

**OCCUPATIONAL SAFETY
AND HEALTH STANDARDS BOARD**

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**INITIAL STATEMENT OF REASONS****CALIFORNIA CODE OF REGULATIONS
TITLE 8: New Section 3345
of the General Industry Safety Orders****Hotel Housekeeping Musculoskeletal Injury Prevention****SUMMARY**

Pursuant to California Labor Code Section 142.3, the Occupational Safety and Health Standards Board (Board) may adopt, amend, or repeal occupational safety and health standards or orders. Section 142.3 permits the Board to prescribe suitable protective equipment and control or technological procedures to be used in connection with occupational hazards and to provide for monitoring or measuring employee exposure for the protection of employees.

In January 2012, Kurt Peterson and Pamela Vossen, on behalf of UNITE HERE, filed Petition No. 526 requesting the Board to promulgate a safety and health standard to address the occupational hazards faced by housekeepers in the hotel and hospitality industry. UNITE HERE, a labor organization representing thousands of California workers employed in the hotel and hospitality industry, proposed adopting a comprehensive standard that would prevent debilitating injuries and reduce the high injury rates suffered by housekeepers.

The petitioner affirms that hotel housekeeping is a physically arduous task and that hotel housekeepers are exposed to serious occupational risks in the course of their normal work duties. During the past decade, hotel operators have increasingly competed on the luxury of their room offerings, consisting of oversized, heavier mattresses, bulky duvets and heavier bed linen together with other upgraded room and bathroom amenities. These tasks are frequently performed under demanding time restraints, further increasing the worker's risk of suffering debilitating injuries. In addition, this workforce includes vulnerable groups with a significant percentage of women, persons of color, and/or immigrants that are less inclined to report workplace hazards or violations and suffer from higher occupational injury rates than the general population. The petitioner asserts that a growing body of academic literature deriving from scientific fields ranging from epidemiology to human biomechanics has shed significant light on the occupational hazards of hotel housekeeping.

The Division of Occupational Safety and Health (Division or Cal/OSHA) and the Board's staff evaluated the petition in March 2012 and recommended granting the petition. In May 2012, however, the Board rejected the recommendations and took no further action to grant or deny the petition. In June 2012, the Board reconsidered recommendations made by Division and Board staff and adopted a revised petition. Based on the high prevalence of musculoskeletal injuries, the Board requested the Division convene an advisory committee to determine what control

measures would be necessary to address the musculoskeletal injury hazards faced by hotel housekeeping employees.

From October 2012 through December 2015, the Division held five advisory committee meetings where the Division, hospitality employers and labor advocates gave presentations and housekeepers shared their experiences. In addition, the Division presented multiple discussion drafts and received input from stakeholders. The input and data gathered at these advisory meetings overwhelmingly confirmed the existence of a high number of injuries and illnesses caused by acute injury or cumulative trauma, supporting the need to address these occupational hazards and illustrating how existing regulations do not adequately address the housekeeping hazards faced by these workers. Participating stakeholders repeatedly referenced injuries to the back, shoulder and upper extremities and injuries due to falls, slips and trips. The injuries can disable workers, sometimes preventing them from returning to work, and impose high financial costs on the injured workers and their families, employers and insurers.

Hotel housekeepers in California face higher numbers of injuries and illnesses caused by acute injury or cumulative trauma when compared to other industries in California, and appropriate control measures can reduce the risk. As summarized in a report by Department of Industrial Relations (DIR) research staff in 2016, California Workers' Compensation Information System (WCIS) data from 2010 to 2014 (document 9 from the list of Documents Relied Upon, listed below) shows a steady increase in the number of worker injury claims, from 4,990 in 2010 to 6,116 in 2014, when focused specifically on housekeepers within the accommodation industry. A steady increase is also seen in musculoskeletal disorder (MSD) injury claims filed by hotel housekeepers, from 3,278 in 2010 to 4,089 in 2014. Furthermore, falls, slips and trips; pushing and pulling; and stationary object injuries occurred at a higher percentage rate among hotel housekeepers when compared to all industries. Falls, slips and trips make up 20.5% of hotel housekeeper worker injury claims and repetitive motion injuries make up 7% of the injury claims. Additionally, the federal fiscal year 2015-2016 High Hazard Industry List, established pursuant to Labor Code 6401.7(e)(3)(A), identifies the accommodation industry as a high hazard industry due to its high DART (days away, restricted and transferred) rate. Housekeeping cleaners are also within the top 10 occupations in terms of their DART rate (document 5 from the list of Documents Relied Upon, listed below).

At the March 19, 2013, stakeholder advisory meeting, the Division presented preliminary information based on WCIS data from 2009 to 2012 (document 18 from the list of Documents Relied Upon, listed below), identifying the tasks associated with the most frequent injuries. Additionally, data from OSHA logs and inspections conducted by the Division, federal OSHA and Hawaii OSHA identified injuries and risk factors associated with housekeeping tasks. These data also confirm that hotel housekeepers are at increased risk of developing occupational musculoskeletal disorders, including injuries to upper extremities and back due to exposure to hazards present in housekeeping tasks.

Existing occupational health and safety standards do not adequately address the hazards associated with housekeeping tasks. Section 3203, the Injury and Illness Prevention Program (IIPP), establishes a general framework for the identification, evaluation, and correction of

hazards, but it does not establish specific requirements to address the hazards or assess the risk factors which lead to the development of musculoskeletal injuries.

Section 5110, Repetitive Motion Injuries (RMIs), requires a program that includes worksite evaluation, control of exposures and employee training. However, employers are not subjected to these requirements unless or until more than one repetitive motion injury, meeting certain conditions, occurs at their workplace within a twelve month period. Additionally, this section only addresses repetitive motion injuries and does not take into consideration other musculoskeletal injuries such as strains or sprains which are a result of acute trauma or other acute injuries caused by falls, slips or trips.

