

**OCCUPATIONAL SAFETY
AND HEALTH STANDARDS BOARD**

2520 Venture Oaks Way, Suite 350
Sacramento, CA 95833
(916) 274-5721
FAX (916) 274-5743
Website address www.dir.ca.gov/oshsb



**SUMMARY
PUBLIC MEETING/PUBLIC HEARING/BUSINESS MEETING
June 18, 2015
Sacramento, California**

I. PUBLIC MEETING**A. CALL TO ORDER AND INTRODUCTIONS**

Chairman Dave Thomas called the Public Meeting of the Occupational Safety and Health Standards Board (Board) to order at 10:00 a.m., June 18, 2015, in the Auditorium of the State Resources Building, Sacramento, California.

ATTENDANCE**Board Members Present**

Dave Thomas
David Harrison
Bill Jackson
Patty Quinlan
Barbara Smisko
Laura Stock

Board Member Absent**Board Staff**

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

Division of Occupational Safety and Health

Steve Smith, Principal Safety Engineer

Others Present

Melonee Cruse, ASSE Los Angeles
Rita Lewis, CCHCS SEIU Local 1000
Elizabeth Hawkins, UNAC/UHCP
Ingela Dahlgren, SEIU NA GF CA
Richard Negri, SEIU 121 RN
Denise Duncan, UNAC.UHCP
Sheri Hinkle, SEIU
Jorge Cabrera, So Cal COSH

Vanessa Seastrong, SEIU NA
Elizabeth Treanor, PRR
Scott Byington, UNAC/UHCP
Kimberly Regenberger, SEIU State Council
Mitch Seaman, CA Labor Federation
Michael Bocero, UNAC,UHCP
Charmane Morales, UNAC/UHCP
Gail Bateson, Worksafe

Eric Moffitt, SEIU 721	Max Carbuccia, UNAC/UHCP
David Shiraishi, Fed OSHA	Patricia Gaydos, Fed OSHA
Denise Fernandez, Unite Here	Victoria Ordorica-Yanez, Unite Here
Kevin Thompson, Cal-OSHA Reporter	Edgar Cruz, Unite Here
Nathen Dobbs, Unite Here	Cidneah Gums, Unite Here
Aide Mejia, Unite Here	Olga Gomez, Unite Here
Gary Thomas, Retired CDCR	Grace Corse, SEIU 721
Meleah Hall	Katherine Hughes
Larry Wong, Univ. of CA Office of the President	Katherine Berberian
Steve Johnson, Condon-Johnson & Assoc.	Gayle Batiste, SEIU 121 RN
Warren Lucas, CDCR	Erik Angle, Sutter Health
Edwin Guaddo, SERNA.UNAC/UHCP	Elsa Monroe, CDCR
Luz Pacheco, Unite Here	Francisco Garcia, Unite Here
Tierra Acevedo, Unite Here	Alvaro Ramos, Unite Here
Jose Angel, Local 49 Unite Here	Jenny Amaya, Unite Here
Martha Oregon, Local 49	Enriqueta Layune, Local 49
Julie Counsell, Unite Here Local 49	Roxana Tegra, Unite Here Local 49
Tami Olema, Nurse Alliance	Zobeida Mendez, Unite Here
Jeannie King, SEIU 121 RN	Dennis King, SEIU 121 RN
Henry Carreon	Maria D. Soto, West Hills Hospital
Mark Brenner, Alvarez Assoc.	Hector Alvarez, Alvarez Assoc.
Michael Strunk, IUOE Local 3	Raymond Kitasoe, Con X Tech
Gail Blanchard-Saiger, CA Hospital Assoc.	Michael Musser, CA Teachers Association
Pamela Vossenias, Unite Here	Lisa Hall, CA Assoc. of Healthcare Facilities
	Holly Smith, Sutter Health

B. OPENING COMMENTS

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

Jose Angel, Unite Here Local 49 Sacramento, stated that he has two spinal cord discs that have cracked as a result of the physical demands of his job as a hotel housekeeper. He said that his organization strongly supports the Division's proposal to make hotel housekeeper jobs safer. He stated that hotel housekeeping jobs are physically demanding, and there are many ways that employers can make the job safer for hotel housekeepers, but employers refuse to do it. He said that hotel housekeepers need an injury prevention regulation now to protect them from further injury.

