



less junk bonds instead of government-insured certificates, was found guilty on all 73 counts brought against him; his son was found guilty of all 64 counts brought against him. Although sentencing was set for March 15, that date has been postponed; at this writing, sentencing is expected to take place in July.



## DEPARTMENT OF INDUSTRIAL RELATIONS

### CAL-OSHA

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California's Occupational Safety and Health Administration (Cal-OSHA) is part of the cabinet-level Department of Industrial Relations (DIR). The agency administers California's programs ensuring the safety and health of California workers.

Cal-OSHA was created by statute in October 1973 and its authority is outlined in Labor Code sections 140-49. It is approved and monitored by, and receives some funding from, the federal OSHA. Cal-OSHA's regulations are codified in Titles 8, 24, and 26 of the California Code of Regulations (CCR).

The Occupational Safety and Health Standards Board (OSB) is a quasi-legislative body empowered to adopt, review, amend, and repeal health and safety orders which affect California employers and employees. Under section 6 of the Federal Occupational Safety and Health Act of 1970, California's safety and health standards must be at least as effective as the federal standards within six months of the adoption of a given federal standard. Current procedures require justification for the adoption of standards more stringent than the federal standards. In addition, OSB may grant interim or permanent variances from occupational safety and health standards to employers who can show that an alternative process would provide equal or superior safety to their employees.

The seven members of the OSB are appointed to four-year terms. Labor Code section 140 mandates the composition of the Board, which is comprised of two members from management, two from labor, one from the field of occupational health, one from occupational safety, and one from the general public. In January, Governor Wilson appointed Gwendolyn Berman of Placentia to serve as the occupational safety representative on OSB; other current members are Chair Jere Ingram, John Baird, James Grobaty, John Hay, and William Jackson. At this writing, OSB continues to function with a labor representative vacancy.

The duty to investigate and enforce the safety and health orders rests with the

Division of Occupational Safety and Health (DOSH). DOSH issues citations and abatement orders (granting a specific time period for remedying the violation), and levies civil and criminal penalties for serious, willful, and repeated violations. In addition to making routine investigations, DOSH is required by law to investigate employee complaints and any accident causing serious injury, and to make follow-up inspections at the end of the abatement period.

The Cal-OSHA Consultation Service provides on-site health and safety recommendations to employers who request assistance. Consultants guide employers in adhering to Cal-OSHA standards without the threat of citations or fines.

The Appeals Board adjudicates disputes arising out of the enforcement of Cal-OSHA's standards.

### MAJOR PROJECTS

**OSB Amends Cadmium Exposure Regulation.** On January 1, OSB published notice of its intent to amend section 5155 and adopt new sections 1532 and 5207, Title 8 of the CCR; the proposed action incorporates the new provisions of the federal cadmium standards codified at 29 C.F.R. sections 1923.63 and 1910.1027. The new standards reduce the permissible exposure limit (PEL) for cadmium from 0.05 mg/M3 to 0.005 mg/M3 as an eight-hour time-weighted average and establish a new action level of 0.0025 mg/M3. The proposal also contains new provisions for employee exposure monitoring, medical surveillance, hygiene facilities, personal protective equipment, respiratory protection, employee training, recordkeeping, and report of use as a regulated carcinogen. The new standards apply to all industries, including construction, maritime, and general industry, and contain delayed start-up dates for implementing the new provisions. OSB conducted a public hearing on this rulemaking proposal on February 18 and adopted the changes at its March 18 meeting. On April 28, the proposal was approved by the Office of Administrative Law (OAL).

**OSB Discusses Hand Protection Regulation.** On January 14, OSB conducted a public hearing on its proposed amendment to section 3384(b), Title 8 of the CCR, which currently provides that



hand protection is not required for employees where there is a danger of the hand protection becoming entangled in moving machinery or materials; OSB's proposed revisions to section 3384(b) would specifically prohibit the use of hand protection, such as gloves, where there is the danger of hand protection entanglement in moving machinery or materials. [13:1 CRLR 93]

At the hearing, OSB noted that section 3384(b) was originally adopted to give employers an exception from requiring hand protection when there is a hazard caused by the hand protection, but that the proposed modification would prohibit the use of hand protection if such conditions are present. However, section 3384(a) still requires the use of hand protection when the risk of multiple chemical exposures is present; thus, a conflict between the two sections would exist if the proposed change to section 3384(b) is adopted. OSB suggested that DOSH solicit comments from the affected industries regarding the proposed revision; at this writing, the amendment awaits adoption by OSB and review and approval by OAL.

**Regulations Pertaining to Hazards Associated with the Use of Reinforcing Steel and Other Projections.** On January 29, OSB published notice of its intent to amend section 1712, Title 8 of the CCR, regarding the safety of employees working above protruding reinforcing steel (rebar) or similar hazards. Among other things, the proposed amendments would:

- define those areas where employers must comply with the provisions of section 1712;

- add definitions to assist employers in complying with the requirements of section 1712;

- require employers to ensure that exposed reinforcing steel ends or other projections are guarded to prevent impalement or other injuries when employees are working around reinforcing steel or other projections;

- permit employers to use different types of protection against the hazard of impalement that may occur when working above reinforcing steel or other projections;

- provide that troughs shall not be used as protective covers when employees are working at heights greater than six feet above protruding reinforcing steel or other projections;

- specify the types of material which may be used in the construction of protective covers; and

- require that job-built wood protective covers be built with specified graded wood.

At a March 18 public hearing on the proposed amendment, OSB received extensive comments, both favorable and un-

favorable, on the proposed changes; most of the comments indicated a need for more clarity. As a result, the Board decided to permit the public to make additional comments. At this writing, the amendments await adoption by OSB and review and approval by OAL.

