

STATE OF CALIFORNIA

DEPARTMENT OF INDUSTRIAL RELATIONS

OCCUPATIONAL SAFETY & HEALTH STANDARDS BOARD

PUBLIC MEETING AND BUSINESS MEETING

In the Matter of:                    )  
April 15, 2021 OSH                    )  
Standards Board Meeting            )  
\_\_\_\_\_)

TELECONFERENCE

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

THURSDAY, APRIL 15, 2021

10:00 A.M.

Reported by:  
E. Hicks

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## APPEARANCES

### BOARD MEMBERS:

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

### BOARD STAFF PRESENT AT OSHSB OFFICE IN SACRAMENTO:

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

### BOARD STAFF PRESENT VIA TELECONFERENCE AND/OR WEBEX:

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

### DIVISION STAFF PRESENT VIA TELECONFERENCE AND/OR WEBEX:

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

### TKO STAFF:

John Gotcher  
Brian Monroe  
Rey Ursery  
Maya Morsi  
John Roensch

## APPEARANCES (Cont.)

### INTERPRETERS:

Susana Haikalis, Spanish Language Interpreter  
Esther Hermida, Spanish Language Interpreter  
Estella Moll, Spanish Language Interpreter

### PUBLIC COMMENT:

Paul Dimeo, Aquarium of the Pacific  
Andrew Solomon, California Science Center Foundation  
George Peterson, Director of Dive Programs/Monterey Bay Aquarium and member  
of the Article 152, Diving Operations Advisory Committee  
Helen Cleary, Phylmar Regulatory Roundtable  
Alex Daniels, Stuntmen's Association of Motion Pictures  
Chris Moulton, Contract Services (representing the motion picture studios)  
Sarah Wiltfong, Los Angeles County Business Federation  
Darrell Smith, Daniel C Salas Harvesting Inc.  
Rob Moutrie, Calchamber  
Maggie Robbins, Worksafe  
Michael Donlon, representing himself

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2 40 P R O C E E D I N G S

3 APRIL 21, 2021

10:02 a.m.

4 CHAIR THOMAS: Good morning. This meeting of the Occupational Safety  
5 and Health Standards Board is now called to order. I am Dave Thomas, Chairman, and  
6 the other Board Members present today are Ms. Barbara Burgel, Occupational  
7 Health Representative; Ms. Kathleen Crawford, Management  
8 Representative; Mr. David Harrison, Labor Representative; Ms. Nola  
9 Kennedy, Public Member; Ms. Chris Laszcz-Davis, Management  
10 Representative; and Ms. Laura Stock, Occupational Safety  
11 Representative.

12 Also from our staff for today's meeting are Ms. Christina  
13 Shupe, Executive Officer; Ms. Autumn Gonzalez, Chief Counsel; Ms. Sarah  
14 Money, Executive Assistant; and Mr. Michael Nelmidia, Senior Safety  
15 Engineer, who is providing technical support.

16 Supporting the meeting remotely are Mr. Michael Manieri,  
17 Principal Safety Engineer; Ms. Lara Paskins, Safety Service Manager; Mr.  
18 David Kernazitkas, Senior Safety Engineer; and Ms. Jennifer White,  
19 Regulatory Analyst.

20 Via teleconference, we are joined today by Mr. Eric Berg,  
21 Deputy Chief of Health, representing the Division of Occupational Safety  
22 and Health.

23 If you have not already done so, we ask that you email  
24 oshsb@dir.ca.gov to provide your name and contact information, which  
25 will become a part of the official record for today's proceedings. Today's

6

1 agenda and other materials related to today's proceedings are posted  
2 on the OSHSB website.

3 In accordance with the Executive Orders N-29-20 and N-33-  
4 20, the April Board Meeting will be conducted via teleconference, with  
5 an optional video component.

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

10 We have limited capabilities for managing participation  
11 during public comment periods, so we're asking everyone who is not  
12 speaking to place their phones on mute and wait until they are called on  
13 to speak.

14 As reflected on the agenda, today's meeting consists of two  
15 parts. First, we will have a public meeting to receive public comments or  
16 proposals on occupational safety and health. Anyone who would like to  
17 address any occupational safety and health issues, including any of the  
18 items on our business meeting agenda, may do so at this time. Members  
19 of the public who have contacted staff either by email or phone and  
20 asked to be placed in the public comment queue will be called on in turn.  
21 Additionally, those joining via WebEx may ask to join the queue via the  
22 chat function.

23 The WebEx chat function is monitored exclusively by staff  
24 and is only available to send requests to join the public comment queue.  
25 It is not a method for providing public comment to Board Members.

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

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

11 Board staff can be contacted by email at [oshsb@dir.ca.gov](mailto:oshsb@dir.ca.gov) or  
12 via phone at 916-274-5721 to be placed in the comment queue. If you  
13 experience a busy signal or are routed to voicemail please hang up and call  
14 again.

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

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

1 the Board on variance matters.

2 At this time, anyone who would like to comment on any other  
3 matters concerning occupational safety and health will have an opportunity  
4 to speak.

5 For our commenters who are native Spanish speakers, we are  
6 working with an interpreter, Susana Haikalis, to provide a translation of  
7 their statement into English for the Board. At this time, Ms. Haikalis will  
8 provide instructions to the Spanish-speaking commenters, so that they are  
9 aware of the public comment process for today's meeting.

10 Ms. Haikalis, Good morning. Go ahead.

11 INTERPRETER HAIKALIS: Good morning and thank you.

12 [Reads The Following In Spanish] Public Comment Instructions.

13 "Good morning, and thank you for participating in today's  
14 Occupational Safety and Health Standards Board public meeting. Board  
15 Members present are Mr. Dave Thomas, Labor Representative and Chairman;  
16 Ms. Barbara Burgel, Occupational Health Representative; Ms. Kathleen  
17 Crawford, Management Representative; Mr. David Harrison, Labor  
18 Representative; Ms. Nola Kennedy, Public Member; Ms. Chris Laszcz-Davis,  
19 Management Representative and Ms. Laura Stock, Occupational Safety  
20 Representative.

21 "As reflected on the agenda, today's meeting consists of two  
22 parts. First, we will hold a public meeting to receive public comments or  
23 proposals on occupational safety and health matters. Second, after the  
24 public meeting has concluded, we will conduct a business meeting to act on  
25 those items listed on the business meeting agenda.

1 "We have limited capabilities for managing participation  
2 during the public comment period. We are asking everyone to keep their  
3 phones and WebEx audio on mute until your name is called to address the  
4 Board. Please remember to mute again after you have finished commenting.

