

STATE OF CALIFORNIA

DEPARTMENT OF INDUSTRIAL RELATIONS

OCCUPATIONAL SAFETY & HEALTH STANDARDS BOARD

PUBLIC MEETING AND BUSINESS MEETING

In the Matter of:            )  
July 15, 2021 OSH            )  
Standards Board Meeting    )  
\_\_\_\_\_)

TELECONFERENCE

*PLEASE NOTE: In accordance with Executive Order N-29-20, and  
Executive Order N-33-20, the  
July Board Meeting will be conducted via teleconference*

THURSDAY, JULY 15, 2021

10:00 A.M.

Reported by:  
E. Hicks

**CALIFORNIA REPORTING, LLC**  
**229 Napa Street, Rodeo, California 94572 (510) 224-4476**

## APPEARANCES

### BOARD MEMBERS:

Laura Stock, Acting Chair, Occupational Safety Representative  
Barbara Burgel, Occupational Health Representative  
Kathleen Crawford, Management Representative  
Nola Kennedy, Public Member  
Chris Laszcz-Davis, Management Representative

### BOARD STAFF PRESENT AT OSHSB OFFICE IN SACRAMENTO:

Christina Shupe, Executive Officer  
Sarah Money, Executive Assistant  
Autumn Gonzalez, Chief Counsel  
Michael Nelmidia, Sr. Safety Engineer  
Jennifer Bailey, Sr. Safety Engineer

### BOARD STAFF ATTENDING VIA TELECONFERENCE AND/OR WEBEX:

Michael Manieri, Principal Safety Engineer  
Lara Paskins, Staff Services Manager  
David Kernazitskas, Sr. Safety Engineer  
Jennifer White, Staff Services Analyst

### TKO STAFF:

John Gotcher  
John Roensch  
Brian Monroe  
Rey Ursery  
Maya Morsi  
Josh Robinson

### ALSO PRESENT:

Eric Berg, Deputy Chief of Health, Division of Occupational Safety and Health (Cal/OSHA)

### SPANISH INTERPRETERS:

Patricia M. Hyatt

### PUBLIC COMMENT:

Helen Cleary, Phylmar Regulatory Roundtable  
Anne Katten, CRLA Foundation

APPEARANCES (Cont.)

PUBLIC COMMENT:

Mike Donlon, Construction Employers Association (CEA)

Saskia Kim, California Nurses Association

Bruce Wick, Housing Contractors of California

Cassie Hilaski, Nibbi Brothers General Contractors

Brian Miller, Rudolph and Sletten

Eddie Sanchez, SoCalCOSH

Maggie Robbins, Worksafe

Len Welsh, Ironworkers International, The Western Steel Council, and the Ironworkers  
Management Progressive Action Cooperative Trust

Rob Moutrie, California Chamber of Commerce

Zena Delling, California Dental Assisting Association and California Dental Assisting  
Teachers Association

Russell McCrary, California Ironworker Employers Council/District Council of  
Ironworkers

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1 PROCEEDINGS

2 JULY 15, 2021

10:00 a.m.

3 A/CHAIR STOCK: Good morning, everyone. This meeting of the  
4 Occupational Safety and Health Standards Board is now called to order. I am Laura  
5 Stock, Acting Chair for today's meeting. And the other Board Members present today  
6 are Ms. Barbara Burgel, Occupational Health Representative; Kathleen Crawford,  
7 Management Representative; Nola Kennedy, Public Member; and Chris  
8 Laszcz-Davis, Management Representative.

9 Also present from our staff for today's meeting are Christina  
10 Shupe, Executive Officer; Autumn Gonzalez, Chief Counsel; Sarah Money,  
11 Executive Assistant; and Michael Nelmidia and Jennifer Bailey, Senior  
12 Safety Engineers, who are providing technical support.

13 Supporting the meeting remotely are Michael Manieri,  
14 Principal Safety Engineer; Lara Paskins, Staff Services Manager; David  
15 Kernazitkas, Senior Safety Engineer; and Jennifer White, Regulatory  
16 Analyst. Via teleconference we are joined today by Eric Berg, Deputy  
17 Chief of Health representing the Division of Occupational Safety and  
18 Health.

19 Today's agenda and other materials related to today's  
20 proceedings are posted on the OSHSB website.

21 In accordance with Executive Orders N-29-20 and N-33-20,  
22 today's Board Meeting is being conducted via teleconference, with an  
23 optional video component.

24 This meeting is also being live broadcast via video and audio  
25 stream in both English and Spanish. Links to these non-interactive live

1 broadcasts can be accessed via the “what’s new” section at the top of  
2 the main page of the OSHSB website.

3 We have limited capabilities for managing participation  
4 during the public comment period, so we’re asking everyone who is not  
5 speaking to place their phones on mute and wait to unmute until they  
6 are called to speak. Those who are unable to do so will be removed from  
7 the meeting to avoid disrupting the proceedings.

8 As reflected on the agenda today’s meeting consists of two  
9 parts. First, we will hold a public meeting to receive public comments or  
10 proposals on occupational safety and health matters. Anyone who would  
11 like to address any occupational safety and health issues, including any  
12 of the items on our business meeting agenda may do so at that time.  
13 Members of the public who have contacted staff either by email or phone  
14 and have asked to be placed in the public comment queue will be called  
15 on in turn.

16 Please listen for your name and an invitation to speak before  
17 addressing the Board. And please remember to mute your phone or  
18 computer after commenting. Today’s public comment will be limited to  
19 three minutes per speaker. And the public comment portion of the  
20 meeting will extend for up to two hours, so that the Board may hear from  
21 as many members of the public as is feasible.

22 Board staff can be contacted by email at [oshsb@dir.ca.gov](mailto:oshsb@dir.ca.gov) or  
23 via phone at 916-274-5721 to be placed in the comment queue. If you  
24 experience a busy signal or are routed to voicemail, please hang up and call  
25 back again.



1           After the public meeting has concluded, we will conduct the  
2 second part of our meeting, which is a business meeting to act on those  
3 items listed on the business meeting agenda. The Board does not accept  
4 public comment during its business meeting unless a member of the  
5 Board specifically requests public input.

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

13           At this time anyone who would like to comment on any matters  
14 concerning occupational safety and health will have an opportunity to speak.

15           For our commenters who are native Spanish speakers we are  
16 working with an interpreter, Patricia Hyatt, to provide a translation of their  
17 statements into English for the Board. At this time Ms. Hyatt will provide  
18 instructions to the Spanish-speaking commenters, so that they are aware of  
19 the public comment process for today's meeting. Ms. Hyatt?

20           INTERPRETER HYATT: [READS THE FOLLOWING IN SPANISH]  
21 Public Comment Instructions.

22           "Good morning, and thank you for participating in today's  
23 Occupational Safety and Health Standards Board public meeting. Board  
24 members present are Ms. Laura Stock, Occupational Safety  
25 Representative and Acting Chair; Ms. Barbara Burgel, Occupational

1 Health Representative; Ms. Kathleen Crawford, Management  
2 Representative; Ms. Nola Kennedy, Public Member; Ms. Chris Laszcz-  
3 Davis, Management Representative and.

4 "As reflected on the agenda, today's meeting consists of two  
5 parts. First, we will hold a public meeting to receive public comments or  
6 proposals on occupational safety and health matters. Second, after the  
7 public meeting has concluded, we will hold a business meeting to act on  
8 those items listed on the business meeting agenda.

9 "We have limited capabilities for managing participation  
10 during the public comment period. We are asking everyone to keep their  
11 phones and WebEx audio on mute until your name is called to address  
12 the Board. Please remember to mute again after you have finished  
13 commenting.

14 "This meeting is also being live broadcast via video and audio  
15 stream in both English and Spanish. Links to these non-interactive live  
16 broadcasts can be accessed via the "what's new" section at the top of the  
17 main page of the OSHSB website.

18 "Please listen for your name to be called for comment. If  
19 you have not provided a written statement, please allow natural breaks  
20 after every two sentences so that we may follow each statement with an  
21 English translation. Today's public comment will be limited to two  
22 minutes per speaker, and the public comment portion of the meeting will  
23 extend for up to two hours, so that the Board may hear from as many  
24 members of the public as is feasible. Gracias."

25 A/CHAIR STOCK: Thank you, Ms. Hyatt.

1 Mr. Gotcher, do we have any commenters in the queue?

2 MR. GOTCHER: Our first commenters are Helen Cleary, Anne Katten and  
3 Mike Donlon, with first Helen Cleary from the Phylmar Regulatory Roundtable.

4 A/CHAIR STOCK: Thank you. Please go ahead.

5 MS. CLEARY: Good morning. Thank you, excellent job opening the  
6 meeting, Ms. Stock.

7 A/CHAIR STOCK: Thank you.

8 MS. CLEARY: That was very nicely done.

9 A/CHAIR STOCK: I'm given a lot of support.

10 MS. CLEARY: I'm sure, yeah. No, the support staff does an excellent job.  
11 Actually, we saw that at the meeting earlier this week, the Subcommittee meeting.

12 My name is Helen Cleary, I'm the Director of the Phylmar Regulatory  
13 Roundtable, known as PRR. PRR is a member-led occupational safety and health forum  
14 comprised of companies and utilities from different industries, but we have major  
15 operations in California.

16 First, we just want to thank the Board Members, the Board staff, and the  
17 Division staff for their hard work and dedication to their roles especially over the last  
18 few months, over the last year. And like I said we saw excellent work on Tuesday as  
19 well.

