

STATE OF CALIFORNIA  
DEPARTMENT OF INDUSTRIAL RELATIONS

OCCUPATIONAL SAFETY & HEALTH STANDARDS BOARD  
PUBLIC MEETING AND BUSINESS MEETING

In the Matter of:                    )  
August 18, 2022 OSH                )  
Standards Board Meeting         )  
\_\_\_\_\_                                  )

IN-PERSON & TELECONFERENCE

Attend the meeting in person:

Santa Clara City Hall  
Council Chambers  
1500 Warburton Avenue  
Santa Clara, CA 95050

Attend via Teleconference & Videoconference

THURSDAY, August 18, 2022

10:00 A.M.

Reported by:  
E. Hicks

**CALIFORNIA REPORTING, LLC**  
**229 Napa Street, Rodeo, California 94572 (510) 224-4476**

APPEARANCES

BOARD MEMBERS PRESENT AT SANTA CLARA CITY HALL:

Dave Harrison, Acting Chair, Labor Representative  
Nola Kennedy, Public Member

BOARD MEMBERS PRESENT VIA TELECONFERENCE:

Chris Laszcz-Davis, Management Representative  
Laura Stock, Occupational Safety Representative

BOARD STAFF PRESENT AT SANTA CLARA CITY HALL:

Christina Shupe, Executive Officer  
Steve Smith, Principal Safety Engineer  
Autumn Gonzalez, Chief Counsel  
Lara Paskins, Staff Services Manager  
David Kernazitskas, Senior Safety Engineer  
Sarah Money, Executive Assistant  
Amalia Neidhardt, Senior Safety Engineer

BOARD STAFF ATTENDING VIA TELECONFERENCE AND/OR WEBEX:

Jennifer White, Regulatory Analyst

ALSO PRESENT AT COUNTY ADMINISTRATION CENTER:

Eric Berg, Deputy Chief of Health, Cal/OSHA  
Mr. David Wesley, A/Deputy Chief, Cal/OSHA Enforcement

TKO STAFF:

Maya Morsi  
John E. Roensch  
Kelly Priest

SPANISH INTERPRETERS:

Patricia Hyatt  
Estela Moll

APPEARANCES (Cont.)

PUBLIC MEETING COMMENTERS: (\*Online testimony)

Bruce Wick, Housing Contractors of California

Rachel van Geenhoven, Worksafe

Alex Mercier, Circle M Contractors, Inc.

\*Saskia Kim, California Nurses Association

Chris Cetin, Laurence-Hovenier, Inc.

Kevin Bland, California Framing Contractors Association,  
Residential Contractors Association, Western Steel  
Council

\*Michael Miiller, California Association of Winegrape  
Growers

\*Michael Strunk, Operating Engineers Local Union No. 3

\*Anne Katten, California Rural Legal Assistance Foundation

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P R O C E E D I N G S

1 AUGUST 18, 2022 10:00 A.M.

2 A/CHAIR HARRISON: Good morning. This meeting of  
3 the Occupational Safety and Health Standards Board is now  
4 called to order. I am Dave Harrison, Acting Chair for  
5 today's meeting, and the other Board Member present here in  
6 Santa Clara is Ms. Nola Kennedy, Public Member.

7 The Board Members attending via teleconference  
8 are Ms. Chris Laszcz-Davis, Management Representative and  
9 Ms. Laura Stock, Occupational Safety Representative.

10 Also present from our staff for today's meeting  
11 are Ms. Christina Shupe, Executive Officer; Mr. Steve  
12 Smith, Principal Safety Engineer; Ms. Autumn Gonzalez,  
13 Chief Counsel; Ms. Lara Paskins, Staff Services Manager;  
14 Mr. David Kernazitskas, Senior Safety Engineer; and Ms.  
15 Amalia Neidhardt, Senior Safety Engineer, who is providing  
16 translation services for our commenters who are native  
17 Spanish speakers.

18 Also present are Mr. Eric Berg, Deputy Chief of  
19 Health for Cal/OSHA, and Mr. David Wesley, Assistant Deputy  
20 Chief for Cal/OSHA Enforcement.

21 Supporting the meeting remotely is Ms. Jennifer  
22 White, Regulatory Analyst.

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

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

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

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

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

20 If you are participating via teleconference or  
21 videoconference, the instructions for joining the public  
22 comment queue can be found on the agenda. You may join by  
23 clicking the public comment queue link in the "Standards  
24 Board Updates" section at the top of the main page of the  
25 OSHSB website, or by calling 510-868-2730 to access the

1 automated public comment queue voicemail.

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

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

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

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



1 business meeting agenda.

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

11 For our commenters who are native Spanish  
12 speakers, we are working with Ms. Amalia Neidhardt to  
13 provide a translation of their statements into English for  
14 the Board.

15 At this time, Ms. Neidhardt, will you provide  
16 instructions to the Spanish-speaking commenters, so they  
17 are aware of the public comment process for today's  
18 meeting.

19 MS. NEIDHARDT: [READS THE FOLLOWING IN SPANISH]

20 "Good morning, and thank you for participating in  
21 today's Occupational Safety and Health Standards Board  
22 public meeting. Board Members present in Santa Clara are  
23 Mr. Dave Harrison, Labor Representative and Acting Chair  
24 for today's meeting and Ms. Nola Kennedy, Public Member.  
25 The Board Members attending via teleconference (per the

1 recently approved provisions in Senate Bill 189, Section  
2 20) are Ms. Chris Laszcz-Davis, Management Representative  
3 and Ms. Laura Stock, Occupational Safety Representative.

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

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

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

21 "If you are participating via teleconference or  
22 videoconference, the instructions for joining the public  
23 comment queue can be found on the agenda. You may join by  
24 clicking the public comment queue link in the "Standards  
25 Board Updates" section at the top of the main page of the

1 OSHSB website, or by calling 510-868-2730 to access the  
2 automated public comment queue voicemail.

3 "When public comment begins, we are going to be  
4 alternating between three in-person and three remote  
5 commenters. When I ask for public testimony, in-person  
6 commenters should provide a completed request-to-speak slip  
7 to the attendee near the podium and announce themselves to  
8 the Board prior to delivering a comment.

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

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

21 "Today's public comment will be limited to four  
22 minutes for speakers utilizing translation, and the public  
23 comment portion of the meeting will extend for up to two  
24 hours, so that the board may hear from as many members of  
25 the public as is feasible. The individual speaker and

1 total public comment time limits may be extended by the  
2 Board Chair, if practicable.

3 "After the public meeting is concluded, we will  
4 hold a business meeting to act on those items listed on the  
5 business meeting agenda.

6 "Thank you."

7 A/CHAIR HARRISON: Thank you, Amalia.

8 If there are any in person participants who would  
9 like to comment on any matters concerning occupational  
10 safety and health, you may begin lining up at this time.

11 We'll start with the first three in-person  
12 speakers and then we will go to the first three speakers in  
13 the teleconference and video conference queue.

14 MR. WICK: Good morning.

15 A/CHAIR HARRISON: Morning.

16 MR. WICK: What's your title, sir?

17 A/CHAIR HARRISON: Acting Chair.

18 MR. WICK: Acting Chair. Acting Chair  
19 (indiscernible) Board staff members, thank you for the  
20 opportunity. Bruce Wick, Housing Contractors of  
21 California.

