

**SAFETY AND HEALTH CODES BOARD
MINUTES
FRIDAY, June 13, 2003**

The Safety and Health Codes Board (“Board”) met on Friday, June 13, 2003 in Courtroom B of the State Corporation Commission, Tyler Building, 1300 East Main Street, Richmond, Virginia. The meeting was called to order at 10:05 a.m. by Chairman Bobby Sasser.

BOARD MEMBERS PRESENT: Mr. Bobby Sasser
Mr. Linwood Saunders
Mr. Chuck Stiff
Mr. Rod Parker
Ms. Anna Jolly
Mr. Louis Cernak
Dr. Khizar Wasti
Mr. Richard Schneider
Mr. Alvin Keels
Mr. James J. Golden
Mr. Roger Burkhart
Ms. Juanita Garcia

BOARD MEMBERS ABSENT: Mr. Frank Owens
Mr. Kenneth Rigmaiden

STAFF PRESENT: Mr. Glenn Cox, Director of VOSH Programs
Dr. Clarence H. Wheeling, Health Compliance Director
Mr. John Crisanti, Manager, Planning and Evaluation
Ms. Bonnie R. Hopkins, Regulatory Coordinator
Mr. Ronald Graham, Compliance Manager, Richmond Region
Ms. Regina Cobb, Agency Management Analyst Sr.

OTHERS PRESENT: Ms. Beverly Crandell, Federal OSHA, Region III
Ms. Anne L. Burkhart
Ms. Reginia Miller
Mr. Earl Miller

ORDERING OF AGENDA

As the first order of business, Chairman Sasser asked for a motion from the Board to accept the proposed Agenda. Mr. Linwood Saunders made the motion to accept the Agenda as submitted and Mr. Chuck Stiff seconded the motion. The motion was carried by voice vote.

Next, Mr. Sasser appointed Ms. Anna Jolly to serve as Board Secretary for the remainder of the current term.

APPROVAL OF MINUTES

Chairman Sasser asked for a motion from the Board to approve the Minutes of December 2, 2002, as submitted. Mr. Chuck Stiff made the motion and Ms. Anna Jolly seconded the motion. The motion carried by voice vote.

PUBLIC COMMENT

Chairman Sasser opened the floor to comment from the Public, however, no one had any comments.

OLD BUSINESS

16 VAC 25-155, Proposed Regulation for Clearances, Construction of Electric Transmission and Distribution Lines and Equipment, Construction Industry, Subpart V, and Repeal of 16 VAC 25-175-1926.950(c)(1)(i)

Mr. Glenn Cox, Director of VOSH Programs, requested on behalf of the VOSH Program, that the Board adopt as a proposed regulation of the Board VOSH's suggested language for a new regulation, 16 VAC 25-155, "General Requirements for Clearances, Construction of Electric Transmission and Distribution Lines and Equipment" and repeal the corresponding federal identical language in 16 VAC 25-175-1926.950 (c)(1)(i). This action would amend construction industry requirements to provide equivalent protection as that provided in General Industry dealing with this subject under §1910.269(l)(2)(i) and eventually will result in a regulation that is unique for Virginia's Occupational Safety and Health Program for the Construction Industry.

Next, Mr. Cox recommended amending the construction standard by adding to it the applicable general industry language and repealing the existing language in §1926.950(c)(1)(i).

Chairman Sasser asked for a motion from the Board to adopt the recommendation of the Department. Mr. Richard Schneider made the motion and Mr. Chuck Stiff seconded the motion. The motion carried by voice vote.

NEW BUSINESS

I. **16 VAC 25-90-1910.178, Powered Industrial Trucks, General Industry, Final Rule, §1910.178; Technical Amendment**

Mr. Cox requested, on behalf of the VOSH Program, that the Board adopt federal OSHA's technical amendment to the final rule for Powered Industrial Trucks Standard, §1910.178. He explained that this amendment corrects a 22-year old error.

When OSHA standard, §1910.178 (m)(12), which deals with trucks equipped with personnel lifts, was originally published in 1971, it contained the mandatory language ("shall") for requirements dealing with personnel lifts; however, the corresponding ANSI standard upon which (m)(12) is based contained only advisory language ("should"). Therefore, federal OSHA is correcting this error by deleting §1910.178 (m)(12) because it was invalidly promulgated from a nonmandatory provision of a national consensus standard. As a result, § 1910.178(m)(12) is legally unenforceable.

Chairman Sasser asked for a motion from the Board to adopt federal OSHA's technical amendment for the VOSH Program, with an effective date of September 1, 2003. Mr. Lou Cernak made the motion and Mr. Roger Burkhart seconded the motion. The motion carried by voice vote.

