

**OCCUPATIONAL SAFETY
AND HEALTH STANDARDS BOARD**

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SUMMARY
PUBLIC MEETING/PUBLIC HEARING/BUSINESS MEETING

January 18, 2007
Costa Mesa, California

I. PUBLIC MEETING

CALL TO ORDER AND INTRODUCTIONS

Chair MacLeod called the Public Meeting of the Occupational Safety and Health Standards Board (Board) to order at 10:00 a.m., January 18, 2007, in the Costa Mesa City Council Chambers, 77 Fair Drive, Costa Mesa, California 92626.

A. ATTENDANCE

Board Members Present

Chairman John MacLeod
Liz Arioto
Jonathan Frisch, Ph.D.
Steven Rank

Board Members Absent

Larry Gotlieb
Jose Moreno
Art Murray

Board Staff

Keith Umemoto, Executive Officer
David Beales, Legal Counsel
Michael Manieri, Principal Safety Engineer
Marley Hart, Staff Services Manager
Leslie Matsuoka, Associate Government Programs Analyst

Division of Occupational Safety and Health

Steven Smith, Supervising Industrial Hygienist

Others present

Jeffrey Starsky, Beutcor Corporation
Jeremy Smith, CA Labor Federation
Larry Pena, CAL
Tina Kulinouich, OSHA
Lynne Formigli, CTA
Rafael Metzger, Metzger Law Group
Judi Freyman, ORC
Bob Hornaner, CCO
Alma Perez, CA senate Labor & Industrial
Relations Committee
Adrienne McCambridge, State Compensation

Jackie Nowell, UFCW
Vicky Heza, CAL/OSHA
Steve Johnson, Associated Roofing Contractors
Ken Fry, CAL/OSHA
Bruce Wick, CAL/PASC
Jim Wright, Global Environmental Network, Inc
Bob Watson, General Dynamics NASSCO
Tim DeHavian, DRI
Elizabeth Treanon, Phylmar Regulatory Roundtable
Victor Esparza, Local #12

B. OPENING COMMENTS

Chair 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.

Connie Leyva is the President of the California Labor Federation (CLF) and the United Food and Commercial Workers (UFCW) Local 1428. She encouraged the Board to take a leadership role and issue an emergency standard regarding diacetyl. Union members work in bakeries in which products containing butter flavoring and diacetyl are used. In approximately 850 grocery stores in California, union members are exposed to this chemical every day. Because of the increase in the number of cases of bronchiolitis obliterans, quick action is necessary. Even if only one worker in every store is diagnosed, that is 850 new cases from exposure to diacetyl. She urged the Board to do what is right not only for public safety but also for the workers who are exposed to diacetyl.

Jackie Nowell is the Health and Safety Director for the UFCW out of Washington, D.C., which authored Petition 486. She stated that the UFCW takes issue with the proposed petition decision. She emphasized the emergency nature of diacetyl and the illness linked to it. The people who have been diagnosed with bronchiolitis obliterans are young men and women who are now permanently disabled. There have been only a couple of instances of chemicals in this country in which the chemicals were so devastating to workers' health that they were banned entirely or an emergency standard had to be put in place. Ms. Nowell asserted that diacetyl is one of those chemicals. This is a case in which quick action is needed, and the Board will lead not only in the state but also nationally. There are 28 flavorings manufacturers in California that are receiving particular attention from the Division of Occupational Safety and Health (Division) and the Department of Health Services (DHS) to examine the use of diacetyl and employee exposure. That is a very small percentage of who could be affected. These flavorings manufacturers are batching up the butter flavoring to send out to many other users, and it is not known exactly how widespread it is. It is possible that there are physicians in California that do not know what to look for due to a lack of education. They may be diagnosing other obstructive lung diseases such as asthma, and people go back to work and are exposed further. The proposed petition decision is to send the petition to advisory committee. Ms. Nowell does not believe that is good enough. There is no time limit and it does not portray the devastating nature of the chemical.

Dr. Frisch stated that the first speaker focused on the people who are using the chemical, whereas Ms. Nowell focused on the manufacturers. He felt that the two different industries were being lumped together. He asked whether there was enough evidence on the record at this point to regulate both industries or should the Board, as responsible regulators, limit the standard only to the flavoring manufacturers until there is enough information to address the larger issue. Ms. Nowell responded that she believed the Division would agree that they really know nothing about what is happening in food manufacturing. However, it is logical to assume that, because these flavoring manufacturers are sending this product to the downstream users, those downstream users are also being exposed to diacetyl and are at risk of contracting bronchiolitis obliterans. She does not believe that it is possible to establish a permissible exposure limit (PEL) for diacetyl. However, she believes that an emergency standard is necessary for flavorings manufacturers in addition to a special emphasis program to determine where the flavoring is going and assess how it is used, where it is used, how much is used, and whether or not they have sick employees.

Dr. Frisch asked what Ms. Nowell anticipated being gained by setting an emergency standard that applies to the food manufacturing and packaging side of the industry, in addition to the work that is already being done by the Division and DHS. Ms. Nowell responded that those companies that are participating with the Division and DHS are doing so voluntarily. It is her fear that not all of the cases are being detected. The eight known, existing cases did not come from the screenings being performed by the Division and DHS, but by private physicians.

Dr. Frisch asked whether Ms. Nowell believed that everyone that is involved in the industry is presently participating in the program. Ms. Nowell responded in the negative. She further expressed that without the strength of a standard, there is uncertainty that even if they are participating, it is not known what is happening to the employees who are not diagnosed with bronchiolitis obliterans and whether or not their health is being monitored.

Dr. Frisch asked whether diacetyl was the only flavoring product at issue. Ms. Nowell responded that it was still a question. She referred to an unpublished Dutch study, which found that three workers at a company that

manufactured diacetyl had been diagnosed with bronchiolitis obliterans. She stated that that study was compelling evidence. She felt that enough was known to go forward, at least with diacetyl.

Chair MacLeod asked whether the UFCW had submitted the petition to federal OSHA. Ms. Nowell responded in the affirmative. Chair MacLeod then asked whether she knew the status of the petition with federal OSHA. Ms. Nowell responded that "they are looking at it." She went on to state that there is no enforcement component being enacted.

Jeremy Smith of the CLF read the letter sent to the Board by Assembly Member Lieber supporting the adoption of an emergency diacetyl standard.

