

**OCCUPATIONAL SAFETY
AND HEALTH STANDARDS BOARD**

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**INITIAL STATEMENT OF REASONS**

Title 8, California Code of Regulations, New Section 5193.1
of the General Industry Safety Orders

Sexually Transmitted Infections**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, where appropriate, suitable protective equipment and control or technological procedures to be used in connection with occupational hazards and provide for monitoring or measuring employee exposure for their protection.

In December 2009, Michael Weinstein, on behalf of the AIDS Healthcare Foundation, filed Petition No. 513 requesting the Board to amend Section 5193 to specifically address hazards in the adult film industry. On March 18, 2010, the Board adopted a petition decision which requested the Division of Occupational Safety and Health (Division) to convene an advisory committee to consider possible regulatory changes and to prepare language if appropriate. From March 2010 through June 2011, the Division held six advisory committee meetings to review the issue of how employers can better protect employees exposed to sexually transmitted diseases by amending Section 5193 to more specifically address the hazards. There was strong participation by employees and employers, as well as medical and public health professionals, researchers, academics, and advocacy groups.

Public health agencies and other stakeholders presented evidence that these employees face a significant increased risk of sexually transmitted infections (STIs), including human immunodeficiency virus (HIV), gonorrhea and chlamydia. Participants in the advisory committee process also complained that the current language of Section 5193 was not specific to the work activities in which exposure to STIs occur. Medical experts agreed that occupational exposure to STIs, as well as bloodborne pathogens, should be prevented by feasible controls mandated in a regulation. Since Section 5193 addresses only bloodborne diseases, the Board is proposing a new Section 5193.1 to specifically address this type of occupational exposure that includes bloodborne pathogens and other STIs.

SPECIFIC PURPOSE AND FACTUAL BASIS OF PROPOSED ACTION

This regulatory proposal is intended to improve and provide worker safety in any workplace where employees have occupational exposure to bloodborne pathogens and/or sexually transmitted infections. This includes work activities that occur during the production of any film, video, multi-media, or other recorded or live representation in California where one or more employees have occupational exposure. This regulation would also provide for appropriate medical services for affected employees.

This section covers all workplaces in which employees have occupational exposure to bloodborne pathogens and/or sexually transmitted pathogens due to one or more employees engaging in sexual activity with another individual. Section 5193.1 is necessary because some in the regulated community assert that Section 5193 does not apply to them. Despite recent Occupational Safety and Health Appeals Board decisions to the contrary, some in the regulated community continue to refute the applicability of Section 5193. Thus the reason, purpose and necessity for Section 5193.1 are, in part, to clarify the applicability of requirements in the bloodborne pathogens standard to the regulated community.

In addition, Section 5193.1 is intended to reduce confusion among members of the regulated community by creating a clear standard through increased specificity. The regulated community presents a number of unique occupational safety and health hazards that necessitate the creation of distinctive protections for workers and specific requirements for employers. By increasing the specificity of the requirements, Section 5193.1 will reduce the number of exposure incidents in the regulated community.

This proposed rulemaking action:

- Is based on the following authority and reference: Labor Code Section 142.3 states 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 at least mirror the equivalent federal regulations and that may be more protective of worker health and safety than are the federal occupational safety and health regulations. In addition, Section 142.3 permits the Board to prescribe, where appropriate, suitable protective equipment and control or technological procedures to be used in connection with occupational hazards and provide for monitoring or measuring exposure for their protection.
- Differs from existing federal regulations in that the federal Occupational Safety and Health Administration does not have a specific counterpart standard for protecting employees against occupational exposure to STIs.

- Is not inconsistent or incompatible with existing state regulations. This proposal is part of a system of occupational safety and health regulations. The consistency and compatibility of that system's component regulations is provided by such things as the requirement of the federal government and the Labor Code to the effect that State regulations 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 employees by specifying a system of control measures specific to employee exposures to sexually transmitted pathogens, including the use of condoms or other barrier protections, an exposure control plan specific to STIs, hepatitis B, hepatitis A and human papillomavirus (HPV) vaccinations, medical services, and information and training on health and safety. The proposed regulation also provides for medical confidentiality and contains means to protect the identity of persons who take an HIV test in order to be consistent with the requirements of the Health and Safety Code.

Some of these measures, as identified below, are already required under the general mandates of Section 5193. Occupational hazards unique to the regulated community are best addressed by a new specific standard.

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

New Section 5193.1 Sexually Transmitted Infections.

Subsection (a) Scope and Application.

Proposed subsection (a) establishes that all workplaces in which employees have occupational exposure to bloodborne pathogens and/or sexually transmitted pathogens due to one or more employees engaging in sexual activity with another individual are required to comply with the provisions of this section. This includes sexual activities that occur during the production of any film, video, multi-media or other recorded or live representation. Currently, employees who engage in sexual activity are protected by Section 5193, Bloodborne Pathogens, which requires a written program, certain engineering controls, personal protective equipment, medical services, training, and record-keeping.

This section will apply to employers whose employees engage in sexual activity with another individual, including employees in the adult film industry. Employees in this industry are exposed to chronic and life-threatening illnesses when they engage in unprotected sexual activities. This places them at risk for acquiring infection with bloodborne pathogens, including, but not limited to, human immunodeficiency virus (HIV), hepatitis B (HBV) and hepatitis C (HCV) infection. It also places them at risk for acquiring infections, including repeated infections, with other sexually transmitted pathogens such as human papilloma virus (HPV), Chlamydia trachomatis (CT), Neisseria

gonorrhoeae (GC), hepatitis A virus (HAV), trichomonas vaginalis, and genital herpes simplex virus (HSV). The presence of these infections may also increase the risk of acquisition of bloodborne pathogens. The risk of infection is further increased due to the work practices in this industry in which performers have multiple and concurrent sex partners over short periods with whom they engage in frequent and often prolonged sex acts and by the infrequent use of barrier methods to prevent exposure to infectious body fluids. A number of HIV infections have been associated with this industry. In a 2007 article, Taylor stated that in 2004, the Centers for Disease Control and Prevention (CDC) documented transmission of HIV infection from one performer to three other performers, despite industry testing protocols.¹ A high incidence of infection with non-bloodborne sexually transmitted pathogens has also been recorded in this industry. As summarized in the Division's 2010 evaluation of Petition 513, between midyear 2004 and 2008, 2,848 STDs were diagnosed among 1,868 performers who tested at the Adult Industry Medical clinic. Chlamydia was the most frequent diagnosis (57.5% of performers), followed by gonorrhea (34.7%) and co-infection with both STDs (7.8%). The same study documented that CT and GC infections are recurrent among performers and that the reinfection rate within one year was 26.1%. Female performers were 27% more likely to be re-infected than male performers.² and approximately 70% of STIs occurred in female performers. Several cases of syphilis were also reported. The Los Angeles County Department of Public Health believes that these disease rates are significant underestimates of true disease rates because oral and rectal anatomic sites are not routinely screened, are often asymptomatic, and are likely to serve as disease reservoirs for repeated infections.³ HBV and HPV are recognized carcinogens.