5 "Please note that the WebEx chat function is not a method for  
6 providing public comments to Board Members. Board Members will not  
7 consider or respond to any messages delivered via the chat function, nor will  
8 such comments become part of the official rulemaking record.

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

13 "Please listen for your name to be called for comment. If you  
14 have not provided a written statement, please allow natural breaks after  
15 every two sentences so that we may follow each statement with an English  
16 translation."

17 CHAIR THOMAS: Thank you, Ms. Haikalis.

18 Mr. Gotcher who do we have any commenters in the queue?

19 MR. GOTCHER: Our first commenter is Paul Dimeo from the Aquarium  
20 of the Pacific.

21 CHAIR THOMAS: Paul, are you with us?

22 MR. DIMEO: Yes, I am. Good morning.

23 CHAIR THOMAS: Good morning, go right ahead.

24 MR. DIMEO: Well, my name is Paul Dimeo. And I am the Dive Safety  
25 Officer for the Aquarium of the Pacific down in Long Beach. And I'm one of the

1 representatives of the 16 California zoo and aquariums, which conduct diving  
2 operations. So to begin, I would like to thank the Board for allowing this rulemaking  
3 process of developing a technical diving exemption to occur. I would also like to thank  
4 the Board staff for their commitment to working with us to put it all together.

5 Back in August of 2017 I stood before you and requested the Horcher  
6 process be delayed allowing technical diving stakeholders the opportunity to work with  
7 you to maintain some of the existing California dive regulations. And you did.

8 The culmination of that work over the past three-and-a-half years is this  
9 rulemaking you're voting on today. And the California zoo and aquarium industry fully  
10 supports it and encourages the Board to vote to approve.

11 Now that the state has adopted the federal regulations for commercial  
12 diving, this rulemaking will protect specific dive regulations that the original Article 152  
13 provided technical diving for the past 40 years in our specialized environments. And by  
14 approving this rulemaking, you will allow those California industries outside the clearly  
15 defined scope of commercial diving to continue to operate as they have been with their  
16 exemplary safety records.

17 We have been following these exemptions for years and years and we  
18 know that they work and we know that they are safe.

19 Without the approval of this rulemaking, the dive operations for your  
20 largest stakeholders, the zoo and aquarium dive industry, they will fundamentally  
21 change. And they will become less safe for our employees and much more costly for  
22 our institutions with zero safety benefit.

23 We strongly encourage you to vote yes for this rulemaking and continue  
24 the long tradition of California being a leader and an innovator for safe diving operations  
25 in the United States.

1                   With that I'll yield the screen, but I'll be available if there are any  
2 questions. And thank you.

3                   CHAIR THOMAS: Thank you, Paul. We appreciate it.  
4                   Who's up next on the queue, Mr. Gotcher?

5                   MR. GOTCHER: Our next commenter is Andrew Solomon from the  
6 California Science Center Foundation.

7                   CHAIR THOMAS: Andrew, can you hear us? Remember to unmute  
8 yourself. I can see you, Andrew. I think you're still muted. Can't hear you yet. Yeah,  
9 we're having a problem, John.

10                  MR. GOTCHER: So it looks like you are using a headset. You may need to  
11 change your --

12                  MR. SOLOMON: Can you hear me now?

13                  MR. GOTCHER: Yeah.

14                  CHAIR THOMAS: Yeah, go right ahead. There you go.

15                  MR. SOLOMON: Perfect. Good morning, my name is Andrew Solomon.  
16 And I'm the Diving Safety Officer and Boating Safety Officer for the California Science  
17 Center in Los Angeles. I also served as an advisory committee member to the Standards  
18 Board for the proposed amendments to technical diving operations.

19                  First and foremost, I want to take this final opportunity to thank the  
20 Standards Board for allowing our community's voice to be heard throughout this entire  
21 process. And for all the work your department does to adopt and maintain standards  
22 that ensure the safety of California workers across all sectors.

23                  The proposed safety orders for commercial and technical diving  
24 operations that are being considered today for adoption, is the culmination of a process  
25 that began in June of 2017. Not only do these proposed regulations preserve the

1 important technical diving definition, but for the first time in the history of  
2 occupational diving regulations this definition is expanded to formally recognize one of  
3 this industry's largest stakeholders: zoos and aquariums.

4 For over a decade the California Science Center's diving operations has  
5 followed the regulations for technical diving, demonstrating that they are safe, and at  
6 least as effective as the federal regulations.

7 In closing, we strongly encourage the Standards Board to vote yes to  
8 adopting these proposed amendments. Again, thank you for your time and  
9 consideration.

10 CHAIR THOMAS: Thank you, Mr. Solomon. We appreciate your  
11 comments.

12 Who's up next, John?

13 MR. GOTCHER: The next commenter is George Peterson who is the  
14 Director of Dive Programs at the Monterey Bay Aquarium and a member of the Article  
15 152 Diving Operations Advisory Committee.

16 CHAIR THOMAS: Are you with us, Mr. Peterson?

17 MR. PETERSON: I am.

18 CHAIR THOMAS: Here you go, go ahead. Please.

19 MR. PETERSON: All right, thank you. Well, as the gentleman said my  
20 name is George Peterson and I am the Director of Dive Programs at the Monterey Bay  
21 Aquarium for almost the last 20 years. And I'm currently the President of the American  
22 Academy of Underwater Sciences Foundation. And as stated earlier, I've been lucky  
23 enough to be a member of the technical diving advisory committee set up by this Board  
24 three-and-a-half years ago.

25 And I'll keep my comments brief today, but I would like to first thank the

1 Board and the staff for allowing us to comment today. And also for setting up a very  
2 transparent and responsive process for stakeholders. It's truly a testament to your  
3 ability to create a safe environment for workers here in the state of California.

4 Now, I urge you today to vote yes on the rule before you. Zoo and  
5 aquarium dive programs represent the largest group engaging in technical diving  
6 operations in the state of California. And by approving the amendments set before you,  
7 you'll not only make our industry safer, but you'll alleviate unnecessary economic  
8 hardship. California will remain the national leader in innovative and safe occupational  
9 safety regulations for technical diving. My own institution has followed them for almost  
10 30 years. They work and they're safe.

