

STATE OF CALIFORNIA

DEPARTMENT OF INDUSTRIAL RELATIONS

OCCUPATIONAL SAFETY & HEALTH STANDARDS BOARD

PUBLIC MEETING AND BUSINESS MEETING

In the Matter of:                    )  
July 20, 2023 OSH                    )  
Standards Board Meeting            )  
\_\_\_\_\_ )

IN-PERSON & TELECONFERENCE

Attend the meeting in person:

Cal/EPA Building  
Byron Sher Auditorium  
1001 I Street  
Sacramento, CA 95814

Attend the meeting via Video Conference

THURSDAY, JULY 20, 2023

10:00 A.M.

Reported by:  
E. Hicks

APPEARANCES

BOARD MEMBERS PRESENT AT CAL/EPA BUILDING:

Dave Thomas, Chairman  
Kathleen Crawford, Management Representative  
Nola J. Kennedy, Public Representative  
Laura Stock, Occupational Safety Representative

BOARD STAFF PRESENT AT CAL/EPA BUILDING:

Christina Shupe, Executive Officer  
Amalia Neidhardt, Principal Safety Engineer  
Autumn Gonzalez, Chief Counsel  
Sarah Money, Executive Assistant

BOARD STAFF ATTENDING VIA TELECONFERENCE AND/OR WEBEX:

Steve Smith, Principal Safety Engineer - Special Consultant  
Lara Paskins, Staff Services Manager  
Jesi Mowry, Administration & Personnel Support Analyst

ALSO PRESENT IN SACRAMENTO:

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

TKO STAFF:

Maya Morsi  
John Roensch  
Edwin Ortega

INTERPRETERS:

Erin LaFargue  
Fabian Londono

APPEARANCES (Cont.)

PUBLIC MEETING COMMENTERS: (\*Online testimony)

Mitch Steiger, California Labor Federation  
Don Schinske, Western Occupational and Environmental  
Medical Association  
Beverly Yu, State Building Construction Trades Council  
\*Manijeh Berenji, MD, MPH, QME, FACOEM, FACPM, Self  
\*Dr. Robert Harrison, California Department of Public  
Health, CDPH  
\*Nichole Quick, LA County Department of Public Health  
Steve Johnson, Associated Roofing Contractors of the  
Bay Area Counties  
Dave Smith, Dave Smith & Company  
Helen Cleary, Phylmar Regulatory Roundtable, PRR OSH Forum  
\*Adam R. Young, Seyfarth Shaw, LLP  
\*AnaStacia Nicol Wright Worksafe  
\*Pamela Murcell, California Industrial Hygiene Council  
Chris Walker, California Association of Sheetmetal and Air  
Conditioning Contractors, CAL SMACNA  
Bruce Wick, Housing Contractors Of California  
\*Anthony Biascan, MD, FACOEM, Western Occupational and  
Environmental Medical Association  
\*Jane Fazio, MD, University Of California Los Angeles,  
Olive-View Hospital  
\*Leobardo Segura-Meza, Self  
\*Kevin Riley, UCLA Labor Occupational Safety and  
Health Program  
\*Robert Blink, MD, Western Occupational and Environmental  
Medical Association, WOEMA  
\*Wendy Thanassi, Stanford Medicine  
\*Jessica Guzman, representative from the Office of  
Assemblywoman Luz Rivas, 43rd Assembly District  
\*Denise Kniter, Los Angeles County Business Federation,  
BizFed  
\*Jim Hieb, Natural Stone Institute

I N D E X

	Page
I. CALL TO ORDER AND INTRODUCTIONS	7
II. PUBLIC MEETING (Open for Public Comment)	10
A. PUBLIC COMMENT - 13	
B. ADJOURNMENT OF THE PUBLIC MEETING - 75	
III. BUSINESS MEETING - All matters on this Business Meeting agenda are subject to such discussion and action as the Board determines to be appropriate.	75
<p>The purpose of the Business Meeting is for the Board to conduct its monthly business.</p>	
A. PROPOSED PETITION DECISION FOR ADOPTION	
1. Western Occupational and Environmental Medical Association R. Terrazas, MD MPH Petition File No. 597	76
B. PROPOSED VARIANCE DECISIONS FOR ADOPTION	101
1. Consent Calendar	
C. REPORTS	102
1. Division Update - 102	
a. Lead Standard	
2. Legislative Update - 112	
3. Executive Officer's Report - 113	

I N D E X

III. BUSINESS MEETING (Cont.)

	Page
D. NEW BUSINESS	114
1. Future Agenda Items	
<p>Although any Board Member may identify a topic of interest, the Board may not substantially discuss or take action on any matter raised during the meeting that is not included on this agenda, except to decide to place the matter on the agenda of a future meeting. (Government Code sections 11125 &amp; 11125.7(a).).</p>	
E. CLOSED SESSION	---
<p><u>Matters Pending Litigation</u></p>	
1. Western States Petroleum Association (WSPA) v. California Occupational Safety and Health Standards Board (OSHSB), et al. United States District Court (Eastern District of California) Case No. 2:19-CV-01270	
2. WSPA v. OSHSB, et al., County of Sacramento, CA Superior Court Case No. 34-2019-00260210	
<p><u>Personnel</u></p>	
F. RETURN TO OPEN SESSION	---
1. Report from Closed Session	

I N D E X

III. BUSINESS MEETING (Cont.)	Page
G. ADJOURNMENT OF THE BUSINESS MEETING	116
August 17, 2023 County Administration Center Room 310 1600 Pacific Highway San Diego, CA 92101 10:00 a.m.	
Reporter's Certificate	117
Transcriber's Certificate	118

1 P R O C E E D I N G

2 JULY 20, 2023

10:01 A.M.

3 CHAIR THOMAS: This meeting of the OSHA,  
4 Occupational Safety and Health Standards Board is now  
5 called to order. Let's stand for the flag salute, please.

6 (Whereupon the Pledge of Allegiance was recited.)

7 CHAIR THOMAS: Good morning. I'm Dave Thomas,  
8 Chairman. The other Board Members present today are  
9 Kathleen Crawford, Management Representative; Ms. Nola  
10 Kennedy, Public Member; and Ms. Laura Stock, Occupational  
11 Safety Representative.

12 Present from our staff for today's meeting are  
13 Christina Shupe, Executive Officer; Amalia Neidhart,  
14 Principal Safety Engineer, who is also providing  
15 translation services for the commenters who are native  
16 Spanish speakers; Steve Smith, Principal Safety Engineer -  
17 Special Consultant; Ms. Autumn Gonzalez, Chief Counsel; and  
18 Sarah Money, Executive Assistant.

19 Also present is Eric Berg, Deputy Chief for  
20 Health, Health for Cal/OSHA.

21 Supporting the meeting remotely are Lara Paskins,  
22 Staff Services Manager; Jesi Mowry, Administration and  
23 Personnel Support Analysts.

24 Copies of the agenda and other materials related  
25 to today's proceedings are available on the table near the

1 entrance to the room, and are posted on the OSHSB website.

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

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

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

20 If you are participating via teleconference or  
21 videoconference, the instructions for joining the public  
22 comment queue can be found on the agenda. You may join by  
23 clicking the public comment queue link in the "Meetings,  
24 Notices and Petitions" section on the OSHSB website, or by  
25 calling 510-868-2730 to access the automated public comment



1 queue voicemail.

2           When the public meeting begins, we are going to  
3 alternate between three in-person speakers and three remote  
4 speakers. When I ask for public testimony, in-person  
5 commenters should provide a completed speaker slip to the  
6 staff person near the podium and announce themselves to the  
7 Board prior to delivering any comments.

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

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

24           After the public meeting is concluded, we will  
25 hold a business meeting to act on those items listed on the

1 business meeting agenda.

2 We will now proceed with the public meeting.

3 Anyone who wishes to address the Board regarding matters  
4 pertaining to occupational safety and health is invited to  
5 comment. Except, however, the Board does not entertain  
6 comments regarding variance matters. The Board's variance  
7 hearings are administrative hearings where procedural due  
8 process rights are carefully preserved. Therefore, we will  
9 not grant requests to address the Board on variance  
10 matters.

11 For our commenters who are native Spanish  
12 speakers we are working with Amalia Neidhardt to provide a  
13 translation of their statements into English for the Board.  
14 At this time, Amalia, will you provide instructions to  
15 Spanish speaking commenters, so that they are aware of the  
16 public comment process for today's meeting? Amalia.

17 MS. NEIDHARDT: [READS THE FOLLOWING IN SPANISH]  
18 Public Comment Instructions.

19 "Good morning and thank you for participating in  
20 today's Occupational Safety and Health Standards Board  
21 public meeting. The Board Members present today are Dave  
22 Thomas, Labor Representative and Chairman; Kathleen  
23 Crawford, Management Representative; Nola Kennedy, Public  
24 Member and Laura Stock, Occupational Safety Representative.  
25 "This meeting is also being live broadcast via video and

10

1 audio stream in both English and Spanish. Links to these  
2 non-interactive live broadcasts can be accessed via the  
3 "Meetings, Notices and Petitions" section on the OSHSB  
4 website.

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

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

17 "If you are participating via teleconference or  
18 videoconference, the instructions for joining the public  
19 comment queue can be found on the agenda. You may join by  
20 clicking the public comment queue link in the "meetings,  
21 notices and petitions" section on the OSHSB website, or by  
22 calling 510-868-2730 to access the automated public comment  
23 queue voicemail.

24 "When public comment begins, we are going to be  
25 alternating between three in-person and three remote

1 commenters. When the Chair asks for public testimony, in-  
2 person commenters should provide a speaker slip to the  
3 staff member near the podium and announce themselves to the  
4 board prior to delivering a comment.

5 "For our commenters attending via teleconference  
6 or videoconference, listen for your name and an invitation  
7 to speak. When it is your turn to address the board,  
8 please be sure to unmute yourself if you're using Webex or  
9 dial \*6 on your phone to unmute yourself if you're using  
10 the teleconference line.

11 "Please be sure to speak slowly and clearly when  
12 addressing the Board, and if you are commenting via  
13 teleconference or videoconference, remember to mute your  
14 phone or computer after commenting. Please allow natural  
15 breaks after every two sentences so that an English  
16 translation of your statement may be provided to the Board.

17 "Today's public comment will be limited to four  
18 minutes for speakers utilizing translation, and the public  
19 comment portion of the meeting will extend for up to two  
20 hours, so that the Board may hear from as many members of  
21 the public as is feasible. The individual speaker and  
22 total public comment time limits may be extended by the  
23 Board Chair.

24 "After the public meeting is concluded, we will  
25 hold a business meeting to act on those items listed on the

1 business meeting agenda.

2 "Thank you."

3 CHAIR THOMAS: Thank you, Amalia.

4 If there are any in-person participants who would  
5 like to comment on any matters concerning occupational  
6 safety and health, you may begin lining up at this time at  
7 the podium. We will start with the first three in-person  
8 speakers and then we will go to the first three speakers  
9 that are teleconference or video conference on that queue.  
10 Come right up state, your name, your affiliation. If you  
11 have a credit card and your driver's license, we'll check  
12 you out. (Laughter.)

13 MR. STEIGER: Fortunately, I don't have a credit  
14 card with me. I can hang on to that one. Thank you, Mr.  
15 Chair, and members and staff. Mitch Steiger with the  
16 California Labor Federation. And we are here to bring up  
17 Petition 597, the Silica Standard.

18 We'll divide our testimony up into three main  
19 sections. But first, talk a little bit about what silica  
20 does to human beings, talk a little bit about why the  
21 current standard is so inadequate, and finally, why we  
22 think an emergency temporary standard is so necessary.

23 To get into the issue of what silicone does to  
24 people, it starts with a cough. And it starts with  
25 shortness of breath. It starts to get hard to exercise, to

1 play with your kids, to run. And so you go see the doctor,  
2 maybe the doctor diagnose you right away, maybe they don't.  
3 But either way, whenever they finally do diagnose you, it's  
4 too late. There's no reversing it. There's no going back.  
5 There's no treatment other than a lung transplant in a lot  
6 of these cases. It just continues to get worse. It gets  
7 harder and harder to breathe. Sooner or later, you can't  
8 walk, you can't get up, and then you can't breathe, and  
9 then you die. And then that's it.

10           And that's why we have a specific standard that  
11 deals with silica. Why our regulatory infrastructure  
12 recognizes the need for something. That this is a hazard  
13 of unique severity and so we need to do something specific  
14 about it. But we've learned the hard way in very recent  
15 years that the standard we have right now, even if enforced  
16 really strictly, does not come close to dealing with this -  
17 - the hazard as it exists -- in adequately protecting these  
18 workers, in a few different ways.

19           The first way is that the protections only follow  
20 the result of an exposure assessment. So the employer is  
21 supposed to bring in someone to measure the concentration  
22 in the air, and if the concentration rises above that 25  
23 micrograms per cubic meter, then that's the action level,  
24 the standard takes effect. Well, we learned from the  
25 Special Emphasis Program that basically that's not

1 happening. So the employers are just assuming that they  
2 don't need to do anything in here. They're not above the  
3 action level, everything's fine. But we also learned from  
4 the Cal/OSHA analysis that the vast majority of employers  
5 are above the action level, I think something like two  
6 thirds, when measured, were above the action level. So it  
7 would make a lot more sense to just assume that everyone  
8 is, because most of them are.

9           And even if they were to do an analysis and find  
10 that they're under that level well, that may change as the  
11 business grows. So it would make a lot more sense to have  
12 something there that applies to everyone.

13           And then from there, the protections themselves,  
14 are totally inadequate. So the standard does require  
15 engineering and work practice controls. Unless the  
16 employer can demonstrate that they're not feasible, which  
17 if you're a small shop, as most of these are, you have two  
18 or three employees. Arguably all of the control measures  
19 outlined in the standard would not be feasible. And all  
20 you would have to do is make a case to the inspector, to  
21 the Appeals Board, to whoever, that "I cannot afford any  
22 sort of engineering controls. I cannot afford the negative  
23 pressure system. I cannot afford the adequate wet cutting  
24 system." And it's entirely possible you wouldn't have to  
25 do anything.

1           We saw from the Cal/OSHA analysis, they found  
2 shops with concentrations as high as 670 micrograms per  
3 cubic meter, which is 14 times the permissible exposure  
4 limit and 28 times the action level. If it's not feasible  
5 for that employer to use those engineering and work  
6 practice controls they don't have to do anything. And I  
7 guarantee right now, there are a lot of workers in those  
8 shops wearing bandanas, wearing N95s that they're going to  
9 take off at lunch until it gets clogged up with dust. That  
10 employer may be in compliance with the standard as it  
11 stands right now. And so that's something that needs to be  
12 addressed.

13           There's also another important piece rather than  
14 just keeping the dust down, we need to get it out of the  
15 room, the negative pressure system. Also not required if  
16 it's not feasible, so the employer may not have to do that.

17           And then as far as respiratory protection, we ran  
18 into the exact same issue with wildfire. And that's why we  
19 did an ETS for wildfire where it basically left it up to  
20 the employer to decide, well if it's harmful, then you do  
21 this and this. If it's feasible, then you do this and  
22 this. Well, what we've learned again the hard way, is that  
23 things like N95s just don't work here. Obviously, cloth  
24 masks and bandanas don't do anything.

25           These workers need very specific powered air



1 purifying respirators, other kinds of full face respirators  
2 that actually do a really good job of keeping the dust from  
3 getting into their bodies. And if we don't clearly require  
4 that, as the standard right now currently doesn't, that's  
5 why you hardly see any workers in this industry wearing  
6 those, you have the epidemic of silicosis that we're seeing  
7 right now.

8           And there are a lot of other issues with record  
9 keeping and with signage, and medical exams. But the  
10 standard just -- even if Cal/OSHA had all the resources in  
11 the world, even if they had someone going to every single  
12 one of these 808 shops to enforce the standard, workers  
13 would still be getting lots and lots of silicosis. Lots of  
14 these workers would be dying. So while enforcement can  
15 always be better. This is, we don't think, an enforcement  
16 problem. This is an issue with the current standard. And  
17 it needs to change. And it needs to change quickly. And  
18 that's why the emergency standard is at issue.

19           Just to kind of recap our history with the  
20 regular rulemaking process we were part of a coalition that  
21 sponsored legislation for an indoor heat standard in 2016,  
22 required that to be proposed for adoption by January of  
23 2019. Here we are in 2023, without one. And best case  
24 scenario that takes effect next year, seven years after the  
25 advisory committee started.

1           With workplace violence, Malia Hall petitioned  
2 this Board in 2017. There's no way that's going to be in  
3 place next year, so that's going to be far more than seven  
4 years. We cannot wait seven years for these workers. They  
5 are out there. They're getting silicosis now. They are  
6 dying now. We need to move a lot faster.

