

OCCUPATIONAL SAFETY
AND HEALTH STANDARDS BOARD
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TITLE 8. CALIFORNIA CODE OF REGULATIONS

General Industry Safety Orders, New Section 3345 Published on March 31, 2017

Hotel Housekeeping Musculoskeletal Injury Prevention

NOTICE IS HEREBY GIVEN that the Occupational Safety and Health Standards Board (Board) proposes to adopt, amend or repeal the foregoing provisions of Title 8 of the California Code of Regulations in the manner described in the Informative Digest, below.

PUBLIC HEARING

The Board will hold a public hearing starting at 10:00 a.m. on **May 18, 2017** in the **Auditorium** of the **Harris State Building, 1515 Clay Street, Oakland, California**. At this public hearing, any person may present statements or arguments orally or in writing relevant to the proposed action described in the Informative Digest.

WRITTEN COMMENT PERIOD

Any interested person may present statements or arguments orally or in writing at the hearing on the proposed changes under consideration. The written comment period commences on **March 31, 2017** and closes at 5:00 p.m. on **May 18, 2017**. Comments received after that deadline will not be considered by the Board unless the Board announces an extension of time in which to submit written comments. Written comments are to be submitted as follows:

By mail to Sarah Money, Occupational Safety and Health Standards Board, 2520 Venture Oaks Way, Suite 350, Sacramento, CA 95833; or

By fax at (916) 274-5743; or

By e-mail sent to oshsb@dir.ca.gov.

AUTHORITY AND REFERENCE

Labor Code Section 142.3 establishes the Board as the only agency in the State authorized to adopt occupational safety and health standards. In addition, Labor Code Section 142.3 requires the adoption of occupational safety and health standards that are at least as effective as federal occupational safety and health standards and permits the Board to prescribe, where appropriate, suitable protective equipment and control or technological procedures to be used in connection with occupational hazards and provide for monitoring or measuring employee exposure for their protection.

INFORMATIVE DIGEST OF PROPOSED ACTION/POLICY STATEMENT
OVERVIEW

In January 2012, Kurt Peterson and Pamela Vossen, on behalf of UNITE HERE, filed Petition No. 526, requesting the Board to promulgate a safety and health standard to address the occupational hazards faced by housekeepers in the hotel and hospitality industry. UNITE HERE, a labor organization representing thousands of California workers employed in the hotel and hospitality industry, proposed adopting a comprehensive standard that would prevent debilitating injuries and reduce the high injury rates suffered by housekeepers.

The Division of Occupational Safety and Health (Division) and Board staff evaluated the petition in March 2012 and recommended granting the petition. In May 2012, the Board rejected the recommendations, but took no further action on whether to grant or deny the petition. In June 2012, the Board reconsidered recommendations made by the Division and Board staff and adopted a revised petition. Based on the high prevalence of musculoskeletal injuries, the Board requested the Division convene an advisory committee to determine what control measures would be necessary to address the musculoskeletal injury hazards faced by hotel housekeeping employees.

The Division developed this proposal with the assistance of advisory stakeholders by means of five advisory committee meetings and the release of three separate discussion drafts to ensure that the proposal provided sufficient protection for housekeeping employees from developing occupational musculoskeletal injuries and provided employers with sufficient flexibility to address these risks in the least burdensome manner.

This proposed rulemaking action is not inconsistent or incompatible with existing state regulations. This proposal is part of a system of occupational safety and health regulations. The consistency and compatibility of that system's component regulations is provided by such things as: (1) the requirement of the federal government and the Labor Code that state regulations be at least as effective as their federal counterparts, and (2) the requirement that all state occupational safety and health rulemaking be channeled through a single entity (the Standards Board).

This proposed rulemaking action differs from existing federal regulations, in that federal OSHA does not have a specific counterpart standard for protecting housekeeping employees against musculoskeletal injuries and disorders.

Anticipated Benefits

The proposed rulemaking will require employers in hotels and other lodging establishments to develop and implement a Musculoskeletal Injury Prevention Program (MIPP), evaluate each housekeeping task, process or operation of work to identify potential hazards that lead to the development of musculoskeletal injuries and curtail the high number of these debilitating injuries. Employers will be required to conduct a worksite evaluation to assess each housekeeping tasks with respect to potential causes of musculoskeletal injuries to housekeepers, control exposures and train employees on the employer's MIPP, the recognition of signs and symptoms commonly associated with musculoskeletal injuries, body mechanics and safe

practices among other required elements, to mitigate the risk factors and minimize the injuries associated with tasks specifically related to hotel housekeeping jobs.