Subsection (a)(1) establishes the scope of workplaces to be covered by the standard, so that those workplaces will implement the required protective measures to reduce the incidence of infection with bloodborne and other sexually transmitted pathogens. This provision is necessary to ensure that workplaces where employees engage in sexual activity are covered by the standard. The provision also explicitly identifies some of the workplace processes to be covered by the standard.

Subsection (a)(2)(A) establishes that all workers, including but not limited to performers, employees who are present when this activity occurs, and employees who are responsible for cleaning or decontaminating the work area, equipment or laundry, are covered by the requirements of the proposed section. This provision is necessary to identify affected employees who are at risk of contracting sexually transmitted infections.

¹ Taylor M et al., Epidemiologic Investigation of a Cluster of Workplace HIV Infections in the Adult Film Industry: Los Angeles, California, 2004. HIV/AIDS, CID 2007:44(15 January).

² Goldstein, Binh, et al., High Chlamydia and Gonorrhea Incidence and Reinfection Among Performers in the Adult Film Industry Sexually Transmitted Infections, July 2011, Vol. 38. No. 7.

³ Goldstein, Binh, Sexually Transmitted Infections in the Adult Film Industry. Presented at Preventive Medicine 2009.

Subsection (a)(2)(B) states that compliance with this section constitutes compliance with Section 5193 for the workplaces in which it applies. The purpose and necessity of this provision is to remove duplicative legal requirements under Section 5193 and this new Section. In addition, it is necessary to ensure that the regulated community follows the appropriate precautions to protect employees against sexually transmitted diseases. This subsection also specifies that where workplaces use sharps, other than personal care sharps, then the employer must also comply with the relevant provisions of Section 5193. The purpose and necessity of this provision is to clarify safe procedures for handling and disposal of sharps where they are used, and to continue to provide equivalent safety to the federal bloodborne pathogen standard, 29 CFR 1910.1030.

Subsection (a)(3) establishes that the employer shall provide all safeguards required by this section, including barriers, personal protective equipment, training, and medical services, at no cost to the employee, at a reasonable time and place for the employee, and during the employee's working hours. This is intended to provide notice to the regulated public of an existing requirement of Labor Code Section 6311, as interpreted by the courts.⁴ This is necessary to ensure that employees are not deterred by cost or logistical barriers from participating in the medical surveillance and training programs, and are provided with all necessary safeguards.

Subsection (b) Definitions.

The standard proposes a number of definitions that are intended to explain the terminology and concepts that have been incorporated into the text. The necessity for the definitions is to clearly explain the terminology and to ensure that the terms in the text are understood in the appropriate context. Some of the terms have been defined to be consistent with existing definitions in other titles of the California Code of Regulations, and are intended to be interpreted consistently with their use in those sections. The definitions were proposed to establish the exact meanings for the terms as used within the context of the requirements of Section 5193.1. They are necessary to clarify that the terms, as used, may have more specific meaning for the protection of workers exposed to occupational sexual activity than they would in the more general usage.

Barrier is necessary to establish the specific engineering controls, such as condoms or other physical blocks that prevent the passage of blood and other potentially infectious materials-sexually transmitted infection (OPIM-STI) to another person. This definition is needed to specify that barriers must prevent the passage of blood and OPIM-STI.

Blood is defined to be consistent with Section 5193 Bloodborne Pathogens. This definition is necessary to specify that human blood, human blood components, and products made from human blood are within the scope of this Section.

Bloodborne Pathogens is defined to identify those pathogens which may be present in blood, and may cause human disease. This definition is intended to be consistent with Section 5193.

⁴ *Bendix Forest Products Corporation v. Division of Occupational Safety and Health* (1979), 25 Cal. 3d 465.

These pathogens include, but are not limited to, HBV, HCV, and HIV. This is necessary to establish that the standard is intended to protect workers against life threatening bloodborne pathogens that may be spread through sexual activity and for consistency with Section 5193 Bloodborne Pathogens and to be as effective as the federal standard 29 CFR 1910.1030.

CDC is defined to mean the United States Centers for Disease Control and Prevention, including the U.S. Public Health Service. This is needed to properly refer to the appropriate government entity when using the acronym “CDC” in the regulatory text and avoid redundancy.

CDPH is defined to mean the California Department of Public Health. This is needed to properly refer to the appropriate department when using the acronym “CDPH” in the regulatory text and avoid redundancy.

Chief is defined to mean the Chief of the Division of Occupational Safety and Health of the California Department of Industrial Relations or designated representative. This is necessary to be consistent with Section 5193 Bloodborne Pathogens. This definition is also necessary to properly refer to the appropriate government official when using the acronym “Chief” in the regulatory text and avoid redundancy.

Chlamydia is defined to mean the disease caused by the bacterium *Chlamydia trachomatis* (CT). This is necessary to identify an infection against which this standard is intended to protect employees.

Consortium PLHCP is defined to establish a means for a physician or licensed health care professional to provide medical services to employees on behalf of one or more employers in accordance with this standard and who meets the requirements in subsection (e)(1)(C).

Contaminated is defined to mean the presence or the reasonably anticipated presence of blood or OPIM-STI on a surface or in or on an item. This is necessary to be consistent with Section 5193 Bloodborne Pathogens.

Contaminated Laundry is defined to mean laundry which has been soiled with blood or OPIM-STI or which may contain sharps. This is necessary to be consistent with Section 5193 Bloodborne Pathogens.

Decontamination is defined to establish the requirements for cleaning and disinfecting of equipment and surfaces. This is necessary in order to be consistent with Section 5193 Bloodborne Pathogens.

Engineering Controls is defined to establish specific control measures that are necessary in the workplaces to which this standard applies. This definition is necessary to specify that engineering controls must isolate or remove the exposure hazards.

Exposure Incident is defined to establish the types of incidents which may expose employees to blood or OPIM-STI.

