

**OCCUPATIONAL SAFETY
AND HEALTH STANDARDS BOARD**

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**SUMMARY
PUBLIC MEETING/PUBLIC HEARING/BUSINESS MEETING
May 18, 2017
Oakland, 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., May 18, 2017, in the Auditorium of the Harris State Building, Oakland, California.

ATTENDANCE

Board Members Present

Dave Thomas
Chris Laszcz-Davis
Patty Quinlan
Barbara Smisko
Laura Stock

Board Member Absent

David Harrison

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

Kumani Armstrong, Special Counsel for the
Department of Industrial Relations
Eric Berg, Deputy Chief of Health

Others Present

Michael Musser, CA Teachers Association	Bob Peterson, EH&S
Becky Perrine, Unite Here	Jamie Carlile, SCE
Yolanda Barron, Unite Here Local 2850	Alvarado Ana, Unite Here Local 2850
Elsa Portero, Unite Here Local 2850	Amber Rose, Federal OSHA
Jessica Wilson, Katten	Cynthia Gomez, Unite Here Local 2
Jeremy Blasi, Unite Here Local 11	Blanca Smith, Unite Here Local 2850
Maria Chassereau, Unite Here Local 2	Dennis Chass, Unite Here Local 2
Mary Banks, Unite Here Local 2	Maria Cardenas, Unite Here Local 2850
Martha Campos, Unite Here Local 2	Toot C. Vishno, Unite Here Local 2
Larry Wong, UC Office of the President	Jesse A. Cripps, Gibson Dunn, on behalf of
Karima Lynch, Unite Here Local 2	CA Hotel & Lodging Association
Elena Sanchez, Unite Here Local 49	Pam Espinoza, Unite Here Local 49

Gary Navarro, Unite Here Local 49
Rachel Melenda, Unite Here
Kaylah Williams, Unite Here
Maricela Ramos, Unite Here
Mercedes Cadenas, Unite Here Local 19
Gregoria Rekealado, Unite Here Local 19
Fabiola Benavidez, Unite Here Local 2
Ross Nakasole, Blue Green Alliance
Ernest Pacheco, Communication Workers
of America – District 9
Nicole Marquez, Worksafe
Carisa Harris-Adamson, PhD, UCSF.UCB
Kevin Thompson, Cal/OSHA Reporter
Bob Brown, Western States Petroleum
Association
Alejandro Negrete, Unite Here Local 2
Edwin Solis, Unite Here Local 2
Antonia Cortez, Unite Here Local 2
Melody Li, Unite Here Local 2850
Elvia Angulo, Unite Here Local 2850
Mark Sale, B3 Plastics
Irma Perez, Unite Here Local 2850
Thomas Neale, Chubb Insurance
Anabel Ramirez, Unite Here
Amber Jacil, Unite Here Local 49
Robert Flatt, Unite Here Local 49
Rick Engler, US Chemical Safety Board
Charles Miller, UCSF-UCB
Jere Ingram, Medishare EHS
Justin B. Taylor, Unite Here
Teodore Perez, Hyatt
Marie Melgoza, Sheraton Grand
Dan Leacox, Leacox & Associates
Gemma Pavon, Unite Here Local 2850
Marti Fisher, CalChamber
Tallah Mirmalek, Unite Here Local 2850
Mitch Seaman, CA Labor Federation
Jay Weir, AT&T

Gayla Schiff, Unite Here Local 49
Quinton Silket, Unite Here
Elizabeth Guzman, Unite Here
Maria Ramos, Unite Here Local 19
Olga G. Manrique, Unite Here Local 19
Eric Myers, McCracken, Stemerman,
Holstery
Mike Wilson, Blue Green Alliance
Karen Tynan, Attorney
Jane Thomason, CNA/NNU
Josh Sonnenfeld, Sierra Club
Tho Do, Unite Here
Hector H. Azpilcueta, Unite Here Local 483
Shannon Broome, Hunton & Williams
Jim Howe, Safety Solutions
Nix Guirre, Unite Here Local 2
Dana De Guzman, Unite Here Local 2
Silvia L. Medrano, Unite Here Local 2
Lima Conzuelo, Unite Here Local 2850
Lilia Bermudez, Santa Rosa 49
Jay Paulson, B3 Plastics
Chloe Lee, HSKP
Susana Areli, HSKP
Alyssa Giachino, Unite Here
Juanita Rammig, Unite Here Local 49
Claudia Quijado, Unite Here
Craig Murphy, UCSF OEM
Mike Smith, United Steelworkers Local 5
Norman Rogers, United Steelworkers
Dina Bautista, HGI
Mara Eva, HGI
Luz Pacheco, Hilton Hotel
Jeanne-Marie Duval, DIR Communications
Sandra Rodriguez, Unite Here Local 19
Sam Montross, Cadence Keen Innovations
Pamela Vossenias, Unite Here
Suzanne Marria, Esq., AIDS Healthcare
Foundation

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.

