

STATE OF CALIFORNIA
DEPARTMENT OF INDUSTRIAL RELATIONS

OCCUPATIONAL SAFETY & HEALTH STANDARDS BOARD
PUBLIC MEETING AND BUSINESS MEETING

In the Matter of:)
July 21, 2022 OSH)
Standards Board Meeting)
_____)

IN-PERSON & TELECONFERENCE

Attend the meeting in person:

County Administration Center
Room 310
1600 Pacific Highway
San Diego, CA 92101

Attend via Teleconference & Videoconference

THURSDAY, July 21, 2022

10:00 A.M.

Reported by:
E. Hicks

APPEARANCES

BOARD MEMBERS PRESENT AT COUNTY ADMINISTRATION CENTER:

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

BOARD MEMBERS PRESENT VIA TELECONFERENCE:

Barbara Burgel, Occupational Health Representative
David Harrison, Labor Representative
Laura Stock, Occupational Safety Representative

BOARD STAFF PRESENT AT COUNTY ADMINISTRATION CENTER:

Christina Shupe, Executive Officer
Steve Smith, Principal Safety Engineer
Autumn Gonzalez, Chief Counsel
Lara Paskins, Staff Services Manager
David Kernazitskas, Senior Safety Engineer
Amalia Neidhardt, Senior Safety Engineer

BOARD STAFF ATTENDING VIA TELECONFERENCE AND/OR WEBEX:

Jennifer White, Regulatory Analyst

ALSO PRESENT AT COUNTY ADMINISTRATION CENTER:

Kevin Graulich, Senior Safety Engineer, Cal/OSHA

TKO STAFF:

Maya Morsi
John E. Roensch
John M. Roensch

SPANISH INTERPRETERS:

Patricia Hyatt
Estela Moll

APPEARANCES (Cont.)

PUBLIC MEETING COMMENTERS: (*Online testimony)

Helen Cleary, Phylmar Regulatory Roundtable (PRR, OSH Forum)

Steve Johnson, Associated Roofing Contractors of the Bay Area Counties, BAC

Bruce Wick, Housing Contractors of California

*Stephen Knight, Worksafe

*Mannah Gbeh, San Diego Zoological Society

*Robert Moutrie, California Chamber of Commerce

Kevin Bland, California Framing Contractors Association, Residential Contractors Association, Western Steel Council

Dan Leacox, Leacox & Associates

*Anne Katten, California Rural Legal Assistance Foundation

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P R O C E E D I N G S

1 July 21, 2022

10:01 A.M.

2 CHAIR THOMAS: Good morning, this meeting of the
3 Occupational Safety and Health Standards Board is now
4 called to order. I am Dave Thomas, Chairman. And the
5 other Board Members present here in San Diego are Ms.
6 Kathleen Crawford, Management Representative; Ms. Nola
7 Kennedy, Public Member.

8 The Board Members attending via teleconference
9 per the recently approved provisions in Senate Bill 189
10 section 20 are Ms. Barbara Burgel, Occupational Health
11 Representative; Mr. Dave Harrison, Labor Representative;
12 and Ms. Laura Stock, Occupational Safety Representative.

13 Also present from our staff for today's meeting
14 are Ms. Christina Shupe, Executive Officer; Mr. Steve
15 Smith, Principal Safety Engineer; and Ms. Autumn Gonzalez,
16 Chief Counsel; Ms. Lara Paskins, Safety Services Manager;
17 Mr. David Kernazitskas, Senior Safety Engineer; and Ms.
18 Amalia Neidhardt, Senior Safety Engineer who is providing
19 translation services for our commenters who are native
20 Spanish speakers.

21 Also present from Cal/OSHA is Kevin Graulich, a
22 Senior Safety Engineer, Research and Standards Health Unit.

23 Supporting the meeting remotely is Ms. Jennifer
24 White, Regulatory Analyst.

1 Copies of the agenda and other materials related
2 to today's proceedings are available on the table near the
3 entrance to the room and are posted on the OSHA website, or
4 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 "Standards Board Updates" section at the top of 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 everyone
12 to place their phones or computers on mute and wait to
13 unmute until they are called on to speak. Those who are
14 unable to do so will be removed from the meeting to avoid
15 disruptions.

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

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

1 clicking the public comment queue link in the Standards
2 Board Updates at the top of the main page of the OSHSB
3 website or by calling 510-868-2730 to access the automated
4 public comment queue voicemail.

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

8 When I ask for public testimony, in-person
9 commenters should provide a completed request-to-speak slip
10 to the attendant near the podium and announce themselves to
11 the Board prior to delivering a comment.

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

18 We ask all commenters to speak slowly and clearly
19 when addressing the Board. And if you're commenting via
20 teleconference or videoconference, remember to mute your
21 phone or computer after commenting.

22 Today's public comment will be limited to two
23 minutes per speaker and the public comment portion of the
24 meeting will be extended for up to two hours, so that the
25 Board may hear from as many members of the public as is

1 feasible. Individual speakers and total public comment
2 time limits may be extended by the Board Chair if
3 practicable.

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

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

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

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

23 "Good morning and thank you for participating in
24 today's Occupational Safety and Health Standards Board
25 public meeting. Board Members present in San Diego are Mr.

1 Dave Thomas, Labor Representative and Chairman; Ms.
2 Kathleen Crawford, Management Representative; and Ms. Nola
3 Kennedy, Public Member. The Board Members attending via
4 teleconference are Ms. Barbara Burgel, Occupational Health
5 Representative; Mr. Dave Harrison, Labor Representative;
6 and Ms. Laura Stock, Occupational Safety Representative.

7 "This meeting is also being live broadcast via
8 video and audio stream in both English and Spanish. Links
9 to these non-interactive live broadcasts can be accessed
10 via the "Standards Board Updates" section at the top of the
11 main page of the OSHSB website.

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

20 "As reflected on the agenda, today's meeting
21 consists of two parts. First, we will hold a public
22 meeting to receive public comments or proposals on
23 occupational safety and health matters.

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25 videoconference, the instructions for joining the public

1 comment queue can be found on the agenda. You may join by
2 clicking the public comment queue link in the "Standards
3 Board Updates" section at the top of the main page of the
4 OSHSB website, or by calling 510-868-2730 to access the
5 automated public comment queue voicemail.

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

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

18 "Please be sure to speak slowly and clearly when
19 addressing the Board, and if you are commenting via
20 teleconference or videoconference, remember to mute your
21 phone or computer after commenting. If you have not
22 provided a written statement before today's meeting, please
23 allow natural breaks after every two sentences, so that an
24 English translation of your statement may be provided to
25 the Board.

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

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

11 "Thank you."

