

**OCCUPATIONAL SAFETY
AND HEALTH STANDARDS BOARD**

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**SUMMARY
PUBLIC MEETING/PUBLIC HEARING/BUSINESS MEETING**

September 18, 2008
San Diego, California

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

Acting Chair Frisch called the Public Meeting of the Occupational Safety and Health Standards Board (Board) to order at 10:00 a.m., September 18, 2008, in Room 310 of the County Administration Center, 1600 Pacific Highway, San Diego, California.

ATTENDANCE**Board Members Present**

Acting Chair Jonathan Frisch, Ph.D.
Bill Jackson
Jack Kastorff
Willie Washington

Board Members Absent

Chairman John MacLeod
Josè Moreno
Steve Rank

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

Larry McCune, Senior Safety Engineer

Others present

Bruce Wick, California Professional Association
of Specialty Contractors
Tina Kulinovich, OSHA Region IX
Elizabeth Treanor, Phylmar Regulatory Roundtable
Kevin Thompson, Cal-OSHA Reporter
Kate Symmonds, UC San Diego School of Law

Terry Thedell, Sempra Energy
Larry Pena, Southern California Edison
Kevin Bland
Ronald J. Roensch, Toyota Material Handling
Bob Hornauer, NCCCO

B. OPENING COMMENTS

Acting Chair Frisch 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.

C. ADJOURNMENT

With no comments, Acting Chair Frisch adjourned the Public Meeting at 10:02 a.m.

II. **PUBLIC HEARING**

A. PUBLIC HEARING ITEM

Acting Chair Frisch called the Public Hearing of the Board to order at 10:02 a.m., September 18, 2008, in Room 310 of the County Administration Center, 1600 Pacific Highway, San Diego, California.

Acting Chair Frisch opened the Public Hearing and introduced the first item noticed for public hearing.

1. TITLE 8: **HIGH VOLTAGE ELECTRICAL SAFETY ORDERS**
Division 1, Chapter 4, Subchapter 5, Article 36
Section 2940.6 and Appendix C
Updating National Consensus Standards for Insulating Protective Equipment

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.

There was no public comment on this item.

Acting Chair Frisch introduced the next item noticed for public hearing.

2. TITLE 8: **GENERAL INDUSTRY SAFETY ORDERS**
Division 1, Chapter 4, Subchapter 7, Article 7
Section 3336 and Article 25
Sections 3650 and 3653
Powered Industrial Trucks—Seatbelts and Signaler

Mr. Mitchell summarized the history and purpose of the proposal. He stated that the proposed amendment was discussed by the advisory committee in regards to forklift operations; however, there was no discussion of tractors used in agriculture operations which would also be affected by the proposal. Mr. Mitchell indicated that Board staff would be agreeable to an extension of the comment period during which time Board staff would contact affected parties in the agriculture industry for their comments on this item.

Elizabeth Treanor, Director of the Phylmar Regulatory Roundtable, commended and thanked Mr. Mitchell and the other members of the advisory committee for the work performed to develop the proposal. She expressed support for the proposal and urged the Board to adopt it. She went on to express concern regarding incorporation of ANSI/ASME standards by reference. She stated that some employers are unable to locate consensus standards, and when those standards are updated, the older standards are no longer available, although they are incorporated by reference into the California requirements. She suggested that it might be a good idea, at some point, to convene an advisory committee to address this concern.

Bruce Wick, Director of Risk Management for CalPASC, also thanked Mr. Mitchell for his work on the advisory committee. It was very thorough, very well done, and everything was very well vetted. He expressed concern that although an employer may provide seatbelts and instruct employees on their use, there is a question when an employee is working alone without employer supervision as to whether or not that employee will actually use the seatbelt. He asked that the Division, in its enforcement actions, pay close attention to the employers' training and safety procedures. He indicated that it is a difficult enforcement issue, and he wanted the Division to be aware of that difficulty.

Kevin Bland also thanked to Mr. Mitchell and expressed agreement with Ms. Treanor's and Mr. Wick's comments. He stated that when an employer does everything possible to encourage employees to use seatbelts on powered industrial trucks, that employer should not be penalized for an individual decision made by the employee.

Mr. Kastorff expressed his opinion that employee use of seatbelts will become a nonissue once it becomes a habit for employees to use their seatbelts.