20 We also appreciate the formation of that subcommittee and how Board  
21 Members and the staff stepped up to accept the task, illustrating the commitment to  
22 positively address the challenges that COVID-19 ETS has created. A transparency,  
23 communication, and objective lens is key to success with mitigating the risk of COVID-  
24 19. It's imperative that we understand the metrics and the goals as stakeholders and as  
25 a community that will lead us out of the pandemic and the need for the ETS.

1                   Decisions of this magnitude affect every workplace in this state and  
2 there should be justification for maintaining the standard and for rolling it back. We  
3 need to be able to communicate and answer questions about why, how and when. And  
4 now, at the very least we need a commitment that we will work together to determine  
5 these answers.

6                   There are indications that we were headed in this direction and we are  
7 hopeful the subcommittee will be able to meet this challenge and we are very grateful  
8 for that. So we look forward to more meetings with the subcommittee and hearing  
9 today's briefing and hearing from the Board as well today. So thank you to everybody  
10 and I hope everyone's enjoying their summer so far.

11                   A/CHAIR STOCK: Thank you for your comments.

12                   Who's next in the queue?

13                   MR. GOTCHER: Our next commenter is Anne Katten from the CRLA  
14 Foundation.

15                   MS. KATTEN: Hi, good morning. This is Anne Katten from CRLA  
16 Foundation. And I also greatly appreciate all the work of the Board and the Division and  
17 staff and I really appreciate that you've gone above and beyond what you expected and  
18 what -- anyway, thank you.

19                   We are very concerned about the spread of the Delta variant and the  
20 increase and reported outbreaks and cases, work outbreaks and cases in June. And we  
21 greatly appreciate that the Board, the Division and DPH are looking at these workplace  
22 outbreaks.

23                   We also think it's very important to look at outbreaks in employer-  
24 supplied housing and transport including where all the occupants are vaccinated, given  
25 the emerging evidence that the vaccines unfortunately aren't quite as effective as we

1 had hoped in some cases.

2 And we also wanted to remind the Board and board staff that some  
3 farmworker transport involves commutes of several hours each way each day, so the  
4 exposure in an enclosed vehicle can be quite extensive.

5 And we would also urge that the information on individual outbreaks in  
6 transport and housing and in specific work sites be made available in greater detail than  
7 it is now. Thank you.

8 A/CHAIR STOCK: Thank you, Ms. Katten.

9 And who's next in the queue?

10 MR. GOTCHER: Our next commenters are Mike Donlon, Saskia Kim and  
11 Bruce Wick, with next Mike Donlon from the Construction Employers Association.

12 MR. DONLON: Good morning, Board Members and staff and Division  
13 staff. I must tell you I'm thrilled, because today I am going to comment on something  
14 other than COVID. Our members of some of the largest unionized commercial building  
15 contractors in Northern California. CEA members are strong proponents of job site  
16 safety and take their responsibility to provide a safe and healthy workplace very  
17 seriously. CEA agrees with Board and Division staff and asks the Board to approve the  
18 proposed decision to convene an advisory committee on Section 1630.

19 We also agree with the Petitioner that the requirements for construction  
20 personnel hoists need clarity, but they also need flexibility, because every structure and  
21 every site is different.

22 One item that needs to be addressed by the advisory committee is when  
23 the CPH can be removed. Typically the CPH is taken down when the permanent  
24 elevator is up and running, but the permanent elevators often do not go to the roof.  
25 The CPH must be taken down and the landings closed, so that balancing of the air

1 handlers (phonetic) and other commissioning work can take place. But this work  
2 requires employees to be on the roof and the proposed language would require the CPH  
3 to stay in place. This is a classic catch-22.

4 CEA's general contractor members are responsible for all aspects of  
5 building projects from start to finish. They are onsite when the CPH goes up and when it  
6 comes down and most often have responsibility for scheduling these events.

7 Therefore, we ask that CEA and its members be included in this advisory  
8 committee. I know the Division deals with contractors who do just not want to put up  
9 an elevator. This is not our members. CEA members support the use of CPHs and they  
10 find that in addition to increasing safety they also improve efficiency and productivity  
11 when used effectively.

12 However, the language as proposed would be infeasible if not impossible  
13 to comply with on some projects. These are things that can be overcome and I am  
14 confident that these issues can be worked out in an advisory committee. I really feel  
15 like we all have the same goal in mind here and I really look forward to this advisory  
16 committee. Thank you.

17 A/CHAIR STOCK: Thank you for your comments.

18 Next speaker?

19 MR. GOTCHER: Our next commenter is Saskia Kim from the California  
20 Nurses Association.

21 MS. KIM: Good morning, Saskia Kim with California Nurses Association.  
22 I'm also going to take a quick detour away from COVID just for a moment.

23 Thank you for the opportunity to comment on a petition, which will come  
24 before you this fall, Petition 590 proposes to modify the ATD standard's annual  
25 tuberculosis testing requirements for occupationally exposed health care workers.

1 CNA opposes the petition, because it threatens public health. Instead  
2 CNA believes annual testing of occupationally exposed health care workers is an  
3 important protective element of TB control. Early TB protection allows for effective  
4 treatment that reduces the risk of developing active TB disease. And early detection  
5 also allows for an accurate exposure investigation in identifying the source patient and  
6 the TB strain, including any drug resistance. And of course detection prevents further  
7 spread of the disease.

8 TB continues to be a threat to healthcare workers. The most recent  
9 reported data shows that the TB rate in California is almost twice the national average.  
10 And out of the 8,915 total TB cases reported in the U.S. in 2019, 23 percent were  
11 reported in California. This is actually an increase since the last time a similar petition  
12 was before you in 2017.

13 The only thing that has substantially changed since the Board's 2017  
14 decision on this issue is that economic disruption from the COVID-19 pandemic has  
15 resulted in an increase in populations vulnerable to TB.

16 In January, HUD reported that California had the largest increase of any  
17 state in homelessness, a recognized risk factor for TB. And the pandemic likely delayed  
18 diagnosis of TB, increasing the potential for community transmission and the threat to  
19 occupationally exposed health care workers.

20 In 2020 research demonstrated that TB patients experience an average of  
21 3.89 healthcare visits prior to receiving a TB diagnosis. This means that healthcare  
22 workers may be exposed during those visits when the patient with TB has not yet been  
23 diagnosed.

24 CNA supports maintaining protections in the form of annual TB testing for  
25 occupationally exposed healthcare workers. And respectfully requests that Board

1 Members deny Petition 590 when it comes before you. Thank you for the time today.

2 A/CHAIR STOCK: Thank you for your comments.

3 Next speaker?

4 MR. GOTCHER: Our next commenters are Bruce Wick, Cassie Hilaski and  
5 Brian Miller, with next Bruce Wick from the Housing Contractors of California.

6 MR. WICK: Thanks, John, and thanks everyone. And Laura Stock, you're  
7 doing a great job leading the charge today first time up, very good.

8 I have two comments on COVID, but first I too want to divert to Petition  
9 587 and ask the Board to approve the petition decision as proposed. It's an important  
10 issue. You know, Mike Donlon laid out why we needed to talk our way through it, and  
11 we will. We've have done that many times in advisory committee meetings. We'll find  
12 common ground and come up with a good solution, so ask your support of that.

13 The two comments on COVID, first of all just reflecting for a moment, you  
14 know, Julie Su was confirmed and boom, we turn around and have a new LWDA  
15 Secretary. That was fast.

16 I want to take a few minutes or a minute or so to appreciate Chief Parker  
17 in case the same happens and boom, he's off to D.C. with Federal OSHA. He was on the  
18 job less than five months when COVID hit hard, and totally unknown, totally new. And  
19 his leadership, in my opinion, was exemplary. He focused on getting information out.  
20 He focused on compliance. And by early -- a couple of weeks into a shutdown in  
21 construction I can say there was a great set of guidance, a great commonality on what  
22 we were going to do, and we have done that. And construction has incredibly few,  
23 relative to the general population, COVID claims under Workers' Comp. And we're very  
24 proud of that. That has continued all the way through based on that initial issue.

25 And that's, I think, maybe lost also in the discussion about IIPP. Cal/OSHA

16



1 was able to say to employers under the IIPP, "If there's a hazard you need to address  
2 it." And we knew the workplace didn't create the hazard, employees generally brought  
3 it in, but we needed to take precautions. And we did, we have, and that has continued  
4 and so it practically and actually happened is really, I think, should be greatly applauded.  
5 And you know Amalia Neidhardt gave a good presentation at the subcommittee  
6 meeting about what other states are doing.

7 But I'd like to just thank Chief Parker and the Division for doing what they  
8 did and how they did it when the pandemic hit California. And the results we have in  
9 the workplace have been exemplary.

10 MR. GOTCHER: Thirty seconds.

11 MR. WICK: Thank you. I didn't know we were under a timeframe today,  
12 so hopefully you might give me 45 seconds.

13 Information is still lacking and that is what is shocking to me. At the  
14 subcommittee meeting, we got some information about outbreaks. And some of that  
15 was told to us afterwards, "You'd have to file a public records request, to get some of  
16 what was presented at the subcommittee." That sounds unfair, that sounds  
17 unreasonable.

