# Changes to PSM Regulation (8 CCR 5189.1) Advisory Committee Meeting Transcript January 9, 2025 5:07PM

# **Rachel Brill** started transcription

# **Rachel Brill** We anticipate posting a transcript for this meeting after we are finished. So in the interest of creating a transcript, I would ask that people not try to hide your names or go anonymous cause that's going to make it harder for us to make sure we have a clean record of who said what. If you have something that you would like to share with us, we welcome your comments. We would ask that you limit those to 3 to 5 minutes. If you want to speak longer than that, or if you have something to say that is longer than that, please feel free to send the comment to us in writing. If you are not speaking, please put yourself on mute. And if you want to speak, there is a like a little hand icon up at the top and you should click on that, and we will try to call on you in order. I'm going to ask my colleague Miss Ocadiz, to share her screen right now so that we can all be looking at the text and the proposed changes together. She's going to be writing your taking notes on your comments so that we have them for our records when we are putting together the rulemaking package to send to the Standards Board. And I think that might be all we have to say. I'm going to try to keep track of who has their hands up and I'm also going to have a timer going. I'll let you know when you get close to 5 minutes, but otherwise please feel free to jump right in.

# **Carl Paganelli** And Rachel, do we have a deadline for submission of written comments? **Rachel Brill** Yes, thank you. If you want to submit further comments after the Advisory committee meeting, please do so in writing no later than January 23rd and the e-mail address for that I will put that in the chat for this meeting because it's a little bit cumbersome. It's anyway, it's the e-mail address from which the invitation was sent out. But I will. I'll put that in the in the chat real quick. Yeah, so whoever wants to speak first, just raise your hand. I see Michael Dossey. Please go ahead. **Michael Dossey** Hi. So, in the first page that you're showing here is the intent of this reformatting to be more general to include renewable fuels? If so, you still list petroleum refineries everywhere. **Carl Paganelli** This is not the rule making for renewable fuels. We have a separate rule making project going on. **Michael Dossey** So then. **Carl Paganelli** For that, that's in response to a bill which I can't remember 3258, I believe. And then a petition 601 before the Standards Board from. USW. So that's entirely separate rule making. It's on its own path. It will be happening quickly also **Michael Dossey** Thanks girl. Thanks. **Rachel Brill** OK, Michael Smith. **Michael J. Smith** Good. Good morning. I'm Mike Smith. I'm the chair of national oil bargaining for the United Steel workers. I have a question, and I guess a comment real quick before we get started. Just can before we kick off can the state go through the I guess process in which this is going to take place. Is this the only advisory committee meeting? Is the plan gonna be? Can there kind of can you go do an overview kind of what the process is going to be looking like? And so that would be my question and the reasoning for that question is, as the steel workers we were, we were actually intervenors in the case in the lawsuit we've had, we've made multiple requests for information. We've been denied that by the state. Ongoing litigation, we've now become aware of the changes obviously since the settlement, but we still are awaiting a lot of that information to understand the intent. Rationale and everything behind all these changes. So it's really hard for us to be able to participate in this process without having all the information that we feel we need to be able to do that and be productive as the representative of the workers. Inside the facilities in which we're trying to protect and so us not having a voice throughout up into the process up until now and then now not having all of what we think is the required information to be able to productively participate is kind of put us in.

# A. At a disadvantage is from our process. Our I guess in in contacting our attorney, we found out that we're awaiting information, all the information we requested. I guess it's gonna take some time, so I'm not sure when that's gonna be provided. I don't think that that's this forum, but that's gonna help us kind of understand your guys’ process and timeline. So, I'll leave it at that for now. **Rachel Brill** So I will the part that I can answer is that we don't currently have another plan to hold an advisory committee. After this. The timeline for this rulemaking is somewhat truncated and we are we will have a public hearing though at which anyone who wants to provide further. Comment is more than welcome to do so. **Carl Paganelli** So we are getting ready to submit this post, amendments to the Occupational Safety and Health Standards Board, Cal OSHA, which is where I work, and Lauren and Rachel work. We do not adopt these rules ourselves, our sibling agency, the Occupational Safety and Health Standards Board is the one. That actually is authorized by law to adopt amendments or do regulations. They will follow the normal formal rule making process. They have it laid out on their website. I can put a link to the process for you, so this is called sometimes called informal rule making and when they the Standards Board begins formal rulemaking, there are a number of opportunities for people to comment. There'll be a public hearing, and they will request to have a 45 day comment period. So, anybody who's interested. Submit written comments, but there's also time for oral comments, so this is this is Kalush's only planned advisory meeting on these amendments.

# However, there will be lots of opportunity during the year long process that it takes to adopt A rule or adopt amendments at the Standards Board. So, is that clear that that this is like step one? And then there's? Lots of time. It's built into the entire process where people can comment. And make suggestions so. **Michael J. Smith** That that's helpful understanding. I Yep. I mean, we were involved back in 2013 through the governor's task force. We, our Union, was involved and we had obviously the overhaul of PSM was a lot bigger than the amendments being made. So it was years and years and years of advisory committee before we even got to the Standards Board process. So, but this just we're concerned initially as talking with our locals in both northern Southern and California understanding ours.

# Do you think to be able to have productive advisory committee meetings we have to have all the information. We're not really sure. We don't believe we have that at this time. We understand the dialogue. We're here to participate. Try to put together our point. But once we get to the Standards Board, my understanding is then will then, if we don't have a productive, I'll guess, informal, informal regulatory process, then what we end up with is either a yes or no there and then back at the drawing table and we'd like to have a good dialogue. Up to the Standards Board, but I just wanted. That's why I was asking for the overall big picture and do appreciate to understand the Standards Board process and we were aware back in the 1718 time frame of when that was done that. So, thank you. **Rachel Brill** I OK, I see Norman Rogers. Hi, Mr. Rogers. Go ahead, go right ahead. **Norman Rogers USW Local 675** Good morning. Excuse me. As a kind of a follow up to what Mike just mentioned, was anyone that works in a refinery involved in this process in reaching the settlement that we have? **Carl Paganelli** Was in litigation, so. The people who worked on it were people who worked for us so. And refineries. **Norman Rogers USW Local 675** OK. I guess. All right. Let me gather my thoughts up. I will have another question. I just gotta figure out how best to word it. Thank you. OK. **Rachel Brill** Nick Plurkowski **Nick** **Plurkowski USW Local 5** Thank you. I'm wondering if I mean the discussion right now. Are we proposing changes or? Are we just talking about, you know how this reads, I guess? **Rachel Brill** We are very interested in any thoughts that you might have to share, including if they are proposed changes to the changes that the changes to the changes that we are already contemplated. So honestly, either of those would be fine. **Nick Plurkowski USW Local 5** Thank you. **Rachel Brill** OK, if any, if there's no one else who has anything sort of overarching to say, maybe we can start with the first changed term that is up on the screen in front of us, which is revisions to the term employee representative. Does anyone? Would anyone like to comment on that? **Carl Paganelli** Lauren, could you make, or could you blow this up a little bit? **Rachel Brill** Yeah. **Carl Paganelli** Thanks. **Rachel Brill** Thank you. **Carl Paganelli** Thank you. **Rachel Brill** OK, Mr. Plurkowski. **Nick Plurkowski USW Local 5** Yeah, I'm. I'm just wondering what was problematic with the original? Definition. Is there examples of you know where this went haywire or? Why the? Why the need for the change, I guess. **Carl Paganelli** This change clarifies what the language is there, so that's all I can really say about that. All the changes are intended to make things clearer and more workable for everybody, for the employees, the employers and for us. **Rachel Brill** Mr. Smith. **Michael J. Smith** Yeah. So and so it helped clarify. So, there's no changes to the actual. Employee representative. There's no changes at all structurally to the process. If it's just clarifying. And also, in the answer you said it would help streamline the employees. Did you did? Was that were the employees consulted in in in complaining about a position where they were? At least not did this help streamline them. What? Where did you get that information? As far as that? **Carl Paganelli** I don't really want to go into the process of the litigation. I'm just. I'd like to talk about what we have here and what you think about it. If it's have you object to the wording. If you have a better idea, if you're fine with it. That's what we like to hear from you. **Michael J. Smith** And I'll just, I'll go along the lines with Nick's. Nick's question is that we did as employee representative. We didn't. We didn't see any issues with that. We didn't see any issues in the plant level with that and that's why we're trying to ask, I guess then maybe the from a legal position, if this is just clarifying and this doesn't change any aspect of our the representative's role, process selection determination, then we'll you. Know. Then we'll do that. But we're also trying to gather some of that information. Information request outside of this so. **Rachel Brill** OK. Thank you. Mr. Rogers. **Norman Rogers USW Local 675** Yes. So, the question I have has to do with the striking of the language of the local union, the International Union. The term employee representative. Yeah. Thank you for highlighting it the. Problem with that is we have a whole safety department that Tony Mizaki center back in Pittsburgh and as well as the USW Health and Safety Department. And we have experts on different pieces of the operation of a refinery that our local membership might not have. And this would seem to preclude us from bringing in those subject matter experts when needed. Particularly in the case of an incident investigation, now the company, on the other hand, can bring people in from all over the place.