Ronald Roensch, Vice President of the Legal Department for Toyota Material Handling U.S.A., Inc., indicated that he was speaking on behalf of the Industrial Truck Association (ITA). He stated that the ITA strongly agrees with the requirement that seatbelts be used on lift trucks. He stated that statistics indicate that, while tipovers are extremely rare, seatbelt injuries are nonexistent. In accidents in which there had been tipovers and the operators had been using seatbelts, there had been no head injuries, and the operators had been able to walk away from the truck.

Mr. Washington asked whether there was any alternative to an operator jumping off a lift truck in the case of a tipover. Mr. Roensch responded that the alternative, whether or not the operator is wearing a seatbelt, is to hold on, brace the feet, and lean away. He indicated that jumping off is the worst thing to do in the case of a tipover, as the operator can sustain substantial risk of a crush injury.

Acting Chair Frisch asked for Mr. Roensch's thoughts on the idea that use of a seatbelt conflicts with ergonomic requirements when the operator has to turn around to see behind the lift truck. Mr. Roensch stated that manufacturers have implemented two devices to avoid that concern. The first is to use the airplane-type seatbelt as opposed to the controlling, ratcheting seatbelt. The ratchet seat belt ratchets to the tightest position and does potentially obstruct the ability to look in the rear. The airplane-type seatbelt, which is adjusted once manually and stays adjusted, eliminates that possibility. The second method is to provide swivel seats, in which the whole mechanism can turn 15 degrees, allowing the operator to turn and see in the rear.

Acting Chair Frisch asked if there was any Board opposition to keeping the comment period open. With no opposition, the comment period for this hearing item will be held open until 5:00 p.m. on October 17, 2008.

B. ADJOURNMENT

Acting Chair Frisch adjourned the Public Hearing at 10:23 a.m.

III. BUSINESS MEETING

Acting Chair Frisch called the Business Meeting of the Board to order at 10:23 a.m., September 18, 2008, in Room 310 of the County Administration Center, 1600 Pacific Highway, San Diego, California.

A. PROPOSED PETITION DECISION FOR ADOPTION

1. Petition File No. 504
Roy A. Swift, Ph.D.
Program Director
Personnel Certification Accreditation Program
American National Standards Institute (ANSI)

Petitioner requests the Board to amend Title 8, General Industry Safety Orders, Section 5006.1 regarding mobile crane and tower crane operator qualifications and certification.

Ms. Hart summarized the history and purpose of the petition and indicated that the proposed decision is to grant the petition to the extent that a representative advisory committee be convened.

MOTION

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

Mr. Jackson asked whether Ms. Hart could provide an approximate date for the advisory committee. He stated that the record indicates unanimous consensus, and he expressed his opinion that it would be a relatively easy rulemaking package to develop. Ms. Hart responded that the issue would be placed on Board staff's 2009 rulemaking schedule. She stated that staff would need to review ANSI's training procedures prior to certifying them as a training agency.

Mr. Jackson suggested that, as the Board defers to ANSI in most other matters, the rulemaking process be expedited. Mr. Manieri stated that the queue for 2009 rulemaking work is just starting to form, and this item would be on the rulemaking calendar for 2009.

Mr. Jackson stated that, as the petition was not to change the current process, but rather to provide employers and crane operators with an alternative training program, there is value in expediting the process.

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

B. PROPOSED VARIANCE DECISIONS FOR ADOPTION

Mr. Beales requested that Variance File No. 08-V-121, California Department of Forestry and Fire Protection, be removed from the consent calendar, as further hearings are required. Acting Chair Frisch asked whether any Board member objected to the request, and in the absence of any objection, the request was granted.

MOTION

A motion was made by Mr. Kastorff and seconded by Mr. Washington 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 there were no modifications to the written legislative update provided in the Board packets.

2. Executive Officer's Report

Ms. Hart stated that the advisory committee to consider rollover protective structures for ride-on power lawn turf mowers will be convened on October 28 and 29 in Sacramento, and that meeting will be chaired by George Hauptman.

She went on to state that there had only been one Board comment regarding the proposed 2009 meeting schedule presented last month. A Board member had asked to hold the July meeting in San Diego, but staff was unable to accommodate that request. There has been some difficulty securing meeting locations for some of the meetings, but staff is hoping to have the meeting schedule finalized by the next Board meeting in October. There will be no changes to the meeting dates, but only to the locations.

5. Future Agenda Items

F. ADJOURNMENT

Acting Chair Frisch adjourned the Business Meeting at 10:31 a.m.