

SUPREME COURT COPY
IN THE
SUPREME COURT OF CALIFORNIA

SEABRIGHT INSURANCE COMPANY,
ANTHONY VERDON LUJAN
Plaintiffs and Appellants

SUPREME COURT
FILED

SEP 15 2010

Frederick K. Onirich Clerk
Deputy

v.

US AIRWAYS, INC.
(erroneously sued herein as America West Airlines)
Defendant and Respondent

After a Decision by the Court of Appeal, First Appellate
District
Division Four

Supreme Court Case No. S182508
First Appellate District Case No. A123726
San Francisco Superior Court Case No. 458707

**RESPONDENT'S REQUEST FOR JUDICIAL NOTICE IN SUPPORT
OF ITS OPENING BRIEF ON THE MERITS; MEMORANDUM OF
POINTS AND AUTHORITIES; DECLARATION OF ELIZABETH D.
RHODES; PROPOSED ORDER**

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US AIRWAYS, INC. (erroneously
sued herein as America West Airlines)

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Attorneys for Defendant and Respondent
US AIRWAYS, INC. (erroneously
sued herein as America West Airlines)

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

NOTICE IS HEREBY GIVEN that pursuant to Rule 8.252(a) of the California Rules of Court, and California Evidence Code Sections 450, 452, 453 and 459, Respondent US Airways (Respondent) requests that this Court take judicial notice of the following documents:

- Exhibit 1: 22 C.C.R. 66262.30 discussed in *Park v. Burlington Northern Santa Fe Railway Co.* (2003) 108 CalApp.4th 595;
- Exhibit 2: Portions of the 1998 Fire Code cited and relied upon in *Barclay v. Jesse M. Lange Distributor, Inc.* (2005) 129 Cal.App.4th 281;
- Exhibit 3: Documents that form part of the public record underlying the drafting of Section 4002 of the California Code of Regulations obtained from the Occupational Safety and Health Board of the California Department of Industrial Relations; and

Exhibit 4: The safety pages of the website of Lloyd W. Aubry Company, employer of Intervenor Anthony Verdon Lujan, indicating the company's public representations about its employees' knowledge of safety (www.lloydwaubry.com/safety.html)

The documents are described, and indicated, under penalty of perjury, to be true and correct copies of the originals in the declaration of Elizabeth D. Rhodes, attached hereto.

This request is made on the following grounds:

(1) The Evidence Code authorizes this Court to take judicial notice of the material offered by Respondent; and


(2) The materials offered by Respondent are relevant to the issues raised in Respondent's Petition For Review and addressed in Respondent's Opening Brief On The Merits.

This request is based on this Notice, the accompanying Memorandum of Points and Authorities, the supporting Declaration of Elizabeth D. Rhodes, Exhibits 1 through 4 attached to the declaration, and such other matters as may properly come before the Court.

DATED: September ¹⁵5, 2010

KENNEY & MARKOWITZ L.L.P

By: _____


KYMBERLY E. SPEER
ELIZABETH D. RHODES
Attorneys for Defendant
US AIRWAYS, INC.
(erroneously sued herein as
AMERICA WEST AIRLINES)

MEMORANDUM OF POINTS AND AUTHORITIES

I.

INTRODUCTION

Respondent US Airways hereby requests that this Court take judicial notice of materials relied upon by Respondent in drafting its opening brief on the merits.

The materials include:

- 22 C.C.R. 66262.30 discussed in *Park v. Burlington Northern Santa Fe Railway Co.* (2003) 108 CalApp.4th 595 (Exhibit (Ex.) 1, Declaration of Elizabeth D. Rhodes (Rhodes Dec.), ¶ 2);
- Portions of the 1998 Fire Code cited and relied upon in *Barclay v. Jesse M. Lange Distributor, Inc.* (2005) 129 Cal.App.4th 281 (Ex. 2, Rhodes Dec., ¶¶ 2, 3);
- Documents that form part of the public record underlying the drafting of Section 4002 of the California Code of Regulations obtained from the Occupational Safety and Health Board

of the California Department of Industrial Relations (Ex. 3, Rhodes Dec., ¶¶ 2, 4); and

- The safety pages of the website of Lloyd W. Aubry Company, employer of Intervenor Anthony Verdon Lujan, indicating the company's public representations about its employees' knowledge of safety (www.lloydwaubry.com/safety.html) (Ex. 4, Rhodes Dec., ¶¶ 2, 5).

II.

THE EVIDENCE CODE, RULES OF COURT AND RELEVANT DECISIONAL AUTHORITY PERMIT THIS COURT TO TAKE JUDICIAL NOTICE OF DOCUMENTS REQUESTED BY RESPONDENT

Judicial notice may be taken under Evidence Code section 452(c) of “[o]fficial acts of the legislative, executive and judicial departments of the United States, or any state of the United States.” (*People v. Snyder* (2000) 22 Cal.4th 304, 315 fn.5; *Delaney v. Baker* (1999) 20 Cal.4th 23, 30; *Post v. Prati* (1979) 90 Cal.App.3d 626, 634.) Evidence Code section 459 grants appellate courts the same right and power to take judicial notice as the trial court. (*Smith v. Rae-Venter Law Group* (2002) 29 Cal.4th 345, 359; *People v. Connor* (2004, Sixth District) 115 Cal.App.4th 669, 681, fn.3.) Rule 8.252,

California Rules of Court provides that “To obtain judicial notice by a reviewing court under Evidence Code section 459, a party must serve and file a separate motion with a proposed order.”

California courts have also held that it is appropriate to take judicial notice of factual information found on the internet. *See, Gentry v. eBay, Inc.* (Cal.App. 4 Dist., 2002) 99 Cal.App.4th 816, 821, fn. 1 [court took judicial notice of the manner in which eBay described its operations on its website under Evidence Code 459]; *Ampex Corp. v. Cargle* (Cal.App. 1 Dist., 2005) 128 Cal.App.4th 1569, 1573 [documents published on Internet and excluded by trial court were deemed amenable to judicial notice to the extent the records were “. . . not reasonably subject to dispute and [were] capable of immediate and accurate determination by resort to sources of reasonably indisputable accuracy”]; *Smiley v. Citibank* (1995) 11 Cal.4th 138, 145, fn. 2 [proper to take judicial notice of documents from federal administrative agencies]; *Salvaty v. Falcon Cable Television* (1985) 165 Cal.App.3d 798, 800, fn. 1 [proper to take judicial notice of documents filed with state governmental entity, copies of which were attached to the complaint]; *Moehring v. Thomas* (Cal.App. 3 Dist., 2005) 126 Cal.App.4th 1515, 1523 [judicial notice

granted of the decennial census is found on the United States Census Bureau's Web site (<http://factfinder.census.gov> [as of Feb. 23, 2005], [citing] Evid.Code, § 452, subds.(c) & (h), and *People v. Howard* (1992) 1 Cal.4th 1132, 1160, fn. 6.))¹

The declaration of a party's attorney to the effect that the copies provided are true and correct copies of the originals is sufficient to authenticate the materials. (*People v. Connor* (2004) 115 Cal.App.4th 669, 681; *Whaley v. Sony Computer America, Inc.* (2004) 121 Cal.App.4th 479, 487.)

¹ Federal courts in California and elsewhere have also consistently permitted judicial notice of web-based documents under the federal standard found at Rule 201 of the Federal Rules of Evidence as long as they are not subject to reasonable dispute. *See, O'Toole v. Northrop Grumman Corp.*, 499 F.3d 1218, 1225 (10th Cir. 2007) [proof of earnings for the U.S. Equity Fund from Northrop Grumman's website]; *In re Agribiotech Sec. Litig.*, No. CV-S-990144 PMP (LRL), 2000 U.S. Dist. LEXIS 5643, *4-5, 2000 WL 35595963, *2 (D. Nev. Mar. 2, 2000) ["In this new technological age, official government or company documents may be judicially noticed insofar as they are available via the worldwide web"]; *Kitty Hawk Aircargo, Inc. v. Chao*, 418 F.3d 453, 457 (5th Cir. 2005) [taking judicial notice of approval by the National Mediation Board published on the agency's website]; *Currey v. Homecomings Financial, LLC* 2009 WL 1227010 (N.D. Cal.) [factual information on Fannie Mae's website]; *Hernandez v. Wagner* 2010 WL 2464830 (E.D. Cal.) [Federal Bureau of Prisons website]; *Alvara v. Aurora Loan Services* 2009 WL 1689640 (N.D. Cal.) [chart posted on website of the Federal National Mortgage Association].)

A. Courts Have Taken Judicial Notice of the Types of Documents in This Motion

1. Legislative Documents Are Judicially Noticeable In California

It is without question that the documents submitted as Exhibits 1 through 3 are the types of legislative documents routinely considered by the reviewing courts of this state when considering the background and purpose of specific bills, statutes and initiatives.

Exhibit 1 is comprised of a true and correct copy of the hazardous waste statute found at 22 C.C.R. 66262.30, and analyzed in the decision *Park v. Burlington Northern Santa Fe Railway Co.* (2003) 108 CalApp.4th 595 (*Park*). (Ex. 1, Rhodes Dec., ¶ 2.) *Park* is discussed at length in Respondent's Opening Brief On The Merits, and is relevant to the Court's understanding of the argument regarding a proper analysis of nondelegable duty. Pursuant to Evidence Code Section 452(c), this Court has discretion to take judicial notice of its contents.

Exhibit 2 is comprised of true and correct copies of the portion of the 1998 Fire Code (Section 7904.4.9.2) at issue in the decision *Barclay v. Jesse M. Lange Distributor, Inc.* (2005) 129 Cal.App.4th 281 (*Barclay*). (Ex. 2, Rhodes Dec., ¶¶ 2, 3.) *Barclay* is relied upon

by the Court of Appeal in its decision to reverse the trial court in this matter, and in particular to buttress its holding regarding nondelegable duty in the context of a tort claim against a passive hirer by a party eligible for workers' compensation benefits. Because the 1998 Fire Code is not readily available, true and correct copies of the relevant portion of the Code were obtained from the San Francisco Law Library for the court's ease of reference when reviewing the arguments related to the *Barclay* decision. (Rhodes Dec., ¶ 2, 3.) Pursuant to Evidence Code Section 452(c), this court may take judicial notice of the portions of the 1998 Fire Code.

Exhibit 3 is comprised of true and correct copies of public record documents generated by the Occupational Safety and Health Standards Board of the California Department of Industrial Relations, generated by the agency during the drafting of Section 4002 of Subpart 7 of Title 8 of the California Code of Regulations and attached hereto as Exhibit 3. (Ex. 3, Rhodes Dec., ¶¶ 2, 4.) Anyone can review these records by calling the Department and requesting a review. A request was made by counsel for US Airways by telephone to David Beales, Industrial Relations Counsel III of the Occupational Safety and Health Standards Board. (Ex. 3-1, Rhodes Dec., ¶¶ 2, 4.)

Counsel visited the agency on July 29, 2010, and reviewed approximately four banker boxes of records kept at the agency which form the record of its activities over the years during the drafting of General Industry Safety Orders found at Subpart 7 of Title 8 of the California Code of Regulations. (*Id.*) All records which pertained to Section 4002 were flagged. From the total cache of records, counsel for US Airways pulled those with the most relevance to the Legislative intent of Section 4002, i.e., two California Standards Comparisons completed during the drafting of Section 4002 on August 31, 1981, and the Summary of the June 25, 1974 public hearing held by the Occupational Safety and Health Standards Board on the initial adoption of Section 4002. (Ex. 3-2 through 3-36, Rhodes Dec., ¶ 2.) The remainder of the records are also provided, should the Court wish to review the entire body of documents. (Ex. 3, Rhodes Dec., ¶ 2.)

This Court is considering the issue of whether Section 4002 is delegable or nondelegable in nature. As part of that consideration, US Airways presents the Court with the documents underlying the drafting of Section 4002, as part of the analysis of the meaning and intent of the Legislature and the agency in drafting the regulations that

are at issue in this case. This court can take judicial notice of these documents pursuant to Evidence Code Section 452(c), and the cited relevant authorities.

2. The Website Of Lloyd W. Aubry (Aubry), Employer of Appellant Verdon and Insured of Appellant Seabright Insurance Company, Is Judicially Noticeable

Exhibit 4 is comprised of true and correct copies of the “Safety” pages of the website for Lloyd W. Aubry Company (Aubry), employer of Appellant Anthony Verdon, and the insured of workers’ compensation insurer and primary litigant Seabright Insurance Company. The website pages are self-authenticating as is evidenced by the footer at the bottom of each produced page. (Ex. 4, Rhodes Dec., ¶ 2, 5.) The material is relevant because, in the instant matter, appellants have claimed that neither Verdon nor his employer Aubry were aware of the safety regulations applicable to conveyor belt systems such as the one at issue in the instant matter. As in *Gentry*, *supra*, this Court should take judicial notice of the manner in which Aubry describes its safety knowledge and operations, as it is in complete contradiction to the declarations of Aubry employees submitted in opposition to US Airways’ motion for summary

judgment.² (See, *Gentry v. eBay, Inc.* (Cal.App. 4 Dist., 2002) 99 Cal.App.4th 816, 821, fn. 1.) The website also demonstrates that Aubry describes itself to the public as a specialty contractor responsible for safety on its job sites, and thus demonstrates Aubry's awareness of safety regulations applicable to conveyor belt systems, which Aubry employee Marco Moniz testified were worked on by Aubry employees five day per week, eight hours per day. This Court may take judicial notice as the website and its contents are not subject to dispute.

CONCLUSION

For all of the foregoing reasons, appellant respectfully moves that this Court take judicial notice of exhibits herein, pursuant to

² The declarations were also used to disavow incident reports written at or near the time of the incident which stated that Appellant Anthony Verdon inserted his hand into the conveyor belt in violation of his safety training by Aubry. The incident reports are located at Vol. 1, CT, 157 (Moniz report), and 188-189 (Varela Report). Records of the safety training provided to Verdon by Aubry are located at Vol. 1., CT, 137-138. The declarations are located at Vol. 3, CT, 657-659 and 661-662 (Appellant Anthony Verdon); 668-670 (Aubry Supervisor Noel Varela); 671-672 (Aubry Vice President Jay Butler); 677-679 (Aubry millwright Marco Moniz); and 686-688 (Aubry millwright, former manager and father of Appellant Verdon, Curtis Verdon).

Evidence Code sections 450, 452 (c), 453 and 459 and Rule 8.252,
California Rules of Court, as well as the relevant decisional authority.

Respectfully submitted,

September 15, 2010

KENNEY & MARKOWITZ L.L.P

By: 

KYMBERLY E. SPEER
ELIZABETH D. RHODES
Attorneys for Defendant
US AIRWAYS, INC. (erroneously
sued herein as AMERICA WEST
AIRLINES)

DECLARATION OF ELIZABETH D. RHODES

[CRC 8.54(a)(2)]

1. I am an attorney licensed to practice before the Courts of this state, and am an associate with Kenney & Markowitz, LLP, counsel for Defendant/Respondent US Airways, Inc.

2. True and correct copies of the following documents are attached to this declaration as the Exhibits indicated:

Exhibit 1: 22 C.C.R. 66262.30 discussed in *Park v. Burlington Northern Santa Fe Railway Co.* (2003) 108 CalApp.4th 595;

Exhibit 2: Portions of the 1998 Fire Code cited and relied upon in *Barclay v. Jesse M. Lange Distributor, Inc.* (2005) 129 Cal.App.4th 281;

Exhibit 3: Documents that form part of the public record underlying the drafting of Section 4002 of the California Code of Regulations obtained from the Occupational Safety and

Health Board of the California Department
of Industrial Relations; and

Exhibit 4: The safety pages of the website of Lloyd W.
Aubry Company (Aubry), employer of
Intervenor Anthony Verdon Lujan,
indicating the company's public
representations about its employees'
knowledge of safety, found at the address
www.lloydwaubry.com/safety.html.

3. I personally obtained true and correct copies of the
relevant portion of the 1998 Fire Code from the San Francisco Law
Library located on Van Ness Avenue in San Francisco, California,
that are attached as Exhibit 2.

4. I personally obtained true and correct copies of public
record documents generated by the Occupational Safety and Health
Standards Board of the California Department of Industrial Relations,
generated by the agency during the drafting of Section 4002 of the
California Code of Regulations and attached hereto as Exhibit 3.
Anyone can review these records by calling the Department and

requesting a review. I made such a request by telephone to David Beales, Industrial Relations Counsel III of the Occupational Safety and Health Standards Board. I visited the agency on July 29, 2010. I was permitted to review approximately four banker boxes of records kept at the agency which form the record of its activities over the years during the drafting of General Industry Safety Orders found at Subpart 7 of Title 8 of the California Code of Regulations. I was permitted to flag records which pertained to Section 4002. On information and belief, and as confirmed by the letter found at Exhibit 3-1, Mr. Beales had the records copied and sent to me by U.S. Mail. I reviewed the copied documents, and pulled from the group those with any text which appeared to have the most relevance to the intent of Section 4002. Those documents, which are found at Exhibit 3-2 through 3-36, constitute two California Standards Comparisons completed during the drafting of Section 4002 on August 31, 1981, and the Summary of the June 25, 1974 public hearing held by the Occupational Safety and Health Standards Board on, *inter alia*, the initial adoption of Section 4002. The remainder of the records are attached as Exhibit 3, should the Court wish to review the entire body of documents.

5. I personally printed true and correct copies of the safety pages of the website of The Lloyd W. Aubry Company (Aubry) as confirmed by the footer of the website pages attached hereto as Exhibit 4. The website is readily accessible by anyone accessing the World Wide Web at www.lloydwaubry.com/safety.html. The pages attached represent the scope of safety knowledge that Aubry provides to the public.

I have personal knowledge of the foregoing facts and, if called as a witness, would competently testify to their truth. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 15 day of September, 2010, at San Francisco, California.



Elizabeth D. Rhodes

[Proposed]

ORDER TAKING JUDICIAL NOTICE
OF DESIGNATED REGULATIONS AND PORTIONS OF THE
WEBSITE OF THE LLOYD W. AUBRY COMPANY

Good cause appearing, IT IS HEREBY ORDERED that Defendant/Respondent US Airways, Inc.'s Request for Judicial Notice is granted. IT IS ORDERED that this Court shall take judicial notice of the Exhibits 1 through 4 contained with this motion.

Dated: _____

Ronald M. George
Chief Justice

Cal. Admin. Code tit. 22, § 66262.30

C

Barclays Official California Code of Regulations Currentness

Title 22. Social Security

Division 4.5. Environmental Health Standards for the Management of Hazardous Waste

Chapter 12. Standards Applicable to Generators of Hazardous Waste

Article 3. Pre-Transport Requirements

→ § 66262.30. Packaging.

Before transporting hazardous waste or offering hazardous waste for transportation off-site, a generator shall package the waste in accordance with the applicable Department of Transportation regulations on packaging under Title 49 CFR Parts 173, 178, and 179.

Note: Authority cited: Sections 208, 25150, 25159 and 25161, Health and Safety Code.
Reference: Sections 25159, 25159.5 and 25160, Health and Safety Code; 40 CFR Section 262.30.

HISTORY

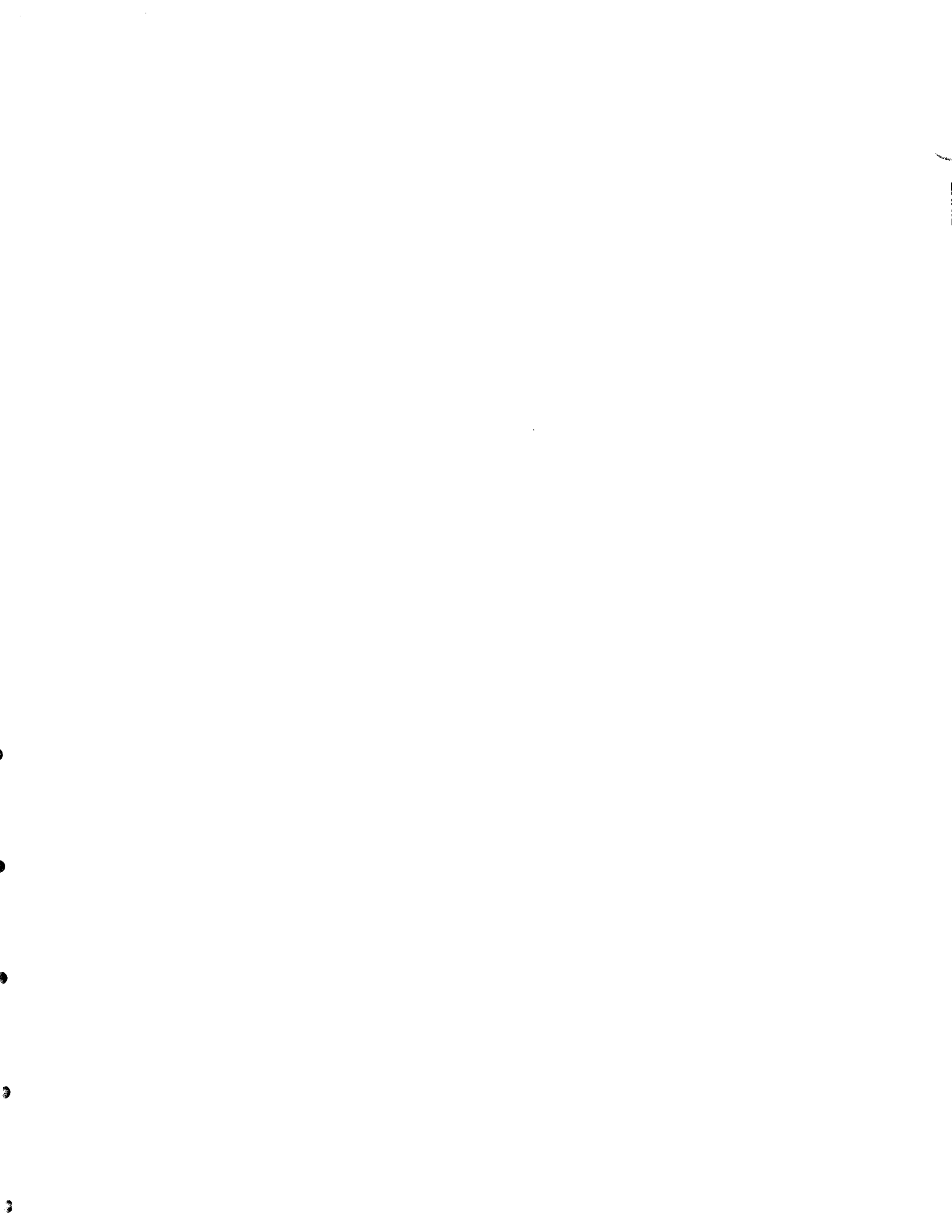
1. New section filed 5-24-91; effective 7-1-91 (Register 91, No. 22).

22 CCR § 66262.30, 22 CA ADC § 66262.30

This database is current through 9/3/10 Register 2010, No. 36

END OF DOCUMENT

EXHIBIT 1



SAN FRANCISCO
JAN 13 2003
LAW LIBRARY

REVISION RECORD FOR THE STATE OF CALIFORNIA

SUPPLEMENT

November 15, 2002

(This date is for document identification purposes only.
Effective date of provisions is shown in History Note Appendix.)

1998 Title 24, Part 9, California Fire Code

This revision record contains all the additions, amendments and repeals affecting the above-entitled portion of the California Code of Regulations.

By starting with a full loose-leaf copy of the 1998 *California Fire Code* and substituting the revised pages (blue) listed below, the user will have a complete 1998 *California Fire Code* in correct numerical sequence. It is suggested that original pages (white) that have been removed and replaced by revised pages (blue) be retained in a separate file for possible future reference.

NOTE

Due to the fact that the application date for a building permit establishes the California Building Standards code provisions that are effective at the local level, which apply to the plans, specifications, and construction for that permit, it is strongly recommended that the removed pages be retained for historical reference.

VOLUME 1

Remove Existing White Pages

1-xiv.11 through 1-xiv.14
1-17 through 1-22
1-33 through 1-38
1-381 and 1-382

Insert New Blue Pages

1-xiv.11 through 1-xiv.14
1-17 through 1-22.2
1-33 through 1-38.2
1-264.1 through 1-264.8
1-381 and 1-382

KFC
35
. A223
pt. 9

Stacks-Civil Center
KFC35 . A223 pt. 9
Received on: 01-03-03
California Building
Standards Commission.
California fire code.

I.C.B.O
4-1-99

1998 CALIFORNIA FIRE CODE

Based on the
1997 UFC™



California Building
Standards Commission

Item No. 154A98

San Francisco Law Library

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5360 Workman Mill Road
Whittier, California 90601-2298

and

Western Fire Chiefs Association
300 N. Main Avenue, Suite 25
Fallbrook, California 92028

and

California Building Standards Commission
1300 K Street, Suite 101
Sacramento, California 95814

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and Los Angeles County Department of Public Works.

PRINTED IN THE U.S.A.

California Fire Code Preface

This document is the ninth part of 11 parts of the official triennial compilation and publication of adoptions, amendments and repeal of building regulations to the California Code of Regulations, Title 24, also referred to as the California Building Standards Code. This part is known as the California Fire Code and incorporates by adoption the 1997 edition of the Uniform Fire Code™ of the International Fire Code Institute with necessary California amendments.

The California Building Standards Code is published in its entirety every three years by order of California legislature, with supplements published in intervening years. The California legislature delegates authority to various state agencies, boards, commissions and departments to create building regulations to implement the state's statutes. These building regulations have the same force of law, and take effect 180 days after its publication, unless otherwise stipulated. The California Building Standards Code applies to all occupancies throughout the State of California as annotated.

A city, county, or city and county may establish more restrictive building standards reasonably necessary because of local climatic, geological or topographical conditions. Findings of local condition must be filed with the California Building Standards Commission to become effective, and may not be effective any sooner than the effective date of the California Building Standards Code.

To familiarize yourself with the format of this code, it is suggested that users review the following contents of this code:

- *How to Distinguish Model Code Language from California Amendments*
- *California Matrix Adoption Tables*

If you have any questions regarding this code or wish to offer comments toward improving the format of this code, please address your questions and comments to:

*California Building Standards Commission
1130 K Street, Suite 101
Sacramento, CA 95814
Phone: (916) 323-6363
Fax: (916) 443-6008*

California Building Standards Commission Questions and Interpretations Contact List

Department of Housing and Community Development

Residential (916) 445-9471
 Manufactured Homes, Commercial Coaches and
 Permanent Structures in Mobile Home Parks
 (General) (916) 445-3338
 Mobile Homes
 (permits/inspections) (916) 255-2501 Northern Region
 (909) 782-4420 Southern Region
 Employee Housing (916) 445-9471
 Residential Access Interpretive
 Manual (916) 457-1103 CALBO

Office of the State Fire Marshal

Fire Safety (916) 445-8421
 Fireplace Standards (916) 445-8421
 Day Care Centers (916) 445-8421
 Exits (916) 445-8421

Division of the State Architect—Structural Safety

Public Schools (916) 445-7627
 State-owned Buildings (916) 445-7627
 Earthquake Safety (916) 445-7627
 Asbestos (916) 445-2630
 State Building Inspector Information (916) 445-7627

Division of the State Architect—Access Compliance

Disabled Access (916) 327-9698
 Access Interpretive Manual (916) 327-9698

Office of Statewide Health Planning and Development

Hospitals (916) 654-2012
 Skilled Nursing Facilities (916) 654-2012
 Clinics (916) 654-2012
 Permits (916) 654-3362

Department of Health Services

Organized Camps (916) 324-2208
 Public Swimming Pools (916) 324-2208
 Asbestos (415) 540-2134

Department of Industrial Relations, Division of Occupational Safety and Health

Places of Employment (916) 322-3640
 Employee Safety (916) 322-3640
 Elevators (916) 322-3640
 Boiler Inspections (916) 920-6123
 Pressure Vessels (415) 557-0437
 Asbestos (916) 920-6131 Industrial Hygienist

California Energy Commission

Energy Standards (800) 772-3300 Energy Hotline
 Furnace Standards (800) 772-3300 Energy Hotline
 Lighting Standards (800) 772-3300 Energy Hotline
 Interpretive Manual/Energy Forms (916) 654-5200

State Historical Building Code Board

Alternative Building Standards (916) 445-7627

Department of Food and Agriculture

Meat & Poultry Packing Plant Standards (916) 654-0504
 Dairy Standards (916) 653-6582

Department of the Youth Authority

Institution Standards (916) 262-1428

Department of Water Resources

Gray Water Installation Standards (916) 327-1620

Board of Corrections

Jail Standards (916) 324-1914

California State Library

Construction Standards (916) 653-7252

Department of Consumer Affairs—Board of Barbering and Cosmetology

Barber and Beauty Shop and
 College Standards (916) 327-6250

Department of Consumer Affairs—Board of Pharmacy

Pharmacy Standards (916) 445-5014

Department of Consumer Affairs—Board of Veterinary Medicine

Veterinary Hospital Standards (916) 263-2610

Department of Consumer Affairs—Acupuncture Committee

Office Standards (916) 263-2680

Department of Consumer Affairs—Bureau of Home Furnishings and Thermal Insulation

Insulation Testing Standards (916) 574-2040

Department of Consumer Affairs—Structural Pest Control Board

Structural Standards (916) 263-2540

Preface

Introduction: The *Uniform Fire Code* (UFC) is the United States' premier model fire code. Since its initiation in 1971, the code has become internationally recognized for its role in setting the pace of fire prevention, fire protection and public safety.

Fire codes represent one of today's most rapidly changing regulatory arenas. New challenges presented by hazardous materials, flammable and combustible liquids, explosives, high-piled combustible storage, aerosol product storage and building operations are among the many issues shaping the future of fire prevention, fire protection and public safety. In addition, fire codes have evolved far beyond their traditional roles as maintenance codes, now addressing many issues related to new construction and special hazards in buildings. As a model code developed through a consensus code development process, the *Uniform Fire Code* provides jurisdictions with an opportunity to adopt a fire code which is comprehensive, up-to-date and consistent with codes of other jurisdictions. Adoption of the *Uniform Fire Code* also relieves jurisdictions from the burdensome process of independently developing regulations.

History: The 1997 edition is the tenth edition of the *Uniform Fire Code*. Now published by the International Fire Code Institute, the code was initially published as a model code document in 1971 through a cooperative effort of the Western Fire Chiefs Association and the International Conference of Building Officials. The Code was updated in 1973 and has since been published on a three-year schedule. Editions include 1971, 1973, 1976, 1979, 1982, 1985, 1988, 1991, 1994 and 1997.

Two-Volume Set: Provisions of the *Uniform Fire Code* and the *Uniform Fire Code Standards* have been redesignated as a two-volume set of the *Uniform Fire Code*. Volume 1 contains the provisions previously contained in the *Uniform Fire Code* and Volume 2 contains provisions previously contained in the *Uniform Fire Code Standards*. This redesignation emphasized that both books are truly part of the *Uniform Fire Code* when the code is adopted.

Metrication: The *Uniform Fire Code* was metricated for the 1994 edition. Metric equivalents are provided in parentheses following English units. Formulas are also provided with metric equivalents. Metric equivalent formulas immediately follow English formulas and are denoted by "For SI:" preceding the metric equivalent. Some formulas do not use dimensions and, thus, are not provided with metric equivalents. Tables are provided with multiplying conversion factors in subheadings for each tabulated unit of measurement.

Metric equivalents included in the code represent approximate conversions from English units. Where metric units are shown in parentheses adjacent to English units, the English units shall be the exact code requirement, and the metric equivalent shall be considered as an approximation.

It is recognized that some of the selected units for metric conversions, such as the use of millimeters for most dimensions of length, may be nonstandard; however, unit selections were based on those used by the *Uniform Building Code* at the request of the General Services Administration, an agency of the United States Government.

How the Code is Revised: The *Uniform Fire Code* is updated on an annual basis. At the conclusion of each update cycle, an annual supplement to the current edition is published, except for every third year when all approved code changes are consolidated into a new edition of the code. Updating is accomplished through a consensus code development process administered by the International Fire Code Institute that allows anyone to submit proposals to revise the code and comment on the proposals of others through regular public hearings. Participants in the code development process represent a wide cross-section of fire officials, building officials, design professionals, manufacturers, developers, insurance organizations, researchers, industry associations and other interested parties.

For additional information about the process of revising the code or to submit a code change proposal, contact the International Fire Code Institute.

Marking of Revisions as Compared to the 1994 Edition: Solid vertical lines in the margins within the body of the code indicate a technical or major editorial change from the 1994 edition. The revision may be a new code provision, a revised provision or a provision that has been relocated from elsewhere in the code.

The letter **B** repeating in line vertically in the margin indicates that the provision is maintained under the code change procedures of the International Conference of Building Officials and that the provision is based on requirements of the *Uniform Building Code*.

The letter **M** repeating in line vertically in the margin indicates that the provision is maintained under the code change procedures of the International Conference of Building Officials and that the provision is based on requirements of the *Uniform Mechanical Code*™.

Deletion indicators (♦) are provided in the margin where a paragraph or item listing has been deleted or relocated to another portion of the code.

Minor revisions, such as rewording or resequencing changes, have not been marked in the margin.

About the International Fire Code Institute

The International Fire Code Institute (IFCI) is a not-for-profit public service benefit corporation dedicated to public safety. The Institute is a membership association representing fire officials, building officials, design professionals, manufacturers, developers, insurance organizations, researchers, industry associations and other interested parties. Cosponsored by the International Association of Fire Chiefs (IAFC), the International Conference of Building Officials (ICBO) and the Western Fire Chiefs Association (WFCA), the institute was formed to act as an advocate for fire officials and as publishers of the *Uniform Fire Code*™ (UFC) to promote the continued success of the UFC. The Institute began operations in October 1991, and together with IFCI's sister organizations, ICBO and WFCA, IFCI has nearly 70 years experience developing and promulgating model codes, including more than 20 years developing and promulgating the *Uniform Fire Code*.

The Institute occupies a unique niche among fire-safety organizations as the first organization in the United States to focus on model fire codes, and it has quickly become a leading fire-safety organization. The most well-known function of IFCI is the organization's role in administration of the *Uniform Fire Code* and ancillary programs.