7           The emergency rulemaking process will still take  
8 months. There is still plenty of ways for people to weigh  
9 in on that process and try to tweak the standard to make  
10 sure that it works as well as it can. But the fact of the  
11 matter is that the regular rulemaking process has proven  
12 totally inadequate for the hazard that we're facing, for  
13 what these workers are going through, for what their  
14 families are going to go through if we don't do anything.

15           And we would strongly urge the Board to adopt the  
16 petition as recommended by Cal/OSHA so that we can do a  
17 better job of keeping workers safe. Thank you.

18           CHAIR THOMAS: Thank you.

19           Who do we have next?

20           MR. SCHINSKE: Thank you, Mr. Chair and Members.  
21 My name is Don Schinske. I'm here on behalf of the Western  
22 Occupational and Environmental Medical Association. We are  
23 the petitioners on this particular petition. We are the  
24 regional component of the American College of Occupational  
25 Environmental Medicine. Some of you will have heard of the

1 ACOEM guidelines. Those guidelines serve as the backbone  
2 of medical treatment in our state's Workers' Comp systems.  
3 We obviously have members who work up and down that system.  
4 Also, as company medical directors, medical directors for  
5 the carrier's, also in public health, teaching facilities  
6 and cetera. All sort of united under the guiding star of  
7 going where the science will take us.

8           Similarly, I think we have a similar approach to  
9 regulations. We don't come here often with petitions. We  
10 in a sense, in the regulatory environment, believe in the  
11 minimum effective dose I guess you'd have to say. And  
12 that's maybe why the staff report surprised us a little bit  
13 on this petition. Fundamentally, we do think it misreads  
14 kind of the -- not just the severity of the situation we're  
15 in, but also maybe misreads kind of the nature of the  
16 facilities where stone is cut. And misinterprets the tools  
17 that are currently available in regulation to address them.

18           So you'll hear today from physicians who can talk  
19 to all those things. But I think what you will hear  
20 though, is that we are in a bit of a moment. And it's a  
21 moment when we can start to save young lungs and young  
22 lives in, and we should rise to it.

23           CHAIR THOMAS: Thank you.

24           Do we have another in-person speaker? We'll do  
25 one more, and then we will move to those on video or audio.

1 Go ahead, good morning.

2 MS. YU: Good morning, Chair Thomas and Members  
3 of the Board, Beverly Yu on behalf of the State Building  
4 and Construction Trades Council of California. Thank you  
5 for the meeting today.

6 We support Petition 597 which seeks to implement  
7 emergency temporary standards to protect fabricated stone  
8 workers from silicosis because the current standard is  
9 insufficient. We respectfully urge the Board to reject the  
10 proposed decision from staff, and adopt Cal/OSHA's proposed  
11 decision that is based on literature review and feedback  
12 from experts.

13 Specifically, the petitioner recommends that ETS  
14 be implemented wherever engineered stone is used that  
15 consists of greater than or equal to 50 percent silica and  
16 that require greater control over regulated areas where  
17 fabrication work is conducted, prohibition of dry  
18 fabrication processes, use of supplied air or powered air  
19 purifying respirators and (indiscernible) --

20 CHAIR THOMAS: Excuse me, one second. Sorry to  
21 interrupt. Could I get your name again, and affiliation?  
22 Somehow, we missed it.

23 MS. YU: Absolutely. Beverly Yu, on behalf of  
24 the State Building and Construction Trades Council of  
25 California.

1 CHAIR THOMAS: Thank you. Sorry about that.

2 MS. YU: Thank you, sir.

3 Going back to what the petitioner recommends,  
4 they recommend any reporting to Cal/OSHA and classification  
5 of all citations as serious. The petitioner points to four  
6 problems that call for immediate action, which we also  
7 strongly urge the Board take into consideration.

8 One, about 50 workers in the industry have  
9 recently been diagnosed with advanced silicosis, some of  
10 whom have died. Two, these workers were exposed to  
11 respirable crystalline silica, RCS, while working with  
12 engineered stone. Three, engineered stone contains up to  
13 95 percent silica. And four, the existing silica standard  
14 is not well suited for protecting employees in this  
15 industry.

16 Silicosis, as you know, is a debilitating and  
17 preventable occupational lung disease that poses a serious  
18 threat to our workforce. Victims of silicosis is caused by  
19 exposure to crystalline dust from cutting stone, quartz or  
20 tile, are often years removed from their exposure to silica  
21 dust before symptoms are present and might have also  
22 exposed to it by family members.

23 Silica dust is classified as a lung carcinogen  
24 and can cause shortness of breath, scarring of the lungs,  
25 labored breathing and respiratory failure among other

1 symptoms. Roughly 4,000 California workers in that  
2 industry, a very conservative estimate of 85 to 161 could  
3 die of silicosis. That means 4 percent of this workforce  
4 can likely expect to die from pulmonary fibrosis and  
5 respiratory failure as a result of occupational exposure.

6 Silicosis also impacts some of our most  
7 vulnerable workers, non-English speaking immigrants, their  
8 dedication should not come at the cost of their wellbeing  
9 and their health. We have a moral imperative here to  
10 protect our workers from a debilitating case of silicosis.

11 Cal/OSHA's proposed decision on Petition 597  
12 would, if adopted by the Board, take immediate steps to  
13 mitigate this hazard. And we're looking forward to working  
14 with the Board to provide an immediate path to address the  
15 severity of the crisis and provide protection for the  
16 workforce. Thank you very much.

17 CHAIR THOMAS: Thank you.

18 We will now go to our callers online. Maya, are  
19 you there?

20 MS. MORSI: Yes, I am.

21 CHAIR THOMAS: And who do we have first?

22 MS. MORSI: First up is, Dr. Manijeh Berenji,  
23 affiliated as self.

24 CHAIR THOMAS: Hello, doctor.

25 DR. BERENJI: Good morning, all. Can you hear

1 me?

2 CHAIR THOMAS: Yes, go right ahead.

3 DR. BERENJI: Wonderful. Thank you so much. My  
4 name is Manijeh Berenji. I'm a practicing Occupational and  
5 Environmental Medicine Physician based in Long Beach,  
6 California. And I'm a member of WOEMA. My views expressed  
7 are my own and do not represent those of my employer.

8 I am here today to speak as a healthcare  
9 professional and bring my voice to this worker silicosis  
10 epidemic. Over the last few years I have seen how silica  
11 dust has impacted workers in Los Angeles County, where I  
12 practice. I have previously taken care of workers in the  
13 San Fernando Valley, who worked in the countertop  
14 fabricator shops nearby. Many of them came to the clinic  
15 presenting with cough and difficulty breathing. They would  
16 get tested for COVID and flu, come back negative, and be  
17 sent back to work. But many of them were working in  
18 extremely dusty conditions, performing dry cutting and  
19 other tasks with little to no safeguards in place.

20 Today, we have had experts discuss how silica  
21 dust and the cutting and grinding of artificial stone  
22 without protections has led to this worker silicosis  
23 epidemic in California and beyond. A patient is going to  
24 be presenting here today with ongoing respiratory symptoms,  
25 and now has to get a lung transplant. This is not

23

1 acceptable and should not happen in California.

2           Silicosis is an ancient disease that has existed  
3 for centuries and continues to take the lives of many stone  
4 workers, miners, sandblasters among others, and is entirely  
5 preventable. What we are petitioning for is not rocket  
6 science. We are merely responding to a crisis that has  
7 taken the lives of many innocent California workers. By  
8 calling for an emergency temporary standard to respond to  
9 the crisis, we are taking collective action to protect  
10 these workers.

11           And WOEMA is not alone in viewing these risks of  
12 silicosis as an emergency. A few months ago, at the  
13 American College of Occupational Environmental Medicines'  
14 annual meeting, the House of Delegates overwhelmingly  
15 supported a resolution to advocate for national ETS  
16 standard.

17           We have two of the most prestigious occupational  
18 medicine societies in the nation, ACOEM and WOEMA, and  
19 we're calling for rapid action by regulatory and public  
20 health societies to control the risks of exposure to silica  
21 dust, among fabricators of engineered stone. Let's not  
22 waste another minute. Thank you so much.

23           CHAIR THOMAS: Thank you.

24           Who do we have next Maya?

25           MS. MORSI: Up next is Dr. Robert Harrison with



1 California Department of Public Health.

2 CHAIR THOMAS: Dr. Harrison, are you with us?

3 DR. HARRISON: I am. Are you able to hear me?

4 CHAIR THOMAS: Yes, go right ahead.

5 DR. HARRISON: Great. Good morning, everybody.  
6 My name is Dr. Robert Harrison. I'm a physician with the  
7 California Department of Public Health and I'm speaking on  
8 behalf of CDPH. I direct the group that collects and  
9 analyzes data on workplace injury and disease in  
10 California, including silicosis.

11 And I would say parenthetically, that about 10  
12 years ago, 15 years ago probably, I sat exactly where you  
13 all are sitting today as a member of the California Safety  
14 and Health Standards Board. And I actually heard the  
15 petition for an emergency standard for heat illness back  
16 then. So I have some kind of understanding and empathy for  
17 the decisions that you have to make about whether or not to  
18 approve this emergency standard for this petition.

19 The California Department of Public Health agrees  
20 that this petition should be accepted. We really urge the  
21 Board to think about this as an emergency. You've already  
22 heard from several speakers, and you're going to hear from  
23 a lot more this morning, about why this is an emergency.  
24 And CDPH believes also that this is an emergency that needs  
25 prompt action. That we shouldn't delay from a public

25

1 health point of view by putting this into the standard  
2 rulemaking process, which will take years. And an  
3 emergency standard will get this rolled out, and the Board  
4 will get a proposal back from Cal/OSHA to consider in a  
5 much faster way, which this deserves.

6 Our department, CDPH, first identified cases of  
7 silicosis in 2019. And we published a report in the  
8 "Morbidity and Mortality Weekly Report," which is  
9 referenced in the analysis that the Board got. And since  
10 that time, we've seen a total of 77 cases in California,  
11 including at least 10 fatalities. And these have mostly  
12 been among young Latino immigrant workers. And the last  
13 have occurred just in the last two to three years.

14 Cal/OSHA had what's called a special emphasis  
15 program in 2019. They went out and collected silica dust  
16 samples in over 100 shops, and over half of those shops had  
17 silica over-exposures, some with extremely high levels. I  
18 don't think, and our department doesn't think there's any  
19 reason to expect that silica dust levels in the shops today  
20 are really any different than they were in 2019 when  
21 Cal/OSHA went out and did the last Special Emphasis  
22 Program.

23 Engineered stone is causing severe silicosis  
24 really unlike anything we've seen since the 1930s. This is  
25 not your grandmother or great grandmother's or

1 grandfather's silicosis. I think you're going to hear  
2 later from Dr. Fazio, what it's like for her patients.  
3 This is something really entirely different from anything  
4 we've ever seen.

5           And unfortunately, even if we have an emergency  
6 standard, even if you even if you vote today, which I hope  
7 you do, to approve this petition, we're going to see dozens  
8 if not hundreds of more cases of silicosis over the next  
9 decade just from exposures that have happened in this  
10 industry in the last decade. So, there is a sense, a very  
11 much, much sense of urgency. Australia has collected some  
12 of the best data. They're seeing about a quarter of all  
13 their tests showing up with silicosis.

14           And the last point I would make is that we're  
15 talking about a group of highly vulnerable California  
16 workers. And the mission of our department, the California  
17 Department of Public Health, is to advance the health and  
18 wellbeing of California's diverse peoples and communities.  
19 And what the Board is considering here, this population is  
20 exactly that. Thank you.

21           CHAIR THOMAS: Thank you.

22           Who do we have next, Maya?

23           MS. MORSI: Up next, we have Jim Hieb, with a  
24 trade association in the stone industry.

25           CHAIR THOMAS: Jim, can you hear us? Jim. I

1 think we're having a problem with that, so either unmute  
2 yourself or we have to move on.

3 We'll go on to the next, Maya.

4 MS. MORSI: Up next is Nichole Quick with LA  
5 County Department of Public Health.

6 CHAIR THOMAS: Nicole, can you hear us?

7 DR. QUICK: Good morning. Can you hear me?

8 CHAIR THOMAS: Yes, go right ahead.

9 DR. QUICK: All right. Good morning, I am Dr.  
10 Nichole Quick. I am a physician and Deputy Director for  
11 the Health Protection Bureau at the LA County Department of  
12 Public Health. And I'm here today to provide comment on  
13 Petition 597.

14 As you have heard from previous speakers  
15 silicosis is 100 percent preventable and the current  
16 standards and practice are not protecting workers.  
17 Additionally, there are changes in practice that can and  
18 should be implemented now to protect workers. LA County  
19 Public Health supports the Western Occupational and  
20 Environmental Medicine Association's petition request with  
21 respect to the need to consider adopting an emergency  
22 temporary standard. We also support Cal/OSHA's  
23 recommendation for an emergency temporary standard.

24 The LA County Board of Supervisors adopted a  
25 motion on June 6 to look at ways to strengthen regulate

1 regulatory protections for workers who are exposed to  
2 silica dust, and we feel the current petition is one  
3 potential avenue to this.

4 I do want to stress the urgency and increasing  
5 protection based on what we are seeing in LA. We have  
6 experienced a very high burden of the silicosis cases in  
7 the state, and we really feel that this is an urgency.  
8 Again, thank you for your consideration. And I appreciate  
9 the opportunity to speak here today.

10 CHAIR THOMAS: Thank you.

11 We will go back to in person. So anybody who  
12 would like to comment, please step up to the podium, state  
13 your name and affiliation. Thank you.

14 MR. JOHNSON: Good morning, Mr. Chairman --

15 CHAIR THOMAS: Good morning.

16 MR. JOHNSON: -- Members of the Board, Division,  
17 Division staff. My name is Steve Johnson, I'm with  
18 Associated Roofing Contractors of the Bay Area Counties.  
19 And I wanted to speak specifically about the 15-day comment  
20 period for the lead standard. And our association is part  
21 of a larger construction coalition of construction employer  
22 groups. And we've written a letter and submitted it to the  
23 Standards Board on the 15-day -- or with comments on the  
24 15-day comment period for lead, so that's what I want to  
25 focus my comments on today.

1           The hope is that with more dialogue and more  
2 stakeholder engagement, that we can get a regulation that  
3 is more clear than what we currently have. I think it's  
4 not too much to ask for a regulation that is  
5 understandable, a regulation that is easier to comply with.

6           And I just think that part of the reason that  
7 there's resistance to complying with any regulation, is  
8 that if it's not understandable, and not easier for  
9 employers to comply with then you just don't get  
10 compliance. And just automatically making regulations  
11 tougher, making regulations -- making the penalties higher,  
12 it doesn't guarantee compliance and we see that with  
13 employers that just ignore the regulation and ignore any  
14 changes to the regulation. They don't understand the  
15 regulation to begin with and they don't have any intention  
16 of complying. And what happens is, it makes the employers  
17 who do want to comply and do want to be part of the  
18 partnership with Cal/OSHA, it makes it more difficult for  
19 them. And it makes them less competitive. And without  
20 having regulations that are practical and easier to comply  
21 with.

22           So that's, I think the main point that I want to  
23 make is that we are looking for engagement with Cal/OSHA.  
24 We're looking for workable solutions, through consultation  
25 for the employers and employer groups. And that's the hope

1 of our continued efforts, to have dialogue. Thank you.

2 CHAIR THOMAS: Thank you.

3 Good morning.

4 MR. SMITH: Good morning. Good morning to the  
5 Board, attendees, staff. I'm Dave Smith, a safety  
6 consultant in California, and the author of Petition 483 on  
7 first aid kits submitted in 2006. So I have the workplace  
8 violence in 2017, and indoor heat beat on that, and are  
9 back to talk about them 17 years later. We still can't  
10 tell California employers what first aid kit to buy. And  
11 that's an easy one. It's not a health standard.

12 So everyone was surprised by the fact that this  
13 one didn't get passed. And I don't think it was because  
14 the staff wasn't working hard. The system obviously is  
15 broken. We have to wait decades to pass some of these  
16 standards. And as I think it was noted somewhere that I  
17 read that, the only way to get a standard passed is to get  
18 a bill through the Legislature compelling the Board and  
19 others to act under force of law. That seems to be the  
20 only way it works. So obviously, the system needs to be  
21 fixed somehow. And I don't know what the answer is. But  
22 perhaps there could be some streamlining of the economic  
23 analysis or other required elements, or something where you  
24 can just plug and play what the required things are.

25 Keep in mind, and I'm sure we all realize this,

1 that these are laws on the books, and a law means  
2 something. And if we're going to pass something that is  
3 achievable, doable, that will actually control hazards,  
4 rather than just create more paperwork on everybody's  
5 plate, then we need to really focus on this. So I  
6 encourage the first aid kit to not wait another 17 years.  
7 But that's where we are.