11 So again, I urge you to vote yes on the amendment before you and thank  
12 you very much for your time.

13 CHAIR THOMAS: Thank you, Mr. Peterson. We appreciate your  
14 comments.

15 John, who do we have in the queue?

16 MR. GOTCHER: Our next commenter is Helen Cleary, who is the Director  
17 of Phylmar Regulatory Roundtable.

18 CHAIR THOMAS: Helen, can you hear us?

19 MS. CLEARY: I can, good morning. Can you hear me?

20 CHAIR THOMAS: Yes, go right ahead, Helen.

21 MS. CLEARY: Okay, good morning to Board, staff, Chair Thomas. Thank  
22 you for the opportunity to speak today. My name is Helen Cleary, the Director of the  
23 Phylmar Regulatory Roundtable Occupational Safety and Health Forum, known as PRR.  
24 Our members are EHS professionals responsible for the health and safety of collectively  
25 over 1 million workers.

1                   First, we would like to acknowledge the hard work and dedication of the  
2 Division staff and its efforts during the pandemic. At the advisory committee meeting  
3 last month, Eric Berg shared that the team had been working nights and weekends; that  
4 statement did not go unnoticed nor is it unappreciated.

5                   On December 21st, the day after the 21-page COVID-19 ETS became  
6 effective, DOSH released 30 FAQs to clarify it. On January 8th, 39 more were issued and  
7 as of March 26th there are now 80 FAQs. CDC guidance continues to be updated.  
8 Governor Newsom has declared California aims to fully re-open June 15th. It is clear  
9 that the immediate action to amend the ETS is needed.

10                  Right now, PRR's biggest issues are the requirement for fully vaccinated  
11 workers to quarantine for 14 days, and the inability for critical infrastructure to reduce  
12 quarantine. CDC has released significant updates to its guidance going back to  
13 December 2020. Some of those include no quarantine or testing for people who have  
14 recovered from COVID-19 within the past 3 months, an option to reduce quarantine for  
15 asymptomatic individuals to 10 and 7 days. Fully vaccinated individuals can now visit  
16 without masks or social distancing and no quarantine is required for fully vaccinated  
17 individuals with a close contact. And yet, employers and workers in California are  
18 prohibited from following this updated science-based guidance. When employees and  
19 employers ask why, the only response is that Cal/OSHA requires it.

20                  As far as we understand, next month's Board meeting is the soonest  
21 amendments could be adopted. This will be two months after CDC updated quarantine  
22 requirements for vaccinated individuals, and only a month before California is set to  
23 open. Today, we urge the Board to number one, ensure that the Division provides the  
24 Board with the requested report that was outlined in the Board's proposed petition  
25 decision, specifically the projected timeframe to provide the Board staff with the

1 proposed amendments. The timeline given for the report was within four months of  
2 adoption, and today we are approaching five months.

3 Second, find out where the amended ETS is in the administrative review  
4 process. Prior to the text being released and re-adopted, what is required and who  
5 must review it? Will there be an opportunity for public review to potentially avoid some  
6 of current issues? Clarity on this process and the status of the ETS is needed.

7 And finally, we ask the Board to recommend that DOSH expedite the  
8 amendments, and include the CDC guidance on quarantine and testing.

9 We appreciate the complexity that the Division is navigating and we do  
10 not envy their task. However, we heard for months from Board Members, advocates for  
11 this ETS and DOSH that this is an emergency and the ETS will be revised later when  
12 necessary. Well, it is now necessary and has been for several months. The urgency to  
13 respond to a situation with an emergency standard does not just include  
14 implementation of a rule; it also includes correcting deficiencies that negatively impact  
15 California's workforce and burdens employers.

16 PRR's number one concern about having a standardized rule for COVID-  
17 19 going back to testimony in May 2020 is exactly the issue we are now experiencing:  
18 updated guidance based on new, scientific findings and no way to effectively update a  
19 standardized rule. We hope that we can learn from this experience and actively  
20 respond now, and when considering future emergency standards.

21 Thank you for your time today.

22 CHAIR THOMAS: Thank you, Helen.

23 John, who do we have up next in the queue?

24 MR. GOTCHER: Our next commenter is Alex Daniels from the Stuntmen's  
25 Association on Motion Pictures.

1 CHAIR THOMAS: Alex, can you hear us?

2 MR. DANIELS: Yes, hi. Can you hear me okay?

3 CHAIR THOMAS: Yes, go right ahead.

4 MR. DANIELS: Hi, thanks. Yes, as you said I'm Alex Daniels. I'm the  
5 President of the Stuntmen's Association of Motion Pictures, a Guide Master and Stunt  
6 Coordinator who I often work within the entertainment industry coordinating water  
7 shoots and underwater shoots.

8 I just wanted to address the dive operation guidelines and possible  
9 consideration for the entertainment industry as we are often in rather extenuating  
10 circumstances when it comes to diving in enclosed environments, and creating our own  
11 currents. And the enclosed environments most often being environments that we  
12 fabricate in dive tanks such as a shipwreck, or a lava tube, or a cave and that sort of  
13 thing that we are simulating.

14 For us, it's rather problematic in using tethers on our divers that are on  
15 camera, simply because it's -- well, number one, normally we don't want to see the lines  
16 on camera and then it's problematic to try to shoot around it or remove it. But more  
17 importantly, it is a safety concern, because we are often simulating chases between  
18 divers, fight scenes, other acting or stunt-type scenarios in which one or more or  
19 multiple tether lines could become quite an entanglement issue and a safety risk.

20 For example, I was involved with a number of years ago a motion picture  
21 called "After The Sunset" with Pierce Brosnan, Salma Hayek and Woody Harrelson, all of  
22 which were certified divers. And all shooting these scenes as well as their stunt doubles.  
23 And we had fabricated a shipwreck in a tank that we called Fantasy 2 that existed out in  
24 Sun Valley here in California. And we fabricated a shipwreck with a number of rooms  
25 that one diver had to chase the other through. And of course, to photograph it we had

1 a third diver, a camera operator who's also following or going alongside. If they had all  
2 been on tethers it would have been a serious safety risk for entanglement and so forth.

3 And we normally set up other guidelines for safety that have always  
4 worked for us and that is that there is a safety diver for each performer that is on  
5 camera. And also, since we are on camera we of course are monitoring all of the  
6 performers, all the divers, at the same time but through the monitors topside. So this is  
7 one of our major concerns with that.

8 And also, we often created -- which I did on years of doing the Baywatch  
9 TV show and Baywatch movies -- created currents, and lava tubes, caves. I personally  
10 have created fight scenes with David Hasselhoff where we're struggling as divers. If we  
11 had been wearing tethers during that inside a simulated shipwreck, it would have been  
12 (indiscernible) we most certainly would become entangled. And it would have been  
13 problematic.