**Fall Protection in Use of Tower Cranes.** On January 29, OSB published notice of its intent to amend section 4966(a), Title 8 of the CCR, regarding fall protection for people engaged in the erection or dismantling of tower cranes. OSB's proposed revisions would specifically require employees to use specified fall protection devices whenever they dismantle, erect, inspect, or perform maintenance or repair duties on tower cranes when fifteen feet or more over level ground or other working surfaces. OSB conducted a public hearing on the proposed revision on March 18; no comments were made concerning this proposed action, which was adopted by OSB at its April 22 meeting; OAL approved the changes on May 18.

**Fire Extinguishing Systems.** On January 29, OSB published notice of its intent to amend sections 6180(b) and 6184(a)(5), Title 8 of the CCR, regarding the use of fixed dry chemical extinguishing agents and employee alarm systems, respectively. The proposed revision to section 6180(b) would require employers to ensure that the airborne concentration of the extinguishing agent is maintained until the fire is out or is under control, and additionally require employers to assure that their extinguishing media reaches design concentration within thirty seconds or within ten seconds for halon systems.

The proposed revision to section 6184(a)(5) would require that communication systems which also serve as an employee alarm system be given emergency messages priority over non-emergency messages, and require employers to make their employees aware that when emergencies are reported over communication systems which also serve as an alarm system, the report or message is to be given the highest priority.

OSB conducted a public hearing on the proposed changes at its March 18 meeting; no comments were made concerning the proposed revisions, which were adopted by OSB at its April 22 meeting and approved by OAL on May 17.

**Tire Inflation.** On March 5, OSB published notice of its intent to amend sections 3325 and 3326, Title 8 of the CCR. Article 7 of the General Industry Safety Orders (GISO) contains regulations pertaining to miscellaneous safe practices governing the use of live steam and air hoses, compressed gases, flying particles

or substances, misuse of oxygen, pressure vessel salvage, and hot pipes, among other things. Although section 3325 contains regulations pertaining to the use of tire inflation equipment, the GISO contains no requirements which specifically address the need for employees to receive training or instruction designed to ensure that the correct tire to rim match is made prior to inflating a passenger car or light truck tire.

This proposal would amend section 3325 to require that the employer's Injury and Illness Prevention Program, required by Labor Code section 6401.7 and section 3203, Title 8 of the CCR, specifically include employee instructions on the necessity of correctly matching the tire to the correct rim size before tire inflation begins. Additionally, the proposal would prohibit the inflation of tires beyond the manufacturer's recommended inflation pressure, make several nonsubstantive editorial revisions, and delete redundant language from section 3326(h)(12) which has essentially been transferred to section 3325 as new language pertaining to all tire inflation operations.

On April 22, OSB conducted a public hearing on these proposed amendments; at this writing, the amendments await adoption by OSB and review and approval by OAL.

**Process Safety Management of Acutely Hazardous Materials.** Also on March 5, OSB published notice of its intent to amend section 5189, Title 8 of the CCR. Federal OSHA promulgated regulations which specify employer requirements for the management of hazards associated with processes using highly hazardous chemicals, flammables, and explosives; they establish procedures for process safety management that will protect employees by preventing or minimizing the consequences of chemical accidents involving highly hazardous chemicals, flammables, and explosives. Such requirements include process safety information, process hazards analysis, operating procedures, employee/contractor training, mechanical integrity procedures, management of change, and related subjects.

OSB's proposed revisions to section 5189 would incorporate provisions of the federal standard and add comparable requirements; among other things, the proposed revisions include federal language concerning effective dates, definitions, process hazards analysis elements, employee participation, and access to process safety information including trade secrets, records retention, development of safe work practices, facility employee and contractor training, pre-start-up safety review for new or modified facilities, written procedures to ensure employee access to re-



quired process safety management information, mechanical integrity and incident investigation procedures.

On April 22, OSB conducted a public hearing on the proposed amendments; because of the substantial amount of public comment offered at the April hearing, OSB agreed to hold the public comment period open until its May 27 meeting and to allow time at that meeting for additional comments. At this writing, the action awaits adoption by OSB and review and approval by OAL.

**Industrial Truck Fuel Conversion Safety Regulations.** On April 9, OSB published notice of its intent to amend section 3560(g), Title 8 of the CCR, to specify that industrial trucks originally approved for the use of gasoline for fuel may be converted to liquefied petroleum gas fuel provided the conversion results in a truck which meets specified national standards. The amendments would also specify that when a conversion kit is installed, the original type designation shall be removed or obliterated and replaced with a durable, corrosion-resistant plate permanently mounted on the truck indicating the type designation of the converted truck. At this writing, OSB is scheduled to hold a public hearing on May 27, to receive comments regarding these proposed amendments.

**Occupational Exposure to Serious Safety and Health Hazards in Confined Spaces.** On April 9, OSB published notice of its intent to amend sections 5156-5159, Title 8 of the CCR, regarding the control of exposure to serious safety and health hazards in confined spaces. The proposed revisions are designed to bring California's standards up to the level of effectiveness provided by the federal standard. Among other things, the proposed revisions would separate what is currently defined as a "confined space" into separate categories by providing definitions for the terms "confined space," "non-permit confined space," and "permit-required confined space"; replace the current definition of the term "dangerous air contamination" with the broader definition of the term "hazardous atmosphere"; add definitions for several other terms; replace the current written operating procedures requirement with an elaborate written permit entry program and system; replace the general employee training requirements with a more specific training subsection; replace the pre-entry requirements with a hierarchical type of pre-entry specifications in the general requirements and permit-required confined space program subsections; replace the confined space operation and entry requirements with the program and system requirements mentioned

above along with specific provisions outlining the duties of entrant, attendants, supervisors, and emergency response and/or rescue personnel.

