

**OCCUPATIONAL SAFETY
AND HEALTH STANDARDS BOARD**

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FINAL STATEMENT OF REASONS
PROPOSED AMENDMENTS TO
CALIFORNIA CODE OF REGULATIONS

Title 8. Industrial Relations
Division 1. Department of Industrial Relations
Chapter 4. Division of Industrial Safety
Subchapter 7. General Industry Safety Orders
Group 16. Control of Hazardous substances
Article 109. Hazardous Substances and Processes

Process Safety Management for Petroleum Refineries.

UPDATED INFORMATIVE DIGEST

The Occupational Safety and Health Standards Board (“the Board”) has made no proposed amendments or revisions to the proposed regulations other than those previously discussed in the Informative Digest/Policy Statement Overview of the Notice of Proposed Rulemaking.

UPDATE OF INITIAL STATEMENT OF REASONS

The Board has made no modifications to the information contained in the Initial Statement of Reasons.

LOCAL MANDATE DETERMINATION

The proposed regulations do not impose a mandate on local agencies or school districts.

REASONABLE ALTERNATIVES DETERMINATION

The Board has determined that no reasonable alternative would be more effective in carrying out the purpose for which the action is proposed or would be as effective as, and less burdensome to affected private persons than, the proposed amendments. The Board also determined that no reasonable alternatives to the proposed regulations that are less burdensome and equally effective in achieving the purposes of the regulations.

The Board rejected the no-action alternative because it would not achieve the objectives of the proposed revisions and would be inconsistent with the court-approved resolutions. The proposed revisions do not regulate the actions of small businesses, thus there is not a need to identify and consider alternatives that would lessen overall adverse impacts on small businesses.

SUMMARY AND RESPONSE TO WRITTEN COMMENTS RECEIVED DURING 45-DAY COMMENT PERIOD (Gov. Code, § 11346.9(a)(3))

On November 28, 2025, the California Occupational Safety and Health Standards Board published a Notice of Proposed Rulemaking, Initial Statement of Reasons, Proposed Regulatory Text, and Form 399 in the California Regulatory Notice Register. The public comment period began with the publication of the Notice of Proposed Rulemaking and aforementioned documents. The comment period ended on January 15, 2026. Below is a summary of individuals and organizations who submitted comments to the Board, and the dates they were received, during the period of November 28, 2025, to January 15, 2026. As required by the Administrative Procedure Act, the Board considered all relevant matter it received, including public comments, and hereby provides responses to all public comments received. (Gov. Code §§ 11346.8, subd. (a), 11346.9, and 11340.85 subds. (a) and (b)(4).)

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A	Dr. Genghmun Eng (01-13-2026)
B	Kaitlin Alcontin & Kerry M. Guerin, Communities for a Better Environment (01-14-2026)
C	Charlotte Brody, BlueGreen Alliance (01-15-2026)
D	Charles B. Barbee, U.S. Chemical Safety and Hazard Investigation Board (01-15-2026)
E	Jan Warren, Interfaith Climate Action Network of Contra Costa County (01-15-2026)
F	Nick Plurkowski, USW Local 5 (01-15-2026)

**Department of Industrial Relations
Occupational Safety and Health – Standards Board
Section 5189.1¹
Process Safety Management for Petroleum Refineries
Summary of and Response of Comments Received during the
Notice Period of Nov. 28, 2025 - Jan. 15, 2026**

COMMENTER A

Dr. Genghmun Eng – Member of the Public

January 13, 2026

Comment A-1:

Dr. Eng’s comment proposed alternative language for several of the definitions found within Section 5189.1. The commenter proposed new and alternative language for the definitions of the following terms and phrases.

(c) Definitions.

Damage Mechanism Review (DMR). A report that documents Damage Mechanisms to identify potential degradation of process equipment due to factors such as corrosion, cracking, or erosion. *Division:* 'Division' with capitalized “D”, as used herein, shall be the 'Division of Occupational Safety and Health', also known as Cal/OSHA.

Division: 'Division' with capitalized “D”, as used herein, shall be the 'Division of Occupational Safety and Health', also known as Cal/OSHA.

Employer: For purposes of establishing compliance with this Section § 5189.1, 'employer' and 'Refinery employer' shall be deemed synonymous with the Refinery owner or operator.

¹ All further regulatory references are to Title 8 of the California Code of Regulations, unless otherwise specified.

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Hierarchy of Hazard Control Analysis (HCA). A report that documents the above 'Hierarchy of Hazard Control' prevention and control measures, in priority order, to eliminate or minimize a hazard.

Hydrogen Fluoride (HF, anhydrous) and Modified Hydrofluoric Acid (MHF). Only applicable to Refineries using 'HF Alkylation'. Two highly corrosive and high human health hazard chemicals, currently used in massive quantities (50,000+ lbs) in HF Refinery Alkylation and Storage operations.

Management of Change (MOC). The MOC comprises both MOC Procedures, and written MOC Documents, which are developed to manage changes (except for replacements-in-kind) in process chemicals, technology, procedures, process equipment and facilities; and shall include provisions for temporary repairs, such as temporary pipe repairs, if any are performed as part of the MOC.

Management of Organizational Change (MOOC). Effective written procedures and assessments developed, implemented and maintained by the employer to manage organizational changes.

Process Hazard Analysis (PHA). A written report documenting the process characteristics constituting a process safety hazard, along with what mitigation measures are being applied, to reduce the potential to cause a fire, explosion, or release of a highly hazardous material, which could result in death, or serious physical harm, or a major incident.

Process Safety Information (PSI). A written compilation of information that is sufficient to enable the employer and employees involved in operating or maintaining a process to identify and understand the hazards posed by the process, which shall include the following as a minimum:

- (1) The hazards of highly hazardous materials used in or produced by the process;
- (2) The technology of the process;
- (3) Process equipment used in the process; and,
- (4) Results of previous DMRs for all equipment involved in the process.

Replacement-in-kind. A replacement of equipment in a process that satisfies or exceeds the original design specifications of the equipment being replaced.

Repair or Refurbishment: When a piece of Equipment that is part of a Refinery Process is taken off-line, in order to restore its normal operation to be equivalent to replacing that Equipment with a piece of New Replacement-in-kind Equipment. All Repaired or Refurbished equipment shall have an extra "R" attached to its unique identifying Equipment label both in the Refinery inventory, and on the Equipment itself, to identify it has been Repaired or Refurbished. Once a piece of Equipment accumulates an "RRR" designation, meaning it has been Repaired or Refurbished three (3) times, that Equipment shall no longer be used in any Refinery Process.

