

STATE OF CALIFORNIA

DEPARTMENT OF INDUSTRIAL RELATIONS

OCCUPATIONAL SAFETY & HEALTH STANDARDS BOARD

COVID-19 PREVENTION BUSINESS MEETING

In the Matter of:)
)
June 3, 2021 Occupational Safety and Health))
Standards Board Meeting)

TELECONFERENCE

*PLEASE NOTE: In accordance with Executive Order N-29-20 and Executive Order N-33-20,
the June 3, 2021 Board Meeting will be conducted via teleconference*

THURSDAY, JUNE 3, 2021

10:00 A.M.

Reported by:
Elise Hicks

APPEARANCES

BOARD MEMBERS:

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

BOARD STAFF PRESENT AT OSHSB OFFICE IN SACRAMENTO:

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

BOARD STAFF ATTENDING VIA TELECONFERENCE AND/OR WEBEX:

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

TKO STAFF:

John Gotcher
John Roensch

ALSO PRESENT:

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

SPANISH INTERPRETERS:

Estella Moll
Monica Desiderio

APPEARANCES (Cont.)

PUBLIC COMMENT:

Helen Cleary, Phylmar Regulatory Roundtable
Ashley Salas Silva, Daniel C. Salas Harvesting, Inc
Gina Ma, Self
Melissa Patack, Motion Picture Association, Inc.
Andrew Sommer, California Employers COVID-19 Prevention Coalition
Rob Moutrie, California Chamber of Commerce
Kristie Sepulveda-Burchit, Educate Advocate
Katie Hansen, California Restaurant Association
Kenneth Davidson, Self
Ricardo Beas, Self
Kenneth Smith, University of California
Megan Kristen Mansell, Self
Brian Mello, Associated General Contractors of California
Emily Burns, Rational Ground
Dan Leacox, Leacox & Associates
Sandra Marquez, Self
Sarah Wiltfong, BizFed
Bruce Wick, Housing Contractors of California
Shane Gusman, Broad & Gusman
Maggie Robbins, Worksafe
Lawrence Gayden, California Manufacturers and Technology Association
Jennifer Grinager, Moms for Liberty
Mary Tucker, Self
Brian Miller, Rudolph & Sletten
Aaron Holmberg, Inyo County
Len Welsh, Ironworker Management Progressive Action Trust, IMPACT, the Grower-Shipper Association of Central California, and the California Hotel and Lodging Association
Joshua Shear, Self
Elysa Valentino, Self
Taylor Jackson, California Nurses Association, National Nurses United
Michele Richardson, Self
Karen Tynan, Ogletree, Deakins, Nash, Smoak and Stewart, PC
Shawn Maloney, Self
Mitch Steiger, California Labor Federation
Matthew Allen, Western Growers Association
Frances Schreiber, Labor & Employment Committee of the National Lawyers Guild
Cassie Hilaski, Nibbi Brothers General Contractors
Michael Miller, California Association of Winegrape Growers

APPEARANCES (Cont.)

PUBLIC COMMENT:

Natalie Potter, Lake Arrowhead Community Services District
Anne Katten, California Rural Legal Assistance Foundation
Abraham Parra, Self
Lorraine Hughes, Self
Derek Marin, Vista Paint Corporation
Jason Parks, Self
Scott Bourdon, California State University
Laura Preston, Association of California School Administrators
Diana Fabian-Gutierrez, Legal Aid at Work
Melissa Grace, Self
Eric Frumin, Strategic Organizing Center
Ben Telligent, Self
Jason Adams, Self
Christina Hildebrand, A Voice for Choice Advocacy
Jon Dieringer, Dieringer Law Group, Inland Empire Restaurant Association
Kaela Sanborn-Hum, Fight for \$15
Jassy Grewal, United Food and Commercial Workers
Eddie Sanchez, Southern California Coalition for Occupational Safety and Health
Vicki Osborn, Water Emergency Response Organization of Orange County
Michael Young, California Federation of Teachers
Sharon McKeeman, Let Them Breathe
Marie Cam, Self
Cynthia Rice, California Rural Legal Assistance, Inc.
Jessica Early, National Union of Healthcare Workers
Hope Maselli, Self
Chris Walker, California Association of Sheet Metal and Air Conditioning Contractors,
National Association
Christine Dillon, Self
Norma Godinez, Self
Ally Hartman, Self
Michael Pimentel, California Transit Association
Audra Morgan, Self
Kevin Bland, Ogletree, Deakins, Nash, Smoak & Stewart, P.C.
Elda Brueggemann, Western Agricultural Processors Association
Michelle Grupe, Self
Joel Berman, California Industrial Hygiene Council
Pam Ragland, Association for Autistic, ADHD, and Other Special Needs Parents
Samantha Chua, Self
Nicholas Nikides, Self

APPEARANCES (Cont.)

PUBLIC COMMENT:

Tory Quintero, Self
Alison Mineau, Self
Jennifer Pappas, Self
Mary Lopez, Self
Tricia Ainsworth, Self
Vince Hundley, SMART Safety Group
Donald Dawson, Self
Kelly Castanon, Self
Anthony Leonardi, Self
Tracy Henderson, Self
Daniel O'Neal-Ortiz, Attorney
Jeremy Colter, Self
Justin Shores, Self
Heather, Self
Elrawd Maclearn, Self
Amy Reichert, Self
Monica Gonzalez, Self
Amy Young, Self
Bryan Little, California Farm Bureau Federation
George Doilez, Union Local 1167, Albertsons and Vons
Giancarlo Rubio, Valley Industry and Commerce Association

INDEX

	Page
I. CALL TO ORDER AND INTRODUCTIONS	7
II. BUSINESS	
A. Proposed Emergency Safety Order for Re-Adoption (Government. Code Sec. 11346.1)	8
B. Public Comment	14
C. Board Discussion	187
D. Board Vote	221, 237
III. NEW BUSINESS	244
IV. Meeting Adjournment	252
Reporter's Certificate	253
Transcriber's Certificate	254

1 PROCEEDINGS

2 JUNE 3, 2021

10:00 a.m.

3 CHAIRMAN THOMAS: Good morning. This meeting of the Occupational
4 Safety and Health Standards Board is now called to order. I am Dave Thomas, Chairman.
5 And the other Board Members present today are Ms. Barbara Burgel, Occupational
6 Health Representative; Ms. Kathleen Crawford, Management Representative; Mr. David
7 Harrison, Labor Representative; Ms. Nola Kennedy, Public Member; Ms. Chris Laszcz-
8 Davis, Management Representative; Ms. Laura Stock, Occupational Safety
9 Representative. Also present from our staff for today's meeting are Ms. Christina
10 Shupe, Executive Officer; Ms. Autumn Gonzalez, Chief Counsel; Ms. Sarah Money,
11 Executive Assistant; and Mr. Michael Nelmidia, Senior Safety Engineer, who is providing
12 technical support. Supporting the meeting remotely are Mr. Michael Manieri, Principal
13 Safety Engineer; Ms. Lara Paskins, Safety Services Manager; Mr. David Kernazitkas,
14 Senior Safety Engineer; and Ms. Jennifer White, Regulatory Analyst. Via teleconference,
15 we are joined today by Mr. Eric Berg, Deputy Chief of Health, representing the Division
16 of Occupational Safety and Health.

17 At this time, we ask those of you participating in the WebEx video
18 conference to please add your name and contact information to the chat box. These
19 entries will become part of the official record of today's proceedings. Those not
20 attending the video conference can email your information to oshsb@dir.ca.gov. While
21 supplying your information is not required, it is appreciated.

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

24 In accordance with Executive Orders N-29-20 and N-33-20, today's board
25 meeting is being conducted via teleconference, with an optional video component. This

1 meeting is also being live broadcast via video and audio stream in both English and
2 Spanish. Links to these non-interactive live broadcasts can be accessed via the “What’s
3 New” section at the top of the main page of the OSHSB website.

4 We have limited capabilities for managing participating during the public
5 comment period, so we are asking everyone who is not speaking to place their phones
6 on mute and wait to unmute until they are called to speak.

7 As referenced on today’s agenda, the Board has called today’s meeting
8 specifically to consider the adoption of a revised proposal for emergency temporary
9 standards for COVID-19 prevention. The proposal will be introduced by Mr. Eric Berg,
10 followed by an opportunity for public comment. Proposed Emergency Safety Order for
11 Re-Adoption, Gov. Code Sec. 11346.1; title 8, General Industry Safety Orders, Chapter 4,
12 Subchapter 7; new sections 3205, 3205.1, 3205.2, 3205.3, and 3205.4, COVID-19
13 Prevention.

14 Mr. Berg, would you please brief the board?

15 MR. BERG: Yes. Thank you very much. I want to thank all the Standards
16 Board Members and all the Standards Board staff for agreeing to hold this meeting
17 today so that we at the Division could have an opportunity to present our revisions to
18 the COVID-19 Emergency Temporary Standard, or ETS.

19 In making these revisions, we have reviewed the latest CDC guidance and
20 made changes that consider the latest scientific evidence. We have worked closely with
21 the California Department of Public Health in reviewing each new provision to ensure
22 that the latest scientific evidence is incorporated and takes into account how
23 workplaces operate and the unique exposure risks to workers.

24 It’s important to note that the CDC guidance is intended to provide
25 recommendations for how individuals should conduct themselves. However, there are

1 marked differences between what that guidance covers and what the ETS is intended
2 to address, including the fact that workers have longer cumulative exposures to others
3 in the workplace.

4 The CDC guidance expressly exempts from their guidance federal, state,
5 local, tribal, territorial laws, rules, and regulations, including business and workplace
6 guidance. The revisions to the ETS we are presenting today support the state's full
7 reopening on June 15th by allowing businesses to operate and resume full capacity as
8 they implement measures to ensure all workers, in particular unvaccinated workers, are
9 adequately protected. The California Department of Public Health has fully reviewed
10 and supports these revisions.

11 The COVID-19 pandemic has had a devastating impact on workers,
12 causing death, serious illness, and in many cases, long-term chronic illness. But the
13 situation has improved dramatically with adherence to prevention measures such as
14 masking, physical distancing, contact tracing, testing, and more recently, the
15 introduction of very and highly effective vaccines. Continuation of these efforts, with
16 some notable and substantial exceptions, is needed to make COVID-19 a negligible risk
17 in the future.

18 Vaccines are a very important element to reducing the spread of COVID-
19 19, but we cannot rely on vaccines alone to stop transmission of COVID-19 in the
20 workplace.

21 CDPH data available publicly shows that from January 1st of this year,
22 2021, to May 17th, 2021, there were over 7,000 workplace COVID-19 outbreaks
23 resulting in nearly 75,000 workers infected. In the last 30 days of the data, the most
24 recent data available, there were over 900 outbreaks and nearly 11,000 workers
25 infected. So we cannot give up on all prevention efforts now.

1 Cal/OSHA proposes several changes to the Emergency Temporary
2 Standard that reflect the effectiveness of vaccines and the latest science on
3 transmission. The changes include the following. Vaccinated employees without
4 symptoms are exempt from testing and quarantining requirements after close contact
5 with a COVID-19 case. Vaccinated employees without symptoms do not need to wear
6 face coverings outdoors except for megaevents such as conventions or concerns where
7 attendance over 10,000 people is expected. Vaccinated employees do not need to wear
8 face coverings in a room where everyone is vaccinated. Employer-provided housing and
9 employer-provided transportation are completely exempt from those applicable
10 regulations where everyone is vaccinated. In the proposal, most disinfecting
11 requirements were deleted. And this proposal prohibits on sharing phones,
12 keyboards, headset, desks, writing materials, instruments, tools, and other personal
13 items. All those prohibitions were deleted in this draft of this proposal.

14 And also in this proposal, only COVID-19 cases among employees need to
15 be considered when determining if there is an outbreak or a major outbreak. In the
16 existing ETS, all COVID-19 cases need to be considered. So the proposal reduces the
17 scope of the two outbreak sections.

18 Again, in this proposal, physical distancing is not required at all for
19 employees working outdoors, regardless of vaccination status, except for megaevents.
20 So physical distancing is completely gone outdoors for all employees. And the only
21 exception there is megaevents.

22 Upon the revised ETS effective date, which should be on or around June
23 15th if this is approved, the transition to indoor worksites and megaevents from
24 physical distancing to alternate methods of protecting unvaccinated employees will be
25 phased in as employers are ready to do so.

1 So until July 31st, for employees in indoor workplaces and outdoor
2 megaevents, employers can choose from the following. They can continue to use
3 physical distancing and partitions in the workplace as currently required under the
4 existing ETS, or if an employer prefers, they can provide unvaccinated workers with
5 approved respirators for voluntary use. In which case, the employers can eliminate
6 physical distancing and barrier requirements. And then after July 31st, employers must
7 provide unvaccinated workers with approved respirators for voluntary use and there is
8 no longer any physical distancing requirements or barrier requirements.

9 In addition in this proposal, the following enhancements are proposed to
10 the COVID-19 Emergency Temporary Standard. Employers must make COVID-19 testing
11 available to unvaccinated employees with symptoms. Employers must review the
12 interim guidance for ventilation, filtration, and air quality indoor environments. This is
13 published by the California Department of Public Health, Cal/OSHA, and the Office of
14 Statewide Health Planning and Development.

15 Employers have to evaluate ventilation systems to maximize outdoor air
16 and increase filtration efficiency and evaluate if the use of additional air cleaning
17 systems would be beneficial.

18 As noted, Cal/OSHA proposes to exempt fully vaccinated employees from
19 many, but not all, protective measures in the proposed update to the COVID ETS. In
20 consultation with the California Department of Public Health, proposed revisions to the
21 ETS recognize key differences between employees and the public at large when it comes
22 to the use of face coverings, the risk faced by workers, and the challenge employers
23 would have in carrying out their responsibility to ensure a safe and healthy work
24 environment for employees.

25 Cal/OSHA proposes to continue the face covering requirement indoors

1 and at megaevents and mixed groups of vaccinated and unvaccinated workers. It does
2 so for several reasons. One, there would be significant challenges for employers and for
3 Cal/OSHA to meaningfully apply and enforce a face covering rule in mixed workplaces
4 based on an individual's vaccination status. Secondly, without this requirement,
5 unvaccinated workers would be at risk given the spread of more contagious SARS-CoV-2
6 variants. Thirdly, face coverings will become even more important in transmission
7 prevention for unvaccinated workers as businesses open up to full capacity on June 15th
8 and physical distancing is phased out and barriers are removed. Fourth, face coverings
9 are also critical for workers to prolong the cumulative exposures for potentially
10 unvaccinated coworkers and customers.

11 Studies have shown that face coverings are very effective in reducing the
12 amount of infectious particles emitted by an infectious person who in many cases may
13 not have symptoms. Some persons, such as the immunocompromised, may not get full
14 protection from the vaccines. Due to changes in social norms and social pressures as
15 mask wearing declines among fully vaccinated persons, mask use will also decline
16 among unvaccinated persons.

17 And recently, a statistical study that was just published June 1st, 2021 in
18 the Journal of the American Medical Association shows that even with high vaccination
19 rates and high vaccine efficacy, hundreds of thousands of additional cases of COVID-19
20 will likely result if other protective measures are abandoned. And this study that was
21 just published is called Association of Simulated COVID-19 Vaccination and Non-
22 Pharmaceutical Interventions With Infections, Hospitalizations, and Mortality. It is
23 authored by Dr. Patel from the University of North Carolina of Chapel Hill and several
24 other researchers.

25 Lastly, the Vaccine Equity Metric shows that only 41.2 percent of persons

1 are fully vaccinated in the lowest quartile of the California Healthy Places Index as of
2 June 2nd, 2021. This vaccination rate is more than 20 percent lower than the highest
3 quartile. Essential worker populations in this quartile would be significantly and
4 negatively impacted by elimination of worker protections.

5 Cal/OSHA also proposes requiring respirators be provided to
6 unvaccinated persons for voluntary use in lieu of physical distancing for some of the
7 following reasons.

8 One, scientific evidence regarding airborne transmission of SARS-CoV-2 is
9 overwhelming. This means that very small particles exhaled by an infected person can
10 stay suspended in the air and infect others who later inhale these particles. Face
11 coverings provide very effective source control because they trap most exhaled particles
12 when they are larger before they begin to evaporate and become these small particles.
13 However, they do not provide adequate protection to the end user against inhalation of
14 the small particles. This is particularly important in workplaces where workers are in
15 proximity to one another for extended periods of time. There is a large variety of face
16 coverings, and many in use are not made to meet any particular standard for filtration
17 efficiency. Small particles may pass through face coverings with low filtration efficiency.

18 Since face coverings do not seal to the face, small particles can bypass
19 face coverings through the openings between the face and the face covering. Only
20 approved respirators provide a high level of protection to the user against small
21 particles. They have been designed and tested to provide high filtering efficiency that
22 removes the smallest particles. The most common respirators called N95s are designed
23 to seal to the face to prevent small particles from bypassing the respirator. Approved
24 respirators serve as an improved and enhanced face covering for unvaccinated persons
25 who are at the highest risk for COVID-19.

1 Cal/OSHA has carefully considered stakeholder comments gathered over
2 four days of public meetings and in numerous written comments. Many of those
3 suggestions have been incorporated into this proposed ETS to improve the rule.
4 Cal/OSHA is dedicated to developing additional FAQs before the proposal goes into
5 effect and to help employers, employees, and others with any questions. And we
6 respectfully request the Board adopt this proposal.

7 And after public comment, I would be happy to answer any questions the
8 Board may have. Thank you very much. That is my complete report.

9 CHAIRMAN THOMAS: Thank you, Eric. At this time, we are going to hear
10 from the public prior to the Board discussion. We now invite public comment on the
11 proposal. Anyone who wishes to address the Board regarding the COVID-19 Prevention
12 Emergency Temporary Standard is invited to comment at this time. Members of the
13 public who have contacted staff either by mail or phone and asked to be placed in the
14 public comment queue will be called on in turn. Additionally, those joining via WebEx
15 may ask to join the queue via the chat function.

16 The WebEx chat function is monitored exclusively by staff and is only
17 available as a virtual attendance log and to send requests to join the public comment
18 queue. It is not a method for providing public comment to Board Members. Board
19 Members will not consider or respond to any messages delivered via the chat function,
20 nor will such comments become part of the official rulemaking record.

21 Please listen for your name and an invitation to speak before addressing
22 the Board. Please remember to mute your phone or your computer after commenting.

23 After everyone in the queue has been provided an opportunity to speak,
24 we will then open public comment to anyone on the call who has not been able to enter
25 the queue. If you wish to speak more than once, please contact staff and have your

1 name placed back in the public comment queue. Board staff can be contacted by mail
2 at oshsb@dir.ca.gov or via phone at 916-274-5721 to be placed in the comment queue.
3 If you experience a busy signal or are routed to voicemail, please hang up and call again.

4 For commenters who are native Spanish speakers, we are working with
5 an interpreter, Esther Hermida, to provide a translation of their statements into English
6 for the Board.

7 At this time, Ms. Hermida, will you provide instructions to the Spanish
8 speaking commenters so that they are aware of the public comment process for today's
9 meeting. So you may proceed.

10 MS. HERMIDA: (Speaking in Spanish)

11 CHAIRMAN THOMAS: Thank you, Esther. Before we begin public
12 comment, to ensure that all commenters have an opportunity to address the Board, we
13 will be limiting comments to three minutes. Mr. Gotcher will announce when speakers
14 have 30 seconds remaining. So at this time, Mr. Gotcher, who do we have in the queue?

15 MR. GOTCHER: The first commenters are Helen Cleary, Brenda McGuire,
16 and Ricardo Beas, with first Helen Cleary from the Phylmar Regulatory Roundtable.

17 CHAIRMAN THOMAS: Helen, can you hear us?

18 MS. CLEARY: Yes, I can. Sorry, I was struggling for the mute button.

19 Hi. Good morning, everybody.

20 CHAIRMAN THOMAS: Good morning.

21 MS. CLEARY: Chair Thomas, Board Members, staff, thank you for the
22 opportunity to speak about the COVID-19 ETS proposed amendments and for holding
23 this meeting today. As you said, my name is Helen Cleary and I am the director of the
24 Phylmar Regulatory Roundtable, PRR. PRR is a member-led occupational safety and
25 health forum comprised of companies and utilities from different industries with major

15

1 operations in California.

2 We are astonished that the changes proposed on May 28 are not limited
3 to new CDC guidance and do not align with the CDC or statements made by health
4 officials and the Governor as the Division stated in its request to postpone the vote.

5 Because of this, PRR stands behind the extensive comments that were
6 submitted to the Board on May 19th. These are cascading requirements and employers
7 should not be compelled to track vaccination status and create two classes of people as
8 the only way to comply with these rules.

9 One of our members is considering placing stickers on ID badges to
10 determine who is vaccinated and who is not. Many are considering creating separate
11 floors. The unintended consequences of these provisions are serious and they cannot
12 be understated. They have the potential to negatively impact thousands of workers in
13 the state that include discrimination, harassment, privacy issues, and workplace
14 violence.

15 On June 2nd, we submitted another letter that detailed new concerns
16 and recommendations. For those reasons and a few I'll discuss today, PRR respectfully
17 requests the Standards Board postpone today's vote on the COVID-19 readoption text
18 until the already noticed June 17th Board Meeting.

19 First and foremost, there is misalignment with public health officials and
20 California leaders. As recently as yesterday, the CDPH tweeted that starting on June
21 15th, quote, "most places will be open as normal with no capacity limits or social
22 distancing required". The only exceptions that were listed were schools, healthcare
23 settings, and some other public settings.

24 However, per the ETS amendments, starting June 15th, physical
25 distancing and partitions are still required in the workplace unless N95s are provided to

1 all non-vaccinated employees. On July 31st, N95s must be provided. This tweet is in
2 addition to multiple tweets from CDPH indicating that as of June 15th, face coverings
3 will not be required if you are vaccinated. CDPH even references the workplace.

4 These are significant distinctions that are not being discussed. And in
5 addition, the Division has created new mitigation measures, those N95s, departing from
6 its previous approach.

7 MR. GOTCHER: Thirty seconds.

8 MS. CLEARY: Second reason -- 30 seconds? There are conflicting
9 messages in the proposed amendments and there is a lack of scientific evidence for
10 them.

11 COVID-19 remains a public health crisis, and providing N95s for voluntary
12 use is a waste of resources. We recommend the Board today remove the requirement
13 for N95s for voluntary use, change the definition of fully vaccinated, including allowing
14 vaccines not approved by the FDA, to be utilized. There are many international travelers
15 that will be in U.S. facilities.

16 Finally, PRR, our professionals, they know this standard intimately. The
17 feedback and concerns that we have expressed at many board meetings and in multiple
18 comments are not simply complaints. The last meeting lasted for five hours. This one I
19 think has almost 800 participants. This regulation needs improvement. Because we do
20 not support the amendments does not mean that employers do not support. And
21 indeed, they already are protecting employees from COVID-19. The ETS has gone in the
22 wrong direction, and it needs to be corrected. Thank you for your time today.

23 CHAIRMAN THOMAS: Thank you, Helen.

24 Who do we have up next, Mr. Gotcher?

25 MR. GOTCHER: The next commenter is Brenda McGuire from the Elk

1 Grove Unified School District.

2 CHAIRMAN THOMAS: Brenda, can you hear us? Hello, Brenda.

3 Remember to unmute yourself if you haven't.

4 MR. GOTCHER: Brenda, if you dialed in by telephone, the code to
5 unmute yourself is *6.

6 CHAIRMAN THOMAS: Yeah. We are going to move on, Brenda. You can
7 call back in or hang on. We'll get back to you.

8 Who is up next, Mr. Gotcher?

9 MR. GOTCHER: Our next commenters are Ricardo Beas, Ashley Salas
10 Silva, and Gina Ma. Next, Ricardo Beas, who is an independent environmental health
11 and safety professional.

12 CHAIRMAN THOMAS: Ricardo, can you hear us? Hello, Ricardo?

13 So what's the problem, John?

14 MR. GOTCHER: I'm not sure. Ricardo, if you are a call-in user, please
15 press *6 to unmute yourself.

16 MS. SHUPE: This is a good time -- this is a reminder for all speakers in the
17 queue that John is announcing three speakers at a time. So if you hear your name,
18 please be prepared to jump in and provide a public comment as soon as we call you.
19 Thank you.

20 CHAIRMAN THOMAS: So do we have Ricardo yet? So, Ricardo, call back
21 in when you get a chance. We'll get you on.

22 Who is up next, John?

23 MR. GOTCHER: Our next commenter is Ashley Salas Silva from Daniel C.
24 Salas Harvesting, Inc.

25 CHAIRMAN THOMAS: Ashley, can you hear us?

1 MS. SALAS SILVA: I can. Can you hear me?

2 CHAIRMAN THOMAS: Yeah. Go right ahead. Thank you.

3 MS. SALAS SILVA: Thank you. Good morning, everyone, and thank you
4 for this opportunity to speak.

5 Mostly, I would like to reiterate what Ms. Helen Cleary laid out very
6 beautifully. We also have great concerns about the provision to require N95s. And I
7 believe that as an employer that is an unnecessary use of resources which was, again,
8 very well said by Ms. Cleary. And we also have great concerns about the unintended
9 consequences.

10 While I have several other thoughts about the provisions, I just simply
11 wanted to focus on those two points that were made. And we too support the change
12 of definition of fully vaccinated. I believe those are the focuses that we wanted to focus
13 on today, and Ms. Cleary covered it all. So I support fully what she had mentioned, and I
14 thank you for the opportunity to speak.

15 CHAIRMAN THOMAS: Thank you, Ashley. Appreciate your message.
16 John, who do we have next?

17 MR. GOTCHER: Our next commenter is Gina Ma, who is an employee in
18 California.

19 MS. MA: Good morning. Can you hear me?

20 CHAIRMAN THOMAS: Yes, Gina. How are you doing? Speak up just a
21 little bit. We can hear you.

22 MS. MA: Sure, no problem. Good morning, ladies and gentlemen, and
23 thank you for allowing me the opportunity to address the Board regarding the adoption
24 of the new subsections to the California Code of Regulations, title 8.

25 I will begin by acknowledging that the past 15 months have been

1 emotionally, mentally, physically, and financially challenging for all of us, especially for
2 those of us who have lost loved ones to this disease.

3 Today, I would like to comment specifically on the newly-proposed
4 subsections, 3205(c)(6), (c)(7), and (c)(8). In subsection 3205(c)(7), Physical Distancing,
5 it calls for employers to provide respirators for non-vaccinated employees while working
6 indoors or at outdoor megaevents. In addition, in subsection (c)(8)(E)(1), there is a
7 requirement for employers to not only encourage the use of the respirator, but to
8 provide respirators of the correct size.

9 However, nowhere in these subsections is there a provision to provide
10 medical clearance and fit testing by a trained medical or occupational health
11 professional for these employees.

12 I find it strange that a Board charged with protecting the health and
13 safety of workers in the state would encourage employees without the proper medical
14 clearance and fit testing to voluntarily wear a respirator that could cause them
15 respiratory harm or fail to provide any protection if not fit properly.

16 There are also reports of physiological and psychological effects from
17 long-term use of respirators, most notably from healthcare workers who routinely
18 spend eight to ten hours in PPE. On top of the healthcare workers, now that all
19 employers will be required to purchase and stock respirators for their employees'
20 voluntary use, this could further deplete the necessary stocks of respirators for first
21 responders and healthcare workers, who are the most vulnerable to exposure and who
22 provide care to the most vulnerable populations.

23 Subsection 3205(c)(7), Face Coverings. On May 16th, the CDC amended
24 their mask guidelines, allowing fully-vaccinated individuals to resume activities without
25 wearing a mask based on data that vaccines protect individuals from actual or

1 asymptomatic disease, data that also includes animal studies that show vaccinated
2 animals after challenged with the viral agent did not develop disease.

3 The CDC has posted 142 references on their website regarding vaccine
4 effectiveness, yet this Board still wants to require all indoor workers to wear a face
5 covering regardless of vaccination status.

6 As of June 2nd, the CDC reported that 40.9 percent of the total U.S.
7 population has been fully vaccinated. In comparison, the State of California reported on
8 that same date that 51.2 percent of Californians have been fully vaccinated. In addition,
9 the new case rate in the state is reported as 2.1 per 100,000 individuals, and testing
10 positivity rate is 0.8 percent, both at the lowest rate since March of 2020. So, again, I
11 ask why require face coverings for all?

12 I will end by sharing my own experience over the past 15 months. Again,
13 I speak only for myself. I do not represent my employer or any entity. I work in the
14 biotech sector in San Diego. My job consists of lab work that I cannot perform at home.
15 I have come to work every day during this pandemic, worn a face mask and other PPE as
16 required by my employer as part of working in a lab. I received my vaccine when I
17 became eligible, and I have not traveled outside of the city or state in the past 15
18 months. But I am tired. I am tired of rebreathing my own CO2 for eight or more hours a
19 day. I am tired of seeing all of the “in this together”, but alone ads, and tired of hearing
20 “Wear a mask save lives”. Tired of hearing about all the great things I can do now that I
21 am vaccinated, but only if I don’t live in the State of California. I am tired of the senior
22 leadership of my company and entities like this Board telling me you care about my
23 health and safety. None of this is about health and safety. If it were, you would have
24 proposed these standards at the beginning of the pandemic. Not now, 15 months later,
25 when case rates are at their lowest and vaccination rates are rising. Thank you.

1 CHAIRMAN THOMAS: Thank you. John, who do we have in the queue?

2 MR. GOTCHER: Our next commenters are Melissa Patack, Andrew J.
3 Sommer, and Rob Moutrie, with next being Melissa Patack from Motion Picture
4 Association Incorporated.

5 MS. SHUPE: Melissa, before you get started, this is just a gentle reminder
6 from staff that all comments are not only being live translated to Spanish and live
7 streamed, but are also being transcribed for our records. And so if you could speak in a
8 modulated speed, that would be very helpful. Thank you.

9 MS. PATAACK: Thank you very much.

10 CHAIRMAN THOMAS: Go right ahead.

11 MS. PATAACK: Can you hear me?

12 CHAIRMAN THOMAS: Yeah. Go ahead, Melissa. Speak up a little bit.

13 MS. PATAACK: Okay. Thank you. My name is Melissa Patack. I am here
14 on behalf of the Motion Picture Association and our member companies, the leading
15 producers and distributors of filmed entertainment content across all distribution
16 platforms. Our members are Disney, NBC Universal, Netflix, Paramount, Sony, and
17 Warner Bros. We appreciate the opportunity comment on the proposed ETS for COVID-
18 19.

19 As many have already said, we have endured the COVID-19 pandemic
20 and all indications are pointing toward its receding. Vaccines are readily available.
21 Positivity is extremely low. Our hospitals are not nearly overwhelmed and are able to
22 resume normal functioning with normal caseloads. The CDC has adjusted guidance and
23 we know that in 12 days, Governor Newsom and the California Department of Public
24 Health will lift most restrictions. Businesses will be able to be at full capacity and
25 occupancy. And now we need worksites to be able to operate under normal conditions.

22

1 The ETS, however, does not go far enough to recognize the improved
2 health environment. Face coverings, mask requirements are still more restrictive and
3 onerous than they need to be. The close contact definition doesn't take into account
4 whether someone is vaccinated. There doesn't seem to be a way to resolve or
5 adjudicate false positive tests.

6 In Los Angeles County, our public health department assists with that
7 resolution of false positive cases. Dr. Barbara Ferrer and her staff has informed the
8 business community -- have informed across sectors that the increased vaccination rate
9 combined with low positivity rate will lead to more false positives. And so we definitely
10 need a way to resolve false positive tests.

11 The definition of workplace, work site, work area, those terms are used in
12 different places in the ETS, and there seems to be inconsistency. For our member
13 companies, they maintain very large studio facilities with multiple buildings that have
14 different functionalities. And these overlapping terms are just confusing. We have
15 sound stages, office buildings, outdoor backlots. And they are used for not only filming,
16 but other office functions, and storage functions as well. So we need some more clarity
17 on that.

18 Most employees come into contact with limited numbers of coworkers,
19 and it's important that the ETS focus on the employees who work really in proximity to
20 one another and that the definitions accommodate that. There is more in our comment
21 letter, so I will --

22 MR. GOTCHER: Thirty seconds.

23 MS. PATACK: Yes. I will rest on our comment letter. And we just would
24 simply ask that the public health guidance recognize that COVID-19 no longer creates
25 the risk that it did one year ago or even six months ago. We have made much progress

1 in taming this virus and we ask also that Cal/OSHA not impose unreasonable burdens in
2 the employment setting. Thank you very much.

3 CHAIRMAN THOMAS: Thank you, Melissa.

4 Who is up next, John?

5 MR. GOTCHER: Our next commenter is Andrew Sommer from Conn
6 Maciel Carey LLP.

7 CHAIRMAN THOMAS: Andrew, can you hear us?

8 MR. SOMMER: Yes, I can.

9 Chair Thomas and members of the Board, thank you for the opportunity
10 to comment. I am Andrew Sommer, counsel for the California Employers COVID-19
11 Prevention Coalition, which is a broad-based industry group of employers substantially
12 impacted by the standard. I'll refer to the comments in writing that we submitted to the
13 initial ETS as well as the revised version that has been submitted.

14 We appreciate the considerable amount of energy that has gone into
15 developing both the emergency temporary standard and its proposed revisions, but the
16 revisions do not go far enough in updating the rule to science-based guidance around
17 vaccinations in that large segments of the population are being vaccinated within the
18 state.

19 As Mr. Berg has indicated, the vaccines have proven to be highly effective
20 against contracting and transmitting COVID-19 and against experiencing serious illness.
21 Based on this, CDC guidance has provided that fully-vaccinated people can resume
22 activities without wearing masks or physical distancing. Federal OSHA presently refers
23 to CDC guidance in this respect. State plans like Michigan, Virginia, Oregon, Washington
24 have announced that consistent with CDC guidance, employers may allow fully-
25 vaccinated employees to not wear face coverings and not physically distance.

24

1 Otherwise, Fed OSHA states impacting private sector employees such as New York,
2 New Jersey, Massachusetts and Illinois have modified their executive orders and other
3 rules to conform to CDC guidance. But what is being done to update Cal/OSHA's COVID-
4 19 rules for fully-vaccinated employees?

5 Under the revised draft, Cal/OSHA proposes that physically distancing be
6 required in indoor workplaces through the end of July with no exception for fully-
7 vaccinated workers. Under the revised draft, Cal/OSHA requires the use of face
8 coverings indefinitely. The updated draft still does not recognize the proper science-
9 based exception to the mask mandate for an employee who is fully vaccinated.
10 Cal/OSHA is out of step with the rest of the country, which is moving towards removing
11 masks and physical distancing requirements for fully-vaccinated individuals, and this is a
12 serious concern by our coalition.

13 There are also concerns about this indiscriminate requirement for N95
14 respirators for voluntary use to every single unvaccinated worker in the state. The
15 world has not resolved is N95 supply chain crisis, and it's clear that not all Californians
16 will be vaccinated. It is anticipated that at least 20 percent of the state will not be
17 vaccinated. There is simply not the supply of N95 respirators for distribution to all such
18 employees. And given the Wildfire Smoke Rule and entering wildfire season along with
19 the requirements for healthcare and N95 respirators, it is not simply feasible to impose
20 that requirement.

21 There are a host of other concerns that were addressed in our comments
22 that I'll refer to. I did want to mention a very important point about the requirements
23 for the retention of medical records for 30-plus years. And we do have a concern that
24 would place unreasonable burden particularly on mid-sized and smaller employers. And
25 we would recommend that any retention period for proof of vaccination, that in the rule

25

1 it be clear that it's a one-year retention period and not the 30-year retention period
2 given the nature of the pandemic and that there would not be a need to retain those
3 records and that there would be no related latency period in this case.

4 I appreciate you providing the opportunity to comment. I will refer back
5 to our written comments for more significant detail. Thank you.

6 CHAIRMAN THOMAS: Thank you, Andrew.

7 John, who do we have next?

8 MR. GOTCHER: Our next commenters are Rob Moutrie, Kristie
9 Sepulveda-Burchit, and Katie Hansen, with next Rob Moutrie from Cal Chamber.

10 MR. MOUTRIE: Good morning, Mr. Chair and members.

11 CHAIRMAN THOMAS: Rob, how are you doing?

12 MR. MOUTRIE: Well, sir. I hope you are, too. I will limit my testimony to
13 a few key issues given the tight three-minute timeline. Our letter lays these out in much
14 more detail, as well as some FAQ issues.

15 I would like to quickly note that we appreciate some of the changes
16 outlined by Mr. Berg, including the changes to outbreak, transportation, housing, and
17 exclusion provisions. But we have serious remaining concerns. And along with Ms.
18 Cleary, we would urge the Board push this back for just a week or two to clean up some
19 of the specific points.

20 First, we also believe this is out of step with CDC guidance and Governor
21 Newsom's June 15th deadline as outlined by Ms. Cleary and Mr. Sommer. On the N95
22 respirator point, I would like to also associate with Ms. Cleary and Mr. Sommer. Putting
23 aside the issues of clarity as to how you get a fit without fit testing and potential
24 competition with healthcare, I want to share a quick personal anecdote that happened
25 to me actually just yesterday that I think really sums up some of the issues here.

26

1 I have a good friend who works at a law office. Very smart, mother.
2 And she said she's not getting vaccinated. To be clear, Cal Chamber is very in favor of
3 vaccination. We have said so publicly, and our members have hosted vaccine clinics.
4 But she said no. She said what is this regulation going to mean to me. And I said, well,
5 everyone in your workplace is going to have to wear face masks because you are not
6 vaccinated through 2022. And she said, well, fine with me. I don't mind face masks.
7 What else? And I said, well, everyone has got to purchase N95s -- excuse me, your
8 employer will have to purchase N95s and have them on hand for you. She said, well, I'm
9 not going to wear that.

10 And I think that's a central -- two central problems here. Number one,
11 this regulation has no incentive that pushes unvaccinated workers towards vaccination.
12 It just puts all the burdens on employers for it. And second, it underlies the
13 wastefulness of the N95 provision to the extent that we are going to be competing with
14 healthcare to buy masks that employees who do not believe in vaccination will not want
15 to use. We are just going to buy them and hold them for months. And we don't see
16 that as creating any health benefits.

17 I'd like to also briefly touch on some FAQ issues that must be addressed
18 urgently. And I understand the Division's intent to do so, but I want to flag a couple
19 here looking at the tight compliance timeline, which is this will be in effect by June 15th,
20 which is less than three weeks after it was made public.

21 First, employers must have clarity on what documentation is necessary to
22 show that someone is fully vaccinated. Employees are losing their vaccine cards as we
23 speak and knowing what we need to do when is absolutely critical. So please, that is
24 clarification that we must have right now.

25 Second, as Mr. Sommer pointed out, we need clarification on the

1 recordkeeping obligations related to them. As he mentioned, the concern is whether
2 or not the --

3 MR. GOTCHER: Thirty seconds.

4 MR. MOUTRIE: I'm sorry, 30 seconds? Thank you.

5 MR. GOTCHER: Yes.

6 MR. MOUTRIE: We need clarification on what the recordkeeping
7 obligations are as to that 30-year timeline. Justification for that timeline principle
8 relates to long-term exposure to toxic chemicals like lead or other issue that may have
9 delayed onset concerns. We don't see that here. We are talking about state-
10 encouraged vaccines. And the issue is, well, should the employer keep records about
11 their potential side effects 30 years ahead because it's somehow the employer's fault
12 that there's side effects? It just doesn't make sense to apply that standard here. So we
13 would urge the Division to clarify that 30-year timeline for employee medical records is
14 not applicable here.

15 And with that, I think I'm out of time. I'll direct you back to our letter and
16 appreciate the opportunity to comment. Thank you.

17 CHAIRMAN THOMAS: Thank you, Rob. Appreciate it. Next up, John?

18 MR. GOTCHER: Our next commenter is Kristie Sepulveda-Burchit, whose
19 affiliation is Educate Advocate.

20 CHAIRMAN THOMAS: Kris, are you with us?

21 MS. SEPULVEDA-BURCHIT: Yes, hello.

22 CHAIRMAN THOMAS: Yes. Speak up a little, please. Go right ahead.

23 MS. SEPULVEDA-BURCHIT: Yes, I am here. Thank you for taking the time
24 to hear public comment today. I am Kristie Sepulveda-Burchit at Educate Advocate. We
25 are a statewide grassroots nonprofit organization that serves families and children and

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1 adults with special needs and disabilities.

2 We urge you to reject the proposed language that goes against what our
3 Governor stated would occur in the state, that face coverings would cease on June 15th,
4 2021. We urge Cal/OSHA to lift state covering requirements for employees in California
5 effective June 15th, 2021 as Governor Newsom state the state would be doing even
6 prior to the CDC releasing their revised guidance pertaining to face coverings.

7 If an employee wants to continue wearing face coverings, they certainly
8 could be allowed that option. Other states such as Florida and Texas have dropped face
9 covering mandates and cases of COVID have plummeted. We have had reports from
10 employees that have asthma and have had to take time off work because wearing a face
11 covering eight hours a day impacts their health. We have had reports of employees
12 getting rashes on their face and acne for wearing face coverings hours and days on end
13 at work. Others have even gotten bacterial pneumonia from repeated and long use.
14 Some employees are being refused accommodations though they are unable to wear
15 face coverings as well. WE have also had reports of employees actually getting COVID
16 and then exposing their family to getting COVID because of wearing a face covering and
17 having no training on how to handle it and repeatedly touching their face and other
18 objects. No one is throwing these face coverings away after touching it, which you are
19 supposed to do.

20 It is immoral, unethical, and discriminatory to segregate and isolate
21 employees between those vaccinated and unvaccinated and branding them with a
22 scarlet letter of having to wear face coverings. This goes against everything our country,
23 our state, and our communities were built on. Keep in mind, there is no mention of
24 those who have already had COVID and recovered and have antibodies, T-cells, or B-
25 cells for their natural immunity.

1 Again, we urge you to reject the proposed language that keeps the face
2 covering requirements for employees in place beyond June 15, 2021 or setting up a
3 situation that is discriminatory and against the Americans With Disabilities Act where we
4 have people being treated as second-class citizens and putting categories of those
5 vaccinated and unvaccinated. Thank you very much.

6 CHAIRMAN THOMAS: Thank you. Next up, John?

7 MR. GOTCHER: Our next commenters are Katie Hansen, Kenneth
8 Davidson, and Ken Smith with -- sorry, our next commenter is Katie Hansen from the
9 California Restaurant Association.

10 COMMENTOR: I apologize. Can you hear me now?

11 CHAIRMAN THOMAS: I'm sorry, I'm not sure who is calling in, but right
12 now Katie is going to speak. And then -- I'm not sure who this is. We'll come back to
13 you.

14 Go ahead, Katie.

15 MS. HANSEN: Good morning. Katie Hansen with the California
16 Restaurant Association.

17 The global pandemic has financially devastated community restaurants
18 and has dramatically altered restaurant operations. The demands of public health have
19 required us to adapt quickly to ensure physical distancing, address the needs of
20 vulnerable populations, and manage all-too-often periodic shutdowns of in-store and
21 dine-in operations. Soon we will begin to open our dining rooms and start the long road
22 to economic recovery.

23 It is important to the ETS to reflect the recent federal and state changes
24 to best practices and guidance for employers. We are pleased to see some of the
25 positive change in the amended ETS to reflect vaccinations and to clarify the definition

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1 of exposed group and that physical distancing requirements will be phased out by July
2 31st.

3 We do continue to have major objections to a few areas of the amended
4 ETS. Cost. Requiring community restaurants to provide N95s to unvaccinated
5 employees is a major cost to an employment community that is struggling financially
6 due to government-ordered shutdowns. Face coverings such as surgical masks as
7 defined in the amended ETS should suffice. N95s should be reserved for medical
8 professionals, frontline responders, and for use to comply with the Emergency Wildfire
9 Smoke Regulations. Requiring restaurants to utilize MERV 13 filters and HEPA filtration
10 units in the event of a COVID-19 outbreak poses a significant financial cost to
11 restaurants at a time when they have yet to even begin the years of hopeful recovery
12 ahead.

13 Face masks. The revised ETS continues to face masks in the workplace, in
14 conflict with the Governor's reopening of the state on June 15th. This would mean
15 restaurants would have to require fully-vaccinated employees to wear face masks at
16 work until the end of 2022.

17 All restaurant employees are going to grow weary of the requirement to
18 wear masks while at work, especially fully-vaccinated employees. A fully-vaccinated
19 server could work a lunch shift at a restaurant, get off work, go home, change out of
20 their uniform, and then go out to dinner with their family or friends at the same
21 restaurant in the evening and not be required to wear a mask, even though they had to
22 wear a mask earlier in the day while at work. Restaurant managers are going to be in a
23 really difficult position to enforce masking requirements in the proposed ETS.

24 Vaccination documentation. Restaurants are extremely concerned about
25 the requirement to obtain and maintain COVID-19 vaccination documentation. How are

1 restaurants supposed to respect an employee's privacy and personal medical decisions
2 while having to obtain and maintain an employee's COVID-19 vaccination documents?
3 What do we do if a vaccinated employee has lost or thrown away their vaccination
4 card? Can employees sign an attestation or self-certification document regarding their
5 vaccination status? We need the FAQs to clarify; one, what kind of documentation
6 employers should maintain; two, if there are alternate forms of compliance in the event
7 of a lost vaccine card; and three, how long an employer is required to maintain these
8 documents.

9 MR. GOTCHER: Thirty seconds.

10 MS. HANSEN: Partitions. The amended ETS phases out the use of
11 partitions in the workplace on July 31st, but then requires restaurants to reinstall
12 partitions in the workplace in the event of an outbreak. Restaurants previously installed
13 partitions at a significant cost and at a time when the state had limited our ability to
14 generate revenue. It is not practical for restaurants to take partitions down and reinstall
15 them every time there is a workplace. Restaurants have limited space to store
16 partitions when not in use. Reinstating partitions should occur only in the event of a
17 major outbreak.

18 Thank you for the opportunity to provide comments.

19 CHAIRMAN THOMAS: Thank you very much. John, who is up next?

20 MR. GOTCHER: Next commenter is Kenneth Davidson on behalf of
21 himself.

22 CHAIRMAN THOMAS: Kenneth, can you hear us? I think you might be
23 muted, Kenneth.

24 MR. DAVIDSON: Okay. Is that better?

25 CHAIRMAN THOMAS: Give it a shot, bud. I can hear you.

1 MR. DAVIDSON: All right. Thank you very much. I appreciate the Board
2 letting me have some comments today.

3 I am speaking on behalf of myself. I have been a safety professional for
4 30 years. I have a degree in chemistry, a master's degree in public health. I am a
5 certified industrial hygienist. You know, I've been around awhile. I remember when Dr.
6 John Howard worked in San Diego. I remember SB 198 and ergonomics standards.

7 So, you know, this standard here does definitely cause some concerns.
8 And again, two of the issues that have also been raised; what fully vaccinated means
9 and the definition and the requirement for documentation. And documentation means
10 to me something that can be picked up and held and seen. So, you know, that is a --
11 basically that comes down to a vaccination card. And again, that is a medical record.
12 That places a huge burden on employers to maintain a separate medical file, especially
13 small employers to maintain a separate medical file or whatever process you're going to
14 have for that to keep it confidential and private and then maintain it for the required
15 employment plus 30 years. You know, it's a huge burden.

16 The other part of that is the reason to do that is because we need to
17 separate and segregate vaccinated and unvaccinated employees, you know, for -- if
18 they're in a room with a meeting, we need to know who can take off a mask or if they
19 can take off a mask. So the problem there is we are creating two classes of employees.

20 Also, some of the ideas are maybe we have two different shifts,
21 vaccinated and unvaccinated, or we have a blue badge and a red badge. What this also
22 creates there is now it lets all employees know the medical status of other employees.
23 So there are issues there. Instead of an inclusive environment, we create a divisive
24 environment. And this is not how we want to proceed.

25 The other issue is the use of voluntary respirators. As long as I've been a

1 safety professional, we always go the hierarchy of controls. Respirators are the last
2 resort, and we are not using them as a last resort right now. We are using a respirator.
3 And these respirators that we have to use are not valved. So the difficulty in breathing
4 and the breathing resistance is pretty significant.