14 So just these are basically my anecdotal comments on this issue. And I  
15 appreciate you guys listening, thank you.

16 CHAIR THOMAS: Thank you, appreciate your comments.

17 Who do we have up next in the queue, John?

18 MR. GOTCHER: Our next commenter is Chris Moulton, Contract Services  
19 representing the motion picture studios.

20 MR. MOULTON: Good morning, Chair Thomas. (overlapping colloquy)  
21 Yes, can you hear me?

22 CHAIR THOMAS: Good morning, yes.

23 MR. MOULTON: Good morning, yes. Again, my name is Chris Moulton. I  
24 work at Contract Services and today I'm speaking on behalf of the motion picture  
25 studios. We are in support of proposed sections of the GISO under title 8 section 152

18

1 for commercial and technical diving standards. Particularly, we strongly support the  
2 exceptions for film and TV industry therein. Voting to adopt these portions of the GISO  
3 will allow the motion picture industry to continue to perform safe underwater work that  
4 serves a vital function for our industry.

5 Work that we've done for several decades under Section 6051 for  
6 definitions. It's important to include a definition for film and TV diving as underwater  
7 work in the industry is categorically different from open water work performed in other  
8 industries.

9 (indiscernible) industry can simulate open water dives, but dives take  
10 place in our industry in a controlled environment with multiple safety precautions  
11 overseen by trained professionals. Our dives take place primarily in large pools or in  
12 large dive tanks, sometimes in natural environment, but that environment is also  
13 controlled.

14 Under section 6056 for basic operation there is an exception to perform  
15 dives in currents in greater than one knot. We can perform these types of dives because  
16 we control the current and can quickly decrease the current if there's a hazard present  
17 during that dive.

18 And you've heard an example from Alex Daniels. I've worked with  
19 another dive expert, John Garvin, (phonetic) who informed me his work on Avatar 2 his  
20 work with James Cameron, said the actors on this production have routinely worked in  
21 currents exceeding 1 knot in a studio tank. The current was generated by giant water  
22 movers, and over 1,000 dives were successfully and safely performed.

23 Also in section 6056 for basic operation procedures, there's an exemption  
24 of performed dives in confined spaces without a tether. This exemption is needed  
25 because dives performed in confined spaces on a motion picture production can be

1 more hazardous if a tether is used. A line can be caught on a portion of a submerged  
2 set, on a piece of filming equipment or another part of the physical production.

3 Another example Mr. Garvin informed me of was that his work on  
4 "Sanctum," performers moved through an underwater cave in a dive tank and in his  
5 opinion, the actors would have been put in increased danger if a tether was used.

6 Dives for film and television productions are guided by our Safety Bulletin  
7 Number 7. This is an industrywide guideline that is created both by labor and a  
8 management safety committee. And is adhered to in employing certified divers, use of  
9 proper equipment, and this equipment being inspected and analyzing dive  
10 environments as articulated by the safety bulletin.

11 There are legitimate creative and practical reasons why these exceptions  
12 are needed in our industry. No doubt we've all seen (indiscernible) scripted pictures of  
13 characters in dangerous underwater situations, but there's an understanding these  
14 divers are actually safer because these dives are performed in safe environments with  
15 established safety protocols.

16 My comments today are feedback on the advisory committee that was  
17 first convened in 2018 and our part in helping to create the proposed sections under  
18 consideration today have been informed by not only the dive experts like Alex Daniels,  
19 but by safety representatives from the motion picture studios.

20 Thank you for your time today and a special thank you to David  
21 Kernazitskas who has been incredibly helpful on this process. Thank you.

22 CHAIR THOMAS: Thank you, Chris. We appreciate your comments.

23 Who do we have up next, John?

24 MR. GOTCHER: Our next commenter is Sarah Wiltfong from the Los  
25 Angeles County Business Federation.

1 CHAIR THOMAS: Sarah, can you hear us?

2 MS. WILTFONG: Yes, can you hear me?

3 CHAIR THOMAS: We can.

4 MS. WILTFONG: Great.

5 CHAIR THOMAS: Go right ahead.

6 MS. WILTFONG: Thank you so much. My name is Sarah Wiltfong and I'm  
7 calling on behalf of BizFed, the Los Angeles County Business Federation. We're an  
8 alliance of over 200 business organizations who represent over 400,000 employers in  
9 Los Angeles County. And we're here to address the Cal/OSHA Emergency Temporary  
10 Standard.

11 As the largest business advocacy organization in Southern California it is  
12 imperative that Cal/OSHA adopt soon amendments to the current standard. We know  
13 that you've met with many business organizations through your advisory group to  
14 address the potential conflicts that industries are facing with the current regulations,  
15 local guidelines, and the CDC's updated guidelines. Businesses are doing their best to  
16 comply and the inconsistencies in the standards make it difficult to conduct business in  
17 an already challenging time.

18 We appreciate the exceptional amount of time that you and your staff  
19 have taken to consider certain amendments, and now is the time to act on them.

20 In addition, businesses need clarity as to what to expect coming June  
21 15th. Governor Newsom announced the potential full reopening of the economy at that  
22 time, however without any guidance or directions as to what that actually means --  
23 specifically what does the full reopening of the economy mean for the current  
24 emergency standard? In order for businesses to reopen correctly, they need time to  
25 prepare and clear expectations set. It would be helpful if Cal/OSHA, the Governor or the

21

1 Department of Health could help provide those details.

2 Thank you very much for your consideration of our comments.

3 CHAIR THOMAS: Thank you, Sarah.

4 Who do we have up next, John?

5 MR. GOTCHER: Our next commenter is Darrell Smith from Daniel C. Salas  
6 Harvesting, Inc.

7 CHAIR THOMAS: Daniel, can you hear us?

8 MR. SMITH: Oh, it's actually Darrell.

9 CHAIR THOMAS: Oh, I'm sorry Darrell.

10 MR. SMITH: No, no problem at all. I can hear you loud and clear, how  
11 about can you hear me okay?

12 CHAIR THOMAS: Sure, go right ahead.

13 MR. SMITH: Great. Great, my name is Darrell Smith and I'm a recently  
14 retired police chief after a 30-year career in law enforcement, and I now work for the ag.  
15 industry for Daniel C. Salas Harvesting, Incorporated, as the Chief Relations Officer.