Anjugueta, Citizen Hotel, stated that her hotel requires 3 types of sheets to be stacked and fitted under the mattress, and the sheets are very heavy to carry. She said that the top floor of the hotel does not have an elevator, so the housekeepers must carry these sheets and other dirty linens up and down the stairs. She stated that when they are cleaning, they strain their backs and knees when lifting heavy objects. She said that when they clean the bathrooms, the tubs in the bathroom are very large, they must climb inside the tubs to clean them, and to clean the floors, they must get on their hands and knees to scrub them, which can cause them

injury. She also stated that her hotel requires the housekeeping staff to clean 15 rooms in 8 hours, and other hotels require that 20 or more rooms be cleaned in 8 hours. She urged the Board to implement regulations to make hotel housekeeper jobs safer. **Jenny Amaya, Sheraton Hotel**, echoed Anjugeta's comments.

Pamela Vossen, **Unite Here**, stated that her organization supports the Division's discussion draft of the hotel housekeeping proposal that was released in February 2014. She said that she sent Ms. Hart a list of presentations that have been done at advisory committee meetings since 2012, and she believes that these presentations demonstrate the fact that there is scientific evidence to prove that there are hazards associated with doing hotel housekeeping work, and therefore, this regulation is necessary. She stated that the discussion draft includes important provisions, such as requiring employers to perform a job hazard analysis and getting input from hotel housekeepers for their injury and illness prevention plan. She asked the Division to release a revised discussion draft in July that is based on the comments that were received after the February 2014 discussion draft was released. She hopes that if a revised discussion draft is released in July, the Division can hold another advisory committee meeting in August to discuss it and then release a draft standard in September so that it can get on the public timeline before the end of the year.

Gary Thomas and Warren Lucas, retired CDCR Electricians, stated that they are concerned about the safety of the working environment for electricians at the California Department of Corrections (CDCR). They stated that they have asked for the electrician's job description to be updated because it has not been updated since 1975. They said that they have spoken with the State Personnel Board and Cal HR, but nothing has been done. They stated that they have been retaliated against for speaking up on this issue. They also stated that it is their belief that Mule Creek State Prison is not in compliance with the conditions of a variance that was granted in 1998 for the lethal fence. **Ms. Hart** stated that Mr. Thomas had contacted her last week regarding this issue, and she emailed him information on how to file a complaint with the Division. She asked him if he had filed a complaint. **Gary Thomas** stated that he did not look into that yet. **Ms. Hart** advised them to file a complaint with the Division. She said that the Standards Board does not handle enforcement and compliance issues. **Mr. Harrison** encouraged them to reach out to the Director of Safety for Operating Engineers Local Number 3, who is in the back of the room, for further assistance.

Richard Negri, SEIU Local 121 RN, stated that he was told that the Division was going to send its final advisory draft of the proposal to the Board regarding workplace violence in healthcare, so he prepared to come and speak to the Board today about its substance and what has been learned in the advisory committee process. **Ms. Hart** stated that the Board received the draft proposal yesterday, and the final proposal should be received by close of business tomorrow. **Mr. Negri** stated that throughout the 7-month advisory committee process, a general definition of workplace violence was agreed on. He said that when he called the Division to let them know he was going on vacation, he was notified that changes were made to that definition, along with other substantive items, when the Division held a private meeting with the California Hospital Association. He stated that none of those changes were made public or shared with SEIU. He said that the changes that were made substantially narrow the application of the standard and weaken the protections for healthcare workers. He stated that SEIU would like to receive a copy of the advisory draft and asked the Board to consider the following questions when reviewing the advisory draft:

- Does it satisfy the petition's overarching request?
- Does it speak to the content discussed at the advisory committee meetings?
- Does it address the concerns of all of the stakeholders?
- Does it meet what the advocacy's expectations were following this process?
- Does it comprehensively address the hazard as it exists in healthcare settings?

Jorge Cabrera, Southern California Coalition for Occupational Safety and Health, echoed Mr. Negri's comments.

John Youngdall, SEIU California, stated that his organization has serious concerns about the proposed draft of the proposal for workplace violence in the healthcare industry. He said that the changes made were not made in the public forum and did not have stakeholder input. He stated that it is necessary to include language regarding threats, intimidation, and disruptive behavior so that red flags can be identified to prevent workplace violence before it occurs. He said that the terms "reasonable person" and "credible threat" place the burden of proof on the victim, creating a barrier to prevention and protection from workplace violence. He stated that his organization supports the language published in the public draft of the proposal. He said that all stakeholders should be allowed to review and comment on the final draft of the proposal before it begins the rulemaking process, and the minutes from all of the advisory committee meetings should be posted online, along with all comments received following each advisory committee, for stakeholders to review.

