

STATE OF CALIFORNIA

DEPARTMENT OF INDUSTRIAL RELATIONS

OCCUPATIONAL SAFETY & HEALTH STANDARDS BOARD

PUBLIC MEETING AND BUSINESS MEETING

In the Matter of:)
December 15, 2022 OSH)
Standards Board Meeting)
_____)

IN-PERSON & TELECONFERENCE

Attend the meeting in person:

Rancho Cordova City Hall
Council Chambers
2729 Prospect Park Drive
Rancho Cordova, CA 95670

Attend the meeting via Videoconference

THURSDAY, December 15, 2022

10:00 A.M.

Reported by:
M. Nelson

APPEARANCES

BOARD MEMBERS PRESENT AT RANCHO CORDOVA CITY HALL:

Dave Thomas, Chairman
Dave Harrison, Labor Representative
Kathleen Crawford, Management Representative
Nola Kennedy, Public Member

BOARD MEMBERS PRESENT VIA TELECONFERENCE:

Barbara Burgel, Occupational Health Representative
Chris Laszcz-Davis, Management Representative
Laura Stock, Occupational Safety Representative

BOARD STAFF PRESENT AT RANCHO CORDOVA CITY HALL:

Christina Shupe, Executive Officer
Steve Smith, Principal Safety Engineer
Autumn Gonzalez, Chief Counsel
David Kernazitskas, Senior Safety Engineer
Sarah Money, Executive Assistant
Amalia Neidhardt, Senior Safety Engineer

BOARD STAFF ATTENDING VIA TELECONFERENCE AND/OR WEBEX:

Lara Paskins, Staff Services Manager
Jennifer White, Regulatory Analyst

ALSO PRESENT AT RANCHO CORDOVA CITY HALL:

Jeff Killip, Chief, Cal/OSHA
Eric Berg, Deputy Chief of Health, Cal/OSHA

TKO STAFF:

Maya Morsi
Vashish Singh
John Roensch

SPANISH INTERPRETERS:

Anabella Tidona
Patricia Hyatt

APPEARANCES (Cont.)

PUBLIC MEETING COMMENTERS: (*Online testimony)

Dan Leacox, Leacox & Associates
Dave Smith, Dave Smith & Co.
Michael Donlon, MD Safety Service
*Alice Berliner, UC Merced Community and Labor Center
*Kristin Heidelbach, UFCW Western States Council
*Chris Myers, California School Employees Association
Robert Moutrie, California Chamber of Commerce
Steve Johnson, Associated Roofing Contractors of the Bay
Area Counties
Helen Cleary, Phylmar Regulatory Roundtable
*Janice O'Malley, American Federation of State, County,
and Municipal Employees
*Stephen Knight, Worksafe
*Cassie Hilaski, Nibbi Brothers General Contractors
*Ramon Castellblanch, California Alliance for Retired
Americans
*Matthew Allen, Western Growers Association
Andrew Sommer, Conn Maciel Carey, California Employers
COVID-19 Prevention Coalition
Bruce Wick, Housing Contractors of California
*Navdeep Kaur, Jakara Movement
Bryan Little, California Farm Bureau
Michael Miiller, California Association of Winegrape
Growers
Kevin Bland, California Framing Contractors Association,
Residential Contractors Association, Western Steel
Council
*Robert Blink, M.D., American College of Occupational and
Environmental Medicine
*Carmen Comsti, California Nurses Association
Mitch Steiger, California Labor Federation
*Eddie Sanchez, Southern California Coalition for
Occupational Safety and Health, (SoCalCOSH)
*Steven Stone, Critchfield Mechanical, Inc. of Southern
California
*Anne Katten, California Rural Legal Assistance Foundation
*Michael Young, California Federation of Teachers

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P R O C E E D I N G S

DECEMBER 15, 2022 10:00 A.M.

CHAIR THOMAS: Good morning. This meeting of the Occupational Safety and Health Standards Board is now called to order. I'm Dave Thomas, Chairman. And the other Board Members present here in Rancho Cordova are Mr. Dave Harrison, Labor Representative; Ms. Kathleen Crawford, Management Representative; Ms. Nola Kennedy, Public Member.

The Board Members attending via teleconference are Ms. Barbara Burgel, Occupational Health Representative; Ms. Chris Laszcz-Davis, Management Representative; Ms. Laura Stock, Occupational Safety Representative.

Present today from our staff for today's meeting are Ms. Christina Shupe, Executive Officer; Mr. Steve Smith, Principal Safety Engineer; Ms. Autumn Gonzalez, Chief Counsel; Ms. Lara Paskins, Staff Services Manager; Mr. David Kernazitskas, Senior Safety Engineer; Ms. Sarah Money, Executive Assistant; and Ms. Amalia Neidhardt, Senior Safety Engineer, who is providing translation services for our commenters who are native Spanish speakers.

Also present are Mr. Jeff Killip, Cal/OSHA Chief and Mr. Eric Berg, Deputy Chief of Health for Cal/OSHA.

Supporting the meeting remotely are Ms. Lara Paskins, Staff Services Manager, and Ms. Jen White,

1 Regulatory Analyst.

2 Copies of the agenda and other materials related to
3 today's proceedings are available on the table near the
4 entrance to the room, and are posted on the OSHSB website.

5 This meeting is also being live broadcast via
6 video and audio stream in both English and Spanish. Links
7 to these non-interactive live broadcasts can be accessed
8 via the "Meetings, Notices and Petitions" section on the
9 main page of the OSHSB website.

10 If you are participating in today's meeting via
11 teleconference or videoconference, we are asking anyone to
12 place their phones or computers on mute and wait to unmute
13 until they are called on to speak. Those who are unable to
14 do so will be removed from the meeting to avoid disruption.

15 As reflected on the agenda, the meeting consists
16 of two parts. First, we will hold a public meeting to
17 receive public comment or proposals on occupational safety
18 and health matters. Anyone who would like to address any
19 occupational safety and health issues, including any of the
20 items on our business meeting agenda, may do so when I
21 invite the public to speak.

22 If you are participating via teleconference or
23 videoconference, the instructions for joining the public
24 comment queue can be found on the agenda. You may join by
25 clicking the public comment queue link in the "Meetings,

7

1 Notices and Petitions" section on the OSHSB website, or by
2 calling 510-868-2730 to access the automated public comment
3 queue voicemail.

4 When the public comment begins, we are going to
5 alternate between three in-person and three remote
6 commenters.

7 When I ask for public testimony, in-person
8 commenters should provide a completed speaker slip to the
9 staff person near the podium and announce themselves to the
10 Board prior to their delivering comments.

11 For commenters attending via teleconference or
12 videoconference, please listen for your name and an
13 invitation to speak. When it is your turn to address the
14 Board, unmute yourself if you're using WebEx, or dial *6 on
15 your phone to unmute yourself if you are using the
16 teleconference line.

17 We ask all commenters to speak slowly and clearly
18 when addressing the Board, and if you are commenting via
19 teleconference or videoconference, remember to mute your
20 phone or computer after commenting. Today's public
21 comments will be limited to two minutes per speaker, more
22 or less, and the public comment portion of the meeting will
23 be extended for up to two hours more or less, so that the
24 Board may hear from as many members of the public as is
25 feasible. Individual speakers and total public comment

1 time limits may be extended by the Board Chair.

2 After the public meeting is concluded, we will
3 hold a business meeting to act on those items listed on the
4 business meeting agenda.

5 We will now proceed with the public meeting.
6 Anyone who wishes to address the Board regarding matters
7 pertaining to occupational safety and health is invited to
8 comment, except however, the Board does not entertain
9 comments regarding variance matters. The Board's variance
10 hearings are administrative hearings where procedural due
11 process rights are carefully preserved. Therefore, we will
12 not grant requests to address the Board on variance
13 matters.

14 For our commenters who are native Spanish
15 speakers, we are working with Ms. Amalia Neidhardt to
16 provide a translation of their statements into English for
17 the Board.

18 At this time, Ms. Neidhardt will provide
19 instructions to the Spanish speaking commenters, so that
20 they are aware of the public comment process for today's
21 meeting.

22 Amalia?

23 MS. NEIDHARDT: [READS THE FOLLOWING IN SPANISH]

24 "Good morning, and thank you for participating in
25 today's Occupational Safety and Health Standards Board

1 public meeting. The Board Members present here in Rancho
2 Cordova are Mr. Dave Thomas, Labor Representative and
3 Chairman; Ms. Kathleen Crawford, Management Representative;
4 Mr. Dave Harrison, Labor Representative; Ms. Nola Kennedy,
5 Public Member.

6 "Board Members attending via teleconference are
7 Ms. Barbara Burgel, Occupational Health Representative; Ms.
8 Chris Laszcz-Davis, Management Representative; and Ms.
9 Laura Stock, Occupational Safety Representative.

10 "This meeting is also being live broadcast via
11 video and audio stream in both English and Spanish. Links
12 to these non-interactive live broadcasts can be accessed
13 via the "Meetings, Notices and Petitions" section at the
14 top of the main page of the OSHSB website.

15 "If you are participating in today's meeting via
16 teleconference or videoconference, please note that we have
17 limited capabilities for managing participation during
18 public comment periods. We are asking everyone who is not
19 speaking to place their phones or computers on mute and
20 wait to unmute until they are called to speak. Those who
21 are unable to do so will be removed from the meeting to
22 avoid disruption.

23 "As reflected on the agenda, today's meeting
24 consists of two parts. First, we will hold a public
25 meeting to receive public comments or proposals on

1 occupational safety and health matters.

2 "If you are participating via teleconference or
3 videoconference, the instructions for joining the public
4 comment queue can be found on the agenda. You may join by
5 clicking the public comment queue link in the "Meetings,
6 Notices and Petitions" section at the top of the main page
7 of the OSHSB website, or by calling 510-868-2730 to access
8 the automated public comment queue voicemail.

9 "When public comment begins, we are going to be
10 alternating between three in-person and three remote
11 commenters. When I ask for public testimony, in-person
12 commenters should provide a completed request to speak slip
13 to the attendee near the podium and announce themselves to
14 the Board prior to delivering a comment.

15 "For our commenters attending via teleconference
16 or videoconference, listen for your name and an invitation
17 to speak. When it is your turn to address the Board,
18 please be sure to unmute yourself if you're using WebEx or
19 dial *6 on your phone to unmute yourself if you're using
20 the teleconference line.

21 "Please be sure to speak slowly and clearly when
22 addressing the Board, and if you are commenting via
23 teleconference or videoconference, remember to mute your
24 phone or computer after commenting. Please allow natural
25 breaks after every two sentences so that an English

1 translation of your statement may be provided to the Board.

2 "Today's public comment will be limited to four
3 minutes for speakers utilizing translation, and the public
4 comment portion of the meeting will extend for up to two
5 hours, so that the Board may hear from as many members of
6 the public as is feasible. The individual speaker and
7 total public comment time limits may be extended by the
8 Board Chair, if practicable.

9 "After the public meeting, we will hold a
10 business meeting to act on those items listed on the
11 business meeting agenda.

12 "Thank you."

13 CHAIR THOMAS: Thank you, Ms. Neidhardt.

14 If there are any in person participants who would
15 like to comment on any matters concerning occupational
16 safety and health, you may begin lining up, at this time,
17 at the podium. We will start with the first three in-
18 person speakers and then we will go to the first three
19 speakers in the teleconference and video conference queue.
20 Go ahead.

21 MR. LEACOX: Good morning.

22 CHAIR THOMAS: Good morning.

23 MR. LEACOX: This is Dan Leacox, here on behalf
24 of really just myself, today. Welcome Board and staff and
25 everybody else here for the holidays. I just wanted to

1 start off with just a little holiday message, one
2 traditional and one little less so.

3 The first is on the variance process. I'm not
4 commenting on any particular matters. But just thank you.
5 It was very much a turnaround year, in terms of getting
6 that done. I don't know if we set a record for the
7 quantity, but I do appreciate the efficiency. And it was -
8 - it was marked. And I know that was no accident. And so,
9 greatly appreciate it. And staff really stepped up this
10 year. And so I really want to thank the staff at the
11 Division and at the Board for just handling things really
12 well through the year, making it as seamless as possible
13 within the construction industry that depends on that
14 process working to open up buildings, and make them work.
15 So thank you everybody for that.

16 And then the second thing was just a holiday
17 greeting or message I should say, which is just I think we
18 have a bright future. I really like what I think is going
19 to happen for us. And I base that on just the observation
20 recently that the most endearing quality I find in people,
21 and the most reliable one, is just people helping one
22 another, you know? The more I get to know any one person,
23 the more I find that they live their lives in service of
24 others. And the ones who don't or the ones who can't are
25 the ones who make trouble and need help, you know.

1 But if we didn't have that backdrop of people
2 living their lives in service of others and helping one
3 another, I think an endeavor like this would be hopeless.
4 I don't think you could overcome the absence of that. But
5 fortunately, I think it's there and an endeavor like this
6 does have hope and can make strides. And that's what I see
7 happening in the future. Happy Holidays.

8 CHAIR THOMAS: Thank you.

9 MR. SMITH: Good morning.

10 CHAIR THOMAS: Good morning.

11 MR. SMITH: Good morning to the Board, to the
12 attendees, remote and in person. I'm Dave Smith, a Safety
13 Consultant in California, and the original author of
14 Petition 483 on first aid kits. I know everybody's tired
15 of talking about this, as am I. My theme today is
16 simplicity.

17 In 2006, 16 years ago, a client of our safety
18 consulting firm asked what he thought was a simple
19 question. "What first aid kit should I buy?" A simple
20 question. That's what he thought. I had to inform him
21 that -- this, by the way, was based on a citation for
22 failure to approve a -- getting the approval of a
23 consulting occupational physician to approve the contents
24 of the first aid kit. I did tell my client that this was
25 not a simple question, and we got -- needed to get medical

14

1 approval. Of course, our occupational physician at the
2 medical clinic had never heard of this law, 8 CCR 3400. We
3 got the doctor letter and then proceeded to work on
4 controlling actual hazards in the workplace.

5 It's really indefensible that 16 years later
6 we're still talking about this. We have a lot of
7 experience, resources, multiple petitions to the Board, an
8 advisory committee, and comments from the regulated public.
9 And we still can't answer what any reasonable person would
10 term a simple question.

11 So even today, out of the 1 million plus
12 California employers, 75 percent of whom have fewer than
13 four employees, I doubt many have such a physician approval
14 letter unless they've already been cited for that and got
15 one. And so I urge this matter to be resolved and we adopt
16 the latest draft of the first aid kit proposal.

17 A larger issue in occupational health and safety
18 is the complexity of many safety orders. The difficulty in
19 implementing and maintaining programs in the real world. I
20 encourage those who write the regulations to put themselves
21 in the shoes of those who will have to implement these
22 regulations. Is it workable? Are the terms clear? Is it
23 clearly defined? Is anything subject to vague
24 interpretation by individual compliance officers?
25 Simplicity makes compliance easier, and therefore more

1 protective of the workers of California. Complexity is a
2 barrier to worker protection.

3 I commend the consultation service for all of the
4 publications that clarify and make it easier to implement
5 often complicated, particularly in the health arena,
6 issues. Employers who use these documents to become
7 compliant with California law ought to be recognized as
8 such. Our goal in occupational safety and health is to
9 prevent injuries, illnesses and deaths to the workers in
10 California. It should not be complicated but should be
11 simple for everyone.

12 Thank you very much.

13 CHAIR THOMAS: Thank you.

14 Good morning.

15 MR. DONLON: Now I can't show up like this and
16 not say Merry Christmas. But whatever you celebrate this
17 season, I hope it's joyous for you. My name's Mike Donlon.
18 I'm with MD Safety Service. I am MD Safety Service and I'm
19 just speaking on my own behalf as a 30 plus year safety
20 professional.

21 I was at a recent advisory committee meeting.
22 And something really bothered me. A Division staff member
23 wanted to add language to a regulation to make it easier
24 for the COSHOs to issue citations. I thought "Well, that
25 is just counterproductive." And let me tell you why.

1 My last position with the state, before I
2 retired, was with Department of Water Resources where they
3 hired me to take their compliance-based safety program and
4 turn it into a world class safety system. And I think we
5 all know that requires two things: management commitment
6 and employee participation. And the way you get those two
7 things when you're developing a safety program is to
8 develop a program that is easy for management to build and
9 easy for employees to comply with. Those are the two
10 biggest things.

11 And rulemaking isn't a whole lot different.
12 Rulemaking, the key really is making it easy for management
13 to implement, and making it easy for employees to comply
14 with. I don't know if you know this, but you know who
15 hates safety rules the most? The employees. They're the
16 ones that really battle you on the safety rules. So you've
17 got to make that to where they can be safe, but it's not a
18 strain.

19 This particular one would require management to
20 implement a program with a bunch of record keeping, and the
21 employees to fill out a bunch of extra forms. None of that
22 is going to make them any safer. But it would be easier
23 for Cal/OSHA to come in and issue citations, because they
24 wouldn't have to do any work. They would just get the
25 forms or write the forms and issue a citation. And to me,

1 that's counterproductive. That's not what we're trying to
2 do with rulemaking.

3 Now this didn't get put through, it's not going
4 forward, but just the philosophy there is kind of wrong, I
5 think. And so I really want to emphasize, when we're doing
6 rulemaking, let's keep that in mind. Easy for management
7 to implement and easy for employees to comply with. And
8 we'll get more compliance out there, better compliance,
9 people actually wanting to do these programs. And it's
10 really a different world when you do that. At DWR --
11 actually, safety became the cool thing to be part of.
12 People wanted to -- people would come to me, "What can I do
13 to help the safety system?" And so that's where you want
14 to go with this. Not just pounding more forms on
15 employees, "Here you've got to fill these out, because it's
16 safety." That does not buy them, win them over, that does
17 not really work out there in the real world.

18 And I thank you for your time and I'll just end
19 with a joyful "bah humbug." (Laughter.)

20 CHAIR THOMAS: Thank you.

21 Before we go to our online commenters, I wanted
22 to recognize our former Executive Officer, Ms. Marley Hart.
23 She worked with me for 10 years and kind of got me into
24 this, so let's give Marley a big hand. Do you want to come
25 up to the mic and say anything?

1 MS. HART: Oh heavens, no (indiscernible).

2 CHAIR THOMAS: Just thought I'd ask. Anyway,
3 good to see you.

4 MS. HART: Okay, thanks.

5 CHAIR THOMAS: So Maya, who do we have up on the
6 video?

7 MS. MORSI: Up first is Alice Berliner with the
8 UC Merced Community and Labor Center.

9 CHAIR THOMAS: Alice, can you hear us?

10 MS. BERLINER: Yeah, can you hear me?

11 CHAIR THOMAS: Oh yeah, we can.

12 MS. BERLINER: Okay, great. Good to see you
13 guys.

14 Dear Chairman and Members of the Board, my name
15 is Alice Berliner and I'm the Director of Worker Health and
16 Safety at the UC Merced Community and Labor Center. We
17 conduct research and education on issues of community labor
18 and employment, done in the San Joaquin Valley and beyond.
19 We facilitate coalitions of work organizations aimed to
20 reach and educate workers on their rights at work.