Employee input will be sought in designing and conducting the worksite evaluation and in the identification and evaluation of possible corrective measures. Employee involvement will improve the implementation of the recommendations and solutions and thus increase the effectiveness of the prevention program. These requirements should reduce the number of serious musculoskeletal injuries suffered by housekeeping employees, and in turn should reduce the fiscal losses due to work absence, staff replacement, workers' compensation, and possibly other legal costs.

The specific changes are as follows:

New Section 3345. Hotel Housekeeping Musculoskeletal Injury Prevention.

Proposed subsection (a) establishes the scope of workplaces that are required to comply with the provisions of this section. The intended effect is to identify the affected employers so that they are made aware of the requirement to implement a prevention program including corrective measures to control the risk of musculoskeletal injuries and disorders.

Subsection (b) of the proposed standard includes a number of definitions. The effect of these definitions is to establish the exact meanings for the terms as used within the context of the requirements of this section.

Subsection (c) requires each employer covered by this section to establish, implement, and maintain an effective written MIPP that must be readily accessible during each work shift and is specific to the hazards faced by hotel housekeeping employees. The intended effect is to make employers aware of the requirement to have a program that prevents or minimizes musculoskeletal injuries which allows employees on all shifts to access the written MIPP. This is also intended to alert employers to the specific elements that an employer would be responsible for addressing through its MIPP.

Subsection (c)(1) requires that the names or job titles of the individuals who are responsible for implementing the MIPP are included. The intended effect is to make administrators and employees aware of who should be contacted if there are questions or difficulties with carrying out the MIPP.

Subsection (c)(2) requires a system for ensuring that supervisors and housekeeping employees comply with the MIPP, follow the employer's safe workplace practices and use the housekeeping tools or equipment deemed appropriate for each housekeeping task. In addition, this provision provides guidance to employers on how to achieve substantial compliance with the requirements of the subsection. The intended effect is to reduce the high number of musculoskeletal injuries and disorders by having all personnel follow the employers' MIPP and ensure a successful implementation of the MIPP. This is also intended to ensure consistency with Section 3203(a)(2).

Subsection (c)(3) requires the employer to establish a system for communicating with housekeeping employees in a form readily understandable by all housekeepers on matters relating to occupational safety and health and includes provisions to encourage employees to inform the employer of hazards at the worksite, and injuries or symptoms without fear of reprisal. The intended effect is to ensure that all employees, regardless of their own primary language know how to avert musculoskeletal injuries, inform the employer of the presence of hazards at the worksite and report early symptoms or injuries. The subsection is also intended to ensure consistency with Section 3203(a)(3) and to make an employer aware that retaliation against an employee who reports a hazard, injuries or symptoms related to musculoskeletal injuries is prohibited.

Subsection (c)(4) requires the employer to have procedures for identifying and evaluating housekeeping hazards through a worksite evaluation. The intended effect is to ensure that the employer knows of the requirement to evaluate each housekeeping task for potential causes of musculoskeletal injuries and make corrections to effectively control the risk of musculoskeletal injuries and disorders. The requirement is also intended to ensure consistency with Section 3203(a)(4).

Subsection (c)(4)(A) establishes the timeframe for completing the initial worksite evaluation. The intended effect is to make certain that housekeeping employees are protected against musculoskeletal disorders and injuries by having the employer implement an effective MIPP without delay.

Subsection (c)(4)(B) requires that the employer establish effective procedures to include housekeepers and their union representative in designing and conducting the worksite evaluation. The intended effect is to ensure that the employer will have procedures for the active involvement of employees and their representatives, including participation in the identification and evaluation of hazards specific to housekeeping. The effect of this provision is to make certain that affected employees and their union representative provide valuable input from their experiences and observations, to ensure housekeeping hazards are effectively addressed and to prevent musculoskeletal injuries.

Subsection (c)(4)(C) requires employers to notify housekeepers of the results of the worksite evaluation in writing or by posting in a language easily understood by the housekeepers. The intended effect is to ensure appropriate communication of evaluation results to all employees regardless of their primary language and to ensure employees receive critical information regarding housekeeping hazards present in the work environment and controls needed to effectively prevent musculoskeletal injuries.

Subsection (c)(4)(D)(1-3) requires the worksite evaluation to be reviewed and updated and specifies when employers are required to comply with the provisions of this subsection. The intended effect is to ensure employers are made aware of new or previously unrecognized hazards. The requirement is also intended to ensure that the employer will have different methods to discover potential workplace hazards to effectually prevent musculoskeletal injuries to housekeepers.