Ingela Dahlgren, SEIU Nurse Alliance of California, stated that it is important not to narrow the scope of the definition of workplace violence. She said that during the advisory committee process, the decision was made by a consensus to use federal OSHA's definition of workplace violence, and that is why federal OSHA's definition appears in 2 public drafts of the proposal. She said that limiting the scope of the definition will disregard everything that has been shared with the Board and during the advisory committee process. She stated that it is important to take intimidation and threats seriously and address them before they turn into physical violence.

Gail Bautiste, SEIU Local 121 RN, stated that it is very important to not narrow the scope of the definition of workplace violence from federal OSHA's definition. **Hector Alvarez, Alvarez Associates,** echoed this comment. Ms. Bautiste said that harassment, intimidation, and other threatening and disruptive behaviors can be regulated with known controls and by developing strong and effective policies, training, and prompt response to incidents. She said that workers in healthcare need a regulation that addresses the full scope of workplace violence that they experience on the job.

Elsa Monroe, SEIU Local 1000, stated that she was informed by Richard Negri that the Division's attorneys re-worded the good language that the advisory committee came up with so that it is in the perspective of the victim. She said that she has been a victim of workplace violence, and no attorneys have contacted her or any of the other victims to get their perspective on what happened. She stated that no one has been able to comment on the final draft because no one has seen it. She asked the Board to help the advisory committee members make this proposal into the comprehensive and ground-breaking regulation that they need.

Vanessa Seastrong, SEIU Local 1000, described several situations that she has seen in state hospitals where the management knew that mentally ill patients were attacking, or threatening to attack, hospital staff and other patients, but the management did nothing about it. She said that some workers are disciplined for refusing to work one-on-one with mentally ill patients who threaten them, and the management always takes the patient's side because they are mentally ill. She stated that she hopes the new draft of this standard will adequately protect patients and staff against workplace violence in state hospitals.

Rita Lewis, SEIU Local 1000, stated that she is concerned about the weakened language in the proposal regarding workplace violence prevention in the healthcare industry. She said that she is also concerned about the culture in CDCR that blames the victim when workplace violence occurs. She stated that a co-worker of hers experienced a workplace violence situation with an inmate while she was locked in his cell. She said that as a result of that experience, her co-worker went out on stress leave, and the employee's co-workers mimicked her for being stressed about the situation that she experienced. She stated that the management did not follow up with this employee after the incident. She said that the management in CDCR minimizes incidents by blaming the victim, and no approach is taken to correct and prevent the incident from happening in the future. She stated that healthcare workers need the strongest language possible in this proposal to protect them from workplace violence. **Edwin Guaddo, UNAC/UHCP**, echoed this comment.

Sheri Hinkle, Napa State Hospital, stated that she has seen an increase in violent behavior from patients at the hospital where she works. She said that she worked with Donna Gross, who was murdered on the job by a patient a few years ago, and she also worked with the patient who murdered her. She stated that the patient was exhibiting signs of violent behavior in the weeks before Donna's death, but nothing was done about it. She said that she herself had an incident with this patient two weeks prior to Donna's murder, and she reported her concerns to the staff, but they chose to ignore it. She asked the Board not to change the language in the proposal because it offers protections that will protect healthcare workers from workplace violence. **Richard Negri, SEIU Local 121 RN**, echoed Ms. Hinkle's comments.

Tammy Olenik, L.A. County USC Medical Center Los Angeles, stated that she has been subjected to abusive and disruptive behavior from an authority figure. She said that she may have to leave her career because there are issues that remain unresolved regarding this matter, and worksite investigations are inadequate and biased. She asked the Board to please make sure that the final advisory draft of the workplace violence prevention proposal for healthcare workers is appropriate and reflects the hazards that healthcare workers experience on the job.

Grace Corse, L.A. County USC Medical Center, asked the Board to not dilute, remove, or distort any potential regulation regarding harassment, intimidation, or any other form of workplace violence or disruption in the healthcare industry. **Michael Bosio, UNAC/UHCP**, echoed this comment. Ms. Corse said that Los Angeles County is rampant with managers who abuse their employees, and anti-humiliation provisions in the regulation may be hard to prove, but they need to stay in place.