22 Couple of comments. In last month's meeting, one  
23 of the stakeholders said there's no need for consensus  
24 regulations. And I respectfully, but completely disagree  
25 with that comment. I believe, and especially this

1 Standards Board has, year after year, shown us the value of  
2 consensus regulations.

3           What happens in consensus regulations is that we  
4 sit around a table; labor, stakeholders, management  
5 stakeholders, Cal/OSHA staff facilitates, gives input,  
6 Occupational Safety and Health experts give their input,  
7 which is really valuable. But at the end of the day, it's  
8 labor and management that come to a consensus agreement.  
9 It doesn't mean everybody agrees. It's not unanimity. But  
10 we get 95 percent of agreement at the end of the day, when  
11 we do that.

12           And that knows -- then labor knows they have  
13 discussed and gotten the best actual protection, not hoping  
14 something on paper translates to the workstation or the job  
15 site. It actually is going to work.

16           And management knows we have something that's  
17 clear. We know what compliance is and we know what  
18 compliance isn't. We can train on it and hold our  
19 supervisors and employees accountable for it. We can do  
20 enforcement. And Cal/OSHA can enforce easily because  
21 compliance and non-compliance is a clear subject. So, it's  
22 important that we do consensus regs.

23           An example of this process was with the  
24 residential fall protection, framing regulations. And I do  
25 want to give a little background and we are coming to head

1 on the issue that's been brewing for a long time. And I do  
2 want to take this opportunity also to brief the Board  
3 Members, who are not a part of the last 15 years of  
4 understanding what has happened with this process, why we  
5 in industry are frustrated.

6 And we, you know, the tremendous respect we have  
7 for Christina Shupe; for her predecessor, Marley Hart; for  
8 Board staff, you know, that try and do the right thing and  
9 Fed/OSHA has not listened. We haven't been able to get any  
10 traction from federal OSHA.

11 But this is what went on with residential fall  
12 protection in the framing regulations. For two-and-a-half  
13 years, the industry and carpenters' union members met 13  
14 different times; 13 different all-day meetings. And we  
15 said we're going to take this thing from the ground up.  
16 Every framing operation, what's the safest way to do it,  
17 all the way up. And we came up with 1716.2. Some people  
18 have said, "Well that only requires fall protection above  
19 15 feet". That's not true. We found ways to protect  
20 employees from falls, from the ground up, in many of the  
21 operations. And that's really important. And also, 15  
22 feet is just the demarcation between first story and second  
23 story work. The actual fall height is 9 or 10 feet.

24 We all agreed we do not want to follow the  
25 federal allowance, which is still allowed, of a fall

1 protection plan with a controlled access zone. No actual  
2 fall protection. Just a plan you hope somebody will be  
3 able to monitor and do something about it. We don't want  
4 that. We've never wanted it. And we got rid of it with  
5 our 1716.2.

6           What happens if you go to six feet like the feds  
7 are proposing? We've seen this, with some general  
8 contractors nationally who say, "We want six feet in  
9 California". And what happens, employees start working off  
10 of ladders, instead of platforms. Far less safe, more  
11 unsafe. Employees will tie off -- framing, you're building  
12 the structure all the way up. You, at many places you  
13 don't have anything to tie off except at your feet. So if  
14 a six-foot employee falls off a nine-foot edge, they have  
15 no protection if they're tied off at nine feet. And that's  
16 a serious problem, because people will say that's  
17 compliance with a six-foot regulation.

18           It's also not correct to say that our fall  
19 protection is not at least as effective. Because our  
20 enforcement here in California is far more effective than,  
21 in my opinion and I believe that's true, than federal OSHA  
22 states. Federal OSHA is generally responsive to accidents.  
23 We don't want to wait until the accident. We make  
24 complaints and Cal/OSHA follows that up.

25           Kevin Graulich, who is on the Zoom, was our best

15

1 field enforcement officer. And he knows. He heard from  
2 both labor and management reporting violators, because you  
3 can see violations of 1716.2 from the street, from the  
4 freeway. And he would go and correct those people before  
5 the accident happened. Our enforcement is something we  
6 should be proud of, and say that's part of why we're at  
7 least as effective.

8           And we do want to respond to the revised draft  
9 that was just released. And again, our comments are in  
10 great respect to this Board and its staff and you Board  
11 Members. This is, as from what we can discern, us and  
12 federal OSHA at odds, but you are now going to be in the  
13 middle of that argument.

14           Federal OSHA hasn't responded to our discussions  
15 of what we covered in those 13 days. We've asked for  
16 meetings. In November of 2015, we were supposed to have a  
17 meeting where we walked through all of that. Federal  
18 OSHA's Director of Construction came and said, "Fifteen  
19 feet is higher than six feet, end of story, I have a plane  
20 to catch". He left. That's bad governance. You don't  
21 even want to listen to what we and carpenters spent all  
22 that time figuring out? You won't even listen?

23           That was a problem. He showed up in January to  
24 this Board, and said, "I'll issue a 30-day notice on you if  
25 you don't capitulate today to what I want." That --



1           A/CHAIR HARRISON: If you can mute yourself if  
2 you're participating virtually, we would appreciate it.  
3 Sorry, Bruce, go ahead.

4           MR. WICK: No problem. That's worse governance.  
5 Coming and saying I haven't listened to you, but you're  
6 going to do what I say. And do it now. And end of  
7 discussion.

8           Then we had a meeting in May, with some of the  
9 Fed/OSHA folks. And we tried, again, to say this is why  
10 all these parts of framing operations are better under  
11 1716.2. Don't tell employees ladders are okay. Don't tell  
12 them a fall protection plan is okay. Don't tell him to tie  
13 off at nine feet and you'll be safe. And the answer was,  
14 "We want you to change the number 15 to 6. That's what we  
15 want".

16           So, then we move forward to 2019. And a SRIA was  
17 done based on that agreement. And it was done by BEAR.  
18 And the researcher called me and said, "I don't really know  
19 anything about construction, but I'm doing the Standardized  
20 Regulatory Impact Assessment for you." I said, "Wow". So  
21 Kevin Bland and I really tried to help them understand  
22 framing, and construction, and roofing that's included, and  
23 they issued the SRIA. And I sent a response.

24           We need to understand Department of Finance  
25 reviews those, but not the data. Not the industry

1 understanding or not. They just say, "Did you follow  
2 economic procedures in your analysis?" And so they aren't  
3 going to say this is right. This is good information.

4 That SRIA said the first year of these fall  
5 protection changes of the 2016 agreement would cost  
6 \$200,000 net, because of the supposed benefits. The actual  
7 number was \$108 million. They were that far off. In the  
8 letter I showed 15 different things they needed to revise.  
9 I would really hope that we tell BEAR, they need to fix  
10 their SRIA at no cost, because they need to get it right.

11 This is important, you as Board Members need to  
12 make informed decisions. And I discussed in that SRIA  
13 response, we have a housing affordability crisis in  
14 California. Anything that affects residential work is  
15 going to impact that even worse. So we need to know  
16 there's a benefit to this that's discernible. And that was  
17 true in 2019.

18 Then we get the new revised proposal that I  
19 appreciate. Again, it's good governance. This Board, this  
20 staff gives us transparency, respectful dialogue. To see  
21 what's being proposed from federal OSHA, it is worse. More  
22 costly, and drives people even more to unsafe compliance  
23 measures.

24 So, we hope you will -- we can get an accurate  
25 SRIA done. That you can make an informed decision. It

1 wouldn't take BEAR very long at all, they could just follow  
2 my letter. Look at those 15 things and say, "Let me get  
3 this right". But then even then, they have to now redo it  
4 with the new proposal, because it makes significant changes  
5 over what came out of the advisory committee in 2016.

6           And, you know, it's just been frustrating that we  
7 haven't been able to get anybody at Fed/OSHA to engage.  
8 We'll appeal to the administration, to anybody who can help  
9 us do this. Because it'll be a very sad day for us, if you  
10 as a Board have to vote for a regulation that is far less  
11 safe, for our workers who build housing that is so needed  
12 in California. Thank you.

