorff, Mr. Moreno, and Chairman MacLeod voted "aye." The motion failed based on the lack of the four votes needed to adopt or amend a regulation.

A substitute motion was made by Dr. Frisch and seconded by Mr. Kastorff that the Board send the proposal back to staff for further modification.

Mr. Jackson asked Mr. Beales whether it was necessary for the Board to vote to send the proposal back to staff. Mr. Beales responded that a Board vote would be a good idea to preserve the integrity of the rulemaking process for the Office of Administrative Law.

Dr. Frisch stated that his reason for making the substitute motion is that he believes the proposal is salvageable, and he does believe there is value in the proposal, but the language is troublesome. He stated that there are some issues to be resolved that will make the proposal palatable for those with concerns.

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

#### B. PROPOSED VARIANCE DECISIONS FOR ADOPTION

Mr. Beales recommended that all of the variances be granted, and the Board is asked to adopt the proposed decisions listed on the consent calendar. He stated that Variance File No. 08-V-224 required a correction in Condition No. 4 changing a reference from 24" to 42." In addition, Variance File No. 08-V-234, the reference to school administration should be removed, as the applicant is not a school, and replaced with a reference to "the Applicant."

Dr. Frisch asked that Variance File No. 08-V-192 be removed from the consent calendar for further discussion.

#### MOTION

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

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

A motion was made by Mr. Jackson and seconded by Mr. Kastorff to adopt the proposed decision for Variance File No. 08-V-192.

Dr. Frisch expressed continuing concerns regarding the restaurant owner's use of the wheelchair lift to transport freight between floors, the controls that are in place to improper use

of the device, and that it is just a matter of time before there will be a violation of the variance terms. He stated that much of the history behind this variance application regards the use of the wheelchair lift to transport freight, which is not permitted, and he expressed concern that in their present form the variance conditions do not provide an adequate level of safety to ensure that the device will not be misused. He expressed concern that staff recommended against granting the variance, and the controls presently listed in the proposed decision are administrative in nature. He stated that placing a sign prohibiting use of the device for freight is not adequate.

Mr. Jackson stated that Dr. Frisch's concerns are related to an enforcement issue. He stated that the variance application was to allow the use of the device for more than 12 feet. The prohibition against using this kind of device as a freight elevator exists for those less than 12 feet. He stated that there is nothing in the existing regulation to require a greater control for less than 12 feet.

Dr. Frisch asked, based on Mr. Jackson's comments, why a sign prohibiting use as a freight elevator is necessary. Mr. Jackson responded that the sign was the recommendation of staff to remind the end user of the device not to use it for freight. Dr. Frisch asked why, if it has nothing to do with the variance application, it was included in the proposed variance decision.

Mr. Beales responded that the applicant in this matter applied for a variance for this lift to transport disabled restaurant patrons from the restaurant floor to the mezzanine level. There was nothing in the application about using the lift for freight. He expressed his opinion that the applicant demonstrated to the hearing panel that its proposal—namely, using the device to travel slightly over 12 feet for the purpose of transporting disabled persons—provides an equivalent safety to the safety orders, and that, as a matter of law, it is entitled to receive the variance, as determined by the hearing panel.

During the course of Mr. Tolson's investigation of this matter, he talked to the owner of the restaurant, who happened to mention that he also wanted to use the lift to transport supplies from the floor of the restaurant to the mezzanine level. It was because the restaurant owner said that, rather than because of anything in the application, that Mr. Tolson recommended denying the variance. In its evaluation, the Division recommended denying the variance because it is the Division's policy that these lifts should not be allowed to travel more than 12 feet. The Standards Board has uniformly disagreed with the Division on that point.