12 CHAIR THOMAS: Thank you, Ms. Neidhardt.

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

20 Good morning.

21 MS. CLEARY: Good morning, here we go. Good
22 morning, Chair Thomas and Board Members. My name is Helen
23 Cleary. I'm the Director of the Phylmar Regulatory
24 Roundtable. PRR is a member-driven occupational safety and
25 health forum. We have 37 organizations that include

1 aerospace, apparel, biopharma, communications, life
2 sciences, tech manufacturing, retail, and utilities to name
3 a few. PRR ranks 50 percent of their members among the
4 Fortune 500. Combined, they employ more than 1.7 million
5 workers at facilities across the U.S. with major operations
6 in California. And together they bring in revenues in
7 excess of \$1 trillion. Over 300 environmental health and
8 safety professionals committed to improving workplace
9 safety and health, make up our actual forum.

10 On Monday PRR submitted extensive comments on the
11 Workplace Violence Prevention in General Industry Standard.
12 It's been more than three years since the last opportunity
13 to provide input. We thank the Division for this
14 opportunity. We also thank the Division for the great work
15 that was done to revise that rule. We are also pleased to
16 hear that there will be an advisory committee meeting on
17 the proposed standard.

18 We understand that stakeholders including us,
19 and Board Members are anxious to get this rule complete,
20 but we think it's important to continue working together to
21 make sure to get it right.

22 PRR members have had threat management programs
23 run by experienced security personnel in place for many
24 years. They've shared their perspective and expertise with
25 the Division in the past. We look forward to doing so

1 again. We think it's extremely important that this
2 standard is developed in consultation with security and law
3 enforcement experts. As demonstrated in industry, and at
4 the federal level, development and oversight of security-
5 specific protocols is managed very differently than safety
6 and health programs. This is a significant fact that
7 cannot be overlooked during the development of a workplace
8 standard rule that will apply to all workplaces, all types
9 of facilities.

10 Also, we think it's important for Cal/OSHA to
11 define its intentions on how the standard will be enforced.
12 As proposed, employers will be required to document all
13 threats and violent acts on the same log, and include for
14 every threat and violent act, the "actions taken to protect
15 employees from a continuing threat or from any hazards
16 identified as a result of the incident."

17 The draft also requires investigative records to
18 be available for examination and copying by the Division.
19 We understand and see the benefit of tracking incidents, so
20 threats can be mitigated before they become actual violent
21 acts. But when combined, these elements present some major
22 concerns.

23 They imply that the inspector will review and
24 decide if investigations on both threats and violent acts
25 were complete. And if the corrective actions taken were

1 sufficient to protect the employees during and following an
2 incident. If the incident does not rise to a level
3 requiring law enforcement and intervention, or if law
4 enforcement doesn't respond, it's important for all
5 stakeholders to understand how Cal/OSHA and the assigned
6 inspectors will be trained and qualified to make the
7 determination that a company's internal security protocol
8 and disciplinary actions were sufficient or not.

9 In essence, these are law-enforcement type
10 decisions or human-resource type decisions. By taking on
11 this additional authority, Cal/OSHA will assume
12 responsibility for outcomes and potentially future actions.
13 Prior to producing a final draft and during the informal
14 rulemaking process we ask the Board to ensure that these
15 types of concerns are discussed and addressed.

16 To help answer these questions. We suggest the
17 Division share data and information on the enforcement
18 protocols and effectiveness of the workplace standard rules
19 for healthcare that has been in place for five years.

20 Thank you.

21 For more context on our concerns, we'll share
22 PRR's written comments with the Board. We're available to
23 provide any additional insight or answer any questions. We
24 look forward to continuing to work together with the
25 Department on this important role. So thank you today.

1 Apologize for the in and out on the microphone.

2 CHAIR THOMAS: Thank you.

3 Go ahead, come on up.

4 MR. JOHNSON: Good morning members of the Board,
5 Division staff, and Standards Board staff. My name is
6 Steve Johnson. I'm with Associated Roofing Contractors and
7 I'll try to keep my comments brief.

8 One of the things that I'm concerned about, from
9 a small to medium-sized employer perspective, is the
10 program administration where within the last 10 years I
11 would say quite a few written programs have come into play.
12 The written programs that employers are required to do:
13 upkeep, maintenance, program creation, and then have to
14 worry about citation defense. When and if -- I should say
15 "when" because it's usually when -- there's either an
16 accident-related inspection or a programmed inspection.
17 Employers really have a lot of liability based on just
18 citations, and citations alone, for simple program errors,
19 for omitting training records. For having an employee who
20 comes to a training session and maybe one employee is sick
21 that day, and now the employee has to worry -- the employer
22 has to worry about tracking that employee down and giving
23 that employee this specific program-element training
24 required.

25 So with the latest proposed workplace violence

16

1 standard one of the things that I'm concerned about is,
2 again, program creation, program administration. Every
3 single written program has a training element within it,
4 and it just piles on for employers, especially small-to-
5 medium and medium-sized employers. I can tell you
6 firsthand with the Roofing Association, they're small-to-
7 medium-sized employers. They're union contractors
8 struggling to do business, bid work, and continuing to stay
9 in compliance in California. The training elements, the
10 program creation, the documentation challenges, and the
11 citation liability all leads to a proposed workplace
12 violence standard that just heaps more, more of that on
13 small-to-medium employers.

14 And in my view workplace violence is a serious
15 issue, but it's a law enforcement issue. It's a law
16 enforcement problem. It's a general safety and mental
17 health problem that we, really as a general public don't
18 know how to address. Gun control factors into that, mental
19 health factors into that. But when it comes to designing a
20 program to protect the company, companies I can guarantee
21 you, do not want to have an active shooter on their
22 premises.

23 Companies want to protect their employees. The
24 question is how to best do that? Internal policy, internal
25 training? Yeah, those are important themes for internal

1 company operations. But to impose this huge standard that
2 involves record-keeping and training on small-to-medium
3 employers, I think is really one of those things that just
4 piles on.

5 And that's not to diminish the seriousness of
6 workplace violence. I don't want to come across, in any
7 way, like that. But I just wanted to offer my views from
8 working for a Roofing Association, and kind of the
9 perspective and mindset of the contractor members. Thank
10 you.

11 CHAIR THOMAS: Thank you.

12 MR. WICK: Good morning, Chair Thomas, Board
13 Members, various Cal/OSHA staff. It's nice to be back in
14 San Diego, thank you for the opportunity.

15 I do want to thank the Division for the follow-
16 up. Last Board Meeting we had talked about the Department
17 of Finance response to the SRIA on COVID. And the Division
18 and DIR issued a response and I appreciate that. That was
19 a good thing. And but I have two questions about that.
20 And they also followed up with listing and an
21 acknowledgement of who worked on the SRIA, and that's
22 helpful to know who was involved.

23 I would ask, I think it's really important when a
24 SRIA is issued, that the public is able to make contact
25 with whoever was really the go-to person on it. Someone

1 organized it at the end, someone put it together, and it'd
2 be nice to be able to contact that person. They list 11
3 people in one team. And it's like, "Well, who do we talk
4 to when we have questions about the SRIA?" But I do thank
5 them for responding and doing the work.

