

DEPARTMENT OF INDUSTRIAL RELATIONS
OCCUPATIONAL SAFETY & HEALTH

ADVISORY MEETING

EMERGENCY RULEMAKING TO PROHIBIT THE FABRICATION OF
ENGINEERED STONE COUNTERTOPS CONTAINING MORE THAN ONE
PERCENT CRYSTALLINE SILICA

JULY 31, 2026

CERTIFIED COPY

Reported by:

Emmett Barnard,
CSR No. 14529

Job No.:
64607DIR-DOSH

1 DEPARTMENT OF INDUSTRIAL RELATIONS
2 OCCUPATIONAL SAFETY & HEALTH
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4 JULY 31, 2026
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9 TRANSCRIPT OF ADVISORY MEETING,
10 taken hybrid teleconference and at 1515 Clay Street,
11 Suite 1901, Oakland CA 94612, commencing at 10:00 A.M.
12 and concluding at 4:06 P.M. on Friday, July 31, 2026,
13 reported by Emmett Barnard, CSR No. 14529, a Certified
14 Shorthand Reporter in and for the State of California.
15

16 CAL/OSHA MEMBER:

17 Eric Berg, Deputy Chief Health and Research and
18 Standards

19 Betsy Noth, Senior Industrial Hygienist,
20 Cal/OSHA Research & Standards

21 Michelle Castaneda, Senior Safety Engineer,
22 Research and Standards Health
23
24
25

1 Friday, July 31, 2026

2 10:00 A.M.

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4 ERIC BERG: I'm Eric Berg. I'm the deputy chief
5 of health of Cal/OSHA, and let's talk about the
6 Emergency Rulemaking to Prohibit the Fabrication of
7 Engineered Stone Countertops Containing More than One
8 Percent Crystalline Silica. So that's the subject of
9 this meeting, and it's based on Petition 609 to the
10 Standards Board, which was granted.

11 So we have a series of questions we've posted
12 that we'll go through as being for some brief intros, I
13 want to introduce other people, Cal/OSHA.

14 Betsy and Michelle, you want to introduce
15 yourselves?

16 BETSY NOTH: Hi. I'm Betsy Noth. I'm a senior
17 industrial hygienist with Cal/OSHA Research and
18 Standards, and I think that's all the introduction I
19 need to give. Glad you're all here.

20 MICHELLE CASTANEDA: Hi. I'm Michelle
21 Castaneda. I'm a senior safety engineer with Research
22 and Standards Health.

23 ERIC BERG: Thank you. So the three of us will
24 be kind of running this meeting and going through all
25 the questions we have posted about this prohibition of

1 certain engineered stone countertops.

2 First, if you could introduce the translators
3 so they could explain to people online how they can
4 access Spanish audio.

5 THE MODERATOR: Very good. Today we have
6 Spanish language translators for our language listeners
7 in Spanish, particularly for those that are online, and
8 we have quite a number of attendees that are watching
9 this session online.

10 At this time, Mark Gutierrez, one of our
11 Spanish-language interpreters would like to give
12 instructions to anybody that's listening in the English
13 channel, which this is, how to connect to the Spanish
14 channel.

15 Go ahead, Mark. Mark, we're not hearing you.
16 Can you move to the English channel and make your
17 remarks to the English channel? Are you able to make
18 your comments in the original channel, Mark? We're not
19 hearing you, Mark, at this time. If I may, Mark, rather
20 than continue -- here, Erica. There we go. Here we go.
21 Go ahead. Go ahead, Mark.

22 THE INTERPRETER: Can you hear me now?

23 THE MODERATOR: We do. Yes. Go ahead.

24 THE INTERPRETER: I appreciate that. Thank you.
25 So that you can hear me on the secondary channel, and so

1 thank you so much for your patience.

2 Instructions now.

3 (The Interpreter spoke in Spanish.)

4 THE MODERATOR: Very good. Go ahead, Eric.

5 ERIC BERG: All right. Thank you very much. So
6 basically we'll go through the series of questions --
7 put those on the screen -- and just go through questions
8 starting at the beginning going to the end. It's pretty
9 straightforward. And then I'll read the question off,
10 and we'll ask people to talk about it, and we can have
11 discussions.

12 I'm getting an echo, John.

13 THE MODERATOR: Try that.

14 ERIC BERG: Yeah. That sounds better. Can you
15 hear me okay?

16 THE MODERATOR: Yeah.

17 THE COURT: Okay. John, can you put the
18 questions on the screen and we'll --

19 THE MODERATOR: Yes.

20 ERIC BERG: -- get started.

21 THE MODERATOR: Here you go.

22 ERIC BERG: All right. Thank you. I guess
23 first before we start, I'll read the kind of relevant
24 part of the petition that was granted by the Standards
25 Board. It's kind of forming the basis of this meeting

1 or work moving forward. So the petition, just basically
2 the decision, is petition file number 609 is hereby
3 granted to the extent that the Board requests Cal/OSHA
4 draft emergency rulemaking to amend the crystalline
5 silica standard. The Board simultaneously requests
6 Cal/OSHA convene advisory committees to undertake a
7 review of section 5204 and potential associated
8 regulations.

9 So section 5204 is the silica regulation, and
10 Petition 609 that was granted requesting that artificial
11 stone, also called engineered stone, also called quartz,
12 with more than one percent crystalline silica be
13 prohibited due to a silicosis emergency in California.

14 We currently have, I think, close to 609 cases
15 since 2019 of silicosis, permanent disabling and
16 ultimately fatal disease, and 32 deaths since 2019. But
17 the vast majority of those were just over the last
18 couple of years. So there's an extreme silicosis crisis
19 that CDPH has documented, and it's resulting from
20 countertop fabrication for the most part -- or
21 completely with artificial stone containing crystalline
22 silica.

23 So we'll go to the questions and just get
24 started on -- our task is to prohibit this dangerous
25 product to protect workers. So the first question is,

1 number 1, timelines for fabricators and suppliers, to
2 transition from or the official stone with crystalline
3 silica to safer alternative products such as natural
4 stone, sintered stone, porcelain, solid surface,
5 crystalline-free artificial stone, et cetera. There's
6 many other products.

7 So the first question is timelines for
8 fabricators and suppliers to transition to different
9 products. And part (A) is how long will it take to
10 complete existing orders and potentially use up existing
11 inventories.

12 So on 1(A), do we have any comments on that
13 from any persons? I guess we'll start with in person,
14 and then we can go online.

15 Go ahead. Can you say your name before you
16 speak.

17 THE MODERATOR: In order to use microphones,
18 they all have a button. When you push the button,
19 you'll be live.

20 ANNEKE FLEMING: Is it working? Hello,
21 everyone. My name is Anneke Fleming. I'm a medical
22 student and intern with the Occupational Health
23 Internship Program run by the Association of
24 Occupational and Environmental Clinics. Over the last
25 two months my partner and I -- who's also a medical

1 student, her name is Liz -- we've worked under Dr.
2 Sheiphal Gandhi to conduct an investigation on the
3 perspectives of fabrication shop owners, how to
4 implement the engineering stone fabrication prohibition
5 in anticipation of the emergency rulemaking process.

6 We conducted interviews and shop visits with
7 the owners of nine fabrication shops, including many
8 with experience already fabricating amorphous silica and
9 sintered stone alternative products, and we did this in
10 order to learn how the regulation would impact them and
11 other stakeholders in the fabrication industry with the
12 goal of answering many of these questions.

13 So for the first question we found that all
14 but one shop considered 12 months a feasible transition
15 period. Shops varied in the periods they proposed to us
16 from an immediate ban to a slow phaseout over three
17 years, but considered 12 months feasible. Most shops
18 had contracts beginning about a year in advance of
19 beginning a job, although one shop reported contracts
20 with more than one year of time. They reported
21 contracts with one to three years in advance.

22 It is difficult to make a recommendation based
23 on how long it would take to use their existing
24 inventory because shops use inventory very differently.
25 Some shops have no inventory, while one shop we spoke to

1 kept inventory for more than a decade with the goal of
2 selling their offcuts in the future.

3 So based on our findings, we recommended a
4 transition period of 12 months, at which time a complete
5 cutoff should begin. Thank you.

6 ERIC BERG: All right. Thank you very much for
7 that. How many shops did you speak with?

8 ANNEKE FLEMING. We spoke with nine across
9 Northern and Southern California.

10 ERIC BERG: Okay. Thank you very much. Very
11 helpful.

12 Go ahead, Nate.

13 NATE KOLINSKI: Nate Kolinski, a fabricator.
14 Block tops. I've been involved with this topic for
15 eight years, and while we're still opposed to a ban, we
16 think that enforcing existing laws would take care of
17 the issue. If there is a ban, if we go through with
18 this, most of us have inventory, most of us have
19 remnants. We have anywhere from a half million dollars
20 to a million dollars in inventory that will become
21 worthless when this is done.

22 So it typically we would keep those for two
23 years, try to use them up. We sell by the square foot.
24 A lot of places sell by the slab, and that's paid for.
25 Our inventory sits on our shelves until it can get used

1 again. So if we're going to do something like this, I
2 think the State should look at something like if you
3 were collecting guns, you would pay for the guns.

4 If the State wants to ban this product, they
5 should be buying back our inventory because we have no
6 use for it. It will be worthless, and thousands of
7 fabricators will have the same situation with inventory
8 and capital that's sitting out there that they won't
9 get. Plus, we'll have to buy the new product back, and
10 we can talk about new product, but the inventory levels,
11 it'd take us about two years to get through, not
12 counting contracts that's out there, not counting
13 quoting that's out there, not counting displays or
14 samples or anything like that.

15 ERIC BERG: All right. Thank you, Nate. I
16 appreciate that.

17 Anyone else in person have a comment? All
18 right. Go ahead. Just say your name and who you
19 represent.

20 ARMANDO VILLEGAS: My name is Armando Villegas,
21 and I'm a fabricator for Abba Stone here in the Bay
22 Area, and I second Nate on his opinion, but also if we
23 get to a point that you guys ban quartz, then you're
24 going to come up with rules, how to dispose those, and
25 you're going to put that burden into the shop. And

1 that's a huge one on top of all to losses of getting rid
2 of the materials. So I think -- I'm sorry, but I'm
3 going to say, but you're barking up the wrong tree here
4 with all this. You have to start with creating a way, a
5 solution for us in order to impose that to us after
6 that. Thank you.

7 ERIC BERG: All right. Thank you.

8 Anyone else in person before we go online?
9 Okay.

10 MARTIN BERMUDEZ: Yeah. I guess this is on.
11 Okay. Thank you. This is Martin Bermudez. I'm the
12 director of safety, regulatory compliance, and health
13 for the International Surface Fabricators Association,
14 also known as ISFA. I appreciate this body for
15 permitting this advisory committee.

16 It's our opinion that question number 1 makes
17 certain assumptions that, you know, for lack of a better
18 word, or making the presumption that a ban is ultimately
19 going to take place. It's an equivocal position for the
20 State vis-à-vis Cal/OSHA to take at this time because
21 there is effectively no ban as of right this moment
22 where we sit. So I just wanted to state that this is
23 equivocal language in the way the question was presented
24 in the first place.

25 Secondly, there are years' worth of inventory

1 of engineered stone, literally years' worth. 12 months
2 is not realistic. We're -- you must be talking about a
3 very small shop that has 12 months worth of inventory.
4 There is literally years' worth of inventory, and if
5 ultimately a ban does prevail, you're going to have to
6 create a new vertical for the disposal of this material
7 that does not yet exist. You can't call a waste
8 remediation company to get rid of engineered stone
9 because there really are no avenues to dispose of it.

10 To my point engineered stone is not RCRA
11 hazardous waste. It's not recognized as such. So,
12 again, new verticals, new industries will have to be
13 created to dispose of this material safely. So this is
14 an important -- unintended consequence to the question
15 regarding timelines for fabricators and suppliers to
16 transition to other materials. Thank you.

17 ERIC BERG: All right. Thank you.

18 Yeah. Go ahead, Nate.

19 NATE KOLINSKI: So along with what Martin just
20 said for the manufacturers, they can still sell in 49
21 other states. For the local fabricators, we have no
22 outlet for this material. So, you know, if one of the
23 manufacturers goes, hey, I can't sell in California,
24 they can sell the Nevada, which it may come right back
25 into California through that, but us fabricators have no

1 international or interstate or national way to get rid
2 of this inventory, and I think that if the State's going
3 to ban it, the State should take care of that.

4 ERIC BERG: All right. Thank you very much.

5 Jordan, go ahead. Can you state your full
6 name and who you represent?

7 JORDAN UTER: Yeah. Jordan Uter with Worksafe.
8 Recognizing all these comments from industry concerning
9 the amount of inventory and having to extend a timeline
10 of a potential ban, I would like to ask if we extend
11 this timeline, what happens to the workers who keep
12 cutting the stone while this committee works through
13 that timeline?

14 Because a published study of 114 California
15 countertop workers already diagnosed with silicosis,
16 only eight received any wage loss or medical benefit
17 through workers' compensation, and California taxpayers
18 through Medicare paid the medical bills of 73 of those
19 114 cases. And many of these workers face lifelong
20 disability and lung transplants that cost more than
21 \$1,000,000 each.

22 So I would like to ask for every month a
23 phaseout timeline extends, how many additional workers
24 are expected to be diagnosed? Who's projected to bear
25 those medical costs? And if that's going to be the

1 employer, worker, workers' comp, or Medi-Cal, and if
2 we're going to set this timeline, I think that a number
3 belongs in the record next to that. Thank you.

4 ERIC BERG: All right. Thank you, Jordan.

5 John, do we have any comments online we could
6 take?

7 THE MODERATOR: Yes. Let me announce to our
8 online attendees today how you could make a comment. We
9 have the ability to allow you to make comments from
10 Zoom, and in the room we'll be able to hear you and
11 interact with you, and you can arrange to make a comment
12 by raising your hand. That's a feature of Zoom.

13 At the bottom of your screen on whatever
14 device you're looking at, there should be a symbol of a
15 hand, and if you select that hand or click on it, that
16 will alert us that you'd like to make a comment, and
17 we'll allow you to speak, and if you would like to be
18 promoted so that we can see your video as well, we're
19 glad to do that. So at this time if you'd like to make
20 a comment, please use the raise hand feature, and we'll
21 call on you. We do have some hands raised.

22 At this time Peter Dominguez. Peter, if you
23 accept the ability to communicate, you should be able to
24 unmute your microphone and speak now.

25 PETER DOMINGUEZ: All right. How does that

1 work?

2 THE MODERATOR: Very well. Go ahead.

3 PETER DOMINGUEZ: Hi. Thank you for the
4 opportunity to comment today, and hi to everybody that's
5 there in person. I would have liked to be but just had
6 a new baby, and we're saddled at home. Regarding this
7 question, too, I think it's helpful to distinguish
8 between existing orders and existing inventory. Those
9 are two different issues that have two different fixes
10 and may end up having two different timelines.

11 As far as existing orders, those are going to
12 be any orders under contract, and I think the two
13 researchers had gotten a selection of different, you
14 know, fabricators to indicate what that range looks
15 like. I'd say in most cases, even in our business which
16 is entirely commercial and direct-to-contractor and
17 direct with builders, most of those contracts are
18 projects that will start in the next 12 months.
19 However, you know, those -- the projects themselves
20 often extend much further than that.

21 It's going to be, you know, I think some give
22 and take and some cover that the State is going to have
23 to give in order for us to navigate those existing
24 contracts, and this is as a fabricator that's been aware
25 of this issue for some time and been actively looking

1 to, you know, transition, where available, existing
2 contracts to a material that would, you know, meet
3 compliance in this post petition.

4 As far as existing inventory, I think, to
5 Nate's point, really, the only avenue for someone that
6 has inventory is going to be to discount that material
7 in order to make it commercially viable and move it out
8 of state. I don't see, really, another pathway. In
9 most cases, the length of time to completely clear your
10 inventory, at least standing inventory, is going to
11 exceed the amount of time that's going to be required to
12 complete contracts, but those two issues should be, you
13 know, in two separate camps.

14 THE MODERATOR: Thank you for your comment.

15 At this time we have no additional hands
16 raised. If you'd like to make a comment and you're
17 attending the webinar online, please use the raise hand
18 feature at the bottom of your screen, and we'll be glad
19 to call on you.

20 ERIC BERG: Okay. We'll move on to question
21 1(B) then. So thank you for the input on all that.
22 That's helpful for moving forward.

23 So 1(B) is, what is the current supply for
24 alternative products? And I listed the alternative
25 products before. There's, you know, many alternative

1 products. How long would it take to increase supply to
2 completely replace artificial stone with crystalline
3 silica?

4 So basically asking do we have enough
5 alternative products on the market that can replace the
6 artificial stone or quartz? Any comments on that on
7 alternatives? Natural stone, sintered stone, porcelain.

8 Okay. Nate has a comment. Go ahead, Nate.
9 Thank you.

10 NATE KOLINSKI: So right now on the federal
11 level there's a lot of talk about supply, domestic
12 supply. There's tariffs being talked about. There's
13 quotas being talked about, and right now what we've been
14 told or what we've heard is that 80 percent of the
15 existing -- or the materials being used is coming from
16 overseas. That's going to be -- if this all goes
17 through in DC, and I mean, that's a whole another talk,
18 but the amount of material that can come in is going to
19 have a quota and a cap on it, and that relief is
20 supposed to be for about four years.

21 So my concern in California is that we knock a
22 product out, but we have federal restrictions on how
23 much product can come in to replace that. Right. So
24 it's not -- the capacity right now for the zero quartz
25 is not enough to cover the demand, and on a federal

1 level they're crunching that down, too. So I think the
2 Board and Cal/OSHA should look like that, too, because
3 that's going to condense our ability to be able to
4 produce, and it's really going to hurt the fabrication
5 network, too.

6 ERIC BERG: All right. Thanks, Nate. Granite
7 used to be, like, the dominant product before crystal
8 stone became really popular maybe the last 15, 20 years.
9 So is granite also --

10 NATE KOLINSKI: The market has also grown, too.
11 Although ten years ago there's more nature stone, that's
12 flipped. But even that, the ramp up for production and
13 quarrying and everything else that's involved, again,
14 across the other 49, they might have an ability to move
15 product into those other states, but in California we're
16 already limited. We already have inventory-level
17 problems.

18 And I did want to touch on Jordan -- I thought
19 he had a really good point. Who's going to pay for the
20 medical things? This should be a workers' comp issue.
21 Where it's coming from, and the reason the public's
22 taking it up is because we have businesses that aren't
23 following any rules. They don't have workers' comp.
24 They don't have that. They don't have business
25 licenses. They're treating their guys as independent

1 contractors.

2 So there's a whole bunch of existing
3 regulations and existing laws that aren't being followed
4 that are causing this problem, and I think that needs to
5 be part of this, too, is, hey. We're going to put a
6 real enforcement to make sure that employees do have the
7 coverage that employers are supposed to provide.

8 ERIC BERG: Yeah. I've seen a numbers that the
9 workers' compensation system is not working for these
10 workers. We have about 610 workers with silicosis, and
11 a very small percent are getting workers' comp, which is
12 a tragedy. Yeah. Thank you for that.

13 Any other comments on alternative products and
14 supply?

15 ELIZABETH FIELDING: Hi. I had a comment. My
16 name is Elizabeth Fielding. I believe my colleague
17 already introduced us and our project. We're working
18 with the Occupational Health Internship Program, and we
19 asked shop owners that we spoke with about the supply of
20 mainly alternative engineered stone such as a amorphous
21 silica, and that was a brought up as a major concern for
22 transitioning material because currently many of the
23 shop owners we spoke with described this as a niche
24 product with limited supply of different design
25 patterns, colors, et cetera. But the majority of people

1 we spoke to believe that manufacturers were expanding
2 their lines currently and that a definite cutoff date
3 and more market pressure potentially generated through a
4 prohibition was necessary actually to expand this
5 product in the market and that -- yeah. It was limited
6 but available.

7 ERIC BERG: All right. Thank you. Yeah. We
8 saw in Australia they banned artificial stone,
9 engineered stone, quartz, and I think, yeah, amorphous
10 silica and artificial stone. I guess called
11 crystalline-free artificial stone has been part of
12 replacing that as well as natural stone, and I know Ikea
13 stopped carrying artificial stone with crystalline
14 silica. I think it was triggered by the Australian ban,
15 but I checked their products here in the U.S., and they
16 don't carry it anymore. They're only doing the
17 crystalline-free version or natural stone. So we see
18 some movement already, I think, to Australia.

19 Nate has another comment. Go ahead, Nate.

20 NATE KOLINSKI: Yeah. Sorry, but yeah. Ikea
21 did -- I don't know who that was. Ikea did ban that,
22 but their sales in countertops have dropped way down,
23 and it's moved to the other retailers that have that
24 available. So it's not -- I mean, the amorphous product
25 is great. It's not enough to cover the current demand,

1 and I just think we need to really look at that because
2 the pressure is going to get pushed further and further
3 down to the guys that are at the bottom of the chain,
4 the fabricators.

5 ERIC BERG: Yeah. I guess the key is if we get
6 all of those box tops like Lowe's, Home Depot, and the
7 big showrooms to completely stop carrying artificial
8 stone -- I think we have questions about that later
9 on -- but just if they stop carrying it completely, and
10 it's not even available to customers, people will stop
11 using it and stop -- their customers will stop picking
12 it, and the fabricators will make what the customer
13 asked for. So we'll get to that later, but I think
14 that's a key, too.

15 Any other -- go ahead, Jordan.

16 JORDAN UTER: Jordan Uter at Worksafe again. I
17 do want to clarify our position that we believe
18 enforcing a ban as soon as possible is the most
19 important thing here. Talk of timelines we believe
20 leaves out the ultimate victims, which are the workers.
21 So I do want to make that clear on the record for our
22 position here.

23 ERIC BERG: All right. Thank you, Jordan.
24 Yeah. If we're strictly looking at worker protection,
25 worker health, the right thing to do would be to ban it

1 today, but -- so yeah. Thank you for that.

2 Go ahead. Say your name and who you
3 represent. Thanks.

4 KIMBERLY BRAYTON: Dr. Kimberly Brayton with
5 Brayton Purcell LLP. I just wanted to make the point to
6 the extent that there are limits on imports, that was to
7 do with industry pressure from and including members
8 from the industry who are members of ISFA and NSI, and
9 those same organizations can apply pressure in the
10 reverse and can move away from the tariffs and the
11 limits on imports of alternative products.