The fact that the staff recommends against granting a variance does not mean that the Board will accept those recommendations in all cases. The Board is at liberty to grant the variance if the legal conditions for granting the variance are present in spite of what the Board staff or the Division staff recommend. That is the purpose for having the Board hear these matters. In addition, although the owner might have an intent to use the lift for transporting restaurant supplies, it is not the only use for the lift. The application is for proper use of the lift, and the conditions provide that the lift can only be used for that proper use. That is why the condition that it will be used only to transport disabled persons and not any freight or supplies is included. That particular condition about the sign and about the limitation of the lift to transporting disabled persons is a standard condition in all of these wheelchair lift matters where the lift goes more than 12 feet. That condition was not created for this variance alone.

Dr. Frisch asked whether the language was the same for the other two wheelchair lift variance decisions on the consent calendar. Mr. Beales responded that the language was almost the same; some language was added to this particular decision to make the prohibition more emphatic.

Mr. Beales further stated that further conditions such as a lock-out requirement could have been added, but when it comes down to any law, any regulation, or any set of conditions in a variance, compliance is always subject to the voluntary good will of the person who is supposed to comply. Adding extra precautions in this particular case may not really add much to safety, because even if the lift could only be used with a key that is kept by the owner in a secured place, if that owner decides that he wants to transport supplies on the lift, he still might do that, or he might still direct his busboy to do that.

Dr. Frisch stated that for those Board members that do not sit on the hearing panel, the only record they have is what is presented in the Board packet. When Dr. Frisch reads that record, and the record contains a concern about transporting freight, it is impossible to glean what conversations took place by reading the existing record. In this case, Mr. Beales succeeded in convincing him to grant the variance. Dr. Frisch suggested that Mr. Beales review the documentation ultimately seen by all the Board members in preparation for a vote and determine whether the decision as written will provide a clear picture to the Board members who were not present at the variance hearing. He further stated that when he read the proposed decision in the instant case, he thought that the use of the lift for freight was the main issue, when in fact it had nothing to do with the variance.

Mr. Beales responded that the use of the lift for freight was the main issue. Dr. Frisch stated that the way Mr. Beales described it, freight use of the lift had nothing to do with the variance. Mr. Beales responded that it has to do with the variance, which is why there is a condition addressing it.

Dr. Frisch stated that the freight concern is not the fundamental issue being addressed in the variance decision. Mr. Beales responded that it is one of the issues. Dr. Frisch expressed confusion. If freight is an issue, the placement of a sign prohibiting freight use is not going to be effective in actually preventing the use of the lift for freight. Thus, if freight is an issue, a sign is not a good control; if freight is not an issue, then it may be an adequate control. Dr. Frisch stated that the record does not convince him that, if freight is an issue, there are adequate controls in place to prevent that use.

Mr. Kastorff stated that the Board is required to grant a variance when it is shown that equivalent safety is provided. In this case, the panel members were provided with that evidence. There was not a choice. Whether or not the lift is used for freight is immaterial; that is an enforcement issue. While any of the other variances granted by the Board are only for disabled people, they could also be used for freight. That is contrary to the intent of the device, but that is not the Board's job.

Chairman MacLeod stated that the objective of the variance is to allow wheelchair access to the mezzanine level. Some precedent has been established in that the Board has granted

variances for these lifts to be used for distances greater than 12 feet. He asked Mr. Manieri whether this variance was different from the other variances granted. Mr. Manieri responded in the negative, stating that the Board has handled many vertical wheelchair lift variances, which contained virtually the same condition.

There has always been the prohibition on the use of vertical wheelchair lifts for people not to be used to haul freight, although in the case of Fresno Law Library ten years ago, the Board allowed the applicant to use the vertical wheelchair lift to carry books up to a mezzanine level in the library under very controlled circumstances. He stated that this condition was designed to ensure that the lift is for people and people only. It follows essentially the same wording pattern that the Board has established through hundreds of variances going back at least 20 years. Unless the Board wants to set a different level of safety with respect to this issue, which is its prerogative, this is consistent with the level of safety that the Board has established in previous vertical wheelchair lift variances.

Dr. Frisch stated that it was not his intent to establish a higher level of control. The issue is the documentation, and the indications of the documentation are that the Board is doing something different than it has in the past. He asked that, in the future, for those Board members not on the hearing panel, the documentation be clear.