6 I do think I would like to follow up on Brandon
7 Hart in the Communication Division has done a really good
8 job. And I would like to follow up from the Cal/OSHA
9 advisory committee that anything from the Division, from
10 the Standards Board, gets published on his listserv ASAP.

11 You know, we were here at this meeting last time.
12 And when we were talking about we didn't have the SRIA, or
13 the COVID draft, and it had been put on the website. And I
14 understand there were vacations and things, but it's like
15 we've been asking for that for nine months. And it was
16 published, and we didn't know it. And we're here, we're
17 commenting on the fact that it's not here when it was here.
18 It was there. It was available. So I think communication
19 would be really great.

20 I do want to also ask this Board, okay, there is
21 a SRIA and there will be more comments about the benefits
22 established and so forth, but there was still not put into
23 that if -- when the COVID reg comes down in October,
24 November -- the data from Workers' Comp. And it's still
25 extremely important that 3 percent of all the cases result

1 in a Workers Comp claim. And yes, that can be an amount
2 underreported, but double it, it's 6 percent of the total.
3 And it's 1.5 percent of all the fatalities. And we know
4 sadly our heroic first responders and healthcare workers
5 are the majority of those, who are all covered by the ATD,
6 and they will be covered by the ATD.

7 So when you look at the numbers of actual
8 Workers' Comp cases from COVID in the fatalities, it's
9 incredibly small compared to the public emergency that
10 COVID has been and still is, to some degree. And that
11 should be part of your discussion, part of your looking at
12 this. Is there necessity to continue this in the workplace
13 outside of those already and continuing to be covered by
14 the ATD? I think that's really important.

15 And I'll follow up kind of where Steve Johnson
16 was talking about because I think it gets lost sometimes in
17 the battle against the underground economy. Employers, all
18 private employers are competing against somebody in
19 construction, we are a competitive bid. We don't get a
20 second chance, we bid. And if there is an underground
21 employer, they can not only beat us by 15 percent, they can
22 make a 10 percent profit while doing so. And where are we
23 stuck as legitimate employers?

24 And yes, there's all the legitimate things we
25 have to do. Taxes, Workers' Comp premiums. Our Comp

1 premiums in California are in the top three in costs in the
2 country, so it's a big part of any bid. But do we have
3 unnecessary costs in that bid? Every unnecessary law or
4 regulation increases the economic leverage of an
5 underground employer to bid against us. And this is
6 serious.

7 In the last 45 days, I've met with the Chief of
8 the Labor Enforcement Task Force how to do better field
9 enforcement. I've met in front of the DAs who prosecute
10 Workers' Comp fraud. The \$50 million they get in incentive
11 funding from employers to ask them to please go after
12 premium fraud, which is intentional underground employers
13 under-reporting payroll.

14 We had a meeting at CSLB last week I attended
15 about the underground economy. So we have a Joint
16 Enforcement Strike Force. So if we have all these things
17 going after the underground economy, why do we still have
18 one that we're combating? It's because of costs.
19 Legitimate employers will pay the cost.

20 COVID is a good example. In construction we had
21 a labor management agreement early on. So when we passed
22 the COVID-specific reg nothing protecting employees
23 changed. But many employers I know, construction employers
24 said, "I had to hire people to keep up with the paperwork."
25 So their costs went up. The underground employers let

1 economic leverage increase with no protection for
2 employees. So I think this is really important.

3 This Board, if this Board adds 3 percent of
4 unnecessary costs to employers in regulations that aren't
5 necessary, or some part of it is not necessary, and the Air
6 Resources Board does the same thing, and the Water
7 Resources Control Board does the same thing, we're helping
8 the underground economy compete against the people you want
9 to be in business who take care of their employees. So
10 this is really important that we look at the necessity
11 issue.

12 Workplace violence, I think is a real one. The
13 first advisory committees there were worker advocates who
14 spoke about serious exposures. And those are those are
15 real, and we need to address those. But then we come out
16 and have a reg that wants to cover every employer, when of
17 the four categories of exposures the two least serious are,
18 for instance, construction. We don't have the public
19 coming onsite. If someone comes to steal something we're
20 all gone.

21 And we can and have over the years through IIPP,
22 done okay if you don't belong onsite, you aren't allowed
23 onsite. If you're a former employee, you don't get to come
24 onsite. Those are simple things instead of -- the way the
25 reg is written it's expensive or very, very resource-costly

22

1 for everybody. So I think this is really important for us
2 to think about.

3 And I will say as well, I would like us to get
4 back to what we used to do more with the Standards Board
5 and in the "olden days" with the Division. You had people
6 that had been in industry. They knew there's a difference
7 between writing a reg and what actually takes place
8 protecting employees. There is a difference. The more
9 complicated, the more unclear a reg the less protection the
10 employee actually gets. And the employer again is paying
11 money to try and implement something and competing with
12 someone who won't take that time and effort.

13 So I'd like to suggest that we have an advisory
14 committee that is jointly run by the Division and Standards
15 Board staff. And I know Christina's going to say, "Well,
16 we have challenges," but I think the Division has a lot of
17 resource challenges. And I think a lot of times what
18 happens at the Division, by the time we get it, it still
19 has questions because we haven't gotten back to how we used
20 to put regs together, which was labor and management across
21 the table dialoguing. They want the most protection for
22 workers, and we want that too. But what's the most
23 efficient way to implement that without unnecessary costs,
24 unnecessary time, and let's make it really clear.

25 And in that room would be occupational safety and

1 health experts on the issue. Like Helen Cleary said, on
2 workplace violence we should have security experts telling
3 us with serious expertise about what's the best way to do
4 these things. Let's do that, and Division and Standards
5 Board staff facilitate the issue. They're part of it, but
6 they're not -- they're allowing labor and management to
7 make this consensus agreement on what's best for us to do
8 this right. And let's minimize the leverage of underground
9 employers.

10 And I do want to say that's in complete respect
11 to Kevin Graulich, because I'm glad he's here. He's doing
12 a great job. But I must admit he was our best CSHO in the
13 field on construction enforcement ever, and we miss him out
14 there. So but we're glad you're here, Kevin. Thanks.

15 CHAIR THOMAS: Thank you.

16 So now we're going to hear from our first caller.
17 Maya, who do we have?

18 MS. MORSI: We have Tim Flood with Trico
19 Painting.

20 CHAIR THOMAS: Tim, can you hear us? Are you
21 there Tim? (No audible response.) Well our record is
22 complete, the first caller every time. (Laughter.) Do you
23 have him or no? Okay, let's go to the next.

24 MS. MORSI: The next one is Stephen Knight with
25 Worksafe.

1 CHAIR THOMAS: Stephen, are you with us?

2 MR. KNIGHT: Yes. Yes, hi. Good morning, Board
3 Members.

4 CHAIR THOMAS: Good morning.

5 MR. KNIGHT: Stephen Knight, Executive Director
6 with Worksafe.

7 On Mother's Day, Aaron Salter and his son hit the
8 road on their motorcycles and headed over to Smokin Joes
9 Trading Post on the Tuscarora Indian Reservation. Six days
10 later he and ten others would lose their lives to an anti-
11 black, racist lone shooter at Tops Friendly Market in
12 Buffalo, New York.