At this writing, OSB is scheduled to hold a public hearing on May 27 to receive comments regarding this proposed regulatory action.

**Above-Ground Storage Tank Regulations.** On April 23, OSB published notice of its intent to amend sections 5415 and 5595, Title 8 of the CCR. Section 5415 contains definitions of terms used in the General Industry Safety Orders which apply to flammable liquids, gases, and vapors. OSB proposes to add a new term and definition for "integral secondary containment," which describes a method of above-ground tank storage which utilizes an inner tank and outer containment barrier providing containment of spills in the event of inner tank rupture and fire resistivity.

Located within Article 145 (Tank Storage), section 5595 contains diking and drainage requirements for above-ground storage tanks (ASTs) used to store Class I, II, or IIIA liquids; section 5595 addresses requirements which include but are not limited to drainage/diking system design specifications, use in conjunction with piping systems, sloping of drainage areas, and storage of unstable liquids. Among other things, the proposed revisions would:

- exclude ASTs equipped with integral secondary containment from the diking/drainage requirements stated in section 5545(a) for Class I, II, or IIIA liquids where overflow protection, prevention, and other features are provided, but require such exempt ASTs to be equipped with a metallic spill container for each tank fill pipe;

- require spill containers to have a capacity of not less than five gallons and to be equipped with a drain valve which can drain overflowed liquids back into the primary tank;

- require ASTs with remote fill connections to be equipped with a portable spill container which meets specified design and capacity requirements;

- require ASTs to be equipped with an overflow prevention system which warns of tank overfilling;

- require employers to provide mechanical damage protection to the ASTs;

- require the conspicuous posting of signs at the AST prohibiting simultaneous tank filling and dispensing of Class I, II or IIIA liquids;

- require ASTs equipped with integral secondary containment which have external, below-tank-level fill pipes to have an anti-siphon device installed in each pipe; and

- require ASTs with integral secondary containment to have a visual or automatic means of detecting interstitial tank leakage and emergency venting for the space between the primary and secondary containment.

At this writing, OSB is scheduled to hold a public hearing on these proposals on June 24.

**Electrical Regulations Pertaining to Elevators.** Also on April 23, OSB published notice of its intent to amend sections 3011, 3012, 3016, 3020, 3040, 3050, 3071, 3073, 3078, 3090, 3092, 3093.41, 3093.42, 3100, and 3112, Title 8 of the CCR, and sections 7-3040, 7-3073, 7-3093.41, 7-3093.42, and 7-3100, Title 24 of the CCR, regarding electrical regulations pertaining to elevators. Essentially, this proposed rulemaking action would repeal section 3112(b) and all cross-references to it; this would ensure that only the most up-to-date electrical regulations will be referenced. At this writing, OSB is scheduled to hold a public hearing on the proposed revisions on June 24.

**Rulemaking Update.** The following is a status update on other OSB regulatory proposals reported in detail in previous issues of the *Reporter*:

- **Operation of Agricultural Equipment.** At this writing, OSB still has not convened an advisory committee to review a proposed amendment to section 3441, Title 6 of the CCR, which would require that the safety requirements in section 3441(a) and (b) be included and documented in the employer's Injury and Illness Prevention Program, which must be provided to employees as required by section 3203. [13:1 CRLR 92]

- **Back-Up Alarms for Loading Machines at Log Landing Areas.** At its May 27 meeting, OSB is scheduled to consider for adoption its proposed amendment to section 6329, Title 8 of the CCR, which would require that loading machines used in landing areas to sort, deck, and/or load log trucks be equipped with an automatically-operated back-up warning device. [13:1 CRLR 92] If adopted, the changes will be forwarded to OAL for review and approval.

- **Aerial Passenger Tramway Safety Orders.** On January 14, OSB conducted a public hearing on its proposed revisions to sections 3150-3191, Articles 1-12 and Appendix 1, Title 8 of the CCR, regarding the operation of aerial passenger tramways in California. [13:1 CRLR 93] On February 18, OSB adopted the changes, which were approved by OAL on March 23.

- **Outdoor Advertising Structures.** On January 7, OAL approved OSB's adoption of Article 11, consisting of sections 3412-



3416, Title 8 of the CCR, which includes safety regulations specific to the outdoor advertising industry. [13:1 CRLR 93]

• **Pressure-Relieving Safety Devices in the Petroleum Industry.** At its January 14 meeting, OSB adopted amendments to section 6857, Title 8 of the CCR, which contains occupational safety regulations pertaining to pressure vessels and pressure-relieving safety devices in the petroleum refining, transportation, and handling industry. [13:1 CRLR 95] OAL approved the amendments on February 26.

• **Skylight Safety Standard.** At this writing, OSB has not yet adopted proposed amendments to section 3212(e), Title 8 of the CCR, which would specify certain methods of fall protection for employees exposed to the hazard of falling through skylights. [13:1 CRLR 92]

• **Elevator Safety Regulatory Amendments.** On March 9, OAL approved OSB's proposed revisions to sections 3033, 3039, 3070, 3079, and 3093.35, Title 8 of the CCR, and 7-3033, 7-3039, 7-3070, 7-3079, and 7-3093.35, Title 24 of the CCR, regarding machinery and equipment for power cable-driven passenger and freight elevators. [13:1 CRLR 93]

• **Hazardous Substances List.** On February 16, OAL approved OSB's amendments to section 339, Title 8 of the CCR, regarding its hazardous substances list. [13:1 CRLR 94]

