

OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

In the Matter of:

September 17, 2020)
OSH Standards Board Meeting)
_____)

STATE OF CALIFORNIA

OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

In accordance with Executive Order N-29-20 and Executive Order N-33-20, the physical location was canceled and the meeting was held via Webex video/audio internet and via teleconference platforms.

THURSDAY, SEPTEMBER 17, 2020

10:00 A.M.

Reported by: E. Hicks

APPEARANCESBOARD MEMBERS:

Dave Thomas, Chair

Barbara Burgel, Occupational Health 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:

Christina Shupe, Executive Officer

Sarah Money, Executive Assistant

Michael Nelmidia, Senior Safety Engineer

DIVISION OF OCCUPATIONAL SAFETY AND HEALTH STAFF:

Eric Berg, Deputy Chief of Health, Division of Occupational Safety and Health

BOARD STAFF PRESENT VIA TELECONFERENCE OR WEBEX:

Michael Manieri, Principal Safety Engineer

Lara Paskins, Staff Services Manager

David Kernazitskas, Senior Safety Engineer

Jennifer White, Staff Services Analyst

APPEARANCES (Cont'd.)

TKO STAFF

John Gotcher

John Roensch

Maya Morsi

Michael Howard

INTERPRETERS

Julie Drucker

Ashley Nunez

Susan Haikalis

PUBLIC COMMENT:

Elizabeth Treanor, Phylmar Regulatory Roundtable

Zenaida Perez Fuentes, Southern California Coalition for Occupational Safety and Health

Olivia Gallegos Murillo, CLEAN Carwash Campaign

Michael Young, California Federation of Teachers

Len Welsh, Western Steel Council

Silvia Hernandez, CLEAN Carwash Campaign

Eric Frumin, Change to Win

Paz Aguilar, Fight for \$15 and a Union (statement read in English by Maria Maldonado)

Rick Nils, Former Employee for MOTP, where he worked for Amazon during the coronavirus

PUBLIC COMMENT (Cont'd.)

Natasha Castro, Los Angeles Alliance for a New Economy

Christian Ramirez

Mitch Steiger, California Labor Federation

Stasha Lampert, SEIU 2015 (reading statements on behalf of Nursing Home Workers
Maria Carmen Vazquez, Nichole Marzano, and Devin Wood)

Mirella Deniz-Zaragoza, Warehouse Worker Resource Center

Michael Donlon, Construction Employers' Association (CEA)

Gabriel R. Salazar, Merced County Resident

Maggie Robbins, Worksafe

Ramon Castellblanch, California Alliance for Retired Americans

Jonathan Vick, Atkinson, Andelson, Loya, Ruud & Romo, also representing the
Engineering Contractors Association, Tilt Up Concrete Contractors Association, United
General Contractors, and Southern California Scaffolding Association

Veronica Perez, Lideres Campesinas

Dr. Robert Blink, Western Occupational and Environmental Medicine Association

Isabel Urbano, Fight for \$15 and a Union (reading a statement from Angely Rodriguez)

Steve McCarthy, California Retailers Association

Shane Gusman, Broad and Gusman

Rob Moutrie, California Chamber of Commerce

Mishaal Gill, California Immigrant Policy Centers

PUBLIC COMMENT (Cont'd.)

Bruce Wick, CALPASC

Sylvia Alvarado, SEIU

Carmen Alberto, Lideres Campesinas

Erin Guerrero, California Attractions and Parks Association

Irene de Barraicua, Lideres Campesinas

Bryan Little, California Farm Bureau Federation

Katherine Hughes, SEIU Nurse Alliance of California

Michael Müller, California Association of Winegrape Growers

Salvador Sandoval, Health Officer in Merced County

Kevin Bland, Ogletree Deakins, representing the California Framing Contractors Association, Western Steel Council, and Residential Contractors Association

Cassie Hilaski, Nibbi Brothers General Contractors

Andrew Gross Gaitan, SEIU United Service Workers West

Edward Flores, UC Merced Community and Labor Center

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PROCEEDINGS

10:00 a.m.

SACRAMENTO, CALIFORNIA

THURSDAY, SEPTEMBER 17, 2020

CHAIR THOMAS: This meeting of the Occupational Safety and Health Standards Board is now called to order.

I'm Dave Thomas, Chairman, and the other Board members present today are Ms. Barbara Burgel, Occupational Health Representative, Mr. Dave Harrison, Labor Representative, Ms. Nola Kennedy, Public Member, Ms. Chris Laszcz-Davis, Management Representative, and Ms. Laura Stock, Occupational Safety Representative.

Also present from our staff for today's meeting are Ms. Christina Shupe, Executive Officer, Ms. Sarah Money, Executive Assistant, and Mr. Michael Nelmidia, Senior Safety Engineer, who is providing technical support.

Supporting the meeting remotely are Mr. Michael Manieri, Principal Safety Engineer, Ms. Lara Paskins, Safety Services Manager, Mr. David Kernazitskas, Senior Safety Engineer, and Ms. Jennifer White, Staff Services Analyst. Via teleconference, we are joined today by Mr. Eric Berg, Deputy Chief of Health, representing the Division of Occupational Safety and Health.

If you have not already done so, we ask that you e-mail "OSHSB@DIR.CA.GOV" to provide your name and contact information, which will become part of the official record of today's proceedings. Today's agenda and other materials related to today's proceedings are posted on "DIR.CA.GOV/OSHSB/AGENDAS.HTML." -- I don't think you need the last dot. Sorry.

MS. SHUPE: Probably not.

CHAIR THOMAS: In accordance with the Executive Order N-29-20, the

1 physical meeting location for today has been canceled. In addition to the e-mail notice,
2 signs have been posted at the previously noticed physical location, with the instructions
3 on how to participate in today's meeting. Today's meeting is being held exclusively via
4 teleconference, with an optional video component.

5 As was noticed earlier this week, this meeting is also being live broadcast
6 via webcast and audio in both English and Spanish. Links to these non-interactive live
7 broadcasts can be accessed via the "What's New" section at the top of the main page of
8 the OSHSB website at "DIR.CA.GOV/OSHSB/OSHSB.HTML."

9 We're living in unprecedented times, and the Board is committed to
10 taking steps necessary to protect not only the health and safety of our participants, but
11 also to expand access as we improve our remote meeting platform. I'm asking for
12 everyone's patience as we navigate this process.

13 We have limited capabilities for managing participation during public
14 meeting periods, so we're asking everyone who is not speaking to place their phones
15 and computers on mute and wait to unmute when you are called on to speak.

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

19 Anyone who would like to address any occupational safety and health
20 issues, including any of the items on our business meeting agenda, may do so at this
21 time. Members of the public who have contacted staff earlier by e-mail or phone and
22 asked to be placed in the public comment queue will be called on in turn.

23 Additionally, those joining via Webex may ask to join the queue via the
24 chat function. The Webex chat function is monitored exclusively by staff, and only
25 available to send requests to join the public meeting queue. It is not a method for

1 providing public comment to Board Members. Board Members will not consider or
2 respond to any messages delivered the chat function, nor will such comments become
3 part of the official rulemaking record.

4 Please listen for your name and an invitation to speak before addressing
5 the Board, and please remember to mute your phone or computer after commenting.
6 After everyone in the queue is provided an opportunity to speak, we will then open the
7 public comment to anyone on the call who is not able to enter the queue. If you wish to
8 speak more than once, please contact staff and have your name placed back into the
9 queue.

10 During the meeting, Board staff can be contacted by e-mail at
11 "OSHSB@DIR.CA.GOV" or via phone at (916) 274-5721. If you experience a busy signal
12 or are routed to voicemail, please hang up and call again.

13 After the public meeting, we will conduct the second part of our meeting,
14 which is the business meeting, to act on those items listed on the business meeting
15 agenda. The Board does not accept public comment during its business meeting unless
16 a member of the Board specifically requests public input.

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

23 At this time, anyone who would like to comment on any matters
24 concerning occupational safety and health will have an opportunity to speak. For our
25 commenters who are native Spanish speakers, we are working with an interpreter,

1 Susana Haikalis, to provide a translation of their statement into English for the Board.
2 At this time, Ms. Haikalis will provide instructions to the Spanish-speaking commenters
3 so that they are aware of the public comment process during this remote meeting.

4 Ms. Haikalis.

5 MS. HAIKALIS: Thank you. (Speaking Spanish.)

6 CHAIR THOMAS: Thank you.

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

8 MR. GOTCHER: We do not right now.

9 CHAIR THOMAS: We have none? That's unusual. I can see Elizabeth
10 Treanor wants to comment.

11 So, Elizabeth, I can see you. Why don't you go ahead and unmute
12 yourself and comment, and we'll see if we can work everything else out.

13 MS. TREANOR: (No response.)

14 CHAIR THOMAS: Okay. It's not letting her in. Try again.

15 MS. SHUPE: Mr. Gotcher, can the technician please (overlapping
16 colloquy) unmute Ms. Treanor's microphone so she can address the Board?

17 MS. TREANOR: There. It's magic. Okay.

18 CHAIR THOMAS: Good morning.

19 MS. TREANOR: Good morning, and I did schedule to be put in the queue
20 about a week ago. So I'm not sure exactly what happened, but good morning. My name
21 is Elizabeth Treanor. I'm director of the Phylmar Regulatory Roundtable, known as PRR.

22 You're right, Chairman Thomas. We are living in unprecedented times.
23 Based on the comments and the questions from the Board over the past few months,
24 we expect the Board to adopt the proposed petition decision for 583.

25 In August, PRR submitted written comments to the Board detailing some

1 of the concerns that we had over the prescriptive language in the petitioner's proposal.
2 Last week, PRR presented to the Board and Division staff an alternative for a
3 performance-based standard to protect people from COVID-19.

4 One difference between petitioner's specification proposal and PRR's
5 performance solution is that an element of the petitioner's proposal, that is, the deep
6 cleaning, is already outdated and contradicts CDC guidelines. Others are likely to follow.
7 PRR's performance-based approach will have no such risk. We ask that the Board
8 strongly encourage the Division to consider our solution when drafting the emergency
9 rule text.

10 Creating a prescriptive occupational health standard like their proposal to
11 effectively address all workplaces is near impossible. There are unique jobs, tasks,
12 operations throughout the state, and one standard which specifies that all employers
13 take a specific action is not going to be workable.

14 The Division seemed to recognize this, and released 37 separate
15 industry-specific guidelines. It detailed requirements to protect workplaces from
16 COVID-19. In addition, employers are faced with local health department requirements.

17 PRR's performance-based alternative will mitigate the risk of COVID-19,
18 and will provide flexibility for employers to implement scientifically-based protective
19 measures for hazards that they've identified and encountered in their job tasks and
20 work environments.

21 Among the elements of PRR's robust draft proposal are a written
22 program; a system for interactive communication among employers and employees
23 about the risk of COVID-19 in the workplace; procedures to identify and evaluate
24 potential COVID-19 exposures and implement protective measures; four, review of
25 current public health and relevant agency guidelines; five, a process to modify the

1 program as needed as new information comes to light; and training which includes signs
2 and symptoms, how to report exposures and hazards, and safe work practices and
3 personal protective measures that are implemented at that workplace.

4 Workplace protections for COVID-19 are absolutely essential. Each
5 individual employer is familiar with their operations, and is in the best position to
6 develop a written COVID-19 protection program based on those operations and the
7 available science. Employers should not be hamstrung by requirements in the
8 petitioner's proposal that we outlined in August. Employee health should not be put at
9 risk because a Cal/OSHA standard contradicts current public health guidance.

10 Before going further, I need to address two comments made at the
11 August Board meeting. First, as an example of why a COVID-19 emergency regulation is
12 necessary, Board Member Harrison mentioned a nurse whose employer had locked up
13 N95 respirators.

14 That is appalling, completely unacceptable, and surely, at the same time,
15 Board Members are aware that nurses are already covered by California's aerosol
16 transmissible disease standard, which requires healthcare workers to have access to
17 respirators and other PPE. If that nurse's irresponsible employer is not following the
18 ATD standard that's been in place for over 10 years, a new rule is not going to help that
19 nurse secure an N95. Recalcitrant employers who are not following existent
20 requirements are certainly not going to follow new ones.

21 Second, the use by Board Members and some labor stakeholders of
22 statistics on the number of workers' compensation claims filed as evidence that a new
23 rule is needed was surprising. Filing of workers' compensation claims does not mean
24 that a case is actually work-related. The number of claims filed does not demonstrate
25 that employers are failing to protect employees from COVID-19 or that workplaces are

1 the primary source of COVID-19 infections.

2 It's inappropriate to use workers' compensation claim statistics as
3 evidence of prevalence of occupational illnesses, especially after the Governor's
4 executive order regarding the presumption that COVID-19 cases are work-related and
5 covered by workers' comp.

6 To be clear, PRR and its members strongly believe that employers are
7 absolutely responsible for addressing the COVID-19 hazards in their workplaces. PRR
8 members are doing just that, using the building blocks of the IIPP, identification,
9 mitigation, training, communication, and investigation, and they are using Cal/OSHA and
10 other agency guidelines.

11 We continue to believe that creating a new rule will not solve the
12 problem of non-compliance by some reprehensible employers in the state, and there is
13 no evidence that a new rule will improve employer compliance. However, contrary to
14 what some have said, there is evidence that the existing enforcement mechanisms are
15 working.

16 On September 4th, DIR published a news release announcing that the
17 Division had issued citations to 11 employers for failure to protect employees from
18 COVID-19. Chief Doug Parker stated that these citations are the first of many to be
19 issued in the coming months. On September 9th, DIR announced that two employers
20 received proposed penalties totaling over \$200,000 each. These actions clearly
21 demonstrate that DOSH has the authority and power now to enforce existing
22 regulations.

23 We agree with Board Member Laszcz-Davis's point that employers need
24 flexibility in any COVID regulation, and we appreciate Board Member Stock's
25 acknowledgment that stakeholder input and an opportunity to make changes, to include

1 ways to respond to scientific information, is important. Without either of these
2 elements, a specific standard for COVID-19 will have unintended consequences that may
3 well do more harm than good.

4 We support the provision in the Board's proposed petition decision to
5 include state, county, and city public health officials in creating an effective standard.
6 One of the biggest challenges that PRR members face is meeting local health
7 department requirements, as well as guidance issued by Cal/OSHA and other
8 governmental entities.

9 We also encourage the Division to involve stakeholders in the
10 development of the emergency regulation, and not wait until after the initial adoption
11 to involve these groups, because all of them have firsthand experience of addressing
12 COVID-19 in the workplace.

13 Finally, considering the massive workload that the Board and Division
14 currently have, we are astonished that a deadline of November 19th has been given for
15 the proposed emergency regulatory text, the finding of emergency, and the economic
16 impact statement.

17 We understand and share the fear of this devastating disease, but we
18 remind the Board that there is danger in quickly issuing an ill-conceived rule with a plan
19 to correct it later. We are concerned that, in a rush to meet this deadline, significant
20 errors will be made. We encourage the Board to extend the date at least a month to
21 allow for outreach to stakeholders and experts. We continue to be available as a
22 resource.

23 Thank you for the opportunity to speak. Thank you to the Board and
24 Division staff for continuing to work around the clock to support the health and safety of
25 California workplaces. Please take good care.

1 CHAIR THOMAS: Thank you, Ms. Treanor.

2 Mr. Gotcher, do we have anyone in the queue?

3 MR. GOTCHER: Yes. Yes, we do. I'll be moving them into the conference
4 right now.

5 CHAIR THOMAS: And do we have a name?

6 MR. GOTCHER: Okay. We have Zenaida Perez Fuentes, and, Zenaida, you
7 are live.

8 MS. PEREZ FUENTES: Thank you. Hello, everyone. My name is Zenaida
9 Perez Fuentes from So Cal COSH, and we are a nonprofit organization based in So Cal,
10 and we advocate for safe, healthy, secure workplaces for low-wage immigrants and
11 workers of color, and we're here in support of the Petition 583, for the COVID ETS, and I
12 want to thank you, Board, for considering our comments.

13 Unfortunately, no one knows when this COVID-19 pandemic is going to
14 end, and so this situation isn't likely to change in the foreseeable future. As we continue
15 to live with this virus, it is crucial that we ensure that workers are safe and secure at
16 their workplace. In Los Angeles County alone, there have been over 6,000 deaths due to
17 COVID-19.

18 The magnitude of what we are currently facing demands that we take
19 swift and decisive action. We know workers are not receiving adequate PPE. We know
20 workers are not being trained or being allowed to maintain a physical distance of six
21 feet or more. The failure to implement these measures by employers is resulting in
22 exposure of the virus for thousands of workers in Los Angeles.

23 These workers who are being exposed deserve better. Their lives matter.
24 These are our uncles, our aunts, brothers, sisters, friends, community members, you
25 name it. They want to see this Board take action to protect their lives.

1 The thousands of workers who are exposed to this virus, they know it's a
2 common-sense solution to have an emergency temporary standard so that employers
3 that don't comply with the COVID-19 orders are held accountable in order to protect the
4 health and safety of their workers, their colleagues, and that of the community at large.

5 Thank you for your time.

6 CHAIR THOMAS: Thank you very much.

7 I want to tell the audience that when you do make comments, please try
8 and slow down and give space between sentences, because this is all being translated,
9 and give the translators a break.

10 Mr. Gotcher, who do we have in the queue?

11 MR. GOTCHER: I'm moving them over right now. Her name is Olivia
12 Gallegos Murillo, and she does need a translator today, so there will be some Spanish.

13 CHAIR THOMAS: Thank you.

14 MR. GOTCHER: Hello, Olivia and Susana. You are both live.

15 MS. GALLEGOS MURILLO: My name is Olivia Gallegos Murillo. I work at
16 the carwash, CLEAN Carwash (indiscernible). I live and work in Long Beach, California,
17 and I am a member of CLEAN Carwash Campaign.

18 I was positive to COVID-19, and that would not have happened if they
19 had taken the necessary precautions, for instance, keeping our safe distance, using the
20 face masks, and washing our hands. (Indiscernible) my boss would have been able to
21 handle the situation differently from the very first case that happened.

22 They didn't inform us that one of us had contracted COVID-19, they
23 didn't have us go get tested, and she did not change and modify the conditions, the
24 work conditions. We continued working at a distance that wasn't safe, and they did not
25 disinfect the areas where we were working.

1 Because of this, five of us became sick, including the boss. Unfortunately,
2 one coworker passed away. In order to (indiscernible), I suggested they take the
3 temperature, that you wear gloves, and that they disinfect all surfaces.

4 Instead of having us go to work sick, they have us go be tested for free
5 for COVID-19. I would want there to be more training so that (indiscernible) for the
6 manager and the owner, and I would like there to be financial resources for those who
7 are sick, so that they can stay home recovering from this illness. Only by doing this, I
8 will feel safe at work. That is all.

9 CHAIR THOMAS: Thank you very much for your comments.

10 Mr. Gotcher, do we have someone in the queue?

11 MR. GOTCHER: Yes, we do. Next up is Michael Young. I'm moving him to
12 the conference now.

13 CHAIR THOMAS: Go ahead, Mr. Young. Mr. Young, you are in the main
14 conference.

15 MR. YOUNG: Okay. Thank you very much. Hi. This is Michael Young on
16 behalf of the California Federation of Teachers in support of Petition 583.

17 I'd just like to provide my comments regarding the importance of the
18 petition, specifically as it relates to the health and safety of students, parents, teachers,
19 and school employees, specifically as we begin to plan for the reopening of schools for
20 public instruction -- for in-person public instruction.

21 I've said this before at previous meetings, but I think it (indiscernible)
22 restating that we've seen a significant increase in the number of children that have been
23 diagnosed with COVID-19. Previously, there was a study by the American Academy of
24 Pediatrics and the Children's Hospital Association that showed that over 100,000
25 children across the country were diagnosed with the coronavirus in the last week of

1 July.

2 In that month, there was a 40-percent increase, and this was before
3 schools and campuses reopened. There was an updated number from the American
4 Academy of Pediatrics that said that over 549,000 children had tested positive for
5 COVID since the onset of the pandemic.

6 So it can't be understated, the risk of this disease to the kids, and to our
7 teachers and staff that work in schools, as well as, when we saw the reopening of
8 campuses, we saw a number of them in California that had outbreaks, including USC,
9 including San Diego State University. So it really has to be --

10 MS. SHUPE: Mr. Young, I'm so sorry to interrupt. This is Christina Shupe.
11 Can you please slow down? We have translators, and I'm afraid they're not going to be
12 able to keep up with you.

13 MR. YOUNG: I'm so sorry. Yes, of course.

14 Just with the numbers, specifically, we saw over 100,000 children across
15 the country that tested positive in the last week of July, and that showed a 40-percent
16 increase. There was an updated study from the American Academy of Pediatrics that
17 showed that over 549,000 children had tested positive for the COVID-19 virus since the
18 start of the pandemic. There have also been a number of California colleges and
19 universities that have had outbreaks, including USC and San Diego State University.

20 So it shouldn't be understated, the risk of this virus, onto the children in
21 our communities, and the risk this poses to educators and teacher staff in our schools
22 and campuses, and, again, the studies have repeatedly shown that children can transmit
23 this virus just as easily and just as well as -- well, not as well, but are able to transmit the
24 disease, the virus, and spread it as well as adults can.

25 So I think it's really critical that we look at protections in, specifically, the

1 population of workers in the state that aren't covered under the current ATD standards,
2 and making sure that we're doing what we can to provide the protections that are
3 needed.

4 Specifically in California, we've seen that the Governor has rolled out
5 guidance specific to school reopening, and it's important to note that within that
6 guidance allows some schools, even in areas that have outbreaks, to open due to a
7 waiver.

8 So we know that schools in specific hotbed areas will have the ability to
9 open, making it even more critical that we expand these worker protections that we
10 have, increase enforcement, and that the workers at these worksites are protected.

11 We have also seen a number of school districts who are asking their
12 workers to sign waivers when they come into work that "I hereby acknowledge the risk
13 of exposure of the coronavirus, and I acknowledge the risk that I may contract the
14 coronavirus by coming onto the school district premises and interacting with
15 employees, students, and other people."

16 So even just the nature of these type of waivers illustrate the very real
17 risk to the students, and while I know that there has been inspections, and the
18 department has done more work in terms of enforcement, a lot of this has been specific
19 to private sector work, and we need to make sure we're highlighting, and making sure
20 that we are paying closer attention to the impacts on our schools and our students.

21 I also think timeliness is important, so I applaud the move to try and get
22 these protections out quickly, but I would also encourage the focus on how we can
23 make sure that students, teachers, and educators are safe both in our classrooms, but
24 also on our campuses, as we move through a process of figuring out how we can open
25 schools and how we can reopen the economy.