Safe Operating Limits: For New Equipment and New Replacement-in-kind Equipment, the equipment manufacturer's Operating Limits shall be used to determine the Refinery Process Upper (URL) and Lower (LRL) Safe Operating Limits, using the more restrictive of the following (A) or (B):

(A) The manufacturer's Upper-operational Limit Point (ULP) and Lower-operational Limit Point (LLP) shall be considered as the Gaussian Statistics (+)3s bound. Given an Equipment Initial

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Operating Point (IOP), define $ULP = (IOP + 3sU)$, and $LLP = (IOP - 3sL)$, then the Upper Safe Operating Limit (USL) and Lower Safe Operating Limits (LSL) shall be: $USL = (IOP + 2sU)$, and $LSL = (IOP - 2sL)$.

(B) Once the New Equipment or Replacement-in-kind Equipment is placed into service as part of a Refinery Process, with initial life and early life Measured Operating Points (MOP), once 100 MOP measurements have been accumulated Gaussian Statistics shall be used to determine Average Operating Point (AOP) of the MOP dataset and its Gaussian $1sM$ value, then the Alternative Upper and Lower Safe Operating Limits shall be: $UML = (AOP + 3sM)$ and $LML = (AOP - 3sM)$.

(C) The URL is then $URL = \min(USL, UML)$, and the LRL is then $LRL = \max(LSL, LML)$.

(D) The same USL and LSL limits from the original Equipment manufacturer shall also apply to Repaired or Refurbished Replacement-in-kind Equipment, but the Repaired or Refurbished Replacement-in-kind equipment can also be evaluated once it is placed into service as part of a Refinery Process, as given by the above (B), to determine new UML and LML values, but where the above (C) restriction still applies to the final URL and LRL values as the final Safe Operating Limits.

Safeguard Protection Analysis (SPA): A written report that analyzes and determines the expected effectiveness of existing individual safeguards, as well as the combined effectiveness of all existing safeguards, for each failure scenario identified by a Process Hazard Analysis (PHA) report. In addition, the SPA shall evaluate the individual and combined effectiveness of safeguards recommended in the PHA, along with the individual and combined effectiveness of additional or alternative safeguards that may be needed, to properly interrupt the chain of events or mitigate the consequences following an initiating cause.

Statistical Process Control (SPC): The numerical measurement of metrics associated with a Refinery Process, and the use of statistics based data analysis methods to identify an acceptable range of values for those to be considered part of normal Refinery operation, with values outside of that range to be considered anomalous Refinery operation. Also see the above "Safe Operating Limits" definitions.

Temporary Pipe or Equipment Leak Temporary Repair. A temporary repair of an active or potential leak from process piping or equipment. This definition includes active or potential leaks in utility piping or utility equipment that affect a process, and that could result in a major incident.

Temporary Repairs Other than Leaks: All Equipment that is part of any Refinery Process, which has been subjected to an Equipment Workaround Process, shall be considered to have had a 'Temporary Repair' of that Equipment, and these Equipment Workaround Processes shall not be considered as normal operation of that Refinery Equipment, such as using walnut shells for in-line abrasive cleaning.

Workaround Limits: When the same piece Equipment in a Refinery Process accumulates three (3) Temporary Repairs within a 7-day interval, which includes being subject to an Equipment Workaround Process, it shall be taken off-line for full Repair or full Refurbishment.

Response to Comment A-1:

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The Board thanks the commenter for the comments. The Board has not made any amendments to the proposed regulation based on these comments because they were outside of the scope of this rulemaking.

Comment A-2

Dr. Eng proposed additional changes to Section 5189.1, subsections (e) and (f):

(e) Process Hazard Analysis (*PHA*).

(13) The Refinery owner or operator shall prepare an electronic copy of all PHA and SPA reports for Cal/OSHA with any Proprietary, Confidential, and/or Trade Secret information redacted out, and with Cal/OSHA concurrence on the properness of these redactions, so as to create Properly Redacted PHA and SPA reports, which shall then be made available on the Cal/OSHA website to the Public-at-large, and to Emergency Responders and Public Health Agencies.

(f) Operating Procedures

(f)(1)(C) Safety and health considerations.

(f)(1)(C)(6) Any special or unique hazards.

(f)(1)(C)(6a) For Refineries using HF/MHF, special Health and Safety Considerations are needed, including special SPAs, PHAs, and HCAs for HF/MHF handling, storage, and use, which should be developed by the Refinery owner or operator, in concert with Cal/OSHA and CalEPA, and vetted by the SCAQMD and US EPA, with input to Cal/OSHA allowed from the Public-at-large and Emergency Responders and Public Health Agencies; to help better ensure the evaluation of the Refinery HF/MHF Alkylation and HF/MHF Storage processes, Risk Management Programs (RMP), and Emergency Response Plans (ERP) up to and including Catastrophic 'Category 4' HF/MHF release scenarios that can result in ground-hugging HF clouds that go outside the Refinery, are all properly protective of the Public Health and Safety and Worker Health and Safety.

Response to Comment A-2:

The Board thanks the commenter for the comments. The Board has not made any amendments to the proposed regulation based on these comments because they were outside of the scope of this rulemaking.

Comment A-3:

Dr. Eng proposed additional changes to Section 5189.1, subsection (l):

(l) Hierarchy of Hazard Controls Analysis (HCA).

(l)(8) The Refinery owner or operator shall prepare an electronic copy of all HCA reports for Cal/OSHA with any Proprietary, Confidential, and/or Trade Secret information redacted out, and with Cal/OSHA concurrence on the properness of these redactions, so as to create Properly Redacted HCA reports, which shall then be made available on the Cal/OSHA website to the Public-at-large, and to Emergency Responders and Public Health Agencies.

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Response to Comment A-3:

The Board thanks the commenter for the comments. The Board has not made any amendments to the proposed regulation based on these comments because they were outside of the scope of this rulemaking.

Comment A-4:

Dr. Eng proposed additional changes to Section 5189.1, subsection (p):

(p) Emergency Planning and Response.

(p)(B) The above effective Emergency Action Plan shall be developed in a manner that contains no Refinery owner or operator Proprietary, Confidential, and/or Trade Secret information, and an electronic copy of this effective Emergency Action Plan shall placed on the Cal/OSHA website in order to be available to the Public-at-large, and to Emergency Responders and Health Agencies.

Response to Comment A-4:

The Board thanks the commenter for the comments. The Board has not made any amendments to the proposed regulation based on these comments because they were outside of the scope of this rulemaking.

Comment A-5:

Dr. Eng proposed additional changes to Section 5189.1, subsection (q):

(q) Employee Participation.

(q)(1)

(E) In the event an employer does NOT accept recommendations and/or findings of employee representatives with respect to any PSM activity, the employer shall develop a written HCA report outlining the PSM activity and include the employer rationale for NOT accepting those recommendations and/or findings.

Response to Comment A-5:

The Board thanks the commenter for the comments. The Board has not made any amendments to the proposed regulation based on these comments. The proposed regulation already contains a requirement in subsection (l)(4)(F) that the employer document the “rationale for not recommending any inherent safety measures and safeguards analyzed by the team and identified pursuant to subsection (l)(4)(D).”

