STATE OF CALIFORNIA
DEPARTMENT OF INDUSTRIAL RELATIONS

OCCUPATIONAL SAFETY & HEALTH STANDARDS BOARD
PUBLIC MEETING AND BUSINESS MEETING

In the Matter of: )
February 17, 2022 OSH )
Standards Board Meeting )
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TELECONFERENCE

PLEASE NOTE: In accordance with section 11133 of the Government Code, this Board Meeting will be conducted via teleconference.

THURSDAY, FEBRUARY 17, 2022
10:00 A.M.

Reported by:
E. Hicks
APPEARANCES

BOARD MEMBERS:

Dave Thomas, Chairman
Barbara Burgel, Occupational Health Representative
Kathleen Crawford, Management Representative
David 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
Steve Smith, Principal Safety Engineer
Autumn Gonzalez, Chief Counsel
Sarah Money, Executive Assistant
Michael Nelmid, Sr. Safety Engineer

BOARD STAFF ATTENDING VIA TELECONFERENCE AND/OR WEBEX:

Lara Paskins, Staff Services Manager
David Kernazitskas, Sr. Safety Engineer
Jennifer White, Regulatory Analyst
Cathy Dietrich, Regulatory Analyst
Amalia Neidhardt, Senior Safety Engineer

TKO STAFF:

Brian Monroe
Erik Kuether
Maya Morsi
John Roensch

ALSO PRESENT:

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

SPANISH INTERPRETERS:

Patricia Hyatt
Estela Moll
PUBLIC COMMENT:

Stephen Knight, Worksafe
Thomas Kohlenberg, International Union of Operating Engineers Local 3
Helen Cleary, Phylmar Regulatory Roundtable
Saskia Kim, California Nurses Association
Jose Ramirez, Fight for $15 and a Union
Michael Strunk, International Union of Operating Engineers Local 3
Robert S. Moutrie, California Chamber of Commerce
Mitch Steiger, California Labor Federation
Elysa Valentino, Self
Anne Katten, California Rural Legal Assistance Foundation
Pamela Murcell, California Industrial Hygiene Council
Bethany Miner, Miner’s Ace Hardware
Cassie Hilaski, Nibbi Brothers
Eddie Sanchez, Southern California Coalition for Occupational Safety and Health (SoCalCOSH)
Bryan Little, California Farm Bureau
Paula Vlaming, Crane Owners Association, and Mobile Crane Operators Group
Bruce Wick, Housing Contractors of America
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Next Meeting: March 17, 2022
Teleconference and Video-conference
(In accordance with section 11133 of the Government Code)
10:00 a.m.

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CHAIR THOMAS: Good morning. This meeting of the Occupational Safety and Health Standards Board is now called to order. I am Dave Thomas, Chairman. And the other Board members present today are Ms. Barbara Burgel, Occupational Health Representative; Ms. Kathleen Crawford, Management Representative; Mr. David Harrison, Labor Representative; Ms. Nola Kennedy, Public Member; Ms. Chris Laszcz-Davis, Management Representative; and Ms. Nola -- oh, I’m sorry, Ms. Laura Stock, Occupational Safety Representative.

Also present from our staff for today’s meeting are Ms. Christina Shupe, Executive Officer; Mr. Steve Smith, Principal Safety Engineer; Ms. Autumn Gonzalez, Chief Counsel; Ms. Sarah Money, Executive Assistant; and Mr. Michael Nelmida, Senior Safety Engineer who is providing technical support.

Supporting the meeting remotely are Ms. Lara Paskins, the Staff Services Manager; Mr. David Kernazitskas, Senior Safety Engineer; Ms. Jennifer White, Regulatory Analyst; Ms. Cathy Dietrich, Regulatory Analyst; and Ms. Amalia Neidhardt, Senior Safety Engineer who is providing translation services for our commenters who are
native Spanish speakers.

Via teleconference, we are joined today by Mr. Eric Berg, Deputy Chief of Health, representing Cal/OSHA. Today’s agenda and other materials related to today’s proceedings are posted on the OSHSB website.

In accordance with section 11133 of the Government Code, today’s Board meeting is being conducted by way of teleconference with an optional video component. Executive Order N-1-22 has suspended the sunset date of Government Code section 11133 until March 31st, 2022.

This meeting is also being live broadcast via video and audio stream in both English and Spanish. Links to these non-interactive live broadcasts can be accessed via the “Standards Board’s Updates” section of the main page of the OSHSB website.

We have limited capabilities for managing participation during the public comment period, so we’re asking everyone who is not speaking to place their phones on mute and wait to unmute until they are called to speak. Those who aren’t able to do so will be removed from the meeting to avoid disrupting the proceedings.

As reflected on the agenda, today’s meeting consists of two parts. First, we will hold a public hearing to receive public comments or proposals on occupational safety and health matters. Anyone who would
like to address any occupational safety and health issues, including any of the items on our business meeting agenda, may do so at that time. Members of the public who have submitted requests to be placed in the public comment queue via the online form or automated voicemail system will be called on in order.

