

**OCCUPATIONAL SAFETY
AND HEALTH STANDARDS BOARD**

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**SUMMARY
PUBLIC MEETING/PUBLIC HEARING/BUSINESS MEETING
April 20, 2017
Costa Mesa, California**

I. PUBLIC MEETING

A. CALL TO ORDER AND INTRODUCTIONS

Chairman Dave Thomas called the Public Meeting of the Occupational Safety and Health Standards Board (Board) to order at 10:00 a.m., April 20, 2017, in the Council Chambers of the Costa Mesa City Hall, Costa Mesa, California.

ATTENDANCE

Board Members Present

Dave Thomas
David Harrison
Chris Laszcz-Davis
Laura Stock

Board Member Absent

Patty Quinlan
Barbara Smisko

Board Staff

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

Division of Occupational Safety and Health

Eric Berg, Deputy Chief of Health

Others Present

Isabel Barrera, Unite Here 11
Oliva Palacios, Unite Here 11
Ana M. Carvajal, Unite Here 11
Michael Musser, CA Teachers Association
Ada Tamajo, Unite Here Local 11
Jamie Carlile, SCE
Andrea J. Reid, US DOL-OSHA
Mercedes Ochoa, DGCH HKP
Guadalupe Lopez, Unite Here
Bruce Wick, CALPASC
James Mackenzie, SCE
Larry Wong, University of CA, Office of
the President

Mercedes Rojas, Unite Here 11
Rosario. Unite Here 11
Alma Hernandez
Don Myers, So. Cal. Gas
P. Adrian Madrano, SCE
Jay Weir, AT&T
Marti Fisher, CalChamber
Siouxie Q James, Free Speech Coalition
Maribella De Dios, Local 11 Unite Here
Terry Thedell, SDG&E
Kevin Thompson, Cal-OSHA Reporter
Mark Wickens, Elevator Unit Rep.
Dan Leacox, Leacox & Associates

Don Parret, Xbiz.com
Nazir Fazli, LADWP

Celia Lopez, Unite Here
Brian Wilbur, Los Angeles Dept. of Water &
Power

B. OPENING COMMENTS

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

Adam Cohen, AIDS Healthcare Foundation, asked the Division for an update on what has happened following the advisory committee for petitions 557 and 560. He said that the adult film industry believes that condom use should be voluntary, not mandatory. He stated that although the industry feels that its testing scheme is adequate to protect adult film performers from sexually transmitted infections (STI's), performers still get infected with STI's. He said that studies released as late as 2017 show that 1 in 4 adult film performers have been infected with chlamydia or gonorrhea, despite having been tested by the industry's testing scheme. He stated that many performers feel that they only have 2 options when it comes to working with condoms in the industry: work and don't wear a condom, or don't work at all. He said that not all performers participate in the industry's voluntary testing scheme, and those who do participate do not always test every 2 weeks. He also stated that the industry's testing scheme does not provide anatomical site testing. He said that the testing scheme is controlled by the industry's trade group, and on April 16, following a performer's positive test for HIV, the trade group locked down the testing website for the safety and well-being of performers. He asked if the site was shut down to protect performer privacy, what privacy exists when the site is up and running. He also asked if the site was shut down to control the availability of performers' test results, why has the industry put itself in charge of medical oversight? He said that adult film performers deserve the same workplace safety protections that all other California workers enjoy.

Jamie Carlile, Southern CA Edison, thanked the Board for the extended comment period for the proposal regarding electrical power generation. He said that this extended comment period allowed his organization time to have productive discussions with the Board staff to better understand the rationale behind this proposal. He stated that his organization also met with its California utility counterparts where they came to a consensus on their own newly proposed language, which was included in a comment letter that his organization submitted. He said that their proposed language is clear and will result in more worker safety. He stated that there are 2 areas that they were not able to come to a consensus on, and that they feel need further review and discussion:

- Section 2943.1 regarding enclosed spaces is a new section that is being introduced that eliminates a utility's ability to work within the other confined space regulations, which could lead to unnecessary worker confusion and does not add to worker safety. He stated that his organization was also informed by the Board staff that there is an upcoming advisory committee to discuss changes to be made to the confined spaces in construction standard, which would further confuse the issue. He said that based on the relationship between this new enclosed spaces provision and the confined spaces in construction regulation already in place, it may be premature to adopt Section 2943.1.