21 Today, you'll also hear from our partners in the
22 Valley who will share about the ways in which workers have
23 struggled throughout the pandemic. Today I want to share a
24 few report findings that help to illustrate why it's so
25 important that workers are provided COVID protections at

19

1 work through the COVID ETS. And long term, why a permanent
2 general industry ATD standard, with exclusion pay is
3 essential to ensuring our most vulnerable Californians are
4 protected.

5 Based on a 2021 fact sheet our center produced,
6 during the first year of the pandemic warehouse,
7 agriculture, and food processing, three of the most
8 prominent employers in the region were among the top
9 industries most impacted by COVID deaths, with farm workers
10 making over 1,700 deaths in 2020 alone. Workers in these
11 industries are also more likely to live in multifamily
12 household and typically earn below \$30,000 a year. So two
13 things to point out.

14 When a worker in our region gets sick at work,
15 community spread is more likely. And when a worker in our
16 region had to miss work without pay due to COVID, they're
17 forced to make impossible choices to make ends meet put
18 food on the table.

19 So we also experience some of the worst air
20 quality and highest asthma rates in the country. One in
21 six children and approximately 20 percent of adults in the
22 San Joaquin Valley have asthma. And we know well into the
23 pandemic that folks with asthma are more likely to
24 experience serious and fatal complications due to COVID-19.

25 In the early months of the pandemic, when Foster

1 Farms in our region experienced significant COVID
2 outbreaks, employers did not provide masks, safe
3 distancing, or worker training in language and did not
4 allow workers to quarantine when they became sick. It was
5 the COVID ETS that has been an important instrument to
6 significantly lower the risk of exposure at work. And it
7 was exclusion pay that allowed workers to take paid time
8 off when sick.

9 So having protections on the book with strong
10 enforcement is essential to ensuring employers do the right
11 thing. And hearing from workers in the region and across
12 the state is clearly not happening at a scale we need to
13 prevent serious injuries, illness and death. As we're
14 seeing an uptick in COVID numbers again, the workers are
15 responsible -- the workers who are responsible for feeding
16 the state and much of our country continue to be at high
17 risk. And a COVID standard is essential to ensure
18 employers provide these protections. Thank you.

19 CHAIR THOMAS: Thank you.

20 Who do we have next, Maya.

21 MS. MORSI: Up next is Kristen Heidelberg with
22 UFCW Western States Council.

23 CHAIR THOMAS: Kristen, can you hear us?

24 MS. HEIDELBACH: Yes, can you hear me?

25 CHAIR THOMAS: Yes, we can.

1 MS. HEIEDELBACH: Great. Good morning, Chair and
2 Standards Board Members. My name is Kristen Heidelberg
3 with UFCW Western States Council, here to testify on behalf
4 of our 180,000 frontline essential workers in California.

5 While UFCW remains disappointed that Cal/OSHA
6 continues to deny the inclusion of exclusion pay and job
7 protections back in the proposed non-emergency COVID-19
8 standard, we strongly believe that the Standards Board
9 should pass and adopt the proposed two year non-emergency
10 COVID-19 standard before you today, which still offers
11 critical protections for workers from COVID-19.

12 COVID-19 cases and hospitalizations have risen
13 significantly in the past few weeks. California hospitals
14 have seen a 150 percent increase in confirmed COVID-19
15 cases compared to last month. As of December 11, test
16 positivity was 11.7 percent, which is also significantly
17 underreported due to at home testing, lack of testing
18 centers, or free access to tests. We continue to hear that
19 the pandemic is over but these numbers, and the reality
20 workers are seeing on the ground say it is far from over.

21 This reality would be made worse without a
22 standard that protects workers from COVID-19. Now is not
23 the time to relax workplace protections but to continue to
24 strengthen them to ensure minimal impact to frontline
25 essential workers. Workers cannot be left without any

1 protections or a COVID-19 standard, which is why we
2 strongly urge the Standards Board to adopt the proposed
3 standard before you today. UFCW looks forward to working
4 with the Division and Standards Board on ways to ensure an
5 aerosol transmissible disease standard for general industry
6 will offer the most robust protections for workers that are
7 not having to choose between their health and safety or
8 basic necessities for themselves or their families to
9 survive.

10 Thank you for allowing me to provide public
11 comment today.

12 CHAIR THOMAS: Thank you.

13 Who do we have next, Maya?

14 MS. MORSI: Up next is Navdeep Kaur with Jakara
15 Movement.

16

17 CHAIR THOMAS: What was it, Navdeep?

18 MS. MORSI: Navdeep Kaur, K-A-U-R.

19 CHAIR THOMAS: Navdeep, are you there? You know
20 we did really good, we got the first two in, but. Navdeep,
21 are you there? (No audible response.) I guess not. We'll
22 move on to the next.

23 MS. MORSI: Up next is Mari Perez-Ruiz with
24 Central Valley Empowerment Alliance. Mari Perez-Ruiz.

25 CHAIR THOMAS: Mari, are you with us? Mari? (No

23

1 audible response.) Yeah, if you're on a phone, press *6 to
2 unmute yourself.

3 Well, we'll go on to the next.

4 MS. MORSI: Up next is Chris Myers with
5 California School Employees Association.

6 CHAIR THOMAS: Chris, can you hear us?

7 MR. MYERS: Can you hear me?

8 CHAIR THOMAS: Yeah.

9 MR. MYERS: Can you hear me?

10 CHAIR THOMAS: Yeah, go ahead.

11 MR. MYERS: Great, great. Good morning, Members
12 of the Board. My name is Chris Myers. I'm with the
13 California School Employees Association, representing a
14 quarter million classified school employees in the state.
15 And I'm here to comment on the proposed COVID-19 prevention
16 standards.

17 The original emergency temporary standard adopted
18 in 2020 was successful in protecting the workers from
19 exposure and slowing the community spread of the COVID-19
20 virus by providing training, testing, exclusion pay, and
21 other administrative controls and measures. The updated
22 version, that took effect in June 2021, removed some of
23 those safeguards.

24 In this new version, while we're disappointed
25 that the exclusion pay is not included, we do support the

1 new standard being approved, as it does address
2 notification testing, quarantining, reporting and other
3 issues that will help minimize the spread of the virus and
4 keep our workers safe. We respectfully request the Board
5 adopts the proposed standards. Thank you.

6 CHAIR THOMAS: Thank you.

7 And now we will go back to our in-person
8 speakers, so the first three. We'll have you line up there
9 and please introduce yourself and your affiliation.

10 MR. MOUTRIE: Oh, sorry. I'm on the wrong
11 podium, aren't I? Is that about right?

12 CHAIR THOMAS: Yes.

13 MR. MOUTRIE: Robert Moutrie for the California
14 Chamber of Commerce. Good morning, everyone. Good to see
15 you all in person. I am a longtime fast talker, so I will
16 do my best, but please stop me if not. And I'd like to
17 echo the holiday wishes of my colleague, Dan Leacox, to
18 everyone. I hope you all have some vacation time and
19 family time in the next couple of weeks planned out.

20 On behalf of the business community, I have to
21 say that we would urge the Board to vote no on the
22 extension of the COVID-19 regulation. And I'm not going to
23 rehash many of the detailed issues that we've discussed for
24 the last -- I can't count months. I won't go over the
25 exclusion pay piece, the close contacts definition, and

25

1 those. I want to just focus on, I think, the most
2 important broad question, which is looking at where we are
3 now vis-a-vie where we were at the start of all this.

4 Looking back at that time versus now, now we have
5 vaccines. Now we have the antiretroviral treatments like
6 Paxlovid. Now we have better scientific understanding of
7 the virus than we ever have. And I know that there will be
8 some comments after me about understanding, and the virus
9 may change. But I'd like to make the point that, merely
10 because a disease may change doesn't mean we don't
11 understand it. We don't consider the flu or the cold
12 misunderstood, though they may change, right? That's not
13 the standard. So looking at where we were, when this began
14 and when the first standard was passed, to where we look at
15 this extension for two years I think the next thing we have
16 to ask is a question that I've heard from many people who
17 are thoughtful about are we there yet? You know, when is
18 the moment? And I think that's a common-sense question.
19 Because we don't want to change course too early.

20 But I think the answer to are we there yet, at
21 least from what I've observed and I think the business
22 community has seen, is yes. And if not, what is the moment
23 we're looking at? What will "yet" be? Because now we have
24 the scientific understanding. We have vaccines that anyone
25 can get. They're not in a shortage as they were. They are

1 available to everyone of all ages. So if we have that, and
2 if the state of emergency is ending, if our scientific
3 understanding is there, then what is the "yet" that we are
4 waiting for? And I would say that we have reached that
5 yet. Now is the moment to end this, whether you think it
6 was incredibly beneficial early on, and some benefit going
7 on or not I think we've reached that moment. So on behalf
8 of the business community I would urge that not be extended
9 for two years.

10 I'd also like to briefly comment on a point that
11 was made last month and just now about job protections.
12 And note that again, as an attorney I've spoken to many
13 others. There are job protections under labor law that
14 exist, completely separate from this ETS related to
15 discipline if you're out sick and other issues,
16 termination, those concerns. So to say that there will be
17 no job protections, if this ETS is not extended, is legally
18 incorrect. And I think that staff also addressed this
19 previously, but I want to reiterate that given that I
20 assume a comment will be made.

21 So with that again, I appreciate the time and I
22 wish you all a happy holiday season. Thank you.

23 CHAIR THOMAS: Thank you.

24 Who do we have next?

25 MR. JOHNSON: Good morning. Good morning, Board

1 Members, Divisions Staff, Standards Board staff. I'll try
2 to keep my comments brief and to the point. I'm with
3 Associated Roofing Contractors, going on almost a year now
4 back with the Roofing Association. I'm calling this 2.1.
5 I was with the Roofing Association for 15 years, from '99
6 to 2014. And I'm calling that 2.0. So I'm back with the
7 Roofers and am glad to be here.

8 CHAIR THOMAS: You might want to state your name,
9 and it's loud.

10 MR. JOHNSON: I'm sorry.

11 CHAIR THOMAS: Just let me get your --

12 MR. JOHNSON: I'm Steve Johnson.

13 CHAIR THOMAS: Go ahead, thanks.

14 MR. JOHNSON: Thanks, Dave. Sometimes I have to
15 remind myself that's my name.

16 So my comments today are kind of blended in with
17 -- I know that COVID is on the business agenda but there --
18 first of all just as an association, we're opposed to the
19 extension of COVID-19 regulations. And primarily because
20 so much focus and attention has been -- and resources have
21 been spent on the implementation, the administration --
22 ongoing administration, and the creation of COVID
23 prevention plans that honestly, most of our contractors
24 can't get a handle on just exactly what they need to do,
25 because it's a very complex regulation.

1 It's been diverting resources and attention from
2 that, away from serious safety concerns, such as fall
3 hazards. Other things that should be really taking center
4 stage when it comes to everyday hazards, everyday physical
5 hazards that roofers face. And my concern is that the
6 ongoing threat of citations, because it is -- let's just
7 say there's plenty of red meat for a Cal/OSHA inspector to
8 write up a roofing contractor. All they have to do is show
9 up on a construction site. And I guess you know, four or
10 five serious violations for, pick your topic, that roofing
11 contractors are responsible to maintain impeccably,
12 perfectly on every single job site.

13 So that's part of the administration, the
14 implementation, the ongoing maintenance of something that I
15 really see as on construction sites not being spread at
16 work, family gatherings. That's a big culprit for COVID
17 spread. I know, myself personally, about a year ago I got
18 COVID from a family gathering. It was my daughter had a
19 friend over. I gave my daughter's friend a ride home. And
20 I can pinpoint exactly where I got COVID. It was from that
21 interaction at home with someone who came into our home who
22 had COVID. And that's how I got it. So it's very common
23 that family at family gatherings, holiday gatherings,
24 that's how COVID spreads.

25 At least for construction sites, open air

1 outdoors, I don't really see a lot of issues with spread at
2 construction sites. And going to administration, when you
3 look at things like first aid. Now we have a requirement
4 for inspection, a weekly inspection for the first aid kits.
5 So there's more red meat for Cal/OSHA inspectors to nail
6 contractors.

7 And I would encourage a phase-in with the weekly
8 inspections, because it's a new requirement for contractors
9 to have to be able to document those weekly inspections.
10 And it's an easy citation. And it really, in my mind,
11 doesn't really contribute to protecting workers from those
12 physical hazards that they face every day on job sites.
13 It's just, "Your contents weren't -- you didn't fill out
14 your weekly inspection for the first aid kits, so here's
15 your citation." And now a contractor is going to have to
16 deal with appealing that citation if they don't want it on
17 their record for five years.

18 So those are those are some of my concerns. And
19 I want to wish everybody happy holidays and don't really
20 want to end on an angry note. So I appreciate the time.
21 Thank you.

22 CHAIR THOMAS: Was that angry, that whole thing?
23 Because it didn't feel like it.

24 MR. JOHNSON: Let's just say frustrated, a
25 frustrated note. Thanks.

1 CHAIR THOMAS: Thank you.

2 Who do we have up next?

3 MS. CLEARY: Good morning, Chair Thomas and Board
4 Members. My name is Helen Cleary and I'm the Director of
5 PRR. We are an occupational safety and health forum.
6 Members have operations and thousands of workers throughout
7 the state of California. Individual members are
8 environmental health and safety professionals.

9 I want to align our comments with -- let me go
10 down the list. Mr. Smith, Mr. Donlon, Mr. Johnson and Rob
11 Moutrie on the first aid comments and on simplicity, and
12 the challenges of complex regulations. PRR members have
13 been directly managing COVID in the workplace since March
14 of 2020. They are epidemiologists. They're industrial
15 hygienists. They are the safety leaders at their
16 organizations. They are the boots on the ground COVID-19
17 experts. It's from their experience over the last two
18 years managing the Cal/OSHA COVID-19 ETS and the management
19 of workers in their industries, which is retail,
20 technology, energy, pharmaceuticals, manufacturing,
21 communications, critical infrastructure, and utilities
22 across the gamut.

23 We respectfully request the Board to vote "no" on
24 the non-emergency COVID-19 regulation. And it's not
25 because we believe that COVID has gone or that it is not a

1 concern. It's not because we have COVID fatigue or we're
2 just tired of complying. We do not support adoption of
3 this extension, because PRR members continue to expend
4 extensive, very valuable resources to comply with the
5 administrative requirements that are in this rule. And the
6 new proposed text doesn't curve that work. This rule
7 requires constant management, full EHS professionals, many
8 times third parties, to manage it. It requires the same
9 amount of time and resources to be spent regardless of the
10 potential risk, actual exposure or severity of the disease.
11 This time would be warranted if it was spent on actual risk
12 reduction, but unfortunately it's not. The majority of the
13 work done is to comply with the textual requirements and
14 doesn't focus on the safety and health of the organization.

15 PRR members prevent and remove COVID-19 cases
16 from the workplace, not just because it's required, but
17 because it's the right thing to do. However, once the case
18 has been removed, that additional work is arduous with very
19 little positive impact on health and safety.

20 In addition to absorbing resources, EHS leaders
21 are losing credibility, because the requirements do not
22 align with the community understanding it's COVID-19
23 management. And this goes in line with what Mr. Donlon was
24 saying. When nonsensical rules are established, employees
25 become less motivated to follow any rules. We're very

1 concerned that enforcing this rule for two more years is
2 going to chip away at the influence that EHS professionals
3 have built and their safety cultures throughout this
4 pandemic. They've done excellent work and they're highly
5 respected in their organizations but pushing these rules
6 that conflict with what's happening in the community makes
7 the employee ask the question of "why." "Why are we doing
8 this?" and pushing back.

9 Vaccines, treatments and individual mitigation
10 measures allow us to proactively manage this disease and
11 reduce severe illness. This is where we think resources
12 should be spent. CDPH recently released a communication
13 campaign to educate and inform people about the treatments,
14 the testing that's available. It's free. It's widely
15 available. It's safe and effective.

16 Local public health are currently evaluating if
17 masking should come back. We firmly believe that COVID
18 should be managed from the local public health leaders and
19 the state leaders and not the employers. The bottom line
20 is that this rule expends too many resources on
21 administrative tasks that do not outweigh the employee
22 benefit. And requiring this to continue for two more
23 years, we believe is unreasonable.

24 To be clear, not supporting this rule does not
25 mean that we don't believe or appreciate that COVID-19 is a

1 hazard. And it can be a hazard in the workplace. There
2 should not be a stigma in saying that it is appropriate to
3 move forward and let the expiration expire. Workers won't
4 be left unprotected. Employers can still be held
5 accountable for the hazard of COVID in the workplace.
6 Unfortunately, we believe the Board is left today with
7 another up and down vote that will walk in requirements
8 that are reliant on CDPH orders, definitions, and their
9 recommendations that are not designed for the workplace
10 until 2025. We believe this is an unbalanced approach and
11 we urge the Board to move California forward and vote no.

12 If the Board does adopt this rule today, we
13 implore the Division and other stakeholders listening,
14 CDPH, the Governor's Office, other leaders, to help
15 California's workplace requirements progress with the
16 disease. The CDPH definitions of "close contact
17 and "outbreak" are currently creating major operational
18 challenges and they're not sustainable for two more years.
19 We need definitions that translate to the workplace and an
20 effective period that is based on quantifiable data and
21 qualitative risk.

22 Thank you for your time today. Thank you for all
23 the hard work that you've put in over the last year. It's
24 been a good one for all of us. And happy holidays to
25 everybody. Thank you.

1 CHAIR THOMAS: Thank you.

2 We'll now go to testimony from those online or
3 video or phone. Maya, who do we have up?

4 MS. MORSI: Up next is Katie Davey with
5 California Restaurant Association.

6 CHAIR THOMAS: Katie, can you hear us? (No
7 audible response.) Is she on the phone or on -- Katie, can
8 you hear us? Press *6 if you're on the phone so you can
9 unmute.

10 MS. MORSI: It looks like Katie Hagen's on WebEx.

11 UNKNOWN SPEAKER: Oh, that's Katie Davey.

12 MS. MORSI: Oh, Katie Davey. Sorry, I don't see
13 her. I see a Katie. I see another Katie.

14 CHAIR THOMAS: Yeah, we were being watched.
15 So she's there but we can't --

16 MS. MORSI: There is a Katie.

17 CHAIR THOMAS: Let's move on to the next.
18 (Off-mic colloquy.)

19 MS. MORSI: There's two Katie's in there, sorry.
20 Sorry about that. The next one is Janice O'Malley, OFSCME
21 affiliated.

22 CHAIR THOMAS: Was it Janice?

23 MS. MORSI: Janice O'Malley.

24 CHAIR THOMAS: Janice, can you hear us?

25 MS. O'MALLEY: I can. Can you hear me?

1 CHAIR THOMAS: Yeah. Yeah, we can.

2 MS. O'MALLEY: Okay, great. Good morning Board
3 Members. Again, my name is Janice O'Malley. I'm a
4 Legislative Advocate for the American Federation of State,
5 County and Municipal Employees. We represent many public
6 employees and local government and health care workers,
7 emergency response workers, childcare providers, as well as
8 in-home support service workers, along with many others.