Chairman MacLeod agreed with Dr. Frisch, stating that he has been doing this type of work for some time now and he has some history of what has occurred in his memory, but he wonders whether someone unfamiliar with the history would be able to determine the decision-making trail on some of the variances from the documentation.

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

## C. OTHER

### 1. Update on Sensitizing Agents

Mr. Smith stated that sensitizing agents are a health concern with some of the chemicals listed in the Airborne Contaminants section. A sensitizing agent is a chemical that could cause an allergic-type reaction to that chemical such that the employee exposed to that chemical would have an outcome such as a skin rash or an asthma-type breathing problem at very low levels of exposure to the chemical in the future. Thus, the sensitizing agent would essentially cause that person to not be able to be around the chemical in the future and it could be a permanent issue where that employee is essentially precluded from working with that chemical.

The Division is holding a series of advisory committees to determine how to best regulate these chemicals. This process began in the early 2000s, when the Division first examined gluteraldehyde. A rulemaking proposal was presented to the Board to lower the PEL for gluteraldehyde, and it was recommended by an earlier advisory committee on updates to the PEL to lower the permissible exposure limits. There was concern about the level that the advisory committee recommended.

The proposal was first presented in 2002, and it was withdrawn and sent back to the advisory committee. In 2003 and 2004, the Division held a series of advisory committees on gluteraldehyde. Based on the recommendations of those advisory committee meetings, the PEL was raised to be consistent with the threshold limit value for that substance. A cautionary note was included in Section 5155 about the concern that this is a sensitizing substance, and employees should be warned of that and appropriate precautions should be taken. That advisory committee suggested that a similar note be added other substances. The gluteraldehyde proposal was sent back to the Board, and it was subsequently adopted in 2006.

The advisory committee process is continuing on approximately 40 other substances listed in Section 5155 to receive similar notations that they are sensitizing agents, as well as adding precautions such as a medical requirement for these substances. That process was started in 2005; there were three meetings in 2005. There were concerns among the members of the advisory committee about the language of the note and what type of medical requirement to include, should a medical requirement be included in the proposal for those substances. The advisory committee put a hold on the proposal in 2005, and work on the proposal started back up in 2008. It was sent back out to the advisory committee, and there still were some concerns about the language of the proposal, so a meeting was held in January of this year to discuss that proposal, and a second meeting is scheduled for April 28.

Proposed language has been distributed to the advisory committee members, and copies are available for any of the Board members who may wish to review it. It is an ongoing process, and the Division is still working on it. The language reflects a middle ground between the members of the advisory committee, and Mr. Smith hopes to make more progress at the meeting later this month.

Dr. Frisch asked what the basis is for a chemical to be placed on the list. Mr. Smith responded that, in 2005, the committee drafted an initial list of substances that were commonly recognized by occupational exposure limit setting agencies around the world as sensitizing substances. The American Conference of Industrial Hygienists (ACGIH) has a "sen" notation (or sensitizer notation) on their list of threshold limit values (TLV) list for substances that may be sensitizing agents. In 2005, the list was agreed upon by the advisory committee. In 2007, that list was reduced by narrowing the focus to those substances that had a notation by any one of three agencies: ACGIH, the British Health and Safety Executive (BHSE) TLV list, and the German maximum concentration at the workplace (MAK) which also uses a sensitizing notation. Using that criteria, the list from 2005 was reduced to 40 substances recognized by any one or all of those three agencies.

Dr. Frisch asked whether the three agencies had the same standards for recognizing a substance as a sensitizing agent. Mr. Smith responded that they were slightly different. Dr. Frisch asked how concordant the three lists were. Mr. Smith responded that they are all somewhat similar.

There is a problem, in that what is called a sensitizer differs among the three agencies, and the advisory committee chose to use a sensitizing notation that is more similar to what the Germans use. The German list, however, recognizes two types of sensitizers: a skin or dermal sensitizer and a respiratory sensitizer. Thus, the advisory committee's proposal would have a d-sen (dermal sensitizing) note or an r-sen (respiratory sensitizing) note.