18 That we should, I would think monthly in front of this Board at least, be  
19 given a standard set of information: outbreaks, Workers' Compensation data, the kind  
20 of information that's frontline to what Occupational Safety and Health, and the trends  
21 month to month. That's extremely vital to this Board, to the hundreds of thousands of  
22 employers who are who are doing their best to deal with this. So I would strongly  
23 encourage this Board to help and encourage the subcommittee to say, "What is the  
24 information that we need to have monthly?" And trended so we can keep ahead of  
25 what's going on.

1                   And we all have a commonality of understanding. We're all over the  
2 board right now and that just seems crazy after 15 months of trying to deal with COVID.  
3 And we still have no common set of information for us to work off of. Thank you.

4                   A/CHAIR STOCK: Thank you. And just to clarify we are trying to keep  
5 commenters to three minutes this morning, so just to be sure that that point got across.  
6 But thank you for your comments.

7                   And who's next?

8                   MR. GOTCHER: Our next commenter is Cassie Hilaski from Nibbi Brothers  
9 General Contractors.

10                  MS. HILASKI: Hello, can you hear me?

11                  A/CHAIR STOCK: Yes, we can hear you.

12                  MS. HILASKI: Okay, great. Thanks to the Board for the opportunity to  
13 speak today. Today I'm actually not going to talk about COVID, but instead express my  
14 support for the Petitioner's request on the agenda to convene an advisory committee to  
15 discuss clarifications to Section 1630 that would be useful to the regulated community.  
16 In the interest of brevity, I will highlight just a few of the concerns that deserve  
17 attention.

18                  First, most contractors already (indiscernible).

19                  (Audio cuts out.)

20                  A/CHAIR STOCK: So Ms. Hilaski, I think we're having a little bit of Internet  
21 (indiscernible).

22                  MS. HILASKI: -- and the accepted industry standard, so we -- what? All  
23 right, so what's (indiscernible)?

24                  A/CHAIR STOCK: I was just going to say you're breaking up a little bit. I  
25 think your Internet connection -- I don't know if other people are having the same issue,

18

1 but just to let you know that your —

2 MS. HILASKI: Yes?

3 A/CHAIR STOCK: I don't know, maybe turning off your video might help?

4 MS. HILASKI: All right, let me try that and let me know if that helps. All  
5 right, so does that help with the connection?

6 A/CHAIR STOCK: Yeah, so far so good.

7 MS. HILASKI: Okay, great.

8 So I'll pick up on that most contractors already installed the CPE at 36  
9 feet, which is normally an accepted industry standard and we welcome that clarification.  
10 However, it does not make sense to require installation of a CPE at 36 feet in depth.  
11 Industry standard has been to install the hoist as soon as the maximum depth is reached  
12 and a concrete slab is poured that meets the requirements of the manufacturer. If at  
13 first installed at 36 feet how can digging continue without undermining the structural  
14 integrity of the CPE? It is obvious that one cannot expect a hoist to be supported in  
15 midair, nor should one be expected to configure a contraption that would be difficult if  
16 not impossible to meet this.

17 Second, in reality if a contractor has to install a CPE they usually install it  
18 to the roof whenever possible as the productivity gains far outweigh the costs of one  
19 more landing. However, there are many cases where a hoist simply cannot physically  
20 reach the roof. One obvious example would be sloped roofs. If language is added to  
21 improve roofs language also needs to be added that relieves contractors of this  
22 requirement if it is physically infeasible to achieve.

23 Third, if language is added to include landings at roofs (indiscernible)

24 (Audio cuts out.)

25 A/CHAIR STOCK: We're losing you again.

1 MS. HILASKI: -- as many buildings -- darn it!

2 A/CHAIR STOCK: Sorry, we've been able to make it out, but the last  
3 sentence or two we are losing. Sorry, about that.

4 MS. HILASKI: All right, I apologize for that.

5 A/CHAIR STOCK: Now you are okay, so I don't know if you have much  
6 more.

7 MS. HILASKI: No, not much more.

8 A/CHAIR STOCK: Okay, let's keep trying.

9 MS. HILASKI: If language is added to include landings at roofs  
10 (indiscernible) provided as to when (indiscernible) --

11 A/CHAIR STOCK: I'm sorry, but you're really breaking up.

12 MS. HILASKI: Well, then let me -- because Mike Donlon already covered  
13 that piece.

14 So really in conclusion I just want to urge the Board to convene an  
15 advisory committee on this issue so we can all have the needed clarity we need, so the  
16 general contractors can be in compliance and make sure that the regulation is actually  
17 feasible. Thank you very much for your patience with my Internet difficulties.

18 A/CHAIR STOCK: No problem. Thank you for your comments.

19 So next commenter?

20 MR. GOTCHER: Our next commenters are Brian Miller, Russell McCrary  
21 and Eddie Sanchez, with next Brian Miller from Rudolph Sletten. (Silence on the line.)  
22 Brian Miller are you with us today? And if you called in you will need to press \*6 to  
23 unmute yourself.

24 A/CHAIR STOCK: I'm not hearing you.

25 MR. GOTCHER: I can see you in the WebEx, it looks like you should be

20

1 unmuted.

2 A/CHAIR STOCK: Sorry, we're not hearing you. I don't know if there's  
3 somebody who can help resolve those issues, and we will come back to you. Does that  
4 make sense?

5 MR. GOTCHER: Yeah you may need to change your microphone input in  
6 WebEx, which you can do from the dropdown menu on the mute button. Should we  
7 circle back?

8 A/CHAIR STOCK: Yeah, maybe we should go to the next person while you  
9 try to resolve that.

10 MR. GOTCHER: Okay, our next commenter is Russell McCrary from the  
11 California Ironworker Employers Council/ District Council of Ironworkers.

12 (No audible response.)

13 A/CHAIR STOCK: Okay. We're not hearing you.

14 MR. GOTCHER: Russell McCrary are you with us?

15 MR. MCCRARY: (Indiscernible.)

16 MR. GOTCHER: Russell McCrary?

17 A/CHAIR STOCK: I guess we are having a similar issue. Do we want to go  
18 to the next speaker and then come back, just hopefully we can resolve those?

19 MR. GOTCHER: Yeah, Brian Miller do you think you got your line fixed?

20 MS. SHUPE: Before (indiscernible) I'd like to go ahead and direct  
21 everybody to our agenda, which is also posted on our website which provides  
22 information on participating via call-in number as well. And so if you are unable to  
23 connect and address the Board via WebEx you can call in via the teleconference line and  
24 participate that way.

25 MR. GOTCHER: It sounded like we just heard someone? Yeah, Brian.

1 MR. MILLER: Thank you, sorry about that, I have no idea what was going  
2 on with my microphone. Thank you for your time, thank you for your patience on my  
3 technical difficulties. I am Polish so you can see where that might happen just by  
4 default. (Laughs.)

5 But again, thank you for the opportunity to address the Board and  
6 Division staff in regards to Petition 587. I want to align my comments to --

7 A/CHAIR STOCK: Excuse me, Mr. Miller, I just want to mention your  
8 volume is low. We can hear you, but if you could speak up a little bit that would be  
9 great.

10 MR. MILLER: Can you hear me now better?

11 A/CHAIR STOCK: Yes, that's much better. Thank you.

12 MR. MILLER: Thank you very much, thanks for letting me know. All this  
13 technical stuff, right? The day will come again when we're getting into planes to come  
14 see you in person one of these days, right?

15 A/CHAIR STOCK: Someday.

16 MR. MILLER: And we won't have to worry about all of these cameras and  
17 stuff.

18 I want to align my comments with Cassie Hilaski and CEA. And I would  
19 love to participate in an advisory committee regarding Petition 587, especially  
20 concerning some of the language. We really need clarity on the language when we -- to  
21 remove the CPE. I'm not against the CPE going to the roof when it's plausible, but I'd  
22 like to know when we can take it down and make that clear in the standard.

23 Regarding the ETS -- very short brief, and I'm almost done actually -- you  
24 know, in the past we have heard a lot of public comment and a few stakeholders asked  
25 for the standard to be -- for the ETS to be repealed. I would like to maybe suggest or ask

22

1 that either at the next subcommittee meeting, which I think is on the 20th or the next  
2 Board Meeting maybe the Board and Division staff can be briefed on the repeal process.  
3 And that would also educate persons like myself, a stakeholder and a member of the  
4 public, on what the repeal process looks like. So for those of us who are asking for it to  
5 be repealed, better understand that process and the timeframe beyond that process.

6 Again, thank you for your time. I want to say thank you to the  
7 subcommittee for adding that to your plate. Tuesday's meeting was very productive.  
8 There was actually 115 people there. We had our voices heard. We did get the data. I  
9 was emailed all the data that was shared. It was pretty cool data. And we really do  
10 appreciate when we do actually get the data that they are referring to in a meeting. So  
11 thanks again. I hope you have a great day and I'll talk to you later.

12 A/CHAIR STOCK: Thank you for your comments.

13 So is the other person could not be heard, is that person available now,  
14 Mr. Gotcher? Or should we go on to the next one?

15 MR. GOTCHER: So I can see that Russell McCrary is in the WebEx. Right  
16 now it looks like they're muted. Russell McCrary, if you'd like to comment please  
17 unmute yourself. (No audible response.) Okay, it doesn't look like they are unmuting so  
18 our next commenter is Eddie Sanchez from SoCalCOSH.

19 MR. SANCHEZ: Hi everyone, my name is Eddie Sanchez with the Southern  
20 California Coalition for Occupational Safety and Health, SoCalCOSH. And we're a  
21 nonprofit organization based in Southern California and we advocate for safe, healthy  
22 and secure workplaces for low-wage immigrant and workers of color.

