

FINAL  
SAFETY AND HEALTH CODES BOARD  
PUBLIC MEETING MINUTES  
Monday, November 14, 2022

On November 14, 2022, the Safety and Health Codes Board (“Board”) held a public meeting at 600 East Main Street, Richmond, Virginia. The Board held a hybrid in person meeting with the option for the public to attend virtually, however the board members were required to attend in-person with a quorum.

Notice of the public meeting was provided to the public as required by VA Code §2.2-3708.2 and Executive Order 19 (2022). The notice invited the public to witness the meeting remotely via Microsoft Teams. Notice was provided on the Virginia Regulatory Town Hall’s website here:

[Virginia Regulatory Town Hall View Meeting](#)

A recording of the meeting in its entirety is available here:

[https://www.doli.virginia.gov/wp-content/uploads/2022/11/Safety-and-Health-Codes-Board-Meeting-20221114\\_162255-Meeting-Recording.mp4](https://www.doli.virginia.gov/wp-content/uploads/2022/11/Safety-and-Health-Codes-Board-Meeting-20221114_162255-Meeting-Recording.mp4)

**BOARD MEMBERS PARTICIPATING:**

Mr. Chuck Stiff, Acting Vice-Chair  
Mr. Jay Abbott  
Mr. Robert Buchler  
Ms. Kelly Bundy  
Ms. Julie Henderson (VDH)  
Ms. Elizabeth (Beth) Lohman (DEQ)  
Ms. Luthera Smith  
Mr. Robert Smith  
Mr. Thomas Thurston

**BOARD MEMBERS ABSENT:**

Mr. Lee Biedrycki  
Mr. Travis Parsons

**STAFF PRESENT:**

Mr. Gary Pan, Commissioner of Dept. of Labor & Industry  
Mr. Jay Withrow, Director, Legal Support, BLS, VPP, ORA, & OWB  
Ms. Princy R. Doss, Director, Policy, Planning, & Public Information  
Mr. Richard White, IT Project Manager  
Ms. Cristin Bernhardt, Regulatory Coordinator  
Ms. Marta Fernandes, Director of VOSH Safety Compliance  
Mr. Ron Graham, Director of VOSH Health Compliance  
Mr. Larry Capati, VOSH Safety Compliance

**OTHERS PARTICIPATING:**

Mr. Joshua Laws, Assistant Attorney General  
Ms. Lisa Wright, Court Reporter, Chandler & Halasz

**CALL TO ORDER**

Vice-Chair Stiff called the meeting to order at 10:00 AM. A quorum was present. Vice-Chair Stiff made opening remarks informing the public that this meeting was being held in person for the participating board members with virtual attendance available through Microsoft Teams.

Commissioner Pan welcomed the Board and Robert Smith and Lee Biedrycki, two new board members to the SHCB. Lee Biedrycki was unable to attend the meeting and Robert Smith introduced himself and provided his professional background in the boiler and pressure vessel industry.

**BOARD MEMBER ROLE CALL**

BOARD MEMBER	Present	Absent			
Mr. Jay Abbott	X				
Mr. Lee Biedrycki		X			
Mr. Robert Buchler	X				
Ms. Kelly Bundy	X				
Ms. Julie Henderson (VDH)	X				
Ms. Elizabeth (Beth) Lohman	X				
Mr. Travis Parsons		X			
Ms. Lutheria Smith	X				
Mr. Robert Smith	X				
Mr. Charles ("Chuck") Stiff	X				
Mr. Thomas Thurston	X				
VACANT					
VACANT					
VACANT					
<b>TOTALS</b>	<b>9</b>	<b>2</b>			

**APPROVAL OF AGENDA**

Vice-Chair Stiff asked the Board if there was any discussion on the agenda. There was none. Vice-Chair Stiff asked if there was a motion to approve the agenda. The motion was made, properly seconded and the roll call vote was conducted. The motion carried.