8 A second thing, very quickly. I personally think  
9 that -- I support Petition 597, the emergency temporary  
10 standard for silica. It's probably clear from the doctors  
11 speaking today, and the people who are personally affected  
12 by this, that this is a big problem. And the problem will  
13 be actually fixing it in reality.

14 So I just thought I'd relate the -- as a general  
15 approach, I think that the whole Table 1 approach, which I  
16 noticed was referenced in the materials, is a really good  
17 idea.

18 Yesterday we had a superintendent safety meeting  
19 at one of my general contractors, and we were reviewing,  
20 along with heat illness, the silicone construction program.  
21 And that just struck me -- and some of the guys were like,  
22 "This is so easy." Yeah, reading hundreds of pages of  
23 other confusing stuff, and then figuring out what to do  
24 actually in the field.

25 The Table 1 approach is great, so I'd love to see



1 that for all health standards. That way, all you have to  
2 do is look at work, what's the engineering control? What's  
3 the administrative control? What if any PPE is needed? It  
4 makes it so much easier to actually do. And if it's not  
5 done, it doesn't fix the hazard. Thank you very much.

6 CHAIR THOMAS: Thank you.

7 Who do we have next? Good morning.

8 MS. CLEARY: Good morning, Chair Thomas, Board  
9 Members, Division and Board Staff. My name is Helen  
10 Cleary. I'm the Director of the Phylmar Regulatory  
11 Roundtable, PRR OSH Forum. PRR's drafting comments for  
12 the 15-day modifications to the lead rulemaking, and we  
13 just like to share our significant concern about the  
14 modifications, and pose a few questions for the Board to  
15 consider.

16 But first, we do want to express our appreciation  
17 for many of the modifications, specifically the exception  
18 for initial blood lead testing and medical surveillance.  
19 This proposed change will help reduce the expansive scope  
20 and help employers manage those short duration and  
21 infrequent low exposures while still protecting workers.  
22 We do want to note that concerns do remain, and  
23 modifications do not address all the issues created by the  
24 interim protection and exposure assessment requirements,  
25 because of the 93 percent reduction.

1           Second, PRR members are highly concerned about  
2 the new training element that's been added to both roles.  
3 The proposed roles --

4           CHAIR THOMAS: Excuse me, you might want to step  
5 back just a hair, yeah. It will pick it up.

6           MS. CLEARY: Okay, all right.

7           CHAIR THOMAS: Thank you.

8           MS. CLEARY: The proposal states that all -- is  
9 that better?

10          CHAIR THOMAS: Yes.

11          MS. CLEARY: Okay -- that all employees  
12 occupationally exposed to lead need to be trained on  
13 housekeeping and hygiene requirements. This is a  
14 supplemental requirement to the training that's already  
15 there for employees exposed to the action level or to  
16 irritants or the ones that need interim protections. So  
17 that implies that there are separate requirements for  
18 exposures below the action level, with no consideration of  
19 duration. We believe the appendix defines occupational  
20 exposure to lead. But this new requirement seems to blur  
21 that. We hope that's not the intent and this is a clarity  
22 issue. If it is the intent, this is a new initial and  
23 annual training requirement that will impact thousands of  
24 workers in both construction and general industry. And it  
25 will be a significant administrative and financial burden

1 that wasn't considered in the SRIA.

2 The use of "occupationally exposed" should be  
3 tied to a threshold. Employers shouldn't be required to  
4 provide an additional awareness training for all potential  
5 incidental exposures that they may experience in the state.

6 Finally, we are looking forward to the Division's  
7 briefing today on the proposal. We're interested in  
8 learning more about the modeling that was used, and that's  
9 in line with Board Member Kennedy's requests at the hearing  
10 about the modeling that was used for the new PEL and action  
11 level.

12 And in addition, PRR members would like to know  
13 more about the modeling used to determine the newly  
14 proposed exception for medical surveillance for employees  
15 who are not exposed on any day above 10 micrograms per  
16 cubic meter of air as an eight-hour time weighted average,  
17 because this will help them craft a negative exposure  
18 assessment.

19 So hopefully, we'll get a little insight in that  
20 briefing today. So thank you for your time. It's nice to  
21 see everybody.

22 CHAIR THOMAS: Thank you.

23 Maya, who do we have on the line?

24 MS. MORSI: Up next, we have Melissa Ortega with  
25 Seyfarth Shaw LLP.

1 CHAIR THOMAS: Melissa, can you hear us? Hello,  
2 Melissa. You might want to do star six and unmute  
3 yourself. If not, let's move on to the next.

4 MR. YOUNG: Hi, this is Adam Young from Seyfarth  
5 Shaw, LLP. I will speak in place of Melissa, if that's  
6 all right.

7 CHAIR THOMAS: Yeah, what's your name again? We  
8 didn't catch it.

9 MR. YOUNG: Adam Young, Y-O-U-N-G. I'm a partner  
10 at the law firm of Seyfarth Shaw. Thank you for the  
11 opportunity to speak today. These are my opinions, and not  
12 those of my employer or clients.

13 We agree that occupational health is an absolute  
14 priority for our clients in the engineered stone industry.  
15 And for that reason, silica exposure continues to be a  
16 major concern. We know that silica is present in many  
17 types of building materials. So we've not heard a lot from  
18 the speakers as to causation, why engineered stone is the  
19 issue as opposed to other products.

20 Cal/OSHA's silica standards address occupational  
21 exposures to these products. In our in our opinion, the  
22 existing standards are adequate to address the hazards, and  
23 the focus should be placed on enhancing those standards.  
24 The petition that we've reviewed is not established with  
25 the facts supported by data as to what regulations are

1 inadequate in those silica standards and how the standards  
2 need to change.

3           The petition's conclusion that the ETS is  
4 necessary to (indiscernible) at least in part on  
5 noncompliance with existing standards, which is not a  
6 legitimate basis for an ETS. A new more complicated  
7 regulation does not result in compliance with existing  
8 ones. And the onus is on Cal/OSHA and must be educating  
9 the regulated community and enforcing existing law, and the  
10 industry absolutely supports that. The community of  
11 fabricators in the state of varying levels of experience.  
12 We agree a renewed focus on outreach is warranted to ensure  
13 that best practices are in use. Industry leaders support  
14 being actively involved in driving awareness and education  
15 campaigns on enforcement of existing standards, including  
16 potentially working to develop a certification process for  
17 fabricators.

18           To the extent that the Standards Board wants to  
19 move forward with a representative advisory committee to  
20 consider improvements to the silica standards, we think  
21 that's more appropriate than an ETS.

22           As we stated above, silica hazards come from a  
23 range of industrial products. But we haven't seen peer-  
24 reviewed work that supports silicosis diagnoses are unique  
25 to this product itself. Federal OSHA developed it's silica

1 standard at action levels and PELs after consideration of  
2 the broader risks of the industry. And those were adopted  
3 and used by Cal/OSHA. We think there's insufficient data  
4 at this point to support a separate ETS and that there's a  
5 risk of moving too quickly without the supporting data.

6           Regulating some of the aspects that were  
7 particularly concerning from the petition were regulating  
8 entire areas where artificial stone is fabricated  
9 regardless of exposure. That would mean portions of entire  
10 facilities or construction sites for the known potential  
11 exposures would be subject to new standards.

12           Dry fabrication: the industry does not oppose  
13 rules relating to dry fabrication, which are already a best  
14 practice. We question whether there's always a one size  
15 fits all approach and there may be a performance standard  
16 founded on other available methods, maybe useful and  
17 helpful as well.

18           The petition would continue to ETS if there are  
19 any silicosis cases discovered by the Division regardless  
20 of whether they're the result of occupational exposures.  
21 We think the ETS continuing should be founded on  
22 comprehensive analysis the data.

23           The petition has no legal basis upon which to  
24 prohibit the use of engineered stone entirely in the state.  
25 Safety controls can reduce hazards to the lowest possible

1 level. We think that type of general prohibition would be  
2 arbitrary and capricious and subject to legal challenge.  
3 It also would not be financially feasible to ban all  
4 products containing high proportions of silica: things like  
5 glass bricks and stone or engineered stone products.  
6 Specifically, they may disrupt -- that type of prohibition  
7 may disrupt the economy of California and put tens of  
8 thousands of workers out of their jobs.

9 California OSHA standards should be performance  
10 based and hazard based. And we don't believe the petition  
11 and its proposed ETS are either. These are my personal  
12 opinions, and we will supplement with additional written  
13 comments. Thank you very much.

14 CHAIR THOMAS: Thank you.

15 Who do we have next, Maya?

16 MS. MORSI: Up next is AnaStacia Nicol Wright  
17 with WorkSafe.

18 CHAIR THOMAS: AnaStacia, can you hear us?

19 MS. NICOL WRIGHT: Yes, sir, I can. Hi.

20 CHAIR THOMAS: Go right ahead. Good morning.

21 MS. NICOL WRIGHT: Morning, Chairman and Board  
22 Members. My name is AnaStacia Nicol and I'm a staff  
23 attorney with WorkSafe. And I'm here today to express  
24 WorkSafe's strong support of the urgent requests for an  
25 emergency temporary standard to address this current crisis

39

1 of silicosis among workers in the engineered stone  
2 fabrication industry. And also to urge the Standard Board  
3 to approve Petition 597 today, in order to protect  
4 California's workers from silica exposure.

5           The case for urgent action is strong. The  
6 fatality rate in this industry is 18 to 20 percent. And  
7 many of those exposed workers who survive will face, or  
8 will likely face a lifetime of suffering from the effects  
9 of an incurable disabling lung disease. Once the workers  
10 lungs are damaged, even if you completely stop the  
11 exposure, that person is going to continue to be  
12 incapacitated and possibly die.

13           Cal/OSHA has laid out a multipoint plan to tackle  
14 silicosis in this industry, of which adoption of a  
15 comprehensive ETS is only the first step. The critical  
16 step to mandate effective engineering controls here -- the  
17 critical step is to mandate effective engineering controls.  
18 And that would include a combination of wet methods, a  
19 local exhaust ventilation, air purification systems.  
20 Together with safe work practice and respiratory  
21 protection, all dry operations and work practices will be  
22 expressly prohibited.

23           The existing framework for worker protection in  
24 this industry urgently needs this adjusted approach. Labor  
25 Code section 5204 is a complex performing standard which



1 requires conducting sophisticated exposure assessments.  
2 Such an approach is not in line with the realities of  
3 California's stone fabrication industry, which is made up  
4 of almost entirely small operators. But even with Labor  
5 Code section 5204 in place, we still have workers that are  
6 getting silicosis way worse and way faster than any  
7 traditional form of masonry.

8           The arguments from Board staff and others that  
9 you can rely on existing enforcement is incorrect. Silica  
10 air measurements require -- silica air measurement  
11 requirements are inconsistent, and the dangers of silica  
12 exposures exist at almost any level of exposure. Effective  
13 protection, silica measuring rules should resemble the  
14 current rules in place for asbestos.

15           Furthermore, the belief that worker compensation  
16 rules require reporting of silicosis is also incorrect.  
17 Because physicians are not required to report those cases  
18 to Cal/OSHA.

19           Central to the proposed emergency response is  
20 recognition of the need to adjust the engineering controls  
21 to the nature of the emergency i.e. simplifying and  
22 clarifying requirements and the manner that small business  
23 owners can meet, and that workplace inspectors can quickly  
24 and easily verify. If the Board is not ready to approve  
25 this ETS, we urge you to send the proposal back to allow

1 Board staff to address significant issues and the staff  
2 report that have and will likely continue to be raised  
3 today.

4 Thank you all for your support of this necessary  
5 emergency action and bring your attention to this important  
6 life or death matter of occupational safety and health.  
7 Thank you all.

8 CHAIR THOMAS: Who do we have next on the line,  
9 Maya?

10 MS. MORSI: Up next is Pamela Murcell with  
11 California Industrial Hygiene Council.

12 CHAIR THOMAS: Pamela, can you hear us?

13 MS. MURCELL: I'm here, hello.

14 CHAIR THOMAS: Yeah, go right ahead.

15 MS. MURCELL: Good morning. How is everyone?  
16 I'm Pamela Murcell with the California Industrial Hygiene  
17 Council. I'm the current President of the Council. And we  
18 have just a few brief comments for you today and I'd like  
19 to share those thoughts on behalf of the CIHC Board. And  
20 thank you, Chair Thomas and Board Members for this  
21 opportunity.

22 Comments are going to cover a couple of issues,  
23 the first of which we have some rulemaking questions. So  
24 CIHC actually does not have any comments on the current 15-  
25 day comment period with proposed changes for the lead

1 standards. But we do have questions on process. And those  
2 questions are as follows -- and I understand I'm not going  
3 to get answers to these on behalf of my group today -- but  
4 we would like to pose these questions for consideration.

5 Do the Standards Board Members receive copies of  
6 stakeholder comments on proposed regulations? If yes, when  
7 do the members receive those copies? And is there an  
8 opportunity for the Standards Board members to provide  
9 feedback on stakeholder comments to the Standards Board  
10 staff and or DOSH, during the response to comments process?

11 Our second question: What is the process for  
12 deciding which comments or recommendations are incorporated  
13 as revisions to the proposed regulations and the changes  
14 that are proposed?

15 And third question: Is there a statutory limit on  
16 the number of 15-day comment periods during an active  
17 rulemaking process?

18 Our second portion of our comments, has to do  
19 with the petition that's in front of the Board today for a  
20 decision. And CIHC understands the proposed decision for  
21 Petition 597. I can't say that that we would agree or  
22 disagree. We understand advisory committee processes. And  
23 we also, if that is adopted, would request to be an  
24 official member of an advisory committee on the changes to  
25 the silica standard.

1           However, our concern with the proposed petition  
2 decision is that it places this issue into a long line of  
3 issues for which the Standards Board has approved convening  
4 an advisory committee. The question to ask is where's the  
5 urgency? If this advisory committee is approved, we  
6 recommend that the approval should come with a specific  
7 date by which the advisory committee is convened. And  
8 clearly that date should be much sooner than later.

9           CIHC is aware of and concerned about the  
10 reemergence of silicosis in the engineered stone  
11 fabrication industry. The associated type of silicosis,  
12 which appears to be either accelerated silicosis, or in  
13 some cases acute silicosis, is typically quite rare in  
14 other industries working with other types of silicone  
15 containing materials. This reemergence is serious for many  
16 reasons, not the least of which is the impact on an  
17 underserved community of workers.

18           It also highlights an issue that is very  
19 concerning to CIHC. Specifically, the lack of Cal/OSHA  
20 enforcement of occupational health standards. CIHC  
21 understands Cal/OSHA has stated reasons for their paucity  
22 of health standards enforcement, but the excuses do not  
23 pass muster anymore considering Cal/OSHA has been made  
24 aware of this concern from many stakeholders over multiple  
25 years running.

1 Cal/OSHA has several enforcement processes in  
2 place such as targeted inspections, special emphasis  
3 programs, high hazard industry inspections etcetera, in  
4 addition to routine enforcement actions. We understand the  
5 special emphasis program was initiated in November of 2020  
6 and updated recently in March of 2023. The question  
7 though, is what has been the impact of this special  
8 emphasis program in advancing protection for the impacted  
9 workers? We are not seeing any results so far.

10 We further understand that written information  
11 and guidance has been posted. However, this is a passive  
12 approach to education for employers and employees. There  
13 needs to be active outreach and education, such as is being  
14 done annually for outdoor heat illness prevention. We  
15 appreciate your time and appreciate the opportunity to  
16 provide these comments. Thank you.

17 CHAIR THOMAS: Thank you.

18 We'll go back to in person commenters. So is  
19 there anyone who would like to make a comment at this time?  
20 Good morning.

21 MR. WALKER: Good morning. Mr. Chair, members,  
22 Chris Walker on behalf of CAL SMACNA. That's the  
23 California Association of Sheetmetal and Air Conditioning  
24 Contractors. Here to make some brief comments on the 15-  
25 day notice for the proposed lead regulation.

1 CAL SMACNA represents 600 signatory contractors  
2 across the State of California with fully 28,000  
3 individuals. We are very active and involved in the  
4 building decarbonization efforts, and have been working  
5 with the California Energy Commission, the Public Utilities  
6 Commission on various adopted rulemakings.

7 The Governor's goal is to get us to carbon  
8 neutral status by 2045. On May 19, Governor Newsom  
9 declared that goal to decarbonize buildings as an all-of-  
10 government approach of his administration. He was looking  
11 to cut timelines, save dollars, and to reduce paperwork  
12 associated with decarbonization of buildings.

13 When we look at the proposed rule that's been set  
14 forward by the staff we continue to note concern that  
15 necessity and reasonableness has not yet been established.  
16 We haven't yet seen why the current proposed rule would go  
17 any further in protecting workers than the existing rule.  
18 Where is the existing rule's insufficient in protecting  
19 workers?