The Institute has four major organizational objectives:

1. To promote international uniformity of fire prevention, hazardous material and building construction regulations;
2. To provide a forum in which persons interested in the prevention, control and suppression of fires, explosions and hazardous materials incidents can exchange methods of improved safety and ideas;
3. To continue publishing, developing and promoting the *Uniform Fire Code*; and
4. To provide education and support services for the *Uniform Fire Code*.

The Institute has already had a dramatic impact on the fire prevention profession. New programs and projects offered by IFCI include publication of the *IFCI Fire Code Journal*, the nation's first magazine to focus on fire code related issues. The *IFCI Fire Code Journal* is also unique in that it covers activities of interest in all of the model code organizations, not just those in the Uniform Codes, so that IFCI's members can keep abreast of major fire- and life-safety issues affecting codes throughout the United States. The Institute also offers numerous professional development seminars for fire code enforcers and users, nationally recognized certification programs for fire inspectors and underground storage tank installers and inspectors, and computer-assisted tools for using the UFC. Several additional projects to support fire code users are also under development.

Membership is currently available to individuals and organizations with an interest in fire codes, and membership benefits include receiving copies of each new edition of the *Uniform Fire Code* and annual supplements; the *IFCI Fire Code Journal* magazine; all proposed revisions to the *Uniform Fire Code*, code application and enforcement assistance by a staff of engineers, and discounts on publications, educational offerings and video training programs.

For further information on the International Fire Code Institute, please call IFCI's office at (562) 699-0124, fax (562) 699-4522.

How to Distinguish Model Code Language from California Amendments

To distinguish between model code language and incorporated California amendments, including exclusive California standards, California amendments will appear in italics. Symbols in the margins indicate the status of code changes as follows:

[SFM] This symbol identifies which state agency(s) has amended a section of model code. For a complete listing of state agencies, refer to the Application Section within Article 1.

*C
A
C
A* This symbol indicates a California amendment has been made to the Uniform Fire Code.

|| This symbol indicates that a change has been made to a California amendment.

*** This symbol indicates that model code language has been deleted within a California amendment.

*L
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L* This symbol is primarily for the benefit of local agencies, such as city and county building departments, who by law must enforce selected sections of the California Fire Code. An "L" next to the "CA" signals such sections in the outside margin.

> This symbol indicates deletion of California language.

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SECTION 7904 — SPECIAL OPERATIONS

7904.1 General. The following special operations shall be in accordance with Sections 7901, 7902 and 7903 except as provided in Section 7904.

1. Storage and dispensing of flammable and combustible liquids on farms and construction sites.
2. Well drilling and operating.
3. Bulk plants or terminals.
4. Loading and unloading of tank vehicles and tank cars.
5. Tank vehicles and tank vehicle operation.
6. Refineries.

7904.2 Storage and Dispensing of Flammable and Combustible Liquids on Farms and Construction Sites.

7904.2.1 General. Permanent and temporary storage and dispensing of Class I and II liquids for private use on farms and rural areas and at construction sites, earth-moving projects, gravel pits or borrow pits shall be in accordance with Section 7904.2.

EXCEPTION: Storage and use of fuel-oil and containers connected with oil-burning equipment regulated by Article 61 and the Mechanical Code.

7904.2.2 Combustibles and open flames near tanks. Storage areas shall be kept free of weeds and extraneous combustible material. Open flames and smoking are prohibited in flammable or combustible liquid storage areas.

7904.2.3 Marking of tanks and containers. Tanks and containers for the storage of liquids aboveground shall be conspicuously marked with the name of the product which they contain and **FLAMMABLE—KEEP FIRE AND FLAME AWAY**. Tanks shall bear the additional marking **KEEP 50 FEET (15.2 METERS) FROM BUILDINGS**.

7904.2.4 Containers for storage and use. Metal containers used for storage of Class I or II liquids shall be in accordance with DOT requirements or shall be of an approved design.

Discharge devices shall be of a type that does not develop an internal pressure on the container. Pumping devices or approved self-closing faucets used for dispensing liquids shall not leak and shall be well maintained. Individual containers shall not be interconnected and shall be kept closed when not in use.

Containers stored outside and inside of buildings shall be in accordance with Section 7902 and the Building Code.

7904.2.5 Permanent and temporary tanks for storage and use.

7904.2.5.1 General. The capacity of permanent aboveground tanks containing Class I or II liquids shall not exceed 1,100 gallons (4163.9 L). The capacity of temporary aboveground tanks containing Class I or II liquids shall not exceed 10,000 gallons (37 854 L). Tanks shall be of single-compartment design, constructed in accordance with Section 7902.1.8.2.

7904.2.5.2 Fill opening security. Fill openings shall be equipped with a locking closure device. Fill openings shall be separate from vent openings.

7904.2.5.3 Vents. Tanks shall be provided with a method of normal and emergency venting. The diameter of normal vents shall be in accordance with Table 7904.2-A. Normal vents shall also be in accordance with Section 7902.1.11.

Emergency vents shall be in accordance with Section 7902.2.6. Emergency vents shall be arranged to discharge in a manner which

prevents localized overheating or flame impingement on any part of the tank in the event vapors from such vents are ignited.

7904.2.5.4 Location.

7904.2.5.4.1 General. Tanks containing Class I or II liquids shall be kept outside of and at least 50 feet (15 240 mm) from buildings and combustible storage. Additional distance shall be provided when necessary to ensure that vehicles, equipment and containers being filled directly from such tanks will not be less than 50 feet (15 240 mm) from structures, haystacks or other combustible storage.

7904.2.5.4.2 Locations where aboveground tanks are prohibited. The storage of Class I and II liquids in aboveground tanks is prohibited within the limits established by law as the limits of districts in which such storage is prohibited. (See sample adoption ordinance, Section 4.)

7904.2.5.5 Type of tank.

7904.2.5.5.1 General. Tanks shall be provided with top openings only or shall be elevated for gravity discharge.

7904.2.5.5.2 Tanks with top openings only. Tanks with top openings only shall be mounted as follows:

1. On well-constructed metal legs connected to shoes or runners designed so that the tank is stabilized and the entire tank and its supports can be moved as a unit, or

2. For stationary tanks, on a stable base of timbers or blocks approximately 6 inches (152.4 mm) in height which prevents the tank from contacting the ground.

Tanks with top openings only shall be equipped with a tightly and permanently attached, approved pumping device having an approved hose of sufficient length for filling vehicles, equipment or containers to be served from the tank. Either the pump or the hose shall be equipped with a padlock to its hanger to prevent tampering. An effective antisiphoning device shall be included in the pump discharge unless a self-closing nozzle is provided. Siphons or internal pressure discharge devices shall not be used.

7904.2.5.5.3 Tanks for gravity discharge. Tanks with a connection in the bottom or the end for gravity dispensing liquids shall be mounted and equipped as follows:

1. Supports to elevate the tank for gravity discharge shall be of adequate strength and designed to provide stability, and

2. Bottom or end openings for gravity discharge shall be equipped with a valve located adjacent to the tank shell which will close automatically in the event of fire through the operation of an effective heat-actuated releasing device. If this valve cannot be operated manually, it shall be supplemented by a second manually operated valve. The gravity discharge outlet shall be provided with an approved hose equipped with a self-closing valve at the discharge end of a type that can be padlocked to its hanger.

7904.2.6 Spill control, drainage control and diking. Indoor storage and dispensing areas shall be provided with spill control and drainage control as set forth in Section 7901.8. Outdoor storage areas shall be provided with drainage control or diking as set forth in Section 7902.2.8.

7904.2.7 Portable fire extinguishers. Portable fire extinguishers with a minimum rating of 20-B:C shall be provided when required by the chief.

7904.2.8 Dispensing from tank vehicles.

7904.2.8.1 General. When approved, liquids used as fuels may be transferred from tank vehicles into the tanks of motor vehicles or special equipment, provided:...

1. The tank vehicle's specific function is that of supplying fuel to motor vehicle fuel tanks,
2. The dispensing line does not exceed 50 feet (15 240 mm) in length,
3. The dispensing nozzle is an approved type,
4. The dispensing hose is properly placed on the approved reel or in a compartment provided before the tank vehicle is moved,
5. Signs prohibiting smoking or open flame within 25 feet (7620 mm) of a tank vehicle or the point of refueling are prominently posted on the tank vehicle,
6. Electrical devices and wiring in areas where fuel dispensing is conducted are in accordance with the Electrical Code,
7. Vapor-recovery systems are provided in accordance with Section 5202.13,
8. Tank vehicle dispensing equipment is operated only by designated personnel who are trained to handle and dispense motor fuels, and
9. Provisions are made for controlling and mitigating unauthorized discharges.

7904.2.8.2 Location. Dispensing from tank vehicles shall be conducted at least 50 feet (15 240 mm) from structures or combustible storage.

7904.3 Well Drilling and Operating.

7904.3.1 General. Wells for oil and natural gas shall be drilled and operated in accordance with Section 7904.3.

7904.3.2 Location.

7904.3.2.1 Storage tanks and sources of ignition. Well heads shall not be located within 25 feet (7620 mm) of storage tanks or boilers, fired heaters, open-flame devices or other sources of ignition. Smoking is prohibited at wells or tank locations except as designated and in approved posted areas.

EXCEPTION: Engines used in the drilling, production and serving of wells.

7904.3.2.2 Streets and railways. Wells shall not be drilled within 75 feet (22 860 mm) of any dedicated public street, highway or nearest rail of an operating railway.

7904.3.2.3 Buildings. Wells shall not be drilled within 100 feet (30 480 mm) of buildings not necessary to the operation of the well.

Wells shall not be drilled within 300 feet (91 440 mm) of buildings used as a place of assembly, institution or school.

When wells are existing, buildings shall not be constructed within the distances set forth in Section 7904.3 for separation of wells and buildings.

7904.3.3 Waste Control.

7904.3.3.1 Discharge on a street or water channel. Liquids containing crude petroleum or its products shall not be discharged into or on streets, highways, drainage canals or ditches, storm drains, or flood-control channels.

7904.3.3.2 Discharge and combustible materials on ground. The surface of the ground under, around or near wells, pumps, boilers, oil storage tanks or buildings shall be kept free of oil, waste oil, refuse or waste material.

EXCEPTION: Material within an oil sump or tank.

7904.3.3.3 Clearing around wells and tanks. Land within 25 feet (7620 mm) of wells, flammable or combustible liquid

tanks, or other appurtenances to such wells shall be kept free of dry weeds, grass, rubbish or other combustible material at all times. When, in the opinion of the chief, the distance is not sufficient to provide reasonable fire safety, a greater distance may be required, not to exceed the height of a derrick or greatest dimension of a tank.

7904.3.4 Sumps.

7904.3.4.1 Maximum width. Sumps or other basins for the retention of oil or petroleum products shall not exceed 12 feet (3658 mm) in width.

7904.3.4.2 Backfilling. Sumps or other basins for the retention of oil or petroleum products larger than 6 feet by 6 feet by 6 feet (1829 mm by 1829 mm by 1829 mm) shall not be maintained longer than 60 days after the cessation of drilling operations.

7904.3.4.3 Security. Sumps, diversion ditches and depressions used as sumps shall be securely fenced or covered.

7904.3.5 Prevention of blowouts. Adequate protection shall be provided to control and prevent the blowout of a well. Protection equipment shall meet federal, state and other applicable jurisdiction requirements.

7904.3.6 Storage tanks. Storage of flammable or combustible liquids in tanks shall be in accordance with Section 7902. Each oil storage tank or group of tanks shall have posted in a conspicuous place on or near such tank or tanks an approved sign with the name of the owner or operator, name or number of lease and the telephone number where a responsible person can be reached at any time.

7904.3.7 Soundproofing. Where soundproofing material is required during field operations, such material shall be noncombustible.

EXCEPTION: Fire-retardant treated material may be used and maintained when approved.

7904.3.8 Signs. Well locations shall have posted in a conspicuous place an approved sign with the name of the owner or operator, name or number of the lease, and number of the well. Such signs shall be maintained on the premises from the time materials are delivered for drilling purposes until the well is abandoned.

7904.3.9 Field loading racks. Field loading racks shall be in accordance with Section 7904.5.

7904.4 Bulk Plants or Terminals.

7904.4.1 General. Portions of properties where flammable and combustible liquids are received by tank vessels, pipelines, tank cars or tank vehicles and are stored or blended in bulk for the purpose of distributing such liquids by tank vessels, pipelines, tank cars, tank vehicles or containers shall be in accordance with Section 7904.4.

7904.4.2 Buildings.

7904.4.2.1 Construction. Buildings shall be constructed in accordance with the Building Code.

7904.4.2.2 Means of egress. Rooms in which liquids are stored, used or transferred by pumps shall have means of egress arranged to prevent occupants from being trapped in the event of fire.

7904.4.2.3 Heating. Rooms in which Class I liquids are stored or used shall be heated only by means not constituting a source of ignition, such as steam or hot water. Rooms containing heating appliances involving sources of ignition shall be located and arranged to prevent entry of flammable vapors.

7904.4.3 Ventilation.

7904.4.3.1 General. Ventilation shall be provided for rooms, buildings and enclosures in which Class I liquids are pumped,

used or transferred. Design of ventilation systems shall consider the relatively high specific gravity of the vapors. When natural ventilation is used, adequate openings in outside walls at floor level, unobstructed except by louvers or coarse screens, shall be provided. Where natural ventilation is inadequate, mechanical ventilation shall be provided in accordance with the Mechanical Code.

7904.4.3.2 Basements and pits. Class I liquids shall not be stored or used within a building having a basement or pit into which flammable vapors can travel, unless such area is provided with ventilation designed to prevent the accumulation of flammable vapors therein.

7904.4.3.3 Dispensing of Class I liquids. Containers of Class I liquids shall not be drawn from or filled within buildings unless a provision is made to prevent the accumulation of flammable vapors in hazardous concentrations. Where mechanical ventilation is required, it shall be kept in operation while flammable vapors could be present.

7904.4.4 Storage. Storage of Class I, II and III-A liquids in bulk plants shall be in accordance with the applicable provisions of Article 79.

7904.4.5 Overfill protection of Class I liquids. Manual and automatic systems shall be provided to prevent overfill during the transfer of Class I liquids from mainline pipelines and marine vessels in accordance with nationally recognized standards. See Article 90, Standard a.3.20.

7904.4.6 Wharves.

7904.4.6.1 General. Wharves, including piers, bulkheads and other structures over or contiguous to navigable water having a primary function of transferring liquid cargo in bulk between shore installations and tank vessels, ships, barges, lighter boats or other mobile floating craft, shall be in accordance with Section 7904.4.6.

EXCEPTION: Marine motor vehicle fuel-dispensing stations. See Section 5202.11.

7904.4.6.2 Transferring times. Package cargo of liquids, including full and empty drums, bulk fuel and stores, shall only be transported over a wharf during cargo transfer at such times and places as agreed on by the wharf superintendent and the senior deck officer on duty.

7904.4.6.3 Transferring locations. Wharves at which liquid cargoes are to be transferred in bulk quantities to or from tank vessels shall be at least 100 feet (30 480 mm) from bridges over a navigable waterway, or from an entrance to or superstructure of vehicular or railroad tunnels under a waterway. The termination of fixed piping used for loading or unloading at a wharf shall be at least 200 feet (60 960 mm) from bridges or from entrances to or superstructures of tunnels.

7904.4.6.4 Cargo vessels and transfer equipment. Substructure and decking shall be substantially designed for the use intended. Decking shall be constructed of materials which will afford the desired combination of flexibility, resistance to shock, durability, strength and fire resistance. Heavy timber construction is acceptable.

Installation of tanks used exclusively for ballast water or Class II or III liquids on suitably designed wharves is allowed.

Loading pumps capable of building up pressures in excess of the safe working pressure of cargo hose or loading arms shall be provided with bypasses, relief valves or other arrangements to protect the loading facilities against excessive pressure. Relief

devices shall be tested at not more than yearly intervals to determine that they function satisfactorily at the pressure at which they are set.

Pressure hoses and couplings shall be inspected at intervals appropriate to the service. With the hose extended, hose and couplings shall be tested using in-service maximum operating pressures. Hoses showing material deteriorations, signs of leakage, or weakness in its carcass or at the couplings shall be withdrawn from service and repaired or discarded.

7904.4.6.5 Piping, valves and fittings. Piping, valves and fittings shall be in accordance with Section 7901.11, except as follows:

1. Flexibility of piping shall be assured by appropriate layout and arrangement of piping supports so that motion of the wharf structure resulting from wave action, currents, tides or the mooring of vessels will not subject the pipe to repeated strain above the elastic limit.

2. Pipe joints depending on the friction characteristics of combustible materials or grooving of pipe ends for mechanical continuity of piping shall not be used.

3. Swivel joints are allowed in piping to which hoses are connected and for articulated swivel-joint transfer systems. Swivel joints shall be designed such that the mechanical strength of the joint will not be impaired if the packing material were to fail.

4. Piping systems shall contain a sufficient number of valves to operate the system properly and to control the flow of liquid in normal operation and in the event of physical damage.

5. In addition to the requirements of Item 4, each line conveying Class I and II liquids leading to a wharf shall be provided with a readily accessible block valve located on shore near the approach to the wharf and outside of any diked area. Where more than one line is involved, the valves shall be grouped in one location.

6. Means of easy access shall be provided for cargo line valves located below the wharf deck.

7. Piping on wharves shall be adequately bonded and grounded if Class I and II liquids are transported. If excessive stray currents are encountered, insulating joints shall be installed. Bonding and grounding connections on all piping shall be located on the wharf side of hose riser insulating flanges, if used, and shall be accessible for inspection.

8. Hose or articulated swivel-joint pipe connections used for cargo transfer shall be capable of accommodating the combined effects of change in draft and maximum tidal range, and mooring lines shall be kept adjusted to prevent surge of the vessel from placing stress on the cargo transfer system.

9. Hoses shall be supported to avoid kinking and damage from chafing.

7904.4.6.6 Loading and unloading. Loading or discharging shall not commence until the wharf superintendent and officer in charge of the tank vessel agree that the tank vessel is properly moored and connections are properly made.

7904.4.6.7 Mechanical work. Mechanical work shall not be performed on the wharf during cargo transfer, except under special authorization by the chief based on a review of the area involved, methods to be employed and precautions necessary.

7904.4.7 Sources of ignition. Class I, II or III-A liquids shall not be used, drawn or dispensed where flammable vapors can reach a source of ignition. Smoking is prohibited except in designated locations. NO SMOKING signs shall be conspicuously posted where a hazard from flammable vapors is normally present.

7904.4.8 Spill control and secondary containment. Loading and unloading areas shall be provided with spill control and secondary containment in accordance with Section 7901.8.

7904.4.9 Fire protection.

7904.4.9.1 General. Fire protection shall be in accordance with Articles 9 and 10 and Section 7904.4.9.

7904.4.9.2 Portable fire extinguishers. Suitable portable fire extinguishers with a rating of not less than 20-B shall be located within 75 feet (22 860 mm) of those portions of the facility where fires are likely to occur, such as hose connections, pumps and separator tanks.

7904.4.9.3 Fire hoses. Where piped water is available, ready-connected fire hose in a size appropriate for the water supply shall be provided so that manifolds where connections are made and broken can be reached by at least one hose stream.

7904.4.9.4 Obstruction of equipment. Material shall not be placed on wharves in such a manner which would obstruct access to firefighting equipment or important pipeline control valves.

7904.4.9.5 Fire apparatus access. Where the wharf is accessible to vehicle traffic, an unobstructed roadway to the shore end of the wharf shall be maintained for access of firefighting apparatus. See Section 902.

7904.5 Loading and Unloading of Tank Vehicles and Tank Cars.

7904.5.1 General.

7904.5.1.1 Applicability. Tank vehicle and tank car loading and unloading shall be in accordance with Section 7904.5.

7904.5.1.2 Fire protection. Fire protection shall be provided in accordance with Article 10. Approved portable fire extinguishers shall be provided in accordance with UFC Standard 10-1. Extinguishers having a minimum rating of 40-B shall be provided at each loading rack. Suitable fire-control devices, such as small hose or portable fire extinguishers, shall be available to protect locations where fires are likely to occur. The chief is authorized to require additional fire-control equipment where an unusual exposure hazard exists. Such additional fire-control equipment shall be sufficient to extinguish a fire in the largest tank. The design and amount of such equipment shall be in accordance with approved engineering standards.

7904.5.1.3 Spill control and secondary containment. Areas where tank vehicle and tank car loading racks are located shall be provided with spill control and secondary containment as set forth in Section 7901.8.

7904.5.2 Tank vehicle loading racks.

7904.5.2.1 Construction. Loading racks shall be constructed of noncombustible materials.

7904.5.2.2 Location. Loading racks dispensing Class I, II or III-A liquids shall be separated from tanks, warehouses or other plant buildings, and the nearest property line of a property that can be built on by a clear distance of not less than 25 feet (7620 mm), measured from the nearest fill stem. Buildings for pumps or for shelter of loading personnel are allowed to be part of the loading rack.

7904.5.2.3 Static protection. Loading racks shall be equipped with protection to prevent the accumulation of static charges during truck-filling operations. Bonding facilities shall be provided during the loading of tank vehicles through open domes where Class I liquids are loaded, or where Class II and III liquids are

loaded into vehicles which could contain vapors from previous cargoes of Class I liquids.

Protection shall consist of a metallic bond wire permanently electrically connected to the fill stem or to some part of the rack structure in electrical contact with the fill stem. The fill stem pipe assembly shall form a continuous electrically conductive path downstream from the point of bonding. The free end of such bond wire shall be provided with a clamp or equivalent device for convenient attachment to some metallic part in electrical contact with the cargo tank of the tank vehicle. Protection shall consist of a flexible bond wire of adequate strength for the intended service and the electrical resistance shall not exceed 1 megohm.

Such bonding connection shall be fastened to the vehicle or tank before dome covers are raised and shall remain in place until filling is completed and all dome covers have been closed and secured.

EXCEPTIONS: 1. Where vehicles are loaded exclusively with products not having a static-accumulating tendency, such as asphalts, cutback asphalts, most crude oils, residual oils and water-soluble liquids.

2. When Class I liquids are not handled at the loading facility and the tank vehicles loaded are used exclusively for Class II and III liquids.

3. Where vehicles are loaded or unloaded through closed top or bottom connections whether the hose or pipe is conductive or nonconductive.

Filling through open domes into the tanks of tank vehicles that contain vapor-air mixtures within the flammable range, or where the liquid being filled can form such a mixture, shall be by means of a downspout which extends to near the bottom of the tank.

7904.5.2.4 Drag chains. Drag chains or similar devices on tank vehicles shall not be used to meet the requirement of Section 7904.5.2.3 for static protection.

7904.5.2.5 Smoking. Approved signs which read NO SMOKING shall be maintained at entrance gates of bulk plants and near each loading rack.

7904.5.2.6 Security. Loading rack or properties on which a loading rack is located shall be surrounded by a fence not less than 5 feet (1524 mm) in height, constructed of wire mesh, solid metal sheathing or masonry. Tank vehicles shall not be loaded or unloaded unless such vehicles are entirely within the fenced area. Tank vehicles shall not be backed into or from the premises of a bulk plant.

EXCEPTION: Existing installations where adequate public safety exists due to isolation, natural barriers or other factors as determined by the chief.

7904.5.2.7 Top loading. When top loading a tank vehicle with Class I and II liquids without vapor control, valves used for the final control of flow shall be of the self-closing type and shall be manually held open except where automatic means are provided for shutting off the flow when the vehicle is full. Self-closing valves shall not be tied or locked in the open position.

When top loading a tank vehicle with vapor control, flow control shall be in accordance with Section 7904.5.2.8.

7904.5.2.8 Bottom loading. When bottom loading a tank vehicle with or without vapor control, a positive means shall be provided for loading a predetermined quantity of liquid, together with an automatic secondary shutoff control to prevent overfilling. The connecting components between the loading rack and the tank vehicle required to operate the secondary control shall be functionally compatible.

When bottom loading a tank vehicle that is equipped for vapor control and vapor control is not used, the tank shall be vented to

the atmosphere to prevent pressurization of the tank. Such venting shall be at a height equal to or greater than the top of the cargo tank on the vehicle.

When bottom loading a tank vehicle, the coupling between the liquid loading hose or pipe and the truck piping shall be a dry disconnect coupling.

Connections to the plant vapor-control system shall be designed to prevent the escape of vapor to the atmosphere when not connected to a tank vehicle.

Vapor-processing equipment shall be separated from above-ground tanks, warehouses, other plant buildings, loading and unloading facilities or nearest line of adjoining property that can be built on by a distance of at least 25 feet (7620 mm). Vapor-processing equipment shall be protected from physical damage by remote location, guardrails, curbs or fencing.

7904.5.2.9 Switch loading. Tanks which have previously contained Class I liquids shall not be loaded with Class II or III liquids until such tanks and all piping, pumps, hoses and meters connected thereto have been completely drained and flushed.

7904.5.2.10 Electrical. Wiring and electrical equipment located within 25 feet (7620 mm) of any portion of the loading rack shall be designed, operated and installed such that it does not create an ignition hazard.

7904.5.3 Tank Car Loading Racks.

7904.5.3.1 Construction. Construction shall be in accordance with Section 7904.5.2.1.

7904.5.3.2 Location. Location shall be in accordance with Section 7904.5.2.2.

7904.5.3.3 Static protection. Where the resistance of a tank car to ground through the rails is 25 ohms or greater, bonding shall be provided in accordance with Section 7904.5.2.3.

7904.5.3.4 Stray current protection. Tank car loading facilities where Class I, II or III-A liquids are loaded or unloaded through open domes shall be protected against stray currents by permanently bonding the pipe to at least one rail and to the rack structure. Multiple pipes entering the rack area shall be permanently electrically bonded together. In areas where excessive stray currents are known to exist, all pipes entering the rack area shall be provided with insulating sections to electrically isolate the rack piping from the pipe lines.

7904.5.3.5 Smoking. Smoking controls shall be in accordance with Section 7904.5.2.5.

7904.5.3.6 Security. Loading racks or properties on which a loading rack is located shall be surrounded by a fence not less than 5 feet (1524 mm) in height, constructed of wire mesh, solid metal sheathing or masonry. Tank cars shall not be loaded or unloaded unless such tank cars are entirely within such enclosure.

EXCEPTION: Existing installations where adequate public safety exists due to isolation, natural barriers or other factors as determined by the chief.

7904.5.3.7 Switch loading. Switch loading shall be in accordance with Section 7904.5.2.9.

7904.5.4 Liquid transfer.

7904.5.4.1 Transfer apparatus. Transfer apparatus shall be of an approved type.

7904.5.4.2 Destination of liquids off loaded from tank vehicles and tank cars.

7904.5.4.2.1 General. Class I, II or III liquids shall be transferred from a tank vehicle or tank car only into an approved atmospheric tank or approved portable tank, except as provided in Sections 7904.5.4.2.2 through 7904.5.4.2.6.

7904.5.4.2.2 Marine craft and special equipment. Liquids intended for use as motor fuels are allowed to be transferred from tank vehicles into the fuel tanks of marine craft and special equipment when approved, and when:

1. The tank vehicle's specific function is that of supplying fuel to fuel tanks,
2. The operation is not performed where the public has access or where there is unusual exposure to life or property,
3. The dispensing line does not exceed 50 feet (15 240 mm) in length, and
4. The dispensing nozzle is approved.

7904.5.4.2.3 Emergency refueling. When approved, dispensing of motor vehicle fuel from tank vehicles into the fuel tanks of motor vehicles is allowed during emergencies. Dispensing from tank vehicles shall be in accordance with Sections 7904.2.8 and 7904.6.

7904.5.4.2.4 Aircraft fueling. Transfer of liquids from tank vehicles to the fuel tanks of aircraft is allowed in accordance with Section 2402.

7904.5.4.2.5 Fueling of vehicles at farms, construction sites and similar areas. Transfer of liquids from tank vehicles to motor vehicles for private use on farms and rural areas and at construction sites, earth-moving projects, gravel pits and borrow pits is allowed in accordance with Section 7904.2.8.

7904.5.4.2.6 Disabled vehicles. When a tank vehicle or tank is disabled through accident or mechanical failure and it becomes necessary to remove the cargo at that location, such cargo is allowed to be transferred to another tank vehicle or tank car.

7904.5.4.3 Time limit or unloading. Tank vehicles and tank cars shall be unloaded as soon as possible after arrival at point of delivery and shall not be used as storage tanks. Tank cars shall be unloaded only on private sidings or railroad siding facilities equipped for transferring the liquid between tank cars and permanent storage tanks. Unless otherwise approved, a tank car shall not be allowed to remain on a siding at the point of delivery for more than 24 hours while connected for transfer operations.

7904.5.4.4 Unloading inside buildings. Tank vehicles or tank cars shall not be located inside of a building while unloading Class I, II or III-A liquids, unless approved.

EXCEPTION: Tank vehicles are allowed under canopies of automotive motor vehicle fuel-dispensing stations.

7904.5.4.5 Vehicle motor shut-down. See Section 7904.6.3.3.

7904.5.4.6 Attendant required. The operator or other competent person shall be in attendance at all times while a tank vehicle or tank car is discharging cargo. When practical, the tank vehicle or tank car shall be positioned such that the operating controls and the discharging end of the hoses are both in view of the operator or other competent person.

7904.5.4.7 Chock blocks. At least two chock blocks not less than 5 inches by 5 inches by 12 inches (127 mm by 127 mm by 304.8 mm) in size and dished to fit the contour of tires shall be used during unloading operations of tank vehicles.

7904.6 Tank Vehicles and Vehicle Operation.

7904.6.1 General. Tank vehicles shall be designed, constructed, equipped and maintained in accordance with UFC Standard 79-4 and Section 7904.6.

7904.6.2 Full trailers and semitrailers.

7904.6.2.1 Attachments. Trailers shall be firmly and securely attached to the vehicle drawing them in a manner conforming with accepted engineering practice.

7904.6.2.2 Brakes. Full trailers and semitrailers shall be equipped with reliable brakes on all wheels, and adequate provisions shall be made for their efficient operation from the driver's seat of the vehicle drawing the trailer or semitrailer.

7904.6.2.3 Trailer connections. Trailer connections shall prevent the towed vehicle from whipping or swerving from side to side dangerously or unreasonably and shall cause the trailer to follow substantially in the path of the towing vehicle.

7904.6.3 Operation of tank vehicles.

7904.6.3.1 Vehicle maintenance. Tank vehicles shall not be operated unless they are in proper repair and free of accumulation of grease, oil or other flammables, and leaks.

7904.6.3.2 Leaving vehicle unattended. The driver, operator or attendant of a tank vehicle shall not leave the vehicle while it is being filled or discharged. The delivery hose, when attached to a tank vehicle, shall be considered to be a part of the tank vehicle.

7904.6.3.3 Vehicle motor shutdown. Motors of tank vehicles or tractors shall be shut down during the making or breaking of hose connections. If loading or unloading is performed without the use of a power pump, the tank vehicle or tractor motor shall be shut down throughout such operations.

7904.6.3.4 Bonding. Bonding shall be in accordance with Section 7904.5.2.3.

7904.6.3.5 Outage. A cargo tank or compartment thereof used for the transportation of flammable or combustible liquids shall not be loaded to absolute capacity. The vacant space in a cargo tank or compartment thereof used in the transportation of flammable or combustible liquids shall not be less than 1 percent. Sufficient space shall be left vacant to prevent leakage from or distortion of such tank or compartment by expansion of the contents due to rise in temperature in transit.

7904.6.3.6 Overfill protection. The driver, operator or attendant of a tank vehicle shall, before making delivery to a tank, determine the unfilled capacity of such tank by a suitable gaging device. To prevent overfilling, the driver, operator or attendant shall not deliver in excess of that amount.

7904.6.3.7 Securing hatches. During loading, hatch covers shall be secured on all but the receiving compartments.

7904.6.3.8 Simultaneous delivery. Simultaneous delivery to underground tanks from two or more discharge hoses shall be made by means of mechanically tight connections between the hose and fill pipe.

7904.6.3.9 Covers closed in transit. Dome covers shall be closed and latched while the tank vehicle is in transit.

7904.6.3.10 Liquid temperature. Materials shall not be loaded into or transported in a tank vehicle at a temperature above the material's ignition temperature unless safeguarded in an approved manner.

7904.6.3.11 Low vapor-pressure liquids. Flammable and combustible liquids with a vapor pressure of 40 psi (275.8 kPa) abso-

lute or less at 100°F (37.8°C) shall be loaded into cargo tanks designed and constructed in accordance with Section 7904.6.1.

7904.6.3.12 Bonding of fill stem. Cargo tanks shall be bonded to the fill stem or some part of the rack structure which is electrically interconnected with the fill-stem piping.

EXCEPTIONS: 1. Tank vehicles used for asphalt.

2. Tank vehicles loading flammable or combustible liquids through bottom connections.

3. Tank vehicles used exclusively for transporting Class III liquids when loaded at locations where Class I and II liquids are not handled.

7904.6.3.13 Bonding to underground tanks. An external bond-wire connection or bond-wire integral with a hose shall be provided for the transferring of flammable liquids through open connections into underground tanks.

7904.6.4 Smoking. Smoking by tank vehicle drivers, helpers or other personnel is prohibited while they are driving, making deliveries, filling or making repairs to tank vehicles.

7904.6.5 Parking.

7904.6.5.1 General. Parking of tank vehicles shall be in accordance with Section 7904.6.5.

EXCEPTION: In cases of accident, breakdown or other emergencies, tank vehicles are allowed to be parked and left unattended at any location while the operator is obtaining assistance.

7904.6.5.2 Unattended parking.

7904.6.5.2.1 Parking near residential, educational and institutional occupancies and other high-risk areas. Tank vehicles shall not be left unattended at any time on residential streets, or within 500 feet (152.4 m) of a residential area, apartment or hotel complex, educational facility, hospital, or care facility. Tank vehicles shall not be left unattended at any other place that would, in the opinion of the chief, present an extreme life hazard.

7904.6.5.2.2 Parking on thoroughfares. Tank vehicles shall not be left unattended on a street, highway, avenue or alley.

EXCEPTIONS: 1. The necessary absence in connection with loading or unloading the vehicle. During actual fuel transfer, Section 7904.6.3.2 shall apply. The vehicle location shall be in accordance with Section 7904.6.5.2.1.