Genital herpes is defined to mean the disease caused by herpes simplex virus when it occurs in or on the genitals. This is necessary to identify an infection against which this standard is intended to protect employees.

Genitals are defined to mean the penis, vulva, vagina, urethra, and anus, and adjacent structures and mucous membranes. This is necessary to identify the activities which may expose employees to sexually transmitted infections.

Gonorrhea is defined to mean the disease caused by the bacterium *Neisseria gonorrhoeae* (GC). This is necessary to identify an infection against which this standard is intended to protect employees.

HAV is defined to mean hepatitis A virus. This is necessary to identify the proper virus when using the term “HAV” in the regulatory text and avoid redundancy.

HBV is defined to mean hepatitis B virus. This is necessary to identify the proper virus when using the term “HBV” in the regulatory text and avoid redundancy. The definition is also necessary to ensure that this standard is consistent with Section 5193 Bloodborne Pathogens and as effective as the federal regulation 29 CFR 1910.1030.

HCV is defined to mean hepatitis C virus. This is necessary to identify the proper virus when using the term “HCV” in the regulatory text and avoid redundancy. This definition is also needed to ensure that this standard is consistent with Section 5193 Bloodborne Pathogens and as effective as the federal regulation 29 CFR 1910.1030.

HIV is defined to mean human immunodeficiency virus. This is necessary to identify the proper virus when using the term “HIV” in the regulatory text and avoid redundancy. This definition is also needed to ensure that this standard is consistent with Section 5193 Bloodborne Pathogens and as effective as the federal regulation 29 CFR 1910.1030.

HPV is defined to mean human papillomavirus. This is necessary to identify the proper virus when using the term “HPV” in the regulatory text and avoid redundancy.

HSV is defined to mean herpes simplex virus. This is necessary to identify the proper virus when using the term “HSV” in the regulatory text and avoid redundancy.

Local Health Officer (LHO) is defined to identify the health officer for the local jurisdiction who is responsible for receiving and/or sending reports of communicable diseases, as defined in Title 17, CCR. Section 2500 of CCR Title 17 establishes that communicable disease reports are to be made to the health officer of the local jurisdiction where the patient resides. This is

necessary to prevent further transmission of bloodborne and sexually transmitted diseases, and to be consistent with Title 17.

NIOSH is defined to mean the Director of the National Institute for Occupational Safety and Health, U.S. Department of Health and Human Services, or designated representative. This is needed to be consistent with Section 5193 Bloodborne Pathogens and identify the federal government entity or representative who shall be granted access to records and exposure control plans.

Occupational Exposure is defined to mean reasonably anticipated contact of the skin, eye, mouth, genitals or other mucous membranes with genitals of another person, or with blood or OPIM—STI that may result from the performance of an employee's duties. This definition further explains that simulated activities, in which there is no potential for actual contact of a person's eyes, skin, mouth or mucous membranes with a source individual's genitals or with blood or OPIM—STI, are not considered to create occupational exposure. This is necessary to establish those work activities for which this section requires the use of engineering and work practice controls and other control measures to protect employees against STIs, and to be consistent with Section 5193 Bloodborne Pathogens and as effective as the federal regulation 29 CFR 1910.1030.

Other Potentially Infectious Materials – Sexually Transmitted Infections (OPIM—STI) is defined to mean and identify bodily fluids and other substances that may contain and transmit sexually transmitted pathogens. This is necessary to identify the activities and exposures that require the use of engineering and work practice controls to physically prevent infectious materials from contacting another, and other control measures including personal protective equipment, training, and medical services. This definition includes the other “potentially infectious materials” defined by Section 5193 that may be present during sexual activities, as well as other materials that are not identified in Section 5193 that may contain sexually transmitted pathogens. This definition is also necessary to ensure that this standard is consistent for covered activities, is consistent with Section 5193, and is as effective as the federal regulation 29 CFR 1910.1030 for these exposures.

Parenteral contact is defined to mean piercing mucous membranes or the skin barrier through such events as intentional piercing, needlesticks, human bites, cuts, and abrasions. This is needed to be consistent with Section 5193 Bloodborne Pathogens and add specificity to the definition of “exposure incident.”

Personal Care Sharps are defined to mean razors, scissors, and similar tools used by an individual to perform cosmetic procedures such as shaving on herself or himself. Personal care sharps do not include tools intended for piercing the skin, or for the purpose of applying tattoos or other permanent cosmetics. This is necessary to establish procedures for handling of personal use sharps that would not come within the scope of Section 5193.

Personal Protective Equipment is defined to mean any garment, device (such as a condom), or equipment used to prevent contact of an employee's eyes, skin, mucous membranes, or genitals with the blood or OPIM-STI of another. This is necessary to establish the types of personal protective equipment that are necessary for these activities.

Physician or other Licensed Health Care Professional (PLHCP) is defined to mean an individual whose legally permitted scope or practice (i.e., license, registration, or certification) allows him or her to independently provide, or be delegated the responsibility to provide, some or all of the health care services required by this section. This is necessary to establish who may provide certain medical services required under this standard.

Production is defined to mean a depiction, recorded or live, in which one or more employees engage in sexual activity. A production may consist of one or several scenes. This is needed to establish the types of activities which are covered by this standard.

Scene is defined to mean a depiction, recorded or live, in which one or more employees engage in sexual activity, and which is a continuous portion of a production. This is needed to identify when certain protections required by this standard must take place, and to identify segments of a production that may be separately recorded or purchased.

Sexual Activity is defined to mean actual contact of an employee's genitals, eyes, or mouth with the genitals or OPIM-STI of another person. This definition is necessary to establish which activities are within the scope of this standard.

Sexually Transmitted Infection (STI) is defined to mean any infection spread by sexual contact, including but not limited to HIV/AIDS, gonorrhea, syphilis, chlamydia, hepatitis B, hepatitis C, genital herpes, trichomoniasis, and human papillomavirus infection. This is necessary to establish the types of infections that are within the scope of this standard.

Sexually Transmitted Pathogen (STP) is defined to mean any pathogen transmitted by sexual contact, including but not limited to human immunodeficiency virus (HIV), *Neisseria gonorrhoeae* (GC), *Treponema pallidum*, *Chlamydia trachomatis* (CT), hepatitis B virus (HBV), hepatitis C virus (HCV), herpes simplex virus (HSV), *Trichomonas vaginalis* and human papillomavirus (HPV). This is necessary to establish the types of pathogens within the scope of this standard.