12 ERIC BERG: Thank you.

13 Anyone from ISFA?

14 MARTIN BERMUDEZ: Thank you. Martin Bermudez
15 with ISFA. As far as the current supply of alternate
16 products it will -- ultimately, we're talking about a
17 situation where the demand is different for alternative
18 products versus engineered stone. Solid stone,
19 countertops, tile -- a reminder before I get into my
20 reply here is that Australia is an island nation of 72
21 million people. That's fewer than the state of
22 California's population across the board.

23 Please understand that socialist governments
24 govern by proclamation. They don't govern by the
25 consent that they govern. So we're comparing a

1 socialist nation's decision to ban a substance by
2 disguising their protectionist policies with health
3 concerns to the realities of industry and law and health
4 in the state of California. And you know, I just find
5 it interesting.

6 Let me make no mistake here. Worker safety is
7 important. To the best of my knowledge no ISFA shop was
8 inspected by Cal/OSHA agent or inspectors or auditors or
9 whatever you'd like to call them, no members of ISFA
10 were inspected and are part of Cal/OSHA's current
11 findings. What the findings that they drew from were
12 from back alley shops that wouldn't abide by any --
13 weren't even licensed to do business, wouldn't abide by
14 any dictates of government if there were any.

15 But getting back to the question, current
16 public information indicates alternative products exist,
17 but the available record does not establish the supply
18 is sufficient today to fully replace artificial stone
19 statewide. Cal/OSHA is still collecting testimony on
20 transition timelines, contracts, and supply phaseout
21 feasibility. So any estimate of time to complete
22 replacement should be treated as an unresolved
23 implementation question requiring industry data and
24 further committee review. Thank you.

25 ERIC BERG: All right. Thank you. I mean,

1 Australia is a democratic -- the elected government, it
2 goes back and forth between conservatives and non-
3 conservatives. So I disagree.

4 Any other comments? Bob, go ahead.

5 BOB HARRISON: Bob Harrison, California
6 Department of Public Health and University of San
7 Francisco. I testified and gave comments before the
8 Standards Board back in December after I was in
9 Australia, and I identified many manufacturers of
10 alternative products, most manufacturing recycled glass,
11 so-called amorphous product. So that's something I
12 recommend that Cal/OSHA take a look at because they did
13 fill a niche in the market there. Those manufacturers,
14 I assume, were probably still manufacturing today and
15 could potentially fill that niche in California.

16 ERIC BERG: Thank you, Bob. Was it mostly the
17 recycled glass amorphous silica that took its place or
18 has natural stone increased its market share or products
19 like sintered stone?

20 BOB HARRISON: Thanks, Eric. As I understand it
21 was mostly the amorphous alternatives that took the
22 place of quartz in Australia.

23 ERIC BERG: Okay. Thank you for that.

24 THE MODERATOR: We have some hands raised
25 online.

1 ERIC BERG: Okay. Go to online, please.

2 THE MODERATOR: All right. Our first hand
3 raised is Raphael Metzger. If you would please accept
4 the ability to unmute your microphone, you can address
5 the council here.

6 RAPHAEL METZGER: Can you hear me?

7 THE MODERATOR: Go ahead again.

8 RAPHAEL METZGER: Can you hear me?

9 THE MODERATOR: Yes, we can.

10 RAPHAEL METZGER: Very good. My name is Raphael
11 Metzger. I'm the head of the Metzger Law Group
12 representing about 200 -- now 225 silicosis victims and
13 all workers in the state of California who have not yet
14 been diagnosed with silicosis in a medical monitoring
15 class action to require the manufacturers to provide
16 medical monitoring to every exposed worker in the state.

17 We now have over 600 workers who have gotten
18 silicosis. They get on average every day a worker gets
19 silicosis. Since May 21st, when the Standards Board
20 recognized that we had a public health crisis, 70 days
21 have now passed, and approximately 70 more workers have
22 gotten silicosis. Yesterday I was supposed to start
23 trial in San Francisco on a silicosis case, but trial
24 was -- the case was mistried because yesterday morning
25 by client died from silicosis.

1 So I am sorry, but this entire series of
2 questions is inappropriate. Where is the regulation?
3 70 days has passed, and I haven't seen a regulation
4 drafted. All of this nonsense about phasing this
5 product out and worrying about how it's going to do in
6 showrooms, this is all criminal. Workers are dying.
7 Cal/OSHA's job is to protect the workers, and this
8 entire discussion is not -- as a gentleman just
9 mentioned -- is not doing that.

10 Where is the regulation and why are we talking
11 about all these minor concerns of industry about supply?
12 We have -- in this county we have tons and tons of
13 natural stone. A generation ago our countertops were
14 manufactured -- were fabricated from granite and marble
15 generally, also other natural stones, and not a single
16 case report has been published as a worker who did that
17 work just with natural stone getting silicosis.

18 And there's plenty of natural stone. There's
19 also all these alternative products. Some of them are
20 novel products, which haven't been well tested, but we
21 can just go back to natural stone. It's beautiful. It
22 just needs a little bit of sealing, and workers -- and
23 that will stem the tide of disease and death. Thank
24 you.

25 ERIC BERG: All right. Thank you for that.

1 RAPHAEL METZGER: But I would like to know,
2 where is the regulation?

3 ERIC BERG: -- these back alley shops.

4 RAPHAEL METZGER: Where is the regulation?
5 Where is the drafted regulation?

6 ERIC BERG: We know what's happening. We've
7 seen well-recognized stops -- none of the people that
8 are here -- but other ones that sold to the big box
9 retailers that had multiple silicosis cases. So it's
10 not just these hidden shops that's happening, and
11 well-recognized shops that are for the most part trying
12 to follow the requirements.

13 Any other comment online, John?

14 THE MODERATOR: We do. Yes, and actually I'd
15 also like to call attention the people that are in the
16 room today, some of you are sitting in front of a
17 microphone. However, we have some parties that are in
18 the back of the room that don't have microphones. I'd
19 like to invite you, if you would just like to raise your
20 hand and we see you, we have a handheld microphone that
21 we're happy to bring back to make your comments if you'd
22 like.

23 At this time we do have additional hands
24 raised online. Laurie Weber has her hand raised, and
25 Laurie, if you will accept the ability to unmute your

1 microphone, you can address the council.

2 LAURIE WEBER: Can you guys hear me?

3 THE MODERATOR: Yes, we can.

4 LAURIE WEBER: Awesome. Thank you so much.

5 Thank you for the opportunity to speak and putting
6 together this meeting. I have submitted by email a full
7 detail response to the questions. You know, trying to
8 stay within the purpose of the meeting, I think, is
9 going to be very relevant to us to be able to solve what
10 we all want to solve, which is to protect the workers.

11 The pointing of fingers and the battling back
12 and forth has done nothing for eight years, and now we
13 are here in a position where we're asking for timelines
14 assuming that there's going to be a regulation that
15 prohibits a fabrication process of certain materials.
16 If maybe we have spent our efforts in the last eight
17 years focusing on more of protecting the workers versus
18 the fight back and forth that's existed in the short
19 time that I've been here, we might be a lot further
20 along. So in the spirit of protecting workers,
21 timelines I do have to agree are presented in a way with
22 the assumption that there is going to be a prohibition.

23 You're asking about products. We represent,
24 you know, do I know the details of what manufacturers or
25 the availability of their products. I know what I hear.

1 I know what -- I've done a lot of research. I've talked
2 to a lot of people. I know that the Cal/OSHA Standards
3 -- advisory committee did that and as well as the people
4 that are present in the room, and it seems that you
5 know, ISFA continues to show up. Nate shows up. Peter
6 shows up. There's a group of people that show up. We
7 do want to do what's right, but to get in the battle of
8 constantly pointing fingers of what's wrong is going to
9 continue to create problems.

10 I have heard, and believe, yes, there are
11 alternate products out there, and I've seen products
12 come into California via trucks from other states. I've
13 sat there and watched it and experienced it, and you
14 know, there's so many bigger issues outside of the
15 timelines within the fabrication shop. That should be
16 the last thing that we're looking at.

17 The first thing is how are you going to
18 protect it -- how are you going to monitor that? If we
19 can't monitor whether a shop is doing it appropriately
20 or following the laws that are currently in place that
21 we've said time and time again will protect the workers,
22 how in the world are we going to know what's coming into
23 California?

24 I know those are other questions, Mr. Berg.
25 I'm not trying to get ahead of the agenda. I really

1 want to respect the process. However, I have to believe
2 that this time that we're spending together, just based
3 on this very short period of time, is going to turn into
4 finger pointing again, and the idea that something's
5 being done in DC as a reaction to the safeguard and all
6 the tariffs and all the things that we want to talk
7 about, they're not relevant. They affect this,
8 absolutely, but that was an assumption comment.

9 So if we're not willing to sit around and get
10 out of that and really talk about how to solve this,
11 which we have said from the very beginning is shop
12 licensing. Not individual certification. People are
13 sick because of individuals. And again, you all get mad
14 when I say I'm not a doctor, I'm not an attorney, I'm
15 not any of that, but I am a smart American.

16 This is ridiculous, and the amount of time
17 that the State, our industry, the manufacturers, the
18 attorneys, everyone has put into this, and here we are
19 eight years later having the same conversation, which
20 what happens at the end of this? Can we just -- what is
21 going to happen at the end of this meeting?

22 So I don't know that I answered the question,
23 but it's really, really disturbing and frustrating to
24 listen to everyone go back and forth and say they care
25 about the workers, but we never can get there. So let's

1 take -- I hope we can all do that, and with that I'll
2 pass. Thank you.

3 THE MODERATOR: Thank you for your comment.

4 Just so we have all have the ability to make
5 comments throughout the day, a couple of rules that
6 we're following. Online -- and I know in the room you
7 can't necessarily see this -- but online we have a
8 number of parties that raised their hand, and we call on
9 you in the order that your hand is raised. Unless
10 you've already made a comment, in which case we'll call
11 on other parties that have yet to comment.

12 And so that's the sequence that we're
13 following online, and similar to how we call on people
14 in the room. The person who first raises their hand is
15 generally the person that's called on first.

16 We have additional commenter, Jon Lin, with a
17 hand raised. Mr. Lin, if you would please accept the
18 ability to unmute your microphone, you can address the
19 committee.

20 JON LIN: Hi there, committee. I am a
21 second-generation fabricator. So I just want to make a
22 comment about the enforcement and a full ban. So before
23 we jump to a full ban, I just want to ask everybody, how
24 rigorously have you really enforced the laws on the
25 books?

1 Like, as a fabricator, we follow everything,
2 but I see other shops not follow things. Right. So I
3 really wonder a lot of the cases that have happened,
4 have they happened in those shops and not the people who
5 do actually follow the law?

6 Much of this debate really assumes silicosis
7 risk is unique to only artificial stone. The evidence
8 on crystalline silica exposure isn't that narrow, and
9 OSHA's mandate is to protect workers by enforcing the
10 existing standards and the rules around crystalline
11 silica by cutting licensing and monitoring, not to skip
12 straight to a ban based on, I really want to say,
13 incomplete data.

14 A full ban may not eliminate the underlying
15 exposure, even if the enforcement could stay weak, and
16 it's just going to eliminate the fabricators and the
17 jobs and the domestic industry. So I really feel before
18 the full ban, if we can spend some time doing real
19 inspections, a lot of accountability and real penalties,
20 and then, like, go to a ban because we must give some
21 time on real specific enforcement before we just ban the
22 product that may be based on some guess. Thank you.

23 THE MODERATOR: Thank you.

24 And we now have a comment from a participant
25 that's online with a hand raised. Peter Dominguez.

1 PETER DOMINGUEZ: Hi. Thank you. So on the
2 question, what's the current supply for alternative
3 products, you know, currently, there are, you know,
4 various other alternative products, a lot of them
5 identified today. I think from Australia's example and
6 what we can see talking to our customers, you know,
7 they're really looking for the best, you know, path of
8 least resistance for a material that's already been
9 specified or that the customers are already looking for.
10 They've been looking for quartz for quite some time, you
11 know, for all qualities and capabilities, the
12 consistency, the availability of colors.

13 And the reason we point to amorphous silica
14 products as amorphous slabs, quartz formulations that
15 don't have crystalline silica is because that's the kind
16 of path of least resistance. As far as the ability
17 today, it is as has been noted, you know, in the United
18 States still a niche product. It's not available -- and
19 I think one of the constraints, at least to begin with,
20 is going to be that the depth of skews of colors that
21 are available at a commercial scale in the United
22 States.

23 So if, for instance, if we're going to a
24 customer, and they specify some quartz product, we tell
25 them, you know, look, this is not the best product.

1 There's a lot of risk to your project in your timeline.
2 Here's an alternative. It looks relatively similar. We
3 can't always give them a one-to-one, you know,
4 alternative that will, you know, pass seamlessly through
5 their process, and that the owner will like and that the
6 architect will like. There's a lot of stakeholders
7 involved in these practices, at least at that scale.
8 But right now that depth of skews is relatively limited
9 compared to quartz, which has been around for a while.

10 Are there going to be projects that will move
11 towards natural stone quartz? Yeah. I think you're
12 going to see some, you know, at the entry level projects
13 move forward entry level granites, which are
14 economically feasible for those, if all the stakeholders
15 behind them, you know, say that's the direction we want
16 to go in.

17 Depending on the price point, it might move to
18 other materials like porcelains and sintered stones or
19 solid surface. You know, you're going to see some of
20 these projects dip into those, but I think, you know,
21 that's kind of the state we're in right now. There is
22 not enough supply.

23 If you, you know, if there's a ban today to
24 keep up with that demand for the product in California,
25 I think it's going to ramp up, you know, and I think,

1 you know, as a business owner, we're going to be
2 flexible and figure it out, you know. But as far as the
3 working estimate on how long it would take to get to
4 that functional parity of supply depth, I think that's
5 an answer best suited for some of the suppliers of that
6 product.

7 And on the subject of tariffs, too. We're
8 currently waiting to see what will be a pretty important
9 decision on the economics of alternative products, and
10 I'm referring to the quartz tariffs, which also affect
11 alternative products, specifically amorphous silica.
12 We're waiting to see a decision on that at the federal
13 level. It's on the president's desk. We all kind of
14 anticipate that decision to be coming in the next, you
15 know, couple days, maybe weeks.

16 And that's going to affect -- and this will
17 be part of next month's conversation -- the supply and
18 how quickly it ramps up. So I think the determination
19 of a timeline here at Cal/OSHA and the economics
20 involved as far as a tariff or possible exemption from
21 that tariff will determine the supply in the next year's
22 future, and that's kind of it for now.

23 THE MODERATOR: Thank you. For online attendees
24 today, we have enabled chat for you in the event you're
25 having some technical difficulty and we need to help you

1 resolve that, but chatting with us about any material
2 comment that you'd like to make is not part of the
3 official record of the meeting. It's not part of what
4 we're recording and not part of what we're sharing with
5 the Cal/OSHA staff. So if you have a comment that you'd
6 like to make, please don't put it in the chat because
7 that just goes to the technical team, and we're not part
8 of the decision-making group at Cal/OSHA.

9 So if you would like to make a comment, please
10 raise your hand at this time, and we'd be glad to call
11 on you. We do have a hand raised.

12 ERIC BERG: Okay. Go ahead.

13 THE MODERATOR: Mr. Jon Lin again.

14 JON LIN: So I just want to comment on about the
15 alternative materials. If the proposed fix would be to
16 switch to amorphous silica or natural stone, we can't
17 assume that they would be safe by default. Amorphous
18 silica hasn't been supplied nearly as long as
19 crystalline silica for occupational exposure. So we
20 could be creating a known manageable risk for an unknown
21 risk.

22 And all quartz surfaces have a lot of proven
23 benefits, also. They are stain resistant and scratch
24 resistant, which means the countertops last pretty much
25 forever. So that just means it's not only good for the

1 consumer, but it's great for the environment. Less
2 material ends up in the landfills, less manufacturing,
3 less shipping of replacements over time. So if we are
4 optimizing this for worker safety, the answer, really,
5 is just better engineering controls and enforcement on
6 the material that we already understand, and not to leap
7 over to one that we don't know much about. That's all I
8 have to say.

9 THE MODERATOR: Our next hand raised is from
10 Sheiphalī Gandhi.

11 SHEIPHALI GANDHI: Hi. My name is Sheiphalī
12 Gandhi. I'm an assistant professor at UCSF, and I'm in
13 the car on the way in there so I apologize if any
14 communication issues. Just to respond to that, you
15 know, we have centuries of data on silicosis from silica
16 exposure, and we also know that we were not seeing cases
17 of silicosis to this level prior to the introduction of
18 engineered stone.

19 I know there is concerns about this amorphous
20 material, but again, what is killing people is the
21 silica content. We're seeing people die of silicosis.
22 Without the silica content, we would not see the
23 silicosis, and we have had other countertop products
24 made from resins in the United States in the past.

25 For example, you know, even though they're not

1 exactly the same resins, but things like Corian and
2 laminates have similar plastics and other things that we
3 see in addition to the amorphous silica. Now, obviously
4 it's not the exactly same but, we were not seeing cases
5 of silicosis to this level.

6 And so though we don't have all of the
7 information on the new product, I'm not willing to watch
8 more of my patients die as we wait ten more years to see
9 that data come, which is when we really started to see
10 the increases in cases in California. So again, in the
11 interest of worker safety that is kind of the
12 perspective I have.

13 THE MODERATOR: Sheiphal, we're not hearing you
14 at this time. Your correction is dropping out.

15 SHEIPHALI GANDHI: Oh. Shoot. Can you hear me
16 now?

17 THE MODERATOR: Yes. Go ahead.

18 SHEIPHALI GANDHI: Okay. I was going to say my
19 students' presentation and comments do not reflect the
20 opinions of myself or them. It is only them presenting
21 the data from their interviews from the shop owners, and
22 I just wanted to make that clear. So thank you.

23 THE MODERATOR: Thank you. For our online or
24 commenters or attendees that would like to make a
25 comment that are attending by telephone today, you also

1 can alert us that you'd like to make a comment by
2 pressing star and 9 on your telephone. That will raise
3 your hand. That's the way you can do it with the Zoom
4 connection. At this time we have an additional hand
5 raised by Mr. Jon Lin.

6 JON LIN: Just a quick comment. So natural
7 stone has a lot of crystalline silica also. It's known
8 to -- quartzites are known to have more than 70 to 80
9 percent silica, if not more. Granites, marble also have
10 crystalline silica. That might be worth noting for any
11 committee that makes a decision about this.

12 And another point about Sheiphali that she
13 mentioned, that the stone is causing silicosis. Well,
14 the number of multifamily homes has went up, like, 100
15 times since the last couple decades, right. I mean, if
16 you go back 20 years and look at the numbers then and
17 now, everything is 100 times. So when things are at the
18 scale of 100x, you're just going to have to have
19 enforcement 100x also. And if you don't do that and we
20 just skip to a ban, a full ban, again, we are making a
21 lot of assumptions, and moving to the unknown. Thank
22 you.

23 ERIC BERG: John, I think we have in-person
24 comments.

25 KATHERINE HAMMOND: I just wanted to ask. I

1 missed -- Mr. Lin, can you give us your affiliation?

2 JON LIN: Yes. I'm with Western Tile based in
3 Washington state.

4 KATHERINE HAMMOND: Okay. Thank you.

5 THE MODERATOR: No more hands raised. Go ahead
6 with your in-room comment.

7 KATHERINE HAMMOND: Is this working? Okay.
8 From my reading of the literature it's not a simple
9 factor of just the silica, which is what the original
10 regulations were about. So silica is extremely
11 important. Silica does cause silicosis, but apparently
12 and according to laboratory experiments and certainly
13 according to what we're hearing, the other materials in
14 the engineered stone are also contributors and may be
15 enhancing the effect.

16 And what we do know is we're having this very
17 large increase in recognized cases of silicosis among
18 fabricators, and who knows the levels of unrecognized
19 cases. This is not a population that gets the best
20 medical care. So I think we have a lot of questions
21 about how serious this is. I would think it would be
22 much worse.

23 So we have a horrible epidemic, and we have
24 people dying and suffering greatly for a product which
25 does have alternatives, and we don't fully understand

1 the biological processes that are happening, and so it
2 is apparent that the regulations that have been in place
3 are not sufficient. So I think it's important that we
4 hit the pause button. We stop exposing people until we
5 can clarify that we have a safe product that people can
6 use or the ways in which it can be used safely.

7 But at this point in time we don't have that,
8 and I would say that you could trust the veracity of
9 other speakers based on the truth with or the lack
10 thereof of their statements about the forms of
11 governments and other countries that are known to be
12 different from as stated. Thank you.

13 ERIC BERG: All right. Thank you very much.
14 Yeah. We have a lot of science and we have
15 hundreds-plus scientific articles showing artificial
16 stone, crystalline silica is much more toxic even at the
17 same silica levels as natural stones. We've gone
18 through that with the Standard Board many times, and
19 we'll have future advisory meetings where we can explore
20 that more thoroughly, but science now clearly
21 establishes artificial stone as much more toxic, much
22 more harmful.

23 Oh. Sorry could you give your name and
24 affiliation? I apologize.

25 KATHERINE HAMMOND: Katherine Hammond from the

1 University of Berkeley, but I'm not speaking for the
2 university, but I am a certified industrial hygienist
3 with many decades of experience, and this is one of the
4 more serious problems that I have seen in that practice.

5 ERIC BERG: All right. Thank you very much. I
6 took a couple classes with you. Probably don't remember
7 me, though. 20-some years ago.

8 Anyway. Bob Harrison.

9 BOB HARRISON: Bob Harrison, CDPH and UCSF. I
10 want to come back to the supply chain issue. I think
11 that was the original question. And I as I noted in
12 December before the Board, the Standards Board, I was in
13 Australia about a year and a half after the ban, and I
14 wanted to go back to what Peter Dominguez had commented
15 about the characteristics of the product and whether or
16 not there's enough, what I'd call, sort of the more mass
17 market quartz products that were replaced in Australia
18 largely by amorphous silica. I found there, really, a
19 dizzying array of what they call zero-silica products in
20 Australia.

21 I went the several fabrication shops, and I
22 showed this to the Board in December. There were
23 probably eight or ten different manufacturers, and
24 tables full of different alternative colors and
25 patterns, and those were all coming in from abroad,

1 right, because Australia does not have their own
2 manufacturing industry there. There were imports to
3 Australia.