Mitch Seaman, CA Labor Federation, also speaking on behalf of the State Building Construction Trades Council, stated that the proposal regarding process safety management for petroleum refineries (PSM) will save a lot of lives and money. He said that there is a cost

associated with implementing this new regulation, but it is only a fraction of what it would cost if an incident similar to the Richmond or Torrance incidents occurred, not to mention the human toll. He stated that the process to develop this regulation was strong, feedback was received from stakeholders, and the resulting regulation addresses everyone's concerns and will prevent these kinds of incidents, which will save lives as well as save the state money.

Bob Brown, Western States Petroleum Association (WSPA), stated that although the Division has made several changes to the proposal regarding process safety management, there are still several concerns that WSPA brought up during the process that still exist. These concerns include:

- Applicability of the standard.
- Definition of "major change".
- Recognized and generally accepted good engineering practices.
- Hazard control analysis.

He said that more work is needed. He also stated that an explanation of, and justification for, key aspects of this proposal were not provided in the Final Statement of Reasons (FSOR), and there is no recourse that will allow stakeholders to discuss this proposal further with the Division before the Board votes on it. He asked the Board to consider the following requests before voting on this proposal:

- Consider allowing stakeholders time to work with the Division to ensure that these regulations are properly applied and optimize the process safety management experience of all stakeholders, as well as allow the Division staff to do a more thorough and critical review of the RAND economic impact analysis.
- Ensure that the proposal clearly states a time-certain implementation date of January 1, 2018, at a minimum, to allow for proper transition of operational procedures.

Rick Engler, United States Chemical Safety Board (CSB), stated that the PSM proposal is long overdue, contains significant safeguards, and the incident that occurred at the Chevron refinery in August of 2012 demonstrates that there is a need for stronger safeguards for workers and the public. He said that this proposal builds on some of the best refinery processes that are already in place and, in addition to the existing PSM regulations that are in place in Contra Costa County, will make significant progress in making refineries safer for employees and the public. He said that the proposal contains several advances for safety:

- It enhances requirements for conducting process hazard analysis for PHA to figure out what the hazards are, as well as solutions to eliminate them.
- It requires the industry to look at previous incidents, damaged mechanism reviews (DMR's), and effective types of controls to use, and to evaluate whether or not the safeguards that are in place actually work.
- It requires a process safety culture assessment to be performed.
- It requires management of organizational changes.

- It expands opportunities for employee participation, including authorizing qualified operators to shut down a process in an emergency.

He said that if this proposal is implemented and enforced, it will make California safer. He also stated that this standard could be a model standard for other states to follow, and the lessons learned from this standard may urge federal OSHA to consider updating its PSM standard.

Josh Sonnenfeld, Sierra Club and Ernest Pacheco, Communication Workers of America, District 9, echoed Mr. Engler's last comment.

Norman Rogers, United Steel Workers Local 675, stated that the proposal for PSM is providing an opportunity to implement change to the current standard before another incident happens that could result in significant loss of human life. He said that the current PSM standard has not been updated since 1992, so it is time to update it. **Nicole Marquez, Worksafe**, echoed this comment. He stated that refineries experience leaks, fires, releases, and shut downs on a daily basis, and shut downs and start ups are the times of the day that refineries are the most unstable. He said that workers need these regulations because when new owners and managers come to work at the refineries, they bring different philosophies with them, and the only thing that workers and the community have to rely on to keep them safe are the regulations.

Mike Smith, United Steel Workers Local 5, stated that his organization supports the proposal for PSM because the RAND report indicates that this proposal will result in significant cost savings to both the public and the industry, and certain aspects of the DMR could have prevented the Chevron refinery incident. He said that allowing employees and their representatives to participate in the process will make a significant impact on the process.

Ross Nakasole, Blue Green Alliance, stated that his organization feels that the proposed PSM standard is a big improvement over the current standard, and will lower the risk of death for refinery workers much more than the current standard does. He said that after the Chevron incident, the Governor put together an interagency task force to reform regulations that pertain to oil refineries, and this proposal contains many of the task force's recommendations. He stated that it also reflects many advancements in process safety management that the industry has learned about, and developed, following incidents like the Chevron incident. He said that the current PSM standard is static and less relevant to current refinery operations. He also stated that this proposal will reduce or eliminate the risk of fires and other incidents, which benefits both the industry and the public. He said that the RAND study of the proposal has determined that the proposal will cost \$58 million to implement, but each incident that is avoided because of it will save a single refinery an average of \$220 million, and that does not include the cost saved that are associated with injuries or deaths to workers and the public. He also said that RAND found that the Exxon Mobil refinery incident that occurred in 2015 resulted in gas prices going up \$0.40 per gallon over a 14-month period.

