

LINDA LINGLE
GOVERNOR



DARWIN L.D. CHING
DIRECTOR
COLLEEN Y. LaCLAIR
DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS
Hoisting Machine Operators Advisory Board
830 Punchbowl Street
Honolulu, Hawaii 96813
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Board Members
Tom Vendetta, Chair
Joaquin Diaz
Ed Sanchez
Jim Weander

Lora Contreras,
Executive Director

Approved January 20, 2010

Hoisting Machine Operator's Advisory Board Minutes
Wednesday, November 18, 2009
1:30 p.m.
Department of Labor & Industrial Relations Office
HIOSH Training Room
830 Punchbowl Street #425
Honolulu, Hawaii 96813

Present: Tom Vendetta, Joaquin Diaz, Ed Sanchez, Jim Weander & Lora Contreras.
Guests: Jamesner Dumlao, Deputy AG Gerard Lam, Moses Demello, and Clayton Chun.

Call to order

Chair Vendetta established a quorum and called the meeting to order at 1:30 p.m.

Minutes of October 21, 2009

Joaquin Diaz moved, seconded by Ed Sanchez to approve the minutes as circulated. Motion approved.

HIOSH Compliance Branch Report

No hoisting crane accidents were reported.

New Business

The board amended and approved the 2010-11 budget. Lora will forward the budget request to Director Ching.

HOISTING MACHINE OPERATORS' ADVISORY BOARD FISCAL 2009- 2010 BUDGET							
Board Approved 11/18/09			Fiscal 2010-11				
HMOAB Meeting 11/18/09			Act 165/98				

Account & Description							
PERSONNEL COSTS							
					<i>Actual</i>	<i>11/18/09 Request</i>	<i>Justification</i>
A.	Personal Services (position count)						
	Executive Director						
A.1.	Other Personal Services						
	Fringe Benefits (40%)						
							\$ 48,205.00
						\$ 33,456.00	
						\$ 14,749.00	Fringe Benefits
				Subtotal:	\$ 48,205.00		
B.	Other Current Expenses						
		3200	Office Supplies			\$ 800.00	Certification cards
		3700	Postage			\$ 500.00	Mail
		3800	Telephone /fax/internet			\$ 1,200.00	Tele/Fax
		3900	Printing			\$ 2,800.00	Info/press release/brochures
		7262	Misc			\$ 495.00	Misc
			Parking			\$ 600.00	Parking
				Subtotal:		\$ 6,395.00	
				Total Costs:		\$ 54,600.00	

Old Business

Statute 12-48-9 on Denials

Discussion ensued on suggested guidelines for the director. Chair Vendetta submitted a draft copy of his suggestions for the board to deliberate.

Guidelines for denying, suspending or revoking a Hawaii Hoisting Machine Operators Certificate

Group 1	Group 2	Group 3
A violation of ASME B30.5	A finding that the certificate holder was responsible or contributed to an accident involving a hoisting machine	Proof that the applicant or holder has been convicted of a crime directly related to the applicant's possible performance under the certificate applied for and where the applicant has not been sufficiently rehabilitated to warrant the public trust
Non-compliance with an order of the director within the time specified in the order		Proof that the applicant or holder suffers from a mental or physical defect that would interfere with or prevent the applicant's safe handling of a hoisting machine
Providing false information or making any misrepresentation for the purpose of obtaining a certificate		The applicant or holder is an unlawful user of narcotics or dangerous drugs
For any other reason which at the discretion of the director would create a hazard or risk to persons or property		

Discussion

Administrative actions taken by the director should be progressive or regressive, as deemed appropriate. When deciding an administrative action (denial, suspension or revocation of a Hawaii hoisting operator’s certificate) against an operator, consideration should be given to all previous administrative actions of the director for the operator. Determinations by the director should further consider the severity of the infraction or accident as follows: 1) minor, 2) moderate, or 3) major. The director’s final determination should also take into consideration the length of time between previous administrative actions as follows:

Period between offenses

- 0 to 3 months Proceed to next step
- 3 to 6 months Repeat latest step
- 6 to 9 months Go back one step
- 9 to 12 months Go back two steps
- Over 12 months Begin at first step

Note: Section 12-48-9 seems to indicate that the most severe administrative action is 1 year revocation w/ a retake of NCCCO test, if director determines an accident was serious enough.

GROUP 1

(1) A violation of ASME B30.5 (2) Non-compliance with an order of the director within the time specified in the order (3) Providing false information or making any misrepresentation for the purpose of obtaining a certificate (4) For any other reason which at the discretion of the director would create a hazard or risk to persons or property					
Penalty: deny, suspend or revoke certification					
	Period Between Infractions				
Infraction	0 to 3 months	3 to 6 months	6 to 9 months	9 to 12 months	Over 1 year
1 st Minor Moderate Major	24 hours Up to 1 month Up to 6 months	Not applicable	Not Applicable	Not Applicable	Not Applicable
2 nd Minor Moderate Major	7 days to 1 month 1 to 3 months 6 to 12 months	24 hours Up to 1 month Up to 6 months	24 hours Up to 1 month Up to 6 months	24 hours Up to 1 month Up to 6 months	24 hours Up to 1 month Up to 6 months
3 rd Minor Moderate Major	1 to 3 months 3 to 6 months 12 months	7 days to 1 month 1 to 3 months 6 to 12 months	24 hours Up to 1 month Up to 6 months	24 hours Up to 1 month Up to 6 months	24 hours Up to 1 month Up to 6 months
4 th Minor Moderate Major	3 to 6 months 6 to 12 months 12 months	1 to 3 months 3 to 6 months 12 months	7 days to 1 month 1 to 3 months 6 to 12 months	24 hours Up to 1 month Up to 6 months	24 hours Up to 1 month Up to 6 months
5 th Minor Moderate Major	6 to 12 months 12 months 12 months	3 to 6 months 6 to 12 months 12 months	1 to 3 months 3 to 6 months 12 months	7 days to 1 month 1 to 3 months 6 to 12 months	24 hours Up to 1 month Up to 6 months
6 or more Minor Moderate Major	12 months 12 months 12 months	6 to 12 months 12 months 12 months	3 to 6 months 6 to 12 months 12 months	1 to 3 months 3 to 6 months 12 months	7 days to 1 month 1 to 3 months 6 to 12 months