4 I would also note to Cal/OSHA that as I
5 presented also, there are zero-silica products on the
6 market in the United States now. One is manufactured by
7 Cosentino. It's called Eclos. I found it in a tile
8 showroom in Berkeley.

9 Another is manufactured by Caesarstone.
10 They're marketing a zero-silica product. I have not
11 been able to find that. I've found it on the internet,
12 but haven't been able to locate it in stores yet. It
13 must exist because Caesarstone is marketing a
14 zero-silica product.

15 Those are two major manufacturers. I think it
16 would be useful as part of the answer to this question
17 to ask the manufacturers about selling this product more
18 broadly in the United States and whether the production
19 lines can shift over from the Breton or the Chinese
20 equivalent that are producing quartz slabs in these
21 manufacturing facilities abroad. I think that's a key
22 question for Cal/OSHA to look into.

23 ERIC BERG: All right. Thank you.

24 Jordan.

25 JORDAN UTER: Jordan Uter with Worksafe. I was

1 just curious. Who came up with these questions?

2 ERIC BERG: It's a group of people, and I don't
3 have any more information on that.

4 JORDAN UTER: Okay. And then the comment to
5 respond to one of the online commenters. I'm glad that
6 they are very supportive of engineering controls. As
7 most of us should know the best version of engineering
8 controls is elimination of the hazard. So for your
9 passion for that, we look forward to see you also
10 advocating for the elimination of this hazard for the
11 workers. Thank you.

12 ERIC BERG: Any other comments?

13 THE MODERATOR: We have an online hand raised.
14 Michael Banks, if you'll accept the ability to unmute
15 your microphone, you can address the committee. Michael
16 Banks, if you're there, you can unmute your microphone.

17 We can move on.

18 ERIC BERG: All right. We'll move on with the
19 questions. I guess we'll kind of combine them just in
20 the name of time. There's 1(C), feedback on existing
21 contracts, and cutoff date for such contracts and then
22 (D) was exempting housing projects that are planned and
23 contract signed, and other ways the impact on housing
24 timelines and costs can be minimized.

25 Just any comments on those. Go ahead. Thank

1 you.

2 AUDREY RATAJCZAK: Yeah. Good morning. Audrey
3 Ratajczak. I'm here on behalf of the California
4 Building Industry Association, and first off we wanted
5 to thank you for convening the advisory meeting and
6 first seeking our input before moving forward with the
7 emergency regulations.

8 CBIA supports protecting workers from silica
9 exposure, and worker safety has always been and
10 continues to be a top priority for our industry. While
11 the Board's adoption of the petition, it did leave some
12 uncertainty and questions amongst our members about
13 whether what the ultimate path forward is if there is
14 going to be a ban or not. But if you're proceeding with
15 that and that does happen through the regulations, we
16 feel like it's critically important to have regulations,
17 establish a clear practical and workable transition
18 process that doesn't impact homebuilding negatively.

19 If California moves forward without a workable
20 transition, projects already underway could face
21 unnecessary delays, slowing future housing production
22 and postponing home closures for California families.
23 We need a transition period that takes into account the
24 time in which it will take the manufacturers,
25 distributors, and retailers and fabricators to develop

1 the alternative products in sufficient quantities to
2 meet the demand of home buyers and homeowners, and that
3 also respects the substantial investment made by
4 homebuilders in product inventories as well as
5 manufacturers' capital investments and wet processing
6 systems, engineering controls, air monitoring, and
7 industrial hygiene programs.

8 We appreciate that the questionnaire
9 recognized the potential impact on the California
10 homebuilding industry and seeks our feedback on
11 exempting home products with established plans and costs
12 as well as ways to minimize destructions to housing
13 development timelines and affordability. I'm kind of
14 answering a couple of them, but was waiting until
15 homebuilding question to kind of share CBIA's feedback.

16 But first, there are substantial inventories
17 of artificial stone already throughout the supply chain,
18 and distributors maintain inventory to meet customer
19 demand and ensure color consistency and many products
20 remain in inventory for several years.

21 Second, the supply chain for the lower silica
22 alternatives is simply not yet capable of replacing
23 California's current demand. Manufacturers have
24 explained that producing artificial stone with less than
25 one percent silica requires significant changes in raw

1 materials, manufacturing equipment, supplier
2 relationships, and product testing.

3 Those investments in product changes cannot
4 happen overnight, and artificial stone has historically
5 been a very popular choice for buyers because of the
6 price and affordability and durability.

7 A reasonable transition period is necessary to
8 allow manufacturers to develop sufficient capacity
9 before prohibition can take affect. As mentioned
10 housing projects are planned years and investments in
11 land and material are also planned accordingly.

12 Countertop materials are often selected one to
13 three years before installation based on approved plans,
14 engineering specifications, budgets, and customer
15 selections. So requiring projects already underway to
16 redesign material selections would have additional cost
17 delays and uncertainty when California's already facing
18 an ongoing housing shortage.

19 So CBIA recommends that any regulations that
20 are moving forward that has a transition period of at
21 least 24 months to allow suppliers sufficient time to
22 develop source and scale production of compliant
23 materials, and then maybe have, like, six months before
24 the compliance date, some sort of assessment about
25 whether we're getting close and housing can continue to

1 move forward.

2 We'd ask for grandfathering of existing
3 construction plans where plans, specifications, or
4 pricing are already established, and authorization to
5 sell through existing inventory. These measures would
6 allow industry to transition responsibly and continue to
7 protect workers under California's existing Cal/OSHA
8 requirements, but we look forward to continuing to work
9 with you as the process moves forward.

10 ERIC BERG: All right. Thank you very much. I
11 appreciate that.

12 Nate, would you like to comment?

13 NATE KOLINSKI: As far as the contracts go, like
14 she was saying, you know, these things, they've got to
15 get permits. It takes forever to even get to the point
16 where they even pick the material. And then by time it
17 gets to me for the contract, it could be a year or more
18 out. And you know, the process -- whatever happens out
19 of this, the process is going to have so many unintended
20 consequences that we need to bring up where they have to
21 go back to designer. Designers have to approve.

22 I can't just switch out a product on a
23 contract that I have. So that all has to be addressed
24 in this, and then the other thing that popped in my
25 head. You know, these products have 15 years on it.

1 The builders put in warranties. Are we just going to
2 say we're going replace it with this to the homeowner?

3 So there's just so much more involved than
4 just what day are we banning it. You know, so it
5 affects countertop fabricators, manufacturers. It
6 affects the designers, the builders all throughout that.
7 So I think we need to look at that as -- and I tried to
8 get, like, three things in there so we could move to
9 question number 2 before noon, but that's all I have
10 got. Thanks.

11 ERIC BERG: All right. Thank, Nate.

12 Yes. Comment, please.

13 ANNEKE FLEMING: Hi. Again, my name is Anneke
14 Fleming. I am reporting on the research that my partner
15 and I did for the occupational health program and
16 communicating the opinions that went spoke to.

17 We heard from shop owners -- and this is in
18 response to 1(C) -- from shop owners that a clear cutoff
19 date makes it easier for them to advocate for changes to
20 specifications and existing or upcoming contracts.
21 Without that they had very little leverage to do so.

22 Therefore, written construction plans that
23 have not resulted in a material purchase, should not be
24 exempt, and these projects should only be allowed to be
25 completed during the transition period that's determined

1 before we recommended a period of 12 months based on
2 what was feasible for shop owners.

3 We also found that shop owners believed that
4 rulemaking needs to establish between, one, projects
5 where slabs have already been manufactured, imported, or
6 paid for. And two, construction plans identify a
7 particular product, but have yet resulted in a material
8 purchase. It would be a larger financial loss to a shop
9 to interrupt a contract with slabs have been paid for.

10 So in that case shop owners recommended
11 exempting these existing contracts possibly up to a
12 two-years period after the ban begins, but there will
13 also need to be a clear cutoff date for these exemptions
14 as well for leverage purposes. Thank you.

15 ERIC BERG: Thank you very much.

16 THE MODERATOR: We have a hand raised online.

17 ERIC BERG: Okay.

18 THE MODERATOR: If I can, before I call on the
19 next commenter, I'd like to just advise all of the
20 participants today both online and in the our room here.
21 If you are going to read something, it's probably not an
22 obvious thing as you read it, but generally people read
23 faster than they speak, which makes it very difficult
24 for our interpreters. If you're speaking quickly as you
25 read a development.

1 And others that may have a natural tendency to
2 speak quickly, it's difficult for our interpreters to
3 keep up. And so if you can keep in mind to try and
4 measure your speech, that would be very helpful for our
5 interpreters and possibly even for our transcript
6 creation later.

7 At this time we have a hand raised from Peter
8 Dominguez. Go ahead, Mr. Dominguez.

9 PETER DOMINGUEZ: Sorry about that. No. I'd
10 just like to, you know, second the comment made.
11 Fabricators, we can't unilaterally substitute material.
12 Commercial specs, they're locked in, and substituting
13 requires architects' and owners' and designers'
14 approval -- a number of different stakeholders on a
15 cycle that usually runs for 12 weeks. I mean, once they
16 get started.

17 So the process can take quite a while. We as
18 fabricators do need to have, you know, a cover, and I
19 think specific dates to lean on because, you know, the
20 penalties to for not executing a contract with a
21 material on a binding spec can be quite severe,
22 including liquidated damages, exposure, or citations.
23 It's, you know -- that's going to take a while to, you
24 know, to address, and get through.

25 THE MODERATOR: There are no further hands

1 raised.

2 ERIC BERG: All right. Thank you very much. Go
3 on to the next question.

4 Oh. Sorry. Go ahead, sir. Introduce
5 yourself.

6 SARA TEPFER: Thank you. My name Sara Tepfer.
7 I'm a grad student at UC Berkley and previously worked
8 on the building industry on the design side for about
9 ten years. With that experience in mind I have a
10 thought on the question and also some of the comments
11 we've heard as representative of the architecture and
12 design community.

13 The first following question is these
14 materials are used in many more types of projects than
15 just housing. So I think that needs to be kind of
16 acknowledged, and if there are specific attention given
17 to housing projects, those would need to extend to other
18 like aviation, health care, commercial projects as well.
19 And across that context the timeline really varies.

20 So we've heard a lot of different timelines in
21 this conversation that might need to be considered, but
22 the timeline depends on the scale, complexity. So I'm
23 not sure you can just say one timeline.

24 Finally, I have a lot of experience writing
25 specs and speaking with architects and designers and

1 developers about this problem. One of the biggest
2 concerns is that I hear from them is about timelines is
3 about the fact that this material is killing people and
4 they've been buying it. So I think that concern from
5 the design community also needs to be heard in this
6 context. Thank you.

7 ERIC BERG: All right. Thank you, Sara.

8 Any more comments? Okay. We'll move to
9 question 2. What is the process for fabrication shops
10 to transition from artificial stone with crystalline
11 silica to safer alternatives? I guess the main question
12 are different tools needed, different equipment need, or
13 can just use existing tools you're already using, such
14 as substitute the product and use the exact same tools.

15 Nate, would you like to ask that since you're
16 a fabricator?

17 NATE KOLINSKI: So the general comment is our
18 saws don't really care what it's cutting. The tooling,
19 anybody that's cutting any of the products needs to
20 follow the existing rules, and since 2016 that's been a
21 challenge to get enforcement on following the existing
22 rules.

23 So a shop that's already following the what is
24 now regulations that was the ETS or the 2016 laws, you
25 don't have to change any machinery. It's the product.

1 It's the revenue. It's the sales. It's all the
2 downstream things, the existing inventory. That's what
3 hits the fabricator hard. If you're already operating
4 on under existing regulations, I can't even think of a
5 tool that would need to be changed, with the exception
6 of some of the high density takes different saw blades
7 and stuff, but that's all I got.

8 ERIC BERG: Okay. That's good to now. Thank
9 you.

10 Any other comments on that? Go ahead.

11 ANNEKE FLEMING: Hi. Again, I'm Anneke,
12 representing our research from speaking with fabrication
13 shop owners. So this -- over the past two months we
14 spoke to seven shops that had considerable experience
15 already working with amorphous silica, one of the
16 alternatives we've been discussing, including one very
17 large shop that had transitioned completely to amorphous
18 silica.

19 We heard overwhelmingly that it is fabricated
20 at exactly same way as conventional engineered stone.
21 The same equipment and blades can be used, and some shop
22 owners told us that it actually fabricates faster. We
23 don't anticipate any modifications would be need to be
24 made for shops in order to adopt the alternative
25 amorphous product, and those shops that have already

1 adopted it have not had to make any modifications.

2 One shop owner said -- and this a direct quote
3 -- "Amorphous is a nearly undetectable alternative.
4 Technically very few, if any, tweaks need to be made."
5 End quote.

6 Another alternative product that we looked
7 into was sintered stone. So unlike amorphous, sintered
8 stone fabricates much more similarly to a porcelain. It
9 is hard and quite fragile. So therefore, shops without
10 experience already fabricating porcelain would likely
11 struggle to use sintered stone as an alternative to
12 conventional engineered stone, but it is an alternative
13 available the those shops willing to make modifications
14 to fabricate it.

15 But in terms of fabrication, amorphous silica
16 seems to be an easy, if not seamless, substitution to
17 make for conventional engineered stone. Thank you.

18 ERIC BERG: All right. Thank you.

19 A comment.

20 ARMANDO VILLEGAS: Yes. I'm Armando Villegas,
21 and I'm a fabricator. So I think all of this comes down
22 to dust control, that you guys have to enforce that on
23 fabricators. If you guys don't do that, it doesn't
24 matter if you change from a different material, we're
25 going to be sitting here ten years from now talking

1 about the new solutions for other materials.

2 If you guys don't enforce or go out in the
3 field and look for those shops that are dry cutting all
4 the time, this issue's not going to go away. Right now
5 quartz is the COVID-19 per se. It's a paranoia about
6 quartz. Quartz is not the issue. It's dust, the issue.
7 Thank you.

8 ERIC BERG: All right. Thank you.

9 Any other comments -- Cal/OSHA has done about
10 200 inspections, around 200 inspections in the
11 countertop industry, and this product is so uniquely
12 dangerous, so hazardous that it requires wet methods,
13 basically pouring water on the slab so it's covered with
14 water when they're cutting it, in addition to using a
15 respirator with 1000 times protection factor. That's a
16 pretty high level protection.

17 So you need both those protections
18 simultaneously for this product because it's so
19 exceptionally toxic. So you need very extraordinary
20 measures to try to do this safely, and the goal is to
21 get something where you still want to use all these
22 protection measures, but it's not so toxic that if you
23 don't do everything perfectly, people don't get sick and
24 die.

25 So I think that's one of the big things

1 driving this. This product is uniquely and extremely
2 toxic that you need these extraordinary measures to try
3 to do it safe, and it's just not working right now.
4 People are getting sick and dying.

5 Comment.

6 DON SCHINSKE: Yeah. I just want to add for
7 clarification. This is Don Schinske on behalf of the
8 Western Occupational & Environmental Medical
9 Association, which is a mouthful. We were the original
10 petitioners for the standard.

11 I just want to point out that fabrication
12 shops are just one of the places that fabrication gets
13 done. Having watched a couple guys spend an afternoon
14 grinding and fine tuning an artificial stone countertop
15 in a townhouse I have, I can tell you that there's
16 plenty of work that gets done on site. I think it's a
17 little unrealistic to think that Cal/OSHA's going to
18 have inspectors on hand in my townhouse.

19 NATE KOLINSKI: Eric, can I --

20 ERIC BERG: Go ahead, Nate.

21 NATE KOLINSKI: I think that brings up a good
22 point because I think it talks about in the standard
23 here that you want to ban fabrication and installation,
24 correct? That's two different things. What he's
25 talking about is the installation side. It's not

1 typically covered under the facility. We've moved
2 everything into not cutting at the house at all.
3 Everyone's in the shop, but is this ban, is it on
4 installation as well or just fabrication?

5 ERIC BERG: Section 5204 is for general
6 industry. So it's just fabrication. There's a separate
7 regulation for construction.

8 NATE KOLINSKI: Right. But on the petition,
9 didn't it say fabrication and installation?

10 ERIC BERG: Yes, I believe. Yes.

11 NATE KOLINSKI: So hopefully we get that
12 switched because you could end up with guys with prefab
13 coming in from out of state, cutting them in the condos,
14 and ruining our business and still following the law,
15 which doesn't make any sense, either.

16 ERIC BERG: So you're saying we need to prohibit
17 the installation as well?

18 NATE KOLINSKI: Well, it's two different things.
19 I don't think that -- we just need clarification on it,
20 right?

21 ERIC BERG: Okay.

22 NATE KOLINSKI: And if I'm bringing in
23 prefabricated product from a shop in Reno, I can't
24 install it? There's no public health hazard. In fact,
25 we've had public health people in the state have bought

1 Silestone countertops from us because they're not
2 worried about it once it's in their house. So I think
3 you really need to go, this is for fabrication or is it
4 for installation. I don't think we can blend the two.
5 I think it's two totally different things.

6 ERIC BERG: Yeah. Like I said it's two separate
7 regulations -- one for installation, one for
8 fabrication.

9 Go ahead, Dave. Can you describe yourself?

10 DAVID HARRINGTON: David Harrington, retired
11 from Cal/OSHA, consultation service. 5204 actually does
12 have an exemption in it for installation work where the
13 contractors who's doing installation has to follow the
14 silica and construction standard Table 1. So there are
15 requirements for engineering controls, indoor/outdoor
16 work, wet, HEPA vacuum attachments.

17 So there are controls there for that kind of
18 installation. Nobody's going to regulate the sidewalk
19 installers that you're talking about. There's no way
20 that we can have a handle on that, but certainly on most
21 commercial residential work the silica and construction
22 standards is what's followed in terms of dust controls.

23 ERIC BERG: Okay. Thank you, Dave.

24 Nate.

25 NATE KOLINSKI: Like Dave was saying this is

1 another unintended consequence when we came up with the
2 ETS, and our shop that for years had been tested under
3 the action level, we didn't have to wear respirators.
4 When we said, hey, now we're in the same bucket and we
5 have to wear respirators, I lost nine guys that went to
6 other shops where they didn't have to wear them, which
7 they just weren't following the rules, right.

8 So if we allow this driveway fabrication to
9 happen, and we can't monitor that and control that,
10 we're just going to have guys that I lay off because my
11 business has dropped down go to a shop like that, and
12 that's -- I just want us to be aware of the unintended
13 consequences that you pull a thread, it's going to go
14 through all different ways. But Dave's right, and I
15 like Dave.

16 ERIC BERG: That's good. Any other comment?
17 Katherine.

18 KATHERINE HAMMOND: Thank you. I'm wondering if
19 in addition to what Cal/OSHA does, maybe what needs to
20 be done is say that it's the products are not allowed as
21 part of the building codes. So that the building code
22 could simply say those are not allowed products because
23 all those things have to be permitted as has been said,
24 and that can be part of the permitting process going
25 down the line to think about those unanticipated

1 consequences.

2 ERIC BERG: Yeah. I think our idea is because
3 someone has to go first, I think someone needs to be the
4 leader. I think Cal/OSHA will be the leader in
5 prohibiting fabrication, possibly installation of
6 artificial stone, and we're hoping others will follow
7 like building standards, consumer requirements, just
8 product requirements.

9 So I think we lead, others will follow, and
10 hopefully that would aim higher upstream because as
11 Cal/OSHA, we can't ban it from being imported to the
12 state or manufactured, but we can set an example and be
13 a leader, and then hoping other agencies will follow,
14 and other outlets that sell it will follow as well and
15 stop carrying it. They might not be realizing that it's
16 killing their workers. So thank you for that.

17 Any other comments?

18 THE MODERATOR: We have a hand raised online.

19 ERIC BERG: Okay.

20 THE MODERATOR: Peter Dominguez, if you'd like
21 to go ahead and unmute your microphone, you can speak
22 again.

23 PETER DOMINGUEZ: Hi. Yeah. So I had spoken
24 about this during the comment during the public comment
25 section at May's hearing. Yeah. I see the installation

1 part as a potentially troublesome loophole here. So the
2 kind of scenario that I would lay out, too, is after a
3 quartz ban, you would have an installation company that
4 their primary business is installing countertops, not
5 manufacturing them. A contract with an overseas
6 fabricator, bring those in, and as is standard, you
7 know, as a matter of approach, they trim all of the
8 pieces of that countertops to meet onsite conditions.

9 In this way, even a larger company working on
10 a larger project -- we're not talking about just your
11 average home -- would continue to specify and use
12 crystalline silica-based quartz products, you know, and
13 with all the, you know, repercussions to workers' health
14 associated.

15 So I would hope to -- and after I'd made that
16 comment, there was another comment by the bricklayers
17 union, you know, pushing back against amendments to, I
18 think, it's, you know, the Table 1 construction site
19 regulations, and so my comment would be if there's a way
20 to tailor this specifically to countertops, I think it
21 would forego some of the pushback that we'd have from
22 interested parties hoping not to, you know, to step on a
23 scope that's not relevant to this conversation, if that
24 makes sense.

25 THE MODERATOR: Thank you. Our next online

1 commenter has just lowered his hand. Mr. Hieb, if you'd
2 like to make a comment you can make a comment at this
3 time.

4 JIM HIEB: Jim Hieb from the National Stone
5 Institute. Peter actually shared some what of what I
6 was going to share, but Eric, I think it would be
7 helpful for everyone just to kind of understand your
8 next steps.

9 The petition clearly articulated a prohibition
10 of fabrication and installation of said product, but
11 throughout the questionnaire and some of the comments,
12 you've hinted that through the rulemaking process of
13 what you're getting ready to deliver to the Standards
14 Board and to all of us for public comment, it's truly
15 your intent that you're really just writing the rules
16 for the fabrication facilities; is that correct?

17 ERIC BERG: Well, we're going to look at all the
18 data that we get from this meeting and written comments
19 on all these questions, and then we'll come -- we'll
20 post for everyone to review and look at, like, a
21 discussion draft of a proposed regulation. So it won't
22 be rulemaking yet, and then get more feedback on that,
23 and that might -- we haven't made a decision yet exactly
24 what this --

25 JIM HIEB: Okay, but just for clarity because

1 the petition itself said installation as well, and you
2 know, respectfully, it feels like you're dancing around
3 that a little bit, and that's why I was just asking for
4 clarity of are you just focused on the fabrication
5 facilities or will you go in installation as well?
6 That's what I thought everyone would value some clarity.
7 Thank you.