Denise Duncan, United Nurses Association of California, Union of Healthcare Professionals (UNAC/UHCP), stated that the evidence around workplace violence, bullying, and its effects on patient care is solid, and the proposal to protect healthcare workers against it

should not be watered down. She said that despite the evidence that proves this standard is necessary, the progress that is necessary has not been made to protect employees who work in acute care settings. She stated that the hospital community knows about this problem and does not know how to address it.

Charmane Morales, UNAC/UHCP, stated that she recently attended a workplace violence subcommittee with employees and management at a large healthcare organization. She said that the management and employees discussed the workplace violence issues, and they were shown a copy of the draft language for the proposal regarding workplace violence prevention in the healthcare industry. She stated that the draft proposal addressed all of their concerns regarding workplace violence prevention. She said that workplace violence is not reported because employees think that nothing will be done about it, so it is important to have a program in place where employees feel safe reporting workplace violence and they know something will be done about it. She stated that there needs to be more education made available to employees about bullying and workplace violence, and it needs to be in a format that all employees can access.

Dennis King, SEIU Local 121 RN, stated that gang activity occurs on a daily basis near the facility where he works, and when gang members are brought in for treatment, other members of the gang threaten and intimidate the staff. He said that he has informed his superiors about these incidents when they occur, but they place the blame for it on him and the other employees involved. He stated that threats and intimidation can mess with an employee's psyche and make it difficult for the employee to concentrate on doing their job properly. He asked the Board to make sure that the proposal regarding workplace violence in the healthcare industry addresses these types of situations so that they will be dealt with properly. **Scott Byington, UNAC/UHCP**, echoed Mr. King's comments.

Jeannie King, Pomona Valley Hospital, stated that intimidation and bullying are rampant at her workplace. She stated that an alert patient threatened and assaulted a nurse by kicking her against a wall, causing injuries to the nurse that resulted in her being off of work for 3 months, and no one from the hospital followed up with that nurse during that time. She said that following the incident, she urged the nurse to call the police. The nurse called the police, but when they came, the patient was only charged with a misdemeanor. She stated that she has been intimidated and bullied by management at her workplace for standing up for her patients and other employees to help keep them safe. She said that managers have the power to write up employees who threaten or intimidate them, and she asked the Board to give healthcare workers similar language in the proposal so that they can protect themselves.

Maria Soto, West Hills Hospital, stated that patients at her facility have been known to be combative, and some have to be sedated or put in arm and leg restraints to protect the patient and themselves from injury. She said that some are able to get out of the restraints, and one patient who got out of the restraints used a chair to break a window on the 5th floor of the facility and jump out the window. She stated that healthcare workers have no way to stop these attacks, and the only way they can protect themselves from this is to get away from it. She asked the Board to put protections in place to protect healthcare workers from workplace violence.

Katherine Berberian, LSUS Medical Center, stated that two years ago, a new manager with a bad attitude came to her facility. She said that under this new manager, she and her colleagues suffered repeated mental and emotional abuse that led to depression. She stated that the abuse has made it difficult for her to concentrate at work and keeps her preoccupied with worry when she is not at work. She said that she brought this issue to the administration's attention, but she was told to file a grievance. She stated that even when these issues are brought to the administration's attention, nothing gets done, and employees suffer further retaliation, discrimination, humiliation, and intimidation from the administration.

Katherine Hughes, SEIU Local 121 RN, stated that during the 5 advisory committee meetings, the Division, DIR, and employers did not voice any concerns regarding using federal OSHA's definition of workplace violence in the proposal for workplace violence prevention in the healthcare industry. She said that many participants from the advisory committee have not seen, or been allowed to comment on, the final draft that was received by the Board staff yesterday. She stated that she was verbally informed that the term "credible threat" might be in there. She said that "credible" is a very subjective term that varies from person to person, and the determination of what is considered "credible" will be left up to the employer, which will not work. She stated that she was also told that the term "intimidation" has been removed because the Division cannot enforce regulations regarding bullying. She said that intimidation is the first sign of impending physical violence, and there are ways to figure out how to implement and enforce regulations to address it. **Hector Alvarez, Alvarez Associates**, echoed this comment. Ms. Hughes stated that this is an opportunity for the Board to do the right thing to protect healthcare workers from workplace violence, and this regulation can help lay out plans to create regulations to protect workers in other industries too.