# For an incident investigation where before this suggested change, we could have access to outside help, and this seems to undo that. So this seems to be more this moves beyond the realm of clarification into impinging on something we had already settled. **Rachel Brill** OK, I'm gonna let Lauren finish taking notes on that. Thank you for your comment. It's we appreciate that. Mr. Plurkowski. **Nick Plurkowski USW Local 5** Yeah. The last line that's underlined nothing in this subsection shall be construed to supersede an employee representative selection process and a collective bargaining agreement.

# I see that as hugely problematic in the fact that it could change. You know everything about the definition here. We could bargain different definitions that didn't make any sense to employees, the employer or Cal OSHA.

# As far as selection criteria, it might be too hard to follow, so I don't see. Having kind of a wild card sentence like that in a definition as critical as this one being helpful to anybody. That bargaining language would supersede the Reg. And so that's hugely problematic for sites that might be in kind of a bind during bargaining. So, that makes sense. **Rachel Brill** So we yeah, no, absolutely. Would your suggestion be to just not include that just so we have all of our I just wanna make sure we're capturing everything you're saying. And so you would you be suggesting not to include that last sentence? **Nick Plurkowski USW Local 5** Yeah. I think The Reg needs to be a self-sufficient regulation, not something that can be affected by bargaining basically. **Rachel Brill** OK. **Nick Plurkowski USW Local 5** Thank you. **Rachel Brill** That's helpful. Thank you. Anybody else? I don't wanna rush. Moving on, but if anyone else has anything they'd like to provide input on for employee representatives, can you raise your hand? And otherwise, I think we'll move on to the next change. OK. Oh, Mr. Plurkowski, sorry. **Nick Plurkowski USW Local 5** Sorry, just one last comment, the designated by these parties is struck. I get that it's selected by a union at the top. Is there any clarification there? I mean, are you moving it from one spot to another or is that a different, you know, meaning? **Rachel Brill** I'm sorry. Just to be clear, you're asking if. When we strike employee designated representative, if the first sentence that was added is supposed to replace, that is that what you're asking? **Nick Plurkowski USW Local 5** And the latter designated by these parties. **Carl Paganelli** With the rewording, it didn't seem necessary anymore, just a. **Rachel Brill** OK. Mr. Rogers. **Norman Rogers USW Local 675** Yeah, this is to follow up with the next previous point about nothing in this subsection shall be construed to supersede an employee representative selection in a collective bargaining agreement. That any of this is tied to a collective bargaining agreement undermines what we ultimately would like to see out of the regulations, which is consistency. Adding that language in that it's tied to a collective bargaining agreement. This regulation could change every two 3-4 years and. That that doesn't work when you're talking about the health and safety of a refinery and the impacts it can have on the community. **Carl Paganelli** When you say could change every two or three years, I just have follow-up question. I didn't mean to interrupt if you were still talking. Sorry. **Norman Rogers USW Local 675** Mm hmm. **Carl Paganelli** You mean when the collective bargaining agreement, if that changes? That that's what you meant. OK, just. **Norman Rogers USW Local 675** It puts it up to the whatever might happen at the at the table at the negotiating table, and that could change wildly, particularly now that it would be known by the companies that we could drill down on this as a negotiating point and hold it hostage for something else we want to get and I don't know that we want our safety regulations entangled in that way. **Rachel Brill** OK. Thank you, Mr. Rogers. Mr. Plurkowski. **Nick Plurkowski USW Local 5** Yeah, the addition of qualified for the task. Oh, OK. So that just got moved, I guess. Is that? A. Guess who determines the that they're qualified for the task. That depends on the subsection that we'll be referring to later for who gets to be picked. Is that correct? **Carl Paganelli** I believe I believe so. So top of my head, I can't say. I think it would depend on the context. **Nick Plurkowski USW Local 5** I just don't want it to be. Like the employer's definition of qualified for, the task is their criteria in The Reg that would. Define what that is you know. Like a like a MOC, you gotta be a, you know, an operator qualified operator in the unit that you're talking about or whatever. **Carl Paganelli** Well, we've had qualified for the task in here, for instance, for the whole time. So, it's down below so and it hasn't seemed to cause problems. **Nick Plurkowski USW Local 5** So same nothing. Nothing changed as far as that. Thank you. **Rachel Brill** OK. Anybody else have thoughts they wanna share on the term employee representative? Well, specifically the changes to those that term. Right. Lauren, can you Scroll down to highly hazardous material please? Alright, so this is the next change. We're just gonna go through the changes as they come in the regulation. So this is the next one. And if anyone has thoughts, they want to share about this, please go ahead and raise your hand. Mr. Rogers. **Norman Rogers USW Local 675** Not fully sure of if I ask the question, why are we able to ask that question here or just deal with the language as it is? **Rachel Brill** I think we'd prefer to deal with the language as it is. If you don't mind. Because I don't. You're gonna be satisfied by the answer, which is just that it came out of the litigation. **Norman Rogers USW Local 675** Well, then it made it into print as a change. There's already A level of dissatisfaction, so I would say that the. **Rachel Brill** Sure, understood. **Norman Rogers USW Local 675** I'll put it this way. In November of 2022, we hit 8 billion people on the planet. So we have people living everywhere closer to refineries than they've ever been before in higher numbers than they've ever been before. And So what? It might have made sense years ago is like, oh yeah, we got 10,000 lbs. of something and there's an issue not going to be a big deal, but that's not how we operate. That's not where we operate anymore. And so, to move backwards as far as the level of a of a product on site, the impacts it doesn't take as much to be an impact and impinge on the surrounding community as it did whenever 25507 was originally drafted and so. The recommendation would be to go back to what the original language was for highly hazardous material. **Rachel Brill** Hey. Thank you. Mr. Plurkowski. Nope, I'm Mr. Mr. Smith. Go right ahead. **Michael J. Smith** Thank you. Thank you. I won't ask why I'm trying to can you? Can the state provide? Maybe just a couple of examples of items that would be covered currently that won't be covered if this language were to be agreed to. Can you give us some examples of what this would eliminate from being covered under the rig? **Carl Paganelli** It would be in the unlikely event that there's less than the threshold quantities listed in. Section of the Health and Safety Code, which is the Cali PA regs that the refineries already follow. So. **Michael J. Smith** And currently the when this when 5189.1 was created it get rid of those thresholds. If I remember correctly right, there was no threshold requirement of highly hazardous materials. **Carl Paganelli** The original language was simply the first sentence. **Michael J. Smith** Yeah, and that that came from. Yeah. And that came from Albion just as a comment that came from a lot of instances and a lot of not only disasters within the state, but West TX back with the just the unknowns of all the different quantities and if you have a bunch of smaller quantities of as hazardous materials all put together in a similar place you could have.Major things so that, you know, remembering back, I don't have all my notes from the five years leading up to the discussion on hazardous material, but that was our position, whereas understanding, understanding and highly hazardous materials excluding one could.Open yourself up or open up the rig. Not to protect the workers as much as it possibly could, but that's all. **Rachel Brill** Thank you. Mr. Plurkowski. **Nick Plurkowski USW Local 5** Yeah, I disagree with the change. It doesn't matter how much acid you get in your face for it to be a huge problem. So, you know, depending on the threshold and how we're going to. You know, mitigate hazards and stuff it. It just feels like we're like norm and Mike has pointed out that that we're just we're going backwards. You know way into the past where we've learned our lessons and basically our members and our neighborhoods and the environment deserve the attention that the original language provided. Thank you. **Rachel Brill** Thank you. Mr. Rogers. **Norman Rogers USW Local 675** Yeah, I would just add with this one in particular that we already know that we're dealing with something that's toxic reactive. It's a flammable liquid. In the aftermath of an event, should this language stand? There's an event and it turned out it was just under the threshold amount. I mean, who's going to bear the culpability for that, that you had something in place, you undid it and there was an event, there was an episode, and it comes to light. Oh well, originally this would have been covered under the rag and decisions were made to undo that. Not fully sure if that's a comment or not, but that's my statement on that piece. **Rachel Brill** I think that's a comment. That's fine. Thank you. Mr. Dossey. **Michael Dossey** Is this definition going to be used for? Like an overall you don't need to be in 5189.1 threshold definition. Or is this just for anything associated with the use of a highly hazardous material in at the facility. **Carl Paganelli** It is. It ties into highly hazardous material. **Michael Dossey** And