5 MR. GOTCHER: Thirty seconds.

6 MR. DAVIDSON: And I would never recommend anyone to wear one for
7 eight hours a day without a medical test or without being fit tested. Without being fit
8 tested, you know, why even wear one? You might as well wear a regular face covering.
9 Also, the CDC June 1st still only recommends respirators for use of healthcare
10 professionals and the likes like that. If we need more than just a face covering, they
11 recommend doubling up.

12 Also, the NIH has just come out and recommended that healthcare professionals
13 do not decontaminate and reuse N95 respirators any longer. Also, they recommend
14 they do not use N95 respirators, that they only use NIOSH-certified products. That is
15 going to limit the amount of respirators available to businesses even further. The cost is
16 significant. These are disposable. They should be worn once a day. And once a day per
17 an unvaccinated employee per week. And the cost and the availability, it's not going to
18 be -- it's not a situation that's going to be sustainable at all.

19 CHAIRMAN THOMAS: Could you wrap it up, Ken?

20 MS. SHUPE: We are past three minutes.

21 CHAIRMAN THOMAS: Yes, please.

22 MR. DAVIDSON: Yes. And that's good. And I appreciate the time. Thank
23 you.

24 CHAIRMAN THOMAS: Thank you. Thank you, Kenneth. We appreciate it
25 your comments.

1 MR. BEAS: This is Ricardo Beas. Can you hear me?

2 MR. GOTCHER: Hi. Call-in user? What is your name? And I'll make sure
3 you're on the list. But I don't see you next in the queue.

4 MR. BEAS: Yes. I am Ricardo Beas. I was actually the third person that
5 was supposed to speak. And I --

6 CHAIRMAN THOMAS: John, why don't we let him go ahead since we've
7 got him.

8 MR. GOTCHER: Okay, great. Thanks for joining. So our next commenter
9 is Ricardo Beas, independent environmental health and safety professional.

10 CHAIRMAN THOMAS: Go ahead, Ricardo.

11 MR. BEAS: Great. Thank you very much. When I sent an email contacted
12 about getting into this queue, I was told that we were going to have five minutes, so I
13 actually prepared something to the effect. So I'm going to cut it down as much as I can.

14 The CDC estimates that in the 2019/2020 flu season in the United States,
15 we had up to 56 million flu illnesses, 740 hospitalizations, and 62,000 deaths. Cal/OSHA
16 never took any action to prevent flu infections, hospitalizations, or deaths. And rightly
17 so, as Cal/OSHA cannot stop the transmission of the flu, just like we have seen that the
18 extreme restrictions of the local COVID health orders never stopped COVID
19 transmission.

20 Dr. Fauci and Dr. Robert Redfield were right as far back as March 20th
21 when they wrote in an article of the New England Journal of Medicine that the overall
22 clinical consequences of COVID-19 may ultimately be more akin to those of a severe
23 seasonal influenza. And because of my limited time, I will not be able to show why this
24 number that we have of deaths is really not all COVID. The majority is probably about
25 six percent, admitted by the CDC.

1 With this as a background, let me point out the following facts. Fauci
2 and other global health authorities have confirmed that the existing COVID vaccines
3 only help reduce the symptoms of the disease, and therefore they do not prevent a
4 person from getting or spreading the disease. That is why they continue to recommend
5 persons wear masks even if vaccinated.

6 The COVID vaccines are causing all sorts of injuries in young and old, from
7 blood clots to heart inflammation, trembling, seizures, just to name a few. As of April
8 23rd, 2001, the CDC's Adverse Event Reporting System, or VAERS, which is used to track
9 COVID vaccine injuries, shows 119 reports of adverse events and 3,500 deaths.
10 According to a Harvard study sponsored by the CDC several years ago, less than one
11 percent of adverse events and deaths are actually reported in the VAERS system. If this
12 is correct, that means that potentially there have been more than 11 million adverse
13 events and 350,000 deaths due to the COVID vaccine.

14 If COVID vaccines don't stop the spread, then they can never help us
15 achieve any sort of herd immunity. This is further proven by the fact that over 10,000 of
16 COVID-vaccinated individuals have contracted COVID after their shot. Therefore, it
17 would make no sense to mandate such vaccine in order to lift restrictions on the
18 unvaccinated population.

19 COVID vaccines are issued under an FDA emergency use authorization,
20 and therefore cannot be mandated on anyone. Everyone taking a COVID vaccine is a
21 guinea pig in an ongoing medical study. Cal/OSHA's proposed COVID emergency rule
22 results in duress and coercion to force employees to get vaccinated against their will.

23 MR. GOTCHER: Thirty seconds.

24 MR. BEAS: N95 masks do not stop virus from being transmitted to
25 others. If they don't, then ordinary face coverings will even be less effective or

1 worthless. Not only do mid-grade masks not work, they can actually help to spread the
2 COVID.

3 As Fauci said initially, masks don't work against COVID viruses. Fauci and
4 top officials at the World Health Organization have also admitted that asymptomatic
5 carriers of viruses, including COVID-19, rarely cause the spread of the season. Millions
6 of Americans have already contracted COVID and have survived it and are now naturally
7 immune, which is most likely for life. So they should have the same rights as those that
8 are vaccinated, or else it will result in discrimination by employers and Cal/OSHA and
9 forcing employers to implement this Cal/OSHA rule is detrimental to businesses and
10 their owners, imposing unnecessary operations, expenses in a struggling economy and --

11 MS. SHUPE: Thank you, sir. We are at three minutes, and that is the
12 extent of your time to address the Board.

13 MR. BEAS: I am almost done. I am almost done, ma'am. And will
14 mentally affect the health of other employees. If representatives of Cal/OSHA and this
15 Board reauthorize the COVID rule, they will be violating their oath of office by violating
16 the rights of business owners and unvaccinated employees, including their personal,
17 medical, religious right.

18 Based on the above, I respectfully request that the Board immediately
19 rescind the Cal COVID order and that it treat SARS COVID as dangerous as any other
20 seasonal flu. And as an alternative, I request that this Board refrain from making any
21 rules today until it has reviewed all of the data that I have referenced here.

22 And I will be providing this letter to the Board and --

23 MR. GOTCHER: Excuse me, Mr. Beas. It's time to take it to a close.

24 CHAIRMAN THOMAS: Thank you. We appreciate your comments.

25 MR. GOTCHER: Thank you.

1 CHAIRMAN THOMAS: John, who do we have next?

2 MR. GOTCHER: Our next commenter is Brenda McGuire from the Elk
3 Grove Unified School District.

4 CHAIRMAN THOMAS: Brenda, can you hear us?

5 MR. SMITH: Chair Thomas, do you mind? I believe I was the next
6 speaker after Kenneth, the previous speaker to the one last. Do you mind if I --

7 CHAIRMAN THOMAS: Who is this?

8 MR. SMITH: Kenneth Smith.

9 CHAIRMAN THOMAS: Oh, go ahead, Kenneth. We'll go to -- John, hold
10 up on that one. We'll go to Kenneth since he's on here. Go ahead.

11 MR. SMITH: Yeah. Thank you about that.

12 Chair Thomas, distinguished members of the Board, I do appreciate the
13 time to address this group. My name is Ken Smith. I am the Executive Director for
14 Environmental Health and Safety with the University of California. We did provide
15 written comments late last night to the Board, and I do encourage the Board Members
16 prior to acting upon this proposal to read through those. I won't go through them in
17 great detail because I believe many if not all of the speakers in front of me have already
18 communicated a great concern about the alignment of the proposed regulations with
19 current CDC guidance and a number of conflicts that the proposed language actually
20 calls.

21 One item that I will call out that hasn't been mentioned that is especially
22 of interest to the University is that we use a number of foreign workers that come to the
23 University to study and work in our research facilities that would have been vaccinated
24 with a vaccine that was endorsed by the World Health Organization, but not an FDA-
25 approved or FDA-issued EUA vaccine. And that discrepancy of this proposal not to

1 recognize international vaccines as being efficacious against the virus is potentially
2 problematic. And we have listed 11 other conflicts that this regulation has. But let me
3 just move with the few minutes I have left to talk about the bigger pictures.

4 The first item that I really want the Board Members to understand here is
5 the date, January 11th, 2022. Although this regulation was promulgated during the
6 height of the pandemic when this Board felt the need to act using its emergency
7 regulation authority, it doesn't mean that this regulation will go away on June 15th
8 when the Governor removes his proclamation, his declaration of an emergency.
9 Instead, it will continue on. Right?

10 The action, if this Board takes it today, to adopt this proposal, means that
11 this regulation will be in effect all the way until next year. And many of the employers
12 will continue to struggle with this misalignment between current guidance from the
13 state of what the virus is at, the pandemic and its conclusion, and the onerous
14 regulations that are included in here.

15 Last but not least, let me just read this one sentence here. This is a
16 statement that we actually have to comply with in the regulation. It says that vaccine is
17 effective at preventing COVID, both protecting against transmission and serious illness.
18 And I think that is one thing that is forgotten in this entire conversation. Certainly we all
19 know the vaccine is very effective against preventing the disease, both all variants.
20 There has been no published data yet to show that any of the recognized vaccines are
21 not effective against the variants of this virus. But more importantly in that message,
22 the message that we as employers have to communicate to our employees is that this
23 vaccine not only protects you, it protects others around you because it limits the ability
24 of the virus to transmit.

25 So I encourage this Board to consider its options going forward about

1 what an action would mean today. And if so inclined, if this Board does decide to vote
2 for it, I may recommend one small solution.

3 MR. GOTCHER: Thirty seconds.

4 MR. SMITH: And that is simply to add three words, one sentence to
5 section 2305(a)(1)(E). Just simply add the words fully vaccinated employee as a
6 potential compromise and solution for it. Thank you for your time.

7 CHAIRMAN THOMAS: Thank you, Kenneth. Appreciate your comments.
8 Who do we have next, John?

9 MR. GOTCHER: Next commenter is Brenda McGuire from the Elk Grove
10 Unified School District.

11 CHAIRMAN THOMAS: Hello? I'm not hearing anybody, John.

12 MR. GOTCHER: I can see that she is muted on the WebEx.

13 CHAIRMAN THOMAS: I'm sorry, what was that?

14 MR. GOTCHER: I can see that Brenda is muted on the WebEx. Brenda
15 McGuire, if you are there, please unmute.

16 CHAIRMAN THOMAS: Brenda, can you hear us?

17 MS. SHUPE: John, let's go ahead --

18 CHAIRMAN THOMAS: Hello? John, let's move on to the next. I don't
19 know who that was or if that was Brenda or not.

20 MR. GOTCHER: Okay. Our next commenter is Megan Kristin Mansell
21 with no affiliation.

22 CHAIRMAN THOMAS: Megan, can you hear us?

23 MS. MANSELL: I can hear you.

24 CHAIRMAN THOMAS: Go ahead.

25 MS. MANSELL: Yes, I can hear you. Okay. My name is Megan Mansell.

1 And you can hear me now? Can you confirm?

2 CHAIRMAN THOMAS: Yeah, we can hear you. Go right ahead.

3 MS. MANSELL: Okay. Sorry about that. I was having weird feedback.

4 I'm calling today because I am calling to express my concerns about
5 defeating the entire point of governing agencies such as OSHA and our regulatory
6 bodies that are -- their express purpose is the protection of workers.

7 We have at hand here -- at the beginning we heard solely droplet
8 mitigation. We didn't hear anything based on aerosols from the start. This is a
9 conversation that should have always begun with minimum viable particle size under
10 pressure. The minimum viable particle size of a given pathogen is important because it's
11 going to tell you what is the smallest particulate that could possibly be getting through.
12 This is a low-minimum infective dosage pathogen.

13 We have instead pivoted to masks without ever really looking into their
14 ability to create focused, concentrated plumes of fine particulates. And this is a really
15 critical issue when you have a sub 0.3 micron radically-behaving particulate pathogen
16 such as COVID, which at its minimum particle size is 0.06 microns. In a contained space,
17 this remains aloft for hours, even days. And the trajectory of particles in this range is 18
18 to 20 feet, not the six foot over or six foot under rhetoric that we all got so attached to.

19 I'm sorry, I have a one-year-old on my lap, so he is making sound effects
20 for me.

21 Multiple COVID-sized particles can get through even the best respirators
22 that we have commercially available on exhale. And we don't have exhale filtration
23 standards for apparatuses that you see on anyone within the public sector that filter
24 exhale under four microns.

25 COVID, the minimum infective dosage if you have it at 1,000 virions per

41

1 se, there is a range people like to say between 100 and 1,000. So if you go to the
2 higher end of that range, 1,000 virions as a minimum infective dosage with 100,000
3 emitted per minute with general respiration, each breath in a mask can infect five or
4 more people. Masks are not source control for airborne pathogens.

5 And I had some photos that I was trying to include along with this, but I
6 was told that I cannot share photos. So anyone would like to see that on my Twitter
7 feed, I am @MamasaurusMeg. And I can show exactly how there is no point of source
8 control and also how many of the respirators you see people actually wearing -- sorry
9 about the background noise again.

10 MR. GOTCHER: Thirty seconds.

11 MS. MANSELL: Many of the respirators you actually see people wearing
12 create concentrated plumes of fine particulates, which increase the trajectory of those
13 fine particulates. So if you're putting a mask on a transmissible positive, especially if a
14 fitted apparatus, you are exacerbating the issue at hand. And even the N95 respirators,
15 even the unvented N95 respirators do this. And the vented N95 respirators are being
16 used directly over testing materials at our test site, which creates huge contamination
17 issues. We have no standard protocols for masking taking exhale filtration into
18 consideration within the U.S. And that is a huge issue. And so I was calling to voice my
19 concerns on that today because the requirement of the subgrade apparatus that is
20 expressly non-mitigating on any employee, if it were asbestos at five microns, you would
21 certainly care. And COVID at 0.06 microns, telling people that, well, we're going to
22 require you to wear this apparatus for expressly non-mitigating --

23 MS. SHUPE: All right. You have exceeded three minutes.

24 MS. MANSELL: Okay. For other people to feel comfortable does not
25 actually provide meaningful protection for that employee and should not be considered

42

1 for any kind of compulsory use or wear, especially as we have thrown medical consent
2 and medical clearance just clear out the window.

3 CHAIRMAN THOMAS: Thank you, caller. I think we got your point. We
4 appreciate your comments.

5 John, who do we have next up?

6 MR. GOTCHER: Our next commenters are Brian Mello, Emily Burns, and
7 Eric Frumin with next Brian Mello from the Associated General Contractors of California.

8 CHAIRMAN THOMAS: Brian, can you hear us?

9 MR. MELLO: Good morning, Mr. Chairman. Can you hear me okay?

10 CHAIRMAN THOMAS: Yeah. Go right ahead, Brian.

11 MR. MELLO: Mr. Chairman, members of the Board, good morning. My
12 name is Brian Mello. I am the safety manager for the Associated General Contractors of
13 California.

14 AGC is a member-driven organization with around a thousand companies
15 statewide, specializing in commercial construction. We are asking for the California
16 OSHA Standards Board to take all comments around the emergency language regarding
17 COVID-19 prevention into consideration. AGC of California would like to address the
18 ambiguity found with vaccinated versus unvaccinated individuals and recordkeeping as
19 it pertains to the current proposed regulation.

20 Construction has a unique multi-employer environment which may
21 constitute for having anywhere from two to twenty different employers on site at once.
22 This proposed regulation has brought up feasibility concerns when dealing with multi-
23 employer environments. In the case the controlling contractor has 15 subcontractors on
24 site, how is a controlling contractor or subcontractor going to manage and ensure the
25 general contractor or subcontractor's procedures for obtaining vaccination information

43

1 is effective and accurate and how is that information shared to effectively plan a safe
2 work environment on site? We ask the Division to clarify enforcement procedures
3 possibly in an FAQ as well as the process to verify vaccination and a procedure that
4 follows applicable laws.

5 In the revisions, section 3205.6 A and B allows for the employer to
6 choose between physical distancing and face coverings or provide respirators for
7 voluntary use. After July 31st, the employer no longer has that choice in regards to
8 3205, 3205.1, and 3205.2 for outbreaks. After July 31st, the employer is to provide,
9 educate, and encourage the use of respirators for those that are unvaccinated.
10 Although the regulation stops short of stating what the employer must do, much like
11 Mr. Moutrie’s personal example, an employee refuses to wear that respirator, medical
12 evaluations determined the employees only to wear that respirator for four hours due
13 to heat or other health-related issues, the employer is unable to obtain enough
14 respirators due to the shortage as wildfire and smoke inhalation becomes more
15 prevalent and as medical providers continue to have that priority over these respirators,
16 including taking away from other cases such as protection against asbestos and other
17 safety concerns.

18 AGC of California urges the Division to consider removing the respirator
19 mandate and continue with CDC guidance for unvaccinated individuals, which consists
20 of face coverings and physical distancing. AGC of California has seen inconsistent
21 language between Cal/OSHA, CDC, and CDPH and the state’s plan to drop the tier
22 system come July 15th and hope the Board takes this into consideration.

23 MR. GOTCHER: Three minutes.

24 MR. MELLO: Thank you for your time and consideration around these
25 comments as well as the detailed written comments that were previously submitted.

1 Thank you.

2 CHAIRMAN THOMAS: Thank you, Brian.

3 MS. SHUPE: This is just a reminder that screensharing is not allowed.

4 And if it persists, we will have to remove folks from the meeting for it. Thank you.

5 CHAIRMAN THOMAS: Thank you, Christina.

6 Who do we have up next, John?

7 MR. GOTCHER: Our next commenter is Emily Burns from Rational

8 Ground.

9 CHAIRMAN THOMAS: Emily, can you hear us?

10 MS. BURNS: Yes, I can. I was just removing my mute.

11 CHAIRMAN THOMAS: Go right ahead.

12 MS. BURNS: Thank you very much for your time.

13 The wide application of masks was predicated on an early
14 misunderstanding of the primary mechanism of transmission of COVID-19 as well as flu.
15 It is now agreed that both COVID-19 and flu are spread via respiratory aerosols
16 generated during normal breathing. Not speaking, coughing, or sneezing; just
17 breathing. This matters because for decades we have known the size and distribution of
18 these aerosols. The vast majority are found in the 0.1 to 1.1 micron range with a
19 median size of 0.28 microns. This is the exact same size and distribution as cigarette
20 smoke, and thus behaves in the same manner.

21 At least 60 percent of these particles are less than 300 nanometers and
22 are not effectively filtered even by N95 masks. These smallest and most numerous
23 particles that even N95 masks don't stop are also the most infections. In a half an hour
24 while breathing, you will generate millions of these aerosols. These will include tens to
25 hundreds of thousands of viral copies, only 300 of which are necessary to cause

45

1 infection in the upper respiratory tract, estimated to be as few as ten in the lower
2 respiratory tract.

3 The CDC's own metanalysis of 14 randomized control trials show that the
4 NPIs like handwashing and masking had no impact on either protection or transmission
5 of flu and hence COVID. The studies you claim that show masks work either deliberately
6 ignore gaps -- just a 3.2 percent gap renders masks 100 percent ineffective -- and other
7 studies look at particles that are five microns are larger, those which carry one tenth of
8 one percent of the virus; or these studies also misleadingly measure mass or volume
9 trapped rather than the number of particles captured.

10 This is why these studies do not square with the RCTs or with real data.
11 It's also why there is zero correlation between the levels of masking and COVID
12 outcomes, either deaths or cases in the short or long term. It's why California, with near
13 100 percent masking for a year, has no better results than Florida, where people mask
14 at far lower levels.

15 Vaccines are currently protecting those who have chosen to be
16 protected, so it hardly makes sense to force other workers to wear masks to protect
17 those who have chosen not to be vaccinated or force them to wear masks to protect
18 themselves from something which their vaccination status indicates is not a concern for
19 them.

20 Before I close, I would like to touch on children still being masked in
21 schools, as they will no doubt be treated like a source of risk by these regulations. The
22 manner in which children wear masks, with large gaps and the types of masks children
23 wear, renders them 100 percent ineffective. However, because they do provide a
24 barrier, they do redirect the air --

25 MR. GOTCHER: Thirty seconds --

1 MS. BURNS: -- and they direct it straight into teachers' faces. It's true
2 you can't blow out a match if you hold it in front of your face, but if you hold it above
3 your mask where the air comes out, it's easily done. Notice your eyelashes fluttering
4 every time you exhale? Those are your respiratory aerosols.

5 Finally, there has been zero curiosity about the impact of masking on the
6 wearers. Even simple studies have not been done, like bacterial content on masks. Our
7 group tested kids' masks after eight hours of wear. 100 percent of the ten masks were
8 contaminated with bacteria.

9 MR. GOTCHER: Three minutes.

10 MS. BURNS: They were contaminated with more than 100 different
11 strains of bacteria and parasites. Two masks had more than 70 different strains each, 50
12 percent were contaminated with pathogenic bacteria, 30 percent with pneumonia-
13 causing strains, 20 percent with meningitis-causing strains, 20 percent with antibiotic-
14 resistant bacteria. What wasn't on them? SARS-CoV-2. Thank you.

15 CHAIRMAN THOMAS: Thank you, Emily. Who is up next, John?

16 MR. GOTCHER: Our next commenter is Eric Frumin from the Strategic
17 Organizing Center.

18 CHAIRMAN THOMAS: Eric, go right ahead if you can hear us. Eric? You
19 probably need to unmute yourself.

20 MS. SHUPE: John, let's go ahead to the next speaker and we'll circle back
21 to Mr. Frumin.

22 MR. GOTCHER: Okay. Our next speakers are Sarah Wiltfong, Sandra
23 Marquez, and Dan Leacox, with next Sarah Wiltfong from the Los Angeles County
24 Business Federation, BizFed.

25 CHAIRMAN THOMAS: Sarah, can you hear us? Sarah? Is she muted,

1 John? I think we're going to have to move on to the next person.

2 MR. GOTCHER: Okay. Next person is going to be Dan Leacox on behalf of
3 himself. Sandra Marquez is not with us quite yet.

4 CHAIRMAN THOMAS: Dan, are you there? Mr. Leacox, can you hear us?

5 MR. LEACOX: Yes, I can. Can you hear me?

6 CHAIRMAN THOMAS: Yeah, I can hear you now. Speak a little louder.

7 Thank you.

8 MR. LEACOX: Okay, yes. Sorry about that.

9 CHAIRMAN THOMAS: Go right ahead.

10 MR. LEACOX: Greetings, Board, staff, and stakeholders. I am here today
11 making personal comments about the process of this ETS and the mission of the Board,
12 not about the particulars of the rule.

13 I'd like to start by expressing some empathy for the chair's remarks at the
14 last meeting, feeling like a complaints department. I could imagine today's meeting
15 maybe sounds a bit similar. I get it. The Board has a very tough job, and one could
16 easily experience a little frustration with the criticism. It's a try to walk in these shoes
17 type of thing. So I understand that. And I would ask now to imagine what that is like for
18 the people trying to create a safe workplace, keeping in mind that a safe workplace has
19 two parts: the workplace and the safety. The workplace is an economic activity. Sure,
20 there are those who sacrifice safety for economic viability, just as there are some who
21 would sacrifice economic for safety. My point is the ones who do both are the ones
22 actually making safe workplaces. They are the real experts in workplace safety. They
23 are well-represented at these meetings. They face a lot of criticism from those doing a
24 partial job at best, and they too can feel like a complaints department.

25 Finally, this is not a position of us against them, management versus

1 labor. I would like to read something from the final report from California Future of
2 Work Commission. It's the result of a survey of what workers say is important for a
3 good job. There were ten of them. One, job security, 93 percent; two, enjoying your
4 day-to-day work; three, having a sense of purpose; four, stable and predictable pay;
5 five, level of pay; six, employee benefits; seven, stable and predictable hours; eight,
6 having the power to change things; nine, career advancement opportunities; ten,
7 control over hours or work location.

8 These reflect what I have referred to as workers' reasons for living and
9 why I have said when we write rules to save workers' lives, we must also protect their
10 reasons for living. These things can't be achieved in a failing business and they can't be
11 achieved in an environment in which workers are turned against management, or
12 worse, against each other.

13 In my humble opinion, it's the number of these things (indiscernible) --

14 MR. GOTCHER: Thirty seconds.

15 MR. LEACOX: -- that has the Governor facing a recall election.

16 So in the interest of a bright future for all, I recommend an approach of
17 mutual respect for the voices of those truly engaged in the creation of safe workplaces.

18 CHAIRMAN THOMAS: Thank you. Appreciate your comments.

19 MR. LEACOX: Sure.

20 CHAIRMAN THOMAS: Who do we have up next?

21 MR. GOTCHER: Our next commenter is Sandra Marquez. And then we
22 are going to return to Sarah Wiltfong after.

23 CHAIRMAN THOMAS: Sure.

24 MR. GOTCHER: So our next commenter is Sandra Marquez, California
25 constituent. All right, Ms. Marquez, can you hear us?

1 MS. MARQUEZ: Yes, I can hear you.

2 CHAIRMAN THOMAS: Go right ahead and speak up just a little bit.

3 MS. MARQUEZ: I feel that it is totally discriminatory for the people to
4 have to wear masks. We have a choice whether or not we want to get the experimental
5 vaccine put in us. And I am adamantly opposed to being forced to wear a mask because
6 of that.

7 CHAIRMAN THOMAS: Thank you, Caller. Who do we have up next, Mr.
8 Gotcher?

9 MR. GOTCHER: Next commenter is Sarah Wiltfong from the Los Angeles
10 County Business Federation, BizFed.

11 CHAIRMAN THOMAS: Sarah, can you hear us?

12 MS. WILTFONG: Yes. Can you hear me?

13 CHAIRMAN THOMAS: Yes, very good. Go ahead.

14 MS. WILTFONG: Thank you. My name is Sarah Wiltfong and I am here on
15 behalf of Los Angeles County Business Federation, also known as BizFed, an alliance of
16 over 200 business organizations who represent over 400,000 employees in Los Angeles
17 County. Several others have already expressed our concerns as well, including Mr.
18 Moutrie and Ms. Cleary and others, so we will keep our comments short.

19 As the largest small business advocacy organization in Southern
20 California, we are concerned about the extension of the Cal/OSHA Emergency
21 Temporary Standard. We were heartened during the last meeting when the Board
22 decided to postpone the adoption of the ETS in order to match the CDC guidelines.
23 However, when the ETS was released last Friday, no such updates were made.

24 The CDC and the Governor have agreed, mask-wearing is no longer
25 necessary for those who are fully vaccinated. What's more, there is an expectation that

50

1 June 15th we are going to fully reopen the economy. Businesses are ready to reopen
2 again and hopefully rebuild what was lost during the pandemic. Employees and
3 employers alike are looking forward to operating without burdensome and unnecessary
4 regulations. Cal/OSHA provided extra restrictions contrary to what the Governor and
5 the CDC are saying, is not necessary, will add confusion and cause businesses to be
6 subject to violations they were likely not made aware of.

7 We suggest Cal/OSHA getting in lock step with what the state and federal
8 government have already projected and not follow out-of-date prescriptions. Thank you
9 very much.

10 CHAIRMAN THOMAS: Thank you. Thank you for sharing your comments.

11 Who do we have next, John?

12 MR. GOTCHER: Our next commenter is Bruce Wick from the Housing
13 Contractors of California.

14 CHAIRMAN THOMAS: Bruce, are you with us?

15 MR. WICK: Yes, sir. Thank you.

16 CHAIRMAN THOMAS: Go right ahead.

17 MR. WICK: Got to click off -- there it goes -- video. Thank you for the
18 opportunity. I do want to associate with Cal Chamber's letter we are a signatory to.
19 And I'm going to speak on primarily one issue. And I do want to thank Eric Berg. He has
20 done a tremendous amount of work on this issue over many, many months, and that
21 continues. But I am concerned about this Board needs to make well-informed decisions.
22 And it appears and continues that OSHA gives less than, under-informs, and at times
23 erroneously informs. And it's so critical you get appropriate information.

24 The last time I talked about the worker's comp. information. It's
25 important. You should know the differences that nine percent of California's public has

51

1 tested positive for COVID. Three tenths of one percent have filed a worker's comp.
2 claim. That's a dramatic difference. And while every single death is a tragedy, of the
3 62,000 Californians who have died due to COVID, 940 are under employment in the
4 worker's comp. system, a huge difference. Forty-five percent of Californians are
5 employees. The occupational part of COVID is dramatically less than 45 percent. And
6 when California cites employers compared to federal OSHA, they cite 67 percent higher
7 penalties on COVID. That's a big impact we have.

8 I am especially concerned about the N95s. I was sadly misquoted by
9 Cynthia Rice last meeting, so I will try and state my quote correct -- I think I stated it
10 correctly, she misquoted me. I trust Christina Shupe and all the Standards Board staff. I
11 trust Chief Parker. But when it comes to N95 respirators, the Division representative to
12 this Board has stated information that is inaccurate, both on wildfire smoke, the efficacy
13 and availability of N95. And last year we asked multiple times and we were told I've
14 talked to people and it's going to be okay, we'll have plenty. We know what happened.

15 Just a couple of weeks ago, we took off Cal/OSHA's interim guidance that
16 medical providers could use N95 respirators multiple times --

17 MR. GOTCHER: Thirty seconds.

18 MR. WICK: Thank you, John. So we have about 12 million indoor
19 employees in California. Many don't want to share whether they are vaccinated or not.
20 I am happy to say I'm vaccinated. This Board needs to ask why are we taking a couple of
21 hundred million respirators off the market, increasing cost, reducing availability for this
22 regulation for when they are so critically needed not only in California, but across the
23 country and across the world.

24 MR. GOTCHER: Three minutes.

25 MR. WICK: Thank you.

1 CHAIRMAN THOMAS: Thank you, Bruce. Appreciate your comments.

2 Who do we have next, John?

3 MR. GOTCHER: Our next commenter is -- sorry, we have a series of dial-
4 in callers at the moment. Our next commenter is Shane Gusman from Broad & Gusman.

5 CHAIRMAN THOMAS: Shane, can you hear us?

6 MR. GUSMAN: Yes. Good morning.

7 CHAIRMAN THOMAS: Go right ahead.

8 MR. GUSMAN: Shane Gusman. I am here today on behalf of several
9 units all in support -- and I will list them. The California Teamsters Public Affairs
10 Counsel, the Amalgamated Transit Union, the California Conference of Machinists,
11 UNITE HERE, the Utility Workers' Union of America, IFPTE Local 21, and the Engineers
12 and Scientists of California, all in support of readoption of the Emergency Standard. We
13 would like to thank the Board and the staff for their hard work on this. We know that
14 some folks may be disappointed on both sides, but we think it's a good compromise
15 measure and protects workers. So se support it. Thank you.

16 CHAIRMAN THOMAS: Thank you. Appreciate your comments.

17 Who do we have next, John?

18 MR. GOTCHER: The next commenter is Maggie Robbins from Worksafe.

19 CHAIRMAN THOMAS: Maggie, can you hear us?

20 MS. ROBBINS: Hi, yes. Great. This is Maggie Robbins. I am with
21 Worksafe, an Oakland-based nonprofit organization that advocates for safety and health
22 at work.

23 The timing of me speaking right after Shane is pretty fortunate for me
24 because I am going to reiterate what he said. In general, I would say we support this
25 standard because it continues to be meaningful at providing protections in the

1 workplace and predictability for both employers and workers. Work site outbreaks are
2 still occurring, as Eric noted at the beginning of his comments today. We need to
3 continue to make sure that we don't have work site transmission of COVID in the
4 coming months, keeping in mind this is a temporary standard that has a termination
5 date and it can be terminated at any time when the Agency decides that it has passed its
6 usefulness. So talking about it's going to necessarily be in place until 2022 I think is not
7 reflecting the reality.

8 Vaccination is underway, as everybody has noted. I personally think the
9 vaccination is very effective. And what I am reading in the science says it's very
10 effective at preventing both illness and transmission, which is great. However, the
11 reality is we only have about half of our population fully vaccinated. As of yesterday I
12 think it was 51 percent. Another 13 percent partially vaccinated, getting us up to about
13 22 million people who are either fully or partly vaccinated. So we've got another 15, 20
14 million Californians -- that's of those who are currently eligible -- who we still need to
15 reach. And the State is reaching them at a rate of about 150,000 a day. Many of them
16 of course will need two shots. So even by July 31st, we are not going to probably have
17 reached every single worker in the he state who wants to be vaccinated, but we likely
18 will have reached a lot more of them than we will by June 15th.

19 The workplace is not the same as deciding to go to a dinner party or go to
20 the gym or go to a movie; it is a place where people go to interact in an environment
21 that's not entirely in their own control, and we think they still need protections in place.

22 Another thing I would point out is that the vaccination rate varies a lot by
23 county across the state. Some areas have very high vaccination rates. However, there
24 are 15 counties that still have under 40 percent vaccination at all. That's either one shot
25 or two shots. There's three counties who have below 30 percent.

1 And so there's a lot of work to be done before we have a substantially
2 immune population where we can relax more of the controls. So we support --

3 MR. GOTCHER: Thirty seconds.

4 MS. ROBBINS: Thank you. We support the Board adopting the changes.
5 We have some concerns with some of the changes, but overall we still think protections
6 need to be in place. We encourage the Board to be more clear about some of the
7 questions that have been asked. In particular, what does documentation of vaccination
8 status actually look like? So FAQs on that I think would be helpful for clarity for
9 everybody concerned. We agree it's not appropriate --

10 MR. GOTCHER: Three minutes.

11 MS. ROBBINS: Thank -- one more sentence. We agree it's not
12 appropriate to mandate vaccination, but we do think we need to continue protecting
13 workers and workers who cannot get vaccinated on the job. It is the way they earn their
14 living. Thank you very much.

15 CHAIRMAN THOMAS: Thank you, Maggie. Appreciate it.

16 Next, John?

17 MR. GOTCHER: So our next commenter, circling back to Sandra Marquez,
18 who is a California constituent. I don't believe she was done with her comment.

19 Sandra, are you there?

20 MS. MARQUEZ: Yes, I am here. Can you hear me?

21 CHAIRMAN THOMAS: Yeah. Go ahead, Sandra.

22 MS. MARQUEZ: Hello?

23 CHAIRMAN THOMAS: Yeah, we can hear you.

24 MS. MARQUEZ: Good morning. I don't even think I got a chance to start
25 my comment earlier. There was some confusion. But thank you so much for taking my

55

1 call. Thank you so much for giving us an opportunity for public comment.

2 My name is Sandra Marquez and I am a resident of Placer County in this
3 beautiful state of California. I am making this call to you this morning to request that
4 you oppose the proposal to continue workplace COVID-19 restrictions beyond June
5 15th. There are so many unknowns, so many unknowns. And this would create so
6 much division in a country where we already have so much division. Segregating people
7 into vaccinated versus unvaccinated groups is just non-American. It's un-American.
8 American is being able to choose what it is that you would like to do or not do. And
9 privacy is also important to consider here. So I strongly ask that you reject this proposal.
10 And I also want to echo a lot of the commentary that was made by Helen Cleary. She
11 was the first speaker. And also there was I think a Mr. Beas who spoke right before Mr.
12 Ken Smith who had a multitude of information and reports and data regarding the
13 vaccine and VAERS and all that that I would actually like to get hold of myself.

14 But anyways, if you could please take all those things into consideration, I
15 would really appreciate it. And I thank you again for this opportunity.

16 CHAIRMAN THOMAS: Thank you. John, who do we have next up?

17 MR. GOTCHER: Next commenter is David Barber from the California
18 School Employees Association.

19 CHAIRMAN THOMAS: David, can you hear us?

20 MR. BARBER: Yes, thank you. And thank you to the Board for the
21 opportunity to comment. My name is David Barber and I am the deputy chief counsel of
22 the California School Employees Association. Our union represents more than 250,000
23 school staff and community college staff all around the state.

24 During the pandemic, our members have been essential workers. They
25 have been showing up to work to prepare and deliver school meals and to maintain

56

1 facilities. They have been working face-to-face with special needs students who could
2 not engage in remote learning.

3 The November 2020 Cal/OSHA Emergency Temporary Standards were a
4 godsend for our members. Even though school workplaces are subject to guidelines
5 from CDPH and the Department of Education, without the Cal/OSHA standards,
6 effective enforcement was difficult, if not impossible.

7 Now, as the state is scaling back most of the public health orders and
8 guidance, it is essential that we have enforceable and science-based workplace safety
9 standards to protect our members around the state. Vaccination rates in different areas
10 of the state are quite varied. Employers' willingness to address worker safety concerns
11 likewise varies considerably.

12 Not only are many employees and members of the public not vaccinated
13 for a variety of reasons, but of course currently no one under 12 can be vaccinated and
14 coronavirus continues to spread among the unvaccinated. In these circumstances,
15 indoor masking at work will continue to be an essential worker protection. We believe
16 that the standards as drafted are going to be protective and help our members stay
17 safe.

18 Just this morning, I received a notice from one of our districts that due to
19 an ongoing COVID-19 outbreak and likely continuing transmission among unvaccinated
20 children, the district is moving back to full distance learning. That means that the
21 employees of that district are at risk, and we know that transmission continues.

22 The pandemic is not over and a deadly, highly-transmissible virus is still
23 spreading in our communities. California's workers need the science-based and
24 enforceable safety standards proposed for adoption by Cal/OSHA. CSEA supports these
25 standards as written and we support immediate action. Thank you.

1 CHAIRMAN THOMAS: Thank you, Mr. Barber. John, who do we have
2 next?

3 MR. GOTCHER: Our next commenter is -- sorry, standby. It's another
4 caller. Our next commenter is Harry Semerdjian from the LA Area Chamber of
5 Commerce.

6 CHAIRMAN THOMAS: Harry, can you hear us?

7 MR. SEMERDJIAN: Yes, I can hear you. Can you hear me?

8 CHAIRMAN THOMAS: Great. Go right ahead. Yes.

9 MR. SEMERDJIAN: Terrific. Good morning, Chair Thomas and honorable
10 members of the Board. My name is Harry Sermerdjian and I am a senior public policy
11 manager with the Los Angeles Area Chamber of Commerce. I would like to start by
12 thanking the Board for this dialogue today.

13 On behalf of the 244,000 businesses in Los Angeles County and our 1,400
14 members, the Los Angeles Area Chamber of Commerce strongly opposes the readoption
15 of the emergency regulation on COVID-19 resulting from Petition 583. The recent ETS
16 draft incorporates insufficient improvements and we do not consider them satisfactory.
17 As businesses emerge from the pandemic, we strongly believe these proposed
18 guidelines create complexities in bringing onboard the workforce. Doubtless businesses
19 will struggle with their workforce to balance two sets of rules. It is concerning to us that
20 the amended ETS as written adds onerous obligations to employers just as the federal
21 government is loosening restrictions and as California's blueprint for a safer economy
22 brings us closer to returning to normal. Businesses have long followed CDC guidelines.
23 The state needs consistency and alignment that will provide businesses with maximum
24 flexibility to return to normal.

25 It is our hope that you make the necessary revisions to the ETS and will

58

1 address our concerns as outlined in the written testimony the Chamber submitted this
2 morning. Hence, we respectfully urge a reconsideration of this adoption and its current
3 language. Thank you.

4 CHAIRMAN THOMAS: Thank you. John, who is up next.

5 MR. GOTCHER: Our next commenter is Moises Hernandez from United
6 Steelworkers Local 675.

7 CHAIRMAN THOMAS: Moises, are you with us? Is this a star-six
8 predicament, John? Because I'm not getting anything.

9 MR. GOTCHER: I can see Moises is on the line and muted. Moises
10 Hernandez, are you there? It's your turn to comment.

11 CHAIRMAN THOMAS: I think we're going to have to move on to the next.

12 MR. GOTCHER: Okay. Our next commenter is Bryan Little from the
13 California Farm Bureau.

14 CHAIRMAN THOMAS: Brian, can you hear us?

15 MR. LITTLE: Good morning. Can you hear me?

16 CHAIRMAN THOMAS: Yes. Go right ahead.

17 MR. LITTLE: Excellent. Thank you very much. Mr. Chairman, Board
18 Members, Board and Agency staff, and all the other stakeholders on today, thank you
19 for the opportunity to offer comments on behalf of California Farm Bureau. I would like
20 to associate Farm Bureau with written statements filed by Cal Chamber on behalf of a
21 board coalition of employer advocates, California Association of Winegrape Growers, on
22 behalf of a broad coalition of agricultural employer advocates, the Phylmar Regulatory
23 Roundtable on behalf of its members, and a number of the statements that have been
24 offered thus far by my colleagues representing employers.

25 We appreciate that the Standards Board is considering revisions to the

1 ETS that belatedly recognize the availability of a highly-effective COVID-19 vaccine.
2 The most recent revised draft presented, as it was is a comparison of the unadopted
3 May 7 draft to the proposed changes released on May 28, have proved difficult to
4 understand. The Board and the Agency should consider whether the provision of the
5 regulated -- to the regulated public of a draft for review that reflects May 28 proposed
6 changes to revisions proposed on May 7th rather than a comprehensive redline and
7 strikeout document reflecting all changes to the November 20 ETS being proposed as of
8 May 28th has furnished the regulated public an opportunity to understand and
9 comment on the revisions of the ETS proposed for adoption today.

10 Events have overtaken both the November 2020 ETS and this proposed
11 revision of the ETS. The CDC of course issued guidance in late May to the effect that
12 vaccinated people can forego masking in most situations, indoors and out, with limited
13 exceptions. And Governor Newsom has clearly stated that he intends to reopen most
14 activity in California on June 15th, including discontinuation of masking in most
15 circumstances.

16 The draft revision of ETS released on May 7th of course conflicted with
17 CDC guidance and with the Governor's stated intentions. Unfortunately, the second
18 draft released last Friday is actually worse in some respects than its predecessor. The
19 May 28th draft is plainly at odds with the stated intention of the Governor and many of
20 his senior spokespeople that everyday activities should return to normal by June 15th by
21 requiring ongoing social distancing until July 31 unless the employer implements a full
22 respiratory protection program or provides unvaccinated employees N95 respirators
23 under voluntary use rules and requiring masking indefinitely until the ETS either expires
24 or is withdrawn.

25 As the calendar has turned from May to June, it's time for the Agency and

1 the Board to reconsider this ill-advised path and either withdraw the ETS altogether, or
2 return to enforcement of guidance as before the ETS , or postpone action today and
3 consider action that's actually in compliance with the Governor's direction at the
4 Board's June 17 meeting.

5 So what's the way forward? Well, first I think we need to go back to the
6 drawing board. The Agency and Standards Board should seriously reconsider the
7 necessity of any COVID-19 standard or any infectious disease standard outside a context
8 where employees may be exposed in the normal course of their duties, like healthcare
9 providers and first responders because the regulatory process that led to the existing
10 standard clearly illustrated that any regulatory action would be obsolete on the day it
11 became effective and would become more so with the passage of time. It's simply not
12 possible for the Board and the Agency to promulgate improved regulations and
13 amendments quickly enough to adjust to this ever-changing situation.

14 For that reason alone, we strongly recommend the Board and the Agency
15 take whatever action is necessary to withdraw the November 20 ETS. But if the Board
16 chooses to forge ahead with a readopted ETS, it should today either revise its proposal -
17 -

18 MR. GOTCHER: Thirty seconds.

19 MR. LITTLE: -- to furnish a draft of the ETS that does not continue to
20 require masking, physical distancing, N95 respirators, workplace exclusion, and other
21 features that CDC guidance clearly indicate are not needed.

22 I'm going to wrap up without talking about everything I intended to talk
23 about about respirators. But I want to point out one important thing. Requiring indoor
24 employers to provide respirators under voluntary use rules will require them to
25 stockpile massive numbers of respirators. Millions and millions of respirators that will

1 be unavailable to outdoor employers to be in compliance with the wildfire smoke
2 regulation, as we are coming up on what many have forecast might be a very severe
3 wildfire smoke season. We encountered this problem last year, and I expect we will
4 encounter it again. Thank you for your time.

5 CHAIRMAN THOMAS: Thank you, Mr. Little. Appreciate your comments.
6 Next up, John?

7 MR. GOTCHER: Our next commenter is George Doilez from Union Local
8 1167, Albertsons and Vons.

9 CHAIRMAN THOMAS: George, can you hear us?

10 MR. DOILEZ: Yes, I can.

11 CHAIRMAN THOMAS: Go right ahead.

12 MR. DOILEZ: I would like to thank you guys for allowing me to speak. I
13 am commenting and opposed to this adoption. And really what I just want to leave with
14 you guys today is, you know, it's heartbreaking to hear you guys talking about what's
15 good for us. I'm coming from ground zero, from the employee on the floor. And these
16 masks have caused so many problems. I've personally been out of work from the
17 beginning of this pandemic due to these ridiculous mandates that were never proven.
18 And those that call in saying with these statistics about the numbers and the particles
19 and this and that, they have failed deliberately to advise the Board that recent
20 information that has come up about the CDC and Dr. Fauci. This has all been a hoax all
21 along. (indiscernible) a hoax all along. And you guys have destroyed my life, my
22 livelihood. And it's just we need to get back on track is why I'm calling. That's what
23 (indiscernible) for the working man, the one that's on ground zero. The masks as
24 suffocating. We don't need to be out here talking about vaccines, masks. We need to
25 be talking today about getting the working man back to work, getting America back on

1 track. We should all be smart enough to know by now that this has been a hoax from
2 day one. It's been a hoax, and we have been the ones to suffer for it.

3 And I want to say to Mr. Chairman, we see now in light of this past week
4 that even the ones ahead of you in bigger positions than you are beginning to fall.

5 So I urge this Board to do the right thing today and reject this adoption
6 and also go back to making it the right way for us employees to be able to go to a
7 workplace that's free of harassment, free and safe. We don't need to be getting
8 separated by who has got vaccinations and who has got masks. We need to get America
9 back to the way it's supposed to be.

10 And I want to thank all that oppose this. And those of you that are going
11 to make the final decision on this, I ask before you do that you take a walk -- a personal
12 walk and evaluate yourself with God today and make sure that you make the right
13 decisions not because of pressure from the CDC or the WHO that have proven today to
14 be fake and have destroyed this world, to do things right between you and God.
15 Because you are the ones who are going to have to answer to God --

16 MR. GOTCHER: Three minutes.

17 MR. DOILEZ: -- for crimes against humanity and what you guys have
18 done. I pray you guys make the right decision, and God bless you all.

19 CHAIRMAN THOMAS: Thank you. We are going to break in five minutes.
20 I think we have time for one or two more callers.

21 John, who is up next?

22 MR. GOTCHER: So I'd like to try Moises Hernandez again from United
23 Steelworkers Local 675.

24 CHAIRMAN THOMAS: Moises, are you there?

25 MR. GOTCHER: Okay, moving on. Our next commenter is Lee Sandahl

1 from International Longshore and Warehouse Union.

2 CHAIRMAN THOMAS: Lee, can you hear us? Lee? All right, on to the
3 next.

4 MR. GOTCHER: Okay, our next commenter is Giancarlo Rubio from the
5 Valley Industry Commerce Association.

6 CHAIRMAN THOMAS: Giancarlo, can you hear us?

7 MR. RUBIO: Yes. Can you hear me?

8 CHAIRMAN THOMAS: Yes. Go right ahead.

9 MR. RUBIO: Excellent. Well, thank you all for having me today. So my
10 name is Giancarlo Rubio and I am a legislative affairs manager for the Valley Industry
11 and Commerce Association. And we are expressing concerns over the Cal/OSHA
12 readoption. In regards to face covering, the ETS should align with the CDC guidance to
13 allow for fully-vaccinated employees to remove the face coverings indoors as long as
14 unvaccinated individuals are wearing face coverings. And in regards to physical
15 distancing, 6A requires social distancing to remain in place until 31 July of 2021. Unless
16 respirators are given out in accordance with Subsection B, this should end when the
17 state and county physical distancing requirements end and not go beyond them.

18 When it comes to transportation, it should require the employer to
19 actively consider two groups of transportation; one for fully-vaccinated employees and
20 one for unvaccinated employees. We need an exception for no spacing on transporting
21 so long as everyone is in a face covering regardless of vaccine status, consistent with
22 guidelines for public transit.

23 And in regards to close contact in exposed groups, the definition of
24 exposed groups should be limited to very close contacts and then with use of
25 respirators. There are numerous provisions requiring employers to offer or provide

1 respirators for voluntary use. The ETS or FAQs should make clear that employers
2 should provide employees with reasonable notice and information on how to obtain a
3 respirator for voluntary use.