1 I thank you for your time.

2 CHAIR THOMAS: Thank you very much.

3 Christina, do you have a speaker on line?

4 MS. SHUPE: Before we go to the next speaker, I'd just like to make an
5 announcement to everyone and let them know that if you have participants who would
6 like to listen only, and they're unable to connect via the Webex, they can go to our
7 website, and we have links to an audio-only transmission, and so they can listen, or view
8 and listen, the meeting from there as well, and then we're currently looking into getting
9 the meeting unlocked, for people who would like to participate via Webex, for
10 listen-only.

11 At this point, I'd like to turn back to Mr. Gotcher. Mr. Gotcher, do we
12 have Mr. Len Welsh next in the queue via Webex?

13 MR. GOTCHER: Let me check on that. Via Webex?

14 MS. SHUPE: Yes.

15 MR. WELSH: I'm here. Can you hear me?

16 MS. SHUPE: We can hear you, Len.

17 MR. WELSH: Yes. I was expecting a call, but I can do it via Webex. The
18 procedure doesn't quite seem to be working. Thanks for the opportunity to speak, and I
19 do appreciate the hard work of the staffs of both agency and the Board.

20 This is not an easy issue, the understatement of the year, but I do want to
21 offer some perspective based on my own experience, starting with the decision, the
22 early 2000s, to promulgate an aerosol transmissible disease standard.

23 We had tried, John Howard and I back then had tried, for several years to
24 get a standard through just to address tuberculosis. The political will at that time was
25 not there. It was kind of like no standard was acceptable on just about anything having

1 to do with health. So we began a policy of issuing citations based on the injury and
2 illness prevention program and on Section 5141, harmful exposures in Title 8, and
3 others.

4 We had a lot of success, and the reason we had success was because
5 there was a tried and true formula for how to deal with tuberculosis back then. It was
6 CDC guidelines, and so all we had to, really, was, at least when dealing with healthcare
7 employers, say, "Well, they're not following CDC guidelines. That's not reasonable.
8 That's why the citation should stand."

9 A little word here about the IIPP. Laura Stock, Board Member Stock, said
10 at the last meeting something to the effect that it was said when we were trying to
11 adopt the aerosol transmissible disease standard, that there's no need, that people are
12 saying there was no need for an ATD standard, because there was the IIPP. Well, the
13 difference is pretty stark. We didn't need a tuberculosis standard by that time, but we
14 did need a standard to address pandemics and novel diseases.

15 The motivation back then was avian flu. That was our big chance, and if
16 you all remember back in 2004 or so, avian flu was known to be transmitted from
17 chickens to people. It had like a 60-percent fatality rate. Now, that was a real pandemic
18 waiting to happen. People were scared to death of it in the public health community.

19 We got real lucky, because it never reached the point of being
20 transmissible from human to human in any significant way. So we never got that
21 pandemic, but, when there was fear of it, there was plenty of input as to develop an
22 aerosol transmissible disease standard, and that's what we did.

23 So, the difference is, if you look at that standard, there are all kinds of
24 procedures in there that were not worked out at the time about how to deal with novel
25 pathogens and all kinds of other issues that go into trying to deal with every single

1 disease that can be transmitted through the air.

2 There was no consensus. We had to develop that consensus through a
3 series of advisory committees, and, you know, we did, actually, a very good job, thanks
4 to Deborah Gold. I remember when that standard was adopted. I think it was like 2008
5 or '9. The whole room clapped. It was a seven-zero vote, and the whole room clapped,
6 because we had developed consensus in an area where it didn't exist before.

7 So now let's turn back to the pandemic. This isn't rocket science, people.
8 You know, it's like, you wear a mask, you social distance, you don't come into work
9 when you're sick, you clean high-touch services and avoid them any way you can, and if
10 somebody tests positive for the disease, you go to the public health agency and look for
11 guidance on how to deal with that.

12 That's what needs to happen, and a couple of other issues need to be
13 dealt with, like, what do you do when you can't get a respirator and you need one?
14 What's the fallback? There's constant handwringing over that now, with the fire
15 standard.

16 It's happening with aerosol transmissible diseases, and I remember back
17 in the day, you know, I don't know, seven or eight years ago, it was just a ridiculous
18 thought to wear anything other than a respirator when trying to protect yourself, and if
19 you don't fit test, forget the respirator. It doesn't help. And all that's been thrown out
20 the window, and -- well, not CDC. They're behind the eight ball. They've been, like,
21 taken over by the pod people.

22 CHAIR THOMAS: Can I interrupt you for one second, please? Can you
23 slow down just a little bit? Again, we have translators.

24 MR. WELSH: Sure. Thank you.

25 CHAIR THOMAS: Try and just slow it down a little bit. Thank you.

1 MR. WELSH: Well, anyway, we have good guidance at the state level,
2 fortunately.

3 There are a couple of other things. Here's how the IIPP addresses
4 something like a pandemic like this one, with clear public health guidance at the state
5 level. The Labor Code section for the IIPP, 6401.7, is sandwiched in between Section
6 6401 and 6403. Both of those sections require an employer to do what's reasonably
7 necessary to protect employees and to provide reasonable safeguards.

8 The standard is reasonableness. What ALJ or what Appeals Board
9 Member is going to say it's not reasonable to be requiring employers to have employees
10 wear masks or to social distance, or to avoid or constantly clean high-touch surfaces?
11 It's a slam dunk.

12 Eric Berg, I think you were asked if the IIPP would cover telling people if
13 somebody has tested positive. Of course it would. Section 3203(a)(3) requires effective
14 communication. How can you have effective communication if you don't tell employees
15 that there has been somebody who tested positive and you may have been exposed?

16 The provisions in the IIPP actually are right on point on just about
17 everything. The only issue is, when DOSH is in the position of issuing a citation for
18 violating the IIPP requirements, can it be said that an employer reasonably should
19 do -- should apply those IIPP requirements to the issue they're addressing, in this case,
20 the pandemic, in this case, wearing a mask, in this case, enforcing social distancing?
21 And yes, an employer has to enforce the provisions of an IIPP.

22 So the ingredients are all there, and what DOSH needs to be doing is
23 reaching as many workplaces as it possibly can. It was in compliance assistance before.
24 That was very effective. It had been reaching a lot of workplaces.

25 The people we're after here, the employers we're after here, are not the

1 ones who are trying, are trying in good faith to address this (indiscernible). It's the ones
2 who are just basically saying, "Screw it. I don't care about it. I don't want to deal with
3 the issue." Those people can be identified through compliance assistance and turned
4 over to enforcement, and they can be nailed with the IIPP and the other sections.

5 So, if we're looking for the most effective way to apply DOSH resources,
6 that's it. Cover as much ground as you can, focus on the bad actors, focus on the frank
7 cases of noncompliance with reasonable public health wisdom, and that's going to be
8 the most effective use of resources you can possibly engage in.

9 So, judging from the response at the last Standards Board Meeting, it
10 looks like we're going to -- you know, the train has left the station, and we're going to go
11 forward and have DOSH develop an emergency standard. I would urge reconsideration
12 of that, but, if that doesn't happen, and we go forward, then I would counsel strongly,
13 keep it simple.

14 Deal with issues like "What do you do when you can't find the respirator,
15 right one?" Deal with issues like "Hey. If you're using a respirator as a mask, don't use a
16 respirator that has an expiration valve." You'd be amazed at how many don't
17 understand that now. I see it all the time. People think they're masking, and they're
18 wearing a respirator with a valve. Deal with the simple stuff like that that employers
19 need to know about, and a lot of them don't know about, and also pay attention to the
20 industries that are a little bit more complicated, right?

21 For the standard employer, you know, it's not rocket science. I've been
22 through that. Meat packing is a different issue. Nursing homes are a different issue.
23 They need a little bit more attention. That's where the focus should be, if you're going
24 to get into anything specific.

25 That's all I have to say. Thanks for the opportunity to comment. Thanks

1 for all of your hard work. You know, I really disagree with what a lot of you say, but I'll
2 defend with my life your right to say it. Thank you very much.

3 CHAIR THOMAS: Thank you.

4 Mr. Gotcher, who do we have next in the queue?

5 MR. GOTCHER: Our next speaker is Silvia Hernandez, and I am moving
6 her to the meeting now.

7 Silvia, you're live. This is a translated comment.

8 MS. HERNANDEZ: Good morning. My name is Silvia Hernandez. I am an
9 organizer and coordinator of the working center CLEAN Carwash Campaign.

10 During the last 14 years, we have been concentrating and telling our
11 workers about the importance of safety of our workers. Unfortunately, not all have had
12 the support of their employers, some of have been charging for the masks that they
13 have to use.

14 The employers will feel -- the employees will feel safe if the employers
15 make sure -- the employees will feel safer if the employers make sure that there is
16 safety for the workers, for the employees, for the customers, for everybody, and it is
17 urgent because we have a new reality. We need to have safety practices, all of us. The
18 employers won't keep their part in here -- the employees will keep their part in doing
19 this if employers provide us equipment and training to use this equipment and to
20 (indiscernible). And for all of us to commit to follow the necessary practices so that we
21 can all stay safe and we won't become ill or even die, and as a worker, I am in favor of
22 this law.

23 As a worker and an organizer, I'm in favor of these laws that remind us
24 how important it is for all of us to do this, to keep our jobs, to reactivate the economy,
25 and, more than all, to save our lives, and, finally, I believe the role that you have in all of

1 this, in order to make this a reality for us to be all safe. Thank you.

2 CHAIR THOMAS: Thank you very much.

3 Mr. Gotcher, do we have someone else in the queue?

4 MR. GOTCHER: Yes. Eric Frumin is up next. He will be joining us by
5 Webex.

6 UNIDENTIFIED SPEAKER: (Indiscernible.)

7 CHAIR THOMAS: Go ahead, Eric, when you're ready, and we need to
8 have the audio shut off on the previous caller. Thank you.

9 MR. FRUMIN: Can you hear me okay?

10 CHAIR THOMAS: We can. Go right ahead.

11 MR. FRUMIN: Great. Well, Chairman Thomas, other members of the
12 Board, thank you very much for getting us to the place we're in here today. We
13 appreciate greatly your commitment to taking this issue as seriously as you have, and
14 encourage you to work very closely with the DOSH staff on examining these very serious
15 issues that you've taken on, and with the urgency that you've taken on.

16 I think it's -- I don't want to repeat the statements that workers have
17 made on the call this month and last month. I think it's amply clear that, whatever good
18 intentions exist among the employers who were doing their best under difficult
19 circumstances, there are far too many employers, however many that is, who seem to
20 be incapable of doing the minimal steps to protect their employees, and even
21 themselves as employers.

22 There is too much misinformation available to employers already about
23 the proper ways to protect the workers, to protect the public, and we have seen the
24 evidence of that in the restaurant industry, in the warehouse industry, and in other
25 sectors. So, in a nutshell, I basically want to encourage the Board to take the

1 opportunity that you have in the months ahead to seize the moment, to prevent the -- I
2 don't know what wave it would be, the second wave the third wave -- by helping
3 employers throughout the state to take this issue as seriously as they can, and in our
4 world, under the OSHA Act, that means having a standard that will actually be
5 enforceable.

6 There will be many statements made, some today already and previous
7 meetings, about the adequacy of comparative methods that DOSH has for getting
8 employers to take those steps, whether it's consultation efforts, whether it's
9 enforcement.

10 This is not a zero-sum game. They all need to be undertaken, because we
11 don't know what the magic combination will be for any particular group of employers,
12 but we do know that a substantial number of employers are not going to, on their own,
13 take the steps to protect workers that are within the employers' capacity, and the way
14 we change that is for DOSH to have standards that their inspectors can use quickly, can
15 enforce quickly, that it does not require a cumbersome process within the agency to
16 figure out whether the IIPP covers a particular version of the hazard or not.

17 We need an enforceable standard that's as easy to enforce as possible.
18 DOSH has far too few enforcement resources now to waste their time trying to interpret
19 the IIPP standard, and that's the position that DOSH currently is in. They don't have that
20 position. They're not in that position with regard to the industries covered by the
21 standard for healthcare, thank goodness, and, given the severity of the danger, DOSH
22 desperately needs to have that authority and that ability for the other industries who
23 are left out of the airborne transmissible disease standard.

24 Finally, I want to encourage the Board to pursue the approach you're
25 taking of soliciting the community's involvement and interest. I think your direction to

1 DOSH to quickly review the emergency standard with an advisory committee on an
2 ongoing basis is a very smart approach, and will allow you, the Board, as well as DOSH,
3 to get the kind of feedback that will help sharpen everybody's game -- not
4 game -- sharpen everybody's efforts here to protect the people of California, at work
5 and in the community.

6 So I think there are lots of ways to hear from employers and hear from
7 workers. I think that the way you've described it on this regular basis going forward is a
8 smart way, and I know that many of us on the labor side are looking forward to
9 providing good faith participation in that ongoing feedback effort.

10 So thank you again very much for getting us to this position, and for
11 allowing workers in the restaurant industry, in the janitorial industry, in transportation,
12 warehousing, so many who are suffering now from unnecessary exposure, the hope that
13 they'll have an enforceable standard before the end of the year.

14 CHAIR THOMAS: Thank you. Could we get your name and affiliation,
15 again?

16 MR. FRUMIN: Sure. The name, again, is Eric Frumin, and I'm the Health
17 and Safety Director for the labor coalition Change to Win, which includes the Teamsters,
18 SEIU, and the CWA, and the United Farmworkers.

19 CHAIR THOMAS: Thank you very much.

20 MR. FRUMIN: Mr. Chairman, (overlapping colloquy).

21 CHAIR THOMAS: Thank you.

22 Mr. Gotcher, could you please introduce the next speaker in the queue,
23 and whoever the next speaker is, please introduce yourself and your affiliation. Thank
24 you.

25 Go ahead, Mr. Gotcher.

1 MR. GOTCHER: Yes. Our next speaker is Maria Maldonado, and I'll let
2 you take it from here, Ms. Maldonado.

3 MS. MALDONADO: Yes. Hi. Good morning. [Reading] "My name is Paz
4 Aguilar, and I am calling today to urge the OSHA Standards Board to pass
5 emergency regulations that will keep essential food workers like me safe.

6 COVID-19 continues to be a hazard for working people, and we need
7 new, enforceable rules because, so far, fast food companies and local health agencies
8 have failed to do enough to prevent the spread of coronavirus in our industry.

9 I have worked in fast food for 20 years, and I am a leader in the Fight for
10 \$15 and a Union. I am sharing my story to show just how desperately workers need
11 stronger health and safety regulations.

12 I work at three fast food restaurants, a KFC/Taco Bell location in Oakland
13 and a Jack in the Box in Alameda. At the beginning of the pandemic, I saw that 11
14 workers at a McDonald's near my store in Oakland had COVID-19 and were on strike.

15 I was afraid that the virus could just as easily spread at my store, so I
16 spoke up about how we all have to take care, wash our hands and always wear our
17 masks. Managers heard me speaking up about this, but remained silent and didn't
18 create new safety standards in our store.

19 Then I started hearing about workers at the KFC/Taco Bell location
20 getting sick, and though our managers tried to hide positive cases and refused to
21 quarantine workers who may have been exposed, we knew COVID was in the store. In
22 total, seven workers at that store tested positive for COVID-19.

23 While I wasn't the first person in the store who got sick, I was the first to
24 spread it to my family. My sister-in-law, who I share a home with, also tested positive
25 for the virus and had to give up her job as a housecleaner.

1 Just as I was getting ready to return to work after my two-week
2 quarantine, I suffered a stroke on July 20th, and was placed in a medically induced coma
3 for four days, and could not return home until August 17th. I have ongoing health
4 problems from the stroke including trouble with speaking and walking, and paralysis of
5 one side of my body. The doctor says it may take twelve months to recuperate.

6 When I was in the hospital, my supervisor at the KFC/Taco Bell Store
7 called me and told me that since I had already used up to two weeks of quarantine pay,
8 there was no more sick pay, and instead he offered me a fried chicken lunch. I
9 explained that I cannot eat fried chicken because I can't eat the grease, and he said,
10 "That is all we can offer you."

11 I requested Jack in the Box pay me my three days accumulated sick pay,
12 and the company refused. The store supervisor texted, "Having called sick, sadly, the
13 fact that you were in the hospital does not count as sick hours." That is what they told
14 me.

15 In two decades of working in fast food, I have learned that fast food
16 companies will do whatever they can get away with to keep their profits coming in, even
17 if that means risking the health and safety of workers and customers alike. This must
18 change. These companies will continue acting badly until our government can step in
19 and force them to finally do right by us.

20 Thank you. "¹

21 CHAIR THOMAS: Thank you.

22 Mr. Gotcher, can you please introduce the next speaker?

23 MR. GOTCHER: Our next speaker is Rick Nils, who will be joining us on

¹ Ms. Maldonado notified Board staff that she would be reading a statement into the record on behalf of Ms.

Aguilar.

1 Webex, and who does need a translator today.

2 MR. NILS: No, I don't need a translator, actually.

3 MR. GOTCHER: Okay.

4 CHAIR THOMAS: Go ahead and continue.

5 MR. NILS: Thank you. Thank you for the opportunity to let me speak
6 today. My name is Rick Nils, and during the coronavirus pandemic --

7 CHAIR THOMAS: Can you give us your affiliation, please?

8 MR. NILS: Sure. I'm with -- I'm just a -- I worked for Amazon.

9 CHAIR THOMAS: Okay. Good enough.

10 MR. NILS: Alright. And so my name is Rick Nils, and during this
11 coronavirus pandemic, I worked as a driver for a company delivering Amazon packages
12 in the Los Angeles area, and I am asking you today to please vote to protect workers like
13 me from COVID. Employers are not doing enough under current laws to protect
14 workers from COVID.

15 At my former delivery company, it was very unsafe for me. Social
16 distancing was not enforced. We had to cluster close together in big group meetings
17 every morning. They did not clean or sanitize the delivery vans between drivers, and I
18 would sometimes use my personal time before my shift to try to clean, because I didn't
19 know who had been before me.

20 I spent most of my shift delivering packages out in public of all kinds,
21 stations like elevators and apartment buildings, and I did not receive enough PPE, hardly
22 ever any hand sanitizer, and, knowing how dangerous COVID is, I felt ill-equipped. It
23 was like a soldier being sent into battle with only cargo shorts and a T-shirt for
24 protection.

25 Even before coronavirus, it was hard for me to find time to use the

1 restroom or wash my hands, because we had so many packages to deliver by the end of
2 the day. Instead of slowing things down during the pandemic, they actually gave us
3 more packages. I was delivering at least 300 packages most days, which is at least 180
4 stops or more, and I was working more than 10 hours a day.

5 Sometimes I had to urinate in a bottle, because many public restrooms
6 had closed, and we weren't given enough time to deliver every package. How we are
7 supposed to stay safe from COVID in these conditions, I don't know.

8 I was delivering packages on behalf of one of the largest companies in the
9 world, but my employer was not doing their job to keep us safe, and we need stronger
10 protection.

11 All right. Thank you for your time.

12 CHAIR THOMAS: Thank you very much.

13 Mr. Gotcher, you can introduce the next person in the queue.

14 MR. GOTCHER: Yes. Our next speaker is going to be Natasha Castro.

15 MS. CASTRO: Hi. Can you hear me?

16 CHAIR THOMAS: Hi Natasha. Yes. Go ahead and introduce yourself --

17 MS. CASTRO: Good morning. My name is --

18 CHAIR THOMAS: -- and your affiliation, please.

19 MS. CASTRO: Okay. Good morning. My name is Natasha Castro, and I'm
20 a worker and community organizer with the Los Angeles Alliance for a New Economy on
21 our Fair Workweek Campaign.

22 I'm speaking today on behalf of our entire coalition in support of Petition
23 583. We are a coalition of labor, community groups, health advocates, and retail
24 workers who, since the start of the pandemic, have been advocating for the health and
25 safety of retail workers to curb the spread of COVID-19 at the workplace.

1 As front line workers, many of them have dealt with employers who are
2 not enforcing public health orders and thus have experienced outbreaks at their jobs.
3 One of our retail worker committee members, like others, has shared that her employer
4 is not regulating the number of customers that are coming in the store, and so there's
5 no social distancing. She also does not have access to cleaning supplies to keep her
6 work area clean. Unfortunately, very recently, there was an outbreak at her store, with
7 seven employees testing positive for COVID-19.

8 Another retail worker member also experienced an outbreak at her
9 workplace, and the store was never cleaned or disinfected. It was very concerning to
10 hear that cleaning was just limited to shopping carts and registers, so that customers
11 would feel safe. As the mother of a young daughter, she worries every day that she will
12 get her sick.

13 Many workers like them are worried, because they know the pandemic is
14 far from over, and their employers are not doing enough to keep them safe. We
15 support the emergency temporary standard because all workers in L.A. County need to
16 be protected from COVID-19, and employers who are failing to comply with local health
17 orders need to be held accountable. Thank you.

18 CHAIR THOMAS: Thank you very much.

19 Mr. Gotcher, please introduce the next speaker.

20 MR. GOTCHER: Yes. Our next speaker is joining us from Webex, and his
21 name is Christian Ramirez.

22 CHAIR THOMAS: Good morning, Christian. Can you introduce yourself
23 and your affiliation, please?

24 MR. RAMIREZ: Good afternoon -- or good morning. Can you hear me?

25 CHAIR THOMAS: Yes.

1 MR. RAMIREZ: Wonderful. My name is Christian Ramirez. I am the
2 policy director with SEIU, United Service Workers West.

3 Many of our members are actually getting off of work, because they are
4 essential workers now. We have a few written testimonies that we're happy to submit
5 to the Board for your review.

6 We are deeply concerned about the impact that this pandemic has had
7 on essential workers, particularly janitors and security officers, who have been working
8 nonstop since this pandemic began. Sadly, many of our members have tested positive
9 for COVID-19, and, unfortunately, some have also died as a result of this terrible
10 pandemic, airport workers, janitors, and security officers.

11 We thank the Board for this continuous dialogue, and certainly look
12 forward to continuing to work with you to ensure that we continue to move forward as
13 a state and provide all of the protections to essential workers and all workers who are
14 struggling through this pandemic.

15 I will be submitting some written testimonies in both English and Spanish
16 for the record to the Board. Thank you very much for your time.