Source individual is defined to mean an employee or other individual whose blood or OPIM-STI may be a source of occupational exposure to an employee. This is necessary to implement appropriate post-exposure follow-up.

Syphilis is defined to mean the disease caused by *Treponema pallidum*. This is necessary to identify an infection against which this standard is intended to protect employees.

Trichomoniasis means the diseases caused by the protozoa *Trichomonas vaginalis*. This is necessary to identify an infection against which this standard is intended to protect employees.

Universal Precautions are defined to identify an approach to infection control. According to the concept of Universal Precautions, all human blood and certain human bodily fluids are treated as if known to be infectious. This is necessary to establish that any person may be infected with sexually transmitted infection, and therefore precautions must be taken to prevent employee exposure to blood and OPIM-STI. This definition is necessary to be consistent with Section 5193 and as effective as the federal regulation 29 CFR 1910.1030.

Work Practice Controls are defined to mean controls that reduce the likelihood of exposure by defining the manner in which a task is to be performed. This is necessary to establish that the standard is intended to protect employees from sexually transmitted infections and to be consistent with Section 5193 Bloodborne Pathogens and as effective as the federal regulation 29 CFR 1910.1030.

Proposed subsection (c) Exposure Prevention and Response.

Subsection (c)(1)(A) requires that employers establish, implement and maintain an effective Exposure Control Plan (Plan), designed to eliminate or minimize employee exposure and which is consistent with Section 3203. This is necessary so that employers maintain Exposure Control Plans and employers and employees will be aware of necessary control measures.

Subsection (c)(1)(B)(1-7) establishes that the Plan shall be in writing and identifies the basic elements that an employer would be responsible for incorporating into the Plan. These required elements are necessary to establish how the employer will provide the required control measures, make exposure determinations, keep records, schedule medical services, and evaluate exposure incidents.

Subsection (c)(1)(C) requires that the employer ensure that a copy of the Plan is available at the worksite at all times that employees are present. This is necessary to allow employees to refer to procedures that should be followed as needed to protect them against sexually transmitted infections.

Subsection (c)(1)(D) establishes that the Plan shall be reviewed and updated at least annually and whenever necessary and that employees be involved in the plan review. This is necessary to ensure that the Plan is up-to-date and adequately addresses newly discovered employee exposures. This provision is also needed to ensure that effective control measures are implemented for every task involving occupational exposure and that employers have sought to obtain employee participation.

Subsection (c)(1)(E) establishes that the Plan shall be reviewed after each exposure incident, to determine the cause of the incident and to determine whether any change in control measure is necessary. This is needed to make the Plan as effective as possible and ensure that the investigation of exposure incidents will discover factors that may need to be addressed in the contents or implementation of the Plan, in order to prevent future incidents.

Subsection (c)(1)(F) requires that the employer make the Plan available to employees, and their representatives for examination and/or copying. This subsection is intended to ensure that the employer provides access to the Plan to affected employees and their representatives. The Plan must also be made available to the Chief of the Division of Occupational Safety and Health and to NIOSH and their respective designees. It is necessary to provide the Plan to the Chief and designees in order that the Division may effectively enforce this standard. It is necessary to provide access to NIOSH so that NIOSH may effectively perform their statutory role in evaluating health and safety hazards and the methods of control. It is necessary to provide access to the plan for employees and their representatives so that they may understand the control measures to be used, and participate in review of the plan.

Proposed subsection (d) Methods of Compliance.

Subsection (d)(1) is intended to establish that universal precautions shall be observed to prevent contact with blood or OPIM—STI. As defined in subsection (b), universal precautions is an approach to infection control which treats all human blood and certain bodily fluids as infectious, regardless of the source individual. This subsection also clarifies that under circumstances in which differentiation between bodily fluid types is difficult or impossible, all bodily fluids will be considered potentially infectious materials. This is necessary to ensure that control measures are taken to protect employees against sexually transmitted infections.

Subsection (d)(2) requires that each employer maintain engineering and work practice controls sufficient to protect employees from exposure to blood and/or OPIM-STI. This is necessary to establish that this section requires the use of engineering and work practice controls that physically prevent infectious materials from contacting another person. This subsection establishes that simulation using acting, production and post-production techniques is an engineering control. Additionally, this subsection establishes that when simulation of sexual activity is not used or does not prevent all occupational exposure, additional control measures are required. These additional control measures are as follows:

Subsection (d)(2)(A) requires that ejaculation take place onto surfaces other than genitals, eyes, mouth or other mucous membranes or non-intact skin of another person. This is necessary to physically prevent infectious materials from contacting another person, to protect employees against sexually transmitted infections, and to be consistent with Section 5193 Bloodborne Pathogens and as effective as the federal regulation 29 CFR 1910.1030.

Subsection (d)(2)(B) requires that the employer provide and require the use of condoms or other protective barriers to prevent genital contact of one person with the genitals of another person. This is necessary to physically prevent infectious materials from contacting another person and to reduce the risk of contact transmission of pathogens.

Subsection (d)(2)(C) requires that the employer provide condom-safe water-based or silicone-based lubricants to facilitate the use of condoms. This is needed to minimize irritation to mucous membranes, prevent potential breakage of condoms or other protective barriers, and protect employees from sexually transmitted infections during production.

Subsection (d)(2)(D) requires that the employer provide and require the use of condoms or other protective barriers to prevent genital contact with the blood or OPIM—STI of another person. This is needed to physically prevent infectious materials from being absorbed into the body or from contacting another person, in order to protect employees against sexually transmitted infections.

Subsection (d)(2)(E) establishes that the employer shall develop and implement work practices for the use of condoms and other barriers, in accordance with Appendix B. This is necessary to ensure that condoms and other barriers are used effectively and that the protection that they provide is not compromised through improper use.

Subsection (d)(3) provides a list of additional prohibited practices. This list is intended to reduce the risk of sexually transmitted diseases, including bloodborne pathogens, and is needed to identify which control measures should be used. The rationales for each are as follows:

Subsection (d)(3)(A) establishes that personal care sharps shall not be reused on a different individual, unless the items have been decontaminated in accordance with Section 5193. This is needed to physically prevent infectious materials from contacting another person through the parenteral route.

Subsection (d)(3)(B) establishes that objects that have become contaminated with blood or OPIM—STI at one anatomic site shall not be reused on another anatomic site, or on another person, unless the object has been appropriately decontaminated. This is needed to reduce the risk that infectious materials will be transferred.