Elizabeth Hawkins, UNAC/UHCP, asked the Board to put the bullying language back into the proposal for workplace violence in the healthcare industry. She said that she has seen all forms of aggression increase substantially in the last 5 to 8 years, and she believes that it is because bullying is tolerated.

The following individuals echoed Ms. Hawkins's comments:

- **Peter Sidhu, Staff Nurse**
- **Scott Byington, UNAC/UHCP**

Gail Blanchard-Saiger, California Hospital Association, stated that her organization does not oppose the regulations for workplace violence prevention in the healthcare industry, but they want the regulations to be clear from the start, and they have not agreed on all aspects of the proposal. She said that her organization raised concerns with Ms. Hughes, Mr. Negri, and the Division about having a clear definition of workplace violence prevention. She stated that it is also difficult to delineate the distinction between what is considered to be workplace violence issues and what is considered to be human resources issues, and the reporting obligation in SB 1299 makes it difficult to figure out what incidents are reportable for all employers and what incidents hospitals are required to report as part of SB 1299. She said that SB 1299 has a deadline that is approaching quickly, and she has not seen any draft language since the discussion draft was released on April 1. She stated that the regulation needs to address workplace violence prevention in a clear and effective manner.

Lisa Hall, California Association of Healthcare Facilities, stated that her organization shares the same concerns as the California Hospital Association. She said that there are regulations already in place to control violent behavior using restraints and medications. She said that some of the private homes that house people with physical and developmental disabilities are small and would have difficulty implementing the proposed regulations. She also stated that patients with developmental disabilities, such as Alzheimer's, have episodes of violent behavior that come on without warning.

Mitch Seaman, California Labor Federation, stated that his organization supports moving forward with the discussion draft proposal for hotel housekeeping, as well as the petitions for workplace violence prevention in the healthcare industry. He said that in both cases, there is overwhelming evidence that specific, serious, and unique hazards exist in both industries that the current framework does not protect employees from. He stated that these hazards and injuries are preventable, and he encouraged the Board and stakeholders to move forward on these issues.

Nicole Marquez, Worksafe, stated that a timeline needs to be established for the hotel housekeeping standard so that stakeholders will know when the revised discussion draft will be available, as well as specific dates for when things will occur through the rest of the process. She said that this process has been going on for 3 years, and during that time, hotel housekeepers have continued to get injured because the current standard does not adequately protect them from hotel housekeeping hazards. **Gail Bateson, Worksafe**, echoed Ms. Marquez's comments.

Michael Musser, California Teachers Association, stated that he has participated in the advisory committee process for workplace violence in the healthcare industry, and he is looking forward to reviewing the final draft of the proposal, and ultimately, its adoption. He said that he hopes this process will provide a useful template to rely on when going through the process to develop a workplace violence prevention standard that addresses workplace violence in all workplaces in California. He stated that he stands with healthcare workers as comprehensive and rigorous standards are developed to address workplace violence prevention. **Meleah Hall, Teacher**, echoed Mr. Musser's comments.

Meleah Hall, Teacher, stated that the Division must not weaken the definition of workplace violence, and she asked that the advisory committees for workplace violence prevention in healthcare and in all California workplaces consider the workplace violence that occurs due to hate crimes. She also asked the Board to begin the advisory committee process for developing a workplace violence prevention standard in education as soon as possible. She said that developing standards that address workplace violence here in California will help other states to do the same. She also stated that workplace violence is a human resources issue.

Gail Bateson, Worksafe, stated that the definition for workplace violence that will be noted in the proposal for workplace violence prevention in the healthcare industry needs to be broad like federal OSHA's definition. She said that her organization is concerned about the narrowed scope of the definition, and the process by which that occurred. She said she received materials regarding Petition 542 for workplace violence prevention in all California workplaces, and the materials contained a list of specific occupations that the Department of Justice considers to have a high risk for workplace violence. She stated that transportation

industry occupations, such as taxi drivers and airport security personnel, should be added to the list of occupations that have a high risk for workplace violence. She also said that workplace violence is a gender issue, and women have a much higher fatality risk from workplace violence than men.

Pamela Vossen, **Unite Here**, stated that a majority of workplace violence victims are women, and before coming to Unite Here, she worked for a union in New York gathering testimony in support of a proposed law to prevent workplace violence. She said that the testimonies that she gathered were very similar to those expressed by healthcare workers in California. She stated that in 2009, New York passed a law to protect public sector workers from workplace violence that contained terminology regarding verbal threats. She said that this proposal needs to be the most protective that it can be and needs to define who will determine if a threat is credible.