GROUP 2

(1) A finding that the certificate holder was responsible or contributed to an accident involving a hoisting machine
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Penalty: deny, suspend or revoke certification					
The director may require a certificate holder to retake and pass the certification examination before applying to have his or her certification reinstated.					
	Period Between Infraction				
Infraction	0 to 3 months	3 to 6 months	6 to 9 months	9 to 12 months	Over 1 year
1 st					
Minor	1 to 3 months	Not applicable	Not applicable	Not applicable	Not applicable
Moderate	3 to 6 months				
Major	12 months				
2 nd					
Minor	3 to 6 months	1 to 3 months	1 to 3 months	1 to 3 months	1 to 3 months
Moderate	6 to 12 months	3 to 6 months	3 to 6 months	3 to 6 months	3 to 6 months
Major	12 months	12 months	12 months	12 months	12 months
3 rd					
Minor	6 to 12 months	3 to 6 months	1 to 3 months	1 to 3 months	1 to 3 months
Moderate	12 months	6 to 12 months	3 to 6 months	3 to 6 months	3 to 6 months
Major	12 months	12 months	12 months	12 months	12 months
4 or more					
Minor	12 months	6 to 12 months	3 to 6 months	1 to 3 months	1 to 3 months
Moderate	12 months	12 months	6 to 12 months	3 to 6 months	3 to 6 months
Major	12 months	12 months	12 months	12 months	12 months

GROUP 3

<ol style="list-style-type: none"> (1) Proof that the applicant or holder has been convicted of a crime directly related to the applicant's possible performance under the certificate applied for and where the applicant has not been sufficiently rehabilitated to warrant the public trust (2) Proof that the applicant or holder suffers from a mental or physical defect that would interfere with or prevent the applicant's safe handling of a hoisting machine (3) The applicant or holder is an unlawful user of narcotics or dangerous drugs 					
Penalty: deny, suspend or revoke certification					
The director may require a certificate holder to retake and pass the certification examination before applying to have his or her certification reinstated. The director will require proof that a certificate holder convicted of a crime that could impact the safe operation of a hoisting machine has been sufficiently rehabilitated to warrant public trust; clearance from a recognized medical or psychiatric authority that affirms that an applicant or holder suffering from a mental or physical defect can safely operate a hoisting machine; and proof that an applicant or holder who is an unlawful user of narcotics or dangerous drugs has completed a drug rehabilitation program, supported by drug testing results.					
	Period Between Infractions				
Infraction	0 to 3 months	3 to 6 months	6 to 9 months	9 to 12 months	Over 1 year
1 st					
Minor	6 to 12 months	Not applicable	Not applicable	Not applicable	Not applicable
Moderate	12 months				
Major	12 months				
2 or more					
Minor	12 months	6 to 12 months	6 to 12 months	6 to 12 months	6 to 12 months
Moderate	12 months	12 months	12 months	12 months	12 months
Major	12 months	12 months	12 months	12 months	12 months

Definitions

Minor Infractions

Minor Infractions are defined as rule violations, accidents, unacceptable behavior or a physical or mental condition resulting in only very minor damages to the hoisting machine or other equipment or property. Minor Infractions do not usually diminish the public trust of the operator to safely operate a hoisting machine. Minor Infractions may cause non-disabling or minor disabling personal injuries.

Moderate Infractions

Moderate Infractions are defined as rule violations, accidents, unacceptable behavior or a physical or mental condition resulting in minor damages to the hoisting machine or other equipment or property. Moderate Infractions diminish the public trust of the operator to safely operate a hoisting machine. Moderate Infractions may cause injuries resulting in short periods of disability.

Major Infractions

Major Infractions are defined as rule violations, accidents, unacceptable behavior or a physical or mental condition resulting in severe damages to the hoisting machine or other equipment or property. Major Infractions violate the public trust of the operator to safely operate a hoisting machine. Major Infractions may cause serious personal injuries resulting in long periods of disability, permanent disability or death.

The board agreed to review these draft guidelines and discuss and recommend changes at the January 2010 meeting. If there are no substantive changes, the proposed guidelines will be forwarded to DLIR for consideration in developing enabling protocols for the director to deny, suspend or revoke a Hawaii Hoisting Machine Operators Certificate.

Public Hearings

Jamesner Dumlao and Gerard Lam are still finalizing the admin rules amendments. Scheduling for public hearings will follow.

No community concerns.

Executive Session

2:30 p.m. Joaquin Diaz moved, seconded by Ed Sanchez to recess and move into executive session. Meeting reconvened at 3:05 p.m.

Adjournment

Meeting adjourned at 3:00 p.m.

Next board meeting – Wednesday, January 20, at 1:30 p.m.