Adoption of a standard is critical to preventing the often debilitating injuries suffered by housekeepers and to containing the financial costs of these injuries on the injured employees and their families, employers and insurers. The new regulation will address these hazards more effectively, clarifying and directing employers to mitigate the risk factors and minimizing the injuries associated with jobs/tasks specifically related to hotel housekeeping.

SPECIFIC PURPOSE AND FACTUAL BASIS OF PROPOSED ACTION

This regulatory proposal is intended to improve and provide worker safety in hotel and hospitality worksites by requiring employers to establish and implement programs to address and minimize the high number of acute, repetitive and chronic musculoskeletal injuries occurring to housekeepers. This regulation would also provide for a worksite evaluation requiring effective involvement of housekeepers, methods of correction, including the availability of housecleaning tools and equipment, and effective training on injury prevention associated with housecleaning tasks.

Section 3345 is necessary to ensure that employers of housekeepers:

- Involve housekeepers in designing and conducting worksite evaluations of housekeeping hazards,
- Identify the causes of musculoskeletal injuries,
- Identify and evaluate possible corrective measures,
- Establish and keep up to date a program to prevent musculoskeletal injuries
- Provide training for housekeepers and supervisors on risk factors, safe practices, and the elements of the employer's program to prevent musculoskeletal injuries.

This proposal is not duplicative of Section 5110, RMI because the proposal does not focus solely on injuries that have been medically diagnosed as an RMI. By focusing the injury prevention requirements to housekeeper related issues, Section 3345 will reduce the number of acute, repetitive and cumulative injuries to housekeepers.

This proposed rulemaking action:

- Is based on the following authority and reference: Labor Code Section 142.3, which states, at subsection (a)(1) that the Board is “the only agency in the state authorized to adopt occupational safety and health standards.” When read in its entirety, Section 142.3 requires that California have a system of occupational safety and health regulations that are at least as effective as the corresponding federal regulations, but may be more protective of worker health and safety than the federal occupational safety and health regulations. In addition, Section 142.3 permits the Board to prescribe suitable protective equipment and control or technological procedures to be used in connection with occupational hazards and provide for monitoring or measuring exposure for the protection of employees.
- Differs from existing federal regulations, in that federal OSHA does not have a counterpart standard to specifically address the occupational hazards affecting housekeepers in the hotel and hospitality industry.
- Is not inconsistent or incompatible with the system of existing occupational safety and health state regulations. The proposal is consistent and compatible with federal law and the California Labor Code, which require state regulations to be at least as effective as their federal counterparts, and the requirement that all state occupational safety and health rulemaking be channeled through a single entity (the Board).
- Will enhance the safety of housekeeping employees with the implementation of a Hotel Housekeeping Musculoskeletal Injury Prevention Program which will identify and evaluate housekeeping hazards through a worksite evaluation and provide for effective involvement of housekeepers and their union representatives. The proposed regulation also provides for methods of correcting hazards including: 1) ensuring the availability of housecleaning tools and equipment, and 2) providing effective training on the prevention of injuries associated with housecleaning tasks.

The purpose and factual basis of the standard proposed to be adopted as a permanent rule are outlined below:

New Section 3345. Hotel Housekeeping Musculoskeletal Injury Prevention.

Subsection (a) Scope and Application.

Proposed subsection (a) establishes the scope of workplaces required to comply with the provisions of this section. This provision is necessary to identify those employers required to implement a prevention program to control the risk of musculoskeletal injuries and disorders.

Subsection (b) Definitions.

Several definitions are proposed for new section 3345. They are necessary to clarify that the terms, as used, may have more specific meaning for the protection of housekeepers and prevention of musculoskeletal injuries than they would in general usage.

Subsection (c) Housekeeping Musculoskeletal Injury Prevention Program.

Subsection (c) requires each employer covered by this section to establish, implement, and maintain an effective written Musculoskeletal Injury Prevention Program (MIPP) that is in effect at all times and is specific to addressing the hazards faced by hotel housekeeping employees. The MIPP is the most effective and efficient method for reducing housekeeping injuries. The subsection allows the written MIPP to be incorporated into the employer's written IIPP, or kept as a separate document, and requires the MIPP to be readily accessible to employees during each work shift. Subsection (c) establishes the basic elements that an employer is responsible for incorporating into their IIPP, or maintaining as a separate document, under Section 3203, as required by LC Section 6401.7. They are as follows:

Subsection (c)(1) requires that the names and/or the job titles of the individuals responsible for implementing the MIPP are included. This is necessary to ensure that there are specific individuals who have the responsibility for administering the program and to allow other administrators and employees to know who should be contacted if there are questions or difficulties with carrying out the MIPP. This is also required to be consistent with Section 3203(a)(1). The benefit of this is to ensure that someone assumes responsibility for implementing the MIPP.

Subsection (c)(2) requires the employer to ensure that supervisors and housekeeping employees comply with the MIPP, follow the employer's safe workplace practices and use the housekeeping tools or equipment deemed appropriate for each housekeeping task. This subsection lists examples of methods that constitute substantial compliance. Subsection (c)(2) is necessary to ascertain and to make clear to housekeepers and supervisors that the established employer's MIPP, safe work practices and corrective procedures are the required job duties that supervisors and housekeepers must follow. This subsection is consistent with subsection 3203(a)(2). The benefits of the requirements include an increased likelihood of a successful implementation of the MIPP and a reduction in the high number of musculoskeletal injuries and disorders.

Subsection (c)(3) requires a system for communicating with housekeeping employees in a form readily understandable by all housekeepers, including provisions to encourage employees to inform the employer of hazards at the worksite and injuries or symptoms without fear of reprisal. Employees usually will not report hazards if they fear reprisal which would deprive the employer of valuable information in the establishment of an effective MIPP. This provision is necessary to ensure that all employees, regardless of their own primary language, receive critical information and obtain a clear understanding of the specific procedures they are to follow to avoid suffering a musculoskeletal injury, and report early symptoms or injuries. This subsection is consistent with subsection 3203(a)(3). The benefits of the requirements include ensuring housekeepers have critical information to protect themselves and are not retaliated against for informing the employer of the presence of hazards or for reporting early symptoms or injuries.

