

**OCCUPATIONAL SAFETY  
AND HEALTH STANDARDS BOARD**

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

July 19, 2007  
San Diego, 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 10:07 a.m., July 19, 2007, in Room 358 of the County Administration Center, 1600 Pacific Highway, San Diego, California

**A. ATTENDANCE****Board Members Present**

Chairman John MacLeod  
Jonathan Frisch, Ph.D.  
Jack Kastorff  
Steve Rank

**Board Members Absent**

Bill Jackson  
Jose Moreno  
Willie Washington

**Board Staff**

Keith Umemoto, Executive Officer  
David Beales, Legal Counsel  
Michael Manieri, Principal Safety Engineer  
Tom Mitchell, Senior Industrial Hygienist  
Marley Hart, Staff Services Manager  
Christina Witte, Executive Secretary

**Division of Occupational Safety and Health**

Steven C. Smith, Supervising Industrial Hygienist

**Others present**

Marti Fisher, California Chamber  
Greg Walker, Otis elevator  
Kevin Bland, CFCA  
Elizabeth Treanor, PRR  
Tina Kulinouich, OSHA

Dan Leacox, Greenberg Traurig  
Bruce Wick, CALPASC  
Terry Thedell, SG & E  
Greg Peters, Huddleston Crane  
Bob Hornauer, NCCCO

**B. OPENING COMMENTS**

Chairman MacLeod welcomed Mr. Jack Kastorff to the Board, congratulated Mr. Rank on his reappointment, and administered the Oath of Office to both.

Mr. Jesse Navarro, former Board member, welcomed the Board to San Diego, and expressed his appreciation for the Board and Board staff.

Mr. Rank thanked Mr. Navarro for his comments.

Dan Leacox, Director of Governmental Affairs for Greenberg Traurig and representative for Otis Elevator Company, presented a proposal for streamlining the variance process as it applies to repetitive applications involving the same approved new technology. Mr. Leacox suggested several specific measures for streamlining the permanent variance process in such instances, such as the development of a master application and the use of master evaluations.

Chair MacLeod stated that staff was exploring avenues for streamlining the variance process and that he had asked Dr. Frisch and Mr. Jackson to form a subcommittee regarding this matter. Mr. Leacox asked whether there was an opportunity for public participation in that process. Chair MacLeod responded in the affirmative.

Bruce Wick, Director of Risk Management for CalPASC, thanked Ms. Hart for her service with the Board. He stated that he wished to clarify some of the comments made at the previous Public Hearing (in June) regarding pneumatic nailers. He indicated that stakeholders understand that the advisory committee process is only a part of the regulatory process. The work of an advisory committee, even when there is a consensus opinion, can be questioned and disagreed with. However, in the event that questions arise during the post-advisory-committee process, stakeholders should be contacted regarding those questions.

Kevin Bland, representing the California Framers Association and the Residential Contractors Association, reviewed the history of the nailer proposal for the new Board member and stated that questions he had asked regarding language added to the proposal had yet to be answered. Mr. Bland closed by expressing his appreciation for Marley Hart's work with the Board and wished her luck in her next endeavor.

Ms. Marti Fisher with the California Chamber of Commerce stated that California is fortunate to have the advisory committee process, and the integrity of that process is very important. She urged the Board and Board staff to resolve the issues arising from the pneumatic nailer proposal and assure the stakeholder community that the process remains credible and is still valued.

Elizabeth Treanor, Director of the Phylmar Regulatory Roundtable, welcomed Mr. Kastorff and congratulated Mr. Rank on his reappointment. She then thanked Ms. Hart for her years of service and her responsiveness to stakeholders.

C. ADJORNMENT

Chair MacLeod adjourned the Public Meeting at 10:39 a.m.

**II. PUBLIC HEARING**

A. PUBLIC HEARING ITEM

Chair MacLeod called the Public Hearing of the Occupational Safety and Health Standards Board (Board) to order at 10:39 a.m., July 19, 2007, in Room 358 of the County Administration Center, 1600 Pacific Highway, San Diego, California

Chair MacLeod opened the Public Hearing and introduced the first item on the agenda.

1. TITLE 8:     **GENERAL INDUSTRY SAFETY ORDERS**  
Chapter 4, Subchapter 7, Article 13  
New Section 3458.1  
**Date Palm Operations—Use of Special Purpose Ladders**

Mr. Manieri summarized the purpose and history of this proposal and noted that no written comments had been submitted to the Board.

Chairman MacLeod opened the floor for public comment.

There was no public comment on this item.

Chairman MacLeod announced the next item on the agenda:

2. TITLE 8:     **GENERAL INDUSTRY SAFETY ORDERS**  
Chapter 4, Subchapter 7, Article 90  
Section 4884  
**Hammerhead Tower Cranes**

Mr. Manieri summarized the purpose and history of this proposal and noted that no written comments had been submitted to the Board.

Chairman MacLeod opened the floor for public comment.

There was no public comment on this item.

### ADJOURNMENT

With no comments, Chair MacLeod adjourned the Public Hearing at 10:44 a.m.