Motion: Approval of Agenda	Yea	Nay	Abstain	Absent	Other
Mr. Jay Abbott	X				
Mr. Lee Biedrycki				X	
Mr. Robert Buchler	X				
Ms. Kelly Bundy	X				
Ms. Julie Henderson (VDH)	X				
Ms. Elizabeth(Beth) Lohman (DEQ)	X				
Mr. Travis Parsons				X	
Ms. Lutheria Smith	X				
Mr. Robert Smith	X				
Mr. Charles ("Chuck") Stiff	X				
Mr. Thomas Thurston	X				
VACANT					
VACANT					
VACANT					
<b>TOTALS</b>	<b>9</b>			<b>2</b>	

**APPROVAL OF MEETING MINUTES**

Vice-Chair Stiff then called for discussion and motion for approval of the March 21, 2022 Meeting minutes. Vice-Chair Stiff asked the Board if there was any discussion on the March 21, 2022 minutes. There was none. There was a request for a motion to approve the minutes. The motion was made, properly seconded and the roll call vote was conducted. The motion carried.

Motion: Approval of March 21, 2022 Meeting Minutes	Yea	Nay	Abstain	Absent	Other
Mr. Jay Abbott	X				
Mr. Lee Biedrycki				X	
Mr. Robert Buchler	X				
Ms. Kelly Bundy	X				
Ms. Julie Henderson (VDH)	X				
Ms. Elizabeth(Beth) Lohman (DEQ)	X				
Mr. Travis Parsons				X	
Ms. Lutheria Smith	X				
Mr. Robert Smith	X				
Mr. Charles (“Chuck”) Stiff	X				
Mr. Thomas Thurston	X				
VACANT					
VACANT					
VACANT					
<b>TOTALS</b>	<b>9</b>			<b>2</b>	

**ELECTION OF OFFICERS**

Vice-Chair Stiff called the next item on the agenda, which was the election of officers for the upcoming year. He explained the process for election of officers and the practice of revolving the Chair and Vice-Chair to reflect different representatives each year.

Currently the Chair is an open position with the former Chair, Milly Rodrigues having left the Board and Chuck currently Acting Chair. He asked for nominations for the Chair position and with the nomination of Chuck Stiff as Chair and no other nominations, there was a motion to approve Chuck Stiff as the Chair for the upcoming year. The motion was made, properly seconded and the roll call vote was conducted. The motion carried.

Motion: Approve Chuck Stiff as Chair	Yea	Nay	Abstain	Absent	Other
Mr. Jay Abbott	X				
Mr. Lee Biedrycki				X	
Mr. Robert Buchler	X				
Ms. Kelly Bundy	X				
Ms. Julie Henderson (VDH)	X				
Ms. Elizabeth(Beth) Lohman (DEQ)	X				
Mr. Travis Parsons				X	
Ms. Lutheria Smith	X				

Mr. Robert Smith	X				
Mr. Charles (“Chuck”) Stiff	X				
Mr. Thomas Thurston	X				
VACANT					
VACANT					
VACANT					
<b>TOTALS</b>	<b>9</b>			<b>2</b>	

Next was the nominations for Acting Chair. Vice-Chair Still asked for nominations for the Vice-Chair position and with the nomination of Travis Parsons and no other nominations, there was a motion to approve Travis Parsons as the Vice-Chair for the upcoming year. The motion was made, properly seconded and the roll call vote was conducted. The motion carried.

Motion: Approve Travis Parson as Acting Chair	Yea	Nay	Abstain	Absent	Other
Mr. Jay Abbott	X				
Mr. Lee Biedrycki				X	
Mr. Robert Buchler	X				
Ms. Kelly Bundy	X				
Ms. Julie Henderson (VDH)	X				
Ms. Elizabeth(Beth) Lohman (DEQ)	X				
Mr. Travis Parsons				X	
Ms. Lutheria Smith	X				
Mr. Robert Smith	X				
Mr. Charles (“Chuck”) Stiff	X				
Mr. Thomas Thurston	X				
VACANT					
VACANT					
VACANT					
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#### **OPPORTUNITY FOR THE PUBLIC TO ADDRESS THE BOARD**

Vice-Chair Stiff called the next item on the agenda, which was the opportunity for the public to address the Board. No members of the public registered to speak by the deadline of November 10, 2022.