Subsection (c)(4) requires the employer to have procedures for identifying and evaluating housekeeping hazards through a worksite evaluation. This provision is necessary to make certain that the employer evaluates each housekeeping task with respect to potential causes of musculoskeletal injuries in order to effectively control the risk of musculoskeletal injuries and disorders. This subsection is consistent with subsection 3203(a)(4).

Subsection (c)(4)(A) establishes the timeframe for completing the initial worksite evaluation. This requirement is necessary to ensure that housekeeping employees are protected against musculoskeletal injuries and disorders by having the employer implement an effective MIPP without delay.

Subsection (c)(4)(B) requires that the employer establish procedures to include effective means of involving housekeepers and their union representative in designing and conducting the worksite evaluation. This requirement is necessary to ensure that the employer will have procedures for the active involvement of employees and their representatives, including participation in the identification and evaluation of hazards to obtain valuable input based on the housekeepers' experiences and observations. The benefits of employee and employee representative involvement include more effective worksite evaluations, greater success in the identification of housekeeping hazards, implementation of effective corrective measures, and injury reduction.

Subsection (c)(4)(C) requires housekeepers to be notified of the results of the worksite evaluation in writing or by posting and requires the results be in a language easily understood by the housekeepers. The requirements of the subsection are necessary to ensure that appropriate communication of evaluation results is made so that all employees, regardless of their primary language, receive critical information with respect to the hazards specific to housekeeping present in their work environment which must be controlled to prevent musculoskeletal injuries. The benefits of this provision include ensuring housekeepers have critical information to help protect themselves and prevent musculoskeletal injuries.

Subsections (c)(4)(D)(1-3) require the worksite evaluation to be reviewed and updated and specifies when employers are required to comply with the provisions of this subsection. The requirements are necessary to ensure that the employer reevaluates risk factors whenever new processes, practices, procedures, equipment or renovations are introduced; when the employer is made aware of new or previously unrecognized hazards, based on but not limited to the findings and recommendations of injury investigations; and at least annually for each worksite. This provision is needed to ensure that employers and employees are made aware of new or previously unrecognized hazards. The benefit of the subsections includes providing the employer with multiple means of discovering potential workplace hazards for the purpose of preventing musculoskeletal disorders or injuries.

Subsection (c)(4)(E) requires the worksite evaluation to identify and address potential injury risks to housekeepers and lists various potential sources of injury to be considered. The requirements are necessary to ensure that the employer addresses all potential sources of injury,

including but not limited to: slips, trips and falls; prolonged or awkward static postures; extreme reaches and repetitive reaches above shoulder height; lifting or forceful whole body or hand exertions; torso bending, twisting, kneeling, and squatting; pushing and pulling; falling and striking objects; pressure points where a part of the body presses against an object or surface; excessive work-rate; and inadequate recovery time between housekeeping tasks. The benefits of the subsection include ensuring that all probable sources of injury are being addressed, so as to effectually prevent musculoskeletal injuries to housekeepers. A note following subsection (c)(4)(E) references Appendix A, which provides additional information regarding worksite evaluations.

Subsection (c)(5) requires the employer to have procedures consistent with Section 3203(a)(5) to investigate musculoskeletal injuries to housekeepers. This requirement is necessary to ensure that the employer investigates each musculoskeletal injury and that appropriate steps are taken to address the cause of the injury and prevent additional musculoskeletal injuries. The rationale for the required procedures is as follows:

Subsection (c)(5)(A) requires the employer to include in the injury investigation the procedures or housekeeping tasks being performed at the time of the injury and determine whether control measures were available and in use. This requirement is necessary to ensure the employer investigates each musculoskeletal injury, to ensure the employer assesses the housekeeping tasks or procedures being performed at the time of the injury, and to make certain that appropriate corrective steps are taken to address the cause of the injury and prevent additional musculoskeletal injuries. It is also needed to reevaluate housekeeping tasks to identify new or previously unidentified hazards and find an appropriate corrective solution. The benefits include ensuring that all probable sources of injury are addressed and all control measures are considered, so as to effectually prevent musculoskeletal injuries to housekeepers.

Subsection (c)(5)(B) requires the employer to determine during the injury investigation, if required tools or other control measures were not used or not used appropriately and the rationale for why those measures were not used or were not used appropriately. This requirement is necessary to ensure that information about the injuries is assessed by the employer to take corrective steps and implement the best preventive measures to avert additional musculoskeletal injuries to housekeepers. The requirement is also necessary to ensure that previously unrecognized corrective measures be considered and adopted by the employer to effectually prevent further musculoskeletal injuries.

Subsection (c)(5)(C) requires the employer to include in its injury investigation, input of the injured housekeeper, the housekeeper's union representative, and the housekeeper's supervisor as to whether any control measure, procedure, or tool would have prevented the injury. This requirement is necessary to ensure that all valuable information about the injuries, including the observations and experiences of the housekeepers, is assessed by the employer to effectively identify and implement new or previously unrecognized corrective measures. The benefits include considering all potential solutions or corrective measures so as to effectually prevent musculoskeletal injuries to housekeepers.

Subsection (c)(6) requires the employer to establish methods or procedures for correcting, in a timely manner, hazards identified in the worksite evaluation or in the investigation of musculoskeletal injuries to housekeepers. This subsection is consistent with Section 3203(a)(6). The employer must include procedures for determining whether identified corrective measures are implemented appropriately to effectively protect employees from musculoskeletal injuries. The rationale for the required procedures is as follows:

Subsection (c)(6)(A) requires the employer to establish effective means of involving housekeepers and their union representative in identifying and evaluating possible corrective measures. This requirement is necessary to ensure that affected employees are given a chance to provide valuable input, based on their experiences and observations, in the identification and evaluation of possible corrective measures. This requirement is advantageous to employers and employees by allowing better cooperation and integration of corrective measures. The benefits include identification and implementation of corrective measures to reduce the high number of musculoskeletal injuries and disorders.

