

**OCCUPATIONAL SAFETY
AND HEALTH STANDARDS BOARD**

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**SUMMARY
PUBLIC MEETING/PUBLIC HEARING/BUSINESS MEETING
September 14, 2017
Walnut Creek, California**

I. PUBLIC MEETING

A. CALL TO ORDER AND INTRODUCTIONS

Chairman Dave Thomas called the Public Meeting of the Occupational Safety and Health Standards Board (Board) to order at 10:10 a.m., September 14, 2017, in the Council Chambers of the Walnut Creek City Hall, Walnut Creek, California.

ATTENDANCE

Board Members Present

Dave Thomas
David Harrison
Chris Laszcz-Davis
Patty Quinlan
Barbara Smisko

Board Member Absent

Laura Stock

Board Staff

Marley Hart, Executive Officer
Mike Manieri, Principal Safety Engineer
Peter Healy, Legal Counsel
David Kernazitskas, Senior Safety Engineer
Sarah Money, Executive Assistant

Division of Occupational Safety and Health

Eric Berg, Deputy Chief of Health

Others Present

Michael Musser, CA Teachers Association	Amber Rose, Federal OSHA
David Jones, AGC of CA	Yulisa Elenes, Unite Here
Daniel J. O'Connell, Safetran, LLC	Jora Trang, Worksafe
Elsee Portillo, Unite Here Local 2850	Blanca Smith, Unite Here Local 2850
Gemma Pavon, Unite Here Local 2850	Quinton Silket, Unite Here Local 2
Yolanda Barron, Unite Here Local 2850	Elba Guevara, Unite Here Local 2850
Ofelia Cardenas, Unite Here Local 2850	Leticio Pacheco, Unite Here Local 2850
Adam Cohen, AIDS Healthcare Foundation	James Mackenzie, Southern CA Edison
Wan Qin Yee	Yleming Weng
Carmen Rojas, Unite Here Local 2850	Angelica Avenda, Unite Here Local 2850
Maria Aguilar, Unite Here Local 2850	Maria Gonzalez, Unite Here Local 2850
Maria Martinez, Unite Here Local 2850	Ankush Ganapathy, Unite Here Local 2850

Dan Leacox, Leacox & Associates

B. OPENING COMMENTS

Mr. Thomas indicated that this portion of the Board's meeting is open to any person who is interested in addressing the Board on any matter concerning occupational safety and health or to propose new or revised standards or the repeal of standards as permitted by Labor Code Section 142.2.

Quinton Silket, Unite Here Local 2 San Francisco, thanked the Board and Division staff for their work on the hotel housekeeping proposal. He asked that the Division make no changes that may weaken the protections in the proposal. He said that 25-30 commenters commented in support of the hotel housekeeping proposal, as it is written, during the public hearing on May 18, 16 comment letters were received that also supported the proposal, and only 3 groups spoke in opposition of the proposal. He stated that in light of this, he hopes that the Division will make swift progress in moving this proposal forward to a vote by the Board. He wanted to know when the Division will release its response to the comments that were received during the public comment period and the public hearing, and what changes, if any, the Division is planning to propose. He asked that the proposal be moved forward so that it can be voted on by November 2017 and can become law by April 2018.

The following individuals also commented in support of the hotel housekeeping proposal:

- **Maria Aguilar, Hotel Housekeeper at Hyatt House Emeryville, Unite Here Local 2850**
- **Maria De Los Angeles Mariscal, Hotel Housekeeper at Hyatt House Emeryville, Unite Here Local 2850**
- **Jora Trang, Worksafe**
- **Carmen Rojas, Hotel Housekeeper at DoubleTree Marina Berkeley Hotel, Unite Here Local 2850**
- **Francisca Carranza, Unite Here Local 2850**

Jora Trang, Worksafe, stated that her organization supports the 300 log record keeping and reporting rules that were recently promulgated by federal OSHA, and her organization hopes that California will do the same. She said that doing so will ensure that record keeping rules and records of ongoing injuries are kept up-to-date, which is important for worker health and safety.

Adam Cohen, AIDS Healthcare Foundation, stated that an adult film studio was cited in 2016 for not complying with the bloodborne pathogen protection standard. He said that after this, the employer decided to comply. He stated that other employers in the adult film industry can do the same, but instead, they choose to appeal their citations, claiming that adult film performers are not employees, and the bloodborne pathogen protection standard does not apply to them. He said that adult film performers are employees, and the bloodborne pathogen protection standard does apply to the adult film industry. He stated that his organization is looking forward to the Division updating the information on its website to reflect the fact that adult film performers are employees.