9 First off, I would like to extend my appreciation
10 for the comments from Alice Berliner from UC Berkeley and
11 Kristin Heidelberg from UFCW, and would like to align our
12 comments with them.

13 We believe that it's critical to continue with
14 and extend the current COVID-19 standards currently under
15 consideration for the next two years. We're experiencing a
16 trifecta of viruses, with rising cases of RSV, the flu,
17 along with COVID-19, which is causing serious concern for
18 our communities and for those working in health care.

19 We're also currently undergoing serious staffing
20 challenges. As a point of personal privilege I'm actually
21 not here in person with you today, as I am currently
22 recovering from COVID-19 after having tested positive this
23 weekend. I'm fortunate that I work for an organization
24 that provided me with administrative leave, and the option
25 to telework as I recover, yet many of my members aren't so

1 fortunate. So while we are disappointed in the omission of
2 exclusion pay in the standard, which we believe helps
3 workers to stay home when they are sick, we strongly
4 encourage the Board to adopt this two-year extension in
5 order to slow community spread of the virus and prevent
6 serious illness and death for at risk groups, which many of
7 my members work with.

8 It's important to protect workers in this state
9 and I highly encourage you to consider that as well, in
10 your decision. Thank you very much.

11 CHAIR THOMAS: Thank you.

12 Who do we have next, Maya?

13 MS. MORSI: Up next is Stephen Knight with
14 Worksafe.

15 CHAIR THOMAS: Stephen, can you hear us?
16 Stephen?

17 MR. KNIGHT: Yes, hi. Good morning, Board
18 Members.

19 CHAIR THOMAS: Good morning.

20 MR. KNIGHT: Stephen Knight with Worksafe. I'm
21 here in strong support of the continuation of COVID
22 protections beyond December 2022. Worksafe urges all Board
23 Members to vote for the two-year non-emergency standard.
24 We want to express our appreciation to Cal/OSHA staff and
25 the Board for all your work to build this framework of

1 protections from COVID. You've kept them in place in the
2 face of powerful opposition and outright denial of any need
3 for COVID protections at all. You've saved lives and
4 supported healthier workplaces.

5 The reality for California workers has fallen far
6 short in terms of actual workplace safety in terms of
7 employer responsibility for ensuring workplaces safe from
8 COVID. As we've heard here, throughout the pandemic and
9 worker testimony, in terms of workers being able to count
10 on Cal/OSHA to make these protections real when we show up
11 to our jobs. And the result has been particularly
12 devastating for frontline essential workers, many of them
13 people of color, who have been sickened and who have died
14 and who will face dramatically worse outcomes than white
15 workers, as Cal/OSHA itself has repeatedly pointed out. So
16 that harsh reality is no reason not to continue these
17 protections in place, just the opposite. Cal/OSHA must
18 work to do better with whatever COVID brings in the next
19 two years. And with a permanent ATD standard for whatever
20 next pandemic will come.

21 The absence of exclusion pay from the two-year
22 standard will leave all California workers with severely
23 weakened COVID protections. We continue to call out this
24 misguided decision. And we demand that job and safety
25 protections be included in the permanent ATD standard. The

1 reasons given for the removal of this protection don't
2 stand up to scrutiny. And they're all based on a
3 supposedly, hopefully waning pandemic that we all fully now
4 know and understand. Plus, a vaccinated public. So that
5 case, which we just heard echoed this morning by the Cal
6 Chamber and others, actually makes the case for a permanent
7 standard that does have job and pay protections where we
8 aren't in that position.

9 The two-year standard requires employers to
10 engage in much needed health and safety regulations that
11 will aid in keeping workers safer on the job. And so, we
12 thank you for your "yes" vote.

13 CHAIR THOMAS: Thank you. Let's see, we have one
14 -- who do we (Off mic colloquy.) Can you guys hear me
15 okay? It's on. Anyway, who do we have next?

16 MS. MORSI: Up next is Cassie Hilaski with Nibbi
17 Bros.

18 CHAIR THOMAS: Was it Cathy?

19 MS. MORSI: Cassie (indiscernible)

20 CHAIR THOMAS: Cassie, are you there?

21 MS. HILASKI: Good morning, can you hear me?

22 CHAIR THOMAS: Yeah, go ahead Cassie.

23 MS. HILASKI: All right. As always thank you,
24 Board, for your service. I know it's often a thankless
25 job.

1 As you know, the current emergency and proposed
2 non-emergency COVID regulations tie the close contact
3 definition to CDPH. My ask of the Board today is that you
4 request that the Division collaborate with the CDPH to
5 revert back to the original six-foot definition of close
6 contact. While I respect that the new definition is based
7 on acceptance of COVID as an aerosol transmitted disease,
8 CDPH's own website references that the new definition is
9 based on air models, not experiential evidence. It doesn't
10 take into account different air filtration systems or the
11 very large variety of workplace layouts.

12 In our own experience in the first two-and-a-half
13 years of managing COVID cases, the six-foot close contact
14 definition has worked best. More than 75 percent of those
15 close contacts never contracted the virus. And we have
16 never known a case to have been contracted from someone
17 beyond six feet. Quite to the contrary and following the
18 new testing requirements for the expanded populations under
19 the new close contact definition, we continue to receive
20 all negative test results for anyone who is simply sharing
21 airspace beyond six feet. Our only positive test results
22 have come from those who were within six feet. And even
23 then the rate has been under 25 percent.

24 All that said, I wouldn't even be making those
25 requests if it was simply because tracking that many more

1 people is a burden and takes up resources that can be
2 better spent elsewhere. I'm making this plea on behalf of
3 our employees. One of my safety managers made a comment to
4 me the other day that really sums up the problem with the
5 new definition. He said that our employees don't have a
6 problem following the COVID protocols when they make sense.
7 They don't like it, but they understand it. However, he
8 reported that they get really upset when they are made to
9 wear face masks for 10 days simply because they were on the
10 same floor as a COVID case. They actually see it as a
11 punishment. They've never had to do it before. And it
12 doesn't make sense to them to do it now. Especially when
13 they see the rest of the world reverting back to pre-COVID
14 life. They see it as an unnecessary burden to them
15 personally. And they don't understand why Cal/OSHA and
16 CDPH have expanded the protocol for close contacts by
17 requiring that more people be affected by the protocols
18 when they believe that risk is lower now -- that is lower
19 now that we have vaccinations and proven treatment options.

20 We know that the language won't change in the
21 COVID regulations that will be voted upon today, and we
22 expect the non-emergency standards to be approved. But the
23 Division should be able to collaborate with CDPH to revert
24 back to the close contact definition that worked for the
25 first two-and-a-half years the pandemic. It has proven to

1 stem the spread of the virus and makes sense to everyone.

2 Lastly, I wanted to comment that Helen Cleary
3 said something that reminded me of feedback we received
4 early this year, when a third-party consultant interviewed
5 many of our employees. They very bluntly said, "We really
6 appreciated that the safety department knocked it out of
7 the park during the first year or so of COVID, but they can
8 stop now." Of course, we know it's not that easy because
9 we must continue to comply with Cal/OSHA regulations
10 regardless of whether our employees like it. But it does
11 affect the employees' perceptions of safety professionals
12 and Cal/OSHA when the regulations being implemented and
13 enforced don't make sense to them. Please, while I don't
14 expect the COVID regulations to disappear, I do ask that
15 the close contact definition is reverted back to the more
16 impactful six-foot definition. Thank you so much for
17 listening. And of course, happy holidays.

18 CHAIR THOMAS: Thank you.

19 Who do we have next, Maya?

20 MS. MORSI: Up next is Ramon Castellblanch with
21 California Alliance of Retired Americans.

22 CHAIR THOMAS: Ramon, can you hear us?

23 MR. CASTELLBLANCH: Yes, I can. Can you hear me?

24 CHAIR THOMAS: Yeah, go right ahead.

25 MR. CASTELLBLANCH: Very good. Thank you so much

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1 for your service. I appreciate very much the hard work of
2 sitting on these boards and deliberating on these very
3 important matters.

4 So California Alliance for Retired Americans
5 represent organizations with over a million members in
6 California. Of course, we are basically retired these
7 days, our membership. And I also want to add that I am a
8 public health professor at San Francisco State.

9 So I think it's important to note that, you know,
10 the COVID pandemic is not over. The data I haven't heard
11 anybody mentioned yet, is what we see if we look at the
12 Department of Public Health's wastewater surveillance
13 dashboard. Because if we look at that we see that right
14 now, the presence of COVID in California wastewater is
15 steadily rising across the state. Not only that, it's at
16 the highest level in the counties where I was able to pull
17 it up like Los Angeles County, Fresno County -- the highest
18 level that it's been all year since the Omicron surge over
19 a year ago. So we are heading back into a danger period
20 for COVID, which definitely calls for maintaining our
21 vigilance and our standards to protect us.

22 I might add also that seniors are particularly
23 concerned with this issue now, because the latest data
24 shows that 90 percent of the people who are dying of COVID
25 are 65 and older. So we have contact with workers in

1 grocery stores, and health care, and transit, home repair
2 or retail venues. We are continually exposed to the
3 workers whose safety you are protecting. And we would very
4 much appreciate it if you continued to do so, continue to
5 protect both those workers and the retired Californians who
6 come into contact with them. Thank you.

7 CHAIR THOMAS: Thank you.

8 Who do we have next, Maya?

9 MS. MORSI: Up next is Matthew Allen with Western
10 Growers Association.

11 CHAIR THOMAS: Matthew, can you hear us?

12 MR. ALLEN: I can, can you hear me?

13 CHAIR THOMAS: Yes. Go right ahead.

14

15 MR. ALLEN: Good morning, Mr. Chair and Members
16 of the Standards Board. I again want to wish everyone a
17 happy holiday season. I'll keep my comments short in the
18 interest of time. I would just really refer back to the
19 comments made by Rob Moutrie at the California Chamber of
20 Commerce. Given --

21 MS. SHUPE: Mr. Allen?

22 MR. ALLEN: Yes?

23 MS. SHUPE: We're just not only transcribing
24 this, but also doing a live translation to Spanish. So,
25 I'm going to ask you to very respectfully slow down just a

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1 little bit.

2 MR. ALLEN: Thank you, very much. I will slow
3 down my comments.

4 I would, in the interest of time, just refer back
5 to Rob Moutrie's comments regarding moving forward with
6 this permanent standard over the next two years given where
7 we have been with COVID-19 testing, vaccinations, our
8 understanding of how COVID-19 operates outside of the
9 workplace and inside of the workplace. And would
10 respectfully request consideration of the Board not to move
11 forward with this package today, and to consider when is
12 the right time to start to go away from the COVID-19
13 standard via Cal/OSHA. So again, I would refer back to Rob
14 Moutrie and the question of when is the right time to make
15 a different consideration? Thank you for your time.

16 CHAIR THOMAS: Thank you.

17 We will go to in-person comments now.

18 MR. SOMMER: Good morning, Chair Thomas, and
19 Members of the Board.

20 CHAIR THOMAS: Good morning.

21 MR. SOMMER: Andrew Sommer from Conn Maciel Cary
22 for the California Employers COVID-19 Prevention Coalition.
23 It's great to be here in person and not by video.

24 I'm commenting on the proposed non-emergency
25 rule. While we appreciate the Division's considerable

1 efforts in this process, and the consideration of comments
2 and the revisions that were made to the rule so far, the
3 proposed rule remains in our view unnecessary at this
4 juncture. Especially in light of the impending end of the
5 COVID-19 State Of Emergency. The proposed rule sets a two-
6 year term through the end of 2024 despite Governor Newsom's
7 plan to end the COVID-19 State of Emergency effective
8 February 28 of next year.

9 COVID-19 surges are different now than they were
10 earlier in the pandemic. In addition to effective vaccines
11 and testing, there are now COVID-19 treatments that are
12 safe and effective for preventing COVID-19 illness from
13 getting serious. And they are free and widely available.
14 There are the tools available to combat COVID-19 virus.
15 And these are the tools that Newsom, Governor Newsom cited
16 in announcing the end of the State of Emergency.

17 In our prior comments we have urged that should
18 the proposed rule be adopted, it include an exception for
19 the two-year term where the State of Emergency ends or
20 there be some other metric that justifies based on changes
21 in the community, and the nature of the virus and the
22 illness that can be a cause for ending the rule earlier.
23 The inflexibility of a two-year term, we believe is reason
24 enough to vote no on the proposed rule.

25 Absent a non-emergency rule we certainly have

1 other resources to ensure employers are maintaining
2 reasonable measures to combat COVID-19. And I'll be brief
3 on that point. But we have the injury and illness
4 prevention program. It has been affirmed by the Appeals
5 Board as the basis for citations over the failure of
6 employer to identify and correct COVID-19 related hazards
7 and the failure to provide COVID-19 related training. And
8 that is a nimble rule that provides flexibility, given
9 whatever shape the pandemic may take, particularly as it
10 transitions to endemic conditions.

11 In addition to the injury and illness prevention
12 program standard, we have of course public health orders,
13 which may issue on a moment's notice on real time -- based
14 on real time knowledge. And they remain instructive in
15 prescribing measures to combat COVID-19 in the workplace
16 such as relating to face covering mandates and steps to
17 address outbreaks. Indeed, the Board has recognized in its
18 informative digest on the proposed action today that these
19 public health orders are enforceable by the Division.

20 In contrast to the nimble public health orders
21 and directives, the procedural rules governing the Board in
22 the rulemaking process do not afford that kind of
23 flexibility here. We are concerned that despite the
24 thoughtful efforts today in the rule that's being proposed
25 that we can't just quickly undo this. And that we're going

1 to have a rule for a two-year timeframe that may become
2 outdated, as we have seen previously in the scope of the
3 pandemic, based on our knowledge of the disease and
4 characteristics of the virus's permutations.

5 The Board's workplace safety rules cannot be
6 expeditiously undone, and this is -- an example of the
7 dilemma here is with outbreaks. What does an outbreak
8 mean? Is it the same thing today as it was in the past?
9 Now that we have vaccines and effective therapeutics, the
10 framework that we have under the non-emergency rule as
11 incorporated into this -- under the emergency rule, as
12 incorporated into the non-emergency rule, does not have the
13 same viability. And we have we believe -- we're concerned
14 that the outbreak provisions will become increasingly less
15 effective and problematic as we proceed through the
16 pandemic. And that there are substantial ongoing burdens
17 for employers.

18 Our members have stepped up during the pandemic
19 and done their part to protect their workers and made their
20 best efforts to comply with the emergency rule. Even as
21 the rules presented challenges for employers and DOSH alike
22 to understand the compliance mandates. Yet by adopting
23 such outbreak provision in the fixed term non-emergency
24 role we are locked into this mandate whether it is
25 effective now, for a few months, or a year from now. And

1 thus, you know, without consideration to the ongoing burden
2 for large and small players alike and whether that's
3 justified. For these reasons we urge a no vote on the
4 proposed non-emergency rule. We appreciate the COVID isn't
5 going away presently and it's an ongoing hazard, but we
6 don't believe a non-emergency rule is the solution.

7 Thank you for the opportunity to comment and
8 happy holidays.

9 CHAIR THOMAS: Thank you.

10 Good morning.

11 MR. WICK: Good morning, Chair Thomas and
12 everyone. Bruce Wick, oh here you go. (Off mic colloquy.)
13 Merry Christmas. I do want to make a comment on two
14 different areas. One is First Aid. And I guess I'm kind
15 of surprised that -- did I say Bruce Wick Housing
16 Contractors, did I say that? Good, thank you.

17 I'm surprised that the Petitioner for First Aid
18 is actually not retired yet and is actually still here, 16
19 years later. I appreciate the latest amendments. I hope
20 we get this resolved. But I would like to -- this is where
21 I'd like to talk about Cal/OSHA as a whole. And I greatly
22 appreciate Chief Killip being here today. Because if the
23 current proposal is approved we're going to have employers
24 dealing with the ANSI standard 2021 version. And 1.4
25 million safety coordinators are going to have to ask

1 themselves how do I -- how do I know the 2021 version?
2 Because very few of those people are subscribers to ANSI.
3 And if they asked their supplier, their supplier is going
4 to have a ton of 2009 version kits sitting on the shelf,
5 wanting to sell. And we have a ton of 2009 versions out in
6 the field.

7 So could instead of 1.4 million safety
8 coordinators try and figure out what to do with this, could
9 not the Division -- maybe Eric, maybe Brandon Hart, his
10 group say, "Here's what you do. Here are the differences
11 between 2009 and 2021 and this is how you -- if you need to
12 make an adjustment to your '09 versions, this is how you do
13 it." So you could even buy, you know, one of these '09
14 versions off the shelf and make it 2000 - or 2021
15 compliant. That would be really, really helpful and good
16 governance, because as the Petitioner said and as well as
17 Helen Cleary, there's a difference between a reg and
18 employees in the field being protected themselves and their
19 supervisors by that reg. And this is where the Division,
20 Cal/OSHA as a whole, could make this happen really
21 efficiently and well. So I ask for that.

22 I do you want to talk about the COVID proposal up
23 for adoption. And I do want to remind ourselves of some
24 really good government that's gone on, and Deborah Gold who
25 spent years and tremendous effort passing the ATD standard

1 years ago. So when this pandemic hit the frontline health
2 care workers were protected by that standard. And they
3 have been protected by that standard. And they will
4 continue whether you approve this new proposal or not. We
5 were that far ahead and Deborah really worked at that.
6 That was really good government.

7 I do want to thank you and I'm reminded with
8 Marley Hart here how well she led as Executive Officer here
9 for so many years. Had very big shoes to fill and
10 Christina Shupe has fulfilled those really well. So the
11 professionalism of both of you I'm very thankful for,
12 leading us in often contentious issues and we work,
13 hopefully, all those things out.

14 And I do want to really commend Chief Parker,
15 Doug Parker, came on right before COVID hit. So he's, you
16 know, his chair is barely warmed up and what do you do with
17 this pandemic? And we kind of forget how uncertain things
18 were right at the first and I thought he led and did a
19 great job of Cal/OSHA focused on education. They focused
20 on the IIPP. Eric Berg worked really, really hard to put
21 guidelines out. We had those for every industry. In
22 construction, we had a multi-page set of guidelines
23 criteria for us to look at and utilize the IIPP. And we
24 ramped up fast.

25 In construction we've had very little issues. We

1 think we've done a really good job. And then we said,
2 "Well, let's do a permanent COVID reg covering everybody
3 who's not already covered by the ATD." Did we need to do
4 that? Or did we need to enforce under the IIPP, those
5 other industries we knew had issues. Some of those other
6 advocates that have appeared before on the labor side here
7 today, talking about those specific industries.

8 I remember when we were having our Zoom meetings
9 and for months in a row it was really appalling, workers
10 from one single McDonald's in Oakland would say, "We're not
11 being protected." And the next month they'd show up and
12 say, "We're not being protected." And it's like how can
13 that happen? How can Cal/OSHA not being enforced -- not
14 enforce it? I know Eric had to spend some time in the
15 Division preparing for their COSHOs to investigate safely,
16 you know, COVID. But by that time they were doing it.
17 They educated, they prepared, and then they enforced. So
18 is it an enforcement issue? And do we need to do that more
19 and focus on those industries?