20 What you're about to hear and what you've seen in  
21 a coalition letter that was issued to you yesterday is that  
22 the cost estimates associated with this rule in the  
23 original SRIA are woefully insufficient. What we're  
24 looking at is huge costs to implement these additional  
25 measures, these more aggressive PELs and ALs.

1           Access for capital by both the public and private  
2 sector to decarbonize buildings is already strained to the  
3 limit. The reality of getting between here and carbon  
4 neutrality seems like almost an impossible task. And I  
5 know the Governor is doing everything he can to make it a  
6 possible task. Time and money are the biggest barriers.  
7 Private building owners and public building owners need to  
8 use every dollar that they have for decarbonization. Any  
9 dollar that is spent elsewhere is a dollar against that  
10 goal.

11           We would look to you to direct staff to revisit  
12 the cost estimates in the SRIA, and whether or not this  
13 proposed rule is consistent with Governor Newsom's all-of-  
14 government approach to carbon neutrality efforts in 2045,  
15 and the building decarbonization that needs to happen in  
16 huge scale both in public and private sector across the  
17 state. Thank you.

18           CHAIR THOMAS: Thank you.

19           MR. WICK: Morning, Chair Thomas, Board Members,  
20 staff, and how are y'all, I guess? No, just kidding but I  
21 hope you're okay.

22           CHAIR THOMAS: I'm fine. Do you guys want to  
23 answer that individually or --

24           MR. WICK: Hopefully, everybody's doing okay.

25           CHAIR THOMAS: Go ahead.

1 MR. WICK: Bruck Wick, Housing Contractors of  
2 California. I want to comment on two different things this  
3 morning.

4 One, there were some important comments made by  
5 Board Members at the last meeting that I would like to  
6 respond to. There was a discussion about what's necessary.  
7 And it was described as necessary that labor and management  
8 and safety experts have dialogue to find regulations that  
9 are protective of employees but are implementable by  
10 employers and enforceable by employers.

11 And that is necessary. I totally agree with  
12 that. But then we talk about what's some of the things  
13 that aren't necessary. Two of those were mentioned by  
14 Mitch Steiger earlier, that we have an indoor heat  
15 prevention regulation and a workplace violence regulation.

16 I was at the original advisory committees, where  
17 workers who were in serious need of a regulation came and  
18 spoke passionately, clearly articulately. Unnecessarily,  
19 we said, "Well, let's -- the decision was made we're going  
20 to cover everybody by this one regulation. And so we're  
21 going to delay this regulation for those people that need  
22 it badly now." That's unnecessary. It's nice to say,  
23 let's cover everybody, but you can't do it in the timeframe  
24 those people need it. So when we look at regulations  
25 please, let's not -- let's say what's necessary, and let's



1 do that.

2           The other part kind of correlated to that is  
3 resources. They said we need more resources and that's not  
4 true. California employers fund 85 percent of DIR, 85  
5 percent of Cal/OSHA. In 2010, that amount was \$59  
6 million. This year, that amount is \$170 million, three  
7 times.

8           I know the Standards Board has hired some people,  
9 but Christina, if you need more people the funding should  
10 be there. It's what are the resources being allocated to?  
11 Why is Research and Standards still under-resourced when  
12 resources have tripled basically, in the last 13 years.  
13 Someone at DIR or Cal/OSHA should present to you and to us  
14 why those resources aren't there, aren't allocated that  
15 way. Because we're all frustrated by how long things take  
16 to get done.

17           Okay, off my soapbox for that. But then this  
18 necessary thing comes in with the revisions to the lead  
19 proposal. As we know the SRIA, we are operating under a  
20 very different proposal than the SRIA contemplated even  
21 it's in revisions of 2020.

22           The SRIA said 64 percent of the compliance costs  
23 are in medical surveillance. The actual number is about 5  
24 percent, is in medical surveillance. They were focused on  
25 employees with high blood levels, identifying them, taking

1 care of them. We want to take care of them. Lead is a  
2 serious exposure. That's what we need to do.

3 But this regulation is so broad that where the  
4 SRIA said that ten-year cost in construction was 853  
5 million it's actually \$40 billion over ten years. When you  
6 add every component, if you actually read the reg and look  
7 at what compliance would be if you add portable showering,  
8 which we're still not sure we appreciate -- infeasibility  
9 was "added back in" but should have never been taken out of  
10 the original proposal -- that would add if we had to do  
11 portable showers another \$100 billion over 10 years.

12 These are enormous numbers, and they don't appear  
13 necessary to accomplish what we want to do, which is  
14 protect employees who have a serious lead exposure. That's  
15 important. Let's focus on those. Let's get that done.

16 We have, as our coalition -- as Chris Walker  
17 said, we've issued a letter to you yesterday. We've  
18 requested a meeting with the Division personnel to go over  
19 our view of what the costs are. We hope we get that done  
20 in early August. And we'll report back to you.

21 I'm hopeful we can come to an understanding of  
22 what the real costs of this proposal are and talk about  
23 that with you. Because again if these costs are what it  
24 actually is then public works construction is going to have  
25 to scale back. The affordable housing, the crisis we have

1 in affordable housing that will get worse. Because these  
2 costs have to be passed on. They are not absorbable at  
3 these levels, and unfortunately the underground economy  
4 would grow. And those are all bad outcomes.

5 So there's still a lot more work to do on lead.  
6 And we are committed to working with the Division to try  
7 and get to what are the necessary steps to protect  
8 employees from exposure to lead? Thank you.

9 CHAIR THOMAS: Thank you.

10 Do we have any other in-person speakers at this  
11 time? Nobody else? All right, Maya, who do we have on the  
12 line? Hello, Maya?

13 MS. MORSI: I'm sorry, can you hear me?

14 CHAIR THOMAS: Yep, I hear you now.

15 MS. MORSI: Up next is Dr. Anthony Biascan with  
16 Western Occupational and Environmental Medical Association.

17 DR. BIASCAN: Good morning, everyone. Can you  
18 hear me, please?

19 CHAIR THOMAS: Yes, we can hear you. Go right  
20 ahead, good morning.

21 DR. BIASCAN: Good Morning, counsels. Good  
22 morning, Mr. Chair, and all present. My name is Anthony  
23 Biascan, I'm a Board Certified Occupational Medicine  
24 Physician and Environmental Medical, sorry --  
25 Environmental Medicine Physician with an active practice in

51

1 the San Diego area, caring for approximately 5,000 injured  
2 workers a year.

3 I've read the Standard Board staff report  
4 recommending against granting the petition for an ETS, and  
5 disagree based on several mistakes, and based upon misled  
6 supposition. Bottom line, I believe making silicosis cases  
7 reportable is important by physicians.

8 The emergency standard would establish a  
9 requirement for health care providers to notify the  
10 Department of Occupational Safety and Health of a silicosis  
11 case. In reading the report, the panel made mention of two  
12 Title 8 sections cited. And that was 342(a) and 14003 in  
13 which it says they do not clearly apply to a physician or  
14 licensed healthcare provider doing mandated surveillance  
15 exams, because these providers do not function as attending  
16 physicians. Or because 342(a) applies to employers. But  
17 they are not often are not often informed about the  
18 employee's diagnosis advancing silicosis under the  
19 requirements of 5204. Contrary to the statements of the  
20 staff report, physicians currently do not have clear legal  
21 obligation to report cases of silicosis that are advancing,  
22 but are not yet disabling.

23 Workers are showing up far too late with advanced  
24 disease, and it is critical that we make it a requirement  
25 to notify the Department of Occupational Health, Safety and

1 Health. Even if these cases are not disabled, accordingly.  
2 My established colleagues and I believe that the silica ETS  
3 should require the physician, or licensed healthcare  
4 provider performing silica surveillance exams, to report  
5 the cases of silicosis to the Division without having to  
6 activate Workers' Compensation process, which would happen  
7 under 14003.

8 For those of you who do Workers' Comp, we all  
9 know that it is very difficult to establish that line of  
10 communication and the urgency with which an injury for our  
11 injured workers occurs.

12 As an ardent advocate of the injured worker, let  
13 me remind the panel what happened at Hawks Nest Tunnel,  
14 Gully Bridge incident in West Virginia. Over 700 to 1,000  
15 deaths amongst 3,000 workers in the 1930s, in 1931, and the  
16 majority succumbing to lasting effects of silica  
17 inhalation.

18 I urge the panel, please do not let a future Poet  
19 Laureate capture the lack of care and compassion through  
20 inaction that Muriel Rukeyser wrote in her poetry sequence,  
21 the Book of the Dead. With that I stand down.

22 CHAIR THOMAS: Thank you.

23 Do we have next, Maya?

24 MS. MORSI: Up next is Jane Fazio with the  
25 University of California, Los Angeles and Olive View

1 Hospital.

2 DR. FAZIO: Hi, can you all hear me?

3 CHAIR THOMAS: Yes. Go right ahead.

4 DR. FAZIO: Hi, there. Thank you. Thank you to  
5 everyone who is here in this meeting and good morning. My  
6 name is Dr. Fazio, I'm a Pulmonary and Critical Care  
7 Physician, mainly practicing at Olive View UCLA hospital up  
8 in the San Fernando Valley in Los Angeles County. My views  
9 here are my own and don't represent the views of my  
10 employer. And I'm here speaking in support of Petition 597  
11 for the emergency standard.

12 Over the last two years, I and my colleagues at  
13 Olive View have diagnosed and treated over 40 young men  
14 with silicosis. The common denominator is their work in  
15 cutting and fabricating engineered stone countertops. I  
16 have witnessed this disease deteriorate their bodies,  
17 turning able bodied 20 and 30-year-old men into skeletons.  
18 I've witnessed them waste away and die horrible deaths on  
19 life support while waiting for lung transplants. I've been  
20 to their funerals. And I've met their young children who  
21 will grow up without fathers.

22 This disease is silent at first, but can progress  
23 rapidly, making it hard to diagnose early especially  
24 without adequate screening. Over a third of patients that  
25 we've diagnosed are already at the stage of advanced

1 disease or massive progressive fibrosis at the time that we  
2 diagnose them. And the disease will progress regardless of  
3 removing their exposure in many cases.

4 I'm honestly shocked and frustrated that in  
5 California, and in the United States of America, we are  
6 allowing the completely preventable deaths of young, honest  
7 and unassuming working men and fathers in the name of  
8 industry. This is an emergency. And possibly, it lacks  
9 urgency to some of you, because this disease does take  
10 years to develop. But I tell you now, if you were in my  
11 shoes, seeing these men suffer day in and day out,  
12 collecting what seems like one or two more cases every week  
13 at work, and signing death certificates, you would  
14 understand that this is a clear emergency. A failure to  
15 act now to approve a petition for the emergency temporary  
16 standard is foolish.

17 From my point of view, this is an emergency, and  
18 it requires an immediate change in the OSHA standard. And  
19 any delay will cause myself, my colleagues, and all the  
20 physicians on this call to see more and more sick, dying  
21 workers for years to come. Thank you.

22 CHAIR THOMAS: Thank you.

23 Who do we have next, Maya?

24 MS. MORSI: Up next, we will need a Spanish  
25 translator. It will be for Leobardo Segura Meza, an

1 injured worker.

2

3 MR. MEZA: (Through Interpreter Neidhardt) Good  
4 morning. I am 27 years old. And like you can see I am  
5 breathing by having a tube connected to an oxygen tank.

6 CHAIR THOMAS: Amalia, can you get his name? We  
7 didn't get his name.

8 MS. NEIDHARDT: [Asks for name in Spanish.]

9 MR. SEGURA MEZA: Leobardo Segura Meza.

10 CHAIR THOMAS: Thank you.

11 MR. MEZA: (Through Interpreter Neidhardt) Last  
12 year, the doctors prescribed oxygen. Since then I have  
13 been using an oxygen tank. I apologize if it is very  
14 difficult to hear me, because of the noise due to my oxygen  
15 tank. I want to tell you what happened to me, so you can  
16 take emergency measure to prevent other young people like  
17 him to get sick.

18 He was born in Mexico in 1996. He's 27 years  
19 old. He is married and his wife's name is Miriam. They  
20 have two children together, one daughter of 8 years and a  
21 son of 4. My wife has a child from a previous marriage and  
22 they live together in Pacoima. I came to the United States  
23 in 2012. Oh, he came to the United States in 2012 when he  
24 was 16 years old. He came to the United States to find  
25 work and have his family. He found work in the County of

56



1 LA as a construction worker.

2 Like a worker for the stone fabrication, he  
3 polished the stone, engineered stone, to make the  
4 countertops. The majority of the countertops that he  
5 created were from engineered stone. He used electrical  
6 tools to cut, polish, and what was it? Oh, polish. He  
7 polished the engineered stone to make them into  
8 countertops. And on some occasions he also installed the  
9 counters for some of the kitchens and bathrooms of some of  
10 his clients, of the clients.

11 While he was doing this work a lot of dust was  
12 generated from the engineered stone that covered him  
13 completely. He used a mask that reduced the quantity of  
14 dust, what helped a little bit to do the job. He also used  
15 tools that deliver water, or water tools, which reduced  
16 also the dust from the engineered stone. But the dust was  
17 everywhere in the shop, all over him, and everywhere. I  
18 did this work during ten years.

19 In January of 2022, he started to feel tired and  
20 he felt he didn't -- couldn't get enough air. In February  
21 of 2022 he felt very, very sick, and he went to the  
22 emergency room. He got a scan, a thorax scan, and he was  
23 told he had tuberculosis.

24 In March 2022, they did a biopsy. He was told it  
25 was not tuberculosis. They told him it was silicosis. He

1 had to stop working and file for disability. He can no  
2 longer support his wife and two children.

3 Last month, he was hospitalized because one of  
4 his lungs collapsed. But the doctor from UCLA saved his  
5 life. Just a couple of weeks ago, he got approved to get a  
6 lung transfer. He's waiting every day to get that call;  
7 waiting for him to be told to go to the hospital, so he can  
8 get new lungs.

9 One of the companies he worked for was Pasadena  
10 Marble. One of his coworkers that worked also making  
11 counters, it was Victor Gonzalez, Victor also contracted --  
12 came down with silicosis because of breathing this dust.  
13 He died last year, waiting for a lung transplant. After  
14 working for that company with marble, he worked with two  
15 other marble companies. Primus Marble, Cazzaros Marble  
16 (phonetic).

17 MS. NEIDHARDT: I don't quite understand that  
18 name, sorry, you have to forgive me on that one.

19 MR. MEZA: (Through Interpreter Neidhardt) He's  
20 talking about another coworker, Juan Gonzalez Morin. He  
21 worked for Primas Marble and the other company, Cazzaros  
22 Marble. He also died of silicosis, also waiting for a lung  
23 transplant. Another coworker of his from the company,  
24 Primas Marble, is Renee Rivas. He also has silicosis and  
25 he is also waiting for a lung transplant.

1           I hope the Board adopts emergency measures to  
2 avoid -- to prevent young men from acquiring silicosis. I  
3 fear there are not enough lungs to transplanted, for the  
4 men working in countertops, fabrication of countertops, for  
5 them to be able to get lung transplants. Two of his  
6 coworkers had silicosis, they died waiting for a lung  
7 transplant.

8           Please take the necessary measures to prevent  
9 fabricators like him to come down with silicosis. Our  
10 wives, our children, and our families depend on us. Thank  
11 you for allowing me to speak during this Board meeting.

12           CHAIR THOMAS: Thank you. And I wish you good  
13 luck to you and your family and I hope you're able to get  
14 your transplant soon. Thank you.

15           Who do we have next, Maya?

16           MS. MORSI: Up next is Kevin Riley with UCLA  
17 Labor Occupational Safety and Health Program.

18           MR. RILEY: Good morning, everyone. Can you hear  
19 me? Can you hear me?

20           CHAIR THOMAS: Yes. Go right ahead.

21           MR. RILEY: Great, thank you. Well, it's  
22 difficult to follow that, but I'll do my best. Good  
23 morning, everyone. My name is Kevin Riley. I'm the  
24 Director of the Labor Occupational Safety And Health  
25 Program at UCLA. I also lead a multi-state hazmat worker

1 training initiative that's funded by the National Institute  
2 for Environmental Health Sciences. And I'm a long-standing  
3 member of the Occupational Health section of the American  
4 Public Health Association. And I'm here today speaking in  
5 support of Petition 597, the proposed silicon ETS.

6 As the last speaker, I think, could not have  
7 demonstrated better is, if this issue doesn't warrant  
8 emergency measures I don't know what does. As we've heard  
9 from a number of speakers earlier, this is a very serious  
10 and growing public health crisis. And it's particularly  
11 hitting us in Southern California hard.

12 As your own staff have pointed out, there are  
13 currently several dozen silicosis cases at UCLA Medical  
14 Centers down here in a part of the state. The numbers are  
15 increasing. And we know that there are clusters of  
16 fabrication shops in both the San Fernando Valley and in  
17 Orange County, where hundreds of workers like the former  
18 speaker, continue to be exposed to dangerous levels of  
19 silica dust every day.