Ms. Arioto asked about the workers who had "developed or are suspected to have developed" bronchiolitis obliterans. She asked for clarification of the "suspected" cases. Mr. Welsh responded that the reason Assembly Member Lieber's letter used the term "suspected" was that, in some cases, physicians are reluctant to go the full measure of diagnostic procedures to "nail down" the disease. When the patient gets to the point where there is no response to bronchodilators, the physician knows it is not asthma, and contributing factors such as smoking have been ruled out. Based on that, the physician knows that it is an occupationally-caused disease and that it is serious. The experts may argue over whether it is true bronchiolitis obliterans or something that looks like it, but as far as knowing that it is occupationally caused, having ruled out other potential causes, that is as far in some cases as they want to go. Some of the procedures required to diagnose true bronchiolitis obliterans are so invasive they are not worth performing. The suspected cases are cases in which it is safe to conclude that they are occupationally related.

Ms. Arioto asked whether the physicians who had diagnosed the cases were actually saying that diacetyl was the suspected cause. Mr. Welsh responded that the physicians were saying that it was related to workplace exposure. There are 40 or 50 chemicals that the Flavor and Extract Manufacturing Association (FEMA) has said are suspect for being linked to severe pulmonary disease. Therefore, there will always be some discussion about whether it is diacetyl or some other flavoring component. There is quite a bit of certainty that the artificial flavoring components that are part of the flavor manufacturing process are the cause of bronchiolitis obliterans.

Jeremy Smith added that eight workers that had been diagnosed thus far were between the ages of 29 and 49, nonsmokers, with no asthma-related incidents in childhood or as adults, and all Latino. These are young, healthy, and otherwise strong individuals being diagnosed with this disease as a result of being exposed to diacetyl.

Rafael Metzger stated that he is an attorney specializing in toxic injuries in the workplace who has had many cases of workers with debilitating lung diseases not from asbestos but from many other occupational pulmonary toxins. His office currently has five clients who have been diagnosed with bronchiolitis obliterans. They have been evaluated by the National Institute for Occupational Safety and Health (NIOSH) and have been shown to have obstructive lung disease without improvement on bronchodilation. It is also supported with radiographic evidence. They are all pulmonary cripples, and some are on oxygen awaiting lung transplantation. They are all young and not all Latinos. However, they are not all from one plant. Three are from one plant, and two are from other plants, all in the Los Angeles area.

One of his clients demonstrates why diacetyl rates as an emergency standard. This client first began working at a flavorings plant. He was mixing different flavors together, one of which was diacetyl. He began working in February 2006, and by August 2006, he was off work having lost more than 75% of his pulmonary function. This worker began working with diacetyl long after this disease became known to NIOSH in 2002 and within five months lost most of his pulmonary function. That demonstrates two things: 1) this is happening today, and the voluntary efforts of industry are not preventing it; and 2) this is a very serious and aggressive pulmonary toxin.

Most of Mr. Metzger's cases for occupational lung disease involve workers in their 50s, 60s, and 70s who have been exposed chronically to pulmonary toxins over decades. It is usually a slow, progressive, interstitial lung

disease, but this is a very aggressive disease in which a worker went from being healthy to being a pulmonary cripple within a period of less than half a year. Mr. Metzger has never seen a pulmonary toxin like this; it is shocking. If there is any toxin that calls out for an emergency standard, this is it.

Mr. Metzger then addressed questions asked by the Board members. One of the amazing things about this disease is that it is occurring at very low levels of exposure. The NIOSH report published in 2006 documented cases occurring at .02 ppm of diacetyl. Mr. Metzger does not believe that diacetyl is the only chemical involved, although it appears to be the most potent chemical involved. The Dutch epidemiological study referenced by Ms. Nowell filled a "data gap," in that it isolated diacetyl. The Dutch study showed that three cases of bronchiolitis obliterans were found in workers at a plant that manufactures diacetyl. Even that study states that the data is not conclusive because other chemicals are used in that plant. The evidence should not need to be any better than that for the Board to take emergency action.

One of his clients was originally seen by his physician in the late 90s and was diagnosed with asthma. There was a workers' compensation proceeding in which physicians offered different opinions. That worker was reevaluated with bronchodilation and found to have no improvement. The case has now been reclassified as bronchiolitis obliterans due to food flavoring exposure. That case is an indication that there may be a lot of workers who have worked in these plants and been mistakenly diagnosed with asthma. A lot of them leave that workplace and are not heard from again; they probably do not file workers' compensation claims. However the fact that there is one that has been reclassified from asthma to bronchiolitis obliterans indicates that there are probably more. The fact that he has clients from three different plants indicates that it is not just an anomaly at a particular plant with poor industrial hygiene.

Research has shown that there are other chemicals that are structurally similar to diacetyl. There is another flavoring compound called acetoin. Literature shows that upon being heated, that flavoring breaks down into and becomes diacetyl. FEMA itself has identified 40 or 50 chemicals that are suspect, and they have categorized them as top priority and second priority. Therefore, it is not limited to diacetyl, but diacetyl appears to be the strongest chemical involved.

Mr. Metzger believes that, at the minimum, the Board should take some emergency action. If the petition is simply referred to a committee for discussion, there will be more cases like his client that was just exposed last year and lost 75% of his pulmonary function. Clearly, some action is needed, whether it is a ban, an emergency temporary standard, or whether the Board prescribes mandatory protection. Some action is necessary to protect the workers. Requiring a PEL is not going to stop the disease from occurring. However, the NIOSH study showed damage at levels as low as .02 ppm, and any PEL should be substantially lower than that, perhaps .02 parts per billion.

There are a substantial number of employers that use diacetyl. They will start monitoring exposure based on a PEL, but that will not stop the disease. Mr. Metzger believes that very strict engineering controls, such as those used for beryllium in welding, should be implemented for use with diacetyl. These controls include the use of biological safety cabinets with full-shift, eight-hour purifying respirators. That would stop the disease or at least substantially reduce its occurrence. However, if the Board does nothing but refer the petition to committee for discussion, which goes on for years, Mr. Metzger believes that he will have a lot more clients.

Dr. Frisch clarified that in his comment about high levels of exposure, which Mr. Metzger referenced, he was making a distinction about levels of exposure in manufacturing and packaging as opposed to levels of exposure in food service. He was not implying that the levels are high. He asked Mr. Metzger about the feasibility of establishing a PEL of less than .02 ppm and the detection limits that would allow such a low PEL.

Mr. Metzger responded that he did not profess to be an expert chemist, but he has dealt with these issues with many other toxins. With gas chromatography, photo ionization detection, and mass spectroscopy, it is possible to detect these substances down into the parts per billion range.