Larry Wong, **University of California Office of the President**, representing **Ken Smith**, **petitioner for Petition 545**, stated that his organization supports the decision for Petition 545 to convene an advisory committee to harmonize container size requirements for laboratories with the consensus standard listed in NFPA 45.

C. ADJOURNMENT

Mr. Thomas adjourned the public meeting at 11:50 a.m.

Mr. Thomas called for a break at 11:50 a.m. and reconvened the meeting at 12:00 p.m.

II. BUSINESS MEETING

Mr. Thomas called the Business Meeting of the Board to order at 12:00 p.m., June 18, 2015, in the Auditorium of the State Resources Building, Sacramento, California.

A. PROPOSED SAFETY ORDERS FOR ADOPTION

1. TITLE 8: **GENERAL INDUSTRY SAFETY ORDERS**
 Sections 5184 and 5185
 Storage Battery Systems and Changing and Charging Storage Batteries

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

MOTION

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

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

B. PROPOSED PETITION DECISIONS FOR ADOPTION

1. Ken Smith
UC System
Petition File No. 545

Petitioner requests that the Board amend Title 8, General Industry Safety Orders, Section 5538 regarding updating and harmonizing this section which pertains to Office, Educational, and Institutional Occupancies with the recently amended Section 5532 and applicable California Building and fire code nomenclature and categories.

Ms. Hart summarized the history and purpose of the petition, and asked the Board to adopt the petition decision to convene an advisory committee to define “laboratory” and discuss modifications to 5538(a)(1) that would modify container size limits for laboratories other than educational and instructional laboratories.

MOTION

A motion was made by Ms. Stock and seconded by Mr. Harrison that the Board adopt the proposed decision to adopt the petition decision.

Ms. Quinlan stated that she had several questions regarding the differences between the Board staff’s and the Division’s recommendations for this petition. **Ms. Hart** stated that these differences will be addressed during the advisory committee, but there are certain parts of the petition that will be denied, which is why the recommendation is limited in scope.

Ms. Stock stated that she is confused by the different definitions and container sizes mentioned in each of the recommendations, but she is more persuaded by the Division’s decision. She said that the Division has proposed to not set up an advisory committee on this issue, and she agrees with that decision because advisory committees take up a lot of time and resources for the Board staff and Division. **Ms. Hart** stated that the Board staff will be doing this advisory committee.

Ms. Stock stated that she is confused because it appears that the petitioner is asking the Board to change the container size requirements in educational settings, but in the petition decision, the Board staff recommends convening an advisory committee to discuss changing the container size requirements everywhere else except educational settings. She said that it appears that the Board staff is adding something that the petitioner did not request, it does not seem germane to the petition, and both the Division and the Board staff agree that the container size requirements in educational settings should not be changed. **Ms. Hart** stated that the Board staff agrees that the container sizes should not be changed.

Ms. Stock stated that she was going to suggest that the Board accept the Division’s evaluation in this case because the Division’s conclusion regarding container sizes was not that different from the Board staff’s conclusion. **Ms. Hart** stated that the Division recommended not changing container sizes, but the Board staff recommends considering it. She said that the State

Fire Marshall allows different container sizes than what Title 8 allows, and they have no objection to the container size requirements being changed, but they do want to participate in the discussion. She also stated that the proposed decision is limited so that it excludes educational setting and would not allow them to have larger container sizes than everyone else.

Ms. Stock stated that, in its evaluation, the Division indicates that a review of the definition of “laboratory” is necessary, and she feels that they made a good case to support that, but the Board staff excludes that review. **Ms. Hart** stated that the Board staff agrees that a definition for “laboratory is necessary. She said that the Division also believes that a definition of the term “educational occupancy” is also necessary, but the Board staff feels that doing that will create a conflict with the fire code regulations in Title 24 and with other codes. She stated that the definition of “educational occupancy” would include post-secondary education, which would add to the confusion, so the Board staff would prefer to just rely on what the fire code says.