so limiting to just above the threshold quantity, I would have to agree with some of the other commenters that it's putting. Limitation on the usefulness of this regulation B just for large releases. **Carl Paganelli** Thank you. **Rachel Brill** Thank you. Hold on a second. I see we have two hands raised. Mr. Rogers and then Mr. Plurkowski. And then I have. Alvin Dong from LA Fire. So go ahead, Mr. Rogers. **Norman Rogers USW Local 675** Just a quick question and that's what does this fix? **Carl Paganelli** Definition and an exact amount. **Rachel Brill** Mr. Plurkowski. **Nick Plurkowski USW Local 5** Yeah. I just want to point out that. In a, the scope and purpose, this section contains requirements for petroleum refineries to reduce the risk of major incidents and eliminate or minimize process safety hazards to which employees may be exposed, and I feel like if we are. Cutting out anything under a threshold that now we have not minimized the same process safety hazards which are under the thresholds to which employees may be exposed. So, I believe this goes against the whole scope and purpose of the entire Reg. **Carl Paganelli** If you have alternatives, we would be happy to hear it. **Nick Plurkowski USW Local 5** I would just offer the original definition. **Rachel Brill** OK. Thank you, Mr. Dong. **Alvin Dong, LAFD** So the changes are to allow a bottom line threshold quantity and originally the threshold quantity was. If you have a highly hazardous material and now it appears that. The minimum quantity would be as low as 1 LB for certain materials in Title 19 and as a general rule, 55 gallons of liquid, 500 lbs. of solid or 200 lbs. of gas. That would be what would be covered under health and safety Code 25507 with certain exemptions. **Carl Paganelli** Those some of the quantities are quite low, some aren't. **Rachel Brill** K. It Mr. Dong, did you have anything else you wanted to say? Or can I lower your hand for you? Thank you. OK, thank you. **Alvin Dong, LAFD** You can lower the hand. Don't know how to lower the hand. **Rachel Brill** Yeah, you know what? You just click on where it says raise again. List that usually works for me. I hope I'm not giving bad advice, Mr. Trombettas. **Alvin Dong, LAFD** Umm. **Clyde J Trombettas** Just negotiated. **Carl Paganelli** Mr. Trumpettes, you're breaking up. It's hard to hear him. **Clyde J Trombettas** I'm sorry, was. This used to be this definition used to replace Appendix A that was in 5189. **Carl Paganelli** This definition is more comprehensive than the one that's in 5189.105189 the appendix A. **Clyde J Trombettas** OK. I just shared the concerns that Mike Dose had brought up. **Rachel Brill** Thank you. Is there anyone else who wants to comment on these proposed changes? OK, I'm gonna keep us moving and the next section with changes in it. It's under major change. And if anyone has comments on this, please feel free to raise your hand and we will keep moving. Mr. Plurkowski. **Nick Plurkowski USW Local 5** Yeah. So the, I mean the same question. What problem is this fixing? You know, introduction of makes it seem like it's the first time that this new process equipment has shown up. You know, inside the refinery compared to the old definition of, you know, there's a new process equipment showing up, you know in the unit compared to what the unit looked like before. So once a piece of equipment comes into the refinery. Now it's good to just be put anywhere. Now I'm reading this, am I incorrect? **Carl Paganelli** This was intended to clarify what was already there, just to make sure that the words introduction of included the things that followed. **Nick Plurkowski USW Local 5** Is that is that? Refinery wide or is that, you know, into a specific system? So if I have twin systems. And let's say one has the new pump. We don't have to do a full review. It's not going to be considered a major change to do the same new pump in the other twin system, if that makes sense. **Carl Paganelli** I'm having trouble because I don't really wanna answer a hypothetical question, but this is intended to just make everything what we already had clearer so that it there's no less ambiguity in what in the from the original language to this so. **Rachel Brill** OK. Anything else, Mr. Plurkowski? Or sorry. **Nick Plurkowski USW Local 5** Well, I'm sorry, are we doing the whole this whole 123 all at 4:00 and after that? Sorry. **Rachel Brill** Please feel free to offer comments on any part of this definition that has changed. **Nick Plurkowski USW Local 5** OK. Thank you. **Rachel Brill** Yeah. So, either the inclusion of more repetitions of the words, introduction of or the changes to subsection 4 and then the note after that, any of that is fair game. Mr. Rogers. **Norman Rogers USW Local 675** Yeah. Was there a guideline being used as far as language change from getting rid of introduction and settling for any alteration? **Carl Paganelli** I think you're asking about what happened during the litigation and don't wanna comment on that, but I'm happy to listen in here to any suggestions you have about this language and what you think could be better or different, or if you prefer the old language. **Norman Rogers USW Local 675** Well, I guess what comes to mind is that we have sites now that have gone from processing. Being full blown refineries doing gas jet and diesel. And now we're doing renewable fuels using fat soil and greases, which is met. Now the question is, have they introduced new equipment, or have they altered old equipment so? Oh yeah, I'm not sure what questions can be answered, but that's a question. What does? What does that? What has been cleared up with that scenario? **Carl Paganelli** No. As of this moment, this regulation does not apply to. Units that don't process petroleum, right? The ones that use renewable feedstock, so that doesn't change anything. I mean this regulation by its own definition right now does not apply to like Phillips 66 and rodeo. That doesn't process petroleum at all, right? So, if the changes go through on the separate rule making. To include them then they would be included under 5189.1 those renewable refineries. **Norman Rogers USW Local 675** OK. So, we're entering into the realm of a hypothetical, but let's say that does pass that fat soil and grease is. It doesn't matter whether we're processing petroleum or fat soil and greases, then that's back to the question of introduction of a new process versus alteration. Will we be back changing this language again or looking to change it again? **Carl Paganelli** I don't think so. I mean, I don't know. What if somebody proposes it, we'll consider it. **Norman Rogers USW Local 675** Thank you. **Rachel Brill** Thank you, Mr. Plurkowski. **Nick Plurkowski USW Local 5** I've got a problem with the last addition for subsections 2-3 and four. An introduction of new process equipment or alteration process or process equipment must result in an operational change outside of established safe operating limits to be considered a major change. From what I understand, safe Oper. Limits can change depending on you know what an engineer will sign off on, so having. Kind of a movable target like that. You know you could expand your operating limits and then make a major change, but it wouldn't. It wouldn't trigger the major change because the operating limits now have captured it.So, I feel like that really cuts out most of the point of having the entire definition of 123 and four there. Well, in particular 2-3 and four. Paying attention. Paying attention and you know giving due consideration to new process equipment and new highly hazardous materials, whether or not there's a threshold or not. It's going to need that attention to make sure that we get it right. And so, you know the soft definition of safe operating limits and having it use the word must. It really just takes the. It makes the impact of the reviews, and everything takes. It takes the impact of this section completely out. I mean, why would you? Why would you change something outside of the limits when you could just adjust the limits and then basically not have to do? All the things that a major change triggers. **Carl Paganelli** I will point out that in original language that. Can just scroll back up again please? Operational change outside of established safe operating limits was part of the original regulation, so for new process. **Nick Plurkowski USW Local 5** But only for number only for number 4 though this is this is. **Carl Paganelli** One only for it was for 1-2 and three new processes, new process equipment and new highly hazardous materials. **Rachel Brill** Yeah. **Carl Paganelli** So that was already there. Right, we've been operating under that since we adopted this regulation. So, the same language. **Rachel Brill** Mr. Perkins, do you have a change you wanted to propose in addition to the comment or just sort of some concerns? **Carl Paganelli** Yeah. Proposed just deleting that last paragraph. **Rachel Brill** Yeah. Is that the proposal? **Nick Plurkowski USW Local 5** Yes. **Rachel Brill** OK. Thank you. **Nick Plurkowski USW Local 5** Thank you. **Rachel Brill** Does anybody else have any comments about this? Defined term and the changes that are being proposed. And if not, I think we're gonna move on to the next one. But I don't wanna. I don't want to foreclose any anybody from speaking. OK, I'm not hearing anyone or seeing anyone, so let's move on to what section is. It says there's it's. J. Hulu. Day four, I wanna make sure I haven't screwed past anything. Hold on. No, I'm sorry, it's L4. There we go. OK, so this is. Bit further down in the regulation. If anyone has any comments they wanted to share about these proposed changes, please raise your hands now. **Carl Paganelli** Go down a little bit to the changes. **Rachel Brill** It just bounced back up. Lauren. Thanks. Mr. Rogers. **Norman Rogers USW Local 675** Yeah, the use of the term May is problematic. This information may include inherent safety measures etcetera. Yeah. What's the point with May? Because there's nothing that triggers any kind of action. If it doesn't