Subsection (d)(3)(C) requires that broken glassware which may be contaminated shall not be picked up directly with the hands. This subsection requires that it be cleaned up using mechanical means, such as a brush and dust pan, tongs, or forceps. This is needed to prevent parenteral transmission by accidental piercing of the skin by broken glass.

Subsection (d)(3)(D) establishes that the contents of sharp containers shall not be accessed unless properly reprocessed or decontaminated. This is needed to prevent parenteral transmission by contaminated sharps.

Subsection (d)(3)(E) establishes that sharp containers shall not be opened, emptied, or cleaned manually or in any other manner which would expose employees to the risk of sharps injury. This is needed to prevent parenteral transmission by contaminated sharps.

Subsection (d)(4) establishes a list of specific control measures that address contaminated items, cleaning, and decontamination. This list is intended to reduce the risk of sexually transmitted diseases and is needed to identify which control measures should be used. The rationales for each are as follows:

Subsection (d)(4)(A) establishes requirements to handle contaminated sharps. These requirements are necessary to provide protections similar to those required by Section 5193 for sharps used occupationally.

Subsection (d)(4)(B) establishes requirements to handle contaminated waste. These requirements are needed to address contaminated items and reduce the risk of contact with blood or OPIM-STI.

Subsection (d)(4)(C) establishes requirements to address the cleaning and decontamination of the worksite. These requirements are needed to reduce the risk of contact with blood or OPIM-STI.

Subsection (d)(4)(D) establishes requirements to address hygiene. These requirements are necessary to assure that employers administer work practice controls that reduce the likelihood that individuals will be exposed to infectious materials by physically reducing the amount of infectious materials on that person, and reducing the contact time with infectious materials that may be on the skin.

Subsection (d)(4)(E) establishes requirements to handle laundry. These requirements are necessary to reduce the risk of transmission due to contact with OPIM-STI or blood.

Subsection (d)(4)(F) establishes requirements to address personal protective equipment. These requirements are needed to physically prevent infectious materials from contacting another person.

Proposed subsection (e) Medical Services and Post-Exposure Follow-Up.

The purpose of proposed subsection (e) is to establish the appropriate medical services, post-exposure evaluation, and follow-up required for all employees who have occupational exposure. This subsection is necessary to ensure that employees are protected against acquiring infections through appropriate vaccination and post-exposure evaluation and follow-up.

Subsection (e)(1)(A) requires that the employer establish, implement and maintain a system of medical services, post-exposure evaluation, and follow-up for all employees who have occupational exposure. Additionally, this subsection clarifies that these medical services must be provided at no cost to the employee, be made available at a reasonable time and place and during the employee's working hours, be performed by or under the supervision of a PLHCP, and be provided according to the requirements of this section and the recommendations of CDC and CDPH. This subsection is intended to ensure that employees are provided with appropriate medical services to prevent infection. This provision is needed to clarify that the employer is responsible for providing these services at no cost to the employee and during employee work hours. In addition, requiring medical services to be performed or supervised by a qualified practitioner is needed to ensure that employees receive appropriate care.

Subsection (e)(1)(B) establishes that the employer may contract with a consortium PLHCP to provide some or all of these services, and may make arrangements to share costs with other

employers so long as none of these costs are borne by employees. These requirements are needed to protect employees against life threatening sexually transmitted infections, ensure that these services are provided at no cost to the employees, and to be consistent with Section 5193. The use of a consortium PLHCP, while not required, is one method that can be used to provide consistent and continuous medical services to employees who are intermittently exposed by several employers.

Subsection (e)(1)(C) establishes that the employer shall only contract with a consortium or other PLHCP who agrees to specific requirements. These requirements are necessary to protect employees against sexually transmitted infections, reduce the risk of further transmission by enabling public health agencies to initiate contact tracing, and for the Division and local health departments to be able to control infectious disease hazards at places of employment covered by the standard. This subsection also requires the employer to instruct the PLHCP to complete and file the Doctor's First Report of Occupational Injury or Illness in accordance with Sections 14003 and 14006. This is necessary so that occupational injuries are appropriately recorded and treated. In the Division's experience, these occupational injuries, even when the source is known, are not reported as occupational.

Subsection (e)(1)(D) establishes that when a consortium PLHCP is acting as the evaluating health care professional after an exposure incident, the employer must advise the employee that the employee may refuse to consent to post-exposure evaluation and follow-up from the PLHCP. When consent is refused, the employer shall immediately make available to exposed employees a confidential medical evaluation and follow-up from a different PLHCP. This subsection is necessary to ensure that employees do not refuse medical evaluation due to confidentiality or other concerns. It is also necessary to ensure that employees are provided with medical follow-up in a timely manner.

Subsection (e)(1)(E) requires that the employer ensure that all laboratory tests are conducted by an accredited laboratory at no cost to the employee. This subsection is necessary to ensure that laboratory tests are performed in accordance with established standards. It is also necessary because there is a long-standing practice of requiring exposed employees to pay for their own testing and other medical services that are required by employers.

Subsection (e)(2) establishes requirements for vaccinations. These are necessary to ensure that vaccines are provided in a timely manner, at no cost to the employee and to allow an employee to reconsider a decision to decline a vaccination. This is needed to assure that the number of employees who ultimately become vaccinated is maximized to reduce the risk of acquiring or transmitting vaccine preventable diseases.

Subsection (e)(3) establishes requirements for periodic medical services and outlines the documentation that employer shall obtain regarding the provision of these services. This is necessary, to ensure that employee's with occupational exposure be provided confidential medical services at no cost, in accordance with Appendix C and D, to limit the spread of disease.

Subsection (e)(4) establishes requirements on post-exposure evaluation and follow-up. The intent of this subsection is to establish that following a report of an exposure incident, the employer must make immediately available to the exposed employee a confidential medical evaluation and follow-up. These provisions are necessary to ensure that employees are provided with prompt medical evaluation after an exposure incident, to limit the spread of disease and ensure that the employee's medical information is kept confidential. This subsection also requires that the confidential medical evaluation and follow-up include the following elements:

Subsection (e)(4)(A) requires that the employer document the route(s) of exposure, and the circumstances under which the exposure incident occurred. This is necessary so that this information be provided to the health care provider to assist that professional in the evaluation of the employee's medical status.

Subsection (e)(4)(B) requires that the employer identify and document the source individuals involved in the exposure incident, unless the employer can establish that identification is infeasible or prohibited by state or local law. Additionally, the employer must provide specific medical services. This is necessary so that this information can be provided to the health care provider to assist that professional in the evaluation of the exposed employee's medical status.