Mr. Sasser announced Dr. Wheeling, Director of Occupational Health Compliance, as the presenter of the next Agenda item.

II. **Announcement by Dr. Wheeling**

Before Dr. Wheeling began his presentation of the Recordkeeping briefing package, he acknowledged that this would be his final Board meeting because he was retiring, effective June 27, 2003. He introduced Mr. Ron Graham as his successor in the position of Occupational Health Compliance Director. Dr. Wheeling added that Mr. Graham, a long time Department employee, has worked with him for many years.

III. **16 VAC 25-85-1904.10, Occupational Injury and Illness Recording and Reporting Requirements, §1904.10; Revised Final Rule**

Dr. Wheeling requested the Safety and Health Codes Board to consider for adoption federal OSHA's revised final rule for the Occupational Injury and Illness Recording and Reporting Requirements: §1904.10 (b)(7), which covers recording criteria for cases involving occupational hearing loss; 1904.12, which covers recording criteria for cases involving work-related musculoskeletal disorders ("MSD"), and 1904.29, which covers forms. This change, which only addresses the delayed effective date of the above-mentioned provisions, recommends a revised effective date of January 1, 2004.

Dr. Wheeling explained that this final rule revision deals with 3 issues, which were dealt with as proposals at the December 2002 Board meeting. The first issue, in §1904.10(b)(7), is whether to check blocks for hearing loss. The second issue, in §1904.12, is whether blocks for MSD should be checked; and the third issue, in §1904.29, is the need to define an MSD and then decide, whether it is a privacy issue. Dr. Wheeling explained that employers will still need to record all injuries and illnesses meeting the criteria established in §§1904.4 through 1904.7 of the recordkeeping rule, regardless of whether a particular injury or illness meets the definition of MSD in §1904.12.

In conclusion, Dr. Wheeling recommended, on behalf of the Department of Labor and Industry, that the Board adopt the revised final rule to 16 VAC 25-85-1904, Occupational Injury and Illness Recording and Reporting Requirements, as authorized by Virginia §§40.1-22(5) and 2.2-4006.A.4(c), with an effective date of January 1, 2004.

Chairman Sasser asked for a motion from the Board to adopt the revised final rule. Mr. Chuck Stiff made the motion and Mr. Lou Cernak seconded the motion. The motion carried by voice vote.

ITEMS OF INTEREST FROM DOLI

Mr. John Crisanti, Manager of the Office of Planning and Evaluation, welcomed three new Board members who are attending their first Board meeting: Mr. Rod Parker, representing agricultural employers; Ms. Juanita Garcia, representing agricultural employees; and Mr. Alvin E. Keel, representing an insurance company.

He also acknowledged the most recently appointed Board member who was unable to attend this meeting: Mr. Kenneth Rigmaiden, representing labor in the construction industry.

Mr. Crisanti expressed regrets from Commissioner Davenport who was unable to attend the meeting because he was attending a Senior Executive seminar this week.

Lastly, Mr. Crisanti called the Board's attention to the Department's completely revised website at www.doli.state.va.us. He noted that the revision was completely done in-house by Department of Labor and Industry staffers.

Ms. Bonnie Hopkins, Regulatory Coordinator, updated the Board on the most recent General Assembly session. She said the Bills that directly affected the Board are as follows: (1) HR 2696 was a housekeeping rule to clean up §40.1; (2) HR 2539 amended the Overhead High Voltage Line Safety Act to increase the minimum overhead clearance from 6 to 10'; and (3) Labor Law Bill lowered the minimum age from 13 years old to 12 years old for kids to referee youth games.

Ms. Hopkins then announced her retirement after 11 years with this Agency, effective at the end of July.

Mr. Glenn Cox informed the Board about changes within the VOSH Program. He told them that the Department hired a new Health Director and it would be hiring a number of new Compliance Officers throughout the Commonwealth to maintain the maximum number needed. Mr. Cox added that, although there is little Compliance Officer training available, the Department held an internal training conference in Richmond, May 1315. He also informed the

Board about the Eighth Annual Virginia Occupational Safety and Health Conference which was held in Portsmouth on June 4-6 for employers, employees and Safety and Health professionals.

ITEMS OF INTEREST FROM THE BOARD

There were no items of interest reported by the Board. Ms. Jolly stated that the Portsmouth Conference was very good.

The Chairman welcomed the new members to the Board.

There being no further business to come before the Board, the meeting adjourned at 10:40 a.m.

Bobby J. Sasser, Chairman