Nicole Marquez, Worksafe, stated that the PSM proposal requires meaningful worker participation in PSM decision making, which is critical to ensuring a safe and healthy workplace. She said that it requires employee representatives to be selected by the union membership, or other workers if there is no union. She stated that this will make decision making more transparent and accountable. She also said that this proposal puts protections in place for contracted employees, which is important because they often perform tasks that are higher risk. She stated that it requires refineries to do a damaged mechanism review to identify,

track, and repair damaged mechanisms before they result in a failure incident.

The following individuals also commented in support of the PSM proposal:

- **Greg Karras, Communities for a Better Environment**
- **Josh Sonnenfeld, Sierra Club**
- **Ernest Pacheco, Communication Workers of America, District 9**
- **Michael Musser, CA Teachers Association**
- **Pamela Vossen, Unite Here**

Mark Sale, B3 Plastics, stated that his organization has created a trash bag that has a handle on the bottom so that the bag can be picked up with two hands. He said that regular 33-60 gallon trash bags are designed to be lifted with only one hand, and this leads to injuries for people who lift these trash bags when they are full. He stated that he would like to see a standard put into place that will require employees to use trash bags with this second handle on them to prevent injury when lifting heavy trash bags.

Verta, Adult Performer Advocacy Committee (APAC), stated that her organization is hoping that the Division will schedule another advisory committee to discuss petitions 557 and 560, and that it will be held in southern California. **Karen Tynan, Free Speech Coalition (FSC)**, echoed Verta's comments.

Suzanne Marria, AIDS Healthcare Foundation, stated that the January advisory committee meeting regarding petitions 557 and 560 was extremely helpful, and her organization is eagerly anticipating the circulation of possible regulatory language by the Division. She said that her organization has offered to help the Division develop this language. She asked the Division to provide an update as to what will happen next in this process, and when possible regulatory language will be circulated.

C. ADJOURNMENT

Mr. Thomas adjourned the public meeting at 10:55 a.m.

Mr. Thomas called for a break at 10:55 a.m. and reconvened the meeting at 11:00 a.m.

II. BUSINESS MEETING

Mr. Thomas called the Business Meeting of the Board to order at 11:00 a.m., May 18, 2017, in the Auditorium of the Harris State Building, Oakland, California.

A. PROPOSED SAFETY ORDERS FOR ADOPTION

1. TITLE 8: **GENERAL INDUSTRY SAFETY ORDERS**
 Chapter 4, Subchapter 7, Article 109
 New Section 5189.1
 Process Safety Management for Petroleum Refineries

Mr. Armstrong 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.

Ms. Stock encouraged the other Board Members to join her in voting “aye” because this regulation could have prevented some of the incidents that have occurred at oil refineries, and the consequences of voting “no” could be catastrophic. She said that this is a critical regulation that needs to move forward and could serve as a model for other states to follow. She also stated that she appreciates the involvement of refinery workers in developing this regulation because when workers participate, it helps to make the regulation stronger.

Ms. Laszcz-Davis stated that she echoes Ms. Stock’s comments, but she is concerned about how this proposal will be implemented because implementation can take on various courses of action no matter how clearly the implementation is explained. She asked if there is any guidance for operators in California so that there is standardization of activity in the implementation of the proposal.

Ms. Smisko asked Ms. Hart when this proposal might become effective if it is adopted by the Board. **Ms. Hart** stated that the adopted proposal will need to be submitted to the Office of Administrative Law (OAL) by July 15, and from there, it could become effective as soon as October 1. She said that the Board staff is waiting on one final document to be signed and returned before the package can be taken to OAL. She said that if it is the Board’s and Division’s desire, paperwork can be filled out and given to OAL requesting that the effective date for the proposal be moved to January 1, 2018, but she is not sure if OAL will approve that. **Ms. Stock** stated that she feels it is important to move forward without moving the effective date to January 1 so that it can become effective as soon as possible.

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-G and I on the consent calendar are ready for consideration, and possible adoption, by the Board. Regarding item H on the consent calendar, he stated that it is not ready for a vote on the question of adoption because a procedural issue was recently raised regarding that item, and the issue needs to be resolved before it will be ready to be brought to a vote.

MOTION

A motion was made by Ms. Quinlan and seconded by Ms. Stock to adopt the consent calendar items A-G and I.

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

III. PUBLIC HEARING

Mr. Thomas called the Public Hearing of the Board to order at 11:20 a.m., May 18, 2017, in the Auditorium of the Harris State Building, Sacramento, California.

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

1. TITLE 8: **GENERAL INDUSTRY SAFETY ORDERS**
New Section 3345
Hotel Housekeeping Musculoskeletal Injury Prevention

Mr. Berg summarized the history and purpose of the proposal, as set out in the Informative Digest Notice, and indicated that the proposal is ready for the Board's consideration and the public's comment.