Comment A-6:

Dr. Eng proposed additional changes to Section 5189.1, subsections (t) and (w):

(t) Management of Organizational Change (MOOC).

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(1) As part of the MOOC, the employer shall develop, implement and maintain effective written procedures and assessments to manage organizational changes. These MOOC written procedures and assessments shall be made available to employees in a timely manner.

(w) Division Access to Documents and Information.

(1) The employer shall provide all documents and information developed or collected pursuant to this Section § 5189.1 to the Division (Cal/OSHA) upon request, in a non-redacted form, with the Refinery owner or operator portion marking those requested documents, so as to clearly identify all Refinery 'Proprietary', Confidential, and Trade-Secret information.

(2) Since the life of Refinery Processes can be much longer than the life of any particular Refinery Process Unit, with this Section § 5189.1 requiring the Refinery owner or operator to retain HCAs [§ 5189.1(l)(7-8)], and PHAs and SPAs [§ 5189.1(e)(12-13)] for entire life of a Refinery Process:

(2)(a) Special electronic copies of HCAs, PHAs, and SPAs shall be prepared by the Refinery owner or operator, with all Refinery 'Proprietary', Confidential, and Trade-Secret information redacted out; and

(2)(b) These shall be electronically delivered to Cal/OSHA, so as to make this critical information available to the Public-at-large, and Emergency Responders and Public Health Agencies.

Response to Comment A-6:

The Board thanks the commenter for the comments. The Board has not made any amendments to the proposed regulation based on these comments because they were outside of the scope of this rulemaking.

Comment A-7:

Dr. Eng proposed additional changes to Chapter 4, Subchapter 1: Unified Pressure Vessel Safety Orders:

Article 4. Pressure Vessels Other Than Air Tanks, LPG, CNG, LNG, or NH₃, or HF/MHF Tanks

Article 6a. Anhydrous Hydrogen Fluoride (HF) and Modified Hydrofluoric Acid (MHF) tanks and pressure vessels.

[This Article 6a needs to be developed by Cal/OSHA in a manner that properly protects the Public Health and Safety and Worker Health and Safety, using the present Article 6 for Anhydrous Ammonia as an initial guide.]

[This new Article 6a should also take into account both Hydrogen Fluoride (HF) Settler Tanks and HF Storage Tanks, as well as the various flanges and piping leading into and out of both these HF Tank types. According to Google(R)-AI, the HF Settler Tanks are run at a Alkylation process temperature of 80-100 F, and pressures in the range of 100-150 psi, well above the 15 psi threshold for tank exemption from the requirements of this Subchapter 1. The Settler Tanks are used to separate HF/MHF from the hydrocarbon alkylate (usually octane) and the butane and/or isobutane that is used as the Alkylation input feed, which itself can also have higher vapor pressures than HF.]

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[The HF Storage tanks, usually contain Anhydrous Hydrogen Fluoride plus about 10 wt% Sulfolane, and they are at ambient temperature. However, as both California HF Refineries are located in Los Angeles County, one of the recent highest LA County temperatures was 113 F, where HF would have vapor pressure of about 45 psia (absolute pressure), giving about 30 psig (gauge pressure), where “psig” is equivalent to what is usually called just “psi”. This factor means that the HF Storage Tanks also qualify as 'pressure vessels', to be regulated under these Subchapter 1 requirements.]

Response to Comment A-7:

The Board thanks the commenter for the comments. The Board has not made any amendments to the proposed regulation based on these comments because they were outside of the scope of this rulemaking.

COMMENTER B

Kaitlin Alcontin & Kerry M. Guerin, Communities for a Better Environment
January 14, 2026

Comment B-1: WSPA’s Control over the Amendment Process Contravenes California’s Procedural Safeguards on Rulemaking

Commenters Alcontin and Guerin are concerned that the proposed rulemaking is mandated by the terms of the settlement agreement and driven by litigation. The commenters alleged that the Administrative Procedures Act (APA) was not effectively followed. The commenters stated the public’s participation in the rulemaking will not be taken seriously and that no reasonable alternatives were considered. The commenters believe that the proposed amendments go beyond clarifying the existing regulations. The commenters contend the economic analysis was insufficient and does not take into consideration other implications of the proposed amendments.

Response to Comment B-1:

The Board thanks the commenter for the comments. The Board has not made any amendments to the proposed regulation based on these comments. The 2024 Settlement did not require that the Board adopt any particular regulatory language or reach any predetermined outcome. The 2024 Settlement only provided for the initiation of a rulemaking process and the submission of proposed regulatory language for the Board’s consideration pursuant to the APA. The Board’s authority and responsibility to adopt, amend, or repeal occupational safety and health standards derives from statute and remains independent of any settlement agreement entered into by Cal/OSHA. The Board is not bound by the proposed language referenced in the 2024 Settlement and retains full discretion throughout the rulemaking process to evaluate the proposal, consider alternatives, modify proposed text, or decline to adopt the proposal. The authority of the Board, along with Office of Administrative Law, to act independently in the evaluation of the proposed language is expressly conferred in Section 4(a) of the 2024 Settlement.

Further, public participation in the present rulemaking has not been limited or curtailed. Consistent with the requirements of the APA, interested persons were provided notice of the proposed action and afforded opportunities to participate through written comments, public hearings, and other aspects of the rulemaking process. All comments submitted during the rulemaking process were reviewed and considered as part of the evaluation of the proposed amendments.

Comment B-2: Proposed Amendments to Section 5189.1(c) Definitions: “Employee Representative”

The commenters stated that the amendment to the definition of the phrase “employee representative” will impede workers from drawing upon subject matter experts with knowledge that local workers may lack. Further, the amendment will have the primary effect of eliminating workers’ ability to elect to bring in additional expertise, if needed. The commenters believe the amendment is contrary to worker safety.

The commenters do not believe the proposed amendments ensure compliance with the National Labor Relations Act (NLRA). They also believe the potential for the altering of the employee representative every two to three years when the collective bargaining agreement is renegotiated will create confusion and prevent the representative from accumulating expertise.

Response to Comment B-2:

The Board thanks the commenter for the comments. The Board has not made any amendments to the proposed regulation based on these comments. The amended definition ensures that the “employee representative” is “on-site and qualified.” “On-site and qualified” employees have the most intimate knowledge and understand the best practices of the effectiveness of procedures and day-to-day operations. Such a representative, either selected by a union or, where there is no union, selected by the employees, will be best suited to represent the best interests of the employees based on their knowledge of a site’s processes. The amended definition is the one that has been in effect at non-union refineries since 2017, when section 5189.1 was first adopted. The proposed amendment aligns the employee-representative selection process at union and non-union refineries.