23 We are here in support of strengthening the COVID-19 Emergency  
24 Temporary Standard. I want to thank the Board and the staff for your work on this  
25 process and for considering our comments today.

1                   We are seeing the Delta variant spread, with data still in research on  
2 transmission from vaccinated hosts and data still maturing on vaccinations against the  
3 variant.

4                   Data today alone shows an increase in cases with breaking news on  
5 breakthrough cases. Additionally, many workers do not have information, nor how  
6 would employers would encourage scheduling vaccinations that can conflict with work  
7 time despite there being the ability to do so.

8                   I want to ask that the next version of the ETS language include triggers for  
9 protections to address the new wave of cases, include measures to address gaps and  
10 risks from vaccination self-attestation, and eventually achieve a permanent standard for  
11 COVID in the workplace.

12                  I really want to thank the Board and staff for your time and consideration  
13 and your work on this effort. We know you will make the best decision to protect  
14 workers in working-class settings. Thank you.

15                  A/CHAIR STOCK: Thank you for your comments.

16                  Next speaker?

17                  MR. GOTCHER: Our next commenters are Maggie Robbins, Len Welsh  
18 and Rob Moutrie, with next Maggie Robbins from Worksafe.

19                  MS. ROBBINS: Hi. I hope you hear me?

20                  A/CHAIR STOCK: Yes, we can hear you fine.

21                  MS. ROBBINS: Great, thank you. My name is Maggie Robbins and I'm  
22 with Worksafe. And we are a nonprofit that works statewide in California promoting  
23 occupational health and safety on the job.

24                  I also want to thank the Board for all the work it has been doing. And I  
25 was pleased to see the subcommittee really digging into data and trying to help us have

24



1 that shared understanding about what the data is. We still clearly have many  
2 challenges with understanding the situation in the workplaces, many different  
3 competing narratives about what's going on. I do think that work trying to come up  
4 with benchmarks for tightening or loosening the standard is important.

5 I think some of this data is things that DOSH needs to provide, such as an  
6 overview of the complaints being filed, an overview of the types of compliance that  
7 inspectors are seeing as they go into the field. I think that kind of data is pretty  
8 important for us to understand the situation and kind of separate the different  
9 narratives into what is really going on.

10 I think also understanding better the outbreaks and having the outbreak  
11 locations by size, duration and location is really important and if this subcommittee  
12 could delve more into that and make that publicly available, because right now it's really  
13 not and that's a serious limitation in our understanding about what's going on in the  
14 workplace. So I guess I don't know what that means in terms of the Board trying to get  
15 CDPH to be more forthcoming with the data and its analysis of it and making that  
16 publicly available.

17 Lastly, I do think it's important despite the fact that we're not quite done  
18 the current pandemic that we begin to look at what a permanent infectious disease  
19 standard might look like. I think we have a couple of models coming out from other  
20 states now that can help guide us and guide our thinking. And you know, I think that  
21 everybody's going to be underwater workwise for quite a while. And so waiting until we  
22 quote "have time," I think probably isn't the best approach, that we need to begin to  
23 learn the lessons we can now. Thank you very much for listening.

24 A/CHAIR STOCK: Thank you for your comments.

25 Next speaker?

1 MR. GOTCHER: Our next commenter is Len Welsh from Ironworkers  
2 International, the Western Steel Council, and the Ironworkers Management Progressive  
3 Action Cooperative Trust.

4 MR. WELSH: Can you all hear me okay?

5 A/CHAIR STOCK: Yes, we can hear you fine. Go ahead, thank you.

6 MR. WELSH: Good morning, everybody. I'm actually commenting  
7 primarily on Petition 587, the CPH petition. And I want to thank the Board for moving  
8 forward with this. I know maybe not everybody does know the Board has been very  
9 challenged with staffing numbers and it's been difficult for them, I think, to get to just  
10 about anything other than COVID. And I just want to express my appreciation and the  
11 appreciation of the folks I'm commenting on behalf of, for the Board moving forward  
12 with this.

13 An advisory committee is exactly the way to go. We've already heard  
14 some conflicting points of view from commenters already this morning. And that's what  
15 an advisory committee is for, to surface conflicting points of view for the folks who  
16 attend to learn from each other. And in fact a lot of learning goes on in these  
17 committees, both on the part of stakeholders, on the part of the Division, on the part of  
18 Standards Board. So thank you again for getting to this.

19 And I just would like to say I don't understand why we're not using  
20 exactly the same process for the ETS and COVID. There's not enough dialogue going on,  
21 there are opportunities for stakeholders to learn from each other, for DOSH to learn  
22 from what stakeholders have to say, especially about specifics pertaining to their  
23 particular industries and workplaces. We need a process of dialogue like that, that's the  
24 only way we're going to get to solutions that really work. Maybe not consensus, but we  
25 ought to give that a try. And for those things on which there aren't consensus, well

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1 that's what we rely on leadership from the Standards Board for. So thanks again for  
2 the opportunity to comment.

3 A/CHAIR STOCK: Thank you.

4 Next commenter?

5 MR. GOTCHER: Our next commenters are Rob Moutrie and Zena Delling,  
6 with next Rob Moutrie from the California Chamber of Commerce.

7 A/CHAIR STOCK: Go ahead, Mr. Moutrie.

8 MR. MOUTRIE: Good morning, everybody. Tell me if I start lagging and  
9 I'll turn off my video.

10 A/CHAIR STOCK: It's good so far.

11 MR. MOUTRIE: Okay, so some of this has already been said by Helen and  
12 others. But first I'd like to thank you to the Board and the subcommittee members for  
13 their work and the reports coming out, that the information sharing on Tuesday was  
14 much appreciated. So thank you to the Division staff as well and we look forward to  
15 more information being shared next week is my understanding.

16 I would like to flag one procedural hurdle, which is in dealing, in receiving  
17 that information on -- as a stakeholder -- with two-minute comment periods and very  
18 little time to respond we've had some trouble trying to process and effectively  
19 comments on the topics. So we're hopeful that that can be improved as the  
20 subcommittee moves forward, so that we have a chance to bring in the kind of  
21 thoughtful input.

22 To Len Welsh's point just now with the subcommittee's topic being the  
23 breadth of possibilities, right, for the conclusion of -- and with that winding-down  
24 process and the provisions of the ETS -- there's really so many options and so many  
25 potentials. That that kind of roundtable discussion that normally happen in advisory

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1 committee and takes time and is a pain, but we really think is necessary to really  
2 figuring out those pieces.

3 So many issues we've discussed, between vaccine verification to kind of  
4 what are the metrics that wind down, those aren't binaries as you all know. So we really  
5 would look for roundtable settings or other places have more, longer comments and  
6 more discussion on those points if possible.

7 I would also like to echo Bruce's comments and give thanks for, while  
8 he's not here of course, to Chief Parker. We do think that now, as seeing him move on,  
9 but we really appreciate how quickly he moved in the beginning of this pandemic to the  
10 extent that it was possible and wanted to express those thanks publicly.

11 And I will also flag I think the comments about the Delta variant. I will say  
12 that something we're also watching. So far we're very thankful that vaccines have  
13 proven to continue to be massively effective and I really think are the key to success  
14 here. And I certainly encourage anyone on the call who has not already done so to be  
15 vaccinated. But we do think that is something to keep watching. So thank you for the  
16 time, I won't take more of it.

17 A/CHAIR STOCK: All right, thank you for your comments.

18 Next commenter?

19 MR. GOTCHER: The last commenter in my list is Zena Delling from the  
20 California Dental Assisting Association and California Dental Assisting Teachers  
21 Association.

22 A/CHAIR STOCK: Good morning, go ahead.

23 MR. GOTCHER: Zena Delling, if you called into the WebEx you will need  
24 to press \*6 to unmute yourself.

25 MS. DELLING: Can you hear me now? Hello?

1 A/CHAIR STOCK: Yes, we can hear you.

2 MS. DELLING: Hi, my name is Zena Delling. And I'm representing the  
3 California Dental Assisting Association and the California Dental Assisting Teachers  
4 Association.

5 And I am here today to ask the Standards Board to consider making an  
6 amendment to the OSHA regulation relative to CCR Title 8, section 5193 Bloodborne  
7 Pathogens, and for the information and training on (b)(1). And we've already submitted  
8 a petition regarding this topic. The reason for this is that the Dental Board of California  
9 currently requires an unlicensed, on-the-job-trained dental assistant to complete an  
10 eight-hour infection control course.

11 However, the Business Professional Code 1750 currently allows up to 12  
12 months for completion of this course. Of significant concern, it is that during those 12  
13 months in which the dental assistant has not completed the requested training they are  
14 responsible for the workplace disinfection, instrument cleaning and packaging,  
15 sterilization, handling of hazardous waste, waterline maintenance, as well as the direct  
16 patient care. Allowing the dental assistant to perform these duties without the required  
17 -- sorry, formal education and training in infection control places, the patient's health  
18 and safety as well as the dental healthcare worker in the office are at risk. We believe  
19 the current Business and Professional Code 1750 does not accurately reflect the  
20 present-day risk and the standards of infection control, education and training for the  
21 unlicensed dental assistant.