Ms. Stock stated that she would like to see the advisory committee discuss the Division’s concern that the definition of “educational occupancy” excludes post-secondary education. She said that if the Board is alright with excluding the increase in container size in educational settings, but is not going to modify the definition to clearly cover post-secondary, then the exclusion won’t apply to post-secondary education. **Mr. Manieri** stated that the model codes in the NFPA no longer classify post-K-12 education as educational occupancy. He said that new terms have been introduced, such as business occupancy and assembly occupancy, to break down building categories into classifications. He stated that these terms and classifications are similar to those in Title 8, but are not identical. He said that to make them identical in Title 8, all of the definitions in Title 8 and the regulatory text would have to be amended in order to avoid a lot of confusion. He stated that greater confusion is avoided by adding the definitions of terms from NFPA 45 rather than by adding more definitions that are not used in the regulatory text. He said that to accomplish the goal of ensuring safe quantities of flammable materials are stored and used for research and development, the Board staff does not see any safety benefit from bringing in new educational occupancy terminology.

Ms. Quinlan stated that she hopes that secondary, post-secondary, and graduate institutions will be added to the definition of educational institutions so that they will be limited to current quantities required by other educational institutions and will not increase the amount of flammable liquids stored in their laboratories. She said that the language in the petition was confusing regarding what the scope of the advisory committee will be. She stated that she has worked for the University of California and has seen problems with chemical storage in laboratories, and she feels that it is important to not increase the quantity of chemicals stored in laboratories at educational facilities. **Mr. Manieri** stated that educational and instructional institutions are excluded from increasing the quantities. **Michael Nelmidia, Board Staff Senior Engineer**, stated that quantity limits are separate from container sizes, and educational and instructional labs are only allowed to have 1-2 gallon size containers for flammable liquids. He said that he drafted the proposed decision, and the goal of going to an advisory committee on this issue is to maintain the 1-2 gallon requirement in instructional and educational laboratories, but within research and development laboratories, discuss allowing larger container sizes, but not necessarily larger quantities. He stated that the quantity sizes are governed by Sections 5538 and 5532. **Ms. Stock** stated that she is concerned about allowing larger size containers in research and development settings. She said that the Division

requested to deny that portion of the petition and not allow larger containers because there is more potential for combustion to occur. She stated that she hopes that all of the concerns mentioned today will be addressed during the advisory committee.

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

2. Steve Inagaki, P.E.
Petition File No. 546

Petitioner requests that the Board amend the Tunnel Safety Orders, with regard to adding a new section 8407(c) to address 5 year refresher mine/underground safety training.

Ms. Hart summarized the history and purpose of the petition, and asked the Board to adopt the petition decision to deny the petition request.

MOTION

A motion was made by Ms. Stock and seconded by Ms. Quinlan that the Board adopt the petition decision.

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

C. PROPOSED VARIANCE DECISIONS FOR ADOPTION

1. Consent Calendar

Mr. Healy stated that he sees no issues that could prevent the Board from adopting items A through J on the consent calendar. Regarding file number 04-V-037M1 (OmniTrans) in item K on the consent calendar, he said that the Board staff has received a request from the applicant to withdraw the variance application. He recommended that the Board separate item K from the rest of the consent calendar and adopt items A through J, and then make a motion to dismiss item K.

MOTION

A motion was made by Mr. Harrison and seconded by Ms. Stock to adopt the consent calendar as modified.

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

MOTION

A motion was made by Mr. Jackson and seconded by Mr. Harrison to dismiss the application for file number 04-V-037M1.

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

D. CLOSED SESSION

The Board discussed only the closed session item listed on the Agenda, and no action was taken during the closed session.

E. RETURN FROM CLOSED SESSION

2. Workplace Violence Prevention in California Workplaces – Petition 542, Meleah Hall

Ms. Hart stated that the Division provided the report that was requested by the Board regarding options for workplace violence prevention in all California workplaces. She said that the report was provided on June 1 and is based on the information that they received during the advisory committee process for workplace violence prevention in the healthcare industry. She stated that the Board staff reviewed this report and developed a side-by-side comparison chart to compare the Division's recommendations with what is currently listed in Title 8, and then the Board staff came up with 3 options for the Board to consider. She said that she does not know if any of the things that the Division proposed are listed in the proposal for workplace violence prevention in healthcare because the Board staff has not reviewed the final advisory draft of the proposal yet.