The proposed amendments do not conflict with the NLRA. Workplace safety is a core state responsibility, and nothing in the NLRA indicates that Congress intended to prevent California from setting basic safety requirements by, and for, employees at refineries.

Tying the employee representative’s selection to the collective bargaining cycle does not necessarily make the elected representatives vulnerable or undermine worker safety. Nothing in the proposed amendment alters the ability of employees to select the same or new representative, with a degree of expertise the voters prefer, as chosen by the other union and/or nonunion employees.

Comment B-3: Proposed Amendments to Section 5189.1(c) Definitions: Highly Hazardous Materials

The commenters are concerned with the lack of threshold quantities in the definition of “highly hazardous materials.” The commenters believe that substances in quantities in lesser amounts can still be hazardous. The commenters believe the thresholds set forth in the California Hazardous Materials Business Plan were not made specifically for refineries and that the use of those thresholds would reduce safety based on an arbitrary and acontextual quantity. The commenters argued that the amendment represents a change to the rule, rather than a clarification, and that the amendment makes the application of the rule more complex. The commenters are also unsatisfied with the justification of the proposed amendment.

Response to Comment B-3

The Board thanks the commenter for the comments. The Board has not made any amendments to the proposed regulation based on these comments. The existing definition is overbroad and vague. Setting forth the California Hazardous Business Plan as a reference provides a method for a

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petroleum refinery to ensure it is compliant with its regulatory responsibilities and facilitates enforcement of the regulation. The threshold quantities in the proposed regulation are in fact very small for facilities as large as refineries: they are the *lesser* of the quantities listed the tables of regulated substances in the state’s Accidental Release Prevention program or 55 gallons of liquids, 500 pounds of solids, or 200 cubic feet of compressed gas (see Tables 1, 2, and 3 in CCR, title 19, section 5130.6; Health and Safety Code section 25507(a)(1)(A).) The amendment assists in closing loopholes on varying interpretations as to what is compliant and what is not. These are some of the substantive reasons for the proposed amendment. Please also see Response to Comment B-1.

Comment B-4: Proposed Amendments to Section 5189.1(c) Definitions: Major Change

The commenters believe the proposed amendment to the phrase “major change” substantively narrows the regulations scope. They believe that the proposed amendment will allow employers to find ways around coverage under the definition. The commenters believe the current definition provides more worker protections.

Response to Comment B-4:

The Board thanks the commenter for the comments. The Board has not made any amendments to the proposed regulation based on these comments. Initially, the proposed amendments to the definition of “major change” are intended to make it more clear, from a grammar standpoint, what is meant by the phrase. The proposed amendments also expand the scope and more clearly define what is considered an alteration qualifying as a “major change.” It does so by providing something measurable to enforce: “operational change outside of established safe operating limits,” a requirement derived from section 3328.

Comment B-5: Amendments to Section 5189.1(l) Hierarchy of Hazard Control Analysis: (l)(4)(D)

The commenters are concerned with the term “may” in the proposed amendment. They believe it removes the mandate the Hazard Control Analysis (HCA) team has to identify, analyze, and document inherent safety measures that have been (1) achieved in practice by industry or (2) required or recommended by industry, a federal or state agency, or a local California agency in a regulation or report. They believe it discards the requirement to evaluate safety measures promulgated by report or regulation that could lead to an HCA team overlooking a forthcoming or existing legal obligation.

Response to Comment B-5:

The Board thanks the commenter for the comments. The Board has not made any amendments to the proposed regulation based on these comments. The proposed amendment makes it clear that the list of considerations in identifying, analyzing, and documenting publicly available information on inherent safety measures and safeguards is nonexhaustive. The proposed amendment does not preclude the consideration of the previously mandated information and invites other unlisted sources to be included.

Comment B-6: Amendments to Section 5189.1(l) Hierarchy of Hazard Control Analysis: (l)(4)(E)

The commenters believe the proposed amendments contradict the Inherently Safer Design principles. They believe the new language is unnecessary, inconsistent with the ISOR, contrary to decades of industry safety research, and incompatible with increasing safety.

Response to Comment B-6:

The Board thanks the commenter for the comments. The Board has not made any amendments to the proposed regulation based on these comments. To the extent the proposed amendment

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encourages discretion, HCA team decision-making encourages diverse perspectives, better risk assessment, and risk-based prioritization that consider technical feasibility, cost, and operational needs when choosing HCA options, especially when hazard elimination is not always possible. Just as it is important to identify the most effective measures, the proposed change clarifies that the HCA team must consider *all* process safety hazards that may be affected by a particular safety measure or safeguard, and in its judgment, identify those measures or safeguards that are not effective in reducing those hazards, as well.

Comment B-7: Amendments to Section 5189.1(q) Employee Participation: (q)(1)(D)

The commenters believe the proposed amendment weakens employee participation because employers are not required to accept the recommendations or findings of employee representatives. They are concerned with the potential for employers to not provide adequate “advance notice” of PSM activities.

Response to Comment B-7:

The Board thanks the commenter for the comments. The Board has not made any amendments to the proposed regulation based on these comments. With respect to recommendations or findings of employee representatives, the proposed amendments to subsection (q)(1)(D) are consistent with section 5189.1 as a whole. Employees participate in various process safety management teams that make “recommendations” to the employer. See, for example, subsection (e)(7) for process hazard analyses, subsection (l)(4)(E) for hierarchy of hazard control analyses, and subsection (o)(6) for root cause analyses of incidents. Under subsection (x), employers may reject the recommendations of the process safety management teams for a variety of specified reasons. The proposed amendment to subsection (q)(1)(D) is consistent with the existing provisions of section 5189.1.

The proposed amendments are intended to ensure that employees involved in PSM activities receive advance notice of their involvement in such activities. It is appropriate that “advance notice” is not defined because it allows for flexibility based on the needs of the PSM activity and the individual refinery. The advance notice appropriate for a turnaround, for example, is far longer than the notice required during an emergency. The proposed amendment requires consultation between the employees and owner/operators. The amendments, as drafted, allow employees and the refinery owner/operators to include refinery-specification notice requirements in the written employee-participation plan under 5189.1(q)(2).

Comment B-8: Amendments to Section 5189.1(q) Employee Participation: (q)(2)

The commenters believe the proposed amendment is problematic because the written plan is developed by the employer, with employees and employee representatives merely consulted. Additionally, they believe the proposed amendments to this subsection limits who may serve as an employee representative.

Response to Comment B-8:

The Board thanks the commenter for the comments. The Board has not made any amendments to the proposed regulation based on these comments. The employee-participation plan is drafted with consultation with employees and their representatives. The proposed amendment reflects the requirement that has been in effect at non-union refineries since 2017, when section 5189.1 was adopted. The proposed amendment aligns the employee-participation process at union and non-union refineries.