13 The Texans, Eva Mireles and Irma Garcia, had both
14 spent 17 and 23 years respectively working in education.
15 On Tuesday, May 24th, they were working at Robb Elementary
16 School in Uvalde when a teenage boy took their lives in a
17 shooting rampage.

18 On Thursday, June 9th, employees at Columbia
19 Machine in Maryland were probably trying to wrap up their
20 last-minute projects and preparing for the end of their day
21 there and their Friday plans. But Friday would never come
22 for three of those workers: Mark Allen Frey, 50 years old;
23 Charles Edward Minnick, 31 years old; Joshua Robert
24 Wallace, 30 years old, because a man with a semi-automatic
25 -- automatic weapon walked in and opened fire.

1 Mass shooters, terrorists who unload rounds of
2 ammunition at someone's workplace, don't just take the
3 lives of patrons and those in attendance. They take the
4 lives of employees who work there. And maybe with the
5 right protections in place their violence could have been
6 prevented or mitigated. The revisions just proposed by
7 Cal/OSHA to the workplace violence standard will go a long
8 way towards ensuring all California workers have the needed
9 support to enforce their rights.

10 So as has been mentioned, the comment period last
11 week, comments were submitted. We're glad to share ours
12 with the Board. But we understand that due to resource
13 issues it'll be 2023 before an advisory committee may be
14 called to advance the standard. Four years already passed
15 since Cal/OSHA last advanced the workplace violence
16 standard and it's imperative we do not let another four
17 more years pass.

18 Thank you for your work, appreciate your time
19 this morning.

20 CHAIR THOMAS: Thank you very much.

21 Who do we have next, Maya?

22 MS. MORSI: Up next is Mannah Gbeh with San Diego
23 Zoological Society.

24 CHAIR THOMAS: Is it Mannah? Are you with us
25 Mannah?

1 MR. GBEH: Yes, I am. Can you hear me?

2 CHAIR THOMAS: Yes. Go right ahead.

3 MR. GBEH: Good morning, Board. I quickly,
4 hastily got on this call this morning. I just left the
5 hospital. Sometime last year I caught a fungus infection
6 called coccidiomycosis. I was at the workplace doing some
7 soil work and I caught this fungus and it's wrecked my
8 lungs. And the fungus is going to be in me for the rest of
9 my life. That, the actual sickness is called Valley Fever.
10 I'm a little emotional right now because I didn't think I'd
11 get on this call, so sorry about that, guys.

12 But I went through the process of going through
13 Workman's Comp and getting Cal/OSHA to come and do an
14 investigation on the site. But what I ended up finding out
15 that Cal/OSHA was only going to do a partial investigation
16 and they weren't going to test the soils and test the
17 spaces that I work in.

18 So right now at this point, the Zoological
19 Society has filed an appeal. So that the employees at
20 work are not able to -- they're not going to hear about
21 this. They're not going to train about this. They're not
22 going to test about this. And I almost died. I was in a
23 hospital for four days. While everybody was out, having
24 fireworks from Fourth of July I was in a hospital fighting
25 for my life. I have this fungus in me for the rest of my

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1 life. It's never going to go away.

2 And all I know is that after talking to a few
3 investigators and a few employees at Cal/OSHA is that the
4 San Diego Zoological Society is pretty much going to get
5 away with this, not train the public, not train San Diego,
6 not train our employees. Whereas animals have been dying
7 since the 1980s from the fungus at the Safari Park location
8 and the downtown location.

9 So my question for the Board is what's the Board
10 going to do about something like this? If we weren't
11 wearing our masks due to COVID 19 in 2020, 2021, this local
12 epidemic would have been worse here in San Diego where
13 soils and dust would have been picked up and more people
14 would be getting sick.

15 This particular fungus is Asian-Americans and
16 African-Americans are more susceptible to catching this
17 fungus. And I'm an African-American. And some of the
18 things I got told are, "Oh man, well you were the only one
19 that got sick." And I obviously I was the only African-
20 American that was in the area at the time when this was
21 going on.

22 So my question for the Board is that are there
23 rules that are going to be set? Or are there going to be
24 regulations that are going to be set forth, so that
25 organizations like the San Diego Zoological Society can be

1 held accountable for testing and letting their employees
2 know that there are actually things in the soil? Or
3 mitigation, things that the zoo can do to be able to
4 mitigate some of these things, issues that are going on in
5 the soil over at their park location and the zoo locations
6 downtown?

7 Thank you for taking my call this morning. Thank
8 you very much.

9 CHAIR THOMAS: Thank you.

10 And since we didn't get our first caller let's go
11 to one more caller. Then we'll return to in-person.

12 MS. MORSI: Next caller is Robert Moutrie with
13 the California Chamber of Commerce.

14 CHAIR THOMAS: Robert, can you hear us?

15 MR. MOUTRIE: Yes, I can, Chair Thomas. Thank
16 you.

17 Good morning, everyone.

18 CHAIR THOMAS: Good morning.

19 MR. MOUTRIE: I'm sorry I can't join you all, I
20 have a non-COVID sinus infection. I would hate to be the
21 awkward cough in the room, so I'll speak briefly on the
22 workplace violence reg.

23 I'd like to echo the prior comments of my
24 colleague Helen Cleary and Steve Johnson, and really echo
25 the call for an advisory committee on this topic. Without

29

1 getting into the weeds, because I'm sure the Board Members
2 would prefer to wait the next -- until it's in front of you
3 to get into them, I'll just say there's a lot of complexity
4 here and a lot of corrections and small tweaks I outlined
5 in our letter on Monday that I think need full discussion.

6 And finally, I'd like to thank the Board and all
7 of the Cal/OSHA team members who are listening for taking
8 part in that advisory committee last week. I do think that
9 there was an increased focus on conversation with
10 stakeholders and a dialogue and that was really appreciated
11 on our side. So I wanted to make sure I recognize that.

12 So with that, thank you for the opportunity to
13 speak. And I hope you're all enjoying the weather down
14 there.

15 CHAIR THOMAS: Thank you, we are. It's very
16 nice.

17 So we're going to go to in-person now. If we
18 have three more speakers, we'll go through three more
19 speakers. If we get past this guy,

20 MR. BLAND: Yeah, I'll just take up the time
21 since there's nobody else behind me here, only about 30
22 minutes.

23 So good morning, Chair Thomas, Board, Board
24 Members, Division staff, Board staff. Thanks for the
25 opportunity to be here. I represent the California Framing

1 Contractors Association this morning, the Residential
2 Contractors Association this morning, and Western Steel
3 Council this morning.