17 CHAIR THOMAS: Thank you.

18 Mr. Gotcher, can you please introduce the next speaker?

19 MR. GOTCHER: Our next speaker is also joining us from Webex, and his
20 name is Mitch Steiger.

21 CHAIR THOMAS: Hello, Mr. Steiger. Can you please introduce yourself
22 and your affiliation, please?

23 MR. STEIGER: Yes. Thank you, Chair Thomas and members. Mitch
24 Steiger with the California Labor Federation, (indiscernible) to testify today.

25 I really just wanted to express our support of both the petition and the

1 proposed decision. We think both are very important, and very much appreciate the
2 decision coming from the Board to not just send the petition to an advisory committee,
3 but also to do so as quickly as was recommended. They kind of stole our fire by
4 proposing that it happen so soon, and that's a great thing.

5 We think it's wonderful that the process can move that fast, and very
6 much look forward to being involved in the advisory committee process, and have never
7 done one virtually before, but we'll find out how it goes, and doing what we can to get
8 good language drafted and sent to the Standards Board as soon as possible.

9 We basically have two main goals in this process. The first is that we
10 really don't want to see the eventual standard, eventual emergency standard, weaken
11 what we've already got.

12 A lot of affiliates, a lot of unions, a lot of worker representatives worked
13 really hard to get the guidances that are in place and to get the language that would be
14 most helpful to those workers that are in place quickly, and understanding that there is
15 a lot of confusion out there, and a lot of conflicting guidances out there from not just
16 public agencies, but also trade associations.

17 Everyone under the sun has different recommendations out there,
18 though, as previous commenters have mentioned, the basics seem to be pretty
19 universally agreed on. There are a lot of details that are in the guidances that we'd like
20 to see protected, and in the effort to eliminate confusion for employers, we hope it
21 doesn't end with weakened protection for workers. We'd like to see the guidances
22 remain enforceable, ideally, during the development of the standard and once it's in
23 place, and that the eventual standard clarifies or, ideally, strengthens the guidance
24 language, not replace it in any way.

25 I'm sure that the pressure on the Division to simplify things in that way by

1 kind of pushing the guidances aside may be strong, but we hope that that's resisted, and
2 that whatever we do, individual regulatory language that builds on the good language in
3 the guidances, where it exists, strengthens enforcement of those, so that they all work
4 together in a way that both clarifies compliance for employers, but also strengthens the
5 protections for workers, and also, thought it probably shouldn't be a big concern, given
6 the direction from the Standards Board Members to come back with a standard so
7 quickly.

8 Obviously, we want this to happen soon. Our big concern from the start
9 with this process was that it would take too long to be relevant to COVID-19.
10 Unfortunately, COVID-19 looks like it's going to be with us for a while, but, fortunately, it
11 looks like the Standards Board and others recognize that this needs to happen much
12 more quickly than we usually do things. We very much appreciate that.

13 We very much appreciate the work of both Board staff and the Division in
14 getting everything together so quickly, and very much look forward to being involved in
15 the process, and thank you again for the opportunity to testify.

16 CHAIR THOMAS: Thank you.

17 Mr. Gotcher, please introduce the next commentator in the queue.

18 MR. GOTCHER: Our next commenter is also from Webex, Stasha
19 Lampert.

20 CHAIR THOMAS: Go right ahead.

21 MS. LAMPERT: Hello. My name is Stasha Lampert. I work in policy and
22 research for SEIU Local 2015, and I'm to present testimony on behalf of three of our
23 nursing home members in support of the petition.

24 These workers, while having been officially under the jurisdiction of
25 Cal/OSHA's ATD standards, have found themselves still facing inadequate health and

1 safety protocols during the pandemic, and these experiences have jeopardized the
2 health of these workers, their families, and the residents that they serve.

3 First, I will read the words of Maria Carmen Vazquez, who works as a CNA
4 in Long Beach, at Country Villa Bay Vista. She states:

5 "At work, they were dividing patients into green and
6 yellow zones. All of my patients were in yellow zones,
7 because they were the ones getting dialysis.

8 "The PPE that was given to us from the beginning
9 was just disposable surgical masks and disposable gowns.
10 Toward the last week that I worked, management started
11 giving out face shields.

12 "The whole staff was getting tested every week, on
13 Tuesdays. The first two tests came back negative, but we
14 were still working, even though when there were patients
15 coming back positive from COVID-19.

16 "On the 4th of July weekend, I started feeling sick.
17 I got tested on my day off, July 7th, and returned to work
18 after that. The results came back on Friday, July 10th, and
19 they were positive.

20 "By then, I had already exposed my family to the
21 virus. I was cautious at work and home, because my
22 husband is immune compromised. My whole family, my
23 husband, two sons, daughter-in-law, and two grandkids,
24 except my daughter, all got the virus, and my worst
25 nightmare had just begun.

1 My husband got the worst of the virus, and had to
2 be hospitalized for over 22 days. He was intubated for 10
3 days. His blood pressure was in the low 90s when we got
4 to the hospital. We were not able to see him during the
5 whole hospital stay, only through FaceTime, when the
6 nurses were available.

7 "We were isolated for a little more than 3 weeks.
8 My extended family had to bring us food and everything
9 that we needed during this time.

10 "Overall, my husband survived, and is currently
11 recovering at home. He is able to walk without oxygen
12 after two months.

13 "It was heartbreaking to my daughter alone, not
14 able to hug her because I couldn't expose her, and I think
15 that the nightmare is now ending.

16 "I thank God and the nurses and doctors, for all the
17 hard work that they do every day, and I'm sharing this
18 story because I know for sure that I and my family were
19 exposed to this grave danger through work.

20 "We need to do better, and there is so much more
21 that can be done to protect us essential workers and our
22 families."

23 In addition to Maria Vazquez' powerful account of working in a nursing
24 home during the pandemic, we have two additional workers who work at River Valley
25 Care Center in Live Oak, located in Sutter County.

1 First, I'll read the account of Nicole Marzano, who shares:
2 "I had tested positive for COVID while working in the
3 facility. There were days where there were not enough
4 masks to go around, or they were kept locked up with the
5 administration and they couldn't be accessed until they
6 got there at 8:00 a.m. in the morning.

7 "Due to a lack of PPE, workers had to use one gown
8 per room for the entire day, to share gowns, again, one
9 per room, per day.

10 "During the time that the facility is considered to
11 be all yellow, we were told that we did not need to wear
12 an N95 mask, and that we could just wear the regular
13 surgical masks.

14 "Residents that are considered to have symptoms
15 are kept in their rooms with non-symptomatic residents
16 until a positive test has been received.

17 "During the time that I tested positive, I had
18 symptoms, and was told that, without a temperature, I
19 could continue to work in the facility until they received
20 the positive results. Even with concerns of infecting others
21 it was not considered to be serious until there were
22 positive results."

23 Lastly, we have the testimony of Devin Wood, another worker who works
24 at River Valley, who shares:

25 "The fear that each us face every day is that we won't have

1 the correct PPE to protect ourselves and our loved ones. I
2 have witnessed, personally, my fellow coworkers contract
3 the coronavirus.

4 "Rules and regulations are implemented and seem
5 to change weekly. Regulations are placed by federal and
6 state workers which have never walked a day in our shoes,
7 and officials have little idea of the realities that we face,
8 such as no supplies, gowns, gloves, or even enough bleach
9 so that all the equipment can be sanitized.

10 "I have also witnessed that each facility seems to
11 have a different set of standards regarding infection
12 control and isolation."

13 That's the end of the testimony. I want to thank you for your time today.
14 We're grateful for the opportunity to share these experiences on behalf of our
15 members, in hopes that an emergency standard will enable all workers, and those they
16 come in contact with, to enjoy more safe conditions under these extraordinary
17 circumstances.

18 CHAIR THOMAS: Thank you.

19 Mr. Gotcher, please introduce the next speaker.

20 MR. GOTCHER: Our next speaker is joining us from Webex, and it is
21 Mirella Deniz-Zaragoza.

22 MS. DENIZ-ZARAGOZA: Hi, everyone. Thank you. Thank you, Chair
23 Thomas and Board Members, for the opportunity to speak today.

24 My name is Mirella Deniz-Zaragoza. I am speaking on behalf of the
25 Warehouse Worker Resource Center. The Warehouse Worker Resource Center is an

1 organization dedicated to improving working conditions for warehouse workers and
2 their families across Southern California.

3 We'd like to address the urgent need for an emergency standard to
4 protect all workers, regardless of the industry, from COVID-19 hazards. We support
5 Petition 583, and we are glad to see the proposed decision to grant the petition and
6 move forward with rulemaking expeditiously.

7 We are six months into the pandemic, and we continue to see COVID-19
8 outbreaks in warehouses across various settings and throughout the region. We
9 continuously hear reports of employers who are not complying or enforcing
10 preventative measures in the workplace to protect workers against COVID-19
11 transmissions.

12 Existing Cal/OSHA standards that protect, and prevent injury and illnesses
13 in the workplace, do not address specific preventative measures nor employer
14 guidelines against COVID-19. Even standards like the aerosol transmissible disease fails
15 to protect and include all workers across historically excluded industries and employers.
16 The most impacted workers are people of color, who continue to work under conditions
17 of essentialness without clear-cut protections.

18 Currently in California, we have lost over 14,000 lives to COVID-19. How
19 many more lives do we have to lose? How many more essential workers must die in
20 industries that lack comprehensive protections against COVID-19 hazards like
21 warehousing, food processing, farming, and agriculture?

22 Recently, Cal/OSHA issued several worksite citations which barely
23 brushed on major issues of employer's failure and inability to protect its workers. The
24 unprecedented amount of complaints Cal/OSHA has received makes it clear that
25 employers are ignoring Cal/OSHA guidelines.

1 We urge the Standards Board to act as quickly as possible to develop and
2 implement an emergency standard that meaningfully protects against the continued
3 spread of COVID-19 in workplaces and to the public. Thank you for your time.

4 CHAIR THOMAS: Thank you.

5 At this time, we are going to take approximately a 10-minute break.
6 We'll reconvene at 11:30. Stay on the line, don't get off, and we'll reconvene at 11:30.
7 Thank you.

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

9 (On the record at 11:30 a.m.)

10 CHAIR THOMAS: Alright. We are back in session. Thank you for your
11 patience.

12 Mr. Gotcher, can you introduce the next person in the queue?

13 MR. GOTCHER: Our next commenter is Michael Donlon, who is joining us
14 by Webex.

15 CHAIR THOMAS: Hello, Michael. Can you hear us?

16 MR. DONLON: Yes. Good morning, Board Members. I'm Michael
17 Donlon. I'm representing the Construction Employers' Association, and I just have a few
18 comments to make.

19 I know at the last meeting something was said about, you know, employers
20 always never see the necessity for regulation, but I want to make it clear that the
21 Construction Employers' Association does see a necessity to protect our employees
22 from this virus.

23 I think part of our concern is that, you know, according to the APA, the
24 Administrative Procedures Act, a new regulation is supposed to be non-duplicative,
25 meaning that it doesn't have the same purpose as other statutes or regulations, and any

1 overlap has to be justified. Right now we are being regulated by public health agencies,
2 by Cal/OSHA, so there are regulations on the books that cover a lot of the same stuff as
3 in the proposal. Okay? The public health agencies are doing a lot of the same things,
4 and this would just be a duplicate effort. The Division is being able to issue citations for
5 existing standards to employers that are not complying.

6 One comment earlier said that, you know, it's hard to interpret and apply
7 the IIPP standard, when, in fact, that is the most commonly cited standard, and it's
8 probably one of the easiest ones to cite. You know, the regulations the Division has
9 been citing are all performance standards, and a performance standard, by its nature,
10 can be widely applied to a lot of different hazards. IIPP specifically says an employer has
11 to do an assessment to determine what hazards are in the workplace, including
12 something like COVID-19, and then take steps to mitigate those hazards. So it's quite
13 clear on that, and it really applies to, you know, pretty much any hazard you could ever
14 think of.

15 Now, when there are certain industries that have elevated hazards, such
16 as the healthcare industry, it makes sense to put a narrow vertical standard in place that
17 addresses that, but the IIPP was really addressed for hazards that are across the board
18 to all employers, such as COVID is at this time.

19 So that's kind of where our concerns are. One of the things, you know,
20 the Division has done, which has been great, is provide detailed guidance for dozens of
21 different types of employers. As Chief Parker put it, that gives us a road map for
22 employers to comply with existing regulations and protect their employees from
23 COVID-19.

24 So it wasn't so much that, you know, we don't see the necessity and we
25 don't see this -- you know, we're not trying to say there's no problem. The question is,

1 are there tools in place that we use, and must comply with, from county, state public
2 health agencies, and Cal/OSHA that will protect our employees? And I believe there are.

3 Now, I've heard several commenters saying, you know, that their
4 employers aren't complying, they don't have any PPE, they don't have any cleaning
5 supplies. A new regulation is really not going to fix that. I mean, those employers are
6 just bad employers, and, all of a sudden, they're going to see -- they don't even know
7 there's a new regulation, most likely, and so, you know, it's problematic in that sense.

8 CEA did submit a letter detailing some of our concerns with the actual
9 proposed language in the petition, and I'm just going to talk about a couple of those.
10 One of the things, right at the beginning, is saying that the employer must "identify a
11 competent person who shall be knowledgeable in infection control principles." Wow. I
12 was just talking to a small contractor last week, has eight employees, none of them with
13 more than a high school education. Who is he going to identify that can be
14 knowledgeable in infection control principles?

15 That's a real problematic part of this, is, you know, there's millions,
16 somewhere around 3,000,000, I think, small employers in this state that will not have
17 the resources to comply with that. So how do we fix that? So that's one of the things I
18 see as just, you know, really almost impossible for small employers to overcome.

19 Another one has to do with the compliance action plan, which talks about
20 it has to be updated within 10 days of any new state, local law, regulation, order, or
21 guidance document. Well, there's a rule in the APA that you can't write regulations that
22 automatically update without public comment and without following the ADA
23 procedures, and so, you know, it's like when we put an ANSI standard or an NFPA
24 standard into a regulation.

25 We actually have to put the date, and that's the standard that, you

1 know -- in some cases, they date back to 1969 standards. Those are the ones that apply.
2 But if you put, you know, "NFPA 70E," you know, most current edition, that means that
3 that regulation updates every time NFPA submits a new edition, which is not allowed,
4 because it bypasses the rulemaking process, the APA. So that's another problem I see.

5 You know, we're required to comply with all these orders that are put out
6 there by the public health departments, and so, you know, we're already having to do
7 this, so, again, that is duplicative language as well. You go further in the proposed
8 language, and it's all very prescriptive, and, honestly, much of it reads exactly like
9 Section 3203 of the IIPP, only they insert "COVID-19" to each sentence, and, again, you
10 know, duplicative language.

11 I know this is going forward. I think the Board, you know, by their
12 comments at the last meeting, made that clear, but I just, you know, really want you to
13 look at -- and I think Len said this. I think Ms. Treanor has proposed some new
14 language. I haven't seen that -- but really looking at the language, making sure it's clear,
15 concise. The other thing it has to be is consistent, so, again, you know, consistent with
16 any other laws or regulations, not just Cal/OSHA regulations, but those other regulations
17 from the public health entities.

18 You know, there was just -- I think it's gone to the Governor's desk, and
19 I'm guessing he's going to sign it -- Assembly Bill 685, which has requirements for
20 employers to tell their employees if there's been an infection in the workplace, so you
21 can't have anything in the regulation that's conflicting with that. Stuff is coming out so
22 fast and furious, that's going to be hard to do, to build that consistency.

23 The other thing that's in that bill is it clarifies that the Division can use an
24 OPU, Order Prohibiting Use, to shut down a business operation where COVID-19
25 presents an imminent hazard. So that bill is giving -- really much stronger than the

1 proposed language of this regulation, something to really stop those employers that
2 refuse to comply, by shutting them down. Now, the counties can already do that,
3 because they all have to some kind of a license or permit that can always be yanked.

4 So those are the things that, you know, really, we have to look at, you
5 know, making sure that whatever put in here, one, is doable for employers -- you know,
6 not every employer can go out and hire an IH. I don't think there's enough IHs out
7 there -- and then that it is, you know, reasonable, and doesn't, like, duplicate or be
8 inconsistent with other requirements employers are working hard to try and follow,
9 many of us. I acknowledge many are not, but many of us are, and the ones who they're
10 not aren't going to change their ways, necessarily, because of a new regulation.

11 I also want to touch on wildfire smoke. You know, this was pushed
12 through as an emergency regulation very quickly, and now we're in a position where
13 there are no N95s, and employers, for the last couple weeks, have been unable to
14 comply with that regulation, and so shutting down operations -- you know, there was no
15 other way to comply.

16 So, you know, when we push these regulations through quickly, and the
17 proposed language does have a requirement for N95s, there can be unintended
18 consequences. So this rush to get it through, I understand the reasoning, but I think it
19 would be more helpful to employers and employees if we think it out well than if we
20 rush it through quickly.

21 I look forward to seeing Ms. Treanor's language, and how that compares,
22 but I think the existing language in the petition is just fraught with problems. Thank
23 you.

24 CHAIR THOMAS: Thank you.

25 Mr. Gotcher, please introduce the next person in the queue.

1 MR. GOTCHER: Yes. I would like to introduce Gabriel Salazar. I'd also like
2 to take a moment to apologize for any mispronounced names that I've had.

3 Gabriel, you're live.

4 MR. SALAZAR: (No response.)

5 CHAIR THOMAS: Good morning, Gabriel. Can you hear us?

6 MR. SALAZAR: Yes. Good morning. Thank you for the opportunity to
7 provide public comment. I have no affiliation. I'm a community member of Merced
8 County who has friends, (overlapping colloquy) family -- hello?

9 CHAIR THOMAS: Yes. Go right ahead. That's fine.

10 MR. SALAZAR: Yes. I'm a community member of Merced County who has
11 family, friends, and neighbors who work at the Foster Farms plant. I'm calling today to
12 discuss the outbreak at Foster Farms in Livingston, California, and how it was poorly
13 handled.

14 The way the outbreak was addressed over the last few months is
15 upsetting, frustrating, and truly unfortunate. Despite multiple public health directives
16 issued and requested by Merced County since June 29 for Foster Farms to comply and
17 implement safety measures, it took Foster Farms two months to comply and provide an
18 adequate response.

19 CHAIR THOMAS: Gabriel, can I have you slow down just a little bit for the
20 translator, just a little bit? Just slow down (overlapping colloquy).

21 MR. SALAZAR: Yes. Okay.

22 CHAIR THOMAS: Thank you.

23 MR. SALAZAR: The response resulted in a temporary closure, six days, of
24 one time. It is very possible that the outbreak could have been limited, and perhaps
25 even lives could have been saved, if Foster Farms was closed from the outset of the

1 outbreak. The entire plant closure would probably have minimized the damage as well.
2 I do not understand why it took two months for Foster Farms to temporarily close
3 down.

4 Foster Farms demonstrated clear disregard for the health and safety of
5 the employees and this community. Many of the employees here are working class
6 immigrants, people of color, who work hard and are among the most vulnerable people
7 in our community. They must be protected. Foster Farms should have been shut down
8 much sooner, addressing a situation that required intense collaboration and
9 partnerships across multiple federal, state, and local agencies and departments.

10 Workers should not have to choose between working, risking their lives,
11 and not working. Again, I believe that stricter -- or, sorry. I believe that stricter
12 enforcement of health and safety measures could probably have limited the outbreak,
13 the number of positive cases, and saved lives. Foster Farms has enormous clout, power,
14 and influence in Merced County, the state, and nationally, and I understand the
15 economic development benefits, but workers must also be protected, and there must
16 be a guarantee that they are working under safe and healthy work conditions.

17 Stricter enforcement is necessary now and in the future to minimize the
18 possible damage of another outbreak, there and at other similar meatpacking, poultry
19 plants, factories, et cetera, where workers are working in close proximity to one another
20 and those facilities have a large number of employees.

21 I am also interested to learn that the situation there will be discussed in
22 the future by OSHA at one of the Board Meetings. It is heartbreaking because, if the
23 situation was addressed differently, locally and from the state, perhaps we could have
24 had a more positive outcome.

25 Thank you for your time and your consideration and your attention on

1 this matter.

2 CHAIR THOMAS: Thank you very much.

3 Mr. Gotcher, who do we have in the queue?

4 MR. GOTCHER: Our next commenter is joining us by Webex, and her
5 name is Margaret Robbins.

6 MS. ROBBINS: Hi. Can you hear me?

7 CHAIR THOMAS: Yes, we can, Margaret. Go right ahead.

8 MS. ROBBINS: I go by "Maggie." This is Maggie Robbins, and I'm with
9 Worksafe, and I'm one of the petitioners today, and I want to thank the Board for their
10 attention to this, and for their very thoughtful proposed decision.

11 I think you're trying to balance the need for urgency, and to put
12 something in place quickly, and to allow public input, and realizing that the emergency
13 temporary standard process, as done in the past, actually takes too long to be as
14 responsive as you need to be in the current situation.

15 So I think that the proposed decision does strike a balance about public
16 input, but getting something in place quickly, and I thought it was very interesting to see
17 that, you know, you were stipulating that there be an advisory committee after
18 adoption in November, presuming if it is adopted in November, to provide specific
19 points of feedback. I think that's a really good way to try and do this, and that allows for
20 there to be change, and I think the criteria is to avoid serious harm, if you determine
21 that there is a need to avoid serious harm, by modifying the emergency temporary
22 standard.

23 It is an emergency situation. You know, whatever standard is put in place
24 is temporary. It's not intended to last forever, only to get us through this crisis. We do
25 think it needs to be adopted quickly, and we need to do our best to put as good a

1 standard as we can in place.

2 The language that we suggested on our petition was really an example of
3 the kind of standard we had in mind, which was a fusion of the standard between a
4 performance and a specification standard. It isn't what we expect the Board to endorse,
5 letter for letter, word for word. It is simply an example to try and illustrate the point of
6 what we were envisioning for an emergency temporary standard.

7 We all know that it is not the petitioner who determines the language of
8 the standard. It's going to be determined by staff, and I'm sure the staff is hard at work,
9 both at Cal/OSHA and the Board, to come up with language that will be as broadly
10 applicable as possible, and meet as many of the conflicting demands on it as are there,
11 both how do you be specific enough to be useful, but how do you be general enough to
12 be broadly applicable? It's not an easy needle to thread.

13 I think there's a lot of sentiment that you're hearing today, and I've heard
14 at past meetings --

15 CHAIR THOMAS: Maggie, would it be possible to slow down? I know it's
16 hard.

17 MS. ROBBINS: Yes. I'm so sorry.

18 CHAIR THOMAS: Slow down a little bit for our translator. I know it's
19 hard. Go right ahead.

20 MS. ROBBINS: All right. I won't blame too much coffee, because I
21 haven't had any yet.

22 Anyway, I don't want to go on further. I think you're hearing a lot of
23 sentiment about people feeling that there is more needed to be done. I do think that
24 we need to recognize the hard work you've been putting in and that, indeed, many
25 employers are putting in, but not enough, and so I urge you to continue ahead, and let's

1 do more what we can to protect more workers on the job. Thank you.