Comment B-9: Weakening Process Safety Management Worsens Affordability Burdens

The commenters are concerned with the potential costs associated with compliance with what they perceive as weakened process safety management. Those concerns are not just about the costs of the application of the new rules, but, also, downstream effects such as the cost of gas, litigation and general taxpayer burdens.

Response to Comment B-9:

The Board thanks the commenter for the comments. The Board has not made any amendments to the proposed regulation based on these comments because they were outside of the scope of this rulemaking.

Comment B-10: The Proposed Amendments Exacerbate Worsening Environmental Health Inequities

The commenters believe the proposed amendments exacerbate worsening environmental health inequities. They are concerned with the effect refinery fires and incidents have on the health of those in the communities around the refineries. The commenters believe a full analysis under the California Environmental Quality Act (“CEQA”) is required for this rulemaking.

Response to Comment B-10:

The Board thanks the commenter for the comments. The Board has not made any amendments to the proposed regulation based on these comments because they were outside of the scope of this rulemaking.

COMMENTER C
Charlotte Brody, BlueGreen Alliance
January 15, 2026

Comment C-1

Commenter Brody is concerned that accepting the proposed amendments would make it more likely that another refinery fire or incident would occur again, and that occurrence would impact the health of the employees and public. The commenter believes the proposed amendment will allow employers to ignore the safety concerns of workers.

Response to Comment C-1:

The Board thanks the commenter for the comments. The Board has not made any amendments to the proposed regulation based on these comments because they were outside of the scope of this rulemaking.

Comment C-2:

The commenter believes the proposed amendments regarding employee representatives are designed to give the refinery managers the power to exclude troublesome worker representatives.

Response to Comment C-2:

The Board thanks the commenter for the comments. The Board has not made any amendments to the proposed regulation based on these comments. The proposed amendments require that refinery owners and operators consult with employees and employee representatives to develop, implement, and maintain a written plan in order to provide for effective employee participation. The proposed amendment reflects the requirement that has been in effect at non-union refineries since 2017, when section 5189.1 was adopted. The proposed amendment aligns the employee-participation process at union and non-union refineries.

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Comment C-3:

The commenter believes the proposed amendment to “major change” would exclude certain workers from assisting with problem solving.

Response to Comment C-3:

The Board thanks the commenter for the comments. The Board has not made any amendments to the proposed regulation based on these comments. Initially, the proposed amendments to the definition of “major change” are intended to make it more clear, from a grammar standpoint, what is meant by the phrase. The proposed amendments also expand the scope and more clearly defines what is considered an alteration qualifying as a “major change.” It does so by providing something measurable to enforce: “operational change outside of established safe operating limits,” a requirement derived from section 3328. The proposed amendments do not prevent employee participation in process safety management processes. .

Comment C-4:

The commenter believes the proposed amendment to “hierarchy of hazard control analysis” allows employers to dismiss safety solutions that they don’t want to consider.

Response to Comment C-4:

The Board thanks the commenter for the comments. The Board has not made any amendments to the proposed regulation based on these comments. The new language provides that the information being considered in identifying, analyzing, and documenting publicly available information on inherent safety measures and safeguards cannot be construed to be limited to the list that was previously referred to as mandatory.

COMMENT D

Charles B. Barbee, U.S. Chemical Safety and Hazard Investigation Board

January 15, 2026

Comment D-1 Employee Representative

Commenter Barbee is concerned with how the term “qualified” is determined under the proposed amendment to “employee representative.” Commenter is also concerned with what is meant by “on-site.” Commenter believes the application of those terms could exclude those who would otherwise be qualified and on-site.

Response to Comment D-1:

The Board thanks the commenter for the comments. The Board has not made any amendments to the proposed regulation based on these comments. The proposed amendment clarifies and adds greater specificity to the existing definition. The amended definition ensures that the “employee representative” is “on-site and qualified.” “On-site and qualified” employees have the most intimate knowledge and understand the best practices of the effectiveness of procedures and day-to-day operations. Such a representative, either selected by a union or, where there is no union, selected by the employees, will be best suited to represent the best interests of the employees based on their knowledge of a site’s processes.

Comment D-2: Definition of Major Change

The commenter believes the existing definition of the phrase “major change” does not need to be changed. Commenter believes any inconsistent applications of such regulatory language can generally be addressed with proper guidance and training, rather than revising the regulation itself. Commenter believes the introduction of new processes and equipment are significant by

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themselves. Commenter believes those processes and equipment require significant analysis regardless of whether there is “an operational change outside of established safe operating limits.”

Response to Comment D-2:

The Board thanks the commenter for the comments. The Board has not made any amendments to the proposed regulation based on these comments. Initially, the proposed amendments to the definition of “major change” are intended to make it more clear, from a grammar standpoint, what is meant by the phrase. The proposed amendments also expand the scope and more clearly defines what is considered an alteration qualifying as a “major change.” It does so by providing something measurable to enforce.

With regards to the addition of “established safe operating limits,” these amendments would provide more clarity so that there is better enforcement of the regulations. The proposed amendments would allow petroleum refineries to better understand their compliance obligations by providing a more quantifiable and enforceable provision. The proposed changes would also facilitate uniform and efficient compliance, inclusive of the requirements under Sections 5189(e) and (f).

Additionally, addressing regulatory requirements through guidance and training runs the risk of underground rulemaking. The amendments promote clarity and certainty.

Comment D-3: Employee Participation

The commenter believes the proposed language for “employee participation” is confusing. Commenter believes the phrase “advance notice” should be defined.

Response to Comment D-3:

The Board thanks the commenter for the comments. The Board has not made any amendments to the proposed regulation based on these comments. The proposed amendments are intended to ensure that employees involved in PSM activities receive advance notice of their involvement in such activities. It is appropriate that “advance notice” is not defined because it allows for flexibility based on the needs of the PSM activity and the individual refinery. The advance notice appropriate for a turnaround, for example, is far longer than the notice required during or following an emergency. The proposed amendment requires consultation between the employees and owner/operators, and the amendments, as drafted, allow those parties to include refinery-specification notice requirements in their written employee-participation plan under 5189.1(q)(2).

COMMENT E

Jan Warren, Interfaith Climate Action Network of Contra Costa County

January 15, 2026

Comment E

Commenter Warren is concerned with litigation and a settlement agreement driving the proposed amendments and rulemaking process. The commenter is concerned with recent refinery fires and worker safety. The commenter believes the safety of workers is paramount and opposes any changes to the regulations.

Response to Comment E:

The Board thanks the commenter for the comments. The Board has not made any amendments to the proposed regulation based on these comments. With respect to the litigation, the 2024 Settlement did not require that the Board adopt any particular regulatory language or reach any predetermined outcome. The 2024 Settlement only provided for the initiation of a rulemaking

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process and the submission of proposed regulatory language for the Board's consideration. The Board's authority and responsibility to adopt, amend, or repeal occupational safety and health standards derives from statute and remains independent of any settlement agreement entered into by Cal/OSHA. The Board is not bound by the proposed language referenced in the 2024 Settlement and retains full discretion throughout the rulemaking process to evaluate the proposal, consider alternatives, modify proposed text, or decline to adopt the proposal. The authority of the Board, along with Office of Administrative Law, to act independently in the evaluation of the proposed language is expressly conferred in Section 4(a) of the 2024 Settlement.