4 The return to work criteria needs to align with CDC guidelines that a
5 vaccinated person needs not quarantine. In regards to testing, we would like
6 clarification that the definition of COVID tests as a viral test includes antigen testing as
7 well.

8 And then lastly, in regards to time off for COVID cases and close contacts,
9 the provision 10C is a little -- it can be too overboard in that it has no limit and thus
10 could require unlimited paid time off. Also, there should be a base rate and not a
11 regular rate of pay, as that is a legal term and requires a calculation that includes
12 overtime.

13 We hope that the Standards Board will consider revising these concerns
14 prior to the readoption of the COVID-19 Emergency Temporary Standards. And if
15 passed as written, we urge the Standards Board to hold an additional advisory
16 committee to examine concerns from employers and the public. Thank you very much
17 for hearing me out, and I hope everybody has a great rest of the day.

18 CHAIRMAN THOMAS: Thank you very much. We are close to noon right
19 now, so we are going to take a 15-minute break until 12:15 when we will reconvene. So
20 either hang out on the WebEx or you can sign off and then come back on at 12:15.
21 Thank you.

22 (Break)

23 CHAIRMAN THOMAS: All right. We are back in session. And, John, who
24 is our next commenter?

25 MR. GOTCHER: Our next commenter is Lawrence Gayden from the

1 California Manufacturers and Technology Association.

2 CHAIRMAN THOMAS: Can you hear us? Is it Lawrence?

3 MR. GOTCHER: Yes, Lawrence.

4 CHAIRMAN THOMAS: All right. So are you with us?

5 MR. GAYDEN: Yes, I can hear you.

6 CHAIRMAN THOMAS: Go ahead.

7 MR. GAYDEN: Yes. Just getting with you guys. This is Lawrence Gayden
8 on behalf of the California Manufacturers Technology Association. I appreciate the
9 opportunity to provide testimony today at the Standards Board Meeting. California
10 manufacturers approach the health and safety of our workers seriously, and that
11 commitment has only deepened during this pandemic. And we've had to work diligently
12 to immediately develop processes and solutions that have allowed our workers to
13 remain safe and safely employed and support the (indiscernible) response. Those
14 revisions present challenges relating to feasibility (indiscernible), clarity, and harmony
15 with the (indiscernible) state and local Coronavirus-related related laws (indiscernible)
16 standards threaten to impose additional burdens on the manufacturing community as
17 well as cause some inconsistencies with federal and state restrictions as the state
18 prepares to reopen.

19 Our comments are in line with those previously stated as part of a broad
20 industry coalition. Our concerns really focus on requirements for employers to provide
21 N95 respirators to every unvaccinated indoor employee. Consistency with the CDC's
22 guidance to allow fully-vaccinated persons to go without masks in most indoor settings
23 and clarity on documentation for vaccinations. Many vaccine compliance driven in the
24 aspects of the ETS may force manufacturers to be in compliance (indiscernible). We are
25 hopeful that you will consider these comments and our previous comments made by

66

1 counterparts during these revisions to the ETS and for frequently asked questions as
2 well in preparation for the future advisory committee discussions. We thank you guys
3 for holding this today. Appreciate it.

4 CHAIRMAN THOMAS: Thank you. Who do we have next, John?

5 MR. GOTCHER: Our next commenter is Jennifer Grinager from Moms For
6 Liberty.

7 CHAIRMAN THOMAS: Can you hear us, caller?

8 MS. GRINAGER: Yes, I can. Thank you so much.

9 CHAIRMAN THOMAS: Go right ahead.

10 MS. GRINAGER: So I am the chapter chair for Moms For Liberty. It's a
11 national nonprofit, nonpartisan organization and our chapter is in San Luis Obispo
12 County. We are for returning the power to the parents over the health and education of
13 their children. I am also the parent of a second grader special needs child at Templeton
14 Unified School District.

15 And the first thing I want to bring to your attention is really this is just my
16 personal experience regarding matters that you will be deciding upon and how they are
17 playing out in real life.

18 So my son has a medical mask exemption from his doctor. He has a
19 doctor's note that we have provided to the school upon their request and requirement.
20 And I was told initially that they were not going to accept the doctor's note. So they
21 were denying a professional physician's note for a mask exemption for a special needs
22 child. The reason they gave me is that it did not contain the specific word "exemption",
23 but it said contraindicated. So I argued that, and they then agreed to accept the
24 doctor's note, but told me that then they would have my son work with an occupational
25 therapist so that he could better wear a mask, because it is the new societal norm is

67

1 what I was told.

2 So, again, I declined that. I said I do not give my consent for you to do
3 that. My child has missed enough school at this point that your goals should be working
4 on his IEP goals and his education and not whether or not he is able to wear a mask at
5 this point. And I do not agree that it's the new societal norm, either.

6 So long story short, we finally were able to get a medical mask exemption
7 in place, and he has been attending school in hybrid without a mask. And there has
8 been no issues for him. However, I feel as though we have now been targeted and the
9 school is coming up with everything they can think of to make life uncomfortable.

10 Also in December when he started hybrid, I started noticing that he was
11 developing a rash on his face and took him to the doctor. They guessed at a couple of
12 things. Finally went to a dermatologist, and they determined he is having an allergic
13 reaction to the chemicals at the school. That's based upon the appearance of the rash,
14 the rash being only on exposed skin, that it's symmetrical where his elbows are touching
15 his desk. It goes away for periods of time when he's not at school. There's been cohort
16 quarantine, there's been parent-teacher conferences, spring break. Any time we are
17 not there, the rash goes away and then it returns when he is back in school.

18 MR. GOTCHER: Thirty seconds.

19 MS. GRINAGER: So I brought to the school's attention the CDC or the
20 CDPH guidance that says frequent disinfection, which was thought at the beginning of
21 the pandemic to be a key safety component, composed a health risk to children and
22 students due to the chemicals used. It says that it's no longer believed to be effective at
23 all for COVID-19 and that it's a danger to children. The school is still using this
24 disinfection because it is negotiated by teacher's union.

25 MR. GOTCHER: Three minutes.

1 MS. GRINAGER: So they are harming kids with these chemicals as well
2 as the wearing of the mask. The school board is not allowing in-person when they could
3 be, despite the fact that they are doing in-person in certain circumstances but keeping
4 the parents out. So the mandates that are being held up here are being abused, and
5 you need to know that. Thank you very much.

6 CHAIRMAN THOMAS: Thank you. Next up, John?

7 MR. GOTCHER: Our next commenter is Mary Tucker, who is representing
8 herself.

9 CHAIRMAN THOMAS: Mary, can you hear us?

10 MS. TUCKER: Yes. Can you hear me now?

11 CHAIRMAN THOMAS: Yeah. Go right ahead.

12 MS. TUCKER: Hi.

13 CHAIRMAN THOMAS: Hi.

14 MS. TUCKER: Well, thank you for taking my call. I just want to keep it
15 simple and tell you I am somebody who is looking to go back into the workforce, but I'm
16 not going to go back into the workforce until I can go into my office and not wear a
17 mask. And I think there's a lot of people who feel that way. I also feel that by trying to
18 mandate something across California with 40 million people, all these different
19 companies, is just impossible. There's too many variables. There's too many companies
20 that have different policies, different type of work situations. And I think by mandating
21 a policy that people wear a mask, you're actually going to do more harm than people
22 getting sick. The harm is going to be people don't trust government right now. They
23 don't like government. There is a distrust, a dislike. And that's more dangerous than a
24 few people who are going to get sick who didn't get a vaccine. And unfortunately, there
25 will be people who are going to die.

1 But long term this will come again. And I think you need to think in the
2 long term. And by setting a mandate and requiring business to provide masks, to ask
3 questions, to go into -- there's going to be lawsuits. There's going to be confusion again.
4 Government is causing more confusion by having more laws on the situation. AT some
5 point, you have to trust the science. The science told us to wear a mask when we didn't
6 have a vaccine. The science is now telling us we are more than 90 percent safe by
7 having a vaccine. You have to trust the science. It should come from the CDC. One
8 place that we look towards. Don't need multiple governments and overlays of how you
9 do something. They're going to have to trust these companies to be able to talk to the
10 workplace. There's only so many questions they can ask. The only question you can ask
11 by law is have you had a vaccine, period. If you've had a vaccine, you should be able to
12 go into your workplace without a mask.

13 If you have not had a vaccine, then you should wear a mask. But that
14 should be people's decision. And I really think you need to look at this as a whole.
15 California's decisions and our laws and your decision that you're going to make is going
16 to affect other states. And having more laws, having more restrictions, especially across
17 our country, they're going to look to California, look at what they're doing. We need to
18 think very carefully about what you're doing. Because business right now is not real
19 happy with California.

20 So that's my decision. No masks if you go into any place of work if you
21 have a vaccine. Keep it simple. Thank you very much, and I hope you make the right
22 choice. Thank you.

23 CHAIRMAN THOMAS: Thank you. John, who do we have up next?

24 MR. GOTCHER: Our next commenter is Brian Miller from Rudolph and
25 Sletten.

1 CHAIRMAN THOMAS: Brian, are you there?

2 MR. MILLER: Yes, I am here. Can you hear me?

3 CHAIRMAN THOMAS: Yeah. Go ahead.

4 MR. MILLER: Okay. How are you doing today? Thank you for the
5 opportunity to comment. I will try to keep it to the three minutes. I've got only one
6 piece of paper to read from.

7 My name is Brian Miller. I am the Safety Director for Rudolph and
8 Sletten. We are a general contractor in California. We have been in California for over
9 60 years. We are also one of nine contractors that's currently recognized as a VPPC
10 contractor in the entire state of California. And that includes getting two projects
11 through the VPPC process during the pandemic. Why do I say that? Because we care. I
12 am an employee. I started here as a carpenter almost 25 years ago. Worked my way
13 into safety, and through my time became the safety director. So I am a carpenter by
14 trade.

15 I want to thank the Board for some of the changes in the ETS, including
16 clarification on the July 31st date regarding physical distancing. But I think we could
17 have done more. For example, as many people have said today and many people said at
18 the May meeting, the N95 respiratory protection needs to go. Multiple reasons.

19 Personally, I am a certified asbestos consultant in the State of California.
20 I've been a CAC since 2003. I've been in dozens and dozens of containment. I have
21 worn multiple types of respiratory protection. Full face, powered air purifying
22 respirator, full face megapressure respirator, half face megapressure respirator. And
23 I'm only CAC. I'm not doing the work. And those things drip moisture from the
24 exhalation valve, a lot of moisture. Because it builds up. N95s do the same thing.

25 So now we're going to be taking the people at the most risk of infecting

71

1 others and being infected and we're going to put them in N95 respiratory protection
2 and we're going to allow these droplets to get out. It just doesn't make any sense to
3 me. Plus now we're putting a bullseye right on the face of the persons that is
4 unvaccinated. And that's not a good thing.

5 In addition, May 28th version now requires employers to train and
6 instruct employees that vaccinations are a good thing. That's not my position. That's
7 not my job as an employer. That's my doctor's job. And that's what I did. I called my
8 doctor. Hey, which one should I get? The doctor told me. I talked to my wife, I went
9 and got vaccinated. In my opinion, that adds peer pressure in a place of employment by
10 the employer. It's not a good thing. Funny how we spend our entire childhood being
11 told not to be peer pressured into do anything, and now being peer pressured into
12 getting vaccinated.

13 And I'm also afraid that the standard and the distinction between the
14 vaccinated and unvaccinated unintentionally creates a hostile workplace. So you can
15 imagine working, forty people working not wearing their masks, and then I show up and
16 I'm wearing a mask and they all have to go get their mask. And by the way, I'm having
17 to wear an N95. They're going to know who caused the problem and why they all have
18 to mask up again. So let's keep that in mind.

19 Real quickly. I believe the July Board Meeting that we should consider
20 starting the process to repeal the ETS. The repeal process takes time. And by the time it
21 actually comes up for repeal, we will be in to September and we'll have a lot of data on
22 how we are doing.

23 MR. GOTCHER: Three minutes.

24 MR. MILLER: Thank you.

25 CHAIRMAN THOMAS: Thank you, Brian. Appreciate your comments.

1 Who do we have next, John?

2 MR. GOTCHER: Our next commenter is Joshua Shear, who is representing
3 self.

4 CHAIRMAN THOMAS: Joshua, can you hear us? Hello, Joshua. Can you
5 hear us?

6 MR. GOTCHER: He was a dial-in caller and it looks like he has hung up.

7 CHAIRMAN THOMAS: Okay.

8 MR. GOTCHER: We'll move on to the next person. Our next commenter
9 is Aaron Holmbert from Inyo County.

10 CHAIRMAN THOMAS: Aaron, can you hear us?

11 MR. HOLMBERT: Yes, I can.

12 CHAIRMAN THOMAS: Go right ahead.

13 MR. HOLMBERT: Thanks. So I want to thank you for your efforts on this
14 difficult situation. I am Aaron Holmbert, Risk Manager, Inyo County. We only have
15 about 400 and some employees spread across 10,000 square miles. And I am also an
16 OSHA outreach trainer. And I really don't envy your roles in this particular situation, so
17 thank you. Because I'm going to need some help before we I can know that I'm actually
18 complying with the proposed regulations.

19 So we've got an office building, fits a hundred employees. Sixty percent
20 are vaccinated, so that leaves 40. Take out five for the folks that have been through the
21 interactive process and have a reasonable accommodation about masks. That leaves
22 about 35 employees that are not vaccinated. And, sure, if we can find enough N95s, we
23 can give these employees the N95s.

24 One of the challenges I see with that is if we're giving it to them
25 voluntarily and they choose not to -- they volunteer to not wear it, then does anyone

73

1 else need to wear a face covering to protect them because they chose on that
2 particular day not to wear their N95? And it's just not clear to me in the regulation how
3 I comply with this.

4 Also, if a room full of employees that have all been vaccinated and we get
5 documentation about them being vaccinated and somebody walks in the room that isn't
6 vaccinated, if there's only one person that's unvaccinated in a roomful of vaccinated
7 people, then that unvaccinated person doesn't have any exposure. So it's unclear to me
8 why they would need to wear a mask or -- excuse me, an N95.

9 And further, how do we know when that person comes into the room
10 with 20 vaccinated employees? How do those employees know whether or not I as the
11 coordinator, that I have received the documentation to clear them to not wear a mask.

12 MR. GOTCHER: Thirty seconds.

13 MR. HOLMBERT: And I like to teach OSHA to our folks. We've had very
14 low incidence of exposures and positive tests. It's just there's a lot of difficulty with
15 coping with the regulation as it's specified in the he proposal, and I would really
16 appreciate some updates to it so that we can comply. Thank you very much.

17 CHAIRMAN THOMAS: Thank you. Appreciate your comments.
18 John?

19 MR. GOTCHER: Our next commenter is Len Welsh, representing the
20 Ironworker Management Progressive Action Trust, IMPACT, the Grower-Shipper
21 Association of Central California, and the California Hotel and Lodging Association.

22 CHAIRMAN THOMAS: Len, are you there?

23 MR. WELSH: I am here. Can you hear me okay?

24 CHAIRMAN THOMAS: Yes. Go right ahead.

25 MR. WELSH: Thanks for being able to comment. And I just want to say to

1 start out, a lot of us folks who sound like critics really do appreciate the situation
2 you're in and the hard work you've been doing. And I mean that to you also, Eric Berg.
3 This has to be one of the most difficult periods in the history of the Cal/OSHA program.
4 So we should all keep that in mind.

5 As you have heard, respected members of the Board, there is still a lot of
6 problems with this standard. There are going to be problems for employers trying to
7 figure out what the standard is actually requiring. And there are a lot of citations out
8 there being issued by folks who don't really distinguish between employers who are
9 doing their best to comply and those who truly are bad actors. So there are a lot of
10 things to get tripped up here. And I think it's time to be thinking about a different
11 approach. We need to get into a wind down mode that will respond to a changing
12 situation. We are no longer in an emergency. We've been calling this an emergency for
13 well over a year, and we need to get into a mode that recognizes we are in a transitional
14 phase, things change rapidly, the technology that protects us changes rapidly, at least
15 on the vaccination front. And we need a process that allows for much better dialogue
16 than we have been having.

17 This situation where DOSH presents fait accompli, there are five days to
18 comment. You folks are presented with the same fait accompli as the public is, and you
19 are put in a very awkward position of either saying, okay, we're going to adopt, or we're
20 going to reject it, and nothing is going to get done. This does not work. We need a
21 different approach.

22 What we should be having is a series of meetings like we used to have in
23 the good old days. Bring the Department of Health there, invite CDC or NIOSH to send a
24 representative. Have some discussions. Have some dialogue. And we're not having a
25 dialogue now. We are just dealing with different pronouncements, and it doesn't work.

75

1 We are hardwiring things into regs when what we should be doing is setting up a
2 system where people can get clear guidance and there's some sort of enforcement stick.
3 There has to be. And frankly, I don't know why we had this big problem with the IIPP. It
4 works just fine for something like this. And in fact, it could work even better if we
5 emulate a provision in the aerosol transmissible disease standard which I pointed out
6 last comment, section 5199(a)(2)(A)(2), which gives dental offices an out –

7 MR. GOTCHER: Thirty seconds.

8 MR. WELSH: -- from the ATD standard if their IIPP basically
9 accommodates following advice from CDC or some other authority like CDPH.

10 So I would really encourage you folks -- I know you are in a difficult
11 position, but we need a different process. You folks, your staff need to get together
12 with DOSH and figure out a different way to do this.

13 Thanks a lot for the opportunity to comment, and thanks again so much
14 for your effort.

15 CHAIRMAN THOMAS: Thank you. Who do we have next, John?

16 MR. GOTCHER: Our next commenter is Joshua Shear, representing self.

17 MR. SHEAR: Hello?

18 CHAIRMAN THOMAS: Hello. Are you there?

19 MR. SHEAR: I am here, yes. This is Josh.

20 CHAIRMAN THOMAS: Go ahead.

21 MR. SHEAR: I just wanted to make a comment because I know this was
22 happening. I've been following it in the news because I've been looking forward to
23 getting rid of my mask for a year. And I follow the science and I've been watching these
24 stories. And it was very hard to do my job. So I just wanted to make a public comment
25 about it. Because I know it's important to have safety protocols, but I also wanted to

76

1 make sure that you guys don't treat every job like it's the same. Obviously nurses and
2 other careers require a certain amount of PPE. But I work in a grocery store. And I can
3 see for some of my coworkers or a lot of my coworkers, a lot of the reasons we got
4 vaccinated is so we could have no masks. And we are looking forward to at least a June
5 15th date to have that ability to take it off. Because in customer service, the plastic
6 barriers, the face masks and everything else really make it hard to hard to do your job.
7 And really the only reason I work in the grocery industry, because I do other jobs. I
8 actually, you know, do a number of other jobs, is because I actually enjoy customer
9 service and I enjoy customer interaction. And because we are all becoming vaccinated
10 and the science is pretty clear -- I mean just today we had the two-week window that
11 cases have not gone up, we're not going to have a summer surge in the country, I would
12 like to be able to engage in customer service again. Because I miss it. Although I don't
13 cry as much as I did last year, it is still really, really frustrating, especially if customers are
14 going to be able to take their masks off, which will happen. It's already happening
15 across L.A. even though the public health department has their ruling. And I think that
16 people in those stores should be -- they shouldn't be fired because they want to wear a
17 mask or they want to have their PPE. I mean, that would be good to keep that. But I
18 think that it should be up to the employees and it shouldn't be up -- it should be up to
19 the employees if they get vaccinated as well. But if they don't want to get vaccinated,
20 then I don't think other employees should be suffering because they got vaccinated and
21 they're doing things in the right way. And that would be my public comment.

22 Obviously, you know, the biggest takeaway would be I think it's
23 important that you don't treat every profession the same. I'm sure you guys don't do
24 that. But I don't want nurses to be stripped of their PPE. I think that would be insane. I
25 know the Nurses' Union is talking about -- you know, they've been making calls to

1 Congress and to Washington and to everything and to the President. But -- and again, I
2 don't think they should be stripped of all their PPE, but I think you also have to be
3 reasonable. If the store is full of customers with no masks and we have plastic barriers
4 and we have our masks, it's almost barbaric in my opinion because you're saying that
5 we're second class citizens to these people because they are allowed to walk around
6 and be free and yet we are still stuck behind those barriers. That would be my public
7 comment.

8 CHAIRMAN THOMAS: Thank you. Appreciate your comments.

9 John, who do we have next?

10 MR. GOTCHER: Next commenter is Elysa Valentino, who is a California
11 resident.

12 CHAIRMAN THOMAS: Is that Lisa?

13 MR. GOTCHER: Elysa.

14 CHAIRMAN THOMAS: Elysa Valentino, are you with us?

15 MS. VALENTINO: Elysa Valentino. Here I am. Can you hear me?

16 CHAIRMAN THOMAS: Go ahead, Elysa. Yeah, I can hear you. Go right
17 ahead.

18 MS. VALENTINO: Fantastic. All right. I have a slightly different approach
19 to your policy proposal, which I would like you to withdraw.

20 In 1995, a small internet company called eBay was born. It connected
21 sellers with customers around the world with a dynamic auction platform. At the time
22 of its inception, many thought that it would surely fail, as sellers would send junk and
23 buyers would send fraudulent payments. But those fears turned out to be unfounded.
24 Even today, transaction ratings on eBay average 98 percent positive. How does this
25 work?

1 The underlying principle behind eBay’s success is trust. Trust is a
2 foundational principle that can be used to measure the strength of a society. The
3 moment that trust erodes between its citizens and leaders or members of the
4 community, it is a sign of a crumbling society. Trust erodes when leaders exercise
5 overruling authority long after the time has passed to relinquish it. Trust erodes when
6 citizens are encouraged to police their neighbors. Trust erodes when leaders deem it
7 necessary to monitor the movements of its citizens and treat everyone as if they are the
8 unseen enemy.

9 A large majority of public policy surrounding the handling of COVID-19
10 has eroded trust. Some of it may have been unavoidable in the beginning, but 14
11 months later, your amended policies will further erode any thread of trust that might
12 possibly still remain. I urge you to take a good look at the harmful practices that have
13 become commonplace and consider the impact they have had on the trust meter of our
14 communities.

15 Now, to the technical stuff of your proposal. It makes no mention of
16 individuals who have contracted COVID-19 and recovered. The latest science confirms
17 the strength of immunity gained by natural infection. Meanwhile, the lasting efficacy of
18 the vaccine is unknown with potential vaccine booster shoots being proposed for the
19 coming winter 2021. If vaccinated individuals are given greater flexibility due to their
20 high immunity, the same considerations should be made for those who have had a
21 COVID infection.

22 I echo Kenneth Davidson’s concerns about creating two classes of
23 employees by having different standards for the vaccinated and unvaccinated. Those
24 who are vaccinated are protected from transmission and serious illness.

25 MR. GOTCHER: Thirty seconds.

1 MS. VALENTINO: Their mask wearing protects no one and is unfounded,
2 even in the presence of the unvaccinated. Those who are not vaccinated have their own
3 reasons for choosing not to do so, but they ought to be trusted to bear the weight of
4 their own risk-taking decisions. This allowance is a needed extension of trust.

5 The lesson learnt from eBay is at their core human beings can be trusted
6 in much higher percentages than we ever thought possible. Now is the time for you to
7 extend trust and stop policing us over every decision. Thank you.

8 CHAIRMAN THOMAS: Thank you, Elysa. Appreciate it.

9 John, who is up next?

10 MR. GOTCHER: The next commenter is Karen Tynan from Ogletree,
11 Deakins, Nash, Smoak & Stewart, P.C.

12 CHAIRMAN THOMAS: Hello. Was it Karen? Are you there?

13 MR. GOTCHER: Yes. Karen Tynan.

14 CHAIRMAN THOMAS: Karen, are you there? Is she possibly muted? We
15 can't hear her.

16 MR. GOTCHER: Yeah. I see her in the WebEx. She is muted.

17 CHAIRMAN THOMAS: Karen, can you unmute? Or we're going to have to
18 move on.

19 MS. SHUPE: John, let's go ahead and move on to the next speaker.

20 MR. GOTCHER: Okay. Our next commenter is Taylor Jackson from
21 California Nurses Association, National Nurses United.

22 CHAIRMAN THOMAS: Taylor, can you hear us? Taylor, can you hear us?

23 Well, call back in. John, we're going to have to move to the next –

24 MS. JACKSON: Hello?

25 CHAIR THOMAS: Hello? Taylor, go ahead. I can hear you. Go ahead.

1 MS. JACKSON: (indiscernible) representing around (indiscernible)
2 registered nurses (indiscernible) in California --

3 MS. SHUPE: Taylor, I'm sorry, but we have bad audio from your
4 connection. If you go ahead and hang up and then call back in, we'll have you rejoin us.

5 MS. JACKSON: Okay.

6 CHAIRMAN THOMAS: Thank you, Taylor. John, who is next? We'll get
7 Taylor back up as soon as she calls back.

8 MR. GOTCHER: Our next commenter is Michelle Richardson, who is
9 representing self.

10 CHAIRMAN THOMAS: Michelle, can you hear us?

11 MS. RICHARDSON: Hi. Yes, I can.

12 CHAIRMAN THOMAS: Go right ahead. Go ahead.

13 MS. RICHARDSON: I am calling both as a small business owner and a
14 parent of young adults. I am calling regarding -- well, first of all, let me say Helen Cleary
15 stated my thoughts very well. If I could have a concur button, I probably would have hit
16 it.

17 First of all, these added restrictions coming up over the next several
18 months, especially for a long period of time, is going in the opposite direction of the rest
19 of the country. The rest of the country continues to open up and their COVID numbers
20 go down, but we are going to get stricter. California keeps saying that they are not
21 going to mandate the vaccine, but yet I as an employer am going to have to track who in
22 my employ has been vaccinated. I don't know how exactly I am supposed to do that
23 when I'm trying not to violate HIPAA laws. And I guess that's where it's going to lead us,
24 the vaccine passport.

25 So this regulation will create a two-class environment and put extreme

81

1 pressure on the unvaccinated to become vaccinated. The state keeps saying the
2 vaccine is so effective. In that case, then why do the vaccinated need to wear a mask?
3 And the unvaccinated at this point have clearly made a choice to not get vaccinated. So
4 how do you get people to get vaccinated if you don't want it? You put a ton of social
5 pressure on them.

6 On the parent side, I've watched my children go to work to sling a pizza.
7 They are required to wear a mask all day. They come home, they have that mask on.
8 Their acne is horrible. They haven't been able to give good smiles to anybody. And here
9 they are exhausted from breathing their own carbon dioxide for the day. So here they
10 don't need the vaccine, but they are going to be coerced into taking it so that they can
11 sling pizza.

12 You guys are -- I'm sorry, I don't mean to make it that personal. But
13 people who are sitting at home because they can work behind their computers and pull
14 a paycheck are making decisions for employees that are out in the field having to wear
15 those masks for eight hours a day. And that's not right and it's not following the
16 science. Thank you so much for your time. Bye bye.

17 CHAIRMAN THOMAS: Thank you.

18 John, who do we have next?

19 MR. GOTCHER: Let's Try Karen Tynan again from Ogletree, Deakins,
20 Nash, Smoak and Stewart, P.C.

21 CHAIRMAN THOMAS: Karen, can you hear us now?

22 MS. TYNAN: I can. Can you hear me?

23 CHAIRMAN THOMAS: Yeah. Go right ahead, Karen.

24 MS. TYNAN: Thank you so much. I had to step away, so I apologize.
25 First, Chair Thomas and Board Members, thank you for this opportunity to provide

1 practitioner perspective on the proposed regulations. I appreciate that.

2 My first point, which is consistent with many others beginning with Ms.
3 Cleary this morning, is that this proposal is inconsistent with CDPH directives and
4 information. The mask wearing requirements are unequivocally inconsistent with CDPH
5 information as of today's date and for June 15th. And the deviation from the CDPH
6 information and directives has not been adequately explained. And so the delay from
7 the May 20th vote really has brought no substantial improvement or substantive
8 changes. Second, and I think I adjoin others, the definition of fully vaccinated does
9 create problematic workplace recordkeeping and possible discrimination and retaliation
10 claims. Vaccinated individuals should be able to more fully participate and work without
11 burdensome face covering requirements. And third, this regulation is inconsistent with
12 Governor Newsom's June 15th reopening plan. And I respectfully request and suggest
13 that the vote be delayed until later this month as requested by other speakers. Thank
14 you, Chair Thomas and Board Members.

15 CHAIRMAN THOMAS: Thank you, Karen.

16 Who do we have next, John?

17 MR. GOTCHER: Our next commenter is Taylor Jackson from California
18 Nurses Association, National Nurses United.

19 CHAIRMAN THOMAS: Taylor, do we have you this time?

20 MS. JACKSON: Hi, good afternoon. Is that connection clearer?

21 CHAIRMAN THOMAS: Yes. Go ahead.

22 MS. JACKSON: Great. Thank you. Yes, again, my name is Taylor Jackson
23 with CNA.

24 As my colleague mentioned at the last meeting, most of our nurses are
25 covered by the ATD standard and so we are not covered by the ETS. However, we do

1 have call center nurses who are covered by the ETS. And quite frankly, all of the
2 workers covered by the ETS could potentially become one of our patients.

3 While we appreciate that the revised proposed ETS does not wholesale
4 incorporate the CDC's rollback of protective measures, we remain concerned with
5 provisions that relax protective measures which nurse view as key to controlling the
6 spread of COVID-19.

7 Since the CDC relaxed protective measures like masking, testing, and
8 isolation for fully-vaccinated people, we have been vocal about our concerns that easing
9 back on protections now is not based on science, does not protect public health, and
10 threatens the lives of patients, nurses, and other frontline workers. Preventing and
11 reducing transmission of COVID-19 requires multiple layers of protective measures. It's
12 been described as the Swiss cheese approach to respiratory virus pandemic defense. No
13 single intervention is perfect at preventing spread. They all have holes. If you stack
14 multiple interventions together, you can prevent the virus from passing. Vaccines are
15 just one slice of cheese in this scenario. The other slices include masks, testing,
16 isolation, distancing, and avoiding crowds and large gatherings. Importantly, it also
17 includes protecting frontline workers from workplace exposure to the virus. Vaccines
18 are only one important component of a robust public health infection control program.
19 All of our protective measures should remain in place in addition to vaccines. As much
20 as we want it, this pandemic is not over.

21 In terms of the specific changes to the ETS, as we mentioned last time,
22 we have concerns that employers only have to make testing available to employees who
23 are symptomatic and not fully vaccinated. That means that testing under this
24 subdivision does not need to be made available to fully-vaccinated employees even if
25 they are symptomatic. And as the Board considers approving changes to masking,

1 physical distancing and testing, CNA asks that you also consider the following.

2 First, the circulation of COVID variants of concern that are more
3 transmissible, deadlier, and may already be or may become vaccine-resistant. Second,
4 there are unanswered questions about vaccines. Nurses emphasize that it's unclear
5 how well vaccines prevent asymptomatic and mild --

6 MR. GOTCHER: Thirty seconds.

7 MS. TYNAN: I'm sorry?

8 CHAIRMAN THOMAS: Go ahead. Thirty seconds.

9 MR. GOTCHER: Thirty second warning.

10 MS. TYNAN: Nurses emphasize that it's unclear how well vaccines
11 prevent asymptomatic and mild COVID infections and how well vaccines prevent
12 transmission of the virus and how long protection from the vaccine will last.

13 Lastly, the CDC announced it would no longer be tracking infections
14 among fully vaccinated people unless they result in a hospitalization or death. This
15 means the CDC is no longer tracking data necessary to understand whether vaccines
16 prevent these infections and how long vaccines could last.

17 So thank you for your time and, again, our position is that the protective
18 measures should remain in place in addition to the vaccines.

19 CHAIRMAN THOMAS: Thank you. John, who do we have up next?

20 MR. GOTCHER: Our next commenter is Shawn Maloney, representing
21 self.

22 CHAIRMAN THOMAS: Shawn, are you with us?

23 MR. MALONEY: Hey. Good afternoon. I am with you. Can you hear me
24 okay?

25 CHAIRMAN THOMAS: Yeah. Go right ahead.

1 MR. MALONEY: Excellent. Good afternoon and thank you for the
2 opportunity to make public comment. I am Shawn Maloney. I am an occupational
3 medicine physician. I work for a business that operates nationally in the U.S. as well as
4 globally, specifically in the state of California in a manufacturing environment.

5 I have two concerns specifically with implementation of the updates to
6 the ETS specifically regarding (C)(6) and (C)(7). Specifically the date for physical
7 distancing release of 7/31/2021 quite honestly seems arbitrary and not based in reason
8 or research, but really just based on allowing employers to ramp up likely stockpiles of
9 N95 respirators that would be needed on 7/31 or after 7/31, rather.

10 And the second concern would be regarding face coverings. They can be
11 removed when all persons in a room are fully vaccinated. However, there is no
12 clarification for how an employer should go about identifying who is vaccinated to
13 implement this. There is no clarification for how a workplace can operate if all
14 employees are vaccinated.

15 And I gave an example is we have a workforce that's highly motivated to
16 be vaccinated and likely at one of our sites or more than one of our sites we will have a
17 hundred percent vaccination rate.

18 The way the ETS stands now does not indicate that a "fully vaccinated"
19 worksite can operate without these restrictions in place, it simply indicates that all
20 individuals in a room together who are fully vaccinated would be able to remove their
21 masks. And then obviously after the 7/31 date would be able to cease physical
22 distancing. But if we have an organization that is fully vaccinated at this point in time, it
23 would make the most sense to allow that to go into effect immediately and fix the
24 wording to clarify how a fully-vaccinated total worksite could operate differently.

25 And that's the end of my public comment. Thank you for the opportunity

1 to provide this commentary.

2 CHAIRMAN THOMAS: Thank you. We appreciate it. John, who do we
3 have up next?

4 MR. GOTCHER: Our next commenter is Mitch Steiger from the California
5 Labor Federation.

6 MR. STEIGER: Thank you, Chair Thomas and members. Mitch Steiger
7 with the California Labor Federation. Appreciate the opportunity to testify today.

8 We won't repeat our previous testimony from the most recent hearing
9 given that the standard is substantially similar to what it was then other than to
10 mention that it appears that our previous concerns have largely not been addressed.
11 And just to touch on those three really quickly, those were we do agree with the
12 employer community that this would benefit from a more clear definition of what
13 documentation of fully vaccinated workers would mean, that we very much agree with
14 the comments from the California Nurses Association that we should continue to test all
15 fully vaccinated by symptomatic COVID-19 cases following an exposure for a variety of
16 reasons outlined in our letter, and that also we are concerned with doing away with
17 distancing and partitions in lieu of N95s. Also agree with a lot of the employer
18 community's comments about the difficulties in wearing N95s, but we do believe that
19 they should be made available, that relying on just those we think is pretty concerning
20 and could prove problematic. But despite these ways in which the ETS could be
21 improved, we do strongly urge the Board to adopt this new language. As was
22 mentioned, it is we believe a compromise that still does go far beyond nothing in terms
23 of protecting workers. And so we do very much urge its adoption.

24 But, frankly, we are a little shocked at all of these calls to either do away
25 with face coverings entirely or just do away with the standard entirely. In the context of

87

1 a California where most people are still not fully vaccinated when you factor in the fact
2 that those under the age of 12 are still ineligible and that every day in California several
3 hundred people are still getting sick and dozens are still dying, we are still deep in this.
4 And it's really important to remember that even though things statewide do seem to be
5 heading in the right direction. That doesn't mean that everything is heading in the right
6 direction in every count or in every smaller jurisdiction, or especially in every workplace.

7 As Mr. Berg mentioned, work-related outbreaks are still happening as we
8 speak all across the state. This is still a real concern, and it's still something that needs
9 to be factored into whatever we do today. We also need to keep in mind that
10 workplaces are a very fundamentally different place than somewhere you just go, a
11 store you just go to. When you are a worker, you have much less control over your own
12 environment, that you are there for much longer during the day, and a few other factors
13 about this being your workplace means that we have to --

14 MR. GOTCHER: Thirty seconds.

15 MR. STEIGER. We have to err on the side of caution in protecting those
16 who are at work.

17 Sadly, it doesn't appear that the CDC factored all of that into their
18 announcement. But just because they made a mistake, it doesn't mean that we have to.
19 We have the opportunity here today to be smarter, to make a good choice about how to
20 best protect workers. And to that end, we strongly urge the Board to adopt the revised
21 language. Thank you.

22 CHAIRMAN THOMAS: Thank you. John, who do we have next?

23 MR. GOTCHER: Our next commenter is Matthew Allen from the Western
24 Growers Association.

25 MR. ALLEN: Good afternoon. Can you hear me?

1 CHAIRMAN THOMAS: Yeah. Go right ahead.

2 MR. ALLEN: Good afternoon, Mr. Chair and members of the Standards
3 Board. I am Matthew Allen with Western Growers Association. And I appreciate the
4 opportunity to provide comment today on the proposed revised ETS.

5 As the state moves forward on its reopening plans, we respectfully
6 request that now is the time for the ETS to be repealed. The state should instead rely
7 on Cal/OSHA guidelines that can be readily updated to regulate workplaces and safety
8 for COVID-19. This will allow for greater consistency across CDC, California Department
9 of Public Health, as well as Governor Newsom's direction to reopen the state on June
10 15th.

11 We are very concerned as well about the new requirement to provide
12 N95 respirators for voluntary use. With fire season upon us, there will be an enormous
13 demand for these respirators. Our concern, as mentioned by others, is that there will
14 not be enough supply in order to meet that demand, and we are puzzled about the
15 inclusion of this language precisely at the time that the mask mandates are in the
16 process of being rescinded at not just the federal level, but also at the state level.

17 The CDC has provided advise that those who are vaccinated can resume
18 activities without a mask or physically distancing. This proposal is doing quite the
19 opposite by requiring social distancing indoors until July 31st and in many situations will
20 require masking for vaccinated individuals until 2022.

21 Finally, we believe that other provisions of the ETS are outdated and
22 unnecessary given the increase in vaccinations. This would include sections regarding
23 engineering controls.

24 Again, we thank you for the opportunity to comment today.

25 CHAIRMAN THOMAS: Thank you. John, who is next?

1 MR. GOTCHER: Our next commenter is Michael Miiller from the
2 California Association of Winegrape Growers.

3 CHAIRMAN THOMAS: Michael, are you with us?

4 MR. MIILLER: I am. Can you hear me?

5 CHAIRMAN THOMAS: I can. Go right ahead.

6 MR. MIILLER: Good afternoon, Chair Thomas, Board Members, and staff.
7 I am Michael Miiller with the California Association of Winegrape Growers. I will
8 comment briefly on the proposed revisions to the ETS. I agree wholeheartedly with the
9 comments from Len Walsh. I do appreciate your hard work and commitment to safety
10 in the workplace. And Len is also right that we need a different approach. This is
11 because keeping the ETS in place is bad on policy, process, and politics. The ETS is bad
12 public policy for several reasons.

13 First and foremost, the science supports immediate repeal of the ETS.
14 For example, the Board states that it has no data about COVID-19 cases from workplace
15 exposures, yet at the May 20 meeting, some Board Members indicated that it was just
16 too early for the CDC to loosen restrictions. Epidemiologists and infectious disease
17 experts have reviewed the science and concluded the COVID-19 restrictions are no
18 longer needed for vaccinated people. Governor Newsom, Dr. Ghaly, and Dee Dee Myers
19 have all made public statements agreeing with those experts. If this ETS remains in
20 place, Governor Newsom, Dr. Ghaly, and Dee Dee will need to walk back many other
21 public statements about the June 15th reopening. This is because in many ways the ETS
22 slams the door on that reopening.

23 There is nothing “normal” about the workplace if the ETS remains in
24 place. Keeping the ETS in place is also bad because of the public process. Over the last
25 six months, there have been dozens if not hundreds of changes in federal, state, and

90

1 local guidelines for COVID-19. To my knowledge, this Board is the only regulatory
2 agency in California to make no changes to the COVID-19 requirements and its
3 authority.

4 While science and the data are changing at lightning speed, this ETS
5 moves at a snail's pace. The ETS is simply wrong on process because the ETS is rigid and
6 not easily corrected to reflect changes in science. Most importantly, the ETS is bad
7 politics, is tone deaf to the real world.

8 While President Biden and Governor Newsom are taking extraordinary
9 steps in encouraging people to get vaccinated, the Board's public messaging and
10 keeping the ETS in place is the political opposite. To give you an idea of the tough job
11 that President Biden and Governor Newsom have, please read the comments in the
12 chat. They include remarks about big brother vaccine mandates, soulless bureaucrats,
13 Nazis, the Nuremberg Code and yellow stars. While it is incredibly unfortunate that
14 vaccines and masks have become so awfully politicized, that is the real world in which
15 we all live. And that polarization cannot be ignored.

16 If the state of California wants people to roll up their sleeves and get a
17 shot, as a matter of public policy, we need to let people get back to normal. Otherwise,
18 the ETS is just pouring fuel on the fire of a politically-charged conversation about
19 vaccines. If you doubt me on that, you may be interested in knowing that during the
20 lunch break, KCRA 3 in Sacramento did two back-to-back stories about COVID. One was
21 about the vaccine incentives, the other was about how this Board is going to require
22 masks in the workplace even for vaccinated people.

23 In short, we ask that the ETS be repealed immediately. And instead of
24 the state rely on Cal/OSHA guidelines as your appropriate means of regulating
25 workplace safety for COVID-19. I hope my testimony is helpful to you, and I am

1 available to answer any questions you may have. Thank you very much.

2 CHAIRMAN THOMAS: Thank you. John?

3 MR. GOTCHER: Our next commenter is Natalie Potter from Lake
4 Arrowhead Community Services District.

5 CHAIRMAN THOMAS: Natalie, can you hear us? Natalie? I don't think
6 she is coming through, John. So let's move on to the next.

7 MR. GOTCHER: Our next commenter is Frances Schreiber from Labor
8 and Employment Committee of the National Lawyers Guild.

9 CHAIRMAN THOMAS: Frances, can you hear us?

10 MS. SCHREIBER: I can. Thank you. Can you hear me?

11 CHAIRMAN THOMAS: Yeah. Go right ahead. Speak up just a little bit
12 though.

13 MS. SCHREIBER: Okie Dokie. I am speaking on behalf of one of the
14 original petitioners on the Labor and Employment Committee of the National Lawyers
15 Guild. We support the readoption of the emergency standard. And although, as was
16 mentioned by some of the other speakers were not happy with all of the changes, we
17 are happy with some of them and think it will improve the regulation.

18 With respect to the expertise of the Division, which is the administrative
19 agency that put together this recommendation to the Board, it has applied expertise.
20 And I think that comments to the contrary are inept in this situation, and I want to thank
21 the Division for the work that they have done. I also want to echo the statements of
22 Shane Gusman, Maggie Robbins, David Barber, Taylor Jackson, and Mitch Steiger and a
23 few other folks and want to emphasize the comments about the fact is that many folks
24 still need to be vaccinated in this California population of whatever the million folks are,
25 the 40 million folks that are in this community. And I also want to emphasize the

92

1 comments about some disparities in vaccinations in counties that Maggie Robbins
2 pointed out, many of which are rural counties and which disparately impact people of
3 color and low wage working class families.

4 I want to say that the comments that have been made about a regulation
5 not being critical are totally off base. I think that the approach is not to go back to a
6 measure of guidance, because everybody knows that unless you have a regulation, you
7 cannot establish a level playing field. And we need a level playing field for our good
8 employer and our good contractors, our construction contractors who are doing the
9 right thing, to be able to fairly compete.

10 Protection needs to be in place with this emergency standard until the
11 Division and the Board reach their next step. And I conclude again that supporting -- I
12 support and the Guild supports the Board's adopting these changes --

13 MR. GOTCHER: Thirty seconds.

14 MS. SCHREIBER: Thank you so much for the opportunity to chat with
15 you all today.

16 CHAIRMAN THOMAS: Thank you, Frances. John, who do we have up
17 next?

18 MR. GOTCHER: Our next commenter is Anne Katten from the California
19 Rural Legal Assistance Foundation.

20 CHAIRMAN THOMAS: Anne, can you hear us?

21 MS. KATTEN: Yes. Can you hear me? Hi. Good afternoon. This is Anne
22 Katten with California Rural Legal Assistance Foundation. We feel it's very important to
23 retain a COVID emergency standard at this time to protect the state's workers who must
24 work around others outside their household for extended periods each work day.

25 As Maggie Robbins and others have detailed, significant portions of the

1 workforce are not yet fully vaccinated and lower vaccination rates and high COVID
2 infection rates continue to disproportionately impact more impoverished, rural, and
3 urban areas of the state. We've seen how premature rollbacks here and other places in
4 the past have resulted in infection surges, and we need to prevent further such
5 occurrences.

6 We strongly agree with the decision to wait until July 31st to eliminate
7 physical distancing and barriers in workplaces and to then retain the requirement for
8 face coverings indoors in areas where there may be unvaccinated individuals, to add
9 requirements for maximizing ventilation, which will protect those who can't be
10 vaccinated or to protect if there are new strains, and for reinstating protections in
11 workplaces experiencing outbreaks. We also strongly support the addition of a
12 requirement for oral notification of COVID exposure events in a language that the
13 employee understands when the employer has reason to suspect that employees have
14 not understood the written notification.

15 We greatly appreciate the thoughtful work of Cal/OSHA, the Board, and
16 CDPH on these revisions and urge adoption. Thank you.

17 CHAIRMAN THOMAS: Thank you, Anne. John, who is next?

18 MR. GOTCHER: The next commenter is Cassie Hilaski from Nibbi Brothers
19 General Contractors.

20 MS. HILASKI: Thank you. Can you hear me?

21 CHAIRMAN THOMAS: Yes. Go ahead, Ms. Hilaski.

22 MS. HILASKI: Hello. Cassie Hilaski. I am a safety director for a large
23 general contractor in the San Francisco Bay Area. First of all, I do want to thank the
24 Board for your work and for the opportunity to speak here today. I definitely don't envy
25 your positions as you cannot please everyone and there will always be someone

1 unhappy with the fruits of your labor. The same goes, obviously, for the work of the
2 Division, Eric Berg and his entire team. So I truly do appreciate the Division's work on
3 updating the ETS language with input from stakeholders. I know it's been a long haul
4 and much work and thought went into the proposed language.

5 That said, I respectfully disagree with the Division's rationale regarding
6 the proposed mandate to provide unvaccinated employees with N95s starting July 1st,
7 and I am also disappointed that this provision has not been removed. This piece
8 continues to make no sense, as face coverings in all their forms have provided ample
9 protection to date. But now with vaccinations increasing and case rates decreasing, it's
10 all of the sudden considered necessary to provide a much higher level of protection?
11 This makes absolutely no sense. And I continue to be concerned with the stress this
12 requirement will put on the supply of N95s as we head into a wildfire season.

13 I also echo the concerns expressed by Helen Cleary, Kenneth Davidson,
14 Kenneth Smith, Mr. Little, Brian Miller, Len Walsh, and others. However, given the
15 choice between the current ETS and the proposed ETS, I do believe it's better to bring us
16 into May of 2021 rather than keep us stuck in December of 2020. So while there are
17 some very troubling and problematic issues with the proposed changes, I do support the
18 Board's approval of the updated ETS today.

19 Finally and most importantly, I want us to start looking towards the
20 future and the end of the pandemic and request that the Board repeal the ETS effective
21 September 30th of this year to coincide with the CDPH requirements and
22 recommendations for negative testing and vaccine verifications that are set to expire
23 October 1st as well as the Labor Code's COVID-19 supplemental paid sick leave which
24 ends September 30th.

25 To that end, I also echo the sentiments expressed by the employee early

1 on this call, Gina Ma. While our employees have been very appreciative of all of our
2 efforts to keep them safe, they are also very tired and wanting as much relief as possible
3 from COVID restrictions. In fact, I think they would probably be willing to live with the
4 current ETS if they knew it was all going to go away on October 1st. Thank you very
5 much for listening.