2 CHAIR THOMAS: Thank you very much.

3 Mr. Gotcher, who do we have next in the queue?

4 MR. GOTCHER: Okay. So next in the queue, also joining us by Webex, his
5 name is Ramon Castellblanch.

6 CHAIR THOMAS: Ramon, can you hear us?

7 MR. CASTELLBLANCH: Can you hear me now?

8 CHAIR THOMAS: Yes, yes, Ramon, we can, and I would advise you to try
9 and speak slow for our translator, but please go ahead.

10 MR. CASTELLBLANCH: Will do. Thank you very much, Chairman Young
11 (sic) and Committee for your attention to this critical matter.

12 I do think one thing that's important to point out, I was on the call
13 yesterday with the National Academy of Medicine and the American Public Health
14 Association on this topic, and one of their national experts advised that, whether or not
15 there's a vaccine, this pandemic will probably go on for a long time. There's widespread
16 distrust in public health now. Lots of people are hard to contact. So, whatever we do
17 here or whatever you do here is probably going to have long-term consequences.

18 I won't go too far into the latest data on infections, just to mention one.
19 L.A. County tracks worksites with infections, and when I looked in July, they had seven
20 worksites with 50 or more infections. I looked two days ago. They have 15 worksites
21 with 50 or more infections. That is, the number of worksites in Los Angeles County have
22 more than doubled that have 50 or more infections. This problem is getting worse as
23 we speak.

24 Given that it appears that you're going to order us to go forward, I just
25 would like to make a quick comment about a process we're studying. I think it's critical.

1 We learned yesterday on the National Academy of Medicine call that there are some
2 case studies now, cases where they have had good success in reducing infections.

3 One that's currently going on, possibly the national model, is at the
4 University of Illinois in Urbana-Champaign. When the students got there two weeks
5 ago, they had a three-percent positivity rate. They have crushed the infection rate there
6 with an intensive campaign of testing and non-pharmaceutical measures such as
7 universal masking. Checking their website today, their positivity rate is now 0.38
8 percent.

9 We don't have any playbook or national models that the staff can draw
10 on. Best case are going to be case studies like the University of Illinois'. So I advise folks
11 that are going to be putting this together to please check with exemplary cases such as
12 the one I just mentioned. Check with the National Academy of Medicine to get further
13 citations.

14 I do greatly appreciate the Board's attention and resolution to help
15 protect the workers of California.

16 By the way, I forgot to say who I am.

17 CHAIR THOMAS: Yes.

18 MR. CASTELLBLANCH: I represent California Alliance for Retired
19 Americans.

20 CHAIR THOMAS: Thank you very much.

21 MR. CASTELLBLANCH: We are a coalition of retired (indiscernible) with
22 over (indiscernible) members. Thank you.

23 CHAIR THOMAS: Thank you very much. We appreciate it.

24 Mr. Gotcher (overlapping colloquy) --

25 MR. GOTCHER: And our next commenter --

1 CHAIR THOMAS: -- who do we have next in queue?

2 MR. GOTCHER: Great. Next in the queue is Jonathan Vick, who is joining
3 us by Webex.

4 CHAIR THOMAS: Hello, Jonathan. Can you hear us?

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

6 CHAIR THOMAS: Yes. Can you please state your name and affiliation
7 again?

8 MR. VICK: Yes. Thank you. My name is Jonathan Vick, and I'm an
9 attorney at Atkinson, Andelson, Loya, Ruud and Romo.

10 I'm a member of the Cal/OSHA Advisory Committee. I also cut my teeth
11 working for Fed/OSHA my first few years out of law school, representing them in
12 California way back when, for those of you who remember when Fed/OSHA was here,
13 and I'm also speaking today as a practitioner, but also on behalf of the Engineering
14 Contractors Association, the Tilt Up Contractors Association, United General
15 Contractors, and the Southern California Scaffolding Association.

16 There's been a lot said today, and I don't want to, you know, repeat
17 everything, a lot of good points, and I'll try not to be repetitive, but I think it just bears
18 repeating, is this. Employers have seen a dizzying number of orders and guidance
19 documents that have come out of the federal government, state government, county,
20 city levels, and some of those are -- and many of them are -- maybe not many, but
21 there's a lot of conflicting guidance that they've been trying to deal with, and they're
22 also trying to deal with Payroll Protection Act, changes in sick leave, workers'
23 compensation presumption. So they have been overwhelmed with directives from
24 several agencies.

25 I think that Cal/OSHA has done a great job. In the midst of all the chaos,

1 they've issued 37 separate guidance documents, in seven languages, in an attempt to
2 give some clarity to the employers, and while it's not perfect, I think that the employers
3 are starting to settle in, and the public, with the understanding of what we need to do
4 to prevent the spread of COVID-19.

5 I've responded to a number of complaint letters on behalf -- that
6 Cal/OSHA has issued to clients. I see a lot of the same complaints that I've heard today,
7 a lack of personal protective equipment, not wearing mask, not enforcing physical
8 distancing.

9 We've heard stories from people that have explained, you know, terrible
10 worksite conditions, and I feel badly for them, but we don't have a gap in regulations,
11 and the best way, I think, that we can handle this is to enforce what's there.

12 I think that people know what needs to be done, and passing new
13 regulations just potentially adds more confusion and more chaos when the employers
14 are just now starting to be able to address and enforce what they understand, and
15 changing and adding regulations won't change behavior if someone doesn't want to
16 comply, but that's what enforcement is for.

17 There are a number of issues that have been raised with regard to the
18 petition, and I won't repeat those, and one of the things that I would like to point out is,
19 I believe that the proposal requires the request of personal identifying information of
20 consumers, and so, as stated, I believe that the proposed petition actually runs -- or
21 triggers the California Consumer Protection Act, and so that triggers yet another
22 obligation that employers are going to have to be aware of and comply with.

23 So my recommendation is, if you're going to go forward, and it sounds
24 like you are, I would recommend that you use the Phylmar Group's proposal for the IIPP.

25 I'm not saying that we don't do something. I think we do need to take

1 employee -- I mean, workers' safety and health -- important, but I think that that is
2 being done, and I think that by passing more regulations, we run the risk the risk (sic) of
3 just creating more confusion, which, at the end of the day, is going to be
4 counterproductive.

5 Thank you so much.

6 CHAIR THOMAS: Thank you very much for your comments.

7 Who do we have next in the queue, Mr. Gotcher?

8 MR. GOTCHER: Next in the queue is Veronica Perez, and this will be a
9 translated comment.

10 MS. PEREZ: I am in favor of Petition 583. Hello. My name is Veronica,
11 and I work for a company called Primex Farm in Wasco. I am here today because, at
12 work, there are 500 people, and 150 have COVID. A person died, and another one is
13 seriously ill, and I am sure that this could have been avoided if they had implemented
14 safety at work, because of the pandemic.

15 I am a member of the Farmworker Leaders, and a volunteer, and they
16 have taught us a lot of things. So that is why I realized that, at work, they weren't doing
17 absolutely anything to protect us. That is why I consider that the Governor should have
18 more laws to protect workers, and more during this pandemic that we're going through.

19 At this time, because of everything that we're talking about, of all the
20 negligence that is going on, there also is reprisals now, and that is why they should
21 implement better rules, so that we can be protected, also so that we can be brave to
22 speak out about everything that is happening in the company, and I can't believe that,
23 even though there's laws that have been stipulated, we still have to continue fighting so
24 that they implement them.

25 So, then, these companies should be fined, because of this, because

1 they're not following the rules that have been stipulated by the law. It is inhumane for
2 them to care more about production than to care about the lives of their workers,
3 because that's what they care for. They care for production.

4 In the company where I worked, they knew that there were 35
5 employees who were sick, and even though they knew this, they were not providing
6 masks to protect us. It was not until we took action to denounce them, to denounce the
7 managers -- that's when they began to give us masks and gloves, and to implement
8 social distancing.

9 That is why I think that if the laws were followed for safety of the
10 workers, the illnesses and the deaths that have happened could have been avoided, and
11 because of this, many families, many workers were sick with COVID, and the families
12 also got sick, including then (sic) there were babies that were nine months old, and after
13 they were sick, the companies called them to let them know that they no longer had a
14 job, and that is unfair, that they had no more work for them.

15 CHAIR THOMAS: Ashley, can you ask --

16 MS. PEREZ: (Indiscernible.)

17 CHAIR THOMAS: Can you ask the lady who she works for, if she would be
18 comfortable?

19 MS. SHUPE: Ms. Perez.

20 CHAIR THOMAS: Yes, Ms. Perez.

21 MS. PEREZ: Primex Farm in Wasco, California. They pick pistachios.

22 CHAIR THOMAS: Okay. Did we get that? Thank you. Please continue.

23 MS. PEREZ: As a consequence, because we were brave to talk about the
24 negligence, well, then, thirty- five employees were terminated. They changed policies in
25 the company where we cannot use the phone in the company so we could take pictures,

1 videos or audio. Obviously, it was so that we didn't have proof about their negligence.

2 Hopefully, you could do something to help us. Some of my coworkers,
3 some of them are single mothers, so that they could get their jobs back, and also so that
4 they could implement the safety rules, because, up to now, they're not doing much
5 about that. Right there, you really cannot keep social distancing of six feet.

6 I don't know. Do you have any questions?

7 CHAIR THOMAS: Not at this time, but thank you very much for your
8 testimony and information. We really appreciate it.

9 MS. PEREZ: Okay. Thank you so much for giving me this opportunity.

10 CHAIR THOMAS: Thank you.

11 MS. PEREZ: Thank you.

12 CHAIR THOMAS: Mr. Gotcher, who do we have next in the queue?

13 MR. GOTCHER: Our next caller is joining us by Webex, and his name is
14 Doctor Robert Blink.

15 CHAIR THOMAS: Hello, Doctor Blink. Can you hear us?

16 (No response.)

17 CHAIR THOMAS: (Indiscernible.) Trying to get him on, here.

18 MS. SHUPE: I don't see Doctor Blink on the Webex. Mr. Gotcher, can you
19 please confirm?

20 MR. GOTCHER: I believe that he's listed as Bob Blink.

21 CHAIR THOMAS: We got him. Right here.

22 MS. SHUPE: He's there.

23 CHAIR THOMAS: Can you hear us, Bob?

24 MS. SHUPE: There we go.

25 (No response.)

1 CHAIR THOMAS: We don't have audio. Not yet.

2 MR. BLINK: Can you hear me now?

3 CHAIR THOMAS: I think we got you now. Try that.

4 MR. BLINK: Can you hear me?

5 CHAIR THOMAS: Yes. There you go.

6 MR. BLINK: Excellent. All right. Sorry about that.

7 CHAIR THOMAS: No problem.

8 MR. BLINK: The continuing challenges of life these days, everybody. So
9 thanks for allowing me to speak. Last month I gave a kind of a preview --

10 UNIDENTIFIED SPEAKER: Thank you. You are joining a call with four
11 other people.

12 MS. SHUPE: One moment, Doctor Blink.

13 Mr. Gotcher, we're having audio crossover.

14 MR. GOTCHER: Yes.

15 CHAIR THOMAS: (Overlapping colloquy.)

16 MR. GOTCHER: We are waiting on that.

17 CHAIR THOMAS: All right. Let's see if you can continue, Mr. Blink.

18 MR. BLINK: Okay.

19 CHAIR THOMAS: Could I get your affiliation for this, or are you just
20 speaking for yourself?

21 MR. BLINK: Yes. No. So last month I was speaking on my own behalf,
22 but we have moved forward, so I'm now speaking today on behalf of the Western
23 Occupational and Environmental Medicine Association, WOEMA. I am personally an
24 independent occupational medicine practice with Worksite Partners Medical Group,
25 former member of the Cal/OSHA Standards Board, and former WOEMA president, and

1 I'm very active on a legislative committee.

2 So this is approved by WOEMA, and basically we're calling in today to
3 support most of Petition 583, and the main reason is that there are types of workplaces
4 not covered under the scope of the ATD standard, and in many cases, some outbreaks
5 have occurred in workplaces, particularly in meatpacking, poultry operations,
6 warehouses, despite attempts to implement controls, and these outbreaks have been
7 going on for weeks, and even months, and so we believe that really something does
8 need to be done.

9 Ordinarily, this is out of the -- I think there's a case to be made for not
10 making regulations when you don't need them, but we think that it is required now, as
11 long as we're careful about it. So we've already submitted our documents, but I'll just
12 read from it, to go over the high points. We think that some or all of the following
13 measures should be incorporated in the emergency temporary standard, ETS, on
14 COVID-19.

15 Number one, employers should be required to properly report a
16 COVID-19 outbreak, and they should report that to the local health officer. So mention
17 has been made by others today that it's important to maintain flexibility, but that's our
18 today.

19 A year from now, undoubtedly, that will no longer be, and we need to
20 maintain flexibility to adjust to the realities of both the science and society's response to
21 what needs to be done.

22 Can you hear me okay?

23 CHAIR THOMAS: Can you slow down just a little bit, Mr. Blink, for the
24 translator --

25 MR. BLINK: Sure.

1 CHAIR THOMAS: -- just a little bit. Thank you.

2 MR. BLINK: I'll wait a minute for her to catch up. Are we good?

3 CHAIR THOMAS: Go right ahead.

4 MR. BLINK: Okay.

5 CHAIR THOMAS: Thank you, doctor.

6 MR. BLINK: So, number one, we think that an employer that experiences
7 an outbreak should have to report that to the local health officer. And that local health
8 officer can introduce a layer of flexibility by keeping up with the news and the science
9 on the pandemic, as well as how best to approach it, and that employer also should
10 report subsequent COVID-19 cases as soon as possible, certainly within a week.

11 Second, employers who are experiencing an outbreak should be required
12 to submit a COVID-19 prevention plan, in writing, detailing the control measures to be
13 employed, and these include face coverings, hand-washing, surface covering, surface
14 decontamination, distancing, and other reporting, and, very importantly, including
15 worker training, and third, if an employer fails to comply with the order of the local
16 health officer, we believe that should be considered a violation of an OSHA standard.

17 Fourth, on direction from the local health officer, employers should be
18 required to arrange for a physician or other licensed healthcare professional, much as
19 we do with other standards, to conduct contact tracing. So asking employers to become
20 epidemiologists is not reasonable, but asking an employer who is experiencing an
21 outbreak -- not all employers -- to ask an expert to step in and do that work for them we
22 feel is important.

23 Finally, in the event of ongoing transmission, despite implementation of
24 early steps, we believe that employers should be required to at least have their
25 employees wear N95 masks, and consider eye protection as well, and then other

1 measures as their physician or other healthcare professional might recommend.

2 Now, we know that there is going to be some smaller workplaces where
3 this will be difficult, and I think some provisions should be made for that, but this is
4 serious. I mean, there's lots of OSHA standards out there that maybe prevent one or
5 two cases of injury or illness or death per year, and just in California, we're experiencing
6 gigantic multiples of that. So effort is required.

7 The requirements of the existing Cal/OSHA standards on injury and illness
8 prevention plans just haven't been sufficient in some workplaces, whether it's because
9 employers are not acting properly or because, simply, the disease is smarter than we
10 are, and I think we need to introduce stronger measures.

11 If occupational transmission continues despite an employer's substantial
12 compliance with current public health guidance statements, then the employer
13 continues to have a duty. Merely making the effort is not enough, and I think that we
14 need to help them protect their workers.

15 So WOEMA stands ready to assist Cal/OSHA staff, and we appreciate all
16 the very hard work that everyone is doing on this issue, and we would appreciate any
17 feedback, and we did, as I say, submit a formal statement on this from WOEMA, which
18 you should have. Thank you very much for having me today.

19 CHAIR THOMAS: Thank you, Doctor Blink.

20 Mr. Gotcher, who do we have next in the queue (overlapping colloquy)?

21 MR. GOTCHER: I'd like to introduce -- our next caller is Isabel Urbano.

22 CHAIR THOMAS: Isabel, can you hear us?

23 MS. URBANO: (Indiscernible.) My name is Isabel -- yes. Can you hear me
24 okay?

25 CHAIR THOMAS: Yes. Go right ahead.

1 MS. URBANO: Hi. My name is Isabel Urbano, with Fight for 15 and a
2 Union, and I will be delivering remarks for Angely Rodriguez:

3 "Good afternoon. My name is Angely Rodriguez, and I
4 have worked at the McDonald's store on Telegraph
5 Avenue in Oakland since December of 2019. When
6 schools closed because of the pandemic, I lost my job at a
7 preschool and had to make McDonald's my full-time job.

8 "This summer, I led 33 of my co-workers on a
9 48-day strike at my store, demanding better health and
10 safety standards. During the height of the pandemic, my
11 coworkers and I worked without basic protections like
12 proper masks, gloves and sanitizer. We were given flimsy
13 gloves that often broke by the end of the day.

14 "We were told to wear disposable masks for days
15 at a time, and when there were no masks available, the
16 managers told us to make a mask out of doggie diapers
17 and coffee filters.

18 "We feared that McDonald's failure to keep us safe
19 would result in an outbreak of COVID-19. We were right.
20 I, along with 10 of my co-workers and eight of our family
21 members, tested positive for the virus. This all could have
22 been avoided if McDonald's had done the right thing from
23 the beginning.

24 "I believe I contracted the virus while I was at work.
25 I can remember working close to several coworkers who

1 looked like they were sick with the flu or who eventually
2 tested positive for COVID-19.

3 "Many of us in fast food feel pressured to work
4 sick, because oftentimes we are denied paid sick days. We
5 have to choose between our health and the safety of our
6 coworkers and our ability to keep our rent paid. That's not
7 right.

8 "It took a strike that lasted most of the summer,
9 and an injunction from a county judge, to make our
10 employer finally implement better safety standards in our
11 workplace, but, even after we returned to work, two of my
12 coworkers, a mother and a daughter who you heard from
13 last month, tested positive for COVID-19.

14 "If California truly wants to stop the spread of
15 COVID in our communities, especially in communities of
16 color, we need to start with stricter, enforceable rules and
17 standards in our workplaces. Black and brown essential
18 workers have borne the brunt of this pandemic while
19 continuing to serve our communities.

20 "We hope the Board can exercise its power to
21 make companies like McDonald's finally follow the rules
22 and keep us safe. Thank you."

23 CHAIR THOMAS: Thank you very much.

24 Who do we have next?

25 MR. GOTCHER: Our next commenter is joining us by Webex, and his

1 name is Steve McCarthy.

2 CHAIR THOMAS: Can you hear us, Steve?

3 MR. MCCARTHY: I can now, thank you. Sorry about that little technical
4 issue.

5 Thank you, Board Members, for your time today. I'm Steve McCarthy
6 with the California Retailers Association.

7 CHAIR THOMAS: And please don't speak too quickly. We have
8 translators. Thank you.

9 MR. MCCARTHY: Got you. Thanks.

10 We have substantial concerns with the petition. Our retail members are
11 doing everything they can right now to keep employees and shoppers safe. Employees
12 are our most valuable commodity, and we recognize that keeping them safe and
13 keeping our customers safe is vital to keeping stores open.

14 CRA, for our part, is sponsoring and promoting our Safe Shopping For All
15 initiative, with members and local partners, to promote mask wearing, physical
16 distancing, and other safety measures. Our member companies are doing their very
17 best to comply with all state and local guidelines and requirements related to COVID-19.
18 That said, our concern is that a prescriptive emergency regulation is unnecessary and
19 could complicate COVID compliance for businesses doing their best to comply.

20 As others have mentioned, this is one more set of rules on top of existing
21 local ordinances, state and local health orders, and state guidances, as well as
22 companies' own policies, that will make compliance more challenging and potentially
23 confusing.

24 Two, this seems to us, as retailers, like a "one size fits all" approach,
25 when different industries have not all had the same issues with COVID transmission in

1 the workplace. The industry-specific guidances published this spring by Cal/OSHA, we
2 think, are a more appropriate method.

3 Three, as has also been mentioned, Cal/OSHA is already doing
4 enforcement, issuing citations, and has authority to shut down operations, which will be
5 clarified by Assembly Bill 685, which the governor signed this morning.

6 Fourth and finally, we have a number of language-specific concerns.
7 First, the reporting section in this proposal appears to conflict with Assembly Bill 685.
8 We think that section should be deleted, in deference to the legislature.

9 With regard to mask enforcement, the language of the petition mandates
10 that businesses require members of the public to cover their mouth and nose with face
11 coverings while in the facility. While retailers strongly support wearing of masks, as I
12 mentioned earlier, enforcement should remain the responsibility of local law
13 enforcement, not our team members.

14 Confrontations with customers over this issue can and have resulted in
15 violence. This section should be limited to signage, and clarify that companies will not
16 be penalized for failure to confront non-mask wearers.

17 There are also a number of unworkable or infeasible requirements in the
18 petition. For instance, there is a requirement that employers ensure that employees
19 stay six feet away from each other at all times that employers cannot possibly
20 guarantee. It requires employers to ensure that breakroom chairs always be facing in a
21 single direction, when, obviously, employees can move chairs around, and employers
22 may not be able to police that issue constantly.

23 It requires N95 masks for employees who interact with others within six
24 feet. Retailers are largely dealing with this issue by installing permanent protective
25 shields at work stations, per the current state guidance. Under this proposal, every

1 cashier at a store or every server at a restaurant would also have to wear N95s, which
2 we think is both unnecessary and impractical. Also, our understanding is that N95s are
3 no longer recommended, as they protect only the wearer, and not others around them.

4 Paragraph C allows employees the right to bring their own PPE, which
5 may be problematic for certain professions and cause more problems than they
6 alleviate. We believe employers should retain the ability to require their own PPE.

7 Also in paragraph C, there is a costly medical evaluation requirement for
8 PPE that we're not aware being required under any existing government health
9 guidance related to COVID-19.

10 Paragraph D, the requirement for retraining, "when site conditions
11 change," is vague and overly broad. We would ask this be limited to when new hazards
12 are introduced or recognized.

13 Finally, there is also a requirement specific to social distancing in
14 breakrooms, which is appropriate, but a challenge in situations where businesses have
15 limited-sized breakrooms, and we would ask for flexibility in staggering the required
16 meal and rest periods, as is mentioned in the retail IIPP guidance.