Mona Wales, Adult Film Performer, stated that she wants to work with the Division to come up with solutions to the problems that adult film performers face in their field of work. She said that many adult film performers are independent contractors just like performers in mainstream film, and they are also independent contractors for tax reasons. She stated that she would like to see the following things happen in the adult film industry:

- She would like to see producers pay for testing.
- She would like to see testing be done on-site on the day that the performer is scheduled to perform.
- She would like to see PREP considered as an option for protection, and to have it made available to the performers at no cost.
- She would like to see vaccinations provided for performers to protect against HPV and hepatitis A.

C. DIVISION UPDATE ON HOTEL HOUSEKEEPING TIMELINE

Mr. Berg stated that the Division is continuing to review and respond to the comments that were received during the public comment period for the hotel housekeeping proposal, and the comments that were received during the public hearing. He said that the Division hopes to finish reviewing and responding to these comments by the end of September. He stated that after that, the rulemaking package will be returned to the Board staff for its review.

Mr. Thomas asked what the timeline will be for getting the hotel housekeeping proposal to the Board for a vote if the Division finishes reviewing and responding to comments by the end of September. **Ms. Hart** stated that it will depend on whether or not the Division decides to make further changes to the proposal. She said that if the Division decides to make changes, the Board staff will review the Division's summary and response to comments, and the Division's revised language, and then a 15-day notice will be issued to the public containing those proposed changes. From there, the public will have 15 calendar days to comment on the proposed changes. At the end of the 15-day comment period, the Division will review and respond to the comments that are received and determine if further modifications are needed or if the proposal can be finalized for the Board to vote on. She said that if the Division decides not to make any changes and to finalize the proposal for the Board to vote on, it will be a faster process. She said that it is very unlikely that the proposal will be ready for the Board to vote on by November.

D. ADJOURNMENT

Mr. Thomas adjourned the public meeting at 10:35 a.m.

II. **PUBLIC HEARING**

Mr. Thomas called the Public Hearing of the Board to order at 10:35 a.m., September 14, 2017, in the Council Chambers of the Walnut Creek City Hall, Walnut Creek, California.

Mr. Thomas opened the Public Hearing and introduced the first item noticed for public

Ms. Hart summarized the history and purpose of the petition, and stated that the proposed recommendation is to adopt the petition decision.

MOTION

A motion was made by Mr. Harrison and seconded by Ms. Laszcz-Davis that the Board adopt the petition decision.

A roll call was taken, and all members present voted “aye.” The motion passed.

C. PROPOSED VARIANCE DECISIONS FOR ADOPTION

1. Consent Calendar

Mr. Healy stated that he is aware of no unresolved legal issues regarding items A-K on the consent calendar, and he believes that these items are ready for the Board’s decision on the question of adoption.

MOTION

A motion was made by Ms. Quinlan and seconded by Ms. Laszcz-Davis to adopt the consent calendar.

A roll call was taken, and all members present voted “aye.” The motion passed.

D. OTHER

1. Legislative Update

Mr. Healy provided updates on the following bills:

- AB 402 pertains to medical plume. This bill has passed the Senate and is now on the Governor’s desk waiting for the Governor to take action on it.
- AB 978 pertains to employees’ right to access their workplace’s injury and illness prevention program upon request. This bill has passed the Senate and is now on the Governor’s desk waiting for the Governor to take action on it.
- SB 258 requires manufacturers of designated cleaning products to disclose information about the chemicals contained in those products on product labels and product-specific internet sites. This bill passed the Senate, but was then amended in the Assembly. The assembly passed the amended version of this bill, and it is now back at the Senate waiting to receive concurrence from the Senate on the amendments that were made. The Chambers have until September 15 to decide if this bill will be passed during the current legislative session.
- SB 772 exempts any occupational safety and health standard and order from the standardized regulatory impact analysis (SRIA) requirement of the Administrative

Procedures Act that has the \$50 million threshold for extensive economic analysis. This bill passed the Senate, but was amended in the Assembly. The Assembly has until September 15 to decide if it will pass this bill during the current legislative session.

2. Executive Officer's Report

Ms. Hart stated that Elisa Koski, the Board staff's newest Senior Safety Engineer, is attending today's meeting. She said that Ms. Koski has been with the Board staff for 2 months.

3. Future Agenda Items

Ms. Hart stated that a Board Member has requested for Garrett Keating from the Division to do a presentation to the Board about the Division's Health Experts Advisory Committee (HEAC)/Feasibility Advisory Committee (FAC) process. She said that some Board Members are confused about the process and how the burden of proof is determined. She asked that Mr. Keating's presentation explain the process, including scientific discussions, how the Division determines what chemicals it will study, and the structure of the advisory committee meetings that are held, and when those meetings will be held. She also asked the Board Members to submit their questions to her that they would like the Division to address in the presentation so that she can pass them on to Mr. Keating. She stated that this presentation will be put on the agenda for the November Board meeting.

E. ADJOURNMENT

Mr. Thomas adjourned the Business Meeting at 10:52 a.m.