16 Like the two prior speakers, my area of comment today would address  
17 the ETS and the need to go in and modify it and amend it. And I'll speak to you from an  
18 employer perspective.

19 So some of the areas where we have concerns as an agriculture employer  
20 are in the areas of vaccination status as it relates to CDC updated guidelines and the  
21 science behind the effects of COVID-19 and where we've evolved from to now. To give  
22 you an idea of the biggest concern is under the CDC guidelines vaccination status, it  
23 basically exempts folks from testing if they're fully vaccinated unless they're  
24 symptomatic. The ETS requires fully vaccinated persons to isolate, quarantine and  
25 continue testing even if the person is asymptomatic.

22

1                   So when you're talking about our industry and our particular  
2 organization and company, we have thousands of employees. And there's no difference  
3 between a company that has 10 employees or 1,000 employees when it comes to an  
4 outbreak or a major outbreak.

5                   These are areas of concern and throughout this pandemic we have done  
6 our very best to keep our employees safe. That is our highest priority. Even before  
7 testing was required with this ETS standard we actually implemented testing last year in  
8 the heat of the pandemic to keep our folks safe. So we made a very large investment,  
9 because our people are worth it, but we have some serious concerns as to how this ETS  
10 affects us to actually continue to do business, because we want to keep people gainfully  
11 employed.

12                   Some of the other areas that we have concerns are that since the ETS  
13 was implemented in November of 2020, and again I admire you and commend the  
14 Board for taking this action, because you were dealt with the pandemic. And I think that  
15 you've done everything you can to keep our employees safe. But we need to look at  
16 that policy and we need to make changes. And amend it based on where we are today  
17 in our current pandemic situation, with vaccination, with the positivity rate being at its  
18 lowest since the pandemic started in addition to the death rate and the decrease in the  
19 death rate.

20                   Again, the main areas of concern that we have are the fully vaccinated  
21 folks as it applies to CDC versus the ETS, and then the testing requirements.

22                   And in addition to that the exclusion pay. There's no end to the exclusion  
23 pay and there's no limit on how many times a person could be paid for an exposure.  
24 And even a fully vaccinated person could be paid multiple times under this current  
25 policy.

1 I've been working with our state Senator Melissa Hurtado,  
2 Assemblymember Rudy Salas and U.S. Congressman David Valadao. I have sent letters  
3 of support to amend the ETS as it currently exists. And we hope that you do so in the  
4 near future, a committee for putting together the advisory committee. And it looks like  
5 they have made some really good proposals for change, so I look forward to that.

6 And I'd be happy to answer any questions if you have them. And again,  
7 thank you for your time today and I know you guys are in a difficult position. I  
8 commend you for the decisions that you have made and we hope that you look at this  
9 ETS in the very near future and make necessary changes. Thank you again.

10 CHAIR THOMAS: Thank you, Darrell. Appreciate your comments.

11 John, who do we have up next in the queue?

12 MR. GOTCHER: Our next commenter is Rob Moutrie from Cal Chamber.

13 CHAIR THOMAS: Rob, are you with us? Can you hear me?

14 MR. MOUTRIE: Yes, I am. Thank you, Mr. Chair and Members. Hopefully  
15 you can hear me as well. I don't see him here, but I was going to congratulate Doug on  
16 his child and position, but I guess we'll have to save that.

17 First, I'd like to echo the comments of Ms. Cleary from PRR as well as two  
18 other callers: Ms. Wiltfong and Mr. Smith. On behalf of CalChamber just in the last few  
19 days I've had many members reach out to me and say, "Okay, the June 15th timeline is  
20 coming, what will that do to the regulation?" And I've, in most cases -- actually in all  
21 cases been forced to tell them, Just nothing, the regulation stands as independent law.  
22 And so as you prepare to make some changes here remember that the regulation isn't  
23 going to change.

24 And I come to you to ask about that and to seek the clarification that  
25 others have spoken of. We see it as urgent to kind of keep these things moving

1 together and so to that I wanted to ask a couple of specific questions of the Board.  
2 And maybe if staff can provide information in the meeting. Specifically, do you have an  
3 update for the timing on the upcoming round of changes? I understand it was discussed  
4 at the May -- it might be before you all in the May or June meeting?

5 (Audio interference interrupts briefly.)

6 Sorry, I think I'm getting a feedback loop off of -- thank you.

7 And second, if staff can share any information about any provisions that  
8 they expect to go in or not be there, that would also be helpful for us in planning.  
9 Because our members need to start planning as soon as possible, so they know when  
10 those are coming.

11 And then the last question that I think may be farther ahead than we  
12 want to reach, that I'd like to broach, is the issue of what happens next after the May or  
13 June revision. Because I think that science -- clearly we've seen our science has marched  
14 forward, vaccines are coming, I'm getting mine Friday, hopefully you all already are  
15 vaccinated. But after this May/June change comes we will need another set of changes,  
16 I presume, to catch up with the science in another three or four months. And so if  
17 there's any information on that I want to put that issue forward to make sure we're  
18 looking far enough down the road that we keep up.

19 So those are it. I won't take any longer given that the other commenters  
20 have spoken so well. So thank you for your time.

21 CHAIR THOMAS: Thank you, Mr. Moutrie, appreciate it.

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

23 MR. GOTCHER: There are not further commenters in our queue.

24 CHAIR THOMAS: Do we have any Spanish speakers in the queue for Ms.  
25 Haikalis?

1 MR. GOTCHER: Yeah, there's no one left in our queue right now,  
2 Spanish or English speaking.

3 MS. SHUPE: At this time if there's anyone who is participating in the  
4 meeting who did not have an opportunity to join the queue, please speak up.

5 MR. DONLON: Hi, this is --

6 MS. ROBBINS: Oh, yes -- go ahead.

7 CHAIR THOMAS: Not all at once, one at a time.

8 MR. DONLON: Maggie, you go first.

9 MS. ROBBINS: All right, thank you.

10 Hi, this is Maggie Robbins from Worksafe and --

11 CHAIR THOMAS: Hi, Maggie.

12 MS. ROBBINS: -- I would just like to join the number of people who have  
13 spoken about the need to move on changes to the Emergency Temporary Standard to  
14 update it to provide stronger guidance to employers. So there's really not much more  
15 to say than that. It's this thing we've said before, so anyway, any updates as people  
16 have requested about when we can expect to see changes, what a public input process  
17 would be, is eagerly awaited by many of us. Thank you.