13           MS. VAN GEENHOVEN: Good morning, Board Members.  
14 My name is Rachel van Geenhoven with WorkSafe. We  
15 appreciate the work of Cal/OSHA to protect California  
16 workers during the pandemic via the COVID-19 emergency  
17 temporary standard. And we also understand the need to act  
18 fast to ensure continued COVID-19 workplace protections in  
19 the '20 to '23 to '24, via the two-year standard while work  
20 progresses on an ATD standard for general industry.

21           What we do not understand is the removal of  
22 exclusion pay as a key element of workplace safety during  
23 the continued workplace spread of this transmissible  
24 disease. Public health data is clear. The burden of this  
25 pandemic has fallen, and will continue to fall most

1 heavily, on California's essential workers. And the  
2 removal of exclusion pay will only worsen this harsh  
3 reality.

4           As Chief Killip told this Board in April and I  
5 quote, "Most workers do not have the option other than  
6 being at work in order to feed and house their families.  
7 Workers must continue to be at the workplace even if it  
8 means risking serious health dangers, such as getting  
9 COVID-19 infection. Workers should not bear all the costs  
10 for doing what is needed to prevent the spread of infection  
11 in the workplace".

12           Unfortunately, COVID is not over and vaccines are  
13 not the panacea we once thought they would be. Public  
14 health officials are warning against becoming complacent  
15 and treating COVID as a thing of the past. Allowing  
16 exclusion pay to expire represents exactly that for our  
17 state's most marginalized workers. Instead of looking for  
18 an endpoint to the pandemic, California workplaces must  
19 come to grips with the fact that there is no sign of a post  
20 COVID world. And as such, we have to strengthen our  
21 defenses in the long term.

22           At this time, the plan seems to be keeping the  
23 requirements to keep positive COVID cases out of the  
24 workplace while throwing out the requirement to pay workers  
25 who are excluded from the workplace when sick. Think about

1 the kind of harrowing choices this will force upon our  
2 frontline workers. Do I protect others from the virus or  
3 protect my family from getting evicted? Do I hide my  
4 symptoms and put others at risk of illness or speak up and  
5 risk they will be forced to stay home and miss out on a  
6 vital paycheck?

7 Over 10 million Californians have gotten sick  
8 from COVID, 93,000 have died. And studies show that almost  
9 7 of every 10 Covid deaths nationally, during the first  
10 year, were low-income adults. Mostly workers of color. We  
11 urge you not to cut off this lifeline for those struggling  
12 the most in this state.

13 Supplemental paid sick leave is not a replacement  
14 for exclusion pay. That program is expiring, and we  
15 support its extension. But supplemental paid sick leave  
16 covers a broader set of reasons a person may need to be out  
17 of work, including childcare and caring for a sick  
18 relative.

19 Exclusion pay is specific to work-related COVID  
20 cases and is crucial to preventing additional workplace  
21 exposures and reducing the burden on those who can least  
22 afford to bear it.

23 Thank you for your support to keep workers safe.

24 A/CHAIR HARRISON: Thank you.

25 MR. MERCIER: Good morning, Board Members. My

1 name is Alex Mercier. I'm a Vice President and Principal  
2 of Circle M Contractors. We are a production residential  
3 framing contractor in Southern California.

4 My father started in the industry in 1957 and  
5 founded his first framing company in 1974. And had input  
6 on the current 1716.2 in the early 2000s that the gentleman  
7 spoke of earlier.

8 Since 2010, Circle M had framed approximately  
9 12,500 residential units. 1716.2 has been our standard for  
10 nearly 20 years. It is understood by our supervisors and  
11 all of our carpenters. Enforcement is clear and  
12 straightforward.

13 Whoever drafted this new regulation does not  
14 appear to have a good understanding of framing activities.  
15 As drafted, this regulation is dangerous for our  
16 carpenters. For the sake of compliance this regulation  
17 would affect virtually every framing operation it takes to  
18 construct a home.

19 My company's two most serious accidents were  
20 installing fall protection devices and equipment. This  
21 regulation would increase the number of steps to frame a  
22 home, increase the number of man hours to frame a home,  
23 increase the use of ladders to frame a home. In short, it  
24 is more dangerous, and I liken it to swimming with a  
25 straight jacket on. Thank you.

1 A/CHAIR HARRISON: Thank you.

2 At this time, we'll go to online commenters.

3 Ms. Morsi, who are our first three remote commenters in the  
4 queue?

5 MS. MORSI: The first one is Saskia Kim with  
6 California Nurses Association, followed by Michael Miiller  
7 with California Association of Winegrape Growers. So first  
8 is Saskia Kim.

9 A/CHAIR HARRISON: Saskia, are you with us?

10 MS. SASKIA: Good morning. Saskia Kim, with the  
11 California Nurses Association. Thank you for the  
12 opportunity to speak this morning regarding the non-  
13 emergency COVID 19 prevention regulation.

14 As nurses, CNA members have seen more COVID 19  
15 infections and hospitalizations, as well as an increase in  
16 patients seeking care for the effects of long COVID. Now,  
17 as cases remain at high levels across many counties in  
18 California, and as we're contending with a BA.5 variant  
19 with increased transmissibility and immune evasion, and  
20 with more Omicron sub variants spreading around the world,  
21 CNA members are especially concerned for the health and  
22 safety of our patients and our colleagues.

23 As you're likely aware the CDC has been scaling  
24 back its recommendations and protection. They changed the  
25 metrics used to identify when community levels are high.

1 The new metrics focus heavily on hospitalizations, and  
2 intensive care unit admissions, and use a significantly  
3 higher case threshold compared to the CDC's previous  
4 guidance. This change means that the CDC is now waiting  
5 for cases to skyrocket and hospitalizations to rise before  
6 recommending people take measures to protect themselves  
7 from infection. This creates a dangerous lag time between  
8 widespread transmission and implementation of prevention  
9 measures and creates a serious risk for prolonging the  
10 pandemic.

11           And make no mistake, this virus is still taking  
12 people's lives. As of August 16, nearly 100,000  
13 Californians have died from COVID 19. And every day, on  
14 average in California, COVID takes the lives of 36 people.  
15 Moreover, study after study indicates that long COVID poses  
16 a serious threat to public health leading to neuro  
17 degeneration, cardiovascular disease, diabetes, and damage  
18 to other organ systems.

19           Data indicates that reinfection poses an  
20 increased risk of long COVID, and vaccines do not  
21 effectively reduce the risk of long COVID either. The  
22 study of more than 13 million veterans found that a COVID  
23 vaccination prior to infection reduced the risk of long  
24 COVID by only 15 percent.

25           The CDC estimates that nearly one in five



1 American adults are experiencing long COVID. Long COVID  
2 disrupts workers lives, requiring reduced work hours or  
3 stopping work altogether. Disrupting childcare, exercise  
4 and social activities.

5 The only way to effectively prevent long COVID is  
6 to prevent infections. With reinfections occurring more  
7 and more often, their long-term impacts should be  
8 considered with crafting occupational safety and health  
9 guidance.

10 For all of these reasons, CNA encourages the  
11 Board, as it considers a semi-permanent COVID-19  
12 regulation, to recognize that the virus has become much  
13 more contagious, long COVID is a real debilitating threat  
14 to workers, and vaccines do not slow transmission as we  
15 hoped they would.

16 We join our colleagues who have argued for the  
17 importance of exclusion pay protections, which ensures that  
18 workers are not forced to make the impossible choice of  
19 going to work while sick or staying home without pay.  
20 Supplemental paid sick leave is not a substitute under  
21 California law. At least one in four workers is without  
22 access to the COVID sick leave law. And as you've just  
23 heard today the program is expiring.