Subsection (e)(4)(C) requires that the employer provide for post-exposure prophylaxis for exposed employees when medically indicated as recommended by the United States Public Health Service (USPHS), or for pathogens not included in the USPHS recommendations, the CDPH or local health officer. This is necessary to protect employees against sexually transmitted infections, at no cost to the employee and to limit the spread of disease.

Subsection (e)(4)(D) requires that the employer provide for counseling of employees and evaluation of reported employee illnesses. This is necessary to protect employees against sexually transmitted infections and to limit the spread of disease by informing employees of the risks that these diseases pose so that employee can take appropriate actions to protect their own health.

Subsection (e)(4)(E) requires that the employer investigate all exposure incidents to determine whether control measures were in place, whether procedures for exposure incidents were followed, and whether control measures need to be modified to prevent further incidents. This subsection is necessary to reduce the risk of future exposure incidents.

Subsection (e)(4)(F) requires that the employer ensure that all exposure incidents, post-exposure evaluations, and employee infections and illnesses are recorded in accordance with Title 8, California Code of Regulations, Division 1, Chapter 7 (Sections 14000 – 14400). This is necessary to permit the Division and public health agencies to investigate occupational infections and take preventive action.

Subsection (e)(4)(G) requires that the employer ensure that if an employee declines to participate in post-exposure medical follow-up, that the employee signs the declination statement in

Appendix D. This is necessary to permit the Division and public health agencies to investigate occupational infections and take preventive action. The necessity for this declination statement is to ensure that employees are aware of the risk they take by refusing to participate in post-exposure medical follow-up, since appropriate employee actions are critical to protecting their own health and to prevent further transmission. This is also necessary so that the Division can verify during its investigation that medical services were offered to the employee at no charge.

Subsection (e)(5) establishes requirements for information that must be provided to the PLHCP. This is necessary so that this information be provided to the health care provider to assist that professional in the evaluation of the employee's medical status and for consistency with Section 5193. This subsection also requires that information provided to the PLHCP include the following elements.

Subsection (e)(5)(A) requires that the employer ensure that the healthcare professional responsible for the employee's HAV, HBV and/or HPV vaccination is provided a copy of this regulation. This is needed to assist that professional in determining the requirements for vaccination.

Subsection (e)(5)(B) requires that the employer ensure that the PLHCP evaluating an employee after an exposure incident is provided specific information. This is necessary so that the PLHCP can effectively evaluate the employee's exposure and make appropriate recommendations, and to be consistent with Section 5193 and as effective as the federal regulation 29 CFR 1910.1030.

Subsection (e)(6) establishes requirements on the written opinion of the PLHCP. The intent of this subsection is to establish that the employer shall obtain and provide the employee with a copy of the evaluating healthcare professional's written opinion within 15 days of the completed evaluation. This subsection is necessary to ensure that information necessary to the employer's program is transmitted in a timely manner without compromising employee medical privacy and confidentiality provisions. This subsection also requires that the written opinion of the PLHCP include the following elements:

Subsection (e)(6)(A) requires that the healthcare professional's written opinion for HAV, HBV, or HPV vaccination be limited to whether the vaccination(s) is indicated for an employee, and if the employee has received such vaccination. This subsection is necessary to ensure that information necessary to the employer's program is transmitted without compromising employee medical privacy and confidentiality provisions.

Subsection (e)(6)(B) requires that the healthcare professional's written opinion for periodic medical surveillance and post-exposure evaluation and follow-up be limited to specific information. This provision is necessary to ensure that information necessary to the employer's program is communicated without compromising employee medical privacy and confidentiality provisions.

Subsection (e)(6)(C) requires that all other findings or diagnoses remain confidential and not be included in the written report. This subsection is necessary to ensure employee medical privacy and confidentiality is maintained.

Subsection (e)(7) establishes requirements on medical recordkeeping. The intent of this subsection is to establish that the employer shall maintain medical records in accordance with subsection (g)(1). This subsection is necessary in order that employers create records which can be used to track employee medical information. These records are also necessary for the Division to be able to effectively enforce this section and verify compliance.

Proposed subsection (f) Communication of Hazards to Employees.

The purpose of proposed subsection (f) is to establish the requirements for training and communicating the hazards to employees. The purpose of this subsection is to ensure that employees are provided with training as necessary to correctly utilize control measures and to protect themselves and others from sexually transmitted infections. This is necessary because appropriate employee actions are critical to protecting their own health and to prevent further transmission.

Subsection (f)(1) addresses requirements on labels and signs and references Section 5193(g)(1), where sharps other than personal care sharps are used. This is necessary to ensure that contaminated sharps are appropriately handled on-site, and by downstream handlers.

Subsection (f)(2) addresses requirements for information and training. The purpose of this subsection is to ensure that employees are provided with training as necessary to correctly utilize control measures and to protect themselves and others from sexually transmitted infections.

Subsection (f)(2)(A) requires that employers ensure that all employees with occupational exposure participate in a training program. This is needed to ensure that employees are provided with training as necessary to correctly utilize control measures, at no cost to the employee and to protect themselves and others from sexually transmitted infections. This subsection also requires that the required training be documented in accordance with subsection (g)(2). This is necessary to help the Division verify whether the required training has been provided.

Subsection (f)(2)(B) provides the timeframe for required training. This is necessary to ensure both that employees have an adequate understanding of new exposure control measures implemented by the employer, and that employees be made aware of changes in exposure scenarios that may require additional control measures. This is needed to assure that employees can protect themselves and others from sexually transmitted infections.

Subsection (f)(2)(C) requires that annual training be provided within one year of the previous training. This is necessary to ensure that employees remain appropriately trained and that the required training be delivered within 12 months of a previous training. Annual training is necessary due to the transitory employment nature of the regulated community. Furthermore, it is a common time interval for retraining in other safety standards and used by employers to ensure

that critical knowledge and information is effectively retained by workers so that they take appropriate action to protect their own health.

Subsection (f)(2)(D) requires that the person conducting the training be knowledgeable in the subject matter covered by the elements contained in the training program as it relates to the workplace. This is necessary to ensure that the trainer can provide information that is accurate and relevant to the site, facility, and operational procedures of the employer.

Subsection (f)(2)(E) requires that the employer conduct a safety meeting prior to any employee engaging in sexual activity. This subsection also requires that the employer provide information to all individuals who participate in the activity or the production regarding the control measures to be used, and specific information regarding the employer's procedures for emergencies, exposure incidents, and post-exposure evaluation and follow-up. This is needed to assure that employees can protect themselves and others from sexually transmitted infections.