6 CHAIRMAN THOMAS: Thank you, Cassie. I just want to let you know, it's
7 June the 3rd, not May.

8 MS. HILASKI: Yes.

9 CHAIRMAN THOMAS: That was supposed to be a joke, but -- anyway,
10 John -- thank you, Cassie. John, who is up next?

11 MR. GOTCHER: The next commenter is Abraham Parra, and they are
12 representing themselves.

13 CHAIRMAN THOMAS: Abraham, are you there?

14 MR. PARRA: Yes. How is it going? Can you guys hear me?

15 CHAIRMAN THOMAS: Yeah. Go right ahead.

16 MR. PARRA: All right, perfect. My name is Abraham. I really appreciate
17 you guys giving me the opportunity to speak. I am a health and safety manager for a
18 demolition, asbestos, lead abatement contractor here in California.

19 I wanted to say that I appreciate everything you guys have been doing as
20 far as enforcing and drafting these regulations. I personally believe that what you guys
21 are doing right now is really good and we should continue to support Cal/OSHA as far as
22 mitigating these risks. I'm having to wear a mask every single day going on job sites.
23 And from what I learned pretty much throughout this whole year that enforcing these
24 standards, although it's challenging, it's definitely doable. A lot of the people on here
25 that's talking about this standard in a negative manner, I believe they don't understand

96

1 that the reason why these standards are being put in place is for the protection of us
2 and also our workers. And also I wanted to give you guys my humble support to
3 continuing this. Because I feel that wearing masks, being vaccinated, social distancing
4 and everything that we have been practicing has been working. So thank you guys again
5 and I appreciate your time.

6 CHAIRMAN THOMAS: Thank you very much. I appreciate it.

7 We are going to take a 25-minute break. I know everybody has got to eat
8 lunch at some point, so this is as good as any. How many callers do we still have, John?

9 MR. GOTCHER: Just an estimate, about 50.

10 MS. SHUPE: Yeah. We are at about speaker 55 of approximately 104
11 right now.

12 CHAIRMAN THOMAS: That's good. All right. Well --

13 MS. SHUPE: I would also like to take this opportunity -- I know that there
14 are several folks who are using the chat function to communicate. And while we would
15 like to keep that open and available, it really needs to be available for staff so we can
16 manage the speaker queue. So if you are participating in conversations in the chat,
17 please take those offline. Thank you.

18 CHAIRMAN THOMAS: Thanks. So we're going to have a break here.
19 We'll be back at quarter to two, at 1:45. So let's break and we'll see you back at 1:45.
20 And thanks again for your participation.

21 (Break)

22 MS. SHUPE: Good afternoon. This is Christina Shupe, Executive Officer
23 for the Standards Board. I want to thank everybody for joining us today. And we're
24 going to get started again in just a few minutes. I do need to take a moment though to
25 ask everyone who is using the chat to remember that that chat is to communicate with

97

1 staff. Board Members do not participate in the chat and it is not part of our
2 rulemaking record. Also, we ask that the chat function be reserved for the intended
3 use, because we have folks who are trying to join the comment queue. And some of my
4 staff are not able to catch everybody who would like to join because we're trying to sift
5 through too many off-topic conversations.

6 So if you would like to join the OSHSB comment queue and have not yet
7 had an opportunity, then please email OSHSB@dir.ca.gov. Again, that is
8 OSHSB@dir.ca.gov. Thank you.

9 CHAIRMAN THOMAS: Thank you, Christina.

10 And we are back and we are going to -- I hope you heard the comment
11 from Christina regarding the chat function. And let's continue on with comments.

12 John, who do we have up next?

13 MR. GOTCHER: Our next commenter is Loraine Hughes, and they are
14 representing themselves.

15 CHAIRMAN THOMAS: Loraine, can you hear us?

16 MS. HUGHES: Hello. Can you hear me?

17 CHAIRMAN THOMAS: Yes. Speak up just a little bit, though.

18 MS. HUGHES: Okay. Yes, I am here to propose -- I'm sorry, to oppose
19 this order, because I don't agree with it. I feel like it has the potential to be
20 discriminatory. And I think it's just further dividing the nation. And I just wanted to say
21 for the record that I am liberal. I felt compelled to say that because in the media it's
22 always portrayed as, you know, if you're this way, you can't be for self-choice. And I feel
23 like I don't want the vaccine not because of my political party, but because I did my due
24 diligence to research, and I am choosing not to take this experimental drug. And I just
25 feel like I don't want to be branded just because I made that choice by having to wear a

98

1 mask. And so that's all I wanted to say.

2 CHAIRMAN THOMAS: Thank you, Loraine. Appreciate your comments.
3 John, who do we have next?

4 MR. GOTCHER: Our next commenter is Derek Marin from Vista Paint
5 Corporation.

6 MR. MARIN: Thank you for this opportunity to address the Board. Now,
7 a lot has already been said regarding changes to the ETS, so I'm not going to rehash that.
8 But I will state that Vista Paint concurs with the written statements provided by Cal
9 Chamber. Instead, I would like to address a potential issue with the ETS as it's currently
10 written that should be corrected before it is considered for approval.

11 Now, based on the direction provided by the Division at the beginning of
12 this meeting, one of the proposed changes is the requirement to have employers
13 provide non-vaccinated employees with respirators. Now, these are to be provided by
14 July 31st for all non-vaccinated and earlier in specific circumstances.

15 However, some of the current language in the ETS does not appear to
16 align with this. Specifically, as it's currently written, the personal protective equipment
17 section in 3205 require that respirators be provided to all employees working indoors.
18 And I'm going to quote that specific line that says, "Starting July 31st, 2021, employers
19 shall provide respirators for voluntary use and compliance with Subsection 5144(c)(2) to
20 all employees working indoors or at outdoor megaevents who are not fully vaccinated."

21 So the way this is currently written, it's all indoor employees as well as
22 those non-vaccinated employees who work solely outdoors. Now, additionally, Part 5 of
23 this same section could potentially have an earlier implementation date for respirators
24 to be provided to all non-vaccinated. And this would be based on 15 days past the
25 adoption by the Office of Administrative Law.

1 Now, per the reading of the section, the intent appears to be that the
2 requirement is solely for non-vaccinated employees when they are traveling with others
3 in vehicles. To restate what the section says, it says OAL to insert 15 days after effective
4 date here. Employer shall provide respirators for voluntary use and compliance with
5 Subsection 5144(C)(2) to employees who have not been fully vaccinated and encourage
6 the use of those respirators when employees are in vehicles with at least one other
7 person for 15 minutes or more.

8 So I am asking that if it is this Board's decision to adopt the ETS, that they
9 need the sections clarified. Specifically, it would be nice to have just one deadline in
10 which we have to provide the respirators to all employees if that's the direction this
11 Board is going to take.

12 Thank you very much for this opportunity to comment.

13 CHAIRMAN THOMAS: Thank you, Derek.

14 John, who do we have up next?

15 MR. GOTCHER: Our next commenter is Jason Parks, and they are
16 representing themselves.

17 CHAIRMAN THOMAS: Jason, can you hear us?

18 MR. PARKS: Yes, I am here. I am in opposition against -- I mean against
19 current ETS that's in front of you guys because it's not aligning with the CDC and not
20 with the California Department of Public Health. As the Governor said, the June 15 is
21 when our mask mandate is supposed to be lifted for the public. And I am opposing the
22 ETS because it is not following what the Governor has said about the fully-vaccinated
23 people getting the vaccine. I mean, the vaccinated people for not wearing a mask.

24 But I am really opposed to the ETS because it just feels like it's not been
25 fair. Because I already got vaccinated, two of the Pfizer. I already got the -- what do you

100

1 call it -- all my coworkers already got the vaccinations. And I want this ETS to be -- I
2 urge you guys to vote no on this ETS, this proposal. Thanks.

3 CHAIRMAN THOMAS: Thank you. John, who do we have next?

4 MR. GOTCHER: Our next commenter is Scott Bourdon from California
5 State University.

6 CHAIRMAN THOMAS: Scott, can you hear me?

7 MR. BOURDON: Yes, I can. Can you hear me?

8 CHAIRMAN THOMAS: Yeah. Go right ahead, please.

9 MR. BOURDON: Great. Thank you. So, yes, on a personal note, I
10 recommend that the Board consider natural immunity in the same league as
11 vaccination. In representing the 23-campus Cal State University System, a system-wide
12 senior manager of risk and EHS, I concur with Lyn Welsh's comments and those of the
13 UC that this is no longer an emergency and a different process is needed. The Board
14 needs to either make drastic changes to the proposed ETS language or sunset the
15 current regulation on June 15th to rely on public health COVID guidelines going forward.

16 Three supporting points. One, Cal/OSHA previously indicated that they
17 want to align with the state's announcement that California plans to implement the
18 CDC's guidelines around masking, to allow fully-vaccinated Californians to go without a
19 mask in most indoor settings. But the updated language does not do this. It also
20 ignores the June 15th target date and continues to set a July 31st target date.

21 The language would require workers to physically distance indoors
22 through July 31st and wear face coverings indoors through January 2022 unless all
23 persons in a room are fully vaccinated. They did not mention how the California
24 Department of Public Health would take the leading role in determining COVID-19
25 health requirements for the state.

1 Point two, the ETS will pose significant challenges to large employers
2 like the CSU who run like small cities with many members of the public present at our
3 worksites. The dramatic reduction in COVID rates and widespread immunity rates in our
4 communities make the mask mandates and voluntary respirators impractical, especially
5 since they would seemingly require us to identify the vaccination status of our workers
6 and because many members of our community would not be required to wear masks.
7 Effective systems are not available to identify employee vaccination status that allows
8 for personal medical autonomy and which would satisfy the requirements as written.
9 The proposed revisions do not seem to consider the fact that vaccines are merely under
10 the emergency use authorization, nor do they consider that the CSU employers would
11 be placed in the position of outing persons that made personal decisions not to
12 vaccinate or who may have medical conditions that prevent them from getting the
13 vaccine.

14 It seems like Cal/OSHA is placing a burden on employers to assume
15 responsibility -- this is the third point -- to assume responsibility for decisions that were
16 once in the realm of personal decisions that an individual is in the best position to make.
17 At this time, the employer should no longer bear the burden of responsibility for
18 individual personal choices.

19 And I do want to send a note of appreciation to all the hard work you all
20 are doing. Everybody on the call, but especially I think Eric Berg did a good job of
21 explaining the whys of what they are doing, and I appreciated his description of why
22 N95 respirators do a better job protecting the wearer than do cloth face coverings.

23 So those are my comments. Thank you very much.

24 CHAIRMAN THOMAS: Thank you. Appreciate that.

25 MR. BOURDON: You're welcome.

1 CHAIRMAN THOMAS: John, who is next?

2 MR. GOTCHER: Our next commenter is Laura Preston from the
3 Association of California School Administrators.

4 CHAIRMAN THOMAS: Laura, can you hear us?

5 MS. PRESTON: Yes, I can. Can you hear me?

6 CHAIRMAN THOMAS: Yeah. Go right ahead, please.

7 MS. PRESTON: Okay, hi. I am Laura Preston with the Association of
8 California School administrators. And I submitted a letter last evening that outlined
9 many of the concerns from the education management side of public education.

10 The proposed updated ETS perpetuates specific challenges to local
11 education agencies. The specialized role of educating the children of California has been
12 perhaps the top priority focus of the executive and legislative branches of the state
13 since the pandemic began.

14 Schools are unique employers as our business is the education of
15 students. So not only do we take the responsibility of protecting our employees, but we
16 also have a duty to protect our students. And we recognize that we need a safe and
17 healthy work environment and workers in order to conduct our purpose of education.

18 Thankfully, most of the COVID cases that we have been hearing about so
19 far have occurred away from the school sites while employees and staff may have
20 brought them to the school site, the impetus of the cases have not originated at the
21 school site itself.

22 School districts are unique. We cannot increase fees or raise rates to
23 comply with the new requirements. So we view the cost pressures as unfunded
24 mandates. School districts have already negotiated and are near finalization or finalized
25 their budgets for the next school year, so these new unfunded mandates are going to

103

1 force us to redirect resources used to educate students to new requirements outlined
2 in the regulations and also most likely force us back to the bargaining table to
3 renegotiate those expenses.

4 We must be able to respond quickly to the ever-changing CDC, CDPH,
5 Governor's executive orders, and the legislature's requirements for school reopening,
6 addressing learning loss, meeting the needs of our communities, and more. The
7 restrictive nature of the Cal/OSHA guidelines forces schools to respond much more
8 slowly than others are pushing for, leaving schools open to public scrutiny and
9 additional liability exposure.

10 Educators have been assuming may COVID requirements that would
11 cease to exist after June 15th and have already planned for the next school year. Many
12 schools are reopening in mid-July. Pushing some requirements to July 31st and placing
13 additional requirements after July 31st further complicates our reopening classroom
14 configuration and staffing. Thank you.

15 CHAIRMAN THOMAS: Thank you. John?

16 MR. GOTCHER: Our next commenter is Diana Fabian-Gutierrez, who is a
17 legal aid worker.

18 MS. FABIAN-GUTIERREZ: Good afternoon. My name is Diana Fabian-
19 Gutierrez and I am a legal fellow at Legal Aid at Work.

20 In making decisions regarding relaxing the emergency temporary
21 standards, we urge Cal/OSHA, the Board, and the Newsom administration to consider
22 that vaccine effectiveness was evaluated in the context of widespread face coverings,
23 distancing, partitions, and even mandatory shutdowns of entire industries. And given
24 that distancing, partitions, and face coverings are now the norm, we fail to see the
25 reason to move away from these controlled measures while a majority of the California

1 population is not fully vaccinated, including many workers with preexisting conditions,
2 caring for family members with serious health conditions, or children under the age of
3 12 at home. We strongly believe such control measures should continue for the
4 foreseeable future, or at least until far, far fewer Californians remain unvaccinated.

5 Further, major changes to the ETS, allowing employers to escape most of
6 its protections when employees are fully vaccinated create a loophole that could
7 jeopardize worker and public safety. For these reasons, we urge Cal/OSHA and the
8 Board to either revisit the proposal, or where possible address identified issues via
9 frequently asked questions, clarifications to improve the understanding of the ETS, and
10 thus compliance, and thus creating a safer working environment for all.

11 Current circumstances warrant extreme caution when relaxing the ETS.
12 And particularly with so many Californians who are not vaccinated especially. Control
13 measures such as face coverings, distancing, and testing should be eased more carefully
14 than envisioned so far by this new ETS, and the likelihood that individuals may falsely
15 claim to be vaccinated in order to return to work should be factored into an analysis and
16 decisions. Thank you for the opportunity to comment on this proposal, and we urge the
17 Board, Cal/OSHA to include these concepts in any revised ETS standard through
18 whatever means are most appropriate. Thank you.

19 CHAIRMAN THOMAS: Thank you. John?

20 MR. GOTCHER: Our next commenter is Melissa Grace, and they are
21 representing themselves.

22 CHAIRMAN THOMAS: Melissa, can you hear us?

23 MS. GRACE: Yeah, I can hear you loud and clear. Can you hear me?

24 CHAIRMAN THOMAS: Yeah. Go right ahead.

25 MS. GRACE: Fantastic. Board, thank you so much for being here today.

105

1 My name is Melissa Grace, and I wanted to reiterate a statement that I just heard that
2 typically opposing views are coming from members of the Republican or conservative
3 community. I am a progressive LGBTQ 35-year-old woman from the San Francisco Bay
4 Area and don't want the stigma to continue that somehow this is a political issue.

5 Board Members, I recognize you have a difficult job to designate safety
6 standards across a large and diverse state. However, Cal/OSHA has no business
7 regulating or forcing employers to regulate an individual's own responsibility to their
8 health decisions. If individuals in the workplace feel more comfortable or safe wearing a
9 face covering or receiving a shot, that's their prerogative, and those individuals have the
10 right to act accordingly. If the shots and masks are effective at protecting individuals,
11 then the individual who chooses to participate in those measures should take comfort
12 that they are protected without dependency on what someone else chooses to do for
13 their level of comfort.

14 Further, allowing businesses to require their employees to receive an
15 emergency use authorized shot which is only approved for emergency use or any other
16 medical intervention as a condition of employment is not only unethical and
17 discriminatory, it is also highly inconsistent to each individual's right to informed
18 consent, which must be free of influence or coercion. If it is required, under no
19 circumstances can that be considered to be a free choice.

20 Do not allow yourselves to be influenced by a corrupt leader setting a
21 dangerous and illegal precedent like allowing individuals to be bribed by a lottery for
22 getting vaccinated. This is not setting a good example of leadership.

23 I implore you to impose any and all language that would allow an
24 employer in our great state to violate a person's individual medical rights. It is no
25 governing agency job nor duty to impose individual medical decisions, period. Not only

1 is the foundation of these regulations based in illegal and unethical practices, it also
2 forces businesses who have already faced significant hardships over the last year to pick
3 up the role of enforcement of these practices, which they are not legally competent to
4 do.

5 By passing the proposed regulations, you are forcing businesses to step
6 into a world of legal disputes and challenges which will cause –

7 MR. GOTCHER: Thirty seconds.

8 MS. GRACE: -- unsurmountable financial burden when they are taken to
9 the court level, and they will be. If the Board chooses to go ahead with these proposed
10 regulations, they should know you are opening yourselves up to significant legal
11 opposition, and it will not go unchallenged. You have an opportunity to break the
12 lockstep decisions being made by a tyrannical and out-of-control California government,
13 to step back into the good graces of the rest of our great nation. Many residents are
14 fleeing from California --

15 MS. SHUPE: You are beyond your three minutes. Mr. Gotcher. Thank
16 you.

17 MS. GRACE: I'm on my last sentence here.

18 CHAIRMAN THOMAS: Thank you. John?

19 MR. GOTCHER: The next commenter is Eric Frumin from the Strategic
20 Organizing Center.

21 CHAIRMAN THOMAS: Eric?

22 MR. FRUMIN: Can you hear me okay?

23 CHAIRMAN THOMAS: Yes. Go right ahead.

24 MR. FRUMIN: Hi. Eric Frumin. I am with the Strategic Organizing Center,
25 which is a labor union coalition representing 4 million workers throughout the country,

107

1 and a lot of them in California.

2 I wanted to encourage -- first of all, thank the Board and the DOSH staff
3 for your work in getting us to this point. It's been a difficult challenge for everybody. I
4 wanted to reiterate the point I made at your last meeting, which is that we desperately
5 need the full cooperation of the parties that have accurate information about workplace
6 outbreaks. We have fortunately seen some employers, maybe a lot of them complying
7 with the mandate to report their outbreaks to local health departments. Unfortunately,
8 some have not. Some have failed to do that on a fairly outrageous scale. And I'll say
9 more about that in a second. But what we have not yet seen is to make the available of
10 that critical information to the Board, to DOSH, at least in a public framework that could
11 help guide everyone's thinking about where we are, how far we've come, whether
12 things are improving or getting worse. You know, none of us really have or should have
13 the confidence that we know the direction confidently, that we can confidently predict
14 what's going to happen next. And, unfortunately, CDPH has found itself now in the
15 position of -- or maybe created the situation of withholding from the Board, from the
16 public, from the people at this meeting the details about where the outbreaks are
17 occurring. We have only a little bit from them. And again, it's only a snapshot in time,
18 but we've got 75,000 work-related cases now in their public document covering about
19 7,500 workplaces. So, you know, it's an average of ten. That's a pretty crude number.

20 L.A. County of course as I pointed out last time, L.A. County does provide
21 workplace-specific data. For instance, Northrup Grumman is still on their list with 750
22 cases and one outbreak. So I think it's really important --

23 MR. GOTCHER: Thirty seconds.

24 MR. FRUMIN: -- for the Board to call upon CDPH and the administration
25 to provide the workplace-specific cluster information, outbreak information. That

108

1 would very helpful to all of us. And if anyone needs an example of why we can't trust
2 all employers to be accurate, then look at the Cal/OSHA citation at Amazon and the
3 (indiscernible) empire where they found 217 COVID cases that should have been
4 recorded on the log, but --

5 MR. GOTCHER: Three minutes.

6 MR. FRUMIN: (indiscernible) was not paying attention to. Thank you
7 very much.

8 CHAIRMAN THOMAS: Thank you, Eric.

9 John, who is next?

10 MR. GOTCHER: Our next commenter is Ben Telligent, and they are
11 representing themselves.

12 CHAIRMAN THOMAS: Go ahead, caller.

13 MR. TELLIGENT: Hello.

14 CHAIRMAN THOMAS: Hello.

15 MR. TELLIGENT: Hi, California. Can anybody tell me how many people
16 got the flu according to California Department of Public Health this week? According to
17 them, only three people got the flu last week in the whole state. We are in the last
18 week of flu season, but we've been flat for this whole flu season. So if we're going to be
19 all of the sudden trying to now make people wear N95 masks and stuff like that, I
20 believe that you guys are a little bit late. And also, where did the flu go? Everybody is
21 dancing around, COVID this, COVID that. And nobody can tell me where the flu went.
22 Obviously, it didn't disappear. COVID didn't eat it or something like that. It didn't
23 consume it and cannibalize it. So if you guys are trying to make people wear all this
24 stuff, these N95 masks and masks, you guys need to realize that when they actually
25 work in real laboratories on real diseases like Ebola and SARS and anthrax, like the real

109

1 stuff that's killing people, they use full bubble suits. There's no gaps in the masks. The
2 N95, they only work if you put Vaseline all over your face to seal the gaps. Okay? Our
3 military and police forces, they use real gas masks with canister filters to protect
4 themselves so they don't succumb to any biological or chemical agents. So if you really
5 want to protect people, you guys have to make all the employers wear full bubble suits
6 or gas masks.

7 Even the Disney movie Monsters, Inc. are a better example than our
8 government has been displaying. So basically in the movie Monsters, Inc. when a child
9 reached the monster world, the child detection agency came in and they locked down
10 everything and they decontaminated everything and they shaved the monster's fur off.
11 And it was really funny. And the whole team, they all had these full bubble suits on. No
12 gaps.

13 So I see people in the chat that pretty much agree, and I see people in the
14 calls, they have masks on. And I don't know why. I mean, you're on a video call. Why
15 do people have masks on? I mean, it's like a virtue signal at this point. And I would
16 really, really appreciate it if people just did the right thing so we didn't have to waste
17 our time filling up our courts –

18 MR. GOTCHER: Thirty seconds.

19 MR. TELLIGENT: -- with charging people with negligent homicide and
20 violations of civil rights. I mean, it's ridiculous. I mean, we don't want to take people to
21 court and mess up their lives. But, I mean, you guys don't -- if you guys don't straighten
22 up, we're going to have to do that. So may god have mercy on your souls. And just look
23 at all the evidence. It's right there in front of you. I'm not the smartest guy in the room.
24 I know all these big --

25 MR. GOTCHER: Three minutes.

1 MR. TELLIGENT: God bless America, everybody.

2 CHAIRMAN THOMAS: Thank you, Ben. Appreciate your comments.
3 John, who do have next?

4 MR. GOTCHER: Our next commenter is Jason Adams.

5 CHAIRMAN THOMAS: Jason, can you hear us? Jason?

6 MR. ADAMS: Yeah. Hey, you guys. Can you hear me?

7 CHAIRMAN THOMAS: Yeah. Go right ahead.

8 MR. ADAMS: Hey, you guys. This is all -- it's just political. This just needs
9 to stop. There is no proof that masks do anything. I have a master's degree in
10 biochemistry. I am trained up to Level A PPE. I get fit tested every year. These masks,
11 they have to fit properly. If you have facial hair on your mask, they're useless. They
12 don't do any good. It needs to stop. It's just theater. And what bothers me the most is
13 California wants kindergarteners to wear masks. They want them to wear masks. They
14 want them to sit in plexiglass desks. They want them to be scared of everyone. It just
15 has to stop. We are like the last state -- one, two, or three of the last states in the whole
16 U.S. still hanging onto this. Everybody I talk to, they just want this to end. It's over. End
17 the state of emergency, you guys. It just doesn't make sense. It's like the twilight zone.
18 So many people I know are just so fed up with this. Thank you. Have a nice day.

19 CHAIRMAN THOMAS: Thank you, Jason.

20 John, who do we have up?

21 MR. GOTCHER: Our next commenter is Christa Hildebrand, and they are
22 representing themselves.

23 CHAIRMAN THOMAS: Christa, can you hear us?

24 MS. HILDEBRAND: Yes. Can you hear me?

25 CHAIRMAN THOMAS: Yes. Go ahead, Christa.

1 MS. HILDEBRAND: It's Christina Hildebrand.

2 CHAIRMAN THOMAS: Oh, I'm sorry.

3 MS. HILDEBRAND: And I am actually representing A Voice for Choice
4 Advocacy. A Voice for Choice Advocacy is an organization that educates and advocates
5 for full choice and transparency of what goes into your body, be it food, air, water, or
6 pharmaceuticals.

7 While Cal/OSHA is the agency responsible for the workforce safety,
8 putting in place guidelines that are not consistent with the CDC or CDPH guidelines is
9 confusing and frustrating for business owners. We have heard from experts today
10 during public comment regarding the lack of efficacy of masks due to particulate size. I
11 won't reiterate this because they are they experts. But I would like to ask Cal/OSHA to
12 share your research and science that you are basing any masking guidance on.

13 Aside from the future variants which may evade the COVID vaccines, the
14 current emergency use authorized vaccines have been shown to be effective in
15 preventing serious illness among the vaccinated. The guidance makes no reference to
16 those who have had COVID-19 naturally and also seem to be protected from reinfection.
17 The high vaccination and COVID immunity rates, those who -- sorry, those who are
18 unvaccinated and have not knowingly had COVID pose little to no risk to either of these
19 groups, outdoors or indoors. Those who are vaccinated and those who remain
20 unvaccinated, for whatever reason, should be allowed to assess the risk and make an
21 informed choice for themselves with respect to resuming activities rather than be
22 required to prove vaccination to enter or work in a business.

23 Voice for Choice Advocacy also asks you to ensure that this guidance is
24 updated, that it complies with federal and the Unruh Civil Rights Acts, ensuring that
25 vaccinated and unvaccinated persons are treated equally by all businesses and

1 government entities in California. While stricter requirements for unvaccinated may
2 be positive when seen through the lens of public health, such requirements are the
3 beginning of a very slippery slope which if implemented will land California in a place
4 primed for discrimination, inequality, corruption, and a violation of the basic tenets of
5 the U.S. and California constitutions. Segregating immune and unimmune persons
6 poses a significant burden on society and would be considered discrimination and
7 therefore illegal under the federal and the Unruh Civil Rights acts.

8 I will read the Unruh Civil Rights Act, which is California Civil Code 51,
9 which states, "All persons within the jurisdiction of this state are free and equal, and no
10 matter what their sex, race, color, religion, ancestry, national origin, disability, medical
11 condition, genetic information, marital status, sexual orientation, citizenship, primary
12 language, or immigration status are entitled to the full and equal accommodations,
13 advantages, facilities, privileges, --

14 MR. GOTCHER: Thirty seconds.

15 MS. HILDEBRAND: -- or services in the business establishments for
16 whatever reason."

17 California employees may not be vaccinated for a variety of reasons,
18 including because they have had COVID-19, have medical reasons, religious reasons, or
19 personal choice. The implementation requiring unequal treatment of persons would fall
20 on businesses and government entities, requiring them to police their employees'
21 medical status, opening them up for civil rights lawsuits due to medical or religious
22 discrimination and potential

23 MR. GOTCHER: Three minutes.

24 MS. HILDEBRAND: (indiscernible) lawsuits.

25 California does not need to make inequities worse by creating a

1 hierarchical, classist system which at best would discriminate and prevent equal access
2 and at worst would create a corrupt societal system. We ask you to not reup the order.
3 Thank you.

4 CHAIRMAN THOMAS: Thank you, Christina. John?

5 MR. GOTCHER: Our next commenter is Jon Dieringer from Dieringer Law
6 Group and Inland Empire Restaurant Association.

7 CHAIRMAN THOMAS: All right. Who do we have on deck? John?

8 MR. GOTCHER: Sorry, did you hear the announcement there?

9 CHAIRMAN THOMAS: I did. I just want to know the next two or three so
10 people are ready.

11 MR. GOTCHER: Sure. So we have Kaela Sanborn-Hum and Jassy Grewal.

12 CHAIRMAN THOMAS: Okay. So who is the first? We'll go to them.

13 MR. GOTCHER: Jon Dieringer from Dieringer Law Group and Inland
14 Empire Restaurant Association.

15 CHAIRMAN THOMAS: Jon, are you there? Hello, Jon? I'm not hearing
16 anything. Let's move to the next caller.

17 MR. DIERINGER: I'm sorry, I was on mute. May I restart, please?

18 CHAIRMAN THOMAS: Jon.

19 MR. DIERINGER: Jon Dieringer.

20 CHAIRMAN THOMAS: Go ahead. Go ahead. Go right ahead.

21 MR. DIERINGER: It's Jon Dieringer, like the pistol, from Dieringer Law
22 Group and the Inland Empire Restaurant Association.

23 Our employer clients in the hospitality industry here are serious about
24 keeping the workers safe from harm. We counsel and represent employers in the
25 California in restaurant and hospitality industry regarding employment laws that are

114

1 mushrooming with more onerous requirements from the legislature and the regulators
2 who appear eager to impose more and more costly and difficult engineering,
3 monitoring, and enforcement requirements for employers struggling to stay in business.

4 Californians and Californian employers lack confidence in California state,
5 county, and regional government officials. Employers' mistrust is soundly based on
6 constantly-growing and heightened burdens by government institutions which have
7 historically demonized employers like those terms the Division of Labor, who often use
8 terms like wage thieves for simple inadvertence or accounting errors to employees.

9 In short, we don't trust you. And that lack of trust was earned from a
10 history of very oppressive measures imposed by government officials throughout the
11 last 15 months and before that. That oppression culminated in surprise ETS that was
12 rushed through during the holidays and imposed the Monday after Thanksgiving, leaving
13 employers jumping to try to comply and subjecting them to regulatory surprises,
14 penalties, and lawsuits.

15 There appears to be a dearth of scientific basis for many decisions from
16 government officials, and that science is in flux and often found to be erroneous and
17 later changed, yet regulations lag far behind. Karen Tynan's comments bear serious
18 consideration here. One overlooked point is that science reports identify only three
19 cases of reinfections by those who have previously had COVID-19, much less than
20 infections by those who have been vaccinated. Yet the government, fueled by media
21 speculation on the potential of reinfections, provides no relief for this class of worker.
22 There is no consideration of accommodation for those who have gained the benefit of a
23 high degree of immunity by having had COVID-19 that transcends the degree of
24 immunity provided by vaccinations. As Dr. Bordin mentioned, natural immunity should
25 be considered in any ETS.

1 Another point. One commentator noted that there is a difference in ETS
2 requirements between industries or businesses or various work environments that may
3 vary drastically. Has Cal/OSHA conducted any analysis –

4 MR. GOTCHER: Thirty seconds.

5 MR. DIERINGER: -- on that point?

6 Also, there appears no consideration in the ETS for those with deeply-
7 held religious beliefs, disability-based oppositions to vaccinations, or who will be
8 omitted or stigmatized in the workplace. This further sets employers up to exposure for
9 the discrimination claims.

10 As for individual freedoms, the risk of contracting the virus or sustaining
11 serious consequences are known, and those who are more vulnerable know about the
12 risks and know how to assess the risk and make their own informed decisions.

13 CHAIRMAN THOMAS: Thank you, Jon.

14 MR. DIERINGER: On behalf of Dieringer Law Group, client employers, and
15 the Inland Empire Restaurant Association, the hospitality industry, we oppose the ETS
16 and proposed revisions here and invite the Board to withdraw those onerous standards.
17 Thank you.

18 CHAIRMAN THOMAS: Thank you, Jon.

19 John, go ahead.

20 MR. GOTCHER: Our next commenter is Kaela Sanborn-Hum from Fight
21 for \$15.

22 CHAIRMAN THOMAS: Kaela.

23 MS. SANBORN-HUM: Hi. Can you hear me?

24 CHAIRMAN THOMAS: Yeah. Go right ahead.

25 MS. SANBORN-HUM: Okay, great. Well, thank you so much for having

1 me today. I appreciate this time to give a comment here. And so my name is Kaela
2 and I am speaking on behalf of workers in the Fight for \$15 and the union.

3 While we are making great strides to recover from the COVID-19 crisis,
4 the pandemic is not over yet, especially for essential workers like those in fast food.
5 Throughout the pandemic, we saw fast food employers fail to comply with even the
6 most basic safety standards. In fast food, we have heard stories of workers being given
7 doggie diapers as masks, uncontrolled outbreaks of COVID-19, and a lack of social
8 distancing.

9 Prematurely rolling back critical protections in the ETS will be a risk to
10 workers and consumers alike. It is important to keep in mind that not every Californian
11 can be fully protected by the vaccine, such as those with compromised immune
12 systems. We must use extreme caution in considering relaxing the ETS, particularly
13 while so many Californians are not vaccinated. Safety measures such as face coverings,
14 distancing, and testing have been critical to curbing the spread of the virus and we
15 cannot rush to undo these policies. Thank you very much for the time.

16 CHAIRMAN THOMAS: Thank you. John, who do we have next?

17 MR. GOTCHER: Next commenters will be Jassy Grewal, Eddie Sanchez,
18 and Vicki Osborn, with next Jassy Grewal from UFCW.

19 CHAIRMAN THOMAS: Jassy, can you hear us? Jassy?

20 MS. GREWAL: Can you hear me?

21 CHAIRMAN THOMAS: Yes. Go right ahead.

22 MS. GREWAL: Great. Good afternoon, Chair and Board Members. My
23 name is Jassy Grewal, Legislative Director with the United Food and Commercial
24 Workers. The UFCW represents 180,000 workers in the private sector in California,
25 mainly in the food sector, from farm workers, to meat packing workers, to grocery

1 workers, to delivery drivers, as well as workers in the healthcare industry and other
2 commercial industries. I would like to align my comments with those of the California
3 Labor Federation and CNA and thank the Cal/OSHA staff for all the work they have done
4 throughout this pandemic to protect workers and thank you to --

5 CHAIRMAN THOMAS: Jassy, Jassy. You might want to slow down just a
6 little. We have a transcript.

7 MS. GREWAL: I'm sorry. I forgot it was transcribed. My apologies.

8 CHAIRMAN THOMAS: That's all right. Just a little slower, please. Thank
9 you.

10 MS. GREWAL: It's been a long day. I'd like to thank the Cal/OSHA staff
11 for all the work they have done throughout this pandemic to protect workers and thank
12 you to the previous commenter for her comments, which are pretty similar to what's
13 been happening in our industries. The UFCW members have been working in industries
14 and workplaces most affected by the COVID-19 pandemic. While announcements of
15 lifting of mask mandates and capacity limits may create the illusion that COVID-19 is
16 over, pandemic is over, it is simply not true. Our members continue to fall ill to the
17 virus, and some have, unfortunately, continued to die. There are several hundreds of
18 members who are still experiencing the lingering side effects of COVID-19 which have
19 completely crippled their lives.

20 We have not reached herd immunity with vaccinations, and workplaces
21 are far below the state average in terms of vaccinations. While 51 percent is the
22 majority and we are trending in the right direction, we are nowhere near herd
23 immunity.

24 Our workers rely on protections from the emergency temporary standard
25 to ensure that they are protected from the public, who we don't know are vaccinated or

118

1 unvaccinated as they enter our stores and workplaces, which are essential. No one can
2 not go to the grocery store to get their food.

3 The ETS is critical to continue to protect our workers and we urge this
4 Board to pass this new proposal. The last time we lifted our guard and regulations, we
5 saw a surge in cases. We don't know what the future holds with variants and the need
6 for boosters. We must keep protections in place and pass the revised ETS, which I
7 would like to note to folks who have been making comments and those in the chat
8 room, this proposed ETS is less-restrictive than the current emergency regulations that
9 are in place. We cannot simply pass to end the ETS. If we do not pass this version
10 today, the more restrictive version will stay in place. So from the comments I'm
11 hearing, it sounds like it is in folks' best interest to pass this less-restrictive ETS.

12 We are all tired of this pandemic, and our workers are tired, too. But we
13 can't let our guards down and unfortunately lose more lives. Thank you for the time
14 today. Those are my comments.

15 CHAIRMAN THOMAS: Thank you, Jassy. John, who is next?

16 MR. GOTCHER: Our next commenter is Eddie Sanchez from the Southern
17 California Coalition for Occupational Safety and Health, SoCalCOSH.

18 CHAIRMAN THOMAS: Eddie, how are you doing?

19 MR. SANCHEZ: Good. And yourself?

20 CHAIRMAN THOMAS: Good, good. Go right ahead.

21 MR. SANCHEZ: Great. Once again, my name is Eddie Sanchez with
22 Southern California Coalition for Occupational Safety and Health, SoCalCOSH. We are a
23 nonprofit organization based in So Cal and advocate for safe, healthy, and secure
24 workplaces for low wage, immigrant, and workers of color. And we are here in support
25 of strengthening the COVID-19 Emergency Temporary Standard, not weaken it. Thank

119

1 you, Board, for considering our comments today.

2 From the very start of the pandemic, we have worked closely with our
3 organizational partners and allies to best address the concerns of workers and
4 community members in our region. Every day, we hear firsthand from workers about
5 the fears of going to work, of getting the virus and bringing it home to their families.
6 COVID cases currently are low, but loosening the standards now could put many more
7 workers unknowingly in danger when we see cases rise again.

8 We know from experience now that employers will not do what's right or
9 what's safe on their own. It's unclear how well vaccines prevent asymptomatic and mild
10 COVID infections and how well vaccines prevent transmissions of the virus, how long
11 protections from the vaccines will last. Many workers are still not vaccinated, many of
12 whom have not been given the paid time off by their employers to get the vaccines.
13 Limiting the scope of the standard directly puts those workers at risk, employees who
14 employers are already breaking the law again and again. Limiting the scope of
15 standards leaves it up to trust and goodwill that employers will do what's right. And we
16 know that so many just won't. Compounding, we see low road employers ignoring basic
17 guidelines, failing to install protective measures in workplaces and see state and local
18 guidelines as suggestions rather than the law.

19 As we continue to live with this virus, it's crucial that we ensure workers
20 are safe and secure. We ask that you proceed with care with care before loosening the
21 ETS to reflect the recent CDC updates that so many medical experts have criticized as
22 being too premature and worrisome. We ask that the Board push for data transparency
23 on outbreaks, triggers to restart controls, ensuring face coverings remain, and
24 protections for unvaccinated folks and ultimately push for a permanent infectious
25 disease standard. Workers are looking to the Board to make the best decision and pass

120

1 a common sense solution to ensure Cal/OSHA is able to hold employers accountable
2 for violating the COVID-19 guidelines and keep workers safe. I want to thank you all for
3 your time and consideration.

4 CHAIRMAN THOMAS: Thank you. John, who is next?

5 MR. GOTCHER: The next commenter is Vicki Osborn from the Water
6 Emergency Response Organization of Orange County.

7 MS. OSBORN: Thank you very much, and thank you for the opportunity
8 to speak before the Board. We appreciate the decision that you have to make today,
9 because it's not easy to make everybody happy, as we know. With that, I want to thank
10 also Mr. Berg and the Committee for working on trying to update these ETS standards.

11 The data that you provided during your overview was very appreciated.
12 You talked about the last 30 days, the 900 outbreaks, and the 11,000 COVID cases that
13 came with that. I do want to add that there is 18 million people as part of the California
14 workforce. So as we look at the overall data, I commend those that have put
15 protections in place and take pride in what they do for their employees every day.

16 I strongly agree with the comments Helen and both Len made earlier.
17 And I know a lot of it has been stated already, but just to highlight some of the areas of
18 concern. The discrimination piece of the proposed ETS. We will create two classes of
19 employees. Already thinking about this as being in an (indiscernible) from employees
20 about vaccinated versus non-vaccinated if this goes through.

21 In regards to the respirators and use of N95 masks, they do have to be fit
22 tested in order to work properly. Also, sourcing large quantities of N95 masks is still an
23 issue and there is a lot of industries such as water/wastewater that require N95 masks
24 for day-to-day use, even not including smoke advisories, which a lot of industries have
25 to use during fire season.

1 From the beginning to today, people are making choices for themselves
2 and they've been doing what's been best for themselves. And employers have been
3 trying to do accommodation because we already have to do that with the 3203. That's
4 part of our standard. So people who wear face coverings can continue to do so if they
5 choose, whether or not it is in the ETS. People who do not want to wear a face covering
6 or don't want to be vaccinated, they are not going to do it. People who cannot wear --
7 and there is a difference. People who cannot wear a face covering or get vaccinated for
8 medical reasons, they should work with HR for a reasonable accommodation based on
9 what already exists with ADA, the Civil Rights Act of 1964 and what we already have in
10 our personnel manuals and also in the IPP already.

11 COVID is endemic. It's here to stay. It's going to be long-term, just like
12 we see with the measles. So what we need to do is look at that long term. We've seen
13 the rates reducing. We've also seen people still making good choices based on what
14 they need to do. Even employers. And I'm saying people and personal choice, but also
15 employers as well. If you want the standards and regulations to be successful, we need
16 our direction to focus on 3203, the IIPP, and also include the Blood Borne Pathogen,
17 maybe the opt-out and the ATD, what we already have that Len pointed out at the last
18 meeting. Because that is a good way where we can make sure everyone has a voice.

19 We need to focus on the training, the employee involvement, and we
20 need to follow the local health officer recommendations. Because everyone keeps
21 doing this. CDC points to the state, the state points to the local, and the local points
22 back to the state. So if we don't incorporate some of these good practices we already
23 have like the IPP and also Blood Borne Pathogens and ADP, I think we are missing the
24 mark for long-term past just the next six months. Thank you.

25 CHAIRMAN THOMAS: Thank you, Vicki. John, who do we have up next?

1 MR. GOTCHER: Our next commenters are Sharon McKeeman, Michael
2 Young, and Marie Cam, with next Sharon McKeeman. They are representing
3 themselves.

4 CHAIRMAN THOMAS: All right. Who do we have up now? I'm sorry, I
5 missed that.

6 MR. GOTCHER: Sharon McKeeman.

7 CHAIRMAN THOMAS: Sharon, can you hear me?

8 MR. GOTCHER: She may be joining by phone. And if you are joined by
9 phone, the code to unmute yourself is *6.

10 CHAIRMAN THOMAS: Hello, caller. Are you with us? I don't think
11 they're with us. Let's go to the next.

12 MR. GOTCHER: Okay. Our next commenter is Michael Young from CFT,
13 Sacramento Office.

14 CHAIRMAN THOMAS: Michael, can you hear us?

15 MR. YOUNG: Yes, I can hear you. Can you hear me?

16 CHAIRMAN THOMAS: Yeah. Go right ahead.

17 MR. YOUNG: Thanks. Hi. I am Michael Young. I am commenting on
18 behalf of the California Federation of Teachers, CFT. We represent educational
19 employees working at every level of public and private education, from Headstart, early
20 childhood education, K-12 schools, community colleges, and the UC. We support the
21 readoption of the Emergency Standard. While not perfect, the ETS still provides
22 significant protections to workers while at the work site. We would like to align our
23 comments with those provided by the California Labor Federation, CNA, Worksafe, and
24 the other worker advocates on the call.

25 I also strongly agree with the earlier comments emphasizing the

1 difference between members of the public willfully going to a restaurant or gym or
2 other business versus workers required to be physically present at a worksite. They have
3 little to no control over.

4 For example, just last month we had an employer who refused to create
5 or allow workers to participate in the development of a COVID safety plan. We are
6 strongly relying on the ETS and Cal/OSHA's enforcement of these rules to continue to
7 keep workers safe at the worksite and hold employers accountable. Additionally, many
8 callers are referencing the CDC guidance but fail to include the express exception where
9 there are additional requirements for federal, state, local, tribal, territorial laws, rules,
10 and regulations, including local businesses and workplace guidance. The Standards
11 Board is well within its authority to issue rules to deal with the unique challenges of
12 worksites and keeping workers safe. As the Board continues to consider how to move
13 forward, I would like to flag one concern before closing, and that's the changing
14 definition of exposed group to only include employees and specifically how that affects
15 the determination of outbreak. By limiting the scope of exposed group and the
16 outbreak definition to only include employees versus all persons, this will mean that, for
17 example, if a significant number of students in either a daycare or K-12 classroom or
18 even in a college classroom tested positive for COVID, those COVID cases would no
19 longer be considered when determining if an outbreak had occurred under the ETS. We
20 would encourage the Board to use the all persons language versus this more limiting
21 scope for employees only.

22 Also, the school employer stated previously that they viewed the ETS as
23 an unfunded mandate, which to me makes little to no sense, since schools have
24 received billions of state and federal dollars to figure out how to keep classrooms safe. I
25 just don't see how you can have an unfunded mandate while you get billions of dollars

124

1 to actually implement some of these rules.

2 But again, while the ETS isn't perfect, we do believe that it still provides
3 significant protections for workers, and we support its adoption or its readoption, and
4 we look forward to working with the Board on how to improve these necessary worker
5 protections. Thank you.

6 CHAIRMAN THOMAS: Thank you. John?

7 MR. GOTCHER: Our next commenter is Sharon McKeeman, and they are
8 representing themselves.

9 CHAIRMAN THOMAS: Sharon, can you hear us?

10 MS. MCKEEMAN: Yes, I can.

11 CHAIRMAN THOMAS: Go right ahead.

12 MS. MCKEEMAN: Thank you. My name is (indiscernible). I am a resident
13 of California. And I am the founder of Let Them Breathe, (indiscernible).

14 CHAIRMAN THOMAS: You know what? We lost you, Sharon.

15 MS. MCKEEMAN: Can you hear me?

16 CHAIRMAN THOMAS: I can hear you now. Go right ahead.

17 MS. MCKEEMAN: Okay. I'm going to keep talking. Okay. Sorry. My
18 name is Sharon McKeeman. I am the founder of Let Them Breathe. We are a pro-
19 science, pro-safety, pro-smile community advocating for mask choice.

20 We were told that June 15th our state was going to finally open up. But
21 unfortunately, this Cal/OSHA proposal would basically keep it pretty closed. Because if
22 employees are having to wear masks unless everyone is vaccinated in the business, then
23 there would either have to be some kind of verification of vaccination, which we of
24 course do not support that, that wouldn't be ethical or constitutional, or the vaccinated
25 employees would have to remain masked, which doesn't follow the science. Because

125

1 the vaccine either works or not. And the CDC and the President have come out and
2 said it's time to greet each other with a smile because the vaccine is working and the
3 transmission and rates are going down. So that means that we need to actually allow
4 our state to open up and not kind of have these other things circumvent and actually
5 keep it closed behind the scenes.

6 Another really important part of that is our group advocates specifically
7 for youth mask choice and how masking is negatively affecting youth. If teachers were
8 to have to keep masks on indefinitely, that's really going to be negative for the students
9 because they need to be able to communicate with their teachers, see the smiles.
10 There's so much that kids learn. You know, they are developing their social skills. They
11 learn so much from reading each other's facial expressions and just learning those facial
12 cues that are so important to communication.

13 (indiscernible)

14 CHAIRMAN THOMAS: We are losing you. I think we got the gist of the
15 comments, though. We're going to move on.

16 John?

17 MR. GOTCHER: Our next commenter is Marie Cam, and they are
18 representing themselves.

19 CHAIRMAN THOMAS: Marie, are you there?

20 MS. CAM: Yes, hi. Can you hear me.

21 CHAIRMAN THOMAS: Yeah. Go ahead, Marie.

22 MS. CAM: Hi. Enough is enough. 267,000 people left California in 2020.
23 We lost a congressional seat. My neighborhood is full of for-sale signs. What used to be
24 a state I was proud to reside in is a state I have quickly become ashamed to live in. And
25 if things don't start changing soon, I will join the hundreds of thousands of citizens

126

1 fleeing this unbearable situation. How are 49 other states able to do this? What's the
2 real agenda here?

3 What you rule today, to be honest, doesn't really matter to me. It's my
4 body and my choice. I am simply not playing this game anymore. The fact is that we are
5 all in this together and nobody in their right mind would risk infecting anyone else. This
6 (indiscernible) since the beginning of time. Every adult is responsible for their own
7 health. Since when does the government tell me how to maintain my (indiscernible). If
8 you care about my health, do you care about what glyphosate is in my food, the GMOs
9 in the food supply? I mean, come on. We all know this isn't about health.

10 Based on the available science, there is no compelling state interest, nor
11 rational basis to treat individuals who have recovered from SARS-COVID differently than
12 those who have been vaccinated with regard to COVID-19-related restrictions and
13 freedoms. You see, the proposed policy in itself is discriminatory on many levels.