20 And I'm talking about as we consider a potential
21 permanent reg for things do we need to consider that and
22 not throw everybody into it? Because when you talk about
23 workplace violence and indoor heat and all these other regs
24 that have been back burner-ed by all the time we've spent
25 on this COVID reg, even there people have said, "Let's

1 cover everybody." Well, maybe we ought to cover, at least
2 initially, the industries we know have high exposures.
3 Maybe that's a better way to go.

4 Enforcement is a huge part of any reg. You have
5 a lot of compliant employers like Helen Cleary talked
6 about. They're going to take care of their employees.
7 They don't need a reg. They're going to be there doing it.
8 The reg can give them some guidance. Some employers are
9 not going to. That small percentage, they need
10 enforcement.

11 In 2017, California employers paid in their
12 Workers' Comp surcharge, \$110 million for Cal/OSHA. This
13 next year, that number is going to be \$195 million. We
14 should have the resources to enforce regs. And I think
15 that ought to be the kind of debate I'd like to see that
16 we'd be looking at now. Do we need to extend a reg that
17 covers, you know, 1.3 million businesses and 18 million
18 employees or one that focuses on these specific industries
19 where we're having trouble? Or is it that we're not
20 enforcing well enough on certain employers and getting them
21 in line?

22 So that's my thoughts. And thank you, and hope
23 everybody has great holidays. Thank you.

24 CHAIR THOMAS: Thank you.

25 Do we have any other in-person speakers?

1 MS. KAUR: Can I make a comment over the -- over
2 Zoom or WebEx? Okay.

3 CHAIR THOMAS: Is that you?

4 MS. KAUR: No, it's (indiscernible) --

5 MS. MORSI: We'll be calling you up next.

6 CHAIR THOMAS: Who was that?

7 MS. KAUR: It's Navdeep Kaur.

8 MS. MORSI: What, I'm sorry?

9 MS. SHUPE: We'll be circling back around to you.
10 You've been added to the queue, so if you'll just wait
11 until you're called we'll be with you shortly.

12 MS. KAUR: (Overlapping) Sounds good.

13 CHAIR THOMAS: Thank you. Continue.

14 MR. LITTLE: Thank you. Well, good morning,
15 Board Members, Board and agency staff. I'm Bryan Little
16 with the California Farm Bureau. I represent 22,000
17 farmers, agricultural producers throughout the state. We
18 produce everything from avocados to zucchini, and just
19 about everything you'll find in your supermarket produce
20 section. Not to mention the meat case, and the dairy case,
21 and all the rest of those places where we all go to buy
22 food every day.

23 I'd like to thank you for the opportunity to
24 offer comments this morning -- I'm sorry, I'll slow down --
25 the opportunity to offer comments this morning on the

1 proposed non-emergency COVID-19 standard. Chairman Thomas,
2 I will endeavor to speak slowly and distinctly to help the
3 interpreter and the court reporter do their jobs.

4 CHAIR THOMAS: I didn't say anything at all. But
5 I can tell you're looking at Christina.

6 MR. LITTLE: There's a "but," there's a comma
7 there. But I know from past experience you will remind me
8 if I fail. And I am disappointed as anyone that Mr.
9 Miiller apparently forgot to bring the wine today, as he
10 did last month. Maybe January, who knows.

11 So as I've done in the past, I'd like to urge the
12 Board today to refrain from passing a permanent non-
13 emergency version of the COVID-19 standard and align myself
14 with many things set by Mr. Moutrie and Helen Cleary and
15 several other employer representatives who have preceded me
16 in offering public comment today. Governor Newsom
17 recognized the situation has changed radically in the last
18 year when he transitioned California to dealing with COVID-
19 19 as an endemic disease with his SAFER plan and announced
20 his intention to lift the COVID-19 State of Emergency in
21 February.

22 When the agency and the Standards Board first
23 enacted emergency COVID-19 standards we did not have
24 vaccines, boosters, and effective medical treatments for
25 COVID-19, all of which we have today. Employers should not

1 be expected to continue to undertake extraordinary measures
2 to protect employees against a viral disease to which they
3 were most likely exposed outside the workplace. This is
4 particularly true now that nearly all requirements for
5 precautions against COVID-19 have been dropped in public
6 non-workplace settings.

7 Proponents of this rule say that it is necessary
8 to protect employees among other things from Long COVID.
9 Citing claims by the Center for Disease Control that 20
10 percent of COVID infections result in long COVID. However,
11 some data have emerged indicating that long COVID may not
12 be as serious a threat as is commonly believed. A study
13 released by the United Kingdom's Office of -- National
14 Office of Statistics, based on data reported by Britain's
15 National Health Service, indicates that only 3 percent of
16 patients experienced specific continuing COVID symptoms 12
17 weeks after COVID infection, as indicated by monthly NHS
18 monitoring and follow-up. However, the number of patients
19 self-reporting -- and I would underline "self-reporting" --
20 lingering symptoms was nearly four times that of monitored
21 patients. At the same time it appears Long COVID may have
22 similar or even lesser prevalence to the lingering malaise
23 that many of us have experienced in the wake of respiratory
24 infections.

25 This month the "Journal of the American Medical

1 Association" looked at self-reported wellness indicators
2 for a hundred -- for a thousand people who had experienced
3 COVID or some other respiratory infection. It found 40
4 percent of patients who had tested positive for COVID
5 quote, "reported persistently poor physical, mental or
6 social well-being, at three month follow up." Yet 54
7 percent of COVID negative patients who have suffered from
8 some other respiratory infection reported similar
9 complaints at the three-month mark.

10 Now, keep in mind these numbers reflect self-
11 reporting as far as I could discern, not evaluation by
12 medical professionals. The question for the agency and for
13 this Board simply put is, are we going to -- is are we
14 going to treat every seasonal flu, RSV, or other future
15 occurrence of infectious diseases as we have treated, COVID
16 with a great social, economic and personal cost that's been
17 associated with the course we've taken with COVID?

18 It's a virtual certainty that COVID will be a
19 different and probably less virulent disease a year from
20 now than it is now. And that will prompt evolving
21 responses from public health authorities. There is simply
22 no way that a non-emergency regulation with a two-year
23 sunset can adapt and change as the situation changes. The
24 situation is vastly different at the end of 2022 than it
25 was at the beginning of 2020.

1 It is a major flaw of this regulation, this
2 proposed regulation I think, but there is no off switch for
3 its requirements that it will continue to impose on
4 employers. No milestones that once passed, the regulation
5 would no longer be effective. Instead, this Board would
6 face the huge task of reevaluation of the appropriate
7 regulatory approach even if it begins working its way
8 through the regulatory backlog left by being consumed by
9 COVID-19 since 2020.

10 Last, it seems to be lost on proponents of this
11 proposed regulation that should the Board choose not to
12 approve it, there will be no absence of reasonable and
13 measured workplace protections against COVID-19. As many
14 of us have pointed out on prior occasions, the IIPP rule
15 remains in place. As does guidance issued by Cal/OSHA, the
16 Department of Public Health and other agencies, which
17 Cal/OSHA effectively enforced through the General Industry
18 Safety Order 3203, the IIPP standard.

19 I'd like to close, if I might, by offering all of
20 you my wishes for a Merry Christmas, Happy Hanukkah, Happy
21 Festivus, whatever holiday you and your loved ones choose
22 to celebrate at this time of the year. And offer my sense,
23 and I hope you share it also, that it seems like we're
24 emerging from a long difficult period. And hopefully we'll
25 be able to move forward into a time that'll be a little

1 less stressful for all of us. So thank you all -- all of
2 you for all of your hard work.

3 CHAIR THOMAS: Thank you, Mr. Costanza. We
4 appreciate that. (Laughter.)

5 Do we have any other in person speakers? It
6 looks like we don't. Oh, we do?

7 MR. MIILLER: Maybe not.

8 CHAIR THOMAS: I could tell you wanted to make an
9 entrance, so.

10 MR. MIILLER: I thought you were going to the
11 online stuff, sorry.

12 Good morning, Board Members. My name is Michael
13 Miiller. I'm with the California Association of Winegrape
14 Growers. And I will associate myself with the prior
15 comments from Mr. Costanza, from Rob Moutrie, Helen and
16 others, raising concerns with this regulation. And I did
17 write a long extensive statement, but in light of trying to
18 be briefer this morning, I will try to be more concise.
19 And I'll try to speak slowly and clearly. But I do want to
20 say right up front --

21 CHAIR THOMAS: I just want it noted for the
22 record when they say that they're looking at Christina.
23 They're not looking at me. (Laughter.)

24 MR. MIILLER: This is so true. But I do want to
25 say that I think we all -- wherever we lie on this

1 regulation, this proposed regulation, I think everybody has
2 to recognize the hard work of the Division staff, of the
3 Board Members, and the Board staff as well. I know that
4 this has not been an easy issue to take on and it wasn't
5 expected and everybody's doing the best you can. And I
6 personally want to acknowledge that and professional
7 acknowledgement as well. So thank you for all your work.

8 This morning I would like to speak to the
9 rulemaking file relative to the authority for the
10 regulation and the scope of the regulation. Based on those
11 two issues we believe the regulation should be rejected.
12 Specifically, we want to raise two key issues. We believe
13 the public record and the rulemaking file is incomplete, as
14 it does not include the authority for the Board to regulate
15 housing under the California Occupational Safety and Health
16 Act of 1973. To our knowledge, nowhere in the Act is the
17 Board provided with the authority to regulate housing. If
18 such authority does exist, I'd like to ask the Board today
19 to identify that authority and add that authority to the
20 rulemaking file for consideration with the Office of
21 Administrative Law, should the regulation be approved
22 today.

23 The second issue I want to raise is the bigger
24 picture. I'll explain why I believe that on its face the
25 regulation is clearly trying to control a community-spread

1 virus, and not trying to provide a safe workplace.
2 Therefore, the regulation deserves to be unanimously
3 rejected.

4 Let me begin with addressing an issue raised at
5 last month's Board meeting. In that meeting a Board Member
6 expressed surprise that I brought up the fact that COVID-19
7 is a community-spread virus. That is not unique to the
8 workplace.

9 Keep in mind today that many of those who
10 testified in support of this regulation stated that it is
11 needed to protect against the spread of COVID in the
12 community. To be clear, community spread simply means the
13 source of the transmission of the disease is unknown.
14 Because of this, the Board has no data that you can point
15 to in how many transmissions have occurred, the severity of
16 those transmissions, or the circumstances that created
17 those transmissions. The community spread nature of the
18 virus is important to recognize, because of the statutory
19 authority of this regulation.

20 Under Section 6300 of the Labor Code, the Board
21 is charged with, "Assuring safe and healthful working
22 conditions for all California working men and women,
23 authorizing the enforcement of effective standards." This
24 begs the question of how the work can determine that this
25 is an effective standard. Remember, after two years of the

1 ETS being in place the Board acknowledges that it has no
2 data on workplace contraction of COVID.

3 Nonetheless, the real answer to that question is
4 ultimately found in the Statement of Reasons for this
5 regulation. That statement makes it clear that the
6 regulation is intended to reach beyond the workplace.
7 Because of that goal there really is no need for workplace
8 data. The Statement of Reasons reiterates that goal as a
9 states the following, "The overall intent of this
10 regulatory proposal is to reduce employee exposure to the
11 virus that causes COVID-19, and therefore reduce COVID-19
12 illness and transmission." Let me repeat that, "...and
13 therefore reduce COVID-19 illness and transmission." The
14 problem though is that we contend that such a public health
15 goal isn't beyond the authority of the Board.

16 Additionally to be clear, it's important to note
17 that the Statement of Reasons makes it obvious that this
18 regulation is intended to go beyond the workplace, because
19 in five different places the Statement of Reasons refers to
20 the "workplace and housing," thereby recognizing that
21 housing is not the workplace. However, as I stated before
22 there's no citation given anywhere in the rulemaking file
23 for the authority for the Board to regulate housing.

24 When the ETS was contested the court ruled,
25 because the Governor had the police powers that comes with

1 an emergency declaration -- or declaration of an emergency
2 -- that the Board could adopt the ETS, and include
3 regulating housing. However that police power isn't there
4 anymore effective February 28th and this regulation will be
5 effective long after that.

6 Therefore, today I'm formally asking that a clear
7 authority be provided and cited in the rulemaking file
8 before for their review and approval. Notice how much I'm
9 skipping.

10 Today, let me end with this. I was watching the
11 Georgia Senate race last week. And at Reverend Warnock's
12 election day speech he gave a shout out to agriculture. In
13 doing so Reverend Warnock quoted the Lord's Prayer, "Give
14 us this day our daily bread." Now being raised Catholic
15 I'm pretty sure that when the Lord provides our daily
16 bread, we're also getting a nice bottle of wine.

17 (Laughter)

18 I raise this issue, because my experience with
19 growers is that they're doing their ultimate best to
20 protect their employees. Because every successful grower
21 is successful putting food on our table and wine glasses,
22 because of the work of their employees. And they all
23 acknowledge that. However, when there is a case of COVID
24 in the workplace, which inevitably will happen, when there
25 is a bad case they often cited for having an inadequate

1 COVID-19 prevention plan.

2 In looking at these cases more carefully I have
3 found that it is common that when there is a case of COVID-
4 19 with the worst COVID-19 symptoms, after careful review
5 it was determined that the employee likely contracted the
6 virus outside the workplace. In a social setting. The
7 employee was in a high medical risk category. And/or the
8 employee was not vaccinated or boosted. Because this
9 regulation treats all employees the same regardless of risk
10 or vaccination status, it subverts the crucial efforts of
11 our growers to keep the employees safe. And as somebody
12 earlier testified, there's no question that this bill will
13 punish good actors. And frankly, it feels incredibly
14 unjust to treat a community spread COVID-19 case like any
15 other workplace injury. To me, that just makes no sense.

16 In conclusion, when considering all the
17 information provided today we feel that this regulation
18 should be rejected. And we thank you for your time. And I
19 hope everybody has a wonderful holiday and Merry Christmas.
20 Happy New Year. Happy Festivus. Thank you.

21 CHAIR THOMAS: Thank you.

22 Do we have any other in-person speakers at this
23 time? I know we've got one, ah there he is. Kevin.

24 (Off mic colloquy.)

25 MR. BLAND: Good morning, honorable Chairman

1 Thomas, Board Members, Board staff, Division staff. I'll
2 be brief. Kevin Bland, representing the California
3 Contractors Association, the Residential Contractors
4 Association, and the Western Steel Council.

5 I'm not going to re-litigate everything, because
6 I think we have heard a lot of great details I'll
7 incorporate by reference: Rob Moutrie, Helen Cleary, Andrew
8 Sommer, Bruce Wick, Bryan Little, Michael -- and Michael
9 Miiller. Did I say Bryan Little? You changed the last
10 name on me today, so I forgot what (indiscernible) Bryan
11 Little, and their comments today regarding COVID-19. And
12 then I would also like to incorporate the words from the
13 Petitioner on the first aid. I think that was kind of a
14 mirror of what I was saying that we started this or he
15 started this to make this first aid issue simple. And it
16 got real complicated real quick. And of course, Bruce Wick
17 and Helen Cleary on those points.

18 My point is pretty simple. I feel like, one,
19 we've heard this theme already. I go back to it. And I
20 think I said this the very first time I was at the podium
21 is we have the IIPP. We were ahead of everyone, and we
22 should have said hey, we've got this. We can cover this
23 where there wasn't an IIPP in any other state and any other
24 OSHA that we could have pointed to. And we did.

25 And so I think we're there now, again, as this

1 thing has evolved. And we see it evolve and ever change
2 and inarguably have gotten lesser and lesser, and then also
3 the aspect of the community spread. You know, we've had on
4 the shoulders of employers throughout California in these
5 last two years, an issue that was really a state issue,
6 actually a country issue, a worldwide issue, of community -
7 - a community issue. And it's gotten cloaked onto the
8 shoulders of the employers. And I don't -- I think one of
9 the previous speakers talked about the fairness of that. I
10 don't think that has been fair. If we all have to do our
11 parts, I get that. But I think we're at the crossroad
12 where the time has passed to have a continuation of this
13 permanent regulation moving forward.

14 We have the tools. People earlier talked about
15 the training. I think -- I don't know anyone that I can
16 imagine in the country that doesn't understand COVID. And
17 doesn't understand what's happened with it and its
18 evolution. And there's treatments, and there's vaccines if
19 you're into that, and all the things that have occurred.

20 So all the administrative work -- I think someone
21 else mentioned this, and I see this a lot firsthand because
22 I deal with a lot of employers on things -- is the
23 overwhelming amount of work to be compliant with the
24 administrative side of the COVID regulations that we've
25 seen and will continue to see moving forward if this

1 passed. Compared to the efforts on issues like fall
2 protection, confined space, lockout tagout. All of the
3 things that for lack of the risk, it's kind of the bread
4 and butter of safety. That's where the higher risk is.
5 And that's something that I feel like we've lost a little
6 focus on, because of this for the (indiscernible) spread
7 with managers and safety professionals pretty thin over the
8 years. Because I've seen more accidents and more life-
9 threatening issues, dealing with those types of issues than
10 I have COVID cases in my practice.

11 Another point that I think has -- and I think
12 we've asked for this a few times for comparison is we talk
13 about how much this regulation, and how much we did here
14 that prevented the spread of COVID, because of what we did
15 with our workplace. The interesting thing, and we've asked
16 for this, there are a lot of other states -- and I know
17 California prides itself in being different in forward
18 thinking or whatever you want to call it. But we're not
19 any better, and in some cases may be worse, than states
20 that didn't have all these onerous regulations and didn't
21 do that. We always hear -- when we ask that they'll point
22 to, "Well, Oregon's doing this, and they're doing that, and
23 Washington has done this," but never comparing the stats of
24 the states that opened and that are back to pre-COVID times
25 or maybe, never shut down.

1 And so, I think that we have to be careful. To
2 coin like an NFL phrase, "You've got to be careful, never
3 believe your own publicity." Because sometimes you get
4 caught up in that, right? Take a step back and see what
5 are the stats? What are we actually doing and what are we
6 netting. And what are we continuing to do as opposed to
7 thinking that we're doing a lot more than we are, so we've
8 got to go to where the bread and butter is. So with that I
9 urge a no vote on the permanent standard for all the
10 reasons that's been stated today.

11 And the very last thing I'll say, I really
12 appreciate all the hard work that has gone into this. You
13 guys have taken it on the chin a few times through these
14 last couple of years. I mean, I feel like I've been at a
15 family dinner every third Thursday with the cousins and
16 brothers and sisters arguing about what's going on in the
17 world. And then afterwards we hang out and have dessert.
18 So I kind of appreciate that you guys, over the 20 years
19 I've been doing this, feel like family. And so I
20 appreciate the fact that we can kind of have discord and
21 talk about things maybe we don't agree on. And then at
22 some point we'll reach agreement on things or some points
23 maybe we never will.

24 But I wish you guys all a Merry Christmas, Happy
25 Holidays. Hopefully 2023 will be prosperous, and we'll get

1 all this behind us. And maybe even work on some other fun
2 things and get this behind us. So thank you, very much.