8 ERIC BERG: Yeah. We haven't decided yet, I
9 guess, is the answer, and then fabrication has been the
10 focus of the rulemaking we've done with the emergency
11 regulation and the follow-up. Permanent regulation was
12 all on fabrication, and the cases we've seen -- others
13 can talk about that from the health department -- were
14 all in fabrication shops. So that's been our main
15 emphasis.

16 JIM HIEB: All right. Thank you.

17 ERIC BERG: We'll have to decide in the future
18 if we include installation. Thank you.

19 AUDREY RATAJCZAK: I was just going to add --
20 Audrey from the California Building Industry
21 Association. We just align with the comments of Peter
22 and Jim, and we would hope that it's focused more on
23 fabrication and not installation, and that it's the
24 regulations and the science seem to be focused on
25 countertops and not all materials at this time because

1 those greater changes would have so many consequences on
2 homebuilding that we would all need to look into more
3 thoroughly.

4 ERIC BERG: Is there a way to distinguish
5 between, like, installing at the home versus where they
6 get a raw slab and basically do all the fabrication in
7 the driveway outside the house because that would be
8 something we'd probably want to not allow, but when the
9 -- just the very fine tuning at the house would be
10 something we probably wouldn't prohibit.

11 AUDREY RATAJCZAK: Yep.

12 ERIC BERG: Okay.

13 Bob.

14 BOB HARRISON: Bob Harrison, California
15 Department of Public Health and UCSF. I had actually a
16 question for you and maybe Peter. Is there any onsite
17 fabrication done by commercial builders?

18 AUDREY RATAJCZAK: We don't represent commercial
19 folks. We're just the private homebuilding industry.

20 BOB HARRISON: Maybe Peter knows or another
21 fabricator knows. You know, for the large commercial
22 jobs, is there onsite fabrication or is it just the
23 final touches of installation?

24 NATE KOLINSKI: Well, when you say fabrication,
25 that could be huge. Right. I could say I got to cut it

1 to fit. I got to do the sink cutout, but I'm just fine
2 tuning it. So what's -- you have to define what that
3 is. I do know that there's a lot of situations where a
4 commercial contract will require union installers, and
5 in that case they get it fabricated from somewhere else,
6 and it gets installed by a totally different company
7 that's usually -- well, not usually. Depends on what
8 the job could be. It could be a union installer, and
9 I'm going to get in trouble, but I'm just wondering if
10 the installation side is being ignored because there's a
11 lot of union guys that are installers that aren't here
12 to talk about it.

13 So I think if you're going to say you're
14 banning the fabrication but you can install and cut in
15 the commercial property, in the government property,
16 whatever, it just kind of doesn't make sense, but I know
17 it crosses over.

18 ERIC BERG: Mark, you have a comment. Can you
19 introduce yourself?

20 MARK MERIAUX: Yeah. Mark Meriaux with the
21 Natural Stone Institute. I'm just curious from my
22 doctor who are friends with public health here. If
23 you've identified or been able to identify workers
24 coming from predominantly work in the field doing
25 construction work versus the workers from the shop.

1 I know the cases are mounted and growing. I'm
2 just wondering if you guys have been able to identify
3 where the predominance of those illnesses are coming
4 from work-wise.

5 SHEIPHALI GANDHI: Hi. My name is Sheiphal
6 Gandhi. I'm from UCSF, and along with my colleague Jane
7 Fazio, UCLA, we probably see the most number of patients
8 in our clinics. I would say we do mostly see
9 fabricators.

10 Many of the workers that are not working in
11 the larger shops do a combination of both -- like, you
12 know, the ones who work privately or call themselves
13 independent contractors, they do from fabrication all
14 the way to installation. I have seen few installers in
15 my -- like, pure installers, and I think it's because of
16 the nature of our industry.

17 When you look internationally at other
18 countries, which I know were concentrating on
19 California, Australia really highlighted fabricators,
20 but interestingly Spain found installers as a higher
21 risk group, and I think it's just the way our industry
22 works.

23 So I think because of that information, and
24 that our curves are following theirs, I don't think I
25 feel comfortable saying it's only the fabricators at

1 risk because we know that the installers -- and I think
2 it really depends on how it's being done. I think the
3 concern that these prefab materials could be called
4 installing and defining it is important.

5 Because my understanding is that in Spain that
6 they do a lot more of the finishing work onsite than we
7 do, and in Australia as well, and so I think that that
8 concern of pushing things in the wrong direction in
9 terms of many things happening, I also would share that
10 position as a physician, but I also want us to start
11 somewhere. So I would say that we -- because of the
12 mixed nature of the industry here, we have not been able
13 to define pure installers and maybe a couple handful.
14 Yeah.

15 ERIC BERG: Okay. So pure installers is just a
16 couple persons, you said?

17 SHEIPHALI GANDHI: Yeah. I would not even be
18 able to give you a number. I can't think of anyone off
19 to top of my head in the approximately 50 people I've
20 seen.

21 BETSY NOTH: And I think that maybe Peter
22 Dominguez online said that his concern was that if we
23 ban the fabrication in fabrication shops only, that most
24 of those tasks can easily move into -- or many of
25 them -- can move into installation, and would then be

1 sort of like what you're saying, you've seen in Spain.
2 Is that a correct --

3 SHEIPHALI GANDHI: I don't know if it would
4 necessarily happen. I can't predict, but in Spain my
5 understanding from just like anecdotal conversations
6 with the researchers there is that more is happening
7 onsite because of just the way the industry works there,
8 and that's -- they were actually labeled a higher risk
9 group than fabricators in one of the studies I read.

10 ERIC BERG: And we've seen a lot more cases in
11 Spain than California.

12 SHEIPHALI GANDHI: Yeah. I think more than
13 2,000. Kristen Cummings is the best person to answer.

14 KRISTEN CUMMINGS: Kristen Cummings from the
15 California Department of Public Health. Yes. Spain had
16 more than 2,600 cases that they've identified.

17 SHEIPHALI GANDHI: And they were the first
18 country to actually report cases. So I think that's
19 just showing that they haven't had regulation, and their
20 number continues to climb.

21 ERIC BERG: Okay. Thank you.

22 Comment, I think.

23 ANNEKE FLEMING: Yeah. This is Anneke Fleming
24 reporting the results of our research, and I just wanted
25 to make sure this is characterized correctly. What we

1 saw across all the shops that we spoke to and also
2 generally understood as the case for most of the
3 industry is that people do both fabrication and
4 installation at these shops. It sounds like there are
5 some jobs where that's not the case, but everyone we
6 spoke to also did installation.

7 Therefore, it would be almost impossible to
8 distinguish between exposure happening during
9 installation, but there are less opportunities for
10 proper engineering controls at a worksite where you
11 can't necessarily do the same level of water cutting.
12 So I think it's important that that's understood that
13 these are processes that usually happen. They're being
14 done by the same people, and they're part of the same
15 process.

16 ERIC BERG: Okay. Thanks. Is there any, like,
17 time? I know in the shops, maybe they're working eight
18 hours, they can be exposed. In the field, are they
19 having that length of exposures?

20 Mark.

21 MARK MERIAUX: Yeah. It wasn't my intent to
22 derail this question, but I think it's a very good
23 avenue to investigate because, like Peter mentioned -- I
24 don't want to speak for him -- but I think understanding
25 is that we may have an unintended consequence of writing

1 a 5204 rule that would cover workers in the shop, but
2 then the Table 1 prescribed under 1532.3 wouldn't have
3 that same level of protection for those workers on site.

4 Now, my general understanding is the onsite
5 workers, there's different kinds of shops. We mentioned
6 small shops, big shops. The smaller shops that may be a
7 combination of work, both in the shop, then those same
8 workers going out into the field and installing those
9 countertops.

10 For other shops like Nate or Pete's, I know
11 they have dedicated manufacturing workers in the shops
12 that stay in the shops, and they protect them as best
13 they can with the engineering controls and housekeeping
14 practices and PPE now. But the workers out in the field
15 may be completely different worker, and my fear is that
16 we write this rule for -- that'll cover the folks in the
17 shop, but then the work migrates out in the field where
18 they're less protected.

19 THE MODERATOR: We have some hands raised
20 online.

21 DAVID HARRINGTON: David Harrington, dealing
22 with Cal/OSHA consultation, retired. I visited both
23 small and large shops. In general the smaller shops, in
24 terms of installation work, they don't employ regular
25 installers. They sub it out for whatever. They have

1 freelancers. So that's kind of another piece of the
2 industry profile.

3 Larger commercial shops where, actually,
4 they're cabinet makers and countertop operations, or
5 they sub out the countertop work, but the shop, the
6 cabinet making, like for large research laboratories,
7 hospitals, universities, schools, they're billing out
8 the cabinets, those are oftentimes could be nonunion
9 workers, but the installation work, which is on a
10 commercial site, is installed by the bricklayers. It's
11 a union installation project. So it's considered
12 construction.

13 They're covered by the exemption in 5024 so they
14 follow Title 1, as I already stated. So there's a
15 different kind of operation. It's completely
16 inefficient, as you guys as shop owners know, to have
17 people fabricating in a hospital or, you know, a
18 university research facility or a biotech firm doing the
19 kind of work that we're talking about with sidewalk
20 shops or sidewalk fabrication in somebody's driveway.

21 So they're not going to make those kinds of
22 errors in their work. Yeah. There's some trimming
23 sometimes, but these things are very specced out
24 specifically, and it'd be extremely inefficient to be
25 doing lots of manipulation of the material on the job

1 site.

2 ERIC BERG: Thank you. Any comments online?

3 THE MODERATOR: There are. Yes. We have a
4 comment from Alfredo Menendez Navarro.

5 If you unmute your microphone, you can speak
6 to the committee.

7 ALFREDO MENENDEZ NAVARRO: Hello.

8 THE MODERATOR: Yes. Go ahead.

9 ALFREDO MENENDEZ NAVARRO: Okay. Thank you very
10 much for the invitation to participate in this meeting.
11 I'm Alfredo Menendez, professor of history of science at
12 the department of history of science at University of
13 Granada, Spain. And I would like to clarify that the
14 number of sufferers in Spain from artificial stone is
15 around 3,000 people, and as we mentioned before the
16 problem is within the manufacturing. We have a great
17 manufacturing site in Spain, a great company that is
18 also, of course, in processing workshops and
19 installation.

20 I would say that the reason for this problem
21 in between fabrication and installation is that normally
22 it's the main company, the main processing workshop who
23 do the job of installation at home, and that explained
24 that many workers pass from the workshop to the
25 installation along their career. So they would explain

1 why there are so many installers that are suffering from
2 silicosis.

3 I would like to add something else is one
4 lesson from artificial stone academic is that new
5 materials can enter the market long before their
6 professional health risks are fully understood. I would
7 say that as we transition to alternative products, we
8 should not assume they are safe simply because they
9 contain little or no crystalline silica.

10 There's sifting, including potential effects
11 of all the components and the dust they generate.
12 Should be established through premarket evaluation and
13 continue post-market surveillance rather than rely
14 solely on manufacturer assurance or information. A
15 thing that is an important topic that should be beared
16 in mind by this committee. Thank you very much.

17 ERIC BERG: Yeah. Thank you very much for that
18 firsthand information from Spain. Yeah. I think when
19 we look at alternatives, we'll also need to institute
20 controls to keep dust levels at a minimum and other
21 protections.

22 THE MODERATOR: Okay. Our next online commenter
23 is Raphael Metzger.

24 Raphael Metzger.

25 RAPHAEL METZGER: Yes. I'm here. Thank you.

1 So I have about 200 clients, and a number of them
2 actually only install. They do not have a fabrication
3 shop. They'll go and buy slabs, and then they will take
4 them to customer's homes, and they do everything on
5 site. And of course at customer's homes there's no
6 local exhaust ventilation. They cannot use wet methods
7 because they cannot flood out the customers' kitchens
8 and give them mold damage, and they cannot wear
9 high-level respiratory protection because it would scare
10 the customers.

11 So I would also point out that the Standards
12 Board specifically approved the petition and required
13 prohibition of both fabrication and installation.
14 Installation must be prohibited. If Cal/OSHA does not
15 do that, I will immediately be filing a mandamus action
16 for the court to require Cal/OSHA to prohibit
17 installation as well as fabrication because I have
18 clients who have silicosis even though they're just
19 installing. Thank you.

20 ERIC BERG: Okay. Thank you.

21 THE MODERATOR: Our next commenter with a hand
22 raised is Peter Dominguez.

23 PETER DOMINGUEZ: Hi. I just want to follow up
24 on Dr. Harrison's question for me. So as far as
25 commercial projects, when we talk about commercial, I'm

1 talking about hotels, airports, hospitals. All work
2 that we do a lot of, personally our business. No.
3 There's not a lot of the kind of trimming on site and
4 onsite manufacturing. As has been alluded to, these are
5 much more controlled environments.

6 In a lot of cases the trimming or creating
7 dust is extremely problematic, especially in the late
8 stage of the a hospital install where all work needs to
9 be very clean and not leave a trace. So this is by and
10 large a, you know, attributed to multifamily home
11 production, the kind of onsite fabrication.

12 I think on the individual, retail level, if
13 you're talking about a single home or a very small, you
14 know, business with a couple of guys, a pickup truck,
15 and some skill saws and angle grinders doing work,
16 that's its own thing. And as far as installation
17 companies, I can say that on multifamily home work, we
18 regularly compete against companies that just do
19 installation and then subcontract out the fabrication
20 generally speaking to an overseas, you know, a
21 manufacturer that also does so-called cut-to-size
22 fabrication.

23 Those pieces are bought on site, and then as I
24 said before trimmed to field measurements to make sure
25 that they fit on site. Rarely are the onsite

1 conditions, you know, just right. They'll generally
2 oversize these pieces with the intention of cutting on
3 site.

4 So my worry is that as a business owner that
5 those -- you know, the more that work that happens, the
6 more price pressure there is on multifamily, the lower
7 the prices that I can charge my customers, too, and the
8 less work that ultimately I can get. So there's both --
9 I have a, you know, interest as a business owner to
10 address this and make sure that we're operating on a
11 level playing field as well as protecting those workers.

12 Our personal approach as a business has always
13 been to do as much work as we can in the controlled
14 environment of a shop that's regulated, as opposed to
15 doing it on site where you're never going to have the
16 same level of controls available to you as you do in a
17 shop environment for all the reasons that were
18 previously listed.

19 THE MODERATOR: Thank you. Our next commenter
20 is Laurie Weber.

21 LAURIE WEBER: Hi. Thank you, again, for the
22 opportunity to speak. I would echo the comments about
23 the challenges of what are we talking about? Are we
24 talking about installing or the actual fabrication shop,
25 which is manufacturing process? You know, the

1 fabricator can be broken up into several different
2 trades, really, if you break it up into -- because we
3 work on our apprenticeship programs throughout the
4 country. You know, the cutter, the installer, the
5 polisher.

6 So the idea that you have to not do things on
7 site is unrealistic in any countertop, I think, and so
8 from my understanding, and I think that was just echoed
9 in some of the comments. Thank you for that
10 clarification.

11 A lot of this is happening on the site with
12 installers that may be doing, you know, side work or
13 they're just not covered by workers' compensation. That
14 doesn't eliminate the problem itself, but it does
15 eliminate the oversight problem, you know, with the
16 practices that are being had.

17 I think it's been -- I've spent so much time
18 in Southern California spending time in the field and in
19 shops and looking, going to shops like Peter's shop or
20 Nate's shop or some of these other shops that are really
21 sophisticated and investigated in the proper equipment
22 and have the proper processing in place. Without
23 getting into what has happened in the past at the end of
24 the day the intend the to protect them.

25 Now, knowing that some of these workers then

1 may work on the side on the weekends for an individual
2 out of a -- from what I have seen and heard about -- are
3 almost like storage facilities. I've chased workers
4 down in Southern California at gas stations that are
5 covered in dust. You know, I think that I continue to
6 echo that ISFA's stance is that we have to have licensed
7 shops, not certified individuals, and that process could
8 be part of this standard if we could come together and
9 do that.

10 The challenges in all of it is, you know, that
11 trying to stop something by saying all of a sudden
12 you're going to ban fabrication is just unrealistic way
13 to make this happen quickly, and ISFA's position. So
14 that is a huge problem if most of these are installers,
15 as the gentleman before me said, and most of them are
16 doing it on site, that's not really our stance.

17 ISFA knows it exists. We know that, but the
18 law is that you have to always wet cut. So anyway I
19 look forward to continue these conversations, and I have
20 to acknowledge -- I appreciate the spirit of solution
21 that's been demonstrated. Thank you so much.

22 THE MODERATOR: There are no additional hands
23 raised.

24 ERIC BERG: Mark, you have a comment?

25 MARK MERIAUX: Yeah. Mark at NSI again. I

1 guess my question is for you, Eric, or maybe
2 Mr. Harrison can answer this, but is -- just to cover it
3 to make sure we protect the workers, is the jurisdiction
4 under 5204, could it cover to protect workers on site at
5 construction sites both residential or commercial?

6 ERIC BERG: No, but we could also do rulemaking
7 for construction at the same time. So we can cover it.

8 Any other comments? I guess we'll take --
9 there's another comment. We'll take a break for lunch
10 and come back at 1:00 o'clock if that works for
11 everyone. All right. Thank you very much for all the
12 input so far. It's been very helpful.

13 (Recess.)

14 BETSY NOTH: So we're going to pick up at 3,
15 which is, should there be exceptions from a prohibition
16 for possible future technology that does not yet exist
17 which would be protective of employees? For example,
18 robotics working in negative pressure enclosure with
19 ultralow air filtration.

20 DON SCHINSKE: Our point -- Don Schinske from
21 the petitioners -- the answer would be no. The variance
22 process to one of the regulations is fairly well
23 established. You can spend an awful lot of time and
24 energy thinking of hypothetical's, whether it's doing the
25 fabrication in lower orbit or in vacuum chambers or what

1 have you or with robots, but the fact of the matter is
2 there's no way to know what all those options are in the
3 future. I think it would be a meaningless exercise in
4 some way.

5 ERIC BERG: Jordan.

6 JORDAN UTER: I'd like to echo those comments,
7 and we don't feel like we should spend time. It could
8 be a the subject of a future petition if it happens.

9 ERIC BERG: Yeah. Technology doesn't exist now
10 so just -- yeah. It is a hypothetical.

11 Any other comments? Any online, John.

12 THE MODERATOR: We have no hands raised at this
13 time.

14 ERIC BERG: Martin.

15 MARTIN BERMUDEZ: Thank you. Martin Bermudez
16 with ISFA. I would respectfully concur with the
17 previous two gentlemen in that this is asking everyone
18 here assembled to future proof the industry, which is, I
19 guess, you could say maybe impossible.

20 I'd also like to add that the criteria for any
21 such further moves should be objective with verified
22 exposure results, third party validation, ongoing
23 monitoring rather than tied to a specific named or
24 present or future technology so that the rule remains
25 durable as methods evolve.

1 We should note that this is not purely
2 hypothetical. Automated water jet and fabrication cells
3 already exist, and a rule that leaves no room for
4 demonstrably safe automation will freeze the industry's
5 safest trajectory in place. Thank you.

6 ERIC BERG: All right. Any other comments?
7 Anything online, John?

8 THE MODERATOR: We have no hands raised.

9 ERIC BERG: Okay. Go to question 4.

10 BETSY NOTH: Great.

11 ERIC BERG: Should read it?

12 BETSY NOTH: Go for it.

13 ERIC BERG: Okay. I mentioned this before, but
14 moving upstream higher than Cal/OSHA can do is really
15 the key to getting this dangerous product out of the
16 marketplace, and so that's -- key to that is if the
17 customer never sees it, and the customer never orders
18 it, and the fabricator will never get it. So getting it
19 out of the showrooms and warehouses and the big box
20 stores would be really important.

21 So question 4 is how long do showrooms,
22 warehouse, vendors, distributors, et cetera, locations
23 where customers select countertop material that
24 currently carry artificial stone with crystalline
25 silica, how much time to they need to transition to

1 alternative products? So I guess that's just getting it
2 out of the showrooms, getting out of the customer's view
3 so they never pick it.

4 Nate, do you have a comment?

5 NATE KOLINSKI: So there's thousands of kitchen
6 and bath dealers throughout the state. There's
7 thousands of fabricators that have showrooms set up. A
8 good friend of mine just opened one in Santa Barbara.
9 It cost him \$100,000 in new displays. So it's not only
10 a time thing. It's a money thing, and if the state
11 wants to fund those changeovers, it could be done a lot
12 faster. But he's not going to recoup on his investment
13 for three or five years, and we're not going to stretch
14 this out that long.

15 So again, it comes down to is the State going
16 to give you a credit for the \$80,000 in few samples and
17 displays, or is it just going to be put on the
18 fabricator and the small business to absorb all that?
19 And I think that is absolutely huge and needs to be
20 dealt with. So I think a couple years, two to three
21 years in trying to get the investment recouped for that
22 individual location is probably okay, but I know
23 everybody wants this to go faster. So I think we need
24 to get some money out of the State, or credit or cash
25 for you're taking this out, and you're putting this in.

1 So it can't just be on the backs of the
2 fabricators and the kitchen and bath dealers. I mean, a
3 lot of these guys are just a just a mom-and-pop shop,
4 and they've invested like I said 80,000 to \$100,000 in
5 samples and displays, and it'll take a little bit of
6 time for the manufacturers, even with the amorphous
7 stuff to come up with enough samples.

8 When they come out with new colors, they say,
9 hey, can we give you a slab, and you'll cut them because
10 we can't get them done fast enough. So there will be a
11 time frame, but I think the money, the cost of the small
12 businesses and the transition is huge.

13 THE COURT: Okay. Thanks.

14 Comment.

15 SHEIPHALI GANDHI: Yeah. I think this is more
16 of a question for people who work more in the
17 distribution side. I think one of the questions we've
18 had is, you know, in these -- obviously, there's the
19 small shops, and we're worried about that, but also
20 where a lot of the customers are going and seeing it for
21 the first time are these big box stores like Home Depot
22 or whatever even just to get inspiration before they go
23 to a small shop.