happen. **Rachel Brill** OK. Thank you. Just wanna note that we have. There's this proposed change, and there's also proposed changes to subsection. E and subsection F so we'll make sure everyone catches those. Yeah, that's right. **Carl Paganelli** And then 5F. **Rachel Brill** Yeah, that's right. Thank you. I bet. I think. Yeah, you're right. It's 4E and 5F. **Michael Dossey** You go back to for you for a sec. **Rachel Brill** Sure. I do see Mr. Plurkowski. You have your hand raised. If Mr. Dossey, did you have something to say right now, or do you? Did you want to look at it for a little a bit longer? **Michael Dossey** Yeah. So, I had no comment. I just missed it when you first had it up on the screen. Thanks. **Rachel Brill** Got it. OK. Mr. Plurkowski. That's who has their hand raised, yes. **Nick Plurkowski USW Local 5** Yeah, just the addition in east, the Hch team shall consider all process safety hazards that may be impacted by a particular safety measure. And shall select those that in the team's judgment. I find that problematic because our employee representative is one person on a team, and we're basically outvoted every time. If it was going to be, you know, a vote. Is there anymore? Direction that can be given to. You know that that. That statement, I guess. In the T in the in the team's judgment. **Carl Paganelli** Some language. **Nick Plurkowski USW Local 5** I don't. You know, it's just. It seems problematic. **Carl Paganelli** OK, if you have. I mean, you have a couple weeks, but if you have alternative, please. We send it our way. **Rachel Brill** And again, the address to send those comments to is in the chat, just in case anybody, I think I put that in there and then other people got here after that. So anyone who has written comments they wanna submit or if you think about it and have proposed language, please feel free to send us an e-mail. **Carl Paganelli** By January. **Rachel Brill** All right. Thank you. By January 23rd. **Carl Paganelli** Close of business. Thank you. **Rachel Brill** Close of business. Mr. Smith. **Michael J. Smith** Yeah, yeah. Question. Does this change like for each of the process safety hazards identified in the subsection develop written recommendations in the following sequence of priority order? Or does this change? Or does this mean the team wouldn't be addressing or writing recommendations for all of the hazards identified, and only those in which the team in the team's judgment are the most effective at reducing? **Carl Paganelli** No, it's wet. **Michael J. Smith** Or. **Carl Paganelli** It's what they're selecting in the end. Right. And they're explaining why they're selecting what they're selecting, right? cause, there wasn't a requirement to explain why we picked this. **Michael J. Smith** So what is this? **Carl Paganelli** Well, we picked this methodology instead of that methodology because you can do things. You can fix one safety thing and cause a cascade of other problems, right? It might work, but it might cause other problems. So, what's the one that is gonna? You know, we're asking for a written explanation of. Why you picked why the team picked what they did, which was never required before. **Michael J. Smith** OK. Thank you. **Rachel Brill** Mr. Plurkowsk. **Nick** **Plurkowski USW Local 5** I'll just add to Norm's comment about D the problem of may versus shall. You know the Chevron incident in 2012 having that information. Ahead of time like. Could it? Could have made a huge difference. You know the pipes thinning and it and it should have changed. Could have been redone a few times, so I mean that that's this rag stems out of, you know, incidents like that where? You know, the whole point is to get in there and identify, analyze and document. Not that we may get in there, identify, we may analyze, and we may document. So I just, you know, I wanna argue for the shall not the may. **Carl Paganelli** Which I'm sorry, just so I'm clear. Or we're clear. Which subsection are you talking about? D or E? D OK. **Nick Plurkowski USW Local 5** D is yeah delta, sorry. **Carl Paganelli** Thanks, D. Yeah, OK. Thanks. I was just because there's maze elsewhere and I just wanted to make sure I knew where your comment was focused on. Thanks. That's helpful. **Rachel Brill** Thank you for that. Anybody else on? Any changes to subsection L, wherever they may be. Or when you finish typing that comment, do you wanna maybe Scroll down a little bit so we can have? These other changes so folks can have them in front of them. This is. HTTP5F is also being changed. **Carl Paganelli** So this is what has to be in the report. **Rachel Brill** If you keep scrolling down a little more so that we can have the changes, there we go. Yeah, to FL5F on there. **Carl Paganelli** This is adding a requirement. That wasn't required before to explain why you're not doing something right. You found a safety measure. Or you considered one? But you're deciding not to use it. Why so? This is the rationale for that. Something we didn't have exactly. **Rachel Brill** Any thoughts on this addition to the requirements? OK, I think if that's. We don't have thoughts on that one. Let's move on to the next and we can, we can go back. Oh, sorry. **Carl Paganelli** I'm curious if there's thoughts, good or bad, about this. If there are no thoughts, that's fine if I'm just curious, what if people have any thoughts about this? So, this is an addition that strengthens. The report cause, it explains. They have to give an explanation of we identified and analyzed an inherent safety measure, but we're not recommending it. So. **Rachel Brill** Mr. Trombettas. **Clyde J Trombettas** Can you hear me better now? **Carl Paganelli** Yes. **Clyde J Trombettas** OK. So, this doesn't really make too much sense to me. It says the rationale for not recommending any inherently safety measures or safeguards. Well, all through the HCA process, you're always you are always recommending. Any type of inherent safety, measure or safeguard the question is, is whether the management will accept it or not, and if they choose not to accept it, then they have to explain it under subsection X.So, this to me is kind of a somewhat of a gotcha game where, say, an event happens, the HCA report was done by the team and maybe they just maybe there was a recommendation, they just didn't think of. Then I could see a citation coming to this.Particular section you know if the team didn't even think of a particular recommendation, but all recommendations have or have to be put at theend of the HCA report. And then it's a depending on X whether they get accepted or not. Subsection X. **Carl Paganelli** I would say this is restricted and it's not to the things they didn't think of, but it's the things they analyzed and identified, right? So, the things that nobody thought of. I think they would be included enough. **Clyde J Trombettas** But if they didn't think of it right, it wouldn't. **Carl Paganelli** Then they didn't analyze it or identify it, and then they don't have to talk about it. **Clyde J Trombettas** OK. But I can see a compliance officer coming back cuz I've seen it done with pH as where they come in and say you didn't think about this in a PHA. So, we're gonna go ahead and site you for something you didn't think about. And I kind of. See, this is kind of being the same thing where the team may not have. Maybe there wasn't enough expertise, or it was. The HCA was done. Before an event occurred where that recommendation would have possibly been part of.The HCA team. But to me this is this is more of a this. It doesn't make sense. And then two, it's kind of a gotcha for a compliance officer because if the team didn't recommend it, but the compliance officer said, well, you should have recommended it. You know, then I see them issuing a citation for this. **Rachel Brill** K. Thank you for that. Is there, is there some kind of language change you would want to see to clarify the issues that you've raised? **Clyde J Trombettas** Yeah, delete it. **Rachel Brill** Fair enough. OK. OK. Anything else that you wanted to say? **Clyde J Trombettas** That was it. Thank you. **Rachel Brill** OK. Thank you. Mr. Dossey and also please, if I'm mispronouncing anyone's name, please let me know. **Michael Dossey** You got mine, right? **Rachel Brill** OK. **Michael Dossey** So I'm gonna sort of mimic what Clyde just said. So in in the past when we would regulate inherently saver systems. We first started out doing the Monday morning quarterback, so we would go there and say you forgot about this. You forgot about that. The fact remains we were not in the room. We were not with the experts discussing things you typically don't write down, everything you discuss in some of these studies. So, we recognize that we shouldn't be going back there and trying to re analyze something without having all the data and the and the SM es in the room. So we merely encourage them to keep the process there where they keep on learning how to do this better and better each time they go through it. And so, in a nutshell, the way this is worded I can see what Clyde has mentioned, that it could gravitate towards the inspector going in there to say. But did you think of this? And to be honest, those are. You don't know what you don't know. So, it it's many times it could be a very valid point, but it could also be completely off base because you don't know the process that well. **Rachel Brill** OK. Thank you. So, would your suggestion also be to remove this? Just to be clear? **Michael Dossey** Yeah. I would suggest eliminating that. **Rachel Brill** Thank you. Anyone else have any thoughts but bad and different on this? Mr. Plurkowski. **Nick Plurkowski USW Local 5** With respect to Clyde's comment, I mean, this whole Reg is driving the consideration of you know everything. So, you know, missing something is not we shouldn't write this Reg so that it's possible to miss something and not be, you know, accountable for it. I mean the whole Reg is designed to make. The refineries accountable for the processes that they have and the risk that they're putting the employees in the environment. In so.

