



March 15, 2016

Amalia Neidhart
Senior Safety Engineer
DOSH Research & Standard Health Unit
495-2424 Arden Way
Sacramento, CA 95825

Sent Via Email

Re: Hotel Housekeeping Musculoskeletal Injury Prevention Regulation

Dear Ms. Neidhardt,

We would like to extend our appreciation to the Advisory Committee for preparing these proposals for our review and taking into consideration our previous comments. We are eager to move the process along in adopting a standard that is both protective of hotel housekeeper's health and safety rights but also prevents musculoskeletal injuries and illness. We strongly encourage CalOSHA and DIR to meet the benchmarks in the timeline released by Steve Smith at the November 2015 Occupational Safety and Health Standards Board (OSHSB):

DOSH will finalize draft proposal and develop supporting regulatory package for internal DIR review.

4/1/2016: DIR will review and approve package including Form 399 before sending to the Board.

6/1/2016: Once DOSH gets DIR approval, then draft regulatory proposal is submitted to the Board.

With the above timeline, we ask CalOSHA, the DIR and the OSHSB staff to advance expeditiously so that a public notice of rulemaking for the CalOSHA Hotel Housekeeper Musculoskeletal Injury Prevention Standard will be released no later than July 1st, 2016.

We also thank you for accepting some of our suggestions from the December 3, 2015 meeting. Specifically, we thank you for editing (c)(4)(E) item (4) to read as follows: "lifting or forceful whole body or hand exertions." Next, thank you for accepting our suggestion under the MIPP, subsection (c) (2) "A system for ensuring that supervisors and housekeepers comply with the MIPP... for each housekeeping task." This is a key component of the MIPP. And we thank you for keeping that language in tact as written in the Dec. 3rd. revised discussion draft. Lastly, thank you for adding language under the training section, subsection (d)(E) "additional training shall be provided when.... or whenever the employer becomes aware of a new or previously unrecognized hazard."

We appreciate contributing to this process and wish to move forward so as to meet the June 1st benchmark. While we appreciate the addition of some of our suggestions, the following sections remain a priority and should be amended: (1) "Union" representative (previously representative); (2) Training; (3)

“Work-site Evaluation” Job hazard Analysis (JHA); (4) Employee notification; (5) Procedures for investigating musculoskeletal injuries; (6) Methods or Procedures for correcting; and (7) Records. Additionally, we recommend adding to the definitions section (b) a definition of control measures.

1. “Union” Representative

As stated in our previous comments, we strongly believe the word “union” under the definitions section of "union representative," must be removed. First, the word “union” limits the application of this standard to only unionized hotel workers and should be removed. It is very important that this standard apply to all hotel housekeepers, especially non-unionized hotel housekeepers. Second, the definition of representative is inconsistent with the law and should be amended to be consistent with Labor Code section 6309.

We fully support removing the word “union” from representative because it limits the application of the standard to unionized workers. Hotel housekeepers from non-union hotels face the same health hazards at work. By using the word “union,” it essentially carves out an equally, if not more, vulnerable population of hotel housekeepers from protection under this standard, simply because they do not have a union. Therefore, the word “union” must be removed. Additionally, the word “representative” should be consistently used throughout the standard. All references to “union” representative must be removed and replaced with “representative.”

Next, we strongly support amending the draft definition of “representative” to be consistent with Labor Code section 6309, which reads “an employee’s representative includ[es] but is not limited to, an attorney, health or safety professional, union representative, or government agency representative.” Currently, the definition of representative as drafted is inconsistent with the Labor Code and must be amended so that it is consistent.

In the alternative, we recommend changing the definition and title of "representative" back to the language in the Sept. 2015 draft, which as follows:

"Representative" means a recognized or certified collective bargaining agent representing housekeepers and where appropriate an occupational health expert identified by the said representative who can provide expertise in housekeeper injury prevention in addition to that of the representative. Where there is no recognized or certified collective bargaining agent, a third party individual can be designated as a representative by employees such as a physician, occupational health expert or labor advocate."