14 As recently explained by an infectious disease physician and professor at
15 the University of California, natural immunity after COVID-19 infection is likely lifelong.
16 Given that the immunity offered by having COVID is more robust than from a vaccine,
17 your policy of loosening restrictions for those that have been vaccinated for COVID-19
18 but not those who have not the vaccine is unscientific and illegal.

19 Second, while the efficacy of COVID-19 vaccines for only the tested strain
20 and not for the variants is considered to be 72 to 95 percent. Depending on COVID-19
21 vaccines, the efficacy rate of creating immunity after COVID-19 is considered to be a
22 hundred percent. It is, again, unscientific and lacks a rational basis, let alone a
23 compelling reason to lift restrictions on the vaccinated while not only lifting restrictions
24 on both the vaccinated and unvaccinated. So basically you're not lifting restrictions on
25 anyone, which makes absolutely no sense at all.

1 Third, are you guys out of your minds to create this type of
2 discrimination in the workplace? End the unscientific and ignorant mask mandates
3 immediately. End the quest to create two classes. Are you trying to repeat history? I
4 am no longer doing this. I refuse to wear a mask. My own medical history is my own to
5 preserve.

6 Finally, if the vaccine works, the million dollar question is why are all
7 these vaccinated –

8 MR. GOTCHER: Thirty seconds.

9 MS. CAM: -- people calling in so worried about needing protection from
10 the unvaccinated? Seriously, what's the logic so I can understand that? It sounds
11 utterly ridiculous.

12 If the state of California wants to take this approach, why not just add
13 AIDS, herpes, influenza, human papilloma virus, and shingles to the list? Let's go into a
14 full-blown medical tyrannical state where we can enter our employment and state every
15 one of our medical conditions. Not one, not two, how about three N95s and life in a
16 state of fear forever?

17 MR. GOTCHER: Three minutes.

18 MS. CAM: Hundreds and thousands of people continue to flock to other
19 states that actually care about our medical freedom.

20 CHAIRMAN THOMAS: Thank you, caller. John, who do we have next?

21 MR. GOTCHER: Our next commenters are Cynthia Rice, Matt Garito, and
22 Chris Walker.

23 CHAIRMAN THOMAS: Cynthia.

24 MR. GOTCHER: With first Cynthia Rice from the CRLA, Inc.

25 CHAIRMAN THOMAS: Cynthia, are you there?

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

2 CHAIRMAN THOMAS: I can't. You are a little...

3 MS. RICE: Let me move a little closer to the mic. Is that a little better?

4 CHAIRMAN THOMAS: There you go.

5 MS. RICE: Okay. I'm going to mute my -- stop my video. That will help.

6 Good afternoon. I will be brief because I have been preceded today by a number of
7 eloquent commenters representing both unionized workers and fast food workers
8 around the state who are really who we need to be thinking about today.

9 This is in contrast to many of the speakers who want to conflate what the
10 position of the CGC is and Governor Newsom --

11 MS. SHUPE: Cynthia, I apologize. We are having some technical
12 difficulties. We are getting some crosstalk.

13 John, we seem to have multiple people unmuted.

14 MR. GOTCHER: Yeah. There is one user, Kimball, that I'm having issues
15 muting right now. So, Kimball, if you can hear this, please mute your line.

16 MS. SHUPE: If you are unable to mute, Kimball, we will need to remove
17 you from the meeting. Go ahead and remove Kimball, thank you.

18 CHAIRMAN THOMAS: Go ahead, Cynthia.

19 MS. RICE: All right. Thank you very much. As I said, I'm not going to
20 repeat the comments before, but I particularly want to join in the comments of Mitch
21 Steiger, pointing out some of the concerns that we have about the regulation, but our
22 general support of taking action to pass the revised standard today because of its
23 importance to workers throughout California. CRLA represents workers in rural areas,
24 and in particular farm workers. And I can tell you that our clients and the individuals to
25 whom we do outreach have consistently demonstrated relief at the knowledge that

129

1 they have a legal right to wear a mask at the workplace and the transparency that the
2 standard provided when it was enacted late last year, in contrast to when they had to
3 rely upon the employers' interpretation of what needed to be included in an IIPP based
4 on guidance and general statements.

5 It's important not to conflate the position of the CDC and the issuance
6 and withdrawal of an executive order with what this Standards Board has to do and
7 what staff has done in determining what would be a reasonable standard to provide
8 protection to workers. The CDC and the executive order are designed to address really
9 unprecedented public health risks of general application. And when they are
10 withdrawn, it's because of a perception based on science that that risk has been
11 eliminated, not really, but reduced. That is not the role of this Board. The role of this
12 Board is to look at a very particularized group of individuals and assess their risk. And
13 staff has done so in creating a standard that balances the risks to employees in outdoor
14 work and in indoor work and the available precautions that can be used to reduce those
15 risks; masks and vaccines.

16 We support the staff's very hard work on this and actually balancing the
17 comments of advocate groups with the comments of employer groups.

18 MR. GOTCHER: Thirty seconds.

19 MS. RICE: Thank you. It is disquieting that the employers are now
20 complaining about the vaccine provisions of the regulation given that my recollection is
21 that was a major comment raised in the earlier advisory committee meetings.

22 And one last comment. With respect to workers' compensation reports
23 of injury or illness or death, those are routinely underreported. A study in 2015 by the
24 UCLA Labor and Occupational Health program found that in Los Angeles, less than 50
25 percent of individuals who had reported to the survey that they had suffered an

1 industrial injury had applied for workers' compensation. So as Mr. Frumin pointed out,
2 those are not reliable standards. Where we are is because of what you all have done,
3 and we need to be cautious and continue to take the precautions by readopting the
4 standard. Thank you very much.

5 CHAIRMAN THOMAS: Thank you, Cynthia. John, who is up next?

6 MR. GOTCHER: Our next commenter is Jessica Early from the National
7 Union of Healthcare Workers.

8 MS. EARLY: Hi, this is Jessica. Can you hear me?

9 CHAIRMAN THOMAS: I can. Go right ahead.

10 MS. EARLY: Thank you. My name is Jessica Early and I am here on behalf
11 of the National Union of Healthcare Workers which represents over 15,000 healthcare
12 workers across the State of California in inpatient, outpatient, home care, long term
13 care, and correctional settings. I want to thank you for holding this meeting and hearing
14 from the public.

15 While the majority of NUHW members are covered by the ATD standard,
16 our healthcare worker members in some outpatient and office settings are not covered
17 by the ATD standard, and they also need workplace protections and benefits from the
18 ETS.

19 NUHW supports retaining the protections conferred by the ETS,
20 especially until more of the workforce is fully vaccinated. In particular, masking,
21 physical distancing, and the testing of all symptomatic workers whether they are
22 vaccinated or not.

23 Again, we appreciate you hearing from our members and we look
24 forward to hearing the outcome of this important meeting.

25 WOMAN: Vaccines are not the answer.

1 CHAIRMAN THOMAS: Thank you. I don't quite know who said that. But
2 anyway, who is up next John?

3 MS. EARLY: Yeah. That was not me.

4 CHAIRMAN THOMAS: I didn't think so.

5 MS. EARLY: Thank you. Okay, thank you.

6 CHAIRMAN THOMAS: Thank you.

7 MR. GOTCHER: Our next commenter -- sorry, one second. The next
8 commenter is Hope Maselli, and they are representing themselves.

9 CHAIRMAN THOMAS: Was that Hope Maselli?

10 MR. GOTCHER: Yes, Hope Maselli.

11 CHAIRMAN THOMAS: Oh. Can you hear us?

12 MS. MASELLI: Hello. Can you hear me?

13 CHAIRMAN THOMAS: Yeah. Go right ahead.

14 MS. MASELLI: Can you hear me?

15 CHAIRMAN THOMAS: Yes.

16 MS. MASELLI: Yes. Hi. Thank you for letting me speak. I listened to this
17 conference for about an hour-and-a-half, and then I had to hang up. So I don't know
18 where you guys have been since. But I do agree with a lot of the people in the
19 beginning of this meeting. I just feel like we are -- with everything that's being
20 implemented, I know we all want the same things. It's really hard to get this all out in
21 three minutes. I know we all want the same things. Everybody wants their life to go
22 back to normal. Everybody wants to get rid of the coronavirus. But I feel like this is
23 almost totalitarianism. And what that means is (indiscernible) form of government or
24 political system that prohibits opposition parties, restricts individual opposition to the
25 state and its claims and exercises an extremely high degree of control over public and

132

1 private life.

2 I feel like we've done everything that has been required of California. We
3 have worn masks, we've shut down. We've lost businesses, we've lost livelihoods.
4 We've lost everything. And now it's just going to continue with the bill that Cal/OSHA
5 wants to put in effect. It's going against the CDC guidelines. It's going against the
6 Governor wanting to open up the state June 15th. And it's forcing people to be in a
7 work environment where you have non-vaccinated and vaccinated employees. And
8 discriminating against them is against the Americans with Disabilities Act. You are
9 opening up a can of worms that is going to have hostile work environment. This is not
10 healthy for any of us any more.

11 And Fauci even in the beginning of January said that masks were not
12 appropriate, that they did more harm than good. Then it went to we need to wear one
13 mask, then two masks. It just doesn't make sense anymore.

14 All of the states that have been open and got rid of their mask mandates,
15 their coronavirus has plummeted and they are not having the issues that we are having,
16 but yet we have still followed all these rules. I feel at this point doing this to people is
17 against our Constitution and it's against our rights and it's against CDC. And I don't
18 know who is making the rules anymore or who is writing them. I think it's all, you know,
19 made up as we go along. And I just wish and hope that you guys realize that we are all
20 trying to do the right thing, and we need you to do the right thing. We need you to do
21 the right thing and protect us, not cause more harm to us.

22 I guess that's all I have to say. I hope you guys do the right thing and you
23 listen to the people that in the beginning have stated a lot of the facts. It's hard to say
24 anything in three minutes. I appreciate your time and letting me have the floor for a
25 few minutes. Thank you.

1 CHAIRMAN THOMAS: You did fine. John, who do we have up next?

2 MR. GOTCHER: The next commenter is Chris Walker from the California
3 Association of Sheet Metal and Air Conditioning Contractors, National Association.

4 MR. WALKER: Good afternoon, Mr. Chair. Appreciate your allowing us to
5 provide comment today.

6 We are 300 contractors statewide that are union contractors involved in
7 heating, ventilation, and air conditioning. First and foremost, we do support the
8 ventilation standards and encouragement of businesses to continue to monitor
9 ventilation and make sure there is enough outside air. We do want to focus our
10 comments on the continued masking and physical distancing of vaccinated workers,
11 however, and want to associate our comments with Robert Moutrie's of the Cal
12 Chamber earlier presented.

13 As an essential industry and essential workers, we support and
14 appreciate the previous efforts made by the state of California to implement effective
15 measures to reduce the spread of COVID-19. Because of these efforts, we are now at a
16 juncture in time where continued masking and/or physical distancing requirements for
17 vaccinated workers makes no sense. Much has been done in our state. And as such,
18 Governor Newsom has made a data-driven decision to eliminate masking requirements
19 for the general public by June 15th. According to yesterday's L.A. Times, 54.6 percent of
20 our adult population is fully vaccinated. An additional 13 percent is partially vaccinated.
21 On top of this, there is likely an additional ten percent plus of natural immunity from
22 those already infected. That totals 78 percent, with a herd immunity being achieved at
23 80 percent.

24 To continue the masking-distancing mandates for vaccinated workers is
25 onerous to employers subjected to unreasonable liability, fines, and penalties for the

1 personal decisions made by employees to mask or to not mask. To continue the
2 masking and physical distancing mandates for vaccinated workers is also unsafe for our
3 employees. You have to understand our construction employees are either working in
4 the field or in large, ventilated shops. Masks are being loaded up with dirt and debris,
5 inhibiting breathing. Safety glasses are fogging up due to the masks. It's creating
6 extremely unsafe conditions for workers working on and around heavy machinery.
7 These continued risks to our employees' safety are not inconsequential, particularly
8 when they are unwarranted.

9 Another reason is significant and consequential confusion exists.
10 Decisions in California are supposed to be data-driven. But which data are we to
11 believe? Is it the data being followed by the CDC, Governor Newsom, and the California
12 Department of Public Health justifying the removal of mask requirements for the public
13 on June 15th, or is it the data presented by Cal/OSHA's staff at the beginning of this
14 hearing, the latter of which departs entirely from the Governor and the CDC and the
15 CDPH and relies entirely upon a non-peer-reviewed simulation study completed in
16 March, over three months ago, by University of North Carolina Chapel Hill with
17 questionable assumptions of vaccine efficacy and natural immunity rates. This is
18 unacceptable.

19 On behalf of CAL SMACNA contractors, I ask that the Board delay the
20 vote on this item until June 17th so additional review of Cal/OSHA staff data can be
21 responsibly made. This would avoid unnecessary additional harm to employers and
22 employees and continued erosion of trust in the state of California. Thank you very
23 much.

24 CHAIRMAN THOMAS: Thank you, Chris. John, who is up next?

25 MR. GOTCHER: Our next commenter is Christine Dillon, and they are

1 representing themselves.

2 CHAIRMAN THOMAS: Christine?

3 MS. DILLON: Yes.

4 CHAIRMAN THOMAS: Go right ahead.

5 MS. DILLON: Hi. So I am wanting to address the Board and ask that you
6 reconsider changing what Governor Newsom has stated, that he was going to lift the
7 face mask (indiscernible) on June 15th. And we -- CDC has a right to guidelines and
8 suggested that we don't require face coverings. It's been done in other states, in Florida
9 and in Texas. And the cases have been dropping (indiscernible). And also, you know,
10 want to suggest that California continue to do the same and stand by what Governor
11 Newsom has suggested, removing the face masks starting the 15th of June.

12 Also would like to mention that along with this, that we as employees do
13 have or should have rights that I believe it is potentially not legal to request some of
14 these things when it comes down to also verifying our vaccine status. There are laws in
15 place, the Cal GINA Act, that goes into ADA and various other things. Employers can
16 make -- what do they call that? Kind of make it safe for other employees by doing the
17 questions and things, (indiscernible) the COVID symptoms, then send them home. But if
18 you are requiring for everyone to wear face masks, then now you are discriminating
19 against individuals that either can't wear them for various health reasons or punishing
20 those who either choose not to be vaccinated and you are now discriminating and
21 creating two different classes of individuals, those who can wear masks and those who
22 can't. So all we're asking is to reconsider and not make this mandatory.

23 CHAIRMAN THOMAS: Thank you. John, who is up next?

24 MR. GOTCHER: Our next commenter is Norma Godinez, and they are
25 representing themselves.

1 CHAIRMAN THOMAS: Norma, can you hear us?

2 MS. GODINEZ: Hello? Yes, I can.

3 CHAIRMAN THOMAS: Yes, Norma. Go right ahead.

4 MS. GODINEZ: Hi. My name is Norma Godinez. I am calling from
5 California. And the reason I'm calling is that I think it's really wrong in regards to
6 extending the emergency COVID regulations for employees. It's been over a year, for
7 one. Two, the vaccine is out. Those that have wanted the vaccine have been
8 vaccinated. There is natural immunity. Rand Paul was on Fox News stating that over 32
9 million people have natural immunity, which has not been counted in regards to herd
10 immunity, since the WHO changed their herd immunity definition, which is wrong. Dr.
11 Ben Edwards was at the Texas Senate Committee on May 16th and has stated that over
12 50 percent of Texans do have herd immunity, plus the people that do have already the
13 vaccine.

14 So in regard to extending this emergency order for employees to
15 continue wearing masks and social distancing, it doesn't make sense for them to do
16 that. Being vaccinated is a personal choice. Not everyone has to have the vaccine.
17 Again, Dr. Bennett stated also that people that have had COVID do have a very robust
18 immunity to COVID and if they do become vaccinated, they can develop a cytokine
19 storm because it's too much, from what I understand.

20 So vaccines should be a personal choice. Many people that, like I said
21 have had it, want it, have taken it. And that is a personal choice. But to continue the
22 masking, the social distancing just doesn't make sense. There is no way to get rid of
23 COVID. I mean, we have billions of bacteria, viruses, fungi in our body that is just part of
24 our body. You're never going to annihilate one virus. So it just doesn't make sense to
25 continue doing this. And again, everybody that has wanted the vaccine has gotten it.

137

1 And those that don't want it or have had COVID, it's up to them whether or not they
2 want it. But you have natural immunity already, so it doesn't make sense to continue all
3 of this.

4 Now, for the people that do want to continue the social distancing or
5 wear the masks, it should be a personal choice. It should not be mandated through
6 OSHA, through the federal government, or the state government, or the local
7 government. It's just wrong, and it should go ahead and stop now. Like I said, it's over a
8 year now. All these emergency regulations need to end, and they should end now.
9 Thank you.

10 CHAIRMAN THOMAS: Thank you. Just to let you know, we're going to
11 break about 3:15. So we have time for about four or five more callers.

12 John, go right ahead.

13 MR. GOTCHER: The next commenter is Ally Hartman, and they are
14 representing themselves.

15 CHAIRMAN THOMAS: Ally, can you hear us? Go right ahead.

16 MS. HARTMAN: Hi, yes. Thanks for taking my call. I just wanted to call in
17 because I'm really concerned with the idea that we would keep masks on anybody. At
18 this point in the game we have so many states that are lifting all mask requirements.
19 And more than that, we have all the information comparing states that have had severe
20 mask requirements versus at the same time states that lifted it a long time ago. And the
21 data just does not support that masks are doing anything to mitigate any viral spread.
22 But beyond that, I'm really concerned about the harmful effects of masks. There is no
23 guidance on how these masks are to be worn, what kind of masks they are. And there's
24 no evidence that shows that any of these masks, including the blue surgical masks,
25 which state right on the box that they don't prevent the spread of viruses. So I'm just

138

1 wondering how this OSHA governing body can recommend masking of anybody at this
2 point, what science is being looked at.

3 Because just to give you a little of my background, I was a middle school
4 science teacher, and so science is very important to me. So the reason that I will not
5 mask my children and do not think anybody should be made to wear a mask, as a
6 former severe asthmatic person, the idea of restricting breathing to me is an important
7 one, especially when it doesn't even do what it's purported to do. So my question
8 would just be why is this recommendation being made with everything I just said. And
9 so I just would urge you to do the right thing, which would be to let people breathe
10 freely and to not impose these arbitrary measures on anybody anymore.

11 CHAIRMAN THOMAS: Thank you. John, who is up next?

12 MR. GOTCHER: Our next commenter is Michael Pimentel from the
13 California Transit Association.

14 CHAIRMAN THOMAS: Go ahead, speaker, if you can hear. Hello?

15 MR. GOTCHER: Michael Pimentel, are you there?

16 CHAIRMAN THOMAS: Mike is not on. Let's go -- he might be. I hear a --
17 there he is. Michael, can you hear us?

18 MR. PIMENTEL: Yes. Can you hear me?

19 CHAIRMAN THOMAS: Yeah. Go ahead.

20 MR. PIMENTEL: All right. Hey, well, thanks so much, and apologies for
21 that technical issue. Folks, it's Michael Pimentel, Executive Director of the California
22 Transit Association. My association represents 85 transit and rail agencies in California,
23 and we were pleased to have been granted the opportunity to participate in Cal/OSHA's
24 advisory committee on the ETS. Now, as I begin my comments, I do want to emphasize
25 that my association does not dispute the intent of the regulation and its focus on

139

1 ensuring the safety of our workers. And I do want to acknowledge that there are
2 amendments that were taken to this revised ETS that reflect comments we had
3 previously provided to Cal/OSHA, but rather I do want to emphasize that my comments
4 today relate to several unresolved issues we had flagged on the ETS through that
5 advisory committee process that are not reflected in the revised ETS.

6 And so I'll speak to them by section. Under section 3205.1(b), we would
7 stipulate that it does improve on the testing requirements included in the ETS by
8 providing employers with an exception for testing employees who were fully vaccinated
9 before the incidence of multiple COVID-19 infections in exposed workplace.
10 Nevertheless, it could still provide some financial challenges to transit agencies in terms
11 of the scale of testing requirements that could be triggered that could create some
12 budgetary-operational-capacity challenges. And of course these challenges are
13 compounded by language in the ETS that would require these testing requirements to
14 remain in effect until there are no more cases in exposed group for a 14-day period.

15 Under section 3205(c)(10), we would again acknowledge that it improves
16 on the exclusion requirements in the ETS by providing employers with an exception to
17 the requirements to exclude from the workplace an employee who had contact with a
18 COVID case but who is fully vaccinated.

19 But again, with that said, we want to acknowledge that transit agencies,
20 like employers across the state, are facing workforce shortfalls. So this exception
21 notwithstanding, this requirement may make it difficult for transit agencies to continue
22 to provide their essential service to some of the most vulnerable members of our
23 community. There are exclusions within the language of the ETS that provides
24 exclusions for certain critical industries. Not included within that is transportation and
25 logistics. We would ask that the ETS be amended to include that, or at the very least,

1 allow for the return of employees who have received clearance from a health
2 professional by registering a negative test result.

3 And then very finally, under the revised ETS, transit agencies would be
4 required to make COVID testing available if three or more COVID cases within an
5 exposed group visited the workplace during their high risk exposure period at a time
6 during the 14-day period. Here, we would just acknowledge that that should be scaled
7 based on the size of the employer. It shouldn't be tied solely to raw numbers, but
8 rather as a percentage of the workforce.

9 Thank you again for the opportunity to provide comment and for the
10 opportunity to participate in that advisory committee.

11 CHAIRMAN THOMAS: Thank you. John, who do we have?

12 MR. GOTCHER: Our next commenter is Audra Morgan, and they are
13 representing themselves.

14 CHAIRMAN THOMAS: Is it Adria?

15 MS. MORGAN: Audra.

16 CHAIRMAN THOMAS: Audra. Go ahead.

17 MS. MORGAN: Audra, yes. I wanted to say we the people urge California
18 and OSHA to lift the mask mandate June 15th, 2021 in line with what the Governor
19 previously stated would occur. Employees who want to continue wearing face coverings
20 should be allowed to, but not required. Those who choose not to wear the face
21 covering should not be discriminated against, just as those who wear them aren't.
22 Equality is key. Segregation of employees due to medical discrimination is illegal. You
23 can't separate the healthy and the unhealthy, nor can you determine that. Being
24 unvaccinated is a medical condition that is protected from being discriminated against.
25 Employees that cannot take gene therapy cannot be segregated from those who decide

141

1 to take it by way of face coverings or any other mark. ADA, Cal GINA, and Civil Code 51
2 are some of the protections to keep this from occurring.

3 The mask mandate lift must occur, as previously stated by the Governor,
4 on June 15th, 2021. No later. We also ask that you reject any other proposed language
5 that would keep the face covering requirements in effect beyond June 15th, 2021. No
6 matter the verbiage, the masks need to go. They were lifted in Texas and Florida and
7 cases have nearly disappeared. We also know studies have proven masks to
8 compromise your immune system and lead to illness, not wellness. We also know Dr.
9 Fauci, his advice cannot be trusted as it continually changes every time he speaks. His
10 leaked emails contain enough information to end the mask, testing, and vaccination.

11 For now, it's time to let the people breathe again; one of our God-given
12 rights we have all been granted, and one that cannot be taken. Unfortunately, our
13 freedoms and rights are currently being trampled upon, and it's time we stop the
14 segregation before it bleeds out to the entire nation. We know FEMA camps are ready,
15 and that's one of the next steps in segregating the people. I don't know about you, but I
16 am not willing to let this go that far. Stop the mask mandate and allow employees to
17 breathe freely. If we don't, FEMA camps are in our near future and segregation will be
18 far worse than it is now. Hitler made the Jews wear yellow stars, and we all know where
19 that led. This is no difference except for the mark covers your face. Employees will be
20 put in masks to segregate them. We are not plagues, and we should never be treated as
21 such. We aren't a Marxist, socialist, communist country, yet that is what it looks like
22 and where this is headed. This isn't a dictatorship. We the people decide. It's time our
23 voice is heard, not dismissed. Enough is enough. The Bill of Rights states and the
24 Constitution grants our God-given freedoms that cannot be taken. It's time --

25 MR. GOTCHER: Thirty seconds.

1 MS. MORGAN: -- not ignore them and push them aside. Thank you for
2 your time. The urgency of this matter must be addressed and people must be held
3 accountable for their words and actions. Lift the mandate immediately. Let the
4 employees and all the people of California breathe again. Thank you.

5 CHAIRMAN THOMAS: Thank you. John, last speaker before we break.

6 MR. GOTCHER: So we were planning on doing two more dial-in callers
7 before the break if that works.

8 CHAIRMAN THOMAS: Okay.

9 MR. GOTCHER: Okay. So their names are Nicholas Nikides and Tracy
10 Henderson.

11 CHAIRMAN THOMAS: Nicholas.

12 MR. GOTCHER: I'm bringing in Nicholas right now. Sorry.

13 CHAIRMAN THOMAS: Yeah. Nicholas, can you hear me?

14 MR. GOTCHER: Yes. So our next commenter is Nicholas Nikides, and he
15 is representing himself.

16 CHAIRMAN THOMAS: Nicholas?

17 MR. NIKIDES: Yes. I am representing myself. I am very concerned about
18 this. I am a worker. I have no options of actually working from home, and I have chosen
19 not to take a vaccine. And because I am a healthy person, I've shown no symptoms
20 from day one of getting COVID at all, and I have not been avoiding it. And basically the
21 reasoning behind that is because the chance of asymptomatic spread from an individual
22 is extremely low. It's 0.7 percent is the asymptomatic spread rate according to
23 Household Transmission of SARS-CoV-2, which is a systematic review and metanalysis in
24 the Journal of American Medicine Association. So it's very rare. So the entire idea of
25 masking healthy people is anti-science in my opinion.

1 And also, this sort of idea of masking people who are unvaccinated, and
2 then if you are in a workplace with people that are vaccinated, they also have to wear a
3 mask is going to create such a pariah environment for anyone who is unvaccinated so as
4 to pressure them into undergoing a medical procedure which they do not want to,
5 which is coercion.

6 So I really, really think this is a very bad idea. And I just want us to just
7 kind of reflect on this idea that this is something that can tear societies apart. And we
8 shouldn't take it so lightly as to think that, oh, well, we'll just do it for temporary
9 measures. I mean, this can extend beyond temporary and it now creates a new
10 precedent whereby we can start creating ingroups and outgroups and clean groups and
11 unclean groups, something that we used to believe was a very bad idea. And I think the
12 Nuremburg trial definitely established that over 70 years ago.

13 So I just really think we have to reflect on exactly what steps we're taking
14 along this road, and we need to try to stop them before they go too far. So that's all I
15 have to say. But thank you.

16 CHAIRMAN THOMAS: Thank you, Michael. And our last caller before we
17 break is, John?

18 MR. GOTCHER: Tracy Henderson, and they are representing themselves.

19 CHAIRMAN THOMAS: Tracy, go right ahead.

20 MS. HENDERSON: Yes. Is it my turn?

21 CHAIRMAN THOMAS: Yes, it's your turn.

22 MS. HENDERSON: Hello, committee members, my name is Tracy
23 Henderson. I am a licensed California attorney. I am the founder of California Parents
24 United, and I am currently the legal director for Utah Parents United. We have
25 successfully worked with parent advocates across the state and the legislature to pass

144

1 HB1007, which prohibits masking in any Utah public school. I'm coming home in July
2 and I do not want my daughter to have to go through that. And I want to see the smiles
3 of my fellow Californians.

4 I can tell you that there is a simple place you can go, it's the American
5 Institute for Economic Research. There are 24 studies there that show you that masks
6 do nothing. Short of a Level 4 containment suit, they do nothing. At this point, it's
7 political, it's virtue signaling. And you must know that California is the laughingstock of
8 the United States most of the time. I'm here in Utah. Nobody is masked. We are fine. I
9 personally have never worn a mask. I have been dragged through a casino, handcuffed
10 to a bench, screamed at, called a murderer. And it's all for nothing, because masks
11 don't work.

12 Please, let it go back to people's right to choose. You want to wear a
13 mask, wear a mask. You want to get vaccinated? Get vaccinated. But don't force me to
14 do something that I don't think is good for me. And, frankly, I am surprised because you
15 folks in the beginning said masking was not okay. And just like Fauci, now you're saying
16 it still is okay. Why? Why are you still doing that? I don't understand. President Biden
17 was the laughingstock of a very important meeting when he was the only one on Zoom
18 sitting there with a mask. Please, let's restore California's dignity. Give the choice back
19 to the people. And I thank you very much for this opportunity to speak to you today.

20 CHAIRMAN THOMAS: Thank you. So at this time, we are going to break
21 for 15 minutes, until 3:30, 3:31. And then we will go back into session. And right now
22 we are adjourned for 15 minutes. Thank you.

23 (Break)

24 CHAIRMAN THOMAS: We are back in order. Go ahead, Christina.

25 MS. SHUPE: Thank you. Before we get started, I just have a brief couple

1 of announcements to make. One, we are going to lose our Spanish translation services
2 at 5:00 p.m. So I just want everybody to be aware of that. We are predicting that we
3 will go beyond 5:00 p.m. at this point. We have about 30 to 40 folks still left in the
4 comment queue, which means we have at least two more hours of public comment.
5 And then also we will be restricting the comment queue at 4:00 p.m. So if you would
6 like to speak before the Board and you have not yet had an opportunity to address
7 them, please email OSHSB@dir.ca.gov prior to 4:00 p.m. to join our comment queue.
8 Thank you.

9 CHAIRMAN THOMAS: All right. Thank you, Christina.

10 So, John, who do we have in the queue?

11 MR. GOTCHER: Our next commenter is Natalie Potter, followed by Kevin
12 Bland. Our next commenter is Natalie Potter from Lake Arrowhead Community Services
13 District.

14 CHAIRMAN THOMAS: Natalie, go ahead.

15 MS. POTTER: Hi. Thank you, Chairman and the Board. I just wanted to
16 say I echo many of the same things the speakers have said already. As an HR
17 professional, my job is employee relations every day. It's to ensure an atmosphere that
18 reflects the mission and values of our organization, and more importantly, for our
19 community.

20 I would like to ask OSHA just to stick to what they are best at doing and
21 leave the whole political debated choice to the employers themselves to make the
22 choice and the employees to make a choice as well if they want to wear a face covering,
23 whatever it may be.

24 And why I say that is because over the past year, I've seen two
25 classifications of people created, two different types of camps, basically within the

1 employees. And it just sets a morale within organizations. Not mine just alone, but
2 other organizations or when you walk into a grocery store. That just sets a tone that is
3 not what the state of California represents to me. I think the tone of the regulations
4 have created conversations that are opposite to what California represents. And I think
5 it's representing California into something that we are not. And we are so much better
6 than what is being publicized out there in the media, beyond all of our different political
7 beliefs and perceptions. And that is true regarding COVID vaccinations, face coverings.

8 So let's leave those differences to a personal choice. I'd like to see the
9 Agency create a policy that reflects or is defaulted to like an IAQP regulation, something
10 that would just provide tools and resources for employers. And then they can enforce
11 as well as to that. But give choices for the employees and the employers to make what
12 best fits their organization and their community.

13 And just to take a step further, it's kind of like how OSHA gives us
14 different tools to prevent soft tissue injuries, or provide us the tools to make sure an
15 employee is fitted correctly ergonomically at their desk or at home if they're working at
16 home. So I think they need to take that approach with these regulations as well. They
17 need to just -- for example, we don't put up bars for an employee to hold on so that
18 they can walk and we don't trip. We leave that -- you know, we set guidelines. Wear
19 proper shoes, that type of thing. And then if they did get hurt, then we follow the
20 regulations, the workers' comp. regulations. And I think that's -- let them do what
21 they're good at, and let you guys do what you guys are good at.

22 Also wanted to mention that the N95 masks too, I think that that's going
23 to be needed elsewhere, not necessarily in an office setting. So I just urge you to leave
24 this policy, to leave it to the individual for choice. And I think that's really important to
25 do. Just think about it. Let's wait a little bit longer and unite all the agencies together to

1 make one communication for all the people in the State of California. Thank you so
2 much for your time.

3 CHAIRMAN THOMAS: Thank you. John, who do we have up next?

4 MR. GOTCHER: Next commenter is Kevin Bland from Ogletree Deakins
5 Nash Smoak and Stewart, P.C.

6 MR. BLAND: Good afternoon, Chairman Thomas, Board Members,
7 members of the public. I appreciate the opportunity to speak today. First, let me -- I'm
8 going to keep mine short because I know we've had a long day. I appreciate the
9 opportunity to speak to you guys today. I also don't envy your position today in going
10 through this process. And so I appraise the opportunity. I'm just going to incorporate
11 for reference, I am a member of the Cal Chamber Coalition. I represent the Western
12 Steel Council, the California Framing Contractors Association, and the Residential
13 Contractors Association. I incorporate by reference the comments made earlier today
14 by Ms. Helen Cleary, Rob Moutrie, Andrew Sommer, Len Welsh, Dan Leacox, Bruce
15 Wick, Bryan Little, and Michael Miller. I won't reiterate those. I just urge this Board to
16 come up with a plan that closely mirrors really truly the opening of the state of
17 California as the Governor has announced, try to come up with a plan. And I know it's
18 not your plan, it's the Division's plan that was presented to you, that can be vetted
19 carefully. I know that most of the issues that are identified in the proposed regulation
20 actually have a start date of July 31st, so I don't think we -- I know we had a special
21 meeting for this today to get something by June 15th. But given all the comments
22 today, given the complexity of this issue, given the issues that have been raised with the
23 document that we received late before the Memorial Day weekend on Friday afternoon,
24 it would behoove us to revisit that. And I would urge that you would not take action on
25 this proposed regulation at this point, to give an opportunity to truly work on a proposal

148

1 that would be acceptable, or end the Emergency Temporary Standard altogether if that
2 is something that is come up with by the end of the day.

3 So I appreciate your time. With that, I know there's a lot of speakers and
4 a lot of time left. I'll defer any time that I have left to anyone else in our coalition that
5 needs it later. So thank you.

6 CHAIRMAN THOMAS: Thank you, Kevin. Who do we have up next, John?

7 MR. GOTCHER: Our next commenter is Ms. Michelle Grupe, and they are
8 representing themselves. Michelle, are you with us?

9 MS. GRUPE: I am.

10 CHAIRMAN THOMAS: Go ahead, Michelle.

11 MS. GRUPE: Can you hear ma?

12 CHAIRMAN THOMAS: Yes.

13 MS. GRUPE: You can hear me? Okay. Can you hear me?

14 CHAIRMAN THOMAS: Yes, we can hear you. Go right ahead.

15 MS. GRUPE: Okay. My name is Michelle Grupe and I am calling to ask or
16 request that Cal/OSHA does not follow through with this new recommendation for
17 employers to have their employees wear the masks. And I am calling -- I am a nurse of
18 25 years and I am also a mother who has -- I have nine children, most of them in their
19 early twenties, who are right now working at restaurants and other public service jobs.
20 And they've been masked this whole time. And it makes for a horrible environment for
21 them. I've got one who breaks out in rashes on his face consistently. And they're
22 painful rashes. It's not just an itchy rash or something irritating. It's painful. It's a
23 reaction to the mask. And we've tried several different kinds, and I believe it's probably
24 something from what he is breathing out. I don't think it's actually the mask, because
25 we've tried so many different masks.

1 But anyways, on top of that, the masks, the way we have been wearing
2 them this whole time are not working. They don't -- there is no possible way they're
3 working. Like I said, I've been a nurse for 25 years and I know why we wear masks,
4 especially in surgery and all that. And I know how we wear masks. And the general
5 public, it's impossible for this to be used effectively. Masks need to be changed. They
6 can't get too moist. They have to be as sealed as possible. And with the masks that
7 we're wearing, none of them are sealed. If you went to the N95, which I've read that
8 that's what you're talking about, those also -- are they more sealed? Yes. But they have
9 to be fit tested. So that means all employees would need to be fit tested to make sure
10 that their mask isn't leaking for it to be effective. And that is not even truly tested for
11 N95 on viral transmission; it's on bacterial, which was for -- hello?

12 CHAIRMAN THOMAS: Yeah, we're here.

13 MS. GRUPE: I'm hearing -- yeah, someone is talking.

14 CHAIRMAN THOMAS: Go right ahead. It's not us.

15 MS. GRUPE: The N95 -- okay. N95s are not even designed for this, either.
16 And they would have to be all fit tested. And I know for the employers, it would be near
17 impossible. They're all having a hard time staying open anyways. They're having a hard
18 time staying open through this whole mess anyways. And then you add that they're
19 going to have to have employees with N95 masks, which are much more expensive and
20 also needed in hospitals. And then you're going to have to have them fit tested so that
21 you actually are as effective as they can be. And the employers might have to pay for all
22 that. It's just -- it's absurd what is going on. Our rates are down. Just unmask
23 (indiscernible) everybody --

24 MR. GOTCHER: Three minutes.

25 MS. GRUPE: -- and let everybody be responsible for themselves, please.

150

1 CHAIRMAN THOMAS: Thank you. John, who do we have next?

2 MR. GOTCHER: Our next commenter is Alison Mineau, and they are
3 representing themselves.

4 CHAIRMAN THOMAS: Alison.

5 MS. MINEAU: Hello?

6 CHAIRMAN THOMAS: Yes, go ahead.

7 MS. MINEAU: Okay. Hello, thank you for having me. I wanted to speak
8 on behalf of myself as an employee in a corporate office. Having to wear these masks
9 and just having to do my daily running around. And also we're in this a full year-and-a-
10 half now. A year-and-a-half is long enough for us to be in a position to have our
11 workspaces where we get to choose whether we want to be able to wear these masks
12 or not. Not our employer, not our governors or our state officials. This has gone on
13 long enough. And I also speak on behalf for my children in schools. If you guys continue
14 to do this, guess what? The teachers are going to be having to do this, the kids are
15 going to be having to do this. And enough is enough. And the science is there to back
16 the case rates. And as low as they've gotten, we're probably still the lowest in the
17 nation here in the state of California, yet you guys have so many restrictions. And it's
18 too much. Enough. My body, my choice. Please, please do the right thing in giving us
19 what is rightfully ours, which is our freedom. Again, our children don't need to be led in
20 fear. They are entirely -- you know, they are our future. And it's just -- it's gone on way
21 too long. I just can't even believe I'm having this call a year-and-a-half later where this
22 date of June 15th was going to be our grand opening. I knew it was too good to be true.
23 And I really hope that you guys have been listening to a lot of us calling in that are
24 eagerly waiting for you to make the right choice for our people.

25 MR. GOTCHER: Thirty seconds.

1 MS. MINEAU: Thank you very much for your time. Please do the right
2 thing. Let them breathe.

3 CHAIRMAN THOMAS: Thank you. John, who do we have next?

4 MR. GOTCHER: Our next commenter is Samantha Chua from no official
5 capacity, citizen, occupational health professional.

6 CHAIRMAN THOMAS: Samantha.

7 MS. CHUA: Hi.

8 CHAIRMAN THOMAS: Hi. Go ahead.

9 MS. CHUA: Can you hear me okay?

10 CHAIRMAN THOMAS: Yes.

11 MS. CHUA: Thank you very much. That's fun that you wrote down
12 exactly what -- or read exactly what I wrote. That's fun.

13 Hi, my name is Samantha Chua, and I am an industrial hygienist and I
14 work in the biotech industry. I'm sorry (indiscernible) from a conference room with my
15 mask on at work. And I just wanted to express my appreciation for the dedication of the
16 Board Members on this very tough subject. And I've read through the new proposed
17 draft, and I found most of it really reasonable, including the N95s for voluntary use. It's
18 really something that's already in place in general in most workplaces and I don't think
19 that it will be much of a burden for workplaces to implement.

20 And really just speaking from my own capacity, my role is to implement
21 these changes in the workplace. And so I was reading through it and putting it in, you
22 know, how would I go through this and implement all of these, the items in this draft.
23 And the only piece that would be really difficult is the how do we take our masks off
24 and, you know, say are you vaccinated, are you vaccinated, are you vaccinated, and
25 have that conversation. I think that will just be impossible to manage in any way. And

152

1 so I hope that you will rethink that. And if your choice is to approve it as is today or to
2 maybe defer and give that a little more time, a little more space, then I just throw my
3 hat in the ring of defer. Give that a little more time and let's see how things unfold.
4 Because if your mask direction for the workplace does not match what's happening in
5 the county or the state, that will be really tough to get through at work, for people to
6 understand, and for them to abide by.

7 So thanks again, Board Members, for all of your hard work. I think you've
8 done a really good job and I appreciate you. That's all I have. Thank you.

9 CHAIRMAN THOMAS: Thank you. John, who do we have next up?

10 MR. GOTCHER: Our next commenter is Elda Brueggeman from the
11 Western Agricultural Processors Association.

12 CHAIRMAN THOMAS: Caller, are you on the line? I'm not hearing
13 anything, John.

14 MR. GOTCHER: Okay, moving on. Our next commenter is Mary Lopez.

15 CHAIRMAN THOMAS: Mary, can you hear us? Mary? I'm not hearing
16 Mary either, John.

17 MR. GOTCHER: Okay. Our next commenter is Tim Toton, and they are
18 representing themselves.

19 CHAIRMAN THOMAS: Tim, are you on the line? Tim?

20 MS. BRUEGGEMAN: Tim is not on the line. This is Elda Brueggeman. Can
21 you hear me now?

22 CHAIRMAN THOMAS: Yeah. Go ahead, Elda.

23 MS. BRUGGEMAN: Thank you. Thank you, Chair Thomas and the Board
24 for the opportunity to provide comments on the proposed COVID-19 emergency
25 regulation. My name is Elda Bruggeman, Director of Environmental and Safety for

1 Western Agricultural Possessors Association and California Cotton Ginners and
2 Growers Association. It's been a long day. We've submitted comments and I won't take
3 up too much of your time. We do ask for considerations specifically for the N95
4 respirators.

5 Requiring the N95 under the COVID-19 ETS will greatly increase demand
6 and once again will not be readily available to meet the demand. Also, employers must
7 protect the health privacy of all employees. However, if the employer must make the
8 N95 respirator available and encourage the use to unvaccinated employees and not to
9 vaccinated employees, the employer may inadvertently be in violation of privacy laws.
10 Again, thank you for your opportunity to provide comments.

11 CHAIRMAN THOMAS: Thank you. John, who do we have up next?

12 MR. GOTCHER: Our next commenter is Jeremy Colter, and they will be
13 representing themselves.

14 CHAIRMAN THOMAS: Jeremy, can you hear us?

15 MR. COLTER: Yes, hello.

16 CHAIRMAN THOMAS: Go ahead, Jeremy.

17 MR. COLTER: Can you hear me?

18 CHAIRMAN THOMAS: Yeah, we can.

19 MR. COLTER: Yes. Thank you for allowing me the opportunity to speak
20 today. I greatly appreciate that and your time. My name is Jeremy Colter. I am
21 representing myself, along with the views and opinions popular among my peers.

22 Just period, point blank, this is tyranny. It must stop. I moved to
23 California back in 2019. I love it here. It is the most beautiful place I've ever had the
24 privilege to live. At least in 2019 it was. (indiscernible). It feels as if I now live in the
25 communist party of California. I moved from Mississippi and Alabama, and things have

154

1 been back to normal there. I spoke with my mom. She goes to the grocery store
2 freely. They live in freedom and peace and happiness. They don't have to worry about
3 people planning their day for them and what the next move is going to be.

4 I echo the opinions of most of the others in this meeting in that give the
5 freedom back to the individual of whether he or she wants to wear a mask or not. I am
6 in complete awe and confusion that this is even being considered. I have had a vaccine
7 since I was born; it's called an immune system.

8 I ask the OSHSB, what is your agenda? It is simple; give the freedom back
9 to the people. United we stand and divided we will surely fall. This proposal causes
10 nothing but division. People are leaving the state because of this communistic agenda,
11 in my personal opinion. I know tons of people who have literally packed up and left
12 California. In my opinion, it's partly due to the strict rules and regulations that you are
13 imposing upon the people here.

14 And that's all I have to say. Give freedom back to the people. Strong
15 opposition against anything that would pass involving these new mask mandates. Thank
16 you.

17 CHAIRMAN THOMAS: Thank you. John, who do we have next?

18 MS. LOPEZ: Hi, this is Mary Lopez.

19 CHAIRMAN THOMAS: Go ahead, Mary.

20 MS. LOPEZ: Okay. Hi. I have been a caregiver through the whole
21 pandemic, and I would like to address a few things that are on my mind.

22 There has not been addressed any unintended physiological effects on
23 improper masking on preexisting conditions. There is going to be a lot of people who
24 don't have any preexisting conditions that may be okay with the masking. But what
25 about all of those that have preexisting conditions? And there's no long-term studies.

1 Number two, in the opening statement in favor of continued masking, it
2 was said that face coverings will deflect large particles which may infect people with
3 COVID. What was not mentioned is face coverings will also entrap viral aerosols next to
4 facial orifices to increase the chance of transmission.

5 Number three, you might not want to hear this, but science universally
6 shows that exposure to COVID provides antibodies that are superior to any of the
7 vaccines to COVID variants, to previous coronavirus exposure, and it will lessen
8 transmission of coronavirus to others.

9 According to the CDC, you can contract coronavirus and transmit it after
10 being vaccinated. So really the only way to actually ensure your coworkers are safe is to
11 contract COVID, try to be as healthy as you can, and develop antibodies and go strongly
12 after it with prophylactic or some of the other treatments that are being touted.

13 Number four, the tracking and enforcement of vaccinated versus
14 unvaccinated for masking enforcement is going to be a huge undertaking, which leads
15 me to the t-rex in the room; it would lead to a vaccine passport for tracking of this data,
16 which the majority of Americans strongly oppose. And once again, I say this as a full-
17 time caregiver, essential worker.

18 And I would also like to bring up there has been a lot of discrimination
19 against people with disabilities doing their everyday activities such as shopping, medical
20 appointments --

21 MR. GOTCHER: Thirty seconds.

22 MS. LOPEZ: I've been with disabled people who have been physically
23 blocked and pushed out of establishments because they cannot wear a mask due to
24 different types of disabilities and diseases that affect their hypoxia. So please vote no
25 on this. This is really not needed. Thank you for listening.

1 CHAIRMAN THOMAS: Thank you. John, who do we have up next?

2 MR. GOTCHER: Our next commenter is Justin Shores, and they will be
3 representing themselves.

4 CHAIRMAN THOMAS: Justin, can you hear us?

5 MR. SHORE: Yes, thank you. Just one second. So I just wanted to call
6 and give my voice to the concern right now that's happening. As you can hear, I'm
7 calling from work because this is so important to me.

8 Over the last 15 months, we have been wearing masks outside at my
9 workplace. Goleta, California currently has one place, and there's been no more than
10 20 cases of COVID the whole year. We work outside. We work with a lot of stuff flying
11 in the air, which does get stuck in our masks. So it's actually hurting us more to wear
12 these things. I also sweat all day because I'm out running around. And I think it's
13 ridiculous that you guys are even considering this as a mandate across the state, which
14 you haven't even considered how many different climates there are, how many
15 different situations there are. This is ridiculous.

16 Dr. Fauci even said masks don't work. Why are you even considering
17 this? Is this -- why is California the only state that is still requiring masks like this? You
18 guys are fools. I'm sorry. I'm so passionate about this because I'm sick. I have no one
19 else to talk to about this. Our officials don't care. Our people are stuck in this political
20 science. And you guys are fools. You are blind to this. You are hurting people. This is
21 not right. Masks are hurting people.

22 There's already studies this year based on other states showing that they
23 do not help. So stop it. Stop playing with our lives. Stop playing with our health. Stop
24 playing with our mental health.

25 I had a kid drop their mask and start crying because they thought the air

1 would kill them. Do you realize what you're doing to kids? Everyone masked up
2 everywhere for no reason. This is ridiculous. You guys need to wake up, be logical.
3 Look at the real science; not political science, not California garbage science. We are the
4 only state besides two other states that are still requiring masks. Wake up. I'm done.