4 I'll be brief. I'm echoing basically the
5 comments of my colleagues Helen Cleary, Bruce Wick, Rob
6 Moutrie and Steve. So on the workplace violence issue I
7 talked about this a little bit at the Cal/OSHA advisory
8 committee last week, which I echo also Rob's comment. I
9 felt like that was a good meeting, it kind of turned a
10 little bit of a corner to a little bit more dialogue. And
11 I feel like that's the direction we need to go.

12 And kind of on the topic here, that really is the
13 Standards Board Division on these health-type standards
14 like the workplace violence. I know traditionally they've
15 been kind of in the wheelhouse of the Division. And then
16 it gets passed over to the Standards Board, back and forth.
17 And finally then the Standards Board gets to vote, and we
18 end up here.

19 As Bruce Wick kind of mentioned, I think it's a
20 good idea if we could do a joint for this particular one,
21 because it's a very important topic as we know. But the
22 devil is always in the details. And the more we can work
23 towards some consensus -- and I kind of hate to keep
24 bringing up the good old days, but I've been at this since
25 about 2001 in front of this Board and advisory committees.

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1 In the good old days we'd set across to -- even Fran
2 Schreiber, and I who are probably opposite ends of the
3 spectrum, would dialogue and usually come up.

4 I think the one point is there really isn't a
5 different goal at the end of the day between labor and
6 management, the Division, because there isn't any employer
7 that I know of that wants their employees to get sick or
8 get hurt, and there's no one in labor, and etcetera. And
9 I've been on both sides. I was a union iron worker before
10 and now I'm on the management side. But the dialogue, a
11 lot of times it's what's the road you're going to use to
12 get to that goal. That's where the details are. And
13 trying to come up with, "I want to take this road and Fran
14 wants to take this road. But really maybe this road over
15 here, this road over here is the best direction." And I
16 think we need to try to get back to that idea in this
17 advisory committee to true dialogue trying to get
18 consensus.

19 I mean, in construction standards I can remember
20 not that long ago where a lot of times labor and management
21 really had the same idea. Because most of you guys, I'll
22 use Chair Thomas and Mr. Harrison as examples, is that you
23 guys worked in the field before. And so you know from a
24 standpoint from this point, "Like I worked in a field."
25 What looks right on paper doesn't always work. It may not

1 even -- it may look safe on paper, isn't always the safest
2 way to do something. But when you see how we do it safely,
3 it scares the shit -- scares the crap out of you when you
4 see it, if you see it in written form.

5 And I know workplace violence isn't exactly that.
6 But I'm hoping we can get back to some dialogue on this and
7 some meaningful advisory committee, a meaningful advisory
8 committee, on this.

9 The other thing that I wanted to kind of point
10 out is that I think at least sometimes it feels like the
11 employers come in and, "We don't want to do this, and we
12 don't want to do that, and we don't want to do that." The
13 thing that I think gets lost in this is we're looking at a
14 regulation and an activity in isolation.

15 Like I use a silly example, "Why don't you just
16 want to put a hardhat sticker on that says this? What's
17 the big deal? It's just one hard hat sticker." But the
18 problem is we have a million things that we're trying to
19 do. And what you want to do as a risk manager is figure
20 out what is going to be the most beneficial. When you're
21 weighing all of the odds out there and all the activities
22 you're doing in construction, and fall protection,
23 trenching, those big-ticket items where people get killed
24 and hurt, what are you going to do? You're going to try to
25 balance that with, "Okay, well do I want to do the

1 paperwork? Or do I want to do the practical stuff in the
2 field that's going to save lives?"

3 And I think that's where we kind of got lost a
4 lot of times in this process. And I want to see if we can
5 try to work our way back into that.

6 And I hope we have the advisory committee soon.
7 I know Kevin does a great, great job. And not everybody
8 always agrees, but we used to get to agreement on things.
9 And I hope we can get back to that point.

10 So with that thank you very much. And I
11 apologize for the cuss word, it could have been worse
12 though.

13 CHAIR THOMAS: Yeah, well you're getting a
14 demerit. But I don't know who's keeping track of that, so.
15 (Laughter.)

16 MR. LEACOX: Good morning --

17 CHAIR THOMAS: Good morning.

18 MR. LEACOX: -- Board and staff and stakeholders
19 in attendance. Please indulge me a little bit here. This
20 was not really a coordinated set of talks here, but
21 actually, I had some comments very much along the same
22 lines. And with an intent of really bringing a lot of good
23 people together in a way that produces, I think, will
24 produce better rulemaking. And I'm going to put myself out
25 a little bit and tell you a little bit about myself, make

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1 myself known a little bit better, maybe.

2 And much of this is in response to Barbara's
3 announcement. Barbara, I'm disappointed you're not here,
4 but I'm going to say it anyway. It's kind of addressing
5 that. And anyway, I'll just carry on here and indulge me a
6 little bit. This is mostly about process. So, Barbara, up
7 and down votes on the Board create a very distorted
8 perception on the amount of agreement or disagreement that
9 we might have on an issue. You know, when you can only
10 vote up or down you can appear that there's polar
11 opposites. And that isn't really the case.

12 I've given a lot of talks in my day on
13 relationships. And one thing I always point out is there's
14 a big difference between the amount of agreement between
15 two people and the amount of attention they have on a
16 disagreement, right? You could have two people who agree
17 on 99 percent of everything.

18 (Audio interference.)

19 Are we good?

20 CHAIR THOMAS: According to that? That's not you
21 but go ahead.

22 MR. LEACOX: No, I understand. You could agree
23 on 99 percent of everything, and yet have 99 percent of
24 your attention on the thing you disagree with. Yeah, so
25 the amount of attention you have on disagreement has

1 nothing to do with how much you agree or actually disagree.

2 And I have a little story to tell about that. So
3 when I was in the sixth grade a nearby school closed and we
4 had an influx, some of the students came from that school
5 to the new school. And I instantly made friends with one
6 of the new students, his name was Kurt. We hit it off
7 famously, had a good relationship going. And then one day
8 he wanted to fight, wanted to have a fight with me. "Well
9 what's this all about?" I asked him why and he wouldn't
10 really say, except to say that well he thought I was so
11 arrogant. And well the thing was, yeah, I can do arrogant,
12 better than most -- but that was a joke. But the thing was
13 I was the same way before when we were great friends, so
14 what changed? But he wouldn't say. So we made an
15 appointment, and we had a fight.

16 Later though I kind of missed my friend and wised
17 up a little bit and I went back. And I asked him, "So
18 well, who said I was arrogant." Well it turned out there
19 was a fellow student who got in his ear and picked the one
20 thing that that could get Kurt to be my enemy. And chatted
21 up my arrogance until Kurt forgot about all the reasons, we
22 were friends. Well once I pointed that out to him and he
23 saw it, he remembered all the reasons we were friends. We
24 became friends again and that other student simply got
25 ignored.