• **Wheelchair Access Lifts.** OSB's amendments to section 3000, Title 8 of the CCR, and section 7-3000, Title 24 of the CCR, regarding wheelchair access lifts, are still awaiting approval by the Building Standards Commission. [12:1 CRLR 131]

• **Vertical and Inclined Reciprocating Conveyors.** At this writing, the advisory committee convened to consider proposed new sections 3087 and 3087.1-10, Title 8 of the CCR, and sections 7-3087 and 7-3087.1-10, Title 24 of the CCR, regarding reciprocating conveyors, has not yet made a recommendation to OSB. [13:1 CRLR 94]

• **Equipment Secured to Grounded Structural Metal.** On February 25, OAL approved OSB's amendments to section 2395.58(a), Title 8 of the CCR, and section 250-58(a), Title 24 of the CCR, regarding equipment secured to grounded structural metal. [13:1 CRLR 94]

• **Window Cleaning Safety Rules.** On March 9, OAL approved OSB's proposed amendments to sections 3281-3289 and 3291-3292, Article 5, Title 8 of the CCR, and sections 8501-8505, Title 24 of the CCR, regarding safety standards for window cleaning. [13:1 CRLR 94]

• **Powered Platforms for Exterior Building Maintenance.** On March 9, OAL

approved OSB's proposed amendments to sections 3292-3298 and new section 3299 and Appendices A-D, Article 6, Title 8 of the CCR, and amendments to sections 8510-8513, 8520-8522 and Appendices A-B, Title 24 of the CCR, regarding the installation, maintenance, and training in the use of powered platforms for exterior building maintenance. [13:1 CRLR 94]

• **Methylenedianiline Regulations.** On January 14, OSB adopted amendments to section 5155 and proposed new sections 1535 and 5200, Title 8 of the CCR, regarding airborne contaminants and occupational exposure to methylenedianiline (MDA), a potential human carcinogen. [13:1 CRLR 92] The revisions were approved by OAL on March 3.

• **Hazard Communication.** On March 18, OSB adopted proposed revisions to section 5194, Title 8 of the CCR, regarding hazard communication standards; the amendments incorporate revised provisions of comparable federal standards. [13:1 CRLR 92-93] On April 26, OAL approved the amendments.

• **Cranes and Other Hoisting Equipment Regulations.** In December 1992, OAL disapproved OSB's proposed revisions to sections 4884, 4885, 4924, 4929, 4965, and 4966, Title 8 of the CCR, regarding the use of cranes and other hoisting equipment. [13:1 CRLR 93] OSB staff modified the regulations to address OAL's concerns, and released the modified language for a fifteen-day public comment period. In response to comments received, OSB decided to refer the amendments to section 4929 to an advisory committee for further review. At its March 18 meeting, the Board adopted the changes to the other sections; OAL approved those revisions on April 16.

## LEGISLATION

**AB 1800 (T. Friedman)**, as introduced March 5, would abolish DIR and instead establish the Labor and Employment Agency supervised by the Secretary of the Labor and Employment Agency. Under the bill, the Agency would consist of DOSH, the Department of Workers' Compensation, the Department of Rehabilitation, the Department of Labor Standards Enforcement, the Employment Development Department, the Department of Fair Employment and Housing, and the Contractors State License Board. The bill would also provide that the Cal-OSHA Plan, the Division of Labor Statistics and Research, the Division of Apprenticeship Standards, the Division of Industrial Accidents, the California Apprenticeship Council, the State Mediation and Conciliation Service, and the Office of Self-In-

urance Plans are subject to the Agency's jurisdiction. The bill would also provide that OSB, the Occupational Safety and Health Appeals Board, the Workers' Compensation Appeals Board, the Industrial Medical Council, the State Compensation Insurance Fund, the Rehabilitation Appeals Board, the Industrial Welfare Commission, the Employment Training Panel, the Apprenticeship Council, the State Job Training Coordinating Council, the Unemployment Insurance Appeals Board, the Fair Employment and Housing Commission, the Public Employee Relations Board, and the Agricultural Labor Relations Board are within the Agency for administrative purposes. [A. L&E]

**AB 395 (Hannigan).** Labor Code section 6401.7 requires every employer to establish, implement, and maintain an effective written Injury Prevention Program (IPP) that includes specified elements. Existing law also requires employers to correct unsafe and unhealthy conditions and work practices; train employees in safe and healthy work practices; and keep appropriate records regarding implementing and maintaining the IPP. As amended March 22, this bill would provide, with certain exceptions, that no civil penalty shall be assessed against any new employer in the state for a violation of any standard developed pursuant to section 6401.7 for a period of one year after the date the new employer establishes a business in the state, as provided. This bill would require DOSH to prepare a model IPP for non-high hazard employment, and provide that an employer who adopts and implements the model plan in good faith shall not be assessed a civil penalty for the first citation issued thereafter for a violation of section 6401.7.

This bill would also require DOSH to prepare a model IPP for employers in industries with intermittent employment, and to determine which industries have historically utilized seasonal or intermittent employees. It would provide that an employer in an industry determined by the Division to have historically utilized seasonal or intermittent employees shall be deemed to have complied with section 6401.7 if the employer adopts the model program prepared by the Division and complies with any instructions relating thereto. This bill would require an employer in a high hazard industry with more than 100 employees to establish one or more employer/employee health and safety committees, and prescribe the duties of these committees. It would prohibit an employer from discriminating against any employee who participates in a health and safety committee pursuant to these



provisions, and provide that no employee who participates in a health and safety committee shall be liable for any act or omission of the committee.