18 CHAIR THOMAS: Thank you, Maggie.

19 Do we have any other?

20 MR. DONLON: Yeah, this is Mike Donlon, MD Safety Services, just  
21 representing myself today.

22 CHAIR THOMAS: Hi, Mike.

23 MR. DONLON: And I just wanted to tag on to Helen and Rob's comment  
24 and the other commenters that it's so difficult for the emergency regulation to keep up  
25 with the changing science. And hopefully, we can -- I think Helen said it best, so I'm not

26

1 going to say much more on this. Listen to Helen and Rob and the other speakers and --

2 CHAIR THOMAS: Thank you, Michael.

3 So do we have any other commenters out there at this time?

4 (No audible response.)

5 CHAIR THOMAS: Hearing none, thank you. The Board appreciates your  
6 testimony today. And the public meeting is adjourned and the record is closed.

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

10 The first one today is proposed safety orders for adoption, Construction  
11 Safety Orders sections 6051, 6056 and 6057 Commercial and Technical Diving  
12 Operations. Mr. Manieri, will you please brief the Board?

13 MR. MANIERI: Yes. Good morning, Chair Thomas and Board Members.  
14 Good morning, I want to make sure everyone can hear me clearly before I begin.

15 Chairman Thomas, Board Members, you will recall that the Board staff  
16 briefed the Board at the February 20th, 2020 public hearing on the present rulemaking,  
17 Commercial and Technical Diving Operations.

18 The present rulemaking was initiated to correct unresolved issues from a  
19 2017 effort regarding commercial and technical diving. The 2017 effort was the result  
20 of a discussion with federal OSHA regarding a complaint submitted by the Association of  
21 Diving Contractors International, or ADCI.

22 The ADCI asserted that various aspects of the California commercial  
23 diving regulations were not as protective as those corresponding ones in federal OSHA.  
24 The majority of the OSHA and ADCI concerns were resolved in accordance with the  
25 Labor Code section 142.3(a)(3), commonly referred to as the Horcher process. And as

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1 you know this allows certain rulemakings to be expedited when they contain language  
2 substantially similar to existing federal regulations.

3 The Board staff utilized the advisory committee process to develop the  
4 proposal, which took place on 9-13-18, September 13th of 2018. It's important to note  
5 that the proposal's net effect is to preserve existing diving practices in California,  
6 especially for divers in zoos, aquariums, and the film and TV industry. Performing work  
7 defined as technical diving operations and ensure at the same time that California diving  
8 practices overall are commensurate with those of federal OSHA.

9 As a result of oral and written public comment and comments by federal  
10 OSHA, Board staff reached out to federal OSHA to discuss their concerns and suggested  
11 revisions. A 15-Day Notice of Modifications resulted from these discussions and was  
12 issued by the Board on October 2, 2020, adding a document relied upon. This was the  
13 5th Circuit decision. And addressing the modification of a requirement for rendering  
14 immediate assistance to line-tended divers in the water.

15 While technical diving stakeholders are in support of the modified  
16 proposal, federal OSHA provided the Board with a letter expressing concern with the  
17 technical diving amendments. However, as I just mentioned the 5th Circuit Court of  
18 Appeals, a 5th Circuit Court of Appeals decision dated July 15, 2020. Filed on July 15,  
19 2020, in the matter of Houston Aquarium, Inc. vs. the Occupational Safety and Health  
20 Administration, allows the Houston Aquarium to perform many of the technical diving  
21 operations that are the subject of concern to federal OSHA.

22 In fact, in that decision the court actually recognized the importance of  
23 certain and very unique diving practices that are unique to technical diving operations.

24 Federal OSHA has agreed, we are aware at this point and time, they have  
25 agreed to reconsider the present proposed title 8 amendments with the 5th Circuit

1 Court decision in mind for future analysis of the federal equivalency of California diving  
2 regulations.

3 As you heard, there is substantial support from stakeholders who are  
4 affected by the proposal. And it would appear that all of the necessary moving parts of  
5 this proposal, as far as the diving subject is concerned in title 8, commercial, technical,  
6 scientific, all seem to be in their proper places at this time with these modifications.  
7 And at the same time will provide great protection, improved protection, for workers in  
8 California who engage in these occupations.

9 Consequently, given the preceding discussion and comments, the staff  
10 recommends the Board adopt the proposal as it has been modified. Thank you.

11 CHAIR THOMAS: Thank you, Mr. Manieri.

12 Are there any questions from Board Members for Mr. Manieri? (No  
13 audible response.) Seeing that there are none, Sarah, will you please call -- oh, do I have  
14 a motion first?

15 BOARD MEMBER HARRISON: Motion to approve.

16 CHAIR THOMAS: Do I have a second?

17 BOARD MEMBER STOCK: Second.

18 CHAIR THOMAS: I have a motion and a second. I believe Dave Harrison  
19 made the motion and Laura seconded it. And Sarah, can you please call the roll?

20 MS. MONEY: Ms. Burgel?

21 BOARD MEMBER BURGEL: Aye.

22 MS. MONEY: Ms. Crawford?

23 BOARD MEMBER CRAWFORD: Aye.

24 MS. MONEY: Mr. Harrison?

25 BOARD MEMBER HARRISON: Aye.

1 MS. MONEY: Ms. Kennedy?  
2 BOARD MEMBER KENNEDY: Aye.  
3 MS. MONEY: Ms. Laszcz-Davis?  
4 BOARD MEMBER LASZCZ-DAVIS: Aye.  
5 MS. MONEY: Ms. Stock?  
6 BOARD MEMBER STOCK: Aye.  
7 MS. MONEY: Chairman Thomas?  
8 CHAIR THOMAS: Aye. And the motion passes.  
9 Up next we have proposed variance decisions for adoptions. They're  
10 listed on the Consent Calendar. Ms. Gonzalez, can you please brief the Board?

11 MS. GONZALEZ: Good morning, Chair Thomas and Board Members.

12 CHAIR THOMAS: Oh, I can hear you now.

13 MS. GONZALEZ: On today's con – oh you can hear me? Okay.

14 CHAIR THOMAS: Yes, go ahead.

15 MS. GONZALEZ: On today's consent calendar we have proposed  
16 decisions A through J ready for your consideration and your possible adoption.

17 CHAIR THOMAS: Thank you, Ms. Gonzalez.

18 Is there any questions for Ms. Gonzalez before we proceed? (No audible  
19 response.) Hearing none, do I have a motion to adopt the Consent Calendar?