22 A proposal by our organization has been approved by the Dental  
23 Assistant Council and forwarded to the Dental Board of California for discussion at their  
24 August 19th through 20th, 2021 meetings. This proposal would require this eight-hour  
25 course to be taken prior to exposure to any blood, saliva, or other potentially infectious

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1 material. We believe this will improve infection control standards and practices,  
2 enhance the health and safety for patients and employees, while ensuring compliance  
3 with regulation standards.

4 This would also be in alignment with —

5 MR. GOTCHER: Thirty seconds.

6 MS. DELLING: -- the Cal/OSHA standards. But what we are seeing in this  
7 section of the regulation is that there needs to be more clarification that the training  
8 has to be done before they touch anything. And it doesn't speak to the dental assisting  
9 or the dental portion of occupations, if that makes sense. Thank you.

10 A/CHAIR STOCK: All right, thank you for your comments.

11 Are there any other speakers in the queue?

12 MR. GOTCHER: Yeah, so I'd like to circle back to Russell McCrary if you  
13 may have dialed in from the California Ironworkers Employer Council and the District  
14 Council of Ironworkers. Russell McCrary, are you on the line with us?

15 MS. SHUPE: He may need a reminder on instructions on how to unmute.

16 MR. GOTCHER: Oh yeah, if you've dialed in then you will need to press  
17 \*6 to unmute yourself.

18 MR. MCRARY: Can you hear me now?

19 A/CHAIR STOCK: Yes, we can hear you.

20 MR. MCRARY: Oh, there we go.

21 A/CHAIR STOCK: Great, go ahead.

22 MR. MCRARY: So yes, this is Russell McCrary with the California  
23 Ironworkers Employers Council/ District Council of Ironworkers and I was calling in, in  
24 full support of Petition 587, that an advisory committee being convened to answer and  
25 try to work out everybody's questions and problems that they have with CPHs. And it'll

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1 definitely help the staff and all the problems that we have with alternative access plans  
2 and people working on them, a lot of problems that I think will be cleared up in an  
3 advisory committee.

4 And I'd also like to thank the Board for their expedited rulemaking for  
5 Petition 577 and clearing up 1630(a), which cleared up a lot of problems out in the field  
6 and made a lot of jobs safer. So I appreciate your time and again, full support for  
7 Petition 587. Thank you.

8 A/CHAIR STOCK: Thank you for your comments. Are there any other  
9 speakers in the queue?

10 MR. GOTCHER: At this time, there are no additional speakers in the  
11 queue.

12 A/CHAIR STOCK: Okay, so are there any other additional members of the  
13 public who want to just comment on any matters concerning occupational safety and  
14 health? If there's anyone who has not yet gotten in the queue?

15 Okay, well if there is no other speakers waiting to speak, the Board  
16 appreciates your testimony. And the public meeting is adjourned and the record is  
17 closed.

18 So we will now proceed with the business meeting. The  
19 purpose of the business meeting is to allow the Board to vote on matters  
20 before it and to receive briefings from staff regarding the issues listed on  
21 the business meeting agenda. Public comment is not accepted during the  
22 business meeting.

23 So first we are going to look at the proposed petition decision  
24 for adoption from Don Zampa, President; Greg McClelland, Executive  
25 Director; Western Steel Council Petition File No. 587.

1                   Petitioners' request to amend Title 8, Construction Safety  
2 Orders, Section 1630 as it pertains to Construction Personnel Hoists, also  
3 known as CPH, to expedite amendments proposed by the Division of  
4 Occupational Safety and Health in their April 3rd, 2019, request for a  
5 new or change in existing safety orders, Form 9.

6                   Additionally, the petition asks to address the additional CPH  
7 issues: the definition of when alternative access is permissible in lieu of  
8 a CPH; and a requirement in the permit application for employers to  
9 provide empirical data to substantiate the infeasibility of CPH use.

10                   Mr. Manieri, will you please brief the Board?

11                   MR. MANIERI: Yes, good morning Acting Chair Stock and members of the  
12 Board. Can you all hear me clearly?

13                   A/CHAIR STOCK: Yes, we can hear you fine.

14                   MR. MANIERI: All right excellent, very good.

15                   Yes, the Standards Board received a petition on October 15th, 2020, from  
16 Don Zampa, the President of the District Council of Ironworkers of the State of  
17 California, and Greg McClellan who is the Executive Director of the Western Steel  
18 Council.

19                   These Petitioners request the Board to expedite pending changes to title  
20 8, section 1630, regarding construction personnel hoists and they propose additional  
21 requests for consideration during an upcoming advisory committee meeting on this  
22 subject, which they recommend.

23                   The Petitioners basically request the Board to take actions to consider all  
24 of the remaining issues raised in the Division's Occupational Safety and Health's Form 9  
25 request that goes back to April 3rd. And if you all recall we expedited one of those, a

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1 portion of that request regarding the use of the installation of the CPH.

2 Also, to consider amendments to title 8 to address alternative access in  
3 lieu of a CPH, to consider having engineering calculations be provided to the Division of  
4 Occupational Safety and Health as part of the permit process to substantiate the  
5 infeasibility of installing a CPH. With a statement to document why the alternative  
6 access is safe and effective.

7 And also to expedite the rulemaking process to the extent possible by  
8 Board staff.

9 The Division concluded in its evaluation that it recommends granting the  
10 Petitioner’s request to the extent that, yes an advisory committee be convened to  
11 consider amendments to section 1630 to address the engineering calculation,  
12 substantiation documentation issue.

13 The Division is absolutely not opposed to having committee discussion  
14 about the meaning of the phrase, “unusual site conditions or unusual structural  
15 configurations” and any necessary clarifications.

16 The Division stated it was also in support to the extent possible that  
17 Board staff expedite consideration of these issues and remaining Form 9 issues  
18 contained in their April 3rd, 2019, Form 9.

19 Board staff have prepared an evaluation dated May 17th, 2021. We note  
20 that the Petitioners’ request to require the Division to amend its permit process. Our  
21 permit process is outside the authority of the Board since such Division regulations are  
22 administrative in nature, as some of you may know.

23 And staff noted that any discrepancies in the way individual Division  
24 district offices collect data and interpret CPH requirements and alternative access is also  
25 somewhat beyond the Board’s authority. However, the Board staff takes the position

1 that the Petitioners' concerns should be addressed via the advisory committee process,  
2 which may result in amendments to 1630.

3 And I want to emphasize that hearing the stakeholders this morning that  
4 all aspects, all aspects relating to the feasibility and practicality issues of CPH use will be  
5 explored and addressed by the advisory committee. A well-documented, a well-  
6 conducted advisory committee is an interactive process with dialogue between  
7 stakeholders and that will further ensure this.

8 Finally, the convening of the committee to discuss the foregoing issues,  
9 less the one issue, which has already been addressed as a result of the previously  
10 expedited rulemaking process, has been also recommended by both the division and the  
11 Board staff.

12 So to summarize both Division and Board staff are in complete  
13 agreement that the advisory committee process should be used to consider  
14 amendments to section 1630. To address all the remaining unresolved issues contained  
15 in the Division's April 3rd, 2019, Form 9 request, which relate to CPH roof access service,  
16 CPH service to all landings, and additional CPHs for structures with very large floor  
17 plans.

18 Staff and Division agree that in addition the issues pertaining to  
19 alternative access and the calculations I mentioned earlier of the permit process to  
20 substantiate infeasibility of the CPH use and the efficacy of alternative access could be  
21 at least discussed and the advisory committee forum.

22 And the Board staff would state, as we have in our evaluation, that to the  
23 extent possible the reprioritization of workload to expedite the advisory committee  
24 process will be performed to the extent that that is practicable.

25 So therefore it's recommended that Petition 587 by Donald A. Zampa,

1 President, District Council of Ironworkers of the State of California and vicinity, and Mr.  
2 Greg McClellan the Executive Director -- we recommend that it be granted to the extent  
3 that an advisory committee be convened to discuss the issues outlined herein. And that  
4 is namely to: Consider unresolved issues raised in the Division's Form 9 request.

5 Consider amendments to title 8 to address alternative access in lieu of a  
6 CPH.

7 And also consider having engineering calculations be provided to the  
8 Division as part of the permit process substantiating the infeasibility of installing a CPH,  
9 with a statement to document by the employer why the proposed alternative access is  
10 safe and effective.

11 It's further recommended, as I stated earlier, that to the extent  
12 practicable the AC, advisory committee, can be expedited to consider all of these issues  
13 above.

14 And of course, as always, the Petitioners are always extended an  
15 invitation to participate in the advisory committee deliberations.

16 And that is our recommendation. Thank you.

17 A/CHAIR STOCK: Thank you, Mr. Manieri.

18 Are there any questions from any other Board Members?

19 Okay, seeing none, do I have a motion to adopt the petition decision?

20 BOARD MEMBER LASZCZ-DAVIS: I so move.

21 BOARD MEMBER BURGEL: Yeah, second.

22 A/CHAIR STOCK: Okay, did you catch that, Sarah? Who was the -- I think,  
23 Barbara, you moved and, Chris, you seconded. Is that right?

24 BOARD MEMBER BURGEL: Actually, I think Chris moved and I seconded  
25 it. It doesn't matter.

1 A/CHAIR STOCK: Okay, the other way around. Thank you.  
2 It has been moved and seconded that the Board adopt the petition  
3 decision. Does the Board have any points for discussion? Seeing none, Ms. Money, will  
4 you please call roll.