Dr. Frisch asked Mr. Smith of the Division whether there was an industrial hygiene technique that would detect such low levels in a routine analysis of a workplace. Mr. Smith responded that the study from NIOSH at .02 ppm was based on their ability to sample down to that level. Anything lower could be below the level of detection.

Dr. Frisch then asked Mr. Metzger the basis for his statement that diacetyl was the most potent of the flavoring compounds. Mr. Metzger responded that he was referring to his client that lost 75% of lung capacity in five months. He is unaware of any other pulmonary toxin that does that.

Dr. Frisch then asked whether Mr. Metzger was certain that diacetyl caused his client's illness. Since it appears that these workers seem to be exposed to a variety of materials, he asked how diacetyl is isolated as the cause. Mr. Metzger responded that there is animal toxicity data from the BASF study showing extreme pulmonary toxicity in animals. There is also another study reaffirming that. There are the NIOSH studies of the six microwave popcorn manufacturing plants where it was used, in which NIOSH focused on diacetyl. Now, there is the Dutch epidemiologic study for the manufacturing plant where diacetyl is made in which three cases of bronchiolitis obliterans were found. That is pretty strong evidence because bronchiolitis obliterans is not asthma; it is a very rare disease. From his letter submitted to the Board, Mr. Metzger quoted:

In a search of the pathology and interstitial lung disease databases for the years 1993 to 2000 at the University of Colorado, only 19 patients with bronchiolitis who had not undergone organ transplantation were identified.

When three cases of such a rare disease are found at a diacetyl manufacturing plant or three cases at a compounding plant in Southern California, that is not a coincidence. Based upon the NIOSH study, the animal data, and the recent Dutch epidemiologic study, diacetyl is clearly implicated.

Dr. Frisch referred to Mr. Metzger's indication that the voluntary measures in which the manufacturers are engaging are solving this problem, citing two of his current cases. One of the cases dates back to the late 90s and the other was February through August 2006. Dr. Frisch asked Mr. Metzger whether the plant or plants from which those two cases came were participating in the Division's voluntary program. Mr. Metzger responded that he knew one was not, but he was unsure of the other two. Dr. Frisch then asked whether both cases had occurred before the voluntary program was even in place.

Mr. Welsh said that three of Mr. Metzger's cases had come from one plant. Mr. Welsh believed that was Carmi, which is not in the Division's program because they had opened an enforcement inspection of Carmi. They have cooperated with the Division ever since they opened the inspection. Dr. Frisch asked Mr. Welsh when that began. Mr. Welsh responded that the inspection was opened in the spring. Mr. Metzger's cases were identified through that enforcement inspection. Mr. Welsh also stated that the voluntary program was begun at the same time as the enforcement investigation. Mr. Metzger referred to other cases, and Mr. Welsh stated that the companies involved were participating in the Division's program.

Dr. Frisch asked Mr. Metzger whether the voluntary program in place by the Division was not effective or other activities in place prior to these programs were not effective. Mr. Metzger responded that the Division's programs are not effective in that they are not stopping the disease. Dr. Frisch asked Mr. Metzger the basis for that statement. Mr. Metzger referred to his client that began working in February 2006 and had lost 75% of his pulmonary function by August 2006. Dr. Frisch stated that that employee's exposure predated the Division's program.

Mr. Welsh stated that the Division went into the plant in April, and that client was identified because of the enforcement inspection.

Judy Freyman, with ORC Worldwide, spoke in support of Petition 486. ORC recognizes that diacetyl and the associated pulmonary disease is a very serious health hazard, and time is of the essence because of that hazard. The advisory committee meeting convened by the Division was very instructive. While it is portrayed that sending the petition to an advisory committee could result in a huge delay and a very long timeline, Ms. Freyman believes that it is the appropriate forum for discussing this issue and developing an emergency standard. She believes that with the concerns that have been expressed and the support of the Board members, the Division will move forward with dispatch in reconvening the advisory committee and reporting back on progress. Ms. Freyman cautioned the Board members that on the issue of downstream use in the food processing industry, it is very diverse, including donut and cookie shops, Mom and Pop operations, Noah's Bagels, Mrs. Field's Cookies, all the way up to Nestle and Con Agra Foods. Identifying how this substance is used is very difficult. Those who have worked in the industry and know some of the players have been trying very hard to find that information. Ms. Freyman can understand the concern of the union, with the large bakeries and some of the grocery operations. There is evidence that downstream usage could be problematic. However, she did not know how to get good information on usage in a voluntary way. She urged the Division to investigate how to get information from the food manufacturing and processing industries. There is legal liability associated with this information as well as proprietary issues. Ms. Freyman stated that she would be very interested in working with the Division in trying to find out what is happening and what levels of exposure are happening in the cookie shops and also in the potato chip factories and all the places in between.

Ms. Arioto asked Mr. Welsh whether FEMA was working with the Division on this issue. Mr. Welsh responded in the affirmative and stated that when the Division first approached them in 2005, that is when they began doing medical screening on their own and encouraging their clients in California to do it. That is where a number of the identifying cases came from. Right now, the Division has broached the issue with FEMA about assisting the Division in trying to determine where the manufactured diacetyl-containing products and other flavoring products are being shipped. FEMA is helping the Division to obtain that information from the 30 plants in California. Mr. Welsh expressed agreement with Ms. Freyman and stated that the real issue was how to approach the food industry. The emergency has already come in the flavor manufacturing industry, and the Division has responded to that emergency.

Dr. Frisch asked Ms. Freyman to explain why it made sense to adopt a standard that does not deal with the food processors but does deal with the packagers, other than the argument that there was not enough evidence regarding the exposure levels at the food processing and manufacturing companies. Ms. Freyman stated that that argument was one of the key points and one of the reasons not to focus specially on the flavor manufacturing industry. The flavoring manufacturing industry has kind of a niche in their batch processing situation that differs tremendously from what is found in most food processing operations, which do not deal with the concentration levels of the flavor manufacturers. They are not going to have, for the most part, the exposure levels of the flavor manufacturers. Those exposure levels are problematic, and it has been demonstrated that they are causing illness. What is not known, however, is what exposure levels there are in the food processing and food manufacturing industries and whether or not those exposure levels are causing illness. There is not enough information to support a standard.