24 Who pays for those products to be in those big
25 shops? Is it the fabricator? Is it the distributor?

1 Is it the manufacturer? I think that's been a question
2 that has come up, and I think it would be important for
3 us to understand. Thank you.

4 ERIC BERG: Nate.

5 NATE KOLINSKI: Yeah. It's a mix of all those
6 things. Right. So typically the bigger the location,
7 if you're talking about a big box, they have a cost
8 involved, but it's a percentage of what the actual cost
9 is because there's a lot more people investing in that
10 showroom. The guys I was just referencing is a
11 mom-and-pop operation, they have to pay for all that,
12 and they of their displays, and a lot of them end up
13 paying for samples.

14 So it's going to vary across depending on the
15 size of the business and what investment they're
16 putting. If they just use the free samples that come
17 from the manufacturers, maybe there's a box or two that
18 they deal with, but a lot of these people are putting in
19 slabs to show and kitchen displays, and those are very
20 expensive. So it's a mix.

21 SHEIPHALI GANDHI: Thank you.

22 JORDAN UTER: Jordan Uter with Workspace. Two
23 questions. Sorry. One -- excuse my ignorance. Are
24 where we talking about prefabricated stone here or we
25 talking about fabricated stone at the showrooms?

1 ERIC BERG: At the showrooms where they sell
2 artificial or, you know, artificial stone, engineered
3 stone, quartz, getting that out of the showrooms
4 completely so the customer never picks the product
5 that's killing workers.

6 JORDAN UTER: So we're talking about displays.
7 So we're not talking about the actual cutting of the
8 stone?

9 ERIC BERG: No. I'm saying if we can get it out
10 of the customer mind, and the customer never picks it.
11 They pick a safe product because that's all that's
12 offered to them, and the fabricator doesn't have to --

13 JORDAN UTER: Okay.

14 ERIC BERG: -- doesn't have that problem of
15 having this dangerous product because the customer
16 doesn't want it.

17 BETSY NOTH: But it is a mix. I mean, I think
18 that there are places where a slab is fabricated so it's
19 displayed like, here's what it would look like if it's
20 your sink or whatever. You know, like if you go to
21 Ikea, right, something like that, a showroom, and then
22 there's some where there's just slabs -- and then I
23 think maybe Sara Tepfer could speak to this -- but
24 there's also a whole other group of people in
25 architecture and design where it's just, like, the

1 pieces; is that right? Yeah. Yeah.

2 JORDAN UTER: Okay. Thank you.

3 SARA TEPFER: Often in those cases they're
4 working directly with reps of the manufacturers.

5 BETSY NOTH: Sort of like carpet square tiles
6 and stuff. Yeah. So it's both. It's a mix.

7 NATE KOLINSKI: One other thing with the
8 displays -- sorry, Kristen. One of the things with the
9 displays, too, is the minute that this is banned and no
10 longer available, all their displays in their showrooms
11 are worthless. They can't say, well, it kind of looks
12 like this. So that requires this to be changed on a
13 really fast and expedited scale that coincides with
14 this.

15 Some of the manufacturers have multi-state or
16 national presence, and they'll just move their samples
17 to those other 49 states. So that's different, but if
18 you're Oakland Kitchen and Bath -- which I don't know if
19 there really is one of those -- but pick a city and a
20 kitchen and bath. They're going to be out of business
21 on their samples and displays right there so we have to
22 think about that, too.

23 BETSY NOTH: Kristen.

24 KRISTEN CUMMINGS: Kristen Cummings from CDPH.
25 Just trying to understand. This is a question for

1 Cal/OSHA. Are you envisioning that this would be part
2 of the regulation that would address this?

3 ERIC BERG: No. We couldn't, like, tell stores
4 they couldn't sell it, but we could do outreach to them
5 and say, this stuff's illegal. It's killing workers.
6 Don't carry it. It's bad. And hopefully do the right
7 thing like Ikea has already done. Hopefully, all the --
8 at least the largest ones.

9 I mean, we can't reach every single one, but
10 like, the top ten, they control a large part of the
11 market. We could reach them all and have them all taken
12 out of their showrooms and not make it available to
13 customers. That would have a big impact downstream to
14 the fabricators.

15 NATE KOLINSKI: So the latest thing, numbers I
16 saw a couple of weeks ago at a meeting was that the big
17 box retailers, all of them, you put them in a group.
18 They're about 15 percent of the market. 85 percent of
19 the market is these independent kitchen and bath dealers
20 or fabricators that sell direct, and home builders. But
21 if you've got all the big boxes to say, hey, we don't
22 have it, that's a real small percent of the market.

23 ERIC BERG: I mean, it's a starting point,
24 though. I mean, we just need to do the best we can and
25 get it out of the market as much as possible.

1 MARTIN BERMUDEZ: Thank you, Eric. Martin
2 Bermudez once again. I just wanted to point out, let's
3 just say that the ban is successful, hypothetically. We
4 don't have engineered stone at these showrooms. I just
5 want to position it this way so we're all clear on what
6 safer alternatives mean to this body.

7 So we get rid of all the engineered stone,
8 magically it's gone. Now you're displaying quartzite,
9 which has 95 percent silica in it; sandstone, 60 to 95
10 percent silica content; slate, 20 to 40 percent silica
11 content; granite, 5 to 50 percent silica content;
12 ceramic tile, 20 to 27 silica content; basalt, 5 to 10
13 percent; marble, 3 to 5; limestone, 1 to 5 percent. Am
14 I understanding that that's what's on display now in
15 your hypothetical?

16 ERIC BERG: Yeah. That would be the natural
17 stones. There's also -- Dr. Harrison has talked about
18 the amorphous silica.

19 MARTIN BERMUDEZ: Yeah. Amorphous silica, which
20 is a fringe product used by night clubs for their bar
21 covers and things of that nature. We're not talking
22 about something that you'll find in a typical California
23 home.

24 ERIC BERG: It looks identical to engineered
25 stone. There's no difference.

1 MARTIN BERMUDEZ: That expresses a disappointing
2 naivete to product knowledge, Eric.

3 ERIC BERG: Okay.

4 MARTIN BERMUDEZ: Thank you.

5 ERIC BERG: Bob, you want to talk to that?

6 BOB HARRISON: Yeah. Bob Harrison, CDPH and
7 UCSF. I had the opportunity to visit a large Lennar
8 home development in Stockton. I think a couple thousand
9 homes that was using an amorphous silica product.

10 ERIC BERG: And Bob, how different from the
11 current quartz or engineered stone?

12 BOB HARRISON: It's a zero-silica product.

13 ERIC BERG: Does it look different?

14 BOB HARRISON: This is just one person's walking
15 into a spec home. It doesn't look any different to me.

16 ERIC BERG: Okay.

17 BETSY NOTH: I think Peter Dominguez said
18 earlier that there were a lot of products that were
19 fairly commensurate. Not everything, but that many
20 things -- said earlier in the meeting -- that there
21 were a lot more amorphous that looked a lot like the
22 engineered stone. Yeah. You guys are nodding. Okay.
23 Thank you.

24 MARK MERIAUX: Is this question specifically
25 intended to be displays and samples or sellable

1 inventory as well?

2 ERIC BERG: It was a showroom like it's shown to
3 the customer, and the customer would go then to pick a
4 product.

5 MARK MERIAUX: This is warehouses and
6 distributors in here, too. Some of them may not have a
7 showroom. They may have just warehouses full of slabs
8 on display.

9 ERIC BERG: Yeah.

10 MARK MERIAUX: Then my answer to those
11 specifically might be more difficult because the
12 smaller, more independent -- there's a few small
13 independent distributors in California that are just
14 California specific. They would have a much harder time
15 either selling down that inventory or getting rid of it
16 in other ways versus a national-level distributor who
17 might be able to just take that inventory and move it to
18 another state where it might be legal.

19 ERIC BERG: Okay. Thanks for that.

20 BETSY NOTH: And I think the question there
21 that's specific would be how long would it take for them
22 to -- you know, if they'd have a hard time, but how long
23 would that in your mind take?

24 MARK MERIAUX: Again, for the smaller ones we've
25 had answers before similar questions. One to three

1 years were time frames that others have already stated
2 already today. For the large distributors they would
3 have an easier method to move.

4 ERIC BERG: Jordan, go ahead.

5 JORDAN UTER: Is there any data that backs up
6 some of these claims of it will take years to unload
7 these showroom slabs or something like that? Like, I'm
8 hearing anecdotal stories, but I'm wondering if there's
9 data of like how long folks actually believe it would
10 take.

11 ERIC BERG: I don't have any data -- like
12 current inventories or anything likes that?

13 JORDAN UTER: My question's not necessarily for
14 you, Eric, to be clear. It's for industry folks in the
15 room if there is actual data to back that claim up.

16 ERIC BERG: Go ahead, Nate or Mark.

17 MARK MERIAUX: I mean, I would vary again by
18 distributor, but they will have records on material
19 turns of their inventory and how quickly that would
20 rotate through stock. Different products are obviously
21 going to move faster than others. It's going to depend
22 on popularity, pricing, all of those things involved.
23 So no single answer, Jordan, unfortunately.

24 ERIC BERG: Kristen.

25 KRISTEN CUMMINGS: Kristen Cummings from CDPH.

1 I would encourage Cal/OSHA to, if you haven't already,
2 to reach out to colleagues in Australia to get a sense
3 of what their experience was. They went through similar
4 process, and I believe that they gave a timeline of 6 to
5 12 months or so before the ban went into effect. So
6 they may be able to shed some light on what their
7 experience was like.

8 ERIC BERG: That's good. Yeah. We've been in
9 contact. We'll do some more of that. Thank you.

10 THE MODERATOR: Eric, may I make a comment to
11 our online participants? We don't have anyone with a
12 hand raised at the moment. However, periodically in
13 response to the interaction if the room, we are getting
14 some chat messages that seem to be relevant, but they're
15 going to be to the Zoom support team and not the
16 meeting.

17 So if you're online and you've sent a chat
18 message and you'd like the entire committee to hear your
19 comment or to understand what you're referring to,
20 please raise your right hand and then you can make your
21 comment with respect to the chat message. If the chat
22 message is to the Zoom team, that won't be part of our
23 official record, and the parties in the room won't have
24 the benefit of that message.

25 ERIC BERG: Dr. Hammond.

1 KATHERINE HAMMOND: Dr. Hammond, UC Berkeley.
2 To what degree is this industry or the commercial part
3 of it that's a just-in-time? I know that a lot of these
4 things, and usually when you want to order things for
5 your home and building, you have to wait a long time and
6 then they get them. And so my understanding is
7 companies don't keep a lot of inventory of this
8 material, and it's more of a just-in-time approach.

9 NATE KOLINSKI: So when you said start out with
10 commercial, and I think the commercial side is the
11 longer process, right. So with our type business, there
12 are certain colors if I deal with home centers. They
13 might have 150 colors that are supposed to be in
14 inventory and able to go to you in your home within a
15 week. Right. So they have a backup inventory. We have
16 a backup inventory.

17 But like I said earlier today our type of
18 business, we sell by the square foot so you don't have
19 to buy the whole slab. I might cut a piece off of it
20 and have two thirds of the slab. I have the cost of the
21 whole slab, but I'm supposed to use that on another
22 piece down the road. And as close as I could get to
23 answering Jordan's thing, too, we figure we want to be
24 able to turn our remnants within two years because after
25 that they become irrelevant.

1 So some them are really fast turning, but
2 again, it depends. My friends the San Luis Obispo have
3 to keep a heavier inventory because they don't have a
4 distributor right down the street. The manufacturers
5 have some inventory, but they all have distribution
6 points that have inventory as well. And like Mark was
7 saying, if they're just a California distributor, they
8 can't just ship that off to the other 49 states because
9 they're only California.

10 So a lot of this stuff I sound like I'm saying
11 the same thing. It varies from this guy to this guy and
12 everything in the chain. So I would like to see the
13 cost consideration. I think everybody in the industry
14 is concerned about safety, and we follow the rules and
15 the laws, but we won't want to be the one that goes out
16 of business because these things weren't considered.

17 THE MODERATOR: We have a hand raised online.

18 ERIC BERG: Okay. Thanks, John.

19 THE MODERATOR: Our next commenter from our
20 online community is Nonnie Salamon from COO -- she's the
21 COO of Planet Granite. Go ahead, Nonnie. You can
22 unmute your microphone and address the committee. We
23 may have to come back to Nonnie.

24 Nonnie, your last opportunity. You can raise
25 your hand again. However, we'll lower your hand if

1 you're not able to speak at this time.

2 Okay. Eric, go ahead if you'd like to
3 continue with the meeting.

4 ERIC BERG: All right. I think we're done with
5 that question. Question 5, it seems basically the same
6 thing. It asks if there should be a phaseout period
7 where a supply in the number of artificial stone
8 products is progressively reduced? So someone has 20
9 artificial stone products, and then a few months later
10 they're required to have half of that, and six months
11 later they're required to have a quarter of that, and
12 then after that, none. Or should it be a single cutoff
13 have date in the future?

14 DON SCHINSKE: So Eric, this is Don Schinske
15 from WOEMA again. So my question is here, again, are we
16 conflating a ban on a material with a ban on an
17 activity? And so I mean, I can see the number of
18 products being available as sort of being a metric as to
19 how well we're doing, I guess, but really what we're
20 talking about is reducing a fabrication activity, are we
21 not?

22 ERIC BERG: Yeah. The regulation would be to
23 prohibit fabrication. This is just looking upstream,
24 how to best eliminate that product from the marketplace,
25 but yeah. I guess it's more hypothetical.

1 Oh. Another comment.

2 DON SCHINSKE: I'm just saying in a world where
3 you can imagine an, oh, for instance, if you go to Home
4 Depot and you pick up a small countertop that's precut,
5 pre-everything, that fits on an already prescribed
6 vanity that you bought, and chances are you're doing it
7 yourself as a homeowner. You're not going to be
8 grinding. You're not going to be doing anything.
9 You're going to be gluing, and it's okay if it's a
10 little lopsided.

11 I guess my question is, is that something we
12 need to concern ourselves with, which is to say,
13 artificial stone products that are not going to be
14 worked. Is that something that we need to deal with in
15 rulemaking at all?

16 ERIC BERG: No. We're not concerned about that.
17 No.

18 ANNEKE FLEMING: Hi. Anneke reporting our
19 results research. So we asked this question directly to
20 the shop owners that we spoke to, and although we did
21 hear a variety of opinions, many owners opposed a
22 phaseout approach and that it would be unintended
23 consequences. Out of the nine shops we spoke with,
24 there was only one that discussed potentially wanting a
25 phaseout.

1 Shop owners discussed concerns that
2 significant worker exposure to silica dust would
3 continue during a prolonged phaseout and would not be
4 worthwhile. From a liability perspective, they were
5 concerned that liability for silica exposure would
6 continue through a phaseout and also had concerns that
7 phaseout regulation would be very complex to administer,
8 and one of the main things shop owners have been looking
9 is clarity on the regulation.

10 And it would also be nearly impossible to
11 administer in more formal and less currently
12 well-regulated sectors of this market. Multiple shop
13 owners emphasized that until a full fabrication
14 prohibition is in place, meaningful change in the market
15 of available zero-silica countertop products will not
16 occur, which is also an unintended consequence of a
17 phaseout approach. And they also identify another
18 unintended consequence, which is that during a phaseout
19 distributors and warehouse owners would try to sell
20 their existing engineered stone inventory cheaply and as
21 quickly as possible, possibly contributing to another
22 spike in exposure.

23 So we're opposed to the phaseout because of
24 the increased exposure risk, the difficulty of clear
25 implementation, and because it would reduce the leverage

1 that shop owners have to advocate for alternative
2 zero-silica materials in their contracts. Thank you.

3 ERIC BERG: Thank you very much.

4 Nate.

5 NATE KOLINSKI: So a clarifying question for
6 you, Eric. I think you said that we would ban the
7 fabrication of the product, but phase out the actual
8 product. Is that what I heard?

9 ERIC BERG: Cal/OSHA can't prohibit.

10 NATE KOLINSKI: So I can't fabricate it, but the
11 material can sit there until whatever date. Is that the
12 way I heard it or not?

13 ERIC BERG: I guess. Yeah. Cal/OSHA doesn't
14 have the authority to say Home Depot can't put on their
15 display panel or can't sell it, but we can say you can't
16 fabricate it, you can't cut it.

17 NATE KOLINSKI: But as a business owner with
18 inventory, and I fabricate, I can't fabricate the
19 inventory I have out there at that date?

20 ERIC BERG: Yes. Say there's a date, the
21 prohibition takes effect on this date, yes. After that
22 you can no longer fabricate it.

23 BETSY NOTH: But you could still have it in your
24 warehouse and you could still --

25 NATE KOLINSKI: For a boat anchor or what?

1 BETSY NOTH: No. And like you said, move it to
2 another --

3 NATE KOLINSKI: Yeah. That needs to -- can't
4 move it anywhere. It needs to tie in together. It's
5 saying you can't touch that, but you still have it
6 doesn't solve the problem downstream, right. And then
7 on the -- this is just Nate saying this. I'm not saying
8 this from industry or anything, but as far as a
9 phaseout, I think that's just a slow bleed.

10 I mean, we can plan for whatever we end up
11 having to come out of this. We can plan for dates,
12 right, and I think a friend of mine who was a doctor
13 named Bob a long time ago said -- used to be a friend or
14 used to be a doctor I should say -- we talked about
15 this, oh, a year or two ago.

16 We said what would it look like if we were
17 going to do this? And we said, well, maybe it takes
18 eight months because guys ordering container loads, it
19 can take months and months for that to come in so you
20 always have the commitment. So we put a drop dead date
21 on ordering new material. Anything that's on the water
22 can come in.

23 And then another time after that to work
24 through the inventory. And then back then that other
25 Bob that used to be a friend was saying what would that

1 look like? 18 months to 24 months? And whatever we end
2 up doing with this, it needs to be reasonable, and we
3 need to be concerned not only with the employees because
4 the guys that are following the rules already are
5 concerned about sure employees. Now we're concerned
6 about your business and our livelihood because if I
7 can't stay in business, there's going to be 50 guys out
8 of work or 100 guys out of work, and they're going get a
9 pickup truck and a grinder and keep doing what they know
10 how to do and they'll still get sick.

11 You know, in 2016 we had the federal
12 guidelines to follow, and it's taken ten years and we
13 can't enforce that. So I'm concerned that if we come up
14 with something that's really weak, how are we going to
15 enforce that? Who's going to verify that that thing
16 coming across from Nevada is zero quartz? I mean, are
17 you going to test every slab? I think there's so much
18 involved in that we really have to look at it.

19 ERIC BERG: Yeah. Good point. Thank you.

20 Jordan. Go ahead, Jordan.

21 JORDAN UTER: Jordan Uter with Worksafe. We
22 agree there should be a single cutoff. However, if we
23 continue discussions on a phaseout plan, I will echo the
24 comments I made earlier. We strongly feel that we
25 should also include a model of how many workers will

1 continue to be sick and get exposed to silicosis if we
2 extend a timeline or phaseout process so that we can see
3 those numbers and comparison with whatever other numbers
4 folks want to look at, whether it's dollar signs or slab
5 amounts.

6 ERIC BERG: All right. Thank you.

7 Mark, go ahead.

8 MARK MERIAUX: So we did poll some of our
9 members and heard that we would consider a single cutoff
10 date. Again, this is Mark from the NSI -- but would ask
11 that you consider an option for registration or
12 exemption on committed commercial projects, which were
13 addressed in Question 1(C) and (D). So just have that
14 thought in place. Some of these projects that are
15 already pre-sold or contracted, there's some way to work
16 through those.

17 ERIC BERG: Okay. Thank you.

18 Anything else? Any online, John?

19 THE MODERATOR: Well, I just had a message. We
20 had a hand up from Brian Peregrina. I'm not sure if he
21 still would like to make a comment, but I just sent him
22 a message to ask if he'd like to.

23 Mr. Peregrina, would you like to make a
24 comment? You should have a pop up that says accept in
25 order to be able to speak. He might be away from his

1 computer at this moment so I'll circle back to that at
2 the next time we have comments.

3 ERIC BERG: Okay. Nothing else. We'll move on
4 to the next question, number 6.

5 BETSY NOTH: Yes. Number 6. So this is a
6 question, what elements should the standard require to
7 be included in an employer's written phaseout plan?
8 Some examples for discussion, I don't think I'll read
9 through all of them.

10 ERIC BERG: Just the first bullet.

11 BETSY NOTH: The first bullet, and we can take
12 comments on that.

13 A statement affirming the employer will
14 manufacture or fabricate artificial stone containing
15 more than one percent crystalline silica by weight after
16 the effective date of the prohibition. And I realize
17 that we're using phaseout twice in kind of different
18 ways. So just imagine I said cutoff if it's confusing
19 you heard phaseout.

20 ERIC BERG: So this idea is basically -- and
21 once a regulation all employers are required to have a
22 written plan saying how they're getting rid of
23 artificial stone, I'm not going to use it, which would
24 make it easier for enforcement because it asks for a
25 copy of that written one and have the information there.

1 And if they didn't have that written plan, they'd stop
2 work until the employer develops that. So the first
3 bullet is -- first part of that written plan would be
4 they state in that plan, we're not going to use
5 artificial stone after this date.

6 Any comments on that?

7 NATE KOLINSKI: You know it. So as an employer,
8 as a fabricator, whatever, I don't know what the
9 materials made out of. I have to go by what the
10 manufacturer says, and there's SDS sheets that we have
11 to follow. So to put this on the employer to say, hey,
12 I promise I'm not going to use this, it goes back to the
13 supply line on that, right.

14 And if somebody says, hey, this is zero
15 quartz, and they're sending it over from Nevada, and
16 it's really 10, 30, 40 percent, I don't have a lab to
17 test that. I have to go -- so I don't believe that that
18 should be put on the fabricator because you're already
19 saying it's against the law to do it, but to say I have
20 to figure out if it's below one percent, all I can go by
21 is what the label is on the sticker.

22 On the other side, saying a statement
23 affirming the employer will not do this, guys like me
24 will sign the thing saying we're changing or business
25 we're not going to do this, but the guys that aren't

1 following the existing laws now are not going to sign
2 it. And they're still going to see stuff coming in from
3 other states.