The instructions for the joining the public comment queue can be found on the agenda for today’s meeting. You may join by clicking the public comment queue link in the “Standards Board’s Updates” section at the top of the main page of the OSHSB website or by calling 510-868-2730 to access the automated public comment queue voicemail. Please be sure to provide your name as you would like it to be listed, your affiliation or organization, if any, and the topic you would like to comment on.

When public comment begins, please listen for your name and an invitation to speak. When it is your turn to address the Board, please be sure to unmute yourself if you’re using WebEx or dial star six on your phone to unmute yourself if you’re using the teleconference line. Please be sure to speak slowly and clearly when addressing the Board and please remember to mute your phone or computer after commenting.

Today’s public comment will be limited to two
minutes per speaker, give or take. And the public comment portion of the meeting will be extended for up to two hours so that the Board may hear from as many members of the public as is feasible. The individual speaker and total public comment time limits may be extended by the Board Chair if practicable.

After the public meeting has concluded we will hold a business meeting to act on those items listed on the business meeting agenda. The Board does not accept public comment during its business meeting unless a member of the Board specifically requests public comment or public input.

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

At this time anyone who would like to comment on matters concerning occupational safety and health will have the opportunity to speak.

For our commenters who are native Spanish speakers, we are working with Ms. Amalia Neidhardt to
provide a translation of their statements into English for the Board. At this time Ms. Neidhardt will provide instruction to the Spanish-speaking commenters so they are aware of the public comment process for today’s meeting.

MS. NEIDHARDT: [READS THE FOLLOWING IN SPANISH]

Public Comment Instructions.

“Good morning. This meeting of the Occupational Safety and Health Standards Board is now called to order. I am Dave Thomas, Chairman. And the other Board members present today are Ms. Barbara Burgel, Occupational Health Representative; Ms. Kathleen Crawford, Management Representative; Mr. David Harrison, Labor Representative; Ms. Nola Kennedy, Public Member; Ms. Chris Laszcz-Davis, Management Representative; and Ms. Nola -- oh, I’m sorry, Ms. Laura Stock, Occupational Safety Representative.

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“Please listen for your name to be called for comment. When it is your turn to address the Board, please be sure to unmute yourself if you’re using WebEx or dial star six on your phone to unmute yourself if you’re using the teleconference line. Please be sure to speak slowly and clearly when addressing the Board and please remember to mute your phone or computer after commenting. If you have
not provided a written statement, please allow natural breaks after every two sentences so that we may follow each statement with an English translation.

Today’s public comment will be limited to four minutes for speakers utilizing translation, and the public comment portion of the meeting will extend for up to two hours, so that the Board may hear from as many members of the public as is feasible. The individual speaker and total public comment time limits may be extended by the board chair, if practicable “Thank you.”

CHAIR THOMAS: Thank you, Ms. Neidhardt.

Maya, do we have any commenters in the queue?

MS. MORSI: Yes, we do.

First up is Julian Hisgin, followed by Stephen and Thomas.

Julian Hisgin?


MS. MORSI: Julian, you may need to press star six to unmute yourself if you’re on the phone.

CHAIR THOMAS: It seems like we always have this problem with the first caller.

Maya, let’s move on to the next and see if we can get them up.

MS. MORSI: No problem.
Next up is Stephen Knight with Worksafe.

CHAIR THOMAS: Stephen, are you with us?

MR. KNIGHT: Yes. Hello and good morning.

CHAIR THOMAS: Good morning. Go ahead.

MR. KNIGHT: So I want to say that Worksafe supports the position of CRLAF with respect to serious concerns about the substance and process relating to autonomous tractors.

Secondly, this Board has done lots of work to respond to a pandemic that has now killed almost a million Americans and over 82,000 Californians. Cal/OSHA and the Standards Board can be proud of their efforts that have saved workers’ lives and made California businesses safe.

Last June, Board Members faced a barrage of criticism from businesses and individuals, assuming the pandemic was wrapping up and that measures, like masks, don’t work. They were wrong. And protections should not have been relaxed since the Delta variant then quickly spread through our communities and our workplaces.

Meetings since have seen a drumbeat of frustration aimed at the Board that should instead be directed at the virus, not at efforts to save people from catching it. This Board should stay the course until the COVID-19 Emergency Temporary Standard -- until the path forward is clear, and right now it is not.
Brand new data I’ve seen this morning on the curve of mortality in California continues to demonstrate the outsized impact of sickness and death on essential workers in agriculture, at warehousing, and the life. As Mitch Steiger with the Labor Fed noted last month, the Omicron variant came quickly out of nowhere, and we don’t know what’s coming next. Exclusion pay should continue, especially given that the supplemental sick pay leaves out so many workers.

We all want to be optimistic about the coming months but hope is not a cure. Imagine if it were wildfire smoke or toxics or baking hot temperatures, that it somehow killed a million Americans in less than two years, would we be rushing to do away with the workplace protections? I don’t think so.