2. Stops for meals during the day or night, if the street is well lighted at the point of parking. The vehicle location shall be in accordance with Section 7904.6.5.2.1.

7904.6.5.2.3 Durations exceeding one hour. Tank vehicles parked at any one point for longer than one hour shall be located off of streets, highways, avenues or alleys, and

1. Inside of a bulk plant and either 25 feet (7620 mm) or more from the nearest property line or within a building approved for such use, or

2. At other approved locations not less than 50 feet (15 240 mm) from buildings other than those approved for the storage or servicing of such vehicles.

7904.6.6 Garaging. Tank vehicles shall not be parked or garaged in buildings other than those specifically approved for such use by the chief.

7904.6.7 Fire protection. Tank vehicles shall be equipped with a fire extinguisher having a minimum rating of 2-A, 20-B:C.

During unloading of the tank vehicle, the fire extinguisher shall be out of the carrying device on the vehicle and shall be 15 feet (4572 mm) or more from the unloading valves.

7904.7 Refineries.

7904.7.1 General. Plants and portions of plants in which flammable liquids are produced on a commercial scale from crude petroleum, natural gasoline or other hydrocarbon sources shall be in accordance with Section 7904.7.

7904.7.2 Corrosion protection. Aboveground tanks and piping systems shall be protected against corrosion. See Article 90, Standard a.3.6.

7904.7.3 Cleaning of tanks. The safe entry and cleaning of petroleum storage tanks shall be conducted in accordance with nationally recognized standards and practices. See Article 90, Standard a.3.15.

7904.7.4 Storage of heated petroleum products. When petroleum-derived asphalts and residue are stored in heated tanks at refineries and bulk storage facilities or in tank vehicles, such products shall also be in accordance with nationally recognized standards. See Article 90, Standard a.3.17.

TABLE 7904.2-A—MINIMUM VENT SIZES FOR TANKS
(See Section 7904.2.5.3)

TANK CAPACITY (gallons) x 3.785 for L	MINIMUM VENT SIZE (Nominal Pipe Diameter, Inches) x 25.4 for mm
Up to 275	1½
276-660	2
661-900	2½
901-1,100	3
1,101-10,000	See Sections 7902.1.11.7 and 7902.2.6.3

OCCUPATIONAL SAFETY
AND HEALTH STANDARDS BOARD

2520 Venture Oaks Way, Suite 350
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August 2, 2010

Elizabeth Rhodes
Kenney & Markowitz L.L.P.
255 California Street, Suite 1300
San Francisco, CA 94111

Request for a Copies of Documents Regarding California Code of Regulations, Title 8, Section 4002

Dear Ms. Rhodes:

When you visited the Occupational Safety and Health Standards Board office on July 29, 2010, you reviewed a number of files pertaining to Section 4002, designated pages to be copied and submitted a check for \$41.80 to cover the cost of the copies (thank you). The copies are enclosed.

If you wish to discuss this matter further, please call me at (916) 274-5732.

Sincerely,

A handwritten signature in cursive script that reads "David Beales".

David Beales
Industrial Relations Counsel III

enclosure

EXHIBIT

3-1

CALIFORNIA STANDARDS COMPARISON

DATE August 31, 1981

PAGE 1 of 25

SCOPE: Applicable throughout State unless otherwise noted.

29 CFR 1910

SOURCE OF FEDERAL-OSHA STANDARDS(S):

FEDERAL 1910.219(h)

STATE 4002

Repeal Section 4002(a) and (b):

- ~~4002. Revolving and Reciprocating Parts.~~
- ~~(a) Hazardous revolving or reciprocating parts in any machine not guarded by the frame of the machine shall be guarded.~~
- ~~(b) Keys, set screws, projections or recesses in revolving or reciprocating parts not guarded by the frame of the machine or by location shall be removed, made flush or guarded.~~

STANDARDS COMPARISON

CAL/OSHA PROGRAM OFFICE:

Reviewed by klp

Date 9-3-81

OSHA REGION VI

Approved by J. J. [Signature]

Date 9/21/81

(h) Keys, set screws, and other projections. (1) All projecting keys, set screws, and other projections involving parts shall be removed or made flush or guarded by metal covers. This paragraph does not apply to keys or set screws within gear or sprocket casings or other enclosures, nor to keys, set screws, or other cups in hubs of pulleys less than twenty (20) inches in diameter where they are within the plane of the rim of the pulley.

Adopt new Section 4002(a) and (b) to read:

4002. Dangerous Moving Parts of Machinery or Equipment.

- (a) All machines, parts of machines, or component parts of machines which create hazardous revolving, reciprocating, running, shearing, punching, pressing, squeezing, drawing, cutting, rolling, mixing or similar action, including pinch points and shear points, not guarded by the frame of the machine(s) or by location, shall be guarded.
- (b) Dangerous keys, set screws, projections or recesses not guarded by the frame of the machine or by location shall be removed, made flush or guarded.

Repeal Section 4003:

- ~~4003. Pinch Points and Shear Points.~~
- ~~Hazardous pinch points and shear points not guarded by the frame of the machine or by location shall be guarded.~~

RATIONALE

The State proposes to repeal existing Section 4002(a) & (b) as it does not adequately address the hazards of "danger zones" not associated with the point(s) of operation(s).

The State proposes to adopt new Section 4002(a) to address hazards of "danger zones" not specifically addressed in other sections of the General Industry Safety Orders. The Federal orders do not contain a like counterpart.

The State proposes to maintain 4002(b) with minor editorial changes.

The State proposes to repeal 4003 as the requirements are now contained within revised Section 4002(a).

CALIFORNIA STANDARDS COMPARISON

DATE March 15, 1982

PAGE 1 of 20

SCOPE: Applicable throughout State unless otherwise noted.

29 CFR 1910

SOURCE OF FEDERAL-OSHA STANDARD(S):

FEDERAL 1910.212 & 1910.219

1910.212(a)(1)

1910.212 General requirements for all machines.

(a) Machine Guarding--(1) Types of guarding. One or more methods of machine guarding shall be provided to protect the operator and other employees in the machine area from hazards such as those created by point of operation, ingoing nip points, rotating parts, flying chips and sparks. Examples of guarding methods are--barrier guards, two-hand tripping devices, electronic safety devices, etc.

1910.219(h)

(h) Keys, setscrews, and other projections. (1) All projecting keys, setscrews, and other projections in revolving parts shall be removed or made flush or guarded by metal cover. This subparagraph does not apply to keys or setscrews within gear or sprocket casings or other enclosures, nor to keys, setscrews, or oilcups in hubs of pulleys less than twenty (20) inches in diameter where they are within the plane of the rim of the pulley.

STATE 4002 and 4003

Amend Title and Section 4002 to read:

4002. Revolving-and-Reciprocating-Parts Moving Parts of Machinery or Equipment.

(a) All machines, parts of machines, or component parts of machines which create hazardous revolving, or reciprocating, parts in any machine running, shearing, punching, pressing, squeezing, drawing, cutting, rolling, mixing or similar action, including pinch points and shear points, not guarded by the frame of the machine(s) or by location, shall be guarded.

(b) Dangerous keys, set screws, projections or recesses in revolving or reciprocating parts not guarded by the frame of the machine or by location shall be removed, made flush or guarded.

RATIONALE

The State here revises Section 4002(a) to address hazards of "danger zones" not specifically addressed in other sections of the General Industry Safety Orders. As amended, the State standard is comparable to, but more extensive than, the Federal standard

The State is retaining Section 4002(b) with minor editorial changes.

DOCKET No. 4-21

STANDARDS COMPARISON

CAL/OSHA PROGRAM OFFICE:

Reviewed by [Signature]

Date 4-5-82

OSHA REGION IX:

Approved by [Signature]

Date 4/5/82



OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

1006 FOURTH STREET
SACRAMENTO, CA 95814
(916) 322-3640

SUMMARY

PUBLIC HEARING
OCCUPATIONAL SAFETY & HEALTH STANDARDS BOARD

June 25, 1974
Los Angeles, Ca.

Mr. A. W. Turner, Chairman, called the public hearing of the Occupational Safety and Health Standards Board to order at 10:10 am in Los Angeles at 107 South Broadway.

MEMBERS PRESENT:

A. W. Turner, Chairman
Dr. H. Brown
Dr. P. Clancy
Wm. Stuckey
Leo Westwater

MEMBERS ABSENT:

Earl Coke
G. O'Hara

STAFF PRESENT:

R. T. Rinaldi, Executive Officer
K. Stevens, Administrative Assistant
Neysa Walker, Recorder

Mr. Turner introduced the Board Members and asked Mr. Rinaldi to introduce the staff present. Mr. Rinaldi also introduced the representatives from the Department of Health, Wm. Steffan and from the Division of Industrial Safety, Carl Pfaff and Fred Hull.

Before proceeding with the agenda, Mr. Turner stated that the Board would have a tremendous volume of work over the next nine to twelve months to bring California's standards into "at least as effective" status with the Federal OSHA as agreed to in the California State Plan by October 1, 1975 which is an extension of some several months. The Board meets once a month and intends to give everyone that desires to

participate opportunity to do so, however, in the interest of time, Mr. Turner hoped it would not be necessary for interested persons to testify or repeat the same statements previously made by other witnesses.

Mr. Turner also indicated that the field staff of the Division of Industrial Safety has submitted a number of changes for incorporation and the Board would accord the Division representatives the same consideration in offering testimony as anyone else.

A. Proposed Additions and Revisions to the General Industry Safety Orders Relating to Machine Guarding

Mr. Turner said the ground rules for hearing testimony for this item would be that he would call the page number, the standard section number and request that interested persons testify only on the standard up for discussion

Page 1, 3202; Page 2, 3206 - No discussion

Page 3, 3273

Ernest Levens, McDonnell Douglas Corporation, objected to the word "dangerous" in both (a) and (b) of this section because of the absoluteness of the word. He recommended that the word "reasonably" be added to (b) "shall be maintained "reasonably" free of" Mr. Carl Pfaff, Division of Industrial Safety, said the regional office of the Federal OSHA objects to the use of that word.

Page 4, 3303

Mr. Rinaldi, Executive Officer, read into the record a letter from Conseco, San Leandro, Ca. signed by Ronald B. Smith. Mr. Rinaldi said the Division of Industrial Safety and the Board had copies of the letter. There was no discussion.

Page 5, 3314

Mr. Del Dimmitt, General Dynamics, Convair, objected to the wording of this section, because, if literally interpreted, it would prevent or seriously hamper the use of numerically controlled machines and other similar machines when power is essential for machine movements and is required to permit positioning or installation of dies or fixtures. Mr. Dimmitt said that power for operation was essential for repair or diagnosing. Mr. John Smithson, Convair, General Dynamics, also gave testimony and concurred with what Mr. Dimmitt had said.

There was discussion with the Division of Industrial Safety suggesting a "locked key" type of "off" connection. Both Mr. Dimmitt and Mr. Smithson said this would not work and suggested that another section be added to read....(e) The provisions of this section do not apply to Numerically Controlled machines or other machine tools wherein failure diagnosis, repair and/or setting up operations require that the machine be energized.

Mr. Lloyd Skaggs, Rockwell International B-1 Division and Mr. Gordon Warren, of the same company concurred with the statements and the proposed revision made by Mr. Dimmitt. Both these men and Carl Pfaff, Division of Industrial Safety testified that as far as they knew there had not been an accident due to machines such as those under discussion not being de-energized

Mr. Frank Stine, Northrop Corporation, Aircraft Division concurred with the statements made by Mr. Dimmitt and Mr. Smithson adding that safety aspects are built into the equipment and that one of the greatest safety safeguards is to have persons operating the machines be knowledgeable and experienced and to have had adequate training. Mr. James Shively, Teledyne Ryan, concurred

with the statements of Mr. Dimmitt and Mr. Smithson and also concurred with Mr. Stine's remarks that trained personnel was a safeguard also. Dr. Brown suggested that the safety order contain a section that the operators of these machines be specially trained. Mr. Smithson indicated they would have no objections if the safety order contained a section that the operators, maintenance mechanics or electricians be properly trained in the operation of these machines.

Mr. Kenneth Pace, Schlage Lock Company, concurred with remarks previously made. Mr. F. W. Wunderlich, Guy F. Atkinson Company, read into the record remarks from a letter written in to make comments on issues for hearing on this date. Mr. Wunderlich said his company objects to (d) and (b) saying they are redundant and should be deleted. Mr. Wunderlich said his division, Highway Marine Division, did not agree with this statement.

Page 6, 3328, 3329 and 3330; Page 7, 3575, Page 8, Continuation of 3575, Page 9, Continuation of 3575 and Page 10, Continuation. No discussion.

Page 11, 3576. No discussion.

Page 12, 3577

Mr. Carl Pfaff, Division of Industrial Safety, read into the record and submitted their proposals to the Board in writing, suggested changes from the Division. The first paragraph would b (a), renumber (a) to (b), delete "Protection hoods will not be required on" from (b) and move (b) to Exceptions as (6). No further discussion.

Page 13, Continuation of 3577; page 14, 3578; page 15, continuation 3578; page 16, continuation 3578, No discussion.

Page 17, 3579

Mr. Wunderlich read into the record a recommendation from Guy F. Atkinson Company, that (i) Type 27 and 28 wheels design be modified where a portion of the guard in some cases is removed and in other cases it is removed and relocated. Mr. Hull, Division of Industrial Safety, said the Division is inclined to believe this would be an improvement and provide effective safety but that it would not fit into ANSI standards for this type of guard. Mr. Turner said the Standards Board is committed to providing reasonable and enforceable standards and asked Mr. Hull if the suggested modification would be reasonable and enforceable. Mr. Hull said the Division would have no objection to removing portions of the guard but not removal entirely. Mr. Turner then, by Board agreement, instructed Mr. Rinaldi, the Board's Executive Officer, to pay particular attention to this section to see how this issue is resolved.

Page 18, Continuation of 3579; Page 19, Continuation of 3579. No discussion.

Page 20, 3581

Mr. Wunderlich, Guy F. Atkinson Company, read into the record the written recommendation that "extreme temperatures" be more explicitly defined and suggests reference to ANSI B7.1-1970. There was no further discussion.

Page 21, Continuation 3581; page 22, continuation; page 23, continuation; page 24, continuation; page 25, continuation; Page 26, 3941. No discussion.

Page 27, 3941

Mr. Wunderlich, Guy F. Atkinson Company, read into the record the suggestion of the company for an addition to (a)(16) "or by automatic control devices" . No further discussion.

Page 28, 3942. No discussion

Page 29, 3943

Mr. Wunderlich, Guy F. Atkinson Company, read into the record the suggestion of the company to delete the word "metal" from the next to last line in (b). The Company also had a question as to clarification of "one-quarter wider" than the belt in (g). It was suggested that the word "width" be added.

Page 30, 3943, Continuation

Mr. Wunderlich, Guy F. Atkinson Company, read into the record the questions the company had with regard to this section. There was question on the part of Mr. Turner as to why this section had to be included. The answers from the Division of Industrial Safety representative were not satisfactory therefore Mr. Turner said since it is in this standard, it could be assumed it is a Federal OSHA requirement. The Board then requested Mr. Rinaldi to check into the issue to see if this was the case.

Page 31, Continuation 3943

Mr. Wunderlich stated he would read into the record the recommendations contained in the letter from the company but that the Highway Marine Division does not concur with the suggestion to change the minimum height of guard from floor or platform level of 7 to 8 feet.

Page 32, 3943 Continuation; Page 33, continuation; Page 34, continuation;
Page 35, continuation; Page 36, 3945; Page 37, 3995; Page 38, 3998;
Page 39, 4000; Page 40, 4002; Page 41, 4060; Page 42, 4061; Page 43, 4070;
Page 44, continuation, 4070; Page 45, 4075, 4077. No discussion.

Page 46, 4085, 4086

Mr. Wunderlich read into the record the company suggestion that (c)
be changed to read "(c) Treadles shall have a non-slip surface." No discussion.

Page 47, 4185, 4186 and 4187. No discussion.

Page 47(a), 4189

Mr. Carl Pfaff, Division of Industrial Safety, said comment from the field
staff of the Division prompted the addition of a section regarding "scope"
to be submitted as a new section 4189. Mr. Pfaff, as requested by Mr. Turner,
read into the record the recommendation of the Division and submitted their
proposals to the Board in writing to add this new section.

Page 48, 4190

Mr. Douglas Hinesley, PSC Corporation, read into the record recommended
changes to (9) (a), (b) and (c) and adding a (d) and (e). These changes
will be submitted to the Board in writing also.

Page 49, continuation 4190; Page 50, continuation 4190.

Page 51, continuation 4190

Carl Pfaff, Division of Industrial Safety, indicated there was an
inadvertant duplication of the definition of power presses which the
Division recommends being removed and reserving number 34 as a reserve
number. This was read into the record, and submitted to the Board in
writing.

Mr. Douglas Hinesley, PSC Corporation, read into the record suggestions of inserting a definition for "point of operation" and defining the point of operation as the "area of operation". These recommendations will be submitted in writing.

Page 52, 4191. No discussion.

Page 53, Continuation of 4191

Carl Pfaff recommended a definition be added for (c) "Barrier Guard" which would be (j) "Interlocked Press Barrier Guard". This recommendation was read into the record and submitted to the Board in writing. Mr. Douglas Hinesley, PSC Corporation read into the record his company's suggestion for (h), "Two Handed Trip Device". There was discussion on the part of the Board as to what this really meant, and why using two hands would be safer. Mr. Hinesley felt that using two hands instead of feet to activate or deactivate a press would limit the margin for accident. This recommendation will be submitted to the Board in writing.

Mr. Alan Peterson, Gaffers & Sattler, Incorporated suggested some changes also to (h). His recommendations were read into the record and will be submitted to the Board in writing. Mr. Peterson, also read into the record suggested word changes to 4191(i). Add "shall extend" after "A Barrier Guard" in the first sentence and in the same sentence change the word "requirement" to "require". Fred Hull, Division of Industrial Safety, agreed to the word change in 4191(i) but was not prepared to comment on the suggested changes to 4191(h) as proposed by Mr. Peterson.

Page 54, 4192

Carl Pfaff read into the record and submitted to the Board in writing the suggested addition of (d) made by the Division of Industrial Safety.

Pages 55, 4193; Page 56, 4194, 4195 and 4196. No discussion.

Page 57, 4197

Mr. Douglas Henesley, PSC Corporation, read into the record suggested additions to (1) and addition of (e). No further discussion.

Page 58, 4198, 4199. No discussion

Page 59, 4200, 4201, 4202 and 4203

Carl Pfaff, Division of Industrial Safety, read into the record and submitted to the Board in writing changes required by the Federal OSHA, Region IX to 4203. Following limited discussion, reference to electrical orders as contained in the "old" 4203 will also be added to this section.

Page 60, 4205

Carl Pfaff said as a result of comment from the field staff changes were made to (b) and a new section (c) added. These changes were read into the record and will be submitted to the Board in writing.

Page 61, 4226; Page 62, 4231; Page 63, 4238; Page 64, 4239; Page 65, Continuation of 4239; Page 66, Continuation of 4239; Page 67, 4240, 4241; Page 68, 4242, 4243; Page 69, 4298, 4299; Page 70, 4300; Page 71, 4201; Page 72, 4302; Page 73, 4305; Page 74, 4306. No discussion

Page 75, 4309

Mr. Wunderlich read into the record the suggested changes made by the company. The Highway Marine Division does not concur with the second paragraph of the suggested changes concerning saws. These proposed changes will be submitted in writing to the Board.

Mr. Rinaldi, Executive Officer, read into the record written comments from Timber Operators Council, Incorporated. These comments will be submitted to the Division of Industrial Safety for review and incorporation if feasible.

Mr. Rinaldi also read into the record written comments from Industrial Indemnity Company regarding the horizontal pull saw. These comments will be submitted to the Division of Industrial Safety for review. Carl Pfaff was requested by the Board to see if these comments can be incorporated if reasonable.

At this point, Dr. Clancy requested a review of Page 66, with regard to adding a definite thermostatic control degree. Following discussion Mr. Fred Hull, Division of Industrial Safety, agreed a temperature degree should be included to indicate what temperature the control should read.

Page 76, 4310

Mr. Wunderlich read into the record the recommended changes from the Guy F. Atkinson Company. These comments will be submitted to the Board in writing.

Page 77, 4311; Page 78, 4318; Page 79, 4319; Page 80, 4321; Page 81, 4324; Page 82, 4325; Page 83, 4328, 4329, 4330, 4331, 4332; Page 84, 4333, 4334, 4335, 4336, 4337, 4338, 4339, 4340, 4341; Page 85, 4347; Page 86, 4580; Page 87, 4531; Page 88, 4582; Page 89, 4583; Pages 90 and 91, continuation of 4583. No discussion

Page 92, 6431

Carl Pfaff, Division of Industrial Safety, read into the record and submitted to the Board in writing the suggested changes made by the Division. It was agreed by Mr. Pfaff and Mr. Hull that the addition was feasible and reasonable.

This concluded discussion on the safety orders pertaining to machine guarding.

The hearing was recessed for lunch and reconvened at 1:35 pm.

B. Proposed Addition to General Industry Safety Orders Relating to Carcinogens

Mr. Turner requested Mr. Bill Steffan, Department of Health, to briefly review the background for this order. Mr. Steffan stated the carcinogen standard had previously been adopted as an emergency standard and after 120 days it had not been adopted by the old board and therefore did not become a permanent standard. He said the Department of Health had renumbered and reduced the Federal standard from thirteen standards to one, separating the liquid and solid chemicals. In going through the Federal standard, the Department corrected some items and changed some wording for a clearer meaning. Mr. Turner then went through the standard page by page to allow comments to be made if desired. Dr. Irma West, Department of Health, said she liked this standard better than the Federal standard, it was easier to read and she felt comfortable with it.

Page 1

The meaning of the double ** was unclear to Dr. Brown whether it referred to "destruction" or "destructive." This will be corrected by the Department of Health representative. The word should be "destructive".

Page 2 and 3. No discussion

Page 4

Mr. M. Schneider, City of Los Angeles, Medical Services, Personnel Department, would like the washing procedure to apply to both (A) and (B) of (2) Closed System Operation under (c) RRegulated Areas.

Page 5

Dr. Brown asked if the air could be run through a scrubber. Mr. Steffan said a water scrubber might be adequate for some chemicals but not all of them. Mr. Schneider said the use of incenerators at 500 degree F would have to be considered for a really effective system.

Page 6

Mr. M. Schneider, City of Los Angeles, objected to the half-face respirator in (D). He said they are unreliable and a better solution would be a full face pressure type respieator.

Page 7

Mr. M. Schneider, City of Los Angeles, would like to suggest that under (f) a full shower be included rather than just the washing procedure.

Page 8. No discussion.

Page 9

Mr. Schneider suggested that "by the carcinogen" be added to the end of (C). He also objected to the use of scrubbers in (F). He recommends the use of an incinerator, an absolute filter, or a charcoal but not water.

Dr. Brown had question on (C) saying that eventually the surface would be contaminated. Mr. Steffan said the procedure calls for something that can be wiped up and thrown away. He stated more description should and would be added to this section.

Page 10. No discussion

Page 11

Mr. Schneider, City of Los Angeles, suggested that draft gauges be placed on the ventilation system as a static pressure and an alarm system that indicates when the hood isn't operating properly. Mr. Steffan objected in that an additional requirement would have to be developed that related to having the gauges checked out. Mr. Steffan said that the draft gauges are essential if people understood what they are there for. It was suggested an educational statement could be included.

Page 12

Mr. Levens suggested the word "single" in (7) be changed to "premixed". Mr. Steffan said that would be a good idea. Mr. Steffan also said the 120 degree F was in error and should be 220 degrees.

Mr. Rinaldi, Executive Officer, read into the record written comments from Electronics Group Rockwell International by Mr. R. H. Beight to change the 120 degree figure in (7). Mr. Steffan had already said this would be done.

Pages 13, 14, 15 and 16. No discussion

Page 17

Mr. Schneider, City of Los Angeles suggested a clarification of "clean air" in the first paragraph. Mr. Steffan felt there couldn't be any more clarification than there was.

Pages 18, 19, 20 and 21. No discussion.

Page 22

Mr. Schneider suggested that ...to the Chief "and Director of the Department of Health" be added to the sentence at the top of the page.

GENERAL INDUSTRY SAFETY ORDERS

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REVISIONS

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MAY 22, 1974

FOR FILING ADMINISTRATIVE REGULATIONS
WITH THE SECRETARY OF STATE

(Pursuant to Government Code Section 11380.1)

SUBCHAPTER 7. GENERAL INDUSTRY SAFETY ORDERS

Repeal Sections 3202, 3203, 3204, 3205, 3206, 3207, 3208 and 3209.

Adopt new Section 3202 to read:

3202. Application. (a) These orders establish minimum standards and apply to all employments and places of employment in California as defined by Labor Code Section 6303 ; provided, however, that when the standards board has adopted or adopts safety orders applying to certain industries, occupations or employments exclusively, in which like conditions and hazards exist, said orders shall take precedence insofar as they are inconsistent with the General Industry Safety Orders hereinafter set forth.

(b) After the date on which these orders become effective, all installations shall conform to these orders.

Exception: Existing installations which are in compliance with safety orders, or variations therefrom, in effect prior to the effective date of these General Industry Safety Orders, provided, however, that where the hazard presented by the installation is, in the judgment of the chief of the division, of such severity as to warrant control by the application of the applicable sections of these orders.

(c) Facsimiles, replicas, reproductions, or simulations, when used for exhibition purposes need not comply with these orders when such compliance would be detrimental to their use for such purposes.

Note: The filing date 12-19-49 shown in the History note of Section 3200 is for the sections originally filed. The filing date of sections subsequently adopted or revised is shown in the History note at the end of the section. Orders become effective 30 days after filing.

Adopt new Section 3203 to read:

3203. "Shall" and "Should." "Shall" means mandatory and "should" means recommended.

DO NOT WRITE IN THIS SPACE

~~FORMERLY 3204~~
Revised

new

~~FORMERLY 3205~~

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FOR FILING ADMINISTRATIVE REGULATIONS
WITH THE SECRETARY OF STATE
(Pursuant to Government Code Section 11380.1)

Adopt new Section 3206 to read:

3206. APPROVALS. (a) When an approval is required in these orders, the Division of Industrial Safety may classify as "Approved" products, materials, devices, systems, or installations that have been approved, listed or labeled as conforming to applicable test standards by Underwriters' Laboratories, Factory Mutual Engineering Inc., U. S. Bureau of Standards, U. S. Bureau of Mines, National Institute for Occupational Safety and Health, or other OSHA accredited testing laboratories.

(b) The Division may require proof in addition to that under (a) that the products, materials, devices, systems, or installations will provide reasonable safety.

(c) When these orders require an approval of products, materials, devices, systems, or installations and that approval is not available under (a), it will be necessary to submit engineering calculations, stress analysis, and other data for each design, model, or make, for which an approval is requested. This means that the product is approved as to design, strength, material, capacity, make, and model. It does not mean that each specific item requires an individual approval.

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FACTORY
revised
3207

DO NOT WRITE IN THIS SPACE

FOR FILING ADMINISTRATIVE REGULATIONS
WITH THE SECRETARY OF STATE

(Pursuant to Government Code Section 11380.1)

Amend Subsections (a) and (b) of Section 3273 to read:

reasonably

3273. Working Area. (a) Permanent floors and platforms shall be maintained in good repair and reasonably free from oil, grease, or water. Where the type of operation necessitates working on slippery floor areas, such surfaces shall be protected against slipping by the use of mats, grates, cleats, or other methods employed to provide equivalent protection. Where wet processes are used, drainage shall be maintained, and false floors, platforms, mats, or other dry standing places shall be provided.

(b) Permanent roadways, walkways, and material storage areas in yards shall be maintained free of dangerous depressions, obstructions, and debris.

DO NOT WRITE IN THIS SPACE

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FOR FILING ADMINISTRATIVE REGULATIONS
WITH THE SECRETARY OF STATE

(Pursuant to Government Code Section 11380.1)

Repeal Section 4000.

Adopt new Section 4000 to read:

4000. Process Machine Power Control. (a) Each process machine driven by an individual prime mover shall be equipped with a prime mover stopping device which can be safely actuated from the operator's working position unless the machine is equipped with a clutch which will stop all machine operations.

(b) Where an operator attends one or more process machines not having individual drive each machine shall be equipped with a stopping device which can be safely actuated from the operator's working position at the machine. Such a stopping device may stop an entire group of machines by stopping the prime mover power transmission or it may be a machine clutch, cut-off coupling, or tight and loose pulley with belt shifter which can stop all the machine operations at any time on any machine. Pole or hand shifting of belts is not considered adequate means for disconnecting the power.

Exception. Where due to the process, machines must be operated in groups, the machine power control may stop the entire group of machines. Such group drives shall be provided with conveniently located, readily accessible, and properly marked or otherwise identified stop stations.

(c) Each process machine simultaneously attended or operated by more than one employee shall be equipped with a machine power control for each employee exposed to point of operation hazards. Said controls shall be interlocked in a manner to prevent operation of machine, unless all controls are operated simultaneously.

Controls for more than one operating station shall be designed to be activated and deactivated in complete sets of two operator's hand controls per operating station by means capable of being supervised by the employer.

} OSHA

(d) Machine power controls shall be maintained in safe operating condition and shall be so designed, installed and/or located that they cannot operate from accidental contact with objects or parts of the body.

DO NOT WRITE IN THIS SPACE

FOR FILING ADMINISTRATIVE REGULATIONS
WITH THE SECRETARY OF STATE

(Pursuant to Government Code Section 11380.1)

Repeal Section 4002.

Adopt new Section 4002 to read:

4002. Revolving and Reciprocating Parts. (a) Hazardous revolving or reciprocating parts in any machine not guarded by the frame of the machine or by location shall be guarded.

(b) Keys, set screws, projections or recesses in revolving or reciprocating parts not guarded by the frame of the machine or by location shall be removed, made flush or guarded.

DO NOT WRITE IN THIS SPACE

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86186-750 9-71 25M OSP

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OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

1006 FOURTH STREET
SACRAMENTO, CA. 95814
(916) 322-3640

SUMMARY

PUBLIC HEARING OCCUPATIONAL SAFETY & HEALTH STANDARDS BOARD

June 25, 1974
Los Angeles, Ca.

Mr. A. W. Turner, Chairman, called the public hearing of the Occupational Safety and Health Standards Board to order at 10:10 am in Los Angeles at 107 South Broadway.

MEMBERS PRESENT:

A. W. Turner, Chairman
Dr. H. Brown
Dr. P. Clancy
Wm. Stuckey
Leo Westwater

MEMBERS ABSENT:

Earl Coke
G. O'Hara

STAFF PRESENT:

R. T. Rinaldi, Executive Officer
K. Stevens, Administrative Assistant
Neysa Walker, Recorder

Mr. Turner introduced the Board Members and asked Mr. Rinaldi to introduce the staff present. Mr. Rinaldi also introduced the representatives from the Department of Health, Wm. Steffan and from the Division of Industrial Safety, Carl Pfaff and Fred Hull.

Before proceeding with the agenda, Mr. Turner stated that the Board would have a tremendous volume of work over the next nine to twelve months to bring California's standards into "at least as effective" status with the Federal OSHA as agreed to in the California State Plan by October 1, 1975 which is an extension of some several months. The Board meets once a month and intends to give everyone that desires to

participate opportunity to do so, however, in the interest of time, Mr. Turner hoped would not be necessary for interested persons to testify or repeat the same statements previously made by other witnesses.

Mr. Turner also indicated that the field staff of the Division of Industrial Safety has submitted a number of changes for incorporation and the Board would accord the Division representatives the same consideration in offering testimony as anyone else.

A. Proposed Additions and Revisions to the General Industry Safety Orders Relating to Machine Guarding

Mr. Turner said the ground rules for hearing testimony for this item would be that he would call the page number, the standard section number and request that interested persons testify only on the standard up for discussion

Page 1, 3202; Page 2, 3206 - No discussion

Page 3, 3273

Ernest Levens, McDonnell Douglas Corporation, objected to the word "dangerous" in both (a) and (b) of this section because of the absoluteness of the word. He recommended that the word "reasonably" be added to (b) "shall be maintained "reasonably" free of" Mr. Carl Pfaff, Division of Industrial Safety, said the regional office of the Federal OSHA objects to the use of that word.

Page 4, 3303

Mr. Rinaldi, Executive Officer, read into the record a letter from Conseco, San Leandro, Ca. signed by Ronald B. Smith. Mr. Rinaldi said the Division of Industrial Safety and the Board had copies of the letter. There was no discussion.

Page 5, 3314

Mr. Del Dimmitt, General Dynamics, Convair, objected to the wording of this section, because, if literally interpreted, it would prevent or seriously hamper the use of numerically controlled machines and other similar machines when power is essential for machine movements and is required to permit positioning or installation of dies or fixtures.

Mr. Dimmitt said that power for operation was essential for repair or diagnosing. Mr. John Smithson, Convair, General Dynamics, also gave testimony and concurred with what Mr. Dimmitt had said.

There was discussion with the Division of Industrial Safety suggesting a "locked key" type of "off" connection. Both Mr. Dimmitt

and Mr. Smithson said this would not work and suggested that another section be added to read....(e) The provisions of this section do not apply to Numerically Controlled machines or other machine tools wherein failure diagnosis, repair and/or setting up operations require that the machine be energized.

Mr. Lloyd Skaggs, Rockwell International B-1 Division and Mr. Gordon Warren, of the same company concurred with the statements and the proposed revision made by Mr. Dimmitt. Both these men and Carl Pfaff, Division of Industrial Safety testified that as far as they knew there had not been an accident due to machines such as those under discussion not being de-energized.