# **Rachel Brill** Is there anything you would suggest replacing it with or any way you would suggest redrafting it? **Nick Plurkowski USW Local 5** Maybe the rationale for not implementing any inherent safety measures and safeguards analyzed by the team. You know the comment that you know is management going to implement it. That's the real question. So, the team recommending it again, it's an HCA is recommendations. You know the full extent that we can be safe and then managements got to make a decision on what they're going to pay for and what they're not going to pay for so. I would say that you know the rationale for not implementing. Any of the recommendations?

# **Rachel Brill** OK. Thank you. Anything else at all? And again, we can go back to this if you know we break for lunch, you all think about it and come up with other things to say. But just for right now, does anyone else have anything to share on this? And if not, then I think the next section. We're looking at is Section Q1. And the changes are in. Let's see. There are changes to subsection D. And I think that maybe it, Lauren, can you Scroll down? These are all in D. I think that's, yeah, let's start there. And if there's anything after that, we'll go back, but or go down or we'll get to it rather, but. So, this is a proposed addition. Subsection Q1D. Mr. Smith.

# **Michael J. Smith** Yes. Is there a. Is there a defined requisite advance notice somewhere? Like what is, I guess acceptable as far as? The advance notice. Secondly, as just coming from how just things work in a plant, you know our representatives if everything works as we see the Union, the representatives are selected by the work, the workers, the Members and at the end of the day these are usually added active. To where the company truly does control, whether who, whether those selected individuals. Given plant, what we always hear is business needs. Or not. So, the, this language gives kind of the ability to manipulate some of that, you know, on top of just what I my original question is the requisite advance notice, I understand not if the employer offers it, we've selected it somebody's avail. And they don't participate. I fully agree. There shouldn't be a citation for that, but also there should be some kind of standard in which once the representatives are selected, that persons made available to participate in there and not pulled back and then leaving the Union without a representative or the workforce without a Representative in those meetings. **Rachel Brill** With respect to your question about what advance notice means, would you propose language that might clarify that or just sort of, you're just sort of asking cause you're curious. **Michael J. Smith** Yeah, it's really. It's really impossible depending on. I mean, I hate to try to pick certain situations out of a, you know, out of 1000 situations as you whether it's MOCSAPHA is playing well in advance. You got mo, cs emergency, you got a lot of stuff happen. In the plant, but or investigations. But it's hard to. I don't know. That's why I was wondering what is it? It does, I guess does the state look at what it is. Is there some kind of legal approach to what requisite notice is? I would say in not trying to complicate everything. I think APHA notice is probably different than an MOC notice. I think an investigation notice depending on the severity of the incident. Most investigate, you know, all type of the Chevron 2012 incident. That investigation started. You know that. Next morning at 4:00 AM, obviously. I think you're setting yourself up if you put a definitive timeline, but that's why I'm wondering why that language was used. And how that could be used to kind of I guess avert or get around a citation. **Carl Paganelli** I'm pretty certain we've had the phrase advance notice in there in in this context the whole time and without a specific definition for the exact reasons you name, right? I mean, planning for turnaround is one thing. And there's, you know, when you need employee participation after an accident. It's, you know, it's immediate, right, so. Look at the circumstances of the situation, right? **Michael J. Smith** Yeah. And so then? So, then my then then then my concern, then I agree, and but then my concern would be the overall, I guess, manipulation of the availability because at the end of the day, the employees now that now that given that the at least the. Proposed language earlier. It has to be people in the plant, people that are qualified, determined by the company. Now it's got to be people that are in the plant determined by qualified by the company and. Allowed off of their normal scheduled work. So, if all of that line's up, then the workers may have their representative in the meeting. So, let's just. **Rachel Brill** K. Thank you, Mr. Trombettas. And then Mr. Plurkowski. **Clyde J Trombettas** Yeah, two things. One, and this is more of a question to Carl. Where you say the employer will allow for effective participation, and I'm curious why you don't have shall require. Or do you feel that because they will allow for Sims to be rather passive? **Carl Paganelli** If you wanna propose shall require, then we'll take that as a proposal. **Clyde J Trombettas** Then that's my proposal. **Rachel Brill** Thank you.

# **Clyde J Trombettas** And I think it was Nick's question about advance notice. I agree with Nick in this sense cuz when we first promulgated this regulation back in October 2017, one particular refinery said, I remember they had a PHA that was to be done on a Tuesday morning and they gave the operator advance notice.

# They claimed that Monday night, when he came in for his graveyard shift. And they consider that advance notice that he would have to work his graveyard shift, and then he would workday shift to be on the PHA team. And you know, I don't believe that's advanced notice, but that that one particular refinery was kind of playing games with that. So, I would I agree with Nick. I think that there should be something. I don't know how you can word it but. You know, or how you can define it. Maybe. Maybe you have it under definition, but advanced notice means. Maybe that's what I would recommend. Having a definition under of what advanced notice is because I have seen them play this game quite a bit when I was with the division. **Rachel Brill** OK. Thank you. Mr. Plurkowski next and then Mr. Smith. **Nick Plurkowski USW Local 5** Yeah, I wanted to cover D and two underneath it. And yeah, the advanced Notice piece just seems like a game to play like Clyde was just saying. If I send you a meeting notice, does that count as the notice you know? And that's in 1000 emails also. You know, there's a limited amount of resources, especially with the new definition of employee representative having to be at the site and having to be qualified and stuff like that. You're shrinking the selection. Pool a lot. And then if somebody's double booked or like Clyde's example, they're working a night shift and now they're on day shift. And then all of a sudden, they simply, you know, can't participate. And that would be seen as the Union waiving its right to this participation.