Dr. Frisch asked whether setting a PEL down to the level of one or two parts per billion would affect not only the flavor manufacturers, but also the food processors. Ms. Freyman responded that that was unknown. She went on to state that there is not a large body of work on the industrial hygiene side in the food processing industry. There has not been a lot of exposure monitoring as would be seen in chemical plants and other places. The challenge, therefore, is to get industrial hygienists into those food processing and manufacturing plants to monitor the exposure in order to obtain reliable information on which to base the important decisions about who needs to be regulated and who does not.

Ms. Nowell took the floor once again to speak regarding the “downstream users.” One method of setting a standard might be to create a matrix. It is not unheard of that standards contain action levels. Once the information regarding where the food flavorings go is obtained, a matrix of regulatory or enforcement action triggers could be developed based on that information. Such a matrix in the standard would ensure that controls and monitoring were put in place, and employees and physicians would be educated regarding this hazard.

Chair MacLeod asked whether that was already being done through the Division’s special emphasis program. Mr. Welsh responded that the special emphasis program is focused on the flavor manufacturers and batch processors that ship to the “downstream users.” He stated that Ms. Nowell’s suggestion was that once information about the destination of the food flavorings was obtained, the downstream users could be regulated as well as the flavor manufacturers and the batch processors could be regulated. However, there are 30 plants in California that are likely selling all over the world. We cannot necessarily conclude that knowing where they sell to tells us where the substance is being used in California. Mr. Welsh felt that it might be more productive to brainstorm regarding the most likely users of the food flavorings and monitor those operations to determine whether exposure is a problem in these areas.

Dr. Frisch asked whether the Division had that information currently, and Mr. Welsh responded in the negative. Dr. Frisch then asked Ms. Nowell if she had that information. She responded in the negative, as well. She restated the UFCW’s belief that the push for a standard would generate the information. Dr. Frisch asked Ms. Nowell whether there was currently enough information to develop a standard regulating the downstream users. Ms. Nowell responded that the Division was not ready to write a PEL for those industries. She believed that the Division could develop a matrix standard that would include those industries. The very process of producing the standard would bring forward the information needed to regulate the downstream users.

Mr. Welsh asked Ms. Nowell whether the matrix approach she was suggesting was an exposure monitoring approach. Ms. Nowell responded that a matrix for the use of the chemical and monitoring for the chemical would then enact the other controls in the standard. Dr. Frisch observed that this would be a good conversation for an advisory committee meeting.

Kevin Bland, representing the California Professional Association of Specialty Contractors (CalPASC), spoke regarding proposed New Section 1731, Trigger Height for Production-Type Residential Roofing. CalPASC has worked hard on this standard for the past two-and-a-half years. This is a very important standard and is one of only a few times that the industry has asked to reduce the trigger height rather than increase it. Reducing the trigger height from 20 feet to 15 feet is monumental for the industry. He thanked all of the participants in the advisory committee meetings, Mr. Tolson for chairing those meetings, the Division for its help and input in developing a standard that was enforceable and with which the industry could comply. [This standard helps to ensure that the regulated community is more uniform among the framers and the roofers, and will eliminate confusion.] He urged the Board to adopt the proposal.

Steve Johnson is with the Associated Roofing Contractors of Bay Area Counties, representing the roofers in the Greater Bay Area. He expressed his agreement with Mr. Bland in support of the trigger height proposal.

Tim DeHavian, CEO of the BRI Companies, spoke in support of the trigger height proposal as well. His company has been voluntarily complying with the proposed trigger height for the past three years and has experienced dramatic decreases in both injuries and worker’s compensation expenses. It is time the roofing industry joins the 21st century and takes a responsible approach to protecting its workers. Mr. DeHavian urged the Board to adopt the proposal.

Jeffrey Starsky spoke in support of the proposed trigger height proposal. He urged the Board to adopt the proposal and stated that it would reduce worker injuries and result in less confusion between framers and roofers.

Bruce Wick, Vice President for Risk Management for CalPASC, also spoke in support of the proposed trigger height proposal and urged the Board to adopt it. He stated that it would provide clarity to the industry as to when fall protection would be required, create a safer workplace, and provide an even enforcement level between framing and roofing. He thanked Larry McCune and his Research and Standards Unit for their help in this process and Conrad Tolson for shepherding this proposal through the rulemaking process.

C. ADJOURNMENT

With no further comments, Chair MacLeod adjourned the Public Meeting at 11:06 a.m.

II. **PUBLIC HEARING**

A. PUBLIC HEARING ITEM

Chair MacLeod identified the proposals to be heard during the public hearing and stated that the Informative Digest for the proposed changes was contained in the Notice of Hearing. He stated that the Notice of Hearing, including the proposed text and Initial Statement of Reasons, was available at the entrance to the room.

1. TITLE 8:
 - CONSTRUCTION SAFETY ORDERS**
Chapter 4, Subchapter 4, Article 4
Sections 1529, 1532, 1532.1, and 1535
 - GENERAL INDUSTRY SAFETY ORDERS**
Chapter 4, Subchapter 7, Article 107, Section 5144
Article 109, Sections 5190 and 5198
Article 110, Sections 5200, 5202, 5207, 5208, 5210, 5211, 5212, 5213,
5214, 5217, 5218, and 5220
 - SHIP BUILDING, SHIP REPAIRING, AND SHIP BREAKING
SAFETY ORDERS**
Chapter 4, Subchapter 18, Article 4
Section 8358
 - Assigned Protection Factors for Respirators**

Mr. Smith stated that the proposal was developed by Board Staff in response to a Final Rule issued by federal OSHA on August 24, 2006. The proposal adds an assigned protection factor table into Section 5144, the respiratory protection standard and removes existing assigned protection factor tables from the 19 other standards referenced. Those standards have various existing assigned protection factor tables, and the proposal is an attempt to coordinate the assigned protection factors to one uniform number. There were other minor changes in the federal final rule, and the same language has been incorporated into Title 8. This proposal is substantially the same as the federal language. The Notice of Public Hearing emphasizes receipt of public comment in the areas of (1) identifying any clear and compelling reasons for California to deviate from the federal language, (2) identifying any issues unique to California related to the proposal which should be addressed in this rulemaking or a subsequent rulemaking, and (3) soliciting comments on the proposed effective date. To date, no written comments have been received, and the proposal is now ready for the Board's consideration and public comment.

Chair MacLeod opened the floor for public comment.

There was no public comment on this item.