### **III. BUSINESS MEETING**

Chair MacLeod called the Business Meeting of the Occupational Safety and Health Standards Board (Board) to order at 10:44 a.m., July 19, 2007, in Room 358 of the County Administration Center, 1600 Pacific Highway, San Diego, California

- A.     **PROPOSED SAFETY ORDER FOR ADOPTION**
  1.     **TITLE 8:**     **CONSTRUCTION SAFETY ORDERS**  
Chapter 4, Subchapter 4, Article 32  
Section 1740(b)  
**Storage and Use of Fuel Gas Cylinders**  
(Heard at the March 15, 2007, Public Hearing)

Mr. Manieri summarized the purpose and history of the proposal, noting that in response to public comment an Exception statement had been added, resulting in a 15-day notice. In addition, federal OSHA had expressed concerns with “at least as effective as” (ALAEA) issues, which were addressed in the Final Statement of Reasons.

MOTION

A motion was made by Dr. Frisch and seconded by Mr. Rank to adopt the proposed safety order.

Dr. Frisch asked whether the ALAEA issues raised by federal OSHA had been resolved, and Mr. Manieri responded in the affirmative.

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

B. PROPOSED PETITION DECISION FOR ADOPTION

1. Petition File No. 491  
Rob Scott, HazMat Director  
Western Propane Gas Association

Mr. Umemoto summarized the reason for and history of the petition. He noted that both Board staff and Division evaluations recommended approval of the petition with certain conditions.

MOTION

A motion was made by Mr. Rank and seconded by Dr. Frisch to adopt the petition decision proposed by Board staff.

Dr. Frisch asked why the Petitioner felt that this situation was an emergency and how that characterization affected the timeline for a permanent rulemaking.

Mr. Umemoto responded that the Petitioner had installations going in at the time the petition was received but that the Division had been working with the Petitioner on the issue. Mr. Manieri indicated that the Division was so strongly in favor of this improvement in technology and update to the latest ASME standard that they were willing to consider experimental variances until a permanent standard could be established, but no experimental variances had yet been granted.

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

C. PROPOSED VARIANCE DECISIONS FOR ADOPTION

1. Consent Calendar.

Mr. Beales recommended that all nine proposed variance decisions on the consent calendar be adopted and that the variances thereby be granted.

MOTION

A motion was made by Dr. Frisch and seconded by Mr. Kastorff to adopt the consent calendar. A roll call was taken, and all members present voted "aye." The motion passed.

D. OTHER

1. Amusement Ride Update  
Len Welsh, Acting Chief  
Division of Occupational Safety and Health

This item was postponed due to Mr. Welsh's absence.

2. Indoor Heat Illness Update

Mr. Umemoto stated that Mr. Welsh would provide an update on Indoor Heat Illness at the next Board meeting he is able to attend. However, Mr. Umemoto outlined the Department's Heat Illness Prevention Outreach and Media Campaign that was launched on May 4, 2007.

Dr. Frisch asked whether Board staff or the Division had any information as to whether the Public Service Announcements were being picked up by radio stations. Mr. Umemoto indicated that Ms. Fisher had been working in cooperation with the Division on the Outreach and Media campaign and turned the question over to her. Ms. Fisher responded that although she did not have exact numbers, the PSAs had been picked up by local radio and television affiliates.

3. Legislative Update

Mr. Beales referred the Board to the written update in the Board packet and noted in particular developments regarding heat illness and diacetyl legislation.

4. Update on Pneumatic Nailers

Mr. Umemoto responded to questions regarding the addition of language regarding "unattended" nailers raised during the June Public Hearing.

Mr. Rank reassured stakeholders that the advisory committee process was valuable to the Board and that, if questions arose during future rulemaking activities, they would be communicated to stakeholders for clarification in order to avoid confusion similar to the pneumatic nailer proposal.

Chair MacLeod stated that advisory committees perform a valuable public service and provide the Board with professional expertise and knowledge that cannot be bought. Credibility and openness are necessary in this process. Clear, straightforward communication in working relationships and in supporting documentation for proposals is key, particularly when significant changes are made.

#### 5. Executive Officer's Report

Mr. Umemoto stated that Mr. Welsh was unable to attend the Board meeting, as he was attending a Senate Committee hearing regarding heat illness. Mr. Umemoto also reviewed the July Calendar of Activities.

#### 6. Future Agenda Items

Mr. Welsh will present updates on amusement rides and heat illness at a future meeting. Mr. Umemoto indicated that Board staff was trying to coordinate an update by Vicky Heza on Division enforcement activities. Dr. Frisch asked that Ms. Heza incorporate amusement rides in her enforcement update.

Chair MacLeod recognized Marley Hart for her service to the Board.

Mr. Umemoto stated that he asked her numerous times whether Ms. Hart wanted to change her decision regarding her new position.

Dr. Frisch expressed his gratitude and appreciation to Ms. Hart.

Mr. Rank recognized Ms. Hart for her hard work.

Ms. Hart stated that it has been a privilege to work for the Board. She thanked the Board, staff, and the Division for the privilege of working with them.

#### E. CLOSED SESSION

Chair MacLeod announced that the closed session had been cancelled.

#### ADJOURNMENT

Chair MacLeod adjourned the Business Meeting at 11:37 a.m.