5 MS. MONEY: Ms. Burgel?

6 BOARD MEMBER BURGEL: Aye.

7 MS. MONEY: Ms. Crawford?

8 BOARD MEMBER CRAWFORD: Aye.

9 MS. MONEY: Ms. Kennedy?

10 BOARD MEMBER KENNEDY: Aye.

11 MS. MONEY: Ms. Laszcz-Davis?

12 BOARD MEMBER LASZCZ-DAVIS: Aye.

13 MS. MONEY: Acting Chair Stock?

14 A/CHAIR STOCK: Aye. The motion passes. Thank you.

15 Next, we are going to look at proposed variance decisions. Actually I see  
16 there are no proposed variances for consideration this month.

17 So we can move on to the Division Update. Mr. Berg, will you please  
18 brief the Board?

19 MR. BERG: Oh yes, thank you very much. The Division does not have an  
20 update at this time. We do plan on having Paul Papanek of the Medical Unit talk to the  
21 subcommittee next week to go over different metrics that would be applicable for  
22 COVID. But nothing else for us at this time. Thank you.

23 A/CHAIR STOCK: Questions for Mr. Berg?

24 Okay, if not we are going to move on to the COVID-19 Prevention ETS  
25 Subcommittee Update.

1 Ms. Laszcz-Davis, will you please brief the Board, Chris?

2 BOARD MEMBER LASZCZ-DAVIS: Oh, my pleasure, Laura. Can you hear  
3 me?

4 A/CHAIR STOCK: Yes, we can hear you fine.

5 BOARD MEMBER LASZCZ-DAVIS: All right, good.

6 As you well know we had the first subcommittee meeting July 13th, just a  
7 couple of days ago. And I have to start by expressing my sincere appreciation for the  
8 incredible work done by Division and Standards Board staff. I mean, they pivoted in a  
9 very short time to bring together a fair amount of data that we certainly didn't have  
10 before, so again my thanks. And I know that holds true for our whole subcommittee.

11 Let me just give you some highlights. We started off by sharing the  
12 purpose for our existence. There was some confusion as to what the subcommittee  
13 was, what it wasn't, and what we can expect moving forward. And I mean basically in  
14 very simple terms we are an advisory arm to the Standards Board. And our aim basically  
15 is to bring together information and people who can help develop and embellish the  
16 information we need for the Standards Board, so that ultimately this is value added to  
17 the Division and their (indiscernible).

18 I think with the subcommittee process, as we move we'll move things  
19 more quickly, get more information, more data, and hopefully provide more guidance  
20 and suggestions to the Standards Board, and additional information to the Division for  
21 their consideration.

22 Highlights for what transpired the other day, we had Standards Board  
23 staff member Amalia Neidhardt review the efforts of the benchmarking for existing U.S.  
24 state COVID (phonetic) regulations. This was a benchmarking effort, which provided  
25 insights as to paths and trajectories that the states were taking.

1                   We also had a presentation on metrics -- if we have them at this point  
2 and time. CDPH outbreaks for the month of onset January to May noted that the June  
3 data was missing. Also provided outbreaks by industry for top industries, mentioned  
4 the challenge due to lack of uniform practices regarding the reporting on the part of  
5 both local and county health departments.

6                   There was a request to explore additional CDPH data, especially being  
7 able to better identify where workplace outbreaks are occurring (indiscernible) work-  
8 related versus non work-related activity. And the suggestion was made for DOSH and  
9 CDPH to work together to improve and refine the quality of the data.

10                   I mean, those are just some very broad highlights. I mean, there's  
11 certainly a fair amount of details surrounding all of that, which is available.

12                   We had about 30 minutes of public comment period. And again it was  
13 relegated to 2 minutes for person. That was just some immediate feedback. And these  
14 were just some of the offerings that were placed on the table.

15                   There was a request for the subcommittee to post materials, which could  
16 be reviewed in advance of its meetings for advanced opportunity to review information.  
17 And we took note of that. Given that this was our first meeting there really was not an  
18 opportunity to post the information, so it was during public comment period people had  
19 commented on what they had seen the last 15 minutes. So I think we have a remedy for  
20 that at our next subcommittee meeting.

21                   There was a request to include Workers' Comp data, a request to include  
22 Cal/OSHA compliance and enforcement data, a request to include both housing and  
23 transportation data, to include outbreak data by location and industry.

24                   And finally it was suggested that the discussion on metrics be a robust  
25 discussion, not simply a presentation as we presented it the other day, possibly taking

1 up more than one subcommittee meeting.

2 So that brings me now to how should we move forward? I mean, what is  
3 the best way to move forward so that the subcommittee provides value and to the  
4 Standards Board and the Division. And just a few facts for your consideration.

5 When we first got together we listed a few priority items that we thought  
6 we needed more information on, so that we could better advise and inform the  
7 Standards Board. And some of those items included things like benchmarking, which  
8 Amalia took us through. Metrics was certainly one of the listed items, what metrics  
9 were tightening and loosening workplace restrictions, verification, vaccination was  
10 listed, changes in compliance inspections and citations when it comes to the ETS, and a  
11 few other things. So it was basically an initial list. An initial list that I think may shift as  
12 we develop more, as we have more information presented to us.

13 Okay, so that's the broad picture. So this last meeting (indiscernible) we  
14 dealt with metrics, initial metrics. But I think we all realized that what the  
15 subcommittee could do to be a value-add process is to have an opportunity for  
16 stakeholders to dialogue. It isn't a public comment period. We'll suggest that we have  
17 at the next subcommittee meeting an opportunity for discussion by the stakeholders.

18 I'm going to suggest, and I think we are in agreement amongst the  
19 subcommittee, that we continue the discussion on metrics, metrics alone. And we also  
20 look not at -- and I think Eric has already mentioned it -- we didn't have the presentation  
21 by Dr. Papanek on the July 13th meeting. He apparently had an emergency, so we'll  
22 have him come in and comment on the Delta variant. But also provide an overview of  
23 the landscape of existing COVID-related metrics, their strengths and shortcomings.

24 There's a lot of data available. They're just data points, but I think we  
25 need to being able to bring it together in terms of what has value and what the story

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1 tells us.

2                   At the next meeting also, we'll have a more robust discussion of metrics  
3 that we have, suggest those that we don't have. But we need during that period of  
4 stakeholder input some real substantive discussion as to the pros and cons of each and  
5 further use. We're very interested in what you think, we're not interested in comments  
6 like, "I like or I don't like." We'd like a substantive discussion and review as to why, for  
7 example, Workers' Comp data is value-added or not.

8                   The same holds true for other kinds of data. What kind of outbreak data?  
9 What kind of housing and transportation data? And so forth and so on.

10                   So I guess my request is come to the next subcommittee meeting on July  
11 20th, but come prepared to discuss the pros and cons of different kind of metrics.

12                   I think I would also throw in a request if it is possible. We had an  
13 excellent presentation by Amalia on benchmarking as to what other states have done  
14 that in the trajectory they have taken they certainly have decision points as to why they  
15 did what they did. So whatever metrics are available in the other states would be  
16 helpful in our discussion next week as well.

17                   I think that is it, unless Nola and Laura you guys want to add to what I've  
18 shared in terms of what we discussed on July 13th and what we have to look forward to  
19 for July 20th.

20                   A/CHAIR STOCK: Nola, do you have any comments you'd like to add  
21 before we open it up to Board Members? (No audible response.)

22                   I'm going to just add a couple of things. Thank you Chris for that really  
23 good summary of what we discussed. I do want to highlight also when it comes to  
24 future agenda items just one thing that wasn't mentioned, I think there was a lot of  
25 interest in the idea of beginning to think about what structure a permanent infectious

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1 disease standard could look like. And you know, we know that as a commenter said  
2 workload is really a big issue, but beginning the process of looking at models for that,  
3 and there is a range of potential models from expanding the ATD approach to looking to  
4 other states who now have begun to institute regulations like that. So I just want to  
5 highlight that that was also raised as something that we want to begin working on  
6 sooner rather than later.

7           And the only other commentary I would have is that yes, we definitely  
8 want to be focusing on the metrics. And thank you also to the Division for all the work  
9 you've done on that and for your summary, Chris. I guess I would say I think the issue  
10 with vaccine verification and how that is working is critical. And so the only comment I  
11 would make is I think that some of these, we should talk about how we can integrate  
12 maybe more than one subject in our meetings just because -- so we cannot lag too  
13 much time on dealing with issues that are very relevant immediately. So that can be a  
14 discussion we can have about how to include that in upcoming meetings sooner rather  
15 than later while also maintaining the ability to go deeper in the issue around metrics. So  
16 that is the only comment I would add.

17           And I want to see if any other Board Members have questions or  
18 comments about what you've heard or issues that you want to be sure that the  
19 subcommittee tackles.

20           BOARD MEMBER LASZCZ-DAVIS: Hey, Laura, could I comment on what  
21 you just shared on that?

22           A/CHAIR STOCK: Yes, of course.

23           BOARD MEMBER LASZCZ-DAVIS: I think there is a balance in here  
24 somewhere. What I don't want our subcommittee to be is a replica of the Standards  
25 Board meeting where we make presentations and people provide input, but nothing

1 robust. They really don't have the opportunity to exchange or even converse with  
2 other stakeholders.

3 So I think in retrospect while I think we'll move through the other topics I  
4 have no doubt, but I'd rather we move just a little bit more slowly so that we don't need  
5 a subject until we have some common ground understanding.