5 CHAIRMAN THOMAS: Thank you. John, who is up next?

6 MR. GOTCHER: Our next commenter is Joel Berman from Health Science
7 Associates.

8 CHAIRMAN THOMAS: Joel, can you hear me?

9 MR. BERMAN: I can. Can you hear me?

10 CHAIRMAN THOMAS: Yeah, Joel. Go right ahead.

11 MR. BERMAN: So I am actually representing the California Industrial
12 Hygiene Council today. Chairman Thomas, Board Members, and staff, Division staff, I
13 am here again today representing California Industrial Hygiene Council. I have been a
14 Board Member for about 12 years. I am a former vice president of CIHC. CIHC
15 represents occupational health and safety professionals in California and works to
16 enhance their professional practice. The California Industrial Hygiene appreciates the
17 opportunity to comment on the COVID-19 emergency regulations. We appreciate the
18 challenges this issue has presented and the hard work the board and staff have done on
19 this issue. The proposed version of the COVID ATS that is being considered today is an
20 improvement from the version adopted in November 2020. And we especially agree
21 with the, including exceptions, for those who are fully vaccinated. If the proposed
22 version is adopted, we request that the Division provide guidance or Frequently Asked
23 Questions as soon as possible to address how employers will determine fully-vaccinated
24 employees versus those who are not while maintaining confidentiality of an employee's
25 health issues.

1 This is actually an important question whether we are talking about
2 COVID-19 vaccinations or vaccinations for other infectious diseases. And having this
3 information in place would be a major step forward. Given the rapidly-changing public
4 health guidance and lifting of COVID-19 restrictions, CIHC encourages the following two
5 actions.

6 First, consider repealing or establishing an expiration date of June 15,
7 2021 for the current version of the ETS. Based on the news from the Governor's office,
8 the pending lifting of COVID-19 restrictions in California would make the ETS basically a
9 moot point.

10 Second, move expeditiously with a path forward to permanently address
11 worker protection in all industries from infectious diseases. This would be more
12 efficient use of valuable resources than attempting to fix protections and prevention
13 measures for COVID-19 only. The path forward could include adding COVID-19
14 (indiscernible) to the list of diseases covered by the Aerosol Transmissible Disease
15 regulations for those employers in work environments that are covered by the ATD
16 regulation and developing a mandatory appendix for the Injury and Illness Prevention
17 Program regulation that applies to employers and work environments that are not
18 covered by the Aerosol Transmissible Disease regulation --

19 MR. GOTCHER: Thirty seconds.

20 MR. BERMAN: Thank you -- and require these employers to address the
21 plan for infectious disease prevention. CIHC looks forward to advisory and committee
22 participation to assist the division with a path forward on this issue. And again, we
23 encourage expediting this approach. Thank you for your time and consideration.

24 CHAIRMAN THOMAS: Thank you. John, who do we have up next?

25 MS. SHUPE: Before we move on to our next speaker, I'd just like to share

1 that --

2 CHAIRMAN THOMAS: Crystal --

3 MR. GOTCHER: Excuse me, Crystal Lyons, your audio line has come
4 unmute a few times during this meeting. If you could just keep an eye on your mute,
5 please.

6 CHAIRMAN THOMAS: Thank you. Anyway, Christina.

7 MS. SHUPE: Thank you. I just wanted to share that the public comment
8 queue has now been closed. We will be receiving comments from the folks that have
9 already joined the comment queue. And thank you.

10 CHAIRMAN THOMAS: John, continue. Who do we have?

11 MR. GOTCHER: Our next commenter is Elrawd Maclearn. And they will
12 be representing themselves.

13 CHAIRMAN THOMAS: Do we have you on, caller?

14 MR. MACLEARN: Yes. Hello?

15 CHAIRMAN THOMAS: Yeah. Go right ahead.

16 MR. MACLEARN: Awesome. Hi. Yes, I am Elrawd Maclearn. And I'm
17 calling in to state that the -- I know that you guys are talking about possibly wearing
18 masks in the workplace beyond June 15th. And I am here to say that I don't know if it's
19 been discussed, but creating a system where you have people who are masked and
20 unmasked is in a sense creating this very divisive workplace culture that's very
21 discriminatory. Basically what you're doing or what will happen is going to be the folks
22 who are wearing the masks are going to be like lepers who are considered, you know,
23 dangerous, people need to stay away from them, they're unvaccinated. Also in this
24 highly-politicized nature of these vaccines and masks and COVID and all this, it creates
25 even more tension in a workplace, which could lead to more workplace violence. We

160

1 have seen increasing shootings, assaults, and all kinds of other things that are
2 happening in the workplace. And if we create this culture of discrimination where we
3 have masked and unmasked employees, that will only further add fire to the tinderbox
4 that is in our culture and in our society. And that is definitely something that needs to
5 be contemplated, something that needs to be understood. And as the folks who are
6 putting in these rules and regulations, definitely something that should be made aware
7 of and should be taken seriously.

8 As we know, the mortality rate from COVID-19 is extremely low. Most
9 people in the workplace are not at risk. I myself have not gotten COVID at all this year.
10 People in my workplace have gotten it. They have recovered. But the biggest thing is
11 everyone has an individual responsibility for their own health, and that needs to be
12 respected. And requiring this mask-unmask and for the people who are unvaccinated to
13 be deemed some kind of pariah is only going to create a very discriminatory, unequal
14 workplace environment which is very serious and unsafe for those who are there.

15 I would recommend not to continue the mask wearing. When we see
16 states like Georgia, Texas, and others who have not been wearing masks for many
17 months now, and even when they weren't vaccinated, their numbers were extremely
18 low. And it would probably be the very same here in California. So I really strongly
19 encourage the Board to heed my comments, heed my warnings, and to not continue
20 mandating or requiring masks in the workplace. It could be something that's optional,
21 and I think everyone has a personal choice to what they put in their body, what they
22 wear on their face as well. Thank you for giving me the opportunity and the time to
23 make these comments. Thank you.

24 CHAIRMAN THOMAS: Thank you. Appreciate your comments.

25 John, who do we have up next?

1 MR. GOTCHER: Our next commenter is Amy Reichert, and they will be
2 representing themselves.

3 CHAIRMAN THOMAS: Is that Amy?

4 MS. REICHERT: Yes, Hi.

5 CHAIRMAN THOMAS: Hi, Amy. Go right ahead.

6 MS. REICHERT: Thank you so much. I appreciate your service to the state
7 and to our community. I am calling on behalf of actually my husband. He is legally deaf.
8 And the past 15 months have been very, very difficult on him. Because for other people
9 who don't know sign language, he relies on the little bit of speech that he can hear as
10 well as reading lips. And you can imagine that with a masked-up world how much his
11 world has been deafened by masks.

12 I also represent Reopen San Diego. And we just want to say please do
13 the right thing by workers and please do not require or mandate masks going forward.
14 It's no longer March 2020 and we are in a good place right now. And it's going to be
15 very good and so much better for not only public health, but mental health if we don't
16 require masks. Thank you for hearing me.

17 CHAIRMAN THOMAS: Thank you, Amy. John, who do we have up next?

18 MR. GOTCHER: Our next commenter is Monica Gonzalez, and they will
19 be representing themselves.

20 CHAIRMAN THOMAS: Monica, are you there?

21 MS. GONZALEZ: Hi, my name is Monica Gonzales.

22 CHAIRMAN THOMAS: Go right ahead.

23 MS. GONZALEZ: Hello. Can you hear me?

24 CHAIRMAN THOMAS: Yes.

25 MS. GONZALEZ: Hi. I think that you should vote to not extend it through

162

1 2022. Masks are something that has been proven through multiple scientific studies to
2 not be effective at preventing viruses or COVID-19 in specific. As for vaccines, it's
3 unlawful to have employers mandate that employees should get the COVID-19
4 vaccination, especially since they have not been approved by the FDA. It's currently
5 under an EUA until 2023 for one and 2022 for the other. So to extend this out to 2022
6 for the mask mandate would be unlawful and many people would be suffering with
7 different types of mental issues to have to wear a mask. Some people aren't able to
8 wear it, period, due to medical conditions or religious beliefs. And so I think that you
9 should vote to not extend it. I think it should be ended with the June 15th mask
10 mandate being lifted by the Governor.

11 CHAIRMAN THOMAS: Thank you.

12 MS. GONZALEZ: Thank you.

13 CHAIRMAN THOMAS: You're welcome. John, who do we have next?

14 MR. GOTCHER: The next commenter is Amy Young, and they will be
15 representing themselves.

16 CHAIRMAN THOMAS: Caller, go right ahead.

17 MS. YOUNG: Hello. I would like to talk about the GINA act in California.
18 Cal GINA protects our genetic information with schools, businesses, and employment.
19 HIPAA declares genetic information as health information. How does one know they
20 have a virus in them? Genetic testing. What are the vaccination cards or vaccine?
21 Genetic information. With Cal GINA, it is illegal for any of these institutions or
22 workplaces to ask you why you can't take a vaccine or coerce someone to take a
23 vaccine. What Cal GINA also adds is civil Unruh law. Section 51 of the Civil Code is
24 amended to read, "(A), This section shall be known and may be cited as the Unruh Civil
25 Rights Act. (B), All persons within the jurisdiction of this state are free and equal, and no

163

1 matter what their sex, race, color, religion, ancestry, national origin, disability, medical
2 condition, genetic information, marital status, or sexual orientation are entitled to the
3 full and equal accommodations, advantages, facilities, privileges, or services in all
4 business establishments of every kind whatsoever.” That is the end of my comments.

5 CHAIRMAN THOMAS: Thank you. John, who do we have up next?

6 MR. GOTCHER: The next commenter is Tricia Ainsworth, and they will be
7 representing themselves.

8 CHAIRMAN THOMAS: Tricia, can you hear us? Hello, Tricia?

9 MS. AINSWORTH: Hi, can you hear me?

10 MR. GOTCHER: Okay, there she is.

11 CHAIRMAN THOMAS: Tricia, go ahead.

12 MS. AINSWORTH: Yes, this is Tricia. Hi, there. I have a degree in
13 environmental engineering and have worked as an environmental consultant and in
14 EHS, in the industry. I currently manage a small business office. After having kids, I took
15 some time away from my career.

16 I urge the Board to vote no on the COVID-19 prevention ETS readoption.
17 In my environmental career, I had to be regularly fit tested to safely wear my respirator,
18 and I also had to see a doctor regularly for respirator use approval. But now OSHA
19 forces all workers to wear respirators regardless of whether they fit properly or whether
20 the use of a respirator is safe for that individual employee. This is shocking to me. I am
21 still confused how OSHA is enforcing masks with pore size larger than the virus size. And
22 what about sideways leakage, which is known to be significant with N95? What about
23 when your glasses fog up? That means vapors are escaping and the virus is right there
24 with it. So going into the air. So how can we make policy based on nonsense?

25 We are not currently in an emergency situation. So why are we going

164

1 backwards with policy? There is plenty of science from previous coronavirus outbreaks
2 like MARS and SARS showing us that once infected and recovered, people build long-
3 lasting immunity against the virus. We are talking decades to lifelong immunity. So
4 with the millions of COVID recovered and millions of vaccinated people, it is scientifically
5 plausible that we will have plenty of protection against this virus. So I believe the
6 alarmists that have commented today that we are still in a dire emergency are wrong
7 and not considering the immunity that we have already built up in our population.

8 This COVID injection is still experimental. We have no idea of long-term
9 safety concerns, nor do we have long-term efficacy data. Not every injected person's
10 immune system responds the same. Some mount very little or even no immune
11 response at all. And again, there are the COVID-recovered that have naturally built up
12 an immune response to the virus possibly better than those that were injected with the
13 experimental vaccine.

14 So should OSHA be more fair and equitable and require antibody and T-
15 cell tests of all employees to better determine who has real, quantifiable immunity?
16 That would be ridiculous. But so is this policy.

17 MR. GOTCHER: Thirty seconds.

18 MS. AINSWORTH: This policy of vax or masks is discriminatory on so
19 many levels. I haven't heard people talk much about the religious reasons that people
20 might have to not take the vaccine. Since all COVID shots use fetal cells in the process of
21 manufacturing and/or testing this vaccine, some people might feel they have a religious
22 -- enough reason to avoid this vaccine. And you're discriminating against those people.
23 Let's see --

24 MR. GOTCHER: Three minutes.

25 MS. AINSWORTH: Policy and procedures required, it's discriminatory to

165

1 employees and a burden on employers. Please vote no.

2 CHAIRMAN THOMAS: Thank you. John, who is up?

3 MR. GOTCHER: Our next commenter is Jennifer Pappas, and they will be
4 representing themselves.

5 CHAIRMAN THOMAS: Jennifer, can you hear us?

6 MS. PAPPAS: Yes.

7 CHAIRMAN THOMAS: Go right ahead.

8 MS. PAPPAS: Yes, I can. Okay. So you just want my public opinion as a
9 business owner to how the idea of having employers enforce the employees to wear
10 masks affects us; is that correct?

11 CHAIRMAN THOMAS: Basically the comments on the changes in the
12 temporary regulation is what we're looking for.

13 MS. PAPPAS: And can you explain the changes again? Because what I
14 understood it being is that it had to do with the employees being told that they have to
15 wear masks at all times.

16 MS. SHUPE: The proposal is posted online at our website, OSHSB.ca.gov.
17 So if you'd like to go ahead and review it, you can review it there and you'll see the
18 changes.

19 MS. PAPPAS: Okay, I did. Okay. I did review it. So I just want to make a
20 public announcement that for us as employers, a lot of employees, that it would create
21 a hardship if we were having to have our employees wear masks whether they were
22 vaccinated or not. And I can go through the list.

23 We've already lost a lot of employees. And as a business owner to two
24 different businesses, we are struggling tremendously with having to rehire employees.
25 And we are struggling with the problem that people don't want to work because so

1 many are on unemployment. And the caliber of people we are getting that do want to
2 work are not what we're used to because the ones that we have always employed are
3 the ones that are collecting unemployment and not coming back. And we do know that
4 it's not scientifically proven to benefit to the threat of COVID if you wear a mask or not.
5 And we can't afford as business owners to be forced to have to pay for masks that our
6 employees are supposed to be wearing in addition to the hardship that it creates for our
7 employees. Because already right now several of them can't breathe.

8 We own restaurants. So our kitchens are hot. And they're cooking over
9 grills and sautéing and they have to call orders out to each other. And there's a major
10 loss of communication between employees just among themselves, which creates
11 problems in the kitchen of having orders gone out. Our customers can't understand our
12 servers very well, and it creates mistakes being made on that end. And then also having
13 disgruntled customers.

14 Financially, we barely made it through this pandemic, and we're still
15 barely making it through now. And this would create even more financial hardships that
16 we probably wouldn't be able to. And I think it creates two classes of workers and
17 segregates people, which I think is not beneficial to an employee environment as well.
18 So that's my opinion about it.

19 CHAIRMAN THOMAS: Thank you. We appreciate that. John, who do we
20 have up in the queue?

21 MS. PAPPAS: You're welcome. Thank you for listening.

22 CHAIRMAN THOMAS: Mm-hmm. Our pleasure.

23 MR. GOTCHER: The next commenter is Tory Quintero, and they will be
24 representing themselves.

25 CHAIRMAN THOMAS: Tory, can you hear us?

1 MS. QUINTERO: Hi, my name is -- thank you. Hello, my name is Tory
2 Quintero. I am a certified massage therapist in the state of California. This has been my
3 career for 30 years, since 1991. I represent a special category of health service workers
4 who provide in-person contact therapy for sustained periods of time. During a standard
5 day, my profession works in closed treatment rooms and provides body work sessions
6 to a series of clients inside the same room. I cannot think of another industry that
7 places employees in higher critical risk scenarios. And for that reason most massage
8 therapists were laid off and unable to work for most of 2020 and into this year.

9 The California Massage Therapy Board regards us akin to nurses, docs,
10 and other frontline health workers who are protected by a medical categorization in
11 which all patients and staff are expected to wear masks during their appointments.
12 CAMTC successfully argued on behalf of massage therapists to join the ranked tier
13 system afforded to healthcare practitioners in order to receive vaccinations, but we are
14 not generally granted comparable medical consideration, although we see clients with
15 various types of illness every single day at close range.

16 Other health practitioner, including the field of dentists, are still wearing
17 masks, for good reason. COVID still exists, and new variants are more contagious than
18 ever. Numerous medical studies and mainstream press reporting evidence COVID
19 transmission is still occurring with alarming frequency amongst vaccinated individuals.
20 For example, the entire team of the New York Yankees, et cetera.

21 A recent client of mine identified as the administrative coordinator for
22 the California state vaccine rollout admitted flatly in all facets and all facts point to the
23 continued mask use, a continued need for mask use inside massage treatment settings
24 for the foreseeable future, both as public health and a practical solution.

25 Mask use protects the other party in the room. I wear mine to protect

1 my client, and my client wears one to protect me. We cannot have our workplace
2 protections vanish June 15th in clouds of mistaken business opinion to satisfy patient
3 desires or company owners or spa and resort clients. We cannot defer to client
4 preferences regardless of vaccination status.

5 In Napa County, many resorts and spas have already been flouting
6 existing OSHA health mandates to “reward” vaccinated clients with no -- with the
7 privilege of taking off their mask inside the treatment room. This is a medically unsound
8 and misguided practice which puts massage therapists at grave risk of being infected
9 and spreading infection at high rates behind closed doors.

10 Please ensure express and defined protections for massage treatment
11 professional employees in any company setting and maintain mask directives for both
12 parties in all indoor venues. Furthermore, please maintain the guideline of keeping
13 HEPA filters, preferably with ionizers inside all closed treatment room settings.

14 MR. GOTCHER: Three minutes.

15 MS. QUINTERO: Thank you for understanding. This is a win-win
16 opportunity for spa and resort businesses to avoid liability for spreading COVID and for
17 body work professionals to continue receiving common sense, basic workplace
18 protections to remain out of harm’s way. Thank you very much.

19 CHAIRMAN THOMAS: Thank you. John, who do we have up next?

20 MR. GOTCHER: Our next commenter is Shelley Kessler.

21 CHAIRMAN THOMAS: Shelley? Can you hear us?

22 MS. SHUPE: Shelley, we can’t hear you. You may need to unmute
23 yourself.

24 MS ROBBINS: Shelly -- I’m sorry, this is Maggie. Shelley Kessler texted
25 me to say she had to leave to go to another meeting. She couldn’t stay on any longer.

169

1 CHAIRMAN THOMAS: We can't have that Maggie, so -- no, go ahead.

2 Sorry. Go ahead. Are you going to comment, Maggie?

3 MS. ROBBINS: No, I'm not going to comment. I was just saying that
4 Shelley had to leave the meeting, and I just was letting you know that.

5 CHAIRMAN THOMAS: Okay. Well, if you have no comment, then, John,
6 who is next?

7 MR. GOTCHER: Our next commenter is Mirella Deniz-Zaragoza from the
8 Warehouse Worker Resource Center.

9 CHAIRMAN THOMAS: Can you hear us?

10 MR. GOTCHER: Mirella, are you on the line?

11 CHAIRMAN THOMAS: We're not hearing anything yet.

12 MS. SHUPE: John, let's go to the next speaker.

13 MR. GOTCHER: Okay. Okay. Our next speaker is Vince Hundley from the
14 SMART Safety Group.

15 CHAIRMAN THOMAS: Vince, can you hear us?

16 MR. HUNDLEY: Yeah, I hear you fine. Thanks.

17 CHAIRMAN THOMAS: Go ahead.

18 MR. HUNDLEY: Trying to get geared up here. I guess you don't need a
19 camera.

20 You know, I had the chance about a week ago to be last on the list. And I
21 just want to say that I wanted to spare you all that because I'm kind of in line with Rob
22 Moutrie. I mean, we signed signatory on his letter. And my name again is Vince
23 Hundley. I am with the AGC in San Diego, my company, SMART Safety Group. But we're
24 also in San Diego representing (indiscernible), the Black Contractors Association, the
25 Plumbing-Heating-Colling Contactors, SMACNA, thank you, of San Diego, WECA, the BIA,

170

1 the ASA, and the ABC. We meet Monday, every Monday. That's been just our rhythm.
2 And we talk about all things COVID. And we brought what was a bit of consensus plan
3 between our groups and the building trades associations. And that's what we brought
4 to really San Diego. And we've done just as well as any other county in the state. And
5 from the construction perspective, looking at Cal/OSHA's enforcement, we've only seen
6 about four contractors statewide. And I think that is -- you know, it's been brought up a
7 couple times that there are so many differences between so many workplaces that it's
8 really a difficult job to promulgate a standard, this one size fits all and to expeditiously
9 make everyone happy. So it's tough.

10 And at the same time, we lead the nation. We have two cases per
11 hundred. We lead the nation with the first comprehensive COVID plan. I mean, those
12 things, they all kind of work together. We lead the nation with really I think a
13 vaccination effort. We're doing great. And we do get mocked for being overcautious,
14 but I think the time is in my opinion and with our groups is that we've done our job.

15 And I learned from one great guy that used to run the AGC. And he said,
16 Vince, don't ever chase anything downhill. And I didn't really get it. But when I look at
17 where we are today and I look -- on a daily basis I put the data in my little spreadsheet
18 and I ponder. It's going downhill. And, you know, the other states are -- we're pulling
19 with us. And it's just the way the virus is now. You know, we've won. And I'm not
20 trying to call it too early. Gavin -- Governor Newsom, excuse me, and the rest have
21 already planned this. They can see it.

22 MR. GOTCHER: Thirty seconds.

23 MR. HUNDLEY: So I would say from our association's and from myself
24 professionally and from the folks that I represent, over 10,000 employees that we
25 manage safety and health for, we just want to drop and we want to burn our masks. It's

171

1 over and someone has got to call it. So I think we need to lead and say it's over. And I
2 would say no vote and follow Brian Miller's advice to get it on the schedule to rescind
3 the ETS. Thank you.

4 CHAIRMAN THOMAS: Thank you. John, how many people do we have
5 left in the queue to hear from?

6 MR. GOTCHER: So that's hard to say. We have a small handful of people
7 that are joining us on WebEx, and there are people on the list that haven't picked up the
8 dial-out method, you know, numerous times. So it's hard to estimate, but I can try and
9 get a better number for you next round.

10 CHAIRMAN THOMAS: Please do. And let's continue with the
11 commenters. Who is up next, John?

12 MR. GOTCHER: Our next commenter is Heather, and they will be
13 representing themselves.

14 CHAIRMAN THOMAS: Heather, can you hear me?

15 HEATHER: I can hear you. Can you hear me okay?

16 CHAIRMAN THOMAS: Go right ahead, please.

17 HEATHER: Okay. Thank you for taking my call and the time today to hear
18 business owners' and employees' concerns. The mask is -- actually, the face covering is
19 actually under emergency use act approval as well, which brings it, as well as the
20 vaccine, which is not a vaccine but a gene therapy, into the realm of an experimental
21 medical procedure and human experimentation.

22 So what I want to talk to you about that I haven't heard anybody talk
23 about is California Health and Safety Code 24171. And I did want to ask as well, is there
24 an attorney in the room listening with you guys today, legal counsel of any kind?

25 CHAIRMAN THOMAS: Not in this room, no.

1 MS. SHUPE: So this is a forum for public comment, not a forum for back
2 and forth. But I can tell you that the Board does have chief counsel on staff and
3 available to them.

4 HEATHER: Got it. Okay. All right. Well, I hope that you'll talk with your
5 counsel about this Health and Safety Code 24171. In quotes, it says, "It is therefore the
6 intent of the Legislature in enacting this chapter to provide minimum statutory
7 protection for the citizens of this state with regard to human experimentation and to
8 provide penalties for those who violate such provisions."

9 There are informed consent guidelines that must be met from California
10 Health and Safety Code section 24172(a), be informed of the nature and purpose of the
11 experiment. You need to be given a description of any (indiscernible) risk reasonably
12 expected from the experiment, explanation of benefits, any -- let's see. You are
13 informed of the avenues of medical treatment available to subjects after the experiment
14 if complications should arise, or during. And opportunity to have questions. Consent to
15 participate may be withdrawn and subject may discontinue. They have to be given the
16 opportunity to decide to consent or not to consent to a medical experiment without the
17 intervention of any force, fraud, deceit, duress, coercion, or undue influence on the
18 subject's decision.

19 I have heard OSHA and other entities refer to OSHA today as the
20 enforcement arm to gain business and employee compliance with either the mask
21 requirement or the vaccine. This enforcement arm is equal to force. You are using
22 extortion, fines, to coerce businesses to participate in an illegal act.

23 The violations of informed consent are subject to a multitude of fines.
24 The most important one is 24176(c), Any person who is primarily responsible for the
25 conduct of a medical experiment and who willfully fails to obtain the subject's informed

1 consent thereby exposes the substantial risk to serious injury. A fine of \$50,000 and a
2 year.

3 Then federal OSHA regulation 29 CFR 1910.134, employers that require
4 respirators or masks, they have to establish certain things. And there's a letter dated
5 from OSHA, non-voluntary use of filtering face piece, dust mask, and disposable
6 (indiscernible) dust respirator requires that the employer establish and implement a
7 written repository protection with worksite-specific procedures. It must include the
8 medical evaluation of employees. I have not heard of a plan for OSHA to pay for any
9 such medical evaluation, to make this a doctor-patient relationship rather than putting
10 the businesses in the role of being doctors and attorneys.

11 So my question for you guys and my notice to you is that 24171 is a very
12 valid concern that you must address. This is a medical experiment that even the CDC is
13 complicit in. Do you want to make yourself complicit? Because each of you individually
14 today are complicit if you vote this through. Thank you for your time.

15 CHAIRMAN THOMAS: Thank you. You're welcome. Next caller?

16 MR. GOTCHER: Our next commenter is Donald Dawson, and they will be
17 representing themselves.

18 CHAIRMAN THOMAS: Hello, Donald, can you hear us?

19 MR. DAWSON: I just want to confirm that I'm unmuted.

20 CHAIRMAN THOMAS: You are unmuted. I can hear you.

21 MR. DAWSON: Okay. I want to thank you guys for your patience. I know
22 it can't be easy being in your position. Whatever you do, people are going to hate you.

23 I've noticed a lot of people --

24 CHAIRMAN THOMAS: No, they don't hate us. They don't hate us. Go
25 ahead.

1 MR. DAWSON: But they don't make sense. I hear people talking about,
2 oh my god, the mask is full of stuff. Well, yeah, that's not going into your lungs. I mean,
3 I used to get mocked back in the nineties when I was a desert racer for using filtered air.
4 Everybody uses it now. Back in the eighties when I was working around chemicals and
5 solvents and things, I got mocked for wearing gloves. And now everybody does. Even
6 car mechanics are wearing them. So we learn a lot as we go along.

7 And I really don't want to get into too much opinion on the totality of
8 these proposals. I want to stick to what we know and the areas that I think that
9 reasonable people should be able to agree on.

10 We know that our cases of foodborne illness -- not talking about COVID --
11 the side effects of masking and gloving is that we haven't had these outbreaks of
12 foodborne illness; hepatitis and cholera and other things going on. So I think we have a
13 golden opportunity here to learn from this situation how we can make our food supply
14 safer from a lot of other things that have been causing us ills in the past.

15 So based on that, I would urge you, notwithstanding any other aspects of
16 these proposals, going forward not only for people vaccinated or unvaccinated -- there's
17 valid arguments on both sides of that, I understand. The issues with people talking
18 about the kids not recognizing facial expressions, from everything we know about how
19 autism affects children being unable to recognize expressions and how that's affecting
20 them. Those are valid arguments. There's a lot of valid arguments. But I think that we
21 have a golden opportunity to improve our food safety right now by requiring that all
22 food service workers going forward stay masked and gloved when they are handling our
23 food. We know this is working and having these positive side effects, and I think we
24 should try to find ways to take advantage of that.

25 I hear about people talking about the masks make some people break

1 out. Well, change your mask more frequently or wash it. That's basic hygiene. If you
2 try 15 different masks and you're breaking out, it's not the material in the mask that's
3 the issue, it's that you're not changing them enough.

4 And, you know, I hear people talking about the CDC changing their story
5 on masks. Okay. They are ill-informed. Because the reason that the CDC at first said
6 don't wear masks is they were afraid there was going to be a run on masks --

7 MR. GOTCHER: Thirty seconds.

8 MR. DAWSON: -- and that our medical workers would not be able to get
9 them. I was fortunate that I've been wearing masks for a variety of things. I had a
10 stockpile of N95s before this corona thing ever hit.

11 But again, I would just urge us to look at the facts and look at the science
12 that masks and gloves are protecting our food supply. And going forward, regardless of
13 COVID or COVID vaccines, I think that we should implement common sense food safety
14 protocols in this. And I'll stay out of the other aspects of workplace.

15 MR. GOTCHER: Three minutes.

16 MR. DAWSON: There's valid (indiscernible) on both sides. And I want to
17 thank you guys for listening and your time, and just to think about what we've learned
18 from this and related aspects. Thank you.

19 CHAIRMAN THOMAS: Thank you. Who do we have next on the line,
20 John?

21 MR. GOTCHER: So we have about six or seven people left at this
22 moment. And our next commenter is Pam Ragland from AAAP.

23 CHAIRMAN THOMAS: Pam, can you hear us?

24 MS. RAGLAND: Thank you so much. You guys have been so patient.

25 I wanted to reiterate that -- the violation of the health and safety codes. I

176

1 want to reiterate the potential liability to both businesses, the state, and the Governor,
2 which includes not only violation of health and safety codes for the masks, the PCR
3 tests, and the vaccine all being experimental and it prohibits coercion. But it's an
4 interesting thing that the chemicals in the masks are actually on the top 65 list. So for
5 an entire year, businesses have been at risk of not only a \$2,500 per day fine, but being
6 sued privately because of not informing the public of the potential for the masks and
7 the chemicals in them, including N95s, to be linked to cancer, sterility, birth defects, and
8 learning disabilities. It's very concerning.

9 So I personally also help a lot of disabled children and adults, and I echo
10 what other people have said, that these people are getting discriminated against. They
11 either can't hear, they can't see, they can't have the mask on their face. It's bothering
12 them immensely. They might have things like asthma. And I'm just not sure where we
13 decided that all of these things should just be completely ignored. It's very concerning.

14 What I would like to see is a mandate on early treatment. There are
15 multiple early treatments available. We have learned a lot in the last year. Nobody
16 really needs to die of COVID anymore. So all these expensive measures that violate
17 people's civil rights and are harming people are just completely unnecessary.

18 By the way, I've been a business owner for 21 years also. I feel for
19 everybody and the things they're going through. And I also am watching my own
20 children, one of whom has asthma and has had a very, very difficult time with these
21 regulations. And I know people really don't want to have to sue, but they might have to
22 end up doing that if we can't work some of these things out in a way that is more
23 reasonable and win-win.

24 So I really appreciate the opportunity to be able to present this
25 information, and I hope you will take it to heart and that we can find a way to really

1 make this work for everybody. Thank you very much.

2 CHAIRMAN THOMAS: Thank you. John?

3 MR. GOTCHER: The next commenter is Kelly Castanon, and they will be
4 representing themselves.

5 CHAIRMAN THOMAS: Kelly, can you hear me?

6 MS. CASTANON: Hi, there.

7 CHAIRMAN THOMAS: Hi. Go ahead.

8 MS. CASTANON: Hi, there. You know, in the USA today, I am shocked
9 that this meeting is even taking place to decide whether or not Californians have the
10 right to breathe air. We have always known that masks do not have an effect on virus
11 transmission because the virus particles are too small.

12 In fact, on February 5th, Dr. Fauci wrote in an email that exact comment.
13 If you have taken the time to read the box of the typical masks most people are
14 wearing, it clearly states that they are not effective for preventing transmission of
15 COVID or other viruses. Now there is also a new warning on the boxes that state that
16 they are not sterile after people have been finding fibers and wormlike structures in the
17 masks, the similar ones that the cohost here is wearing.

18 And I for one have looked at every single mask that I -- because for my
19 job sometimes I do have to wear one of those blue masks. And every single one of them
20 I have checked under the microscope does in fact show that there are fibers that move
21 when you breathe due to the heat.

22 God gave us an immune system for a reason. By requiring masks, you are
23 putting people at greater risks for future infections by compromising their immune
24 systems.

25 I recently took care of my 95-year-old aunt until she passed last month

178

1 due to a coerced COVID vaccination. She was an RN for 30 years and was the
2 healthiest member of our household due to her constant exposure to viruses and
3 bacteria in the hospital.

4 On another note, I am also -- I work in the healthcare industry and I have
5 traveled extensively throughout the country during the pandemic. People are living
6 their lives, enjoying their lives, and enjoying their freedoms. COVID transmission is also
7 -- the positivity has a lot to do with -- the positivity rate has a lot to do -- it is a reflection
8 of the testing and the cycle rate of the PCR tests. And I am just shocked at how many
9 people today seem to think that these mRNA vaccines -- and I used to work in mRNA --
10 are doing anything to limit virus transmission. They have not been shown to do that.
11 We have actually FDA-approved cures on the market that have been withheld from the
12 people. And many people have died.

13 I think the bigger issue is that people have died because the FDA-
14 approved cures have not been allowed to be used so that the Emergency Use
15 Authorization of a DNA-changing vaccine could be rolled out to people. And I am just
16 absolutely chocked at what I am hearing. People are -- I am sorry, I am so passionate,
17 and I just cannot believe what I am hearing. I can't believe that unelected officials are
18 deciding whether or not I can breathe air. Do we live in a -- obviously we do not live in a
19 free society here in California, and it might just be time for me to move and others who
20 want their freedoms to move. Thank you.

21 CHAIRMAN THOMAS: Thank you. John, who do we have up next?

22 MR. GOTCHER: Our next commenter is Anthony Leonardi, and they will
23 be representing themselves.

24 MR. LEONARDI: Hello, can you hear me?

25 CHAIRMAN THOMAS: Yes.

1 MR. LEONARDI: Great. I would just like to say there are a lot of
2 opinions, but when we get down to it, unfortunately the virus, it's mutating to become
3 more transmissible and, unfortunately, more virulent, which means more severe.

4 So a study that just came out of the U.K. is showing that it is 2.6 more
5 times likely to put you in the hospital now, the new Indian or Delta variant. And natural
6 immunity, unfortunately, is subpar when compared to the mRNA vaccines. So I really do
7 think that people need to have regulations to be protected and not just kind of put to
8 the wayside. We have OSHA for a reason. Thank you.

9 CHAIRMAN THOMAS: Thank you. John?

10 MR. GOTCHER: Our next commenter is Daniel O'Neil-Ortiz, and they are
11 an attorney.

12 CHAIRMAN THOMAS: Daniel, can you hear us? Daniel?

13 MR. O'NEIL-ORTIZ: Yes. Can you hear me?

14 CHAIRMAN THOMAS: Yeah. Go right ahead.

15 MR. O'NEIL-ORTIZ: Thank you. I am speaking today to voice my concerns
16 as well in regards to the mask mandates that are contained within the emergency
17 regulation and to caution the Board in terms of renewing those mask mandates.

18 You know, I agree with many of the commentators today that the mask
19 mandates are not necessary and negatively impact the health of the individuals who are
20 wearing them. They affect them in terms of their respiratory conditions, their ability to
21 breathe the air. And I do believe that that is not something that we would want to
22 continue with in our workplaces. It also creates division amongst workers. It creates a
23 situation where you have certain individuals who are, you know, due to their
24 vaccination status, you know, may be required to wear the mask. It creates a shame
25 culture and it places an unfair burden on the workers in our state in terms of them

180

1 having to go to work and perform their jobs and their duties, and to continue to do so
2 under these conditions which are negatively impacting their health.

3 I also believe that it creates a stigma. It creates a negative psychological
4 impact and effect on the mask wearer. You know, that is not something that we should
5 accept as a society. That's not something that we should accept as a culture. That's
6 something that we should stand up and have a culture of inclusion in terms of saying
7 that we believe that people should not have to hide their faces in terms of being in the
8 workplace. I do believe that strongly. I don't think that masks are effective. I think
9 there's been studies done that have shown that they have been ineffective in their use,
10 and it's not something we need to continue with.

11 I also want to speak out in terms of the vaccination. You know, the
12 vaccination is experimental. So I know that's not necessarily before the Board today,
13 but that is something that we should be considering as a society. You know, should we
14 continue to utilize an experimental vaccination that the members of our society are
15 essentially being the ones that are being subjected to in terms of whether this is an
16 effective and whether that's safe and whether it does not have long-term effects.

17 So I believe that we need to have a collective response to this, and I think
18 our collective response should be better thought out.

19 MR. GOTCHER: Three minutes.

20 MR. O'NEIL-ORTIZ: I don't believe that we should be continuing to
21 oppose these restrictions going forward, and I think that there are healthier alternatives
22 that we cause in terms of protecting ourselves adequately and moving forward.

23 So thank you very much. I appreciate your time today. I thank you.

24 CHAIRMAN THOMAS: Thank you. John?

25 MR. GOTCHER: We're looking at a few left right now. About four. Our

1 next commenter is Lisa Starling, and they will be representing themselves.

2 CHAIRMAN THOMAS: Lisa, are you there? Lisa? John, I don't think we
3 have Lisa.

4 MR. GOTCHER: Okay. Our next commenter is Josh Munsch, and they will
5 be representing themselves.

6 CHAIRMAN THOMAS: Josh, can you hear? Josh, can you hear us?
7 Moving on.

8 MR. GOTCHER: Our next commenter is Kelly Castanon, and they will be
9 representing themselves.

10 CHAIRMAN THOMAS: Kelly, can you hear us?

11 MS. CASTANON: I think -- I already spoke.

12 CHAIRMAN THOMAS: There you go. I see your name. Go ahead.

13 MS. CASTANON: I don't know why I'm on there twice. Thanks. I already
14 spoke. It's okay.

15 CHAIRMAN THOMAS: Okay. John?

16 MR. GOTCHER: Okay, the final commenter on our list right now is
17 Ricardo Beas. This would be the second time he has spoken.

18 CHAIRMAN THOMAS: Ricardo? Ricardo, are you there? Okay, Ricardo is
19 not there.

20 So, John, is that all the commenters we have?

21 MR. GOTCHER: That's everybody in the queue.

22 CHAIRMAN THOMAS: All right. At this time are there any additional
23 members of the public who would like to comment on the COVID-19 prevention
24 emergency temporary standard? If you would like to, please contact John.

25 MS. SHUPE: So it will be OSHSB@dir.ca.gov. While the public queue is

1 closed, you can submit comments via our email address.

2 CHAIRMAN THOMAS: All right. John, just let us know.

3 MR. GOTCHER: I don't have any other commenters and I'm not seeing
4 anyone in the chat asking to comment, either.

5 MAN: Will you guys be voting here soon? Or when will that take place?
6 Thank you.

7 CHAIRMAN THOMAS: Within the next hour. Thank you. All right, well,
8 with that --

9 MAN: Will that be done on the live or will it take place afterwards?

10 CHAIRMAN THOMAS: We are live now, we'll be live then.

11 Thank you. The Board appreciates your testimony. And at this time, that
12 will be the last of the comments. I thank you for your testimony and your time and your
13 waiting. Board Members, thank you for your time. It's been a long day, but we have a
14 little ways to go.

15 Christina?

16 MS. SHUPE: With the Chair's leave, I would just like to outline for
17 everybody how the next couple of steps will go, because it's outside of what we
18 normally do at our monthly meetings.

19 So now that we've concluded public comment, we'll bring back Eric Berg
20 to address a few issues that were raised during the public session, and then we'll move
21 into Board discussion where the Board Members will be able to discuss among
22 themselves in full public view the public comment and the proposal from the Division.

23 Once the Board has concluded with their discussion, they will then decide
24 whether or not to take a vote.

25 CHAIRMAN THOMAS: All right. Everybody got that? All right. You know

1 what though? I hate to do this, but I need ten minutes. We'll come back at 5:00. So it
2 will be quick. Sorry, didn't mean to -- Eric, be ready, okay? Ten minutes, and we'll be
3 back at 5:00. Thank you.

4 (Break)

5 CHAIRMAN THOMAS: We are back in session. And at this time, we
6 talked about having Eric Berg address some of the issues that came up during the
7 comments, and then we'll have comments and questions for Eric from the Board after
8 that. So, Eric, go ahead.

9 MR. BERG: Okay. Thank you very much. I'll try to be brief. I know it's
10 late.

11 CHAIRMAN THOMAS: At this point -- go ahead.

12 MR. BERG: All right, thank you. So first, regarding providing respirators
13 for voluntary use, we did consider the issue of N95 availability, and we are very
14 concerned with that issue. And that is why the requirement was not implemented
15 initially when the ETS first came into effect, as it would have been best to prevent
16 transmission. But for this proposal before you now, we specifically raised the supply
17 issue with CDPH, and that agency has been closely tracking PPE availability. So it is
18 reasonable for us to rely on CDPH or the California Department of Public Health.

19 The administration is also exploring options to support California
20 businesses in accessing N95s for voluntary use by unvaccinated employees.

21 Respirators would have been included from the very start of the ETS if it
22 had been possible, because COVID-19 is an airborne transmissible disease which can be
23 spread by small particles, and only respirators have high level effectiveness against small
24 particles.

25 There are some comments that respirators do not protect against the

1 smallest particles. But in fact, respirators do protect against the very smallest particles.
2 An N95 respirator is 95 percent effective at filtering particles that are 0.3 microns in size,
3 or really, really small. But N95s are even more effective at filtering particles that are
4 smaller than that. So the worst is 0.3. Smaller than that, they are better. And larger
5 than that, they are better. So they measure the respirators at their worst filtration
6 efficiency size. So there are always better than 95 percent. And the worst is a 0.3
7 microns. And as I said, smaller than that, they are even better.

8 And we agree that fit testing and medical evaluations for all respirator
9 users would be preferable, but this proposal does not require that. We definitely would
10 recommend it, but ultimately it's up to the employers to implement that at their
11 discretion, and we did not require that to help reduce the burden on employers.

12 Since late September, early October of last year to help employers obtain
13 respirators during wildfire smoke episodes and other needs outside of healthcare,
14 Cal/OSHA posted on its website a list of N95 vendors that stated they had large
15 quantities of respirators available. We asked them to have at least 100,000 available to
16 be listed on our website. Currently, Cal/OSHA lists about 25 different vendors, and we
17 are getting new requests to be added to the list on a regular basis. Recently, a public
18 entity set up to provide PPE to healthcare asked to be added to the list because they
19 have a large surplus of millions of N95s.

20 Moving on to other issues. We are in communication with CDPH and
21 other agencies and entities about providing clear guidance so employers can request
22 vaccination status while complying with antidiscrimination law. We will provide in FAQs
23 different ways to document vaccination status, including ways that will not create a
24 medical record. The proposal does not mandate vaccination, nor require employers to
25 mandate vaccination.

1 CHAIRMAN THOMAS: Eric.

2 MR. BERG: Yes.

3 CHAIRMAN THOMAS: Can you repeat the first part of that again
4 regarding the -- just repeat what you started. I'm sorry, I didn't -- I was writing. Start
5 that again.

6 MR. BERG: The proposal does not mandate vaccination nor require
7 employers to mandate vaccination. Nothing in the regulation requires unvaccinated
8 people to be isolated or segregated in any way.

9 Next, some commenters were concerned about the proposal not
10 addressing natural immunity or persons that have recovered from COVID. However, the
11 proposal does exempt employees who have recovered from COVID from testing
12 requirements for a certain amount of time that is consistent with the CDC
13 recommendations.

14 Next, there will be another opportunity to readopt and change the ETS if
15 needed. Or if the hazard is made negligible, the ETS can be revoked. There is no
16 obligation that the regulation remains in effect during the whole time in which it could
17 be in effect. For instance, we are now doing this readoption well before it's necessary
18 and well before it would expire. So some people are concerned that this would go
19 through the end of 2021, but that's not required. It can be changed again at another
20 time or revoked well before that.

21 Except for megaevents, all outdoor workers will be completely exempt
22 from physical distancing regardless of vaccination status. Vaccination status has no
23 input on that. There is no physical distancing for outdoor workers except for
24 megaevents. This will likely have a large effect on a number of workplaces, probably
25 most in agriculture, construction, and some other industrial sectors that are mostly

1 outdoors. Respirators do not need to be provided to these outdoor workers if they are
2 not vaccinated. And only the unvaccinated employees need to wear face coverings
3 outdoors except for megaevents.

4 The science behind the proposal is not based on a single study. It was
5 based on a large number of studies. 89 documents relied upon are listed in the finding
6 of emergency, which is posted on the Standards Board webpage for this proposal. I did
7 not go through all 89 documents in my briefing earlier today due to time considerations.

8 Not adopting this proposal would leave a substantial number of
9 unvaccinated workers without meaningful protections. But we are sympathetic and
10 understanding of the frustrations many people have voiced about the proposal. It
11 reflects a careful and evidence-based approach. It represents a path forward if we want
12 to both fully reopen the economy and protect workers simultaneously. We have not
13 heard alternatives today that would better strike that balance. We will continue to
14 monitor with CDPH COVID-19 transmission, vaccination rates, and other key information
15 in considering when revisions to the ETS should be made should this proposal be
16 approved.

17 Thank you. That's all I have for now, and I would be happy to entertain
18 any questions.

19 CHAIRMAN THOMAS: Thank you, Eric. So, Board Members, are there
20 any questions? I'm sure there are a few.

21 BOARD MEMBER LASZCZ-DAVIS: Questions of Eric, or just in general
22 comments?

23 CHAIRMAN THOMAS: Either one, Eric or just general comments.

24 BOARD MEMBER LASZCZ-DAVIS: All right. Just a few thoughts listening
25 to today's comments. And, yes, there were many of them. But I think we needed to

1 hear it all.

2 You know, when we first started down this Emergency Temporary
3 Standard path, we all knew that that was going to be a challenge as we were trying to
4 craft regulations while at the same time the scientific information was shifting. So
5 where we are at today is not real surprising. And I think what we found more often than
6 not is that as soon as we passed something, it was out of date with the new scientific
7 information.

8 You know, the question is, is the pandemic over? It's not over. Only
9 about 51 percent of Californians are allegedly vaccinated, with an additional segment of
10 the population who have antibodies after having contracted COVID. So we continue to
11 live with the risk, but I don't think we are in an emergency situation anymore.

12 The third item, what I heard all day was great confusion by employer
13 groups as to the interpretation and implementation of the proposal. And I can tell you,
14 and it's no great surprise, if there is great confusion, people will either not do anything
15 or they are going to do the wrong thing.

16 The statistics -- and I think it may have been Bruce Wick who cited that
17 the statistics suggest that most COVID cases are community-oriented. They are rooted
18 in the community, not workplace. But the sad set of circumstances are that the
19 workplace ends up having to deal with the situation.

20 I heard Eric suggest that we have enough N95s. I doubt that. I know
21 what we went through last year. We were told there was an adequate supply of N95s,
22 and everybody struggled with it through the wildfire safety season. Not only are we
23 suggesting a requirement for N95s, but we are buttoned up against what might be the
24 worst wildfire safety season we've seen in four or five years. So I worry about that.

25 Personally, I would encourage that we align with the CDC guidelines a

1 little more closely. Because I know what we have suggested is more conservative. I
2 would encourage that any amendments of FAQs be very, very robust so that there is
3 little room for confusion and interpretation, which seems to be a common theme all day
4 long.

5 I remember at the last meeting I made the comment that we needed to
6 move towards a permanent regulation. I would suggest to you that what we need to do
7 is move through this whole ETS process, take a deep breath at the end of it, probably
8 likely next year, and decide what we need to do, if anything. And I don't know whether
9 it's putting together some protocols for the future under the IIPP or something else. But
10 don't work on a permanent regulation right now. We don't have time for that, nor is
11 there a need for that right now.

12 And just offhand, listening to everything I heard today and try to digest
13 and assimilate what we know and what we don't know, I would recommend that we
14 delay any decision on the ETS as it will be proposed today, kick this back to the Division
15 to revisit not only the N95 issue, but also the plausibility of integrating and aligning
16 more closely with the CDC guidelines. So those are my individual thoughts. So, thank
17 you.

18 CHAIRMAN THOMAS: Thank you, Chris. Any other questions or
19 thoughts? Laura?

20 BOARD MEMBER STOCK: Yeah. So, yeah, thanks for all the comments.
21 And it is certainly clear that people are really ready for this pandemic to be over.
22 They're tired of the restrictions, waiting eagerly for the opportunity to drop them and,
23 you know, encouraged when the CDC submitted those recommendations a few weeks
24 ago that felt like we were almost finished. And obviously it's very encouraging how
25 effective the vaccines have been.