Subsection (c)(6)(B) requires the employer to establish means by which appropriate equipment or other corrective measures will be identified, assessed and implemented. This subsection will also ensure that the identified equipment or corrective measure be reevaluated after introduction and while being used in the workplace. This requirement is necessary to ensure that employers have multiple options and ample opportunity for selecting the most appropriate solution, corrective measures or equipment that best fits their specific worksite. The requirement is also needed to ensure the regular use and frequent application of the identified equipment or corrective measure and ensure the reevaluation of selected equipment or corrective measures after introduction to determine whether the corrective measure is effective and if additional correction or substitution is warranted. The benefits of this provision include allowing better selection, implementation and integration of equipment or corrective measures to improve the successful prevention and reduction of musculoskeletal injuries and disorders.

Subsection (c)(6)(C) requires the employer to provide and make readily available appropriate housecleaning equipment, protective equipment, and tools, including procedures for procuring, inspecting, maintaining, repairing and replacing the housecleaning tools and equipment. This requirement is necessary to ensure that employers implement corrective measures in a timely manner, make certain that affected employees are not placed in a situation where needed equipment is not available, avoid situations where the equipment provided is broken or in disrepair, and ensure their regular and frequent use. The benefits include ensuring that housekeepers have access to and utilize appropriate housecleaning tools and equipment to effectually prevent musculoskeletal injuries to housekeepers.

Subsection (c)(7) requires the employer to have procedures for reviewing the MIPP at least annually, at each worksite. The review of the MIPP is intended to determine its effectiveness and make any corrections when necessary. This subsection requires that the employer include an effective procedure to obtain the active involvement of housekeepers and their union representative in the review and update of the MIPP. The subsection also requires that the Cal/OSHA Form 300 log or other relevant records such as Cal/OSHA Form 301 incident reports

be included in the review. This provision is necessary to ensure that employers conduct a review and update of their MIPP, involve housekeepers and their union representative in the reviewing process and make certain critical documents associated with these musculoskeletal injuries are taken into consideration so as to address the cause of injuries and prevent future ones. The involvement of employees and their representatives will improve the review process by including additional viewpoints and experiences in determining the effectiveness of the MIPP and determining where improvements or changes are needed. The benefits of this subsection include identifying and correcting deficiencies in the MIPP to ensure the program is effective in preventing musculoskeletal injuries to housekeepers.

Subsection (d) Training.

Subsection (d) requires each employer covered by this section to provide training to housekeepers and their supervisors consistent with Section 3203(a)(7). Training must be provided in a language easily understood by employees. This subsection is necessary to inform employers on the required frequency of training and the necessary components of their training programs.

Subsection (d)(1) establishes clear guidelines on the frequency of housekeepers and supervisor training in accordance with Section 3203(a)(7). This subsection is necessary to ensure that employees acquire the necessary knowledge to understand and follow the employer's injury prevention procedures, recognize potential sources of injury, and know how to use the appropriate housekeeping tools or equipment to effectually prevent musculoskeletal disorders and injuries. The subsection is needed to ensure housekeepers and supervisors maintain and update their knowledge, especially when changes to the MIPP have been made to correct problems or improve procedures. The rationale for the requirements is as follows:

Subsection (d)(1)(A) requires employers to provide initial training to employees when the MIPP is first established consistent with Section 3203(a)(7). This provision is necessary to inform employees about possible hazards related to housekeeping duties, the existence of employer's MIPP and procedures to minimize hazards to effectually prevent musculoskeletal disorders and injuries.

Subsection (d)(1)(B) requires employers to provide training to all new housekeepers and supervisors. This subsection is consistent with Section 3203(a)(7)(B). This provision is necessary to ensure that housekeepers and supervisors hired after the employer's MIPP was first established, also acquire the necessary knowledge to understand and follow the employer's prevention procedures, recognize potential sources of injury and their proper preventive measures, and know how to use the appropriate housekeeping tools or equipment to effectually prevent musculoskeletal disorders and injuries.

Subsection (d)(1)(C) requires employers to provide training to all housekeepers given new job assignments for which training was not previously provided. This subsection is consistent with 3203(a)(7)(C). New job assignments may expose employees to different and unrecognized hazards increasing the risk of injuries. To prevent injuries, employees must be knowledgeable of

the hazards and knowledgeable of how to minimize the hazards so proper preventative measures are utilized prior to any signs and symptoms of musculoskeletal disorders occurring.

Subsection (d)(1)(D) requires employers to provide training at least annually. This subsection is necessary to ensure that housekeepers and supervisors maintain and update their knowledge on housekeeping hazards especially when changes to the MIPP have been made to correct problems or improve procedures.

Subsection (d)(1)(E) requires employers to provide training when new equipment or work practices are introduced or whenever the employer becomes aware of a new or previously unrecognized hazard. This subsection is necessary to ensure employees are up-to-date and able to protect themselves against newly discovered hazards or other sources of injuries; safely use new equipment and correctly perform new work practices to effectually prevent musculoskeletal disorders and injuries. This subsection allows the additional training to be limited to addressing the new equipment or work practices to minimize the disruption and cost to the employers. The subsection is consistent with Section 3203(a)(7)(D).

Subsection (d)(2) establishes clear guidelines on the elements and contents of the training program. The requirements are necessary to ensure employers provide effective training applicable to the housekeeper's assignment. The rationale for the required elements is as follows:

Subsection (d)(2)(A) requires that the employer provide training on the signs, symptoms, and risk factors commonly associated with musculoskeletal injuries. Employees are able to protect themselves against injury when knowledgeable of the causes, symptoms, diagnosis, and treatment of musculoskeletal injuries. The requirements improve the employee's ability to recognize and promptly report symptoms of musculoskeletal disorders to effectually reduce the high number of musculoskeletal injuries.