Cynthia Gomez, Unite Here Local 2, stated that her organization supports the proposal as it is written, in its entirety, with some minor suggested changes that Unite Here provided in its comment letter to the Board. She said that if the proposal is implemented correctly by employers, it will significantly reduce the risk of musculoskeletal injuries among hotel housekeepers. **Hector Azpilcueta, Unite Here Local 483**, echoed these comments. Ms. Gomez stated that this can only be accomplished if the provisions regarding hotel housekeeper participation remain intact. She also said that the following provisions must also remain as written:

- Section (c)(7) regarding procedures for reviewing the MIPP at least annually, and making changes as needed to make it more effective, with the involvement of hotel housekeepers and their union representatives.
- Section (d) regarding training, especially when new equipment or work practices are introduced, as well as training managers and housekeepers on the signs, symptoms, and risk factors commonly associated with musculoskeletal injuries.

Ms. Gomez said that this proposal is long overdue, and she asked the Division to move this proposal forward quickly so that the Board can vote on it by September 2017 so it can become law before May 2018. **Hector Azpilcueta, Unite Here Local 483**, echoed this comment.

The following individuals also stated that they support the proposal as written, in its entirety, with some minor suggested changes that Unite Here provided in its comment letter to the Board:

- **Hector Azpilcueta, Unite Here Local 483**
- **Lizzie Keegan, Unite Here Local 2 San Francisco**
- **Tatia Midwalick, Unite Here Local 2850**
- **Becky Perrine, Unite Here International Union in Oakland**

Hector Azpilcueta, Unite Here Local 483, stated that hotel housekeepers face many risks for injury at work. He said that they have to work at a fast pace doing things, such as vacuuming and moving furniture, which can result in injury. He stated that this proposal requires employers to have an injury control plan that actively involves hotel housekeeper input. He also said that his organization supports the following provisions in the proposal:

- Section (c)(5) requires employers to develop procedures to investigate musculoskeletal injuries, and it requires employers to allow hotel housekeepers and their union representatives to be involved in the investigation. He said that hotel housekeepers know what they were doing when they got injured, how the injury occurred, and what could have prevented it. It is important to involve housekeepers and their union representatives because their input could prevent the injury from happening again.
- Section (c)(6) will help ensure that hazards are corrected in a timely manner by requiring employers to allow hotel housekeepers and their union representatives to be involved in identifying and correcting hazards and requesting the necessary tools. He said that it will require employers to provide the necessary tools, evaluate how well they work, and ensure that they are kept in good working order. **Sandra Rodriguez, Unite Here Local 19 San Jose**, echoed this comment.

Dina Reese, Housekeeper, Unite Here Local 483, stated that she supports this proposal as it is written because hotel housekeepers continue to get injured on the job. She said that many hotel housekeepers are immigrant women who do not speak English, and even if there is translation available, employers do not always listen when non-English speaking housekeepers voice their concerns about workplace hazards. She stated that many hotel housekeepers worry about being retaliated against by their managers for reporting workplace hazards or injuries. She said that this proposal requires employers to have a system in place to communicate with housekeepers that will allow housekeepers to communicate with them regarding workplace hazards and report injuries without fear of retaliation. **Elena Sanchez, Unite Here Local 49**, echoed Ms. Reese's last comment.

Irma Perez, Housekeeper, Unite Here Local 2850, stated that this proposal will help both union and non-union housekeepers to avoid injury. She said that the rights of non-union housekeepers are the ones that are violated the most by employers. She stated that this proposal will require employers to train hotel housekeepers on the cleaning chemicals and tools that they use on the job, and it will require employers to evaluate the efficacy of these items to see if they hurt or help the hotel housekeeper.

Eric Myers, McCracken, Stemerman, and Holstery, stated that among hotel workers, hotel housekeepers suffer the highest number of injuries, many of which are musculoskeletal, and the industry recognizes this problem. He said that this proposal will help to eliminate those injuries if properly implemented. He stated that excessive motions, such as handling linens, lifting mattresses, and walking multiple times around beds to make beds, can cause injury. He said that this extra motion can be reduced through training and an organized process of removing and applying linens, as well as by having housekeepers work in teams to clean rooms. He stated that steps to reduce injury must be consistently implemented and

communicated to housekeepers in order to be effective, hotel housekeepers need to be included in the process of developing those procedures, and this proposal does that. He said that this proposal will save \$28 million annually in worker's compensation costs, as well as save hotel housekeepers the pain and suffering that comes with being injured.