1 I'd like to tell you just a little bit about my
2 background, and this really has a lot to do with just my
3 family. My family is a great microcosm for the situation we
4 have here. You know, I operate in this world. I have loved
5 doing business with this Board, with the Division, a lot of
6 good people who care about safety and health. It draws
7 good people to it. And I find friends in coming from all
8 directions on this thing, including my clients. I work for
9 great clients. They are very good people. But I'll just
10 give you a little background.

11 So the other person who came into my life in the
12 sixth grade was my father, or stepfather, his name was Gene
13 Livingston. And he was a civil rights lawyer and at the
14 time a Director of the Modesto office of CRLA. He came
15 there from -- it was his second gig out of law school. His
16 first gig was in for the U.S. Department of Justice, Civil
17 Rights Division. He was on the Civil Rights, the legal
18 team that went to Mississippi to discover and prosecute
19 those who murdered the civil rights activists there. And
20 that was now known as "Mississippi Burning." Anyway, he
21 was on that that legal team, came to California CRLA,
22 entered my life in sixth grade. Hooked up with my mother,
23 she was a civil rights activist mostly for women's issues
24 her whole life and well known in Sacramento for those
25 exploits. And so this is the environment I grew up in.

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1 My first three years with him in my life were
2 very much infused with CRLA in various ways, because of his
3 work for CRLA. And including among other things he was the
4 one who prosecuted the lawsuit that desegregated Stockton.
5 So that got -- you know, his work got noticed. Jerry Brown
6 was the Attorney General at the time. That was some good
7 notice that would come into play later.

8 But also, he got some notice of some enemies, and
9 who found ways to express themselves. We lived on this
10 small little farm. And we were accused, for example, in
11 the paper of hiding guns on our property. It's actually
12 printed in a paper. I was on the high school basketball
13 team and had a basketball tournament. My own teammate and
14 some parents in the stands were jeering us because of my
15 father's work. But that was a good day, I won the game,
16 made the all-tournament team, and take that, right?

17 But anyway, later, because of that work he got
18 appointed to a state position as did many CRLA attorneys at
19 the time. I went to a meeting one time with the best and
20 brightest of CRLA in San Francisco. I was just a kid doing
21 my homework. But it included a lot of future top state
22 appointees, even a Supreme Court Justice appointment. And
23 so there were a lot of good people eventually who got
24 appointed to state offices, including the office of Gene
25 Livingston who was the first Director of the Office of

1 Administrative Law. And he did that for a few years.

2 And if you look up the APA, you'll notice there's
3 a lot of authority given to review existing regulations at
4 the time. And in just, I think it was just two or three
5 years, actually reduced state regulations by a third. And
6 this is from a great civil rights lawyer. And it was all
7 from the point of view that well, the regulated community,
8 they have rights too. And it was all just application of
9 the six standards to existing regulations, the six
10 standards in the APA.

11 And so it was on the heels of that success that
12 he created a practice. And actually, that's where I worked
13 for 30 years in a regulatory practice on technical issues,
14 rulemaking, and much having to do with the APA.

15 So that's a personal background that I bring to
16 this. You know, again it was a family example, I have very
17 -- my sister was a top lawyer, I grew up with four lawyers
18 in my family, my parents and brother and sister. But she
19 actually retired --

20 UNKNOWN SPEAKER: (Audio interruption.)

21 MR. LEACOX: She actually retired about age 30.
22 She was a wonderful lawyer, but to be with her kids and
23 work in the community, recently recognized. But the point
24 is that we have very diverse views in our family. And yet,
25 if we ever sat down to work something out, we have a very

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1 tight-knit family. We could always work things out. We
2 could always drill down on a problem and work them out and
3 find the things that we agree on.

4 And I think the fundamental that you could, we
5 could always drive down to -- and I think that's been true
6 here and it's always been true in my life -- is that
7 individuals are more than just cogs in a machine. You
8 know, they have life, loves, purpose, value. And they have
9 value to others in life, and that that's what we're
10 protecting. And it's just a matter of caring for everybody
11 involved in the equation. And I think that good people
12 when they do that, and I think most people are good people,
13 can always get there.

14 And this business of trying to say that, well,
15 everybody in this group is bad, and everybody in this group
16 is good, or trying to divide it up that way, I think hides
17 the fact. Because I find in almost every group, not
18 necessarily you, you have mostly good people, a few bad
19 actors. And I think what's important is really, protecting
20 good people from the bad actors. And if one can,
21 rehabilitating the bad actors.

22 So that brings me to AB 2893, which isn't
23 currently in the Senate. It's a SRIA bill that would
24 actually up some SRIA requirements, that if there was a
25 change in a rule, you'd have to update this, take comment,

1 and update the SRIA.

2 And I'm not really advocating anything about it
3 or the wisdom of it, any which way about it. But it just
4 struck me as an example that for instance, as a regulator
5 one might not like this SRIA, right? It's, you might argue
6 that, "Well, it's very burdensome. We're good regulators.
7 We would take care of the issues anyway, without having to
8 go through the process, etcetera." And I could turn around
9 and say, "Well, that may be, but a SRIA is necessary for
10 the bad actors in the regulatory community who don't take
11 responsibility for impacts on the regulated community, so
12 forth." And what do you know, you've just flipped the
13 tables, right? Expressing a very similar sentiment on good
14 people, good actors being overregulated, which is kind of
15 the message you heard here.

16 But you know, the APA is very much a regulation
17 regulating the regulators. And if you take a look at it,
18 you could find all the same attitudes about that in the
19 regulated community that you hear this regulated community
20 expressing. And so there we are, once again, on the same
21 page, not so different.

22 So Barbara, back to you. We're not so different
23 after all, and we're just differently situated in a strange
24 world of up or down votes that create a strange perception
25 of our similarities and differences. And that I think that

1 good people given a chance to sit down and work things out
2 can always reach a consensus. And that's my main point.

3 And finally, back to Barbara. Last month you
4 mentioned that one of the highlights of your tenure on the
5 Board was an elevator trip that gave you a chance to see
6 what you were regulating. And I have to say, your joy in
7 that adventure was the highlight of my day. And so from
8 this point forward, you have a standing invitation to any
9 field trip I arrange. And if anyone asks why you were
10 there I will simply say, "You will see." (Laughter.)
11 That's all.

12 CHAIR THOMAS: Thank you.

13 Do we have any other in-person commenters at this
14 time? Do we have anybody else on the phone?

15 MS. MORSI: Next up we have Anne Katten with
16 California Rural Legal Assistance Foundation.

17 MS. KATTEN: Yes.

18 CHAIR THOMAS: Anne, can you hear us?

19 MS. KATTEN: Good morning, this is Anne Katten.
20 Hi.

21 CHAIR THOMAS: Hi.

22 MS. KATTEN: Yeah, thanks for the opportunity to
23 speak. I just wanted to echo the comments of Stephen
24 Knight from Worksafe that we have an urgent need for a
25 Workplace Violence Prevention Standard. In agriculture it

1 tends to be more to protect from abuses of the supervisor
2 to employee, but you know, it's very, very serious problem
3 still. And I just wanted to remind everyone that the goal
4 in developing a standard is to protect employees from
5 hazards and not necessarily to get a consensus between
6 representatives of employees and employers.