20 I'm also really concerned that the cases that are  
21 currently in the system are just the tip of the iceberg.  
22 As we've heard, this is a largely undocumented Latino  
23 immigrant workforce. These are workers who are often  
24 reluctant to seek testing and treatment until it's  
25 absolutely necessary.

1           And we also know that many of these workers,  
2 rather than seeking medical treatment here, will return to  
3 their home countries to get care or when they can no longer  
4 work. So I think there are cases here that are emerging  
5 that we're also not seeing, because they're never showing  
6 up in the medical system here in our state.

7           As one of the university-based worker health  
8 centers here in California our program, LOSH, has trained  
9 workers and supervisors in various industries about silica  
10 hazards, and about the regulatory requirements under  
11 Cal/OSHA. And, in fact, in the last several months we've  
12 begun doing outreach and education, largely in Spanish, to  
13 workers who were working in engineered stone fabrication  
14 shops. I wish I could come to you this morning and say  
15 that worker education and training will solve this crisis.  
16 It will not.

17           In the work that we do, we see that workers in  
18 this sector, they often face such high levels of economic  
19 insecurity and fear of employer retaliation, and limited  
20 alternative employment opportunities, that those workers  
21 are simply reluctant to confront employers about any  
22 concerns they may have about working conditions. And many  
23 of them report that they are willing to just endure  
24 hazardous exposures for the benefit of a paycheck.

25           In this context, education is, to be very blunt,

1 is a completely ineffective tool. It runs the risk of  
2 raising workers concerned about their own health and that  
3 of their coworkers and families without offering any  
4 realistic solutions for prevention. So what's really  
5 needed here to accompany the educational efforts that our  
6 program does, and others around the state are rolling out,  
7 are clear regulatory requirements. And effective  
8 enforcement mechanisms to ensure that this vulnerable  
9 workforce is protected.

10           The other thing I want to just echo, I think  
11 there was a set of points raised by the Cal/OSHA staff in  
12 their memo from May, about the challenges of implementing  
13 the current silica standard, the performance-based  
14 standard. And I think these are important points to  
15 emphasize. Small businesses of all kinds have limited  
16 resources and capacity to do the kind of exposure  
17 assessments and determinations for action levels that are  
18 required under the current silica standard. In this case,  
19 in order to address this issue that is so highly  
20 concentrated in the small business sector, we need an  
21 emergency standard that's calibrated to the specific needs  
22 of those employers. One that acknowledges the inherent  
23 dangers of silica dust that are generated by the  
24 fabrication of these particular products.

25           What I see is particularly valuable about an

1 emergency standard here is that what it's doing is  
2 streamlining requirements rather than making them more  
3 complex, helping small business owners to understand  
4 exactly what measures they need to take. And also  
5 consolidating requirements that currently exist across  
6 several Cal/OSHA standards into a single measure to make it  
7 much easier for small business employers to follow.

8           So in closing, I just want to say I think it's no  
9 exaggeration to say that lives are on the line for a  
10 completely preventable disease. But it's not too late for  
11 the Board to act to protect the thousands of workers that  
12 are still working in this industry. I think the Board has  
13 a really important opportunity here this morning to take  
14 action. And you all are well positioned to make meaningful  
15 impact to change the direction of this crisis. And I  
16 really urge you to take those actions to protect this  
17 workforce. Thank you.

18           CHAIR THOMAS: Thank you.

19           Who do we have next, Maya?

20           MS. MORSI: Up next is Dr. Robert Blink with  
21 WOEMA.

22           CHAIR THOMAS: Robert, can you hear us?

23           DR. BLINK: Good morning. Yes. Can you hear me?

24           CHAIR THOMAS: Yeah, go right ahead.

25           DR. BLINK: Great. Dr. Robert Blink,

1 Occupational and Environmental Medicine Specialist  
2 Physician, private practice, San Francisco. And  
3 representing the Petitioner, the Western Occupational  
4 Environmental Medicine Association, WOEMA.

5 Mr. Chair, and Members of the Board, and staff  
6 and everyone else present, thank you for letting us present  
7 today. As my colleague, Dr. Harrison previously mentioned,  
8 I too sat on the Board for some period, several years ago.  
9 So I understand the basics of what this is about.

10 We have an opportunity today to do one of three  
11 things. The Board action can be to grant the petition, can  
12 be to deny the petition, or it could be to postpone pending  
13 further information or other activities. We would strongly  
14 recommend that this be granted today for the reasons given  
15 by other presenters before.

16 And one thing to think about here is, this is not  
17 a new disease. Silicosis has been around for centuries or  
18 millennia. But this current flavor of silicosis that is  
19 very rapidly aggressive, deadly disease is coming strictly  
20 from cutting and grinding and sanding and polishing  
21 engineered stone. A previous attorney showed up and said,  
22 "We're not sure where this is coming from, there's no data,  
23 there's no published -- " This is not true and it's simply  
24 -- it's actually -- we have many references in the Petition  
25 597 that was submitted. And it's very easy to tell where

64



1 these cases are coming from, you ask the person what do you  
2 do? And the answer has been, "I cut engineered stone."  
3 And so really, there's no doubt about this whatsoever.

4 I should point out that the manufacturers of this  
5 engineered stone are not a subject of the proposed  
6 regulation. In fact manufacturing plants have a completely  
7 different set of situations and really are not the risk --  
8 places where this risk taking place. Once the product is  
9 out there in the field, and it's cut, grinded, sanded,  
10 polished, that's where the exposure occurs. And as our  
11 brave young man here waiting for his lung transplant said a  
12 little while ago, he used the mask, he cut with water. And  
13 yet he was covered in dust and undoubtedly breathed a lot  
14 of it. And in the matter of just a few years it affected  
15 his lungs to the point where he almost killed them once  
16 already, and now he's waiting for his lung transplant.

17 This is an epidemic. As Dr. Harrison said, we  
18 now have more than 70, seven-zero cases in California alone  
19 that have been identified in the past few years. And we  
20 don't know how many cases have been undiagnosed, because  
21 they've left the country, because they've been misdiagnosed  
22 as something else. This is really a public emergency.

23 In 1924, asbestos was first identified as being a  
24 problem for the lungs. It took until 1978, 54 years later,  
25 before the first regulations happened on asbestos. And the

1 Standards Board today has an opportunity to get in front of  
2 this new epidemic and stop that from continuing for many  
3 years more.

4           The proposal to look at other possibilities, to  
5 tighten up the existing regulations and so forth will take  
6 at a minimum several years. And in the meantime, new  
7 employees will be exposed, kill their lungs, and we're  
8 going to be dealing with more of this epidemic. That's not  
9 acceptable.

10           The physicians in WOEMA, we are not here  
11 testifying on benefit of specific entities involved with  
12 stakeholders. We're caregivers, we're doctors, we take  
13 care of people who come to us with medical problems. And  
14 we see people like this and it's horrible. We know this is  
15 a preventable disease, and it can be prevented. That's why  
16 we believe this emergency standard should be enacted.

17           I should say we're also distressed at seeing the  
18 inaccuracies and just flat out wrong things that are in  
19 some of the Standards Board staff analyses. And we'd be  
20 happy too if this were to be postponed, which again I hope  
21 it is not, but if it is we'd be happy to give you some  
22 details on that.

23           But some of these issues, I think some of our  
24 colleagues have already addressed. But number one, and  
25 frankly the main point here is that, thinking that

1 continuing the current system, the belief that the current  
2 regulations are adequate to deal with this and just need to  
3 be tightened up, this is simply not true. We have the  
4 current regulations and people are dying. People are being  
5 permanently disabled. This is not a curable disease. And  
6 it really needs to be stopped as an emergency.

7           One point was that the reporting mechanism is  
8 adequate via the Workers' Compensation system. Anybody who  
9 is familiar with the Workers' Compensation system knows  
10 that this is just plain wrong. That is not what it was  
11 built for. And it is an ineffective tool for trying to  
12 track this aggressive, deadly disease.

13           So we believe that regulating the emissions,  
14 requiring it to be done in a designated area, requiring the  
15 proper respiratory protection, requiring that it be done  
16 with underwater, and never any dry cutting, and beefing up  
17 regulations in all of the ways that we've recommended in  
18 our in our petition, that it be granted now.

19           We're here on behalf of the citizens of  
20 California. When you put in a countertop in your bathroom  
21 or in your kitchen, we don't want you to be wondering  
22 whether someone died for that countertop. And we can  
23 prevent that by granting this petition today.

24           Again, we'd be happy to submit more detailed  
25 comments about some of the inaccuracies in the staff

1 report. But we urge that you grant the OSHA staff  
2 recommendations and adopt these regulations. Thank you  
3 very much.

4 CHAIR THOMAS: Thank you.

5 Who do we have next, Maya, and how many callers  
6 do we have left?

7 MS. MORSI: We have, after this speaker will be  
8 three more. So up next is Wenday -- I'm sorry -- Wendy  
9 Thanassi with Stanford Medicine.

10 CHAIR THOMAS: Wendy, can you hear us?

11 DR. THANASSI: I can, thank you. Hi. Thank you  
12 for taking the time to hear me. I'll be brief, so as not  
13 to reiterate too many times what my colleagues have said.  
14 I'm Dr. Wendy Thanassi. I'm Board certified in emergency  
15 medicine and I'm the current Medical Director of Workforce  
16 Health and Wellness at Stanford Medicine, the former Chief  
17 of Occupational Health for the past fifteen years at the VA  
18 Palo Alto healthcare system.

19 So I'm here also to support the emergency  
20 standard that would put into place a way for the Department  
21 of Occupational Safety and Health to rapidly enforce a  
22 tougher silica standard to address the incurable fibrotic  
23 lung disease that you've heard about.

24 A little bit on a different scope, I wanted to  
25 give you some worldwide context. In Australia, the Work

1 Health and Safety ministers of all states and territories  
2 have unanimously agreed to prepare a plan to ban the use,  
3 the manufacture, and the importation of engineered stone by  
4 July 1st, 2024.

5           There are protests across Europe. There are  
6 discussions in India and around the world recognizing that  
7 as Dr. Blink said earlier silicosis was on the decline  
8 until 2019. And there has been a sudden and dramatic  
9 upswing in the diagnosis of this terrible disease in the  
10 meantime.

11           To bring it to local context, the Los Angeles  
12 County Board of Supervisors is also considering a motion to  
13 ban the fabrication of engineered stone in Los Angeles  
14 County. In December of 2022, LA County was identified as  
15 having the nation's biggest cluster of this incurable  
16 illness.

17           An article dated June 6th, 2023, featured Gustavo  
18 Gonzalez, a 32-year-old countertop fabricator, who wore  
19 high-quality masks, who used water to suppress the dust  
20 just like Mr. Segura, who we heard from, but the fine  
21 silica powder still infiltrated his lungs. He was lucky  
22 enough to get a double lung transplant in February of 2023,  
23 at a cost of millions of dollars to taxpayers, in addition  
24 to the destruction of his healthy and functional life.

25           In response to the attorney speaker who came

1 before me, the presence of silica that's bound within a  
2 product is not relevant to the issue brought forth today.  
3 Silicosis is caused by the inhalation of respirable  
4 crystalline dust. It's the action of the cutting and  
5 grinding of the stone that causes the aerosolization and  
6 the inhalation of these tiny fragments. These can be  
7 smaller than 0.01 millimeters, they go through masks, and  
8 they can reach the farthest edges of the lung. They lodge  
9 in the distal areas. They encase the lung fibrosing it so  
10 it doesn't expand, it doesn't absorb oxygen, and it  
11 destroys the lungs and the lives of the workers.

12           The composition of engineered stone is over 93  
13 percent silica. The remainder is only pigment in binders.  
14 This entirely preventable -- this is entirely preventable  
15 and it's wholly unacceptable. We can protect vulnerable  
16 workers and end silicosis, but we need emergency standards  
17 enacted when such emergencies arise. Silicosis is a dose-  
18 related disease, so delays will equal deaths. Thank you  
19 for considering the petition.

20           CHAIR THOMAS: Thank you.

21           Who do we have next Maya?

22           MS. MORSI: Up next is Jessica Guzman with  
23 Assemblywoman Luz Rivas.

24           CHAIR THOMAS: Jessica, can you hear us?

25           MS. GUZMAN: Yes, I can hear you. Can you hear

1 me?

2 CHAIR THOMAS: I can. Go right ahead.

3 MS. GUZMAN: All right, thank you so much. Good  
4 morning, everyone. Jessica Guzman, from the Office of  
5 Assemblywoman Luz Rivas. Assemblywoman Luz Rivas  
6 represents the 43rd Assembly District. I just have a few  
7 questions to share during today's meeting.

8 Firstly, what would be the implications of  
9 denying the Western Occupational and Environmental Medical  
10 Association requesting the Board to adopt an emergency  
11 temporary standard to address the growing number of  
12 reported cases of advanced silicosis among workers exposed  
13 to respirable crystalline silica in engineered stone  
14 fabrication shops?

15 Secondly, would this jeopardize workers impacted  
16 by silicosis by not treating it as an emergency temporary  
17 standard?

18 And thirdly, how would this impact the  
19 constituents in the Assemblywoman's District?

20 That's all for today and thank you for your time.

21 CHAIR THOMAS: Thank you.

22 Maya, who do we have up next?

23 MS. MORSI: Up next is Denise Kniter with BizFed  
24 LA.

25 CHAIR THOMAS: Denise, can you hear us?

1 MS. KNITER: Yes. Can you hear me?

2 CHAIR THOMAS: Yes, go right ahead.

3 MS. KNITER: Okay, well, good morning, Board.

4 Thank you for taking the comment. I know there's been a  
5 lot of information shared with you. I'm calling on behalf  
6 of the Los Angeles County Business Federation, BizFed. We  
7 have some concerns in regards to the proposed ban.

8 As you know, all of California, but especially  
9 Los Angeles, is in a significant housing crisis, and silica  
10 is present in the vast majority of attainable construction  
11 materials. So one of our significant concerns is in  
12 regards to the ban, that we will have no reasonable way to  
13 replace the materials that are currently used. And the  
14 transition will lead to a worsening crisis for us without a  
15 plan for how to address it.

16 In addition, we absolutely believe in increasing  
17 workplace safety. However, as was previously mentioned by  
18 some comments that the majority of the workers who are  
19 exposed to silica are undocumented, or otherwise work in  
20 workplaces that have no reason to follow workplace safety  
21 standards. And in that case, we often find that bans are  
22 ineffective in those spaces as well.

23 So in an attempt to move forward, BizFed really  
24 urges the Board to consider an approach that would  
25 incorporate the business community's input in regards to



1 addressing both the needs for housing construction and  
2 workplace safety with a long-term plan that isn't a ban.  
3 So we appreciate your time, and that's all for now.

4 CHAIR THOMAS: Thank you.

5 And I believe this would be our last caller,  
6 Maya?

7 MS. MORSI: Yes, our last caller is circling  
8 back. Jim Hieb with trade associations in the stone  
9 industry. Please press \*6 to unmute yourself.

10 CHAIR THOMAS: Jim, can you hear us? Jim, can  
11 you hear us? I hate when this happens. All right.

12 MS. MORSI: I've requested that he unmute himself  
13 on WebEx. But Jim, again, please press \*6 to unmute  
14 yourself if you are on the phone. If you're not, please  
15 unmute on WebEx.

16 CHAIR THOMAS: Last chance, Jim. I'm not hearing  
17 anything Maya. Sorry, Jim.

18 MS. MORSI: It looks like he's muted on WebEx.

19 CHAIR THOMAS: Can you unmute him?

20 MS. MORSI: I can only send a request, and I've  
21 done that.

22 CHAIR THOMAS: I think I know who --

23 MR. HIEB: Can you hear me now?

24 CHAIR THOMAS: Yeah, Jim, can you hear us?

25 MS. MORSI: We can hear you, Jim.

1 MR. HIEB: We can hear you now.

2 CHAIR THOMAS: Ah, there we go.

3 MR. HIEB: All right. Well, thank you, everyone.  
4 We appreciate this.

5 CHAIR THOMAS: You just made it, all right.

6 MR. HIEB: Yeah, just made it. So my name is Jim  
7 Hieb, and I'm the CEO for the Natural Stone Institute. We  
8 are the leading trade association that works with the  
9 fabrication community. We have significant training  
10 material available around silica. And in fact, there are  
11 many offices across the nation of OSHA that utilize and  
12 refer our resources to fabricators.

13 So I want to start by saying first and foremost,  
14 we are committed to working alongside Cal/OSHA to provide  
15 for more awareness and education. And in fact, we hope  
16 there's going to be an outcome where there's actually a  
17 training certificate program that fabricators will be  
18 required to go through that could then showcase a level of  
19 at least awareness and education.