17 Those are the issues we see with the Worksafe draft. Again, our request
18 would be that this not be rushed through, as others have also requested. At a
19 minimum, the Board should take more time with this, and consider comments from
20 affected industries. Thank you.

21 CHAIR THOMAS: Thank you.

22 At this time, we're going to take a five-minute break. We'll be back at
23 12:30, so we're going to break right now for five minutes. Thank you.

24 (Off the record at 12:25 p.m.)

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

1 CHAIR THOMAS: All right. Thank you very much. We are back in session.
2 Mr. Gotcher, you can introduce the next speaker.

3 MR. GOTCHER: Great. Our next speaker is Shane Gusman from Broad
4 and Gusman.

5 You're live, Shane.

6 MR. GUSMAN: Thank you. Good afternoon. My name is Shane Gusman,
7 and I am appearing here on behalf of the Teamsters. I'm also the director of the
8 California Teamsters Public Affairs Council, which is the union state counsel made up of
9 all the Teamster locals in the state.

10 The Teamsters strongly support the petition under consideration here
11 today, and we are pleased to support the proposed decision to start the emergency
12 rulemaking expeditiously, and to have a draft for the November meeting, hopefully.

13 From the start of the state's response to the pandemic, and various
14 statewide and local shutdowns, our members were declared to be essential workers,
15 and, while everyone wants to keep working, nobody wants to be exposed to dangerous
16 working conditions. Unfortunately, that was almost a universal experience that
17 continues today in many workplaces and industries.

18 We have examples of workers who are forced, through threat of
19 discipline, to come to work when they are sick, forced to work next to people who they
20 fear are sick. They have experienced retaliation when they've complained about feeling
21 ill, or complaining about failures of the employer to follow the guidances. There's been
22 social distancing issues in many different industries. In fact, there are some industries
23 where they're openly flaunting the guidances.

24 There is one large employer in the San Francisco Bay Area whose
25 operations manager basically has ordered everyone to violate the social distancing rules

1 for that particular industry because of his view that they won't be enforced, so they
2 might as well pack as many people in as possible, and instead of being horrified, the rest
3 of the industry in that area has decided to ask the state for relief from its guidance.

4 Many, many examples of no PPE or inadequate PPE, many examples of
5 no masks. In fact, there are some employers early on, and continuing into the summer,
6 where they still denied employees the ability to wear masks. There were actually
7 employers that prohibited their employees from wearing masks in the workplace.

8 We have distribution centers and warehouses where work rules and
9 productivity standards require workers to work in a way that conflict with the guidances
10 in an unsafe manner. There's, like I said, discipline for complaining about these rules,
11 and, as a result, many worksites have had outbreaks.

12 I think most of our folks on the ground feel like the response from both
13 local and state authorities hasn't really been adequate to address the problem. I think
14 that has led our folks to believe that we need new rules. We need clear standards to
15 protect workers and hold employers accountable when they choose to operate
16 unsafely.

17 So we're very supportive of this process, and we look forward to working
18 with you as it goes on, and thank you for the opportunity to testify today.

19 CHAIR THOMAS: Thank you.

20 MR. GOTCHER: Next up is, joining us by Webex, Rob Moutrie of the
21 California Chamber of Commerce.

22 MR. MOUTRIE: Can you all hear me?

23 CHAIR THOMAS: We can. Go right ahead.

24 MR. MOUTRIE: Thank you. Thank you for the opportunity to speak
25 today, Board Members, Chair Thomas. As was stated, my name is Robert Moutrie, on

1 behalf of the California Chamber of Commerce. We are opposed to the petition. I will
2 endeavor to be as slow as possible. I would invite Mr. Chair or Ms. Shupe, please
3 interrupt me if I slip.

4 CHAIR THOMAS: We'll slow you down if you speed up too much.

5 MR. MOUTRIE: Thank you. So let me start by thanking the staff of the
6 Board and the Division for their hard work here. We all know you're working around the
7 clock, as Ms. Treanor noted, on this.

8 Let me say, as employers, I am not opposed to this petition -- we are not
9 opposed to this petition -- out of any opposition to the basic safety measures that are
10 being discussed, right, informing employees of potential exposures, requiring social
11 distancing, providing safety training.

12 Those provisions are not what is the basis for our concern here, and I'll go
13 through, I think, the three separate questions in front of the Board, but the basis for the
14 concern is about the specifics of what we're doing and what we are going to do,
15 particularly given the speed at which the proposed decision puts forward moving.

16 So let me get to that in more detail, but, with all that mind, I want to say I
17 know there are a lot of justifiable feelings of urgency here, but I hope we can really think
18 about and keep in mind the details and the feasibility of what requirements this Board is
19 going to impose. Those details are really at the center of all of this, and they're what's
20 going to matter for the coming months and, potentially, years.

21 Just let me break down those three questions I think are in front of the
22 Board. First, do we need an emergency regulation at this time? Second, what is the
23 timeline to move to an appropriate emergency regulation? Notably, the proposed
24 petition uses a two-month timeline, and then we'll have a regulation in place, and then
25 we'll, after the fact, try to clean it up.

1 The third question is, what are the textual concerns we have about this
2 emergency regulation's text that we have to keep in mind, particularly the Worksafe
3 draft, because that's what we have seen, but the textual issues that need to be
4 addressed? And I'm going to touch on some of them, and I think they should be
5 considered today, given the short timeline before we're looking at a new reg being in
6 place.

7 I'd like to associate my comments with a number of other speakers. Ms.
8 Treanor, regarding the merits of the PRR's alternative proposal, I have looked at that. I
9 think it really hits all of the safety concerns that have been voiced, but at the same time
10 avoids some of the textual pitfalls in the Worksafe petition.

11 Mr. Welsh, of course, regarding the effectiveness of the IIPP as the basis
12 for enforcement, and also the importance of working with stakeholders to find common
13 ground, to have effective regulations. Mr. Donlon made a good point about the
14 duplication of existing regulations, and also the wide usage of the IIPP regulation already
15 for citations, for those who would say that it can't be used that way, and Mr. McCarthy
16 regarding the strengths of the IIPP and the textual issues, specifically.

17 So, turning to the need for the present reg, it's been stated by others, so
18 I'll be brief. The Board staff's own analysis noted that the Division doesn't need
19 (indiscernible) enforcement, and, indeed, recent press releases from the Division have
20 noted considerable enforcement in the last month, and large citations, and, you know,
21 I'm glad to see these. I'm glad to see enforcement happening where it needs to happen.
22 That's a critical part, as so many of the speakers have said. Where there are employers
23 who aren't complying, that needs to be fixed. But creating a new standard will not
24 change those enforcement issues, and will not help.

25 I think of it as a metaphor, because my brother is a district attorney. I

1 think of it as a criminal law. Just because robberies continue to occur in the United
2 States, we don't push for new state laws creating a "Robbery 2.0," right? We don't
3 outlaw things that are already outlawed. We use enforcement to address them, and
4 that seems to be the common logical fallacy we're talking about here, "Let's make a new
5 law to require what's already required," and then hope that that will change something.

6 Now, turning to the timing of the regulation, and how quickly the petition
7 would have us move, the timeline was laid out, which is two months, and then text in
8 front of the Board to be voted on, at the latest, and then an advisory committee to
9 revise that.

10 This means the emergency regulation's text will avoid any meaningful
11 stakeholder input until after it has been in effect for at least, by my calculations, six
12 months, right? It's four months before the Division holds the advisory
13 committee -- rather, four months before the Division comes back to the Board with the
14 findings of the advisory committee and raises the potential for changes to the
15 regulation.

16 So we're talking six months to eight months before there's any actual
17 updates, any fixes to the issues that sneak through, and that's truly concerning, not
18 because I don't trust the Division staff to work as hard as they can on this, because, you
19 know, despite our best efforts, little issues in text sneak through that create huge
20 problems.

21 The wildfire smoke regulation is the perfect example. Despite months of
22 advisory committee meetings, the emergency regulation, when passed, still had clear
23 textual issues and feasibility issues, which, Board Members, many of you acknowledged
24 on the day of that vote, right, and urged to work forward on it, and the scale of those is
25 quite clear in the last three weeks, right?

1 As smoke covered much of the state, that regulation should have
2 resulted in a shutdown of any employees who were outdoors, even briefly, from
3 Berkeley to San Luis Obispo to L.A., due to the shortage of N95s. So that's kind of what
4 we see when we see a rushed product.

5 To help with this issue, I would urge the Board to consider pushing back
6 one or maybe, at most, two months, just to the December or January meeting.
7 Obviously, COVID-19 remains a threat, and will remain a threat, has been since the
8 beginning of this year, but we have to ask, what is gained by this rush? We already have
9 the guidance documents, which are being enforced and are being updated.

10 As Mr. Donlon noted, we have new legislation which is addressing some
11 of these concerns. Notably, I would urge the Board to look at AB 685. It already
12 requires prompt reporting of outbreaks in the workplace, and already -- I think Mr.
13 Donlon correctly noted that it was signed by the Governor just a few moments ago. So
14 that is a law will address many of the concerns we're hearing.

15 I'll pause there in case the translator needs it.

16 CHAIR THOMAS: Thank you.

17 MR. MOUTRIE: Okay. Thank you, Ashley.

18 Alternatively, what would we lose by rushing this? Potentially, we lose a
19 month of enforcement on a new document. We don't know what its terms will be. We
20 haven't had time to interface. But, importantly, we lost the opportunity for a slightly
21 more careful review and deliberation to make sure that text works, to make sure that
22 stakeholders can actually put it into place, and to make sure we're not, essentially,
23 building castles in the sky, right, which is how it feels sometimes with a rushed
24 regulation.

25 Then that brings us, I think, to the third question, which is, given the

1 short timeline, I need to briefly comment on some of the individual provisions in the
2 Worksafe draft. I'm not sure if this was raised at last month's meeting, and it's been
3 raised before, so I'll try to touch very briefly, because these textual concerns, if we move
4 quickly, will be feasibility concerns for employers.

5 The inclusion of a competent person who has knowledge of infection
6 control principles, is not going to be feasible for small employees (sic) and, potentially,
7 even larger -- or, excuse me, small employers, and, potentially, even larger employers.

8 In contrast, distinct guidance under the IIPP is superior here, because it
9 gives employers specific industry guidance on what they need to do, without requiring
10 the retention of an expert, and I would also note that the Phylmar Regulatory
11 Roundtable's proposed draft also follows this wiser course in incorporating the existing
12 guidance and not requiring something that can't be done.

13 The Worksafe draft also mentions PPE and respiratory protection. As we
14 know, availability is a huge issue here, so I would urge caution in requiring something
15 that can't be done.

16 I know with wildfire the argument was "Well, eventually that will change,
17 so, for a permanent reg, we can include it, and we'll deal with it," but, for an emergency
18 reg, which, by its definition, is not intended to last forever, not considering this
19 short-term unavailability doesn't make any sense.

20 There are many issues here, so I'll skip through a couple. One I should
21 emphasize is the medical evaluation provision. Section C of the Worksafe draft includes
22 a requirement of a medical evaluation. This was discussed extensively during the
23 wildfire advisory committee meetings, but the cost of medical evaluation for each
24 employee isn't something that we can ignore.

25 I don't have those numbers here in front of me -- I wish I did -- and

1 partially that's because of the vagueness of the text. I wasn't sure exactly how much
2 was required. But the individual -- excuse me --
3 employee-specific medical evaluation is a considerable portion that I don't think should
4 be in the final document.

5 Now let's turn to what I think is the better alternative, the PRR draft. I
6 think what's important here, broadly, is that it meets the requirements that so many
7 people on both sides have raised today, right? It meets the requirement to build on the
8 industry-specific guidelines.

9 As Mitch Steiger indicated, those have had time and wisdom put into
10 them, and building on them makes sense. The PRR draft does that. The PRR draft also,
11 in referencing the guidance specifically, I think, would address some of the concerns
12 about authority for citations, though obviously I think those concerns are incorrect,
13 given that citations have been issued, but I think that would address it.

14 Also, it provides for employee training. So, to the extent that we're
15 concerned about employee training, we can deal with it here in a way that's more akin
16 to the IIPP and akin to a model we're used to, without the detailed prescriptive
17 concerns:

18 "Requires workers to report symptoms without fear of
19 reprisal, and requires a procedure to identify and deal with
20 potential exposures."

21 Notably, for the exposure issue, again, I urge consideration of AB 685,
22 which addresses some of the concerns we're hearing about, and may remove some of
23 the necessity felt for a new document.

24 So I hope we can focus here on those three, at least intellectually
25 consider those three questions separately. I know you have one vote in front of you,

1 and that's yes or no, but I think those three issues all need to be really intellectually
2 considered separately. So, with that, thank you for your time.

3 CHAIR THOMAS: Thank you.

4 MR. GOTCHER: I'd like to introduce our next commenter, Mishaal Gill of
5 California Immigrant Policy Center.

6 Mishaal, you are live.

7 MS. GILL: Hi, there. Good afternoon, everyone, and the Board Members.
8 My name is Mishaal Gill. I'm with California Immigrant Policy Center.

9 The California Immigrant Policy Center is pleased to support Worksafe's
10 petition for an emergency temporary standard to protect workers from COVID-19
11 hazard in the workplace. California needs an enforceable Cal/OSHA standard which
12 both employers and workers can rely upon. The future of our state's economy depends
13 on it, as does the health of countless essential workers and their families.

14 While we appreciate that both Cal/OSHA and the Department of Public
15 Health have worked hard to issue guidance documents for employers and employees in
16 affected industries, California must do more to protect workers from contracting
17 COVID-19, spreading it to coworkers, and from taking it home to their families.

18 A standard which specifically covers COVID hazard is needed to set a clear
19 enforceable standard for all employers, and to convince reluctant employers to take
20 appropriate action to protect workers and the public. Prompt action will help save lives
21 through reducing the risk of spreading COVID within workplaces and allowing us to
22 reopen the economy while minimizing the further spread of the disease.

23 We urge you to adopt and enact a strong emergency temporary
24 standard, such as the one included in the petition, to ensure that all Californians have
25 protections at work and to lead the nation on worker health and safety. Thank you so

1 much.

2 CHAIR THOMAS: Thank you.

3 MR. GOTCHER: Our next commenter is coming to us from Webex. His
4 name is Bruce Wick, from CALPASC.

5 MR. WICK: Thank you, Chair Thomas, Board Members. Bruck Wick with
6 CALPASC, California Professional Association of Specialty Contractors. Thanks for the
7 opportunity. I'll try and speak reasonably slowly.

8 Just a couple of thoughts about the petition and proposal. We've heard a
9 lot about bad actors, and, again, to reiterate, I mean, Overhill Farms and their temp
10 agency gets a \$430,000 set of violations for not doing, apparently, anything about
11 COVID.

12 That's the kind of enforcement -- I immediately sent that information to
13 my e-mail list of well over 1,000 employers to say Cal/OSHA is working, Cal/OSHA is
14 enforcing, and for serious -- you know, they're taking this very seriously, and we
15 appreciate that, and we think that's right.

16 You take an industry such as construction. The Workers' Comp Rating
17 Bureau just did their analysis for proposing the 2021 advisory rates for workers'
18 compensation. The COVID part of that is one percent of the total premium they
19 anticipate should be charged against construction employers. In other words, if
20 Cal/OSHA were following the exposures that workers' compensation insurers are
21 looking at, they would spend 99 percent of their time focused on non-COVID exposures,
22 versus the one percent for COVID exposures.

23 Construction has taken this very seriously. We've done, I think, a very
24 good job. So, while some industries maybe haven't, but I imagine it's more bad actors in
25 those industries, and it sounds like Cal/OSHA is really going after them in an appropriate

1 way.

2 I do agree, you know, we're going far, fast. AB 685 will be taking effect.
3 You know, we have an SB 1159, workers' comp presumption taking effect as well, the
4 Governor just signed this morning. We are doing a lot of different things, as several
5 people have commented.

6 While I don't think we need a new regulation, I think we just need to
7 enforce this one, and I think we shouldn't go this fast. If the Board decides to do that, I
8 would highly, highly suggest we follow the Phylmar Regulatory Roundtable's proposal. I
9 just have one caveat with it.

10 They talked about that the employer would (indiscernible) all kinds of
11 guidance, or the local health department. I think the guidance is helpful, but, if there is
12 going to be a Cal/OSHA reg about it, it should only relate to the Cal/OSHA guidance,
13 which, again, there's a lot of it. As Mitch Steiger referenced, and Rob Moutrie, the one
14 thing we have to be careful about the guidance is, for instance, in construction, it talks
15 about encouraging employees not to carpool. It is against the law.

16 It's discriminatory for employers to ask how an employee will get to and
17 from the job site. So those guidance documents were not stakeholder-vetted
18 documents. They need to be worked with caution. But, you know, we should limit that
19 if we're going to utilize that information.

20 You know, we're putting -- so my question or my concern is where we're
21 putting our resources. It seems like we know -- you know, we've heard about employers
22 who have outbreaks, and they don't take appropriate responses. Where is Cal/OSHA,
23 that has the authority to stop work, you know, or a local health department? I mean,
24 this is seemingly not right, that we can't effectively enforce against people that are
25 known to be flaunting the law. So let's focus on those people. I am concerned about,

1 you know, again, Division resources, especially trying to move a new regulation this
2 quickly.

3 As you know, we have the problem right now, the wildfire smoke. We
4 have been asking since February what we can do for alternatives to N95 masks. My
5 members still do not want to compete for a very small, you know, supply of N95 masks.
6 They want that to go to all of the healthcare workers. That's the right thing to do.

7 So we were told, by June, supply will be out there, and everything will be
8 fine. Here we are in September, seven months later, and we have to tell our employees.
9 Almost all construction workers are hourly workers. They make good hourly, but not if
10 we have to say, "It's 1:51. We don't have an alternative to N95, so we have to shut the
11 job down and you have to go home."

12 The Division has not been able to give us any alternative, and there
13 should be alternatives, so that people can continue to work if they're appropriately
14 protected. So I'm concerned. Again, we're doing a "one size fits all," trying to solve too
15 many things (overlapping colloquy).

16 UNIDENTIFIED SPEAKER: Your line has been connected to this conference
17 call for several hours.

18 MR. WICK: Thank you.

19 UNIDENTIFIED SPEAKER: To continue participating in this conference,
20 press any key on your keypad.

21 MR. WICK: So, thank you.

22 MS. SHUPE: Thank you.

23 As some of you may have surmised from that last interruption, we're
24 having a couple of issues, and we're just going to take a five-minute break, with the
25 Chair's allowance, to go ahead and resolve some technical issues that have arisen.

1 CHAIR THOMAS: So let's go ahead and reconvene at five after 1:00, and
2 that gives us a little more than five minutes. So we are adjourned.

3 (Off the record at 12:56 p.m.)

4 (On the record at 1:05 p.m.)

5 CHAIR THOMAS: All right. We are back, and I think we have like seven
6 minutes and 30 seconds left in the third quarter. We'll continue.

7 Mr. Gotcher.

8 MR. GOTCHER: Okay. Next up, I'd like to introduce Silvia Alvarado of
9 SEIU.

10 Sylvia, you're live.

11 MS. ALVARADO: Hello.

12 CHAIR THOMAS: Hi, Sylvia.

13 MS. ALVARADO: Hello. My name is Sylvia. Hello. I am a custodian at the
14 Port of Los Angeles.

15 I would like to thank Cal/OSHA for the hard work to issue guidance and
16 documents to help employers protect their workers. Cal/OSHA needs standards so
17 responsible employers will follow to prevent injury and which to curb this devastating
18 virus.

19 I am asking Cal/OSHA to continue its work and strategic planning on more
20 rules and regulations to help all employers of all industries equally, wherever possible.
21 We are here to protect and serve the public as city employees, but we need a
22 mandatory standard which specifically covers COVID hazards. We all want to go home
23 safely to our loved ones.

24 Please approve the petition to ensure that all workers are protected.

25 Thank you for your time.

1 CHAIR THOMAS: Thank you.

2 MS. ALVARADO: You're welcome.

3 CHAIR THOMAS: Mr. Gotcher.

4 MR. GOTCHER: Okay. Taking into the conference now is a Spanish
5 speaker, so there will be a translation, and here we have Carmen Campesinas (sic), and
6 she is a farmworker.

7 INTERPRETER: (Speaking Spanish.)

8 CHAIR THOMAS: Hello, Carmen.

9 MS. ALBERTO: Hello. Good afternoon. I'm Carmen Alberto (phonetic),
10 and I'm a farmworker. I live in Oxnard, California.

11 UNIDENTIFIED SPEAKER: (Indiscernible.)

12 MS. ALBERTO: So my (indiscernible). When COVID began, I was very
13 worried. I requested to have social distancing at work, and that caused me trouble. At
14 work, when I requested the social distancing, everybody was mocking me, and making
15 fun of me, everybody, my coworkers, my supervisor, everybody. I was in charge of
16 punching in, and they weren't paying attention to me, and I did have to be the person
17 that was punching in, and I also had to be the person that was checking quality in the
18 boxes where they were picking the strawberries.

19 So I was very worried because I was very scared that I could bring this
20 disease to my children because my coworkers were too close to me. So I insisted. I told
21 the foreman. I told the supervisor. I was asking them to respect social distancing. Even
22 Farmworker Leaders had requested for them to allow us to bring a doctor who was
23 collaborating with this organization through the Ventura County, and they did not
24 accept to do that. They did not allow it to happen.

25 So, when I requested, they saw me as a threat after that, because I was

1 constantly being retaliated against, and they were also very aware of whatever I was
2 doing. I was constantly (indiscernible) like, harassed, because I was the person who was
3 demanding all of these things, and what they were doing is they were just finding an
4 excuse to give a warning. They were retaliating against me, and they wanted to fire me.

5 So I did find one of those tickets once. The second time, I did not want to
6 do it. So I told them I could show them that it was a mistake, that giving me warnings
7 was a mistake, and they did not allow me to show them this because they knew that I
8 was right. So, even though this happened, I continued demanding them to do this.

9 So the company finally brought a person to train us, and I was still not
10 happy with this, because they weren't complying with the suggestions, because they
11 weren't following the rules. They were saying that if they are not being forced to
12 comply with this, they didn't have to do it.

13 So, after this training, the supervisor suggested to transfer me to a
14 different location, to a place that's supposed to be -- I was going to be receiving the
15 same money, the same hours, but there were going to be less people, and there could
16 be social distancing. But the strawberry season was almost done, and I was there only
17 for about two more weeks, that's all.

18 So then I was working at the other crew, where they had transferred me,
19 and when the strawberry ended (sic), well, I couldn't be there, because I demanded to
20 be away from people. So they sent me elsewhere for social distancing. So they sent me
21 in the front of the area where they were, so I wasn't interfering with them, so I wasn't
22 near them, and I was removing weeds, and I had two incidents there.