2. Training

Firstly, as requested in our most recent comments, language should be added in (d)(2)(B) as follows: the elements of the employer’s MIPP and how the written MIPP, all records in (e)(1), and all appendices will be made available to housekeepers. Housekeepers should be made aware of the appendices as part of the training on the MIPP. Appendices often carry the most valuable information to workers. Without access to the appendices, the MIPP is hollow. Although non-mandatory, the appendices are a key component of the MIPP and provide some of the best training materials to date on preventing/reducing musculoskeletal injuries from occurring to hotel housekeepers. Another very strong reason why the appendices need to be made available to housekeepers is that the housekeepers, per the

standard, have a role in the Worksite Evaluation. Therefore, housekeepers need to have access to: (1) the appendices, which currently CalOSHA says the purpose of the appendices is to perform the worksite evaluation and (2) the same info as the employers have which relate to the MIIP.

As stated in our previous comments, language in (d)(2)(G) should be changed to “An opportunity for interactive questions and answers with a person knowledgeable about hotel housekeeping equipment and procedures; tools and safe work practices that the housekeeper is expected to follow.”

As stated in our previous comments, we encourage amending subsection (d)(2)(F) “Practice using the types and models of equipment that the housekeeper will be expected to use;” to: “Practice in the guest room performing housekeeping tasks using the types and models of equipment, tools and safe work practices that the housekeeper will be expected to use or follow.”

Under subsection (d)(2)(H), replace the word ‘problems’ with ‘procedures or safe work practices.’ The language preceding ‘problems’ pertains to procedures and to housekeepers’ work practices. We think the amended language is more precise and should be used regarding any corrections that need to be communicated to housekeepers. The amended text should read: “and how to effectively communicate with housekeepers regarding any procedures or safe work practices needing correction.”

3. “Work-site Evaluation” Job hazard Analysis (JHA)

As stated in previous comments, we support including language on safe work-rate under subsection (c)(4)(E)(2). This language should include read as follows:

“At minimum, the safe work-rate shall preclude a work-rate that can be reasonably foreseen by the employer to increase the risk of MSDs...”

Finally, the safe work-rate subsection should be included in the worksite evaluation and should include parts 3, and 4, as stated below:

- “3. A safe work-rate shall take into consideration the following two elements:
- (a) a pace at which a guest room is cleaned that allows the housekeeper to recover between tasks, i.e. making the bed, cleaning the bathroom, vacuuming the guest room, pushing the cart in the hallway and other routine housekeeping tasks;
 - (b) an amount of time allotted to cleaning a guest room that allows the housekeeper sufficient time to perform these tasks using safe work practices. Safe work practices are those that decrease the likelihood that MSDs will occur by reducing the number of MSD risk factors, e.g. walking with a vacuum cleaner instead of bending forward using quick movements to cover more territory or taking the time to walk along each side of the bed and untuck the sheets instead of standing by one side of the bed and yanking all the sheets and duvet off the bed with extreme, forceful arm movements and extreme forward bending. (See Safe Work Practice UNITE HERE Petition 526 to OSHSB 2012.)

4. Employers will provide documentation of how the safe work-rate has been determined as an element of the work-site evaluation.”

4. Employee notification

Employee involvement is extremely important. Therefore, as stated in previous comments, subsection (c)(4)(A) should be changed from 3 months to 90 days in two places in this clause, which is consistent with other CalOSHA standards.

Furthermore, we continue to recommend including a posting requirement, which promptly notifies workers of the results of the work-site evaluation in subsection (c)(4)(C). The posting language should state: “Posting will occur within 14 days of when management completes the work-site evaluation, or any updated work-site evaluation. The joint labor-management health and safety committee will receive a copy at the same time as the posting.” Other standards, such as the lead standard include an employee notification process. (Cal. Code Regs., tit.8, § 5198, subd. (8)(A).) Again, the lead standard requires employers to notify each employee in writing of the exposure results within 5 working days after the receipt of monitoring results. (*Ibid.*)

Additionally, under subsection (c)(4)(D), employers should review and update the worksite evaluation within 30 days of parts 1, 2 or 3 occurring.

5. Procedures for investigating musculoskeletal injuries

We continue to support including under (c)(5)(A), control measures listed as follows: fitted bed sheets; mops; long-handled and adjustable length tools for dusting and scrubbing walls, showers, tubs, and other surfaces; and light-weight or motorized carts and those identified in the Cal/OSHA2005 publication, *Working Safer and Easier for Janitors, Housekeepers and Custodians*.¹

Additionally, under subsection, (c)(5)(B), the word “appropriately” should be changed to “correctly.” (See Safe Patient Handling, Cal. Code of Regs., tit. 8, § 5120 (c)(6)(B).)