Existing law authorizes the assessment of a civil penalty of up to \$7,000 for each violation against any employer who violates any occupational safety or health standard, order, or special order, or a specified provision, and the violation is not determined to be of a serious nature. It provides that employers who do not have an operative IPP shall receive no penalty adjustment for good faith of the employer or history of previous violations, as provided. This bill would delete the provisions relating to penalty adjustments for employers who do not have an operative IPP. [S. IR]

**AB 1930 (Weggeland).** Existing law requires every employer to establish, implement, and maintain an effective written IPP, requires OSB to adopt a standard setting forth the employer's duties under these provisions, and permits the Board to adopt less stringent criteria for employers with few employees and for employers in industries with insignificant occupational safety or health hazards. As introduced March 5, this bill would require, rather than permit, the Board to adopt less stringent compliance criteria for employers with fewer than twenty employees and for employers in industries with insignificant occupational safety or health hazards, and extend the application of that requirement to employers with exemplary records in the area of occupational safety and health. This bill would define "exemplary record" as no reportable injuries or illnesses for a period of two consecutive years. [A. L&E]

**AB 2225 (Baca).** Existing law requires DHS to establish and maintain an occupational lead poisoning prevention program, including but not limited to specified activities related to reducing the incidence of occupational lead poisoning. As introduced March 5, this bill would additionally include among those specified activities, for purposes of the occupational lead poisoning prevention program, the study and documentation of the incidence and effects of lead exposure and occupational lead poisoning in the construction industry.

Existing law generally requires every employer to establish, implement, and maintain a written IPP. This bill would also require any employer who engages in lead-related work, as defined, to establish, implement, and maintain an effective occupational lead injury prevention program designed to identify and eliminate unsafe work practices, and prevent occupational lead poisoning and other lead related diseases in the workplace. [A. L&E]

**SB 147 (Johnston).** Existing law requires DOSH, upon request, to provide a full range of occupational safety and health consulting services to any employer or employee group, and requires that these services include providing assistance in the development of IPPs for employees and employers. As introduced January 28, this bill would require that these consulting services additionally include the development and distribution of a model plan to assist small employers in industries with insignificant health and safety hazards. [A. L&E]

**AB 50 (Ferguson),** as amended February 8, would have excluded employers with less than 45 employees from the requirement to establish and implement a written IPP. The bill was rejected by the Assembly Labor and Employment Committee on April 14.

**AB 1605 (B. Friedman),** as amended May 10, would require every supermarket, grocery store, or drugstore employer with twenty or more full-time or part-time employees and a retail building location of more than 20,000 square feet to develop and implement a minimum security plan at each store site that is designed to protect employees from crime and to assist law enforcement officers in the identification of perpetrators of crimes committed in these stores, and that includes specified elements. This bill would require OSB to adopt regulations to enforce these provisions not later than September 1, 1994. [A. W&M]

**AB 1978 (Jones).** Existing law requires registration with DOSH for specified asbestos-related work, as defined, and prescribes civil and criminal penalties for violating those requirements. As introduced March 5, this bill would exclude from the definition of "asbestos-related work," the installation, repair, maintenance, or removal of asbestos cement pipe and sheets containing asbestos that does not result in asbestos exposures to employees in excess of the permissible limit as determined pursuant to specified regulations, if the employee involved in the work has received training through a task-specific training program, including specified information, and written confirmation of completion of that training from the employer or training entity responsible for the training.

Existing law governing asbestos-related work defines "asbestos-containing construction material" as any manufactured construction material which contains more than one-tenth of 1% asbestos by weight. This bill would change the definition of "asbestos-containing construction material" to any manufactured

construction material that contains more than 1% asbestos by weight. [A. L&E]

**SB 877 (Marks),** as amended May 17, would exclude from the definition of the term "asbestos-related work," the installation, repair, maintenance, or nondestructive removal of specified materials containing asbestos in operations where mandatory initial monitoring in accordance with specified regulations indicates that asbestos cement pipe that does not result in asbestos exposures to employees in excess of permissible limits, as specified, if the employees and supervisors involved in the operations have received training through a task-specific training program and written certification of completion of that training from the employer or training entity responsible for the training.

The bill would require OSB to establish an ad hoc advisory committee to develop and recommend, for action by the Board, specific requirements for task-specific training programs concerning asbestos-related work. It would also require DOSH to approve employers or training entities to conduct task-specific training programs that meet these requirements for employees involved in asbestos-related work. [S. Appr]

**SB 144 (Calderon).** Existing law requires the state Department of Health Services (DHS) to establish by regulation standards of education and experience for professional and technical personnel employed in local health departments. Pursuant to this authority, DHS has established education and experience standards for industrial hygienists employed in local health departments. As amended April 22, this bill would define the terms "industrial hygiene" and "certified industrial hygienist," and allow any certified industrial hygienist to obtain a stamp from an industrial hygiene certification organization certifying that the industrial hygienist meets specified educational and examination requirements. The bill would also provide that notwithstanding the provisions of any law to the contrary, no entity of state or local government shall by rule or otherwise prohibit or restrict industrial hygienists who comply with the provisions of this act from engaging in the practice of industrial hygiene. This bill would provide, except as specified, that it is an unfair business practice for any person to represent themselves as a certified industrial hygienist or a "CIH" unless they comply with the requirements of this act. [S. Floor]

**SB 193 (Marks).** Existing law authorizes DOSH, after inspection or investigation, to issue to an employer a citation with respect to an alleged violation; existing law requires DOSH, within a reasonable time after termination of the inspection or



investigation, to notify the employer by certified mail of the citation, and of the fifteen-day period from the receipt of the notice within which the employer may notify OSB of his/her intent to appeal the citation for any reason as set forth in specified statutes. Existing law requires the citation to fix a reasonable time for abatement of the alleged violation, and provides that period shall not commence running until the date the citation is received by certified mail and the certified mail receipt is signed or, if not signed, the date the return is made to the post office. Existing administrative regulations further provide that all abatement periods and changes required by the Division are stayed upon the filing of a docketed appeal with OSB, and remain stayed until the withdrawal or final disposition of that appeal.