Nicole Marquez, Worksafe, stated that her organization supports the proposal as it is written, in its entirety, with some minor suggested changes in the sections regarding worker participation that are coupled with the ability of an employee to designate an employee representative. She said that these portions of the proposal could be strengthened if unrepresented housekeepers are given the opportunity to designate an employee representative. She stated that this proposal is very much needed because it requires employers to involve hotel housekeepers in designing and conducting worksite evaluations, to train housekeepers on how to identify the causes of musculoskeletal injuries, and to involve housekeepers in identifying and evaluating corrective measures. She said that it also requires employers to establish, and keep up-to-date, programs to prevent musculoskeletal injuries, and to provide training to housekeepers and managers on risk factors, safe practices, and elements of the employer's program to prevent musculoskeletal injuries. She stated that if this proposal is properly implemented by employers, it will reduce the risk of injury among hotel housekeepers. She asked the Division to move the proposal forward as soon as possible so that the Board can vote on it before the end of 2017. **Olga Manrique, Unite Here Local 19 San Jose**, echoed Ms. Marquez's comments.

Carisa Harris-Adamson, University of California San Francisco and University of California Berkeley, stated that her organizations support the proposal in its entirety, and they feel that if it is implemented correctly with hotel housekeeper participation, it will greatly reduce the risk of injury to hotel housekeepers. **Lizzie Keegan, Unite Here Local 2 San Francisco, Tatia Midwalick, Unite Here Local 2850, and Olga Manrique, Unite Here Local 19 San Jose**, echoed this comment. Ms. Harris-Adamson said that the provisions regarding employee involvement need to be kept in the proposal. She stated that her organizations also support the inclusion of forceful whole body or hand exertions and excessive work rates because they are pertinent risk factors that increase the hotel housekeeper's risk for injury. She said that tools should be provided and available to housekeepers at all times, and training on how to use them, as well as maintenance programs to keep them maintained, must be ongoing to ensure that their use is feasible and effective. She stated that her organizations also support using examples of specific recommended tools, including those mentioned in Cal/OSHA publications, such as:

- Adjustable long-handled cleaning tools
- Mops
- Light weight vacuums
- Light weight or motorized carts
- Mattress lift tools

These tools will effectively reduce the housekeeper's physical workload. This proposal will help hotels to save money, and there is ongoing support available to hotels so that they can effectively implement this standard. She asked the Division to move this proposal forward quickly so that the Board can vote on it before the end of 2017.

Sam Montross, Cadence Keen Innovations, stated that she invented a mattress lift tool that has helped to eliminate workers compensation claims by preventing injuries when lifting mattresses to make beds. She said that it is very difficult to lift the corner of a mattress, hold it up, and tuck in blankets and sheets with the other hand. She also stated that some housekeepers have experienced numbness in their fingers from smoothing out blankets, while sharp objects underneath the mattress have injured others. She said that hotel housekeepers have used the tool to do these tasks, and it has helped them to avoid injury. She stated that it is also important that hotels train their housekeepers on how to use tools like this so that they know how to use it properly.

Lizzie Keegan, Unite Here Local 2 San Francisco, stated that this proposal is long overdue. She said that it is important to keep provisions in the proposal that allow hotel housekeepers and their employee representatives to be involved. She stated that musculoskeletal injury prevention programs are not common in the hotel housekeeping industry, training is not regularly provided, and if it is provided, it is not always effective. She said that her organization feels that Section (d)(2)(D) will go a long way in preventing injuries to housekeepers and will help to keep employer costs low, but that requires the workforce to be trained, including supervisors.

Mary Banks, Hotel Housekeeper, Unite Here Local 2 San Francisco, stated that hotel housekeepers are experts at their jobs, and they know what tools and work practices work best for them. She said that when they share their ideas with management, management often ignores them. She stated that she supports the provisions in the proposal that require management to involve hotel housekeepers in performing worksite evaluations, identifying and evaluating corrective measures to see if they work or not, and developing an MSD prevention plan. She also said that when an injury occurs, it is important for management to get input from the injured housekeeper as to how the injury occurred and how it could've been prevented. She asked the Division to move the proposal forward as soon as possible so that the Board can vote on it by September 2017 and it can become law by April 2018.

Yolanda Barron, Hotel Housekeeper, Hyatt House Emeryville, stated that this proposal will help protect hotel housekeepers from injury. She said that it will require supervisors to be trained on how to use cleaning chemicals and tools, and it will require them to train housekeepers on how to use them as well. She stated that many hotels are remodeling and putting in new items, such as showers with glass doors, that create more work for the hotel housekeeper, but they are not given enough time to do the work. She also stated that some injured housekeepers are allowed to work with restrictions on what they can do, but it is hard to get the management to follow those restrictions.