Subsection (c)(4)(E) requires the worksite evaluation to identify and address potential injury risks to housekeepers and lists various potential sources of injury. The intended effect is to make certain that potential sources of injury are addressed, so as to effectually prevent musculoskeletal injuries to housekeepers. A note following subsection (c)(4)(E) references Appendix A, which provides additional information regarding worksite evaluations.

Subsection (c)(5) requires the employer to have procedures consistent with Section 3203(a)(5) to investigate musculoskeletal injuries to housekeepers. The investigation is intended to assess the need for implementing corrective measures by evaluating information about the injuries. The intended effect is to ensure that the employer investigates each musculoskeletal injury and that appropriate steps are taken to address the cause of the injury and prevent additional musculoskeletal injuries.

Subsection (c)(6) requires the employer to have methods or procedures for correcting hazards identified in the worksite evaluation or in the investigation of musculoskeletal injuries, in a timely manner, consistent with Section 3203(a)(6), and to include procedures for determining whether identified corrective measures are implemented appropriately. This subsection requires the employer to take measures to protect employees from musculoskeletal injuries. The intended effect is for employers to implement corrective measures in a timely manner, to make certain that affected employees and their union representative provide valuable input; that appropriate equipment and tools or other corrective measures are properly assessed and selected; and that housecleaning tools and equipment be readily available. This is also intended to ensure that employees have access to and utilize housecleaning tools and equipment to effectually prevent musculoskeletal injuries.

Subsection (c)(7) requires the employer to have procedures for reviewing the MIPP at least annually, at each worksite. The review of the MIPP is intended to determine its effectiveness and make any corrections when necessary. The intended effect is to ensure that employers conduct a review and update of their MIPP, involve housekeepers and their union representative in the reviewing process and make certain critical documents associated with musculoskeletal injuries are taken into consideration to address the cause of injuries and prevent future ones. This is also intended to ensure that problems found during the review of the MIPP be corrected in accordance with subsection (c)(6).

Subsection (d) requires each employer covered by this section to provide training to housekeepers and their supervisors consistent with Section 3203(a)(7) and requires training be provided in a language easily understood by these employees. The effect of this subsection is to set clear guidelines on the frequency of the training and the required elements of the employer's training procedures to ensure that employees are provided with training applicable to their housekeeping assignments and to effectively prevent musculoskeletal disorders and injuries.

Subsections (d)(1)(A-E) establish clear guidelines on the frequency of housekeeper and supervisor training in accordance with Section 3203(a)(7). The effect of this subsection is to ensure that employees acquire the necessary knowledge and understanding to follow the employer's prevention procedures, to recognize potential sources of injury and their proper preventive measures, and to know how to use the appropriate housekeeping tools or equipment

to effectively prevent musculoskeletal disorders and injuries. The intent is to make certain that housekeepers and supervisors maintain and update their knowledge especially when changes to the MIPP have been made to correct problems or improve procedures.

Subsections (d)(2)(A-H) establish clear guidelines on the elements and content required to comply with the provisions of these subsections. The intended effect is to ensure that employers provide effective training, that it be applicable to the housekeeper's assignment and that both housekeepers and supervisors know how to carry out the necessary actions to reduce musculoskeletal injuries.

Subsections (e)(1-4) establish clear guidelines on the recordkeeping requirements that employer's need to follow to comply with these subsections. The requirements are consistent with Sections 3203(b) and 3204. These sections establish the requirements for creating and maintaining the records that have been identified within this proposed standard. The effect of these subsections is to ensure that the employer will have adequate documentation needed to evaluate the effectiveness of the MIPP, make certain that employers have adequate documentation of their control measures and ascertain that employees and designated representatives have access to information that they need.

Appendix A – Reference Materials for Worksite Evaluation (Non-Mandatory)

This proposed appendix is intended to identify and reference materials that can be used in performing a worksite evaluation for housekeeping.

DISCLOSURES REGARDING THE PROPOSED ACTION

Mandate on Local Agencies and School Districts: None.

Cost or Savings to State Agencies: None.

Cost to any Local Government or School District which must be Reimbursed in Accordance with Government Code Sections 17500 through 17630: None.

Other Nondiscretionary Cost or Savings Imposed on Local Agencies: None.

Cost or Savings in Federal Funding to the State: None.

Cost Impacts on a Representative Private Person Or Business:

This proposal does not mandate specific hazard-analysis, technologies, tools or equipment, or that a health, safety or medical professional be hired to conduct the worksite evaluation. The Board anticipates that any potential costs in reasonably complying with the proposed action would be offset by avoiding or minimizing the costs inherent in workers' compensation claims, lost work time, and productivity losses that would have been caused by acute, repetitive and chronic musculoskeletal injuries to hotel housekeeping employees.