2. TITLE 8: **GENERAL INDUSTRY SAFETY ORDERS**
Chapter 4, Subchapter 7, Article 98
Section 5001
Cranes and Other Hoisting Equipment—Signals

Mr. Manieri stated that existing Construction Safety Orders Section 5001 is intended to ensure safe hoisting operations through communication between the crane operator and a qualified signal person when the operator's view of the load is obstructed. The language in the standard is "when the point of operation is not in full view." It is important to remember this reduced visibility triggered the requirement in the proposal. Section 5001 prescribes the use of a uniform signaling system and the posting of the employer's signaling system method near where the hoisting operation takes place. This section currently does not address communication to avert inadvertent contact between cranes operating in proximity to one another. Section 5001 is silent with regard to communication between the crane operator and signal person when other cranes are present on the jobsite that may be operating within each other's swing radii.

The Division of Occupational Safety and Health's field experience indicates that such accidental contact is possible where the operational swing radii of one or more cranes conflicts and this can result in serious employee injury or fatality, damage to equipment, and possibly endanger the general public. In addition to the crane operator, other jobsite employees working under the swing radii of the crane could be exposed to hoisted loads, load lines, and various structural components of the operating crane.

This proposal is the result of a Division of Occupational Safety and Health (Division) Form 9 Request dated February 9, 2006, to amend Title 8 crane signaling standards. Board staff notes that the current American Society of Mechanical Engineer standards in B30.5-2000 attach great importance to crane operators receiving clear instruction before picking up and moving suspended loads.

This proposal would expand Section 5001 to require employers to address the type of communication and notification via jobsite crane operators and signal persons of the presence of other jobsite cranes necessary to prevent such contact. Board staff and the Division recognize that addressing this type of jobsite communication is consistent with existing Section 1511(b), pre-job planning requirements designed to safeguard workers.

The proposed performance-oriented amendments recognize the use of two way radio communication to the extent that whenever it is used as a communication method, a dedicated radio frequency is to be used to reduce interference that might affect the effectiveness of the communication. The proposed language was prepared with the assistance of an advisory committee which included the Division and various labor and management stakeholders. Through their deliberations and testimony, the advisory committee reviewed the Division's Form 9 and facilitated the development of the consensus proposal for consideration today.

To date, there have been no written comments submitted to the Board. The proposal is ready for the Board's consideration and public comment.

Chair MacLeod then opened the floor for public comment.

Victor Esparza is a safety representative with Operating Engineers Local 12. He stated that there was an accident in San Diego in which a tower crane was being dismantled and replaced, and the dismantling crew was on one frequency and the tower crane operator was on a different frequency. The two cranes hit each other, because the two were on different frequencies. Mr. Esparza stated that he was unsure if the proposed language addressed such a situation but that it should do so.

Kevin Bland was on the advisory committee representing the Residential Contractors Association and California Framing Contractors Association. He stated that the issue of different frequencies was addressed during the advisory committee and that the use of a dedicated radio frequency was specified in order to eliminate chatter or interruption of communication. In addition, the issue of separation of the original intent of Section 5001 was addressed.

Ms. Arioto asked the purpose of having a conspicuously posted chart of the signals used, since only qualified persons are allowed to give signals. Mr. Bland responded that posting requirement was existing language, and although he was not involved in its formulation, he could give a practical explanation. In certain circumstances, there are times when someone comes from a different part of the country, where the signals used may be different. The chart provides a depiction of signals that are common, easy to reference, and understood by everyone on the job site.

Ms. Arioto asked where such a chart would be located. Mr. Bland responded that they are generally located on the crane.

Dr. Frisch asked whether the dedicated frequency specified in the proposal would pertain to all cranes functioning on a multi-crane site or if there would be a separate frequency for each crane. Mr. Bland responded that it would be a dedicated frequency for those cranes that may intersect. Dr. Frisch asked whether the language was clear on that point, as he was confused by it. Mr. Bland clarified that it would be the same frequency from operator to operator as well as operator to ground crew on a specific job site.

Ms. Arioto asked Mr. Esparza whether there should be a general contractor involved as well. Mr. Esparza responded that in the accident to which he referred, one tower crane was running on the building itself and a second sub-contractor was brought in to dismantle the other tower crane. Each crew was on a different frequency. The tower crane on the building received a signal to spin around because the operator could not see down. The dismantling crew was on the ground and was given a signal to "hydro up." The crane that was turning around hit the boom of the crawler on the ground due to this lack of communication. Mr. Bland stated that such a scenario was discussed during the advisory committee, and it was determined that the most effective means of communication on a multi-crane site should be agreed upon before work begins. Ms. Arioto asked whether that determination was addressed in the proposal. Mr. Bland responded in the affirmative.

Chair MacLeod asked whether the dedicated frequency would be used only by the two crane operators. Mr. Bland responded in the affirmative. Chair MacLeod asked whether there would be other people on the same frequency giving instructions to the crane operators. Mr. Bland responded in the negative and clarified that the purpose of the dedicated frequency was to avoid inadvertent intercepting contact between cranes.

ADJOURNMENT

With no further comments, Chair MacLeod adjourned the Public Hearing at 11:25 a.m.

III. BUSINESS MEETING

Chair MacLeod indicated that this portion of the Board's meeting is closed to comments from the public, except when specifically requested by the Board. The purpose of this Business Meeting is to allow the Board to conduct its monthly business.

A. PROPOSED SAFETY ORDERS FOR ADOPTION

1. TITLE 8: **CONSTRUCTION SAFETY ORDERS**
Chapter 4, Subchapter 4, Article 6
Section 1541

Excavations, General Requirements (Heard at the July 20, 2006, Public Hearing)

Mr. Manieri stated that this rulemaking is in response to a serious excavation accident which occurred on November 9, 2004, in Walnut Creek, California, when a mis-located high pressure petroleum pipe was punctured during an excavation project. A six-month investigation by the Division of Occupational Safety and Health (Division) concluded that the cause of the accident was the failure to identify and accurately locate the position of a pressurized pipeline prior to excavating. On June 10, 2005, State Senator Tom Torlakson convened a town hall meeting in Walnut Creek to discuss the accident. Following the meeting, the Division and Board staff worked closely together to co-chair two advisory committees: one in July and a second subcommittee meeting in September 2005 to consider amendments to Title 8 Section 1541, which contains standards addressing general requirements for excavations.

Section 1541 addresses the responsibilities of excavators to determine the location of underground installations, including notification of subsurface facility owner/operators, who are required by the Government Code to be members of a Regional Notification center, and all other known members who are not members of the center of the intent to perform an excavation within a specified timeframe.