20 As been mentioned by our friends at BizFed and a  
21 few others, putting a ban on any building material is not  
22 the answer, because the real issue is addressing the  
23 operating practices and the enforcement of cutting and  
24 fabrication. Because if you ban one product, and don't  
25 address the fabrication process, the problem really doesn't

74

1 go away. Because there are so many countertop materials  
2 that do have silica.

3 We do want to share with you this, regardless of  
4 the outcome of your voice today. We do need increased  
5 emphasis on enforcement. And the stone industry is  
6 committed to work alongside Cal/OSHA, serving on any  
7 advisory committee that you designate to help with the next  
8 steps, which are education, monitoring, and stronger  
9 enforcement. So we're committed to being your partner and  
10 to form a public private partnership.

11 And thank you very much for working me in.

12 CHAIR THOMAS: Thank you for your comments, Jim,  
13 appreciate it.

14 So I don't think -- we have no callers left that  
15 I'm aware of. And I think at this time we are going to  
16 take a 25-minute break until 12:15, let everybody relax for  
17 a few minutes. And then we will come back in session, so  
18 we are in recess for 25 minutes. Thank you.

19 (Off the record at 11:50 a.m.)

20 (On the record at 12:15 p.m.)

21 CHAIR THOMAS: Thank you. We are back in  
22 session. And we would -- the Board appreciates the  
23 testimony today. The public meeting is adjourned, and the  
24 record is closed.

25 We will now proceed with the business meeting.

1 The purpose of the business meeting is to allow the Board  
2 to vote on matters before it, and to receive briefings from  
3 the staff regarding issues listed on the business meeting  
4 agenda. Public comment is not accepted during the business  
5 meeting unless a member of the Board specifically requests  
6 public input.

7 Proposed Petition Decision for Adoption: Western  
8 Occupation Environmental Medical Association, R. Terrazas,  
9 MD MPH. Petitioner requests to amend Title 8, General  
10 Industry Safety Orders, section 5204, occupational  
11 exposures to respirable crystalline silica via an emergency  
12 temporary standard to address the growing number of  
13 reported cases of advanced silicosis among workers exposed  
14 to respirable crystalline silica in engineered stone  
15 fabrication shops.

16 The petitioner asked the emergency temporary  
17 standard address the use of engineered stone with a high  
18 silica content, the lack of regulated areas, dry  
19 fabrication work practices, inadequate respiratory  
20 protection and lack of reporting the use of silica to the  
21 Division of Occupational Safety and Health, Occupational  
22 Carcinogen Control Unit, pursuant to Title 8 section 5203.

23 Additionally, the petitioner recommends the  
24 Division strengthen the penalty structure for violations,  
25 update guidance for medical providers, and require

1 physicians or other licensed healthcare professionals to  
2 report silicosis cases to the Division.

3           The petitioner notes that the current general  
4 industry safety order standard for silica, Title 8 section  
5 5204, is insufficiently protective and believes that this  
6 emerging epidemic of advanced silicosis cases in public  
7 health, is a public health problem of great urgency.  
8 Because irreversible end-stage lung disease has now been  
9 shown through developing fabrication workers after only a  
10 few years of poorly-controlled occupational exposure.

11           Sorry. Yeah, I missed it. Christina, will you  
12 please brief the Board?

13           MS. SHUPE: Thank you, Chair Thomas.

14           Petition 597 was received by the Board on March  
15 13th of 2023. The petitioner requests the Board amend  
16 title eight, general industry safety orders section 5204,  
17 occupational exposures to respirable crystalline silica via  
18 an emergency temporary standard, to address the growing  
19 number of reported cases of advanced silicosis among  
20 workers exposed to RCS, or respirable crystalline silica,  
21 in engineered stone fabrication shops.

22           The petition has been evaluated by both Board and  
23 Division staff. Board and Division staff are in agreement  
24 about the dangerous and increasing health impacts of RCS  
25 exposure in the workplace. The Board staff evaluation

1 points to existing protections in 5204, and takes notice of  
2 the silica content in not only engineered stone, but also  
3 in quartzite, a naturally occurring stone. And raises  
4 concerns about resources available to Cal/OSHA for  
5 enforcement and tracking.

6           The Division evaluation also takes note of  
7 current section 5204 as a performance standard, which  
8 requires sophisticated exposure assessments as the basis  
9 for implementing silica exposure controls, which are beyond  
10 the capabilities of many of the smaller stone fabrication  
11 shops, which dominate the industry.

12           In support of emergency rulemaking, the Division  
13 references the rapidly growing number of identified  
14 silicosis cases tied to working with engineered stone as  
15 documented at 6 in 2019, 22 cases in 2022, and recent  
16 statements from the Los Angeles County Department of Health  
17 reporting over 60 cases as of April of 2023.

18           As you've heard today, the data surrounding the  
19 hazard to workers from silica exposure is emerging and  
20 highly concerning. And industry noncompliance with the  
21 existing regulation is a significant contributing factor to  
22 employee exposure and illness. For that reason, the  
23 decision before you today issues emergency rulemaking,  
24 which would have an unknown impact on enforcement and  
25 compliance in favor of a rapidly convened advisory

1 committee to amend the permanent regulation.

2           There is no disagreement that silicosis and  
3 silica exposure is an increasing health crisis. It grows  
4 as the use of engineered stone has become more prevalent.  
5 OSHSB however, cannot protect employees through new  
6 regulations alone, especially when resources are scarce and  
7 spread across needs as diverse as, and pressing as  
8 California's.

9           A properly resourced enforcement program, able to  
10 enforce existing protections, is also a critical component  
11 to the successful protection of workers. That said fast  
12 tracked, permanent rulemaking can be accomplished when  
13 supported and properly resourced, as evidenced by the  
14 Board's decision in June of 2019 on Petition 577.

15           Petition 577's request for emergency rulemaking  
16 was denied in favor of direction to staff to fast track  
17 adoption of a permanent regulation. That rulemaking was  
18 noticed in February of 2020, approved by the Board in June  
19 18 of 2020, and became effective on July 27 of 2020, 13  
20 months after the Board's decision.

21           Petition 597 is now ready for your consideration.

22           CHAIR THOMAS: Thank you, Christina.

23           Are there any questions for Christina? Yes?

24           BOARD MEMBER STOCK: Thank you, Christina. I was  
25 wondering. I would like to ask the Division if they might

1 give us a briefing about the petition and particularly any  
2 responses to what they've heard as well as what Christina  
3 just shared

4 MR. BERG: Thank you all very much. The Chief  
5 will speak for a bit, and then I'll speak as well.

6 MR. KILLIP: Thank you, Eric.

7 Chair Thomas, Board Members, members of the  
8 public. I just wanted to comment on the proposed ETS for  
9 silica that's before the Board right now regarding  
10 artificial stone industry. Cal/OSHA is responding to this  
11 surging crisis of silicosis among countertop workers here  
12 in California.

13 As we heard silicosis is untreatable,  
14 devastatingly harmful, often kills the exposed countertop  
15 worker within a few years. Nearly all the workers who have  
16 succumbed to this horrific, but preventable disease are  
17 young, migrant non-unionized workers, workers we would  
18 characterize as vulnerable.

19 Our current silica standard for general industry  
20 cannot meaningfully address the surging crisis of silicosis  
21 in this growing artificial stone industry. It's not  
22 aligned with well recognized safety practices in artificial  
23 stone, or wet methods and respiratory controls. It doesn't  
24 allow for effective enforcement by us, by the Cal/OSHA  
25 team. And it also rewards the bad acting employers who



1 don't want to follow the rules or protect their workers.

2           The proposed ETS for silica would address these  
3 concerns and save many lives that are being ruined by  
4 silicosis in the artificial stone industry. We heard from  
5 Dr. Fazio, UCLA Medical Center, just one facility in  
6 California that reported 77 cases of silicosis so far in  
7 the last couple to few years.

8           And many California countertop workers have  
9 already become sick and died. And we also heard from Mr.  
10 Segura-Meza, a 27-year-old former artificial stone worker.  
11 And he's now on oxygen, as he said, he's waiting for a lung  
12 transplant. He also mentioned his coworkers that have died  
13 from silicosis waiting for their lung transplant.

14           These cases are all the more tragic, because  
15 they're preventable. Well recognized and commonly used  
16 controls and safety practices in the artificial stone  
17 industry are included in the proposed silica ETS before the  
18 Board today. And choosing to wait for a revised permanent  
19 silica standard will have a high price. Many artificial  
20 stone workers will succumb to silicosis and many of those  
21 will die. We estimate that waiting for a revised silica  
22 standard in this new growing and deadly industry will mean  
23 that literally hundreds of workers will develop silicosis,  
24 and many of them will die.

25           So those are just kind of some high-level general

1 comments, very strongly in favor of the Board's adoption of  
2 the emergency ETS. It may not be a perfect tool, but it's  
3 a powerful tool that we have an option to employ right now.  
4 And I'd like to pass it to Eric Berg, our Deputy Chief of  
5 Health. Thank you.

6 MR. BERG: Thank you, Jeff.

7 Cal/OSHA strongly supports Petition 597 for an  
8 emergency regulation, to protect artificial stone  
9 countertop workers from silicosis. We are calling for  
10 emergency changes that would align the existing general  
11 industry silica standard with well recognized safety  
12 practices in the artificial stone industry such as wet  
13 methods, local exhaust ventilation, negative pressure  
14 enclosures, and high level respiratory protection, and  
15 other practices that eliminate silica dust exposures.

16 This will result in much safer conditions for  
17 workers in this industry more effective and more efficient  
18 enforcement by Cal/OSHA, and a level playing field for law  
19 abiding employers. The emergency regulation will be  
20 narrowly focused on artificial stone in general industry,  
21 section 5204, and will not affect the silica construction  
22 regulation. Cal/OSHA will hold an advisory meeting with  
23 stakeholders before presenting an emergency regulation.

24 It's focused on artificial stone, because there's  
25 strong evidence that particles produced from artificial

1 stone are much more dangerous and toxic than those from  
2 natural stone. A 2020 study found that about 40 percent of  
3 patients with artificial stone associated silicosis needed  
4 lung transplants, and 28 percent died. Compared to  
5 patients with natural stone associated silicosis where 3  
6 percent needed lung transplants and none died during the  
7 scope of study.

8 Cal/OSHA's evaluation of the petition differs  
9 dramatically from that of Board Staff. The Board staff  
10 analysis finds that the silicosis epidemic can be addressed  
11 with additional outreach education using the existing  
12 regulation. Cal/OSHA strongly disagrees.

13 The Board staff analysis also states that an  
14 emergency regulation would unlikely affect change, because  
15 it is not significantly different from the existing  
16 regulation. Cal/OSHA strongly disagrees with this in the  
17 analysis and finds the statement to be factually incorrect.

18 Cal/OSHA's proposed emergency regulation and the  
19 petitioner's request differed vastly from the existing  
20 regulation, section 5204. Currently, 5204 requires  
21 employers to conduct an exposure assessment to determine if  
22 worker protections are needed. These assessments can take  
23 time and effort hence many employers never do them. And  
24 never implement the needed safety measures, resulting in  
25 workers getting sick and dying from silicosis.

1           These worker exposure assessments are also easily  
2 manipulated by unscrupulous employers to vastly  
3 underestimate exposures. And then they can use these  
4 exposure assessments to forego implementing necessary  
5 safety measures. Based on Cal/OSHA's extensive experience  
6 with enforcing section 5204, with a special emphasis  
7 program for countertop shops that began in 2019, with over  
8 a hundred inspections in 2019, and the program continues  
9 we've determined that the general industry regulation,  
10 section 5204 does not adequately protect workers.

11           Unscrupulous employers stop work, stop doing high  
12 exposure tasks, and slow down work during exposure  
13 assessments done by Cal/OSHA enforcement to prevent  
14 Cal/OSHA from conducting accurate exposure assessment.  
15 This negates effective Cal/OSHA enforcement to ensure safe  
16 and healthy workplaces.

17           Cal/OSHA has been working hard since 2019 through  
18 the special emphasis program to abate the silicosis crisis,  
19 but cannot adequately protect workers with the existing  
20 regulation's reliance on exposure assessments. No amount  
21 of education training outreach will change this.

22           Even when Cal/OSHA can do a proper exposure  
23 assessment, and then require appropriate protective  
24 measures, the necessary protections are greatly delayed,  
25 resulting in unnecessary exposures, serious illness and

1 death.

2           The proposed emergency regulation will completely  
3 reverse and correct the backward priorities in section  
4 5204. Protections would be required immediately and  
5 upfront if an employee is working on artificial stone in a  
6 countertop shop, which will greatly enhance enforcement,  
7 efficiency, and effectiveness. No waiting for an exposure  
8 assessment that will likely never be done or be done  
9 incorrectly by the employer before implementing protective  
10 measures. This is how the asbestos work has been regulated  
11 for nearly 30 years, which has been both feasible for  
12 employers and protective for employees. We need a  
13 regulation similar to asbestos to protect these vulnerable  
14 countertop workers as quickly as possible.

15           The emergency proposal will also remove  
16 feasibility exemptions from section 5204 for artificial  
17 stone countertop manufacturing that unscrupulous employers  
18 exploit to use dangerous practices such as dry cutting, dry  
19 sweeping, and the use of compressed air to clean clothes  
20 and surfaces, all of which unnecessarily endanger  
21 employees.

22           Emerging changes proposed by the petitioner and  
23 Cal/OSHA will have minimal effect on the state's law  
24 abiding employers that will remove exploits and loopholes  
25 used by unscrupulous employers that endanger workers and

1 make enforcement inefficient, time consuming, and at times  
2 near impossible.

3           An emergency regulation would level the playing  
4 field by allowing Cal/OSHA to prevent unscrupulous  
5 employers from undercutting law-abiding employers.  
6 Cal/OSHA has found some countertop shops using all the  
7 necessary safety measures to prevent silica dust exposures  
8 and applauds these employers that are doing excellent work  
9 already. These employers should not be punished by  
10 allowing the unfair competition from employers that do not  
11 protect the workers.

12           In the artificial stone industry, existing  
13 regulation is not protective, and workers are dying as a  
14 result. The emergency proposal will help fix this. They  
15 will require employers to implement well recognized and  
16 proven safety practices immediately and will allow Cal/OSHA  
17 to do its job efficiently and effectively in protecting  
18 this vulnerable California workforce.

19           And then I have more details on why artificial  
20 stone is more dangerous than natural stone. Dr. Michael  
21 Wilson did some research, extensive research on that. So I  
22 can always go into that, if you want more details on why  
23 artificial stone is more dangerous. But thank you.

24           CHAIR THOMAS: Any other questions from the  
25 Board? I just have a couple here. How long will it be

1 before the Board can expect to see a proposal for the  
2 emergency regulation?

3 MR. BERG: I would like to do the advisory  
4 committee as soon as possible. So hopefully during August,  
5 we could do the advisory committee. We've already spoken  
6 with manufacturing associations and several employer  
7 associations. So we're hoping to do that in August.

8 We'd need to develop -- we've already been  
9 working on language reference regulation, but that would  
10 have to be worked out through the advisory committee. And  
11 then hopefully, within three or four months we'd have a  
12 proposal ready. Hopefully sooner, but it's hard to gauge  
13 that, because we still have to do the Finding of Emergency.  
14 So that will take some time.

15 CHAIR THOMAS: And then my other question is the  
16 ETS, it will only be in effect for 12 months. So are you  
17 also simultaneously working on a permanent?

18 MR. BERG: Yeah, we'll have to work on a  
19 permanent, so we'll have to do that economic analysis as  
20 quickly as possible. That's really the difficult part.  
21 DIR recently hired an economist who is excellent. So we're  
22 hoping that will -- that person has availability and will  
23 be able to help us with this.

24 And then also, we have a contract with the RAND  
25 Corporation to help us with economic analysis. So we're

1 hoping we can do that in a more effective manner than we  
2 have been able to in the past.

3 CHAIR THOMAS: Yeah, because I mean, I guess my -  
4 - I'm concerned about this, because the testimony today  
5 kind of made me much more aware of actually what's going  
6 on. And I mean, I can surmise, just by listening to the  
7 gentleman with the oxygen tank that he mentioned five or  
8 six people that he knew, I think a couple of whom had  
9 already died. And you just extrapolate that by the number  
10 of shops there's probably thousands of people, mostly  
11 immigrants that are in this position, and probably cannot  
12 protect themselves even if they try.

13 And I'm concerned about that. I just want to  
14 make sure that what we're doing here is going to have some  
15 kind of immediate effect. And immediate, by immediate I  
16 mean within a few months that -- I mean, we're all -- I  
17 know you're already working on it. And my first complaint  
18 was hey, we need enforcement. That's the main thing we  
19 need is enforcement. And but you've told me that --

20 MR. BERG: We're doing it. We're doing  
21 enforcement.

22 CHAIR THOMAS: You are. You are.

23 MR. BERG: Yeah.

24 CHAIR THOMAS: But the problem is not so much the  
25 enforcement, it is that they don't have the tools or can



1 look to find some way to protect themselves. And we need  
2 to inform them of what that way is basically, right? Is  
3 that correct?