# That's absolutely critical to getting these things, you know, complete. Is that's largely problematic. I it this is the company and the employees working together. I don't know that you know the rag needs to get in there. I think the rag is not just suggesting that we work together with advanced notice. I think it's requiring that we work together, and I think it's up to the company and the employees to. To figure that part out, I don't know if The Reg needs to insert itself and how it's going to play that out if that makes sense. You know advance notice and you didn't show up, so there's no employee participation for this activity. That could become very problematic. And then. For Di, I don't see an issue with the original language. In particular. The collective bargaining agents may select employees to participate, so the change the written employee participation plan now that plan is developed by the employer and employees as PSM. A moment. I feel like that again, could undermine in the same way that a bargaining agreement as far as how you're gonna select people, could also interfere with The Reg so, I feel like the regulation, you know, should be clear on requiring employee participation. It shouldn't get into, you know. However, the company's employees and employee representatives end up working out how it's gonna work. I think The Reg needs to be standalone. There will be participation. You guys figure it out. You know what I mean? Does that make sense? Am I? **Rachel Brill** Is the you would propose to just leave this the way it was, or did you have other? **Nick Plurkowski USW Local 5** Yeah, I feel like, you know the, the, the, the word play with may select. And I remember going through that a lot when it first came out. **Rachel Brill** Things. **Nick Plurkowski USW Local 5** I feel like that covers, you know if no one is selected then you don't have to get into the time frame stuff and everything like that, you know. But yeah, again the employee participation plan kind of undermines each task involved, like Mike said, there's, you know there's just thousands of scenarios. And we don't wanna get into just game playing those scenarios in a way that does not allow for participation, and it would be unenforceable to. To you know to kind of get around that, that game playing if you will. I mean it should be very clear that employee participation. Is going to happen and you know I feel like writing the flexibility into the regulation is very problematic when the regulations should simply require it. **Rachel Brill** I'm. I'm gonna ask that we move on just cause. I think this is the first time we've actually run down the five minute clock, but we can come back to this if you have more to add, Mr. Smith. **Michael J. Smith** Just I I'm gonna comment kind of and add I guess Offer Up something with the actual requisite time. I mean it, client offered up some kind of definition and stuff, but we don't really understand or know how that may work out. But it could be somewhat separated into planned PSM activities versus unplanned PSM activities. Obviously, pH as certain things are scheduled out far in advance versus things that are emergency, I will be referring back to I do have a question of I did. Also, to his, to his point of an employer it says will allow for what if? If I forgot what he had put or what he had referenced to recommend, where shall? Have effective participation. Let's say if the Under 2 which is now crossed out. If the Union or the representatives just don't select somebody or aren't able to participate, who would be then in violation of The Reg if the language did say. Shall the employer have effective participation, not allow for that was I remember that being a heavy topic in the beginning, because then it creates a whole other issue because this is I mean with the Union or the collective bargaining agents or the people. Who didn't select or make available somebody to participate? Would they be in violation of The Reg? **Carl Paganelli** We only have jurisdiction over employers. **Michael J. Smith** That's what I remembered. That's I remember that from the five years leading up in the original 1. **Carl Paganelli** Alright. **Michael J. Smith** And I want to think that that's why it said allow for because there may be times in which things don't line up and we either don't have the people or the availability or the expertise to participate or the Union just for some reason couldn't get somebody there and I remember the industry not wanting to be held responsible. All right. Thanks. **Carl Paganelli** Can I say one thing? Could we take a break at 10:25 for about 5 to 10 minutes? **Rachel Brill** Oh, sure, yeah. **Carl Paganelli** Right about then cause I'm. It's we've been going about an hour and a half, so I think we have time for more comments, Mr. Rogers or something, but. **Rachel Brill** Sure. Yes, let me we have Mr. Rogers and Mr. Trombettas have their hands up. So maybe we can do those and then take a 10 minute break. Does that sound good? OK. **Carl Paganelli** OK, I have to take a break at 10:25, but you guys can go on ahead of I'll just catch. **Rachel Brill** Oh, OK, we can also we can also just take a break now and come back at 10:30 or. **Carl Paganelli** Read the transcript. Let's see what Mr. Rogers has to say then. **Rachel Brill** OK, sounds good, Mr. Rogers. **Norman Rogers USW Local 675** I like that auditing alright. So I would refer back to Section O, which is incident investigation and in section O under bullet .3 the employer shall initiate the incident investigation as promptly as possible, but no later than 48 hours. So, with those 48 hours there's an investigation team that needs. To be called together that investigation team, as the language calls out, will have. An employee representative process safety rep, health and safety rep and a subject matter expert. Hourly person from the impacted unit. So, this time frame piece as to kind of highlights what Mike was saying. Yes, PHAS has OPS. We know those are coming well in advance, but then something like an incident investigation on a major incident, we are already calling it out in the regs is 48 hours. So, do we need a separate list of activities or? Or how does all that work with the language that's proposed in D? **Rachel Brill** K. Thank you. And then Mr. Trombettas. **Clyde J Trombettas** Down to Section 2 real quick. OK. So, it says here the written employee participation plan will determine how employees are selected to participate. OK. Could you go back? Could you scroll up to one? You know, up to one Section 1. **Rachel Brill** It's like a, but it's above the A and under here Lauren. Yeah, there you go. **Trombettas, Clyde J** Yeah, there you go. So the written plan is supposed to be this. Section 1 requires that the employer and the employee's draft a written plan. But I guess this is what's always bugged me about this section is that in consultation with is pretty actually it's a little looser than recommendation by. You know the employer has, you know, in consultation with employees, employee and employee representatives, they develop a written plan. But this just means that they have to have consultation. The employer just has to have consultation with employees. It doesn't mean that they have to enact what? Recommend what they consult with and so based off of section one, I think that would have a very high impact on Section 2. They're coming to the written plan. And, yeah so, how the written plan is made in section one will require what's implemented in Section 2 and if all Section 1, all they have to do is consult with it doesn't mean they have to accept. It just means they have to consult with I think that. Could have a very huge impact on two, but that's my thought. My suggestion would be I proposed for Section 2 that the on-site usus the on-site help USW health and safety rep may select and my I had just referenced out authorized collective. I removed authorized collective bargaining agent, and I would put in on site USW health and or USW representative. **Rachel Brill** OK. Thank you. I do. I do see we have other hands raised. I'm gonna it is 10:25, so let's take a 10 minute break. If you can hold on to your thoughts and then we'll come back at 10:35. Thanks everyone. All right. We're gonna get started again. Thank you, Lauren. Mr. Plurkowski. Yes, you are back. Great. I think you had something. Well, you still have your hand raised. **Nick Plurkowski USW Local 5** Yeah. Yeah. I wanted to just double down on what. Clyde pointed out, in consultation with employees and employee representatives. The employer will make this written plan and that'll be it. I can tell you right now the difference between. The current Reg is that it clearly states the authorized collective bargaining agents may select, and that's what's getting the selection process done. That's the part that's being withheld.

# The plan is basically following The Reg. So, if you scrub that part of the regulation, then it's all up to this plan that the employer is going to develop in consultation. So, I mean the to me this is the most critical piece of the regulation. If we don't get this part right, then the whole regulation is going to fall apart and not protect. You know our members and our communities. Because we're just not going to have the right people in the room again, I feel like this, Reg should explicitly state and require that employee participation. You know, shall happen. I feel like the opportunities for that advance notice and how it's going to work. It should be left up to Union employer, but the requirement should just be simple and easy and this this takes away the most critical, simple and easy piece that. Authorized collective bargaining agents may select employees to participate in PSM and participate on the PSM team so. What do you? I mean, I yeah, I can't put it into words. If you don't have the right people in the room, you're not gonna get the right work done. And if you don't get the right work done with regard to process safety. You know 2012 Chevron, I mean. Yeah, it. There's too many examples to get this wrong, so let's get it right. Thank you. **Rachel Brill** I just I don't mean to push you on this. I know you said you're not sure how you would word it. Would you rather see it be the way it was without these proposed changes? **Nick Plurkowski USW Local 5** Yeah, I again the you know it would be really interesting to pull up each of the refineries current plans and see you know how loosely written they are and what they you know what would happen? If we follow those plans instead of the clear language that authorized collective bargaining agents may select employees to participate. And the fact that these plans can continue to change. They might look good right out of the gate and then continue to change, but. Umm. Yeah, original language. There was a lot of time spent on that and I feel like it really threaded the needle to, you know, define and declare. Whose selection piece that was, and a requirement that we have it so this this. I really do see this as being that Section 2. The addition to that is just, it's just washing away all the effectiveness of the entire Reg. If we don't have the right employee participation. We're. We're just gonna miss it. Yeah, sorry I don't have better examples and everything. There's just too much there. There's just too many activities, too many details, every detail counts. And again, having the right people doing the right work is how we're going to get to the safety that that we're pursuing.