Subsection (f)(2)(F) requires that material appropriate in content and vocabulary to the educational level, literacy, and language of employees be used. These specifications are needed to ensure that employees are provided with a basic understanding of the disease process and the mechanisms of transmission of STIs which will improve their ability to recognize the diseases.

Subsection (f)(2)(G) specifies the minimum content of the training. The purpose of this subsection is to ensure that employees are provided with training as necessary to correctly utilize control measures and to protect themselves and others from sexually transmitted infections. This is necessary because appropriate employee actions are critical to protecting their own health and preventing further transmission to others.

Subsection (f)(2)(H) establishes the requirement that employees be given an opportunity for interactive questions and answers with the person conducting the training session. This is necessary to ensure that the employees can have questions answered by a person who is knowledgeable about the employer's operations and the exposure control plan for that operation. It is necessary that this opportunity be provided during the training, so that the employee can get answers to their questions as they come up and in the context of other information being provided.

Subsection (f)(2)(I) establishes that, due to the intermittent nature of some employment, one or more employers may arrange to conduct training as a consortium on the general elements of subsection (f)(2)(G), so long as each employer ensures that the training provided includes all the required training elements. The purpose of this subsection is to ensure that employees are provided with training as necessary to correctly utilize control measures and to protect themselves and others from sexually transmitted infections. This is necessary because appropriate employee actions are critical to protecting their own health and to prevent further transmission. Furthermore, by providing flexibility to employers, this subsection provides greater assurance that employees will receive the necessary training.

Proposed subsection (g) Recordkeeping.

Subsection (g) establishes the requirements for creating and maintaining the records that have been identified within this proposed standard. This subsection is necessary in order that employers create records which can be used to assess the effectiveness of the program and to track employee medical information. These records are also necessary for the Division to be able to effectively enforce this section.

Subsection (g)(1) establishes specific requirements regarding the creation and maintenance of medical records to ensure accuracy, confidentiality, the capture of essential medical information for each employee with occupational exposure and the required time to maintain these records. This is necessary to be consistent with Section 3204 and medical privacy provisions of California and federal law.

Subsection (g)(2) establishes requirements for training records. This is necessary to clearly inform the employer of the required content of the record of training and the required time to maintain the record for each employee. These records are also necessary for the Division to be able to effectively enforce this section.

Subsection (g)(3) establishes requirements for maintaining records of the implementation of the exposure control plan. This is necessary for the employer to be able to evaluate the effectiveness of their program and to demonstrate whether the control measures are working. These records are also necessary for the Division to be able to effectively enforce the provisions of this section.

Subsection (g)(4) establishes requirements on maintaining records for the production or purchase of scenes or other representations, and the required information to be included in the log. Additionally, this subsection requires that these records be maintained for a minimum of five years. These records are necessary for the Division to be able to effectively enforce the provisions of this section.

Subsection (g)(5) establishes requirements for the availability of employee medical and training records. These records are necessary for the Division to be able to effectively enforce the provisions of this section, and to ensure that public health agencies have access to the information they need for disease control and to protect the public health.

Subsection (g)(6) establishes specific requirements regarding the transfer of records so that all employees with occupational exposure have access to records even when the employer ceases to do business. This is necessary to inform the employers of requirements to transfer employee exposure and medical records to successor employers, and where there is no successor employer, to provide NIOSH and the Division an opportunity to request that the records be sent to the agency.

Subsection (h) is intended to establish that the appendices to this section are mandatory. This includes Appendices A1, A2, and A3, which contain vaccine declination statements, Appendix B, which contains specific work practice requirements for use of barrier protection, Appendix C,

which contains minimum requirements for medical services, and appendix D, which contains a declination statement for an employee who does not choose to participate in medical services. These appendices are necessary elaborations on requirements referenced in the body of the standard.

Appendix A1 – Hepatitis B Vaccine Declination (Mandatory)

This proposed appendix is intended to provide the appropriate language to be used in the statements that will be signed when an employee declines to accept a recommended vaccination. This declination provides specific language that ensures that the employee is aware of the nature of the vaccine, the fact that it is being provided free of charge, and the right to receive the vaccination at a later date. This declination is also intended to provide a record confirming that the vaccine was appropriately offered. The necessity for this is to ensure that employees are aware of the risk they take by refusing an offered vaccine, and that they have a right to request the vaccine later, if they continue to have occupational exposure.

Appendix A2 – Human Papilloma Virus Vaccine Declination (Mandatory)

This proposed appendix is intended to provide the appropriate language to be used in the statements that will be signed when an employee declines to accept a recommended vaccination. This declination provides specific language that ensures that the employee is aware of the nature of the vaccine, the fact that it is being provided free of charge, and the right to receive the vaccination at a later date. This declination is also intended to provide a record confirming that the vaccine was appropriately offered. The necessity for this is to ensure that employees are aware of the risk they take by refusing an offered vaccine, and that they have a right to request the vaccine later, if they continue to have occupational exposure.

Appendix A3 – Hepatitis A Vaccine Declination (Mandatory)

This proposed appendix is intended to provide the appropriate language to be used in the statements that will be signed when an employee declines to accept a recommended vaccination. This declination provides specific language that ensures that the employee is aware of the nature of the vaccine, the fact that it is being provided free of charge, and the right to receive the vaccination at a later date. This declination is also intended to provide a record confirming that the vaccine was appropriately offered. The necessity for this is to ensure that employees are aware of the risk they take by refusing an offered vaccine, and that they have a right to request the vaccine later, if they continue to have occupational exposure.

Appendix B – Use of Protective Barriers (Mandatory)

This proposed appendix is intended to identify acceptable protective barriers and the procedures that must be followed during use. This is necessary to ensure that condoms and other barriers are used effectively, to maximize the protection they provide, and to ensure that they do not become a source of exposure.

Appendix C – Minimum Requirements for Medical Services (Mandatory)

This proposed appendix is intended to identify medical services and the specific testing that must be offered to an employee to detect infections, in order to provide effective treatment and prevent

the spread of the disease. This is necessary to protect the employee's health and to prevent further transmission.