3 CHAIR THOMAS: Thank you.

4 We're going to go to online speakers now. Maya,
5 who do we have up?

6 MS. MORSI: Up next is Navdeep Kaur with Jakara
7 Movement.

8 Navdeep, it looks you've called in, so press *6
9 to unmute yourself.

10 CHAIR THOMAS: Navdeep, are you with us?

11 MS. KAUR: Yes, I'm here. Can you hear me?

12 CHAIR THOMAS: Go right ahead, yes.

13 MS. KAUR: Awesome. Good morning, Chairman and
14 Members of the Board. My name is Navdeep and I'm here to
15 represent Jakara Movement and many of the workers that we
16 work with. Primarily workers from the meat and poultry
17 industry, farmers, farm workers and warehouses. And we are
18 located in the Central Valley, but our work is throughout
19 California especially from Kern up till Yuba, Sutter
20 County.

21 And so I'm here to urge you to vote in favor of
22 extending the COVID-19 emergency temporary standard, at
23 least for the next year or seeing how things play out for
24 the next year. COVID cases are on the rise. So it's clear
25 that this pandemic is far from over and workers do need

1 protection. That needs to still remain in place.

2 The COVID ETS has been instrumental in giving
3 relief to workers. That they, you know -- that they can --
4 they have a right to speak up when they feel unsafe at
5 work, or when the conditions are not workable conditions.
6 So this has helped many workers that we've seen, you know,
7 even during when they do get COVID, getting COVID pay, sick
8 leave, or even the exclusion pay.

9 So and I just want to mention that like in the
10 Central Valley, we do have some of the highest rates of
11 asthma along with vulnerable life-threatening complications
12 with COVID-19 infections. So voting "no" today does
13 directly impact the workers. And I understand that some of
14 the previous folks who did comment did mention this, why
15 would employers be held kind of like -- I'm paraphrasing
16 right now -- but why would employers be held responsible
17 for COVID? For something that comes from the community
18 rather than like it may not directly come from workplace.
19 But to even have workers coming to work and to feel safe,
20 to have those workers keep going, to keep the other workers
21 safe, it's just really important to keep the emergency
22 temporary standard.

23 Because if you're going to not have these
24 temporary emergency standards, as we saw in early 2020 when
25 we didn't have them, workers were going into work being

1 sick with COVID. And that made other workers get sick.
2 That caused the rise of the death tolls due to COVID, but
3 also that caused employers to not have employees at
4 workplaces. So for these reasons, I think it's actually
5 been beneficial for even the employers to have these COVID-
6 19 temporary -- emergency temporary standard still continue
7 on until we see COVID decreasing or like the impact
8 decreasing on the workers.

9 And I also do want to -- I know the exclusion pay
10 is going to be -- is also ending. So I do want to urge the
11 importance of exclusion pay. Again, like keeping workers
12 when -- for workers who are providing for their families
13 from paycheck to paycheck, it's really important when they
14 do get sick, that they know that there's a safety net.
15 That they could stay at home and still provide for the
16 family and not go to work being sick. And getting -- you
17 know, and possibly having other workers get sick. So for
18 that reason again, I do want to urge everyone on the Board
19 to extend the COVID ETS and include the exclusion pay.

20 And yeah so that's all I would like to say.
21 Thank you so much for this space and time. Thank you.

22 CHAIR THOMAS: Thank you.

23 Who do we have next, Maya?

24 MS. MORSI: Up next is Robert Blink M.D. with
25 American College of Occupational and Environmental

1 Medicine.

2 CHAIR THOMAS: Robert, are you with us?

3 DR. BLINK: Yes, good morning.

4 CHAIR THOMAS: Good morning.

5 DR. BLINK: Thanks everybody and happy holidays
6 to all. I'm an occupational medicine physician and former
7 member of the Cal/OSHA Board. I'm in independent practice,
8 but I'm also a Chair of the American College of -- can you
9 not hear me?

10 CHAIR THOMAS: Yeah it was a little -- you were
11 fading in and out, so.

12 DR. BLINK: Okay, yeah. I'm sorry, I have a tiny
13 microphone on this laptop. I'll try to speak more
14 forcefully. I'm also the Chair of the American College of
15 Occupational and Environmental Medicine's Council on
16 Occupational Environmental Medicine Practice. And the part
17 of ACOEM's committee -- Council on Government Affairs.

18 And the reason for me speaking today is to remind
19 everybody please let's get something done on lead exposure.
20 I know there are many other factors that have come in. And
21 of course we've all been experiencing near drowning
22 experience with the COVID pandemic for the past three
23 years. But really lead -- I've been working on this from
24 since 2007. Been part of groups that have submitted
25 proposals to various state bodies, including this one, to

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1 improve the lead standards for blood lead levels. And in
2 those 15 years I wonder how many people have died, because
3 of lead levels that were too high and affected their
4 cardiovascular system.

5 So I just wanted to make sure that in the public
6 record, and this is at the behest of ACOEM, that it gets
7 entered that ACOEM did submit a letter to Federal OSHA,
8 October 28th in response to their advanced notice of
9 proposed rulemaking. And in that letter they pointed out a
10 summary of a great deal of research. It's quite an
11 extensive document. And I wanted to make sure that
12 Cal/OSHA Standards Board is aware of this.

13 But essentially the salient points are that a
14 small increase in blood lead levels to quite low levels --
15 so some of the different studies, the lead levels used were
16 3.63, 6.7, a band of -- between 10 and 25. And as you
17 know, the lead standards currently in use allow lead levels
18 of up to 40, or even 50, depending on the circumstances.
19 So these much lower levels were getting an increase of
20 cardiovascular disease, heart attacks and strokes,
21 primarily. That are more than 50 percent increased over
22 baseline.

23 So at relatively low levels of increased lead
24 levels for lead-exposed workers, we're getting a risk to
25 people's health that's worse than smoking cigarettes. It's

1 worse than high blood pressure. It's worse than high
2 cholesterol. And for us to just sit there and let this
3 happen for 15 years now I really -- you know, we're all
4 busy, but please let's try to do some work on this.

5 The State of Michigan has a state OSHA as well.
6 And they recently became the first OSHA in the country to
7 take in better lead levels. Probably not good enough, but
8 a whole lot better than what we've got. And I know that
9 the Federal OSHA is working on this, but I'd really like to
10 encourage the Cal/OSHA Standards Board to work on this to
11 prevent needless high-level levels that cause huge
12 increases in cardiovascular mortality for California
13 workers. Thanks, very much.

14 CHAIR THOMAS: Thank you.

15 Who do we have next, Maya?

16 MS. MORSI: Up next is Carmen Comsti with
17 California Nurses Association.

18 CHAIR THOMAS: Constance, (phonetic) are you with
19 us?

20 MS. COMSTI: I'm here.

21 CHAIR THOMAS: Go ahead.

22 MS. COMSTI: Thank you, Chair Thomas and Board
23 Members. I'm Carmen Comsti with the California Nurses
24 Association representing over 100,000 registered nurses in
25 California. CNA aligns their comments with Stephen Knight

1 from Worksafe, with UFCW, Alice Berliner. And again we
2 want to reiterate CNA's strong support of the adoption of
3 the two-year extension of the COVID-19 standard for general
4 industry.

5 Despite in the draft before you today, the lack
6 of exclusion pay and other job protections for workers who
7 are removed under the standard, and despite other
8 deficiencies and protections that CNA has mentioned in the
9 past meetings, in our written comments, it is crucial that
10 the Standards Board votes yes to approve the two-year
11 extension today.

12 CNA strongly urges Cal/OSHA and the Standards
13 Board to immediately move towards developing a permanent
14 standard that includes exclusion pay and other job
15 protections. As CNA has previously stated it is consistent
16 with Cal/OSHA standards -- with other Cal OSHA standards to
17 include exclusion pay and job protections for precautionary
18 removal. And while the majority of CNA's registered nurse
19 members are covered under the Aerosol Transmissible Disease
20 Standard, we have several hundred members who are currently
21 covered under the COVID General Industry Emergency
22 Temporary Standard.

23 And for CNA's members who are covered by the ATD
24 standard since the beginning of the COVID 19 pandemic, it
25 has been critical that employers maintain workers' pay,

1 benefits, and job status, if they are required to be
2 removed from workplace. The inclusion of exclusion pay,
3 and other job protections under the ATD standard has been
4 critical in ensuring that nurses can stay at home after
5 they are exposed on the job to COVID-19. With exclusion
6 pay and other job removal protections under the ATD
7 standard, acute care nurses have been able to ensure that
8 they are not transmitting the virus to their coworkers or
9 their patients without fearing that they would lose their
10 jobs or that they may have to forego pay.

11 With that said and with the -- we know that there
12 are continued issues with the Division's enforcement of ATD
13 standard. But that does not mean that inclusion of the
14 strongest most protective standards, and the general
15 industry COVID standard, including exclusion pay, is
16 futile. With the inclusion of these protections and ATD
17 standards nurses have had a fighting chance to work with us
18 as their union, to ensure that they can quarantine and
19 isolate after a COVID exposure.

20 Nurses have been able to fight for employers to
21 provide regular testing to track and identify COVID
22 transmissions and outbreaks in the workplace.

23 With the combination of multiple layers of
24 protections in the ATD standard, including exclusion pay,
25 acute care nurses have had a fighting chance to demonstrate

1 that their employers' baseless claims that their exposure
2 was in the community -- that those claims are false.
3 Because employers will be compelled to test, monitor, and
4 track workplace COVID cases.

5 Also, it's just simply a matter of equity. All
6 workers should have access to the same protections on
7 COVID-19 standards. And the lack of these protections will
8 unnecessarily lead to further occupational exposure and
9 illness. All workers in California deserve to be protected
10 by Cal/OSHA standards. The exceptions and flexibility in
11 the standards that employers continue to ask for,
12 misunderstands COVID. Infectious disease will not wait for
13 the Division or Board to go through rulemaking before it
14 decides to enter a workplace.

15 There is no evidence that COVID will become less
16 virulent or less severe in the years to come. And the
17 evolution of COVID and other transmissible diseases
18 demonstrate that the opposite is more likely to be true.
19 The virus, for example, has evolved to render antibody
20 treatment ineffective. Employers must be prepared. And
21 Cal/OSHA must ensure that they provide these protections.
22 We know that multiple layers of workplace protections can
23 prevent tragedies that we have seen over the past three
24 years. Cal/OSHA must keep employers accountable.

25 CNA's members recognize, and are acutely aware,

1 that we should expect continued transmission of COVID in
2 the coming years. We are in the middle of a triple-demic
3 of COVID, RSV and flu. COVID cases have been rising for
4 weeks. And we can safely predict that there will be surges
5 in COVID every year.

6 And just finally, you know, we appreciate
7 Cal/OSHA and the Standards Board's continued work on a non-
8 emergency COVID-19 standard. We urge the Standards Board
9 to vote yes and to approve the non-emergency standard on
10 COVID. And to take immediate steps to begin work on a
11 permanent standard. Thank you, so much.

12 CHAIR THOMAS: Thank you.

13 Do we have any more in-person speakers? (No
14 audible response.)

15 Hey, Maya, how many more do we have on the line?

16 MS. MORSI: Three left.

17 CHAIR THOMAS: Okay. Go ahead.

18 MR. STEIGER: Thank you, Mr. Chair and Members,
19 Mitch Steiger with the California Labor Federation. As
20 always we appreciate the opportunity to speak today and
21 would especially like to focus today on our appreciation
22 for all of the work that's been done to get us to this
23 point by Board Members and Board staff and especially
24 Cal/OSHA staff. It's been an unimaginable amount of work
25 over the last two-and-a-half years, two years-eight months,

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1 however long it's been that we've been dealing with this
2 here at these hearings. And it's been a very long and very
3 winding road. And the work that's been engaged in by all
4 of those here in this room has a lot to do with why we've -
5 - how we've gotten to this point. And how we've been able
6 to do a relatively good job of taking care of Workers'
7 Compared to other locations, and we definitely appreciate
8 that.

9 The short version of what we'd like to say is
10 that we strongly urge the Board to approve this version of
11 the standard that's before you today. Obviously very
12 disappointed to see exclusion paid not included. But even
13 without that there are still a lot of very important pieces
14 that are still in the standard. I very much want this
15 being approved today. And there are some pretty important
16 lessons there that can teach us a lot about how we should
17 handle the permanent infectious disease standard that's
18 about to come.

19 We won't go too far into all of the arguments
20 that we've said before about exclusion pay and the need for
21 it, but I would very much like to touch on the stated
22 reasons for not including it in the standard. We think
23 those -- just a quick discussion of those helps explain a
24 lot about why the -- why it is so important improve the
25 standard today. And why we need to kind of apply that in

1 that discussion to the infectious disease standard. The
2 first of which is that vaccines are widely available. And
3 the other pieces of this argument like we have antivirals.
4 And I've heard it described as not medically significant
5 for a lot of workers. Things aren't as bad as they were.
6 And while in some ways a lot of that is true, vaccines are
7 very much widely available, the reality is that ever since
8 the Delta variant the vaccines have done little to nothing
9 to slow the spread of the virus.

10 And one of the main reasons for exclusion pay in
11 the standard was to slow the spread in the workplace. It
12 doesn't matter where the worker got the virus, once they
13 show up at work with it, it can then become a workplace
14 outbreak. And that was one of the main reasons we needed
15 exclusion pay. And one control measure that has always
16 worked great from day one is taking that sick person,
17 putting them at home, letting them recover, hoping they
18 recover, but at a minimum making sure that they don't cause
19 an outbreak in the workplace.

20 And so, while the availability of vaccines and
21 the fact that you do have antivirals that do still work for
22 a lot of workers, it's not really an argument against
23 exclusion pay. Exclusion pay is there, in large part, to
24 stop outbreaks. The vaccines don't really do that, so it's
25 almost not even really relevant to that part of it.

1 And as far as the more general argument of COVID
2 is not that serious. It's not that medically significant,
3 we would just really strongly disagree with that. The "LA
4 Times" did a great article the other day where they
5 referenced a lot of the most recent evidence like a CDC
6 study that found for working-age Americans out there right
7 now, 18 to 64, one in five are now suffering from some sort
8 of long-term health impact from COVID. That's not one in
9 five of people who got COVID. That's one in five of
10 everybody.

11 And they go through a long list of all the
12 different health impacts that the workers are now suffering
13 from: increased risk of diabetes to heart disease, to
14 Alzheimer's, to stroke. In addition to all of the long
15 COVID that the worker is very aware that they have, there
16 is a lot of long COVID that the worker doesn't know that
17 they have. I'm reminded of my dad who died of heart
18 disease. And before he did he would always tell -- when I
19 would try to get him to do things differently, to change
20 his lifestyle, his argument was that he didn't need to
21 because, "I feel fine". You know, "I don't have any
22 symptoms, I feel great". Well, he may have felt great, but
23 he wasn't great. There was something wrong, and he didn't
24 take action and he's not here anymore.

25 So there are a lot of workers out there who are

1 in the same boat. They may feel like they've recovered
2 from COVID, but the medical evidence is pretty clear at
3 this point that they haven't. That your odds of one of
4 these chronic conditions, the odds of experiencing one of
5 these adverse health outcomes, doubles in the year after
6 you got COVID whether you know it or not. It's another
7 strong argument, we think against this perspective that
8 things are fine, things aren't as bad. Things are not
9 fine. Things are still very bad for a lot of workers. And
10 it's one of the reasons that we still we still need this
11 standard.

12 The disease is now widespread in the community.
13 We've heard a lot of talk about that. Frankly, we really
14 just don't think that's an argument against exclusion pay.
15 If anything, that's an argument for redoubling our efforts
16 to prevent this virus and to slow the spread. Just because
17 it's everywhere else doesn't mean that we should just throw
18 up our hands and let it spread throughout the workplace
19 unchecked.

20 The workers are eligible for Workers'
21 Compensation. We've heard a lot about that. And that's
22 true. If you get COVID, you can go apply for Workers'
23 Compensation. Right now, if you file a non-COVID Workers'
24 Comp claim you've got about an 8 percent chance of that
25 claim being denied. If you file a COVID claim you've got a

1 34 to 50 percent chance of that claim getting denied. It
2 averages out over the course of 2022 to about 41 percent
3 chance. That's five times as likely to face a denial if
4 you file a COVID claim. And even if your claim is
5 successful, and you get temporary disability, those
6 benefits are capped at two thirds of your wages. Or up to
7 two thirds of your wages. Given that we're trying to
8 encourage people to not show up to work when they're sick
9 you don't encourage a worker to do something by giving them
10 two thirds or less of what they're -- or less of what
11 they're earning right now. So we'll get into all the other
12 issues with Workers' Comp, but though that is true there
13 are a lot of ongoing issues with a Workers' Comp system
14 that we think really weaken that argument.

15 And then finally, sorry, that exclusion pay is
16 less common now that quarantine rules have changed. And
17 that is probably true. But we would also point out that
18 that kind of seems like an argument for exclusion pay.
19 That whatever the burden is that's on employers for
20 providing exclusion pay, well there's a lot less of it now.
21 So given that that's definitely one of the reasons it may
22 not be stated that much, I'm sure that's one of the main
23 reasons that it's not in there. The fact that it needs to
24 be taken advantage of less is, we think one more reason why
25 it should continue. Because the amount of money for the

1 upfront investment and exclusion pay costs less now than it
2 used to. And all of which we think really points to the
3 permanent infectious disease standard.

4 And something that happened with this standard
5 that we were very disappointed to see, which was exclusion
6 pay coming out early on, it stayed out. It stayed out.
7 And then at the end it needed to stay out, because then we
8 would have had to readjust the SRIA and that would have
9 created a gap in coverage. You cannot do that this time.
10 We need to include exclusion pay in the first draft of the
11 permanent infectious disease standard. It needs to be in
12 the SRIA. If we need to -- if for some reason the decision
13 is made to take it out, that's a lot easier to do than
14 putting it back in and readjusting the SRIA in that way.
15 So we would strongly urge all involved to keep that concept
16 in mind, keep that mistake that we learned here in mind,
17 and make sure that exclusion pay, or medical removal, or
18 precautionary removal, whatever it's called, is in that
19 initial version of the standard.

20 And then finally, just really quickly like to
21 touch on all of the good pieces that are still in the
22 standard. And there are quite a few. But specifically
23 it's the specifics of the standard that make it so
24 important. If this standard goes away today employers will
25 just kind of be out there on their own deciding what to do

1 to keep workers safe. Think about all the arguments we've
2 had in these rooms over the last few years to where we get
3 into what should we say about face coverings? What should
4 we say about respirators? Should we do square feet or
5 cubic feet? A lot of the best experts out there on all
6 these issues, we had a really hard time agreeing on a lot
7 of that stuff.

8 And now we're going to kick that disagreement,
9 all of that controversy, out to every individual employer
10 in the state and just say, "Do your best". Employers are
11 too busy. They've got too many other things to worry
12 about. They don't have time to all become, you know,
13 infectious disease specialists and figure out how to deal
14 with this. Employers need the specifics of this standard.
15 They need to know exactly what to do with respirators and
16 exactly what to do with face coverings and exactly what to
17 do with training. All of the other pieces of the standard
18 that provide a very clear guide for both workers and
19 employers on how to minimize the spread of this virus and
20 keep workers safe.