24 As a result, we strongly encourage the Board to  
25 retain exclusion pay as part of the semi-permanent

1 regulation. And workers need protection of job status when  
2 they're excluded from work as well. This is in the ETS,  
3 and we encourage the Board to include it here as well.  
4 Thank you for the time today.

5 A/CHAIR HARRISON: Thank you.

6 Our next commenter is Michael Miiller. Michael,  
7 are you with us? Michael Miiller, are you with us? And we  
8 can come back to Mr. Miiller. Ms. Morsi, do we have  
9 another commenter?

10 MS. MORSIL: We do not have another commenter  
11 remotely. But it looks like Michael Miiller is turning his  
12 mic on and off. It's currently on right now, but we don't  
13 hear audio.

14 A/CHAIR MORRISON: Okay. Well, maybe we'll come  
15 back to public comment, and then come back to Mr. Miiller,  
16 if and when he's available. Is there anybody else who  
17 would like to speak in person today?

18 MR. CETIN: Good morning.

19 A/CHAIR HARRISON: Good morning.

20 Mr. CETIN: We're here to talk about the current  
21 changes that's going to be going on with the--

22 A/CHAIR HARRISON: Could you introduce yourself,  
23 please?

24 MR. CETIN: Excuse me. My name is Chris Cetin.  
25 I'm the Safety Manager for Laurence and Hovenier,

1 Incorporated. Laurence and Hovenier has been signatory to  
2 the Southwest Carpenters Union since we opened our doors  
3 and framed our first project in 1979. We've been in  
4 business for 43 years and have projects spanning from the  
5 happiest place on earth to the luxury continuing life  
6 community, student housing complexes, hotels, as well as  
7 multifamily and single-family housing. In that time, we  
8 framed over 15,000 single family homes and 20,000  
9 multifamily apartment buildings, dormitories and senior  
10 citizen complexes.

11 The current Cal/OSHA fall protection standard  
12 1716.2 incorporated best practices for the industry. And  
13 it created specific requirements, with specific exceptions  
14 to the existing regulations. It addressed practicality and  
15 feasibility issues with the installation of conventional  
16 and alternative fall protection matters.

17 It's important to recognize that 1716.2 was  
18 achieved and developed through a working committee  
19 comprised of labor, management, safety, professionals,  
20 stakeholders, manufacturers and Cal/OSHA for almost three  
21 years. In fact, the regulation adopted received no  
22 negative comments from labor or management during the  
23 hearing. The advisory committee felt that uniform fall  
24 height of 15 feet created the clear boundary between one  
25 story work, which would not require the use of scaffolding,

1 guardrails or fall protection. Two story and above would  
2 clearly require fall protection in all cases. 1716.2 as  
3 currently written, has created a safer work environment, a  
4 reduction in falls for California workers and residential  
5 construction contractors.

6 Compliance is very clear to workers, management,  
7 Cal/OSHA. Everything above the second floor requires fall  
8 protection.

9 For us at Laurence-Hovenier, it means, as soon as  
10 you raise your exterior walls you begin setting your  
11 perimeter guardrail system. Our joisters, beam setters and  
12 sheeters all are protected from falls to the exterior of  
13 the building. As the joisters joist they are creating  
14 their own fall protection through the interior, followed by  
15 the sheeters, then you repeat.

16 Ninety percent of the structures we build are  
17 multi-family with podium dedicated to low income, section  
18 eight housing. That translates to even closer joisting  
19 spacing. Never more than two foot centers, sometimes as  
20 close as 12 inches on center. 1716.2(e), "Work on Top  
21 Plate, Joists And Roof Structures (B)" states, "When  
22 installing floor joists employees shall be considered  
23 protected from falls up to and including 15 feet."

24 And I'm paraphrasing. As long as the spacing  
25 didn't exceed 24 inches it works. It made sense. What I

1 don't understand is how after we spent so much time, so  
2 many resources, working with professionals and Cal/OSHA,  
3 why we're back here where we started from almost 20 years  
4 ago. My question to you is how can you allow whoever the  
5 person or persons who are drafting a game-changing  
6 regulation, who do not understand the framing industry, and  
7 who have never been involved in our industry, draft such a  
8 standard? The draft in its current state has taken away  
9 all the safe work practices we, in multi-family projects,  
10 have enforced and trained our employees for years.

11           It puts us in a position that in order to be  
12 compliant with the regulations we'd have to tie our  
13 employees off to the top plates. We will be forced to use  
14 retractables that are anchored at their feet. There's  
15 nothing above you, so your only choice is to go to your  
16 feet. Typical top plate height is nine foot one. So with  
17 the anchor point at your feet, that person would hit the  
18 ground before this system would even engage. Scaffolding  
19 or netting of the interior of the units is totally  
20 unfeasible, because of all the plumb and line bracing, and  
21 everything that consists inside holding this together.

22           Working off ladders, if you can position them in  
23 a maze of bracing, puts the employee at a greater risk of  
24 falls because a ladder is less stable than the structure,  
25 and the employee has limited reaching use of both hands.

1 It also runs the risk of nail gun incidents, because now  
2 the employee is going to have to be nailing off at chest  
3 height, shooting down at themselves to anchor stuff.

4           Nowadays, multi-family projects have absolutely  
5 no room. So these so called "exterior fall protection  
6 devices" that are out there don't work and they do not go  
7 up seven stories. We begin a lot of times two to three  
8 stories in the air, okay? And by the time we're done  
9 constructing that building we'll be up to eight stories.

10           Laurence and Hovenier has been in business for 43  
11 years and still going strong. I'm proud to say last year  
12 we had zero incidents. In 2020, we had zero falls from a  
13 height. 2019, zero falls. 2018, 17. 2017, one fall  
14 resulting in a sprained ankle from a fall from a ladder.  
15 2016 to 2012, zero falls. In 2011, we had an employee that  
16 jumped off a ladder and rolled his ankle. The interesting  
17 thing is that all these injuries from falls is being  
18 stemmed from work off ladders.

19           In 2016, in a Standard Board Meeting in Costa  
20 Mesa, representatives from federal OSHA were in attendance.  
21 And what stuck in my mind all these years was a statement  
22 made by Dean McKenzie, "All I know is 6 feet is less than  
23 15 feet". He did it to me. Okay? I was the one that was  
24 talking. That statement in itself couldn't be more  
25 inaccurate. When I got up to speak and began explaining

1 how tying off at nine feet technically would be in  
2 compliance, but doesn't work because the employee would hit  
3 the ground before conventional fall protection would not  
4 engage, Mr. McKenzie had to all of a sudden catch a plane  
5 and he left.

6 In conclusion, what you're proposing to do in the  
7 current draft places the employee in an unsafe condition  
8 that gives them a false sense of security. Fact, you can't  
9 tie a person off at their feet and expect them not to hit  
10 the ground or get themselves tangled up in the plumb and  
11 line bracing there. And now you're starting to face a  
12 possibility of suspension trauma.

13 You've got to ask yourselves, "How does it make  
14 you feel, knowing that what's being proposed might look  
15 good on paper, but it doesn't work?" I know it doesn't sit  
16 well for us in the industry, that know better. Thank you.

17 MR. BLAND: I see a theme developing today.  
18 Acting Chair Harrison, Ms. Shupe and Board staff and  
19 Division, I'm Kevin Bland. I'm here representing the  
20 California Framing Contractors Association and the  
21 Residential Contractors Association.

22 We've heard a lot about the Residential Fall  
23 Protection Standard today and the history on it. I think I  
24 may have drafted about 50 percent of the language that we  
25 see in it, back 20 years ago with Larry McEwen, on a napkin

1 at the advisory committee so I'm very familiar with it.