His organization recommended holding off on adopting this section until an advisory committee can be held to discuss this. This discussion will aid the Board staff in demonstrating equivalency of existing regulations either as written or with moderate updates, and it will also ensure that all existing provisions are considered in the development process. This advisory committee will also provide valuable information that could be considered during the advisory committee for confined spaces in construction, allowing more effective implementation and clarity for employers.

If this section is adopted without further review or consideration, employers will be required to develop programs and train their employees on them, only to have to do it all again when the standard regarding confined spaces in construction is amended, which will confuse workers and decrease safety.

- The term “competent supervision” is not found in the federal standard, and it is unclear why this term has been included in the proposal. He said that it can pose a significant impact to utility work structure by requiring multiple workers to work in situations where work has been done safely in the past by only one worker. His organization recommended convening an advisory committee to fully explore the impact of this proposed addition, and to develop a logical and transparent resolution to this issue. He also stated that it will have a significant financial impact on California employers.

Ada Tamajo, Unite Here Local 11, stated that her organization is pleased that the proposal regarding hotel housekeeping has been noticed for public hearing, and her organization is looking forward to the public hearing on May 18. She said that this proposal will improve working conditions for hotel housekeepers and will make their jobs safer if properly put into practice by employers. She stated that pain and injuries can be prevented through housekeeper input to hotel management regarding hazards that exist, as well as evaluations of new equipment to see if it eliminates the hazard or makes it worse. She also said that it is important to involve hotel housekeepers when doing investigations into injuries that occur, and to find out how the injury occurred, what could have prevented it from happening, and how to prevent it from happening in the future. She stated that her organization hopes to see the proposal adopted in 2018.

Ana Carvajal, Hotel Housekeeper, Unite Here Local 11, stated that hotel housekeeping is physically demanding work, and some hotels do not provide safe working conditions or the right tools for housekeepers to do their jobs safely. **Celia Lopez, Hotel Housekeeper, Unite Here Local 11**, echoed this comment. Ms. Carvajal said that her hotel recently installed glass doors on the shower, and these glass doors are very tall and get very dirty. She stated that hotel housekeepers must strain to clean the shower doors, which can cause injury. She also said that while cleaning the bathrooms, hotel housekeepers must get their feet and clothes wet. She stated that she has pain in her arms, back, and neck from doing the work, but she and many other injured housekeepers must continue working through the pain because their families depend on their paychecks. She said that the hotel housekeeping proposal will give hotel housekeepers the opportunity to provide input to the hotel management about workplace hazards, and it will require the hotel management to do an evaluation of these hazards.

Mercedes Rojas, Hotel Housekeeper, stated that many hotel housekeepers get injured while lifting heavy mattresses to make beds, cleaning the bathrooms, and pushing heavy housekeeping carts. She said that some of the housekeeping carts can weigh over 100 lbs.

even when they are empty, and pushing the carts on carpeted floors requires forceful pushing, which can put a strain on the housekeeper's body, causing injury. She stated that many hotel housekeepers worry daily about getting injured on the job and not being able to provide for their families. She said that the hotel housekeeping proposal will require hotel managers to provide tools for housekeepers to use that will make their jobs safer, and it will require worksite evaluations to be done to identify and eliminate hazards, which will also make their jobs safer. **Celia Lopez, Hotel Housekeeper, Unite Here Local 11**, echoed Ms. Rojas's comments.

Siouxie Q James, stated that an additional advisory committee meeting is necessary to further discuss petitions 557 and 560. She said that the additional meeting will give her organization the time and space to show the Division how the industry works and what it needs. She said that there is a great deal of information that the Division still needs to learn about how the industry operates. She stated that the recent production hold was put on per the industry's protocols, and the Performer Availability Screening Services (PASS) system helped eliminate the risk of an active and untreated HIV infection being spread on set. She said that it is very important to protect performer privacy, and the PASS system has helped prevent on-set HIV transmissions for over 12 years.