Tatia Midwalick, Unite Here Local 2850, stated that hotel housekeepers know their jobs well and can provide valuable input on how to make their jobs safer, but employers don't always listen to them. **Olga Manrique, Unite Here Local 19 San Jose**, echoed this comment. Ms. Midwalick said that it is very important that the provisions in the proposal regarding hotel housekeeper and union or employee representative participation be kept in place. She stated that her organization supports Section 4 regarding worksite evaluations and allowing hotel housekeepers and their representatives to be involved in them, as well as requiring management to make the results available to housekeepers by posting them. She said that her organization also supports keeping the provision regarding forceful whole body or hand exertion in the list of risk factors to be considered during a worksite evaluation because

these are part of doing daily housekeeping tasks. She also stated that her organization is pleased to see that excessive work rates are also included in the list of risk factors because room quotas play a key role in whether or not the work can be done safely. She asked the Division to move the proposal forward so that the Board can vote on it by September 2017 and it can become law by April 2018.

Candy Hu, Hotel Housekeeper, Unite Here Local 2 San Francisco, stated that hotel housekeepers come from all over the world and speak many languages other than English. She said that hotel housekeepers who speak languages other than English feel like employers are not listening to their concerns or suggestions because they don't speak English, even if they can still communicate with them in some form. She stated that these housekeepers have valuable input to give to employers regarding their concerns about workplace safety and how to make the job safer, and this input matters. She said that her organization supports the language in the proposal that requires employers to have a system of communication with hotel housekeepers that is understandable for all housekeepers so that they can communicate effectively with the hotel management about workplace safety and health issues. She stated that this proposal will allow hotel housekeepers to tell employers about workplace hazards that they notice, as well as when they are injured on the job, without fear of retaliation or reprisal from the employer. **Elizabeth Guzman, Unite Here Local 19 San Jose**, echoed Ms. Hu's comments.

Jeremy Blasi, Unite Here Local 11, stated that this proposal is a clear, well-conceived, and reasonable approach to protecting housekeepers from injury, and it must remain intact as it is. He said that from 2010 to 2014, the number of housekeepers injured on the job rose from 3,278 to 4,989, with more than 50% of the injuries being MSD injuries. He stated that these are substantial underestimates because 50-66% of injured hotel housekeepers do not report it when they are injured on the job. He said that his organization supports all language in the proposal that requires hotel housekeeper involvement, especially in Section (c)(4) where it requires hotel housekeeper and employee representative involvement in developing an MSD prevention plan. **Sandra Rodriguez, Unite Here Local 19 San Jose**, echoed this comment. Mr. Blasi also stated that his organization supports the thorough description of the essential elements of a worksite evaluation, including injury risk factors. He said that the fast pace of cleaning rooms in order to meet demanding room quotas can contribute significantly to causing injuries because it makes using safe lifting, reaching, and pushing techniques impossible. He also stated that it is very important to keep the provisions regarding an effective work rate and inadequate recovery time between housekeeping tasks because science has demonstrated there is a need for it. He said that his organization is glad to see that the proposal includes a clear description of the procedures involved in an injury investigation, and that they require employers to get input from the injured housekeeper as to how the injury occurred and how it could have been prevented. He asked the Division to move the proposal forward so that the Board can vote on it by September 2017 and it can become law by 2018. **Sandra Rodriguez, Unite Here Local 19**, echoed Mr. Blasi's last two comments.

Mr. Thomas called for a break at 12:35 p.m. and reconvened the meeting at 12:45 p.m.

Marisela Ramos, Hotel Housekeeper, Unite Here Local 19 San Jose, stated that her organization supports Section (d) regarding training because housekeepers do not receive sufficient training regarding the tools and work practices that they use, and they are not given time to practice how to do these safe work practices or time to practice using the tools that

they are given. Section (d) requires that hotel housekeepers be given sufficient training on how to use new tools and how to do new work practices. She said that this is a good thing because things in hotel rooms are changing all the time. She stated that Section (d) also requires hotel housekeepers and supervisors to be trained regarding the risk factors for musculoskeletal injuries and their symptoms. This will get injured housekeepers the help that they need early and will allow the hotel to make necessary changes to prevent injury.

Mitch Seaman, CA Labor Federation, stated that this proposal will require a minimal investment by employers and will help prevent injuries that could result in costly worker's compensation claims. He said that the injuries that hotel housekeepers suffer on the job may be minimal in the beginning, but they can progress and get worse to the point that housekeepers are no longer able to work and must file a worker's compensation claim. He stated that the worker's compensation claim process is very difficult, and 2/3 of claims involving a cumulative trauma component are denied by employers. He said that these claims require the employee to prove that they were injured, and MSD injuries are difficult to prove. He also stated that while some hotel housekeepers continue working while they are injured, others are forced to quit or find another line of work. He stated that it is better to prevent these injuries because they can affect workers for the rest of their lives.