21 So in conclusion we would very much strongly
22 encourage the Board to approve the standard today. Not
23 just to slow the spread of the virus. To make, we think,
24 life a little bit easier for employers. Give them some
25 clarity. And make sure that we keep making the kind of

1 progress that we have so far. Thank you, very much.

2 CHAIR THOMAS: Thank you.

3 Do we have any other in-person? Go right ahead.

4 MR. MOUTRIE: I'm so sorry, thank you, Mr. Chair.
5 Again, Rob Moutrie, California Chamber of Commerce. And I
6 hate to come up again. I only want to make one brief
7 point, which is for the public listening and I think
8 everyone else, there was a comment that vaccines are not
9 effective against the Delta variant. And I just want to
10 read from the Mayo Clinic's website. I will skip the
11 preamble, "People who are fully vaccinated can get
12 breakthrough infections and spread the virus to others, but
13 the COVID-19 vaccines are effective at preventing severe
14 illness." And this is the response to the question, "Do
15 COVID-19 vaccines protect against variants?"

16 So I want to just be clear for the public that
17 vaccines are effective and I would urge everyone to get
18 them. Thank you.

19 CHAIR THOMAS: Thank you.

20 Any other in-person? Going once. No, okay. We
21 will go to call-in. Maya, who do we have?

22 MS. MORSI: Up next is Eddie Sanchez with
23 Southern California Coalition for Occupational Safety and
24 Health.

25 CHAIR THOMAS: Eddie, can you hear us?

1 MR. SANCHEZ: Yes, thank you.

2 CHAIR THOMAS: Go right ahead.

3 MR. SANCHEZ: Thank you. Hello, everyone. I
4 want to thank the Board, staff and interpretation for your
5 hard work and for receiving our comments today. My name is
6 Eddie Sanchez with the Southern California Coalition for
7 Occupational Safety and Health, SoCalCOSH for short. Our
8 organization is founded on the principle that workplace
9 deaths and injuries are preventable.

10 I wanted to first start by thanking Alice
11 Berliner, Kristin, Janice, Stephen, Navdeep, Carmen, Mitch
12 and others advocating for strong protections from COVID.
13 I'm here today to also advocate for strong standards for
14 workplace protections from COVID-19.

15 We have arrived at that point we all foresaw with
16 high infection rates and increased hospitalizations for the
17 holiday season. And I think we're also foreseeing that
18 COVID may not be going anyway -- may not be going away any
19 time soon in our near future. But with that, we need
20 protections that will also meet the ever-present challenges
21 that COVID brings. For me that means protections
22 establishing a strong two-year standard, which we're hoping
23 you will pass today, and beyond, that include exclusion pay
24 or precautionary removal.

25 I also wanted to respectfully challenge comments

1 earlier regarding a reduction in fatality and
2 hospitalizations or relying on vaccines to do the work of
3 workplace protections. We can applaud the successes of
4 medicine to keep folks safe from COVID, but we should do
5 all that we can to ensure that the risks and hazards to
6 working people are reduced. Especially as we get to fully
7 understand the long-term, long-lasting impacts of Long
8 COVID regardless of vaccination status. We would all be
9 better off having a two-year standard and an eventual
10 permanent standard. And we hope those future protections
11 include exclusion pay or precautionary removal.

12 I just wanted to say again, thank you Board,
13 staff and Division for your time and consideration and work
14 on this effort. We look forward to your yes vote, and we
15 know you'll make the best decision to protect workers and
16 working class families. I also wanted to wish everyone a
17 happy Festivus and Happy Holidays to all. Thank you.

18 CHAIR THOMAS: Thank you.

19 Who do we have next?

20 MS. MORSI: Up next is Steven Stone with
21 Critchfield Mechanical, Inc. of Southern California.
22 Steven Stone.

23 CHAIR THOMAS: Steven, are you with us?

24 MR. STONE: Yeah.

25 CHAIR THOMAS: Steven? Are you --

1 MR. STONE: (Indiscernible.)

2 CHAIR THOMAS: Unmute yourself, *6. I can see
3 your name up here, but you need to unmute yourself.

4 MR. STONE: Is my mic working, okay?

5 CHAIR THOMAS: There it is.

6 MR. STONE: Is my mic working okay?

7 CHAIR THOMAS: No, it's not. Of course that kind
8 of leaves a -- I can hear you but barely. Are you there?
9 Did we lose him or?

10 MS. MORSI: We lost him.

11 MR. STONE: Can I go now?

12 CHAIR THOMAS: Yeah, go ahead. There you go.

13 MR. STONE: Ah, perfect, hi. I just want to
14 start off by introduction for those who can't see me, I'm
15 (indiscernible). I'm a new safety professional. I'm in
16 the millennial generation. And I just wanted to go over
17 just a few things of pretty much what I've seen in my new
18 safety role as a safety engineer at Critchfield.

19 So we work with two trades, primarily pipe
20 fitters and sheet metal. They're both unions. And I could
21 say COVID has literally affected everyone on this entire
22 planet. Anyone who says otherwise, you've been living
23 under a rock, I'm sorry. But not equally is more of the
24 issue I've been getting at. You can tell that our younger
25 generations and our lower income have been

1 disproportionately affected. We've seen the statistics on
2 this.

3 To get more to my point while I believe the
4 intentions of this non-emergency standard are well
5 intended, I do not believe they fit into what would be
6 considered effective for everyone. So with my sheet metal
7 and union -- my sheet metal and pipe fitters; they are
8 union. For those who know in many unions are -- you are
9 not entitled to a sick pay type system. You get a
10 percentage added to your check. Specifically for the ones
11 I do, I know they do it that way. So the number one
12 concern I always reach when I talk to my workers out in the
13 field, even here that are union, they are worried that if
14 exclusion pay is no longer a thing that they will be
15 ultimately faced with an ultimatum. "Do I come to work,
16 risk being sick, risk being caught? Or do I stay home and
17 not be able to provide for my family and not know what my
18 future will hold?" That is the number one concern I have
19 seen in my workplace just by talking with everyone. Sorry,
20 I kind of butchered my notes.

21 With this new standard (indiscernible) -- my
22 general thing that I've been going over with
23 (indiscernible) -- there we go. So this standard, at what
24 point do we realize that this is more of putting a Band-Aid
25 on a bigger issue? While it's awesome that we're working

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1 on the COVID standards for COVID spread, this is not the
2 first viral, transmissible infectious virus we've dealt
3 with. This will in no way be the last. And to that point
4 while I believe this is obviously a great step forward, I
5 think a better coverage of a workplace viral transmission
6 or just workplace viral transmission prevention plan would
7 be a better future type goal to reach. The reason being is
8 the number one thing we've all seen for these viruses and
9 everything that's transmissible, is the isolation. The
10 number one thing that is most effective is isolation. If
11 no one is around to become infected you cannot spread the
12 virus to no one.

13 And to that point I would believe that as a state
14 of like California, we tend to lead in progressive-type
15 movements. I believe that the state would pretty much
16 benefit on -- or not the state, all the employers. So, we
17 don't want the employers to obviously have to foot the bill
18 every time. That's why for my opinion of this -- sorry, I
19 keep going on a tangent here. Sorry, I'm regathering my
20 thoughts, I was not expecting to come up this early.

21 If we're going to have the state programs, they
22 usually tend to be state-funded type things. So more to
23 this point I'm wondering if -- or hoping if that
24 (indiscernible) upon the standard that we can edit
25 something that does good out of this, to implementation

1 towards a better program that is also funded by partially
2 the state. To not have employers foot the bill, but not
3 also have employees have to make the decision in certain
4 fields between choosing, "Do I come to work, risk exposure,
5 risk getting -- becoming severely ill and going to hospital
6 or risk not being able to provide for my family?"

7 And that's more of the types of stuff that I've
8 been dealing with, are just different types of how viruses
9 have affected people. Their options they have. And what
10 can be done and what will better our future. That's it for
11 me.

12 CHAIR THOMAS: Thank you.

13 Who do we have next, Maya?

14 MS. MORSI: Up next is Anne Katten with
15 California Rural Legal Assistance Foundation.

16 CHAIR THOMAS: Is this our last caller or --

17 MS. MORSI: It is --

18 MS. KATTEN: Hi.

19 MS. MORSI: But we also have Katie Davey and Mari
20 that didn't get called on.

21 CHAIR THOMAS: Okay.

22 Go ahead, Anne.

23 MS. KATTEN: Yeah. Good morning, Chair Thomas,
24 Board Members and Board and Division staff. I'm Anne
25 Katten from California Rural Legal Assistance Foundation.

1 I join representatives from the UC Merced Labor Center,
2 Worksafe, UFCW, AFSCME, CNA, the Labor Federation,
3 SoCalCOSH and others in urging you to vote to adopt the
4 COVID non-emergency regulation. And I concur with their
5 comments including especially the need for rapid
6 development of a permanent infectious disease standard,
7 which includes the exclusion pay protections.

8 I also want to stress that employer provided
9 housing requirements for ventilation and quarantine are
10 especially important, and that there is clear authority for
11 Cal/OSHA to include these provisions, especially where this
12 housing is required to be provided for guest workers.
13 Thank you all so much for your hard work and Happy Holidays
14 to everyone.

15 CHAIR THOMAS: Thank you, Anne.

16 MS. MORSI: I actually have another one.

17 CHAIR THOMAS: Go ahead.

18 MS. MORSI: Michael Young with California
19 Federation of Teachers.

20 CHAIR THOMAS: Michael, are you there? Michael.

21 MR. YOUNG: Hi, I'm here. Can you hear me?

22 CHAIR THOMAS: There you go. Can you hear me?

23 MR. YOUNG: I can hear you.

24 CHAIR THOMAS: Go right ahead.

25 MR. YOUNG: Thanks. I'm Michael Young with the

1 California Federation of Teachers. We represent educators
2 and support staff in just about every form of education in
3 the state from childcare to K-12 schools, community
4 colleges, UC, and private colleges. I want to align my
5 comments with those of the California Labor Federation and
6 Worksafe and the other labor and worksite advocates that
7 are on the call. But we're in strong support of the two-
8 year standard before the Board today and urge the Board to
9 approve.

10 While we're disappointed that -- disappointed
11 with the removal of things like exclusion pay or specific
12 exposure notice requirements or even the continued variance
13 of outbreak definitions from CDPH -- even despite sort of
14 these missing protections the standard before the Board
15 today does still includes significant protections that will
16 keep our schools and community safe.

17 Further, with regards to regardless of how can we
18 get to a worksite, once it's there it's important for
19 employers to have clear rules and guidelines and guidance
20 on how to keep workers safe and prevent the virus from
21 spreading and how to mitigate or even prevent outbreaks
22 from occurring. The standard before for you, like I said
23 includes significant protections. And we urge the Board to
24 include it. And hopefully when it's appropriate for the
25 permanent adoption we can include things like exclusion pay

1 and that those notice requirements, as I mentioned before.
2 Because as we see those protections are working now, and it
3 doesn't make a whole lot of sense to start rolling those
4 things back.

5 And I won't go into too much detail. I'll just
6 reiterate that I'll align my comments with those of the
7 California Labor Federation and Worksafe on that matter.
8 Thank you for your time.

9 CHAIR THOMAS: Thank you.

10 Do we have any other callers?

11 MS. MORSI: I'm going to call back on Mari Perez-
12 Ruiz with Central Valley Empowerment Alliance. Mari Perez-
13 Ruiz.

14 CHAIR THOMAS: Mari, are you there? Hello, Mari.
15 I think we're going to have to skip Mari. Who do we have
16 next?

17 MS. MORSI: The last one will be Katie Davey with
18 California Restaurant Association.

19 CHAIR THOMAS: Katie, can you hear us? Katie?
20 (No audible response.) I guess not. All right.

21 So at this time I think that's all the commenters
22 we have. So at this time thank you for your comments. We
23 appreciate it. The public meeting is now adjourned and the
24 record is closed.

25 Now we're going to go on a -- we're going to go

1 on a break until 12:30 or so, a 15-minute break for
2 everybody. And then we'll come back in session. So we are
3 in recess. Thank you.

4 (Off the record at 12:11 p.m.)

5 (On the record at 12:30 p.m.)

6 CHAIR THOMAS: All right, thank you. We are back
7 in session. And we will now proceed with the business
8 meeting. The purpose of the business meeting is to allow
9 the Board to vote on the matters before it and to receive
10 briefings from staff regarding the issues listed on the
11 business meeting agenda.

12 Public comment is not accepted during the
13 business meetings unless a member of the Board specifically
14 requests public input.

15 We'll proceed to General Industry Safety Orders,
16 New sections 3205, 3205.1, 3205.2 and 3205.3 COVID-19
17 Prevention. Mr. Berg and Mr. Killip, would you please
18 brief the Board?

19 MR. KILLIP: Chair Thomas, all Board Members,
20 thank you for all your support over the past two years in
21 protecting workers from COVID-19 during this devastating
22 pandemic.

23 As mentioned, COVID-19 has been one of the
24 greatest threats to worker health and safety since the
25 beginning of the OSHA and Cal/OSHA programs. In

1 California, the disease has infected 10 million and has
2 taken nearly 100,000 lives. Californians in manual labor
3 and in-person service occupations experienced a
4 disproportionately high COVID death rate, with the highest
5 death rates in the male Latino and African American
6 workers. In the US, low socio-economic position Latino
7 male workers were almost 30 times more likely to die from
8 COVID 19 than high socio-economic position white female
9 workers.

10 The COVID-19 emergency regulation made a vast
11 improvement in Cal/OSHA's ability to protect workers,
12 especially in high-risk occupations. These emergency
13 regulations empowered Cal/OSHA to make significant
14 improvements in working conditions that were not possible
15 before in using the injury and illness prevention program
16 and other general requirements. The general requirements
17 were substantially less protected than the emergency
18 regulations.

19 As the temporary emergency COVID-19 regulations
20 come to an end, it is imperative to keep key worker
21 protections in place as COVID-19, and it's continuously
22 emerging variants, continue to be a serious occupational
23 and community hazard. Community and occupational
24 transmission cannot be separated. Infection in the
25 community can be brought into the workplace and result in a

1 workplace outbreak, and the opposite is also true.

2 Making vaccination available to all is key to
3 protecting many workers' lives. However, vaccination is
4 not sufficient by itself to protect against transmission or
5 long-term COVID-19 illness. We remain hopeful that new
6 vaccines will improve protections, but we're still -- we
7 still need prevention measures to protect workers
8 especially the most vulnerable and marginalized.

9 The proposed non-emergency COVID-19 regulations
10 are not permanent. Most provisions will expire after two
11 years from adoption. If approved by the Standards Board,
12 the non-emergency regulations will not take effect until
13 the Office of Administrative Law approves them, which may
14 take up to 30 days and could spill into 2023. Meanwhile,
15 the existing emergency regulations will remain in effect.

16 Cal/OSHA wants to extend a special thank you to
17 Amalia Neidhardt and her team for providing translation
18 services for these important proceedings. And next up is
19 Eric Berg, our Deputy Chief of Health, who will now provide
20 a brief overview of the protective measures in the COVID-19
21 non-emergency proposal.

22 Thank you all and happy holidays.

23 CHAIR THOMAS: Thank you, Mr. Killip.

24 Mr. Berg?

25 MR. BERG: Should I go up there?

1 CHAIR THOMAS: Wherever you want. Wherever
2 you're comfortable.

3 MR. BERG: All right. Thank you, Board Chair
4 Thomas and all Board Members and stakeholders and everyone
5 interested in this. The non-emergency COVID-19 regulations
6 or proposal is a greatly simplified version of the
7 emergency regulations, which we've had for the last two
8 years. And the provisions consist of the following and
9 I'll just briefly go through some of the requirements.

10 In (b), which is the definitions the proposal is
11 very similar to what we have in the emergency regulations.
12 And the flexibility remains where if CDPH changes a
13 definition, then the definition will automatically apply to
14 the regulations. And we saw that with the emergency
15 regulation recently with "close contact" and "infectious
16 period." So CDPH changed those and those automatically
17 changed the emergency regulations. And we have those --
18 the new language in this proposal. But if CDPH in the
19 future changes those, those would automatically change this
20 proposal. So that flexibility remains and so that's the
21 definitions.

22 Next is (c) and (c)(1) which requires employers
23 to address COVID in their Injury and Illness Prevention
24 Program, or they can keep it as a separate program as it is
25 now. So it's up to the employer and they can do what they

1 feel is best for them.

2 In (c) (2) to what employers must implement or
3 must identify workplace hazards related to COVID-19 and
4 implement preventative measures. Employers are also
5 required to review and take into account COVID-19 guidance
6 and orders from the California Department of Public Health.

7 And in (c) (3) employers must provide employees
8 health and safety training on COVID-19 in accordance with
9 the injury and illness prevention program. And this is
10 greatly simplified from what's in the emergency regulation.

11 In 3205(c) (4) and (c) (5) employers must
12 investigate and respond to COVID illnesses in cases in the
13 workplace, as required by the injury and illness prevention
14 program.

15 And in 3205(c) (5) consistent with what CDPH
16 recommends when there's a case in the workplace, employers
17 are required to exclude COVID-19 cases for a period ranging
18 from 5 to 10 days and require face coverings used by return
19 cases for 10 days, and then review current CDPH guidance
20 for persons who had COVID-19 close contact, and take
21 effective measures to prevent transmission in the
22 workplace. And also employers are required to give
23 employees information on COVID-19 benefits available to
24 them, such as paid time off, Workers' Compensation, or
25 other local or state government requirements.

1 In 3205(d) employers must make COVID-19 tests
2 available to employees who had close contact. The testing
3 must be made available at no cost to the employees.

4 3205(e)(1) requires employers to notify employees
5 who have had close contact in the workplace. And then
6 (e)(2) requires employers to notify employees of a COVID-19
7 case in the workplace in accordance with what's in the
8 existing law. And right now that's Labor Code Section
9 649.6. But if that law changes then this requirement would
10 also change.

11 In 3205(f) employers must require employees to
12 use face coverings when their use is mandated by the
13 California Department Public Health. And employees also
14 have the right to use face coverings whenever they want,
15 even if it's not required.

16 And in 3205(g) employers must provide NIOSH
17 approved respirators for voluntary use to employees who
18 request them and who work indoors. And then employers must
19 also provide some training on those respirators.

20 In (h) employers must optimize ventilation and
21 filtration to help reduce transmission in indoor
22 workplaces.

23 In (i) employers must provide and ensure use of
24 fit-tested respirators, in accordance with section 5144,
25 for tasks that aerosolize infectious materials such as

1 saliva and respiratory fluids.

2 In (j) employers are required to report cases
3 when required by law, to CDPH or Cal/OSHA depending on the
4 situation.

5 And then the next main section is 3205.1, which
6 covers COVID-19 outbreaks. It's defined, an outbreak
7 there, as three or more cases of employees with COVID-19
8 within 14-day period. And there's flexibility built into
9 that. So if CDPH changes what is an outbreak in their
10 definitions then this would automatically change what an
11 outbreak is in this regulation.