4 MR. BERG: Yeah. I mean, we're doing  
5 enforcement. We have this special emphasis program. We've  
6 done well over a hundred inspections in 2019. We are doing  
7 them again this year. But our hands are tied with this  
8 regulation, because we have to do all this air monitoring.  
9 And as I said before, or it can just stop. We can't do  
10 anything about it, and we're stuck. And we keep coming  
11 back, but if they keep doing that where we can't do  
12 anything.

13 But a regulation that requires -- okay, just like  
14 asbestos. You cut asbestos, right? It has to be wet.  
15 They don't care what the exposures are, the stuff can kill  
16 you. Keep it wet, have an enclosure around it, use a  
17 respirator. That's already required in asbestos and has  
18 been what since the mid-nineties.

19 CHAIR THOMAS: (Overlapping colloquy.) I'm very  
20 familiar.

21 MR. BERG: We use those protections, because  
22 that's just common sense. You use those protections. I  
23 don't care what the exposures are. That doesn't matter.  
24 Because you know, there's going to be some exposure whether  
25 you measure or not. It doesn't matter. Just use the

1 protective measures.

2 CHAIR THOMAS: I agree. I'm very familiar with -  
3 - we have a local with asbestos removal, we have a local  
4 that does that. They employ probably about 1,200 members  
5 who do that every day. And you never hear of a case. They  
6 protect themselves. They know exactly what they need to  
7 do. They're Tyveked, enclosed, airflow, showers, the whole  
8 thing. And it's nasty work, terrible work. It is, right?  
9 You wear a Tyvek suit, you got nothing on underneath. You  
10 work all day. And basically -- but it saves your life. I  
11 mean, they have the -- they know what will keep them  
12 healthy.

13 So I'm not in disagreement with what you guys are  
14 trying to do. And I'm hoping that this is the answer,  
15 because I can see this becoming an epidemic, if it isn't  
16 already one that's in the making. Because I was going to  
17 say every time when I get home from work what am I  
18 watching? "Love It or List It," right? And what's the  
19 first thing everybody does? New countertop. So somebody's  
20 making all these, and they're probably engineered, because  
21 it's cheaper. So I can just imagine what the exposure is  
22 going to be.

23 Any other comments? Go ahead.

24 BOARD MEMBER STOCK: Yeah, thanks, Dave. And  
25 thank you, Eric and Jeff. Yeah I mean I think we had a

1 very powerful hour of testimony today. And if -- and I --  
2 to quote somebody who said something before, "If this is  
3 not an emergency, I don't know what is." And I think if  
4 you couple that with another person who came to remind us  
5 how many years it has been taking typically to get things  
6 through from seventeen years for the first state and  
7 multiple years for other ones, we know that the regular  
8 regulatory process is -- doesn't work to address  
9 emergencies.

10           It's gratifying to be reminded that there are  
11 cases in which there was -- we were able to be fast tracked  
12 and move more quickly, but that is not the norm. And the  
13 norm is that it takes years. And then something emerges  
14 like this, and we need to take emergency action.

15           And I really, really hope the Board will  
16 recognize this moment now, when we have heard from a whole  
17 array. From workers to people who are doing enforcement  
18 for the Division, who have the expertise, who've been out  
19 there trying to do enforcement for several years, to so  
20 many representatives of the healthcare community who are  
21 seeing these patients. We have heard from people who are  
22 on the front lines and know exactly what the impact is and  
23 what is needed. And we're hearing from Cal/OSHA who is  
24 responsible for enforcing this, what they think is needed.

25           So I think we have everything we need to proceed.

1 And I would strongly, strongly urge Board Members to grant  
2 this petition. And at the time, I've been provided with  
3 some language as a motion I would like to make. So I don't  
4 know whether I make that now and then open it up for  
5 discussion. Would that be the right way or is there a more  
6 general -- Yeah.

7 CHAIR THOMAS: (Overlapping colloquy). Let's see  
8 if there are any comments from Board members though. Any?  
9 Christina, did you have a comment?

10 MS. SHUPE: Just a point of process. Once the  
11 motion is made for the current Conclusion and Order you can  
12 suggest a friendly amendment.

13 BOARD MEMBER STOCK: Okay, so the motion that I  
14 have now would come after. There's another motion that has  
15 to be voted on, or has to be put into it, and then I can  
16 ask for an amendment if I want?

17 MS. SHUPE: Correct. You have a Conclusion and  
18 Order before you right now, but you can suggest, once it  
19 has a motion, you can suggest a friendly amendment.

20 BOARD MEMBER STOCK: Okay. And I just want to  
21 make one other comment. And then I don't know, Kate, I  
22 think you were wanting to say something. As I understand  
23 it this is really -- this proposal that we have from  
24 Cal/OSHA is going to make compliance easier. So for people  
25 who are saying that it's a problem if there's a problem of

1 noncompliance why would there be better compliance for  
2 something new?

3           And I think that it's been very -- it's been  
4 clearly demonstrated that the complexity for a small  
5 business with five or fewer employees to do the complicated  
6 assessments that are needed in the regular silica standard.  
7 So this would just say that if you're doing this kind of  
8 work it would immediately allow you to know that you have  
9 to take these measures.

10           So I do think I want to commend the petitioners  
11 and the Cal/OSHA analysis to really be taking -- they're  
12 taking into account the issues that small business would be  
13 facing and enforcing this, to provide them with something  
14 that is clearer and more easy to accomplish, and also  
15 recognizes the fact that anywhere this work is being done  
16 protections need to be implemented immediately. So I just  
17 wanted to particularly highlight that. Thank you.

18           CHAIR THOMAS: Any other comments?

19           BOARD MEMBER CRAWFORD: I'm not sure that this is  
20 going to be a helpful question at this moment. But what  
21 I'm curious about is the difference in timeline between  
22 fast tracking and an ETS. Can anybody speak to that?

23           CHAIR THOMAS: Christina can.

24           MS. SHUPE: So in Petition 577 the Board had a  
25 request for an emergency rulemaking. It was similar in

1 that it was a request for emergency rulemaking and would  
2 require a permanent proposal as well. And in order to  
3 streamline the work required to get to the permanent  
4 rulemaking, we -- not saying there wasn't an emergency, we  
5 just immediately jumped to permanent rulemaking. We did  
6 issue an advisory committee. We did not hold an advisory  
7 committee for that rulemaking and we kept the focus narrow  
8 to address the immediate need.

9           The difference here, with an emergency  
10 rulemaking, is that it essentially requires two proposals.  
11 A permanent regulation without an emergency preceding it is  
12 only one proposal.

13           CHAIR THOMAS: Thank you. Any other -- Laura.

14           BOARD MEMBER STOCK: I just wanted to follow up  
15 and get some response from the Division, so thank you for  
16 that clarification.

17           So it sounds like whatever happens, if we are  
18 successful, if we vote for the emergency petition today, we  
19 vote for the petition today, then there would be the work  
20 involved in developing the emergency regulation. And it  
21 sounds like -- or is it or would it be possible to be  
22 simultaneously working on developing the emergency  
23 regulation.

24           Because we know the goal is we don't want to have  
25 a gap in coverage. So we -- and since the emergency

1 regulation, if I understand correctly, would be for a year  
2 we'd want to be positioned to have something in place the  
3 minute that is over.

4 So can you just comment, and also hearing  
5 Christina is raising this option of the fast track. But  
6 just how the emergency regulation would put something in  
7 place sooner. And then what would be happening in order to  
8 be ensuring that there's an emergency -- a permanent  
9 regulation in place in time?

10 MR. BERG: Yeah, that's correct. We'd have to  
11 work simultaneously on a normal regulation or regular  
12 regulation, whatever it's called. And none of the same  
13 work -- the work can apply to both like the language of the  
14 standard. And we'll learn things and probably tweak  
15 things, but basically the language of the standard.

16 And the Initial Statement of Reason, which is a  
17 lengthy document that's quite complex and difficult, has a  
18 lot of overlap with the Finding of Emergency and emergency  
19 regulation. So a lot of that we could use for the normal  
20 rulemaking. Sorry, so that would help. The only hard part  
21 is the economic analysis. So we'd have to try to fast  
22 track that and pull in all our resources.

23 CHAIR THOMAS: How long is it going to take you  
24 to have a Finding of Emergency? How long does that  
25 document take to produce?

1 MR. BERG: We've talked to the advisory committee  
2 first, but -- well I guess work in the same time. Probably  
3 a couple of months, I would think.

4 CHAIR THOMAS: I'm sorry, what?

5 MR. BERG: A couple of months.

6 CHAIR THOMAS: Yeah, I just kind of wanted a  
7 timeline here so we could --

8 MR. BERG: Yeah, I would say at least two months.

9 CHAIR THOMAS: Kate?

10 BOARD MEMBER STOCK: Because you earlier said  
11 that you might have an emergency regulation in front of us  
12 within a number of months, like a shorter period than a  
13 year, I think I heard.

14 MR. BERG: Yeah, yeah. That's right. Because it  
15 would be the language and the Finding of Emergency are the  
16 two principal documents.

17 BOARD MEMBER STOCK: All right, thank you.

18 CHAIR THOMAS: Any comments, Nola, questions?

19 Well I'm going to ask for a motion to adopt the  
20 petition decision.

21 BOARD MEMBER STOCK: And what is the petition?  
22 Christina, can you just -- what would we be voting on?  
23 Just could you clarify what the first vote is and where I  
24 would put an amendment in.

25 MS. SHUPE: Well, without a motion, and if no one



1 makes a motion to adopt the --

2 BOARD MEMBER STOCK: (Overlapping colloquy.)

3 Okay. Yeah, go ahead.

4 MS. SHUPE: If no one makes a motion to adopt the  
5 Conclusion in Order as presented at that time you can  
6 suggest an alternate motion. So but the request from the  
7 Board right now is for anyone who wants to make a motion to  
8 adopt the Conclusion and Order as presented.

9 CHAIR THOMAS: Am I going to have to make my own  
10 motion here?

11 MS. SHUPE: I would say you could also ask --

12 BOARD MEMBER STOCK: Could I offer then a  
13 friendly amendment to that motion now?

14 MS. SHUPE: You would make an alternate motion.

15 BOARD MEMBER STOCK: Can I make an alternate  
16 motion?

17 CHAIR THOMAS: I'm just trying to decide if we  
18 need -- do we really need an alternate motion.

19 BOARD MEMBER STOCK: It sounds like I've been  
20 advised that we do. So could I read my alternate motion,  
21 and then you could see whether or not --

22 CHAIR THOMAS: Okay, but you have to leave the  
23 room and call us, and then we'll listen.

24 BOARD MEMBER STOCK: I have it right here.

25 CHAIR THOMAS: Go ahead. Go ahead.

1 BOARD MEMBER STOCK: Okay, so this is an  
2 alternate motion. The Board has considered the petition of  
3 R. Terrazas MD MPH, President WOEMA, to make recommended  
4 changes to the section 5204 -- excuse me -- by requiring an  
5 ETS to address the increasing cases of silicosis. The  
6 Board has also considered the recommendation of Cal/OSHA  
7 and Board Staff.

8 For the reasons stated in the previous discussion  
9 and considering testimony received today, the petition to  
10 adopt an ETS is hereby granted to the extent that Cal/OSHA  
11 is requested to propose necessary amendments to the  
12 regulation in order to better protect workers from the  
13 emerging hazards of silica present in workplaces.

14 MS. SHUPE: Just read it one more time.

15 BOARD MEMBER STOCK: Of course. The Board is  
16 considered the petition of R. Terrazas MD MPH President of  
17 WOEMA to make recommended changes to section 5204 by  
18 requiring an ETS to address the increasing cases of  
19 silicosis. The Board has also considered the  
20 recommendations of Cal/OSHA and Board staff.

21 For reasons stated in the preceding discussion  
22 and considering testimony received today, the petition to  
23 adopt an ETS is hereby granted. And Cal/OSHA is requested  
24 to propose necessary amendments to the current regulation  
25 in order to better protect workers from the emerging hazard

1 of silica present in workplaces.

2 MS. SHUPE: Just one quick addendum, because the  
3 second time you read it, you didn't say "to the extent".

4 BOARD MEMBER STOCK: Oh, "to the extent". Sorry.  
5 Yeah, and could you explain -- before I just finalize that  
6 I want to just understand the impact of that phrase. So in  
7 other words, that would -- if we -- if I submitted this  
8 motion the intent is that it would be granting the petition  
9 to develop an emergency temporary standard. Is that  
10 correct?

11 MS. SHUPE: That's correct. The reason we use  
12 the language "to the extent" is because we very rarely ever  
13 adopt a petition completely as submitted, one hundred  
14 percent.

15 BOARD MEMBER STOCK: Got it.

16 MS. SHUPE: This provides Cal/OSHA with some  
17 flexibility.

18 BOARD MEMBER STOCK: Got it. Yeah, yeah. So let  
19 me just read that last part again. The Board has also  
20 considered the recommendations of Cal/OSHA and Board Staff  
21 for reasons stated in the previous discussion and  
22 considering testimony received today, the petition to an  
23 adopt an ETS is hereby granted to the extent that Cal/OSHA  
24 is requested to propose necessary amendments to the current  
25 regulation in order to better protect workers from the

1 emerging hazard of silica present in workplaces.

2 So I'm putting forward that motion.

3 CHAIR THOMAS: Do I have a second?

4 BOARD MEMBER KENNEDY: I second.

5 CHAIR THOMAS: We have a motion and second. Is  
6 there anything on the question? (No audible response.)

7 Ms. Money, will you please call the roll?

8 MS. MONEY: So I have Laura Stock as the motion,  
9 and Nola Kennedy as the second; is that correct?

10 CHAIR THOMAS: Correct.

11 MS. MONEY: Okay. Kathleen Crawford.

12 BOARD MEMBER CRAWFORD: Aye.

13 MS. MONEY: Nola Kennedy.

14 BOARD MEMBER KENNEDY: Aye.

15 MS. MONEY: Laura Stock.

16 BOARD MEMBER STOCK: Aye.

17 MS. MONEY: Chairman Thomas.

18 CHAIR THOMAS: Aye. And the motion passes.

19 Thank you.

20 And thank you very much for your comments, Eric  
21 and Jeff, that was -- thank you very much.

22 And I want to just commend everybody that  
23 testified today. My eyes were opened on a lot of this. I  
24 mean, you can read things, and then when you hear from  
25 people -- and there was a lot of people that that I would

1 consider close to experts on this, especially Mr. Blink,  
2 who was a former Board Member here. That put a lot of  
3 weight in their testimony. And I just thought it was a  
4 very eye opening experience. And especially the gentleman  
5 who actually has it, and that's tough to see.

6           And but I mean, I know people prior who have had  
7 similar, which would be asbestosis in the old days that I  
8 mean, once you have it, you know, it's just a matter of  
9 time. And we have to prevent that, because once you get  
10 it, it's just a matter of time. You may last a little bit,  
11 you may last a long time, but none of it's going to be fun,  
12 I can tell you that. You just lose your capacity to  
13 breathe.

14           So I thank the Board. Thank you very much. And  
15 we'll continue on to variance decisions to be adopted. The  
16 proposed variance decisions for adoptions are listed on the  
17 Consent Calendar. Ms. Gonzalez, will you please brief the  
18 Board?

19           MS. GONZALEZ: Thank you, Chair Thomas and Board  
20 Members. On the Consent Calendar this month, we have  
21 proposed decisions 1 through 44 ready for your  
22 consideration and possible adoption.

23           CHAIR THOMAS: Thank you. Do I have a motion to  
24 adopt the Consent Calendar?

25           BOARD MEMBER STOCK: So moved.

1 BOARD MEMBER CRAWFORD: Second.

2 CHAIR THOMAS: I have a motion and a second. Is  
3 there anything on the question? Hearing none, Ms. Money,  
4 would you please call the roll?

5 MS. MONEY: I have Laura Stock as the motion and  
6 Kathleen Crawford as the second. Correct?

7 CHAIR THOMAS: Correct.

8 MS. MONEY: Kathleen Crawford.

9 BOARD MEMBER CRAWFORD: Aye.

10 MS. MONEY: Nola Kennedy.

11 BOARD MEMBER KENNEDY: Aye.

12 MS. MONEY: Laura Stock.

13 BOARD MEMBER STOCK: Aye.

14 MS. MONEY: Chairman Thomas.

15 CHAIR THOMAS: Aye. And the motion passes.

16 Division Update. Eric, will you please brief the  
17 Board?

18 MR. BERG: All right, thank you very much. So we  
19 had a few commenters on the 15-day changes to lead  
20 proposal, so I'll kind of give a high level summary of some  
21 of the changes that were made. And the comment period is  
22 still open.