Appendix D – Declination of Periodic or Post-Exposure Medical Services (Mandatory)

This proposed appendix is intended to provide the appropriate language to be used in the statements that will be signed when an employee declines to accept periodic or post-exposure medical services, services which play a critical role in preventing the spread of the disease. This is necessary to protect the employee's health, ensure that employees are aware of the risks they take by refusing these services, and to prevent further transmission. It also provides a means for the Division to determine whether the services were offered as required without compromising the employee's medical privacy.

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

1. Occupational Safety and Health Standards Board Petition No. 513, submitted by Michael Weinstein, President, AIDS Healthcare Foundation (Dec. 17, 2009).
2. Division of Occupational Safety and Health's evaluation of Petition No. 513, (Feb. 16, 2010).
3. Occupational Safety and Health Standards Board decision regarding Petition No. 513 (Mar. 18, 2010).
4. Goldstein, Binh. Sexually Transmitted Infections in the Adult Film Industry. Presented at Preventive Medicine 2009.
5. Taylor M. et al., *Epidemiologic Investigation of a Cluster of Workplace HIV Infections in the Adult Film Industry: Los Angeles, California, 2004* (15 January) HIV/AIDS, CID 2007:44).
6. Brooks JT et al., *Molecular analysis of HIV strains from a cluster of worker infections in the adult film industry, Los Angeles 2004*, AIDS 2006 Vol. 20, No. 6.
7. Goldstein, B. et al. *High Chlamydia and Gonorrhea Incidence and Reinfection Among Performers in the Adult Film Industry* (July 2011), Sexually Transmitted Diseases, Vol. 38, No. 7.
8. *Bendix Forest Products Corporation v. Division of Occupational Safety and Health* (1979) 25 Cal. 3d 465.
9. National Cancer Institute, National Institute of Health, *HPV and Cancer Fact Sheet*, <<http://www.cancer.gov/cancertopics/factsheet/Risk/HPV#r7>> (as of Mar. 15, 2012).
10. Danta, M. et al. *Recent Epidemic of Acute Hepatitis C virus in HIV-positive Men who have Sex with Men Linked to High-risk Sexual Behaviors* (May 11, 2007), AIDS, 21(8): 983-91.
11. June 29, 2010, August 18, 2010, September 14, 2010, October 25, 2010, February 8, 2011 and June 7, 2011, Advisory Committee minutes, members roster and attendance sheets.

12. Centers for Disease Control and Prevention, “HPV Vaccine Information for Young Women – Fact Sheet”, Reviewed Jan. 21, 2015, <<http://www.cdc.gov/std/hpv/stdfact-hpv-vaccine-young-women.htm>>.

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.

DOCUMENTS INCORPORATED BY REFERENCE

None.

PETITION

Petitioner: Michael Weinstein, President, AIDS Healthcare Foundation
File No.: 513

The Occupational Safety and Health Standards Board received a petition dated December 17, 2009, to amend Section 5193 of the General Industry Safety Orders contained in Title 8 of the California Code of Regulations, regarding hazards in the Adult Film Industry. On March 18, 2010, the Occupational Safety and Health Standards Board granted the petition to the extent that the Petitioner’s proposal would be referred to a representative advisory committee for consideration.

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 members, attendance sheets, and minutes 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. Two factors provide the basis for the Board's determination: (1) this new standard, while more tailored to a specific industry, is based on a pre-existing national bloodborne pathogen standard that is already enforced in California; and (2) the regulated community has a unique legal status nationally, resulting in no states suitable to the relocation of the industry. Certain portions of the regulated community have threatened to leave the state; however, this is unlikely because the regulated conduct is illegal in every state except New Hampshire.

All states are covered by either 29 CFR 1910.1030 or an equivalent state standard, that would require the use of condoms or other engineering controls by employees who engage in sexual activity in the course of employment. Employers are also required to offer hepatitis B vaccine, post-exposure follow-up, training, and other protection in all states.

Additional Vaccinations and Medical Services:

The only additional costs associated with this standard involve vaccination for HPV and HAV. Under the existing Bloodborne Pathogens standard, employers are already required to provide HBV vaccinations to all employees with occupational exposure to HBV. Section 5193.1 would expand coverage to include vaccination for HPV and HAV. According to the CDC, the private sector costs per dose for each vaccine are as follows:

- HAV: \$63.10, requiring two doses for a complete series.
- HPV4: \$141.38, requiring three doses for a complete series.

Therefore, in order to vaccinate one employee with a complete series for HAV and HPV4 would cost approximately \$550.34. Providing annual STD screening tests for employees should average less than \$800 per business. These costs are a small percentage of gross income per business that averages over \$100 million per year.

In addition, this standard provides cost reduction measures to covered employers, which should lower the projected vaccination costs for employers. First, Section 5193.1 allows employers to use a consortium PLHCP in order to share costs among employers. Second, some employees will either decline the vaccination or have already received the complete series. Finally, due to the intermittent nature of employment in the industry, it is anticipated that the majority of employers will only employ an individual for the duration of one shot in the series for each vaccination. These savings will offset any potential additional costs of HPV or HAV vaccine.

Finally, since employers in all states are required to bear the costs of occupational infections, generally through a workers compensation system, reducing the incidence of infection will achieve additional savings.

Training and Written Procedures:

Current regulations require employers to provide training and have written procedures covering bloodborne pathogens such as HIV, Hepatitis B and C. Additionally, the IIPP requires that

employers implement an effective injury and illness prevention program which must include a written program, communication and training. This standard provides cost reduction measures to covered employers by permitting the use of consortium PLHCPs to train their employees. Thus, any costs regarding the additional coverage of STIs should be insignificant.

Based on the above, this rulemaking action will have a minimal impact on the following:

- Creation or elimination of jobs within the State of California, Creation of new businesses or the elimination of existing businesses within the State of California, and the
- Expansion of businesses currently doing business within the State of California.

BENEFITS OF THE PROPOSED ACTION

The proposal will render California general industry bloodborne pathogens and sexually transmitted infection standards clearer and easier to understand by both employers and the Division who have the responsibility to enforce the standard. It will also enhance the safety and health of employees with the implementation of engineering and work practice controls, an exposure control plan, hepatitis B, hepatitis A and human papillomavirus vaccinations, medical services, and information and training on health and safety without compromising or reducing the effectiveness of Section 5193 or the current Bloodborne Pathogens federal standard. This proposal would also provide for appropriate medical services for affected employees and will provide for medical confidentiality and protect the identity of persons who take an HIV test in order to be consistent with the requirements of the Health and Safety Code. This rulemaking proposal has no effect on the state's environment.

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

Government Code section 11342.610 excludes entertainment businesses from the definition of small business.

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.