6 So I appreciate looking that's the goal post, appreciate looking at vaccine  
7 verification. Those are clearly all things we need to address. But just a caution that we  
8 really work each issue before we move on to the next one. That's just my initial thought  
9 as to how I think we ought to pursue that would be value-added.

10 A/CHAIR STOCK: Yes, thank you. I don't disagree. Oh yeah, let me just  
11 say one thing, Chris, quickly in response and then, Barbara, we'll go to you.

12 Maybe one thing we could do in order to give the Division and others  
13 who are trying to provide support enough lead time to gather the information that we  
14 need. Maybe we can do some thinking, and I will do this also, about what sort of  
15 information we need in order to have useful discussions around a permanent infectious  
16 disease standard, vaccine verification and other issues like that. So that we give them  
17 the time they need, for example, to begin to develop different -- or present on different  
18 potential models for a permanent standard. Or to gather information up from  
19 stakeholders about -- or we could ask our stakeholders to report on how the vaccine  
20 verification issue is happening.

21 So again, in line with what you're saying about the purpose is to gather  
22 information we can begin to articulate the questions that we want answered. What we  
23 need, input from our stakeholders around those issues. And what kind of information  
24 the Division and others can gather for us.

25 BOARD MEMBER BURGEL: (Indiscernible.)

1                   A/CHAIR STOCK: So to add -- so Barbara -- yeah, sorry, go ahead Chris. I  
2 do have -- or Barbara, do you want to go ahead?

3                   BOARD MEMBER BURGEL: No, well is Chris done? Does Chris want to  
4 respond?

5                   A/CHAIR STOCK: Chris, did you want to have a quick comment on that?  
6 And then we will go to Barbara.

7                   BOARD MEMBER LASZCZ-DAVIS: Yes, just real quick and then I will stop  
8 flapping my gums, Barbara. (Laughter.)

9                   No, you know what it is? And one of the things that I think needs to be  
10 stated again, some people have wondered whether or not there's going to be an  
11 advisory committee process for the ETS. And the Division has committed to that, so we  
12 know they will have an advisory committee process. So I just wanted to be clear about  
13 that.

14                   So we are not going to try to reconstitute an advisory committee process,  
15 but we will try to open up the dialogue. So we really get good, solid input and some  
16 opportunity to stakeholders to come to some common understanding as to what makes  
17 sense moving forward, so I'm done.

18                   A/CHAIR STOCK: All right, thank you, Chris.

19                   Barbara, you have the floor.

20                   BOARD MEMBER BURGEL: First of all thank you for the summary of the  
21 subcommittee process. I haven't yet listened to the video of the July 13th meeting, but I  
22 plan to. I'm very interested in the metrics.

23                   I would ask, and I don't know if this was discussed, is the whole issue of  
24 case classification. The determination of whether a COVID case is work-related or not  
25 work-related is a fairly complex process and I don't think it's standardized at all across

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1 employers. And I don't know whether that was discussed, because that links to that  
2 Workers' Compensation data not being a very accurate representation of what is going  
3 on in the workplace.

4           So I do know when I was doing COVID response for 11 months we spent  
5 quite a lot of time classifying cases, whether they were work-related or not work-  
6 related. And it often took 3 or 4 or 5 weeks after the case to sort of clearly know if the  
7 case was community acquired or occupationally acquired, because of some genetic  
8 sequencing we would often do if we could. That became problematic to see if cases  
9 were linked, etcetera, etcetera.

10           So it's not -- I mean what we did was send everybody a 24-hour notice  
11 that, "Your case may be work-related," and that they were willing to file a Workers'  
12 Compensation claim. We had very few cases, although we had approximately 33  
13 percent of all of our cases in an academic medical center classified as more likely to be  
14 work-related versus community acquired. And that helped that 33-66 percent  
15 classifications. So 66 percent of our cases were community acquired, 33 percent of ours  
16 were what we thought were more likely acquired from work.

17           That held through the end of February when I -- again, I don't know what  
18 has happened since March of 2021 to now.

19           But I think it's important because that is not a consistent -- from a  
20 benchmarking perspective every employer is doing that case classification differently.  
21 And so I think that that links to that whole Workers' Compensation data piece. We had  
22 very, very few of our cases filing Workers' Compensation for COVID. Only if they were  
23 long haulers would they go into the Workers' Compensation system. And so many of  
24 our work-related cases never entered the Workers' Compensation system, just FYI.

25           So I think that's important to hear from employers and our stakeholders

1 around how they were classifying cases, when was Workers' Compensation instituted,  
2 etcetera, etcetera. So that's a big quagmire quite frankly in our data sources, number  
3 one.

4 Number two, I'm glad Chris you mentioned -- because Len Welsh's  
5 comments today, I think, was really important. So that we still need an advisory  
6 committee process to move forward. And too I believe a permanent infectious disease  
7 standard is needed, whether it's a modification of our current ATD standard or whether  
8 we have a separate permanent infectious disease standard for all industries.

9 I also heard the request of how to repeal the ETS. That needs to be  
10 clarified. And maybe, Christina, you might want to respond to that question that came  
11 up earlier in our public comment period.

12 I do think that the subcommittee process is important. I think that time is  
13 of the essence, because some of what we were dealing with is that the California  
14 Department of Public Health has data, and the Division has data, and the CDC. And so  
15 it's a fast-moving process.

16 I too am concerned around the Delta variant and what's happening in  
17 certain hotspots in California. And look forward to certainly clarifying how that  
18 outbreak data in workplaces is being made more public by location, size of the outbreak,  
19 and type of industry. Thank you.

20 A/CHAIR STOCK: Thank you, Barbara.

21 And Kate, do you have any comments or questions or suggestions for  
22 agenda items through the subcommittee?

23 BOARD MEMBER CRAWFORD: I always have a comment, Laura, always.

24 (Laughs.)

25 Well, number one I am very happy hearing from the stakeholders and

1 across the Board that everyone is grateful for the subcommittee process. And I think  
2 that there is some people agree with data, some people disagree with data, but never  
3 the twain shall meet. But data is becoming a vital part of this conversation, so I'm glad  
4 to hear that we have it.

5 What I'm curious about is more than anything, and this is a question for  
6 Chris, is what are you when you're talking about the best way to move forward what is  
7 the cadence that you are contemplating? So you have a meeting on July 20th what's  
8 the cadence beyond that? (No audible response.) I can't hear you, Chris.

9 BOARD MEMBER LASZCZ-DAVIS: Right now we've got about two  
10 meetings scheduled a month depending on the Standards Board Meeting.

11 BOARD MEMBER CRAWFORD: Is that adequate?

12 BOARD MEMBER LASZCZ-DAVIS: And you know what, I still think it's early  
13 to tell. I'm saying one of the things that we have to be mindful of every time we have  
14 one of these meetings we go back to Division staff, we go back to the Division or  
15 Standards Board staff to aggregate more data. There is only so much bandwidth that  
16 exists, so I think the balance between what we need to move on to the next set of topics  
17 and what is available given the timeframe. So initial look, two meetings a month I think  
18 as we move forward we will have a better handle on what the timing should be.

19 BOARD MEMBER CRAWFORD: So you think like the next meeting?

20 BOARD MEMBER LASZCZ-DAVIS: The next subcommittee meeting is July  
21 20th.

22 BOARD MEMBER CRAWFORD: Right. You think at that meeting then  
23 you'll have a clearer understanding of what more is required?

24 BOARD MEMBER LASZCZ-DAVIS: Yes, and you know to Laura's point as  
25 topics, as we take on each topic there I'm sure will be a fair amount of behind-the-

1 scenes work that can be prepared in advance of each meeting. But there will be other  
2 things that come up as a result of the sessions that will be requested. And again that's a  
3 request for somebody else's time and everybody's got so little bit of it. But I think we're  
4 all committed to doing the best that we can like given the resources, the need, and the  
5 intensity of the discussions.

6 BOARD MEMBER CRAWFORD: Right, I agree completely. This is an  
7 immense amount of work required by a tremendous number of people. So I just want  
8 us to be mindful, but it isn't something that we can move particularly quickly on. I'll just  
9 leave it there.

10 A/CHAIR STOCK: Okay, thank you. Any other Board Members? I have  
11 one more thing that I wanted to say, but just to be sure Nola, Kate, Chris, Barbara?

12 I just was going to make just one comment. Barbara, when you were  
13 discussing Workers' Comp and calling for employers and others to look more at case  
14 classification as a contributor to an explanation for Workers' Comp numbers? I just  
15 want to also highlight that a big challenge for using Workers' Comp data is  
16 underreporting. And there are many, many workers out there who are either unaware  
17 that they can file for Workers' Comp as a result of COVID or actually in general, or afraid  
18 to file because of fear of retaliation.

19 So I think if we're going to be gathering information to try to assess the  
20 value of Workers' Comp data I think we need to look at those issues as well. And hear  
21 from stakeholders can speak to that, because I think that that is another significant  
22 reason why in general, and probably for many occupational injuries and illnesses,  
23 Workers' Comp data is usually just the tip of the iceberg. So I just wanted to make that  
24 one comment.

25 And are there any other comments or questions from anyone before we

1 move on to the next item on the agenda? If not thank you again, Chris, both for that  
2 report and for taking on the big role of Chair; we really, really appreciate your efforts.

3 And thank you, Nola, who has taken on the role to be a liaison with the  
4 Division.

5 And thank you tremendously to Division and Board staff who are helping  
6 to support that effort. And as everybody said it's a huge amount of work on top of what  
7 was already a pretty overwhelming workload, so thank you very much to everyone.