Mr. Frank Stine, Northrop Corporation, Aircraft Division concurred with the statements made by Mr. Dimmitt and Mr. Smithson adding that safety aspects are built into the equipment and that one of the greatest safety safeguards is to have persons operating the machines be knowledgeable and experienced and to have had adequate training. Mr. James Shively, Teledyne Ryan, concurred

with the statements of Mr. Dimmitt and Mr. Smithson and also concurred with Mr. Stine's remarks that trained personnel was a safeguard also. Dr. Brown suggested that the safety order contain a section that the operators of these machines be specially trained. Mr. Smithson indicated they would have no objections if the safety order contained a section that the operators, maintenance mechanics or electricians be properly trained in the operation of these machines.

Mr. Kenneth Pace, Schlage Lock Company, concurred with remarks previously made. Mr. F. W. Wunderlich, Guy F. Atkinson Company, read into the record remarks from a letter written in to make comments on issues for hearing on this date. Mr. Wunderlich said his company objects to (d) and (b) saying they are redundant and should be deleted. Mr. Wunderlich said his division, Highway Marine Division, did not agree with this statement.

Page 6, 3328, 3329 and 3330; Page 7, 3575, Page 8, Continuation of 3575, Page 9, Continuation of 3575 and Page 10, Continuation. No discussion.

Page 11, 3576. No discussion.

Page 12, 3577

Mr. Carl Pfaff, Division of Industrial Safety, read into the record and submitted their proposals to the Board in writing, suggested changes from the Division. The first paragraph would be (a), renumber (a) to (b), delete "Protection hoods will not be required on" from (b) and move (b) to Exceptions as (6). No further discussion.

Page 13, Continuation of 3577; page 14, 3578; page 15, continuation 3578; page 16, continuation 3578, No discussion.

Page 17, 3579

Mr. Wunderlich read into the record a recommendation from Guy F. Atkinson Company, that (i) Type 27 and 28 wheels design be modified where a portion of the guard in some cases is removed and in other cases it is removed and relocated. Mr. Hull, Division of Industrial Safety, said the Division is inclined to believe this would be an improvement and provide effective safety but that it would not fit into ANSI standards for this type of guard. Mr. Turner said the Standards Board is committed to providing reasonable and enforceable standards and asked Mr. Hull if the suggested modification would be reasonable and enforceable. Mr. Hull said the Division would have no objection to removing portions of the guard but not removal entirely. Mr. Turner then, by Board agreement, instructed Mr. Rinaldi, the Board's Executive Officer, to pay particular attention to this section to see how this issue is resolved.

Page 18, Continuation of 3579; Page 19, Continuation of 3579. No discussion.

Page 20, 3581

Mr. Wunderlich, Guy F. Atkinson Company, read into the record the written recommendation that "extreme temperatures" be more explicitly defined and suggests reference to ANSI B7.1-1970. There was no further discussion.

Page 21, Continuation 3581; page 22, continuation; page 23, continuation; page 24, continuation; page 25, continuation; Page 26, 3941. No discussion.

Page 27, 3941

Mr. Wunderlich, Guy F. Atkinson Company, read into the record the suggestion of the company for an addition to (a)(16) "or by automatic control devices" . No further discussion.

Page 28, 3942. No discussion

Page 29, 3943

Mr. Wunderlich, Guy F. Atkinson Company, read into the record the suggestion of the company to delete the word "metal" from the next to last line in (b). The Company also had a question as to clarification of "one-quarter wider" than the belt in (g). It was suggested that the word "width" be added.

Page 30, 3943, Continuation

Mr. Wunderlich, Guy F. Atkinson Company, read into the record the questions the company had with regard to this section. There was question on the part of Mr. Turner as to why this section had to be included. The answers from the Division of Industrial Safety representative were not satisfactory therefore Mr. Turner said since it is in this standard, it could be assumed it is a Federal OSHA requirement. The Board then requested Mr. Rinaldi to check into the issue to see if this was the case.

Page 31, Continuation 3943

Mr. Wunderlich stated he would read into the record the recommendations contained in the letter from the company but that the Highway Marine Division does not concur with the suggestion to change the minimum height of guard from floor or platform level of 7 to 8 feet.

Page 32, 3943 Continuation; Page 33, continuation; Page 34, continuation;
Page 35, continuation; Page 36, 3945; Page 37, 3995; Page 38, 3998;
Page 39, 4000; Page 40, 4002; Page 41, 4060; Page 42, 4061; Page 43, 4070;
Page 44, continuation, 4070; Page 45, 4075, 4077. No discussion.

Page 46, 4085, 4086

Mr. Wunderlich read into the record the company suggestion that (c)
be changed to read "(c) Treadles shall have a non-slip surface." No discussion.

Page 47, 4185, 4186 and 4187. No discussion.

Page 47(a), 4189

Mr. Carl Pfaff, Division of Industrial Safety, said comment from the field
staff of the Division prompted the addition of a section regarding "scope"
to be submitted as a new section 4189. Mr. Pfaff, as requested by Mr. Turner,
read into the record the recommendation of the Division and submitted their
proposals to the Board in writing to add this new section.

Page 48, 4190

Mr. Douglas Hinesley, PSC Corporation, read into the record recommended
changes to (9) (a), (b) and (c) and adding a (d) and (e). These changes
will be submitted to the Board in writing also.

Page 49, continuation 4190; Page 50, continuation 4190.

Page 51, continuation 4190

Carl Pfaff, Division of Industrial Safety, indicated there was an
inadvertant duplication of the definition of power presses which the
Division recommends being removed and reserving number 34 as a reserve
number. This was read into the record, and submitted to the Board in
writing.

Mr. Douglas Hinesley, PSC Corporation, read into the record suggestions of inserting a definition for "point of operation" and defining the point of operation as the "area of operation". These recommendations will be submitted in writing.

Page 52, 4191. No discussion.

Page 53, Continuation of 4191

Carl Pfaff recommended a definition be added for (c) "Barrier Guard" which would be (j) "Interlocked Press Barrier Guard". This recommendation was read into the record and submitted to the Board in writing. Mr. Douglas Hinesley, PSC Corporation read into the record his company's suggestion for (h), "Two Handed Trip Device". There was discussion on the part of the Board as to what this really meant, and why using two hands would be safer. Mr. Hinesley felt that using two hands instead of feet to activate or deactivate a press would limit the margin for accident. This recommendation will be submitted to the Board in writing.

Mr. Alan Peterson, Gaffers & Sattler, Incorporated suggested some changes also to (h). His recommendations were read into the record and will be submitted to the Board in writing. Mr. Peterson, also read into the record suggested word changes to 4191(i). Add "shall extend" after "A Barrier Guard" in the first sentence and in the same sentence change the word "requirement" to "require". Fred Hull, Division of Industrial Safety, agreed to the word change in 4191(i) but was not prepared to comment on the suggested changes to 4191(h) as proposed by Mr. Peterson.

Page 54, 4192

Carl Pfaff read into the record and submitted to the Board in writing the suggested addition of (d) made by the Division of Industrial Safety.

Pages 55, 4193; Page 56, 4194, 4195 and 4196. No discussion.

Page 57, 4197

Mr. Douglas Henesley, PSC Corporation, read into the record suggested additions to (1) and addition of (e). No further discussion.

Page 58, 4198, 4199. No discussion

Page 59, 4200; 4201, 4202 and 4203

Carl Pfaff, Division of Industrial Safety, read into the record and submitted to the Board in writing changes required by the Federal OSHA, Region IX to 4203. Following limited discussion, reference to electrical orders as contained in the "old" 4203 will also be added to this section.

Page 60, 4205

Carl Pfaff said as a result of comment from the field staff changes were made to (b) and a new section (c) added. These changes were read into the record and will be submitted to the Board in writing.

Page 61, 4226; Page 62, 4231; Page 63, 4238; Page 64, 4239; Page 65, Continuation of 4239; Page 66, Continuation of 4239; Page 67, 4240, 4241; Page 68, 4242, 4243; Page 69, 4298, 4299; Page 70, 4300; Page 71, 4201; Page 72, 4302; Page 73, 4305; Page 74, 4306. No discussion

Page 75, 4309

Mr. Wunderlich read into the record the suggested changes made by the company. The Highway Marine Division does not concur with the second paragraph of the suggested changes concerning saws. These proposed changes will be submitted in writing to the Board.

Mr. Rinaldi, Executive Officer, read into the record written comments from Timber Operators Council, Incorporated. These comments will be submitted to the Division of Industrial Safety for review and incorporation if feasible.

Mr. Rinaldi also read into the record written comments from Industrial Indemnity Company regarding the horizontal pull saw. These comments will be submitted to the Division of Industrial Safety for review. Carl Pfaff was requested by the Board to see if these comments can be incorporated if reasonable.

At this point, Dr. Clancy requested a review of Page 66, with regard to adding a definite thermostatic control degree. Following discussion Mr. Fred Hull, Division of Industrial Safety, agreed a temperature degree should be included to indicate what temperature the control should read.

Page 76, 4310

Mr. Wunderlich read into the record the recommended changes from the Guy F. Atkinson Company. These comments will be submitted to the Board in writing.

Page 77, 4311; Page 78, 4318; Page 79, 4319; Page 80, 4321; Page 81, 4324; Page 82, 4325; Page 83, 4328, 4329, 4330, 4331, 4332; Page 84, 4333, 4334, 4335, 4336, 4337, 4338, 4339, 4340, 4341; Page 85, 4597; Page 86, 4580; Page 87, 4531; Page 88, 4582; Page 89, 4583; Pages 90 and 91, continuation of 4583. No discussion

Page 92, 6431

Carl Pfaff, Division of Industrial Safety, read into the record and submitted to the Board in writing the suggested changes made by the Division. It was agreed by Mr. Pfaff and Mr. Hull that the addition was feasible and reasonable.

This concluded discussion on the safety orders pertaining to machine guarding.

The hearing was recessed for lunch and reconvened at 1:35 pm.

B. Proposed Addition to General Industry Safety Orders Relating to Carcinogens

Mr. Turner requested Mr. Bill Steffan, Department of Health, to briefly review the background for this order. Mr. Steffan stated the carcinogen standard had previously been adopted as an emergency standard and after 120 days it had not been adopted by the old board and therefore did not become a permanent standard. He said the Department of Health had renumbered and reduced the Federal standard from thirteen standards to one, separating the liquid and solid chemicals. In going through the Federal standard, the Department corrected some items and changed some wording for a clearer meaning. Mr. Turner then went through the standard page by page to allow comments to be made if desired. Dr. Irma West, Department of Health, said she liked this standard better than the Federal standard, it was easier to read and she felt comfortable with it.

Page 1

The meaning of the double ** was unclear to Dr. Brown whether it referred to distillation or installation. This will be corrected by the Department of Health representative.

Page 2 and 3. No discussion

Page 4

Mr. M. Schneider, City of Los Angeles, Medical Services, Personnel Department, would like the washing procedure to apply to both (A) and (B) of (2) Closed System Operation under (c) REgulated Areas.

Page 5

Dr. Brown asked if the air could be run through a scrubber. Mr. Steffan said a water scrubber might be adequate for some chemicals but not all of them. Mr. Schneider said the use of incinerators at 500 degree F would have to be considered for a really effective system.

Page 6

Mr. M. Schneider, City of Los Angeles, objected to the half-face respirator in (D). He said they are unreliable and a better solution would be a full face pressure type respieator.

Page 7

Mr. M. Schneider, City of Los Angeles, would like to suggest that under (f) a full shower be included rather than just the washing procedure.

Page 8. No discussion.

Page 9

Mr. Schneider suggested that "by the carcinogen" be added to the end of (C). He also objected to the use of scrubbers in (F). He recommends the use of an incinerator, an absolute filter, or a charcoal but not water.

Dr. Brown had question on (C) saying that eventually the surface would be contaminated. Mr. Steffan said the procedure calls for something that can be wiped up and thrown away. He stated more description should and would be added to this section.

Page 10. No discussion

Page 11

Mr. Schneider, City of Los Angeles, suggested that draft gauges be placed on the ventilation system as a static pressure and an alarm system that indicates when the hood isn't operating properly. Mr. Steffan objected in that an additional requirement would have to be developed that related to having the gauges checked out. Mr. Steffan said that the draft gauges are essential if people understood what they are there for. It was suggested an educational statement could be included.

Page 12

Mr. Levens suggested the word "single" in (7) be changed to "premixed". Mr. Steffan said that would be a good idea. Mr. Steffan also said the 120 degree F was in error and should be 220 degrees.

Mr. Rinaldi, Executive Officer, read into the record written comments from Electronics Group Rockwell International by Mr. R. H. Beight to change the 120 degree figure in (7). Mr. Steffan had already said this would be done.

Pages 13, 14, 15 and 16. No discussion

Page 17

Mr. Schneider, City of Los Angeles suggested a clarification of "clean air" in the first paragraph. Mr. Steffan felt there couldn't be any more clarification than there was.

Pages 18, 19, 20 and 21. No discussion.

Page 22

Mr. Schneider suggested that ...to the Chief "and Director of the Department of Health" be added to the sentence at the top of the page.

Page 23

Under (B), Mr. Schneider, City of Los Angeles suggested that "and the Director of the Department of Health" be added after the word "Chief".

Page 24

Dr. Brown asked if there was a way under (c) to require employees to report any physical changes to the company such as pregnancy. Mr. Steffan felt that from the enforcement standpoint he didn't know of anything that could be added. Dr. Brown suggested that something be written in that an employee has a duty to report a pregnancy. No further discussion.

Page 25

Mr. Schneider recommended a word change in (C) where "employee's" suitability is written it should be "medical" suitability.

Mr. Turner adjourned this portion of the Public Hearing at 2:30 pm.

Southern
California
Rock
Products
Association

Southern
California
Ready Mixed
Concrete
Association



November 10, 1981

RECEIVED
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CAL/OSHA
STANDARDS BOARD

Mr. Gerald P. O'Hara, Chairman
Occupational Safety and Health
Standards Board
1006 Fourth Street
Sacramento, CA 95814

Dear Mr. O'Hara:

In reviewing the Notice of Public Meeting and Hearing of the Occupational Safety and Health Standards Board, we note that your hearings are scheduled for November 19 in San Diego. For the record, we would like to offer a brief comment that, perhaps, does not change the wording in one section too much but that would be very important to our industry because we have miles and miles of conveyor belts moving sand and gravel from the quarry to the plant operation where it is crushed and processed for the marketplace. We have laws that comply with the Mine Safety and Health Act on the federal level, and they require us to have emergency stop cables which, in essence, is the same as, perhaps, a guarded conveyor belt.

We realize that there are sections specifically covering conveyors, and, at this time, it is not clear to us whether Section 4002 will overlap or supersede Section 3999 regarding conveyors.

We would like to offer the following amendment in the hearing notice on Page 1 of 14, Section 4002:

4002. (a) All machines, parts of machines, or component parts of machines which create hazardous revolving, reciprocating, running, shearing, punching, pressing, squeezing, drawing, cutting, rolling, mixing ~~or similar action~~ including pinch points and shear points, not

Mr. Gerald P. O'Hara
November 10, 1981
Page Two

be guarded by the frame of the machine(s)
or by location or emergency stop cables,
shall be guarded.

Do you feel it imperative that we have someone appear and
testify at the hearing in San Diego? It seems that the
language is not changed that much, and the safety is not
sacrificed in any way, in our opinion. I will call you
on Monday, November 16 in regard to this question.

Most sincerely,



Don Reining
President
S.C.R.P.A. - S.C.R.M.C.A.

DR/jm

November 4, 1981

Mr. A. W. Foster
MARTINEZ SHEET METAL, INC.
4040 Pacheco Blvd.
Martinez, California 94553

Dear Mr. Foster:

We have received your letter dated November 3, 1981 with respect to the proposed revisions to Machine Guarding as contained in the General Industry Safety Orders, which will be considered by the Standards Board at their Public Hearing on November 19, 1981 in San Diego, California.

Your letter will be made part of the Board's official record of proceedings in this matter.

We appreciate your interest in this matter and can assure you that your comments will be given every consideration by the Members of the Occupational Safety and Health Standards Board.

Sincerely,

R. T. RINALDI
Executive Officer

/tln

cc: Dr. Alvin Greenberg
John L. Bobis
All Standards Board Members



OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

1006 FOURTH STREET
SACRAMENTO, CA 95814
(916) 322-3640

SUMMARY

PUBLIC HEARING
November 19, 1981
San Diego

CALL TO ORDER AND
INTRODUCTIONS

Chairman Gerald P. O'Hara called the Public Hearing of the Occupational Safety and Health Standards Board to order at 10:15 p.m. on November 19, 1981 in the Auditorium of the California State Building located at 1350 Front Street in San Diego, California.

ATTENDANCE

Board Members Present

Gerald P. O'Hara, Chairman
Edward Ashton
Jack Brantley
William Donnelly
Margaret O'Grady
Raymond Rodriguez

Board Member Absent

Dr. John Peters

Board Staff Present

R. T. Rinaldi
John L. Bobis
Clinton Vanneman
Steven Rodriguez
Terri L. Murphy

DOSH Representative

Dr. Alvin Greenberg

OTHERS PRESENT:

Jasper Hempel, WGA
Joel Nelsen, Fresh Produce Council
Terry Leavitt, SMACNA, Oakland
Phil Vermeulen, SMACNA
Charles Baxter, SMACNA, S.D.
Doug Miller, R. J. L.
Bradley Roberts, GEMCON
Bill Taylor, University Mechanical
A. C. Anderson, Pacific Telephone
John Child, Pacific Marine Sheet
Metal

Dennis Myers, Sunworld
Jerry King, SC Rock Products Assoc.
William LenHeim, SMACNA
B. William, Bell Milab Lab
R. S. Hayden, J & H
Donald C. Mitchell, GEMCON
Horst W. Neu, Northrop Corp.
Dave Osier, University Mechanical
R. D. Leonard, General Dynamics/Convair
Daniel Covarrubias, Sanidad Vegetal
SARH, Mexico

OTHERS PRESENT (continued)

James McGovern, Rohr Industries
 Craig Rasmussen, Ballantine Prod.
 Carl Tumbleton, Matson Terminals
 Chet Swafford, Hopper, Inc.
 Fred Deventer, Metropolitan
 Stevedore Co.
 R. D. Quaresma, Lent Eng., Inc.
 B. D. Momtaz, Northrop Corp.
 H. K. Gillespie, Pacific Merchant
 Shipping Assoc.
 Bill Bristol, Cal/OSHA
 D. Peters, So. Calif. Edison Co.
 H. B. Carlite, Shell
 Wally Nelsen, Lucky Stores, Inc.
 Melissa Blackburn, Center for
 Public Interest Law
 Lee Mullaney, General Dynamics

William Ehmcke, W. G. Ehmicke Sheet
 Metal
 R. J. McKeand, Great Lakes Chemical
 Larry Barnes, Hopper Inc.
 J. Boyd, Globe Weis
 Michael Allderdice, Sunkist
 Cliff Erickson, Cal/OSHA Consult.
 J. N. Fenton, Northrop Corp.
 Earl Lash, Union Oil
 Larry Andrus, Cal/OSHA Consult.
 Larry Roberts, Air Metal Prod.
 R. R. Reed, So. Calif. Edison Co.
 Don Brunet, American Metal Stamping
 Association
 Augie Perez, Silver Creek Packing Co.
 Stephen Brennen, Press, Shear Control
 Corporation

A. PROPOSED SAFETY ORDERSOLD BUSINESS

1. Permissible Exposure Limits for Ethylene Dibromide Section 5155, Tables AC-1 & AC-2, Section 5228 and New Section 5219

Mr. O'Hara called to order the the continuance public hearing from the November 12, 1981 Public Hearing regarding Ethylene Dibromide (EDB). See the official transcript prepared by Peters Shorthand Reporting Corporation.

ADJOURNMENT
 OF OLD BUSINESS

Mr. O'Hara adjourned the Old Business of the Public Hearing at 11:15 a.m.

NEW BUSINESS

1. GISO, Machinery, Press Brake, Hydraulic & Pnuematic Press and Riveter Guarding Requirements

Mr. O'Hara called to order the Public Hearing of New Business at 11:30 a.m. regarding Machinery, Press Brake, Hydraulic & Pnuematic Press and Riveter Guarding Requirements.

Mr. O'Hara requested Mr. Bobis of the Board's staff to brief the Board on this proposal.

1. Machine Guarding
(continued)
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Mr. Bobis stated that in addition to the statements contained in the Initial General Statement of Reasons, the proposed regulations precipitated as a result of confusion existing in the industry as to what specific regulations addressed the hazards of press brakes. Presently, Section 4189, of the General Industry Safety Orders, which has been in existence for many years, includes press brakes from the requirements of Article 55 dealing with point of operation guarding. In addition to press brakes, rivet setting machines, bull dozers, forging presses and hammers and other similar metal forging machines are also excluded from the requirements of Article 55. Existing Section 4184(b) under general guarding requirements, however, places the above metal forging machines back into the regulations. Therefore, confusion has existed whether or not press brakes, rivet setting machines, etc., are covered by the regulations and point of operation guarding should be provided as required by the regulations contained in Group 8 of the General Industry Safety Orders.

Mr. Bobis stated that the Board was requested by the Sheet Metal Contractors Association, the Division of Occupational Safety and Health and the Cal/OSHA Consultants to consider promulgating specific standards addressing press brakes and rivet setting machines, more commonly referred to as power operated presses. As a result, several advisory committee meetings were held and the regulations proposed before the Board's consideration represents a consensus of the advisory committee. It should be noted, however, that during the side by side code comparison, Region IX of the U. S. Department of Labor, OSHA, would not

1. Machine Guarding
(continued)

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approve the proposed regulations developed by the advisory committee without 14 revisions. Of the 14 revisions, 13 constituted nonsubstantive change and one is a substantive change. The substantive change addressed the condition under which power brakes do not have to be guarded. This matter is contained in proposed Section 4214(b)(9)(B).

Jerry King, So. Calif. Rock Products Association, stated that their member companies are mainly concerned with Section 4002(a) in that they cannot tell whether or not this section would specifically apply to conveyor belts. Mr. King also stated that he would submit his statements in writing to the Board.

Mr. Bobis responded that specific regulations dealing with conveyors are contained in Section 3999 of the General Industry Safety Orders.

Mr. King requested that conveyors not be included in Section 4002.

Mr. Donnelly asked if conveyor belts are included in Section 4002.

Mr. Bobis stated that the requirements contained in Section 4002 address general guarding requirements of moving parts of machinery and equipment; whereas, Section 3999 contains specific requirements for all types of conveyors.

Mr. King stated that Federal OSHA inspectors have allowed their companies to guard many miles of conveyors with a stop cable.

Mr. O'Hara stated that Mr. King's comments would be taken under consideration.

Mr. Ashton asked if conveyors would be excluded from Section 4002..

1. Machine Guarding
(continued)

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Mr. Bobis responded that it would just be more specifically covered in Section 4002.

Mr. James Fenton, Northrop Corporation, stated that if Section 4002 were adopted, the compliance cost impact would be great.

Mr. Donnelly requested Mr. Bobis to respond to Mr. Fenton's statement.

Mr. Bobis indicated that there were representatives of the Aircraft Industry present at the advisory committee meetings who concurred with this proposal. The proposed changes to Section 4002 represent only condensation of existing machine guarding requirements presently contained in Section 4002, 4003 and Article 55. The proposed revisions, therefore, to Section 4002, in essence, do not represent a substantive change.

Mr. Don Brunet, American Metal Stamping Assoc., asked if "Dangerous Moving Parts" is described in the definitions since it is a change of wording in Section 4002.

Mr. Bobis indicated that there is a definition for "Dangerous Moving Parts" in the "definitions" section .

Mr. Donnelly asked that the Board's staff review the wording "Dangerous Moving Parts of Machinery or Equipments" and take under consideration deleting the word "Dangerous".

Mr. Jim McGovern, Rohr Industry, indicated that these regulations may be too restrictive and too exclusive to require the guarding of all "hazardous" moving parts of machines or parts of machines.

1. Machine Guarding
(continued)
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Mr. Bobis responded that existing requirements in Section 4184(b), specifically require that machines which have grinding, shearing, punching, pressing, squeezing, cutting, rolling, mixing or similar action which present hazards to employees must be guarded. The proposed revisions to Section 4002 do not represent a substantial revision to the regulations, it merely relocates this mandate for machine guarding requirements to a more appropriate location.

Mr. Donnelly also indicated that the regulation may be somewhat restrictive and perhaps the standards should be reviewed again by the Board's staff.

Mr. John Child, Pacific Marine Sheet Metal, testified that on occasion, guarding utilized on press brakes interfere with the operation of the machine.

No comments on page 2 of 14.

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Mr. Bobis stated in Section 4189, in the fourth line, the word "mechanical" should be deleted and the word "operated" should be added in between power presses to read "power operated presses". Also, Mr. Bobis stated that to clarify what standards apply to mechanical power presses and which apply to other power operated presses, he would like to add a note following Section 4189 to read: "Note: Section 4192 through 4213 of Article 55 apply to all mechanical power presses (punch presses) and Section 4201 through 4203 of Article 55 apply to all power operated presses regardless of type.".

Mr. O'Hara questioned adding the note because he thought the Board was against adding notes.

1. Machine Guarding
(continued)
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Mr. Bobis responded that this note is intended to clarify the intent of the orders for those who are not familiar with the intent and did not participate in the advisory committee meeting.

Mr. Jim McGovern, Rohr Industries, commented that he basically concurs with this standard except that he challenges the feasibility of the proposed standard for rivet setting machines. Mr. McGovern also stated that he would submit his comments in writing.

Mr. Bradley Robert, General Electro Mechanical Corp., stated that he has the same concerns regarding rivet setting machines and feels it is not appropriate to lump them in the general category with power operated presses. Mr. Robert also stated that he would submit his comments in writing.

Mr. Horst Neu, Northrop Corp., stated that he supports the previous statements that automatic rivet setting machines should not be included in this section.

Mr. R. D. Leonard, General Dynamics/Convair, stated that he also supports the previous statements and he also questions the necessity for this section.

Dr. Alvin Greenberg, DOSH representative, stated there was only 1 amputation during the years 1977, 1978 and 1979 but that there were a total of 198 disabling work injuries involving riveting machines of which a 106 were cuts and punctures and 150 of them were as a result of being caught in between moving parts. If one only looks at amputations, he will not get the true perspective as to the nature of the hazard involved.

1. Machine Guarding
(continued)
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Mr. Terry Leavitt, Sheet Metal Contractors Assoc., stated that his primary concern is the Division's Administrative Interpretation concerning this issue which is utilized by the Division for enforcement provisions. Many of the California sheet metal members have been cited for allegedly violating the provisions of Article 55 based on the Division's Administrative Interpretations. In his opinion, the Administrative Interpretation contradicts the intent of present Article 55.

Mr. Lee Mullaney, General Dynamics, expressed his opposition to the statistical information which was utilized to determine the necessity of the proposed revisions. Mr. Mullaney stressed that the cost of installing point of operation guards on riveting machines would be too expensive and would probably interfere with their operations.

Mr. O'Hara asked Mr. Mullaney how General Dynamics is avoiding accidents.

Mr. Mullaney responded that General Dynamics has a reasonably good training program.

Mr. Phillip Vermeulen, SMACNA, stated that it would be a very big financial impact on the industry to have to purchase guards for machinery whether they are used or not.

1. Machine Guarding
(continued)
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Mr. William Lenheim, SMACNA, expressed his concerns with respect to the economic feasibility and economic impact particularly on small businesses. Small business routinely manufacture limited amounts and the installation of point of operation guards which hamper or substantially interfere with the operations.

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Mr. Bobis requested that on page 6, the definition for Power Operated Presses, line 5, be changed to read: "power presses (punch presses), press brakes, hydraulic power presses (punch presses), and rivet setting machines".

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Mr. Don Brunet, American Metal Stamping Assoc., stated that he was concerned with Section 4190, Control Identification, as to how a control button is to be identified.

Mr. O'Hara stated that the staff will be advised to clarify how a control button is to be identified.

Mr. R. D. Leonard, General Dynamics, stated that for many years all the machines he has worked on have red Auto Stop Buttons, and that if you change all of these to yellow he feels that it would be very dangerous.

Mr. Bobis stated that these colors for control buttons have been chosen only to make the control buttons uniform for employees going from one shop to another.

Mr. O'Hara indicated that this is a dramatic change for purposes of continuity and recommended that this might be just phased in.

1. Machine Guarding
(continued)
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Mr. Horst Neu, Northrop, stated that he fully agrees with Mr. Leonard and suggests that it should read "red or yellow".

Mr. R. D. Leonard, General Dynamics, suggested that in Section 4202(a), the operator be required to inspect power presses every day before using them and at that time, if something is wrong, he would then call a maintenance man.

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Mr. Bobis recommended that in Section 4214(b)(9) the phrase "/or" be inserted in the first line to read "when the nature of the work or size and/or ...". Mr. Bobis also recommended that the phrase "/or shape" be added in Section 4214(b)(9)(B) aft the word "size"; and the phrase "so that the operator's hand's never enter the point of operation" between the words "used" and "and" in Section 4214(b)(9)(B).

Mr. O'Hara stated that without any objection, that will be the order.

Mr. R. D. Leonard, General Dynamics, stated that he is concerned with the enforcement problems Subsections (9)(A), (B) and (C) would cause by having the employee putting on and taking off the guards throughout the day doing various jobs.

Mr. John Bobis responded that Federal OSHA has a Field Directive, STD 1-12.12. which requires the guarding of all press brakes through the use of hand tools. Since Region IX of Federal OSHA would not approve the proposal with similar language, proposed Section 4214(b)(9)(B) incorporates similar language which was approved by Federal OSHA.

1. Machine Guarding
(continued)
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Mr. James Fenton, Northrop, stated that the language in Subsection (9)(A), (B) and (C) requires that "When the nature of..." apply only to general purpose press brakes, which appears to indicate that there's only one operator. This would cause problems with his organization because due to the size of the material they use, they have two men working on press brakes and therefore would not be in compliance with these orders.

Mr. Donnelly asked Mr. Fenton if he interprets (9)(C) to mean press brakes are only operated by one person.

Mr. Fenton responded yes.

Dr. Greenberg stated in Subsection (c)(1) in the brackets where it reads [see 4193(2).] it should read [see 4193(d)(2).].

Mr. Chet Swafford, Hopper Inc., recommended that the language which was developed and agreed upon by the advisory committee be retained verbatim, in lieu of the proposed Section 4214(b)(9)(B).

Mr. Bobis stated that the proposed modified language has been approved by Region IX of Federal OSHA which adds "so that the operator's hands never enter the point of operation," to Section 4214(b)(9)(B). Even with the modified language, the proposed revision is essentially the same as the one the advisory committee agreed upon.

1. Machine Guarding
(continued)
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Mr. Bobis also stated that the Division has an Administrative Interpretation, AI-100, dated November 15, 1980 which is presently used to enforce the point of operation guarding regulations for metal forging machines. The AI does not contain an exception for power brakes, riveting machines or any other similar metal forging machines. Therefore, all machines listed in Article 55 must be guarded at the point of operations as required by the regulations. Since under certain conditions press brakes can not be guarded, the proposed regulations were specifically developed for press brakes to address this exception.

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Mr. Bobis recommended that after the title in Section 4215, add "Punch Brakes" in parentheses.

Mr. O'Hara stated that without objection, that would be the order.

Mr. James McGovern, Rohr Ind., requested that press brakes operating at slow speeds be exempted from the proposed regulations.

Mr. O'Hara asked Mr. Bobis if this was taken under consideration by the advisory committee.

Mr. Bobis responded that this was considered by the advisory committee and that they rejected it.

Mr. Don Brunet, American Sheet Metal Stamping Assoc., requested that in Section 4215(a)(2), to be consistent, that ", or" be added at the end of the sentence.

Mr. R. D. Leonard, General Dynamics, requested a minimum 2 year effective date for these revisions.

Machine Guarding
(continued)
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Mr. James Fenton, Northrop, stated that regarding Section 4216, there are conceivable guarding systems available but that they are inconsistent with production methods.

Mr. James McGovern, Rohr Ind., asked why this section has only seven guarding alternatives as opposed to the more hazardous equipment such as mechanical press brakes that permit nine alternatives to guard.

Mr. Don Brunet stated that he also agrees with at least a minimum of a 2 year compliance lead-time.

Mr. Donnelly stated that in light of the extensive testimony heard today, he recommends that this entire proposal go back to the Board's staff for review and clarification and have the standards, in total, returned for Board's consideration at a future public hearing.

Mrs. Margaret O'Grady asked if the proposal should also go back to the advisory committee.

Mr. Donnelly responded that in his opinion the Standards Board staff could handle the review; however, if necessary, the matter could be sent back to the advisory committee.

MOTION

A motion was made by Mr. William Donnelly, seconded by Mr. Edward Ashton, to send this back to the Board's staff for review and clarification.

ROLL CALL VOTE

A roll call vote was taken and all Board Members voted "aye". The motion was unanimously adopted.

ADJOURNMENT

There being no further comments from the audience or the Board, the Chairman adjourned the Public Hearing of the Standards Board at 1:00 p.m.

Memorandum

To : ALL STANDARDS BOARD MEMBERS

Date: September 22, 1981

Melbourne I. Davis
From : Occupational Safety and Health Standards Board

MELBOURNE I. DAVIS, Associate Safety Engineer

Subject: Machinery, Press Brake, Hydraulic & Pnuematic Press, and Riveter
Guarding Requirements

BACKGROUND

The Sheet Metal Contractors Association and the Division of Occupational Safety and Health requested the Standards Board to review the machinery guarding standards in the safety orders in light of the decisions rendered by the Occupational Safety and Health Appeals Board. An advisory committee was appointed for the purpose of reviewing affected machinery guarding regulations within the General Industry Safety Orders and charged with the responsibility of identifying inconsistencies and deficiencies in the machinery guarding orders, Sections 4002, 4003, and 4184, and to develop regulations addressing the guarding of press brakes and riveting machines. Over a period of 1 year, the advisory committee met 3 times with an additional three-day session being held by a sub-committee. The advisory committee's consensus recommendations are now submitted to the Board for its consideration.