20 BOARD MEMBER LASZCZ-DAVIS: I so move.

21 CHAIR THOMAS: Thank you, Chris. Do I have a second?

22 BOARD MEMBER BURGEL: Second.

23 BOARD MEMBER STOCK: Second.

24 CHAIR THOMAS: I think Barbara got in first, so we'll put Barbara in the  
25 record.

1 BOARD MEMBER BURGEL: Thank you.

2 CHAIR THOMAS: That's the first second from New Jersey I think.

3 BOARD MEMBER BURGEL: (Laughing) Yeah.

4 CHAIR THOMAS: So we have a motion and a second. If there are no  
5 further questions, Ms. Money, will you please call the roll?

6 MS. MONEY: Ms. Burgel?

7 BOARD MEMBER BURGEL: Aye.

8 MS. MONEY: Ms. Crawford?

9 BOARD MEMBER CRAWFORD: Aye.

10 MS. MONEY: Mr. Harrison?

11 BOARD MEMBER HARRISON: Aye.

12 MS. MONEY: Ms. Kennedy?

13 BOARD MEMBER KENNEDY: Aye.

14 MS. MONEY: Ms. Laszcz-Davis?

15 BOARD MEMBER LASZCZ-DAVIS: Aye.

16 MS. MONEY: Ms. Stock?

17 BOARD MEMBER STOCK: Aye.

18 MS. MONEY: Chairman Thomas?

19 CHAIR THOMAS: Aye. The motion passes.

20 With that we'll go to a Division Update. Mr. Berg, will you please brief  
21 the Board? Mr. Eric? Eric Berg, are you there?

22 MR. BERG: Yes, sorry, I'm trying. I can't get my camera to work, but I'll  
23 just -- oh, it's working now. Thank you.

24 Yeah, the Board asked for an update on workplace violence and indoor  
25 heat. So for indoor heat, we've been working with the contractor that DIR hired to do

1 the SRIA. They've completed the first draft of the SRIA. They're reviewing that and it  
2 will also undergo peer review, so the final SRIA is expected to be completed by this  
3 summer. I don't know exactly when but, so that is underway right now.

4 And workplace violence, we haven't been actively working on that since  
5 COVID. We anticipate going back to that shortly. We had a draft posted two years ago  
6 and we are going to post a new draft and request comments on that. So that will be  
7 forthcoming later in the year.

8 And as far as the work on the COVID Prevention ETS, we have been  
9 working on that continuously. We are meeting with CDPH and we plan to incorporate  
10 their recommendations, which include many things discussed today about CDC  
11 recommendations regarding vaccinated people.

12 In the standard, which went into effect at the end of November was  
13 changed on December 14th by the Governor's Executive Order, which changed the  
14 quarantine periods in subsections (c)(10) and (c)(11) to what the longer of either the  
15 local health department recommendations or the California Department of Public  
16 Health recommendations are. So that was changed after it went into effect, so that is  
17 different than what's in the regulation.

18 And that remains in effect now. So the quarantine period is based on  
19 what the CDPH recommendations are.

20 That's all I have, thank you.

21 BOARD MEMBER STOCK: Eric, this is Laura. Can you be a little bit more  
22 specific about timing? When will the changes be released for public comment? When  
23 do we expect to see them in front of the Board?

24 MR. BERG: Yeah, I don't know the exact timing. We hope to finish it very  
25 -- we finished our drafts and they're under reviews. So as soon as that's completed and

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1 as soon as we're allowed to, we'll make it public. I don't know, we have to work with  
2 the Board staff to figure out the exact timing of things. But that's something we'll work  
3 on together with Board staff.

4 BOARD MEMBER STOCK: Is there any scenario in which we might have it  
5 by our next meeting?

6 MR. BERG: Yeah, that's our hope. I mean, we can't guarantee that. It's  
7 not completely in our hands, but that's our hope.

8 MS. SHUPE: So this is Christina, Executive Officer for Board staff and I  
9 just want to say that at this point the Board staff does not have the draft.

10 CHAIR THOMAS: I think we anticipate having it toward the end of April,  
11 maybe?

12 MS. SHUPE: In order to have this in time for the May agenda, we would  
13 have to receive it by Wednesday of next week.

14 CHAIR THOMAS: So we will keep you posted.

15 Any other questions for Eric?

16

17 BOARD MEMBER LASZCZ-DAVIS: This is Chris. Maybe just a comment, it  
18 doesn't sound -- and I realize this is a tremendous effort to try to integrate the changes  
19 suggested during the advisory committee meetings that occurred during December. But  
20 it doesn't sound like given the impending June 15 opening that we'll have an ETS that  
21 will have been reviewed and vetted by the public as well. Am I correct in that  
22 assumption, Eric?

23 And I get the second half of that is so operationally what happens? What  
24 guidance is available to employers if that's the case?

25 MR. BERG: So are you asking when we can post it, so it's publicly

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1 physical, the draft?

2 BOARD MEMBER LASZCZ-DAVIS: Well, no no. My first question was it  
3 doesn't sound like given the workload that the ETS in a revised form will be available for  
4 a June 15th opening; or am I wrong? Am I misunderstanding the process?

5 MR. BERG: We hope to have it by the next Board meeting, but it's --

6 CHAIR THOMAS: I think if we have it by the next Board meeting, which is  
7 May --

8 MR. BERG: May 20th.

9 CHAIR THOMAS: So 20th, I don't know how long. It should be posted by  
10 June 15, right?

11 MS. SHUPE: So if we have it in time to put it on the May agenda, we  
12 would post the draft language with the agenda. So the public would have that  
13 opportunity to review it before the Board votes. Once the Board votes in May, it would  
14 then be sent to OAL and would become effective upon filing.

15 BOARD MEMBER LASZCZ-DAVIS: All right, tight timeline, but appreciate  
16 the timeline.

17 CHAIR THOMAS: That's the best-case scenario at this point.

18 MS. SHUPE: However, it's important to keep in mind that if the Board  
19 recommends additional revisions, that that would push that timeframe back.

20 BOARD MEMBER LASZCZ-DAVIS: Okay, thank you.

21 CHAIR THOMAS: Thank you, Chris.

22 Any other questions for Mr. Berg?

23 BOARD MEMBER HARRISON: I'd just like to ask Eric if you could share our  
24 congratulations with your boss, Doug Parker, on his nomination by President Biden to  
25 head up Fed OSHA. It's pretty amazing and another proud moment for California.

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1 MR. BERG: Yes. Okay, I will pass that along. Thank you. And we're very  
2 excited for Doug, it's a great opportunity for him. So we're real excited for him.