1 But I have to say, I know that many in the public health community were
2 alarmed by the fact that the CDC guidelines really didn't consider the impact on the
3 workplace. And I have heard people really recognizing that they should not preclude
4 taking a special look at what's happening in the workplace. And as Chris said, the
5 pandemic is not over. As you said, Chris, about half if not more people in California are
6 not fully vaccinated. Somebody reported that every day several hundred people are
7 getting sick and dying. Rates in Southern California counties are rising and not declining,
8 and workplace outbreaks are still occurring, and those workplace outbreaks will spread
9 out into the community. So I feel like the conditions that took us to where we were in
10 November have not disappeared. There is still a great need for protections in the
11 workplace. And I want to thank the Division. I think it's very complicated how to try to
12 modify this regulation to recognize the progress that's been made. And it's a very -- you
13 know, it's a very narrow path. And I appreciate the steps you've taken to come up with
14 something that recognizes the impact of vaccines while ensuring that employers
15 continue to fulfill their legal responsibility to protect all employees, both vaccinated and
16 unvaccinated. And that is our responsibility as a Board as well.

17 And I also know there is more emphasis on a greater respiratory
18 protection because the original version, as somebody was commenting, involved
19 multiple kinds of measures, from ventilation to distancing. And it was somebody --
20 Swiss cheese, I think that's an analogy, that they all work together. And now we are
21 beginning to roll back some of those. And so I understand how that has led to a greater
22 importance of having effective respiratory protection. So I think that makes sense.

23 I do think that there's a lot of confusion out there about what different
24 provisions mean and a lot of confusion about how to verify vaccination status, et cetera.
25 So I appreciated what you said early on, Eric, that you're moving very, very expeditiously

190

1 to strengthen those -- to expand on those FAQs to provide -- to listen to all of the
2 questions that people raised today, both about that and other measures and to make it
3 clear to people what they need to do.

4 I would recommend that if we did not vote on this today, the current
5 version would be in place. And it does feel like voting on this today does take some very
6 important steps to acknowledge the importance of vaccination, to allow people not to
7 wear masks where people are fully vaccinated, to make it clear that people who are fully
8 vaccinated or have had COVID before as it's described do not need to be excluded. So
9 there are important steps that have been taken in this one that it feels like we should
10 put in place.

11 And as Eric just said, this is not -- there is always the opportunity as the
12 rates of vaccination get higher, which I hope that they will, to continue to make
13 modifications. So there's no expectation that what we are doing today is going to last
14 many, many months into the future. So that's what I wanted to share.

15 CHAIRMAN THOMAS: Thank you, Laura.

16 MS. SHUPE: Chair Thomas?

17 CHAIRMAN THOMAS: Yes.

18 MS. SHUPE: If I can interject before we resume. One of our Board
19 Members is having technical difficulties. Can we take a three-minute break?

20 CHAIRMAN THOMAS: Yeah, okay. So we will take a -- what time is it? So
21 we'll be back at 5:20. We're just going to take a three-minute break. Just mute
22 yourself. We'll be right back.

23 (Break)

24 CHAIRMAN THOMAS: All right, we are back in session. Comments from
25 Board Members.

1 Dave, go ahead.

2 BOARD MEMBER HARRISON: I just want to make a few comments. I was
3 glad to hear that Eric talked about the recordkeeping requirement. That was one thing
4 that came to my attention. A member of the public talked about 30-year recordkeeping
5 requirements. So I was glad he addressed that.

6 Also wanted to ask, Christina, what's the timeframe for what we're
7 considering today? If we take action, if we don't take action, what's the process moving
8 forward from today?

9 MS. SHUPE: Hi. So if the Board votes to approve today, the package then
10 will be delivered to the Office of Administrative Law. They will have ten days to review
11 it, at which point if they agree that we have met our minimum requirements under the
12 APA, it will then become effective on June 15th. If the Board chooses not to approve
13 today and instead sends it back for further revisions, the new package would need to be
14 prepared, including an updated finding of emergency, fiscal analysis, and side by side for
15 federal review. It would then need to be noticed for a minimum of five days for public
16 review before the Board can reconsider it.

17 BOARD MEMBER HARRISON: Okay. And then in the meantime, the
18 current temporary standard is still in place and effective.

19 MS. SHUPE: That's correct. The current standard would stay in place. I
20 think it's important to note for the Board as well, there were several comments that
21 suggested that the revisions proposed today would be in effect through 2022. And
22 that's correct if the Board chooses to leave them in place that long. You do have a third
23 revision available to you as an option. So you can, just as you are considering a revision
24 before the first emergency expires, you can also do that with the readoption.

25 BOARD MEMBER HARRISON: What's the best case scenario if we did

1 send it back for revision? What's the earliest you think it would come before the Board
2 for another vote?

3 MS. SHUPE: I think that that is highly dependent on the nature of the
4 revisions that the Board would be requesting.

5 BOARD MEMBER HARRISON: Best-case scenario, July, worst-case
6 scenario later? I mean --

7 MS. SHUPE: Yeah. I would say, you know, the Division worked to turn
8 this around very, very fast. You may recall that we had to have it up and posted within a
9 week of the last meeting. So if you're looking at minor revisions, potentially we could
10 have it before the Board again by the 17th. And we would have to at that point have it
11 posted prior to the 12th. And I don't have a calendar in front of me, so I can't tell you if
12 that's a business day or not.

13 I think that if you wanted to have any substantial changes, something
14 requiring perhaps stakeholder feedback, you would be looking at at least August at the
15 very earliest.

16 BOARD MEMBER HARRISON: Understood. I just want to make a
17 comment that I couldn't help myself today, I turned the chat function off. But every
18 comment made by the general public today flashed across my screen, and I couldn't
19 help but see it. And I just want to say that I respect every single Board Member here.
20 We are all safety professionals at one level or another, and we take our job seriously.
21 We are not paid employees. We are public servants. And every single one of us take
22 time out of our careers and away from our families to serve the public. And we take this
23 job seriously. And this is one of the hardest decisions I've had to make. I think I've been
24 on the Board for nine years now. And this is tough. And so I hope the general public
25 appreciates that. Our jobs aren't easy. Support the Board Members, the board staff,

193

1 and the division. And we are trying to do what's best for the general public here. And
2 by no means is this a kangaroo court, as I've seen a couple of comments come across
3 the chat today. So I just compelled to say that.

4 Anyway, that's all I have. Thanks, Dave.

5 CHAIRMAN THOMAS: Barbara, do you have any comments or questions
6 for Eric? You need to unmute yourself.

7 BOARD MEMBER BURGEL: Thank you, Dave. I wanted to thank Eric and
8 the Division and also the collaboration with the California Department of Public Health
9 in putting forth these revisions for our readoption proposal consideration today and
10 thank all those people who have commented.

11 I want to reiterate, I am in support of this proposal. I believe strongly
12 that employers who have the legal responsibility to provide a safe and healthy
13 workplace through the OSH Act that was promulgated and adopted in 1970 that
14 employers have to continue to protect their workers in this COVID pandemic, which is
15 not totally controlled. And that's all.

16 CHAIRMAN THOMAS: Thank you, Barbara.

17 Kathleen, do you have any comments, questions?

18 BOARD MEMBER CRAWFORD: I do, thank you. Thank you, Dave.

19 First of all, I want to be able to also say thank you to all the commenters
20 and to the Division, to Eric, and to my fellow Board Members. Because all of the
21 comments that are received are sincerely held positions. And we do need to respect
22 them as we take part in this process.

23 And when I think about this, we are in an emergency Board session
24 today. So this is something that hasn't been done for decades. And so really the
25 message from me in that is that our mandate here is that it is imperative that we get

1 this right. It's just absolutely imperative. And so when I put this frame around the way
2 I think about it and process the comments, I have to go back to the very first piece,
3 which is did the Division do what it said it was going to do back in May when it asked us
4 to delay the vote. And so does their current proposal actually meet the reasoning for
5 the May 19th request and did they align to the CDC as was requested?

6 So I think that the answer there is no. And I think that then begs a
7 different question, and that is this actually the best way to do the rulemaking. But going
8 along that train of thought, I have to echo some of the comments both from Chris and
9 from Dave Harrison. So number one, good on the explanation for the recordkeeping.
10 That's very, very helpful, and so I appreciate that you asked the question, Dave, and that
11 Eric has covered that in his comments. Christina, I appreciate the explanation again of
12 the overall process and what the timeframes might look like if we made some of the
13 different decisions that are options to us. And I am very glad to serve the public in this
14 role, in this very important decision-making. So I just want everyone to be clear that we
15 are coming from very sincere positions here and that no one takes this lightly.

16 So one of the points that Chris made is that she has doubts about the
17 supply of the N95s. And I certainly from a personal and professional perspective can
18 absolutely echo that. The N95 requirements, as we heard over and over from all sides
19 of the equation here, are basically untenable. There are concerns for the health of the
20 employee, there are concerns about cost and supply and access. And there is a
21 quandary that is presented with voluntary use. So I think that that is not something that
22 can be easily diminished. And if you even get to the practical standpoint of can the
23 employers stockpile enough N95s quickly enough, well, then there will become an
24 impact on the supply chain to the healthcare workers, to emergency responders. And
25 that is something that does have to be considered here.

1 So I encourage that we align to the CDC. I encourage that we hear all of
2 the confusion and the questions that were raised across the board on implementation.
3 Any time there is this amount of question, you have not come to an elegant solution.
4 And while we would all like an elegant solution, we are not there yet.

5 I kind of kept a chicken scratch of how many people asked for
6 amendments or how many people asked for a postponement or a repeal. And when
7 you find yourself with the numbers that we had today, it speaks to the fact that the
8 work of the writing is not done. It's incomplete. And so this is where I echo Chris's
9 recommendation that we delay the decision. And it's for the N95 issue and on the CDC
10 guidelines.

11 And so I say thank you for allowing me this opportunity to make
12 comments. I am so glad my technical difficulties of the past didn't haunt me today. This
13 is probably the hardest piece of work that the Division -- I think Len Welsh said this. It's
14 the hardest work that the Division has probably ever done in their history. And it is the
15 hardest work of this Board as well. So thank you, and that's it for right now.

16 CHAIRMAN THOMAS: Thank you, Kate.

17 Nola, do you have any comments or questions?

18 BOARD MEMBER KENNEDY: All right. Can you hear me now?

19 CHAIRMAN THOMAS: Yeah. Go right ahead.

20 BOARD MEMBER KENNEDY: Great. Sorry. You know, I echo some of the
21 sentiments of Kate and Chris. But I also really heard occupational health professionals.

22 CHAIRMAN THOMAS: Sorry about that.

23 BOARD MEMBER KENNEDY: That's okay. And I heard them saying that
24 this was going to be very difficult to implement and cause problems in the workplace. I
25 also have some concerns hearing from the Division on one hand recommending the use

1 of N95s. And I think N95s are a perfectly reasonable recommendation if other controls
2 are not available. But everyone probably knows that good practice requires medical
3 clearance and fit testing. And that could -- I mean, just the scale of what we're talking
4 about, that could be problematic.

5 And so to use Kate's words, I don't think we have found an elegant
6 solution in this proposal. And I think it does need to be revisited. Early on in our
7 conversations about the original ETS, I questioned the Division about using IIPP to
8 handle COVID complaints -- am I the only one that keeps hearing the translator? Okay,
9 all right.

10 CHAIRMAN THOMAS: Sorry. It's just a technical difficulty.

11 BOARD MEMBER KENNEDY: It's okay.

12 CHAIRMAN THOMAS: But go ahead, please.

13 BOARD MEMBER KENNEDY: I don't mind. And at that time I thought in
14 California the IIPP should be a good mechanism for reasonable and enforceable action
15 by the Division. And I take the charge that we have to generate and create reasonable
16 and enforceable standards seriously. And so I just don't think this proposal is quite
17 there yet. I wish that wasn't the case, but I don't think so.

18 CHAIRMAN THOMAS: Thank you, Nola.

19 BOARD MEMBER STOCK: Dave, can I -- I wanted to let you say
20 something, but I wanted to make a few comments. But I'm happy to -- you haven't had
21 a chance to say what you think. And then I can go after you. Or whatever you would
22 prefer.

23 CHAIRMAN THOMAS: Yeah. Actually, I was just going to ask Eric a couple
24 of questions to start.

25 So regarding the N95 masks -- Eric, are you there? I don't see you on the

1 screen.

2 MR. BERG: Yeah, I'm here.

3 CHAIRMAN THOMAS: So you said voluntary. Exactly how does this
4 work? That's what I'm trying to figure out. I've been wearing this mask since this
5 happened, since we started wearing masks, or one like this. So I kind of understand the
6 N95 thing. But what's the voluntary and how does that work with an employer where
7 you have people that are vaccinated and people that are not vaccinated and voluntary?
8 How does that all fit together?

9 MR. BERG: Well, voluntary means -- in the proposal, the employers are
10 required to provide certain unvaccinated employees, those that work indoors, with an
11 N95 for voluntary use, meaning the employee is not required to use it. It's at the
12 employee's discretion. The employer has to make it available to the employee, and the
13 employee can use it if they so like for extra protection, or the employee can not use it
14 and just stick with their regular face covering. So it leaves the discretion up to the
15 employee to make their own decisions.

16 CHAIRMAN THOMAS: So the N95 is an issue that is -- it's not a
17 mandatory thing, but it's something the employer may have to have. But an
18 unvaccinated person would not have to wear an N95 if they didn't want to. Is that
19 correct?

20 MR. BERG: That's correct. That's why it says voluntary. Yeah, it's up to
21 the employee. The employer has to provide training for the employee so they have the
22 information to make that decision, but it's ultimately up to the employee to make the
23 decision for themselves.

24 BOARD MEMBER BURGEL: But point of clarification. If the unvaccinated
25 employee did not wear the N95, they would still be required to wear a face covering.

198

1 MR. BERG: Yeah. That's correct.

2 BOARD MEMBER BURGEL: Okay. And for voluntary use, it's not unlike
3 our wildfire protection standard. It does not require fit testing or a medical clearance.
4 So it just requires training. But where I heard comments, and certainly in some of our
5 written comments as well, people were wondering how the employer would be assured
6 of providing a respirator that fit the employee without fit testing. And my interpretation
7 of that based on my professional expertise would be that employers should provide a
8 choice of either a trifold or a duckbill or the traditional N95, because many people can't
9 wear the traditional round N95 because there's not a good fit up under the chin. So
10 that's where the duckbill or the trifold would come in, so that employers would have to
11 buy at least two choices, one that would fit a much more narrower face, and one that
12 would potentially fit a fuller face. And the whole issue of facial hair, even though we all
13 know that that does not really provide the best fit, that in essence an employer would
14 be fulfilling their legal requirement by at least educating and encouraging and providing
15 a choice of N95s. But if the employee chose to just use a surgical mask or another face
16 covering, that the employer has fulfilled their duty. Correct?

17 MR. BERG: Yeah, that's correct.

18 BOARD MEMBER BURGEL: Okay.

19 CHAIRMAN THOMAS: And I wanted to make that point because I was --
20 just wanted to make certain that that's what was being said. Because I can tell you right
21 now, I wouldn't wear an N95. Those things are the most uncomfortable. Even when I
22 was working construction, I mean, the stuff that I was doing, yeah, you would have to
23 wear one. But they're not fun, but sometimes they are necessary. But I'm glad to hear
24 from Eric that it's not mandatory; it's an option. And I think that's the point I wanted to
25 get across. The N95, which seems to be a very contentious thing, is not mandatory. It's

199

1 an option that the employee has or not. And just in my opinion, most employees are
2 not going to opt for the N95. My opinion. But that's just what I think.

3 And then, Eric, I also had a question about the recordkeeping. The
4 vaccinated, the unvaccinated. What exactly is the employer's responsibility here?
5 Because I got vaccinated, I got my little card. I have it at home. I'm sure I could take it
6 and show someone and they could take a picture of it or whatever with my smiling face,
7 which you can't see now. But what are we looking at here as far as recordkeeping for
8 the employer as far as knowing vaccinated, not vaccinated? What is that? What's the
9 obligation?

10 MR. BERG: We specifically didn't require that they have a copy of the
11 card. I mean, that was proposed to us to require the employer keep a copy of the
12 vaccination card, but we specifically didn't do that to give the employer different
13 options of how they want to do this. That would certainly be an option. If they wanted
14 to, they could take a photo and keep copies of the card. But it's not mandatory under
15 the standard. You can come up with other methods of observing the card and just
16 making a record without having a copy of the card that the person is in fact fully
17 vaccinated.

18 CHAIRMAN THOMAS: So basically you're saying that the employer just
19 has to have an employee sheet where they have either seen that they have a
20 vaccination card or not. And on that basis, they would know who is vaccinated and who
21 isn't. Correct?

22 MR. BERG: That's correct, yeah. And we'll provide more details in our
23 FAQs, other options for employers.

24 CHAIRMAN THOMAS: Okay. Because to me that sounds reasonable.
25 There are many ways to accomplish this. And I know -- I don't think anybody wants to

1 give up their vaccination card to an employer because you might need it somewhere
2 else, and then you don't have it. Right? But the fact that the employer knows. Take a
3 picture. There's a multitude of things. Copy it, whatever. They can do that. And I'm
4 not ready to give up on this yet, and only because I think this would advance and be
5 more lenient than the last ETS we had. And I don't want to have to wait another couple
6 of months or three months to pass something that we can look at now and say you
7 know what, there are --

8 WOMAN: Are you guys familiar with HIPAA? Are you familiar with the
9 HIPAA laws? You are not even allowed -- employers are not --

10 CHAIRMAN THOMAS: Can you get off? Hey, this is not time for public
11 comment. Get off the line.

12 MR. GOTCHER: So you need to stay muted unless commenting. And it's
13 no longer the time for public comment. If you're unable to stay muted --

14 CHAIRMAN THOMAS: It's not public comment time. Get off the line.
15 You can listen. All right? Everybody has had their say. So that's what I'm saying.

16 So, Laura, you had a question.

17 BOARD MEMBER STOCK: Yeah. I have a couple of things I wanted to say.
18 And just again, you know, if we don't vote this particular proposal through today, the
19 existing ETS remains in effect. And just to reiterate that one point, the reason that I
20 think we should vote this through today is because I think it contains important
21 revisions that are going to address a lot of the concerns that really recognize that where
22 people are vaccinated, there are certain things that actually can be changed. So I just
23 wanted to make that point again.

24 And I also wanted to just comment on -- just a few comments in response
25 to what Kate and Chris and others said about, you know, have we come to the most

201

1 elegant solution that we can. I would say that in my six, seven, or more years on the
2 Board, every time there has been a kind of major regulation -- I mean, this has been a
3 lot. But there have been other times where there were hours and hours of public
4 testimony of people who were concerned, had questions, felt that half the things we
5 were doing didn't make sense. So to me, that feels that it's kind of the nature of the
6 game, that there's not often perfect solutions, that there's always going to be people
7 who are going to be unhappy or have questions. And I think it's important for us to
8 review everything as closely as we can. But I feel like the nature of this process is not --
9 you know, I've never seen it be such that everybody comes together and that we feel,
10 yes, this is the way to go. I think we have to do the due diligence, we have to listen to
11 all of the testimony, we have to listen to all the opposing views. We have to engage
12 Occupational Health and Safety experts like has been done at the Division at CDPH. So I
13 do respect the process that has come up to come to this point.

14 Also, I do feel like -- I think the fact that we are doing so well in California
15 is really a testament to the fact that we did a good job in passing this ETS in the fall in
16 spite of the concerns that people had, in spite of people saying that maybe we don't
17 need new regulations and the IIPP was sufficient. Though, again, the Division itself said
18 that that wasn't sufficient for its own enforcement activities. And we have seen great
19 improvements in a lot of workplaces, and we've seen numbers go down, et cetera. So I
20 think we've seen some evidence that the regulation can work.

21 And as I said before -- and just one last thing I want to say about the
22 N95s. I mean, it is definitely true as we know those of us who are in the occupational
23 safety and health world, there is a concept that I'm sure everybody is familiar with that
24 the hierarchy controls, that it's always better to address health and safety problems
25 upstream where you're making engineering controls and other kinds of things to

1 minimize exposure to a hazard. And that is why the range of solutions and measures
2 have been in here. Physical distancing, changing schedules, ventilation. Those things
3 are really, really important. It's never a good idea to rely on personal protective
4 equipment. And the reason as I understand what Eric said, is that the Division is putting
5 more emphasis on trying to get a higher level of protection from the respirator is
6 because some of those engineering controls and other measures are being proposed to
7 be rolled back in order to allow that capacity restrictions can be lifted and therefore
8 requires that physical distancing go away. So that's just how I understand why the
9 respirator protection has become a greater focus. And so it seems that that's the
10 alternative to keeping in place all the other measures.

11 I see, Chris, you wanted to comment.

12 BOARD MEMBER LASZCZ-DAVIS: I'm waving my hand seriously here.

13 Thank you.

14 CHAIRMAN THOMAS: Oh, sorry. Go ahead, Chris.

15 BOARD MEMBER LASZCZ-DAVIS: Okay. Thank you very much. And
16 maybe this is a question for Eric.

17 Having worked in operations, I know altogether too well that to take
18 something from a written document and try to execute against it is a whole world of
19 difference. And when I think about the N95s, and correct me if I'm wrong on the
20 interpretation, I think the proposal requires that there be a stockpile of available N95s
21 for those unvaccinated people, employees who want the extra protection. Logistically I
22 am just unclear how a business determines how many, how much, and what have you. I
23 mean, it's a very expensive proposition. So what's the practical approach to
24 determining, deciphering what you need, how much. And chances are a number of
25 people who won't bother. They're not going to wear the N95 regardless. That's a

203

1 logistical, practical issue. I think there needs to be some discussion around that. It's
2 easy enough to say yes, it's a good idea, may be a good idea. But what is the real
3 implication?

4 CHAIRMAN THOMAS: Eric, are you there and do you have an answer?

5 MR. BERG: Yeah, I am here. We're going to try to address all these issues
6 in FAQs and as we get input from employers. But the regulation doesn't really address
7 any specifics of how employers are to do these things. It leaves it up to the discretion of
8 the employer how they want to accomplish this. So we can provide ideas for employers
9 to use, but they're not required to use any of them. They are free to use whatever
10 method they think fits best for their business.

11 CHAIRMAN THOMAS: So you're going to put your signature on that, Eric?
12 Because I want that in writing. Because this is the biggest -- I mean, I can tell and I knew
13 that with all the comments, the biggest part of this to overcome is the N95 issue. And if
14 you're saying to us, to the Board and to the public, that it's something that you can have
15 but the employer is not required to have it, but they are required to -- the employee
16 really makes the choice here, right, whether they want an N95 or a regular face
17 covering. And it would be their choice based on whatever they prefer. But the
18 employer wouldn't be held responsible if the vast amount of people chose to have a
19 mask like the one I'm wearing. That would be their choice, correct?

20 MR. BERG: Yeah. It says voluntary for a reason. Right?

21 CHAIRMAN THOMAS: I just want to make sure I understand that.
22 Because what I was getting from the comments that were being made all throughout
23 this thing is -- and I couldn't even understand them myself. N95, N95, we've got to have
24 that. You know, you've got to -- and I just wanted to dice through that and make sure
25 that what I was thinking was that if it's voluntary, it's voluntary. And that's just my

204

1 opinion, that most people would not choose that and the stockpile that you would
2 have to have -- you may have to have some, but I just don't believe that you're going to
3 have to have nearly as many as people are thinking. At least up until now, because now
4 we have more of an explanation of what it means.

5 MR. BERG: I mean, it's not voluntary for the employer. The employer
6 has to provide them. It's voluntary for the employee to use it.

7 CHAIRMAN THOMAS: Correct.

8 BOARD MEMBER CRAWFORD: This is Kate.

9 CHAIRMAN THOMAS: Go ahead, Kate.

10 BOARD MEMBER CRAWFORD: On this N95 paradox, I can easily see the
11 scenario where you have several unvaccinated employees and some want to wear the
12 N95 and some don't. And so what is the message that is being sent in that scenario or
13 that situation? I mean, we can kind of come up with these examples all evening long.
14 But that is a true thing that will happen, Eric. And so what is your recommendation in
15 that case? Because there's the logistics of it that have to be addressed, and then there
16 is the employer monitoring it. And then what is the Division going to do should they
17 come across this situation?

18 MR. BERG: I'm not sure what the question is. The language says the
19 employer has to provide the respirators and it's voluntary use for the employees.

20 BOARD MEMBER CRAWFORD: Right. I'm just trying to demonstrate to
21 you that you could have -- here is another variation or another interpretation on how
22 employees, since this is employee discretion, may decide to wear an N95 or not. Just
23 the difficulties that are written into this right now.

24 MR. BURGEL: Can I respond? This is Barbara. I don't know if you can
25 hear me.

1 BOARD MEMBER CRAWFORD: Sure. Yeah.

2 MR. BURGEL: I had to switch to my iPhone.

3 CHAIRMAN THOMAS: Go ahead, Barbara. I didn't even --

4 MR. BURGEL: Currently, I know many employees who are using an N95
5 now that N95s have become much more available. That's always -- so I think that
6 process will continue. So I know lots of dental colleagues who aren't covered by the
7 ATD standard but who have always chosen to use an N95 throughout their dental
8 practice or an elastomeric respirator. And so that will continue. I know a lot of people
9 who wear an N95 when they go to the grocery store to shop as consumers. So I think
10 that individual choice will continue. And basically if we vote to adopt this proposal, it
11 will, again, not be unlike the wildfire smoke prevention standard where employers will
12 be required to educate and provide N95s.

13 And so, yes, it's targeting those unvaccinated employees, but I think that
14 it wouldn't necessarily call out those unvaccinated employees. It would basically
15 provide an additional health and safety measure for them.

16 So obviously if someone is vaccinated, if the whole group is vaccinated,
17 then they will be able to work without face shields. Not until after -- you know, my
18 understanding, again, they could -- as of July 31st when the physical distancing and
19 some of these other protections will go away and then N95s would be the option after
20 July 31st. But that could be instituted now, you know, when employers could -- in ten
21 days if we adopt this proposal, they would then have the choice of either continuing
22 physical distancing and partitions or offering N95s with training to their employee
23 workforce.

24 MR. GOTCHER: Alejandro Franco, you've come unmute several times.
25 Please be mindful of your mute on WebEx, please.

1 CHAIRMAN THOMAS: Thank you. Barbara, thank you.

2 Any other comments from Board Members? Barbara? I'm sorry, Nola?

3 BOARD MEMBER KENNEDY: That's okay. This is a question for Eric also
4 that is a point that confused me. So it seems to me that it sounds like from the proposal
5 that if you had employees in a room together and some were unvaccinated, that all
6 employees in that room should be using a face covering, which can include an N95 but
7 may just be a face covering. And so that doesn't sound like -- that sounds like it might
8 include voluntary use of N95s. And I guess I'm wanting some explanation of why a face
9 covering is needed for everyone in the room at that point.

10 MR. BERG: Okay. I can go through my points again of why we want a
11 face covering. There's several different reasons. One, it would be a significant
12 challenge for employers and Cal/OSHA to meaningfully apply and enforce face covering
13 rule in mixed workplaces where there is a mixture of vaccinated and unvaccinated.
14 Without this requirement, unvaccinated employees would be at risk given the spread or
15 more contagious SARS-CoV-2 variants. Face coverings, including N95s, have become
16 even more important in transmission prevention for unvaccinated workers as
17 businesses open up to full capacity on June 15th and then physical distance is phased
18 out and barriers are removed. And workers have prolonged and cumulative exposures,
19 much longer than someone not in the workplace. And studies have shown that face
20 coverings are very effective in reducing the amount of infectious particles emitted by an
21 infectious person who may in many cases not have symptoms.

22 Some persons, such as the immunocompromised, do not get the full
23 protection from vaccines. And just from a social pressure and social norms, as masks
24 start disappearing and most people are not wearing masks, there is going to be
25 enormous social pressure not to wear a mask. So the unvaccinated and vaccinated will

207

1 both not wear masks, putting the unvaccinated people at risk.

2 And then the vaccine equity metric shows that 41 percent of persons fully
3 vaccinated in the lower quartile, which is more than 20 percent lower than the highest
4 quartile. So they are at higher risk, the people on the lower quartile of the equity
5 metrics are at much higher risk.

6 So that is some of the basic reasons why we are requiring face coverings
7 in mixed environments of vaccinated and unvaccinated people indoors. And then
8 there's also that statistical study I mentioned. So that's the reasons.

9 CHAIRMAN THOMAS: Chris, you had a question or a comment?

10 BOARD MEMBER LASZCZ-DAVIS: Always. Always, Dave, the question I
11 have, if in fact these -- let me revolve around this N95 issue again. They are going to be
12 more expensive. They are voluntary. We're not sure -- you know, an employer would
13 not know how many he or she needed over what period of time. Again, a logistical
14 issue, a supply chain issue. And then there is no requirement for fit testing, which
15 makes the seal and the fit very dubious, quite frankly. It's always been a companion
16 piece. If you've got an N95, you've got to do the fit testing. So I'm not sure how much
17 we're buying by recommending an N95. Why not a surgical mask?

18 MR. BERG: Well, the N95 has known filtration efficiency even if you don't
19 get the perfect fit. And obviously some particles will come in through the bad seal to
20 the face. But the air that goes through the mask itself, there's still some air that goes
21 through the mask that will go through a known filtration efficiency whereas other face
22 coverings, you don't know that filtration. It can be incredibly low or okay, but none of
23 them are as good as an N95. They are all inferior to an N95. And we don't mandate
24 N95s. Any respirator can be used. You can use a PAPR, which is much more
25 comfortable, but we don't specify the respirator type.

1 CHAIRMAN THOMAS: Any other questions or comments?

2 BOARD MEMBER CRAWFORD: This is Kate. I have a question for --

3 CHAIRMAN THOMAS: Go ahead.

4 BOARD MEMBER CRAWFORD: This is for Eric. Initially when you were
5 giving us your comments after the public comment period, you were talking about ways
6 that the Division can support businesses in providing N95 respirators. And so I would
7 like you to expand on that. And you also made a comment about a large supply of
8 surplus N95s, and I'd like you to comment on that as well. Because that is not my own
9 experience in trying to purchase them in the open marketplace. So I need you to help
10 me understand these two items.

11 MR. BERG: Sure. Yeah. Going back to last September, we started
12 developing a list of vendors. And then I think in the month of October we published
13 that list on our website, listing vendors that have very large quantities of respirators,
14 100,000 to 20 million. And so we have that still. And now we have up to 25 vendors on
15 that list that anyone from the general public can go to a vendor on that list and buy
16 respirators. And then we also know the state itself has a very large number of
17 respirators. And as I mentioned --

18 BOARD MEMBER CRAWFORD: So that I'm clear, so you are saying that
19 you will provide information to employers on where they can potentially access N95s,
20 but it's not support beyond that. Am I just understanding that correctly?

21 MR. BERG: Yeah. We have that now. We've had that since --

22 BOARD MEMBER CRAWFORD: Right. I'm not questioning if you've had it.

23 MR. BERG: We still have it currently. It's still there currently.

24 BOARD MEMBER CRAWFORD: That is the only part that is considered
25 support.

1 MR. BERG: Well, we have to inquire further. I don't know about the
2 other state resources. They are available, but I don't know if we'll be able to provide
3 those. We'll definitely be following up on that, but I can't provide an answer right now
4 on other states versus the respirators.

5 BOARD MEMBER CRAWFORD: Okay. I'm sorry, Christina, were you going
6 to say something or was somebody --

7 CHAIRMAN THOMAS: Eric, you guys were kind of going back and forth,
8 and I didn't get it all. Is the state picking up the cost of any of this, or is it just support in
9 the manner that you will tell an employer where you can get the N95?

10 MR. BERG: Yeah. Currently what we have is just providing where they
11 can be purchased. We would have to inquire further about if the state makes any
12 available. I don't have that available to me at this time.

13 CHAIRMAN THOMAS: Okay. I just wanted to make sure I understood.
14 Does any of the other Board Members have a -- yeah, go ahead, Nola.

15 BOARD MEMBER KENNEDY: I just also wanted to ask about the July 31st
16 date. A couple of times it was mentioned that it was to provide sort of ramp-up time.
17 But I would like to know why July 31st and how that was arrived at.

18 MR. BERG: Yeah, it was just -- sorry, there was another comment?

19 CHAIRMAN THOMAS: That's a question for Eric I believe. Right, Nola?

20 MR. BERG: Okay. Yeah. It was just to give employers sufficient time to
21 come into compliance with these other provisions, the phasing out of physical
22 distancing. I mean, the version we had two weeks ago had July 31st, but it didn't give
23 options to employers like it does now. It was to give employers sufficient time to make
24 the transition from physical distancing. Because as the economy opens up, then
25 physical distancing will go away as capacities go to a hundred percent. And so then the

210

1 time to transition to other protective measures, which in this case is providing N95s or
2 other types of respirators, any other types of respirators that would be sufficient. You
3 know, NIOSH-approved respirators, give them time to implement those measures and
4 give time for people that want to get vaccinated to get vaccinated and then won't need
5 N95s or other respirators.

6 CHAIRMAN THOMAS: So, Eric, are you saying that employers have until
7 July 31st to comply with this regulation should we pass it today?

8 MR. BERG: Well, right now it gives an option. Employers can continue to
9 use physical distancing or barriers if they prefer. Or they can transition to providing
10 N95s or other respirators to unvaccinated people indoors. So they have those two
11 options now. And then July 31st is when the transition will end and physical distancing
12 wouldn't be an option. It would be just the respirator to unvaccinated people indoors.

13 CHAIRMAN THOMAS: Say that last part again. July 31st would be what?

14 MR. BERG: At the end of the transition period?

15 CHAIRMAN THOMAS: Yeah.

16 MR. BERG: So physical distancing and barriers would no longer be a
17 requirement. That requirement would cease to exist.

18 CHAIRMAN THOMAS: Okay. Nola?

19 BOARD MEMBER KENNEDY: After July 31st, under what circumstances is
20 there a requirement for an employee to wear a face covering or respirator in the
21 workplace? Not voluntary.

22 MR. BERG: Oh, not voluntary? Indoors and mixed environments. So the
23 facemasks are used indoors and mixed where there is vaccinated and unvaccinated
24 people mixed, or everyone is unvaccinated, too. That would also apply.

25 CHAIRMAN THOMAS: So --

1 BOARD MEMBER LASZCZ-DAVIS: I'm confused by that response. Can
2 you help me, Eric?

3 MR. BERG: Indoors where there is a mixture of vaccinated or
4 unvaccinated people, face coverings would continue to be required as they are now.

5 CHAIRMAN THOMAS: And that's after July 31st. That's just going on?

6 MR. BERG: Yeah. It's the same. Nothing changes July 31st regarding
7 that.

8 CHAIRMAN THOMAS: Okay. And that -- I get that. Okay. Nola?

9 BOARD MEMBER KENNEDY: So in the absence of a known hazard, we are
10 still going to require a control method.

11 MR. BERG: Well, the regulation uses universal precautions, just like
12 bloodborne pathogens. Because you don't know because asymptomatic people can
13 spread the illness. So you don't know that there's not a hazard.

14 CHAIRMAN THOMAS: You're muted, Barbara.

15 BOARD MEMBER CRAWFORD: Sorry. Now I'm back on my computer. It
16 does state in the language that the proposed language is predicated on the fact that
17 every single person is potentially infectious. So it's very similar to, as Eric mentioned,
18 universal precautions.

19 Again, I think that if we do not vote today or if we vote down this
20 reoption, we still have our current emergency standard that goes through October
21 that requires face coverings for everybody and physical distancing and social and
22 partitions and ventilation, and all the stuff that was in our original ETS, is my
23 understanding. Correct me if I'm wrong, Eric.

24 MR. BERG: No, that's correct. The existing ETS would continue.

25 BOARD MEMBER CRAWFORD: Yes. So I think at least this version will

1 recognize fully vaccinated individuals and groups that can get together and have a
2 meeting without wearing a face mask. And employers, who I think should have a
3 stockpile of N95s anyway because we live in California with wildfires, would then be
4 able to offer N95s to those individuals who are unvaccinated or for vaccinated
5 individuals who wanted to wear an N95, because it doesn't restrict them. And they
6 would be educated, and people would then have the option of wearing N95s if they're
7 in a mixed group or if they're dealing with the public.

8 I personally don't see N95s as difficult to wear. I realize there is a cost
9 issue. I just went on Amazon and I could order some N95s. And so I think it's definitely
10 improved as far as supply. I think that it's all in one's perspective. I think this is an
11 improvement. This at least is moving forward in the recognition that we are not at the
12 same place that we were a year ago. We are definitely -- and we are moving towards
13 more people who are vaccinated. And I do know that recent studies have identified
14 natural immunity as lasting more than 90 days, thankfully. So one study said eight
15 months and one study said 12 months. But we are still encouraging people with natural
16 immunity to get vaccinated. And we don't know if we need a booster yet for our
17 vaccinated individuals who did not have a natural immunity to COVID. So I think we are
18 still in an emerging science perspective and we will figure this out and can revise going
19 forward. But I see this proposal as moving forward.

20 MR. BERG: Honeywell is one of the larger N95 manufacturers in the U.S.
21 They just shut down one of their manufacturing lines due to lack of demand. So they
22 have that capacity, they're just not using it right now.

23 CHAIRMAN THOMAS: Okay. Chris, you had a question. Go ahead.

24 BOARD MEMBER LASZCZ-DAVIS: Just a comment. So basically what I
25 think we have on the table is the old ETS or the one that's being proposed today with

1 the expectation and the understanding that this one has some features that are better
2 and we can live with more easily than the previous one. Am I correct in what I'm
3 understanding? But with the caveat being that if in two months we decide we no longer
4 need an ETS, we can repeal it should we find that it's unworkable or unnecessary. Am I
5 correct in my understanding?

6 CHAIRMAN THOMAS: That's correct, Chris. You are correct.

7 Dave, you had a question.

8 BOARD MEMBER HARRISON: I was just going to make a comment, but
9 I'm good. Thank you.

10 CHAIRMAN THOMAS: Okay. Nola, let me make one before you.

11 You know, I approached this today with a different feeling than I had
12 before because I do think we are -- I'm getting something like a megaphone coming at
13 me. But I do feel like we have made a lot of progress. But I do not want to pin
14 everything on the fact that, yeah, we have come a long way and then just kind of stop.
15 If you guys all remember, Easter last year we tried to open up the country at the very
16 first part of this, which was just insane to me. Not everybody. And we went along our
17 merry way for a while. And then we found out what was going to happen and what did
18 happen. And I'm not saying we're going to have an outbreak like that. But I just want to
19 caution everybody, we're not done with this yet. There are other strains coming out
20 that are worse than this. I know a lot of us have gotten vaccinated because -- well, for
21 me, I'm old, man. And I don't want to get this stuff. I've seen friends that have suffered
22 greatly that were much younger than me. And they told me straight out, you don't
23 want to get this. And I feel like we're in this niche right now where we feel really good
24 about where we're at, but we're not done. And I don't want to get overconfident. And I
25 think this is just a measured step in the right direction where we're going to loosen up

214

1 things a little bit, but we're still going to be able to control -- and, you know, what
2 we're supposed to do is we're supposed to protect employees in the workplace that are
3 vulnerable. I mean, that's our charge. And we want to protect all employees in the
4 workplace of course, but some are more vulnerable than others. And the people that
5 are not vaccinated and that have conditions that won't allow them to be vaccinated, I
6 think what we're trying to do is protect them, but not lose sight of where we're going.
7 That we are coming out of this, and at some point in the he future, hopefully before the
8 end of the year, we'll have enough people vaccinated that maybe this will -- we won't
9 have to wear these anymore. And that will be a great day when that happens, but that
10 day is not today. It hasn't happened yet. And a lot of people think it's over with, it's
11 done. You know, we're victorious. Well, maybe. But I know 500 people or more a day
12 still die from COVID. And I don't know how many thousands are infected every day. It's
13 still going on. We can't lose sight of that. But we can see what we've done here in
14 California. And without all the precautions that we've already taken up to this point, we
15 would not be here. So what we have done is worked. And I am proud of that.

16 And I think this is the next logical step in that direction, is to loosen it up
17 to the point where we have a little more freedom, but we still realize that people have
18 to go to work, they have to make a living, and they should be protected while they are
19 at work. And that's all I've got to say.

20 So go ahead -- was it you, Nola? I can't remember.

21 BOARD MEMBER KENNEDY: I agree completely. And I'm asking so many
22 questions because I am trying to figure out what this will look like. So I am a professor.
23 And come this fall, my colleagues and I will be in a classroom. We may not have any of
24 our other coworkers in the classroom with us. However, we will have many members of
25 the public, our students in the classroom with us. Things will be open for the students. I

215

1 don't know their vaccination status. Will I be wearing a -- I am in a mixed room
2 probably. I won't know. But I guess I have to assume I am if I don't know. Am I then
3 standing in front of my classroom with a face covering and I am fully vaccinated?

4 MR. BERG: Yeah. I wouldn't think so in that case. But we can address
5 that in FAQs. Because you're the only employee there, right? So it's something we
6 would have to address in FAQs.

7 BOARD MEMBER KENNEDY: Yeah. There is no other employee. Imagine
8 a grocery store with five clerks in it, also interacting with the public. All the grocery
9 store clerks are vaccinated.

10 MR. BERG: You'll have to address those unique situations in FAQs.

11 MAN: That's not unique; that's the norm.

12 MR. BERG: I don't think it's the norm that everyone is a hundred percent
13 vaccinated.

14 BOARD MEMBER KENNEDY: Many jobs people interact with --

15 CHAIRMAN THOMAS: I was just going to say about the people working in
16 supermarkets that may or may not be vaccinated. I think that is all -- we don't know.
17 Right? We don't know. We can kind of assume that the older people are going to get
18 vaccinated and the younger people are not. I mean, they may not right now or they
19 may wait. Some may, but a lot of the younger people won't get vaccinated because
20 they're young, this is not going to affect them, hopefully. You just never know if you're
21 the person that will be affected by this. But for the most part, younger people are not
22 affected by it.

23 And I think that -- you know what, this is not perfect. But I don't know
24 anyone -- any regulation that we have done that has been absolutely perfect. You
25 know, lead-pipe cinch is going to work all the time, every time. That isn't how these

216

1 things work. There is a certain amount of personal responsibility and there is a certain
2 amount of regulation that kind of guides people on how to protect themselves and their
3 employees. And this is -- I think this is that.

4 We are trying to -- like I said, we're trying to open up, and we're also
5 trying to protect the people that are vulnerable. And I think we can do both, and I think
6 this is a step in that direction.

7 And, Chris, you're right. What was the date that we can -- if we decide
8 that this is no longer necessary we can end it?

9 MS. SHUPE: So the Board can make a decision to rescind the emergency.

10 CHAIRMAN THOMAS: Correct. And all I'm saying is I think that this is a
11 step in the right direction. If we leave the other one in place for another month or two,
12 it's much more onerous than this is. And that's just my opinion.

13 Are there any other comments? But I'm in support of this.

14 MS. SHUPE: Can I have leave to address the Board for just a moment?

15 CHAIRMAN THOMAS: Sure. Go ahead, Christina.

16 MS. SHUPE: So I am trying to swap the audio over here, or the video. So
17 I've heard a couple of comments about rescinding the emergency temporary standard.
18 And I just want to remind the Board that that is not your only option. After this
19 readoption, should it pass, you also have the option of another readoption. And so it's
20 not an all or nothing. It can be an incremental move forward.

21 CHAIRMAN THOMAS: Thank you, Chris.

22 Dave?

23 BOARD MEMBER HARRISON: So procedurally if there is a motion made
24 to approve the standard that is in front of us and it's shot down, there can be another
25 motion made to rescind the standard altogether or to end the standard that's in front of

217

1 us and bring it back hopefully as early as the June meeting, if not maybe July.

2 Is that correct, Christina?

3 MS. SHUPE: I'm sorry, Dave. I just want to make sure that I'm a hundred
4 percent clear on what you're asking. So if there is a motion to approve this and it is not
5 approved, then you can make a motion to rescind. Is that your question?

6 BOARD MEMBER HARRISON: Yeah. Or a motion to amend and bring
7 back at a future meeting. Hopefully as early as June. If not June, July. We talked about
8 that timeline earlier. If the standard in front of us is not approved, that doesn't mean
9 we're done today. There could be another motion is what I'm asking.

10 MS. SHUPE: Yes. So you can make another motion. The Board can send
11 it back to the Division as they did at the May 20th meeting and request amendments
12 and request it be brought back to the Board. Depending on the amendments, as I said
13 earlier, I cannot tell you that it would be ready in time for the 17th.

14 BOARD MEMBER HARRISON: Understood. Thank you.

15 CHAIRMAN THOMAS: All right. Any other questions? Nola?

16 BOARD MEMBER KENNEDY: Just a follow-up to Dave's question. If we
17 were to adopt the proposal that's in front of us today but would like a quick turnaround
18 on another revision, what would the timeline for that look like?

19 MS. SHUPE: So that is highly dependent on what the Board is expecting
20 in terms of those revisions. I would advise that you not expect anything for at least a
21 couple of months, because I think that the responsible thing to do would be to convene
22 an advisory committee meeting with stakeholders and let them weigh in on the
23 revisions. And the reality is that when we do something like that, it requires time. We
24 need to be able to coordinate schedules for folks who are in a variety of positions and
25 industries. And then the Division needs time to take in all of that comment and turn it

218

1 into regulatory language and then draft supporting documents for it.

2 So we were on an accelerated timeline for this. Our original ETS isn't set
3 to expire until October. The Board adopted the original ETS in November on the
4 accelerated timeline. And this is a very accelerate timeline with an advisory committee
5 meeting. We are now in May. I'm sorry, June.

6 CHAIRMAN THOMAS: Any other --

7 BOARD MEMBER BURGEL: But I also want to also point out in recognition
8 of all the people who participated in the meeting today, the commenters, what I heard
9 from that group of individuals is that they don't want any emergency COVID standard.
10 They want essentially for us to rescind the current ETS, not to adopt the readoption, and
11 to essentially allow Cal/OSHA to use the IIPP or the ATD standard to continue to enforce
12 CDC guidelines in the workplace. Is that a correct interpretation or is that another
13 option that we haven't put on the table? Which I'm not in support of, I'm just trying to
14 view that what I heard today was not necessarily let's go back to just using face
15 coverings and not N95s; I heard that our public that participated today didn't want to
16 use any face coverings. So, I mean, that is sort of the interpretation of the CDC guidance
17 from May 13th, which I don't concur with. I think that the CDC was saying something
18 different and not saying that. But what I am hearing is that the public wants to stop
19 using masks or stop being required to use masks in every workplace situation. Except
20 for healthcare I would probably pull out because the ATD standard is still in effect with
21 healthcare.

22 MAN: I agree. It's about the requirements. It's about making it a
23 requirement. I agree a hundred percent. I apologize for coming in, but I think that you
24 hit the --

25 BOARD MEMBER BURGEL: I don't know who that is.

1 BOARD MEMBER STOCK: I don't know who that's talking, too. But I just
2 want to also just acknowledge that we had a range of opinions among testifiers today,
3 not only from per who would just as soon have it rescinded, but we also heard from
4 people who represent workers who are still fearful and potentially exposed and were
5 calling on us to continue the protections that we have. So I just want to be sure that we
6 recognize that range, as usual.

7 BOARD MEMBER BURGEL: At our meetings.

8 CHAIRMAN THOMAS: Yeah. And I agree with Laura. We heard a lot of
9 opinions today. And, I mean, I'll just tell you, I don't agree with no masks. Outdoors
10 and if you're vaccinated, yeah, that's fine. But there are so many places where it's not
11 appropriate. It's just not. If you're vaccinated, yeah, you're probably not -- nothing is
12 going to happen to you. And that's fine. But still, I'll tell you what, when I go into a
13 grocery store, I'm going to wear a mask. They probably won't even let you in if you
14 don't. But that's me. I'm fine with that. But I don't agree that masks are over with.
15 We're not there yet. We're getting close, but we're not there.

16 But in the workplace, we have to protect employees and we have to
17 protect the vulnerable ones that for whatever reason have not got a vaccine. And there
18 is a multitude, and they're all legit. I mean, they are. They're all legit. But that's what
19 we're supposed to do, is protect those people. And I think more and more people are
20 going to get vaccinated. But I think it's just going to take longer and longer to get those
21 percentages up. And I don't want to play with fire. That's the way I feel.