Pamela Vossen, Unite Here, stated that this proposal will make a significant difference in reducing injuries on the job for hotel housekeepers. She said that language in the proposal should remain intact and implemented as written. She stated that it is important for housekeepers to be involved in the process of designing and conducting worksite evaluations, as well as identifying and evaluating corrective measures, because they know their jobs better than anyone. She also said that it is important to provide training to housekeepers and supervisors, especially on how to identify the causes of MSD injuries. She stated that her organization is pleased to see that excessive work rates are included in the list of risk factors that can cause injury. She also said that her organization provided a letter to the Board with some suggested changes, including:

- The term "appropriate" regarding the use of tools should be changed to "correct".
- Further clarification is needed in the sections of the proposal where hotel housekeeper involvement is required so that it is clear that all housekeepers are included, not just those with union representatives. She suggested adding the language: "where applicable, union representative".
- The terms "house cleaning" and "house cleaning practices" are not listed in the list of definitions on page 1 of the proposal. These terms should be removed and replaced with language that demonstrates the same intent.
- A deadline of 14 days should be implemented by which hotel housekeepers are notified of the results of the worksite evaluation.
- Worksite evaluations should be reviewed and updated within 30 days whenever new processes or practices are implemented or introduced, or within 30 days of when an employer is made aware of a new or previously-recognized hazard. This is needed to help facilitate enforcement of the standard.

Mark Sale, B3 Plastics, stated that this proposal is needed to protect hotel housekeepers from MSD injuries. He said that it is important that hotel housekeepers have the right tools available to them to do their jobs safely, and a mandate like this is needed because guidelines are not always enough. He also stated that this proposal will protect all housekeepers, whether or not they are represented by a union or other group.

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

- **Martha Campos, Unite Here Local 2 San Francisco**
- **Ana, Hotel Housekeeper, Hyatt House Emeryville**
- **Elsa Portillo, Hotel Housekeeper, Hyatt House Emeryville**
- **Chuck, Hotel Housekeeper, Unite Here Local 2 San Francisco**
- **Gregoria Rekealado, Hotel Housekeeper, Unite Here Local 19 San Jose**
- **Jim Howe, Safety Solutions**
- **Maria, Unite Here Local 49 Sacramento**
- **Maria Garcia, Hotel Housekeeper, Unite Here Local 49 Sacramento**
- **Fabiola Benavides, Hotel Housekeeper, Unite Here Local 2 San Francisco**
- **Michael Musser, CA Teachers Association**

Jesse Cripps, Gibson, Dunn and Crutcher, representing the CA Hotel & Lodging Association, stated that this issue was raised before in May of 2012, and at that time, the Board rejected that proposal because the Board felt that it would be a bad precedent to create a separate carve-out proposal for hotel housekeeping, and that the types of injuries that this proposal would address are already addressed in existing standards. He said that his organization feels that this is still the case today. He stated that this proposal will create a slippery slope for a very narrow class of people (only hotel housekeepers) and will result in future proposals for all manners of workplaces and jobs, such as nursing homes, assisted living facilities, and hospitals. He said that this will create a patchwork of job- and workplace-specific regulations. He stated that a 2013 study by Dr. Steven Wiker, which is the only study that used NIOSH protocols instead of anecdotes, indicates that a carve-out regulation for hotel housekeepers is not necessary.

Mr. Cripps stated that existing regulations already address injuries such as MSD injuries for all jobs including hotel housekeeping, and this proposal creates a fundamental conflict with these existing rules. He said that Section 3203 already requires employers to conduct an investigation into injuries that occur on the job, and Section 5110 already provides a procedure for evaluating and preventing musculoskeletal injuries. He stated that when it comes to determining what tools housekeepers should use, the methods of communication with housekeepers, and work rates, those things should be determined through the collective bargaining process. He said that while Section 5110 requires examination and diagnosis by a licensed physician, this proposal does not. He also stated that this proposal applies a one-size-fits-all approach of tools and work practices that may not work for every hotel housekeeper, and they should be subject to collective bargaining. He said that this proposal will mandate that employees use certain tools and work practices, and it could result in housekeepers being disciplined if they don't use them, even if those tools and work practices don't work for them. He stated that the current standard gives employees flexibility to use the tools and work practices that work best for them.

Mr. Cripps stated that CH&LA performed an economic analysis of this proposal and submitted it to the Division, and the costs associated with this proposal are alarming. He said that costs listed in the Initial Statement of Reasons are in direct conflict to this analysis, and the ISOR does not take certain costs into account. He stated that his organization believes that more robust enforcement of existing rules, along with renewed efforts to develop industry-specific guidelines, is a better way to address this issue. He asked the Board to extend the comment period for this proposal so that his organization can further address in writing the comments that were made today.