**Statewide Adverse Economic Impact Directly Affecting Businesses and Individuals:
Including the Ability of California Businesses To Compete:**

The Board has made an initial determination that this proposal should not result in a significant, statewide adverse economic impact directly affecting businesses/individuals, including the ability of California businesses to compete with businesses in other states. The Division does not anticipate that there would be sufficient fiscal impact to reduce the number of hotels or other travel accommodation establishments currently in existence in the state and the health of the industry has been on the rise along with an increase in occupancy rate. The proposal does not mandate that a health, safety or medical professional be hired to conduct the worksite evaluation. In addition, the proposal does not mandate the purchase of specific tools or equipment. Increasing or decreasing the existing workforce should not be an outcome of the requirements.

Significant Affect on Housing Costs: None.

DETERMINATION OF MANDATE

The Occupational Safety and Health Standards Board has determined that the proposed standard does not impose a local mandate. There are no costs to any local government or school district which must be reimbursed in accordance with Government Code Sections 17500 through 17630.

SMALL BUSINESS DETERMINATION

The Board has determined that the proposed amendments may affect small businesses. Small businesses such as small motels may incur minor costs involved in ensuring that their existing prevention program includes a worksite evaluation and training which meets the specific requirements in this section. This proposal does not mandate specific hazard-analysis, technologies, tools or equipment. The proposed regulation provides the employer with a range of options and does not require a health, safety or medical professional to conduct the worksite evaluation or training. These costs would be offset by reduced indemnification and fewer workers' compensation claims.

RESULTS OF THE ECONOMIC IMPACT ASSESSMENT/ANALYSIS

The proposed regulation will not have any effect on the creation or elimination of California jobs or the creation or elimination of California businesses or affect the expansion of existing California businesses. The total statewide costs of all the requirements in the proposed regulation is estimated to be \$4.5 million the first year and \$3.4 million annually thereafter. The Board anticipates that any potential costs in reasonably complying with the proposed action would be balanced by avoiding or minimizing the costs inherent in workers' compensation claims, lost work time, reduced absenteeism and productivity losses that would have been caused by acute, repetitive and chronic musculoskeletal injuries to hotel housekeeping employees. The Division does not anticipate that there would be sufficient fiscal impact to reduce the number of travel accommodation establishments in the state, or to create new industries to address requirements created by the proposal. The proposal also does not mandate that a health, safety or medical

professional be hired to conduct the worksite evaluation. Increasing or decreasing the existing workforce should not be an outcome of the requirements.

BENEFITS OF THE PROPOSED ACTION

This proposal should reduce the number of acute, repetitive and chronic musculoskeletal injuries suffered by hotel housekeeping employees with the implementation of a musculoskeletal injury prevention program, corrective measures and training. Consequently, the number of workers' compensation claims against hotels and other travel accommodation establishments should also decrease. This proposal creates an enforceable regulation that provides clear guidance to employers and employees regarding how to implement this law.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code Section 11346.5(a)(13), the Board must determine that no reasonable alternative it considered or that has otherwise been identified and brought to its attention would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law than the proposal described in this Notice.

The Board invites interested persons to present statements or arguments with respect to alternatives to the proposed regulation at the scheduled public hearing or during the written comment period.

CONTACT PERSONS

Inquiries regarding this proposed regulatory action may be directed to Marley Hart (Executive Officer) or the back-up contact person Michael Manieri (Principal Safety Engineer) at the Occupational Safety and Health Standards Board, 2520 Venture Oaks Way, Suite 350, Sacramento, CA 95833; (916) 274-5721.

AVAILABILITY OF STATEMENT OF REASONS, TEXT OF THE PROPOSED REGULATIONS AND RULEMAKING FILE

The Board will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations, the Initial Statement of Reasons, supporting documents, or other information upon which the rulemaking is based. Copies may be obtained by contacting Ms. Hart or Mr. Manieri at the address or telephone number listed above.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After holding the hearing and considering all timely and relevant comments received, the Board may adopt the proposed regulations substantially as described in this notice. If the Board makes modifications which are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public at least 15 days before the Board adopts the regulations as revised. Please request copies of any modified regulations by contacting Ms. Hart or Mr. Manieri at the address or telephone number listed above. The Board will accept written comments on the modified regulations for at least 15 days after the date on which they are made available.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting Ms. Hart or Mr. Manieri at the address or telephone number listed above or via the internet.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

The Board will have rulemaking documents available for inspection throughout the rulemaking process on its web site. Copies of the text of the regulations in an underline/strikeout format, the Notice of Proposed Action and the Initial Statement of Reasons can be accessed through the Standards Board's web site at <http://www.dir.ca.gov/oshsb>.