22 BOARD MEMBER BURGEL: So are we ready to call the question or are we
23 ready to vote?

24 CHAIRMAN THOMAS: I'm done talking. I can't keep talking.

25 BOARD MEMBER HARRISON: There is no motion on the floor yet.

1 BOARD MEMBER STOCK: Does somebody need to make that motion or
2 is there one prepared, or should I make one? I mean, I am just -- I would just put a
3 motion to accept the proposal before us. Is that --

4 CHAIRMAN THOMAS: So we have a motion. Do we have a second?

5 BOARD MEMBER BURGEL: I second it.

6 CHAIRMAN THOMAS: So I have a motion and a second. Is there any
7 other questions?

8 So with that, Sarah, will you please call the roll?

9 MS. MONEY: Just to make sure I have this right, the motion was Stock
10 and second was Burgel, correct?

11 CHAIRMAN THOMAS: Correct.

12 MS. MONEY: Okay. Ms. Burgel?

13 BOARD MEMBER BURGEL: Aye.

14 MS. MONEY: Mr. Harrison?

15 BOARD MEMBER HARRISON: No.

16 MS. MONEY: Ms. Kennedy?

17 BOARD MEMBER KENNEDY: No.

18 CHAIRMAN THOMAS: I'm sorry, what?

19 BOARD MEMBER KENNEDY: Nay.

20 MS. MONEY: Ms. Laszcz-Davis?

21 BOARD MEMBER LASZCZ-DAVIS: No.

22 MS. MONEY: Ms. Stock?

23 BOARD MEMBER STOCK: Aye.

24 MS. MONEY: Ms. Crawford?

25 BOARD MEMBER CRAWFORD: No.

1 MS. MONEY: Chairman Thomas?

2 CHAIRMAN THOMAS: Aye. And the motion fails.

3 BOARD MEMBER BURGEL: So that means that we have continued -- we
4 have our current ETS, correct, until October, which requires partitions, social distancing,
5 and masking to continue in the workplace. Correct?

6 BOARD MEMBER LASZCZ-DAVIS: May I say something? I'm not sure that
7 that's entirely true. I think we have the option to request another revision and look at
8 some of the issues that were of concern; the N95s, the CDC guidelines, and some of the
9 applications. So I don't think it precludes that at all.

10 BOARD MEMBER BURGEL: No, no, no. I agree. I'm just saying that
11 Christina said it was going to take a couple of months to send it back to Cal/OSHA for
12 the Division to promulgate different language for us to look at.

13 BOARD MEMBER HARRISON: She did say -- she did say that if the
14 amendments that needed to be made were minimal, that she could -- she said earlier
15 that it was possible to get it back to the Board by the June meeting, but most likely the
16 July meeting. That's what I heard her say.

17 CHAIRMAN THOMAS: So what's the -- go ahead, Christina.

18 MS. SHUPE: Sure. Just so we're very, very clear, it was a herculean task
19 to get this proposal in front of you, and the changes were very, very nominal. And so I
20 tried to make that clear with the July 17th. You're talking about very, very nominal
21 changes. It does not sound that that is what the Board Members are requesting though.

22 BOARD MEMBER BURGEL: Oh, the June 17th.

23 MS. SHUPE: Yeah. And so it to me does not sound like the Board
24 Members are requesting nominal changes. It sounds like you're asking for something
25 more substantial. And so my question to the Board would be I think it's a good time to

222

1 talk about your expectations and do those include an advisory committee, do those
2 include nominal changes, do those include substantial changes? I think you need to be
3 very specific in your instructions to the Division at this point.

4 BOARD MEMBER STOCK: Christina, can I just confirm -- can I just ask a
5 question just to confirm? Whatever process people propose or ask for, whether it's
6 advisory committee or not, an important point is that the current ETS, until that process
7 is concluded, is in effect.

8 MS. SHUPE: That's correct.

9 BOARD MEMBER STOCK: So some of the loosening that was in this
10 proposal would not occur and the changes and sort of exclusion and who is excluded.
11 So the current one is in effect until whatever additional process is completed.

12 MS. SHUPE: That's correct. The current ETS stays in place just as it did
13 when you sent the proposal back at the May 20th meeting.

14 BOARD MEMBER BURGEL: Yeah. What happens June 15th? Nothing
15 happens essentially unless the Governor issues an executive order that would perhaps
16 alter some of the current ETS guidance. Correct?

17 MS. SHUPE: Yeah, I won't posit on what the Governor's office may or
18 may not do. But absent action by this Board today, the current ETS will stay in place and
19 nothing will change on June 15th as far as the ETS is concerned.

20 BOARD MEMBER HARRISON: So the power of executive order is in play no
21 matter how we just voted?

22 MS. SHUPE: I'm sorry, what was the question?

23 BOARD MEMBER HARRISON: Very good. So if the Governor were to
24 execute an executive order, whether we passed the standard in front of us or not, he
25 could still do that.

1 MS. SHUPE: That is an option that he exercised last November, yes.

2 BOARD MEMBER BURGEL: So does anyone want to make an amendment
3 or a new motion to explicate what we want the next steps to be for the Division?
4 Christina, what do you recommend? Or Dave, what do you recommend?

5 CHAIRMAN THOMAS: Go ahead, Christina.

6 MS. SHUPE: I think we are at a turning point right now. And so I would
7 recommend that the Board Members take some time to think about what they would
8 like their next step to be. And if that indicates that it's time for a break, I think that you
9 should do that and exercise that option.

10 BOARD MEMBER BURGEL: A break tonight? We are going to continue to
11 meet tonight?

12 MS. SHUPE: I would say continue to meet tonight, but maybe take ten
13 minutes to think about where you want to go forward from this point. And if that's a
14 discussion that you want to have amongst yourselves, it needs to be in open session.
15 But I think it's really important to provide the Division with clear expectations. Because
16 just sending it back and saying we want you to revise it is not going to be very
17 productive.

18 BOARD MEMBER LASZCZ-DAVIS: And that's reasonable.

19 BOARD MEMBER BURGEL: Well, I would -- I don't know if this is
20 appropriate or not, but I think the majority who voted tonight should perhaps spend
21 some time detailing that. I actually -- it's 6:35. We've been at this meeting since 10:00
22 a.m. I am not quite sure how much more bandwidth I have tonight personally. But --
23 and I will need to reflect on what I would want a revision to look like. So I don't know
24 whether we need to have another open meeting to discuss it or a publicly-noticed
25 meeting.

1 CHAIRMAN THOMAS: Well, at this point we have a meeting in two
2 weeks. Unless you have an idea what you want to do tonight and you want to throw
3 out a couple -- I mean, I don't know that we want to throw out ideas, but we are in a
4 public setting to do this in public. So we're going to have to come up with in public the
5 changes that we want to see with the Division's latest iteration.

6 BOARD MEMBER HARRISON: It doesn't sound like we're going to get
7 anything by the June meeting. So I'm going to go ahead and propose that we wait to
8 take that meeting. Give us time to reevaluate the proposal that was in front of us and
9 suggest appropriate language or appropriate revisions to that to move forward with
10 new rulemaking.

11 BOARD MEMBER BURGEL: And I personally think that an advisory
12 committee process needs to be explored, the feasibility of that.

13 BOARD MEMBER LASZCZ-DAVIS: I agree. I agree, Barbara.

14 BOARD MEMBER BURGEL: But that's a slower boat. A slower boat.

15 BOARD MEMBER STOCK: Yeah. And I guess -- I mean, I do think for those
16 who voted against this revision -- you know, I was in favor of it, so I don't immediately
17 have anything to offer there. Obviously I feel like there were certain things in the
18 proposal. It sounded like a lot of people were concerned about the respiratory
19 protection. But there were several other things that were kind of important revisions
20 that are now not going to be able to be in place. And so the implication of that I have to
21 think through. But it sounds like if -- and I think an advisory committee, if that's the
22 issue that people are concerned about is that there wasn't sufficient stakeholder
23 involvement, the advisory committee is a good way to do it. And then we just have to
24 recognize that where we're at is none of the revisions, including some of the ones that
25 were maybe more palatable to people, are going to be able to be moving forward until

225

1 that happens. So I don't know whether in June -- just for the sake of discussion, if
2 there was not -- you know, with people time to reflect, maybe one option might be to
3 revisit the draft that we had today if there is not clear alternatives to even be able to
4 sort of revisit it and think again whether people might think that's an acceptable
5 alternative, or the fact that this was voted down today means we need to start from
6 scratch, or I don't know what the next step would be.

7 BOARD MEMBER LASZCZ-DAVIS: You know, just from my standpoint, I
8 could tell you that if we were to deal with this at the June meeting I would, given even
9 the few weeks that we have, have enough input that I might suggest a few things that
10 from my personal standpoint would upgrade it. I'm only speaking for myself. Now, is
11 that a true advisory committee process? No. But we all have a great number of people
12 that we network with and sectors of the population. That might be a good start.

13 MS. SHUPE: And so, Chris, I just want to be clear on what you are
14 proposing there. It's that you would come back at the June 17th meeting with
15 recommendations to the Division. That wouldn't be a proposal.

16 BOARD MEMBER LASZCZ-DAVIS: It would be -- you know, I could
17 probably provide recommendations by the end of the week. But I don't think that's
18 within the framework of how we do business on the Board, if that makes sense. And if
19 the process says the only way to provide recommendations is at the June meeting, then
20 that's what I'll do.

21 CHAIRMAN THOMAS: I don't know that there's any quicker way to do it
22 unless it's done tonight. And I'm not sure I'm seeing the -- I don't think it's going to
23 happen tonight. It doesn't feel like it.

24 MS. SHUPE: We've got Nola.

25 CHAIRMAN THOMAS: Yeah, Nola.

1 BOARD MEMBER KENNEDY: I was just going to say I would be willing to
2 stay tonight to share my thoughts so at least the Division can get started working with
3 what we think. But I don't know that I'm in the majority on that opinion. Yeah, I mean,
4 I don't have many comments to offer. But they can wait if everyone wants to wait.

5 BOARD MEMBER HARRISON: I don't have to start work until 7:00
6 tomorrow morning, so I'm good.

7 BOARD MEMBER CRAWFORD: I'm in a different time zone. I'm just going
8 to point that out.

9 CHAIRMAN THOMAS: I think we're going to have to take -- let's take a
10 ten-minute break. We'll come back at 6:50. And then we'll talk about if we have any
11 ideas tonight or if we need to wait until June, or the 17th I should say. Okay? Yeah, let's
12 take a ten-minute break and then we'll come back in session at 6:50. Okay? Thank you.

13 (Break)

14 CHAIRMAN THOMAS: All right. We are back in session. We are
15 reconvening.

16 So I think we may have somewhat of a solution here. You guys can let me
17 know one way or the other. We want to put together a subcommittee of three people
18 to meet directly with the Division to express their ideas on how they can make this
19 regulation that just failed better. And then we would bring that forth at a Board
20 Meeting either on the 17th or July probably, right?

21 MS. SHUPE: No. No. So this would be a longer-term solution. This
22 would be a subcommittee of Board Members that would be working directly with the
23 Division on the next proposal. And so when that proposal comes to this Board for
24 consideration, it would have active input from that subcommittee.

25 CHAIRMAN THOMAS: Right. And the subcommittee would be made up

227

1 of three of the four people that do not want to pass the one that we just did. But I
2 would ask you that we reconsider the motion that just failed, that we reconsider that.
3 Because what we're stuck with is what we passed a few months ago, which is much
4 more onerous. And this at least loosens things up until we pass what is your pleasure of
5 the Board Members that meet with the Division. Does that sound like an option that we
6 could work with?

7 Yeah, Chris.

8 BOARD MEMBER LASZCZ-DAVIS: Oh yeah. Just a question, clarification.
9 Let's say we revisited the proposal and we passed it. And then right on the heels of
10 that, tomorrow, we have the subcommittee working with the Division to move into a
11 Revision Three.

12 CHAIRMAN THOMAS: Correct.

13 BOARD MEMBER LASZCZ-DAVIS: So what we may have done is the
14 outcome could be a better, cleaner version, still flawed, but that we immediately work
15 with the Division to upgrade it even further for near-term consideration. Is that a
16 possibility?

17 CHAIRMAN THOMAS: That's exactly what I'm talking about.

18 MS. SHUPE: Well, I'd like to clarify and make sure we're all on the same
19 page.

20 So, Chris, when you say an immediate review, what's your timeframe?
21 What are you thinking? Are you thinking June 17th or are you thinking two months?

22 BOARD MEMBER LASZCZ-DAVIS: Well, are those the only two options?

23 MS. SHUPE: It's a universe of options for you.

24 BOARD MEMBER LASZCZ-DAVIS: All right. Well, obviously, my guess is to
25 have something ready by June 17th is not going to be realistic. But shortly thereafter.

228

1 CHAIRMAN THOMAS: Probably July, whatever date it comes up on. The
2 20th or whatever it is in July. Or if it comes quicker -- I mean, I don't know exactly. It
3 would just depend on the timeline and when the Division and you had agreed on
4 something that we could put together. Then we would have to put it out. And then it
5 has to have five days. And then the next meeting we would vote on it when -- and as
6 soon as possible is my -- you know, that's fine with me as long as we can get three
7 people that are able to meet immediately with the Division to start discussing this and
8 get to something that would be -- a proposal that in your opinion would be better than
9 the one that was brought before you today. And I think -- I just want to explain. But I
10 still would like to reconsider this one because I think we really do need to get this one
11 just to cover so we don't have this onerous regulation all the way until we get a revision,
12 if you understand what I'm saying.

13 Let me go to Dave first. He had a question. And then Laura.

14 BOARD MEMBER HARRISON: I just wanted to say that you mentioned
15 three of the four that voted no, the dissenters to make up the committee. And I don't
16 want to just narrow it to that group.

17 CHAIRMAN THOMAS: It doesn't have to be. I'm just saying --

18 BOARD MEMBER HARRISON: I don't want to leave Laura or Barbara or
19 you out of it. Yeah. Absolutely.

20 CHAIRMAN THOMAS: I mean, I'm in if you guys want me to be. But I
21 don't want to take away from your ideas. And that's -- so, Laura, you had a question?

22 BOARD MEMBER STOCK: Yeah. So let me just get this straight. So it
23 seems like there is a potential possibility that we could revisit the vote we just had.

24 CHAIRMAN THOMAS: Yes.

25 BOARD MEMBER STOCK: Today. So I just wanted to be sure that's what

229

1 I'm hearing you say. If folks feel like it is better than what we have without it. So as
2 somebody who things that would be a good idea, that would be welcome. I would be
3 happy to be able to do that.

4 And then I think the idea of creating a process where Board Members can
5 engage with Division so that they know in advance what our concerns are I think is really
6 good. I would be interested also -- so I feel like we should think a little bit about what
7 would be the grouping, what are the limitations in terms of how many and all of that
8 other stuff. So I think maybe we could say more generally that we wanted to create a
9 process that could start as soon as possible where that would be -- where input could be
10 provided. And, Christina, you can advise us on how that could work. But I think -- so I
11 am in favor of a plan like that.

12 CHAIRMAN THOMAS: Yeah. And I am amenable to any three. It's fine
13 with me.

14 BOARD MEMBER BURGEL: Right. It cannot be more than three because
15 of Bagley-Keene.

16 MS. SHUPE: That's correct.

17 CHAIRMAN THOMAS: It has to be a three. It can't be more.

18 BOARD MEMBER BURGEL: Okay.

19 CHAIRMAN THOMAS: But I think we can get a good cross-section.

20 BOARD MEMBER BURGEL: And can I ask a parliamentary question? I
21 mean, can we actually revote on a proposal we just voted down?

22 CHAIRMAN THOMAS: We can.

23 BOARD MEMBER BURGEL: We can? Oh.

24 CHAIRMAN THOMAS: Only if we have a motion and second to --

25 WOMAN: Don't you have to reopen it to the public for comments?

230

1 CHAIRMAN THOMAS: I'm sorry, what?

2 BOARD MEMBER BURGEL: Who is that?

3 CHAIRMAN THOMAS: I didn't hear that.

4 BOARD MEMBER STOCK: That was not somebody that's -- that was some
5 of the general public.

6 MS. SHUPE: I missed -- I thought I saw Kate Crawford had a comment.

7 BOARD MEMBER STOCK: Was that Kate? I'm sorry.

8 MS. SHUPE: And I didn't hear you.

9 CHAIRMAN THOMAS: I thought she said -- go ahead, Kate.

10 BOARD MEMBER CRAWFORD: It wasn't that question. It was actually
11 simply does that mean at any time we can choose to revote on an issue after we
12 have voted on it?

13 CHAIRMAN THOMAS: If it's the pleasure of the Board that we -- I mean,
14 usually it's not going to happen. But I'm only bringing that up because I think it's the
15 best alternative if we have a three-party committee that meets with the Division to
16 already begin to improve this one. But I think this one is much better than the one we
17 passed earlier. And I know you don't like all of it, but it's better than the previous one.
18 Because that's what we're going back to. And I think that's a step back.

19 But I think if we put together a three-person committee to meet with the
20 Division to discuss the changes, that that's what we're going to end up doing anyway at
21 some point. And I just feel like we don't want to leave the last one in place when this
22 one is better than that.

23 Chris?

24 BOARD MEMBER LASZCZ-DAVIS: If we in fact go through the process
25 (indiscernible) proposal -- if we in fact -- I know somebody else is on the line as well. But

231

1 if we go back and revisit the proposal that we looked at earlier and voted down, I
2 would -- given the confusion that seemed evident in many of the presenters' comments
3 about the exiting proposal, I think the caveat would be that we accept the existing
4 proposal that was put on the table with urgency related to a very robust FAQ process.

5 CHAIRMAN THOMAS: I would agree.

6 BOARD MEMBER LASZCZ-DAVIS: Yeah. That isn't something that can
7 languish. That's got to be -- and I know that's a lot of work on Eric and his staff's part.
8 But given the confusion that was expressed, that's absolutely critical.

9 CHAIRMAN THOMAS: I think you're right. Because that was -- I mean, if
10 it had have passed, that would have had to have happened anyway. Because -- and they
11 already said that there was FAQs coming out on certain items. And I agree with that.

12 So do we have a --

13 BOARD MEMBER STOCK: Do we need to make a motion to -- what
14 motion would be needed? Do we have to make a motion to even vote on it?

15 CHAIRMAN THOMAS: I'm going to defer to Christina on this.

16 MS. SHUPE: So I suggest that the Board have a few --

17 MAN: Making your own rules of policy. OSHA should be informed --

18 MS. SHUPE: -- minutes to speak because -- one, we're getting a lot of
19 crosstalk. So I'm going to need TKO to step in and start muting folks. And if we have
20 folks who continually unmute themselves, we will have to expel them from the meeting.
21 That's just a matter of order.

22 CHAIRMAN THOMAS: I'm sorry, Chris, go ahead.

23 BOARD MEMBER STOCK: Christina, what were you saying?

24 MS. SHUPE: So back to your question. I apologize. Totally disrupted my
25 train of thought.

1 BOARD MEMBER STOCK: You were saying how do we move forward,
2 what kind of motion would we need to make at this point.

3 MS. SHUPE: So, one, I think the Board should fully discuss before you
4 make a motion. When you are ready to make a motion, if you choose to make a motion
5 to reconsider the proposal, you would just say I'd like to make a motion that we
6 reconsider a vote to approve the ETS proposal before us tonight.

7 The Board can do this either before or after. You would also need to
8 make a motion to create the subcommittee and you would need to identify who would
9 be on that subcommittee. I think that it's appropriate to have representatives from
10 both those that were pro and against and that those folks are empowered to work
11 directly with the Division, but it's understood by everyone that they are not empowered
12 to act on behalf of the Board. They can act in an advisory position only.

13 CHAIRMAN THOMAS: Which I think you guys know that anyways.
14 Whatever happens, it's going to come to a vote, anyway. Okay?

15 So I think just to keep things in order, I think that we should make a
16 motion to choose the three representatives that would meet with the Division first.

17 MS. SHUPE: So you'll want to go ahead and have a discussion about who
18 those three --

19 CHAIRMAN THOMAS: Let's have a discussion on which three it should be.

20 MS. SHUPE: And then once you've decided those three, then you would
21 have a motion to create the subcommittee.

22 CHAIRMAN THOMAS: And I think Chris would be a good choice.

23 BOARD MEMBER BURGEL: I concur.

24 BOARD MEMBER HARRISON: I would love to participate with Chris, but
25 my schedule is so tight, it's not going to facilitate what we're looking for here. And I

233

1 apologize.

2 CHAIRMAN THOMAS: No, and I'm in the same position as you, Dave. I
3 know exactly how it is.

4 BOARD MEMBER STOCK: I would be willing to participate if -- you know,
5 again, I want to give everybody an opportunity to say that, but I could put out that I
6 would be willing to participate if that makes sense.

7 CHAIRMAN THOMAS: Okay. So now we have Chris and we have Laura.
8 We need one more.

9 BOARD MEMBER CRAWFORD: This is Kate Crawford. I would be happy
10 to participate. And I just have a question. Will these be virtual meetings with the
11 Division?

12 CHAIRMAN THOMAS: It could be your choice. More than likely virtual.
13 We're still on that -- and I tell you what, Zoom meetings are great because you can get a
14 lot of things done. Kate, you wanted to be on it also. Nola, did you want to be on it?

15 BOARD MEMBER BURGEL: That would be great. I don't think I should be
16 on it. I don't feel the need to be on it. And I support anyone who voted no to be on it.
17 And, Laura, you would be great as well. So whatever works.

18 CHAIRMAN THOMAS: So I'm just going to make a motion --

19 MS. SHUPE: Before you do that, we need to settle who the management
20 rep will be because we have two volunteers for the management position.

21 BOARD MEMBER CRAWFORD: That can be Chris. That can be Chris.
22 That's fine.

23 BOARD MEMBER LASZCZ-DAVIS: Well, you know, the other possibility, it
24 can be you and I would work with you behind the scenes. How's that?

25 MS. SHUPE: We need to avoid serial meetings, Chris.

1 BOARD MEMBER LASZCZ-DAVIS: Oh, oh, oh. Okay, sorry about that.

2 Okay.

3 CHAIRMAN THOMAS: But I'm sure she trusts you. So I guess when the
4 motion is made, it would be Chris and Nola and Laura. Is that correct?

5 BOARD MEMBER BURGEL: Sure, that works. Or Kate and Laura and Nola.

6 CHAIRMAN THOMAS: Kate, did you have a question?

7 BOARD MEMBER CRAWFORD: I just am trying to figure out where we
8 are. So I'm just listening to you. And I listen with my hands, Dave.

9 CHAIRMAN THOMAS: Oh, I'm sorry. No, no. So if a motion is made to
10 have a subcommittee, it would consist of-- and this is what I got -- is Chris Laszcz-Davis,
11 Nola Kennedy, and Laura Stock. Is that okay with everybody? Okay. So I need a
12 motion.

13 MS. SHUPE: And so your motion will be -- I see Nola Kennedy shaking her
14 head.

15 CHAIRMAN THOMAS: Nola?

16 BOARD MEMBER KENNEDY: Are we doing this before we do the other? I
17 mean, it seems like we're putting the cart before the horse a little bit here.

18 BOARD MEMBER LASZCZ-DAVIS: Agreed.

19 CHAIRMAN THOMAS: Well, the reason I was doing it is because I think --
20 this is just me -- we want to authorize a subcommittee before we revote on the matter
21 that was pending before us before just so everybody is at ease and knows that this is the
22 plan, which is going to be the plan anyway, was to have a subcommittee.

23 MS. SHUPE: And I would also state for the Board Members that just
24 because you create the subcommittee does not mean you need to vote in favor of the
25 current ETS. They're not in lock step together.

1 CHAIRMAN THOMAS: It's still up to you guys.

2 BOARD MEMBER BURGEL: The current ETS proposal, the readoption.

3 MS. SHUPE: Correct. Correct.

4 CHAIRMAN THOMAS: Right.

5 BOARD MEMBER BURGEL: Okay.

6 MS. SHUPE: The proposal. And so for the motion that we would be

7 looking at for now would be for the creation of a subcommittee consisting of Chris

8 Laszcz-Davis, Nola Kennedy, and Laura Stock to work with the Division on the next

9 readoption proposal that will come before the Board.

10 CHAIRMAN THOMAS: So do I have a motion to that effect?

11 BOARD MEMBER HARRISON: So moved.

12 CHAIRMAN THOMAS: I have a motion. Do I have a second?

13 BOARD MEMBER CRAWFORD: I'll second.

14 CHAIRMAN THOMAS: So I have a motion and second.

15 BOARD MEMBER HARRISON: This is just to appoint the subcommittee,

16 correct?

17 CHAIRMAN THOMAS: Yes. So if there's no other questions, Sarah, would

18 you all the roll, please?

19 MS. MONEY: Just making sure I've got it correct. Harrison motion and

20 Crawford second?

21 BOARD MEMBER CRAWFORD: Yes.

22 CHAIRMAN THOMAS: That's correct.

23 MS. MONEY: Okay. Ms. Burgel?

24 BOARD MEMBER BURGEL: Aye.

25 MS. MONEY: Ms. Crawford?

1 BOARD MEMBER CRAWFORD: Aye.

2 MS. MONEY: Mr. Harrison?

3 BOARD MEMBER HARRISON: Aye.

4 MS. MONEY: Ms. Kennedy?

5 BOARD MEMBER KENNEDY: Aye.

6 MS. MONEY: Ms. Laszcz-Davis?

7 BOARD MEMBER LASZCZ-DAVIS: Aye.

8 MS. MONEY: Ms. Stock?

9 BOARD MEMBER STOCK: Aye.

10 MS. MONEY: Chairman Thomas?

11 CHAIRMAN THOMAS: Aye. And the motion passes for the
12 subcommittee.

13 And then I would need a -- what's the terminology? I need a motion to --

14 MS. SHUPE: So at this point I would suggest that the Board Members
15 make sure that they have resolved any questions or concerns that they may have. And
16 keep in mind that we do have our chief counsel available and on the call. So if you have
17 any questions for her, you can also ask her.

18 CHAIRMAN THOMAS: Nola?

19 BOARD MEMBER KENNEDY: So if we do go into discussion now -- and I'm
20 not sure if we are or not -- but I would like the other Board Members who are not on
21 the committee to express any opinions or concerns they have while we are in a public
22 forum.

23 BOARD MEMBER HARRISON: I'll just say that Chris summed it up pretty
24 well for me. And I concur with Chris's comments. I would say, without going back
25 through the record a hundred percent. But for the most part, I support Chris's

237

1 comments on all of her -- everything she said.

2 BOARD MEMBER CRAWFORD: And, Nola, this is Kate. That's an easy way
3 to summarize it for you as well, what Dave just stated. I will also state that Chris -- in
4 agreement with Chris's comments earlier.

5 CHAIRMAN THOMAS: Barbara?

6 BOARD MEMBER BURGEL: Yeah. I would like to say that, Number one, I
7 do think that fully vaccinated individuals who are symptomatic should have testing at
8 the cost of the employer, number one. It's mentioned twice, sort of, in outbreak
9 situations, but it's a little unclear with just testing. So I think fully-vaccinated
10 employees, if they have symptoms, should be tested by the employer, number one.

11 Number two, I think and I would like a surge plan in the proposal. Now,
12 again, there is a statement, I think it's right at the very beginning, I wrote it down
13 somewhere, where it states that local -- that our proposed ETS standard would not get
14 in the way of more stringent local health department or state health department
15 guidance or mandates. So, for instance, if there was a sudden surge, I think that the
16 state health department could initiate stricter guidelines if our COVID standard doesn't
17 have a surge mechanism in it. And that could be played, I mean, could be used if there
18 is a surge. So I just would like you to explore that, what happens if there is a surge, vis-
19 à-vis state and local. And I can give you exactly where it states that in the standard.

20 The third thing that I feel a little uncomfortable about, although, Laura,
21 you brought this up, is the whole issue of a hierarchy of controls. Again, depending on
22 PPE as opposed to sort of continuing partitions and social distancing. So I am a little -- I
23 just have to share with you that I am a little uncomfortable with that. I understand it
24 cognitively given the sort of opening up and reopening up of the economy. But I think
25 that that would be something to just discuss. I do think that in a perfect world I would

238

1 require fit testing and mandatory medical clearance and a clear message around
2 mandatory N95s. Now, obviously that's a perfect world. I would want that in our
3 wildfire standard as well. But I know just realistically that's very hard for employers to
4 pull out of a hat, to fit test when things are shifting so dramatically. So those are some
5 of my initial issues.

6 I think that the whole -- and I think, Chris, this was your point, and I think,
7 Kate, you also brought this up, about the whole issue of vaccinated and unvaccinated.
8 And that's very sticky in the workplace, knowing who is vaccinated and who is
9 unvaccinated. And so finding out a way that that could actually be workable I think is
10 important in protecting -- although HIPAA doesn't really apply. But protecting and not
11 shaming unvaccinated individuals. I think that's very important, to maybe get it less
12 sticky somehow in an operational way.

13 How I see that working is to pretty much offer N95s to everybody. But
14 still you have your vaccinated group who is going to be meeting without a mask in their
15 own private conference room. The minute somebody comes in and says I'm
16 uncomfortable with this, then everybody is supposed to don a mask. It needs to be a
17 little bit more fluid. And so I know Chris and Nola and Laura, you will work on that kind
18 of stuff.

19 So those are just some of my immediate things. I probably have about
20 ten more things I've written down. But I think I trust you all.

21 CHAIRMAN THOMAS: Thank you, Barbara. Any other comments from
22 Board Members? And I -- oh, go ahead. Okay. I was just going to say I trust you guys
23 with this, and I have no problem. And Barbara spoke for some of my concerns also. But
24 I know you guys will handle that.

25 So if it's the Board's pleasure the next motion would be to reintroduce

239

1 the temporary regulation that we voted on earlier, reintroduce it and second the
2 motion and vote on it again if it's the Board's pleasure that we pass it. And only
3 because it's much less-restrictive than the one we're going to be stuck with if we don't.

4 MS. SHUPE: So I'm going to just step in and try to simplify that motion
5 unless one of the Board Members has something they would like to say.

6 So the motion will simply be that the Board would reconsider the ETS
7 proposal before it tonight. That's it. You're just reconsidering it and voting on whether
8 or not to approve it again.

9 BOARD MEMBER BURGEL: With the subcommittee added on?

10 MS. SHUPE: The subcommittee has already been voted on and approved
11 and established. So that's already there.

12 CHAIRMAN THOMAS: We have that.

13 MS. SHUPE: Yeah. You'll have the subcommittee no matter which way
14 this goes.

15 BOARD MEMBER HARRISON: Just a point of clarification. Do we need
16 four affirmative votes for this to pass or just the majority of the voting members?

17 CHAIRMAN THOMAS: Well, that would be four.

18 BOARD MEMBER HARRISON: Understood. But if one or two of the voting
19 members abstained, would it be a majority of the votes cast, or --

20 CHAIRMAN THOMAS: You still have to have four votes.

21 MS. SHUPE: Can I just -- I want to confirm that with our counsel really
22 quick.

23 CHAIRMAN THOMAS: Okay.

24 MS. SHUPE: I believe it's four. I want to make sure that it's not more.
25 Can you give me just two minutes?

1 CHAIRMAN THOMAS: Sure.

2 MS. SHUPE: Thank you.

3 BOARD MEMBER BURGEL: Yeah. That whole issue of a health standard
4 versus a safety standard. I remember there's two different quotas.

5 CHAIRMAN THOMAS: That's why we have our attorney, so we can ask
6 that question.

7 BOARD MEMBER BURGEL: The other thing is that whole issue of choice
8 of respirator. I think that's really -- even if we stay with the voluntary language, I really
9 think that needs to be clarified in an FAQ. And then, Nola, your points around
10 customers versus students, I think that I would have answered differently based on my
11 interpretation of the ETS. So I think that was an important question to bring up. Just,
12 again, we need some case examples so that we're all on the same page around how the
13 standard is being interpreted.

14 Because I would have thought that, you know -- first of all, obviously I
15 don't know what's happening with the CSU system and students. Certainly in the UC
16 system, they are requiring students to be vaccinated unless there is a religious or a
17 medical exemption. But, again, is that going to be a mixed group? And then I would
18 think the faculty would need to wear a mask.

19 BOARD MEMBER LASZCZ-DAVIS: Yeah. I interpreted it that way as well,
20 Barbara.

21 BOARD MEMBER BURGEL: Right. And so I think we need some
22 consistent interpretation.

23 CHAIRMAN THOMAS: So you're saying that regardless they would need
24 to wear a mask?

25 BOARD MEMBER BURGEL: In a mixed group if you have someone who is

241

1 unvaccinated and you might have a student that's not vaccinated. And so that's what's
2 a little confusing to me. Because in the language, they do mention customers and the
3 public in one part. And I don't know whether that's in the outbreak section or what.
4 But I sort of --

5 BOARD MEMBER STOCK: The way I sort of interpreted that is that the
6 employer's responsibility, let's say in a grocery store, is to identify risks of exposure to
7 workers and take steps to mitigate those risks. And in a grocery store, customers are a
8 risk. And that sort of supports their language about encouraging customers to wear
9 masks, et cetera.

10 BOARD MEMBER BURGEL: But then would the cashier who is fully
11 vaccinated, would he or she have to wear a mask? See, that's why I'm still stuck on -- I
12 would work behind a partition if I was a grocery store cashier. I just would. With a
13 mask. I would have an N95 on. But, hey, I worked in COVID for 11 months, so I am very,
14 very conservative in this department. Because we're not through it yet.

15 BOARD MEMBER LASZCZ-DAVIS: Yeah. I mean, there were just enough
16 questions about interpretation today that I knew this wasn't over with. And I think that
17 was the reason I voted it down. It just --

18 CHAIRMAN THOMAS: So the answer to the question is we need four
19 votes for it to pass. So it's up to you how you want to vote. And so does anybody want
20 to make a motion?

21 BOARD MEMBER STOCK: So, I'm sorry, is this a vote to vote or a vote on
22 the actual proposal? I'm just a little confused.

23 CHAIRMAN THOMAS: This is a vote on the actual proposal.

24 BOARD MEMBER STOCK: Okay.

25 CHAIRMAN THOMAS: Yeah.

1 BOARD MEMBER LASZCZ-DAVIS: Well, Christina had suggested some
2 excellent verbiage, and she wanted to restate it, I would say --

3 CHAIRMAN THOMAS: Yeah, that would be good.

4 BOARD MEMBER LASZCZ-DAVIS: I so move.

5 MS. SHUPE: And I thank the Board for your leave in letting me run and
6 check on that vote. As some of you know, I like to practice in abundance of caution as
7 opposed to making mistakes. So the motion that you would want to propose would be
8 a reconsideration of the ETS proposal that is before you today and whether or not to
9 approve it.

10 BOARD MEMBER STOCK: So if we voted yes to that, would it be saying
11 that we want to reconsider it and vote on it again, or would a yes vote say -- I'm sorry?

12 MS. SHUPE: Sorry. That last bit that I gave you was bad. So I'm going to
13 write it out very quickly.

14 BOARD MEMBER BURGEL: Because there's two votes in there --

15 MS. SHUPE: Let me just write it out. Okay, here's what we have. Thank
16 you. You would propose -- and I'm going to say this in the voice of a Board Member -- I
17 propose we reconsider the ETS proposal before us tonight and vote to approve it.

18 CHAIRMAN THOMAS: So do we have that motion?

19 BOARD MEMBER STOCK: So moved.

20 BOARD MEMBER LASZCZ-DAVIS: Second.

21 CHAIRMAN THOMAS: Do we have a second?

22 BOARD MEMBER LASZCZ-DAVIS: You've got a second.

23 CHAIRMAN THOMAS: So you have a motion and a second. Any other
24 questions? All right. So, Sarah, would you please call the roll?

25 MS. MONEY: Ms. Burgel?

1 BOARD MEMBER BURGEL: Aye.

2 MS. MONEY: Ms. Crawford?

3 BOARD MEMBER CRAWFORD: Aye.

4 MS. MONEY: Mr. Harrison?

5 BOARD MEMBER HARRISON: Aye.

6 MS. MONEY: Ms. Kennedy?

7 BOARD MEMBER KENNEDY: Aye.

8 MS. MONEY: Ms. Laszcz-Davis?

9 BOARD MEMBER LASZCZ-DAVIS: Aye.

10 MS. MONEY: Ms. Stock?

11 BOARD MEMBER STOCK: Aye.

12 MS. MONEY: Chairman Thomas?

13 CHAIRMAN THOMAS: Aye. The motion passes. Thank you, Board. I

14 appreciate that. And I appreciate the ones who are willing to serve on our three-person

15 --

16 MS. SHUPE: Subcommittee.

17 CHAIRMAN THOMAS: Subcommittee, sorry. It's getting late. And I really

18 appreciate that because I also realize this could be better and it needs to be better. But

19 in the meantime, this will help, I believe. And I thank you for that. Let's see. All right.

20 So --

21 BOARD MEMBER BURGEL: Can I move to adjourn, Dave?

22 CHAIRMAN THOMAS: Just about. So new business?

23 MS. SHUPE: So we need to move on to new business. And you need to

24 open up public comment to any items not already addressed on the agenda. So that

25 would be anything outside of the COVID-19 proposal.

1 CHAIRMAN THOMAS: Okay. So at this time if there are any members of
2 the public who would like to speak on anything besides -- any safety matters besides
3 COVID-19, this would be the time to call in and do so. And I will wait for John to tell me
4 whether we have any people on the line. And this is just regarding other issues besides
5 COVID-19.

6 MS. SHUPE: Correct.

7 CHAIRMAN THOMAS: So, John, I'll give you a second to see if anybody
8 checks in.

9 MR. GOTCHER: So I don't have anyone on my list and the chat has been
10 closed for the meeting. So if there is anyone on the line that would like to comment, I
11 think you'll probably just have to speak up.

12 MR. THOMPSON: Hi. My name is Zach Thompson. I will give the floor to
13 anyone else that has stuff outside of the regulation that you guys just discussed. But
14 would any one of the Board Members be willing at a later time to hear about the
15 supplying of N95 respirators and the issues that we might have inside the work space
16 and to help further the discussion that you guys will have with your subcommittee?

17 MS. SHUPE: So the Board will be meeting on June 17th, and there will be
18 a public comment meeting during that time. It would be an excellent opportunity to
19 address the Board on those matters.

20 MR. THOMPSON: Okay, thank you.

21 CHAIRMAN THOMAS: You could also write a letter regarding that also as
22 well as address the Board that we would see before that meeting if you wish to do that.

23 MR. THOMPSON: Okay. I appreciate you guys taking the time to listen to
24 us. And I know it has been a very long and arduous day, and I thank you guys for your
25 time. And if you guys need anything, we are here to support you, even though it

245

1 doesn't seem like it from the public. But thank you.

2 CHAIRMAN THOMAS: Thank you. Appreciate that. Any other comments
3 from anybody that's on the Board -- or not on the Board, but on the -- member of the
4 public on -- yes?

5 WOMAN: I have a quick question. I just wanted to confirm that the
6 proposed ETS rules were in fact approved, and then when they will take effect.

7 MS. SHUPE: So there was a vote by the Board to approve the current ETS
8 revisions that were proposed for today. And they will be delivered to OAL and we
9 expect that they will become effective on June 15th.

10 WOMAN: Thank you so much.

11 CHAIRMAN THOMAS: Thank you for that question. Any other questions?

12 MS. HILDEBRAND: This is Christina Hildebrand from A Voice For Choice
13 Advocacy. This is somewhat related to COVID, and I did hear one person bring it up, but
14 it's not really related to what you talked about. And I have a question whether -- or I
15 would -- it's not a question. I would like the Board to look at the disinfectants being
16 used both in employment places, and that spills over to schools, specifically Clorox and
17 bleach and instead the use of hydrogen peroxide. Our organization is on a grassroots
18 level trying to make that change because the excessive cleaning -- and it may not be
19 excessive, but the greater cleaning during this time means that people are being much
20 more exposed to Clorox and Bleach, which are serious -- cause serious health hazards
21 for many people. Thank you.

22 CHAIRMAN THOMAS: Thank you, Christina. Thank you. Any other
23 comments from the public?

24 MS. RAGLAND: Yes. This is Pam Ragland. Thanks, you guys, for this very
25 long day and all these thoughts about everything. I just wanted to make sure that any

246

1 feedback that's being given in writing regarding this topic, that you will be looking at it,
2 or should we resubmit that?

3 CHAIRMAN THOMAS: Anything that you have submitted to the Board, it
4 goes to all of us. All the letters, everything that comes in, it comes out to us, any
5 comments. And so if you've already sent something in, we've probably already seen it
6 unless it didn't make it in time for it to get out for this meeting. If you want to submit
7 anything, you may do that.

8 MS. SHUPE: And I can confirm for everybody who is listening that those
9 comments that came in via email during today's Board Meeting were all forwarded to
10 the Board Members through 5:00 p.m. today and that we will be going through the
11 comments received after 5:00 p.m. and forwarding those to the Board Members and
12 the Division as well tomorrow morning.

13 MS. RAGLAND: Thank you very much. And I'll pass that on, the
14 duplicates.

15 CHAIRMAN THOMAS: Thank you for your question.

16 WOMAN: Excuse me, can I -- I lost connection -- sorry, right when you
17 guys were going to maybe --

18 CHAIRMAN THOMAS: I think you have a bad connection.

19 WOMAN: -- readopt the revised language. So I apologize, you probably
20 said this before --

21 CHAIRMAN THOMAS: Can you hear me okay, (indiscernible)?

22 WOMAN: Was the readoption --

23 BOARD MEMBER BURGEL: It passed.

24 WOMAN: Yeah, yeah. Okay, thank you.

25 CHAIRMAN THOMAS: Okay, yeah. I think that was your question. Any

247

1 other comments from --

2 GIL: I do have a comment.

3 CHAIRMAN THOMAS: Go ahead.

4 GIL: So just for the FAQs -- and there was --

5 CHAIRMAN THOMAS: Is this -- your name is Gil?

6 GIL: That is correct.

7 CHAIRMAN THOMAS: Okay, thank you.

8 GIL: Just for the FAQs and the Board's attention, there were statements
9 made that for voluntary use of N95s, that there was not a requirement for --

10 MS. SHUPE: So, Gil, I'm going to interrupt you. Because at this point
11 we've moved beyond COVID-19 and the ETS and we're now in the new business section.
12 So any questions you have regarding FAQs should be directed to the Division.

13 GIL: Okay.

14 MS. SHUPE: And if you'd like to address the Board, you can do so on that
15 topic at our next meeting, which will be on June 17th.

16 CHAIRMAN THOMAS: You don't have long to wait. A couple weeks.
17 Thank you, Gil.

18 Any other questions the public may have?

19 MAN: I have one. And I don't know if this is the appropriate format for
20 this or not. It's regarding the respiratory protection standard and the Section 5144,
21 specifically with respect to voluntary use. While the standard itself does not explicitly
22 call for medical evaluation, there is no written standard. The employer is required to
23 determine if the use of a respirator is safe for the employee without defining what
24 qualifies as safe for us. So (indiscernible) some additional language to clarify the
25 standard of what qualifies as safe under a voluntary use scenario.

1 MS. SHUPE: So, again, we are not addressing COVID-19 issues.

2 CHAIRMAN THOMAS: We're past the COVID-19. We are addressing all
3 other issues. We'll remember that since you've told us that, but we would appreciate if
4 you would hold your comments on COVID-19 until we have our next meeting, where we
5 will have a public meeting, and you can state those concerns then. We are past that --

6 MAN: And I would only ask -- I'm sorry to interrupt. But this wouldn't
7 just deal specifically with COVID-19. Obviously voluntary uses in other scenarios such as
8 wildfires as well.

9 CHAIRMAN THOMAS: Right, right.

10 MR. BERG: I can answer it really fast. The exception for filtering
11 facepiece respirators. You don't have to do that. If you read the whole section, it
12 exempts filtering facepiece respirators from that requirement.

13 CHAIRMAN THOMAS: Did that answer your question, sir?

14 MAN: Yeah. Like I said, this might be better just addressed to the
15 Division in a separate correspondence. While it doesn't explicitly have that requirement
16 that just says the employer has to determine that the filtering facepiece or any other
17 voluntary use respirator is safe to use. So my question or request would be for some
18 language to define what is safe to use. So if we were asked by an inspector, hey, here's
19 how we demonstrated that this was safe to use, would that be an acceptable criteria.

20 MR. BERG: After the requirement where you determine if it's safe to use,
21 it says exception, filtering facepiece respirators.

22 MAN: Okay. Thank you.

23 CHAIRMAN THOMAS: Thank you.

24 BOARD MEMBER BURGEL: It's just N95s was my understanding is
25 available for voluntary use.

1 MR. BERG: Yeah, that's correct. Well, the other respirators can be
2 voluntary, but you do have to do a medical evaluation of other types. Other than N95s,
3 N99s, N100s.

4 BOARD MEMBER BURGEL: Okay.

5 MR. BERG: Any of those nine different filtering facepiece models don't
6 need it.

7 BOARD MEMBER BURGEL: Okay, great.

8 CHAIRMAN THOMAS: Thank you, Eric. Any other questions from the
9 public?

10 MS. SHUPE: We have Kenneth Smith.

11 MR. SMITH: Yes. I have one question. I'll try to ask it in the hypothetical.
12 In the Emergency Temporary Regulations, if a Board has acted twice on a regulation, I
13 understand it has one more wish, if you would, to amend that regulation. But does it
14 also still reserve the ability to strike the regulation, or does striking it use its third and
15 final wish?

16 MS. SHUPE: So this is a question for our legal team, but I can tell you that
17 we have looked at this and that should the Board choose to withdraw the emergency
18 regulation, it would be infeasible to reintroduce it.

19 CHAIRMAN THOMAS: Yes.

20 MR. SMITH: And if they decided to revise some hypothetical regulation a
21 third time, do they still have the ability to strike it after that third revision, or does it
22 have to time out?

23 MS. SHUPE: No. They would still retain the ability to rescind the
24 emergency declaration.

25 CHAIRMAN THOMAS: Yes.

1 MR. SMITH: Thank you.

2 CHAIRMAN THOMAS: Thank you. Any other questions from the public?

3 MR. ROBINSON: Yes.

4 CHAIRMAN THOMAS: Introduce yourself, please.

5 MR. ROBINSON: Sam Robinson.

6 CHAIRMAN THOMAS: Go ahead, Sam.

7 MR. ROBINSON: With regard to FAQs and all regulations, not COVID, but
8 all, in the FAQs can you issue an answer to an FAQ that is contrary to the statute
9 language?

10 MS. SHUPE: So that is a question that is better posed to the Division and
11 not to the Standards Board, as the Standards Board does not issue FAQs.

12 MR. ROBINSON: Well, it's come up recently with regard to vaccinations
13 and such. So I'm just trying to figure out what to tell my folks.

14 CHAIRMAN THOMAS: I think we are meeting again on the 17th. And
15 when we have Eric on at that time, you can ask that question of him.

16 MR. ROBINSON: Thank you.

17 CHAIRMAN THOMAS: Thank you. Any other questions from members of
18 the public? All right. Hearing none, we don't have a closed session today. Let's see --

19 BOARD MEMBER HARRISON: What do you mean, we don't have a closed
20 session? I was looking forward to that.

21 CHAIRMAN THOMAS: Listen, if you want one, I can have it done.

22 BOARD MEMBER BURGEL: He's just kidding.

23 BOARD MEMBER LASZCZ-DAVIS: Have fun without me.

24 CHAIRMAN THOMAS: So at this time, the next Standards Board regular
25 meeting is scheduled for June 17th, 2021 via teleconference and video conference.

251

1 Please visit our website and join our mailing list to receive the latest updates. We
2 thank you for your attendance today. There being no further business -- before I
3 adjourn, I just want to say we had almost 800 people --

4 MS. SHUPE: Over.

5 CHAIRMAN THOMAS: -- attend this today. And that's a credit to the
6 public, and we thank you for your input and your comments. And that's incredible. So
7 thank you for that. There being no further business today, this meeting is adjourned,
8 and we will see you next month. Take care, drive safe, have a good weekend coming up
9 here. And thank you, all. Thank you, Board. And this is the longest meeting I've ever
10 been at. So have a good evening, guys. Thank you.

11 (The Meeting adjourned at 7:36 p.m.)

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