23 So the first one was May 29th, while I was in the front of the crew that
24 was working and was removing the weeds, and I was exposed to pesticides at that time.
25 So I had a report. I did a report, and I've been having a hard time with the situation

1 (indiscernible). The commissioners did not recognize that I had been exposed to this
2 pesticide, because the said that I was covered properly so that I had not felt the drops
3 on my skin, but this is an ongoing case that I have at this time.

4 So the second incident was on the 17th of June, and I was there working,
5 doing something different. I was pulling weeds from the strawberry area, and I hurt my
6 shoulder when I pulled it. So I haven't worked since. It's been now two months. They
7 don't have light work for me, so I have been unemployed for this time.

8 So, as a farmworker, it's very frustrating, the fact that there's no
9 regulation, where they're demanding (indiscernible) rules, not just suggestions, for
10 farmworkers or to the owners of the areas, so that it is demanded for them to give us
11 the necessary equipment to protect us, because, in the business (indiscernible) I was
12 working, only one -- they gave us just one mask, and they told us that that was just in
13 case it was required, as if there was a supervisor or somebody who was going to arrive
14 there, and we had to wear it then.

15 So, when I was working during the pandemic, they didn't give us gloves,
16 and the bathrooms were cleaned every second day, they were generally very dirty.
17 After the second incident I had, when I hurt my shoulder and they sent me back to work,
18 at that point, I couldn't do much work. I was doing light work.

19 So I, on my own, I decided to disinfect the doors of the bathrooms in all
20 the different locations, just using my one hand, but, after that, they sent me to do
21 another job, and I had to be bending down doing that job. So I couldn't disinfect the
22 bathrooms anymore after that.

23 CHAIR THOMAS: Can you ask her if she has a specific request for us? We
24 have all sorts of people on the line.

25 MS. ALBERTO: Yes. So I would like to request that they have rules to

1 demand for the ranchers to give us protection as farmworkers, to give us the equipment
2 necessary for us to be protected.

3 CHAIR THOMAS: Thank you very much. Thank you for your comments
4 and your request.

5 MS. ALBERTO: You're welcome. Thank you for listening.

6 CHAIR THOMAS: You're welcome.

7 MR. GOTCHER: Our next commenter --

8 CHAIR THOMAS: Before you do that, Mr. Gotcher --

9 MR. GOTCHER: Sorry. Sorry.

10 CHAIR THOMAS: Sorry about that. Can I just advise the next
11 commenters, we have quite a few left, and not that time is totally of the essence, and I
12 usually don't do this, but try and make your remarks two, three, four minutes, if
13 possible. Thank you. Go ahead.

14 MR. GOTCHER: Our next commenter is Erin Guerrero of the California
15 Attractions and Parks Association, and that is a Webex call.

16 MS. GUERRERO: Great. Thank you very much. Can you all hear me?

17 CHAIR THOMAS: Yes.

18 MS. GUERRERO: Great. Thank you. Yes. Erin Guerrero on behalf of the
19 California Attractions and Parks Association. First off, I just wanted to thank the Board
20 and staff for all your hard work during these exceedingly difficult times.

21 California's amusement parks place the highest value on the health and
22 safety of employees. Even though many are not open, they've put into place
23 considerable protocols, procedures, and modifications in order to responsibly reopen in
24 this post-COVID world, while promoting the health and safety of employees and guests.

25 Many parks also have robust environmental health programs at all times,

1 not just during COVID. A healthy workforce and strong consumer confidence are
2 non-negotiable priorities for the parks. While we appreciate the severity of the
3 pandemic and the Division's desire to keep employees safe, we have significant
4 concerns about the process, as well as the feasibility of some of the provisions in the
5 proposed Worksafe draft language.

6 For brevity, we want to associate our comments with several of the
7 previous speakers, including Elizabeth Treanor with PRR, Robert Moutrie with the
8 Chamber, and Steve McCarthy with the retailers, but there are a couple points that I
9 wanted to very quickly highlight from our perspective.

10 We strongly believe that there are already tools in place to enforce
11 appropriate COVID-related protections and requirements through the IIPP and
12 Cal/OSHA enforcement branch. Additionally, we find that there are conflicting points
13 between these regulations and other regulations. For example, others have mentioned
14 the wildfire smoke protection regulations. For purposes of COVID, businesses are
15 encouraged to increase outdoor intake in their ventilation, but for purposes of wildfire
16 smoke, they're advised to keep their doors closed.

17 Additionally, we're concerned about the interplay between these
18 regulations and legislation, as well as local ordinances. For example, these regulations
19 are at best duplicative, and at worst at odds, with AB 685, which was just signed today,
20 relating to providing notification to employees of exposure.

21 Furthermore, current L.A. County guidance indicates that if you have
22 three or more confirmed cases within 14 days, you have to report it as a cluster. This is
23 challenging for parks in particular because of the lack of a definition of "workplace."

24 On a practical level, we're concerned about the ongoing supply
25 challenges for N95s. I know many other speakers have commented on this. Many of

1 our parks donated their supply of N95s for the greater good during the battle against
2 the pandemic.

3 Finally, with regard to the process, we strongly encourage the Board to
4 address some of these concerns raised by stakeholders before moving forward with
5 emergency regulations, especially given this short, two-month timeline. It's important
6 to get these regulations right, and the Board should work with stakeholders swiftly to
7 address some of the substantive concerns raised today before adopting regulations, and
8 they should not wait until after the fact.

9 Thank you very much.

10 MR. GOTCHER: Thank you.

11 Our next caller is on Webex, Sheng Xiong of the Leadership Council for
12 Justice and Accountability.

13 (No response.)

14 CHAIR THOMAS: Hello. Can you hear us?

15 MR. GOTCHER: Sheng Xiong, are you on the Webex call, and can you
16 unmute yourself?

17 (No response.)

18 CHAIR THOMAS: Why don't we move on to the next speaker, and then
19 we'll come back.

20 MR. GOTCHER: Our next speaker is another Webex caller, Jovana
21 Morales-Tilgren of the Leadership Council for Justice and Accountability.

22 CHAIR THOMAS: Hello. Can you hear us?

23 MR. GOTCHER: Jovana Morales-Tilgren, are you on the line?

24 (No response.)

25 CHAIR THOMAS: Let's see if we can unmute it.

1 MS. SHUPE: I don't see the name.

2 CHAIR THOMAS: Hello?

3 MR. GOTCHER: Jovana Morales-Tilgren, are you on the line?

4 (No response.)

5 MR. GOTCHER: Okay. I just got word that she's asked to be removed,
6 actually.

7 So, moving on to another Webex commenter, Irene de Barraicua. Are
8 you on the line?

9 MS. DE BARRAICUA: Hi. Yes, I am. Thank you.

10 CHAIR THOMAS: Hi, Irene. Go ahead. And can you state your affiliation,
11 please?

12 MS. DE BARRAICUA: Yes. My name is Irene. I'm with Lideres
13 Campesinas. It's a network of women farmworker leaders, a statewide movement since
14 the beginning of the pandemic, with our members throughout the 14 chapters around
15 the state of California. We've gathered the testimonies, experiences since early on,
16 right, of this pandemic, and so we're calling in to support this long overdue sort of
17 adjustment, right, to the regulations, Petition 583.

18 The reason that we say "long overdue" is because we've been, as staff,
19 participating in coalitions statewide. These coalitions are made up of both ag
20 employers, advocates, lawyers, doctors, and so we've seen the urgency since very early
21 on to collaborate and work together, and to come up with these solutions and to be
22 welcoming of them, right?

23 So that's where we feel that your role is extremely important in regards
24 to the advisories that do exist, and especially the statewide advisory, hopefully having
25 them sort of all be aligned, and when there are questions about professionals of health,

1 and who to go to, to definitely recommend programs that are existing already, like
2 doctors going to the field, that are becoming a lot more official in different counties, and
3 to welcome and open those doors.

4 So a lot of this is already happening. It's just a lot of barriers that need to
5 be lifted, and so there's definitely a need for these strict -- you know, just participation,
6 really. It's not really so much enforcement. It should be participation, right, not doing
7 the minimum, but doing what needs to be done.

8 So we've been a part of this. We've been putting overtime hours,
9 average of 14-hour days, for a nonprofit organization, and we expect Cal/OSHA
10 enforcers to be doing the same, and stop the spread that has been affecting our
11 community. So we are about prevention, and that's what this is representative to us.
12 So thank you very much. Appreciate it.

13 CHAIR THOMAS: Thank you.

14 MR. GOTCHER: Our next Webex caller is Bryan Little of the California
15 Farm Bureau Federation.

16 CHAIR THOMAS: Good afternoon.

17 MR. GOTCHER: Bryan Little, are you on the line with us?

18 MR. LITTLE: Hi. This is Bryan Little, California Farm Bureau Federation.
19 Can you all hear me okay?

20 CHAIR THOMAS: We can, Bryan. Go right ahead.

21 MR. LITTLE: Very good. Thank you. I appreciate the opportunity to
22 speak with you.

23 I'm going to be brief, because the other employer reps that have spoken
24 before me have already said a lot of what I would have wanted to say, particularly
25 Elizabeth Treanor, Len Welsh, Mike Donlon, John Vick, Rob Moutrie, Bruce Wick, and

1 several others, so there's no need to rehash what they've already said.

2 I would point out that AB 685, which the Governor signed earlier today,
3 requires outbreak reporting, so that may be something you might want to think about
4 as you move forward with this emergency reg -- even before that, county health
5 departments, I believe, exercising their authority under the Public Health Act Emergency
6 Authority were already requiring reports of outbreaks. So we need to be careful, I think,
7 about redundancy in these requirements going forward, but we also have a lot of other
8 redundancy issues, potentially, built into all of this as this moves forward.

9 This is going to apparently happen under an emergency regulatory
10 authority, and I think that the recent experience we've had with the wildfire smoke
11 regulation is an indication of the kinds of problems that using that emergency regulatory
12 authority can pose.

13 Obviously, COVID-19, the intersection of COVID-19 and the wildfire
14 season was an unanticipated situation, but, nevertheless, with some of the issues that
15 we had pointed out, that were in the wildfire smoke regulation, the emergency
16 regulation, when it was approved, were simply exacerbated by those two events
17 occurring simultaneously. I think that's an object lesson in the potential problems with
18 an emergency, using the emergency regulatory authority on such a short time frame as
19 the time frame that we are proposing to be on for this.

20 So I would urge caution. I think it's clear that Cal/OSHA is already doing
21 enforcement. The Governor says that they've made 4,000 regulatory visits in the last
22 few months. There are at least 70, maybe more, potential citations floating around out
23 there in the (indiscernible) announced just last week, some of them for very large
24 amounts of money. So it's not as if the agency isn't doing enforcement, and I think that
25 Len's comments in particular on that regard are very much on point.

1 So I won't spent any more time belaboring, since there are probably
2 several other people after me, and we've all been here for a very long time already. So I
3 thank you for your time and for listening. Thank you.

4 CHAIR THOMAS: Thank you.

5 MR. GOTCHER: Our next caller is Katherine Hughes of the Nurse Alliance
6 of SEIU California.

7 CHAIR THOMAS: Hi, Katherine. Can you hear us?

8 MS. HUGHES: Yes, thank you.

9 Hi. I'm Katherine Hughes, and I'm a registered nurse, and I'm the director
10 of the Nurse Alliance of SEIU California. We represent about 35,000 registered nurses
11 here in California.

12 As it's been pointed out, nurses and long-term care facilities are covered
13 by the aerosol transmissible disease standard. As you can tell by the stories that you've
14 heard earlier, the "consult and advise" and guidelines that are unenforceable and
15 confusing that come from places like the CDC have not been particularly helpful, and
16 have only created confusion.

17 If you look at the CDPH numbers on between September 14th and
18 September 15th, we have an additional 321 positive healthcare workers here in the
19 state of California, so you can just imagine the risks that our essential workers that are
20 not covered by ATD are being faced with. We're seeing, you know, our worst fears
21 come to life, the fear that we have of bringing it home to our loved ones, and, through
22 no fault of their own, infecting family members and risking their lives.

23 If you look at the CDPH numbers, we're at over 760,000 positive cases.
24 Between the 15th and 16th of this month, we have almost 300 additional positive cases.
25 As a critical care nurse working at the bedside, it's really hard for me to look at those

1 numbers and say that it is not more than community acquired.

2 These are cases that people are contracting at the worksite, and this is
3 more than just a few bad actors. You can't come up with those numbers and have just a
4 few employers that are not doing what is right.

5 If you look at the ATD standard, there's very specific and clear language,
6 and I believe that if you're looking at the appeals process, that that clear and specific
7 language will make it difficult for our employers to win an appeal, and I do believe that if
8 you're looking even at just the 11 violations that have been cited so far, every one of
9 those employers are probably going to appeal.

10 That's why SEIU California is in support, and would ask for your aye votes
11 today, so that we can move forward in the rulemaking process. Thank you.

12 CHAIR THOMAS: Thank you.

13 MR. GOTCHER: Our next speaker on Webex is Michael Miiller, the
14 California Association of Winegrape Owners -- Winegrape Growers.

15 MR. MIILLER: Good afternoon, everybody. I almost said, "Good
16 morning."

17 CHAIR THOMAS: Good afternoon.

18 MR. MIILLER: Thank you very much, Chair, Board Members, and staff.
19 You've had a long day. I'm going to try to be brief, and to assist the transcriber, I will
20 e-mail my comments to Board staff.

21 Our concerns are basically twofold. One, the standard does not solve the
22 problem. Two, the standard is duplicative of existing requirements in law and
23 regulations, and, therefore, adopting this standard would be in direct violation of the
24 Administrative Procedure Act.

25 In solving the problem, I want to express sympathies for those who

1 provided comments today highlighting workplace problems. Many of those situations
2 sounded just awful, and I encourage stringent enforcement action against bad actors,
3 but I have to say, the situations they described will not be corrected by this standard.

4 I want to remind the Board of the Board Staff evaluation, which states
5 the following,

6 "Eric Berg, Deputy Chief of Health for Cal/OSHA, has
7 recently testified to the Board that Cal/OSHA is enforcing
8 existing COVID-19 protections and providing consultive
9 outreach to employers with exposed employees. Board
10 staff is unable to find evidence that the vast majority of
11 California workplaces are not already in compliance with
12 COVID-19 requirements and guidelines."

13 Look. The bad actors are violating the guidelines, but is the solution
14 before the Board today to provide that those bad actors violate a standard instead of
15 existing COVID-19 protections? That just makes no sense. Again, I want to point to the
16 Board Staff Evaluation, which states the following:

17 "Cal/OSHA's website for COVID-19 guidance to employers
18 contains the following statement: 'Workplace safety and
19 health regulations in California
20 require -- require -- employers to take steps to protect
21 workers exposed to infectious diseases like COVID-19,
22 which has spread in the community. Cal/OSHA has posted
23 guidance to help employers comply with these
24 requirements and to provide workers information on how
25 to protect themselves and prevent the spread of the

1 disease."

2 Early on in his third term, Governor Brown vetoed a few bills with the
3 following statement: "All problems do not necessitate a legislative solution." That same
4 logic applies to regulations. There is no doubt that COVID-19 is a critical problem,
5 probably the most serious challenge any of us will face, but this standard is not the right
6 solution.

7 Relative to being duplicative, I want to associate myself with the prior
8 comments that this standard is entirely duplicative, and there is no question that
9 adopting this standard would be in violation of the APA. I'm very concerned with the
10 slow erosion of agencies that sidestep the APA. I don't believe this is intentional, but
11 that is why I am today that the Board seriously evaluate compliance relative to this
12 proposed standard. Toward that end, I ask the Board to consider the summary of the
13 proposed petition decision which states the following.

14 The summary states that the standard will adopt a framework parallel to
15 the IIPP regulation. Clearly, on its face, this is duplicative. The standard -- I'm sorry.
16 The summary also states that the standard will create procedures to respond to
17 employees who have been diagnosed with COVID-19, who have symptoms of COVID-19,
18 and who have been exposed to COVID-19. This is required already under AB 685, which
19 was signed into law by Governor Newsom during this Board Meeting. In his news
20 release, the Governor stated the following:

21 "Under AB 685, employers must report an outbreak to
22 local public health officials. Employers must also report
23 known cases to employees who may have been exposed
24 to COVID-19 within one business day. This bill strengthens
25 Cal/OSHA's enforcement authority by providing clear

1 authority to close a worksite due to COVID-19 hazard and
2 reducing the timeframe for COVID-19 citations."

3 That is a quote from the Governor.

4 Finally, the summary of the proposed petition decision states that the
5 standard will institute a provision of employee training. Again, this is already required
6 under the guidance documents and is being enforced under the IIPP requirements.

7 Additionally, AB 2043, which is on the Governor's desk, would require an
8 outreach program for ag employees to help inform them of how to stay safe in the
9 workplace and protect themselves from COVID-19. CAWG supported that legislation.
10 So there's no question that this standard is duplicative of existing requirements in both
11 regulations and in code. Therefore, adopting the standard would be in direct violation
12 of the APA.

13 Therefore, I want to associate myself with Ms. Treanor's comments and
14 suggest that the Board review and consider her proposed alternative. Again, thank you
15 again for your time and, most importantly, for your public service. It is greatly
16 appreciated. Thank you.

17 CHAIR THOMAS: Thank you.

18 MR. GOTCHER: Okay. And next is Salvador Sandoval, who is a health
19 officer in Merced County.

20 Salvador, you're live.

21 MR. SANDOVAL: Yes. This is Doctor Sandoval. I'm the health officer in
22 Merced County, and I had a specific question about occupational health clinics.

23 We recently had a situation in a county where we shut down Foster
24 Farms' poultry plant, and this was the week before Labor Day.

25 One of the stipulations on the health order was that they get an

1 occupational health clinic functional that could be monitoring for COVID-19 and other
2 work-related concerns. I was wondering about the backing for such a facility, because
3 they have about 2,600 employees, and we're not sure if they should have a physician or
4 occupational health nurse or infection control specialist.

5 I was also wondering about the size of facilities that would be -- where
6 we would recommend that they have an occupational health clinic, because we have
7 various packing sheds, and tomato packing in the area.

8 Lastly, I had a concern, or I wasn't sure how their union, which is an
9 open-shop union, would fit into this kind of a clinic, or if at all, or if that's a
10 labor-management-type issue.

11 Those are my comments, and I would appreciate some follow-up. My
12 e-mail is "Salvador.Sandoval@countyofmerced.com." Thank you.

13 MS. SHUPE: Thank you, Mr. Sandoval.

14 This is Christina Shupe, and for the Board and the public, the Board
15 Members can't address specific comments during the public meeting, but we will
16 (indiscernible) put Mr. (Indiscernible.) We seem to have a lot of crosstalk right now.

17 UNIDENTIFIED SPEAKER: What happened?

18 MS. SHUPE: Just a moment, everyone. It looks like everyone has suddenly
19 become unmuted.

20 CHAIR THOMAS: Everything blew up.

21 MS. SHUPE: Those of you on Webex, if you could please check your
22 connection and mute yourselves. (Indiscernible)

23 Mr. Gotcher, is TKO addressing this?

24 MR. GOTCHER: Hold on a second. (Indiscernible.)

25 CHAIR THOMAS: So those who can hear, those who can hear me right

1 now, can you please mute yourself? I don't know what's going on, but we've had an
2 explosion of conversation. (Indiscernible.) We're trying to shut this down.
3 (Indiscernible.) All right. We're going to take a five-minute break and try to figure out
4 why we have all this crosstalk. So everybody relax, especially you, Kevin. Alright, so
5 we're going to take a 5-minute, a 10-minute break. We'll be back at two o'clock.

6 (Off the record at 1:49 p.m.)

7 (On the record at 2:00 p.m.)

8 CHAIR THOMAS: Okay. We are back in session.

9 Christina, why don't you go ahead and finish what you were saying.

10 MS. SHUPE: Thank you. I just wanted to address that the Board doesn't
11 respond to comments during the public meeting, and that questions about enforcement
12 should be directed to the Division, and any interested parties are always welcome to
13 reach out to Board staff at "OSHSB@DIR.CA.GOV," and we will help direct you to the
14 proper parties.

15 CHAIR THOMAS: Thank you, Christina.

16 Mr. Gotcher, why don't we go to the next speaker?

17 MR. GOTCHER: Okay. Our next speaker is Kevin Bland of California
18 Framing Contractors Association, Western Steel Council, and Residential (sic).

19 CHAIR THOMAS: Two minutes, Kevin. Two minutes.

20 MR. BLAND: All right. I promise. Well, I kind of promise. Is it Friday, or
21 are we still on Thursday?

22 CHAIR THOMAS: It's Thursday.

23 MR. BLAND: Good afternoon, Chairman, Board Members, Board staff,
24 Division staff, and agent stakeholders. Kevin Bland, representing who was just
25 disclosed.

1 I'd like to -- I'll keep it brief. So, right off the bat, I'm going to incorporate
2 and agree with the comments by Elizabeth Treanor, Bruce Wick, Michael Miiller, Bryan
3 Little, Rob Moultrie, Jonathan Vick, and Mike Donlon. I'll highlight a couple of things
4 that I know that has already been stated, but I think one of the big things is that we've
5 heard from Board Members in the past that employers never find necessity.

6 Well, anyone that's been around me for 20 years doing this, and plus a
7 few years even before law school -- when I was in the crane business and not
8 representing people, I sat on advisory committees for different things, including fall
9 protection and nail guns, and the steel erection regulations. We have been petitioned
10 for regulations before. So I want to make sure that's clear. I'm not just saying, "Hey.
11 There's no necessity for safety."

12 What I am saying, and what we are saying today, is there is no necessity
13 for this regulation, because we have existing regulations that are being enforced, being
14 complied with, that work today. We have several regulations that apply the IIPP, some
15 instance the ATD standard, some instances the respiratory protection standard, and so
16 necessity means "Is there a need for an additional regulation?" We've heard this.

17 There is no reason that you need another regulation when you have
18 regulations that exist and comply with. There's already a body of case law that supports
19 findings. That's why I think someone said, and I agree with this, it's the IIPP that's cited
20 and enforced by the Division regularly, in this instance and others, and so I think it's very
21 important that we recognize that as an issue.

22 The other thing is that I think it is important, as this Board -- one of the
23 duties of the Board is to act as a position to provide kind of a backstop, so we don't
24 overregulate, we don't underregulate. We make sure that we're not duplicating
25 regulations. We make sure that things are reasonable, people can comply with them,

1 and people can enforce them, meaning the Division can enforce them, and I think that's
2 a very important point.