4 So I think on the product side it needs to be
5 back to the manufacturer. If I go to Walmart and buy
6 something it's going to say, here's the ingredients.
7 Right. I don't test the ingredients because I don't
8 have the ability to do that. So how would this come
9 back to the -- how would this come back to me to be able
10 to see, oh, I'm not using anything.

11 ERIC BERG: Yeah. I think we'd -- the employer
12 would be expected to follow the SDS that's received with
13 the product or the bill of lading or whatever
14 documentation comes with the product. I think we have a
15 bullet later on about what documentation is needed or
16 what evidence is needed. But I don't think we're
17 contemplating the employer to have to do a test on each
18 slab to confirm that.

19 NATE KOLINSKI: So we're just saying that the
20 employer doesn't illegally bring it in from the 49
21 states? Is that -- we're promising --

22 ERIC BERG: Yeah. Promising to use the product
23 that doesn't have -- promising not to use artificial
24 stone that has silica in it. That's the promise, and I
25 know people can lie.

1 NATE KOLINSKI: Yeah. That's going to be a
2 tough one to enforce. We're not enforcing the existing
3 laws. So it's going to be a hard time to enforce.

4 ERIC BERG: Yeah. I mean, Cal/OSHA and third
5 parties can do lab tests on the products to verify, and
6 that could be a consideration that we require a certain
7 amount of testing on products.

8 NATE KOLINSKI: Yes. And the natural stone will
9 vary from quarry to color to everything. So.

10 ERIC BERG: It's only for artificial stone.

11 NATE KOLINSKI: I know. I'm just saying I don't
12 have a lab.

13 ERIC BERG: No. You take a sample and mail it
14 to a lab.

15 BETSY NOTH: I believe as it stands that in
16 every inspection, enforcement takes an at least one
17 sample.

18 ERIC BERG: And has it analyzed.

19 BETSY NOTH: Yeah. And has it analyzed.

20 ERIC BERG: So yeah. Cal/OSHA is doing this
21 already.

22 BETSY NOTH: Yeah. This is already being done.
23 The piece about doing the analysis, not the written
24 piece.

25 NATE KOLINSKI: But you would go after the

1 manufacturer for having it mislabeled then, right? You
2 would go after the fabricator that bought something that
3 said this was the ingredient.

4 ERIC BERG: Yeah. No. We can go after
5 manufacturers.

6 BETSY NOTH: Yeah. I think those are two
7 different types of going after.

8 NATE KOLINSKI: Right.

9 BETSY NOTH: Yeah.

10 ERIC BERG: Dr. Hammond.

11 KATHERINE HAMMOND: There's a bill of history
12 with asbestos and asbestos containing products and when
13 those got banned. So I mean, it does happen that, you
14 know, contents are forbidden, and SDSs are exactly one
15 of the ways that we find that information out.

16 ERIC BERG: Thank you.

17 ELIZABETH FIELDING: Hi. This is Elizabeth
18 Fielding from OHIP. I just wanted to discuss some of
19 the structure of the industry that we discovered from
20 our research that might be helpful in addressing some of
21 these points.

22 So one thing we've learned is that fabricators
23 rarely control the material solution. Builders,
24 designers, architects, and individual customers
25 frequently specify the products before it reaches their

1 shops, and so fabricators own the slabs they fabricate
2 while others we spoke with fabricate slabs that are
3 bought and supplied by their customers.

4 So a workable transition may require
5 coordinated communication throughout the supply chain
6 rather than placing the responsibility exclusively on
7 fabricators to longer use this product. And designers
8 and contractors especially need to be made aware of the
9 fabrication ban so they can specify compliant material.

10 Most shop owners do not have experience or
11 resources to test the material contents of the slabs
12 they're receiving. As was stated earlier evaluation of
13 slab contents should be required by manufacturers and
14 distributors as many already know, and test for this
15 information in order to import materials.

16 And the shop owners we talked to also
17 expressed concerns over knowing the content of the
18 materials they'll be fabricating and whether they're
19 compliant with new regulation. Some advocated for the
20 development of a clear labeling system for materials to
21 certify they can legally fabricated in California
22 under --

23 THE MODERATOR: Excuse me. Could you slow down
24 just a little bit for our interpreters?

25 ELIZABETH FIELDING: Oh. Yeah. Of course.

1 Sorry about that. Some of the shop owners that we
2 talked to expressed concerns over knowing the contents
3 of the material they'll be fabricating and whether these
4 are compliant with the new regulation, advocating for
5 the development of a clear labeling system for materials
6 to certify they can be legally fabricated in California
7 under the new emergency regulation.

8 Many fabrication workers are also considered
9 independent contractors by the shop owners who rent out
10 spaces within their facilities where these workers
11 fabricate. This is addressing the last point of the
12 question about fabrication shop owners informing their
13 employees of the regulation, thus these workers were
14 independent contractors, may be missed by a requirements
15 of a phaseout plan to inform employees of new regulation
16 around high silica engineered stone and a set date that
17 its fabrication is prohibited. It would be beneficial
18 to require owners of fabrication shops to inform all
19 individuals using their facilities, not limited to
20 employees, of the health hazards and new regulations
21 surrounding high silica engineered stone. Thank you.

22 ERIC BERG: All right. Thank you very much.

23 David.

24 DAVID HARRINGTON: Yeah. The thing I'm
25 concerned with about this is it puts a high burden on a

1 lot of small shops. And I think if you're looking for a
2 way for Cal/OSHA to be able to cite somebody, I think
3 reliance upon safety data sheets should be an
4 adequate criteria because quite frankly when you walk
5 into a lot of shops, and they have a right-to-know
6 binder hanging on the wall. Two thirds of those SDS
7 sheets -- they're not even SDS sheets. They're MSDS
8 sheets. They're out of date, and I think it's far more
9 important that they be responsible for ensuring that
10 they have current safety data sheets for the products
11 they're buying.

12 And so they at least have that knowledge, and
13 I think take it up to the next level, which is lab
14 analysis, should be for exceptional circumstances. I'll
15 give you one. I was in a soapstone shop in south San
16 Francisco. Extremely dusty. We did air sampling. Came
17 back with no silica content. Like what? And we had a
18 pieces analyzed by a lab. Turns out there was no silica
19 in it.

20 And so under some circumstances you may need
21 to do that, but we do have to rely upon the
22 manufacturer's information because the unlikelihood that
23 you're going to get small shops to do this is like it's
24 a tall order. The box tops of the world might do it,
25 but even then, depending on the, you know -- I mean,

1 until we get do some kind of a system where we have,
2 like, a sticker that there's some kind of a third party,
3 you know, authentication, certification for a product
4 line maybe down the road, but I think for now the safety
5 data sheets would serve as a good indicator of what's
6 the content of the material.

7 ERIC BERG: Okay. Thank you. That's helpful.
8 Mark.

9 MARK MERIAUX: Yeah. Building on Dave's
10 response, I would say that SDS sheets are unfortunately
11 inadequate for that type of information just because
12 they generally represent a range of colors or products
13 in the product line from the manufacturers. I don't
14 know any of them that are as specific as below one
15 percent or tenth of a percent accuracy.

16 And just for an example, Nate or myself,
17 seasoned veterans from the industry, we can't even walk
18 into a shop and know with any certainly whether a slab
19 material is quartz, a certain type of quartz, or zero
20 silica or low silica versus -- I can generally I tell
21 the difference between manufactured and a that natural
22 stone product, but there's no way for a quick
23 assessment, especially down to the level of specificity
24 of this new standard that would be adequate. So when we
25 get down to question 8 I think we have got some further

1 recommendation for the testing and analysis.

2 ERIC BERG: Okay. Thank you.

3 Martin.

4 MARTIN BERMUDEZ: Yes. Thank you. I actually
5 like David's suggestion for the SDS sheets. I think
6 it's a good baseline to start. A lot of small
7 companies, the barrier of entry is too high to really get
8 into the weeds about the specific chemical compounds and
9 the stone that they're working on. We also believe that
10 a standard whereby, you know, every slab in America has
11 a label on it that details its molecular chemical
12 composition is important, but obviously I'm talking
13 about a national effort, not a state one.

14 My concern for Item Number 6 is that it places
15 an impossible burden on the state. In particular,
16 Cal/OSHA, Cal EPA, CalRecycle, when there certainly
17 aren't enough bodies on the ground, boots on the ground
18 to enforce such measures. My other concern is that
19 other county officers of environmental health may
20 misinterpret what Cal/OSHA's goals and aspirations with
21 regard to its fulfillment. Something to think about.
22 Thank you.

23 ERIC BERG: Any other comments?

24 Go ahead, Nate.

25 NATE KOLINSKI: Another clarifying question.

1 Maybe I'm being slow on this, but it just hit me. Are
2 we saying that we're going to ban fabrication and
3 installation from my shop, but that quartz can still be
4 readily available and for sale? It's a totally
5 different thing because you say you can't ban the
6 product, but you can --

7 ERIC BERG: Yeah. Cal/OSHA can prohibit it
8 being fabricated.

9 NATE KOLINSKI: So we're going to have it
10 available for sale, but guys following the law wouldn't
11 be able to fabricate it, correct?

12 ERIC BERG: Yes.

13 NATE KOLINSKI: So all the guys that are not
14 following the law now and don't have workers' comp,
15 don't have a business license, aren't protecting their
16 employees, they're still going to buy this from the
17 other guys, and they're not going to sign a paper that
18 says, I promise not to buy it.

19 Maybe they'll sign it, but they're not
20 following the rules already so I don't see where if it
21 can still be sold, but if I want to be a good
22 businessman and take care of my employees, I just can't
23 buy it, but everybody else can still do it if you're not
24 following the rules. I'm confused.

25 ERIC BERG: Yeah. Cal/OSHA -- wait. We have to

1 do our part, and we're hoping others will step up and
2 also do their part. So we'll do everything in our
3 powers so that workers are not exposed to this dangerous
4 product. If we do a prohibition, I think that'll
5 trigger other entities to look at this and also take
6 action, which could eventually hopefully lead to its
7 prohibition of it being sold, but Cal/OSHA can't control
8 commerce, but we can control what's done in the
9 workplace.

10 Bob.

11 BOB HARRISON: Bob Harrison, CDPH and UCSF. You
12 probably heard me talking a lot about Australia again,
13 but it's my understanding that after Australia
14 implemented a ban and there was a certain timeline -- I
15 think 6 to 12 months -- that distributors stopped
16 importing crystalline silica containing crystalline
17 engineered stone, and that's it's not available. I
18 didn't see any of it in Australia. So there may be a
19 lesson for the California market to take a look at
20 distributors and why would they import engineered stone
21 containing crystalline silica if they thought it
22 wouldn't be able to be fabricated.

23 The other point I want to make is Australia
24 has a testing program, and I know that's a question
25 coming up, Betsy, and they told me -- and this is in the

1 nature of Bob to Australia informal communication --
2 that they've done extensive testing on imported products
3 to verify that there's zero silica, and they've had no
4 fake countertops. In other words that everything was
5 labeled on their safety data sheet or had a sticker that
6 zero silica in a testing lab that they operate in
7 Australia was zero silica. So their experiences have
8 been very positive there.

9 ERIC BERG: Okay. So people are being truthful?

10 BOB HARRISON: Yeah. In other words the
11 manufacturers were being truthful when they sent a
12 product in.

13 ERIC BERG: Mark.

14 MARK MERIAUX: And I brought up that previous
15 point just to also reinforce that even if a seasoned
16 professional like Nate or myself who's been around the
17 industry forever might not be able to tell the
18 difference quickly between certain materials, it would
19 be equally if not more challenging to your enforcement
20 team and government agents to do the same thing without
21 that stringent level of testing. And it's -- I'd be
22 remiss if I didn't bring up the opportunity to talk
23 about the previous legislation that we recommended for
24 certification for licensure, which would have shifted
25 the control of the product to only certified compliant

1 shops.

2 So it would have kept that at-risk material
3 out of the hands of these higher-risk or noncompliant
4 shops, and it would also have greatly reduced the number
5 of points that your enforcement team would have to visit
6 to evaluate. It would be a situation where they could
7 go to the distributors or resellers and find out, making
8 sure that they only sold those materials to compliant
9 shops.

10 ERIC BERG: So this would control a commerce of
11 artificial stone so only -- and who would police that?
12 Who would enforce that and how would it be done?

13 MARK MERIAUX: We had some schemes or structures
14 in place that were discussed but it ultimately -- the
15 last two times it went through legislature, it got
16 revised and that language was taken out.

17 ERIC BERG: Okay. Because that would have to
18 control commerce for --

19 MARK MERIAUX: Yeah. SB20 was one of them that
20 got revised.

21 ERIC BERG: Okay. So only a fabricator that
22 certified their process, only they're allowed the
23 purchase it and no one else --

24 MARK MERIAUX: Yeah. I think ACML is a group
25 that's pushing forward a similar type of program

1 nationwide. So hopefully that'll be something that we
2 can all get behind.

3 ERIC BERG: So it's a prohibition except for
4 people that are certified.

5 MARK MERIAUX: Not unlike other hazardous
6 chemicals and things like that that are currently
7 available in the marketplace. Refrigerants are -- air
8 conditioning refrigerants are only available to be
9 purchased by licensed HVAC contractors, for example.

10 ERIC BERG: Okay. Thanks.

11 Jordan.

12 JORDAN UTER: Jordan Uter with Worksafe. I
13 would like to comment that every employer is also
14 required to have an injury and illness prevention plan.
15 That is something somewhere to this where if it's
16 reported that you don't, Cal/OSHA will then show up and
17 cite you for it.

18 The argument that there are folks that
19 continue to break the law, and therefore we shouldn't
20 ban the practice of cutting this material seems like a
21 very slippery slope if you extend it to other ideas. So
22 I just wanted to make that clear. Like, this does not
23 seem that out of the ordinary of a requirement within
24 this standard if -- and I hope you have injury illness
25 prevention plan. It could be just as easy to have a

1 plan here, and we can figure out and have some due
2 diligence on the exact testing scenarios, but in terms
3 of having a standard requirement I don't think this is
4 that big of a deal.

5 ERIC BERG: All right. Thank you, Jordan.

6 Dr. Hammond.

7 KATHERINE HAMMOND: Katherine Hammond, UC
8 Berkeley. I think that the SDS is actually a critical
9 piece here because I think you have the authority to
10 change what's required on the SDS. So if the SDS no
11 longer says, you know, doesn't have a low enough level,
12 a threshold. So for instance, if it says it has to be
13 reported, it's only one percent or whatever. I don't
14 know the what the numbers are. That could be changed,
15 and I think that that might be a way to, again, help the
16 fabricators and the small shop people.

17 And I came up with some other ideas. Benzene
18 was taken out of products, and it is not the users'
19 responsibility where leaded paint that's indoors, it's
20 not your responsibility to test that. You buy a product
21 that has an SDS that says that, and if that's false,
22 it's not on you. But I think that the SDS becomes
23 something that is -- would be the way you can do that,
24 and what my suggestion to Cal/OSHA is to include
25 appropriate information that require that for any

1 product that has any silica.

2 ERIC BERG: Yeah. We could do that part of this
3 rulemaking. Right now for carcinogens and silica is a
4 known human carcinogen. It's 0.1 percent, and this ban
5 is looking at 1 percent. You know, ten times higher
6 than that.

7 Sarah.

8 SARAH JEFFRIES: Thank you. Sarah Jeffries, UC,
9 Berkeley. In surveying available low and no crystalline
10 silica alternatives available already in the state and
11 looking at what SDS are available, we found 26 low and
12 no crystalline silica products available. And among the
13 11 that were claiming to be less than one percent
14 crystalline silica, 8 of them had SDS that they were
15 containing less than one percent crystalline silica. So
16 I would agree that SDS is reasonable method based on
17 that information. Thank you.

18 ERIC BERG: Thank you.

19 Any comment online, John?

20 THE MODERATOR: Nobody's online at the moment.

21 ERIC BERG: Okay. I guess we'll move on. Oh,
22 sorry. Didn't see you.

23 DAVID HARRINGTON: Yeah. I mean, what you're
24 really trying to do here is you're trying to give to a
25 way for Cal/OSHA to cite an employer.

1 ERIC BERG: Yeah. They have to have a written
2 plan saying, I promise not to have any crystalline
3 silica and artificial stone and other statements of
4 policy.

5 DAVID HARRINGTON: Which in itself is not that
6 difficult if they have the information at hand and they
7 can -- their responsibility is to ensure that they get
8 the information from the safety data sheets. I mean,
9 you're supposed to have a silica and construction
10 written plan. They're fairly simple. You can go
11 online. You can figure out the engineering controls.
12 You integrate that into your engineering controls and
13 respiratory protection.

14 Small employers can do those things, you know,
15 because it's a briefly written plan, how are you
16 disturbing the silica-containing materials, what have
17 you. In this case it would be -- I mean, you just have
18 to have something that Cal/OSHA can cite on to have some
19 leverage on these shops to, like, they need to be paying
20 attention to this and actually being a smart shopper in
21 terms of how they buy their stuff, and they're not
22 buying stuff off the back of the truck that's just
23 pulled up. You know. I mean, I think that's really
24 what you want here, right.

25 ERIC BERG: Yeah. We want some sort of policy

1 and statements from the employer that they're aware of
2 this ban, they're taking action to implement the ban --
3 or prohibition, sorry -- and they're doing the correct
4 thing by not using this product.

5 DAVID HARRINGTON: Yeah. Okay.

6 ERIC BERG: Anything else? We can move on to
7 the next bullets. I guess two bullets at once because
8 one is pretty straightforward, just says a statement
9 affirming the employer will comply with requirements.

10 Oh, yeah. If you can scroll down to the
11 second bullet. I'm on the second bullet. Go up a
12 little bit. Okay. So the second bullet, the statement
13 affirming the employer will comply with all the
14 requirements of section 5204 for high-exposure trigger
15 tasks -- that is working with a product that has water
16 covering it as well as respiratory protection and all
17 the other protections. That's pretty self-evident.
18 They have to do that anyway.

19 The next bullet, I guess, is more important is
20 methods the employer will use to communicate and
21 coordinate with suppliers, customers, contractors,
22 installers, and employees about the artificial stone, I
23 guess, phaseout because that's really a cutoff date and
24 prohibition.

25 Any comments on that part of this plan?

1 NATE KOLINSKI: Are you asking that the employer
2 comes up with the methods or you're going to say, here's
3 what we want you to do? You can end up with 27 guys;
4 one guy could say, I took out an ad in the newspaper,
5 but shouldn't it be you guys say, hey, this is how
6 you're going to do it.

7 ERIC BERG: Yeah. We could make it -- we could
8 make it really specific, saying --

9 NATE KOLINSKI: Yeah. You're going to end up
10 with 100 different things, like, well, I told my mom,
11 you know.

12 ERIC BERG: Yeah. We could make it really
13 general or we could come up with some really specifics
14 and exactly how the employer is supposed to communicate.
15 We probably want ideas from everyone.

16 NATE KOLINSKI: Yeah. It's probably a simple
17 thing to come up with, but it should be simple, concise,
18 and doable for any size shop.

19 ERIC BERG: Yeah. It might be easier for
20 employers if it's really specific, just tell them
21 exactly what to do and how to communicate these things,
22 but there's different options. It could be general, but
23 yeah. It could be specific.

24 NATE KOLINSKI: I mean, that we have a sign that
25 we have to post that says silica-containing products

1 from the ETS.

2 ERIC BERG: Yeah. That's specific. Tells you
3 exactly --

4 NATE KOLINSKI: Yeah. I think every employer
5 would appreciate if it just said, hey, this is how we
6 want you to communicate it.

7 ERIC BERG: Okay. That's helpful.

8 Any other comments on the this?

9 THE MODERATOR: We have a hand up online.

10 ERIC BERG: Okay. Thanks john.

11 THE MODERATOR: Peter Dominguez would like to
12 speak on this topic. Peter, if you can accept the
13 unmute, you can talk now.

14 PETER DOMINGUEZ: Sure. I second that. I think
15 Cal/OSHA ought to publish some model notice language,
16 and perhaps -- you know, it's going to be as far as
17 contract amendments, too. I think it'll likely come
18 down to the individual contract, but at the very -- on
19 the point of communicating this with your customers on a
20 broad basis, I think something like the poster. You
21 know, this is the language that's there.

22 Cal/OSHA should -- it should come from
23 Cal/OSHA. On a lot of these points, too, I think it's
24 not, you know, appropriate to place the additional
25 burden on a fabricator. This is one of these points. I

1 think Cal/OSHA could do the lifting here.

2 ERIC BERG: Okay.

3 SHEIPHALI GANDHI: I realize -- I wasn't sure if
4 we're still talking about the SD sheets.

5 ERIC BERG: You can go back on a point if you
6 want.

7 SHEIPHALI GANDHI: I was looking up to see if I
8 could find any SDS sheets in Spanish online. As you
9 know most of the fabricators and the people we have
10 talked to have been English speaking, but most all of
11 out patients are not. Is there any way that Cal/OSHA
12 can include any kind of requirement for that that SDS
13 sheets be available in multiple languages?

14 I know it gets to be a slippery slope as there
15 are many languages, but in this situation we're seeing
16 mostly Spanish and probably Chinese workers based on
17 what we see at the distribution sites. I was just
18 curious if that has ever been done or if that's even
19 possible, how do we deal with that issue.

20 ERIC BERG: I mean, we do require warning signs
21 in Spanish for silica. That's simpler than SDS.

22 SHEIPHALI GANDHI: If you're trying to say that
23 they have to have an up-to-date SDS because they can't
24 read the SDS, it creates an issue, right. Like I'm just
25 curious if this has ever been bought up been.

1 ERIC BERG: Yeah. It's been brought up. Yeah.
2 Language barriers. It's easier now with some of the AI
3 for translation. I speak Spanish, and I've checked AI
4 for Spanish translation, and it's definitely improved
5 quite a bit, but I don't know about SDS because it has a
6 lot of technical language, but it's something we should
7 explore.

8 SHEIPHALI GANDHI: Yeah. I'm just bringing it
9 up as an issue. I was just trying to look -- which is
10 why I'm delayed, but I couldn't find any other language
11 than English.

12 ERIC BERG: Yeah. We'd probably have to
13 experiment with having translation engines, see how good
14 they do with a number of different products to make it
15 easier because it would be pretty labor intensive to do
16 it.

17 SHEIPHALI GANDHI: And I know that there are a
18 lot of places that are not following the rules, and we
19 know that, but we should try to make it as easy as
20 possible for people to follow the rules that are there.