SUMMARY

Sections 4002 and 4003 in Group 6 of the General Industry Safety Orders (GISO) address specific motions and conditions which could create hazardous conditions to employees and which would require guarding to protect employees. These are rotating and reciprocating motions, hazardous shear and pinch points, and the keys, set screws, projections or recesses in the revolving or reciprocating parts of machines. Section 4184, Points of Operation and Other Hazardous Parts of Machinery, requires that machines. . ."having a grinding, shearing, pinching, pressing, squeezing, drawing, cutting, rolling, mixing, or similar action, in which an employee comes within the danger zone shall be guarded at the point(s) of operation. . ." (emphasis added). Section 4184(b) requires machines not specifically named but presenting similar hazards at the point(s) of operation as those listed in Section 4184(a) are to be guarded at their point(s) of operation. The intent of the revision of Section 4002 is to include all types of motions which present a potential employee safety hazard at any area of the machinery or device but which are not points of operation to also be guarded. The Occupational Safety and Health Appeals Board vacated citations where Section 4184(a) were cited and the hazard addressed was not a point of operation.

Section 4189, Scope, of the General Industry Safety Orders exempts press brakes, hydraulic and pneumatic power presses and riveters from the requirements of Group 8. The accident history of these machines indicate that guarding is necessary to provide a safe working environment. Presently, guarding of these machines is enforced based on guidelines contained in an Administrative Interpretation (AI 100) of the Division of Occupational Safety and Health. The Division has experienced enforcement difficulties because its administrative interpretations have been ruled by the Appeals Board and courts as not having the force of law.

The proposed revisions to Group 8 Sections 4201, and 4213 through 4216 of the General Industry Safety Orders, will permit definitive alternatives to be used by the employers and will result in enhanced compliance and enforcement efforts.

The U. S. Department of Labor Occupational Safety and Health Administrative, too, has experienced difficulty in enforcing its regulations for the guarding of press brakes. As a result, OSHA program directive STD 1-12.2 (P.D. 100-44) was issued to provide guidance to fill personnel in the application of point of operation guarding for press brakes. (Attachment No. 9) The revisions proposed for Article 55 are consistent with the Federal Directive.

PETITIONS

This proposal was not the result of a petition.

ADVISORY COMMITTEE

The proposed revisions to the subject safety orders were developed with the assistance of a representative advisory committee consisting of labor, management and the interested public. The attendees at the various committee meetings were not the same but the overall make up of the committee remained unchanged. (A list of the advisory committee members, and minutes of the meetings are attached as Attachment No. 8.)

BUILDING STANDARDS

These regulations do not contain building standards as defined in Health and Safety Code Section 18909.

EMERGENCY REGULATIONS

The proposal is not requested to be considered on an emergency basis.

CLARITY AND CONSISTENCY

The proposals appear to be clearly written and clearly understandable in their requirements, if adopted. The staff is not aware of any inconsistency between the proposed regulations and either any other State agencies' regulations or the statutes of the State.

STRIKEOUT/UNDERLINE DRAFT PROPOSAL

See Attachment No. 1.

SIDE-BY-SIDE CODE COMPARISON WITH FEDERAL STANDARD

See Attachment No. 2 for the side-by-side comparison with the comparable Federal standard. Federal approval has not yet been received, but when received will be added in place of Attachment 2.

INFORMATIVE DIGEST OF PROPOSED ACTION

Section 4002: The existing section requires guarding of only the hazards created by pinch points, shear points, and the rotating and reciprocating parts of machines. The proposed revisions would also require guarding of the additional hazards created by running, shearing, punching, pressing, squeezing, drawing, cutting, rolling, mixing, or similar actions of parts of machines.

Section 4188: The existing definitions address only mechanical power presses and their appurtenances. The proposed revisions add specific definitions for the proposed sections addressing press brakes, hydraulic power presses, and riveting machines.

Section 4189: Existing "scope" exempts press brakes, hydraulic power presses, and riveters. The proposal deletes these exemptions.

Section 4190: Presently there are no requirements for the uniform marking or indentifying on control buttons, levers, metal forming operating machinery. The proposal contains specific requirements for identifying control devices.

Section 4201, 4202, 4203, 4206 and 4210: The changes proposed in these sections are of an editorial nature only for greater clarity.

Section 4213: The existing orders do not contain requirements for special purpose press drive motor interlocks. The proposed revision contains specific requirements for these devices.

Section 4214: The existing orders do not contain specific guarding requirements for mechanical or hydraulically powered press brakes. The proposal contains specific guarding requirements or work procedures to be used for mechanical or hydraulic powered press brakes.

Section 4215: The existing orders do not contain specific guarding requirements for hydraulic power presses. The proposal contains specific requirements for the guarding of the points(s) of operation of these devices.

Section 4216: The existing orders do not contain specific guarding requirements for rivet setting equipment. The proposal contains specific requirements for the guarding of the points(s) of operation.

INITIAL GENERAL STATEMENT

See Attachment No. 3.

COMPLIANCE COST ESTIMATES

To State Agencies: Minor Costs (\$0-\$100,000) for compliance by State agencies. Various State agencies may be involved in the forming of metal using power presses. These agencies may experience minor costs due to more stringent regulations.

Local Agencies and School Districts: Pursuant to Section 106, Chapter 1284, Statutes of 1974, the proposed change does not create any obligation for reimbursement by the State to any local agency under Section 2231 of the Revenue and Taxation Code for costs that may be incurred by it in complying with these orders because these orders merely implement Federal law and regulations.

Impact on Housing Costs: The proposal will not significantly affect housing costs.

Federal Funding to State: None.

/tlg.1



OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

1006 FOURTH STREET
SACRAMENTO, CA 95814
(916) 322-3640

ATTACHMENT NO. 3

INITIAL GENERAL STATEMENT OF REASONS
for Title 8, General Industry Safety Orders,
Sections 4002, 4188, 4189, 4190, 4201,
4213, 4214, 4215, and 4216

PURPOSE

The proposed revisions to Section 4002, 4188, 4189, 4190, 4201, 4213 through 4216 of the General Industry Safety Orders are intended to eliminate conflicting and unenforceable regulations related to machine guarding and include new specific points of operation guarding regulations for press brakes, pneumatic and hydraulic operated presses, and riveting machines.

FACTUAL BASIS OF NECESSITY

Section 4002 - Present regulations only require the guarding of hazardous revolving and reciprocating parts of machines. The proposed revision will include specific regulations addressing all machines or component parts of machines which create hazardous revolving, reciprocating, running, shearing, punching, pressing, squeezing, drawing, cutting, rolling, mixing, or similar actions. In one case, the Division of Occupational Safety and Health (DOSH) cited an employer for allegedly violating the requirements of Section 4002(a) involving the unguarded hazardous movements of a machine. The employer filed for and was subsequently granted an appeal by the CAL/OSHA Appeals Board (OSHAB Docket No. 78 R2D3-977) (see attachment No. 6.). The Board ruled that a squeezing or crushing action caused by the cycling of a ram of a metal forming machine was not considered to be a reciprocating motion. The granting of the Appeals from rotating parts are in Appeals Board cases shown in Attachment No. 7.

Section 4188 - The existing regulations do not contain definitions covering the hazardous revolving, reciprocating, running, shearing, punching, pressing, squeezing, drawing or cutting operations of power brakes, hydraulic presses, and riveting machines.

Section 4189 - Presently there are no specific standards addressing the hazards associated with the points of operation of press brakes, pneumatic and hydraulic power presses, and riveters. The "scope" section specifically exempts these machines from the requirements of Group 8. The Sheet Metal Contractors Association and DOSH requested the Board to adopt regulations to clearly define the guarding requirements for these machines. DOSH compliance personnel are presently enforcing the requirements based on an Administrative Interpretation (AI No. 100) entitled "Point of Operation Guarding of Dangerous Machinery". DOSH interprets the wording of Section 4184 (see attachment No. 5) to include all metal forming machines such as press brakes, riveters and pneumatic and hydraulically powered presses. Confusion, therefore, exists in the employer community as to what regulation, if any, addresses the point of operation hazards created by the moving parts of these metal forming machines.

The Standards Board appointed a representative advisory committee for the purpose of developing appropriate revisions and making recommendations for the Board's consideration.

Section 4213 - 4216 - The guarding of the point(s) of operation for press brakes, pneumatic and hydraulic power presses, and riveters are not addressed in Title 8. The new proposed regulations establish specific guarding requirements for these metal forming machines. Presently DOSH has been enforcing the requirements intended specifically for punch presses also for press brakes, pneumatic and hydraulic power presses, and riveters in accordance with the guidelines outlined in its Administrative Interpretation No. AI 100).

SUBSTANTIVE FACTS

The California Division of Labor Statistics and Research (CDLSR) in its latest study of work injuries, dated February 1981, indicates that workers continue to sustain serious injuries while operating press brakes and riveting machines. These injuries are directly related to improper work procedures, lack of point(s) of operation guarding and other causes.

According to CDLSR, in the period of 1977 through 1979, 704 California employees suffered disabling injuries caused during the use of press brakes and riveting machines. Of these injuries, 41 were amputations, 123 were crushing or contusion injuries, 270 were cuts or punctures, 59 were fractures, and 230 were from other causes, such as strains, sprains, etc. (attachment no. 4)

Presently, Article 55 exempts power brakes, hydraulic presses, and riveting machines from the point of operations guarding requirements of power presses. DOSH is currently enforcing the power press requirements for these machines through an Administrative Interpretation (AI 100). The proposed revision to Article 55 will establish specific regulations to indicate the applicable point of operation guarding requirements for these machines.

CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

Amend Title and Section 4002 to read:

4002. ~~Revolving and Reciprocating Parts~~ Dangerous Moving Parts of Machinery or Equipment.

(a) All machines, parts of machines, or component parts of machines which create hazardous revolving, or reciprocating, parts-in-any-machine running, shearing, punching, pressing, squeezing, drawing, cutting, rolling, mixing or similar action, including pinch points and shear points, not guarded by the frame of the machine(s) or by location, shall be guarded.

(b) Dangerous keys, set screws, projections or recesses in revolving or reciprocating parts not guarded by the frame of the machine or by location shall be removed, made flush or guarded.

AUTHORITY CITED: Labor Code Section 142.3.
Reference: Labor Code Section 142.3.

Repeal Section 4003.

~~4003. Pinch Points and Shear Points
Hazardous pinch points and shear points not guarded by the frame of the machine or by location shall be guarded.~~

AUTHORITY CITED: Labor Code Section 142.3.
Reference: Labor Code Section 142.3.

CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

TITLE 8: GENERAL INDUSTRY SAFETY ORDERS
(Articles 41, 54 and 55,
Machine Guarding Standards)

Article, 41, Prime Movers

<u>SECTION</u>	<u>SUBJECT</u>
4002	Dangerous Moving Parts of Machinery or Equipment. Revises section to include hazards created by other types of machine motion and actions.
4003	Pinch and Shear Points. Repealed. Requirements to be included in revised 4002.

Article 54, Scope and General Definitions

<u>SECTION</u>	<u>SUBJECT</u>
4188	General Definitions. Editorial revisions and amends Section to include definitions relating to power operated presses.

Article 55, Punch Presses

<u>SECTION</u>	<u>SUBJECT</u>
4189	Scope. Revised to include press brakes, hydraulic power presses, and riveting machines in the power press guarding requirements.
4190	Control Identification. Transferred definitions and proposed a new section requiring uniform marking or coding of power operated press controls.
4201	Pressure Vessels. Primarily editorial revisions.
4202	Inspection, Maintenance and Modification of Presses. Primarily editorial revisions.
4203	Training. Primarily editorial revisions.
4206	Safeguarding the Point of Operation. Primarily editorial revisions.

STANDARDS PRESENTATION
CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

TITLE 8: GENERAL INDUSTRY SAFETY ORDERS
(Articles 41, 54 and 55,
Machine Guarding Standards) (Continued)

<u>SECTION</u>	<u>SUBJECT</u>
4210	Hand Operated Levers. Primarily editorial revisions.
4213	Special Purpose Press Drive Motor Interlock. New requirements for press ram interlocks.
4214	Press Brakes, Mechanically or Hydraulically Operated. New section addressing the point of operation guarding requirements be used on press brakes.
4215	Hydraulic Power Press. New section addressing the point of operation guarding and related function controls for hydraulic power presses.
4216	Rivet Setting Equipment. New section addressing the point of operation guarding for rivet setting equipment.

There are no building standards contained in this proposal.

Pursuant to Section 106, Chapter 1284, Statutes of 1974, the above order does not create any obligation for reimbursement by the State to any local agency under Section 2231 of the Revenue and Taxation Code for costs that may be incurred by it in complying with this order because this order merely implements Federal law and regulations.

CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

Amend Section 4188 to read:

4188. ~~General~~ Definitions.

(a) General Definitions.

~~(1)~~ (1) Classes. The designation "Class-A" with an order means that the rule applies for all kinds of work. The designation "Class-B" means that the order applies unless the nature of the work, type of machinery, or size and shape of material being worked will not permit.

~~(2)~~ Danger Zone. Any place at or near the point of operation, where an employee may be caught by or between the moving parts of the machine or between moving and stationary parts of the machine, or between the material and the moving part or parts of the machine.

~~(3)~~ Interlock. A device that operates to prevent the operation of a machine while the cover or door of the machine is open or unlocked, and which will also hold the cover or door closed and locked while the machine is in motion.

~~(4)~~ Point of Operation. That part of a machine which performs an operation on the stock or material and/or that point or location where stock or material is fed to the machine. A machine may have more than one point of operation.

AUTHORITY CITED: Labor Code Section 142.3.

Reference: Labor Code Section 142.3.



OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

1006 FOURTH STREET
SACRAMENTO, CA 95814
(916) 322-3640

SUMMARY

PUBLIC HEARING
November 19, 1981
San Diego

CALL TO ORDER AND
INTRODUCTIONS

Chairman Gerald P. O'Hara called the Public Hearing of the Occupational Safety and Health Standards Board to order at 10:15 a.m. on November 19, 1981 in the Auditorium of the California State Building located at 1350 Front Street in San Diego, California.

ATTENDANCE

Board Members Present

Gerald P. O'Hara, Chairman
Edward Ashton
Jack Brantley
William Donnelly
Margaret O'Grady
Raymond Rodriguez

Board Member Absent

Dr. John Peters

Board Staff Present

R. T. Rinaldi
John L. Bobis
Clinton Vanneman
Steven Rodriguez
Terri L. Murphy

DOSH Representative

Dr. Alvin Greenberg

OTHERS PRESENT:

Jasper Hempel, WGA
Joel Nelsen, Fresh Produce Council
Terry Leavitt, SMACNA, Oakland
Phil Vermeulen, SMACNA
Charles Baxter, SMACNA, S.D.
Doug Miller, R. J. L.
Bradley Roberts, GEMCON
Bill Taylor, University Mechanical
A. C. Anderson, Pacific Telephone
John Child, Pacific Marine Sheet
Metal

Dennis Myers, Sunworld
Jerry King, SC Rock Products Assoc.
William LenHeim, SMACNA
B. William, Bell Milab Lab
R. S. Hayden, J & H
Donald C. Mitchell, GEMCON
Horst W. Neu, Northrop Corp.
Dave Osier, University Mechanical
R. D. Leonard, General Dynamics/Convair
Daniel Covarrubias, Sanidad Vegetal
SARH, Mexico

OTHERS PRESENT (continued)

James McGovern, Rohr Industries
 Craig Rasmussen, Ballantine Prod.
 Carl Tumbleton, Matson Terminals
 Chet Swafford, Hopper, Inc.
 Fred Deventer, Metropolitan
 Stevedore Co.
 R. D. Quaresma, Lent Eng., Inc.
 B. D. Momtaz, Northrop Corp.
 H. K. Gillespie, Pacific Merchant
 Shipping Assoc.
 Bill Bristol, Cal/OSHA
 D. Peters, So. Calif. Edison Co.
 H. B. Carlite, Shell
 Wally Nelsen, Lucky Stores, Inc.
 Melissa Blackburn, Center for
 Public Interest Law
 Lee Mullaney, General Dynamics

William Ehmcke, W. G. Ehmicke Sheet
 Metal
 R. J. McKeand, Great Lakes Chemical
 Larry Barnes, Hopper Inc.
 J. Boyd, Globe Weis
 Michael Allderdice, Sunkist
 Cliff Erickson, Cal/OSHA Consult.
 J. N. Fenton, Northrop Corp.
 Earl Lash, Union Oil
 Larry Andrus, Cal/OSHA Consult.
 Larry Roberts, Air Metal Prod.
 R. R. Reed, So. Calif. Edison Co.
 Don Brunet, American Metal Stamping
 Association
 Augie Perez, Silver Creek Packing Co.
 Stephen Brennen, Press, Shear Control
 Corporation

A. PROPOSED SAFETY ORDERSOLD BUSINESS

1. Permissible Exposure Limits
 for Ethylene Dibromide
 Section 5155, Tables AC-1
 & AC-2, Section 5228 and
 New Section 5219

Mr. O'Hara called to order the
 the continuance public hearing from
 the November 12, 1981 Public Hearing
 regarding Ethylene Dibromide (EDB).
 See the official transcript prepared
 by Peters Shorthand Reporting
 Corporation.

ADJOURNMENT
 OF OLD BUSINESS

Mr. O'Hara adjourned the Old Business
 of the Public Hearing at 11:15 a.m.

NEW BUSINESS

1. GISO, Machinery, Press Brake,
 Hydraulic & Pnuematic Press
 and Riveter Guarding
 Requirements

Mr. O'Hara called to order the
 Public Hearing of New Business at
 11:30 a.m. regarding Machinery,
 Press Brake, Hydraulic & Pnuematic
 Press and Riveter Guarding
 Requirements.

Mr. O'Hara requested Mr. Bobis of
 the Board's staff to brief the Board
 on this proposal.

1. Machine Guarding
(continued)
Page 1 of 14

Mr. Bobis stated that in addition to the statements contained in the Initial General Statement of Reasons, the proposed regulations precipitated as a result of confusion existing in the industry as to what specific regulations addressed the hazards of press brakes. Presently, Section 4189, of the General Industry Safety Orders, which has been in existence for many years, includes press brakes from the requirements of Article 55 dealing with point of operation guarding. In addition to press brakes, rivet setting machines, bulldozers, forging presses and hammers and other similar metal forging machines are also excluded from the requirements of Article 55. Existing Section 4184(b) under general guarding requirements, however, places the above metal forging machines back into the regulations. Therefore, confusion has existed whether or not press brakes, rivet setting machines, etc., are covered by the regulations and point of operation guarding should be provided as required by the regulations contained in Group 8 of the General Industry Safety Orders.

Mr. Bobis stated that the Board was requested by the Sheet Metal Contractors Association, the Division of Occupational Safety and Health and the Cal/OSHA Consultants to consider promulgating specific standards addressing press brakes and rivet setting machines, more commonly referred to as power operated presses. As a result, several advisory committee meetings were held and the regulations proposed before the Board's consideration represents a consensus of the advisory committee. It should be noted, however, that during the side by side code comparison, Region IX of the U. S. Department of Labor, OSHA, would not

1. Machine Guarding
(continued)

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approve the proposed regulations developed by the advisory committee without 14 revisions. Of the 14 revisions, 13 constituted nonsubstantive change and one is a substantive change. The substantive change addressed the condition under which power brakes do not have to be guarded. This matter is contained in proposed Section 4214(b)(9)(B).

Jerry King, So. Calif. Rock Products Association, stated that their member companies are mainly concerned with Section 4002(a) in that they cannot tell whether or not this section would specifically apply to conveyor belts. Mr. King also stated that he would submit his statements in writing to the Board.

Mr. Bobis responded that specific regulations dealing with conveyors are contained in Section 3999 of the General Industry Safety Orders.

Mr. King requested that conveyors not be included in Section 4002.

Mr. Donnelly asked if conveyor belts are included in Section 4002.

Mr. Bobis stated that the requirements contained in Section 4002 address general guarding requirements of moving parts of machinery and equipment; whereas, Section 3999 contains specific requirements for all types of conveyors.

Mr. King stated that Federal OSHA inspectors have allowed their companies to guard many miles of conveyors with a stop cable.

Mr. O'Hara stated that Mr. King's comments would be taken under consideration.

Mr. Ashton asked if conveyors would be excluded from Section 4002.

1. Machine Guarding
(continued)

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Mr. Bobis responded that it would just be more specifically covered in Section 4002.

Mr. James Fenton, Northrop Corporation, stated that if Section 4002 were adopted, the compliance cost impact would be great.

Mr. Donnelly requested Mr. Bobis to respond to Mr. Fenton's statement.

Mr. Bobis indicated that there were representatives of the Aircraft Industry present at the advisory committee meetings who concurred with this proposal. The proposed changes to Section 4002 represent only condensation of existing machine guarding requirements presently contained in Section 4002, 4003 and Article 55. The proposed revisions, therefore, to Section 4002, in essence, do not represent a substantive change.

Mr. Don Brunet, American Metal Stamping Assoc., asked if "Dangerous Moving Parts" is described in the definitions since it is a change of wording in Section 4002.

Mr. Bobis indicated that there is a definition for "Dangerous Moving Parts" in the "definitions" section .

Mr. Donnelly asked that the Board's staff review the wording "Dangerous Moving Parts of Machinery or Equipments" and take under consideration deleting the word "Dangerous".

Mr. Jim McGovern, Rohr Industry, indicated that these regulations may be too restrictive and too exclusive to require the guarding of all "hazardous" moving parts of machines or parts of machines.

1. Machine Guarding
(continued)
Page 1 of 14

Mr. Bobis responded that existing requirements in Section 4184(b), specifically require that machines which have grinding, shearing, punching, pressing, squeezing, cutting, rolling, mixing or similar action which present hazards to employees must be guarded. The proposed revisions to Section 4002 do not represent a substantial revision to the regulations, it merely relocates this mandate for machine guarding requirements to a more appropriate location.

Mr. Donnelly also indicated that the regulation may be somewhat restrictive and perhaps the standards should be reviewed again by the Board's staff.

Mr. John Child, Pacific Marine Sheet Metal, testified that on occasion, guarding utilized on press brakes interfere with the operation of the machine.

No comments on page 2 of 14.

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Mr. Bobis stated in Section 4189, in the fourth line, the word "mechanical" should be deleted and the word "operated" should be added in between power presses to read "power operated presses". Also, Mr. Bobis stated that to clarify what standards apply to mechanical power presses and which apply to other power operated presses, he would like to add a note following Section 4189 to read: "Note: Section 4192 through 4213 of Article 55 apply to all mechanical power presses (punch presses) and Section 4201 through 4203 of Article 55 apply to all power operated presses regardless of type."

Mr. O'Hara questioned adding the note because he thought the Board was against adding notes.

1. Machine Guarding
(continued)
Page 3 of 14

Mr. Bobis responded that this note is intended to clarify the intent of the orders for those who are not familiar with the intent and did not participate in the advisory committee meeting.

Mr. Jim McGovern, Rohr Industries, commented that he basically concurs with this standard except that he challenges the feasibility of the proposed standard for rivet setting machines. Mr. McGovern also stated that he would submit his comments in writing.

Mr. Bradley Robert, General Electro Mechanical Corp., stated that he has the same concerns regarding rivet setting machines and feels it is not appropriate to lump them in the general category with power operated presses. Mr. Robert also stated that he would submit his comments in writing.

Mr. Horst Neu, Northrop Corp., stated that he supports the previous statements that automatic rivet setting machines should not be included in this section.

Mr. R. D. Leonard, General Dynamics/Convair, stated that he also supports the previous statements and he also questions the necessity for this section.

Dr. Alvin Greenberg, DOSH representative, stated there was only 1 amputation during the years 1977, 1978 and 1979 but that there were a total of 198 disabling work injuries involving riveting machines of which a 106 were cuts and punctures and 150 of them were as a result of being caught in between moving parts. If one only looks at amputations, he will not get the true perspective as to the nature of the hazard involved.

1. Machine Guarding
(continued)
Page 3 of 14

Mr. Terry Leavitt, Sheet Metal Contractors Assoc., stated that his primary concern is the Division's Administrative Interpretation concerning this issue which is utilized by the Division for enforcement provisions. Many of the California sheet metal members have been cited for allegedly violating the provisions of Article 55 based on the Division's Administrative Interpretations. In his opinion, the Administrative Interpretation contradicts the intent of present Article 55.

Mr. Lee Mullaney, General Dynamics, expressed his opposition to the statistical information which was utilized to determine the necessity of the proposed revisions. Mr. Mullaney stressed that the cost of installing point of operation guards on riveting machines would be too expensive and would probably interfere with their operations.

Mr. O'Hara asked Mr. Mullaney how General Dynamics is avoiding accidents.

Mr. Mullaney responded that General Dynamics has a reasonably good training program.

Mr. Phillip Vermeulen, SMACNA, stated that it would be a very big financial impact on the industry to have to purchase guards for machinery whether they are used or not.

1. Machine Guarding
(continued)
Page 3 of 14

Mr. William Lenheim, SMACNA, expressed his concerns with respect to the economic feasibility and economic impact particularly on small businesses. Small business routinely manufacture limited amounts and the installation of point of operation guards which hamper or substantially interfere with the operations.

Page 6 of 14

Mr. Bobis requested that on page 6, the definition for Power Operated Presses, line 5, be changed to read: "power presses (punch presses), press brakes, hydraulic power presses (punch presses), and rivet setting machines".

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Mr. Don Brunet, American Metal Stamping Assoc., stated that he was concerned with Section 4190, Control Identification, as to how a control button is to be identified.

Mr. O'Hara stated that the staff will be advised to clarify how a control button is to be identified.

Mr. R. D. Leonard, General Dynamics, stated that for many years all the machines he has worked on have red Auto Stop Buttons, and that if you change all of these to yellow he feels that it would be very dangerous.

Mr. Bobis stated that these colors for control buttons have been chosen only to make the control buttons uniform for employees going from one shop to another.

Mr. O'Hara indicated that this is a dramatic change for purposes of continuity and recommended that this might be just phased in.

1. Machine Guarding
(continued)
Page 8 of 14

Mr. Horst Neu, Northrop, stated that he fully agrees with Mr. Leonard and suggests that it should read "red or yellow".

Mr. R. D. Leonard, General Dynamics, suggested that in Section 4202(a), the operator be required to inspect power presses every day before using them and at that time, if something is wrong, he would then call a maintenance man.

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Mr. Bobis recommended that in Section 4214(b)(9) the phrase "/or" be inserted in the first line to read "when the nature of the work or size and/or ...". Mr. Bobis also recommended that the phrase "/or shape" be added in Section 4214(b)(9)(B) aft the word "size"; and the phrase "so that the operator's hand's never enter the point of operation" between the words "used" and "and" in Section 4214(b)(9)(B).

Mr. O'Hara stated that without any objection, that will be the order.

Mr. R. D. Leonard, General Dynamics, stated that he is concerned with the enforcement problems Subsections (9)(A), (B) and (C) would cause by having the employee putting on and taking off the guards throughout the day doing various jobs.

Mr. John Bobis responded that Federal OSHA has a Field Directive, STD 1-12.12. which requires the guarding of all press brakes through the use of hand tools. Since Region IX of Federal OSHA would not approve the proposal with similar language, proposed Section 4214(b)(9)(B) incorporates similar language which was approved by Federal OSHA.

1. Machine Guarding
(continued)
Page 11 of 14

Mr. James Fenton, Northrop, stated that the language in Subsection (9)(A), (B) and (C) requires that "When the nature of..." apply only to general purpose press brakes, which appears to indicate that there's only one operator. This would cause problems with his organization because due to the size of the material they use, they have two men working on press brakes and therefore would not be in compliance with these orders.

Mr. Donnelly asked Mr. Fenton if he interprets (9)(C) to mean press brakes are only operated by one person.

Mr. Fenton responded yes.

Dr. Greenberg stated in Subsection (c)(1) in the brackets where it reads [see 4193(2).] it should read [see 4193(d)(2).].

Mr. Chet Swafford, Hopper Inc., recommended that the language which was developed and agreed upon by the advisory committee be retained verbatim, in lieu of the proposed Section 4214(b)(9)(B).

Mr. Bobis stated that the proposed modified language has been approved by Region IX of Federal OSHA which adds "so that the operator's hands never enter the point of operation," to Section 4214(b)(9)(B). Even with the modified language, the proposed revision is essentially the same as the one the advisory committee agreed upon.

1. Machine Guarding
(continued)
Page 11 of 14

Mr. Bobis also stated that the Division has an Administrative Interpretation, AI-100, dated November 15, 1980 which is presently used to enforce the point of operation guarding regulations for metal forging machines. The AI does not contain an exception for power brakes, riveting machines or any other similar metal forging machines. Therefore, all machines listed in Article 55 must be guarded at the point of operations as required by the regulations. Since under certain conditions press brakes can not be guarded, the proposed regulations were specifically developed for press brakes to address this exception.

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Mr. Bobis recommended that after the title in Section 4215, add "Punch Brakes" in parentheses.

Mr. O'Hara stated that without objection, that would be the order.

Mr. James McGovern, Rohr Ind., requested that press brakes operating at slow speeds be exempted from the proposed regulations.

Mr. O'Hara asked Mr. Bobis if this was taken under consideration by the advisory committee.

Mr. Bobis responded that this was considered by the advisory committee and that they rejected it.

Mr. Don Brunet, American Sheet Metal Stamping Assoc., requested that in Section 4215(a)(2), to be consistent, that ", or" be added at the end of the sentence.

Mr. R. D. Leonard, General Dynamics, requested a minimum 2 year effective date for these revisions.

Machine Guarding
(continued)
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Mr. James Fenton, Northrop, stated that regarding Section 4216, there are conceivable guarding systems available but that they are inconsistent with production methods.

Mr. James McGovern, Rohr Ind., asked why this section has only seven guarding alternatives as opposed to the more hazardous equipment such as mechanical press brakes that permit nine alternatives to guard.

Mr. Don Brunet stated that he also agrees with at least a minimum of a 2 year compliance lead-time.

Mr. Donnelly stated that in light of the extensive testimony heard today, he recommends that this entire proposal go back to the Board's staff for review and clarification and have the standards, in total, returned for Board's consideration at a future public hearing.

Mrs. Margaret O'Grady asked if the proposal should also go back to the advisory committee.

Mr. Donnelly responded that in his opinion the Standards Board staff could handle the review; however, if necessary, the matter could be sent back to the advisory committee.

MOTION

A motion was made by Mr. William Donnelly, seconded by Mr. Edward Ashton, to send this back to the Board's staff for review and clarification.

ROLL CALL VOTE

A roll call vote was taken and all Board Members voted "aye". The motion was unanimously adopted.

ADJOURNMENT

There being no further comments from the audience or the Board, the Chairman adjourned the Public Hearing of the Standards Board at 1:00 p.m.



OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

1006 FOURTH STREET
SACRAMENTO, CA 95814
(916) 322-3640

E X P A N D E D A G E N D A

PUBLIC HEARING

NOVEMBER 19, 1981

SAN DIEGO

PUBLIC MEETING

I. CALL TO ORDER AND INTRODUCTIONS

THIS PUBLIC HEARING OF THE OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD IS CALLED TO ORDER. I AM GERALD O'HARA, CHAIRMAN; AND THE OTHER BOARD MEMBERS PRESENT AT TODAY'S PUBLIC HEARING ARE:

- 1) MR. ED ASHTON, MANAGEMENT REPRESENTATIVE
- 2) MR. JACK BRANTLEY, LABOR REPRESENTATIVE
- 3) MR. WILLIAM DONNELLY, MANAGEMENT REPRESENTATIVE
- 4) MRS. O'GRADY, PUBLIC REPRESENTATIVE
- 5) DR. JOHN PETERS, HEALTH REPRESENTATIVE
- 6) MR. RAYMOND RODRIGUEZ, OCCUPATIONAL SAFETY REPRESENTATIVE

IN ADDITION, ALSO PRESENT FROM OUR STAFF FOR TODAY'S HEARING ARE RON RINALDI, EXECUTIVE OFFICER; JOHN BOBIS, PRINCIPAL SAFETY ENGINEER; CLINT VANNEMAN, SENIOR INDUSTRIAL HYGIENIST; STEVE RODRIGUEZ, ADMINISTRATIVE ASSISTANT II; AND TERRI MURPHY, BOARD SECRETARY. ALSO PRESENT TODAY, AND REPRESENTING THE DIVISION OF OCCUPATIONAL SAFETY AND HEALTH IS DR. ALVIN GREENBERG.

IF YOU HAVE NOT ALREADY DONE SO, PLEASE SIGN THE ATTENDANCE ROSTER WHICH BECOMES A PART OF THE OUR OFFICIAL RECORD OF TODAY'S PROCEEDINGS. THE ATTENDANCE ROSTER IS LOCATED ON THE TABLE AT THE REAR OF THE ROOM. COPIES OF TODAY'S AGENDA, THE BOARD'S MEETING AND HEARING NOTICE, PROPOSED REGULATION CHANGES, AND THE INITIAL GENERAL STATEMENT OF REASONS FOR THE PROPOSED CHANGES ARE AVAILABLE ON THE TABLE NEXT TO THE ATTENDANCE ROSTER.

THIS IS AN OPEN PUBLIC HEARING, ANYONE WISHING TO MAKE COMMENTS MAY DO SO. THOSE DESIRING TO SPEAK ARE REQUESTED TO COME TO THE PODIUM AND SPEAK DIRECTLY INTO THE MICROPHONE, GIVING YOUR NAME AND AFFILIATION.

IF IT BECOMES NECESSARY TO CONTINUE THIS PUBLIC HEARING, THE STANDARDS BOARD WILL TAKE FURTHER TESTIMONY ON THE PROPOSED REVISIONS ON JANUARY 28, 1981 AT 10:00 A.M. IN THE AUDITORIUM OF THE CALIFORNIA STATE BUILDING, 107 SOUTH BROADWAY, LOS ANGELES, CALIFORNIA.

THE OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD IS A PART-TIME, INDEPENDENT BOARD MANDATED BY THE LEGISLATURE TO HOLD PUBLIC HEARINGS ON PROPOSED STANDARDS AND TO ADOPT STANDARDS WHICH, IN OUR JUDGEMENT, WILL PROVIDE "SUCH FREEDOM FROM DANGER AS THE NATURE OF THE EMPLOYMENT REASONABLY PERMITS" (THE DEFINITION OF "SAFETY" AS CONTAINED IN THE LABOR CODE).