With respect to worker safety, the refineries operating in California have come into compliance with the requirements of section 5189.1, with significant improvements in safety performance. The proposed amendments will benefit the petroleum refineries that implement the process safety management program by allowing for greater efficiency and consistency in implementation and compliance by those entities. The proposed changes would also facilitate uniform and efficient enforcement through greater clarity and consistency, which should lead to an increase in worker safety and health at the refineries.

COMMENT F
Nick Plurkowski, USW Local 5
January 15, 2026

Comment F-1:

Commenter Plurkowski submitted alternative language to Section 5189.1(q)(2) that commenter believes would be more effective and less burdensome.

Section 5189.1(q)(2) currently states:

Authorized collective bargaining agents may select (A) employee(s) to participate in overall PSM program development and implementation planning and (B) employee(s) to participate in PSM teams and other activities, pursuant to this section.

The commenter believes the ability to get the right person involved in any PSM activity is the key to its successful outcome. Commenter believes that the "on-site and qualified" employee also needs to be capable and willing to disagree with their employer.

The commenter proposed the below alternative language to take the place of 'Authorized Collective Bargaining Agents' and to avoid Federal Preemption:

"Employee designated representatives may..."

"The on-site employee representative(s) select(s)..."

As an alternative to the above, he would support language that provides that the selection process is similar to that of Union Stewards, as prescribed by the NLRA.

Response to Comment F-1:

The Board thanks the commenter for the comments. The Board has not made any amendments to the proposed regulation based on these comments. However, Cal/OSHA believes the proposed amendments emphasize the importance of having a person "on-site and qualified" included in the PSM program's development and implementation. The proposed amendments require the refinery owner/operator to consult with employees. The commenter's alternatives still leave the federal preemption issues alive, as they concern a topic that relates to the union-employer relationship.

Comment F-2:

The commenter requested the removal of the section about a collective bargaining agreement superseding this regulation. The commenter believes it takes away from the regulation and would

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allow wildly different safety standards at each location. The commenter also believes the ‘written plan’ language will only be as successful as the relationship between employees and employer at the time.

Response to Comment F-2:

The Board thanks the commenter for the comments. The Board has not made any amendments to the proposed regulation based on these comments. The inclusion of the language stating “nothing in this subsection shall be construed to supersede an employee representative selection process in a collective bargaining agreement” ensures that the amended regulation does not impede compliance with the NLRA. Further, it protects the bargaining rights of employees. With regards to striking the “written plan” language under section 5189.1(q)(1), nothing in the proposed amendment precludes continued consultation between the employees, employee representatives, and the employer. The proposed amendments mandate consultation between the parties in the development, implementation, and maintaining of the written plan.

**SUMMARY AND RESPONSE TO ORAL COMMENTS RECEIVED DURING THE
PUBLIC HEARING ON JANUARY 15, 2026**

On January 15, 2026, the Occupational Safety and Health Standards Board (Standards Board) conducted a public hearing in accordance with Government Code section 11346.8. Below is a summary of individuals and organizations that provided oral comments during the public hearing. As required by the Administrative Procedure Act, the Standards Board considered all relevant matter it received, including public comments, and hereby provides responses to all public comments received. (Gov. Code §§ 11346.8, subd. (a), 11346.9, and 11340.85 subds. (a) and (b)(4).)

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G	Charlotte Brody, BlueGreen Alliance
H	Timothy Jefferies, International Brotherhood of Boiler Makers
I	Randy Thomas, Boiler Makers Local 549
J	Mike West, State Building in Construction Trades Council of California
K	Jane Thomason, California Nurse Association
L	Kathy Kerridge, Benicia Community Air Monitoring Program
M	Julia Sebastian, Jobs With Justice San Francisco
N	Ted Wickers, Local 326
O	Dr. Genghun Eng, Member of the Public
P	Jeff Kilbreth, Member of the Public
Q	Byron Chan, EarthJustice
R	Nick Plurkowski, USW Local 5
S	Marie Choi, Asian Pacific Environmental Network
T	Kerri Guerin, Communities for a Better Environment
U	Norman Rogers, USW Local 675
V	Mike Donlon, MD Safety Service
W	Randy Thomas, Boiler Makers Local 549

Summary of and Response of Oral Comments Received during Public Hearing on January 15, 2026

COMMENT G

Charlotte Brody, BlueGreen Alliance

Comment G:

Commenter Brody was involved in the stakeholder process that created Section 5189.1. The commenter believes that it is not too burdensome for the workers to have a full-sized seat at the table to problem-solve. The commenter stated that the burden is worthwhile if it helps keep refineries safe, regardless of the burdens size.

Response to Comment G:

The Board thanks the commenter for the comments. The Board has not made any amendments to the proposed regulation based on these comments because they were outside of the scope of this rulemaking.

COMMENT H

Timothy Jefferies, International Brotherhood of Boiler Makers

Comment H-1:

Commenter Jefferies believes that the proposed amendments should not write the union out of the process. The commenter also believes that the employers and industry should make PPE that is worth the workers while.

Response to Comment H-1:

The Board thanks the commenter for the comments. The Board has not made any amendments to the proposed regulation based on these comments because they were outside of the scope of this rulemaking.

Comment H-2:

Commenter stated that while there are similarities between USW and the International Brotherhood of Boiler Makers, there are also differences. It's the workers' job to make sure they're working as safely as possible.

Response to Comment H-2:

The Board thanks the commenter for the comments. The Board has not made any amendments to the proposed regulation based on these comments because they were outside of the scope of this rulemaking.

COMMENT I

Randy Thomas, Boiler Makers Local 549

Commenter Thomas stated that the stop-work authority needs to remain as is. The commenter believes that workers need to be on the "council" because they are the ones who are out there day-to-day dealing with the tools and roadblocks that occur.

Response to Comment I:

The Board thanks the commenter for the comments. The Board has not made any amendments to the proposed regulation based on these comments. To the extent this comment is intended to address employee participation, the proposed amendments require consultation between the employees and owner/operators, and the amendments. The proposed amendment ensures both union and nonunion employees are properly represented in the PSM program. None of the proposed amendments affect or change the current stop-work provisions of section 5189.1.

COMMENT J

Mike West, State Building in Construction Trades Council of California

Comment J:

Commenter West stressed the importance of ensuring that the contracts at refinery facilities should use skilled and qualified workers to reduce public health and safety risks. The commenter also believes it is essential that building-trade members working in refineries have a seat at the table when health and safety policies are updated and adopted.