# **Rachel Brill** Great. Thank you. I see Mr. Rogers has his hand raised. **Norman Rogers USW Local 675** Yeah. Excuse me to follow up with, Nick was saying to leave it up to the. The written employee participation plan by the company. There's what they may be right now, which I believe most of them have just pretty much copied and pasted what was in the regulation and made that the policy, but to open it up to where they can change it to whatever they want. Is a death knell for the regulation any of the work that's been done since 2012 goes out the door if the employee participation piece isn't here and the other thing to keep in mind is that. For my case, I've been I've worked at the same refinery at the same location since 1999. Since 1999, I've worked for ARCO. I've worked for BP. I've worked for Tesoro. I've worked for endeavor and now I work for Marathon and each company does things differently, so one company might have it that if you have a leak and you put a clamp on it, that first opportunity you replace that piece of pipe. And get rid of the clamp. Other companies have a philosophy. We have a leak. We put a clamp on it. The Clamp's good. It's not leaking, and then it'll sit there for 10 years and that's the whim and whimsy that this language leads to as far as the employee participation piece. So that our folks are at the table, those people that are there regardless of who changes at the top as far as ownership goes, the employee participation piece needs to be as strong as possible, and it needs to have the represent the representation of the folks that act work there. I work with folks that have been there over 40 years and they know the refinery better than the management that comes in. And even if a company owns a facility. Let's say for 20 years as much as they move their management around from site to site, it just makes for too much change at the top and that one steady piece of the operation of the sites are our employees. **Rachel Brill** Thank you. So, would your proposal also to be to revert to the original language? **Norman Rogers USW Local 675** That's correct. **Rachel Brill** OK. Thank you. Anybody else? Mr. Dossey. **Michael Dossey** I would suggest that the original language be modified. Delete the new language, but the authorized collective bargaining agents. I think in the lawsuit that was sort of the big topic of discussions, maybe change that wording to. Authorized Union representative or something that fits the bill for those in the Union language, but I think the main concern was the collective bargaining agent wording. That's my opinion. **Rachel Brill** OK. I don't. I don't wanna cut you off, Mr. Dawson. You still have your hand up. Is there something else? OK, great, Mr. Rogers. **Norman Rogers USW Local 675** Yeah, just real quick and I'm not sure how it works at non-represented sites, but. I'm pretty confident all of our USW representatives represented sites, have joint health and safety committees and so that choice of who the representative could be could flow from that committee following on Mr. Darcy's point, if you, if the collective bargaining agreement, collective bargaining agents wording is problematic I think. Hope I'm not speaking out of turn. The joint Health and safety committees. As an option, potentially. **Rachel Brill** Thank you. Anybody else? It's on any of the changes that we've proposed or that are proposed in this Rulemaking. You can go back to the beginning. Just any thoughts? **Michael J. Smith** Sorry. **Rachel Brill** Go ahead. No, go ahead. I saw your hands. **Michael J. Smith** All right. I think since we were towards the end, I just wanna. I wanna reiterate it, you know, and look, we're gonna participate. That's what we do. We've been involved in this process since the inception. Post the 2012 incident and been involved at all throughout the process. We're a little bit concerned about how we got to this point. I mean, I think there's other avenues in which we'll challenge or do whatever we have to do to that little bit concerned because just haven't seen it and I remember and I I'll take us back to the initial when the very first 5189.1 was proposed and then industry came in with the work we were there and the state was there and the industry had 175 questions on each individual thing, and we went through and went through. We understand rationale. There was a document created that was the rationale behind every change. Within the Reg and coming into this, we just other than we know that there was a lawsuit, and it was settled. Even though we were intervenors, we had no idea about any discussions happening behind closed doors. And for our Members, you know the state, this, this, this organ, the department is, is tasked with keeping our members safe in the keeping our facilities safe, which is our members and the communities and being excluded up to this point and then now understanding that you know here. These changes. We've been paying closer attention because of our attorneys involved in the lawsuit, but we haven't gotten any explanation. Haven't gotten any understanding of other than we knew for the last five years, WISPA had thrown out a bunch of issues with Their Hague. These regs weren't. It went through a five year, I'll call it a negotiation process, but a five year process to get to where we were. We haven't been shown any issues that the industry has said that this language was problematic other than just the lawsuit. And so, our concern is that once again, where I it's kind of ironic in a in a rig that requires employee and representative participation. We've been excluded throughout this as in the development of these changes, and it's kind of I know it's not covered under the PSM, right? But we've been excluded. Into this discussion, other than an opportunity to kind of give our thoughts on a Reg which we weren't the ones challenging and we had fought for five years to make our members safer in the communities and surrounding groups. So, I wanted to take that opportunity. I don't wanna didn't wanna do it in the middle of this. I do think this is important. We wanna. I wish there were more during the advisory committees in the past, there were a lot of other groups involved because this does impact a lot more than the people probably who received this in the 1st place and whether there's. Public comment period during the Standards Board process or not, I think this part is where things happen and what we noticed through the first part of this. You know PSM, Reg changing was everything. All the heavy lifting was done prior to that, so I'm a little bit disappointed and we'll continue. We're not giving up. We're going to continue to have our voice heard. We'll be at all the meetings in the future. But I don't want to make it sound like, look, we're participating. We still want more information. We want to understand the rationale why this is needed. We need to dig deeper into figuring out exactly what it changes, but we also don't want this to be a checkbox. recommendation exercise because the state promised that they do this. But then when we get to the next level, hey, we included the unions. We didn't really come up with any significant changes from the agreed to language with WISPA and here it is. So that's just. My honest opinion and doesn't mean we're not going to. We're going to be here because it's important to our Members and our Members are the ones at risk. Our members are the ones dealing with the chemicals and the explosions and the fires. So, it's our duty to be here, but it's it feels like we've been left out of a major process in this and really blocked off intentionally on this. So, I'll leave it there. **Rachel Brill** Thank you. Does anyone else have anything they wanna say? Any comments on the language? Mr. Rogers. **Norman Rogers USW Local 675** Yeah, the previous recommendation I had made suggesting joint health and safety committees choose the employee representative. That would be the members of that committee. It would fall to the hourly workforce portion of that committee. So not the committee as a whole, but that the employees are choosing their representative. Thank you. **Rachel Brill** Got it. Thank you. I think that was for. Yeah, it's, it's. Yeah, it's two under this. Something 2.D. No, just two. There. **Lauren Ocadiz** But Mr. Rogers, I'm sorry you said that the option for the joint Health and safety committees, the members of the committees, would be. And I'm sorry I missed the last part. **Norman Rogers USW Local 675** It would be the hourly representatives of that committee, because those are joint committees, half made-up of management, half made-up of the hourly workforce. So, it be the hourly workforce choosing their representative for these activities. **Rachel Brill** So specifically the non-management members of those committees. **Norman Rogers USW Local 675** That's correct. **Rachel Brill** Got it. Yeah. **Norman Rogers USW Local 675** Thank you. **Lauren Ocadiz** Thank you. **Rachel Brill** So we have this scheduled until 4:00, but if you if folks wanna take some time to look at the language independently and then come back. Lauren and Carl and I will all be here, and we can write. We can capture your thoughts, and you don't have to you if you wanna take a break and sort of look at this more thoroughly, that's fine too. **Carl Paganelli** We will be taking a lunch break so. **Nick Plurkowski USW Local 5** Look is there. **Rachel Brill** We will be taking a lunch break, yes. **Carl Paganelli** Yeah, yeah. **Rachel Brill** I just if no one has anything to say right now, we could also take that break and we'll be sitting here. And then I guess around noon we I would say we would take a lunch break and then come back at 1:00. And if you have comments that. You want to share after that. That's great too. We'll be here. **Nick Plurkowski USW Local 5** Is there any more about the rule making process that we can share? I know it was mentioned that there was a truncated rule process but. **Carl Paganelli** It's not truncated. We're just working very quickly on this portion of it. And then the formal rulemaking before the Standards Board is the normal process and I will see if