2 Then we also know the battle that Cal/OSHA has  
3 been in with the feds on it. And so, I do want to  
4 recognize that we understand that point.

5 I think what -- the tough part for us to swallow  
6 is trying to get dialogue with the feds, with people,  
7 because I know that you have meetings internally with them.  
8 But I don't know -- and with all due respect, but we don't  
9 have folks in the Division that have the technical  
10 experience from the industry like the union folks do, the  
11 Carpenters Union and folks like you've heard at the podium  
12 today, on the process. And I know you've heard a lot about  
13 the process we've got here. But we really did take this  
14 from the ground up.

15 Now, why did we do that? What did we want to do  
16 and how did we come up with this? Is we wanted to create  
17 the safest way possible to frame a house with the  
18 engineering concepts that were available to us based on the  
19 structure, and eliminate the old school fall protection  
20 plan controlled access zone. Because that was what was  
21 being used in 1999, and 2000. And what was kind of the  
22 genesis of this.

23 Now the irony is, now we saw the first change  
24 that the feds wanted to do on the draft that we got, here's  
25 how you do a fall protection plan. Which, what does that



1 mean? When you can't, when it's infeasible to have  
2 conventional fall protection now you just have a plan? Our  
3 1716.2 addressed all of those things.

4           Like as an example how do you roll joists out to  
5 create a work platform as you go? And then you secure it  
6 and move on. How do you put the scaffold for an edge  
7 protection device on the exterior, in order to roll trusses  
8 for the roof and have the right distance? No, I think we  
9 thought through every single step to where then the law was  
10 the plan. It wasn't whatever plan, one of the employers  
11 come up with or whatever plan an enforcement person thinks  
12 is right. We had it right there. And we have it right  
13 now. That's why we've seen falls -- we heard Chris talk  
14 about his fall statistics. I will present to you our  
15 members. All the same type of statistics compared to back  
16 before we had this and compared to the feds.

17           And it was interesting, at the meeting we put up  
18 all the stats. California residential fall protection  
19 stats on the thing and this was a quote. He goes, "That  
20 doesn't mean anything. It's the language that means".  
21 Wait, well, don't you measure a plan's effectiveness by the  
22 injury results? And that's a comparison. So if you have  
23 less injuries and less falls wouldn't that be a more  
24 effective plan than the plan that you guys have, that has  
25 more injuries and more falls? No, that doesn't count.

1 It's just got to be the language, sameness.

2           So that's where the battle is, and has come to  
3 this point. Because fall protection plans -- and this is  
4 the other misnomer with fall protection plans. We went to  
5 Texas. We went to New Jersey. We flew all over the United  
6 States looking. It's because we kept hearing, "Well, the  
7 feds are doing it with six foot." Yeah, they're doing with  
8 six foot with these fall protection plans. You go out  
9 there and no one's tying off. Or they are tying off with a  
10 rope grab and they're rolling joists. And they got 15 feet  
11 of pay line out, but they're tied off. But they're not  
12 rolling the platform the way we've trained our guys to do  
13 and how our regulation requires it.

14           That's why I said, one of the -- one mistake we  
15 made was calling this a 15 foot rule. It should have been  
16 a zero foot rule. There's things you do at zero foot. And  
17 then there's things you do when you get above a certain  
18 amount. And things you do no matter what, no matter the  
19 height. And some things are measured the height of the  
20 wall because of the weight. So a lot of things went into  
21 this. And so it really is a zero foot if we really want to  
22 get down to it on how you roll trusses, how you roll  
23 joists, how you sheet. What do you have to do? What's the  
24 process? And it's baked into 1716.2. I'm sorry I'm getting  
25 off. It's one of my passionate topics, because I've been

34

1 involved in it so long.

2           So I think it's important also to think of the  
3 magnitude of these changes and how that ties to SRIA. We  
4 heard Bruce kind of mentioned that a little bit. Actually,  
5 a lot. I'll mention it little bit. What the SRIA,  
6 although it still was wrong, what it was based on was this  
7 concept, "Okay, here's our compromise." This was what we  
8 agreed to in the mean -- we'll get the exterior protected,  
9 same way you would do on the second floor. We'll drop it  
10 down to the first floor. The interior, where you heard the  
11 braces, and all of that, that's going to remain the same.  
12 So that's a whole different scenario, that now trying to  
13 figure and do interior on an eight-foot wall, or a seven-  
14 and-a-half foot wall or a nine-foot wall. That's a whole  
15 different ballgame.

16           And that's not what the discussions for the SRIA  
17 was based on. It was based on what we had discussed and  
18 come up to a consensus at the end of the advisory  
19 committee. So that's completely off. And the numbers are  
20 astronomical with that already too, with the price of  
21 housing.

22           So, what are we here asking for? I don't think  
23 we've said that yet. One very important thing is,  
24 obviously to get the SRIA addressed. But to me, and this  
25 is just my own opinion more importantly, to be able to get

1 in a room with the feds and the Standards Board, and the  
2 folks that are dealing with this. So we can input with the  
3 technical, and try to get a dialogue and them to listen to  
4 what you guys have been hearing from us for so long. So we  
5 can -- they have questions. Why do you do this? Well,  
6 here's why. Why can't we do this? Well, here's why. Or  
7 hey, oh, yeah, well, that's a good idea. Maybe we can do  
8 this change. And that's where, okay, now we're getting  
9 somewhere.

10 We haven't, we've -- you guys have been stuck in  
11 the middle of this. And we haven't had the opportunity,  
12 except for the one that we described where they left at  
13 noon, on their private jet. Actually, I don't know if it's  
14 private jet. I threw that out.

15 And then, you know, if we had to do it in the  
16 form of an advisory committee, like the old school advisory  
17 committees where they come and we go through this where we  
18 have the labor and the management, and try to get this,  
19 because we -- at the end of the day we want a good safe  
20 regulation. Because no one -- I mean it was the industry  
21 that petitioned to get the regulation changed to begin  
22 with. And then it was the industry that petitioned to  
23 lower the roofing trigger height from 20 to 15, right?  
24 Because I mean of late, you know, you have this perception  
25 that we're always just here to say -- No, we wanted this

1 and we want what's safe. And we feel like that's getting  
2 missed. And so that dialogue with fed OSHA, and decision  
3 makers from Federal OSHA in the room with us.

4 So with that, I'll take a seat, I guess. Thank  
5 you very much for listening. I appreciate it.

6 A/CHAIR HARRISON: Are there other in person  
7 speakers? Ms. Morsi, do we have anyone else in the queue?

8 MS. MORSI: Yes, Michael Miiller is ready. He is  
9 with the California Association of Winegrape Growers.

10 A/CHAIR HARRISON: Thank you, Mr. Miiller.

11 MR. MIILLER: Good morning, Chair and Members. I  
12 apologize for the prior glitch there. This should be  
13 better. I'm on my phone instead of my computer and I had  
14 some bandwidth issues.

15 I'll be very brief. I just wanted to come in on  
16 a couple of things. One, some prior comments about the CDC  
17 developments lately and about vaccines. I think we need to  
18 be very cautious as we approach that. We do not want to  
19 send the public a message that vaccines don't work. The  
20 reason that we've gotten as far as we have is because the  
21 Governor, every health agency in the state, has promoted  
22 the use of vaccines. Our growers have promoted vaccines  
23 and will continue to promote vaccines. To say that they  
24 that they don't work at this point, I think is a very  
25 dangerous thing to do. And I'd caution that kind of

1 conversation, caution against that.