Response to Comment J:

The Board thanks the commenter for the comments. The Board has not made any amendments to the proposed regulation based on these comments. The amended definition ensures that the “employee representative” is “on-site and qualified.” “On-site and qualified” employees have the most intimate knowledge and understand the best practices of the effectiveness of procedures and day-to-day operations. Such a representative, either selected by a union or, where there is no union, selected by the employees, will be best suited to represent the best interests of the employees based on their knowledge of a site’s processes.

COMMENT K

Jane Thomason, California Nurse Association

Comment K:

Commenter Thomason believes that worker engagement is key to work safety and health. The commenter opposed the amendments to the process safety management rules because she believes the amendments will endanger the safety of workers and communities in and around California's refineries.

Response to Comment K:

The Board thanks the commenter for the comments. The Board has not made any amendments to the proposed regulation based on these comments because they were outside of the scope of this rulemaking. Cal/OSHA believes these amendments would provide more clarity so that there is better enforcement of the regulations and would allow petroleum refineries to better understand their compliance obligations.

COMMENT L

Kathy Kerridge, Benicia Community Air Monitoring Program

Comment L:

Commenter Kerridge believes workers need to be involved in the process because they are the ones who can fix a problem before it gets too dangerous. The Commenter believes rulemaking should not occur in a private settlement conference without unions and community members.

Response to Comment L:

The Board thanks the commenter for the comments. The Board has not made any amendments to the proposed regulation based on these comments. The proposed amendment ensures both union and nonunion employees are properly represented in the PSM program. The Occupational Safety and Health Standards Board is not obligated to adopt the language recommended by Cal/OSHA. The proposed amendments are undergoing the regular rulemaking procedures, including the solicitation and consideration of public comments, as required by the APA. The authority of the Board, along with Office of Administrative Law, to act independently in the evaluation of the proposed language is expressly conferred in Section 4(a) of the 2024 Settlement.

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COMMENT M

Julia Sebastian, Jobs With Justice San Francisco

Comment M:

Commenter Sebastian believes refinery workers and nearby residents will be put in increased risk if the proposed changes to the PSM move forward. The commenter believes this because the changes are a result of the pressure applied by the litigation. The commenter stated the proposed amendments are similar to language that was rejected in 2015-2016. The commenter believes the PSM regulations should be stronger as oil infrastructure ages. She believes the regulations should be amended with the assistance of the public and workers.

Response to Comment M:

The Board thanks the commenter for the comments. The Board has not made any amendments to the proposed regulation based on these comments. The proposed amendments ensure both union and nonunion employees are properly represented in the PSM program. The proposed amendments are undergoing the regular rulemaking procedures, including the solicitation and consideration of public comments, as required by the APA. The authority of the Board, along with Office of Administrative Law, to act independently in the evaluation of the proposed language is expressly conferred in Section 4(a) of the 2024 Settlement.

COMMENT N

Ted Wickers, Local 326

Comment N-1:

Commenter Wickers stressed the importance of good employee involvement in a refinery's process safety management.

Response to Comment N-1:

The Board thanks the commenter for the comments. The Board has not made any amendments to the proposed regulation based on these comments because they were outside of the scope of this rulemaking.

Comment N-2:

The Commenter believes safety is taking a backseat to the litigation because the employees are removed from the process. The commenter is unsure of who holds the burden to decide new regulatory language, but it should not come down to the workers during a labor dispute.

Response to Comment N-2:

The Board thanks the commenter for the comments. The Board has not made any amendments to the proposed regulation based on these comments. The proposed amendments are undergoing the regular rulemaking procedures, including the solicitation and consideration of public comments, as required by the APA. The authority of the Board, along with Office of Administrative Law, to act independently in the evaluation of the proposed language is expressly conferred in Section 4(a) of the 2024 Settlement.

COMMENT O

Dr. Gengmun Eng, Member of the Public

Comment O-1:

Commenter Eng objected to aspects of the settlement that he believes weaken workers' rights and puts the public at an increased health and safety risk. The commenter wanted to ensure the recommendations he made in the written comments were reviewed. The commenter requested that any votes on the proposed amendments is deferred for more public participation.

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Response to Comment O-1:

The Board thanks the commenter for the comments. The Board has not made any amendments to the proposed regulation based on these comments because they were outside of the scope of this rulemaking.

Comment O-2:

The commenter urged more concentration on the proposed amendments to the employee participation language. The commenter believes there needs to be a better balance between the workers and the refineries' interests. The commenter also disagreed with the new definition of safe operating limits. The commenter believes it is unsafe.

Response to Comment O-2:

The Board thanks the commenter for the comments. The Board has not made any amendments to the proposed regulation based on these comments. The proposed amendments regarding the definition of major change provides something measurable to enforce: "operational change outside of established safe operating limits," a requirement derived from section 3328.

Comment O-3:

The commenter proposed the use of statistical process control to define safe operating limits and to have it change from the present proposal of using the extremes from a manufacturer's initial point.

Response to Comment O-3:

The Board thanks the commenter for the comments. The Board has not made any amendments to the proposed regulation based on these comments. The proposed amendments rely on the provisions of section 3328 because they provide a more objective basis for evaluating safety.

COMMENT P

Jeff Kilbreth, Member of the Public

Comment P:

Commenter Kilbreth stated workers need to be trusted on subjects related to maintenance and emergency procedures and given full participation because they have no conflict of interest. It is about their own safety. The commenter believes Chevron can afford to spend more money to ensure their workers' and the community's health and safety.

Response to Comment P:

The Board thanks the commenter for the comments. The Board has not made any amendments to the proposed regulation based on these comments because they were outside of the scope of this rulemaking. The purpose of the regulation is to reduce the risk of major incidents and eliminate or minimize process safety hazards. The proposed amendments are intended to further that purpose.

COMMENT Q

Byron Chan, Earthjustice

Comment Q:

Comment Chan supported the union workers and community members opposing the proposal to water down the PSM standards. The commenter believes the refineries are inherently dangerous operations, and California should do all it can to make sure that workers and communities are kept safe. The commenter asks that the proposed amendments be rejected.

Response to Comment Q:

The Board thanks the commenter for the comments. The Board has not made any amendments to the proposed regulation based on these comments because they were outside of the scope of this rulemaking. The purpose of the regulation is to reduce the risk of major incidents and eliminate or minimize process safety hazards. The proposed amendments are intended to further that purpose.

COMMENT R
Nick Plurkowski, USW Local 5

Comment R:

Commenter Plurkowski thanked Carl Paganelli for describing the rulemaking and clarifying why the amendments are being proposed. The commenter commented that it was important that employee representatives who are willing to speak up for worker safety issues are selected.