7 I also think that it -- actually, we were
8 concerned that the current draft is it moves to be a little
9 bit more general and with less specific requirements than
10 the healthcare violence prevention standard. And we think
11 that more specific requirements are both more protective
12 for workers and can make it easier for employers including
13 small employers to know how to comply with the standard.
14 And I'm not talking about a one-size-fits-all, like a huge
15 security system for every worksite, but just the prompts on
16 what you need to include in your reporting and in your
17 plan, and things like that. And so I urge things to go
18 forward with development of the standard. Thank you.

19 CHAIR THOMAS: Thank you.

20 Do we have any other callers, Maya?

21 MS. MORSI: I'll circle back to Tim Flood with
22 Trico Painting once more.

23 CHAIR THOMAS: Was that Tim? Yeah, Tim are you
24 with us? I guess not. Do we have any other callers at
25 this time?

1 MS. MORSI: We do not have any more commenters.

2 CHAIR THOMAS: All right. So we don't have any
3 more commenters in-person, we have no more commenters on
4 the phone.

5 So at this time we are going to -- let me get to
6 my page here -- we want to thank you for your testimony,
7 the Board appreciates it. And since there are no further
8 comments the public meeting is adjourned and the record is
9 closed.

10 We will now proceed with the business meeting.
11 The purpose of the business meeting is to allow the Board
12 to vote on matters before it and to receive briefings from
13 staff regarding the issues listed on the business meeting
14 agenda. Public comment is not accepted during the business
15 meeting unless a member of the Board specifically requests
16 public input.

17 Proposed Variance Decisions for Adoption. Ms.
18 Gonzalez, will you please brief the Board?

19 MS. GONZALEZ: Good morning, Board Members. We
20 have Proposed Variance Decisions 1 through 115 ready for
21 your consideration and vote. And I want to mention that
22 115 is a recommended grant.

23 CHAIR THOMAS: Okay. So do I have a motion to
24 adopt the consent calendar 1 through 115?

25 BOARD MEMBER HARRISON: So moved.

1 BOARD MEMBER STOCK: Second.

2 CHAIR THOMAS: So I have a motion and second.

3 And are there any questions before we continue to the vote?

4 And if there are none then, Ms. Paskins, will you please

5 read the record, read the role?

6 MS. PASKINS: I just want to verify; Dave

7 Harrison was the motion and Laura Stock was the second?

8 UNKNOWN SPEAKER: Right.

9 CHAIR THOMAS: I believe so.

10 MS. PASKINS: Great.

11 Ms. Burgel?

12 BOARD MEMBER BURGEL: Aye.

13 MS. PASKINS: Ms. Crawford?

14 BOARD MEMBER CRAWFORD: Aye.

15 MS. PASKINS: Mr. Harrison?

16 BOARD MEMBER HARRISON: Aye.

17 MS. PASKINS: Ms. Kennedy?

18 BOARD MEMBER KENNEDY: Aye.

19 MS. PASKINS: Ms. Stock?

20 BOARD MEMBER STOCK: Aye.

21 MS. PASKINS: Chairman Thomas?

22 CHAIR THOMAS: Aye. The motion passes.

23 So we will do a Division Update. Mr. Graulich,

24 would you please brief the Board?

25 MR. GRAULICH: Thank you, Chairman Thomas, and

1 Board Members, the public. Thanks for coming today. I
2 just have a brief comment on several of the projects that
3 we're working on.

4 The COVID Prevention Emergency Temporary Standard
5 that became effective in May and that will stay through to
6 the end of the year, we've been updating the Frequently
7 Asked Questions after some changes from CDPH that affected
8 the ETS. And we're working on getting those further
9 updates posted as quickly as we can.

10 On the COVID-19 Non-Emergency Standard, we
11 submitted non-emergency prevention rulemaking documents to
12 Board staff and that proposal is expected to be noticed in
13 July. On July 29th, I think, is the goal, with a public
14 hearing at the Board meeting here in September is the
15 current plan.

16 Workplace violence, as has been mentioned by many
17 today, on May 17th we posted on our website the updated
18 revision and discussion draft. That's received many
19 written comments that came in. That closed on the 18th, on
20 Monday, so we're just now categorizing and reviewing those
21 comment letters. And we are currently planning on holding
22 an additional advisory committee meeting as most of you
23 have mentioned, so we look forward to that.

24 Indoor heat, we resubmitted our indoor heat
25 rulemaking documents to the Standards Board on the 23rd of

1 May, we are waiting for feedback from Board staff.

2 The lead project, we completed changes and
3 updates to the lead rulemaking package and are resubmitting
4 that to Board staff shortly.

5 The first aid package, that kit proposal was
6 noticed on March 4th of 2022. A public hearing was held on
7 April 22nd. We are currently preparing a 15-day change
8 notice in response to public comments that were received on
9 that proposal.

10 And on wildfire firefighting respiratory
11 protection, we had an advisory committee meeting on May 25th
12 to review a draft regulation for firefighter respiratory
13 protection during wildland, urban interface, and wildland
14 fires. And we are currently reviewing the comments from
15 that meeting and plan to update that draft regulation for
16 future public input.

17 And that's all I have right now.

18 CHAIR THOMAS: Thank you. Are there any
19 questions from the Board, for Mr. Graulich?

20 BOARD MEMBER STOCK: Yes.

21 CHAIR THOMAS: Go ahead, Barbara.

22 BOARD MEMBER BURGEL: Okay, thank you. I just
23 wanted to ask about the advisory committee for the
24 workplace violence. Is it going to be in 2023 or is it
25 going to be sooner? Do you have a date planned for that

1 advisory committee?

2 MR. GRAULICH: I do not have a date yet. I know
3 that we would like to get it as quickly as possible, I just
4 don't know if our schedule will allow it to fall on this
5 year. So I think the proposal is for early next year, but
6 I don't have a date yet.

7 BOARD MEMBER BURGEL: Okay. Thank you.

8 CHAIR THOMAS: Any other questions from Board
9 Members? Oh, Laura.

10 BOARD MEMBER STOCK: Yes, I do. This is Laura
11 Stock. Thanks for that report. Just to say I also just
12 second the hope that that advisory committee can be
13 scheduled as soon as possible.

14 But my particular question and this may, in fact
15 also be a potential agenda item for next month, is to get
16 more information from the Division about how the new
17 definition of "close contact" that's been adopted based on
18 new CDPH guidelines, how that is playing out in
19 enforcement. So that seems like it's an important change
20 and introduces some ambiguity a little bit about what is
21 defined as a close contact. And leaves it to employers to
22 evaluate whether people have been sharing indoor space.
23 And that's of some concern.