Dr. Frisch asked whether that was a consensus decision, and Mr. Smith responded affirmatively. Dr. Frisch asked whether industry and other interested parties agreed that that was the appropriate way to approach the list. Mr. Smith responded affirmatively.

The other limitation as to why the advisory committee is proposing only 40 substances that have the recognition of these three agencies is that these are, according to the committee's consensus, the most well-recognized substances out in the community.

Dr. Frisch asked how many substances would be left if the list were limited to those substances that were on all three lists as opposed to any one of the three. Mr. Smith responded that the list would be about half of its current size.

Dr. Frisch stated that, given the somewhat draconian nature of what tends to happen when something gets a sensitizing notation of any sort, and what is being proposed as far as a medical requirement, he is concerned that if the net is cast so broadly that any chemical that anybody has ever called sensitizing could wind up on a list, a standard is being established that is going to be much more restrictive than may be appropriate.

He expressed concern that he has independently heard accounts about the list being proposed for expansion beyond those chemicals that are already on it. He stated that it might behoove the committee to ensure that they have a tight idea of what constitutes a standard for sensitizers in the State of California before contemplating adding more substances to the list for consideration. He stated that he has not heard anecdotally that the committee has a clear understanding of what constitutes a sensitizer, and given the wide variations in international standards on the subject, the list could balloon rather quickly.

He stated that one of the things he is interested in seeing is whether there is very clear idea of what constitutes a sensitizer in California. He suggested that the committee start working on substances that are very commonly understood internationally, which he thinks is a very appropriate way of moving forward.

Dr. Frisch then stated that it is appropriate to look at the lists assembled by others, but historically the sensitizing world sometimes can have very fluid diagnostic issues. He is not a medical doctor and thus does not fully appreciate the subtleties of this, but many of the conditions that sensitizers are alleged to cause are often very difficult to determine diagnostically, as different doctors may differ in their diagnoses. He assumes that, as part of the advisory committee's medical surveillance discussions, the issue of objective diagnostic criteria is used as opposed to more subjective conditions.

Mr. Smith stated that currently, there is a rather simple proposal to provide the employee with a screening medical questionnaire, and that questionnaire is then used by a physician that has some background in occupational medicine. He stated that it is similar to the method used to provide a medical approval for a respirator. The employer requires the employee to complete a questionnaire, the doctor reviews the questionnaire, and if there are any concerns based on the review of that questionnaire, the doctor can then bring the employee in for further testing. However, if there are no concerns based on the questionnaire, that is it. He stated that currently there is a lot of debate to go even on that issue.

Dr. Frisch commended Mr. Smith on the progress made so far, stating that this is a very complicated issue, and it is a very difficult issue because many people are very passionate about it. He expressed the hope that through the course of the debate, the committee will develop an objective answer that will be suitable that can be turned into a model for how these issues should be handled in the future.

Chairman MacLeod asked whether the representation on the committee is in accordance with the new PEL Health Expert Advisory Committee (HEAC) process. Mr. Smith responded that the advisory committee is separate from the HEAC process in that it is not setting PELs. It is more of a traditional advisory committee, which included affected labor and industry parties, government agencies, and other interested parties are included. The Division invited technical experts on the issue of sensitizers, including doctors, and the advisory committee had a subcommittee of occupational medicine doctors just to work on the medical questionnaire and provide it back to the main advisory committee.

Chairman MacLeod expressed concern that, in past rulemaking proposals, after an advisory committee meeting or a series of meetings are convened and a proposal is brought before the Board for public hearing, members of the regulated public come forward and state that they were not included in the advisory committee process. He wants to ensure that the advisory committee for these sensitizing agents strikes the appropriate balance of labor, management, government agencies, and other interested parties so that all of the issues are addressed prior to noticing actual regulatory language.