Response to Comment R:

The Board thanks the commenter for the comments. The amendments help ensure that employee representatives are selected through a process that gives workers the ability to choose someone they trust to voice safety concerns. Because the representatives are chosen by the employees they represent and are directly involved in the process safety management process, they have both the knowledge and incentive to speak up about workplace safety issues.

COMMENT S
Marie Choi, Asian Pacific Environmental Network

Comment S:

Commenter Choi was concerned about the health effects of refinery explosions on the community. The commenter was concerned about the manner in which employee representatives will be chosen. The commenter believes the employers will choose their own representatives who act in their best interests. The commenter also thinks the proposed amendments will reduce oversight of hazardous chemicals at refineries. The commenter was concerned with the lack of investment in maintenance at aging refineries.

Response to Comment S:

The Board thanks the commenter for the comments. The Board has not made any amendments to the proposed regulation based on these comments. The proposed amendment ensures both union and nonunion employees are properly represented in the PSM program. The proposed amendment requires the refinery employers to consult with those employees, regardless of union or nonunion status. The proposed amendment will also help ensure worker safety at the regulated petroleum refineries themselves.

With regards to the comment about oversight, the proposed amendments will benefit worker safety and health at petroleum refineries by enabling for greater efficiency and consistency in implementation and compliance. The proposed changes would also facilitate uniform and efficient enforcement through greater clarity and consistency. Together, this should lead to an increase in worker safety and health at refineries.

COMMENT T
Kerri Guerin, Communities for a Better Environment

Comment T:

Commenter Guerin was concerned with the rulemaking arising from the settlement agreement. The commenter did not believe the rulemaking has complied with the APA. The commenter believes the proposed amendments will fail scrutiny under the APA for lack of clarity and necessity. The commenter believes the 2017 rules put a more appropriate emphasis on worker and community protections through a more rigorous analysis of hazard controls and strong regulation of highly hazardous materials. The commenter is concerned that the amendment to the definition

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of “employer representative” is based on an erroneous interpretation of law and shifts bargaining power from the workers. The commenter did not believe the proposed amendments provide clarification to the existing regulations and thinks they should trigger CEQA review.

Response to Comment T:

The Board thanks the commenter for the comments. The Board has not made any amendments to the proposed regulation based on these comments. The 2024 Settlement did not require that the Board adopt any particular regulatory language or reach any predetermined outcome. The 2024 Settlement only provided for the initiation of a rulemaking process and the submission of proposed regulatory language for the Board’s consideration pursuant to the APA. The Board’s authority and responsibility to adopt, amend, or repeal occupational safety and health standards derives from statute and remains independent of any settlement agreement entered into by Cal/OSHA. The Board is not bound by the proposed language referenced in the 2024 Settlement and retains full discretion throughout the rulemaking process to evaluate the proposal, consider alternatives, modify proposed text, or decline to adopt the proposal. The authority of the Board, along with Office of Administrative Law, to act independently in the evaluation of the proposed language is expressly conferred in Section 4(a) of the 2024 Settlement.

The proposed amendments are undergoing the regular rulemaking procedures, including the solicitation and consideration of public comments, as required by the APA. Public participation in the present rulemaking has not been limited or curtailed. Consistent with the requirements of the APA, interested persons were provided notice of the proposed action and afforded opportunities to participate through written comments, public hearings, and other aspects of the rulemaking process. All comments submitted during the rulemaking process were reviewed and considered as part of the evaluation of the proposed amendments. As a result, the Board is confident the proposed amendments comply with the APA and other related laws.

Additionally, the Board does not believe the proposed amendments as to employee representation are an industry giveaway for bargaining purposes. The proposed amendment reflects the requirement that has been in effect at non-union refineries since 2017, when section 5189.1 was adopted. The proposed amendment aligns the employee-participation process at union and non-union refineries. The proposed amendments ensure both union and nonunion employees are properly represented in the PSM program. The proposed amendment requires refinery employers to consult with those employees, regardless of union or nonunion status.

Further, with respect to worker safety, the refineries operating in California have come into compliance with the requirements of section 5189.1, with significant improvements in safety performance. The proposed amendments provide a more rigorous and specific method for controlling hazards. The proposed amendments will benefit worker safety and health at petroleum refineries by enabling greater efficiency and consistency in implementation and compliance. The proposed changes would also facilitate uniform and efficient enforcement through greater clarity and consistency. Together, this should lead to an increase in worker safety and health at refineries. Finally, the commenter’s concerns about the impact of the proposed amendments on gas prices and potential CEQA review are outside of the scope of this rulemaking.

COMMENT U

Norman Rogers, USW Local 675

Comment U:

Commenter Rogers acknowledged the difficulty of proceeding under the pressure from the litigation. The commenter argued the proposed amendments to employee participation are

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problematic because of the controls in place by the employers. The commenter doubted whether the mandated consulting will occur in good faith. The commenter also had concerns about the definition of employee representative. The commenter believes there will be issues with obtaining insight from offsite but otherwise qualified experts.

Response to Comment U:

The Board thanks the commenter for the comments. The Board has not made any amendments to the proposed regulation based on these comments. The proposed amendment requires the refinery employers to consult with the employees through their representative(s), regardless of union or nonunion status. The proposed amendments relating to employee representative selection and employee participation are the ones that have been in effect at non-union refineries since 2017, when section 5189.1 was first adopted. The proposed amendments align the requirements at union and non-union refineries.

COMMENT V

Mike Donlon, MD Safety Service

Comment V:

Commenter Donlon stressed the importance of employees feeling like their voices are heard and appreciated and their concerns are heard and addressed. If they do feel heard and appreciated, then they are more likely to comply with safe work procedures.

Response to Comment V:

The Board thanks the commenter for the comments. The Board has not made any amendments to the proposed regulation based on these comments. The amendments help ensure that employee representatives are selected through a process that gives workers a meaningful voice in choosing someone they trust to raise safety concerns. Because the representatives are chosen by the employees they represent and are directly involved in process safety management, they have both the knowledge and incentive to advocate for the workers. This provides a more direct and accountable connection between workers and the safety process.

COMMENT W

Randy Thomas, Boiler Makers Local 549

Comment W:

Commenter Thomas stated the oil and gas industry is under attack from all different angles and that it needs to be protected because of its importance. The commenter stressed the importance of working together on solutions and ensuring the worker is included in those conversations. The commenter stated that it's the workers who are there every single day who know the facility like the back of their hand. However, there are also those from the outside whose perspective is appreciated, as well.

Response to Comment W:

The Board thanks the commenter for the comments. The Board has not made any amendments to the proposed regulation based on these comments. The proposed amendments ensure that employee representatives are chosen by the employees they represent. They are directly involved in process safety management and have both the knowledge and incentive to advocate for the workers. Outside input can be valuable, but it should complement the employees' own voice in identifying and addressing workplace safety concerns. The proposed amendments preserve that direct employee perspective.