21 ERIC BERG: Yeah. I think translation could be
22 done easily. I don't know about other languages. I've
23 just personally checked Spanish, and I've had good luck
24 with that.

25 SHEIPHALI GANDHI: And this is totally

1 anecdotal, but just discussions. There are Chinese
2 workers. We're just not seeing them. My patients tell
3 me that they exist.

4 ERIC BERG: Bob.

5 BOB HARRISON: Bob Harrison, CDPH and UCSF.
6 There were stickers on all the zero-silica slabs I saw
7 in Australia, and I think it may be something that
8 Cal/OSHA might want to look into. My guess is that
9 Cal/OSHA does not have the authority on labeling of
10 products, but there may be other state agencies that do,
11 and that might be something to do in coordination as
12 part of the rulemaking because it's a really easy way in
13 addition to the safety data sheets that might be in
14 multiple languages that some employers might not
15 understand, you know, or really have easy access to or
16 be able to communicate that to their employees.

17 A sticker is a really easy way to do that.
18 Just a zero silica on it, and it had some testing spec
19 under it with the manufacturer. It certified that it
20 was in accordance to certain, you know, specifications
21 that were tested by an accredited lab. So it's just
22 something -- just occurred to me that there might be
23 other agencies that would have jurisdiction over
24 labeling and could be incorporated into this.

25 NATE KOLINSKI: So Bob, that's a really good

1 point. The other part we have to look at is when it
2 comes in with the label from the manufacturer, that's
3 the manufacturer saying, hey, this is good. The minute
4 we cut it off, we have a remnant that somebody has to be
5 responsible to put that other label on.

6 There's products now that get printed on the
7 back all over, which is really great until we use it for
8 an overhang, and somebody says I see all this printing
9 on the bottom. So it's a good initial thing, but it's
10 what happens with the next piece, and that should be
11 thought of, too.

12 ERIC BERG: Kristen.

13 KRISTEN CUMMINGS: Kristen Cummings from CDPH.
14 I was just thinking about what you're describing, Bob,
15 but this is already happening, that the manufacturers
16 already are testing and labeling their product, and I
17 wonder if they could sell the product with the label
18 here in California. I don't know if any of our industry
19 partners could speak to that.

20 ERIC BERG: Mark or Nate or --

21 MARTIN BERMUDEZ: I can speak to it. Thank you.
22 Yeah. In my travels throughout the country and
23 different manufacturing sites, storage sites, fab sites,
24 the vast majority of the slabs are being labeled. I
25 wouldn't say it's universally of a practice right now,

1 but certainly I'm all for the universal practice of
2 making sure that these slabs of whatever material they
3 might be are properly labeled, and then the burden isn't
4 on the employer to, you know, chop off a piece and
5 examine it and take it to the lab. They would have
6 justifiable reliance that the information stated on this
7 lab is accurate, and you know, they can commit to the
8 safety of their workers as a result of that.

9 So definitely I'm seeing a lot of progress in
10 the labeling throughout the country. I think it stands
11 to reason that California could create a separate
12 standard ultimately if it's necessary to further this
13 initiative. As I said my main concern is employers and
14 workers, that the burden of -- excuse me -- the barrier
15 of entry to have an employer send out for samples on
16 something like this is -- it's a little expensive,
17 right, as far as them being able to go on as a going
18 concern and maintain a business.

19 So definitely I want to encourage everyone
20 that I am seeing that being engaged in more as a
21 practice. Definitely a concern of mine is that it needs
22 to be a national initiative where every slab in the
23 country is properly labelled and identifies the contents
24 of it, whether it's -- if it has silica, what percent.
25 If it has feldspar or, you know, other different kinds

1 of material in it, it should be expressed quite
2 accurately. So fully support that.

3 ERIC BERG: Thank you.

4 Anyone else? Anyone online, John?

5 THE MODERATOR: At this time not online.

6 ERIC BERG: Okay. I guess we'll go to the next
7 bullet. You want to read the next bullet, Betsy.

8 BETSY NOTH: I'd be delighted to read the next
9 bullet, Eric. Yep. That's right. Methods the employer
10 will use to evaluate the crystalline silica content and
11 material type -- artificial stone, granite, marble,
12 quartzite, porcelain, sintered stone, solid surface, et
13 cetera -- before purchase or fabrication. And I would
14 say we've already talked some about SDS as the primary
15 method, and so if anybody wants to comment on that or
16 add a different method, I think that's good, but we've
17 probably covered the SDS approach.

18 ERIC BERG: Yeah. I think we've covered this
19 for the most part. SDS seems like the best method.

20 Okay. Any comments?

21 MARK MERIAUX: Yeah. I was just going to say.
22 We've already covered that with the recommendation for
23 SDS. So I would remove that as a requirement for the
24 employer to evaluate maybe its recordkeeping or justify
25 the materials with that SDS or a product warning labels

1 that we've probably already gone over. And hopefully
2 that's something we can come up with a universal
3 language that can be used across all products.

4 ERIC BERG: David.

5 DAVID HARRINGTON: Yeah. I mean, the other part
6 besides engineering controls and PPE that's oftentimes
7 missing in the right to know, you know, hazard
8 communication is really not very good training, if at
9 all. And there's a problem with how complex safety data
10 sheets are to begin with. They're somewhat improved
11 over what used to be the material safety data sheets,
12 but I would emphasize that there's a training component
13 that Cal/OSHA compliance CoSHO should look for
14 specifically about -- you know, especially during this
15 phaseout program, is this -- you know, does this slab
16 contain silica? What percentage, what have you.

17 So we need to be a more robust, more vigilant,
18 about the controls and what have you versus this is an
19 amorphous glass slab, et cetera, but I think a lot of
20 that never gets communicated. You know, workers
21 themselves know, oh, yeah, I'm working on marble. I'm
22 working on granite. I'm working on engineered stone.
23 But beyond that, they don't know about silica content.

24 ERIC BERG: Yeah. There needs to be a training
25 component as part of this plan.

1 DAVID HARRINGTON: Yeah. That there needs to be
2 with evidence not just, you know, say yeah, we did
3 training, but real evidence that shows that they've
4 definitely done training in the language that workers
5 understand about the content of this product, especially
6 during the phaseout. You're going to be having a mixed,
7 you know, a mixed stream of products that you'll be
8 fabricating.

9 SHEIPHALI GANDHI: I think going off that, and
10 it sounds like Cal/OSHA can make adjustments to what's
11 required on safety data sheets. And I know it may be
12 difficult to actually put a sticker on it. I'm sure if
13 you talked to Australia colleagues, they would have some
14 perspective of why they went with a sticker, but even
15 just adding, like, a front page to the safety data sheet
16 that's, like, a very easy to understand iconographic
17 would be super helpful because then you wouldn't need to
18 be able to read the safety data sheet, and the language
19 issues would go away. I think there just needs to be
20 something that's very simple that Cal/OSHA is actually
21 able to have some control over, and maybe it is the
22 safety data sheet.

23 ERIC BERG: Like a short summary?

24 SHEIPHALI GANDHI: Sure. Not even in English.
25 Yeah. Something that says, like, a zero. I don't know.

1 I think that you probably need to talk to people that
2 know how to do health communication or communication
3 better than me, but I just -- or even look at what
4 Australia did with their sticker. But just have
5 something that doesn't -- is very simple that -- like a
6 yes or no quickly for shop owners and fabricators. I
7 think it is worth it. I mean, it should be what we're
8 trying to do in the entire occupational health and not
9 just this, but I think it would make a huge difference.

10 ERIC BERG: Dr. Hammond.

11 KATHERINE HAMMOND: Kathy Hammond, UC Berkeley.
12 You know, I like the idea of a lay summary, in essence a
13 pictorial lay summary, but it occurs to me there could
14 be a problem, given that as my tablemate said, that
15 natural products have high levels of silica. And the
16 complexity then of understanding that, and our
17 understanding that it's more than just the silica
18 content. It's the particle size. It's the other
19 materials there that are the problematic in the
20 artificial stone.

21 So I think we should -- for the sake of the
22 employers, I think it's important to say what the
23 percent silica is and show that it's the Cal/OSHA rules,
24 but for the -- I think it could be a miscommunication to
25 employees -- unless it has to be more than one simple

1 number. So I'm just presenting problems, not solutions
2 here.

3 ERIC BERG: Well, we can all brainstorm on
4 different ideas on how to do this best.

5 THE MODERATOR: We do have a hand raised online.

6 ERIC BERG: Okay. Go ahead. Thanks.

7 THE MODERATOR: We have a hand raised from Micah
8 Aberson.

9 Micah, go ahead.

10 MICAH ABERSON: Hi. Good afternoon. Hopefully
11 you can hear me. This maybe goes towards the end of the
12 conversation in the meeting today, but I wonder, Eric,
13 if you can address the anticipated timeline of next
14 steps. You mentioned putting together a draft rule for
15 discussion and setting another advisory committee to
16 discuss that rule. I'm just wondering if you can offer
17 any perspective on when you anticipate those things will
18 happen. Thank you.

19 ERIC BERG: Yeah. I can't provide exact dates,
20 but the next steps will be -- I mean, we'll use all the
21 data we gather here, accept written comments, and post a
22 proposed draft emergency regulation and get comments on
23 that. And then revise that and then take it to the
24 Standards Board for their approval or denial and move
25 forward with the emergency regulation.

1 So I would anticipate we'd propose a draft in
2 the next month or maybe two months because it's not
3 completely under my control so I can't say exactly, but
4 as soon as possible I would have a draft idea of a
5 regulation posted and get people's comments on that.
6 And we could also have another meeting like this over
7 that -- depends on the timing -- and after the emergency
8 regulation's in place, we could also have another
9 meeting like this to get further feedback for what's
10 working, what's not working.

11 BETSY NOTH: And there's, if you search online
12 or on the Cal/OSHA website, there's a step-by-step --
13 not a timeline per se, but an order in which all of the
14 steps for the emergency rulemaking take place. So you
15 could also access that. I don't have a way of dropping
16 that into the chat, but --

17 ERIC BERG: You mean the administrative --

18 BETSY NOTH: Yeah. The Office of Administrative
19 Law version. Yeah.

20 ERIC BERG: Yeah. If you Google Office of
21 Administrative Law, emergency rulemaking, it kind of has
22 a step-by-step process.

23 BETSY NOTH: And some of those have times
24 attached.

25 ERIC BERG: Yeah. That has specific timelines,

1 but I don't recall what they are, but before we start
2 that process we'll have a discussion draft that people
3 can look at and review and give comments on before we
4 start that process.

5 THE MODERATOR: We have an additional commenter
6 online. Jim Hieb would like to make a comment.

7 JIM HIEB: Yeah. Following up, Eric, on the
8 outline that you just provided, and again, whatever time
9 period you allow industry to draw down inventories, so
10 forth, so forth, and we know that's not going to make
11 everybody happy, but let's just assume you give industry
12 6 months, 12 months. Whatever it is, when does that
13 clock start? Does that clock start once the Board
14 accepts the emergency standard?

15 Could you kind of walk through because a lot
16 of today's conversations were set a date so we know and
17 we can plan accordingly. Kind of further on what you've
18 already identified. You have two months. You have
19 public comment. You pull this group back together. The
20 Board gets together sometime this fall. They vote on
21 it. When's that clock start for that time period?

22 ERIC BERG: Yes. First of all, say it has an
23 exact time, like you can't use this product or can't
24 fabricate this product to, say, six months, just as an
25 example. That time would start as soon as it gets

1 published Title 8 by the Office of Administrative Law.

2 So the Board votes on it. I think it's five
3 or ten days. I can't remember, but it would be on the
4 OAL website, but that's when the time would start
5 ticking down. So it's a few days after the Board vote,
6 and it's actually part of Title 8.

7 BETSY NOTH: And as far as what the specific
8 dates are, that would be enumerated in our reg.

9 ERIC BERG: Yeah.

10 BETSY NOTH: Yeah. It wouldn't be, like, in six
11 months, and then you would have to calculate it. It
12 would say, you know, December 1st or whatever.

13 ERIC BERG: Yeah. We could put an exact date
14 because we could put in the proposal, we would say in
15 brackets OAL insert six months after the effective date
16 of this regulation. And so they would write in the
17 dates like March 27th, 2027. You write in there so
18 you'd have an exact date, whatever number we come up
19 with, so there would be no doubt.

20 And then comment.

21 BOB HARRISON: Bob Harrison. I'm going speak
22 with my UCSF occupational medicine hat. Having treated
23 thousands of patients and read thousands of safety data
24 sheets to try to find out what's in those products that
25 could be causing the health problem in my patients, they

1 range from really poor to really outstanding depending
2 on the manufacturer, and they can be really hard to find
3 by the way. Just, you know, thank goodness for the
4 internet, but even with the internet they can be really
5 tough to even dig out.

6 So I would encourage Cal/OSHA, if we're going
7 to rely on the hazard communication standard as a way to
8 communicate the silica content and the risk to
9 employees, that there might be some need to communicate
10 with HazCom standards specifically around the
11 crystalline silica content of engineered stone and
12 whether it needs to be clear and prescriptive with some
13 language from manufacturers, you know, maybe either
14 required or suggested that could make this uniform so
15 that when a material safety data sheet is developed by
16 dozens of manufacturers around the world, they have some
17 guidance.

18 ERIC BERG: Thank you.

19 Any comment?

20 DON SCHINSKE: I was just going to say what Dr.
21 Harrison said, but I think just in general in terms of
22 the issue of labeling, really all that needs to be
23 known, right, is whether fabrication is allowed or not
24 allowed. So I think the labeling itself could be pretty
25 simple.

1 ERIC BERG: Thank you.

2 Any other comments? Nate.

3 NATE KOLINSKI: I feel dense because I need
4 another clarifying question, and there's nobody that
5 wants to get on the freeway more than I do so I
6 apologize in advance. But maybe Dave -- I know one of
7 you guys can say -- Cal/OSHA only has authority over
8 employers with employees, correct? Because I've sent in
9 dirt shops, and they've gone in. They say we can't do
10 anything because nobody's an employee. They're
11 independent contractors or it's an owner owns it.

12 So I keep going back to this. Product is
13 going to be available for sale in California, but only
14 restricted to people that have employees, right? So a
15 lot of these companies right now that these lawsuits are
16 coming from, the guys that are getting sick are working
17 in a shop not classified as employees, and OSHA doesn't
18 have any regulatory action that they can take with them.

19 So I don't think that this is going to take
20 care of the whole problem. I think it's going to shift
21 the problem back to those guys. So I really think if
22 you're going to do a product ban, it can't just be
23 fabrication and installation. It has to be, you can't
24 buy this product in California. Otherwise how does it
25 work?

1 ERIC BERG: I mean, that's our goal, right. We
2 do our part. We show leadership.

3 NATE KOLINSKI: But right now the guys are
4 getting around the laws by not following the laws,
5 right. So you don't have control over these companies
6 that are using independent contractors and saying, oh,
7 that guy, he's not an employee. And that's a big part
8 of this underground industry that we've been talking
9 about so it's scary to me.

10 ERIC BERG: We show leadership by prohibiting
11 fabrication of this product. Other organizations, we're
12 optimistic, would follow us that would affect these
13 other factors.

14 NATE KOLINSKI: But you've already shown
15 leadership by the 2016 federal laws, the ETS. I mean,
16 it is very, very strict regulations right now to do
17 this. And we say we got guys that aren't complying with
18 it. I don't think you're going to end up with another
19 army of enforcement guys to be able to do this. I think
20 we're just going to switch it to an even darker
21 underground economy.

22 ERIC BERG: I think a prohibition is different
23 because we're prohibiting basically touching of a
24 product. It sends a pretty strong message that this
25 product is really dangerous. Don't mess with it, like

1 asbestos. OSHA has very, you know, detailed regulations
2 on handling asbestos, but it wasn't until, like, the EPA
3 took up the banning it -- I think that the last ban was
4 very recent, like 2024. That really, you know, even
5 though OSHA had leadership on it, other agencies also
6 picked up and banned it, and other organizations took up
7 on that. So I think we show this product is not safe to
8 work with. No one should work with it. We can only do
9 employees, and we reach out to other organizations that
10 can affect others.

11 NATE KOLINSKI: Well, the licensing program to
12 make it so nobody can get it if they're not following
13 the laws and putting the responsibility on the person
14 selling the product and heavy fines. I mean, I've told
15 the manufacturers, this should be a \$5 million fine if
16 you sell it to somebody that's not following the laws,
17 and they went, whoa. But it needs to be enough that
18 they won't do it, but if we don't choke off the supply,
19 I think we're going a lot of really good stuff, but it's
20 not going to have the effect that we want to see.

21 ERIC BERG: I mean, you could still have a
22 certification program for countertop manufacturing in
23 general. It doesn't have to just be for one product.
24 So we could have this ban, and secondary to that we
25 could have a certification program that only fabricators

1 that are certified can make countertops.

2 NATE KOLINSKI: Would OSHA support that?

3 ERIC BERG: I support that. Yeah.

4 NATE KOLINSKI: Is this recorded?

5 ERIC BERG: I can't speak for the whole
6 organization right now, but I would support that in
7 discussions.

8 We should take a break, though, right.

9 THE MODERATOR: Can we take one more comment?
10 We have one hand raised.

11 ERIC BERG: Jordan.

12 JORDAN UTER: So we banned drunk driving, and
13 yet people still drive while drunk. That doesn't
14 necessarily mean that we shouldn't ban drunk driving.

15 ERIC BERG: I think it's less if we hadn't
16 banned drunk driving, it would be worse. So it's
17 definitely a good move. I agree.

18 Dave.

19 DAVID HARRINGTON: Well, I think you need to
20 have a lot of tools in the toolbox, as they say, and
21 layered in is, for example, who knows about future
22 leadership in the governor's office, but if you know if
23 you have department of labors standards and enforcement
24 doing sweeps with Cal/OSHA like we used to do, right, in
25 garment and in some of these other industries where you

1 have this thing where clearly there's an
2 employer/employee relationship, but everybody's quote, a
3 contractor, you know, that's the kind of thing in the
4 toolbox you want to employ to try to address of some of
5 this underground economy. Whether or not it's
6 custodians in L.A. or it's garment or it's countertop
7 shops. So you know, I would anticipate that that's
8 something that could be utilized down the road.

9 ERIC BERG: Yeah. It's a good point. We have
10 the labor enforcement task force, which addresses the
11 underground economy, which could -- with this
12 prohibition it'd be much simpler for them to implement
13 rather than what we have now.

14 DAVID HARRINGTON: Thank you.

15 THE MODERATOR: We have two hands raised online.

16 ERIC BERG: All right. Go ahead.

17 THE MODERATOR: Jim Hieb would like to make a
18 comment.

19 JIM HIEB: Yeah. Eric, I just -- I think many
20 of us continue to find it disappointing that we can't
21 sit down even with -- fabricators and get the product.
22 I just would really encourage you to be open that we
23 could quickly have that conversation because many of us
24 believe that's the route we need to go. Control the
25 supply chain. Only the qualified fabricators can get

1 it. Licensure is really something that needs to be
2 talked about seriously. Thank you.

3 THE MODERATOR: Eric, we have two more hands
4 raised. Do we have time for those?

5 ERIC BERG: Yeah. Sure.

6 THE MODERATOR: Okay. Peter Dominguez would
7 like to make a comment.

8 PETER DOMINGUEZ: Yeah. This is really quick.

9 ERIC BERG: Okay. That was quick.

10 THE MODERATOR: Mr. Dominguez, could you redo
11 that? For some reason your microphone muted.

12 PETER DOMINGUEZ: Oh. I'm sorry. Yeah. It
13 says that it got muted, and then unmuted. All right.
14 Regarding on this bullet of notifying in a language
15 employers understand, I'd recommend Cal/OSHA publish
16 Spanish language materials rather than requiring each to
17 figure out what that's going to be.

18 THE MODERATOR: Very good. And our last hand
19 raised at the moment is Brian Peregrina.

20 BRIAN PEREGRINA: Yeah. I've been listening all
21 day back and forth to everything's that's going on, and
22 I see that the host and Cal/OSHA, we're basically
23 focused on banning the product because at the end of the
24 day it's easier to do that than implement licensing and
25 certifications and make sure that the fabricators are

1 taking the safety measures to make sure we have, you
2 know, good fabrication.

3 So I think licensing is something that we need
4 to explore like Jim was saying. I represent a
5 manufacturer, brand new manufacturing out of Texas,
6 which we are also exploring and very soon releasing
7 silica-free products, but that's not even going to do --
8 not even going to tickle the supply chain.

9 I do think licensing, it's very important. If
10 we have to license an electrician, HVAC, for them to be
11 able to do their job, I think licensing shops should be
12 a thing. That way we get rid of those people that are,
13 you know, fabricating out of the backyard. It's easier
14 for a fabricator to go to wet cutting and wet grinding
15 than, you know, them ban all the products that they
16 already have.

17 THE MODERATOR: There are no additional hands
18 raised.

19 ERIC BERG: Okay.

20 Oh, Martin.

21 MARTIN BERMUDEZ: Just one more thing before we
22 break. Thank you, Eric. What I wanted to mention is as
23 it relates to the standard that your -- that these
24 efforts are looking to create, let's say an employer
25 meets all of your requirements -- you know, I'm going

1 though all the subsections of Item 6 specifically --
2 does that indemnify them against a catastrophic lawsuit
3 or workers' comp claims or injury claims, potential
4 affliction of emotional distress, all of that? I just
5 want to know hypothetically what that looks like, what
6 that world would look like. Does that indemnify them or
7 not?

8 ERIC BERG: Yeah. I'm not an attorney. Sorry.

9 MARTIN BERMUDEZ: Right. Nor am I.

10 ERIC BERG: Title 8 works like any other title
11 or regulation. These are requirements employers have to
12 follow to keep employees safe, and Cal/OSHA enforcement
13 will do inspections to enforce that. I don't know
14 anything else. Sorry.

15 MARTIN BERMUDEZ: That's fine. I just wanted to
16 make sure it's on the record and that we discussed it.
17 Thank you.

18 ERIC BERG: Jordan.

19 JORDAN UTER: There is a thing called contract
20 law where you can contract with the manufacturer and
21 decide amongst yourselves who is indemnifying who in
22 that regard. So that's not a situation for Cal/OSHA to
23 handle.