Vice-Chair Stiff moved to the next item on the agenda, which was Old Business. He introduced Jay Withrow, Director of Legal Services for the Department of Labor & Industry, to address the Board.

#### **OLD BUSINESS**

Mr. Withrow presented the Board with a Report on the Periodic Reviews that were noticed by the Board at the December 3, 2021 board meeting. Mr. Withrow explained the Administrative Process Act ([Va. Code § 2.2-4017](#)), [Executive Order 19 \(2022\)](#), “Development and Review of State Agency Regulations,” and the Office of Regulatory Management (ORM) [Procedures for the Review of State Agency Regulations](#) govern the periodic review of existing regulations. Six (6) regulations of the Safety and Health Codes Board (Board) were identified for review in 2021.

Mr. Withrow explained the regulatory process and the Town Hall public comment forum for the Notice of Periodic Reviews that opened May 23, 2021 and closed on June 13, 2022. There were no public comments received during the comment period. Mr. Withrow discussed recent updates to the regulatory process that went into effect on July 1, 2022 based on the Executive Order 19 (2022) and the new requirements for an economic analysis including benefit-cost analysis, local government impact analysis and economic impact on families.

Mr. Withrow went through the 6 regulations that were the subject of the periodic reviews to provide the results of the DOLI review conducted as a result of the December 2021 meeting, while advising the SHCB that there is still the new requirement of the economic impact analysis that needs to be conducted before DOLI can provide a recommendation. DOLI will be researching and gathering information about this new regulatory process and the required information needed and expectations for this economic analysis. Therefore, no board action is required at this time.

Example:

Action Needed

According to the Office of Regulatory Management's [Procedures for the Review of State Agency Regulations](#), the Department must prepare an economic analysis including benefit-cost analysis (see ATTACHMENT A), local government impact analysis, and economic impacts on families. Upon completion of the economic analysis, the Department will present its final recommendation to the Board for review and consideration.

## NEW BUSINESS

Princy Doss, Director of Policy, Planning and Public Information addressed the Board. The Department requests the permission of the Board to proceed with the periodic review process of the Board's regulations listed below pursuant to the Administrative Process Act ([Va. Code § 2.2-4017](#)), [Executive Order 19 \(2022\)](#), "Development and Review of State Agency Regulations," and the Office of Regulatory Management (ORM) [Procedures for the Review of State Agency Regulations](#).

**(a) Notice of Periodic Reviews for 2022**

1. [16VAC25-50](#): Boiler and Pressure Vessel Regulation
2. [16VAC25-60](#): Administrative Regulation for the Virginia Occupational Safety and Health Program
3. [16VAC25-145](#): Safety Standards for Fall Protection in Steel Erection, Construction Industry
4. [16VAC25-200](#): Virginia Voluntary Protection Program (VPP)

The Department of Labor and Industry recommends that the Safety and Health Codes Board approve the publication of a Notice of Periodic Review in the Virginia Register for [16VAC25-50](#): Boiler and Pressure Vessel Regulation; [16VAC25-60](#): Administrative Regulation for the Virginia Occupational Safety and Health Program; [16VAC25-145](#): Safety Standards for Fall Protection in Steel Erection, Construction Industry; and [16VAC25-200](#): Virginia Voluntary Protection Program (VPP).

The Department also recommends that the Board state in any motion it may make regarding the periodic review of these regulations that it will receive, consider and respond to petitions by any interested person at any time with respect to the periodic review which will be conducted in accordance with the above-cited [§ 2.2-4017](#) of the Administrative Process Act and [Executive Order 19 \(2022\)](#), “Development and Review of State Agency Regulations”.