Subsection (d)(2)(B) requires that the employer provide training on the elements of the employer's MIPP and how the written MIPP and all records in subsection (e)(1) will be made available to housekeepers. This is consistent with Section 3203(a)(7). This provision is necessary to ensure employees understand the MIPP and its elements, such as recognizing potential sources of injury, learning the employer's corrective measures, and knowing about reporting symptoms or injuries without fear of reprisal. The subsection is also necessary to ensure employers train their workers on how to access or refer to the MIPP for questions to effectually prevent musculoskeletal disorders and injuries.

Subsection (d)(2)(C) requires that the employer provide training on the process of reporting safety and health concerns without fear of reprisal. Employees will not report hazards if they fear reprisal, which would deprive the employer of valuable information in the establishment of an effective MIPP. The requirement benefits employers and employees by reducing costly musculoskeletal injuries through the prompt identification and correction of new or previously unrecognized hazards and sources of injury.

Subsection (d)(2)(D) requires that the employer provide training on body mechanics and safe practices including: identified hazards at the workplace, how those hazards are controlled during each housekeeping task, the appropriate use of cleaning tools and equipment, and the importance of following safe work practices and using appropriate tools and equipment to prevent injuries. The information required by this subsection includes the causes of injury and controlling the hazards which lead to injury. Employees need this information to enable them to protect themselves from housekeeping hazards. The requirement benefits employers and employees by reducing costly musculoskeletal injuries through the proper use of body mechanics, safe work practices, and appropriate cleaning tools or equipment.

Subsection (d)(2)(E) requires employers to provide training on the importance of, and process for, early reporting of symptoms and injuries to the employer. Disabling injuries can be prevented if corrections are made when the first symptoms of musculoskeletal problems arise. In addition, if an employee suffers an injury, corrections can be made to prevent injuries to other employees. The requirement benefits employers and employees by reducing costly musculoskeletal injuries through the early recognition and prompt reporting of signs and symptoms of musculoskeletal disorders.

Subsection (d)(2)(F) requires employers to include in their training, the opportunity to practice using the types and models of equipment and tools that housekeepers will be expected to use on the job. This provision ensures employees will know how to safely use the cleaning tools and equipment to avert musculoskeletal injuries. The requirement benefits employers and employees by reducing costly musculoskeletal injuries through the proper use of appropriate cleaning tools and equipment.

Subsection (d)(2)(G) requires employers to include in their training, an opportunity for interactive questions and answers with a person knowledgeable about hotel housekeeping equipment and procedures. This provision ensures that employees will have the ability to ask for clarification about the training content, housekeeping hazards and control measures to reduce injuries. The opportunity to ask questions and receive answers is necessary to ensure the information is properly understood by employees. A misunderstanding of the information may lead to improper work practices, misuse of tool and potential injuries. The ability of employees to acquire crucial knowledge to protect themselves and avert musculoskeletal injuries is enhanced by this subsection. The requirement benefits employers and employees by reducing costly musculoskeletal injuries through the expansion of the housekeepers' health and safety knowledge and effective implementation of the employer's preventive measures.

Subsection (d)(2)(H) requires employers to provide training to managers and supervisors on how to identify hazards, the employer's hazard correction procedures, how defective equipment can be identified and replaced, how to obtain additional equipment, how to evaluate the safety of housekeepers' work practices, and how to effectively communicate with housekeepers regarding any problems needing correction. Managers and supervisors need to be knowledgeable of the hazards faced by housekeeping employees and control measures to prevent injuries, to assist in the implementation of the MIPP, to take proper action when problems are reported or discovered and to correct unsafe work practices or conditions. This provision is necessary to ensure

managers and supervisors maintain their knowledge of the employer's prevention procedures and carry out the necessary actions to reduce musculoskeletal injuries. The requirements benefit employers and employees by reducing costly musculoskeletal injuries through the effective implementation of the employer's MIPP and proper action of supervisors and managers.

Subsection (e) Records.

Subsection (e) establishes clear guidelines on the recordkeeping requirements that employers need to follow to comply with this section. This subsection is necessary to establish the requirements for creating and maintaining the records that have been identified within this proposed standard. This is also required to be consistent with Section 3203(b) and Section 3204.

Subsection (e)(1) requires that records of the steps taken to implement and maintain the MIPP, including measurements taken or evaluations conducted in the worksite evaluation process required by subsection (c), and the training required by subsection (d), be created and maintained. This subsection is necessary to ensure that employers will have adequate documentation which can be used to assess the effectiveness of the MIPP. These records are also necessary for the Division to be able to effectively enforce this section and to be consistent with Section 3203(b). The benefit of this is to ensure the proper implementation of the employer's MIPP through the corroboration and review of all required records and to ascertain its effectiveness in preventing musculoskeletal injuries.

Subsection (e)(2) requires that a copy of the MIPP and all worksite evaluation records required by subsection (e)(1) be made available at the worksite for review and copying by housekeepers and their designated representative in accordance with Section 3204(e)(1). This subsection is necessary so that each employee and designated representative may have access to needed information, exposure records, and also ensure that employers will have adequate documentation of their control measures. These records are also necessary so that the employer, employees and the Division can review the effectiveness of the MIPP.

Subsection (e)(3) requires that all records be made available to the Chief of the Division or designee within 72 hours of request. This subsection is necessary to establish that records required by this subsection shall be made available to the Chief, so that the Division can effectively enforce this section and review and assess the effectiveness of the employer's MIPP. This provides clarity to employers.

Subsection (e)(4) requires that the employer create and maintain records of occupational injuries and illnesses as required by California Code of Regulations, Title 8, Division 1, Chapter 7, Subchapter 1, Occupational Injury or Illness Reports and Records. These include the Cal/OSHA Form 300, Log of Work Related Injuries and Illnesses; the Cal/OSHA Form 300A, Summary of Work-Related Injuries and Illnesses; the Cal/OSHA Form 301, Injury and Illness Incident Report; or equivalent forms, as well as the Form 5020, Employer's Report of Occupational Injury or Illness Form; and Form 5021, Rev. 4, Doctor's First Report of Occupational Injury or Illness. This subsection is necessary to ensure consistency with Title 8 regulations, make certain that employers, employees and the Division can review injury information and to allow the Division to determine if an employer is complying with the requirements of this section.