The proposal that was heard by the Board in July 2006 was modified by two 15-Day Notices in response to Board dialogue and public comment. This resulted in editorial modifications and the following:

- clarification of the roles and responsibilities of the excavators and facility owner/operators when high priority subsurface installations are present and the criteria for identifying high priority subsurface installations;
- clarification that only qualified persons may perform line-locating activities, updating the most current Common Ground Alliance line-locator training guidelines;
- clarification that only those workers involved in site excavation and who are exposed to site hazards are to be trained pursuant to the Government Code;
- clarification of the responsibility of the excavator to observe damage to subsurface installations including high priority subsurface installations to contact 911, local jurisdiction authorities, and the facility owner/operator; and
- clarification of terminology relating to the excavator and subsurface installation owner/operator.

Every attempt was made to harmonize this proposed language with Government Code Section 4216 requirements, as amended by SB 1359 (Torlakson), which expanded existing statutes to improve safety in subsurface installation locating. This includes definitions and addresses contractor-facility owner operator liability incurred if a subsurface installation is damaged. For example, five Government Code sections beginning with Section 4216 now contain new requirements designed to reduce the risk of accidental subsurface installation contact and protect workers as well as additional requirements addressing:

- the responsibilities of excavators, facility owner/operators, and the Regional Notification Centers to provide and obtain accurate and detailed information about proposed excavations and the location of subsurface installations;
- specification of the excavator and facility owner/operator financial liability in the event an installation is damaged during excavation; and

- clarification of the responsibility of excavators when vacuum excavation devices or powered excavating or boring equipment are used within the approximate location of subsurface installations to determine their exact location.

Overall, staff would characterize the amended Government Code and the proposal as providing an enhanced system of checks and balances to prevent contact accidents or at least lessen their frequency and severity, based on a principle of shared responsibility between excavators and facility owners and operators.

The Final Statement of Reason has been updated. No further comments were received pursuant to the second 15-Day Notice of Proposed Modifications. The proposal as modified has been generally well supported by stakeholders and the Division. Staff would like to note for the record the valuable contribution of over 100 stakeholders, Senator Torlakson's office, and the Division, who assisted staff in the preparation of the proposed text.

The staff now recommends that the Board adopt the proposal as modified.

MOTION

A motion was made by Board Member Arioto and seconded by Dr. Frisch to adopt the proposed safety order.

Dr. Frisch commended both Board and Division staff on their coordinated efforts on this proposal. He then referred to Ms. Morehouse's comment in reference to resolving the Tunnel Safety Orders and asked whether that was on the work plan to be done in the near future once this rulemaking proposal was adopted. Mr. Manieri responded in the affirmative, and stated that staff would be exploring with the Division's Mining and Tunneling Unit to determine whether or not such amendments were worth consideration in the future.

Chair MacLeod asked for a roll call.

ROLL CALL VOTE

All Board members present voted aye. The motion passed.

Chairman MacLeod announced the next item on the agenda for adoption.

2. TITLE 8: **CONSTRUCTION SAFETY ORDERS**
Chapter 4, Subchapter 4, Article 30, Section 1730 and
New Section 1731
Trigger Height for Production Residential Roofing
(Heard at the May 18, 2006, Public Hearing)

Mr. Manieri stated that at the May 18, 2006, Public Hearing, the Board was briefed on a proposal to reduce the fall protection trigger height from 20 feet to 15 feet for new production-type residential roofing. The proposal was a result of Petition File No. 462 by Mr. Bruce Wick on behalf of the California Professional Association of Specialty Contractors (CAL PASC), granted by the Board on November 18, 2004, to the extent that an advisory committee be

convened. On August 17, 2005, Board staff convened an ad hoc advisory committee, which included representatives from labor, management, and safety consultants with expertise in residential construction and fall protection. The proposal applies to new production-type residential construction with slopes of 3:12 or greater as defined in the proposal, which represents the consensus recommendation of the advisory committee and addresses issues raised by the petitioner and discussed in the informative digest. This proposal would:

- Create an exception for new production type residential construction with slopes of 3:12 or greater in Section 1730 (Roof Hazards) referring the reader to new section 1731 for new production-type residential construction;
- Create a new roof hazards section 1731 for new production-type residential construction, which includes definitions, fall protection standards which are triggered at 15 feet when the slope is 3:12 or greater rather than the current 20 feet trigger height, which applies to all roofing operations. The proposal requires personal protection systems regardless of the fall distance for steeply sloped roofs (7:12 or greater); and
- Include a vertical training and documentation standard in accordance with Section 3203 IIPP/Section 1509, to ensure worker awareness of fall hazards and how to protect themselves from a fall.

As a result of public comment, the proposal has been modified to address issues regarding roof slope, wording, and fall protection provisions. The Final Statement of Reasons also responds to Federal OSHA's comments regarding the perceived differences between the federal six-foot trigger height and the proposed 15 foot trigger height.

There were several letters of support urging Board adoption of the proposal following the 15-Day Notice.

The Board staff recommended the Board adopt the modified proposed amendments to CSO Sections 1730 and 1731.

MOTION

A motion was made by Board Member Arioto and seconded by Dr. Frisch to adopt the proposed safety order.

Mr. Rank expressed appreciation for the Board staff and Division's "holding the line" to establish a consistent, uniform trigger height for residential framing and roofing. He then asked whether federal OSHA's ALAEA concerns were based on their compliance directive, and Mr. Manieri responded in the affirmative. Mr. Rank then asked whether the federal OSHA compliance directive was inconsistent with the final written rule for residential framing. Mr. Manieri responded that the compliance directive was different or inconsistent with the written word of their trigger height standard. Mr. Rank then commented that this was another example of the federal OSHA's compliance directives being contrary to their written final rules, which contributes to a lot of confusion in the workplace, not only in this area, but also in other industries. He went on to state that he was having difficulty grasping the fact that if federal OSHA can violate their own standards by using compliance directives, he only wished that the Division could issue them a citation in order to encourage them to comply with their own federal rule published in the Federal Register.

Mr. Manieri responded that, in fairness to federal OSHA, he believed that the development of the compliance directive was an attempt to become flexible and open up additional possibilities for the employer. He did not believe that they ever lost sight of the fact that they were trying to keep the fall rates and the injury rates as low as possible, but this was an attempt to become a little bit more practical to tie in with actual practice.