24 ERIC BERG: Okay. We all good to take a five,
25 ten minute or so?

1 BETSY NOTH: I think at least ten.

2 ERIC BERG: Ten-minute break. All right.

3 Thanks, everyone.

4 (Recess.)

5 ERIC BERG: Okay. We'll get started. Everyone
6 okay? All right. There was four additional bullets. I
7 think we pretty much covered them all. I'll just review
8 them quickly. There was the methods employers use to
9 evaluate the crystalline silica content. We covered
10 that.

11 Methods the employer will use to identify
12 approved replacement products. So that's talking about
13 the amorphous silica or the recycled glass.

14 Methods to document the crystalline silica
15 content. We've already talked about that, the SDS.

16 Methods to document the material type of all
17 products at the worksite. So material type means
18 natural stone versus porcelain versus sintered stone
19 versus solid surface.

20 And then the last bullet is method to notify
21 and inform all employees in a language understood by
22 employees that fabrication of artificial stone
23 containing crystalline silica is dangerous to life and
24 health and that its use will be prohibited at the
25 worksite by the effective date of the prohibition. So I

1 think that goes to David a little bit about training,
2 but we probably need more than that for training.

3 Any comments on these last bullets? I think
4 we've covered most of it but just in case. If not,
5 we'll go on to question 7. Betsy, you want to read 7 or
6 should I read 7?

7 BETSY NOTH: I'm happy to read 7. What kind of
8 support or regulations, et cetera, are needed for
9 workplaces handling waste or unwanted inventory?

10 NATE KOLINSKI: None.

11 ERIC BERG: Okay. Any other comments?

12 So any online comments, John?

13 THE MODERATOR: We do have a hand raised from
14 Peter Dominguez.

15 ERIC BERG: Okay. Go ahead, Peter.

16 PETER DOMINGUEZ: All right. Hi. So I'm
17 guessing this would fall under this question. It
18 doesn't appear on the agenda, but of the question of
19 repairs, cutouts, a demolition of previously installed
20 artificial stone, it's going to continue on for many
21 years from now, you know, regardless of a quartz ban.

22 Australia to my knowledge it permitted work on
23 pre-installed quartz, you know, subject to some safety
24 requirements. So I think it ought to be an explicit
25 provision that on remodeling and TI that otherwise

1 would become legally ambiguous and work that would kind
2 of go underground. So if we have some warranty call an
3 a quartz product, that we're able to go out and repair
4 it under the right circumstances.

5 I think this is a -- you know, it's going to
6 be a limited case. I would caution against opening this
7 up too much to become another loophole, but I think it
8 needs to be addressed in any rulemaking.

9 ERIC BERG: Okay. Thank you.

10 Jordan.

11 JORDAN UTER: Jordan Uter with Worksafe. We are
12 struggling to understand the relevance of this question
13 considering the goal so to move this emergency standard
14 forward. This doesn't feel like something that we
15 should be focused on discussing.

16 ERIC BERG: Martin.

17 MARTIN BERMUDEZ: Thank you, Mr. Berg. I just
18 kind of want to read the following statement as it
19 relates to Item Number 7. The question is what kind of
20 support, regulations, et cetera are needed for
21 workplaces handling waste or unwanted inventory.

22 I just want to say real quickly that before I
23 make the statement that this would require the creation
24 of a vertical that doesn't exist yet as far as the
25 accumulation, transport, disposal of this material

1 artificial stone because artificial stone is not
2 classified as RCRA hazardous waste. RCRA meaning
3 Resource, Conservation, and Recovery Act, and that's
4 under the purview of the EPA. Cal EPA is also
5 California's vehicle whereby RCRA is enforced.

6 Because artificial stone is not classified as
7 RCRA hazardous waste, the existing hazardous waste
8 remediation industry is neither equipped nor positioned
9 to manage disposal of this material. New industries
10 will need to be created specifically to handle
11 collection, recycling, and disposal of artificial stone
12 and unwanted inventory.

13 Since no remediators currently serve this
14 vertical, Cal/OSHA and the State should account for the
15 infrastructure gap when considering any transition
16 timeline and should support the development of this new
17 capacity through appropriate permitting, licensing, and
18 waste characterization guidance. Thank you.

19 ERIC BERG: Thank you, Martin.

20 Yes.

21 ANNEKE FLEMING: Again, this is Anneke. I'm
22 reporting on the results of research my partner and I
23 did with the Occupational Health Internship Program.
24 The shops that we spoke to requested disposal assistance
25 and clear instructions for handling leftover engineered

1 stone slabs. We learned that shops pay for the cost of
2 slab disposal, which for larger shops was not considered
3 to be a huge burden, but for smaller shops constituted a
4 significant cost to them. And that included the cost of
5 transport to disposal facilities and also the labor
6 involved in smashing and breaking down the slabs so that
7 they could be transported to the waste facilities and
8 disposed of.

9 Particularly, as I said for small shops
10 there's concern the cost would be significant, and we
11 advocate, if possible, for financial assistance to aid
12 shops with their disposal shops with their disposal
13 costs. And we did speak to one shop that was concerned
14 that in the future waste facilities may stop accepting
15 engineered stone slabs. That's not something that's
16 currently been a problem, but Cal/OSHA should discuss a
17 plan to aid in slab disposal in the case that that does
18 happen. Thank you.

19 ERIC BERG: Okay. Thank you.

20 Any online comments, John.

21 THE MODERATOR: There are none at this time.

22 ERIC BERG: Question 8, looks like we already
23 covered that. It's how should products be tested and
24 certified once a prohibition is in place. I think we
25 already discussed that using the SDS sheets. So we can

1 go to question -- okay.

2 Mark.

3 MARK MERIAUX: Thanks, Eric. Mark with the
4 Natural Stone Institute. Standardized testing protocol
5 has yet to be developed. One needs to be developed that
6 uses a controlled means for sawing equipment, diamond
7 matrix, rim speed, the distance from which the sample is
8 taken, the sample collection method. If testing is done
9 in an actual fab shop, there would be too many variables
10 and too many background measurements in influencing from
11 other activity.

12 So our recommendation would be that testing be
13 done at the source, either from samples from the
14 distributor or manufacturer, and that testing be
15 performed by third party agency separate from the
16 company -- from the manufacturer.

17 ERIC BERG: Okay. Thank you.

18 Anything else on that? Are we going to
19 question 9? It's kind of similar. That says, what
20 testing protocols should be required before a substitute
21 material is marked as a safer alternative?

22 So I guess this is where the products used,
23 the amorphous silica from recycled glass and other
24 sources of amorphous silica exhibit the same thing as
25 what Mark just said. Set up third party testing or

1 using the SDSs, as we discussed before.

2 Anything else on that before the, I guess, the
3 noncrystalline silica product?

4 MARK MERIAUX: Yeah. It was similar to a
5 previous question. When a protocol is developed to
6 satisfy question 8, that protocol should also be able to
7 proofing new or alternate materials.

8 ERIC BERG: Okay. Thanks.

9 Go ahead.

10 ELIZABETH FIELDING: Hi. This is Elizabeth from
11 OHIP. I just wanted to discuss -- we don't have specific
12 recommendations for testing protocols, but we wanted to
13 share the public health experts we spoke with during our
14 project. The amorphous silica is a safer product than
15 the high-silica engineered stone and is not associated
16 with silicosis, but we do recommend further research
17 into the safety of fabricating amorphous silica products
18 and the engineering controls and PPE necessary to work
19 with them specific to the fabrication industry.

20 All of the shop owners we spoke with stated
21 that they intended to use the same safety concerns as
22 they had with high-silica engineered stone when working
23 with amorphous silica products due to their expectation
24 of continuing to fabricate silica-containing natural
25 stones in their shop such as granite or quartzite. We

1 advocate for the safety controls currently required when
2 working with high-silica engineered stone continue to be
3 used when working with amorphous silica until more data
4 on its safety to fabricate and install is available.
5 And projects should continue to be tested to ensure they
6 contain less than one percent crystalline silica.

7 ERIC BERG: Okay. Thank you.

8 Anything else on that one? Martin.

9 MARTIN BERMUDEZ: We're speaking to number 9,
10 correct?

11 ERIC BERG: Yeah. Number 9.

12 MARTIN BERMUDEZ: Okay. Great. The question's
13 own phrase, safe alternative is the assumption that ISFA
14 asked this body to examine further rather than just
15 accept. No protocol exists today that would let a
16 material earn that label which is precisely why safer
17 low silica and silica free are at present marketing
18 claims rather than a verified status.

19 A substitute should have to earn a safer claim
20 through standardization, validated testing, and those
21 claims as of right now are currently unregulated and
22 inconsistent across the market nationally. A low bulk
23 silica figure does not by itself mean safe fabrication,
24 something that I would ask this body to consider further
25 also. Thank you.

1 ERIC BERG: All right. It's a good point.
2 Maybe a countertop made out of asbestos, that would not
3 be not be good even if it's silica free. So yeah, we
4 recognize that.

5 And question 10 is kind of the same question
6 again. So apologize for multiple repetitions. 10 is
7 what documentation is needed to demonstrate material
8 type -- artificial stone versus natural stone,
9 porcelain, sintered stone, solid surface, et cetera --
10 and crystalline silica content.

11 So I think that's a repeat of the previous
12 question. On documentation, I think we came up with the
13 SDS is the best documentation to use for that. I don't
14 know if there's any other, but that seems like the best.

15 Mark.

16 MARK MERIAUX: Yeah. Sorry. My team did work
17 up a response for this one, but since this done does
18 mention natural stone specifically. Natural stone, if
19 needed to be characterized by type of natural stone with
20 granite, quartzite, marble, soapstone, et cetera --
21 would require in-depth petrographic analysis of the
22 material, which is rather time consuming, usually six to
23 eight weeks, and a costly process. About \$1,500 per
24 specimen or sample.

25 If only the silica content's composition is

1 what's needs to be known to comply with regulatory
2 language, that could be established with XRD, our x-ray
3 defraction testing, which usually is much faster, two to
4 three weeks, and more economical, sub \$500 ballpark.

5 Last note was third party companies
6 specializing in these tests should be utilized. We have
7 our own test lab, and we can assist companies that might
8 need that in the future, reaching out whether members or
9 not. Third party testing facilities are critical that
10 they're not affiliated with the manufacturer so there
11 wouldn't be falsified test data.

12 ERIC BERG: I guess when we said material type,
13 natural stone, we just want to distinguish natural stone
14 from artificial stone. So it wouldn't be matter if it's
15 granite or marble or soapstone. We just want it, is
16 this natural stone or is this artificial stone.

17 MARK MERIAUX: Okay. We weren't clear if you
18 were recommending the same in-depth silica content
19 requirements for natural stone as would be for the
20 manufactured products.

21 ERIC BERG: Well, let's say the prohibition on
22 artificial stone and crystalline silica goes in place,
23 they could say this product -- they have a product. Oh,
24 this is natural stone, and then the crystalline silica
25 doesn't matter. So how do we, when Cal/OSHA goes in to

1 enforce that, and the fabricator says, oh, this is all
2 natural stone, how do we make sure that it's actually
3 natural stone and not artificial stone disguised as
4 natural stone? So I guess that's kind of a challenge.

5 MARK MERIAUX: We do this type of testing on
6 natural stone currently, the petrographic analysis, the
7 mineralogy.

8 ERIC BERG: Okay.

9 MARK MERIAUX: Occasionally. Not very
10 frequently, but that's why we're recommending having a
11 similar process in place for both materials if one
12 exists. I don't know if they use the same --

13 ERIC BERG: Is there a simpler way to find an
14 artificial stone that's disguised? Like a counterfeit
15 natural stone that's really an artificial stone?

16 MARK MERIAUX: I wish there was.

17 ERIC BERG: Okay.

18 MARK MERIAUX: I wish there was, but I don't
19 know of one.

20 ERIC BERG: Because I think that would be a way
21 that someone would try to escape. It's like, oh, this
22 is not artificial stone, this is natural stone. Yeah.
23 And then the silica, they'd be allowed to use it even if
24 it has a high silica content. So we're kind of looking,
25 well, how do we make sure people don't kind of exploit

1 that? So that's kind of the idea of the question. I
2 guess if that's the only test to really determine if
3 it's not natural stone or not sintered stone.

4 MARK MERIAUX: Well, the petrographic or
5 mineralogy would do a more in-depth analysis of all the
6 minerals and components present in the material, where
7 the XRD would be used to determine the silica content.
8 That was our point.

9 ERIC BERG: Okay. Just wanted to see if you
10 could look at it and say, no, this is not natural stone.

11 So Nate, you can just look at it and tell.

12 Kristen, you have a comment.

13 KRISTEN CUMMINGS: Kristen Cummings from CDPH.
14 I'm just wondering. Is there a way to test for the
15 resins?

16 ERIC BERG: Yeah. The resin's in there. So
17 natural stone would have the resins, right?

18 MARK MERIAUX: Less than one percent is used as
19 a surface treatment, but --

20 ERIC BERG: For natural stone.

21 MARK MERIAUX: Yeah.

22 ERIC BERG: But for artificial stone has a lot
23 of resin. So is there an easy way to test for that?

24 MARTIN BERMUDEZ: Well, if I can comment on
25 that. It can be tested with the application of solvents

1 to destroy the resin. Like carbon dating, the sample
2 would have to be destroyed in order to establish the
3 chemical composition of it or at least reach a
4 reasonable conclusion about it that has resins in it.
5 That's just my Chemistry 101 talking, not as a
6 representative of ISFA.

7 But if I can comment further on Item
8 Number 10, I'm encouraged as I mentioned earlier by the
9 labeling of slabs in the industry, whether they're
10 engineered stone, natural stone, porcelain, you name it.
11 There's a marked improvement of it. Would I say that
12 the industry is self-governed as it relates to labeling?
13 Certainly not. It has a ways to go, but it is
14 improving.

15 I believe that the documentation should be
16 standardized, verifiable, generated upstream so that it
17 can be relied upon downstream by fabricators and
18 designers and homebuilders, et cetera. The organizing
19 principle behind the logic to this is the documentation
20 should originate with the parties who know what the
21 formulation is -- the manufacturers and importers -- so
22 that the downward flow of this material can be
23 verifiable via audit.

24 It could be a licensing agency. It could be a
25 licensed -- excuse me -- an industrial hygienist or an

1 ISO 45001, auditor occupational health and safety. All
2 of that has yet to be determined. A small fabrication
3 shop should be able to rely upon in good faith on that
4 upstream certification rather than being held liable for
5 undisclosed content. So again, it kind of harkens back
6 to the importance of detailed adequate universally
7 accepted labeling on these materials.

8 ERIC BERG: We can rely on the SDS for this,
9 too. The SDS will identify if it's natural stone or a
10 type of artificial stone. So maybe we also rely on the
11 SDS for this.

12 MARTIN BERMUDEZ: If need be, I think because
13 these slabs are getting cut, the next person working on
14 that slab needs to know the composition of that slab as
15 well. So certainly, a lot of thought and discussion
16 needs to go into the labeling practicing here and
17 outside of California as well.

18 ERIC BERG: Okay. Thank you.

19 Any other comments on question 10?

20 THE MODERATOR: No hands are raised online.

21 ERIC BERG: All right. Any other comments or
22 questions or anything?

23 Nate?

24 NATE KOLINSKI: Yeah. I was wondering if the
25 Board members are watching this or involved in this at

1 all or is there a transcript that they look at?

2 ERIC BERG: Yeah. John will put the video
3 recording. We'll link to it on this web page, and we'll
4 ask for a transcript. So we'll post that, and that'll
5 be part of our emergency rulemaking to include that
6 transcript.

7 NATE KOLINSKI: Then any comment would be I was
8 really, I guess, surprised or misinformed that the
9 product would still be available for sale in California,
10 but that people that are following the regulations
11 wouldn't be able to use it. And there was a few
12 analogies today. I was thinking about it's kind of like
13 everybody here has a car, and if your particular car
14 brand was -- the State said, you know what, you can't
15 drive that car anymore. You have to get another car,
16 but it's still going to be sold. Now you have to go out
17 and buy another car. You can't use your perfectly good
18 car.

19 That's what the kitchen and bath dealers are
20 going to have to deal with. That's what the fabricators
21 are going to have to deal with, and I think if State
22 comes up with that kind of thing -- whether it's OSHA or
23 whatever -- I think the State should come through and
24 give relief to the fabricators that want to comply with
25 it, right.

1 So we talked ability inventory. We talked
2 about displays. We talked about a lot of things today
3 that as a fabricator that advocates employee safety and
4 has helped other fabricators improve the safety for
5 their employees, that's the part that we're just kind of
6 getting swept to the side and saying, yeah, but you're
7 going to incur all the costs on this.

8 So I really hope that OSHA, Cal/OSHA, the
9 Board members take that into consideration and look at a
10 way to get relief to not just the fabricators but
11 anybody in that countertop business because we talked
12 about hundreds of thousands of dollars in displays and
13 samples, and I would bet it's a \$100,000,000 cost, this
14 stopping the engineered quartz in California. I bet
15 it's \$100,000,000 in cost to private business.

16 ERIC BERG: Okay. Thank you for that.

17 Another comment.

18 DON SCHINSKE: Yeah. No. It's on not on our
19 list for today, but in the event you're seeking input on
20 the subject of penalties, it seems to me that, you know,
21 whether it's strictly civil or criminal will make a
22 difference in a few different ways. Obviously, if a
23 violation or a second violation or so forth is a
24 criminal offense, obviously, you have then local law
25 enforcement involved with helping enforcement of the

1 gray economy.

2 And also that would -- it seems to me having a
3 criminal penalty, at some point might be more effective
4 with bad operators than a simple fine that they may or
5 may not be able to pay anyway. So we don't have an
6 organization. We just simply haven't talked about what
7 a penalty should look like, but I think that's part of
8 the mix of having an effective regulation as well.

9 ERIC BERG: Thank you.

10 Another comment.

11 KIMBERLY BRAYTON: Dr. Kimberly Brayton of
12 Brayton Purcell LLP. A general comment that it's a
13 logical fallacy to suggest that because a regulation
14 can't solve everything, that it therefore can't solve
15 anything. Relevant to the building industry, a brick is
16 not a wall. It's just a brick, but unless you start
17 assembling the bricks, you will never have a wall.

18 In the ten weeks since May 20th and May 21st
19 meeting, CDPH has confirmed 45 new cases, which to
20 Katherine Hammond's point is certainly an undercount.
21 I've heard it said that we need to stop the bleeding,
22 and it seems to me that's a very apt phrase, not just
23 because the consequences of delay are mortal and dire,
24 but also because almost all bleeding can be stopped with
25 application of enough pressure.

1 In facing the next ten weeks and the next ten
2 weeks after that, we need pressure and we need urgency
3 and action, and I hope with these necessary next steps
4 -- the drafting, the comment period, the revisions -- we
5 pull in the timelines wherever possible as if lives
6 depend on it because they do. That's all.

7 ERIC BERG: Thank you. Yep. Cal/OSHA is just
8 one piece of solving this very terrible problem we have,
9 silicosis. So thank you.

10 Mark, go ahead.

11 MARK MERIAUX: During the OHIP meeting there was
12 a mention for a potential science subcommittee or
13 advisory committee as well. Have you gotten any further
14 in that, and if so, how will those members or folks be
15 invited or selected?

16 ERIC BERG: Yeah. If you look at the decision,
17 it mentions, I guess, multiple advisory meetings. It
18 doesn't mention anything about science per se, but yeah.
19 We plan on having additional --

20 MARK MERIAUX: Maybe it was Alioto directly that
21 mentioned that.

22 ERIC BERG: Yeah. I think it was a draft.
23 There was a draft decision before they adopted the
24 decision, the final decision, but they do mention
25 multiple committee meetings. So we can do one.

1 I mean, there's nothing holding us back. We
2 don't have any dates or times set up yet. Get started
3 on this emergency process first and then do that. Okay.

4 Anything else?

5 THE MODERATOR: We have a hand raised online
6 from Peter Dominguez.

7 ERIC BERG: Okay. Go ahead, Peter.

8 PETER DOMINGUEZ: I guess, further to what Mark
9 has said, too, if a science committee is convened, what
10 kind of, you know, influence on the rulemaking process
11 would it have, you know, aside from any other input from
12 the stakeholder? Is it a real committee with any kind
13 of power or is it -- and I thought there was in the
14 official ruling that there was going to be a science
15 committee, but could you give some more clarification on
16 what kind of a committee that would be and what
17 influence they many might have?

18 ERIC BERG: I can read the decision if you like
19 but --

20 PETER DOMINGUEZ: No. I don't need -- but just
21 more broadly.

22 ERIC BERG: Yeah. We haven't made any decisions
23 on that yet. So right now we're working on the
24 emergency, and we'll work on that later, but we have to
25 do the emergency first, emergency rulemaking.

1 THE MODERATOR: There are no additional comments
2 online.

3 ERIC BERG: Any other questions or comments here
4 in the room? If not, we'll adjourn and go home or go
5 other places.

6 All right. Thanks very much, everyone.
7 Really appreciate all the input. So we'll be posting a
8 link to the video and transcripts, and any written
9 comments, we'll also post those. So thanks.

10 (The meeting adjourned at 3:23 P.M.)
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1 REPORTER'S CERTIFICATION

2
3 I, the undersigned, a Certified Shorthand
4 Reporter of the State of California, do hereby certify:

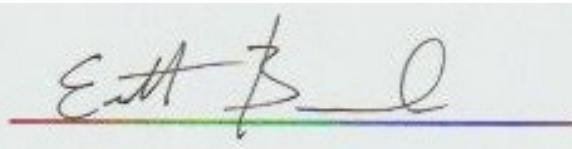
5 That the foregoing proceedings were taken before
6 me at the time and place herein set forth; that any
7 witnesses in the foregoing proceedings, prior to
8 testifying, were duly sworn; that a record of the
9 proceedings was made by me using machine shorthand, which
10 was thereafter transcribed under my direction; that the
11 foregoing transcript is a true record of the testimony
12 given.

13 Further, that if the foregoing pertains to the
14 original transcript of a deposition in a federal case,
15 before completion of the proceedings, review of the
16 transcript [] was [] was not requested.

17 I further certify I am neither financially
18 interested in the action nor a relative or employee of any
19 attorney or party to this action.

20 IN WITNESS WHEREOF, I have this date subscribed
21 my name.

22 Dated: OCTOBER 7, 2026

23
24
25

Emmett Barnard, CSR No. 14529

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