As introduced February 4, this bill would require DOSH, if it determines that an alleged violation is serious and presents such a substantial risk to the safety or health of employees that the initiation of appeal proceedings should not suspend the running of the period for abatement, to so direct in the citation issued to the employer; authorize an employer who receives a citation as described above to file a motion with OSB, concurrent with the timely initiation of an appeal, requesting that the running of the period for abatement be suspended during the pendency of the appeal; require OSB, in a case where the motion is filed, to conduct an expedited hearing within fifteen days of the filing of the motion to consider and decide the employer's appeal; and authorize OSB, in its decision on the appeal, to modify the citation's direction that the period for abatement not be suspended. [S. Floor]

**SB 547 (Hayden)**, as amended April 19, would prohibit an employer, commencing January 1, 1997, from requiring or permitting the use of diethylene glycol dimethyl ether or ethylene glycol monoethyl ether in any place of employment, a violation of which would be a misdemeanor. This bill would also require employers, no later than March 1, 1994, to warn employees who could be exposed to diethylene glycol dimethyl ether or ethylene glycol monoethyl ether in their work of the reproductive health dangers of these chemicals, including but not limited to the high risk of miscarriage associated with these chemicals. [S. Appr]

**SB 832 (Hayden)**, as amended May 10, would require that, on or after January 1, 1995, every computer video display terminal (VDT) and peripheral equipment, as specified, that is acquired for or used in any place of employment conform to all applicable design and ergonomic standards adopted by the American Na-

tional Standards Institute (ANSI); require that, on and after January 1, 1995, every employer, except as specified, upon the request of a covered operator, as defined, of a VDT, provide certain equipment that conforms to the aforementioned design and ergonomic standards; require, on and after January 1, 1995, every employer who employs a covered operator to provide that covered operator, under certain conditions, with an alternate work break, as defined, or with reasonable alternative work; provide that a workstation employing new or alternative technologies shall be considered to conform to the standards required by these provisions if certain conditions are met, as specified; require, on or before January 1, 1996, every employer who employs one or more covered operators to make certain equipment modifications to conform to the equipment standards imposed by these provisions, but would specify that an employer shall only be required to expend a maximum of \$250 per workstation to make the required equipment modifications; require, on or before January 1, 1998, every employer who employs one or more covered operators to expend those amounts necessary to modify and upgrade all VDT equipment that is used by any covered operator to fully conform to the equipment standards set forth in these provisions; require, on or before January 1, 1995, that every employer required to comply with specified laws and regulations relating to worker safety, who employs one or more covered operators, provide training and instruction to every covered operator, that includes specified information; require DOSH to monitor ongoing research on VDT radiation emissions and to inform employers, through the use of existing communications materials, of the status of that research, and, on or before January 1, 1995, to report to the legislature on the results of that research, as specified; and authorize DOSH to enforce these provisions by the issuance of citations for any violations thereof. [S. Appr]

**SB 999 (Dills)**. Existing law requires DOSH to promulgate regulations establishing specific criteria for licensing certifiers of cranes and derricks, including a written examination. As amended May 10, this bill would permit the Division to waive the written examination for renewal of a certifier's license if the applicant is currently licensed at the time of application and has been actively engaged in certifying cranes and derricks for the five preceding years. [S. Floor]

**AB 383 (Lee)**. Existing law requires DHS to establish and maintain a program on occupational health and occupational

disease prevention, including provision of technical assistance to DIR and other agencies in matters of occupational disease prevention and control. As amended April 15, this bill would require DHS, in consultation with DIR, to adopt regulations governing accreditation of providers of health and safety training to workers who engage in lead-related construction work. It would specify that these regulations shall, as a condition of accreditation, require providers to offer training that meets specified requirements established by OSB. This bill would define the term "lead-related construction work," and require DOSH, on or before February 1, 1994, to propose to OSB for its review and adoption a standard, including certain specified requirements, that protects the health and safety of employees who engage in lead-related construction work. It would require OSB to adopt the standard on or before July 1, 1994. [S. IR]

**AB 1543 (Klehs)**. Under existing law, OSB has authority to adopt, amend, and repeal occupational safety and health standards and orders, and to grant variances therefrom under specified conditions; DOSH also has authority to grant temporary variances from any occupational safety and health standard under limited circumstances. As amended April 21, this bill would provide that, notwithstanding these existing authorizations, neither OSB nor DOSH has the authority to make changes in, or grant variances from, specified regulations, if the proposed change or variance may have the effect of subjecting workers to increased exposure to electromagnetic fields in work on conductors or equipment energized in excess of 7500 volts. [A. Floor]

**AB 2016 (Conroy)**. Existing law authorizes DOSH to investigate industrial accidents and occupational illnesses, as specified. Existing law provides that the DOSH Chief and all qualified and authorized Division inspectors and investigators shall have free access to any place of employment to make an investigation or inspection during regular working hours, and at other reasonable times when necessary for the protection of safety and health. If, during any investigation of an industrial accident or occupational illness, DOSH is refused entry by the employer, the Chief or his/her authorized representative may issue an order to preserve materials or the accident site as they were at the time the accident or illness occurred if, in the opinion of DOSH, it is necessary to do so in order to determine the cause of the accident or illness. As amended April 21, this bill would authorize DOSH to issue an order to preserve materials or the acci-



dent site, regardless of whether the Division is refused entry, if, in the opinion of the Division, it is necessary to do so in order to determine the cause of the accident or illness and the evidence is in potential danger of being removed, altered, or tampered with.