Appendix A – Reference Materials for Worksite Evaluation (Non-Mandatory)

This proposed appendix is intended to identify useful references and list examples of materials that can be utilized to conduct a worksite evaluation as required by this section. This is necessary to identify and reference materials which can be used in performing a worksite evaluation for housekeeping. This is to ensure that employers have references and examples to assist with complying with this section without having to hire health and safety professionals and increase their costs. The rationale for the recommended references is as follows:

- The Ohio State University reference provides bilingual ergonomic resources including practices that can improve health and safety for housekeepers and managers. (See link #10 below)
- The State Fund, Tips for Hotel Room Attendants reference is a concise list of tips and recommendations geared towards room attendants. (See link #11 below)
- The 2005 Department of Industrial Relations, Working Safer and Easier for Janitors, Custodians and Housekeepers reference provides general guidelines and tips for a variety of workers including housekeepers. (See link #12 below)
- The British Columbia, Injury Prevention Resources for Tourism and Hospitality-Accommodation reference includes a video series in various languages that demonstrate safe work procedures specific to housekeepers. (See link #13 below)
- The 2011 Ergonomics Study of Custodial, Housekeeping and Environmental Services Positions at the University of California references an ergonomic study conducted on custodians/housekeepers and environmental service workers. (See link #14 below)
- The Government of Western Australia reference is specific to the Accommodation industry and includes a checklist and guidance for conducting hazard identification and risk assessment. (See link #15 below)

TECHNICAL, THEORETICAL AND/OR EMPIRICAL STUDIES, REPORTS OR DOCUMENTS RELIED ON BY THE BOARD

1. Occupational Safety and Health Standards Board Petition No. 526, submitted by Kurt Peterson and Pamela Vossenias, on behalf of UNITE HERE (Jan. 23, 2012).
2. Division of Occupational Safety and Health's evaluation of Petition No. 526, (Mar. 27, 2012).
3. Occupational Safety and Health Standards Board decision regarding Petition No. 526 (June 21, 2012).
4. Issue Brief: Workplace Injuries in Hotel Housekeeping in California prepared by the DIR - Office of the Director, Research Unit, May 13, 2016.
5. The Federal Fiscal Year 2015-2016 High Hazard Industry List, established pursuant to Labor Code 6401.7 (e)(3)(A), identifies Accommodation and Food Services as a High Hazard Industry due to its DART (Days Away, Restricted and Transferred) rate.
https://www.dir.ca.gov/dosh/hhu_list.pdf
6. October 23, 2012, March 19, 2013, February 27, 2014, May 13, 2015 and December 3, 2015, Advisory Committee minutes and attendance sheets.
7. Information for the Economic Impact Analysis obtained from the 2015 California Hotel and Lodging Association Comment Letters: <https://www.dir.ca.gov/dosh/doshreg/comments/Hotel-Housekeeping.CHLA-Comments-Sept2015.pdf> (page 1,

<https://www.dir.ca.gov/dosh/doshreg/Hotel-Housekeeping/Comments.Hotel-and-Lodging-Association-12-31-2015.pdf>)

8. Information entitled “The Health of the Hotel Industry – It’s Financials” obtained from the December 28, 2015 Unite Here comment letter, page 12-14

<https://www.dir.ca.gov/dosh/doshreg/Hotel-Housekeeping/Comments.Unite-Here.pdf>.

9. Email transmission from Glenn Shor, Research and Policy Adviser / Office of the Director, DIR, sent May 18, 2016, with the subject “RE: 2013 WCIRB Data for Class 9050-Hotels”.

10. Ohio State University. Ergonomic Resources for Housekeeping.

<https://ergonomics.osu.edu/Housekeeper%20Training%20Materials>

11. State Fund. Tips for Hotel Room Attendants.

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12. Department of Industrial Relations. Working Safer and Easier for Janitors, Custodians, and Housekeepers, 2005. www.dir.ca.gov/dosh/dosh_publications/janitors.pdf

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16. California Employment Development Department. Table 2A: Third Quarter Payroll and Number of Businesses by Size Category Classified by North American Industry Classification System (NAICS) for California Third Quarter, 2015.

<http://www.labormarketinfo.edd.ca.gov/file/indsize/2A-15-3-FINAL.xls>

17. California Employment Development Department. List of Occupations Employed in Accommodation. <http://www.labormarketinfo.edd.ca.gov/iomatrix/Staffing-Patterns3.asp?IOFlag=Ind&SIC=721000>

18. California Workers Compensation Information System (WCIS) Preliminary Data.

Occupational Hazards Faced by Housekeepers within the Hotel and Hospitality Industry. March 19, 2013

http://www.dir.ca.gov/dosh/doshreg/Housekeeping_Advisory_Meeting_WCIS_Claims_Injuries.pdf#zoom=100

These documents are available for review Monday through Friday from 8:00 a.m. to 4:30 p.m. at the Standards Board Office located at 2520 Venture Oaks Way, Suite 350, Sacramento, California.

PETITION

Petitioner: Kurt Peterson and Pamela Vossen, on behalf of UNITE HERE.

File No.: 526

The Occupational Safety and Health Standards Board received a petition dated January 23, 2012, to amend Title 8, California Code of Regulations, to address the occupational hazards that may

cause musculoskeletal injuries to housekeepers in the hotel and hospitality industry. On May 17, 2012, the Occupational Safety and Health Standards Board rejected the Division's and Board staff's recommendations to grant the petition and took no further action to either grant or deny the petition. In June 2012, a newly-constituted Board reconsidered the petition and the recommendations of the Division and Board staff and GRANTED the petition to the extent that the Division was requested to convene a representative advisory committee to determine whether a rulemaking action should be initiated and what control measures may be necessary to address musculoskeletal injury hazards to hotel housekeeping employees.