Ms. Stock stated that this process needs to have a schedule. She also proposed a modification to option number 2. She stated that since the Division has the experience and knowledge on the subject of workplace violence prevention from the advisory committee process for the healthcare industry proposal, the Division should be in charge of the process for the proposal addressing workplace violence prevention in all California workplaces. She also said that, rather than wait until after the standard for workplace violence prevention in the healthcare industry is in place, work on the advisory committee process for workplace violence prevention in all California workplaces should begin earlier. She stated that the final advisory draft of the proposal for workplace violence prevention in healthcare should be provided to the advisory committee working on the workplace violence prevention standard for all California workplaces, and the committee should be provided with updated drafts of that standard as they come forth, for the advisory committee to review and learn from.

Ms. Smisko stated that she is concerned about Ms. Stock's suggestion and how it will impact the Division's workload and resources. She said that she is worried that having the Division begin the advisory committee process for workplace violence prevention in all California workplaces and run it concurrently with the work being done on the workplace violence prevention standard for healthcare workers will result in delays for other projects that are currently underway, and that the Division will not have the resources to do it concurrently.

Ms. Stock stated that she recognizes that the Division has a lack of resources, but she feels that the request to run the advisory committee concurrently with the work being done on workplace violence prevention in healthcare can still be made. She asked the Division to develop a timeline for when this can be done and present it to the Board at next month's meeting if possible.

Mr. Thomas asked Mr. Smith for his thoughts on Ms. Stock's proposal. **Mr. Smith** stated that the resources to work on the advisory committee for workplace violence prevention in all

California workplaces will not be available while they are working on moving the proposal for workplace violence prevention in healthcare forward. He said that the workplace violence prevention proposal for healthcare workers is the Division's top priority, and they are trying to move it through the process as quickly as possible. **Mr. Thomas** stated that a lot of helpful information will be gathered during the process for workplace violence prevention in the healthcare industry that will be beneficial to the advisory committee process for developing a workplace violence prevention standard for all California workplaces. He said that the Board should go with option number 2. **Ms. Smisko** recommended using a phrase such as "with all due speed" or "as judiciously as possible" instead of the terms "after" or "concurrently". She said that the Division will use their resources as best they can for this, but they will need to keep up on other projects that are currently in progress as well. **Ms. Stock** suggested using the phrase "as soon as possible, but no later than after".

MOTION

A motion was made by Ms. Stock and seconded by Mr. Jackson to request the Division to develop a workplace violence prevention standard for General Industry as soon as possible, but no later than at the completion of the rulemaking effort regarding workplace violence in healthcare settings.

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

Ms. Stock stated that she and Ms. Smisko have to leave the meeting early and will miss hearing the Division's update, but she is hopeful that the Division will set a date in the near future for stakeholders to review the current draft of the hotel housekeeping standard. She also said that she is looking forward to seeing the final draft of the proposal for workplace violence prevention in the healthcare industry. She stated that she will be reviewing the changes carefully to make sure that the standard is the most preventive, and the testimony that she heard today will be very helpful during her review.

3. Division Update on Possible Rulemakings and Advisory Committees

Mr. Smith stated that the Division's quarterly update has been provided in the Board packet. [Please see the file copy of the Board packet to view this document].

Ms. Hart asked Mr. Smith to add the First Aid proposed rulemaking to the update list in the future. She said that the Division is currently redrafting it, and Board Members have asked about its status.

Ms. Quinlan asked about the status of the proposal regarding bloodborne pathogen protection in the adult film industry. **Mr. Smith** stated that the Division is currently reviewing and responding to all of the oral testimony and written comments that were received. **Mr. Jackson** asked what the deadline date is by which this standard must be decided on by the Board. **Ms. Hart** stated that the deadline is the March 2016 meeting.

Ms. Quinlan asked if a timetable has been established for the proposal regarding process safety management. **Ms. Hart** stated that the Division has been having ongoing meetings on this topic, one of which will be held next week. She said that she has been having discussions

Mr. Manieri summarized the history and purpose of the proposal and indicated that the proposal is ready for the Board's consideration and the public's comment.

There were no public comments on this proposal.

Mr. Thomas then introduced the next item noticed for Public Hearing:

2. TITLE 8: **SHIP BUILDING, SHIP REPAIRING AND SHIP
BREAKING ORDERS SECTION 8397.4(b)**
Section 8397.4(b)
Water Supply - Access to Drinking Cups (Horcher)

Mr. Manieri summarized the history and purpose of the proposal and indicated that the proposal is ready for the Board's consideration and the public's comment.

There were no public comments on this proposal.

B. ADJOURNMENT

Mr. Thomas adjourned the Public Hearing at 1:17 p.m.