Bruce Wick, CALPASC, representing the Construction Silica Coalition, thanked the Division for delaying the enforcement of the new silica standard for 90 days just like federal OSHA did. He said that California's version of the new silica standard will still become effective on June 23, 2017, but the 90-day delay in enforcement will give stakeholders time to get the data needed and then come together to make the new regulation work right for California. He stated that workers will still be protected under the old regulation during that time.

Michael Musser, CA Teachers Association (CTA), provided information to the Board regarding the CTA's National Day of Action that will take place on May 1 at school sites throughout California.

C. ADJOURNMENT

Mr. Thomas adjourned the public meeting at 10:34 a.m.

II. BUSINESS MEETING

Mr. Thomas called the Business Meeting of the Board to order at 10:34 a.m., April 20, 2017, in the Council Chambers of the Costa Mesa City Hall, Costa Mesa, California.

A. PROPOSED SAFETY ORDERS FOR ADOPTION

1. TITLE 8: **CONSTRUCTION SAFETY ORDERS**
 Section 1637(n) Access
 **Use of Hook-On and Attachable Ladders with Scaffolds and Rest
 Platforms (HORCHER)**

Mr. Manieri summarized the history and purpose of the proposal and indicated that the proposal is now ready for the Board's adoption.

MOTION

A motion was made by Mr. Harrison and seconded by Ms. Stock that the Board adopt the proposal.

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

2. TITLE 8: **GENERAL INDUSTRY SAFETY ORDERS**
 Section 3220(b). Elements
 Emergency Action Plan (HORCHER)

Mr. Manieri summarized the history and purpose of the proposal and indicated that the proposal is now ready for the Board’s adoption.

MOTION

A motion was made by Ms. Stock and seconded by Ms. Laszcz-Davis that the Board adopt the proposal.

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

B. PROPOSED VARIANCE DECISIONS FOR ADOPTION

1. Consent Calendar

Mr. Healy stated that items A-N on the consent calendar are ready for consideration, and possible adoption, by the Board. Regarding item N on the consent calendar, and as a point of clarification regarding item N, Mr. Healy stated that the proposed decision would conditionally grant the variance.

MOTION

A motion was made by Mr. Harrison and seconded by Ms. Laszcz-Davis to adopt the consent calendar as modified to specify grant as to item “N”.

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

C. OTHER

1. Executive Officer’s Report

Ms. Hart welcomed Mr. Denning to the meeting. She stated that he has been promoted to Principal Safety Engineer for the Division, and he is filling the position that was left vacant when Eric Berg was promoted to Deputy Chief of Health.

Ms. Hart stated that since the hotel housekeeping proposal is now in the formal rulemaking process, the monthly update on it will be removed from the agenda. She said that the 1-year time clock on the proposal has started, and updates will be provided as needed during the

rulemaking process.

Ms. Hart asked the Division to provide its quarterly update on rulemaking projects and advisory committee meetings at next month's meeting.

Ms. Hart stated that federal OSHA is delaying enforcement of its federal final rule regarding silica until September 23, 2017. She said that the Division has also decided to delay enforcement of the new California standard regarding silica until September 23, but the effective date for the standard will not change. The standard will become effective on June 23. She stated that California employers must still comply with the PEL that is listed in Section 5155 in Table AC 1 and in Section 1530.1.

2. Legislative Update

Mr. Healy stated that there are 3 bills in the early part of the legislative session that the Board staff is watching:

- AB 263 pertains to emergency medical service workers. This bill expands and clarifies their rights regarding hours, wages, and other things. It also includes provisions to protect them from workplace violence. This bill has been amended to remove all references to Title 8 rulemaking and Standards Board action.
- AB 402 pertains to medical plume. Last year, a bill that was similar to this made it to the Governor's desk, but the Governor vetoed it because he felt that it limited the Board's options too much.
- AB 978 pertains to employees' right to access their workplace's injury and illness prevention program upon request. This bill states an employee's right to access their workplace's injury and illness prevention program more expressly in law.

3. Future Agenda Items

No future agenda items were suggested.

D. ADJOURNMENT

Mr. Thomas adjourned the Business Meeting at 10:47 a.m.