3 That's what we see with existing regulations, and another set of
4 regulations that's duplicative is not going to change that, is not going to help that, and
5 we hear a lot about resources. It's a lot of resources that are going to be spent on this.

6 We heard Bruce Wick talk about in construction, for example, which is
7 what I'm representing here today -- I handle a lot of different issues in compliance and
8 guidance and consultation, and appeals, for that matter, and the vast majority of issues
9 we're dealing with in construction are not the COVID-19 issues. Those have been
10 handled, and I think handled pretty effectively, in construction.

11 There's a lot of other things out there that resources can be put through
12 to help maintain safety. This isn't the only issue that we have to deal with in the
13 workplace, and there are a lot of other issues, and I think we need to make sure we're
14 recognizing the balance, and the need for conserving resources that we have that are
15 precious, and when I say "we," I mean the collectively "we," the Division's resources, the
16 Board's resources, the employer's resources, and not put them towards -- I understand
17 that there's a want, if you will, to say, "Hey. We did something for COVID" publicly,
18 right, "We need it for that."

19 What I would say the billboard should say, and what the advertisement
20 should say, is that "Hey. California is way ahead of everybody that's in the United
21 States," because we already had regulations in place that address this, that has
22 addressed this for years, that can apply to COVID, and apply effectively to COVID
23 prevention and minimizing the spread.

24 The other thing is, there's a lot of confusion between face mask and
25 respiratory protection. This doesn't help that confusion.

1 I do want to address one specific item, and I know there's been a lot of
2 other discussion on the proposal from Worksafe, and that Ms. Schreiber had produced,
3 but I think they asked for Social Security numbers in there maybe six times, five times -- I
4 lost count -- but that's not a necessity to be able to enforce safety. That's a privacy
5 issue, and so this goes way beyond safety in a lot of the ask.

6 I understand that's not necessarily the proposal, but that's the only thing
7 we have in front of us, and so I would ask for a no vote on the adoption of the current
8 staff proposal, based on the reasons that we've put on the record today and what I've
9 stated.

10 So I'll stop there, before we drag on to 6:00 o'clock at night. I appreciate
11 your time. Thank you for letting me speak, and I do want to make one comment beyond
12 that.

13 One of the best things I heard all day was, whenever it was unmuted,
14 somebody said, "What the hell?" That kind of sums up the day here. So I'll close with
15 that.

16 CHAIR THOMAS: Thank you.

17 MR. BLAND: Thank you.

18 MR. GOTCHER: Okay. Our next speaker is Lily McDonald of Servimedia.

19 Lily McDonald, are you there? Now, I do actually see that she's not in the
20 Webex. So we'll give her one more second.

21 (No response.)

22 MR. GOTCHER: Moving on, Cassie Hilaski of Nibbi Brothers General
23 Contractors.

24 MS. HILASKI: Yes, I'm right here.

25 CHAIR THOMAS: Hi, Cassie. Go right ahead.

1 MS. HILASKI: All right. So I'm Cassie Hilaski. I'm a safety director for
2 Nibbi Brothers General Contractors.

3 I echo the comments made by Elizabeth Treanor, Len Welsh, Robert
4 Moultrie, and others. I also really applaud Cal/OSHA's recent issuance of citations to
5 employers who are willing to put their employees at risk, and not follow CDC guidance
6 and local shelter-in-place orders. These employers need to be held accountable, and
7 Cal/OSHA has shown that they can be held accountable through application of the IIPP
8 standard.

9 There is no excuse during this pandemic to ignore even the most basic
10 precautions such as face masks and physical distancing. Employers not following the
11 common knowledge of these most basic precautions are not going to follow a new
12 regulation, either. In fact, as one person pointed out, they probably won't even know it
13 was published.

14 I obviously continue to believe that a new regulation won't compel bad
15 actors to comply. Only enforcement will, as Cal/OSHA has begun to do through the IIPP
16 standard and through the existing ATD standards for healthcare workers.

17 Don't get me wrong. I am not against regulations. In fact, they help me
18 to do my job as a safety professional. I do believe regulations work, and are very helpful
19 to those employers seriously interested in protecting their workers from workplace
20 hazards, and they are even effective for bad actors when enforced, but regulations need
21 to make sense.

22 We've seen that emergency regulations that are rushed through the
23 system end up having negative unintended consequences, as has happened with the
24 Wildfire Smoke standard, which is now contributing to the N95 shortage during a global
25 pandemic.

1 So it's not regulation we are opposed to. It's regulation that doesn't
2 make sense, and any emergency regulation is most likely to have negative unintended
3 consequences if not enough time is given to engage with all the stakeholders, to fully
4 understand how potential language could affect different situations. Mike Donlon
5 already gave you an example of that.

6 I continue to believe that Cal/OSHA's efforts are best focused on
7 enforcement through the IIPP standard, to bring bad actors into compliance, and,
8 obviously, the ATD standard, to bring those healthcare employers into compliance.
9 However, if the Board really doesn't believe in the power of the IIPP, and instead
10 believes that Cal/OSHA compliance officers need more teeth to enforce compliance, I
11 think there's a potentially very simple solution, just going to throw it out there for you.

12 What about issuing a directive that mandates that all employers must
13 follow their local shelter-in-place orders or CDC guidelines for the rare instance where a
14 local shelter-in-place order doesn't exist, and, to Michael Donlon's point, pick a date to
15 follow to maintain compliance with the rulemaking process. Simply make violations of
16 those orders or those guidelines a Cal/OSHA violation, if you really think that
17 referencing IIPP and ATD don't currently suffice.

18 Finally, I urge the Board that if they move forward with a lengthy
19 emergency regulation, that they engage as many stakeholders as possible, to try to get
20 it as right as possible the first time. The existing petition is far from as right as possible.
21 It sounds like the PRR draft may be on a better track, although I have not had the
22 opportunity to read it myself, but, please, let's give everyone time to discuss, and make
23 sure we do the best we possibly can the first time around.

24 Thank you so much for your time and, as always, for your service.

25 CHAIR THOMAS: Thank you.

1 MR. GOTCHER: Okay. Our next speaker is Andrew Gross Gaitan of SEIU
2 United Service Workers West.

3 CHAIR THOMAS: Can you hear us?

4 (Overlapping colloquy.) (Indiscernible.)

5 MR. GOTCHER: Andrew Gross Gaitan, are you there? You should be
6 unmuted now as well.

7 MR. GROSS GAITAN: Yes.

8 CHAIR THOMAS: Hello.

9 MR. GROSS GAITAN: Yes.

10 MR. GOTCHER: If your (indiscernible) audio is still on, you'll need to mute
11 that before --

12 UNIDENTIFIED SPEAKER: (Indiscernible. Crosstalk.)

13 MR. GROSS GAITAN: I think -- sounds good. (Crosstalk)

14 CHAIR THOMAS: Are you there, Andrew?

15 (No response.)

16 MS. SHUPE: I muted him.

17 MR. GOTCHER: Andrew Gaitan, are you there?

18 (No response.)

19 CHAIR THOMAS: Let's move on.

20 MR. GROSS GAITAN: I am. I'm sorry. I was having trouble unmuting.

21 CHAIR THOMAS: Go ahead.

22 MR. GROSS GAITAN: Can you hear me?

23 CHAIR THOMAS: Yes.

24 MR. GROSS GAITAN: Yes. Okay. So Andrew Gross Gaitan.

25 I'm the regional vice president for SEIU United Service Workers West, and

1 we're speaking on behalf of 48,000 private sector contracted property service workers
2 who we represent in California who clean and disinfect and secure most of the largest
3 office buildings, airports, corporate campuses, supermarket chains, shopping malls,
4 retail stores, sports and entertainment venues across the state.

5 So thousands and thousands of California's most critical front-line
6 essential workers in this fight to control and prevent the transmission of the virus are
7 just invisible in existing standards and guidelines, mostly because they're a
8 subcontractor.

9 The janitors responsible for disinfection and cleaning are overwhelmingly
10 Latino. They're from the communities hardest hit by the infection and death in this
11 pandemic, but they fall between the cracks with the existing COVID safety standards.

12 In most California cities, the security officers responsible for enforcing
13 social distancing and masking requirements are overwhelmingly black, also a
14 disproportionately impacted community.

15 You know, we've heard a lot about bad actors today. The need for the
16 emergency standards is not just about bad actors. When it comes to disinfection and
17 social distancing enforcement, it's about the structure of an entire service industry that
18 touches every one of us.

19 No one questions the need for frequent disinfection of high-touch
20 surfaces to make buildings safe for workers or the public to repopulate, whether that's
21 an airport or a supermarket or a mall or an office building.

22 It's hard to find public guidelines that do not mention frequent
23 disinfection, and no one questions that our public health orders require masks have to
24 be worn in public and at work, but no current standards define who's responsible for
25 meeting these critical public health standards, when the workers providing these

1 services are subcontracted.

2 No current standards define the contagious disease control training these
3 workers must receive to ensure that they can protect all of us by using proper
4 disinfection procedures, or protect themselves while performing this dangerous work.

5 No current standards, including AB 685, require property owners or
6 managers ensure that their subcontracted janitors or security be informed of the COVID
7 infections amongst direct employees at the properties they service, and today it's the
8 janitor's job to disinfect potentially contaminated high-touch surfaces throughout every
9 shift, on top of their existing cleaning responsibilities.

10 Unfortunately, the service contracts that were in place before COVID hit
11 generally require that our members clean anywhere from about 5,000 to 8,000 square
12 feet per hour. If you think for a minute about the size of your own living space, how
13 many square feet do you live in? For most of us, seven or 8,000 square feet per hour
14 means about 10 minutes or less to clean and disinfect our entire home. There's
15 generally more traffic, human traffic, in the areas that the janitors are cleaning and
16 disinfecting.

17 It also means an average commercial janitor cleans the equivalent of up
18 to 50 single-family homes every night. At that speed, it's simply impossible to follow
19 existing guidelines for disinfection, which means -- look at any of the EPA-approved
20 chemicals for disinfection. It means clean the high-touch surface, apply the disinfectant,
21 leave it long enough to kill the virus, and then remove that disinfectant before it
22 damages the surface.

23 Now imagine doing that for every surface you touch in your home, in 10
24 minutes. That's the amount of time janitors in California have to do that in the buildings
25 where they work, if we want to be able to repopulate when the economy begins to

1 reopen.

2 Most often, office buildings, for example, have their bathrooms
3 disinfected about once or twice a month, under current standards, and these standards
4 are enshrined in multi-year service contracts.

5 If there isn't some kind of emergency standard that requires property
6 owners ensure there's adequate staffing for disinfection, it's just a dream to think that
7 California's buildings can be adequately disinfected.

8 So we also believe that it's critical that the workers have some kind of
9 defined training to handle the disinfection properly, and we can talk across the state.
10 Thousands of our members have only been handed, "Here's the disinfectant. Here's the
11 cloth. Go," without training on what really has to be done.

12 Similarly, for the security officers, we've already heard of people who
13 have been shot, killed, assaulted for trying to require customers and members of the
14 public to wear a mask, whether that be in a supermarket or at Costco or a shopping
15 mall.

16 If those officers don't have, A, adequate staffing to deal with enforcing
17 social distancing, and, B, some training on de-escalation, as we open our buildings,
18 we're going to have more and more of those escalating confrontations.

19 We feel it's essential that the emergency standards address these
20 situations, because it's not just about bad actors. It's about how the entire cleaning,
21 disinfection, and security industry is structured, not just in California, but we have an
22 opportunity here to address it and help. Thank you.

23 CHAIR THOMAS: Thank you.

24 MR. GOTCHER: And that was our final speaker in my queue.

25 I don't know if we'd like to open it up, if anyone else has comments that

1 they'd like to add. This would be a good chance for that.

2 MR. FLORES: Yes. I thought that I had signed up. I was on the list.

3 CHAIR THOMAS: Who's speaking?

4 MR. GOTCHER: Okay. Well, sorry. May I ask who's speaking?

5 MR. FLORES: Yes. Would I be allowed to speak?

6 CHAIR THOMAS: Go right ahead.

7 MR. GOTCHER: Yes.

8 CHAIR THOMAS: Is this Mr. Flores?

9 MR. FLORES: Yes. My name is --

10 CHAIR THOMAS: Go right ahead, and what's your --

11 MS. SHUPE: Affiliation.

12 CHAIR THOMAS: -- affiliation? Sorry.

13 MR. FLORES: I'm an associate professor of sociology at the University of
14 California, Merced. I'm with the UC Merced Community and Labor Center.

15 CHAIR THOMAS: Go right ahead.

16 MR. FLORES: Okay. And thank you for allowing me the privilege to
17 speak. I appreciate it.

18 So I'm calling in to share findings from a research and policy brief that
19 relate to today's discussion regarding the need for an emergency temporary standard.
20 On July 12th, our center released a policy brief, "Hidden Threat: California COVID-19
21 Surges in Worker Distress." The brief was the first county analysis of low-wage work
22 and COVID-19 positivity rates.

23 Our findings were striking. On July 12th, when we released our report, 18
24 of California's 58 counties had COVID-19 positivity rates above eight percent and were
25 on the state's watchlist. However, most counties with large and low-wage worker

1 households, 14 out of 15, were on the state's COVID-19 watchlist, with positivity rates
2 above eight percent.

3 Half of these 14 counties, seven of them, were in the Central Valley. The
4 only county in the Central Valley not on the list when we released the report, Kern,
5 joined the list soon after our report's release.

6 So that's for all of you who are saying, you know, there's already some
7 local ordinance, you know, there are some regulations, in some way, in some areas.
8 That speaks to the need --

9 CHAIR THOMAS: Can you slow down just a little bit for the translator,
10 please?. That would be great.

11 MR. FLORES: Sorry about that.

12 CHAIR THOMAS: Thank you.

13 MR. FLORES: So the last thing I was saying was that the fact that 14 out
14 of 15 of the state's counties that were on the watchlist during the time of the release of
15 our report indicates -- that half of those counties were in the Central Valley suggests
16 that there's a need for an emergency temporary standard across the state, not
17 just -- the types of provisions that exist in some counties just won't do, if we're serious
18 about mitigating the spread of COVID.

19 So 14 out of 15 counties with large and low-wage worker households
20 were on the state's COVID-19 watchlist. Out of those counties that did not have large
21 and low-wage worker households, only two out of 37 of those counties were on the
22 state's COVID-19 watchlist, with positivity rates above eight percent.

23 So what our report tells us is that the dominant narrative about
24 mitigating spread of COVID-19, that has emphasized issues such as urban density or
25 large public gatherings, are insufficient for addressing the way that COVID is spreading.

1 Our findings suggest that essential low-wage work -- that the types of
2 essential low-wage work that's been associated with large outbreaks, like agriculture
3 and meatpacking, and the lack of health and safety standards mitigating COVID-19
4 transmission in low-wage essential workplaces, are a more important factor than has
5 currently been recognized.

6 I also want to mention one other thing. Since our report was released,
7 there was a massive outbreak near our university, at Foster Farms, Livingston. Public
8 correspondence from the Merced County Department of Public Health stated that the
9 facility had an outbreak in which 392 workers were infected with COVID-19, and eight
10 had died, and, as a result, Merced County now has one of the largest case counts in the
11 state. County schools are prevented from meeting in person, and businesses cannot
12 operate at full capacity.

13 So, while it may be an inconvenience to have to implement greater
14 health and safety standards to minimize COVID-19 transmission, the alternative is
15 periodic outbreaks such as those at Foster Farms Livingston, which will cause far greater
16 inconveniences, with the closings of entire schools and businesses.

17 The findings of our report suggest the need for an ETS to minimize the
18 risk of a COVID-19 transmission among workers and the broader public. Our findings
19 suggest that the proposed ETS would provide much needed standards to minimize the
20 risk of COVID-19 transmission among workers and the public. Thank you.

21 CHAIR THOMAS: Thank you.

22 MR. GOTCHER: And once again, I'd like to open it up and ask if there are
23 any commenters that didn't get a chance to speak.

24 (No response.)

25 CHAIR THOMAS: Anybody?

1 (No response.)

2 CHAIR THOMAS: All right. Thank you for your comments. The Board
3 appreciates all the testimony we received today, and the public meeting is adjourned,
4 and the record is closed.

5 We will now proceed with the business meeting. The purpose of the
6 business meeting is to allow the Board to vote on the matters before it and to receive
7 briefings from staff regarding issues listed on the business meeting agenda.

8 Proposed petition decision for adoption. One, Stephen Knight, Executive
9 Director, Worksafe; Fran C. Schreiber, Labor and Employment Committee of the
10 National Lawyers Guild, Petition File No. 583.

11 Petitioners request to amend Title 8 standards to create two new
12 regulations, the first a temporary emergency standard that would provide specific
13 protections to California employees who may have exposure to COVID-19, but who are
14 not protected by the aerosol transmissible disease standards, Sections 5199 and 5199.1.

15 The second standard would be a permanent rulemaking effort to protect
16 workers from infectious disease, including novel pathogens, e.g., COVID-19.

17 Ms. Shupe, will you please brief the Board?

18 MS. SHUPE: Thank you, Chair Thomas. Worksafe and the National
19 Lawyers Guild, Labor and Employment Committee, have petitioned the Board seeking to
20 amend Title 8 standards to create two new regulations.

21 The first, an emergency temporary standard, would provide specific
22 protections to California employees who may have exposure to COVID-19, but who are
23 not protected by the aerosol transmissible disease standards, Sections 5199 and 5199.1.

24 The second request by petitioners would be for a permanent rulemaking
25 effort to protect workers from infectious diseases, including novel pathogens, e.g.,

1 COVID-19.

2 The petition has been thoroughly evaluated by both the Division and
3 Board staff. Both Division and Board staff acknowledge the serious nature of the threat
4 posed to workers by COVID-19. The Division recommends granting the petition to
5 provide greater clarity for workers and employers, and states that COVID-19-specific
6 regulations would be more easily enforceable.

7 Board staff, alternatively, recommend denying the petition as written,
8 arguing that employers not covered by the existing ATD standard already have generally
9 applicable requirements to protect workers under existing regulations, Section 3202,
10 "Injury and Illness Prevention Program," Sections 1527, 3366, 3457, and 8397.4,
11 "Washing Facilities," Section 3380, "Personal Protective Equipment," Section 5144,
12 "Respiratory Protection," Article 9, "Sanitation," and Section 5141, "Control of Harmful
13 Exposures."

14 The Board staff evaluation points out that preliminary reporting data
15 show an already high level of compliance with COVID-19 guidelines by employers, and
16 that the novel nature of the COVID-19 pandemic makes adopting fixed regulations
17 difficult, as evidenced by Virginia's emergency temporary standard, which was adopted
18 July 15th and is already in conflict with updated guidance on preventing COVID-19
19 transmission.

20 Board staff raise well-reasoned concerns for written regulations in an
21 emerging environment, primarily, one, the potential for confusion when updated
22 guidance conflicts with written regulation, and, two, already existing requirements in
23 Title 8 for employers to protect workers from hazardous environments such as those
24 presented by the novel coronavirus.

25 Division staff make clear, however, their belief that Title 8 would benefit

1 from greater clarity and instructions for abating COVID-19-specific hazards, resulting in
2 improved compliance and aiding enforcement efforts.

3 The Division's evaluation recommends developing an emergency
4 regulation, to be followed by consideration of the necessity for separate regular
5 rulemaking to address worker exposure to infectious diseases after the current
6 emergency subsidies.

7 Regulatory response to emerging threats benefits most when it strikes a
8 balance between the need for swift response and robust public engagement. The
9 COVID-19 pandemic has presented employers and workers with unprecedented
10 challenges, and the proposed decision before you seeks to provide greater clarity,
11 preserve engagement, and assist in the Division's enforcement efforts.

12 For that reason, the proposed decision recommends a grant, in part, of
13 the petition, and proposes a three-pronged approach to address the hazards it is
14 concerned with.

15 First, the Board requests the Division draft and submit an emergency
16 regulatory proposal for consideration of adoption by the Board no later than its
17 November 19th, 2020, meeting.

18 Emergency regulations, by their nature, limit public engagement in the
19 rulemaking process. As such, they must meet a high bar, showing a clear legal necessity.
20 The proposed decision before you today does not take this responsibility lightly. It
21 acknowledges the unprecedented emergency, and advocates swift action by the
22 Division to allow for implementation of regulations to meet the immediate need.

23 This Board, in particular, very much values the participation of the
24 regulated public in its process. Engagement with stakeholders who are experts in their
25 respective fields has long enhanced the Board's regulations and the Cal/OSHA program

1 as a whole.

2 To preserve this important public voice in the regulatory process, the
3 Board's second request is that, subsequent to the adoption of an emergency regulation,
4 the Division work with Board staff to convene an advisory committee who will review
5 and, if needed, recommend amendments to the emergency standard. The Board
6 requests that the advisory committee meet to review the regulation at four-month
7 intervals, and that the Division then report to the Board on its findings.

8 Finally, the Board's proposed decision looks forward, and it requests that,
9 after the COVID-19 pandemic subsides, as evidenced by the lifting of the state of
10 emergency, the Division convene a representative advisory committee to consider the
11 necessity for a permanent regulation to protect workers not covered by Section 5199
12 from airborne infectious diseases, including novel pathogens.

13 The decision is now ready for your consideration.

14 CHAIR THOMAS: Thank you, Ms. Shupe.

15 Board Members, are there any questions for Ms. Shupe?

16 BOARD MEMBER LASZCZ-DAVIS: Just comments, Dave.

17 CHAIR THOMAS: Go ahead.

18 BOARD MEMBER STOCK: Is this the time to provide comments, or after
19 we --

20 CHAIR THOMAS: It's --

21 MS. SHUPE: You'd want to make a motion.

22 CHAIR THOMAS: It's up to you guys if you want to -- if you want to make
23 a motion, make a motion.

24 BOARD MEMBER STOCK: Yes, I move that we have some -- the process
25 (indiscernible) when somebody was (indiscernible) discuss it. Is that not (indiscernible)?

1 BOARD MEMBER LASZCZ-DAVIS: Laura, we can't hear you. You're cutting
2 in and out.

3 BOARD MEMBER HARRISON: And you've got to mute your speaker,
4 Chris. (Indiscernible.)

5 BOARD MEMBER STOCK: Okay. Is that any better?

6 CHAIR THOMAS: Yes.

7 BOARD MEMBER STOCK: Okay. And so I have comments I want to make,
8 but I'm waiting for guidance about what point we should make those comments.

9 CHAIR THOMAS: I just asked, does anybody have any questions for
10 Christina at this point? If not, a motion would be in order.