IT HAS BEEN OUR POLICY TO TRY TO ADOPT STANDARDS WHICH ARE ENFORCEABLE, REASONABLE, UNDERSTANDABLE, AND WHICH CONTRIBUTE DIRECTLY TO THE SAFETY AND HEALTH OF CALIFORNIA EMPLOYEES.

THE BOARD IS INTERESTED IN YOUR TESTIMONY ON THE MATTERS BEFORE US. THE RECOMMENDATIONS WHICH YOU MAKE WILL BE CONSIDERED AND ANY RELEVANT TESTIMONY WILL BE APPRECIATED. YOU CAN HELP US BY IDENTIFYING THE SECTION OR SUBSECTION YOU WISH TO DISCUSS. IT IS THE CHAIR'S PLAN TO PROCEED PAGE-BY-PAGE ON THE PROPOSED CHANGES, UNLESS TESTIMONY IS RELEVANT TO MORE THAN ONE PAGE.

FOR THE RECORD, LET ME STATE THAT THE OFFICIAL RULEMAKING PROCEEDINGS WILL BE LEFT OPEN FOR 15 CALENDAR DAYS FOLLOWING THE PUBLIC HEARING DATE TO ALLOW ANYONE TO SUBMIT ADDITIONAL WRITTEN COMMENTS ON THE MATTERS BEFORE THE BOARD AT TODAY'S PUBLIC HEARING.

II. PROPOSED SAFETY STANDARDS (REVISIONS, ADDITIONS AND DELETIONS)

IT IS THE BOARD'S INTENTION TO LIMIT AS MUCH AS POSSIBLE COMMENTS AND TESTIMONY ONLY TO THOSE SECTIONS OR SUBSECTIONS ON THESE ORDERS THAT ARE BEING PROPOSED FOR ADDITION, DELETION OR AMENDMENT. IF YOU HAVE WRITTEN COMMENTS, YOU CAN READ THEM INTO THE RECORD, BUT IT IS NOT NECESSARY TO DO SO AS LONG AS YOUR COMMENTS ARE SUBMITTED TO THE BOARD. I CAN ASSURE YOU THAT YOUR COMMENTS WILL BE GIVEN EVERY CONSIDERATION BY THE MEMBERS OF THE BOARD.

A. OLD BUSINESS

CONTINUATION OF TESTIMONY ON THE ETHYLENE DIBROMIDE (EDB) REGULATION FROM THE NOVEMBER 12, 1981 PUBLIC HEARING IN SACRAMENTO.

LAST THURSDAY, THE STANDARDS BOARD ADJOURNED ITS PUBLIC HEARING ON THE EMERGENCY ETHYLENE DIBROMIDE REGULATION AT APPROXIMATELY 10:30 P.M. AND THERE WERE A FEW REQUESTS FROM MEMBERS OF THE PUBLIC WHO HAD NOT HAD AN OPPORTUNITY TO TESTIFY AT THE HEARING TO ADDRESS THE BOARD TODAY. THE BOARD IS THEREFORE REOPENING THE PUBLIC HEARING AT THIS TIME TO ALLOW THESE PERSONS TO TESTIFY ON THE ETHYLENE DIBROMIDE STANDARD.

1. TITLE 8: GENERAL INDUSTRY SAFETY ORDERS

(SECTION 5155, AIRBORNE CONTAMINANTS, TABLES AC-1 AND AC-2, PERMISSIBLE EXPOSURE LIMITS FOR ETHYLENE DIBROMIDE--EDB)

INFORMATIVE DIGEST OF PROPOSED ACTION: REVISES IN TABLE AC-1, CHEMICAL CONTAMINANTS, THE ENTRY FOR "1, 2-DIBROMOETHANE" BY DELETING REFERENCE TO TABLE AC-2 AND ADDING REFERENCE TO SECTION 5219. REPEALS THE EXISTING LIMITS FOR EMPLOYEE EXPOSURE TO AIRBORNE ETHYLENE DIBROMIDE IN TABLE AC-2.

2. TITLE 8: GENERAL INDUSTRY SAFETY ORDERS

(SECTION 5228, LABELS)

INFORMATIVE DIGEST OF PROPOSED ACTION: REPEALS EXISTING LABELING REQUIREMENTS FOR ETHYLENE DIBROMIDE CONTAINED IN SECTION 5228.

3. TITLE 8: GENERAL INDUSTRY SAFETY ORDERS
(NEW SECTION 5219, ETHYLENE DIBROMIDE)

INFORMATIVE DIGEST OF PROPOSED ACTION: ADOPTS A NEW CARCINOGEN REGULATION FOR EMPLOYEE EXPOSURE TO ETHYLENE DIBROMIDE (EDB) WHICH WOULD APPLY TO THE MANUFACTURE, REACTION, PACKAGING, REPACKAGING, STORAGE, TRANSPORTATION, DISTRIBUTION, SALE, HANDLING OR USE OF ETHYLENE DIBROMIDE OR TO EXPOSURE TO EDB DIFFUSING OUT OF FRUITS OR VEGETABLES (OR THEIR PACKAGING MATERIALS) PREVIOUSLY TREATED WITH EDB.

THE REGULATION WOULD LIMIT EMPLOYEE EXPOSURES TO AIRBORNE EDB VIA INHALATION TO AN 8-HOUR, TIME-WEIGHTED AVERAGE CONCENTRATION OF 130 PARTS EDB PER BILLION PARTS OF AIR (130 PPB) AND TO A CEILING CONCENTRATION (THE MAXIMUM ALLOWABLE CONCENTRATION) OF 130 PARTS EDB PER BILLION PARTS OF AIR (130 PPB) AS MEASURED OVER A 15-MINUTE PERIOD. THE REGULATION WOULD ALSO PROHIBIT SKIN OR EYE CONTACT WITH LIQUID EDB OR LIQUID MIXTURES CONTAINING EDB.

THE REGULATION WOULD MAKE EDB A CARCINOGEN--SUBJECT TO THE PROVISIONS OF THE OCCUPATIONAL CARCINOGENS CONTROL ACT OF 1976 AND, AS SUCH, REQUIRE EMPLOYERS WITHIN 24 HOURS OF THE EFFECTIVE DATE OF THE SECTION OR INTRODUCTION OF EDB TO THE WORKPLACE TO REPORT VARIOUS INFORMATION TO THE CHIEF OF THE DIVISION OF OCCUPATIONAL SAFETY AND HEALTH AND REQUIRE THE REPORTING OF EMERGENCIES INVOLVING EDB.

OTHER PROPOSED PROVISIONS REQUIRE: (1) EMPLOYEE EXPOSURE MONITORING AND NOTIFICATION TO EMPLOYEES OF MONITORING RESULTS; (2) THE CONTROL OF EMPLOYEE EXPOSURES TO EDB BY ENGINEERING CONTROLS WHERE FEASIBLE, AND WORK PRACTICES, OR PERSONAL PROTECTIVE CLOTHING AND EQUIPMENT AND RESPIRATORY PROTECTION IN OTHER CASES; (3) CLEAN PERSONAL PROTECTIVE CLOTHING AND EQUIPMENT AS NECESSARY TO PREVENT EYE AND SKIN CONTACT WITH EDB; (4) COMPLIANCE WITH PRESCRIBED RESPIRATORY PROTECTION; (5) EMPLOYEE TRAINING; (6) PRECAUTIONARY SIGNS, TO BE PRINTED IN ENGLISH AND SPANISH, ON EDB CONTAINERS; (7) A WRITTEN NOTICE TO RECIPIENTS OF EDB-FUMIGATED PRODUCE; AND (8) THE RETENTION OF MONITORING RECORDS AND, WHERE APPLICABLE, MEDICAL SURVEILLANCE RECORDS.

(REQUEST THE FIRST WITNESS TO COME FORWARD.)

IF THERE IS NO FURTHER TESTIMONY ON ETHYLENE DIBROMIDE, THIS PORTION OF TODAY'S HEARING IS CLOSED AND WE WILL MOVE ON TO THE NEW BUSINESS SCHEDULED FOR TODAY'S PUBLIC HEARING.

B. NEW BUSINESS

1. TITLE 8: GENERAL INDUSTRY SAFETY ORDERS

(MACHINERY, PRESS BRAKE, HYDRAULIC & PNEUMATIC
PRESS, AND RIVETER GUARDING REQUIREMENTS

INFORMATIVE DIGEST OF PROPOSED ACTION:

SECTION 4002: THE EXISTING SECTION REQUIRES GUARDING OF ONLY THE HAZARDS CREATED BY PINCH POINTS, SHEAR POINTS, AND THE ROTATING AND RECIPROCATING PARTS OF MACHINES. THE PROPOSED REVISIONS WOULD ALSO REQUIRE GUARDING OF THE ADDITIONAL HAZARDS CREATED BY RUNNING, SHEARING, PUNCHING, PRESSING, SQUEEZING, DRAWING, CUTTING, ROLLING, MIXING, OR SIMILAR ACTIONS OF PARTS OF MACHINES.

SECTION 4188: THE EXISTING DEFINITIONS ADDRESS ONLY MECHANICAL POWER PRESSES AND THEIR APPURTENANCES. THE PROPOSED REVISIONS ADD SPECIFIC DEFINITIONS FOR THE PROPOSED SECTIONS ADDRESSING PRESS BRAKES, HYDRAULIC POWER PRESSES, AND RIVETING MACHINES.

SECTION 4189: EXISTING "SCOPE" EXEMPTS PRESS BRAKES, HYDRAULIC POWER PRESSES, AND RIVETERS. THE PROPOSAL DELETES THESE EXEMPTIONS.

SECTION 4190: PRESENTLY THERE ARE NO REQUIREMENTS FOR THE UNIFORM MARKING OR IDENTIFYING ON CONTROL BUTTONS, LEVERS, METAL FORMING OPERATING MACHINERY. THE PROPOSAL CONTAINS SPECIFIC REQUIREMENTS FOR IDENTIFYING CONTROL DEVICES.

SECTION 4201, 4202, 4203, 4206 AND 4210: THE CHANGES PROPOSED IN THESE SECTIONS ARE OF AN EDITORIAL NATURE ONLY FOR GREATER CLARITY.

SECTION 4213: THE EXISTING ORDERS DO NOT CONTAIN REQUIREMENTS FOR SPECIAL PURPOSE PRESS DRIVE MOTOR INTERLOCKS. THE PROPOSED REVISION CONTAINS SPECIFIC REQUIREMENTS FOR THESE DEVICES.

SECTION 4214: THE EXISTING ORDERS DO NOT CONTAIN SPECIFIC GUARDING REQUIREMENTS FOR MECHANICAL OR HYDRAULICALLY POWERED PRESS BRAKES. THE PROPOSAL CONTAINS SPECIFIC GUARDING REQUIREMENTS OR WORK PROCEDURES TO BE USED FOR MECHANICAL OR HYDRAULIC POWERED PRESS BRAKES.

SECTION 4215: THE EXISTING ORDERS DO NOT CONTAIN SPECIFIC GUARDING REQUIREMENTS FOR HYDRAULIC POWER PRESSES. THE PROPOSAL CONTAINS SPECIFIC REQUIREMENTS FOR THE GUARDING OF THE POINTS(S) OF OPERATION OF THESE DEVICES.

SECTION 4216: THE EXISTING ORDERS DO NOT CONTAIN SPECIFIC GUARDING REQUIREMENTS FOR RIVET SETTING EQUIPMENT. THE PROPOSAL CONTAINS SPECIFIC REQUIREMENTS FOR THE GUARDING OF THE POINTS(S) OF OPERATION.

(REQUEST MR. JOHN BOBIS TO BRIEF THE BOARD ON THIS PROPOSAL)

(COMMENTS?)

IV. ADJOURNMENT OF THE PUBLIC HEARINGBUSINESS MEETINGI. BUSINESS MEETING (CLOSED TO PUBLIC COMMENT)

THIS PORTION OF THE BUSINESS MEETING IS CLOSED TO COMMENT BY THE PUBLIC UNLESS SPECIFICALLY REQUESTED BY A MEMBER OF THE STANDARDS BOARD. THE PURPOSE OF THE BUSINESS MEETING IS TO ALLOW THE BOARD TO CONDUCT ITS MONTHLY BUSINESS.

A. PROPOSED SAFETY ORDERS FOR ADOPTION (NONE)B. PROPOSED VARIANCE DECISIONS FOR ADOPTION

1. 1755 JACKSON STREET (VARIANCE FILE NO. 81-V-016)

(HEARD BY PANEL MEMBERS RAYMOND RODRIGUEZ AND MARGARET O'GRADY ON OCTOBER 8, 1981 IN SAN FRANCISCO -- REQUEST EITHER ONE OF THEM TO BRIEF THE BOARD ON THE APPLICATION AND THE PROPOSED DECISION.)

2. INTERNATIONAL WHOLESALE DISTRIBUTORS, INC. (VARIANCE
FILE NO. 81-V-020)

(HEARD BY PANEL MEMBERS JACK BRANTLEY AND EDWARD ASHTON ON
SEPTEMBER 30, 1981 IN SANTA ANA -- REQUEST EITHER ONE OF
THEM TO BRIEF THE BOARD ON THE APPLICATION AND THE PROPOSED
DECISION.)

C. PROPOSED SAFETY ORDERS FOR EMERGENCY ADOPTION (NONE)

D. PROPOSED PETITION DECISIONS FOR ADOPTION (NONE)

E. OTHER (NONE)

IV. ADJOURNMENT OF THE BUSINESS MEETING

FIRST CLASS MAIL

1416 9th Street, Sacramento, CA, at 10:00 a.m. on November 16, 1981.

Written comments must be submitted to the California Health Facilities Commission, 717 K Street, Sacramento, California 95814, by November 16, 1981. The California Health Facilities Commission, upon its own motion or at the instance of any interested person, may thereafter adopt the above proposals substantially as above set forth without further notice.

Copies of the proposed Hospital Manual changes in strike-out/underline form and a Statement of Reasons may be obtained from the Commission at the above address.

The California Health Facilities Commission has determined that the above proposed Health manual changes will have no increased or new cost to local government pursuant to Section 2231 of the Revenue and Taxation Code, or to the state.

Inquiries concerning the proposed manual changes may be directed to Jay R. Benson at (916) 323-7676.

Publication date: 9-30-81

**TITLE 8. OCCUPATIONAL SAFETY AND HEALTH
STANDARDS BOARD**

Notice is hereby given pursuant to the provisions of Sections 142, 142.2, 142.3, and 144.6 of the Labor Code, that the Occupational Safety and Health Standards Board of the State of California has set the time and place hereinafter set forth for a Public Hearing, Public Meeting, and Business Meeting:

PUBLIC MEETING:

On November 19, 1981 at 10:00 a.m. in the Auditorium, of the California State Building, 1350 Front Street, Room B-109, San Diego, California.

At the Public Meeting, the Board will make time available to receive comments or proposals from interested persons on any item concerning occupational safety and health.

PUBLIC HEARING:

On November 19, 1981, following the Public Meeting, in the Auditorium of the California State Building, 1350 Front Street, Room B-109, San Diego, California.

At the Public Hearing, the Board will consider the public testimony on the proposed changes noticed below to occupational safety and health regulations in Title 8 of the California Administrative Code.

BUSINESS MEETING:

On November 19, 1981, following the Public Hearing, in the Auditorium of the California State Building, 1350 Front Street, Room B-109, San Diego, California.

At the Business Meeting, the Board will conduct its monthly business.

In the event it becomes necessary to continue the Public Meeting, Public Hearing, or Business Meeting, the meetings or hearing will be continued on December 3, 1981 at 10:00 a.m. in the Auditorium of the California State Building, 1350 Front Street, Room B-109, San Diego, California.

These meeting facilities are accessible to the physically handicapped.

INFORMATIVE DIGEST

1. TITLE 8: GENERAL INDUSTRY SAFETY ORDERS
(Machinery, Press Brake, Hydraulic & Pneumatic Press, and Riveter Guarding Requirements)

Section 4002: The existing section requires guarding of only the hazards created by pinch points, shear points, and the rotating and reciprocating parts of machines. The proposed revisions would also require guarding of the additional hazards created by running, shearing, punching, pressing, squeezing, drawing, cutting, rolling, mixing, or similar actions of parts of machines.

Section 4188: The existing definitions address only mechanical power presses and their appurtenances. The proposed revisions add specific definitions for the proposed sections addressing press brakes, hydraulic power presses, and riveting machines.

Section 4189: Existing "scope" exempts press brakes, hydraulic power presses, and riveters. The proposal deletes these exemptions.

Section 4190: Presently there are no requirements for the uniform marking or identifying on control buttons, levers, metal forming operating machinery. The proposal contains specific requirements for identifying control devices.

Sections 4201, 4202, 4203, 4206 and 4210: The changes proposed in these sections are of an editorial nature only for greater clarity.

Section 4213: The existing orders do not contain requirements for special purpose press drive motor interlocks. The proposed revision contains specific requirements for these devices.

Section 4214: The existing orders do not contain specific guarding requirements for mechanical or hydraulically powered press brakes. The proposal contains specific guarding requirements or work procedures to be used for mechanical or hydraulic powered press brakes.

Section 4215: The existing orders do not contain specific guarding requirements for hydraulic power presses. The proposal contains specific requirements for the guarding of the point(s) of operation of these devices.

Section 4216: The existing orders do not contain specific guarding requirements for rivet setting equipment. The proposal contains specific requirements for the guarding of the point(s) of operation.

A copy of the proposed changes in strikeout/underline format is available upon request to any interested persons from the Occupational Safety and Health Standards Board's Office, 1006 Fourth Street, Third Floor, Sacramento, California 95814. Copies will also be available at the Public Hearing.

An Initial General Statement of Reasons outlining the purpose and factual basis for the proposed regulation(s) and the substantive facts upon which the Standards Board is relying for proposing the regulation(s) is also available upon request from the Standards Board's office. Inquiries may be directed to Mr. R. T. Rinaldi, Executive Officer at (916) 322-3640.

The following statement of costs will apply to all the proposed regulations to Title 8 to be considered by the Board:

Costs to State Agencies: Minor costs (\$0-\$100,000) for compliance by State agencies. Various State agencies may be involved in the forming of metal using power presses. These agencies may experience minor costs due to more stringent regulations.

Impact on Housing Costs: The proposed revisions will not significantly affect housing costs.

Federal Funding to State: No impact.

To Local Agencies and School Districts: Pursuant to Section 106, Chapter 1284, Statutes of 1974, the proposed action does not create any obligation for reimbursement by the State to any local agency under

FIRST CLASS MAIL

Section 2231 of the Revenue and Taxation Code for costs that may be incurred by it in complying with these orders because these orders merely implement Federal law and regulations.

Notice is also given that any interested person may present statements or arguments orally or in writing at the hearing on the proposed actions under consideration. Written comments should be received no later than five (5) working days prior to the date of the hearing. The official record of the rulemaking proceedings will be left open for fifteen (15) calendar days following the public hearing date for additional written comments to be submitted to the Board as part of the record of these rulemaking actions. The Occupational Safety and Health Standards Board, upon its own motion or at the instance of any interested person, may thereafter adopt the above proposals substantially as set forth without further notice.

The Occupational Safety and Health Standards Board's rulemaking files on the proposed action(s) are open to public inspection Monday through Friday, from 8:30 a.m. to 4:30 p.m. at the Standards Board's Office, 1006 Fourth Street, Third Floor, Sacramento, California 95814.

There are no building standards contained in these proposed revisions as defined by Health and Safety Code Section 18909.

Publication date: 9-30-81

TITLE 11. DEPARTMENT OF JUSTICE

The California Department of Justice, in accordance with the authority vested in it by Section 12367 of the Penal Code, and in order to implement, interpret, and make specific Sections 12360-12369 of the Penal Code, has submitted, as an emergency subject to the approval of the Office of Administrative Law, amendments to California Administrative Code regulations under Title 11, Chapter 11, Subchapter 11, Police Body Armor, Article 1, Certification of Police Body Armor.

INFORMATIVE DIGEST

Section 941 is amended to limit the scope of certification testing by the Department of Justice to only those types of armor which the State Armor Committee determines will meet current State requirements for acquisition and purchase. The State Armor Committee consists of representatives from the following agencies: California Highway Patrol; State Police; Department of Justice; and GSA/Office of Procurement. Sections 944, 946, 951 and 953 are amended to allow State user agencies to select, and have certified, armor from five basic protection levels: Type I, IIA, II, III or IV which essentially conform to the types specified in the test standards adopted by the International Association of Chiefs of Police. Sections 956 and 957 are amended by conforming changes regarding the announcement and scheduling of certification testing by the Department. These amendments are necessary because of amendments to Penal Code Section 12361-12369 as enacted by AB 2813, Chapter 1009, 1980.

Copies of the amendments in ~~strikeout~~/underscore format are available upon request. The Department has prepared, for public review, a general statement of the basis for the purpose of these regulations. Inquiries may be directed to A. A. Biasotti, State Armor Committee, California Department of Justice, Bureau of Forensic Services, 3301 'C' Street, Sacramento, CA 95816, (916) 322-2580.

Notice is also given that any interested person may present oral or written statements relevant to the proposed action at the time of the hearings or submit them to the person named above. Written com-

Memorandum

To : Rulemaking File on Machine Guarding

Date: March 3, 1982

From : 
Occupational Safety and Health Standards Board
Melbourne Davis, Senior Safety Engineer

Subject: Rulemaking File - Machine Guarding, General Industry Safety Orders
Sections 4002, 4188, 4189, 4190, 4201 and 4213-4216

These proposed machine guarding safety orders were presented to the Board for consideration at the November 19, 1981 Public Hearing. Due to the extent of opposition testimony received in regard to the wording and intent of Sections 4214(b)(9) and 4215, the Board referred the proposals back to staff for revisions where appropriate.

Therefore, this machine guarding rulemaking file was closed without the proposed regulatory changes being submitted to the Office of Administrative Law.

/lh

cc: New Regulation development file
on Machine Guarding

3-92



OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

1006 FOURTH STREET
SACRAMENTO, CA 95814
(916) 322-3640

August 26, 1981

To All Advisory Committee Members:

Dear

Subject: Advisory Committee Meeting, Guarding Wine Pomace Pumps

The purpose of this letter is to invite you to participate as a member of the Occupational Safety and Health Standards Board's Advisory Committee to consider proposed regulations for the use and guarding of wine pomace pumps. We have scheduled the meeting for the following time and location:

Thursday, October 15, 1981
10:00 A.M.
Cal/OSHA Appeals Board Hearing Room
Citizens Savings Building
1006 Fourth Street, 5th Floor
Sacramento, California 95814

Several months ago, the Board considered a petition by the Wine Institute to amend the California Administrative Code, Title 8, General Industry Safety Orders, Section 3481(a) regarding the size of grilles or grates used to protect open hoppers, bins and bunkers. The substance of the petition was to add a provision in the regulations to permit the use of grille or grate openings of 6 to 8 inches to cover hoppers through which food products, such as wine pomace, of a viscous nature must pass.

The Board, on February 26, 1981, granted the petition to the extent that the Board's staff was directed to develop proposed regulations addressing the use of pomace pumps in the food processing and wine industries. The Board further directed that these proposed regulations be presented to a representative advisory committee for consideration. Accordingly, we are enclosing the following material for your information and review:

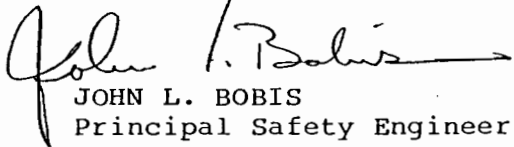
1. Petition Decision (File No. 117)
2. General Industry Safety Orders 4002(a), 3481(a), 3944(c), 3947(a) and 3446(a)
3. Draft: Proposed new Section 4539, Pomace Pumps.

Wine Pomace Pumps
August 26, 1981
Page -2-

The purpose of this meeting is to obtain your input, comments and suggestions. Hopefully, we can achieve a consensus with the objective of submitting the proposal to the Board for consideration at a future public hearing. If you are unable to participate, please send an alternate or notify our office as soon as possible in order that we may plan accordingly.

Thank you for your interest and I will be looking forward to seeing you in October.

Sincerely,


JOHN L. BOBIS
Principal Safety Engineer

HC/tt

Enclosures

cc: Gerald P. O'Hara
Dr. Alvin Greenberg
Art Carter
Jim Guenther
Emmett Jones
Bill Bristol
Lloyd Albright
Bill Wilson
Rhonda Blake, DOSH

88. Los Vineros Winery, Inc.
Hanson Way, Santa Maria, CA
89. United Vintners, Inc.
Asti, CA
90. United Vintners
Rutherford, CA

The original application requested a variance from the requirements of Title 8, California Administrative Code, Section 4002(a). An amended application was filed April 7, 1981, for a permanent variance from the requirements of Title 8, California Administrative Code, Sections 4002(a), 3446(a), 3481(a), 3944(c) and 3999(a).

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- 8 Cal. Adm. Code 4002(a)
- 8 Cal. Adm. Code 3446(a)
- 8 Cal. Adm. Code 3481(a)
- 8 Cal. Adm. Code 3944(c)
- 8 Cal. Adm. Code 3999(a)

Summary of Evidence

The Wine Institute is a trade organization which represents Employers who operate wineries within the State of California. The Wine Institute has approximately 421 members which operate at 428 places of employment (sites) within the State. The application was filed by the Wine Institute on behalf of the members that are presently using the Merkle/Menestrina type pumace pumps. These members (Employers) are in the range of upper middle to small operators with from three to fifty employees. The majority have less than 15 employees of which only four to five would be exposed to the operation of the pumace pump in question.

The Merkle/Menestrina portable pumace pump is imported from Europe and consists of a receiving hopper that is approximately 30-inches square and has a 6-inch diameter screw auger that conveys pumace in the bottom of the hopper to a pump which pumps the material through a 5 or 6-inch diameter hose to presses for extraction of more juice. An integral electric motor provides the motor force for the auger and the pump. The unit rolls on four casters so that the hopper can be positioned directly under the outlet door of the fermentation tanks.

The Merkle/Menestrina pump has proven to be a fast efficient means of transferring pumace in wineries from the fermentation

tanks to the presses. These pumps are used only during the crushing season, which lasts approximately six weeks. During that time, pumace will be taken out of a fermentation tank about 15 times. Before 1972, the tanks were emptied by the time consuming method of hand shoveling and the use of overhead conveyor systems. In this process, the floor often became wet and slippery presenting a slipping hazard for the employees who worked in the area.

Gratings are used over the 30-inch square hopper of the Merkle/Menestrina pumace pump to protect employees from the moving parts of the pumps. However, the pumace is of such heavy consistency that it tends to bridge over and seal openings in gratings that are less than six by six inches. Through experimenting, it has been found that a clear opening of 6 inches by 6 inches is sufficient to allow the pumace from either the white or red grapes to pass through without bridging.

The Division, in its report of January 20, 1981, opposed the granting of the variance. The Division pointed out that 8 Cal. Adm. Code 3944(c) requires the guard opening be no more than two inches when the moving part is 4 inches to 15 inches from the guard; that 8 Cal. Adm. Code 3481(a) requires the hopper top to be no less 36 inches above the floor or working level; that 8 Cal. Adm. Code 3999(a) requires a lid or cover on screw conveyors seven feet or less above the floor, except that screw conveyors two feet or less above the floor or below the floor may be guarded by a standard guardrail, grate or cover. The Division contends that the Wine Institute's proposal of the use of a grate with 6 inch by 6 inch openings over the top of the pumace intake hopper 18 inches above the floor does not offer protection equivalent to a standard guardrail or grate with a maximum opening of two inches, or an intake hopper whose top is at least 36 inches above the floor as required by the safety orders. The Division contends that the Wine Institute is not proposing to provide any protection equivalent to a standard guardrail, grate or cover. The Division contends that the 6 inch by 6 inch opening in the grate would be in violation of Sections 3481(a), 3944(c), and 3999(a). The Division points out that the use of a 6 inch by 6 inch grate opening across the hopper openings could allow free passage of a worker's hand to contact with the revolving parts of the pump only seven inches below the grate. Subsequently, at the hearing on June 17, 1981, the Division's representative testified that the Division was not opposed to the variance provided that the Applicant complied with conditions hereinafter stated in the Decision and Order.

Harold A. Crabtree, Senior Safety Engineer, in his report of June 2, 1981, on behalf of the Board's staff, recommended that the application for permanent variance be granted subject to the conditions specified in his report. A check of available

statistics and information indicates that there have been no accidents associated with the use of the Merkle/Menstrina Pump since they were introduced into California in 1972.

Two shear pins are supplied by the manufacturer in the construction of the pump. One controls the auger and the other the beater paddles. In a recent test, a rubber boot was placed at the nip point where the auger flight enters the machine housing. This location was determined to be most hazardous for workers. When the boot was introduced into the auger flight, the shear pin broke stopping the auger and beater paddles immediately.

Applicant agrees to maintain the two shear pins in accordance with the manufacturer's specifications, to install an emergency stop switch readily accessible to the operator, and to require gratings with minimum openings of 6 inches by 6 inches installed over the top of the intake hopper of the pump with an electrical/mechanical interlock device installed in such a manner that it will de-energize the pump when the grating is not secured in the position above the screw conveyor.

Findings and Reasons for Decision

The weight of the evidence presented established that Applicant's proposal can provide employee protection equivalent to that provided by 8 Cal. Adm. Code 4002(a), 8 Cal. Adm. Code 3446(a), 8 Cal. Adm. Code 3481(a), 8 Cal. Adm. Code 3944(c), and 8 Cal. Adm. Code 3999(a) provided the terms and conditions specified herein under the heading "Decision and Order" are observed.

Decision and Order

The application of the Wine Institute on behalf of 91 of its Employer members specified above (Paragraph III, under jurisdiction) from the requirements of 8 Cal. Adm. Codes 4002(a), revolving and reciprocating parts, 3446(a), conveyors and elevators, 3481(a), bins, bunkers and hoppers, 3944(c), guard clearance, and 3999(a), conveyors, with respect to the Merkle/Menstrina pomace pumps used by the 91 Employers at the specified locations is granted upon the following terms and conditions:

1. Gratings having a maximum opening of 6 inches by 6 inches shall be installed over the intake hoppers of the Merkel/Menstrina pumps.

2. An electrical/mechanical interlock device (switch) shall be installed in such a manner that it will de-energize the pump when the grating is not secured in a position above the screw conveyor.
3. The required gratings shall be securely attached by means of bolts, screws or other equivalent means to prevent displacement.
4. An emergency stop switch, readily accessible to the operator, shall be installed.
5. Shear pins on the pump shall be maintained in accordance with the manufacturer's specifications.
6. Those employees whose assignments require the use of the pomace pumps shall receive training in the hazards associated with the use of the pumps.
7. All gratings shall be constructed in such a manner and using suitable materials to prevent deflection of the grating due to accidental contact by an individual.
8. This variance shall remain in effect until new or revised regulations relating to the guarding of pomace pumps are promulgated by the Board, at which time the Applicant shall comply with those regulations.
9. The Applicants shall notify employees or their authorized representatives, or both, of this Decision and Order in the same manner it has notified them of the application for a permanent variance;
10. This Decision and Order shall remain in effect unless modified or revoked upon application by the Employer, or an employee, or the Division of Occupational Safety and Health, or by the Board on its own motion in the manner prescribed for its issuance.

I hereby certify that the above Proposed Decision is the decision of the Hearing Panel, and the Hearing Panel recommends its adoption by the Occupational Safety and Health Standards Board as the Board's decision in the proceeding.

Dated: July 21, 1981

August F. Cetti
AUGUST F. CETTI
Administrative Law Judge



OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

1006 FOURTH STREET
SACRAMENTO, CA 95814
(916) 322-3640

NOTICE OF PUBLIC MEETING AND HEARING
OF THE OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD
AND NOTICE OF PROPOSED CHANGES TO TITLE 8
OF THE CALIFORNIA ADMINISTRATIVE CODE

Notice is hereby given pursuant to the provisions of Sections 142, 142.2, 142.3, and 144.6 of the Labor Code, that the Occupational Safety and Health Standards Board of the State of California has set the time and place hereinafter set forth for a Public Hearing, Public Meeting, and Business Meeting:

Public Meeting: On January 28, 1982 at 10:00 a.m. in the Auditorium, of the California State Building, 107 South Broadway, Room 1138 Los Angeles, California.

At the Public Meeting, the Board will make time available to receive comments or proposals from interested persons on any item concerning occupational safety and health.

PUBLIC HEARING: On January 28, 1982, following the Public Meeting, in the Auditorium of the California State Building, 107 South Broadway, Room 1138 Los Angeles, California.

At the Public Hearing, the Board will consider the public testimony on the proposed changes noticed below to occupational safety and health regulations in Title 8 of the California Administrative Code.

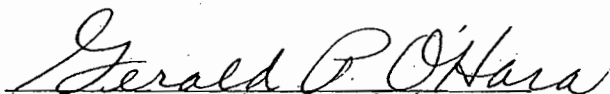
BUSINESS MEETING: On January 28, 1982, following the Public Hearing, in the Auditorium of the California State Building, 107 South Broadway, Room 1138 Los Angeles, California.

At the Business Meeting, the Board will conduct its monthly business.

In the event it becomes necessary to continue the Public Meeting, Public Hearing, or Business Meeting, the meetings or hearing will be continued on February 4, 1982 at 10:00, in the Auditorium of the California State Building, 107 South Broadway, Room 1138, Los Angeles, California.

These meeting facilities are accessible to the physically handicapped.