John Robinson, CA Attractions and Parks Association, stated that his organization supports Mr. Cripps's testimony today and the written comments that were submitted by the CA Hotel & Lodging Association. He said having a carve-out proposal that only applies to hotel housekeepers is concerning. He stated that employers' injury and illness prevention plans (IIPP's), as well as other existing standards, already address many of these issues. He asked the Board to take these things into consideration when deciding whether or not to adopt this proposal.

Marti Fisher, CA Chamber of Commerce, stated that this proposal is duplicative, redundant, and waters down the application of the IIPP to all workplace hazards. She said that the proposal is looking for problems instead of analyzing job tasks and needs to more appropriately mirror the IIPP. She stated that most of the injuries that the Board has heard about from hotel housekeepers throughout this process occurred because employers were violating existing regulations and worker's compensation laws, and retaliation from employers is not allowed under the existing law. She said that this proposal does not change anything and will not make working conditions any better for employees. She stated that if this proposal moves forward, her organization would like to see the following changes made:

- Section (c)(4)(D)(3) on page 2 of the proposal regarding conducting annual worksite evaluations is completely unnecessary because there are other similar requirements in the IIPP and the proposal itself, including Sections (c)(4)(D)(1), (c)(4)(D)(2), and (c)(7). Requiring this many reviews is excessive, and listing it twice in the proposal is not necessary.
- In Section (c)(4)(E), the list of injuries and types of movements assumes that there is a relationship between these activities and injury. It also only lists the risks that employers are supposed to look for, not the job tasks, which is opposite of how worksite evaluations should work. To address this, the Division could do a non-mandatory appendix to advise employers and employees of this information if necessary.
- On page 6, in the section pertaining to records being made available to employees, the term "designated representative" should be changed to "union representative".

Ms. Stock, Board Member, stated that the stories that hotel housekeepers have told the Board over the years demonstrate that the current regulations are not working to protect them from injury. She said that this proposal is not one-size-fits-all and does not tell

employers what specific solutions that they must use in each situation. Instead, it revolves around conducting worksite evaluations, understanding what the hazards are, and implementing the necessary changes to correct them. It only tells employers that they must address these situations. She also stated that many regulations are industry-specific and help to apply general principles to specific industries. She said that some standards, such as the ergonomics standard, are very general and not preventive. She stated that this standard will require employers to take action and make changes before injuries occur. She said that she is pleased to see that the proposal has many requirements for employee involvement because that is critical, especially in ergonomics, because employees know their jobs best and what works for them to prevent injury.

C. OTHER

1. Division Update on Rulemakings and Advisory Committees

Mr. Berg stated that the Division is now posting its updates on its website and will update the information periodically. In addition to the printed copy of the update that is included in the Board packet, Mr. Berg provided the following information:

Antineoplastic Drugs: The Division has completed the advisory committee process and is working on the rulemaking documents and economic impact analysis.

First Aid Kits: The rulemaking package has been completed and will be submitted to the Board staff for review shortly.

Indoor Heat: Another advisory committee has been scheduled for May 25 in southern California. A draft proposal is posted on the Division's website.

Lead in Construction and General Industry: The Division is working on the rulemaking documents and the economic impact analysis with the assistance of some outside resources.

Medical Marijuana: The Division is working on a report to give to the Board at next month's meeting.

Recreational Marijuana: The Division is working on setting up an advisory committee, as required per Labor Code section 147.6.

Permissible Exposure Limits: The Division is continuing to hold quarterly meetings with the HEAC to discuss PEL's for hazardous substances.

Sexually Transmitted Infections: The Division is working on providing educational information on its website regarding employer/employee relationships in the adult film industry. The Division is also exploring draft regulatory language and areas of interest to stakeholders.

Ms. Smisko asked Mr. Berg about the aim of the indoor heat illness proposal. She said that she had heard that it was going to focus on specific warehouses instead of all warehouses in California. **Mr. Berg** stated that the proposal will pertain to all indoor workplaces where the

temperature reaches 85°F or higher.

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 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. This bill has advanced in the Assembly and is close to going to the full Assembly for a vote.
- AB 978 pertains to employees' right to access their workplace's injury and illness prevention program upon request. This bill has advanced in the Assembly and is close to going to the full Assembly for a vote.
- SB 772 exempts any occupational safety and health standard and order from the standardized regulatory impact analysis requirement of the Administrative Procedures Act that has the \$50 million threshold for extensive economic analysis. This bill will be heard in the Senate Appropriations Committee.

3. Executive Officer's Report

Ms. Hart stated that the Board staff has been conducting interviews for the vacant Senior Safety Engineer position in the office and hopes to hire someone by the end of the month.

4. Future Agenda Items

The Division will give a report to the Board on medical marijuana at next month's meeting.

D. ADJOURNMENT

Mr. Thomas adjourned the Business Meeting at 2:16 p.m.