11 BOARD MEMBER HARRISON: I would make a motion to approve the
12 recommendation.

13 CHAIR THOMAS: Thank you, Dave. Do I have a second?

14 BOARD MEMBER STOCK: Second.

15 CHAIR THOMAS: All right. So I have a motion and a second. Is there any
16 discussion?

17 BOARD MEMBER STOCK: Yes. I'd like to make a few comments, and I
18 think Chris does as well.

19 CHAIR THOMAS: Go ahead.

20 BOARD MEMBER STOCK: Can you hear me now? Is the sound better?

21 CHAIR THOMAS: Yes. Don't move. Just like that --

22 BOARD MEMBER STOCK: I won't move.

23 CHAIR THOMAS: -- and you'll be fine.

24 BOARD MEMBER STOCK: Stay exactly as I am. Okay.

25 So it's just a couple of comments, because it's been a long day. So first I'd

1 like to start by expressing my heartfelt thanks to all of the people who have testified
2 over the last several months, but, in particular, I want to thank the workers who have
3 come to share their stories about what's happening in their workplace, and I want
4 everybody who has testified, and particularly those workers, to know that their stories
5 have had a huge impact on this process, and I really want to thank them.

6 I think that, as a result of the stories that we have heard, and the
7 testimony that we have heard, it's really impossible for anyone to claim that this is not
8 an emergency, and not a significant problem that we need to address. It's impossible to
9 claim that most employers are complying and that there's no need for action.

10 Secondly, I want to thank the Division staff and the Board staff, because
11 this has been really challenging, I know, and I really appreciate, Christina, how you've
12 described, you know, finding a middle ground between the need for immediate action
13 but preserving a process that allows input.

14 I want to say that -- a couple of comments of some of the things that
15 we've heard. One is that, again, we have heard -- when people say that it's not
16 necessary, we have existing regulations, as I've said many times before, if we thought
17 the IIPP was sufficient as a regulatory tool, we would have no specific standards, and I
18 think, most importantly, the Division, which is charged with enforcing standards, has
19 said that they need this emergency regulation. So I trust that, that they are the experts
20 in what is needed, and I recommend that we go with their recommendation.

21 I want to also just mention, as people said, I think it -- I agree 100 percent
22 that regulations are not enough, that, in fact, enforcement is needed, robust
23 enforcement, and, also, I agree that education for employers and workers about what
24 the regulation says is also essential, but regulation is the first step, and so the fact that
25 enforcement is needed does not minimize the need for the law itself.

1 I also just want to say that I think that having a particular COVID-19
2 regulation will actually address the confusion that many people have testified to of the
3 existence of many different guidelines from health departments, including the voluntary
4 guidelines that Cal/OSHA has issued. So I think that that's going to take us closer to
5 addressing that problem.

6 So I just want to say, also, that I urge us to --
7 I urge my fellow Board Members to vote yes on this, and to -- and I'm very pleased to
8 hear that we can have something in front of the Board in November, and I want to say
9 that every month counts, when we heard somebody testify that, in just a matter of
10 months, the number of workplace outbreaks in L.A. more than doubled, and the
11 testimony that we just heard from the professor at UC Merced, I think, really highlights
12 the life-and-death situation we're facing.

13 So I urge my fellow Board Members to vote yes on this proposal. Thank
14 you.

15 CHAIR THOMAS: Thank you, Laura.

16 Any other comments from the Board?

17 BOARD MEMBER LASZCZ-DAVIS: Chris? Chris? (Indiscernible.)

18 CHAIR THOMAS: Chris, go right ahead.

19 BOARD MEMBER LASZCZ-DAVIS: Yes. I would like to share a few
20 thoughts. You know, just stepping back, you know, I would think that the IIPP provisions
21 should cover COVID and address the concerns that we have with all sorts of employers,
22 but, here again, we spent a good part of the day listening to stakeholder input indicating
23 that it wasn't enough, even with the robust Cal/OSHA enforcement.

24 So is that a question of ignorant employers and employees, or is that a
25 question of just a desire not to comply? I don't know, but, obviously, there is a need

1 that needs to be met, and that the IIPP, in and of itself, has not been able to meet.

2 I think, also, another item is that it's wonderful that we're having
3 legislation being put on the table and signed by the Governor that addresses COVID that
4 really supplements some of the needed action. It seems to me that we need something,
5 and, you know, I was interested in Elizabeth Treanor's comments. A performance-based
6 standard of some sort that would leverage existing industry guidelines and best
7 practices might be one of the best solutions moving forward.

8 I refrain from making it too prescriptive, because you need to have some
9 flexibility, but, having said that, should we move that direction, certainly we cannot
10 replicate what we did with the wildfire safety, the regulation process, which is we
11 moved too quickly, with some unintended consequences that we're living with today,
12 and probably will for quite a while.

13 So, to the extent that we can delay -- we can do one of two things, either
14 delay this by a month or two, or ensure that we have a real robust process that brings
15 together the community, stakeholder input, and the consideration of existing
16 regulations and guidance. It's a tall order for this short time frame. So I appreciate the
17 urgency, but November may be too soon. That's my caution. That's it.

18 CHAIR THOMAS: Thank you.

19 Dave.

20 BOARD MEMBER HARRISON: I'll be brief. I just want to thank all the
21 speakers today, all the stakeholders that took the time. It's been a long day. I
22 specifically want to thank the workers who testified today, and the labor
23 representatives that spoken on workers' behalves. As a labor representative myself, I
24 know we've got our jobs cut out for us.

25 I really want to acknowledge the managers and the management

1 representatives that spoke today. You guys, you really have your work cut out for you.
2 You and your associates are tasked with managing your companies and your projects
3 and your operations, and in dealing with the regulations that we're putting on you, and
4 I'd like to say that if all employers and management representatives were like the group
5 of folks that spoke here today, our jobs as labor representatives wouldn't be nearly as
6 hard.

7 So I really do -- I wish everyone were like you. Unfortunately, they're not,
8 and so I think moving forward with the petition as presented is the best course of
9 action. So, again, thank you, everyone, for your testimony today.

10 BOARD MEMBER BURGEL: Great.

11 CHAIR THOMAS: Thank you, Dave.

12 BOARD MEMBER BURGEL: And, Dave -- can I also make a comment? This
13 is Barbara Burgel.

14 CHAIR THOMAS: Yes. Go right ahead.

15 BOARD MEMBER BURGEL: I wanted also to thank everyone who gave
16 testimony today. It was a broad perspective, including a focus on low-wage workers,
17 including car wash workers, retail workers, restaurant workers, janitors.

18 I've got a long list here, delivery workers, airport workers, and
19 meatpacking and poultry workers, amongst many, and including some of the
20 represented groups, SEIU and Teamsters, and some of, you know, again, the focus on
21 the labor organizing community groups speaking on behalf. I'm glad that WOEMA gave
22 testimony in support, and also the Alliance of Retired Americans.

23 I also hope this is a robust process going forward, also a time-sensitive
24 process, because we know we are in the midst of a dire situation, a very emergency
25 situation. I hope that -- I support not necessarily a prescriptive standard, and would

1 support a performance-based standard. I'm hoping that there's a focus on hierarchy of
2 controls.

3 I think, you know, obviously, with infectious disease, we are over-reliant
4 on personal protective equipment, which we know is not perfect. I'm hoping that there
5 is a greater emphasis going forward with ventilation and design. I think we could
6 really -- I think many -- I mean, in poultry, when I think of poultry, I think of crowded,
7 close quarters and speed, and it's very, very hard to socially distance in those kind of
8 industries, and so I'm hoping that there is a robust discussion around engineering
9 controls, in particular.

10 Thank you. Thank you to everybody who participated I this process.

11 CHAIR THOMAS: Thank you, Barbara.

12 Just a couple comments from myself. I want to thank everybody,
13 especially the Board. I always let, usually, everybody say whatever they want to say,
14 because I believe that that's what we should do, and we should allow people to be
15 heard, whatever their opinion is, for almost as long as they would like to express it. I
16 mean, sometimes we have to cut it a little bit short.

17 I want to thank everybody who participated today, and also all the
18 organizations that have commented and written letters, and we have taken them all
19 into submission, and (overlapping colloquy).

20 Must be time for me to stop talking. So, anyway --

21 UNIDENTIFIED SPEAKER: Exactly. That's why I'm calling you. We
22 understand that process. That's why we're going to turn it around. Okay?

23 UNIDENTIFIED SPEAKER: Okay.

24 CHAIR THOMAS: Michael Howard, can you stop speaking?

25 MS. SHUPE: Thank you.

1 CHAIR THOMAS: Thank you. Sorry about that.

2 MR. GOTCHER: Should be better.

3 CHAIR THOMAS: Okay. Anyway, thank you. So I'm cutting my comments
4 off.

5 So, anyway, we have a motion and second. So, Ms. Money, will you
6 please call the roll.

7 MS. MONEY: Ms. Burgel.

8 BOARD MEMBER BURGEL: Aye.

9 MS. MONEY: Mr. Harrison.

10 BOARD MEMBER HARRISON: Aye.

11 MS. MONEY: Ms. Kennedy.

12 BOARD MEMBER KENNEDY: Aye.

13 MS. MONEY: Ms. Laszcz-Davis.

14 BOARD MEMBER LASZCZ-DAVIS: Aye.

15 MS. MONEY: Ms. Stock.

16 BOARD MEMBER STOCK: Aye.

17 MS. MONEY: Chairman Thomas.

18 CHAIR THOMAS: Aye. And the motion passes. Thank you very much.

19 Moving on, the proposed variance decisions for adoption are listed on
20 the consent calendar.

21 Ms. Shupe, will you please brief the Board?

22 MS. SHUPE: Thank you, Chair Thomas.

23 On your consent calendar today are 21 proposed variance decisions,
24 Items A through U. Regarding the proposed decisions for Items A through U, I am aware
25 of no unresolved procedural matters, and believe that they are ready for your

1 consideration and vote.

2 CHAIR THOMAS: Thank you. (Indiscernible.)

3 Do I have a motion to accept the consent calendar, A through U?

4 BOARD MEMBER LASZCZ-DAVIS: I so move.

5 CHAIR THOMAS: Do I have a second?

6 BOARD MEMBER HARRISON: Second.

7 CHAIR THOMAS: I have a motion and second. Is there anything on the
8 question?

9 Hearing none, Ms. Money, will you please call the roll?

10 MS. MONEY: Sorry. It was Chris first, and then --

11 CHAIR THOMAS: Dave, I think.

12 MS. MONEY: -- Dave Harrison, correct?

13 MS. SHUPE: Yes.

14 CHAIR THOMAS: Yes.

15 MS. SHUPE: Yes.

16 MS. MONEY: Okay. Ms. Burgel.

17 BOARD MEMBER BURGEL: Aye.

18 MS. MONEY: Mr. Harrison.

19 BOARD MEMBER HARRISON: Aye.

20 MS. MONEY: Ms. Kennedy.

21 BOARD MEMBER KENNEDY: Aye.

22 MS. MONEY: Ms. Laszcz-Davis.

23 BOARD MEMBER LASZCZ-DAVIS: Aye.

24 MS. MONEY: Ms. Stock.

25 BOARD MEMBER STOCK: Aye.

1 MS. MONEY: Chairman Thomas.

2 CHAIR THOMAS: Aye. And the motion passes.

3 Moving on to DOSH update, is Mr. Berg on the line, and can you please
4 brief the Board?

5 We're going to let him in.

6 Eric, are you there?

7 MR. BERG: Yes, I'm here. Sorry.

8 CHAIR THOMAS: Go ahead, Eric.

9 MR. BERG: Hold on.

10 MS. SHUPE: Give him a minute.

11 MR. BERG: Can you hear me?

12 MS. SHUPE: Just barely.

13 BOARD MEMBER BURGEL: Yes.

14 MR. BERG: Hello? Can you hear me?

15 CHAIR THOMAS: Can you hear us Eric?

16 MR. BERG: Yeah. I hear you.

17 CHAIR THOMAS: Okay. Go ahead.

18 MR. BERG: Okay.

19 CHAIR THOMAS: Yes.

20 MR. BERG: I'm having some technical difficulties.

21 CHAIR THOMAS: We can hear you okay.

22 MR. BERG: Can you hear me fine now?

23 CHAIR THOMAS: Yes.

24 MR. BERG: Okay.

25 CHAIR THOMAS: Did he disappear?

1 Eric, are you still there?

2 MR. GOTCHER: He is on the line and unmuted.

3 Eric, if you're there, you should be able to start talking. You're coming
4 through a little bit quiet. I don't know if you can lean a little bit closer to your
5 microphone. That could help.

6 MR. BERG: Okay. Thank you. Is it working now? I have been talking, but
7 nothing --

8 CHAIR THOMAS: Yes. Go ahead. Start talking. We can hear you.

9 MR. BERG. Okay. Sorry. What was the question? I apologize.

10 CHAIR THOMAS: No, the DOSH update.

11 MR. BERG: On what, specifically?

12 MS. SHUPE: I believe you have some questions from Board Member Nola
13 Kennedy.

14 MR. BERG: Okay. I'll answer those. Her specific question is about
15 COVID-19-related inspections by the Division. So one of the questions was, are we
16 investigating COVID-related hazards in response to complaints? And the answer to that
17 is yes.

18 The next inspection (sic) was, are we conducting COVID-related
19 inspections in response to outbreaks or clusters? And the answer is also yes, we're
20 doing investigations into outbreaks in grocery stores, healthcare facilities, long-term
21 care facilities, correctional facilities, garment manufacturing, agricultural, including
22 produce packaging operations, and in food, meat, and poultry processing.

23 Okay. Next question was, is Cal/OSHA targeting industries with increased
24 case rates? And the answer is yes, we are currently targeting agricultural operations,
25 and food, meat, and processing activities for enforcement inspection.

1 The next question is, are we focusing on vulnerable population? Again,
2 yes, and that is in, again, agriculture and food, meat processing activities.

3 Our next question was, of the numerous inspections that have been
4 conducted, are there any situations where identified COVID-19-related workplace
5 problems could not be cited under 3203 or ATD standard?

6 In workplaces not covered by Section 5199, which is the ATD standard,
7 the general regulations, such as 3203, or IIPP, 5141, which is prevention of harmful
8 exposures to employees, and 5144, respiratory protection for employees, provide
9 Cal/OSHA a regulatory basis for requiring employers to take measures to protect
10 workers from COVID-19. A specific regulation could greatly increase Cal/OSHA's
11 efficiency, effectiveness, and success in protecting workers.

12 So that's all I have. Any questions?

13 CHAIR THOMAS: Thank you, Mr. Berg.

14 Any questions from the Board? Alright, seeing that there aren't
15 any.(Overlapping colloquy.) Ms.Shupe, legislative update. Will you please brief the
16 Board?

17 MS. SHUPE: Do we have a question from --

18 CHAIR THOMAS: Did I miss something?

19 MS. SHUPE: Okay. No.

20 BOARD MEMBER BURGEL: No, I don't have a question for Eric. I was just
21 waiting until --

22 CHAIR THOMAS: Go ahead.

23 MS. SHUPE: Okay. So, moving onto the legislative update, as the Board is
24 aware, the legislative session ended just after our last meeting, and there's a lot of
25 activity, and the Governor, as some commenters mentioned earlier, is signing bills as we

1 speak.

2 So I'm going to keep this brief, and we'll have a more thorough briefing
3 next month, but right now staff are tracking AB 2658, which was enrolled, and extends
4 existing protections from hazardous exposure to domestic work employees by including
5 them in the definition of "employee," and at this time, we believe no action is required
6 by the Board.

7 We're also tracking AB 1512, which relates to security officers and rest
8 periods. It provides protections for rest and recovery periods for private security
9 guards. At this time, we believe no action is required by the Board.

10 AB 2537, "Personal protective equipment, healthcare employees," which
11 was enrolled and sent to the Governor. This bill requires public and private employers of
12 workers in general acute care hospitals to supply employees who provide direct patient
13 care or provide services that directly support personal care with the personal protective
14 equipment necessary to comply with regulations. It establishes a requirement that
15 those employers maintain a three-month stockpile of PPE and (overlapping colloquy) for
16 Division inspection, documenting PPE consumption.

17 Mr. Gotcher, could you please mute that audio? Thank you.

18 Board staff is evaluating AB 2537 to determine if action will be required
19 (overlapping colloquy). I apologize, we've got some feedback. I'm going to continue.

20 AB 2043, "Occupational safety and health, agricultural employers and
21 employees, COVID-19 response." It sets requirements for public outreach efforts and
22 reporting responsibilities on COVID-19 activities by the Division. It requires funding. At
23 this time, no Board action is required.

24 California SB 1257, "Employment safety standards, household domestic
25 services," was amended August 24th, under Section 26305.1, requires the Division to

1 convene an advisory committee, which shall, in consultation with the Commission on
2 Health(overlapping colloquy) and Safety and Worker’s Compensation make findings and
3 recommendations to the Occupational Safety and Health Standards Board for
4 industry-specific regulations related to household domestic service. It calls for the
5 Board to adopt industry-specific regulations related to household domestic service no
6 later than January 1st of 2022.

7 SB 275, "Healthcare and essential workers, personal protective
8 equipment." This bill requires the state Department of Public Health and the Office of
9 Emergency Services, in coordination with other state agencies, to, upon appropriation
10 and as necessary, establish a personal protective equipment stockpile.

11 The bill requires the department establish guidelines for the
12 procurement, management, and distribution of PPE, taking into account, among other
13 things, the amount of each type of PPE that would be required for all healthcare
14 workers and essential workers in the state during a 90-day pandemic or other health
15 emergency.

16 This bill also requires the Department of Industrial Relations to adopt
17 regulations in consultation with the state Department of Public Health, and set forth
18 requirements for determining 45-day surge capacity levels for a healthcare employer's
19 PPE inventory.

20 This bill does not mention the Occupational Safety and Health Standards
21 Board directly. However, as the only body in the state empowered to adopt worker
22 health and safety regulations, it is likely that not only will this bill impact the Board, but
23 that there will be operational and staffing costs associated with the bill. Board staff is
24 evaluating cost estimates and preparing to send those to DIR.

25 AB 2092, "Emergency ambulance employees, subsidized protective gear,"

1 this bill would require an emergency ambulance provider to establish a voluntary
2 personal protective equipment program that allows for the purchase of subsidized
3 multi-threat body protective gear that is bullet, strike, slash, and stab resistant by an
4 emergency ambulance employee pursuant to an employer-funded stipend and
5 authorizing employee (overlapping colloquy) to voluntarily participate in a PPE program,
6 and to wear the PPE while on duty. The bill would require a provider to inform an
7 employee of the opportunity to purchase subsidized multi-threat body protective gear
8 for a PPE program. Board staff is evaluating whether Board action will be required.

9 Finally, AB 685, which Board Members were informed was just signed by
10 the Governor today. It was amended August 25th, related to "COVID-19 imminent
11 hazard to employees, exposure, notification, and serious violations," sets specific
12 environments for an employer notification to employees of COVID-19 exposure,
13 requirements for the Division, and requirements for the Department of Public Health.
14 Board staff will evaluate whether elements should be addressed in the Division's
15 proposed emergency temporary standard.

16 Are there any questions from the Board?

17 CHAIR THOMAS: No questions.

18 Executive officer's report, Ms. Shupe.

19 MS. SHUPE: Thank you, Chair Thomas. Just one moment. Let me change
20 hats.

21 I'm pleased to inform (overlapping colloquy) --
22 so the Board may have noticed that we're having some sound issues. I know
23 stakeholders noticed it as well. We're working out the kinks, because we -- and I'm very
24 pleased to say this -- were able to complete our contract for meeting support. Our
25 meetings have run very smoothly, but they have been held together with rubber bands

1 and chewing gum, and so this is the beginning of a much more supported foundation for
2 our meetings going forward. The contract is in place, and today's meeting has
3 significantly expanded public access, even with the little hiccups that we've experienced.

4 In addition to the teleconference and Webex options previously
5 supported for participation, the Board Meeting is now being broadcast live in English
6 and in Spanish, and audio-only livestreams are available in both languages for those
7 with limited Internet access.

8 Looking forward to next month, the Board will consider a proposed
9 decision for Petition 579, which seeks to amend various sections of General Industry
10 Safety Orders and Construction Safety Orders, to address water damage, building mold
11 investigation, and remediation methodologies.

12 Additionally, as I stated earlier, the legislative briefing for October will
13 report on enrolled bills that have been adopted by the Governor.

14 Are there any questions from the Board?

15 CHAIR THOMAS: Thank you.

16 BOARD MEMBER STOCK: I was just going to say thank you, Christina and
17 the Board staff, just because it's really, really challenging, and I just want to say we
18 appreciate all the work you've been doing to deal with this electronic meeting situation.
19 So thank you.

20 CHAIR THOMAS: This was actually better than previously, even though it
21 might not have seemed like it at some points. We'll get these kinks worked out, and this
22 is a much more efficient way of doing it. It's just, sometimes you can't control what
23 other people are doing, and that causes a problem.

24 So we don't have a closed session today, so we'll just go on to the next
25 item, which is, the next Standards Board meeting will be October 15, 2020.

1 MS. SHUPE: Business. We should have new business, Board member
2 comments and future agenda items.

3 CHAIR THOMAS: I thought we just did that. Go ahead.

4 MS. SHUPE: And so, with the Board Chair's lead, at this point in time, I
5 don't know if we have any comments, but we would normally, at this time, open it up
6 for the agenda, for Board members to raise any issues for new business.

7 (No response.)

8 CHAIR THOMAS: Any issues?

9 BOARD MEMBER HARRISON: Motion to adjourn.

10 CHAIR THOMAS: All right. Next meeting is October 15, 2020, via
11 teleconference. We'll see you next month, same time, same place. Thank you,
12 everybody, for your patience, Board Members, staff, everybody, and that is --

13 BOARD MEMBER BURGEL: Thank you all.

14 CHAIR THOMAS: So thank you. This meeting is now adjourned.

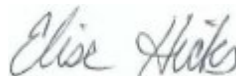
15 (The meeting was adjourned at 3:00 p.m.)
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I do hereby certify that the testimony in the foregoing hearing was taken at the time and place therein stated; that the testimony of said witnesses were reported by me, a certified electronic court reporter and a disinterested person, and was under my supervision thereafter transcribed into typewriting.

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IN WITNESS WHEREOF, I have hereunto set my hand this 8th day of April, 2021.



ELISE HICKS, IAPRT CERT**2176

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IN WITNESS WHEREOF, I have hereunto set my hand this 8th day of April, 2021.



Myra Severtson
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