12 So in this outbreak section, parts (b) (1) and
13 (b) (2) require employers to make testing available to
14 employees at no cost once an outbreak occurs, and then
15 weekly until the outbreak ends. (b) (3) requires employers
16 to exclude employees during an outbreak if an employee had
17 a close contact, and they do not have a negative test taken
18 three to five days after the exposure.

19 In subsection (c) employers must require
20 employees to wear face coverings during outbreaks when
21 indoors.

22 In (e), employers must review their relevant
23 COVID-19 policies, procedures and controls and implement
24 changes as needed to prevent further spread of COVID-19
25 during outbreaks.

1 (f) requires employers to filter re-circulated
2 air with MERV 13 or higher efficiency filters, or the
3 highest compatible with the ventilation system. And
4 employers can also use HEPA air filters when the
5 ventilation is inadequate to reduce the risk of COVID-19
6 transmission.

7 (g) applies when there's a major outbreak, which
8 is 20 or more employees with COVID-19 during a 30 day-
9 period. And (g) (1) requires during major outbreaks that
10 all employees in an exposed group be tested for COVID-19
11 twice a week, or be excluded until the return to work
12 criteria in COVID-19 cases permit. And (g) (2) for major
13 outbreak requires employers to report these major outbreaks
14 to Cal/OSHA. And then (g) (3) requires employers to provide
15 respirators for voluntary use and to train employees on
16 those respirators. And (g) (4) during major outbreaks
17 requires six-foot distancing for employees indoors when
18 feasible during major outbreaks if respirators are not
19 used.

20 So that's kind of the overview of the entire
21 package. That's it. Thanks. Any questions?

22 CHAIR THOMAS: Excuse me, does the Board have any
23 questions for either Mr. Killip or Mr. Berg? Do we have we
24 have Laura on the line?

25 MS. SHUPE: We do. I've been working with our

1 tech team to get her image pinned to the top.

2 CHAIR THOMAS: Oh, okay.

3 BOARD MEMBER STOCK: Oh, hi. Are you asking
4 whether I'm here?

5 CHAIR THOMAS: Yes. Is that you, Laura? It is.

6 BOARD MEMBER STOCK: Yes, that is me.

7 CHAIR THOMAS: Okay.

8 BOARD MEMBER STOCK: Are you hearing me?

9 CHAIR THOMAS: There you go. Okay, now I see you
10 on the screen. Okay.

11 BOARD MEMBER STOCK: Okay. Since you expected me
12 to say something I'm wondering where I was. Yeah, I do
13 have a few comments I'd like to make.

14 And first I'd like to thank Chief Killip and Eric
15 Berg for that summary. And I really appreciate Chief
16 Killip's words that I think are really important for us to
17 hear, that COVID-19 has been the greatest threat to worker
18 health and safety, I think he said, since the establishment
19 of OSHA. I'm not sure whether that's exactly how he put
20 it. He also specifically said that the IIPP wasn't
21 sufficient and then that it was substantially less
22 protective.

23 I think we've heard today that COVID is still
24 with us. And I don't need to reiterate the really
25 important comments that we've heard. It seems really clear

1 we need to continue this regulation. And I urge my fellow
2 Board Members to join me in voting yes.

3 That said, I continue to be concerned as I've
4 said at each Board Member or meeting, about the admission
5 of exclusion pay. We are now going to be telling workers
6 that they must be excluded from work if they are sick as a
7 result of workplace exposure, but we are not requiring that
8 they be paid. And of course we all know that this will
9 lead to people needing to work while sick, thereby
10 continuing to spread the disease in the workplace and by
11 extension in the community.

12 I want to actually quote an important statement
13 from the Statement of Reasons as part of that section where
14 they were explaining why exclusion pay was eliminated.
15 They did say and I quote, "Research suggests that policies
16 like exclusion pay, most benefit low-income and
17 marginalized workers as those workers are less likely to
18 have access to paid time off than better off workers." But
19 in spite of this being included in the Statement of Reasons
20 we are presenting with -- we are presented with a
21 regulation that is abandoning those very workers.

22 So I think now, as everybody has said in spite of
23 this important limitation, I strongly hope that we will
24 pass this regulation. But we now need to be turning our
25 attention to the development of the general industry

1 infectious disease regulation. And I really want to assure
2 that we won't make this mistake again. At a past meeting,
3 the Chair and most of us strongly requested that exclusion
4 pay be reinserted. We were told that one reason that that
5 wasn't possible is that the draft that was subject to the
6 SRIA didn't have it in it. And if it was reinserted a new
7 SRIA would be needed, which would result in a potential gap
8 of coverage. In order to prevent this from happening again
9 I would like to request that exclusion pay be included in
10 the initial draft of the general industry infectious
11 disease regulation.

12 And in order to give the clearest possible
13 direction to the Division from the Board, I would like to
14 suggest to my fellow Board Members that we make a motion to
15 include pay and job protection clauses like what is in the
16 current health care ATD, in the draft of the infectious
17 disease regulation. I'm not exactly sure of the procedure
18 here, but I would like to make that motion. And I guess I
19 can ask Christina whether this would be the moment to do so
20 or when would be the best moment to make that motion.

21 MS. SHUPE: So, my recommendation to the Board is
22 that you finish voting on the matter before you and then
23 address any votes or motions regarding the general industry
24 ATD standard under New Business.

25 BOARD MEMBER STOCK: Thanks. So just to let you

1 all know I'll bring that back up under New Business and
2 perhaps people can be considering whether they want to do
3 that. And again, I don't know what impact that will have.
4 But I really would like to send the strongest possible
5 message to the Division as they're developing the general
6 industry infectious disease standards, so that they know
7 clearly what the Board is hoping for.

8 But with that, I certainly hope we will pass this
9 reg today. Thank you.

10 CHAIR THOMAS: Thank you, Laura.

11 Do we have any other comments or questions from
12 Board Members?

13 BOARD MEMBER LASZCZ-DAVIS: Both Chris and
14 Barbara appear to look like they want to say something.

15 CHAIR THOMAS: I can't -- so if you want to say
16 something, Barbara, jump in. I can't see on my screen.

17 BOARD MEMBER BURGEL: Okay, thank you very much.

18 CHAIR THOMAS: Go ahead.

19 BOARD MEMBER BURGEL: I have a quick question for
20 Eric and Jeff Killip. First of all, thank you for your
21 discussion and coverage of the standard today. I believe
22 this standard is much clearer and very comprehensive.
23 Although I too echo Laura's comments, and am saddened that
24 exclusion pay was not included.

25 I'm certainly totally supportive of the

1 ventilation options that are outlined in this standard. I
2 think that they will not only protect workers from COVID,
3 but I think they will be effective in protecting any
4 airborne infectious exposure within the workplace. So I
5 highly, highly support the ventilation language.

6 I support also the outbreak definition changes
7 and clarifying that it's within the exposed group. I think
8 that's certainly an improvement. And despite the lack of
9 inclusion of exclusion pay, I highly support that employers
10 need to now educate workers around the leave options open
11 to them to help support their staying at home while they're
12 infectious.

13 So that being said I would support a motion,
14 Laura, later to add exclusion pay language into the general
15 infectious disease standard that is going to be future --
16 discussed in the future.

17 But a quick question for Eric and Jeff. Could
18 you respond to -- I think it was Mike Miiller who brought
19 up the comment -- or maybe it wasn't Mike, it may have been
20 someone else -- about the fact that housing is not under
21 the purview of Cal/OSHA. Could you address that for the
22 public, our stakeholders, please?

23 MR. BERG: Well, I don't have the legal research
24 in front of me, but our legal unit did do research and
25 found that Cal/OSHA has jurisdiction over employer provided

1 housing.

2 MS. SHUPE: Yeah. And in fact, our Chief
3 Counsel, Autumn Gonzalez can address that matter for the
4 Board.

5 BOARD MEMBER BURGEL: Thank you.

6 MS. GONZALEZ: Yeah, that issue was actually
7 litigated in the *WGA vs. OSHSB* case that was decided maybe
8 a year ago, and the court agreed with us that we do have
9 jurisdiction and that jurisdiction is outlined in the Labor
10 Code and in a number of provisions.

11 BOARD MEMBER BURGEL: Okay, could you share --
12 thank you, Autumn. Could you share which -- what other
13 standards extend -- I support the housing, you know,
14 inclusion of housing and employer provided transportation
15 in this COVID standard. So please don't misunderstand my
16 query. But what other standards that we have, current
17 Cal/OSHA standards, include coverage of employer provided
18 housing and transportation? Do you know, Autumn or Eric?

19 MR. BERG: Yeah, I don't know off the top of my
20 head. I could research that if you want.

21 MS. GONZALEZ: Same here. I have a memory that
22 there is already existing language, but I'd need to look
23 into it too.

24 MR. BERG: Yeah, if I recall --

25 BOARD MEMBER BURGEL: Thank you.

1 MR. BERG: -- Federal OSHA also has something on
2 employer-provided housing I believe, but that's something -
3 --

4 BOARD MEMBER BURGEL: Which one, Eric? I didn't
5 hear that.

6 MR. BERG: Federal OSHA also, I believe,
7 addresses employer provided housing. But I think
8 (indiscernible) --

9 CHAIR THOMAS: (Overlapping) Yeah, I think it --
10 the fact that it was just litigated for COVID-19 probably
11 we -- there may not be a record of anything else, I'm not
12 sure. But I'm sure --

13 BOARD MEMBER BURGEL: Okay, thank you.

14 CHAIR THOMAS: Oh. Thank you. And is that all,
15 Barbara?

16 BOARD MEMBER LASZCZ-DAVIS: Chris.

17 CHAIR THOMAS: Chris, go ahead.

18 BOARD MEMBER LASZCZ-DAVIS: Yeah, thank you. You
19 know, I have to say and I'll be -- I'll replicate some of
20 what both Laura and Barbara had to share. I really have to
21 applaud everyone who's worked on this issue for the past
22 three years. It's hard to believe that it's been three
23 years. And this has been a particularly tenacious issue,
24 because it's a hybrid community and workplace issue. It's
25 not one that we're -- that we've had to bump up against

1 very often. But, you know, I'm sure over the years you've
2 heard the term "constructive tension." Well, us moving
3 through this evolutionary regulatory process has been the
4 classic constructive tension dialogue. But I think we've
5 done pretty well, given some of the disparate views.

6 You know, there have been a lot of comments made
7 about what we don't like about the regulation and still
8 continue to struggle with, but there are plenty of good
9 provisions that I think we need to acknowledge. And I know
10 Eric and his staff have worked hard to ensure that, where
11 they deemed it feasible, we have some provisions that are
12 better than they were when we first started.

13 But the challenge expressed, and it continues to
14 be expressed, is that there is a struggle with the
15 simplicity and understanding of the regulation by both
16 employers and employees. And while we've made some
17 progress, it's not been a home run for us yet. To the
18 extent that that process continues in terms of simplifying
19 and operationalizing, I think we'll be better served as a
20 community in general.

21 And I forget who had made the suggestion that
22 there needs to be stronger, strengthened relationships
23 between both CDPH and the Division. So I encourage that
24 alignment. It's a tough one. But I think we need to
25 continue to strengthen that and advocate for that.

1 Having said all that, I still have to tell you
2 that I am not in favor of the 400,000 figure that keeps on
3 popping up. It's not experiential. It's mathematical, and
4 I struggle with that. The two-year duration I'm also not
5 in favor of. But having said that, at least I'm on the
6 record for saying that. You know, we spent three years on
7 this. It's time to move on to a permanent regulation and a
8 whole host of other risk-related issues that we've had to
9 sideline for a while, while we spend our energies on this.

10 So thank you.

11 CHAIR THOMAS: Thank you, Chris.

12 Any other comments from the Board, Dave?

13 BOARD MEMBER HARRISON: Just real quick. I just
14 want to echo the comments of Laura and Barbara. I am also
15 disappointed in the lack of exclusion pay. And I think you
16 could have guessed that from previous meetings and prior
17 comments.

18 I also want to recognize the work of the
19 Division, of the Standards Board staff, of the Board -- the
20 first ever Board subcommittee that was established to
21 address this issue, the tons of work with stakeholders. I
22 think we've got a rule here that to say, "I don't want to -
23 - I would never want to throw the baby out with the
24 bathwater" right? I think this is a classic example of
25 that.

1 So I think a no vote today wouldn't do anyone
2 justice. Taking all those thousands and thousands of hours
3 of work and to just throw it out, I think wouldn't be doing
4 anyone any justice. So I would urge the Board, as Laura
5 and Barbara said, to vote yes today when we get to that
6 point. Thank you.

7 CHAIR THOMAS: Thank you, Dave.

8 Any other comments, Kathleen?

9 BOARD MEMBER CRAWFORD: Did the Board Members
10 want to say happy holidays to the stakeholders?

11 UNKNOWN SPEAKER: (Indiscernible)

12 BOARD MEMBER CRAWFORD: Just a point.

13 And I will also echo all the comments of thanks
14 to everyone who participated over these years. It's been
15 hard. A lot of -- when you listen there's so much that is
16 so close. So it's just been one of those exercises that
17 everyone gave their best whether you agree or disagree. At
18 the end of the day, there was a lot of hard, passionate
19 work involved in this. So thank you for that. And Happy
20 Holidays.

21 CHAIR THOMAS: Thank you, Kathleen.

22 UNKNOWN SPEAKER: (Indiscernible)

23 CHAIR THOMAS: Good. Now's the time to do it.

24 No pressure.

25 BOARD MEMBER KENNEDY: Yeah, I feel pressured to

1 say something since everyone else has. I tend to not speak
2 if somebody has already said what I was thinking. I
3 actually agree with all comments that have been made by my
4 fellow Board Members in this. I've found this to be a
5 particularly frustrating and difficult process going
6 through this. I think probably everyone in this room has.
7 And I think we have done as well as we can -- could do. I
8 wish we had done a little better. There are things that I
9 think are problematic with the proposal before us. And
10 also with the path we have to take moving forward as we
11 approach a permanent standard or rulemaking.

12 You know, I -- and again we haven't had the
13 luxury of having the science keep up with, sort of, where
14 COVID has been. So we haven't been able to look at it.
15 It's probably going to take a couple of years before we
16 have that to look at. But I would hope as we move forward
17 that we can have some more data-driven decisions and look
18 at the data better before we have to vote on something.

19 That's all I wanted to say. Happy Holidays.

20 CHAIR THOMAS: Thanks, Nola.

21 Oh, go ahead.

22 MS. SHUPE: If I can, and I'm sorry to interrupt,
23 but before we wrap this up there was a question about other
24 jurisdictions that have maintained authority in housing,
25 employer provided housing. And your Chief Counsel, who's

1 absolutely excellent, has provided that for us. The 14
2 other jurisdictions with OSHA-approved state plans covering
3 private sector employment that have retained enforcement
4 authority for temporary labor camp standards in agriculture
5 are Arizona, ourselves -- California -- Hawaii, Maryland,
6 Michigan, Nevada, New Mexico, North Carolina, Oregon,
7 Puerto Rico, Tennessee, Vermont, Virginia, and Washington.

8 CHAIR THOMAS: Thank you.

9 BOARD MEMBER BURGEL: Thank you, Christina.

10 CHAIR THOMAS: I guess it's my turn to make a few
11 comments. And I want to say first of all I support this.
12 And but I am disappointed there is no exclusion pay.
13 That's -- I think it's a blow, but I think we'll be smarter
14 next time. I don't think necessarily all these things --
15 some of these decisions come from above, not necessarily
16 where we think they come from. And I think I'm old enough
17 to realize that. But we will take care of that.

18 And I was going to tell Laura that we're going to
19 have to take that motion up at the next meeting. We have
20 to agenda-ize it first, but we will do that for the next
21 meeting.

22 And I just wanted to express -- you know, it's --
23 this has really been an endurance run here. And you know,
24 I'm sad in a lot of ways. That I look at the record. I
25 look at how many people have died in the USA compared to

115

1 other countries. And how many people are -- the percentage
2 of people that are vaccinated is 68 percent. That's
3 terrible. We have 32 percent or more or a little less,
4 whatever, that are not vaccinated. And you know,
5 vaccination doesn't mean you're not going to get it,
6 because I got it and I was vaccinated boosted. It just
7 means that the -- what you have to endure will not be
8 nearly as bad. And I'm speaking from experience. My first
9 two days, if I wasn't vaccinated I can't even imagine how
10 long that would have lasted. And how bad I would have
11 gotten, because it was -- the two days that I really had it
12 I knew I had it. And I knew it was something different
13 than anything I've ever had before. But thank God for the
14 vaccines. And I just do not -- cannot comprehend why
15 people have held out so long to get the vaccine.

16 And, you know, I heard a news report I think
17 yesterday that after one year of the vaccination if -- I
18 think they said a certain percentage, I don't remember what
19 it was, but 200,000 lives were lost that could have been
20 saved had they got the vaccine at that point, where it was
21 totally available to everybody. And those -- and that, I
22 mean, is that not sad? I mean, you have the thing that can
23 save you and you don't want to.

24 And it's not just the person's fault. There was
25 so much disinformation that was out there. So many -- so

1 many areas you could listen to and not hear the truth. And
2 I just think that that's the saddest part of all of this is
3 that -- and we've been through this. You know, it's been
4 100 years, but we've been through this before, right? And
5 the same damn thing happened. And I can tell you if it
6 happens, again hopefully not in my lifetime, but who knows,
7 we're going to go through the same thing. Because it's
8 going to be a whole new set of people. They're going to
9 look at the history. They're going to see what happened
10 and they're probably going to ignore a lot of it. And then
11 you'll have worse disinformation, you know, 50, 100 years
12 from now than we've got right now. And I don't understand
13 why people do that. I don't -- I can't comprehend it.

14 But I think that what we have here is probably
15 the most workable, best document that employers and
16 employees can use to protect themselves. And that's what
17 we're supposed to do at OSHA here is we're supposed to
18 protect employees from whatever's out there that can affect
19 them in their place of employment. And this is -- that's
20 our charge. That's what we're supposed to do.

21 And I just want to voice those opinions and say
22 that I support this. And, you know, for all the good that
23 it will do there are some things in there that are not so
24 great. And I really am disappointed that we don't have
25 exclusion pay, because that is the one thing that will keep

1 workers that are low-paid and don't have any other where
2 else to put their time or to get paid, that would keep them
3 at home, so that they wouldn't infect other people. But
4 apparently that's just not the thinking in some quarters
5 here.

6 But those are my comments and at this time I will
7 entertain a motion to accept the adopted revisions.

8 BOARD MEMBER STOCK: Moved.

9 CHAIR THOMAS: Second?

10 BOARD MEMBER HARRISON: Seconded.

11 CHAIR THOMAS: I have a motion and second, is
12 there anything else on the question? Hearing none, Ms.
13 Money, will you please call the roll?