Vice-Chair Stiff then called for discussion and motion for approval of the publication of the notice for periodic reviews for the 4 regulations discussed above. Vice-Chair Stiff asked the Board if there was any discussion. There was none. There was a request for a motion to approve the motion. The motion was made, properly seconded and the roll call vote was conducted. The motion carried.

Motion: Approve the publication of the 4 periodic reviews discussed above	Yea	Nay	Abstain	Absent	Other
Mr. Jay Abbott	X				
Mr. Lee Biedrycki				X	
Mr. Robert Buchler	X				
Ms. Kelly Bundy	X				
Ms. Julie Henderson (VDH)	X				
Ms. Elizabeth(Beth) Lohman (DEQ)	X				
Mr. Travis Parsons				X	
Ms. Lutheria Smith	X				
Mr. Robert Smith	X				
Mr. Charles (“Chuck”) Stiff	X				
Mr. Thomas Thurston	X				
VACANT					
VACANT					
VACANT					
<b>TOTALS</b>	<b>9</b>			<b>2</b>	

Vice-Chair Stiff moved to the next item on the agenda, which was Items of Interest from the Department of Labor and Industry. He introduced Jay Withrow, Director of Legal Services for the Department of Labor & Industry, to address the Board.

**ITEMS OF INTEREST FROM THE DEPARTMENT OF LABOR AND INDUSTRY**

Mr. Withrow addressed the Board to discuss the current status of the OSHA Standards activity at the federal level that will have an impact in Virginia. He presented the Board with the OSHA Semi-Annual Regulatory Agenda with all the current OSHA activities.

Mr. Withrow is the state plan representative for the National Advisory Committee on Occupational Safety and Health (NACOSH) Heat Injury and Illness Prevention Workgroup and discussed the current activity of this workgroup and the basic elements of existing standards and resources for developing a federal regulation. The NACOSH workgroup will meet in December 13, 2022 and then make final report and recommendations to all of NACOSH at their January 3, 2023 meeting.

Mr. Withrow discussed the recent development of VOSH Program Directive on Outdoor and Indoor Heat Related Hazards effective September 29, 2022 based on the OSHA National Emphasis Program (NEP) on Outdoor and Indoor Heat Related Hazards. This program includes inspection programs and procedures for target industries and OSHA solicited random industries.

Mr. Withrow also announced the 25<sup>th</sup> Virginia Annual Safety and Health Conference to be held in Newport News on November 30 – December 2, 2022. The conference is presented by Virginia Department of Labor and Industry.

#### **ITEMS OF INTEREST FROM MEMBERS OF THE BOARD**

Vice-Chair Stiff asked for items of interest from the Members of the Board. There were none.

#### **MEETING ADJOURNMENT**

Vice-Chair Stiff adjourned the meeting at 11:28 am.

**SAFETY AND HEALTH**

**CODES BOARD**

**MEMBERS:**

Mr. Jay Abbott <i>Representative for Agricultural Employers</i>
Mr. Lee Biedrycki <i>Representative for Insurance Company</i>
Mr. Robert Buchler <i>Industrial Representative Knowledgeable in Chemical and Toxic Substances</i>
Ms. Kelly Bundy <i>Representative from Construction Industry Employers</i>
Ms. Julie Henderson <i>Virginia Department of Health</i>
Ms. Elizabeth (Beth) Lohman <i>Environmental Specialist II Department of Environmental Quality</i>
Mr. Travis Parsons <i>Representative for Labor in the Construction Industry</i>
Ms. Lutheria Smith <i>Representative for the General Public</i>
Mr. Robert Smith <i>Employer Representative for the Boiler and Pressure Vessel Industry</i>
Mr. Charles L. (Chuck) Stiff <i>Representative for Industrial Employers</i>
Mr. Thomas Thurston <i>Representative for Labor in the Manufacturing Industry</i>
VACANT <i>Labor Representative Knowledgeable in Chemical and Toxic Substances</i>
VACANT <i>Labor Representative for the Agriculture Industry</i>
VACANT <i>Labor Representative for the Boiler and Pressure Vessel Industry</i>