3 CHAIR THOMAS: Yes.

4 BOARD MEMBER BURGEL: I have a question as well, Eric. Do we know  
5 when the Senate confirmation hearings are. I mean, I know this is off topic, but in our  
6 congratulations to Doug it has to be confirmed by the Senate, correct?

7 MR. BERG: Yeah, nothing's been scheduled as far as I know. So it's  
8 probably a few months out, but I'm not sure how long these things take.

9 BOARD MEMBER BURGEL: Thank you.

10 CHAIR THOMAS: Any other questions for Eric?

11 (No audible response.)

12 Hearing none, Legislative Update. Ms. Gonzalez, will you please brief the  
13 Board?

14 MS. GONZALEZ: Sure, we're still monitoring a number of bills. We're in  
15 the middle of the legislative session now and things are getting busy, so we're seeing  
16 things change.

17 One bill that you'll see in your package that's changed significantly is AB  
18 257. That's the bill from Lorena Gonzalez on fast food working standards. And then  
19 we're also monitoring some Bagley-Keene related bills that could have a potential  
20 impact on the Board's meetings. And those include AB 885 and AB 1291.

21 So that's all I have.

22 CHAIR THOMAS: Thank you. Any questions for Ms. Gonzalez?

23 (No audible response.)

24 All right, hearing none Executive Officer's Report. Ms. Shupe, will you  
25 please brief the Board?

1 MS. SHUPE: Thank you, Chair Thomas.

2 I am pleased to let the Board know -- (cross-talk from online)

3 MS. SHUPE: I think we have some cross-talk.

4 BOARD MEMBER STOCK: We're having trouble hearing you, Christina.

5 MS. SHUPE: Yeah, I'm pleased to let the Board know that we will be  
6 welcoming two new members to our staff on Monday. We will be welcoming Amalia  
7 Neidhardt. She is a Senior Safety Engineer who comes to us from the Division. She has  
8 been a certified industrial hygienist for over 20 years, a certified safety professional for 9  
9 years, and is a certified Spanish-bilingual translator.

10 During her tenure at Cal/OSHA, Ms. Neidhardt has worked in  
11 enforcement, outreach and in regulatory development. I believe we're all quite familiar  
12 with her and we're all very pleased to have her. And I have sent my apologies to Mr.  
13 Berg.

14 The next staff member that will be joining us on Monday is Jennifer  
15 Bailey. She is also a senior safety engineer who is coming to us from the State  
16 Compensation Insurance Fund.

17 Ms. Bailey is a certified industrial hygienist with over 15 years of  
18 experience. She also brings with her experience gained while working as an industrial  
19 hygienist in the private sector and with the Department of Toxic Substances Control.  
20 She additionally has over 7 years of experience as an associate safety engineer in the  
21 Cal/OSHA Consultation Division. All of which is excellent background that helps our staff  
22 while they're developing regulations.

23 And we look forward to welcoming both of these exceptional  
24 professionals to the Standards Board staff.

25 BOARD MEMBER LASZCZ-DAVIS: That's fabulous.

1 CHAIR THOMAS: Yes. Any questions for Ms. Shupe?

2 (No audible response.)

3 Seeing that there are none, Future Agenda Items. Do any of the Board  
4 Members have questions for staff or items that they would like to propose for future  
5 agenda items?

6 BOARD MEMBER HARRISON: Hey, Dave? This is Dave Harrison, no  
7 questions or -- I just have a comment. I wanted to thank Board staff for their work on  
8 the commercial diving rule. This is one of those long ones and I know they put a lot of  
9 hard work into that.

10 And I also want to thank Mr. Dimeo. I know he was instrumental in  
11 working with Board staff in making sure that that rule was put together responsibly, and  
12 in the best case scenario that I saw. I just wanted to recognize Board staff and Mr.  
13 Dimeo. Thank you.

14 CHAIR THOMAS: Thank you, Dave.

15 And I wanted to just recognize Mr. John Gotcher and his crew. I feel like  
16 a radio talk show host, now that this is getting so easy that it's not even a thing. But it's  
17 really nice to be able to do it this way. And you feel like -- I've got clapping hands up  
18 there. But it's nice and it seems like we have a lot more participation, which is great.

19 And I have a feeling that as time goes on and things open up when we  
20 actually do have public meetings, that we're still going to have this. Somehow, they're  
21 going to incorporate this function into it, somehow. Because the more the participation  
22 the better, so I just wanted to give a shout out to John and his crew.

23 Anything else?

24 (No audible response.)

25 At this time we're going to go into a closed session. Is there a call-in

1 number that you have?

2 MS. SHUPE: So Ms. Money has forwarded the call-in information to the  
3 Board Members for your closed session. Just a reminder to please turn off your video,  
4 and mute your participation in the Webcast. Mr. Gotcher will also be watching for that.  
5 And we will meet you shortly in the Closed Session Teleconference.

6 CHAIR THOMAS: Yeah, and I'm anticipating that we'll be back by I'm  
7 going to say 11:20, all right? All right, so we'll go into closed session, so we're going to  
8 recess into closed session and then we'll come back at 11:20. Thank you.

9 (Off the record at 10:56 a.m.)

10 (On the record at 11:22 a.m.)

11 CHAIR THOMAS: Hello, we are back in session. I'll give everybody a  
12 chance to.

13 BOARD MEMBER BURGEL: Dave, your camera's not on. Dave Thomas.

14 CHAIR THOMAS: Okay.

15 BOARD MEMBER BURGEL: Yep.

16 CHAIR THOMAS: So we're back in session. During closed session the  
17 Board discussed the Executive Officer's position. The Board voted to grant Chair  
18 Thomas the authority to address the Executive Officer's compensation with DIR. And  
19 that was the action that was taken.

20 The next Standards Board regular meeting and hearing is scheduled for  
21 May 20th, 2021 via teleconference and video conference. Please visit our website and  
22 join our mailing list to receive the latest updates. We thank you for your attendance  
23 today. There being no further business to attend to, this meeting of the OSHA  
24 Standards Board is adjourned. Thank you.

25 (The Business Meeting adjourned at 11:23 a.m.)

## CERTIFICATE OF REPORTER

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

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

IN WITNESS WHEREOF, I have hereunto set my hand this 14th day of September, 2021.



ELISE HICKS, IAPRT CERT\*\*2176

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

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IN WITNESS WHEREOF, I have hereunto set my hand this 14th day of September, 2021.

\_\_\_\_\_



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