A copy of the petition, the Division's evaluation, and the Board's petition decision are included as Documents Relied Upon.

ADVISORY COMMITTEE

This proposal was developed with the assistance of an advisory committee. (A list of advisory committee minutes and attendance sheets are included as Documents Relied Upon.)

FIRE PREVENTION STATEMENT

This proposal does not include fire prevention or protection standards. Therefore, approval of the State Fire Marshal pursuant to Government Code Section 11359 or Health and Safety Code Section 18930(a)(9) is not required.

SPECIFIC TECHNOLOGY OR EQUIPMENT

This proposal will not mandate the use of specific technologies or equipment.

ECONOMIC IMPACT ANALYSIS/ASSESSMENT

The Board has made a determination that this proposal should not result in a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. The Board anticipates that any potential costs in reasonably complying with the proposed action would be balanced by avoiding or minimizing the costs inherent in workers' compensation claims, lost work time, reduced absenteeism and productivity losses that would have been caused by acute, repetitive and chronic musculoskeletal injuries to hotel housekeeping employees.

The four major elements of the proposal – (1) housekeeping musculoskeletal injury prevention program (with a worksite evaluation, program review and employee participation), (2) methods of correction (could include implementation of safe work practices and/or the provision of appropriate housecleaning tools), (3) training and (4) recordkeeping – are broadly covered in existing regulations.

This new standard, while more tailored to a specific industry, is based on a pre-existing standard (Section 3203) requiring all employers to establish, implement and maintain an effective IIPP.

This would include identifying hazards, implementing corrective measures, and providing training specific to preventing acute, cumulative or repetitive musculoskeletal disorders, including injuries to upper extremities and back, worksite evaluation, correction, training and recordkeeping to minimize the injuries to hotel housekeepers.

(1) Implementation of subsection (c): Housekeeping musculoskeletal injury prevention program and worksite evaluations.

The MIPP is not expected to impose any significant costs because it does not mandate specific hazard-analysis, technologies, tools or equipment, or that a health, safety or medical professional be hired. In addition, the costs of the proposal are calculated to be less than the benefits.

The California Hotel and Lodging Association (CHLA) represents employers in California affected by the proposal. In a memorandum to the Division dated December 29, 2015 (document number 7 from the Documents Relied Upon, listed above), CHLA estimated it would take up to 8 hours for lodging establishments to review and update their IPPs to meet the requirements of the proposed MIPP for a cost of approximately \$200 per establishment. The total cost statewide for the approximately 5,500¹ lodging establishments is a one-time cost of \$1.1 million.

The proposed regulation does not require a health, safety or medical professional to conduct the worksite evaluation. The Board estimates that it would take a maximum of 4 hours for establishments annually to conduct worksite evaluations and a program review/update as required by the proposal. The cost would be \$100 per establishment and a total statewide cost of \$550,000 using the same assumption as provided by CHLA for the cost of establishing the MIPP.

In addition, the proposal requires employers to involve housekeeping employees in the worksite evaluation and program review. The proposal does not mandate a specific number or percentage of employees to participate in the evaluation. The proposal only requires that employees be allowed to participate. For purposes of the cost estimates, the Board will assume up to 50 percent of housekeeping employees will participate, although the Board notes this assumption likely overestimates the actual number of employees who will participate. According to CHLA there are approximately 66,000 housekeepers in California lodging establishments who earn an average of \$10.40² per hour. The Board estimates that employee involvement would take a maximum of 2 hours per housekeeping employee. The cost of 2 hours for 50 percent (or 33,000) of all housekeepers is \$686,400. The total annual statewide cost for the worksite evaluations and MIPP review/update including employee participation (\$550,000 plus \$686,400) is \$1,236,400.

(2) Methods of Correction.

This proposal does not mandate specific equipment, cleaning tools or technologies such as fitted sheets, ergonomic cleaning tools or motorized carts. In the course of doing business, this industry is already providing and maintaining clean accommodations and incurring ongoing

¹ CHLA stated there were fewer than 5,500 lodging establishments in California in 2015.

² This hourly rate will rise in subsequent years until it reaches \$15/hour for all employers in 2023; but some of the increases may be deferred based on downturns in the economy. See Labor Code Section 1182.11.

expenses with regards to cleaning supplies and equipment. Employers are not required to utilize the most modern cleaning equipment or ergonomic tools, though the Board believes that the employer would benefit economically from an improved or better cleaning tool and that some of these options may be less expensive or of similar cost as the ones already being incurred. Because the option of maintaining the status quo exists, no economic impact is anticipated from the proposal regarding equipment and tools.

(3) Implementation of subsection (d): Training.

The Board estimates that the training requirements of the proposal would take up to 2 hours per year for each housekeeping employee and an establishment manager or supervisor to provide the training. According to information provided by CHLA, there are approximately 66,000 housekeepers in California who earn an average of \$10.40 per hour. The total statewide cost for 2 hours of housekeeper time would be an estimated \$1,372,800. A housekeeping manager at a full service establishment earns approximately \$21 per hour and a general manager at a limited service establishment earns approximately \$24 per hour. The total cost statewide for a manager to provide training to housekeeping employees is approximately \$264,000 (using \$24 per hour). The combined cost for 2 hours of time for all housekeepers and one manager is calculated at \$1,636,800 annually.

(4) Implementation of subsection (e): Records.

CHLA stated that the recordkeeping requirements of the proposed regulation would take each establishment approximately 4 hours. The cost would be \$100 per establishment and a total statewide cost of \$550,000 using the same assumptions as provided by CHLA for the cost of establishing the MIPP. This may be an overestimate of costs as the proposal requires records be kept in accordance with existing regulations (Sections 3203, 3204 and Chapter 7 Subchapter 1 of Title 8) and adds no new requirements for retaining records.

Total cost of proposal:

The cost of the proposal for all establishments in California as discussed above is shown in the table below.