2 I also want to align myself with the comments  
3 from both Kevin and Bruce, relative to this Board's best  
4 work is always done when it's collaborative. When it  
5 involves cooperation. And when you have some consensus.  
6 And I think that that's really important in a variety of  
7 issues. Although we're not involved in the construction  
8 stuff we are very involved in the autonomous tractor issue.

9 And that's where I wanted to also thank the Board  
10 for the comment that you had two meetings ago relative to  
11 that petition. And your comments were very well received.  
12 We continue to have an interest in that issue. The  
13 regulation is a very archaic regulation, it at some point  
14 needs to be updated. And we are looking at how to respond  
15 to the Board's concerns about that particular petition, and  
16 how we can go forward in a meaningful way that -- where we  
17 can bring a 1970s regulation up to the 21st century.

18 And that I think would involve again, a  
19 collaborative process that involves developing some  
20 consensus, reviewing data, gathering information and  
21 bringing all the parties to the table, much like Kevin and  
22 Bruce have commented.

23 Thank you very much for your time. And we do  
24 look forward to working with you again on the autonomous  
25 tractor issue in the near future. Thank you.

1 A/CHAIR HARRISON: Thank you.

2 Ms. Morsi, do we have any more commenters?

3 MS. MORSI: Yes, we have one more. It's Michael  
4 Strunk with IUOE Local Union No. 3.

5 A/CHAIR HARRISON: Thank you.

6 Mr. Strunk, are you with us?

7 MR. STRUNK: Thank you, Acting Chair Harrison and  
8 Board Members. I appreciate the California Grape Growers  
9 comments about autonomous tractors, but I appreciate your  
10 continued skepticism on the matter. I understand in  
11 February, one of the growers was found to have not provided  
12 adequate access to Division staff on an unannounced audit  
13 visit. And so, we are just -- we continue to be skeptical.  
14 And I appreciate your skepticism. Thank you.

15 A/CHAIR HARRISON: Thank you.

16 Are there any other commenters that did not have  
17 an opportunity to speak, Ms. Morsi?

18 MS. KATTEN: Hi, this is Anne Katten. I had  
19 signed up and gotten a response that I was in the queue.

20 A/CHAIR HARRISON: Okay, go ahead, Anne.

21 MS. KATTEN: Hi, good morning. This is Anne  
22 Katten from California Rural Legal Assistance Foundation.  
23 Thank you for the opportunity to comment. This morning I  
24 wanted to strongly support the comments of WorkSafe and the  
25 California Nurses Association and join the call for

1 reinstating exclusion pay in the non-emergency COVID  
2 regulation.

3           Essential workers in agriculture and other  
4 industries shouldn't have to lose pay or risk loss of  
5 seniority or even job security to prevent spread of  
6 infection in the workplace. And while I agree that  
7 vaccines are very important, because they have been shown  
8 to reduce the risk of severe, immediate or acute illness,  
9 unfortunately, they haven't proved as effective at reducing  
10 the spread of infection or reinfection. And that's why  
11 it's very important to retain exclusion pay.

12           I also just wanted to clarify from a previous  
13 comment, that the goal of forming these regulations is  
14 worker protection. And it may or may not be possible to  
15 achieve consensus. So the goal is worker protection and  
16 not consensus. And thank you very much for the time.

17           A/CHAIR HARRISON: Thank you.

18           Ms. Morsi, do we have any other commenters?

19           MS. MORSI: We do not have any more commenters  
20 remotely.

21           A/CHAIR HARRISON: Are there any other in person  
22 commenters? (No audible response.) Okay. Thank you. The  
23 Board appreciate your testimony. The public meeting is  
24 adjourned and the record is closed.

25           We will now proceed to the business meeting. The



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

7 Proposed variance decisions for adoption. The  
8 proposed variance decisions for adoption are listed on the  
9 consent calendar. Ms. Gonzalez, will you please brief the  
10 Board?

11 MS. GONZALEZ: Thank you, Acting Chair. For your  
12 consideration and possible adoption today we have decisions  
13 1 through 83.

14 A/CHAIR HARRISON: I have a motion to adopt the  
15 consent calendar.

16 BOARD MEMBER STOCK: So moved.

17 BOARD MEMBER LASZCZ-DAVIS: (Overlapping  
18 colloquy.) So moved.

19 BOARD MEMBER STOCK: I can second. I guess Chris  
20 first, I'm second.

21 A/CHAIR HARRISON: Okay, so we have a motion and  
22 a second that the Board adopt the consent calendar as  
23 proposed. Ms. Money, will you please call the roll?

24 MS. MONEY: Just to make sure I have this  
25 correct. I have Chris Laszcz-Davis as a motion and Ms.

1 Stock as a second; is that correct?

2 A/CHAIR HARRISON: Yes.

3 BOARD MEMBER LASZCZ-DAVIS: Yes.

4 MS. MONEY: Okay. Ms. Kennedy?

5 BOARD MEMBER KENNEDEY: Aye.

6 MS. MONEY: Ms. Laszcz-Davis?

7 BOARD MEMBER LASZCZ-DAVIS: Aye.

8 MS. MONEY: Ms. Stock?

9 BOARD MEMBER STOCK: Aye.

10 MS. MONEY: Acting Chair Harrison?

11 A/CHAIR HARRISON: Aye. And the motion passes.

12 Next for reports, we'll have a Division Update.

13 Mr. Berg, will you please brief the Board?

14 MR. BERG: Thank you, Acting Chair Harrison.

15 I'll give a brief update and then there's someone on WebEx,  
16 so they will update for enforcement.

17 So I'll do the regulations we're working on.

18 First, is lead in construction and in general industry. We  
19 recently resubmitted all the documents to the Standards  
20 Board staff, and then they promptly returned them to us  
21 with some comments. So, we're addressing those and we'll  
22 get them back to the Standards Board staff.

23 Indoor heat, Standards Board staff has the  
24 documents and we expect their comments shortly.

25 First Aid, as you know, it's in rulemaking now.

1 And we're working on a 15 day -- or a change that will be  
2 noticed, in a 15-day notice, and hopefully get through that  
3 soon. And that's to respond to all the comments received,  
4 to address all those. The aerosol transmissible disease  
5 standard. We have some small changes to that, that we had  
6 an advisory committee on. And we're working on the  
7 economic impact now with an outside contractor. And so  
8 that work should be done shortly and then we can run with a  
9 rulemaking.

10 The COVID non-emergency proposal, that was  
11 recently noticed. And we're receiving comments, and  
12 reviewing those comments and getting prepared for the  
13 public hearing next month.

14 And then workplace violence, we received many  
15 comments on the latest draft we posted. And we're  
16 reviewing all those and also preparing to post those on the  
17 internet, so they are viewable to everybody.

18 And then I'll hand it over to David Wesley,  
19 Assistant Deputy Chief of Cal/OSHA Enforcement to give a  
20 Cal/OSHA enforcement update. Thank you.

21 A/CHAIR HARRISON: Thank you, Eric.

22 Mr. Wesley, are you with us?

23 MR. WESLEY: Yes, I'm here. Hello.

24 A/CHAIR HARRISON: Hey, please go.

25 MR. WESLEY: All right. Yeah, this is Dave

1 Wesley. I'm the Assistant Deputy Chief for Cal/OSHA  
2 enforcement. And I wanted to talk a little bit today about  
3 the recent change in the definition of "close contact" for  
4 the emergency COVID standard.

5           So our standard defines close contact as being  
6 within six feet of a COVID-19 case for an accumulation of a  
7 total of 15 minutes or greater in a 24-hour period with an  
8 overlapping -- with the infectious period. And it's  
9 regardless of whether there's a face cover in use or not.  
10 But there's also the caveat that close contact is defined  
11 by regulation or order by the CDPH. If that occurs, then  
12 that takes precedence.