Existing law provides that an action to collect a civil penalty shall commence no later than three years from the date the notice of civil penalty is final. This bill would instead provide that an action to collect any civil penalty or penalty fee related to any inspection, permit, or examination, shall be commenced within three years from the date the assessment of any penalty or fee becomes final.

Existing law authorizes the Division to fix and collect specified fees for the inspection of elevators to cover the actual costs related to these inspections. It requires a person owning or having the custody, management, or operation of an elevator who fails to pay required fees within sixty days after notification to pay a specified penalty fee. This bill would provide that, for purposes of these provisions relating to elevator safety, the date of the invoice assessing a penalty or fee shall be considered the date of notification.

Existing law authorizes the Division to fix and collect fees for the inspection of aerial passenger tramways to cover the actual cost of these inspections. It provides that the Division may not charge for inspections performed by certified insurance inspectors, but authorizes the Division to charge a specified fee to cover the cost of processing the permit when issued by the Division as a result of the inspection. This bill would require the Division, whenever a person owning or having custody, management, or operation of an aerial passenger tramway fails to pay any fee required under these provisions within 60 days after notification by the Division, to assess a penalty fee equal to 100% of the initial fee. It would provide that, for purposes of these provisions, the date of the invoice fixing the fee shall be considered the date of notification. [A. Floor]

**SB 555 (Hart).** Existing law requires every physician providing treatment to an injured employee for pesticide poisoning or a condition suspected to be pesticide poisoning to file a complete report with the Division of Labor Statistics and Research. As introduced March 1, this bill would additionally require every physician providing treatment for pesticide poisoning or a condition suspected to be pesticide poisoning to file, within 24 hours of the initial examination, a complete report with the local health officer by facsimile transmission or other means. The bill

would provide that the physician shall not be compensated for the initial diagnosis and treatment unless the report to the Division of Labor Statistics and Research is filed with the employer or, if insured, with the employer's insurer, and certifies that a copy of the report was filed with the local health officer. [S. Floor]

**AB 13 (T. Friedman),** as amended April 12, would prohibit any employer from knowingly or intentionally permitting, or any person from engaging in, the smoking of tobacco products in an enclosed space at a place of employment. It would specify that, for purposes of these provisions, an employer who permits any nonemployee access to his/her place of employment on a regular basis has not acted knowingly or intentionally if he/she has taken certain reasonable steps to prevent smoking by a nonemployee. This bill would also specify that the smoking prohibition set forth in these provisions shall constitute a uniform statewide standard for regulating the smoking of tobacco products in enclosed places of employment, and shall supersede and render unnecessary the local enactment or enforcement of local ordinances regulating the smoking of tobacco products in enclosed places of employment. This bill would additionally provide that a violation of the smoking prohibition set forth in these provisions is an infraction punishable by specified fines. It would further provide that the smoking prohibition shall be enforced by local law enforcement agencies. [A. W&M]

## RECENT MEETINGS

At its January 14, meeting, Dr. Frank Ciofalo of DOSH reported that the Division is attempting to draft regulatory language addressing tuberculosis (TB) in the workplace; ACR 95 (Gotch) (Chapter 81, Resolutions of 1992) directs OSB to adopt a TB regulation on or before December 31, 1993. The regulation is expected to be targeted to high-hazard industries such as correctional facilities and the medical industry. [12:4 CRLR 163]

At its January 14 meeting, OSB considered Petition No. 320, submitted by the Los Angeles Unified School District, requesting that OSB amend section 5162(a), Title 8 of the CCR, regarding emergency eyewash and shower equipment. Petitioner contended that the section may be too rigorous for non-industrial businesses using household products and that equivalent protection for these products is provided by product evaluation, proper chemical use, employee training, and personal protective equipment. Following discussion, OSB granted the petition to the ex-

tent that it requested DOSH to convene an advisory committee to address the issues raised by petitioner and, if appropriate, develop proposed amendments for consideration by the Board at a future public hearing.

At its February 18 meeting, OSB considered Petition No. 322, submitted by Indiana Mills & Manufacturing, Inc., requesting that OSB amend section 1596(g)(4), Title 8 of the CCR, to permit the installation of three-point seatbelts consisting of a three-inch wide lap belt and a two-inch wide shoulder belt on newly-manufactured construction equipment used in California; petitioner contended that the new technology of the three-point seatbelts offers improved protection to the wearer because the seat occupant's upper torso is restrained in the event of collision or rollover. Following discussion, OSB granted the petition to the extent that it agreed to convene an advisory committee to develop revisions to existing regulations and present its recommendations for consideration by the Board at a future public hearing.

At its March 18 meeting, OSB considered Petition No. 323, submitted by the Oceanside Firefighters Association, requesting that OSB amend section 5144, Title 8 of the CCR, regarding respiratory protective equipment. Section 5144(h) currently provides that persons should not be assigned to tasks requiring the use of respirators unless it has been determined that they are physically able to perform the work while using the required respiratory equipment, and that the medical status of persons assigned use of respiratory equipment should be reviewed at least annually; petitioners requested that OSB replace the word "should" with "shall." Following discussion, OSB granted the petition to the extent that it requested DOSH to convene an advisory committee to discuss the issues raised by the petition.

Also at its March 18 meeting, OSB considered Petition No. 325, submitted by the California Lumbermen's Accident Prevention Association, requesting that OSB adopt a new regulation pertaining to banding machines; petitioner contended that banding machines are currently exempt from certain requirements because they are not specifically addressed in the applicable regulations. Following discussion, OSB denied the petition, concluding that existing regulations do apply to banding machines.