Table 1: Total Statewide Cost of Proposal		
<u>Requirement</u>	<u>First Year</u>	<u>Annual Cost Thereafter</u>
MIPP Program	\$1,100,000	\$0
Worksite Evaluation, Program Review & employee participation	\$1,163,250	\$1,236,400
Training	\$1,636,800	\$1,636,800
Recordkeeping	\$550,000	\$550,000
Total	\$4,450,050	\$3,423,200

The combined total cost statewide of all the requirements in the regulation is approximately \$4.5 million in the first year including setup cost. The total statewide annual cost thereafter is

approximately \$3.4 million per year. This cost is more than offset by the savings described below.

Small Business Cost:

Approximately 45 percent of hotels, motels and other lodging establishments employ less than 9 total employees based on data retrieved from the California Employment Development Department (EDD). Approximately 40 percent of the employees in the accommodation industry are housekeeping employees based on additional EDD data. Accordingly, a small business with less than 9 employees would employ a maximum of 4 housekeepers. The cost to an individual small business with 4 housecleaning employees is calculated in Table 2 below using the costs described above.

<u>Table 2: Maximum Individual Small Business Cost (4 housekeeping employees)</u>		
<u>Requirement</u>	<u>First Year Cost</u>	<u>Annual Cost Thereafter</u>
MIPP Program	\$200	\$0
Worksite Evaluation, Program Review & employee participation	\$140	\$140
Training	\$100	\$100
Recordkeeping	\$130	\$130
Total	\$570	\$370

Typical Business Cost:

The average total number of employees in a lodging establishment, calculated from the EDD data sources, is 38 employees with approximately 15 housekeeping employees (40 percent of 38). The cost to an individual lodging establishment with 15 housekeepers is calculated in Table 3 below using the costs described above.

<u>Table 3: Typical Business Cost (15 housekeeping employees)</u>		
<u>Requirement</u>	<u>First Year Cost</u>	<u>Annual Cost Thereafter</u>
MIPP Program	\$200	\$0
Worksite Evaluation, Program Review & employee participation	\$270	\$270
Training	\$360	\$360
Recordkeeping	\$100	\$100
Total	\$930	\$730

Cost Savings:

According to the 2016 DIR summary of Workers' Compensation Insurance Rating Bureau of California, the Total Incurred Losses (including indemnity and medical costs) for all worker injury claims in 2013, amounted to \$84,714,747 (with a total of 8,516 number of claims- See 9050 Hotels 2013 Cause of Injury Claim) for the Hotel Sector (code 9050) alone. Similarly, this database shows that the average cost of a claim under code 97-Strain by-Repetitive Motion was \$12,500 (the average cost for an injury filed under Strain by Pushing or Pulling was \$11,000 and under Fall, Slip or Trip was \$11,713).

According to the WCIS data, for the year 2013, there were 16,731 musculoskeletal injury claims filed under the Traveler-Accommodation industry code, of which 5,551 musculoskeletal injury claims corresponded to hotel housekeepers. From 2010 to 2014, an average of 33.5% of all the injury claims within the accommodation industry, were from housekeeping related codes. Therefore, we can estimate that out of the total incurred losses for 2013, the cost for acute, cumulative or repetitive musculoskeletal injuries for employers would be 33% of \$84,714,747 or about \$28 million. If employers establish an effective MIPP, including implementing a worksite evaluation to identify hazards, corrective measures, training and recordkeeping, even a resulting modest or conservative reduction of 30% of the occurrences of injury total annual savings of \$8.4 million for employers in the accommodation industry.

Many hotel housekeeping employees commented during the advisory committee process on their loss of income due to occupational musculoskeletal injuries and the detrimental economic impact to themselves and their families. The current analysis is not able to quantify the economic benefit of the proposal to employees from injury prevention due to a lack of data. However, the Board notes that hotel housekeepers are low wage earners and prevention of injuries will be a significant economic benefit to them. Low wage workers are less able to absorb economic losses resulting from injuries than the general population, so regulations which prevent economic losses to these workers has a larger benefit than regulations that protect higher wage earners.

Creation or Elimination of Jobs Within the State of California: The Division does not anticipate any jobs in California will be eliminated due to the financial impact of the proposed regulatory action. It is not anticipated that significant costs or expenses will be incurred by the businesses to comply with the proposed regulation that would result in either creation or elimination of jobs within California.

Creation of New Business, Elimination of Existing Business or the Expansion of Business in California: The Division does not anticipate any business in California will be created or eliminated or affect the expansion of existing California businesses due to the financial impact of the proposed regulatory action. The Division does not anticipate that there would be sufficient fiscal impact to reduce the number of health practices in the state, or to create new industries to address requirements created by the proposal. The proposal also does not mandate new construction or extensive remodeling. Increasing or decreasing the existing workforce should not be an outcome of the requirements.

BENEFITS OF THE PROPOSED ACTION

This proposal should reduce the number of acute, repetitive and chronic musculoskeletal injuries suffered by hotel housekeeping employees with the implementation of a musculoskeletal injury prevention program, corrective measures and training. Consequently, the number of workers' compensation claims against hotels and other travel accommodation establishments should also decrease. This proposal creates an enforceable regulation that provides clear guidance to employers and employees regarding how to implement this law.

This rulemaking proposal has no effect on the state's environment.

EVIDENCE SUPPORTING FINDING OF NO SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESSES

The Board has determined that the proposed amendments may affect small businesses. Small businesses such as small motels may incur minor costs involved in ensuring that their existing prevention program under section 3203 includes a worksite evaluation and training which meets the specific requirements in this section. The proposed regulation provides the employer with a range of options and does not require a health, safety or medical professional to conduct the worksite evaluation or training. These costs would be offset by reduced indemnification and fewer workers' compensation claims. The Board does not anticipate that there would be sufficient fiscal impact to reduce the number of hotels or other travel accommodation establishments currently in existence in the state.

REASONABLE ALTERNATIVES TO THE PROPOSAL AND THE BOARD'S REASONS FOR REJECTING THOSE ALTERNATIVES

No reasonable alternatives have been identified by the Board or have otherwise been identified and brought to its attention that would be more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.