13           So the difference between CDPH's close contact  
14 and ours, is primarily in the use of indoor airspace versus  
15 six feet of distance between people. The 15 minutes is  
16 still there, the 24-hour period is still there, a person's  
17 infectious period is still there. So it's a difference  
18 between six feet and shared indoor space. So that new  
19 definition greatly expands the potential number of close  
20 contacts. Indoor space is not defined by size, but rather  
21 by floor to ceiling, wall separation. It effectively  
22 excludes outdoor airspace as an issue. And ventilation is  
23 not a factor when determining that indoor airspace.

24           So there are steps that employers and our  
25 enforcement personnel have to take to identify close

1 contact. Step one would be to identify all indoor air  
2 spaces at the worksite, then determine the infectious  
3 period for each COVID-19 case. Determine which indoor air  
4 spaces the COVID-19 case entered during the infectious  
5 period and the time or duration of each instance. And then  
6 identify all workers who entered those indoor air spaces  
7 during the time. And then for each of those workers  
8 determine the overlap and the time with the COVID-19 case.

9           So the effect to that for enforcement is  
10 primarily, for us it'd be primarily evidence collection.  
11 There's likely to be more people considered a close  
12 contact. And we'll not only ask, but the employers have to  
13 identify that, and then collect that evidence.

14           It's a little too early to note the number of  
15 additional citations that might be generated as a result of  
16 this change. We're still collecting and evaluating data.  
17 Citations are already issued for effective sections of ETS,  
18 but there's only about 100 or so citations that have ever  
19 been issued, regarding those citations. And we haven't  
20 done the analysis to determine that close contact was  
21 actually a significant factor in those.

22           So there are actually eight citations, eight  
23 sections of ETS that are impacted by the new definition. I  
24 won't go into the individual ones here. But by and large,  
25 the issues that we have to look at are the increased

1 workload, resulting from more individuals considered close  
2 contact. And then there are a few that wind up with some  
3 significant issues. Probably the most significant issue  
4 would be under 3205.3(g)(1), which has to do with COVID-19  
5 prevention in employer-provided housing. Where employers  
6 shall -- it reads, "Employers shall effectively  
7 quarantine residents who have had a close contact from all  
8 other residents. Effective quarantine shall include  
9 providing residents who had close contact with a private  
10 bathroom and sleeping area."

11           So we see that that as being, if that comes into  
12 play, might be hard to secure abatement. But I will note  
13 that we have never issued any citations for that particular  
14 section. So that's what I have. Thank you.

15           A/CHAIR HARRISON: Thank you.

16           Are there any questions from the Board for Mr.  
17 Berg or Mr. Wesley?

18           BOARD MEMBER STOCK: Yes, I have a question.  
19 This is Laura Stock. Thank you for that report. And I  
20 have a couple of questions.

21           The first is, in thinking about the impact of  
22 this expanded definition of close contact, I would like  
23 your opinion on the idea that it will expand the analysis  
24 of work-related COVID cases. So in other words, when  
25 somebody has COVID and is determining whether that was as a

1 result of being exposed as work, and one of the first  
2 things is whether or not they've had close contact with  
3 somebody. Now, as to the extent that that's going to be  
4 used as part of that determination, that will provide more  
5 evidence of potential work relatedness for COVID cases.  
6 Can you comment on that?

7 MR. WESLEY: I think -- I don't think it  
8 necessarily will address the work relatedness of it. It  
9 will address specific actions that the employer will need  
10 to do when they identify people who have had a close  
11 contact. So if somebody that they've identified as a close  
12 contact winds up becoming symptomatic or becomes a  
13 positive, they're still going to have to do some level of  
14 determination for work relatedness. And I don't believe  
15 that this particular change will affect that in a great  
16 way. But it will identify more people as being close  
17 contact.

18 BOARD MEMBER STOCK: Right. And more people  
19 close contact that could potentially be leading to  
20 infection. And that actually leads me to my next question.  
21 And, you know, and this might be for you and for Eric. And  
22 I don't know whether if you're prepared to answer this now,  
23 or whether it could be an agenda item in the future.

24 I share the concern about the elimination of  
25 exclusion pay and the impact that's going to have on the

1 ability to prevent infection in the workplace. And to give  
2 workers the ability to stay home, which is one of the most  
3 important ways to prevent infection. So, I'm curious about  
4 yours or Eric's opinion on what you think the impact of  
5 that will be on the rates of infection in the workplace.

6 MR. WESLEY: Eric, do you want to address that  
7 one?

8 MR. BERG: Yeah, I can't address it right now. I  
9 can take that back and research and get back to you.

10 BOARD MEMBER STOCK: That would be great, because  
11 I think we're going to be asked to vote on that. And it  
12 has an enormous impact, in my opinion, on the ability to  
13 prevent infection in the workplace. And so I would be -- I  
14 think it'd be very helpful for the Board to hear your  
15 opinion of what that impact might be. So, I guess I'll add  
16 that as an agenda item for next month. Thank you.

17 MR. BERG: If you could put that in writing that  
18 would be very helpful.

19 BOARD MEMBER STOCK: I'd be happy to.

20 MR. BERG: Thank you.

21 BOARD MEMBER STOCK: I'll send an email to  
22 Christina who then can forward that on to you.

23 MR. BERG: Okay, thank you.

24 BOARD MEMBER STOCK: Thanks.

25 A/CHAIR HARRISON: Are there any other questions



1 from the Board?

2 BOARD MEMBER KENNEDY: I have a follow-up. As  
3 how in -- I mean, I know you have to go research, but how  
4 do you anticipate doing that research?

5 MR. BERG: I don't know exactly how I'm going to  
6 do it yet. That's something I have to plan (indiscernible)  
7 right now. Although I can't answer that right now.

8 BOARD MEMBER STOCK: Yeah, maybe I can just  
9 clarify. I mean, there may be some research that is  
10 involved, but also, it would be helpful to know from your  
11 experience. Your team has developed the proposal that  
12 includes that elimination of exclusion pay. And so I'm  
13 interested in both, if there's anything that you can bring  
14 to bear or maybe some other entity, CDPH, or others.

15 But more importantly, sort of what the sense of  
16 you as experts, and in developing this proposed regulation,  
17 if you can provide more explanation of why -- maybe the  
18 question is, is that since the exclusion pay was  
19 eliminated, how you arrived at that decision. And how you  
20 believe that will not -- I assume that means because you do  
21 not believe that that would eliminate the ability to  
22 prevent infection in the workplace. So I just, I'd like to  
23 hear your thoughts, or the thoughts of somebody on your  
24 team, of what you believe the impact of that would be.  
25 What your opinion is.

1           So, I recognize that it may not be based on  
2 evidence of infection rates in the workplace, but it would  
3 be based on your experience. And implementing this  
4 regulation and doing enforcement, and hearing about how  
5 exclusion pay has been enforced. And in the thinking that  
6 went behind the development of the latest draft. Thank  
7 you.

8           BOARD MEMBER LASZCZ-DAVIS: Dave, can you hear  
9 me?

10          A/CHAIR HARRISON: I can. Go ahead, Chris.

11          BOARD MEMBER LASZCZ-DAVIS: I have to take my  
12 headphones off, because I got a message that I was muted  
13 with it. So forgive me if I don't come through very  
14 clearly. And I don't know whether or not I need to bring  
15 this issue up here during this segment of the meeting, or  
16 for future business. But let me go ahead and start and you  
17 can redirect me if you need to. And this is with regard to  
18 COVID, the regulation that we'll certainly be dealing with  
19 at the next meeting.