24 And I'm curious about whether that would be
25 interpreted, because there is in the reg, language that

1 requires that employees be involved in determining hazards.
2 And I would hope that they'd be involved in that process
3 also. But I'd be interested in hearing how that changed
4 definition is impacting Cal/OSHA enforcement procedures and
5 experience. So I don't know if you have any comments on
6 that now. Or if not, if we could hear more about that next
7 month?

8 MR. GRAULICH: I don't have any information on
9 that at this time, but I will pass that on and hopefully we
10 will be able to get something to you at the next meeting.

11 BOARD MEMBER STOCK: Thank you.

12 CHAIR THOMAS: Any other Board questions? None,
13 none? All right, then we will move on to Legislative
14 Update. Ms. Gonzalez, will you please brief the Board?

15 MS. GONZALEZ: Of course. I wanted to give you
16 an update on AB 1643, which is the extreme heat advisory
17 committee. That bill has been placed in the suspense file.

18 And then SB 189, which the Chair mentioned at the
19 beginning of the meeting was passed and signed by the
20 Governor. And what this bill does is it provides extension
21 of the amendments to Bagley-Keene, allowing for the Board
22 to meet by teleconference through July 1st, 2023.

23 CHAIR THOMAS: Any other questions from the Board
24 for Ms. Gonzalez? (No audible response.) All right, I'm
25 not seeing any.

1 Executive Officer's Report. Ms. Shupe, will you
2 please brief the Board?

3 MS. SHUPE: Thank you, Chair Thomas.

4 As noted at the top of the meeting, and by our
5 Chief Counsel, some of our Board Members are attending
6 remotely. This is allowed by the Executive Order. At this
7 time Board staff have no plans to discontinue our in-person
8 meeting sites, but we will continue to evaluate ongoing
9 guidance on public health for public meetings as we
10 continue with our schedule through the end of the year and
11 going forward.

12 Looking forward to our regulatory packages.
13 Board staff will be hosting an advisory committee meeting
14 on August 31st to consider proposed changes to Section 1630,
15 which is elevators for hoisting workers. This rulemaking
16 proposal was initiated not only by a Form 9 from the
17 Division, but also by request from industry.

18 And we are finalizing Stage 1 draft documents for
19 residential fall protection. The Board may recall that
20 federal OSHA updated their regulations to require a six-
21 foot trigger height for fall protections in construction.
22 Cal/OSHA's regulations must be at least as effective as
23 federal standards. So this proposal is the first of two
24 planned rulemakings to help us meet that requirement.

25 And that concludes my report. Are there any

1 questions?

2 CHAIR THOMAS: Any questions for Ms. Shupe?

3 BOARD MEMBER BURGEL: Yeah.

4 CHAIR THOMAS: Barbara?

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

6 This is Barbara Burgel.

7 Christina, based on our last meeting and the
8 testimony we've heard from the remote avalanche control
9 folks, do we have a date for that advisory committee?
10 That's what they were asking for, to sort of move that
11 forward somehow. To fast-track the review of the
12 regulatory changes around using remote avalanche control
13 systems. So I've lost track with that. Could you advise,
14 please?

15 MS. SHUPE: It is on our regulatory schedule.
16 It's one of the packages that we're working on, but it is
17 not at this time a priority package.

18 BOARD MEMBER BURGEL: What would make it a
19 priority package?

20 MS. SHUPE: So our priority packages as of now --

21 BOARD MEMBER BURGEL: I mean, I thought it was
22 pretty compelling their testimony about the howitzers and
23 the other states having these remote systems. And just
24 being caught without any kind of avalanche control system
25 if they were unable to get their guns from the Army, as I

1 recall.

2 MS. SHUPE: So as --

3 BOARD MEMBER BURGEL: (Overlapping colloquy.)

4 Would that not make it a priority? I'm just curious, what
5 -- how can that get shifted to a priority issue?

6 MS. SHUPE: So as the Board is well aware we have
7 limited resources to address regulatory proposals. And our
8 priority packages right now are wildfire, the firefighter
9 PPE, wildfire protections. The Division has the
10 respiratory piece of that, but the Standards Board staff
11 has the rest of that package.

12 We also are working with the Division on their
13 lead package, first aid, workplace violence. We have
14 residential fall protection, which is a federally mandated
15 requirement that we have to have in order to be a state
16 plan.

17 And we are also working on -- I apologize --
18 construction personnel hoists, which is a priority package
19 and impacts construction in the state.

20 So it's not that we are insensitive to the needs
21 of the industry, it is simply a matter of resources.

22 BOARD MEMBER BURGEL: I understand. Thank you.

23 CHAIR THOMAS: Thank you. Any other questions
24 for Christina? All right, not seeing any.

25 New Business - Future Agenda Items, are there any

1 Board Members that have questions for staff? Or items that
2 they would like to propose for future Board agenda items?
3 I think we've kind of covered that, but are there any?

4 BOARD MEMBER STOCK: Yeah, I just want to confirm
5 my added one to see if we can get information from Cal/OSHA
6 about the impact of the new CDPH definitions of close
7 contact and anything that can be shared about enforcement
8 impact.

9 CHAIR THOMAS: Thank you. Any other items Board?
10 All right, so at this time we are going into
11 closed session, correct?

12 MS. SHUPE: Yes.

13 CHAIR THOMAS: And so we are going to recess for,
14 15 minutes enough, or we need more?

15 MS. SHUPE: That should be fine.

16 CHAIR THOMAS: Okay, so we're going to recess for
17 15 minutes, more or less. We'll try and reconvene back
18 here at 11:30. So we will see you in a few minutes.

19 We're in recess right now, thank you.

20 (Off the record at 11:14 a.m.)

21 (On the record at 11:38 a.m.)

22 CHAIR THOMAS: We have nothing to report in our
23 closed-door meeting, closed session.

24 Our next Standards Board regular meeting is
25 scheduled for August 18th, 2022, in Santa Clara which will

1 be a new location for us. And we are looking forward to
2 that and it will have teleconference and videoconference.
3 Please visit our website and join our mailing list to
4 receive the latest updates. Thank you for your attendance,
5 and we will see you next month. And I want to thank the
6 technical staff for all their help today. Thank you very
7 much. And we'll see you next month.

8 (The Business Meeting adjourned at 11:39 a.m.)

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CERTIFICATE OF REPORTER

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.

And I further certify that I am not of counsel or attorney for either or any of the parties to said hearing nor in any way interested in the outcome of the cause named in said caption.

IN WITNESS WHEREOF, I have hereunto set my hand this 16th day of August, 2022.



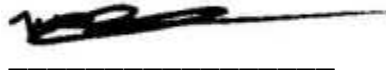
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I do hereby certify that the testimony in the foregoing hearing was taken at the time and place therein stated; that the testimony of said witnesses were transcribed by me, a certified transcriber and a disinterested person, and was under my supervision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

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Myra Severtson
Certified Transcriber
AAERT No. CET**D-852