OCCUPATIONAL SAFETY AND HEALTH
STANDARDS BOARD


GERALD P. O'HARA, Chairman

3-99 (18)FC

NOTICE OF PROPOSED CHANGES TO TITLE 8 OF THE
CALIFORNIA ADMINISTRATIVE CODE
BY THE OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

Notice is hereby given pursuant to the provisions of Section 142, 142.2, 142.3, and 144.6 of the Labor Code that the Occupational Safety and Health Standards Board will consider the following proposed revisions to the Title 8 Safety Orders of the California Administrative Code, as indicated below, at its Public Hearing on January 28, 1982:

1. TITLE 8: GENERAL INDUSTRY SAFETY ORDERS
(Wine Pomace Pumps)

Informative Digest of Proposed Action: There are several existing regulations that could be applied to portable pumps used in the wine industry to transfer pomace (i.e., skins, berries, seeds, etc.) during the crushing season from wine fermentation tanks to other locations for additional processing. These regulations are Sections 4002(a), 3481(a), 3944(c), 3999(a), and 3446(a). Application of these regulations could effectively prohibit the use of these unique pumps in California. For instance, these auger-type pumps have an integral intake hopper with a 30 inch by 30 inch opening that is approximately 20 inches from the floor. Section 3481(a) states that every open hopper whose upper edge is less than 36 inches above the floor shall be equipped with a standard railing around its edges or a grating having a maximum opening of 2 inches. Neither of these methods is practicable because (1) railings would not permit the opening of the fermentation tank doors that are about 36 inches above the floor and would also inhibit the raking out through these doors of the pomace into the pumps intake hopper, and (2) a 2-inch grille opening would not permit the pomace, which is of heavy consistency, to pass through.

Accordingly, the proposed regulations would resolve these problems by a single, specific regulation, Section 4539, which would require that the pump's intake hoppers be guarded by enclosure, or location or hopper sides that extend at least 36 inches above the auger flight at the bottom of the hopper, or by the following method:

- 1) Use of grilles having a maximum opening that de-energize inches.
- 2) Electrical/mechanical interlock switches that de-energize the pump when the grille is not in place.
- 3) Emergency "stop" bars or cables readily accessible to the operation, and
- 4) Maintenance of shear pins in accordance with the manufacturers recommendation.

A copy of the proposed changes in STRIKEOUT/UNDERLINE format is available upon request to any interested persons from the Occupational Safety and Health Standards Board's Office, 1006 Fourth Street, Third Floor, Sacramento, California 95814. Copies will also be available at the Public Hearing.

An INITIAL GENERAL STATEMENT OF REASONS outlining the purpose and factual basis for the proposed regulation(s) and the substantive facts upon which the Standards Board is relying for proposing the regulation(s) is also available upon request from the Standards Board's office. Inquiries may be directed to Mr. R. T. Rinaldi, Executive Officer at (916) 322-3640.

The following statement of costs will apply to all the proposed regulations to Title 8 to be considered by the Board:

Costs to State Agencies: None.

Impact on Housing Costs: None.

Federal Funding to State: No Impact.

To Local Agencies and School Districts: Pursuant to Section 106, Chapter 1284, Statutes of 1974, the proposed action does not create any obligation for reimbursement by the State to any local agency under Section 2231 of the Revenue and Taxation Code for costs that may be incurred by it in complying with these orders because these orders merely implement Federal law and regulations.

Notice is also given that any interested person may present statements or arguments orally or in writing at the hearing on the proposed actions under consideration. Written comments should be received no later than five (5) working days prior to the date of the hearing. The official record of the rulemaking proceedings will be left open for fifteen (15) calendar days following the public hearing date for additional written comments to be submitted to the Board as part of the record of these rulemaking actions. The Occupational Safety and Health Standards Board, upon its own motion or at the instance of any interested person, may thereafter adopt the above proposals substantially as set forth without further notice.

The Occupational Safety and Health Standards Board's rulemaking files on the proposed action(s) are open to public inspection Monday through Friday, from 8:30 a.m. to 4:30 p.m. at the Standards Board's Office, 1006 Fourth Street, Third Floor, Sacramento, California 95814.

There are no building standards contained in these proposed revisions as defined by Health and Safety Code Section 18909.

OCCUPATIONAL SAFETY AND HEALTH
STANDARDS BOARD


GERALD P. O'HARA, Chairman

3-101



OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

1006 FOURTH STREET
SACRAMENTO, CA 95814
(916) 322-3640

SUMMARY

PUBLIC HEARING
January 28, 1982
Los Angeles

**CALL TO ORDER AND
INTRODUCTIONS**

Chairman Gerald P. O'Hara called the Public Hearing of the Occupational Safety and Health Standards Board to order at 10:06 a.m. on January 28, 1982 in the Auditorium of the California State Building located at 107 South Broadway in Los Angeles, California.

ATTENDANCE

Board Members Present

Gerald P. O'Hara, Chairman
Edward Ashton
Jack Brantley
William Donnelly
Margaret O'Grady
Dr. John Peters
Raymond Rodriguez

Board Member Absent

None

Board Staff Present

R. T. Rinaldi
John L. Bobis
Clinton Vanneman
Linda Clevenger
Steven Rodriguez
Terri L. Murphy

DOSH Representative

Milt Terry

OTHERS PRESENT:

T. R. Weller, Wine Institute
Ed Maher, Pacific Telephone
Robert McCracken, So. Calif. Edison
Bill Bristol, Cal/OSHA

R. D. Quaresma, W.O.G.A.
Dewane Peters, So. Calif. Edison Co.
Jim Guenther, Fed/OSHA
Harvey Ledesman, City of Los Angeles

A. PROPOSED SAFETY ORDERS

1. GISO, Wine Pomace Pumps
Section 4539

Informative Digest

Mr. O'Hara stated there are several existing regulations that could be applied to portable pumps used in the wine industry to transfer pomace (i.e., skins, berries, seeds, etc.) during the crushing season from wine fermentation tanks to other locations for additional processing. These regulations are Sections 4002(a), 3481(a), 3944(c), 3999(a) and 3446(a). Application of these regulations could effectively prohibit the use of these unique pumps in California. For instance, these auger-type pumps have an integral intake hopper with a 30 inch by 30 inch opening that is approximately 20 inches from the floor. Section 3481(a) states that every open hopper whose upper edge is less than 36 inches above the floor shall be equipped with a standard railing around its edges or a grating having a maximum opening of 2 inches. Neither of these methods is practicable because: (1) railings would not permit the opening of the fermentation tank doors that are about 36 inches above the floor and would also inhibit the raking out through these doors of the pomace into the pumps intake hopper, and (2) a 2-inch grille opening would not permit the pomace, which is of heavy consistency, to pass through.

Accordingly, the proposed regulations would resolve these problems by a single, specific regulation, Section 4539, which would require that the pump's intake hoppers be guarded by enclosure, or location or hopper sides that extend at least 36 inches above the auger flight at the bottom of the hopper, or by the following method:

1. Wine Pomace Pumps
(continued)

- 1) Use of grilles having a maximum opening of 6 inches by 6 inches;
- 2) Electrical/mechanical interlock switches that de-energize the pump when the grille is not in place,
- 3) Emergency "stop" bars or cables readily accessible to the operator, and
- 4) Maintenance of shear pins in accordance with the manufacturers' recommendation.

Mr. Bobis stated that in addition to the statements contained in the Initial General Statement he would like to add that this matter was referred to an advisory committee and that the Standards Board does have an approved side-by-side code comparison from Region IX of Federal OSHA.

Mr. Raymond Rodriguez stated that he agrees with Mr. Harris's letter regarding Section 4539(a)(1) and recommends that the phrase "shall be provided so as to cover the top of the hopper at least 6 inches above the auger or screw mechanism" be added following the word deflection in Subsection (a)(1).

Mr. Bobis stated that he would like to review this proposed language..

Theodore Weller, Wine Institute, stated that he agrees with Mr. Rodriguez's suggested language for Subsection (a)(1). He also requested that Subsection (a)(3) be changed to read "An effective emergency stop system which is readily accessible to the operator."

Milt Terry stated the Division of Occupational Safety Health is very much concerned with Subsection (a)(3) and supports the language that is now being used.

1. Wine Pomace Pumps
(continued)

Mr. O'Hara stated that the lanauge in Subsection (a)(3) will be reviewed.

Mr. Ed Maher stated that the feels the wording "An effective emergency stop system" would be appropriate language because the Division would have to determine whether it is effective or not.

ADJOURNMENT

There being no further comments from the audience or the Board, the Chairman adjourned the Public Hearing of the Standards Board at 10:20 a.m.



OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

1006 FOURTH STREET
SACRAMENTO, CA 95814
(916) 322-3640

AGENDA

PUBLIC MEETING/PUBLIC HEARING OF THE
OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD
January 28, 1982
Auditorium
California State Building, 107 South Broadway
Los Angeles, California

PUBLIC MEETING

I. CALL TO ORDER AND INTRODUCTIONS

II. PUBLIC MEETING (Open for Public Comments)

This portion of the Public Meeting is open to any interested person to propose new or revised standards to the Board or to make any comment concerning occupational safety and health (Labor Code Section 142.2.).

III. ADJOURNMENT

PUBLIC HEARING

I. CALL TO ORDER AND INTRODUCTIONS

II. PROPOSED SAFETY STANDARDS (Revisions, Additions, Deletions)

1. Title 8: GENERAL INDUSTRY SAFETY ORDERS
(Wine Pomace Pumps)

Informative Digest of Proposed Action: There are several existing regulations that could be applied to portable pumps used in the wine industry to transfer pomace (i.e., skins, berries, seeds, etc.) during the crushing season from wine fermentation tanks to other locations for additional processing. These regulations are Sections 4002(a), 3481(a), 3944(c), 3999(a), and 3446(a). Application of these regulations could effectively prohibit the use of these unique pumps in California. For instance, these auger-type pumps have an integral intake hopper with a 30 inch by 30 inch opening that is approximately 20 inches from the floor. Section 3481(a) states that every open hopper whose upper edge is less than 36 inches above the floor shall be equipped with a standard railing around its edges or a grating having a maximum opening of 2 inches. Neither of these methods is practicable because (1) railings would not permit the opening of the fermentation tank doors that are about 36 inches above the floor and would also inhibit the raking out through these doors of the pomace into the pumps intake hopper, and (2) a 2-inch grille opening would not permit the pomace, which is of heavy consistency, to pass through.

Accordingly, the proposed regulations would resolve these problems by a single, specific regulation, Section 4539, which would require that the pump's intake hoppers be guarded by enclosure, or location or hopper sides that extend at least 36 inches above the auger flight at the bottom of the hopper, or by the following method:

- 1) Use of grilles having a maximum opening 6 inches by 6 inches.
- 2) Electrical/mechanical interlock switches that de-energize the pump when the grille is not in place.
- 3) Emergency "stop" bars or cables readily accessible to the operation, and
- 4) Maintenance of shear pins in accordance with the manufacturers recommendation.

III. ADJOURNMENT OF THE PUBLIC HEARING

BUSINESS MEETING

I. BUSINESS MEETING (Closed to Public Comment)

The Business Meeting is closed to comment by the public unless specifically requested by a member of the Standards Board. The purpose of the Business Meeting is to allow the Board to conduct its monthly business.

A. PROPOSED SAFETY ORDERS FOR ADOPTION

1. TITLE 8: GENERAL INDUSTRY SAFETY ORDERS, Sections 8600 through 8618, Telecommunications (Heard at the August 27, and September 24, 1981 Public Hearings)

B. PROPOSED VARIANCE DECISIONS FOR ADOPTION

1. Coca-Cola Bottling Company of Los Angeles (Variance File No. 81-V-023)
2. E. B. Petroleum Company (Variance File No. 81-V-024)
3. Redwood Oil Company (Variance File No. 81-V-025)

C. PROPOSED SAFETY ORDERS FOR EMERGENCY ADOPTION (None)

D. PROPOSED PETITION DECISIONS FOR ADOPTION

1. Otis Elevator Company (Petition File No. 129) requests that the Standards Board amend the Elevator Safety Orders, to permit the installation and use of multi-deck elevators in high rise buildings.

E. OTHER

1. Resubmittal of Section 1724(a)(1) and (5) and Section 1730(b)(8) and (9), Roofing Safety.
2. Changes in the Rulemaking Procedures.
3. OAL, Order to Show Cause for Chapter 3.5, Rules of Procedure for Interim and Permanent Variances, and Appeals from Temporary Variances.
4. Lead, 5216

II. ADJOURNMENT OF THE BUSINESS MEETING



OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

1006 FOURTH STREET
SACRAMENTO, CA 95814
(916) 322-3640

EXPANDED AGENDA

PUBLIC HEARING

JULY 22, 1982

SACRAMENTO

PUBLIC MEETING

I. CALL TO ORDER AND INTRODUCTIONS

THIS PUBLIC MEETING OF THE OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD IS CALLED TO ORDER. I AM GERALD O'HARA, CHAIRMAN; AND THE OTHER BOARD MEMBERS PRESENT AT TODAY'S PUBLIC MEETING ARE:

- (1) MR. ED ASHTON, MANAGEMENT REPRESENTATIVE
- (2) MR. WILLIAM BECKER, PUBLIC REPRESENTATIVE
- (3) MR. JACK BRANTLEY, LABOR REPRESENTATIVE
- (4) MR. WILLIAM DONNELLY, MANAGEMENT REPRESENTATIVE
- (5) DR. JOHN PETERS, HEALTH REPRESENTATIVE
- (6) MR. RAYMOND RODRIGUEZ, OCCUPATIONAL SAFETY REPRESENTATIVE

II. PUBLIC MEETING (OPEN FOR PUBLIC COMMENT)

THE LABOR CODE SECTION 142.2 REQUIRES THE STANDARDS BOARD TO HOLD AN OPEN PUBLIC MEETING EACH MONTH TO PERMIT ANY PERSON TO ADDRESS THE BOARD ON ANY MATTER OF OCCUPATIONAL SAFETY OR HEALTH OR TO PROPOSE NEW OR REVISED STANDARDS OR THE REPEAL OF A STANDARD TO THE BOARD.

THE FLOOR IS NOW OPEN TO ANY PERSON WISHING TO ADDRESS THE BOARD ON SUCH MATTERS.

THE MEETING IS ADJOURNED AND THE RECORD IS CLOSED.

III. ADJOURNMENT

PUBLIC HEARING

I. CALL TO ORDER AND INTRODUCTIONS

THIS PUBLIC HEARING OF THE OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD IS CALLED TO ORDER. IN ADDITION, ALSO PRESENT FROM OUR STAFF FOR TODAY'S HEARING ARE RON RINALDI, EXECUTIVE OFFICER; JOHN BOBIS, PRINCIPAL SAFETY ENGINEER; CLINT VANNEMAN, SENIOR INDUSTRIAL HYGIENIST; LINDA CLEVINGER, COUNSEL; STEVE RODRIGUEZ, ASSOCIATE GOVERNMENTAL PROGRAM ANALYST; AND TERRI MURPHY, BOARD SECRETARY. ALSO PRESENT TODAY AND REPRESENTING THE DIVISION OF OCCUPATIONAL SAFETY AND HEALTH ARE DR. ALVIN GREENBERG.

IF YOU HAVE NOT ALREADY DONE SO, PLEASE SIGN THE ATTENDANCE ROSTER WHICH BECOMES A PART OF THE OFFICIAL RECORD OF TODAY'S PROCEEDINGS. THE ATTENDANCE ROSTER IS LOCATED ON THE TABLE AT THE REAR OF THE ROOM. COPIES OF TODAY'S AGENDA, THE BOARD'S MEETING AND HEARING NOTICE, PROPOSED REGULATION CHANGES, AND THE INITIAL STATEMENT OF REASONS FOR THE PROPOSED CHANGES ARE AVAILABLE ON THE TABLE NEXT TO THE ATTENDANCE ROSTER.

THIS IS AN OPEN PUBLIC HEARING, ANYONE WISHING TO MAKE COMMENTS MAY DO SO. THOSE DESIRING TO SPEAK ARE REQUESTED TO COME TO THE PODIUM AND SPEAK DIRECTLY INTO THE MICROPHONE, GIVING YOUR NAME AND AFFILIATION.

IF IT BECOMES NECESSARY TO CONTINUE THIS PUBLIC HEARING, THE STANDARDS BOARD WILL TAKE FURTHER TESTIMONY ON THE PROPOSED REVISION ON JULY 29, 1982 AT 10:00 A.M. IN THE AUDITORIUM OF THE CALIFORNIA STATE RESOURCES BUILDING, 1416 NINTH STREET, SACRAMENTO, CALIFORNIA.

THE OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD IS A PART-TIME, INDEPENDENT BOARD MANDATED BY THE LEGISLATURE TO HOLD PUBLIC HEARINGS ON PROPOSED STANDARDS AND TO ADOPT STANDARDS WHICH, IN OUR JUDGEMENT, WILL PROVIDE "SUCH FREEDOM FROM DANGER AS THE NATURE OF THE EMPLOYMENT REASONABLY PERMITS" (THE DEFINITION OF "SAFETY" AS CONTAINED IN THE LABOR CODE).

IT HAS BEEN OUR POLICY TO TRY TO ADOPT STANDARDS WHICH ARE ENFORCEABLE, REASONABLE, UNDERSTANDABLE, AND WHICH CONTRIBUTE DIRECTLY TO THE SAFETY AND HEALTH OF CALIFORNIA EMPLOYEES.

THE BOARD IS INTERESTED IN YOUR TESTIMONY ON THE MATTERS BEFORE US. THE RECOMMENDATIONS WHICH YOU MAKE WILL BE CONSIDERED AND ANY RELEVANT TESTIMONY WILL BE APPRECIATED. YOU CAN HELP US BY IDENTIFYING THE SECTION OR SUBSECTION YOU WISH TO DISCUSS. IT IS THE CHAIR'S PLAN TO PROCEED PAGE-BY-PAGE ON THE PROPOSED LIST, UNLESS TESTIMONY IS RELEVANT TO MORE THAN ONE PAGE.

II. PROPOSED SAFETY STANDARDS (REVISIONS, ADDITIONS AND DELETING)

IF YOU HAVE WRITTEN COMMENTS, YOU CAN READ THEM INTO THE RECORD, BUT IT IS NOT NECESSARY TO DO SO AS LONG AS YOUR COMMENTS ARE SUBMITTED TO THE BOARD. I CAN ASSURE YOU THAT YOUR COMMENTS WILL BE GIVEN EVERY CONSIDERATION BY THE MEMBERS OF THE BOARD.

ALL WRITTEN COMMENTS SUBMITTED FOR THE RECORD SHOULD BE SUBMITTED TO THE BOARD'S SECRETARY. SHE WILL RECEIVE THEM FOR THE RECORD AND FORWARD COPIES TO EACH BOARD MEMBER.

THE FIRST ITEM ON TODAY'S AGENDA IS:

1. TITLE 8: GENERAL INDUSTRY SAFETY ORDERS
(MACHINERY, PRESS BRAKE, HYDRAULIC & PNEUMATIC PRESS, AND RIVETER GUARDING REQUIREMENTS)

INFORMATIVE DIGEST OF PROPOSED ACTION:

SECTION 4002: THE EXISTING SECTION REQUIRES GUARDING OF ONLY THE HAZARDS CREATED BY PINCH POINTS, SHEAR POINTS, AND THE ROTATING AND RECIPROCATING PARTS OF MACHINES. THE PROPOSED REVISIONS WOULD ALSO REQUIRE GUARDING OF THE ADDITIONAL HAZARDS CREATED BY RUNNING, SHEARING, PUNCHING, PRESSING, SQUEEZING, DRAWING, CUTTING, ROLLING, MIXING, OR SIMILAR ACTIONS OF PARTS OF MACHINES.

SECTION 4003: THIS SECTION IS BEING REPEALED BECAUSE ITS CONTENTS ARE INCORPORATED INTO NEW PROPOSED SECTION 4002.

SECTION 4188: THE EXISTING DEFINITIONS ADDRESS ONLY MECHANICAL POWER PRESSES AND THEIR APPURTENANCES. THE PROPOSED REVISIONS ADD SPECIFIC DEFINITIONS FOR THE PROPOSED SECTIONS ADDRESSING PRESS BRAKES, HYDRAULIC POWER PRESSES, AND RIVETING MACHINES.

SECTION 4189: EXISTING "SCOPE" EXEMPTS PRESS BRAKES, HYDRAULIC POWER PRESSES, AND RIVETERS. THE PROPOSAL DELETES THESE EXEMPTIONS.

SECTION 4190: PRESENTLY THERE ARE NO REQUIREMENTS FOR THE UNIFORM MARKING OR IDENTIFYING OF CONTROL BUTTONS AND LEVERS ON METAL FORMING MACHINERY. THE PROPOSAL CONTAINS SPECIFIC REQUIREMENTS FOR IDENTIFYING CONTROL DEVICES.

SECTIONS 4201, 4202, 4203, 4206 AND 4210: THE CHANGES PROPOSED IN THESE SECTIONS ARE OF AN EDITORIAL NATURE ONLY FOR PURPOSES OF CLARITY.

SECTION 4213: THE EXISTING ORDERS DO NOT CONTAIN REQUIREMENTS FOR SPECIAL PURPOSE PRESS DRIVE MOTOR INTERLOCKS. THE PROPOSED REVISION CONTAINS SPECIFIC REQUIREMENTS FOR THESE DEVICES.

SECTION 4214: THE EXISTING ORDERS DO NOT CONTAIN SPECIFIC GUARDING REQUIREMENTS FOR MECHANICAL OR HYDRAULICALLY POWERED PRESS BRAKES. THE PROPOSAL CONTAINS SPECIFIC GUARDING REQUIREMENTS OR WORK PROCEDURES TO BE USED FOR MECHANICAL OR HYDRAULIC POWERED PRESS BRAKES.

SECTION 4215: THE EXISTING ORDERS DO NOT CONTAIN SPECIFIC GUARDING REQUIREMENTS FOR HYDRAULIC POWER PRESSES. THE PROPOSAL CONTAINS SPECIFIC REQUIREMENTS FOR THE GUARDING OF THE POINT(S) OF OPERATION.

SECTION 4216: THE EXISTING ORDERS DO NOT CONTAIN SPECIFIC GUARDING REQUIREMENTS FOR RIVET SETTING EQUIPMENT. THE PROPOSAL CONTAINS SPECIFIC REQUIREMENTS FOR RIVET SETTING EQUIPMENT.

(REQUEST JOHN BOBIS TO BRIEF THE BOARD ON THIS PROPOSAL.)

COMMENTS?

THERE BEING NO (OTHER) PERSONS COMING FORWARD TO TESTFY ON THIS MATTER, THE RECORD OF THIS RULEMAKING PROCEEDING IS NOW CLOESED.

THIS HEARING IS ADJOURNED AND THE RECORD IS CLOSED.

IV. ADJOURNMENT OF THE PUBLIC HEARING

BUSINESS MEETINGI. BUSINESS MEETING (CLOSED TO PUBLIC COMMENT)

THIS PORTION OF THE BUSINESS MEETING IS CLOSED TO COMMENT BY THE PUBLIC UNLESS SPECIFICALLY REQUESTED BY A MEMBER OF THE STANDARDS BOARD. THE PURPOSE OF THE BUSINESS MEETING IS TO ALLOW THE BOARD TO CONDUCT ITS MONTHLY BUSINESS.

A. PROPOSED SAFETY ORDER FOR ADOPTION

1. GENERAL INDUSTRY SAFETY ORDERS, SUBSECTIONS 52L6(E) & (P) AND APPENDIX B-III & B-XV (HEARD AT THE JUNE 24, 1982 PUBLIC HEARING).

(REQUEST RON TO BRIEF THE BOARD ON THIS PROPOSAL.)

2. STATE ELECTRICAL CODE, TITLE 24, PART 3, UPDATE TO REFERENCE THE 1981 EDITION OF THE NATIONAL ELECTRICAL CODE (PROCEDURAL AND ORGANIZATIONAL FILING).

(REQUEST RON TO BRIEF THE BOARD ON THIS PROPOSAL.)

B. PROPOSED VARIANCE DECISION FOR ADOPTION

1. CLARK FOAM PRODUCTS (VARIANCE FILE NO. 82-V-008)

(HEARD BY PANEL MEMBERS EDWARD ASHTON AND JOHN PETERS ON JUNE 15, 1982 IN LOS ANGELES. REQUEST EITHER ONE OF THE BOARD MEMBERS TO BRIEF THE BOARD ON THE APPLICATION AND THE PROPOSED DECISION.)

2. SHELL OIL COMPANY (VARIANCE FILE NO. 82-V-009)

(HEARD BY PANEL MEMBERS JACK BRANTLEY AND WILLIAM DONNELLY ON JUNE 16, 1982 IN SAN FRANCISCO. REQUEST EITHER ONE OF THEM TO BRIEF THE BOARD ON THE APPLICATION AND THE PROPOSED DECISION.)

3. ST. ANNE'S HOME, LITTLE SISTERS OF THE POOR
(VARIANCE FILE NO. 82-V-010)

(HEARD BY PANEL MEMBERS WILLIAM DONNELLY AND JACK BRANTLEY ON JUNE 16, 1982 IN SAN FRANCISCO. REQUEST EITHER ONE OF THEM TO BRIEF THE BOARD ON THE APPLICATION AND THE PROPOSED DECISION.)

C. PROPOSED SAFETY ORDERS FOR EMERGENCY ADOPTION

NONE.

D. PROPOSED PETITION DECISIONS FOR ADOPTION

NONE.

E. OTHER

1. OAL'S APPROVAL OF OCCUPATIONAL NOISE, SECTIONS 5095 THROUGH 5100 AND THE AMENDMENT OF SECTION 152I.

2. RESUBMITTAL OF LP-GAS SYSTEMS, SUBSECTIONS 475(A).

3. OAL'S PROPOSED REGULATIONS.

THIS MEETING IS ADJOURNED AND THE RECORD IS CLOSED.

II. ADJOURNMENT OF THE BUSINESS MEETING

3. Title 8, GISO, Sections 4002, 4003, 4188, 4189, 4190, 4201, 4213, 4214, 4215 and 4216, Machinery, Press Brake, Hydraulic & Pneumatic Press, and Riveter Guarding Requirements

Mr. Rinaldi stated that as indicated in the Final Statement of Reasons, the purpose of the proposed revisions of the General Industry Safety Orders is to eliminate ambiguity, improve the clarity of the regulations related to machine guarding, and include new specific points-of-operation guarding requirements for press brakes, pneumatic and hydraulically operated presses, and riveting machines.

The specific purpose of the proposed revisions is as follows:

1. The revisions to Section 4002 are indicated to consolidate the guarding requirements presently existing in Sections 4002 and 4003, and to include additional guarding requirements for running, shearing, punching, pressing, squeezing, drawing, cutting, rolling, mixing or similar actions of parts of machines.
2. Section 4003 is repealed as unnecessary due to the proposed revisions to Section 4002.
3. The revisions transfer existing definitions from Section 4190 to Section 4188 so that the definitions would apply to press brakes, hydraulic power presses and riveting machines.
4. Section 4189 deletes the present exemption from the existing scope section for press brakes, hydraulic power presses, bulldozers and riveters. New regulations as contained in Sections 4214, 4215 and 4216 are proposed specifically for the guarding of press brakes, hydraulic power presses, and riveters. Bulldozers are sufficiently regulated by existing Section 4184(b) and revised Section 4002.
5. Section 4190 establishes specific requirements for identifying control devices for metal forming machines.
6. Sections 4201, 4202, 4203, 4206 and 4210 are editorially revised for the purpose of clarity.

7. Section 4213 establishes specific requirements for special purpose press drive motor interlocks.

8. Section 4214 establishes specific guarding requirements or work procedures for mechanically or hydraulically powered press brakes.

9. Section 4215 establishes specific requirements for points-of-operation guarding for hydraulic power presses.

10. Section 4216 establishes specific requirements for rivet setting equipment.

Staff recommends adoption of the revised regulations as proposed.

MOTION

A motion was made by Mr. Raymond Rodriguez, seconded by Mr. Jack Brantley, to adopt the Machinery, Press Brake, Hydraulic and Pneumatic Press and Riveter Guarding Requirements.

ROLL CALL VOTE

A roll call vote was taken and all Board Members voted "aye" Motion carried unanimously.

B. PROPOSED VARIANCE DECISIONS FOR ADOPTION

- 1. CALIFORNIA PRODUCTION SERVICE, INC.
(File No. 82-V-013)
(Heard on July 19, 1982 by Edward Ashton and Jack Brantley)

Mr. Jack Brantley stated that California Service, Inc., applied for a permanent variance from Section 6628(c) of the Petroleum Safety Orders regarding the disconnection of pressure hoses before hydraulically-powered tong jaws are changed on gas and oil well drilling and production rigs.

Mr. Brantley stated that after hearing the testimony he feels that the California Production Service's method is just as safe as Section 6628(c) and that the Division's staff and the Board's staff both recommended that the permanent variance be granted.

MOTION

A motion was made by Mr. Edward Ashton, seconded by Dr. John Peters, to grant the permanent variance as proposed by the hearing panel under the conditions listed in the proposed decision, as amended.

ROLL CALL VOTE

A roll call vote was taken and all Board Members voted "aye". Motion carried unanimously.

2. WOODLAND OPERA HOUSE
(File No. 82-V-017)
(Heard September 8, 1982
by Ray Rodriguez and
Gerald P. O'Hara)

Mr. O'Hara stated that the Standards Board received a letter from the International Union of Elevator Constructors with reference to the request for permanent variance.

Mr. Raymond Rodriguez stated the Woodland Opera House applied for a permanent variance from Sections 3050(b)(4), 3011(c) and 3011(d) of the Elevator Safety Orders with respect to the height and width of the passageway to the elevator machine room located in the basement of the Woodland Operation House.

Mr. Rodriguez stated that after hearing the testimony, the hearing panel determined that a reasonable access can be provided by outlining the best route to get to the machine room.

MOTION

A motion was made by Mr. Raymond Rodriguez, seconded by Mr. William Donnelly, to grant the permanent variance as proposed by the hearing panel under the conditions listed in the proposed decision.

ROLL CALL VOTE

A roll call vote was taken and all Board Members voted "aye". Motion carried unanimously.

3. SAMBO'S RESTAURANTS, INC.
(File No. 82-V-017)
(Heard on September 13,
1982 by Mr. Edward Ashton
and Mr. Jack Brantley)

Mr. Edward Ashton stated that Sambo's Restaurants, Inc., applied for a permanent variance from Sections 3235(h)(3) and (h)(4) of the General Industry Safety Orders regarding the bottom of a view panel or window in a double acting or swinging door shall be no more than 48" above the floor and also that the size of the panel shall not be less than 200 square inches. Mr. Ashton stated that the Sambo's Restaurant had a window that was approximately 54" from the floor and its total square area was slightly less than a 190 square inches.

Mr. Ashton stated that the testimony presented at the variance hearing established that the variance request would provide equivalent safety and recommended that the permanent variance be granted.

**OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD**1006 FOURTH STREET
SACRAMENTO, CA 95814
(916) 322-3640**INITIAL STATEMENT OF REASONS**
for Title 8, General Industry Safety Orders,
Sections 4002, 4003, 4188, 4189, 4190, 4201,
4213, 4214, 4215, and 4216PURPOSE

Proposed revisions to the Machine Guarding Safety Orders were initially considered by the Standards Board at its November 19, 1981, public hearing. Due to the extent of opposition testimony received in regard to the proposed revisions, the Board referred the proposals back to staff for revisions where appropriate. As a result, these proposed changes include revisions that address the comments received during the November 19, 1981, public hearing.

The proposed revisions to Sections 4002, 4188, 4189, 4190, 4201, and 4213 through 4216 of the General Industry Safety Orders are intended to eliminate ambiguity and improve the clarity of the regulations related to machine guarding and include new specific points of operation guarding regulations for press brakes, pneumatic and hydraulic operated presses, and riveting machines.

FACTUAL BASIS OF NECESSITY

Section 4002 - Existing regulations only require the guarding of hazardous revolving and reciprocating parts of machines. The proposed revision includes specific requirements (including those presently in Section 4003) addressing all machines or component parts of machines which create hazardous revolving, reciprocating, running, shearing, punching, pressing, squeezing, drawing, cutting, rolling, mixing, or similar actions. In one case, the Division of Occupational Safety and Health (DOSH) cited an employer for allegedly violating the requirements of Section 4002(a) involving the unguarded hazardous movements of a machine. The employer filed for and was subsequently granted an appeal by the CAL/OSHA Appeals Board. The Board ruled that a squeezing or crushing action caused by the cycling of a ram of a metal forming machine was not considered to be a reciprocating motion. (COSHAB Docket No. 78-R4D3-977)

Section 4188 - The existing regulation does not contain definitions covering the hazardous revolving, reciprocating, running, shearing, punching, pressing, squeezing, drawing or cutting operations of power brakes, hydraulic presses, and riveting machines. The new definitions are intended to provide clarity and continuity for the proposed power brake, hydraulic press and riveting standards.

Initial General Statement of Reasons
GISO Sections 4002, 4003, 4188, 4189, 4190, 4201,
4213, 4214, 4215, and 4216
Page -2-

Section 4189 - Existing regulations do not specifically address the hazards associated with the points of operation of press brakes, pneumatic and hydraulic power presses, and riveters. The "scope" section specifically exempts these machines from the requirements of Group 8; Article 55. The Sheet Metal Contractors Association and DOSH requested the Board to adopt regulations to clearly define the guarding requirements for these machines. DOSH compliance personnel are presently enforcing the requirements based on an Administrative Interpretation (AI No. 100) entitled "Point of Operation Guarding of Dangerous Machinery." DOSH interprets the wording of Section 4184 to include all metal forming machines such as press brakes, riveters and pneumatic and hydraulically powered presses. Ambiguity, therefore, exists with respect to what regulation, if any, addresses the point of operation hazards created by the moving parts of these metal forming machines.

The Standards Board appointed a representative advisory committee for the purpose of developing appropriate revisions and making recommendations for the Board's consideration. Amended Section 4189 reflects the consensus of that committee.

Section 4190: A new regulation is being proposed to require the identification of equipment controls.

Sections 4213 - 4216 - The guarding of the point(s) of operation for press brakes, pneumatic and hydraulic power presses, and riveters is not addressed in Title 8. The new proposed regulations establish specific guarding requirements for these metal forming machines. Presently, DOSH has been enforcing the requirements intended specifically for punch presses, to press brakes, pneumatic and hydraulic power presses, and riveters in accordance with the guidelines outlined in its Administrative Interpretation No. AI 100.

SUBSTANTIVE FACTS

The California Division of Labor Statistics and Research (CDLSR) in its latest study of work injuries, dated February 1981, indicates that workers continue to sustain serious injuries while operating press brakes and riveting machines. These injuries are directly related to improper work procedures, lack of point(s) of operation guarding and other causes.