14 MS. MONEY: So I have Ms. Stock as the motion and
15 Mr. Harrison as the second is that correct?

16 CHAIR THOMAS: Sure.

17 BOARD MEMBER STOCK: Yes.

18 BOARD MEMBER HARRISON: Yeah.

19 MS. MONEY: Okay. Ms. Burgel.

20 BOARD MEMBER BURGEL: Aye.

21 MS. MONEY: Ms. Crawford.

22 BOARD MEMBER CRAWFORD: No.

23 MS. MONEY: Mr. Harrison.

24 BOARD MEMBER HARRISON: Aye.

25 MS. MONEY: Ms. Kennedy.

1 BOARD MEMBER KENNEDY: Aye.

2 MS. MONEY: Ms. Laszcz-Davis.

3 BOARD MEMBER LASZCZ-DAVIS: Aye.

4 MS. MONEY: Ms. Stock. (No audible response.)

5 Hey, Laura. Can you hear us?

6 BOARD MEMBER STOCK: Yes, I said -- sorry, I said

7 aye. Can you hear me?

8 MS. MONEY: I can hear you now.

9 CHAIR THOMAS: I think the third time we got it.

10 BOARD MEMBER STOCK: Sorry.

11 MS. MONEY: Chairman Thomas.

12 CHAIR THOMAS: Aye. And the motion passes.

13 And I know these votes are tough and I thank

14 everybody. And I want to thank the staff, and Christina,

15 and Mr. Berg, Mr. Killip, for your leadership, to get us

16 through this. And I know not everybody's happy about this.

17 I get it. It's very -- nobody likes regulations, right?

18 None of us like that. And but, you know, some things we

19 try to do our best. It's not going to be perfect.

20 But and I do thank you for your comments. You

21 have raised many issues that have been good for staff to

22 hear, good for our leadership to hear. And I think they've

23 made the changes that they could make and the revisions to

24 make this a more understandable document. And I appreciate

25 that. And, you know, we wouldn't have a democracy here if

1 we didn't have both sides of every question. It would not
2 -- there would be no argument. There would be no meetings
3 like this. That's the one thing that we should all be
4 proud of. That we all have a chance to voice our opinion.
5 We're going to be heard. And we're going to make a
6 decision. So thank you very much.

7 And we will move on to the Proposed Variance
8 Decisions for Adoption. Ms. Gonzalez, will you please
9 brief the Board?

10 MS. GONZALEZ: Thank you, Chair Thomas. We have
11 Variance Decisions 1 through 66 on the consent calendar for
12 your consideration and proposed adoption.

13 CHAIR THOMAS: Are there any questions for Ms.
14 Gonzalez? Hearing none, I'll entertain a motion.

15 BOARD MEMBER HARRISON: So moved.

16 BOARD MEMBER LASZCZ-DAVIS: Second.

17 CHAIR THOMAS: I have a motion and a second. Ms.
18 Money, will you please call the roll?

19 MS. MONEY: So I have Mr. Harrison for the
20 motion, and Ms. Laszcz-Davis for second; is that correct?

21 CHAIR THOMAS: Yes.

22 MS. MONEY: Ms. Burgel.

23 BOARD MEMBER BURGEL: Aye.

24 MS. MONEY: Ms. Crawford.

25 BOARD MEMBER CRAWFORD: Aye.

1 MS. MONEY: Mr. Harrison.

2 BOARD MEMBER HARRISON: Aye.

3 MS. MONEY: Ms. Kennedy.

4 BOARD MEMBER KENNEDY: Aye.

5 MS. MONEY: Ms. Laszcz-Davis.

6 BOARD MEMBER LASZCZ-DAVIS: Aye.

7 MS. MONEY: Ms. Stock.

8 BOARD MEMBER STOCK: Aye.

9 MS. MONEY: Chairman Thomas.

10 CHAIR THOMAS: Aye. And the motion passes.

11 We'll move on to a Division Update. Mr. Berg,

12 will you please brief the Board?

13 MR. BERG: Thank you, Chairperson Thomas.

14 Yeah, the first aid proposal, we did a second 15-

15 day change and deleted the requirement to have a case for

16 it as requested by employers. And I think Bruce had a

17 really good idea that we'll do, which is a couple of

18 things. You might need to upgrade the old ANSI kits, the

19 2009 kits he mentioned, to the 2021s which are in the

20 regulation. So that would be something easy we could

21 publish online in our guidance documents. So I think

22 that's a good idea.

23 And then regarding the weekly inspections,

24 someone complained about the weekly inspections, the feds

25 made us do that because it's in their regulation. And

1 we're required to be at least as effective as them. But
2 there's no requirement for any record keeping or paperwork
3 on that. It's just a weekly look at the kit to make sure
4 everything's there.

5 CHAIR THOMAS: You see, we do listen at times.
6 We hear things, so that's good. Thanks, Eric. Anything
7 else -- go ahead, Eric.

8 BOARD MEMBER KENNEDY: So --

9 CHAIR THOMAS: Oh no, you have a question?

10 BOARD MEMBER KENNEDY: I do have a follow-up
11 question to that. So I think the concern too was getting
12 cited for not doing weekly inspections. So if there's no
13 record keeping or paperwork requirement, does that mean
14 there will be no citations?

15 MR. BERG: Well, we have the burden of proof. So
16 if the employer says they checked it every week, that's the
17 evidence we have. So it wouldn't be cited.

18 BOARD MEMBER KENNEDY: All right, thank you.

19 CHAIR THOMAS: I don't think any of you guys
20 heard that out there, right? That we're not -- no, go
21 ahead. Anything else, Mr. Berg?

22 MR. BERG: So, our first-aid kit is pretty
23 simple. You can buy the ANSI kit, the current ANSI kit,
24 and then you're good to go. Or if you have an old one
25 we'll list a couple of items to upgrade it. So that should

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1 make it as easy as possible for employers to comply, which
2 was our goal.

3 And then like I said the regulations to lead is
4 coming up pretty soon. So hopefully that will be noticed
5 and start formal rulemaking very soon as well as indoor
6 heat. So those are both hopefully starting soon.

7 CHAIR THOMAS: Thank you.

8 Any questions for Mr. Berg?

9 BOARD MEMBER STOCK: Yes, I have a question.
10 This is Laura, can you hear me?

11 CHAIR THOMAS: Yeah, Laura, go right ahead.

12 BOARD MEMBER STOCK: Can you hear me?

13 CHAIR THOMAS: Yeah.

14 BOARD MEMBER STOCK: Oh, yeah. Eric, could you
15 update us on the progress of beginning the work on the
16 infectious disease regulation? When do you anticipate that
17 to begin?

18 MR. BERG: I mean, we have draft versions that
19 we've been discussing internally. So it's just when we
20 publish it online to get comments and scheduling advisory
21 committee, so that will be decided internally when that'll
22 actually happen. But we've been working on it. And --

23 BOARD MEMBER STOCK: (Overlapping)
24 (indiscernible) I mean, broad -- that's broad. Spring,
25 summer, anything general about when we might expect that?

1 MR. BERG: Yeah, I would say the first half of
2 2023.

3 CHAIR THOMAS: Is that close enough, Laura?

4 BOARD MEMBER STOCK: I guess it'll have to do.

5 MR. BERG: Well, we have other really major
6 things going on too.

7 BOARD MEMBER STOCK: Yeah, so I mean just to
8 acknowledge, I am aware of the enormous workload that
9 you're facing and appreciate all the hard work that you do.
10 So I do want to have an opportunity to say that, thank you.

11 CHAIR THOMAS: Thanks, Laura.

12 Any other questions the Board Members have?

13 BOARD MEMBER BURGEL: I have a question, Dave.

14 CHAIR THOMAS: Okay, go ahead.

15 BOARD MEMBER BURGEL: This is Barbara. To
16 follow up on that, Eric, can you share with us if the draft
17 versions include exclusion pay?

18 MR. BERG: Yes.

19 BOARD MEMBER BURGEL: Okay, thank you.

20 CHAIR THOMAS: Is that yes, you could -- that
21 was great. That was a trick answer. Well, what if
22 (indiscernible) --

23 BOARD MEMBER BURGEL: Can you clarify your "yes"
24 answer, Eric? Is this in specific reference to whether
25 there is exclusion language -- exclusion pay language -- in

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1 the current draft versions of the general infectious
2 disease standard for general industry.

3 MR. BERG: Yeah, I confirm my yes. It's in
4 there.

5 CHAIR THOMAS: So we're going to --

6 MR. BERG: There's language --

7 BOARD MEMBER BURGEL: All right, thank you.

8 MR. BERG: (Indiscernible) thing.

9 CHAIR THOMAS: We're going to pass a motion that
10 it be included. All right, any other questions for Mr.
11 Berg? Any comments, Mr. Killip? Any -- since you're here,
12 right?

13 MR. KILLIP: I appreciate it. I appreciate the
14 shining example of the democratic process and being able to
15 take into account the different viewpoints of all the
16 stakeholders. And that's how we got to where we are right
17 now. So I'm very proud of the team that I'm on and all the
18 work that they've done. And I think that's all I have to
19 say.

20 CHAIR THOMAS: Thank you.

21 So we're going to move on to a Legislative
22 Update. Ms. Gonzalez, will you please brief the Board?

23 MS. GONZALEZ: Sure. So the only update I have
24 is that new members were sworn in on December 5, so
25 hopefully in January we'll have a new, fresh report for

1 you.

2 CHAIR THOMAS: Thank you. Yeah, it's kind of a
3 breather, so that's good. They can't do anything right
4 away. But anyway, they will, eventually.

5 So now, Executive Officer's Report. Ms. Shupe,
6 will you please brief the Board.

7 MS. SHUPE: Thank you, Chair Thomas. So we -- I
8 want to first provide an update on our HR efforts, because
9 this has been ongoing and is really critical to our
10 operations. We've received and are currently reviewing
11 applications for Principal Safety Engineer recruitment.
12 You may recall that Steve here is our retired annuitant,
13 and is graciously helping us out with that recruitment. We
14 expect interviews will take place in January.

15 And then thanks to the focused efforts of our
16 Personnel Analyst, who joined us in August, we're now
17 making significant progress on our recruitment efforts. We
18 have three openings currently posted on CalCareers and
19 expect to post three more before the end of the year.

20 We're recruiting for two Attorney III positions,
21 one Legal Analyst position, and three Senior Safety
22 Engineer vacancies that we hope to fill soon. We also
23 expect to post two legal secretary positions in the first
24 quarter of 2023. So for those of you keeping track that's
25 eight new staff members who we are hoping to add in short

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1 order, I'm sorry, nine.

2 Looking forward to 2023 I'd like to encourage
3 all of our stakeholders to join the OSHSB mailing list.
4 The link is on our website. Our hybrid meetings will
5 remain in place through at least June of 2023, and we're
6 actively seeking resources for continuing the service
7 permanently. We've seen tremendous interest grow for the
8 Standards Board, its activities, and acknowledgement of the
9 impact that we have on California's workforce and industry.

10 Just to make a point this meeting we had nearly
11 200 attendees. So you might not see that if you're
12 attending from home or if you're here, attending in person.
13 But that is a tremendous increase over what we normally
14 would have experienced pre-COVID. And our peak this year
15 was nearly 1,000 attendees.

16 And normally at this time of year we'd be
17 releasing our full calendar of Board meetings and locations
18 for the coming year. I know I've already received a couple
19 of calls on that and where is it? Due to a number of
20 factors a large portion of our regular locations are no
21 longer available or are no longer available for significant
22 advanced bookings. And this is part of the reality that
23 we're in now, post-COVID.

24 As a result your staff are researching and
25 booking several new locations, so we'll be able to visit

1 additional cities that haven't traditionally seen the Board
2 in person. As those become available, confirmed locations
3 will be updated on our website. Another reason to stay on
4 our mailing list and visit the website regularly. I can
5 confirm however that for those of you looking to mark that
6 time on your schedules, we will continue to hold our
7 meetings on the third Thursday of each month.

8 And then I wrote "finally" here, but then I wrote
9 two more pages. I want to extend my honest and deep
10 appreciation for the Standards Board staff. You know,
11 COVID takes up a lot of the space and attention. But this
12 year we've had, as Mr. Leacox pointed out, a record number
13 of permanent variance applications. We've launched the
14 successful introduction of hybrid meetings for the Board.
15 We've had unprecedented public interest. And we've already
16 begun and initiated the initial steps for review and
17 modernization of our organization's policies and practices.

18 California -- and I get asked this question a
19 lot, you know -- why is California different? Well number
20 one, we are the fourth largest economy in the world. In
21 the world, not the state, the world. And California's
22 civilian labor workforce is over 19 million souls. And
23 this Board's responsibility is for their occupational
24 safety and health, no one else, only this Board and its
25 staff. And it represents a tremendous responsibility that

1 I know your staff take very, very seriously and sometimes
2 they agonize over it.

3 And so in the coming year I want to highlight
4 just some of the other regulatory projects we're going to
5 be working on. That we've been working on in the
6 background, but maybe you haven't seen, but will be moving
7 forward. And those include regulatory proposals for all
8 walking working surfaces. It's a federally initiated
9 requirement. And walking working surfaces touches every
10 single industry. Every industry.

11 We'll be moving forward with date palm harvesting
12 operations; snow avalanche blasting, which I know several
13 of the Board Members are aware of and our stakeholders are
14 aware of. Construction personnel hoists, which has been a
15 long time coming. Cone and bar barricades in construction.
16 That AC happened several years ago, and we hope to finally
17 be moving that forward. Confined spaces and construction.
18 We're working on the fiscal analysis for that right now.
19 And we've already begun work on firefighter personal
20 protective equipment updates for NFPA 2020 standards. That
21 was right on the heels of adopting the NFPA 2014 influence
22 standards.

23 We also provide technical, administrative, and
24 editorial support for our DOSH-originated regulations,
25 including but not limited to permissible exposure levels

1 for lead, which I'm going to go out on a limb and say we're
2 really hoping to have that public hearing in the first
3 quarter of 2023.

4 As well as a public hearing for indoor heat we'll
5 see a vote for first aid kits. We're also expecting
6 proposals on a group five elevator package. We have a
7 proposal for passenger tramways, as well as looking at the
8 petroleum safety orders. We're working with DOSH's PSM
9 team on that.

10 So as an organization the Standards Board staff
11 is going to be continuing and accelerating our own internal
12 review of our policies and procedures. We've been working
13 on this for quite some time, haven't had a lot of bandwidth
14 to do it. But we were able to move forward with an
15 administrative update to our regulations last year that
16 helped reduce the number of applications. When we do
17 variance applications, we reduced the number of copies --
18 paper copies -- from six down to one. And there are a lot
19 of opportunities for efficiencies and ease of use for our
20 stakeholders. And we're looking to take advantage of those
21 and move those forward. And the additional staff will help
22 with that.

23 So we'll have more in-depth reporting on numbers
24 and achievements in the first quarter of 2023, looking
25 back. I just wanted to highlight all of that for the

1 staff, and for the stakeholders, and for the Board. And
2 just again say how much I appreciate how much everyone
3 does. Thank you.

4 CHAIR THOMAS: Thank you, Christina.

5 Future agenda items. Do any of the Board Members
6 have any questions? I think Christina covered it pretty
7 well, but are there any questions for Christina regarding -
8 -

9 BOARD MEMBER STOCK: I --

10 CHAIR THOMAS: Yes?

11 BOARD MEMBER STOCK: Hi, this is Laura. I just
12 wanted to extend my appreciation to the Board staff,
13 obviously hearing what you presented, Christina. That's an
14 enormous amount of really, really important work and your
15 effort is greatly, greatly appreciated. I'm happy to hear
16 about how much hiring you doing and I'm sure it's not
17 sufficient. I'm sure that would apply to the Division as
18 well. That they could benefit from more staffing to be
19 able to do the important work they are doing. And, as
20 always, I think we all stand ready to support any
21 strategies or efforts to try to get more resources to Board
22 and Division staff to do the work that they're doing. But
23 thank you so much for everything that you're doing.

24 And, you know, I hope that you're all going to be
25 able to have Happy Holidays, all of us. You know, to

1 fellow Board Members, to the staff, and to the public. But
2 I think everybody needs a rest and break and I hope you get
3 an opportunity to have it. So thank you.

4 CHAIR THOMAS: Thank you, Laura.

5 Any other comments from Board Members?

6 BOARD MEMBER LASZCZ-DAVIS: Nothing other than
7 Happy Holidays to everybody. Just happy to be part of this
8 team and the stakeholder group.

9 CHAIR THOMAS: Thank you, Chris.

10 BOARD MEMBER BURGEL: Also, Dave, I would like to
11 say thank you to the Board, staff, and certainly to
12 Christina. Thank you for that update, that comprehensive
13 update. And thanks to the Division staff as well. And
14 Happy Holidays to everyone.

15 CHAIR THOMAS: Any other comments? I'm just
16 going to echo the Merry Christmas, Happy New Year to the
17 Board, staff, and all the participants that are here today
18 and on the video conference. I hope you have great
19 holidays, stay safe.

20 Now we're not going to adjourn now, because we
21 have to do a closed session. And then we will be back and
22 then adjourn after that. But I have to add one thing. Go
23 Niners. Brock Purdy, come on man. One more time, baby.
24 But anyway thank you very much. Yes?

25 UNKNOWN SPEAKER: Go Niners!

1 BOARD MEMBER STOCK: Excuse me, Dave. Before we
2 go to closed session I'm just wondering, when will we be
3 able to have the discussion about the motion that I put
4 forward earlier?

5 CHAIR THOMAS: Well, that's going to be --

6 BOARD MEMBER STOCK: (Overlapping) Maybe before
7 closed session. I know that it may have to be put on the
8 agenda for the future, but I just want to pick that up.
9 Maybe before we go to closed session, if we're able to just
10 close that loop in case people are not going to be able to
11 stick with us during our closed session.

12 CHAIR THOMAS: We're going to agenda-ize it on
13 the next meeting. And so it'll be voted on then.

14 BOARD MEMBER STOCK: Okay, so I just want to be
15 sure that's understood. So and I understand. I kind of
16 suspected that might be the case. I'm very encouraged to
17 hear that at this point it is in the draft. So that's
18 really valuable to hear. I still hope that next -- we can
19 put that motion on the agenda next time, because I think it
20 would be great to have as strong a statement in support of
21 that from the Board as we possibly can make. So thank you.

22 CHAIR THOMAS: Agreed.

23 All right, so at this time, we are going to go on
24 recess and go into our closed session. And I know I won't
25 be seeing some of you guys. You're going to take off as

1 soon as we go into there. So anyway, Happy New Year, Merry
2 Christmas, and we'll see you at the next meeting. We are
3 in recess. Thank you.

4 (Off the record at 1:23 p.m.)

5 (On the record at 2:26 p.m.)

6 CHAIR THOMAS: All right, we are back in session
7 and I have nothing to report during the closed session.

8 The next Standards Board regular meeting is
9 scheduled for January 19th, 2023 in Oakland and via
10 teleconference and videoconference. Please visit our
11 website and join our mailing list to receive the latest
12 updates.

13 We thank you for your attendance today. There
14 being no further business to attend to, this business
15 meeting is adjourned.

16 (The Business Meeting adjourned at 2:27 p.m.)

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I do hereby certify that the testimony in the foregoing hearing was taken at the time and place therein stated; that the testimony of said witnesses were reported by me, a certified electronic court reporter and a disinterested person, and was under my supervision thereafter transcribed into typewriting.

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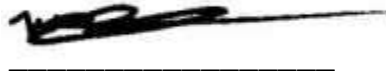
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