# I can find the Standards Board's description of rulemaking. So, you can understand all the steps that they go through. In a typical process, so and all about opportunities that people have to comment off, see if I can find it and put a link in the chat and then it says it's for health regulations. So, a little bit of it is kind of not applicable. Who's doing what. **Nick Plurkowski USW Local 5** Thank you. **Carl Paganelli** But the basic it lays out the Administrative Procedure Act steps that the Standards Board has to follow to give everybody opportunity to comment and weigh in. And so it explains, kind of why it takes a whole year or can take up to a year to get. Done so. **Rachel Brill** It truncated was a poor choice of word on my part. I was referring to my own personal schedule to get my parts of this done in Lauren's as well. OK, Mr. Rogers. **Norman Rogers USW Local 675** Yeah. Just for clarity, we're not gonna be involving ourselves with the RMP piece. **Carl Paganelli** What's rmp? **Norman Rogers USW Local 675** Risk management. **Carl Paganelli** The oh, they're gonna have the caliper will have their own rulemaking process. We are not involved cause. It's a separate agency and you will be also similarly able when they it's the same process, right. **Norman Rogers USW Local 675** OK. **Carl Paganelli** I mean we ours goes through the Standards Board. They do their own. And they'll put out a notice and then everybody will be able to participate in the usual fashion. So, so, yes. That there and the language is nearly identical. There's a few little tweaks because they are implementing a different law than we are. And we have the Occupational Safety and Health Act, and they have the law that established the R&P program. But basically, the language is the same as makes it always program for. And this regulation was very parallel in the beginning, just so that there's one set. Of rules. Everybody this the refineries have to follow. So you'll see. But yes, they will. **Norman Rogers USW Local 675** Thank you. **Carl Paganelli** Sure. **Rachel Brill** Mr. Smith. **Michael J. Smith** Thank you. I like I have one more, just to clarify and maybe it's not. Maybe you can't. Or so. This is after this process; I'm assuming there'll be changes that were are being proposed that will be submitted to the Standards Board. The Standards Board. Then the two three options. Right, you could they could reject to continue work. They could accept, or they could reject fully. If they reject this outright, any of these changes, it just reverts back to the current 5189.1 that's in place now. There's nothing that would I remember the original transition to it. It would go away for you know, any, any and all work done. But because the current law is in place, they're only voting on these amended changes and those amended changes can be voted down completely. **Carl Paganelli** Yes, or because its rule making. They could make their own amendments to it, right? **Michael J. Smith** Yeah, yes, yeah. **Carl Paganelli** So it's not set in stone. Right. They. **Michael J. Smith** It's not OK. **Carl Paganelli** I mean if you follow any of the other rulemaking, there's a proposal that starts at the beginning of when they started and then there's comments and they think about it. And there's often many amendments in the rule making process until they get to the end. And they vote on it either to adopt it or reject it. Right? So, there's things that change a lot during rulemaking, right? So, it's just the way it is. Sometimes they'll reject the entire thing. Sometimes they'll adopt it, but it's very often that the starting point and the final regulation are different. It's very common, right? Cause people come up with better ideas as they work through the process. **Rachel Brill** Mr. Plurkowski. **Nick Plurkowski USW Local 5** Yeah. I just. Thanks again for, you know, asking for the recommendations. If we have any language to propose. But again, it's almost impossible to propose a change in language when you don't know the problem that you're trying to fix. So. January 23rd it looks like. Kind of a far way out, but again, like Mike mentioned at the beginning, without the information about what problems are being fixed. You know, it's hard to. It's hard to fully participate with recommended changes and stuff like that. So, I feel like all we can do is point out the problems that these changes are going to cause, but not be as useful as we could be with proposing changes that might, you know, work for everybody. Thanks for the comment that the Standards Board themselves could make amendments that might make more sense. So there, there is hope and there somewhere. But is there? **Carl Paganelli** The Standards Board is a sibling agency, right? Do you agree with everything your siblings do? So, they. I mean they they're independent of us by law, right? They have a board that's appointed by the governor, and they have their own staff and their own attorneys, and they do what they think. Well, you know they have an obligation to adopt clear and enforceable rules that everybody can understand, and they do. They use their best judgment so. **Nick Plurkowski USW Local 5** Is there a reason that January 23rd is picked? I'm just wondering if we haven't got our information that Mike mentioned earlier. We would still be hamstrung for providing any recommendations or anything, you know. Is there a possibility to postpone that if we still haven't received our information to be effective for proposing changes? If needed. **Rachel Brill** I think, I mean, I think we chose that date because of our internal rule making calendars and what the Standards Board has indicated they would need to see in terms of their rulemaking calendars. **Carl Paganelli** However, if you have subsequent comments, send them in, send them to the Standards Board, send them to us and they'll have them right. So, there's nothing stopping you. We need a deadline so that we can make our package, but it's not speak now or forever hold your peace. This is not a wedding, right? So you know you're gonna have more thoughts. Write them up. And you know, give them to us. Give them to the Standards Board and. **Rachel Brill** Them at the public hearing you'll have, yeah. **Carl Paganelli** Them at the public hearing, go to the Standards Board. Public, you know, they always have public comment period. You guys have been. You were super helpful when you came for the renewable, including renewable refineries. It was very, very powerful to have you there and to have. The wife of Jerome Serrano there that was very powerful. So, you know that that's your opportunity. People come and speak about whatever is they want to at those meetings. So, you're welcome to do that so. **Nick Plurkowski USW Local 5** Thank you. **Carl Paganelli** If it we need February 23rd so that we can get our work done on time January 23rd. But you know it's not the end right so. **Rachel Brill** January, January 23rd please. **Carl Paganelli** There's plenty of time for you to submit comments so. **Rachel Brill** I'm gonna recommend if we don't have any more pressing comments right now, we can just go off camera and go on mute. And if folks wanna say something, I will still be here. Lauren will still be here. Carl will still be here. Just feel free to raise your hands. Does it sound good? OK. Thank you for to everyone who has spoken. **Carl Paganelli** Thank yes. Thank you very much. This has been very helpful and very informative. I really appreciate it, and I know it's a lot of time out of your days, but we really appreciate it. **Rachel Brill** OK. Thanks everyone. **Michael Dossey** Thank you. **Carl Paganelli** For the people who are still here, I'm just about to put in the chat. A link to the Standards Board's explanation of how health standards are adopted. **Nick Plurkowski USW Local 5** Thank you. **Rachel Brill** Hi all it is now 1201. I'm going to say that it's lunchtime. So, this is, I guess, an official break. Feel free to come back at 1:00 and we can carry on discussing the proposed amendments if anybody has comments. **Carl Paganelli** Do you get one? **Rachel Brill**

# You want one. Hello everyone, who is still hanging in there with us. We are back. Like if this were a deposition, I would say we are back on the record, but we are here to hear any more comments that anyone has on the proposed amendments to section 5189.1. **Alvin Dong, LAFD** I'm impressed with your commitment. **Rachel Brill** We wanna make sure that everyone has plenty of time to let us know. Their thoughts? Best way to get a good rule making package? **Carl Paganelli** Don't hear any comments. I am gonna go off camera and unmute, but I'll be here the whole time. So, somebody comes in and wants to give us a comment or anybody. Already been here? As for their thoughts, I'm here, but I'm just gonna be on camera for now. **Rachel Brill** I will also.