According to CDLSR, in the period of 1977 through 1979, 704 California employees suffered disabling injuries caused during the use of press brakes and riveting machines. Of these injuries, 41 were amputations, 123 were crushing or contusion injuries, 270 were cuts or punctures, 59 were fractures, and 230 were from other causes, such as strains and sprains.

Initial General Statement of Reasons

GISO Sections 4002, 4003, 4188, 4189, 4190, 4201,
4213, 4214, 4215, and 4216

Page -3-

Presently, Article 55 exempts power brakes, hydraulic presses, and riveting machines from the point of operations guarding requirements of power presses. DOSH is currently enforcing the power press requirements for these machines through an Administrative Interpretation (AI 100). The proposed revision to Article 55 will establish specific regulations to indicate the applicable point of operation guarding requirements for these machines.

July 23, 1982.

Mr. B. L. Knell
Manager
Occupational Safety & Health
Orgn. 1610, Zone 65
NORTHROP CORPORATION
Aircraft Division
One Northrop Avenue
Hawthorne, California 90250

Dear Mr. Knell:

We have received your letter dated July 12, 1982, which was hand delivered at the July 22, 1982 Public Hearing, with respect to the proposed revisions to Machinery, Press Brake, Hydraulic & Pneumatic Press, and Riveter Guarding Requirements as contained in the General Industry Safety Orders, which were considered by the Standards Board at its Public Hearing on July 22, 1982 in Sacramento, California.

Your letter will be made part of the Board's official record of proceedings in this matter.

We appreciate your interest in this matter and can assure you that your comments will be given every consideration by the Members of the Occupational Safety and Health Standards Board.

Sincerely,

R. T. RINALDI
Executive Officer

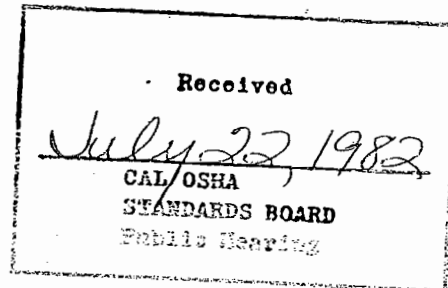
/tln

cc: Dr. Alvin Greenberg
John L. Bobis
All Standards Board Members

3-125

NORTHROP

12 July 1982



Occupational Safety and Health
Standards Board
1006 Fourth Street
Sacramento, CA 95814

Attention: Mr. Gerald F. O'Hara, Chairman

Gentlemen:

Written statement and arguments of Northrop Corporation-Aircraft Division in relation to certain proposed changes to Title 8 of the California Administrative Code; prepared for presentation to the Occupational Safety and Health Standards Board in public hearing, 22 July 1982, in the auditorium of the California State Resources Building, Sacramento.

SECTION 4002: Concerns classes of machinery we use, such as mills, lathes, drillpresses and tubebenders, where, heretofore, guarding dangerous moving parts has been neither conceived of nor successfully accomplished. Production would stop.

IMPACT: Adopted, literally interpreted, and strictly enforced, these provisions would so contravene our mission as to call forth appeal to the Department of Defense for intervention and relief.

COSTS: Too great to consider as a serious issue.

RECOMMENDATION: Amend Section 4002 to read:

4002: Moving parts of machinery or equipment.

- (a). All machines, parts of machines, or component parts of machines which creates hazardous revolving or reciprocating, including pinch points and shear points, not guarded by the frame of the machine(s) or by location, shall be guarded.

4216: Concerns our Automatic Rivetors and pedestal-mounted, pneumatic rivet squeezers, in Military and Commercial Sub-assembly and Major-assembly operations. Available or conceivable guarding systems are inconsistent with production methods.

3-126

Occupational Safety & Health
Standards Board
12 July 1982

Page Two

SECTION 4216, (b)(8)(A): Amend to read:

The operator shall be qualified based on his/her training
and experience, or

SECTION 4216(c): Delete (c) inch.



B. L. Knell

Manager

Occupational Safety & Health

Orgn: 1610, Zone 65, Phone (213)970-4102

3-127

July 21, 1982

Mr. A. B. Daddi
Director of Industrial Relations
GENERAL DYNAMICS CONVAIR DIVISON
Lindbergh Field Plant
P. O. Box 80877
San Diego, California 92138

Dear Mr. Daddi:

We have received your letter and pictures dated July 17, 1982 with respect to the proposed revisions to Machinery, Press Brakes, Hydraulic Presses, Pneumatic Presses and Riveter Guarding as contained in the General Industry Safety Orders, which will be considered by the Standards Board at its Public Hearing on July 22, 1982 in Sacramento, California.

Your letter and pictures will be made part of the Board's official record of proceedings in this matter.

We appreciate your interest in this matter and can assure you that your comments will be given every consideration by the Members of the Occupational Safety and Health Standards Board.

Sincerely,

R. T. RINALDI
Executive Officer

/tln

cc: Dr. Alvin Greenberg
John L. Bobis
All Standards Board Members

3-128

RPD

GENERAL DYNAMICS

Convair Division

Kearny Mesa Plant, P.O. Box 80847, San Diego, California 92138 - 714-277-8900

Lindbergh Field Plant, P.O. Box 80877, San Diego, California 92138

Procurement, P.O. Box 80827

Accounting, P.O. Box 80818

17 July 1982

Occupational Safety & Health Standards Board
1006 Fourth Street
Sacramento, CA 95814

Attention: Mr. Gerard P. O'Hara, Chairman

Gentlemen:

This is General Dynamics Convair Division's response to the proposed changes to Title 8, Articles 41, 54 and 55 Safety Orders. The latest draft of the proposed changes have been carefully reviewed. We find no substantial change to the previous proposals that this company and many others rejected in previous public hearings. The following addresses some of the safety orders that will have an obvious cost impact on industry and do little to improve safety.

Safety Order 4002:

This proposed revision would apply to literally dozens of different types of machine tools such as drills, grinders, tube benders, flaring machines, etc., etc. We readily admit now and again an injury is sustained by employees operating these machines. As often as not, it is neither a point-of-operation injury nor disabling. Guarding the point-of-operation of drills, milling machines, lathes, tube benders, and so forth would be virtually impossible if some semblance of efficient production is expected. Some of the Board members can likely relate to the efforts made in the past of guarding drill bits by enclosing them in a compression spring-type guard and milling cutters by enclosing them in a 3/4 cylindrical tube. The end results were disastrous both from production and safety. Are we to repeat this exercise or should we continue to depend on the skills and safety awareness of the operator? As you are aware, splash shields installed on lathes and milling machines do not meet point-of-operation guard criteria. However, they have been highly beneficial by alerting the operator to revolving parts and thereby, preventing injuries, the fact they are not acceptable notwithstanding.

If the proposed orders are adopted, we envision citations and subsequent appeals and the expense incurred therein. The backlog of cases would "hamstring" the hearing officers and make little contribution to safety. The adverse effects on production would be catastrophic. I should feel DOSH would be more concerned about addressing "unsafe conditions" than introducing a safety order that virtually all employers would be in violation of and in reality not an "unsafe condition" of an appreciable degree.

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3-129

Safety Order 4214:

Part b9 of this proposal is a "Catch 22" type safety order. It does not provide relief from guarding the point-of-operation as some kind of point-of-operation protection can be provided if costs and production are of no concern. The only device that could possibly be construed as having universal application is the "presence sensing" device. Even this device cannot be used for some operations such as sweep forming. The cost of a recently installed "presence sensing" device was \$13,000. The provision of the combination of several alternate guards or devices would likely cost as much or more. The mechanical characteristics of press brakes, e.g., partial revolution clutch and finger touch control are inherent deterrents of accidents and negate the necessity of further expenditures.

We have attempted in previous correspondence and testimony to point out the lack of meaningful statistics DOSH continues to quote as justification for point-of-operation guard changes and reiterate that state compiled statistics do not support the proposed standards.

Safety Order 4188:

Definitions and 4215 Hydraulic Power Press (Punch Presses). The definition of hydraulic presses (punch presses) is not clear. It seems to indicate that if the ram or slide does not have a tool attached to it for shearing, forming, drawing, or assembling metal or other material, the press is exempt. Thereby, we would assume that a powered hydraulic press used in a garage for pressing bearings on and off need not be guarded as it has no tool or die attached to the ram or slide. On the other hand, it appears the same machine used in a machine shop for straightening stock, which in this case may have a die attached that conforms to the stock, would have to be guarded. If our interpretation is correct, this is the epitome of inconsistency. Likewise, the exemption of pneumatic power presses contained in Safety Order 4189 seems to be inconsistent with the proposed safety orders.

We reject the proposed order due to the slow action of the ram and the fact it can be stopped at any point of it's travel and in some cases reversed. Historically, such features have been deterrents to point-of-operation injuries.

Safety Order 4216 Rivet Setting Equipment:

Subsection 8s is another "Catch 22" falling into the same category as 4214. Our history of point-of-operation injuries over the past 40 years of utilizing dozens of foot actuated pedestal-type rivet setting machines is significant in that we have had no permanent loss-type injuries, only minor injuries. In addition, discussions with other companies and a review of state compiled statistics indicate the likelihood of accidents at a point-of-operation of rivet setting machines is minimal.

Installation of a point-of-operation barrier guard would require the threading of the materials into the point-of-operation. The installation of Class A or B gates is not cost effective. Also, this type protection leads itself to being tampered with by

GENERAL DYNAMICS
Convair Division

Page Three

the operator, thereby creating false security. Restraints and pull-backs simply are not cost effective devices unless a multitude of "conveyor fed" parts are being processed. This is not the case in the vast majority of manufacturing operations. And, of course, Board members are aware of false security provided by devices not properly adjusted.

We are cognizant of the provision for contesting citations and, in fact, would likely contribute to the aforementioned backlog of hearings. Appeals are time-consuming and expensive. The "Board's" rejection of these proposed safety orders will effectively prevent this waste of the consumer's dollars. In order that you may view first-hand our concerns, an invitation is hereby extended to you individually or collectively to visit our plant. In the meantime, the enclosed photographs and descriptive language pertaining to some of the machines that would be effected by the proposed safety orders are enclosed for your perusal.

Very truly yours,



A. B. Daddi
Director of Industrial Relations

ABD/jek/mc
Enclosures

3-131

June 30, 1982

Mr. Don Reining, President
S.C.R.P.A. - S.C.R.M.C.A.
P.O. Box 40
South Pasadena, California 91030

Dear Mr. Reining:

We have received your letter dated June 24, 1982 with respect to the proposed revisions to Machinery, Press Brake, Hydraulic Press, Pneumatic Press and Riveter Guarding as contained in the General Industry Safety Orders, which will be considered by the Standards Board at its Public Hearing on July 22, 1982 in Sacramento, California.

Your letter will be made part of the Board's official record of proceedings in this matter.

We appreciate your interest in this matter and can assure you that your comments will be given every consideration by the Members of the Occupational Safety and Health Standards Board.

Sincerely,

R. T. RINALDI
Executive Officer

/tln

cc: Dr. Alvin Greenberg
John L. Bobis
All Standards Board Members

3-132
HPD

Southern
California
Rock
Products
Association

Southern
California
Ready Mixed
Concrete
Association



June 24, 1982

Mr. Gerald P. O'Hara, Chairman
Occupational Safety and Health
Standards Board
1006 Fourth Street
Sacramento, CA 95814

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STANDARDS BOARD

Dear Mr. O'Hara:

In our previous statement presented on behalf of the Southern California Rock Products Association and Southern California Ready Mixed Concrete Association by Jerry King, Chairman of our Safety Committee, on November 19, 1981, in San Diego, we expressed the following:

"The Southern California Rock Products Association and the Southern California Ready Mixed Concrete Association represent approximately 43 companies engaged in the business of mining rock, sand and gravel and/or supplying ready mixed concrete to the construction industry.

"Members of these companies are concerned with the proposed revisions to the Title 8 Safety Orders regarding Prime Movers, Article 41, Section 4002. We are aware that Section 3999 of Article 41 specifically addresses conveyors. However, at this time, it is not clear to us whether Section 4002 will or could be cited in regulating conveyor operations.

"Our concern is directed to the many miles of conveyor belts used by our industry in moving our sand and gravel. These conveyor belts require numerous idler rollers under the belts to support the load. These rollers are not mentioned in Section 3999 which specifically regulates conveyors

Mr. Gerald P. O'Hara
June 24, 1982
Page Two

because it would be totally impractical to guard them.


"Therefore, we are offering the following amendment to the proposed amendment of Section 4002:

- "a) All machines not specifically included in preceding sections, parts of machines, or component parts of machines which create hazardous . . .

"We believe that this language would not change the intent of the amendment."

We sincerely hope that the Occupational Safety and Health Standards Board will please give us consideration, especially with times being as they are today. All of our member firms have had to tighten their belts because of the economic times. We would certainly like to have additional capital outlays at this time for the item we take exception to in the area of safety. Your consideration would be very much appreciated.

Most sincerely,



Don Reining
President
S.C.R.P.A. - S.C.R.M.C.A.

DR/jm

3-134

June 30, 1982

Mr. B. L. Knell, Safety Manager
Occupational Safety and Health Dept.
NORTHROP CORPORATION
Aircraft Division
One Northrop Avenue
Hawthorne, California 90250

Dear Mr. Knell:

We have received your letter dated June 17, 1982 with respect to the proposed revisions to Machinery, Press Brake, Hydraulic Press Pneumatic Press and Riveter Guarding as contained in the General Industry Safety Orders, which will be considered by the Standards Board at its Public Hearing on July 22, 1982 in Sacramento, California.

Your letter will be made part of the Board's official record of proceedings in this matter. In addition, the letter you submitted when these regulations were proposed last November 19, 1981, has been incorporated into the current rulemaking file.

We appreciate your interest in this matter and can assure you that your comments will be given every consideration by the Members of the Occupational Safety and Health Standards Board.

Sincerely,

R. T. RINALDI
Executive Officer

/tln

cc: Dr. Alvin Greenberg
John L. Bobis
All Standards Board Members

3-135
HPD

NORTHROP

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17 June 1982

Occupational Safety and Health
Standards Board
1006 Fourth Street
Sacramento, CA 95814

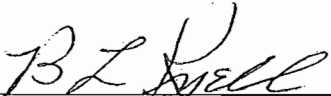
Attention: Mr. Gerald P. O'Hara, Chairman

Gentlemen:

This is the written statement of Northrop Corporation - Aircraft Division in relation to certain proposed changes to Title 8 of the California Administrative Code prepared for presentation to the Occupational Safety and Health Standards Board in public hearing, 22 July 1982, California State Resources Building, Sacramento.

Since the text of the revised proposed Safety Orders in so nearly unaltered, we stand by the arguments we furnished in our 16 November 1981 letter to you, and as presented in public hearing in San Diego.

We make our presentation, 22 July in Sacramento.


B. L. Knell, Safety Manager
Occupational Safety & Health Department
Orgn. 1610 Zone 62 Phone: (213) 970-4102



OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

1006 FOURTH STREET
SACRAMENTO, CA 95814
(916) 322-3640

FINAL STATEMENT OF REASONS

Title 8, General Industry Safety Orders
Sections 4002, 4003, 4188, 4189, 4190,
4201, 4213, 4214, 4215 and 4216
July 22, 1982 Public Hearing

SPECIFIC PURPOSE

The purpose of the proposed revisions to Sections 4002, 4003, 4188, 4189, 4190, 4201, 4213, 4214, 4215 and 4216 of the General Industry Safety Orders is to eliminate ambiguity, improve the clarity of the regulations related to machine guarding, and include new specific points of operation guarding requirements for press brakes, pneumatic and hydraulically operated presses, and riveting machines.

The specific purpose of the proposed revisions is as follows:

1. Section 4002 - The purpose of the proposed revisions is to consolidate the guarding requirements presently existing in Sections 4002 and 4003, and to include additional guarding requirements for running, shearing, punching, pressing, squeezing, drawing, cutting, rolling, mixing or similar actions of parts of machines.
2. Section 4003 - This section is repealed because its contents are incorporated into Section 4002.
3. Section 4188 - The purpose of the proposed revision is to transfer existing definitions from Section 4190 to Section 4188 so that the definitions would apply to press brakes, hydraulic power presses and riveting machines.
4. Section 4189 - The purpose of the proposal is to delete the present exemption from the existing scope section for press brakes, hydraulic power presses, bulldozers and riveters. New regulation as contained in Sections 4214, 4215 and 4216 are proposed specifically for the guarding of press brakes, hydraulic power presses, and riveters. Bulldozers are sufficiently regulated by existing Section 4185 and revised Section 4002.
5. Section 4190 - The proposal will establish specific requirements for identifying control devices for metal forming machines.
6. Sections 4201, 4202, 4203, 4206 and 4210 - These regulations have been editorially revised for the purpose of clarity.
7. Section 4213 - The proposal is intended to establish specific requirements for special purpose press drive motor interlocks.
8. Section 4214 - The proposal is intended to establish specific guarding requirements or work procedures for mechanically or hydraulically powered press brakes.

9. Section 4215 - The proposal is intended to establish specific requirements for points-of-operation guarding for hydraulic power presses.

10. Section 4216 - The proposal is intended to establish specific requirements for rivet setting equipment.

FACTUAL BASIS OF NECESSITY

Section 4002 - Existing regulations only require the guarding of hazardous revolving and reciprocating parts of machines. The proposed revision includes specific requirements (including those presently in Section 4003) addressing all machines or component parts of machines which create hazardous revolving, reciprocating, running, shearing, punching, pressing, squeezing, drawing, cutting, rolling, mixing or similar actions. It is necessary to expressly include these additional actions in this regulation because the existing section has been narrowly interpreted by the California Occupational Safety and Health Appeals Board. In one case the Division of Occupational Safety and Health (DOSH) cited an employer for allegedly violating the requirements of existing Section 4002(a) involving the unguarded hazardous movements of a machine. The employer filed for and was subsequently granted an appeal by the California Occupational Safety and Health Appeals Board. The Appeals Board ruled that a squeezing or crushing action caused by the cycling of a ram of a metal forming machine was not considered to be a reciprocating motion. (COSHAB Docket #78-R4D3-977)

Section 4188 - The existing regulation does not contain definitions covering the hazardous revolving, reciprocating, running, shearing, punching, pressing, squeezing, drawing or cutting operations of power brakes, hydraulic presses, and riveting machines. The new definitions are intended to provide clarity and continuity for the proposed power brake, hydraulic press and riveting machine standards. All of the definitions presently in Section 4190 were transferred to Section 4188 and new definitions are included for:

1. Adjustable barrier guard.
2. Combined stroking control systems.
3. Power operated presses.
4. Power press, hydraulic (punch press).
5. Press brake, general purpose.
6. Press brake, special purpose mechanical or hydraulic.
7. Ram.
8. Rivet setting equipment.

The new definitions are needed to update General Industry Safety Orders and to be consistent with the new ANSI standards addressing power brakes, hydraulic presses and riveting machines.

Legal Notes & Viewpoints:

OCCUPATIONAL SAFETY AND HEALTH STANDARDS

John D. Conner of the Washington, D.C. Bar, examines the significance, promulgation and judicial review of OSHA standards.

1. SIGNIFICANCE OF STANDARDS

a. Standards constitute the criteria of conduct that both employers and employees must meet under section 5 of the Act. (29 USC §654)

b. Definition of Standard. The term "Occupational Safety and Health Standard" means a standard which requires conditions, or the adoption or use of one or more practices, means, methods, operations, or processes, reasonably necessary or appropriate to provide safe or healthful employment and places of employment. (section 3(8) of Act; 29 CFR §1910.2(f))

c. The Act provides for three types of standards:

- (1) National Consensus Standard and Established Federal Standards under section 6(a) of Act. (29 USC §655(a))
- (2) Permanent Standards under section 6(b) of Act (29 USC §655(b)), and
- (3) Temporary Emergency Standards under section 6(c) of Act. (29 USC §655(c))

2. PROMULGATION OF STANDARDS

a. National Consensus and Established Federal Standards definition. The term "National Consensus Standard" means any occupational safety and health standard or modification thereof which (1) has been adopted and promulgated by a nationally recognized standards-producing organization under procedures whereby it can be determined by the Secretary that persons interested and affected by the scope or provisions of the standard have reached substantial agreement on its adoption, (2) was formulated in a manner which afforded an opportunity for diverse views to be considered and (3) has been designated as such a standard by the Secretary, after consultation with other appropriate federal agencies. (Section 3(9) of the Act, 29 USC §652(9); 29 CFR §1910.2(g))

"Established Federal Standard" means any operative occupational safety and health standard established by any agency of the United States and presently in effect, or contained in any Act of Congress in force on the date of enactment of this Act. (Section 3(10) of Act, 29 USC §652(10); 29 CFR §1910.2(h))

(1) Issuance. Issued by rule without regard to procedural requirements of Administrative Procedure Act, Chapter 5, Title 5, United States Code. Procedure for issuing is set forth in 29 CFR, Part 1910. Period during which such standards could be issued terminated in April 1973.

Under this authority, the Secretary has promulgated the following as established federal standards:

- 1910.12 Construction Work
- 1910.13 Ship Repairing
- 1910.14 Shipbuilding
- 1910.15 Shipbreaking
- 1910.16 Longshoring
- 1910.17 Effective dates

Under this authority, the Secretary has promulgated the following as national consensus standards:

- Subpart D—Walking—Working Surfaces
- Subpart E—Means of Egress

Subpart F—Powered Platforms, Ladders and Vehicle-Mounted Work Platforms

Subpart G—Occupational Health and Environmental Control

Subpart H—Hazardous Materials

Subpart I—Personal Protective Equipment

Subpart J—General Environmental Controls

Subpart K—Medical and First Aid

Subpart L—Fire Protection

Subpart M—Compressed Gas and Compressed Air Equipment

Subpart N—Materials Handling and Storage

Subpart O—Machinery and Machine Guarding

Subpart P—Hand and Portable Powered Tools and Other Hand-Held Equipment

Subpart Q—Welding, Cutting and Brazing

Subpart R—Special Industries

Subpart S—Electrical

b. Permanent Standards. Any interested person or agency may submit information and request issuance of standard under procedure specified in Section 6(b) of the Act (29 USC §655(b)).

Issuance may be instituted by submission of information by any interested party or agency.

(1) Role of Advisory Committee. Secretary may request the recommendations of an Advisory Committee appointed under Section 7(b) of the Act (29 USC §656(b)). The composition and functioning of Advisory Committees on Standards is set forth in 29 CFR, Part 1912. Advisory Committees may hold public hearings open to participation by interested persons. Verbatim transcripts of the hearings are made. Recommendations of an Advisory Committee must be reduced to writing and will constitute a part of the record in a subsequent proceeding. An Advisory Committee must report within 90 days or in the discretion of the Secretary, not later than 270 days.

(2) The Secretary publishes a proposed rule promulgating, modifying, or revoking a standard and affords interested parties 30 days after publication to comment. If the Secretary has requested the recommendations of an Advisory Committee, the proposed rule must be promulgated within 60 days after submission of the Advisory Committee's recommendations or the expiration of the period subscribed by the Secretary for such submission.

(3) Within 30 days of publication, any interested party may file objections and request a public hearing. Within 30 days after the last day for filing objections, the Secretary is required to publish a notice that objections have been filed and specifying a time and place for the hearing.

(4) A hearing is conducted in accordance with 29 CFR, Part 1911.

OSHA considers the hearing to be legislative in nature (citing legislative history, 29 CFR §1911.15). There is a limited right of cross-examination (29 CFR §1911.15(a) (1) and §1911.16). Administrative Judge does not make recommended findings or conclusions but certifies the entire record to the Secretary (29 CFR §1911.17). There is a right, however, for interested parties to present written recommendations, arguments, etc. to the Administrative Judge. These become a part of the record to be certified. Whether or not such an informal hearing meets statutory criteria poses an interesting question which is discussed under Judicial Review, part 3, below.

(5) Secretary issues the standard within 60 days after completion of the hearing or after submission of written data or comments if there is not a hearing.

(6) Criteria for standards are specified in Section 6(b)(5) of the Act, (29 USC §655(b)(5)).

Act authorizes the Secretary to issue an Emergency Temporary Standard to take effect immediately upon a determination that:

(A) Employees are exposed to grave danger from exposure to substances determined to be toxic or physically harmful or from new hazards, and

(B) The Emergency Standard is necessary to protect employees from such danger.

The Emergency Temporary Standard may be issued without regards to the requirements of Chapter 5, Title 5, United States Code relating to notice and hearing.

Upon publication of the Emergency Temporary Standard, the Secretary must commence a proceeding to issue a permanent standard under Section 6(b) and must issue such a standard no later than six months after publication of the Temporary Emergency Standard.

d. Amendment of Standards. Amendment of Standard, including existing National Consensus or Established Federal Standards, is governed by the procedure for issuing permanent standards under section 6(b) of the Act.

3. JUDICIAL REVIEW

a. Jurisdiction and venue control by section 6(f) of the Act. Any person who may be adversely affected by a standard issued under this section at any time prior to the sixtieth day after such standard is promulgated file a petition challenging the validity of such standard with the United States Court of Appeals for the circuit wherein such person resides or has his principal place of business, for a judicial review of such standard. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary. The filing of such petition shall not, unless otherwise ordered by the court, operate as a stay of standard. The determinations of the Secretary shall be conclusive if supported by substantial evidence in the record considered as a whole. (29 USC §655 (f))

b. In case of filing in multiple circuits, priority of filing is controlled under 28 USC §2112.

c. Certification of Record. The record on review is certified under 28 USC §2112.

In the case of a Section 6(b) proceeding, a composition of the record is definite.

On review of an Emergency Temporary Standard issued without hearing, the composition of the record is open-ended. The Secretary may certify any documents which he considered. Petitioner on review has the option to move the court to include in the record any documents which he considers the Secretary should have considered, including any documents which were submitted to the Secretary prior to the issuance of the standard.

d. Stay of Effective Date Pending Review. The filing of a petition to review under Section 6(f) does not stay the effective date but the right of the court to enter a stay is recognized.

5 USC §705 and Rule 18 of Federal Rules of Appellate Procedure require, except in unusual cases, that a motion to stay the effective date pending judicial review be filed with the Secretary prior to filing a motion with the court.

In exercising its discretion whether to grant a stay pending review, a court will consider the following factors:

(1) Has the petitioner made a strong showing that it is likely to prevail on the merits of its appeal?

(2) Has the petitioner shown that without such relief it will be irreparably injured?

(3) Would the issuance of a stay substantially harm other parties interested in the proceeding?

(4) The public interest. *Virginia Petroleum Jobbers Ass'n. v. FPC*, 259 F.2d 921, 925 (C.A.D.C., 1958); *In re Penn Central Transportation Co.*, 457 F.2d 381, 384-85 (C.A. 3, 1972); *Nelson v. Miller*, 373 F.2d 474, 477-78 (C.A. 3, 1967).

in motion to stay effective date of a permanent standard under section 6(b) the hearing record may be relied upon to establish the grounds. Grounds also may be supported by affidavits or other sworn motions under Rule 18, Federal Rules of Civil Procedure.

In a motion to stay the effective date of an Emergency Temporary Order, the grounds must be supported completely by affidavits or other material since there is no formal record.

Proceedings in which stays have been granted pending review under section 6(f) of the Act:

Florida Peach Grower's Association v. Department of Labor #73-1934 presently pending in the United States Court of Appeals for the Fifth Circuit. *Associated Industries of New York State, Inc. v. U.S. Department of Agriculture* #73-1978 United States Court of Appeals for the Second Circuit reported at CCH Occupational Safety and Health Decisions 1971-1973, ¶16761.

e. Scope of Review. Section 6(f) specifies "substantial evidence in the record considered as a whole" as the scope of review. The Labor Department has argued that the substantial evidence test must be given a very limited scope in reviewing a standard issued under section 6(b) because they consider the section 6(b) hearing to be legislative rather than adjudicatory in scope. In *Associated Industries* the Department of Labor argued that the court should review the record only to the extent necessary to determine whether there is substantial evidence to support the Secretary's determination. The court did not subscribe to this limited scope of review and held that it must review the entire record to determine whether the Secretary's determination is supported by substantial evidence. In *Dry Color Manufacturers Association et al v. Peter J. Brennan, Secretary of Labor et al.*, #73-1361 (C.A. 3, decided October 4, 1973), the court applied the substantial evidence rule in holding a portion of an Emergency Temporary Standard not to be supported by the Secretary's findings.

On oral argument on a petition to review an Emergency Temporary Standard in *Florida Peach Grower's*, the Fifth Circuit raised the question as to whether the substantial evidence rule logically can be applied in reviewing an order based on a record made without a hearing. Petitioners contended that it could and should be. This proceeding is now awaiting decision and it is expected that the court will address itself to this question.

A reading of section 6(b) does not mandate the Department of Labor's interpretation that a 6(b) hearing is legislative in nature, but neither does it foreclose such an interpretation; specifically it does not require an adjudicatory-type hearing. The legislative history does contain language to support the Department of Labor's interpretation (see citation in 29 CFR §1911.15(a)(1)).

Accordingly, I believe that a convincing case can be made that a reading of section 6(f) in conjunction with the Administrative Procedures Act requires a formal adjudicatory section 6(b) hearing.

5 USC §553(c) provides in part

"When rules are required by statute to be made on the record after opportunity for an agency hearing, §§556 and §557 of the Title apply instead of this subsection."

§556 and §557 require a formal adjudicatory-type hearing.

5 USC §706 provides that the reviewing court shall hold unlawful agency action

"(E) Unsupported by substantial evidence in a case subject to §556 and §557 of this Title or otherwise reviewed on a record on agency hearing provided by statute."

Accordingly, I believe it probable that someone will challenge the Department of Labor's interpretation that 6(b) hearings and legislative and subject to limited judicial review under the substantial evidence rule on the basis that §553(c) requires that the hearing be a formal adjudicatory hearing under §556 and §557.





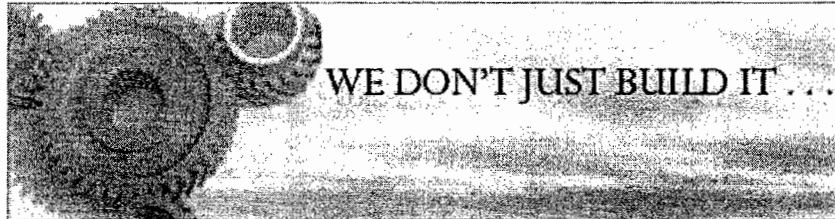
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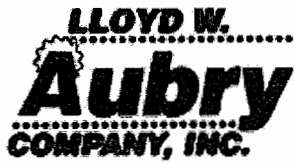
- Authorized OSHA Construction Outreach Training
- Construction EHS Programs
- Mining EHS – Part 46 & 48
- Drug Screening
- Injury & Illness Program IIPP
- Subcontractor EHS Screening
- EHS Training Programs & Site Specific
- Industrial Hygiene
- Equipment Training
- Job Hazard & Risk Analysis
- Supervisor Training
- Jobsite Safety Monitors as required
- Monthly Training for all employees
- Weekly Safety Meetings
- Employee Orientation & Training Program
- Pre-Shift Safety Inspections
- Equipment Pre-Shift Inspections

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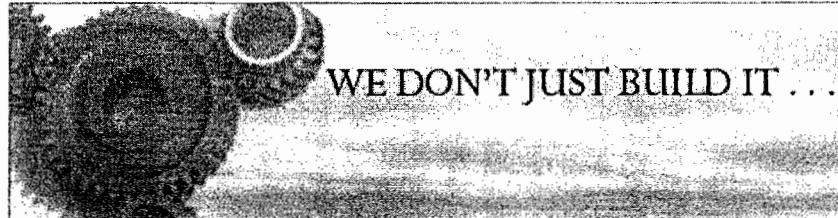
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EXHIBIT 4-1



- ABOUT
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- INDUSTRIES
- SAFETY
- GALLERY



Contact Information

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barrett@lloydaubry.com

Support & Maintenance:
nvarela@lloydaubry.com

Support & Maintenance Services



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4-3

Case Title: *Seabright Insurance Company v. City and County of San Francisco, et al.*

Court: California Supreme Court
Case No. S182508

Court: Court of Appeal of the State of California
First Appellate District
Case No. A123726

Court: San Francisco Superior Court
Case No. CGC-06-458707

PROOF OF SERVICE
[C.C.P. §2008, F.R.C.P. Rule 5]

I, the undersigned, state:

I am a citizen of the United States. My business address is 255 California Street, Suite 1300, San Francisco, California 94111. I am employed in the City and County of San Francisco. I am over the age of eighteen years and not a party to this action. On the date set forth below, I served the foregoing documents described as follows:

**RESPONDENT'S REQUEST FOR JUDICIAL NOTICE IN
SUPPORT OF RESPONDENT'S OPENING BRIEF ON THE
MERITS;**

MEMORANDUM OF POINTS AND AUTHORITIES;

DECLARATION OF ELIZABETH D. RHODES; AND

PROPOSED ORDER

on the following person(s) in this action by placing a true copy thereof enclosed in a sealed envelope addressed and served as follows:

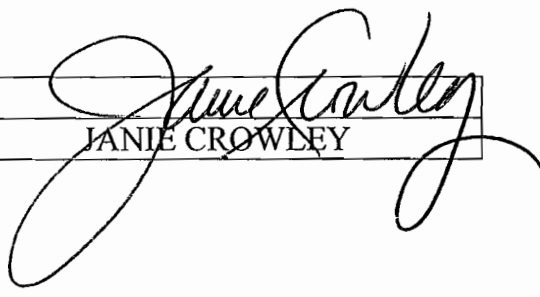
Supreme Court of California 350 McAllister Street, Room 1295 San Francisco, CA 94102 (Original and 14 Copies - Via Messenger)	Case No. S182508
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<p>Court of Appeal First Appellate District Division Four 350 McAllister Street San Francisco, CA 94102 (1 copy– Via U.S. Mail)</p>	<p>Case No. A123726</p>
<p>Peter J. Busch, Sup. Judge Superior Court of California County of San Francisco 400 McAllister Street San Francisco, CA 94102 (1 Copy Via U.S. Mail)</p>	<p>Case No. CGC-06-458707</p>
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I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration was executed this date in San Francisco, California.

Dated: September 15, 2010	
	JANIE CROWLEY