8 Okay, now we're going to move on to the Legislative Update. Ms.  
9 Gonzalez, will you please brief the Board.

10 MS. GONZALEZ: Sure, so the summer recess for the Legislature started  
11 today and they're going to reconvene on August 16th, so we have a little bit of a break  
12 and we'll have some updates for you after August 16th.

13 A/CHAIR STOCK: Thank you. Any questions for Autumn, anyone? (No  
14 audible response.)

15 Okay. And Ms. Shupe, will you please give the Executive Officer Report.

16 MS. SHUPE: Thank you, Chair Stock. So as you heard earlier on Monday  
17 former Labor and Workforce Development Agency Secretary Julie Su was confirmed by  
18 the U.S. Senate. And she is now the Deputy Secretary of Labor at the U.S. Department  
19 of Labor.

20 On Tuesday, acting very responsively, the Governor announced the  
21 appointment of Natalie Palugyai. She will be our new Secretary for California's Labor  
22 and Workforce Development Agency. Secretary Palugyai has been a senior advisor for  
23 John Hopkins University since 2018. Additionally, she has held roles at the U.S.  
24 Department of Labor, the General Services Agency and FEMA. So she brings a wealth of  
25 knowledge in to the role. And we look forward to working with her on the pressing

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1 matters that are before the Board.

2 Governor Newsom also announced the appointment of Mr. Stewart Knox  
3 as Labor Agency Undersecretary. Mr. Knox has previously served as the Undersecretary  
4 in 2019 and 2020. He is a pleasure to work with and we're very glad to have him back.

5 In other business, you've heard during the public comment session the  
6 Board has received a petition to amend Title 8, General Industry Safety Order, section  
7 5193 (g)(2)(B) to add a provision to specify that blood borne pathogens and infectious-  
8 control training must take place when an employee is first given the initial assignment.  
9 And to then add a trainer qualification. This petition is specifically seeking of changes  
10 that would impact the dental assisting workforce and their employers.

11 And that is all I have for today. Are there any questions?

12 A/CHAIR STOCK: Any questions from anyone? (No audible response.)

13 Okay, thank you, Christina.

14 So now we want to just gather any ideas or requests people have future  
15 agenda items. Any comments? Barbara?

16 BOARD MEMBER BURGEL: Would it be -- I just wanted to, this is a  
17 question for Christina, is it appropriate to respond to one of the questions that came up,  
18 comments about how the ETS could be repealed if people wanted to go through that  
19 process and that step, those steps.

20 MS. SHUPE: I can address that, yes. So as in many things with the COVID-  
21 19 this is a new process. It is really not usual at all for an emergency regulation to be  
22 repealed. And so we've explored this with the Office of Administrative Law and they  
23 have suggested that the most efficient and best way to do so, if feasible, would be to  
24 use the Board's second readoption. This is if the Board is seeking -- at this point you'd  
25 need to know are you seeking a full repeal? Are you seeking a repeal of only pieces of

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1 it? And once you go for a full repeal the Board needs to be fully aware that at that  
2 point you cannot come back to the table. So if you do a full repeal and then -- and I'm  
3 just throwing some dates out here, so please nobody quote me on this -- but if the  
4 Board would theoretically consider a full repeal in September. And then we saw a surge  
5 due to the Delta variant in November there would not be an opportunity to come back  
6 and use this process to enact worker protections.

7 The other option before the Board would be to look at how you want to  
8 use your secondary adoption judiciously and explore, as the subcommittee is now, what  
9 metrics would be used for tightening or loosening restrictions, incorporate those as  
10 possible into secondary adoption, and have that run its course.

11 Ms. Gonzalez has been holding more robust conversations with OAL on  
12 this. Ms. Gonzalez, do you have anything to add?

13 MS. GONZALEZ: No, I think you summarized it pretty well. I mean, we  
14 are pretty constrained by law on what we can do here.

15 BOARD MEMBER BURGEL: Thank you.

16 A/CHAIR STOCK: And so can I just ask for a clarification? Can you just  
17 remind us of the deadline of when we would need to have a readoption discussion?

18 MS. SHUPE: Absolutely, so and this is posted on our website, but the  
19 deadline to readopt would be we were given 210 days, so I believe it's in January of  
20 2022.

21 A/CHAIR STOCK: So yeah, so I think that that points to the importance of  
22 the discussions that we currently are having, to be able to monitor what is happening in  
23 California. And to determine both whether the pandemic is over and we can further  
24 loosen restrictions or whether there is a rise in cases and rise in workplace cases and a  
25 need to strengthen it. So I think that's all kind of in line with what we're looking at now.

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1 And based on that we have those options as we go forward to make those decisions,  
2 again, to repeal or to strengthen. Thank you.

3 Barbara?

4 BOARD MEMBER BURGEL: I just have a question. Thank you, Christina,  
5 that was very helpful. Thank you, Autumn.

6 I have a question regarding the permanent standard process and when is  
7 the Division planning an advisory -- a formal advisory committee process going forward?  
8 Do we have a date for the next advisory committee?

9 A/CHAIR STOCK: Eric, do you want to comment? Yeah.

10 MR. BERG: No, we don't have a date yet, so I can ask and get back to you  
11 on that, but I don't know.

12 A/CHAIR STOCK: I mean maybe that is something we could add to our  
13 agenda next time or next Board meeting agenda is a report from the Division about  
14 what steps would be needed to initiate that process and just give us a sense of the  
15 timeframe of that. Can we add that to next month?

16 BOARD MEMBER BURGEL: Because January of 2022, if indeed that's  
17 when our current emergency standard will sunset, I think that's an important process. I  
18 guess we can readopt it one more time and have longer for a permanent standard  
19 making process, but it'll be January before you know it.

20 A/CHAIR STOCK: And Nola, did you have a comment?

21 BOARD MEMBER KENNEDY: Yeah, just sort of you were asking Eric to  
22 provide dates for the advisory committee for a permanent standard. And I just want to  
23 make sure that we don't confuse the AC process for the ETS with the AC process for the  
24 permanent standard in setting up these timelines.

25 BOARD MEMBER LASZCZ-DAVIS: Could you speak to that, Nola? I wasn't

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1 sure I understood what you said.

2 BOARD MEMBER KENNEDY: I haven't heard of any AC for a permanent  
3 standard being planned yet. And we're asking for that date, which is great. I think we  
4 should know what's coming around the bend. I have heard that there is an AC meeting  
5 being planned for the rest of the ETS. And I just want to make sure that we're not  
6 confusing those two processes. While certainly there's going to be a lot of overlap in  
7 the discussion within those meetings I would imagine that the AC process for an  
8 infectious disease standard is going to be much broader than for the COVID ETS.

9 A/CHAIR STOCK: So Eric, do you have any comments on that or would  
10 somebody else try to say something? Sorry, Chris, did you have something to say? (No  
11 audible response.)

12 Eric, do you want to comment on that? And what you might recommend  
13 in terms of -- as I said, if we could have maybe a fuller discussion of that next month  
14 about the process for both of those. But do you have any comments now?

15 MR. BERG: And so there are two separate requests for information, like I  
16 don't understand what exactly we --you want to know when we might have an advisory  
17 committee for the ETS or for COVID I should say. And then you also want to know when  
18 there will be an advisory committee, like a more general permanent infectious disease  
19 standard? Is that the two separate requests?

20 A/CHAIR STOCK: Well just to clarify, I think we heard Chris say that the  
21 Division -- so maybe we should just clarify this -- and Nola, maybe you can as well -- but  
22 that there are plans in the works to have another advisory committee meeting for the  
23 ETS. Is that the case? That's what I heard, I think I heard Chris say that. So maybe just  
24 starting there, is that the case that that is planned?

25 MR. BERG: Yeah, I'll get back to you at the next meeting on any details

1 on that.

2 A/CHAIR STOCK: Okay, so it sounds like that's a process that has already  
3 begun. And so I think what we were layering onto that, again being fully mindful of the  
4 limited resources and workload that these requests may represent. But I think that  
5 there are a number of us, I think if not all of us, are very interested in seeing the work  
6 towards a permanent standard move forward.

7 And it sounds like there is a number of ways we were talking about doing  
8 that, both through discussions we might have in the subcommittee about gathering  
9 models for that and using that process. But also an advisory committee meeting would  
10 be part of that typically.

11 So I think at least what I would be interested in is getting some report or  
12 information from the Division about your recommendations, about what is going to be  
13 the best way to move forward on a permanent standard. And what you see the steps  
14 and timeline would be for that.

15 Does that clarify it at all?

16 MR. BERG: Yeah and that's (indiscernible).

17 A/CHAIR STOCK: Any other questions or comments or future agenda  
18 items that anybody would like to raise, or comments about anything before we close for  
19 the meeting? (No audible response.)

20 Okay. And I believe there is no closed session today, so let me just move  
21 ahead here. So I think if there's no further discussion or questions or future agenda  
22 items we can move to adjourn the business meeting.

23 I want to remind everyone that the next Standards Board regular meeting  
24 is scheduled for August 19th, 2021, via teleconference and video conference. Please  
25 visit our website and join our mailing list to receive the latest updates. We thank you

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1 for your attendance today.

2 And there being no further business to attend to this business meeting is  
3 adjourned, so thank you very much.

4 ALL: Thank you!

5 (The Business Meeting adjourned at 1:30 p.m.)

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