Mr. Rank stated that he appreciated the flexibility on the part of federal OSHA, but the inconsistencies spill over into legal matters that the Division does not entertain, but with which the employers, employees, and other people in the industry have to deal when they are complying with the letter of interpretation rather than a final written rule and the kind of legal matters that arise out of those situations in which there is a very serious accident or a fatality.

Chair MacLeod commended the staff, Mr. Tolson, and all those who participated in the advisory committee meetings.

Chair MacLeod asked for a roll call.

ROLL CALL VOTE

All Board members present voted aye. The motion passed.

Chairman MacLeod announced the next item on the agenda for adoption.

B. PROPOSED PETITION DECISION FOR ADOPTION

1. Petition File No. 486
Art Pulaski, Executive Secretary-Treasurer
California Labor Federation
George Landers, Executive Director
United Food and Commercial Workers

The Petitioners requested that the Board adopt an emergency temporary standard to protect workers from exposure to diacetyl and begin rulemaking proceedings to establish a permanent standard to protect workers from exposure to all food flavorings.

Mr. Umemoto stated that the petition was received August 24, 2006. It included a copy of a petition sent to federal OSHA, a letter containing 42 physician signatures, and a letter of support signed by 21 members of the state legislature. The petition states that an emergency standard and other rulemaking actions are necessary because exposure to diacetyl has been associated with many cases of severe lung disease among workers in microwave popcorn facilities and in factories where flavorings are produced or used. The Petitioners also stated that an emergency standard was necessary because workers would continue to be at grave danger of life-threatening illness during the time it would take for the Board to set a permanent standard. Much of this was based on a study and report by the National Institute for Occupational Safety and Health (NIOSH). In response to the respiratory hazards identified in NIOSH study, the Division has taken several initiatives in the food flavoring manufacturing plants in California, which includes enforcement investigations, special emphasis programs, and an initial advisory committee convened on September 28, 2006. The Board staff

concluded that the petition has merit and recommends that it be granted to the extent that the representative advisory committee that was convened by the Division continue to consider the rulemaking issues presented in the petition and if warranted, develop proposed language for an emergency and/or permanent standard to be presented to the Board at a future meeting.

MOTION

A motion was made by Dr. Frisch and seconded by Mr. Rank to grant the petition to the extent the advisory committee review the contents of the petition.

Ms. Arioto asked whether Mr. Welsh would continue to brief the Board regarding the progress of the petition during the advisory committee process, and Mr. Welsh responded that he would be willing to provide updates at any time.

Dr. Frisch asked Mr. Welsh about the time frame for assembling the next advisory committee provided the Board adopted the petition. Mr. Welsh responded that he anticipated a meeting during the first or second week of February.

Dr. Frisch commended the Division on taking a very prudent course of action. He stated that it is difficult when there is a situation in which people are sick or hurt to step back and do the right thing. Sometimes taking immediate action does not mean writing an immediate standard, but with great thoughtfulness. Dr. Frisch would like to see a really good standard result, should the advisory committee determine that a standard is necessary. He was encouraged by reading the minutes of the first advisory committee that there appeared to be a communal effort to try to solve the problem in a rational manner that would address the issue permanently. He also commended the Division on the voluntary and "not so voluntary" actions taken in response to the petition, specifically using inspections, enforcement of existing standards, and an insistence on cooperation. These are methods that can be used in the short term to prevent additional cases and to identify existing cases.

He requested that the next briefing include information regarding what is being done with additional identified cases and whether they were being acted on with due diligence for the food flavoring community and cases already identified as putative cases.

He stated that the extent of the Board's authority to educate the medical community about this hazard was somewhat unclear to him. He asked staff to consider whether placing such education into a standard may be beyond the scope of the Board. However, there may be other methods to inform the medical community about this condition and about the risk factors that may be more effective than writing it into the standard.

He went on to caution advisory committee participants not to try to take the easy way out by regulating those individuals who were already complying with the elements of the standard through a voluntary program. He advised the advisory committee to carefully consider the exposures and ensure that those employees in California who are being exposed to agents that can cause this condition have the appropriate protections in place, which may mean going beyond just a small group of employers and taking a broader view of this issue.

Mr. Rank stated that in Mr. Welsh's letter dated September 11, 2006, the Division had already treated diacetyl as an emergency by addressing the issue and contacting the food flavoring

manufacturers and sending out written notifications. He expressed his agreement with Dr. Frisch that it was a very prompt response to a serious situation. He also observed that citations under Section 5141(a) had already been issued and could be issued again in the future, in addition to hazard communication and the employers' responsibility to notify and post hazardous substances for chemicals in the workplace. Mr. Rank agreed with Mr. Welsh that one advisory committee meeting was not sufficient to provide enough information and obtain more specific information.

Chair MacLeod stated that he was unable to recall any similar critical issue that had come before the Board so quickly in quite some time, and it was clear to him from what he had read and heard that this was a ground-breaking situation. He stated that he would like to see a thorough rulemaking record that would support and substantiate the necessary action, and he expressed appreciation for the continuing prompt action.

Ms. Arioto asked whether Dr. Howard had been included in the advisory committee. Mr. Welsh responded that NIOSH had begun work on this in earnest around the turn of the century, and the publications that released this information came out in 2002 and 2003. That information was based on the work of NIOSH and Dr. Howard.

Mr. Welsh went on to respond to Chair MacLeod's comments, stating that this was a unique situation and part of the struggle was how to coordinate the abilities and the expertise of the several agencies involved. NIOSH has a unique set of resources, as does the Department of Health Services (DHS). The Division has a central role and there is an industry association that has shown uncommon interest in this issue. In some ways, there are unique difficulties involved, but there are also tremendous opportunities to assemble a model for how government agencies should work together with industry in the future to address new problems.

Chair MacLeod asked for a roll call.

ROLL CALL VOTE

All Board members present voted aye. The motion passed.

Chairman MacLeod announced the next item on the agenda for adoption.

C. PROPOSED VARIANCE DECISIONS FOR ADOPTION

1. Consent Calendar

Mr. Beales stated that of the 37 proposed variance decisions for adoption, two involved access stair installations in schools, one involved suspended loads as part of the shipbuilding process, and a fourth involved corrosion protection for underground piping. The balance involved Gen 2 and KONE elevators.

MOTION

A motion was made by Board Member Arioto and seconded by Mr. Rank to adopt the consent calendar.

Chair MacLeod asked for a roll call.

ROLL CALL VOTE

All Board members present voted aye. The motion passed.