Mr. Smith responded that he appreciates that concern, and the Division makes a concerted effort to get the word out to stakeholders. There is a webpage dedicated to this advisory committee, which has now grown to two pages with the five listing of meetings, the minutes of those meetings, the agendas of the meetings, and the proposal at each stage of those meetings. The Division uses its lists of email addresses for this particular subject along with the broader list used for PEL updates, so the list of people that get noticed on this advisory committee consists of over 400 individuals. The Division usually tries to provide two or three months' notice so people have an idea of when a draft will be available with an agenda, and they are receiving a good response, and they have received comments. Unfortunately, with the passage of time, even advisory committee members forget what they agreed to in 2005 because the process is becoming so long and drawn out. This makes it difficult to maintain consistency in the advisory process. Mr. Smith is hopeful, however, that the advisory committee can reach an agreement this year.

## 2. Legislative Update

Mr. Beales stated that AB 142, the defibrillator bill, was amended in some technical respects and passed the Assembly Judiciary Committee.

AB 990, which concerns ski resorts, has been amended to include language requiring ski resorts to report only quarterly to the Division regarding deaths and injuries that befall patrons of the ski resort as opposed to employees. The bill specifically says that it is not changing the reporting requirements regarding injuries to employees.

AB 1024 regarding public records has been amended so that it no longer changes portions of California's Public Records Act, but rather constitutes a new Legislative Open Records Act and pertains not to agencies such as the Standards Board but rather to contracts and other documents that are generated by the legislature.

AB 1494, which amends the serial meeting provision of the Bagley-Keene Open Meeting Act, was amended to rearrange the proposal but not change it in any significant respect.

Finally, the Labor and Workforce Development Agency notified Board staff of AB 846, which concerns, among other things, civil and administrative penalties applied by the Department of Industrial Relations. The bill states that those civil and administrative penalties are to be indexed to the Consumer Price Index so that penalties for OSHA violations may increase when inflation increases.

## 3. Executive Officer's Report

Ms. Hart stated that earlier in the week, Mr. Manieri had attended the last of a series of advisory committee meetings held by the Division for the revamping of the Tunnel Safety Orders, and it appears that the 20-member committee did reach a consensus on almost every issue. Board staff will stay in contact with the Tunneling Unit and determine when amendments will be proposed for public comment and Board consideration. It is a rather lengthy package, and it will be some time before Board staff receives it for in-house review.

On Wednesday, April 29, Mr. Tolson will attend a meeting in Oakland that is hosted by the Elevator Unit to discuss performance-based safety orders for elevators. This meeting was requested by Daniel Leacox, who provided the Board with specific information regarding ASME A17.7-2007 at the October Board meeting. At that meeting, the Board members expressed concern, and Mr. Tolson will bring up those concerns for discussion at the meeting on April 29.

As mentioned by Mr. Smith, there will be another advisory committee regarding sensitizing agents on April 28. That meeting will be in Oakland as well.

Ms. Hart stated that Board staff is continuing to take two furlough days per month.

Chair MacLeod asked about the administration's request for employees to reduce their vacation hours.

Ms. Hart responded that all agencies have been asked to develop a succession plan. When DIR began this, and they started documenting all the staff and which employees are at retirement age and who could exit at a given time, it was determined that there are a lot of employees that have in excess of the 640 hour cap that is recommended. Therefore, DIR has asked Board staff to make an effort and submit a plan to reduce those hours, which staff has done. Ms. Hart stated that there are approximately six employees on Board staff that exceed the 640 hours, some by just a small amount but others by a large amount, and the budgetary impact to DIR would be substantial should these people all retire. Therefore, in addition to the furlough days, Board staff is working on staying with the plan submitted to DIR for reducing vacation hours. These hours will not be reduced within a one-year time frame. Some of the employees have a one-year plan, some have a two-year, and some have a three-plan. It has been extended because there is a lot of work to do, and the work does not get done when people are not in the office.

4. Future Agenda Items

D. ADJOURNMENT

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