20                 If you all remember, Amalia Neidhardt had done an  
21 extensive piece of work, with regard to calibrating COVID  
22 regulations throughout the country. It really did help us  
23 inform some of what we have ended up with thus far. But  
24 I've got a few other elements that I would ask Eric and his  
25 staff if those are the right parties to explore. And these

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1 are the following elements. Which states still have COVID-  
2 19 workplace rules in place, and which states have rolled  
3 them back?

4 The second question I have is, what is the  
5 timeline for the active workplace rules? And what are the  
6 triggers for when the rule will be rolled back?

7 Third question would be, is contact tracing and  
8 notification required for close contacts?

9 Fourth question, are employers required to keep  
10 records of close contacts? If so, for how long?

11 And finally, what is the definition of "outbreak"  
12 and "subsequent employer requirements?"

13 And again, these questions are really directed to  
14 what are other states doing? I know we're going to be  
15 moving and deliberating on a final. But I don't think it  
16 hurts us to know the backdrop of where other states are at  
17 on the same issues. And that's all I really have to ask at  
18 this point in time, Dave.

19 A/CHAIR HARRISON: Okay. Did you get all that,  
20 Eric?

21 MR. BERG: No. Can you put that in writing?

22 A/CHAIR HARRISON: Yeah.

23 MR. BERG: I didn't get it all.

24 BOARD MEMBER LASZCZ-DAVIS: You bet. I'd be  
25 happy to.

1           A/CHAIR HARRISON: Christina says she has it. So  
2 we'll get that to the Division.

3           MR. BERG: Any questions for the Division, it's  
4 great to have it in writing.

5           BOARD MEMBER LASZCZ-DAVIS: Okay.

6           A/CHAIR HARRISON: All right. Thank you, Chris.  
7 Is there any other -- Are there any other Board comments?

8           BOARD MEMBER KENNEDY: Yeah, I just have -- and  
9 this is a question probably for the Board staff. So I'm  
10 one of the newer people on the Board, who isn't familiar  
11 with the whole fall protection ride. And so I -- go ahead.

12          A/CHAIR HARRISON: So, this hasn't been noticed  
13 yet. And it's going to be noticed soon.

14          BOARD MEMBER KENNEDY: Okay.

15          A/CHAIR HARRISON: So, there'll be an opportunity  
16 to have back and forth about the residential --

17          BOARD MEMBER KENNEDY: Okay.

18          A/CHAIR HARRISON: -- fall protection. But now  
19 probably isn't the time.

20          BOARD MEMBER KENNEDY: Okay. So then maybe I can  
21 just ask, when that happens, if we can get a history  
22 lesson. Okay.

23          MS. SHUPE: It's still in pre-rulemaking.

24          BOARD MEMBER KENNEDY: Okay.

25          A/CHAIR HARRISON: Sorry.

1 BOARD MEMBER KENNEDY: No, that's fine. That's  
2 perfect.

3 A/CHAIR HARRISON: Very good. Any other comments  
4 from the Board?

5 Okay, next we'll have a Legislative Update. Ms.  
6 Gonzalez, would you please brief the Board?

7 MS. GONZALEZ: Thank you, Acting Chair. So we  
8 had prepared this report for you on August 5th and since  
9 then quite a few of the bills that we're watching have  
10 moved. So AB 257, which is the fast food workers bill, has  
11 passed a committee and it's ordered to its third reading.  
12 AB 1643, which is a heat advisory, has also passed out of  
13 its committee, out of appropriations. AB 1775, which we're  
14 watching, has also been ordered to its third reading. And  
15 AB 2243, which is the wildfire smoke proposed law, has been  
16 ordered to its third reading.

17 The session adjourns on August 31<sup>st</sup>, so at the  
18 next meeting, we should have a bunch of news for you. And  
19 that's it.

20 A/CHAIR HARRISON: We're in the middle of  
21 legislative playoffs, if you will. So expect a lot of  
22 updates at the next meeting. Very good. Thank you, Ms.  
23 Gonzalez. Next, we'll have our Executive Officer's report.

24 Ms. Shupe, would you please brief the Board?

25 MS. SHUPE: Thank you, Chair Harrison. Let me

1 just move my mic over a little bit.

2           So to update the Board on your staff's activities  
3 for the last month, we did recently have our quarterly  
4 meeting with fed OSHA. Two of the items that came out that  
5 we will be working with fed OSHA on are their Safe and  
6 Sound Week, which is currently going on right now. And  
7 this is an outreach program. And -- I apologize, my data  
8 just died. So I'm going to go off memory. Safe and Sound  
9 Week is a federal OSHA outreach program, where they promote  
10 employers and workplaces developing proactive safety plans.  
11 It's very similar and dovetails in with California's IIPP  
12 program.

13           We're going to be sending out an e-blast later  
14 this afternoon. But we encourage all employers to one, make  
15 sure you have your IIPP. Take this opportunity to review  
16 it, and refresh it, and bring it up to speed if need be.  
17 And also to visit fed OSHA and sign up for their program.  
18 They have a certificate program that you can go in. And  
19 it's really a great outreach program.

20           And then we're also working with them on their  
21 Labor Rights Week, which will be August 29th to September  
22 2nd. And we'll also be sending out an e-blast to our  
23 membership about that.

24           I'd also like to report that, and I'm very  
25 pleased to say this, that we have a new staff member,

1 Jessica Mowry. I mentioned that she was going to be  
2 joining us. She officially joined us on August 15th.  
3 We're onboarding her now, bringing her into the Standards  
4 Board culture. She's going to be joining us at our  
5 September Board meeting, so the Board members will have an  
6 opportunity to meet her. And she'll have an opportunity to  
7 meet some of our stakeholders and see how the Board process  
8 functions.

9           And then looking forward to next month, Board  
10 staff will be hosting an advisory committee meeting on  
11 August 31<sup>st</sup>, to discuss amendments to section 1630, which is  
12 elevators for hoisting workers. And this advisory  
13 committee meeting was convened in response to the Board's  
14 decision to grant Petition 587. As well as a previous  
15 request from the Division received April 3rd of 2019.

16           And as Eric mentioned earlier, the Board will be  
17 holding a public hearing for the COVID-19 non-emergency  
18 regs next month in September. And we look forward to  
19 everybody's comments at that time. Thank you.

20           A/CHAIR HARRISON: Very good. Are there any  
21 questions for Ms. Shupe from Board? (No audible response.)  
22 Hearing none.

23           Under New Business, Future Agenda Items, do any  
24 Board members have questions for staff or items that they  
25 would like to propose for future Board agenda items?

1 BOARD MEMBER STOCK: Just to confirm that I'll be  
2 sending Christina my sort of clearer version of my  
3 question, to pass on to Eric, for next meeting.

4 MS. SHUPE: And I'll be looking for that. As  
5 well as Chris, I have your questions. Those will be going  
6 to Eric at the same time.

7 BOARD MEMBER STOCK: Excellent. Thank you.

8 BOARD MEMBER LASZCZ-DAVIS: Thank you.

9 A/CHAIR HARRISON: Very good.

10 Ms. Gonzalez, is there a need to go into closed  
11 session today?

12 MS. GONZALEZ: No.

13 A/CHAIR HARRISON: All right, no closed session.

14 The next Standards Board regular meeting is  
15 scheduled for September 15<sup>th</sup>, 2022 in Sacramento via  
16 teleconference and video conference. Please visit our  
17 website and join our mailing list to receive the latest  
18 updates. We thank you for attendance today. There being  
19 no further business to attend this business meeting is  
20 adjourned. Thank you.

21 (The Business Meeting adjourned at 11:14 a.m.)

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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.

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IN WITNESS WHEREOF, I have hereunto set my hand this 5th day of October, 2022.




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Myra Severtson  
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