D. OTHER

1. Presentation on State Plan Meeting
Vicky Heza, Deputy Safety Chief
Compliance Unit
Division of Occupational Safety and Health

Ms. Heza stated that there are 26 states and territories that operate their own state plans similar to CalOSHA's. All of those states and territories belong to an organization called the Occupational Safety and Health State Plan Association (OSHSPA), which has an elected board, of which Ms. Heza is a member. OSHSPA meets with federal OSHA three times a year. The Board meets with the federal OSHA Steering Committee an additional two times a year, either in person or by teleconference.

The subjects discussed at these meetings include budget issues, petitions for standards, potential rulemaking changes, and standards that federal OSHA is promulgating. Federal OSHA performs research on data related to issues such as trenching fatalities or language barriers in fatality accidents and report the findings to OSHSPA.

Last spring, a new subject appeared on the agenda of a meeting between the Steering Committee and the OSHSPA Board. That subject was transparency. The recently appointed Assistant Secretary of Labor, Ed Foulke, Jr., had been looking at some state plan websites and felt that not only should state plans post their standards, which they all do, but that they should also post differences between the state standards versus the federal standards. The reason given was that if an employer is operating in multiple states, this information would provide an easy way to determine what must be done differently in each state.

The states resisted this suggestion, as it seemed to be a very resource- and labor-intensive exercise, and there was no clear indication that additional lives would be saved. The Board members argued that if federal OSHA really wanted to make it easy for employers to understand the differences between the state and federal standards, that information should be on one website, preferably the federal. This has been a very contentious agenda issue since then.

In December there was another Board meeting with the Federal Steering Committee, and the Board argued convincingly that if federal OSHA wanted employers to have "one-stop shopping, an easy button, and something user friendly," it should be on one website. Federal OSHA responded that they did not have the resources to do that. One of the representatives of the Federal Steering Committee, the Regional Administrator from Georgia, suggested that when federal OSHA posts new standards on their website, they should add one page that lists the 26 state plan states and territories and whether or not the states have adopted the new standard. If a state has not adopted the new standard, users would be referred to that state's website.

Ms. Heza stated that there are seven state plans west of the Rockies that each have their own unique website, and each state has its own numbering system, which are all different from the federal numbering system. Therefore, if an employer is attempting to look up the standards for those seven state plans, he would then have to figure out how to navigate through the website, the state equivalent number of the standard, look at the state's standard, and then refer to the federal website to compare the state standard to the federal. That is not user friendly.

Everyone at the OSHSPA meeting agreed to this suggestion, it was relayed to Mr. Foulke, and he was amenable to it. This still means that when federal OSHA publishes its revisions to their Field Operations Manual, which they have been revising for the past two years, the state plan states will receive an advance copy, and they will then have six months to either adopt the changes or tell federal OSHA which changes are not being adopted. This is the Field Operations Manual for all of the enforcement activities such as accident investigations and investigation procedures.

When this advance copy is received by the Division, Ms. Heza and Mr. Welsh will assign staff to compare the revised federal standards to those in place in California. The Division will then decide whether to modify the state standards or whether we are not or cannot because of Labor Code mandates. Federal OSHA still will need to be notified, but it is more of a broad brush type of approach. Federal OSHA will post on their website that California OSHA has not adopted this standard. The federal OSHA website will then refer people to the California website.

Mr. Rank asked Ms. Heza whether federal OSHA's "hundreds of interpretive letters" would be included in the comparisons between federal and state standards. Ms. Heza responded that that would be expected eventually. Mr. Rank then commented that that meant there were actually three different standards to be taken into account when considering compliance—the state standards, the federal standards, the compliance directives, which had been mentioned earlier in the meeting.

Ms. Heza responded that eventually, precedential decisions would also be included as well. She stated that all of these items are on the Division's website now; the difference would be that there would have to be a federal comparison added to the page.

2. Legislative Update

Mr. Beales stated that there was no report on any specific bill; however, pending legislation and the activities of the legislature are being monitored on a regular basis, most recently approximately two days prior to the meeting. Mr. Beales thanked Mr. Umemoto for his guidance regarding the resources and techniques available for obtaining accurate updated information on the status of legislative items. In terms of the legislation that impacts Labor Codes divisions, much of the legislation introduced thus far appeared to involve health insurance coverage as opposed to health and safety concerns. Attention is also paid to anything that has been proposed in such areas as the Political Reform Act, the Open Meeting Practices Act, or the Public Records Act, and nothing has been noted that would impact the Board or its activities.

3. Update on Elevator Safety Orders

Mr. Umemoto stated that staff has reviewed proposed regulatory text, and that text has been sent to Mr. Welsh. Upon his approval, the package would be submitted to the Director's office and the Labor and Workforce Development Agency (Agency) to be approved for Public Hearing Notice. Mr. Welsh stated that the proposed regulatory text was approved. Mr. Umemoto responded that the package would most likely be noticed for the April Public Hearing, assuming approval by the Division Director and Agency.

4. Executive Officer's Report

Mr. Umemoto reminded the Board members of the requirement that they undergo the state-mandated Ethics Training.

Mr. Umemoto stated that Board staff had received Petition Number 490 from Dave Smith regarding mechanical refrigeration on January 2, 2007. On January 17, 2007, an advisory committee meeting had been convened regarding masonry and cement materials and the grinding or cutting thereof.

He went on to state that the items for Public Hearing at the February meeting would be Snow Avalanche Blasting and Laser Safety Standards (Warning Signs, Signals, and the Posting of Signs).

Mr. Umemoto updated the Board on the Governor's proposed budget, which included a request to the legislature for an additional Senior Safety Engineer to be added to Board staff. If approved by the legislature, the presumption would be that beginning July 1, 2007, the Standards Board may be able to add another Senior Safety Engineer.

Mr. Umemoto stated that he had asked Ms. Heza about periodic updates on the State Plan Meetings, and she had agreed to do that. He had also asked Ms. Heza about providing the Board with periodic updates on enforcement, including violation and injury report information. She had agreed to do that as well. Therefore, those two items will appear on the Board meeting agendas periodically.

5. Future Agenda Items

Dr. Frisch stated that he recalled asking for information regarding heat illness recognition, which presumably would include special enforcement action, but that he did not recall that occurring. He asked whether obtaining that information could be made a priority for one of the next two or three meetings before coming back into the hot season.

Mr. Welsh responded that he would see if he could get staff together to provide an update at the next meeting.

ADJOURNMENT

With no further comments, Chair MacLeod adjourned the Business Meeting at 12:20 p.m.