6. Methods or Procedures for correcting

We support Unite HERE’s recommendation to include language under (c)(6) as outlined in Unite Here’s Comments from 9/11/2015:

"Methods or procedures for correcting, in a timely manner, hazards identified in the job hazard analysis or in the investigation of musculoskeletal injuries to housekeepers including procedures for determining whether identified corrective measures are used appropriately. These procedures shall incorporate an effective means of involving housekeepers and their representative(s) in identifying and evaluating possible corrective measures including:

(A) A means by which appropriate equipment or other corrective measures will be identified, assessed, implemented, and then reevaluated after introductions and while used in the workplace; and

¹ *Working Safer and Easier for Janitors, Housekeepers and Custodians*, https://www.dir.ca.gov/dosh/dosh_publications/janitors.pdf (date last accessed 12/2/2015).

(B) A means of providing appropriate housecleaning equipment, protective equipment, and tools to each housekeeper, including procedures for procuring, inspecting, maintaining, repairing, and replacing appropriate housecleaning tools and equipment; and

(C) holding of regular meetings of management, housekeepers, and their representatives to discuss the aforementioned items to occur:

- 1) following the performances of job hazard analyses;
- 2) following the reporting/occurrence of MSD incidents; or
- 3) in absence of either 1 or 2, at minimum on a quarterly basis.

Additionally, as previously stated in our comments, in subsection (c)(6)(B), development of a means by which appropriate equipment or other corrective measures will be identified, a foot note to include, “consideration will be given to tools such as: fitted bed sheets; mops; long-handled and adjustable length tools for dusting and scrubbing walls, showers, tubs, and other surfaces; and light-weight or motorized carts. Additionally, these tools should also be considered during the work-site evaluation as specific remedies.”

Again, under subsection, (c)(6)(B) &(C), the word “appropriate” should be changed to “*correct*.” (*Id.* at Cal. Code of Regs., tit. 8, § 5120 (c)(6)(B).)

7. Records

As in our previous comments, we support including, under subsection (e)(1), names and qualifications of trainers should also be included in the records employers must keep. All of the records listed in this subsection should also be made available to all employees. This language replicates language in other CalOSHA standards, with two examples below. Training records including materials and lists of trainees is important to be made available for review along with the appendices in accordance with Section 3203(b).

Workplace Violence Prevention Plan, Page 13: (h)(2) “names and qualifications of persons conducting the training” in recordkeeping section.	Safe Patient Handling Plan, Page 7: (c)(2) “names and qualifications of persons conducting the training” in recordkeeping section.
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Next, we strongly support including the following in Subsection (e)(2): A copy of the MIPP, *all appendices*, and all records required by subsection (1) shall be available *at all times* for review or copying by housekeepers and their designated representative in accordance with section 3204(e)(1). Although non-mandatory, the appendices are a key component of the MIPP and therefore, just like the MIPP, housekeepers must have access to the appendices. The appendices must be available at all times which is the same language found in other CalOSHA standards, see two examples below:

Page 4: (c) Workplace Violence Prevention plan: “shall be made available to employees at all times”	Page 2: Safe Patient Handling plan: “shall be made available to all employees in each patient care unit at all times”
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Lastly, we strongly encourage that the appendices be recommended for the training requirements as well as the worksite evaluation. Therefore, the title of Appendix A (Non-Mandatory), should be amended as follows “Reference Materials for the Worksite Evaluation and Training.” As well as: “the following are examples of materials that can be used in performing a worksite evaluation and training for housekeepers.”

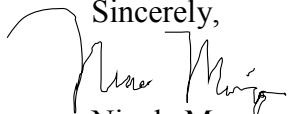
8. Control Measures added to the definitions section

We also request that ‘control measures’ be defined with all other definitions and in that definition include our list of considered control measures. We recommend adding to section (b) under definitions the following language:

“Control measures” mean those measures or procedures for correcting the hazards identified in the worksite evaluation or in the investigation of musculoskeletal injuries to housekeepers. The control measures to be considered include, but are not limited to mops; long-handled and adjustable length tools for dusting and scrubbing walls, showers, tubs, and other surfaces; fitted bed sheets; light-weight or motorized carts; and those measures identified in the Cal/OSHA 2005 publication, *Working Safer and Easier for Janitors, Housekeepers and Custodians*.

We thank you for your consideration of these comments.

Sincerely,



Nicole Marquez
Staff Attorney, Worksafe