23 So first, let's see. Barbara Burgel requested  
24 that we change the word "physician" to physician -- or  
25 "licensed healthcare professional." So we made that change

1 throughout the regulation. It was like 260 changes, but  
2 she was really insistent on that. So we did it. So  
3 hopefully she's listening, because we made that change for  
4 her. So that's throughout the regulation, we changed that  
5 and had that definition, which is it's used in many  
6 regulations. I think it wasn't this one, because this  
7 one's an old one, it's from the seventies. So we made all  
8 that change.

9 In the construction regulation, we added an  
10 exception for shower facilities, where they're not  
11 feasible. As you mentioned that has been used in the  
12 asbestos industry for many years. I've done many  
13 inspections in construction, in asbestos. And I'd always  
14 go out and showers are a very rudimentary. I mean, it's  
15 just a little hose with a little spigot and a little tiny  
16 water heater and some plastic. And they were not  
17 expensive. They were really, really rudimentary. They've  
18 been doing that since the nineties. So it's not new  
19 technology, it's not expensive technology.

20 CHAIR THOMAS: Yeah, it can be done.

21 MR. BERG: Yeah, it's very simple. But anyways,  
22 we added an exception where it's not feasible.

23 Then we add exceptions to initial blood lead  
24 testing to reduce the amount of testing that has to be  
25 done. So initial lead testing is no longer required for

1 employers, for employees not exposed by the action level  
2 for more than 30 days a year and not exposed over the PEL.  
3 And then also, initial testing is not required for an  
4 employee who had a test in the preceding two months.

5           And moving on. There were exceptions added to  
6 the medical surveillance program, or adjusted I guess, the  
7 number of days that an employee can be exposed above the  
8 action level before medical surveillance is needed for the  
9 employee. So it was increased from exposed for 10 days  
10 over the action level. And now it's going to be 30 days  
11 over the action level before the medical surveillance. And  
12 the maximum exposure level in the exception was changed  
13 from 100 micrograms per cubic meter to the permissible  
14 exposure limit.

15           And then we added an exception to eliminate  
16 requirements for a medical exam for employees who had a  
17 lead exam in the preceding two months. So it's similar to  
18 the initial lead testing. This is just for the continuous  
19 medical exam. So that also has an exemption that if they  
20 had one in the last two months, they don't need another  
21 one.

22           An exception was added to remove -- the medical  
23 removal of employees if their last blood test was less than  
24 15. Since they're allowed to return to the workplace at  
25 the 15, it didn't make sense. Even if their last blood



1 test is 15 they don't have to be removed. So that's a new  
2 exception as well.

3 And then training requirements regarding hygiene  
4 and housekeeping were expanded to include all employees who  
5 have occupational exposure led to better address oral  
6 routes of exposures, where there's no airborne, but it's  
7 all oral. Which you get it on your hands and then you eat  
8 or drink, then you ingest it and get lead exposure or lead  
9 poisoning.

10 And then there's many changes made to the non-  
11 mandatory information only appendices, just to make sure  
12 they were consistent with the regulations. So most of  
13 those -- that was for the construction one -- most of the  
14 changes are also in the general industry regulation.

15 For the general industry, we also had some other  
16 changes. We changed the definition of "presumed hazardous  
17 lead work" to "presumed significant lead work," just  
18 because the commenters didn't like the word "hazardous" and  
19 thought "significant" was better. So we took the  
20 commenters concern and changed the term. It doesn't have  
21 any effect on the regulation, just for improved clarity.

22 Also next was an exception was added to allow  
23 drinking water in areas where airborne exposures are less  
24 than 50 micrograms per cubic meter, which is five times the  
25 PEL. And the employer has trained employees and

1 implemented written safe hydration practices. So that was  
2 in response to comments about preventing heat notice. So  
3 that's a new exception allowing drinking of water.

4           Then a one-year delay was added to the  
5 requirement for change rooms for exposures that are less  
6 than 50 micrograms per cubic meter. That is just adding  
7 language upfront saying that this section or these  
8 requirements don't apply until one year after the  
9 regulation takes place. And also a one-year delay was  
10 added to the requirement for showers in general industry  
11 for exposure less than 50 micrograms per cubic meter. So  
12 the same delay for the shower requirement. And also  
13 another one-year delay for the requirement for lunch rooms.  
14 So there's three sections where the one-year delay was  
15 added.

16           And then we also added an exception to the  
17 requirement that you have warning signs that employees  
18 can't eat, drink smoke, or some other stuff and so we  
19 deleted that. But we added an exception, so it doesn't  
20 conflict with the requirement or the allowance to drink  
21 water. So there's certain exceptions to that, so where the  
22 employer has a safe hydration practices in place, they  
23 don't need to put that sign because employees are allowed  
24 to drink.

25           And then we had an old subsection in the general

1 industry standard, that had never been updated to match the  
2 federal regulation. It's called observation and  
3 monitoring. So we didn't have the federal language, so  
4 they told us that part of our regulation was not as  
5 effective as federal. So then we just copied the federal  
6 regulation and put it in there. It's just about protecting  
7 people who are observing the air monitoring.

8 And that's kind of the summary of my changes for  
9 that regulation.

10 CHAIR THOMAS: Thank you, Eric.

11 MR. BERG: And then folks (indiscernible) sorry?

12 CHAIR THOMAS: Did you have more, I'm sorry.

13 MR. BERG: I was going to add that the 15-day for  
14 heat should be out pretty soon. So we'll have that and  
15 then I can hopefully update you at the next meeting. So  
16 that one should be out pretty soon.

17 About the other ones, first aid. We're working  
18 on all the documents, but --

19 CHAIR THOMAS: Can we get that one done?

20 MR. BERG: Yeah, I mean the (indiscernible) --

21 CHAIR THOMAS: (Overlapping colloquy.)

22 (Indiscernible) I know, I know.

23 MR. BERG: Well, Dr. Michael wasn't working on  
24 that, but he's also the lead person for the silica one.  
25 And he's also the lead person for the firefighter

1 respiratory protection. And he's actually done some  
2 marvelous work in organizing a study of the new technology  
3 of respirators, working with manufacturers, working with  
4 CAL FIRE, working with LA County Fire Department. And  
5 developing brand new technology, and then doing field  
6 tests. So he's also doing that and he's doing the silicone  
7 one, too. So that's why first aid has taken a while.

8 MS. SHUPE: It sounds like he could use some extra support.

9 BOARD MEMBER STOCK: Yeah, it was a good opening  
10 for that presentation.

11 Also I wanted to -- because I don't know, you may  
12 have said this and I may have missed it -- I want to -- the  
13 other thing that people are waiting for is the permanent  
14 infectious disease regulation for general industry also.  
15 And I was going to ask if you had an update on that, but I  
16 was also going to say the workload that you are facing is  
17 enormous. And the workload that the Board staff is facing  
18 is enormous. And I just want to just express my own  
19 frustration, which I know is felt by stakeholders and other  
20 Board Members, and probably everyone. Just the lack of  
21 resources for standards and development in California is an  
22 absolute crime.

23 It's just it's ridiculous. It's a life and death  
24 situation that you don't have the resources you need to  
25 move faster on these things, nor does the Board staff. And

1 I really would love to be able to figure out a way to  
2 tackle that. Because I mean, as we talked about last month  
3 that people are desperately -- stakeholders who are  
4 concerned about critical health and safety issues are  
5 looking for any strategy they can from legislative to  
6 emergency regulations. Anything other than the normal  
7 process that is built into our system, because that normal  
8 process no longer works.

9 I mean, it's ridiculous that it's 17 years to do  
10 a first aid regulation. That's one of many examples. And  
11 so I don't know, I mean when we get to the next agenda  
12 items I'm not sure exactly what strategy is needed. But it  
13 seems absolutely urgent to try to get more resources and  
14 more attention to how this system can be fixed.

15 So with that I guess I was going to ask about the  
16 infectious disease regulation. I just wanted to be sure  
17 that's still on your on your to-do list.

18 MR. BERG: It's on our to-do list.

19 BOARD MEMBER STOCK: Yeah.

20 MR. BERG: That's all I can say about that one.

21 CHAIR THOMAS: Any other questions for Eric?

22 Please? silence

23 BOARD MEMBER CRAWFORD: Workplace violence?

24 MR. BERG: We're working on that one too, so I'll  
25 let you know when I have an update, but no update right

1 now.

2 BOARD MEMBER CRAWFORD: We're working on that one  
3 too?

4 MR. BERG: Yeah, we're working on that one as  
5 well as there's there several others.

6 CHAIR THOMAS: Thank you, Eric. I'm going to let  
7 you off the hook, because you're going to see some  
8 workplace violence if we don't get lunch pretty soon. So  
9 just kidding, just kidding.

10 Autumn, do you have any update for us,  
11 Legislative?

12 MS. GONZALEZ: Yes.

13 BOARD MEMBER KENNEDY: I'm sorry, the workplace  
14 violence, well I'm -- this is just a curiosity.

15 MS. GONZALEZ: (Indiscernible.)

16 BOARD MEMBER KENNEDY: Oh, the workplace violence  
17 standard, this is really just a curiosity question on my  
18 part. It's taking a long time and I'm imagining that one  
19 of the reasons it's taking a long time is it must be a very  
20 sticky regulation to pull together. And I'm curious about  
21 what those hurdles are. What are the sticking points? Why  
22 is it so difficult?

23 MR. BERG: Well, that's a more difficult answer  
24 to address, because it's so random and unpredictable  
25 sometimes. Sometimes it is predictable, but it can be very

1 random and unpredictable. It's not like silica, where you  
2 know cutting silica, or just cutting the countertop is  
3 producing a lot silica whether you measure it or not, it's  
4 producing a lot. Violence is just much different in  
5 anticipating and preventing it.

6 BOARD MEMBER KENNEDY: Well, yes. I think that's  
7 at the heart of my question. I mean, I think we all  
8 understand that. So I guess I'm trying to ask the Division  
9 staff who is pulling this together, my assumption is that  
10 you're bumping up against authority boundaries and  
11 different types of workplaces. And you're trying to  
12 develop something for a lot of different that will cover  
13 everybody. And workplaces aren't all the same.

14 So I'm -- and like I said this was just curious,  
15 because I don't want it to come to us and then say, oh  
16 okay, why didn't we think about that? Or why was it? So  
17 I'm asking upfront what the problems are, why it's so  
18 difficult to pull together?

19 MR. BERG: Yeah. I mean, we're working on  
20 exceptions too. So it's not going to necessarily cover  
21 everybody. It definitely won't cover healthcare, because  
22 there's a separate regulation for that. But other possible  
23 exceptions and then I mean once we're done, we'll post it  
24 to get and then have public comments. And then have an  
25 advisory committee, so we'll get more feedback.

1 I mean, we've done that three or four times  
2 already on this same proposal.

3 BOARD MEMBER KENNEDY: I'm not getting  
4 (indiscernible) that's okay. That's fine.

5 MR. BERG: No, it's hard. I don't know else do  
6 you want to say?

7 CHAIR THOMAS: These things are difficult.

8 BOARD MEMBER KENNEDY: I know. It's just  
9 difficult is the answer. Thank you.

10 MR. BERG: Okay.

11 CHAIR THOMAS: Any other questions?

12 Autumn, Legislative Update.

13 MS. GONZALEZ: Thank you, Chair Thomas. There's  
14 just two bills that I wanted to quickly discuss with you  
15 today.

16 The first one is SB 735. That's the firearms in  
17 motion picture industry bill that we've been tracking for a  
18 while now. That bill actually became law through a trailer  
19 bill, SB 132. So it establishes a pilot program to address  
20 safety practices and procedures. And this is tied to movie  
21 industry tax credits, so that's SB 735. It's now SB 132  
22 and it's been signed.

23 And then SB 55554, it's not on your report this  
24 month, it will be next month. But this is a Bagley-Keene  
25 bill, and this would remove indefinitely the teleconference

112



1 requirements that a state body posted agendas at the  
2 teleconference location. That each teleconference location  
3 be identified in the notice and agenda, and that the  
4 location be accessible to the public. So basically going  
5 back to those benefits that we were working under during  
6 the pandemic. This bill is passed the Senate and it's now  
7 in the Assembly.

8 CHAIR THOMAS: Thank you, Autumn. Any questions  
9 for Autumn? Hearing none, Executive Officer's Report,  
10 Christina.

11 MS. SHUPE: Thank you, Chair Thomas.

12 I'm pleased to report that our recruitment  
13 efforts continue to make progress. Simone Sumershwar  
14 joined OSHSB on June 26, as our new Senior Safety Engineer.  
15 She's actually in training today.

16 Additionally, Kimberly Lucero will join our team  
17 on August 1st. Ms. Lucero will support our Legal Unit as a  
18 legal assistant.

19 Our recruitment for our last vacant SSE position  
20 is in the final review stage and we anticipate extending an  
21 offer to our top candidate shortly. I look forward to  
22 reporting on that soon.

23 Our vacancy rates have been a topic of discussion  
24 today and at previous meetings. And we have only two  
25 unfilled positions at this time. One is for an Attorney

1 III, which is currently in recruitment. And the other is  
2 for an office technician position.

3 Even fully staffed, which we anticipate we will  
4 be accomplished by the fourth quarter of 2023 our workload  
5 far outstrips our approved positions.

6 Are there any questions from the Board?

7 CHAIR THOMAS: I think we kind of hit on all the  
8 future agenda items, but are there anything else that we  
9 need? (No audible response.) I guess not, no closed  
10 session.

11 So the next --

12 MS. SHUPE: New business.

13 CHAIR THOMAS: Oh, new business, sorry. Let's do  
14 new business.

15 MS. SHUPE: Laura, did you want to address an  
16 item under new business?

17 BOARD MEMBER STOCK: Well, I guess is this  
18 related to the idea of trying to look at how we can get  
19 more resources to the Board? Yeah, I mean and so I guess  
20 the question that I would pose is sort of what are the  
21 strategies that we can take to really begin to raise  
22 awareness among whoever is making decisions about how  
23 resource allocation is happening? How can we, you know,  
24 lend our voice to that. And I don't know whether if you  
25 have suggestions about what that would look like, I'd like

114

1 to hear it.

2 MS. SHUPE: I think the Board support is  
3 certainly critical as a stakeholder support. I would  
4 suggest that the Board consider forming a subcommittee of  
5 one or two members to work with staff on a strategy.

6 BOARD MEMBER STOCK: So I support that  
7 suggestion. And so I don't know whether to do that as a  
8 question of just seeing who from the Board, I'd be happy to  
9 participate in that discussion. And I don't know if there  
10 are others who would, but --

11 BOARD MEMBER CRAWFORD: I'd love to.

12 BOARD MEMBER STOCK: So it sounds like there's  
13 interest among Board Members. So I don't know what the  
14 steps are to make that happen and it would be great to  
15 figure out a way to engage others who I think -- this area  
16 of lack of resources is something that I think all  
17 stakeholders, labor, management and others would agree. I  
18 think we've got (indiscernible) engage their voices as  
19 well.

20 (Overlapping colloquy of multiple speakers.)\_

21 CHAIR THOMAS: Go ahead.

22 MS. SHUPE: So the creation of subcommittees is  
23 within the Board Chair's purview. Getting my nod from our  
24 Chief Counsel.

25 CHAIR THOMAS: I so deem it. And so Kate and

1 Laura will be on what are we going to call this?

2 MS. SHUPE: Maybe resource allocation.

3 CHAIR THOMAS: Yeah, resource allocation  
4 subcommittee.

5 BOARD MEMBER STOCK: Plus Kate was also.

6 CHAIR THOMAS: Kate answered this, and Laura  
7 Stock will participate too.

8 Okay, so that Board has been appointed. And you  
9 guys can choose your meeting and --

10 BOARD MEMBER STOCK: Okay, we'll figure out what  
11 that means subsequently.

12 CHAIR THOMAS: Yes. Anything else? (No audible  
13 response.)

14 All right, so next Standards Board regular  
15 meeting is scheduled for August 17, 2023 in San Diego, and  
16 via teleconference and video conference. Please visit our  
17 website and join our mailing list to receive the latest  
18 updates. We thank you for your attendance today.

19 There being no further business to attend to this  
20 business meeting is adjourned. Thank you, appreciate it.

21 (The Business Meeting adjourned at 1:17 p.m.)

22

23

24

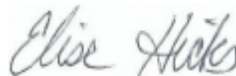
25

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 21st day of November, 2023.



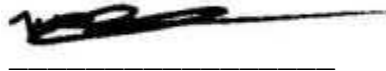
ELISE HICKS, IAPRT CERT\*\*2176

**TRANSCRIBER'S CERTIFICATE**

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.

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 21st day of November, 2023.



---

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