At its April 22 meeting, OSB considered Petition No. 324, submitted by the California Council of Laborers, requesting that OSB amend section 1599(f), Title 8 of the CCR, which provides that flaggers



shall be trained in the proper fundamentals of flagging moving traffic before being assigned as flaggers, and that signaling directions used by flaggers shall conform to the *Manual of Traffic Controls for Construction and Maintenance Work Zones—1990*, published by the state Department of Transportation. According to the petitioner, the term "training" is subject to numerous interpretations; as a result, petitioner requested that the section be amended to require a DOSH-approved flagger's training course. Following discussion, the Board agreed that such a requirement would be duplicative of existing requirements, and denied the petition.

Also at its April 22 meeting, OSB considered Petition No. 326, submitted by Encon Safety Products, requesting that OSB amend section 5162(b), Title 8 of the CCR, which provides that an emergency shower which meets specified requirements shall be provided at all work areas where, during routine operations or foreseeable emergencies, areas of the body may come into contact with a substance which is corrosive or severely irritating to the skin or which is toxic by skin absorption. The petitioner requested that the section be amended to provide relief for work in remote areas and by mobile work crews when it is not feasible to comply with the specifications for emergency shower units that require a plumbed shower unit or portable tanker truck unit capable of carrying a large volume of water. Following discussion, OSB adopted the petition to the extent that it directed DOSH to convene an advisory committee to address the issue of providing relief for remote work locations and mobile crew operations that require the use of an emergency eyewash and shower equipment.

Also at its April meeting, OSB considered Petition No. 327, submitted by Del Schimpf of Cardel, Inc., a manufacturer of an electronic monitoring device which indicates when a long end-dump tractor unit is on an uneven surface; Petitioner requested that OSB adopt a new regulation regarding warning devices to prevent rollover or tipovers of long end-dump tractor trailer units. Following discussion, OSB agreed that such a requirement is unnecessary given other applicable regulations, and denied the petition.

#### ■ FUTURE MEETINGS

- August 26 in Sacramento.
- September 26 in Los Angeles.
- October 21 in San Francisco.
- November 18 in San Diego.



## CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY (CAL-EPA)

### AIR RESOURCES BOARD

*Executive Officer: James D. Boyd*  
*Chair: Jananne Sharpless*  
(916) 322-2990

Pursuant to Health and Safety Code section 39003 *et seq.*, the Air Resources Board (ARB) is charged with coordinating efforts to attain and maintain ambient air quality standards, to conduct research into the causes of and solutions to air pollution, and to systematically attack the serious problem caused by motor vehicle emissions, which are the major source of air pollution in many areas of the state. ARB is empowered to adopt regulations to implement its enabling legislation; these regulations are codified in Titles 13, 17, and 26 of the California Code of Regulations (CCR).

ARB regulates both vehicular and stationary pollution sources. The California Clean Air Act requires attainment of state ambient air quality standards by the earliest practicable date. ARB is required to adopt the most effective emission controls possible for motor vehicles, fuels, consumer products, and a range of mobile sources.

Primary responsibility for controlling emissions from stationary sources rests with local air pollution control districts (APCDs) and air quality management districts (AQMDs). ARB develops rules and regulations to assist the districts and oversees their enforcement activities, while providing technical and financial assistance.

Board members have experience in chemistry, meteorology, physics, law, administration, engineering, and related scientific fields. ARB's staff numbers over 400 and is divided into seven divisions: Administrative Services, Compliance, Monitoring and Laboratory, Mobile Source, Research, Stationary Source, and Technical Support.

In January, Patricia M. Hilligoss was confirmed as a new member of the Board. Before appointment to ARB, Hilligoss was chair of the Bay Area Air Quality Management District. Hilligoss received her bachelor's degree from the University of Minnesota, and has been a real estate associate with the firm George A. Pagni Associates since 1987.

### ■ MAJOR PROJECTS

**Board Delays Implementation of Emission Regulations for Lawn and Garden Engines.** In December 1990, ARB approved landmark emission control regulations for utility, lawn, and garden engines (including lawnmowers, chainsaws, blowers, air compressors, portable generators, pumps, and other utility equipment powered by small gasoline and diesel engines) in order to reduce the volume of hydrocarbons and other pollutants emitted from these sources. [11:1 CRLR 115] As adopted, the regulations established two tiers of emission standards for lawn and garden engines. The first set of emission standards, designed to provide feasible, short-term reductions in utility engine emissions, was scheduled to be implemented in January 1994. Manufacturers could satisfy these emission standards through simple carburetor adjustments and tighter design tolerances. The second set of emissions standards was scheduled to be implemented in 1999, and would have required the use of advanced emission controls, such as catalytic converters. The regulations also required an emission defects warranty, engine labeling, quality audit testing, and new engine compliance testing programs.

Amendments to the federal Clean Air Act, however, prohibited states from regulating emissions from construction or farm equipment utilizing engines with less than 175 horsepower. Arguably, some of ARB's 1990 regulations impose emissions standards on utility and garden equipment now subject to this federal preemption, and are thus unenforceable by the Board. The U.S. Environmental Protection Agency (EPA) has not promulgated final rules defining the scope of the farm and construction equipment subject to this preemption. Without such guidance, the lawn and garden industry cannot effectively allocate engineering resources to the design of engines requiring compliance with ARB's standards.

At its April 8 meeting, ARB adopted a proposal to delay the first tier of the lawn and garden regulations by one year, until January 1, 1995, by amending section 2400 and sections 2403-2407, Title 13 of the CCR. In addition, the Board approved