Thank you for your time.

CHAIR THOMAS: Thank you, Mr. Knight.

Who do we have next, Maya?

MS. MORSI: We have, next, Thomas Kohlenberg with International Union of Operating Engineers Local Number 3.

CHAIR THOMAS: Thomas, are you with us?

MR. KOHLENBERG: Can you hear me okay?

CHAIR THOMAS: Yeah. Go right ahead.

MR. KOHLENBERG: All right. Members of the Board, my name is Thomas Kohlenberg and I am with the...
Operating Engineers Local Union Number 3. I would like to thank all of you for putting in the effort and the work to get cranes and derricks into construction and consolidated into General Industry Safety Orders Group 13. We believe this will create a safer environment for our many members, as well as the entire crane industry.

We also agree with the letter sent to you by the NCCCO addressing three concerns still in the language being consolidated. Specifically, number one, physical qualifications, number two, substance abuse, and number three, recertification. Your consideration addressing these issues as timely as you can will be greatly appreciated.

That concludes my comment and I thank you for your time.

CHAIR THOMAS: Thank you, Thomas.

Who do we have next, Maya?

MS. MORSI: We have, next, Bruce Wick with Housing Contractors of California.

CHAIR THOMAS: Bruce, can you hear us? Remember to unmute yourself. Bruce?

MS. MORSI: It looks like Bruce is not on.

MR. MOURIE: I’m sorry. Bruce told me had another call, which he hoped to be off soon, if you could put him at the end of the queue? I know he intends to
speak. I just think he had conflicting meetings.

CHAIR THOMAS: Tell Bruce he’s banned for this session. He can’t come back in. No. We’ll wait.

Maya, who do we have next?

MS. MORSI: Okay. We have, next, Helen Cleary with Phylmar Regulatory Roundtable, PRR OSH Forum.

CHAIR THOMAS: Hi Helen.

MS. CLEARY: Good morning everybody. Thank you. Hello, Chair Thomas, Board Members, I’m Helen Cleary, Director of PRR. A few things today. Our comments are similar to the ones we made at the last Board meeting.

Number one, there’s still a lack of clarity and confusion regarding the isolation and quarantine updates. And two, we have not seen the proposed text for the next draft of the ETS and we’re increasingly concerned about what’s been added to it.

These continuing issues leave us feeling like our concerns are not being heard and there’s a lack of transparency. We absolutely appreciate and understand the workload and the pressure that the Division must be under. We also understand that it’s not just the Division involved and responsible for the updates and the revisions.

But stakeholders are an integral part of this equation and we feel as if we’re being left in the dark.

It’s the employers who are responsible for implementation
and compliance, a responsibility that is negatively impacted by the rulemaking process and this full review process by all the multiple authorities.

We cannot stress enough how imperative it is that information regarding the current expectation and the coming requirements needs to be forthcoming and transparent. At the January Board meeting, many stakeholders expressed confusion and requested clarity. Board Members did so, as well. The Division stated it’s continuously working to improve the FAQs. We know the Division is tirelessly working and we’re optimistic we will get the answers that we seek.

But it has to be pointed out that we asked for clarity over a month ago. We encouraged the decisionmakers to ensure the Division has the resources to provide the needed support to all stakeholders. And we asked for transparency and urgency from everyone making the decisions that employers will be responsible to follow. Because, in the end, we are the ones accountable, despite any confusion created by governing agencies.

Regarding the next draft of the ETS, based on comments made at the last Board meeting and the fact that we have not seen a draft, we have some concerns and would stress that the proposed text be similar to what we had seen and discussed in September. One, in order to avoid
the challenges we continue to experience, it needs to be performance based. Two, now that the legislature has passed a supplemental paid sick leave, exclusion pay does not need to be included. And finally, we do not believe that mandatory testing and vaccinations should be included.

PRR members have had effective COVID-19 prevention programs in place for almost two years. Some members have made the decision to implement mandatory testing and vaccination policies and some have not. Any major additional requirements or changes from what’s been in place runs the risk of causing continuity issues and will again place responsibility for a community health crisis on the regulated community. This is a particular concern because the vote is in March, the effective date is in April, and we simply cannot plan for requirements that we do not know about and should not be expected to implement cascading requirements in such a very short time frame.

I thank you for your time and your consideration of our concerns today.

CHAIR THOMAS: Thank you.

Who do we have next, Maya?

MS. MORSI: We have, next, Saskia Kim with California Nurses Association.

CHAIR THOMAS: Can you hear us?
MS. KIM: Yes. Can you hear me okay?
CHAIR THOMAS: Yeah. Go ahead, please.
MS. KIM: Good morning. Thank you. Saskia Kim with the California Nurses Association. Thank you for the opportunity to speak. I just want to briefly share with you concerns CNA has expressed to CDPH regarding the expiration of universal indoor masking requirements this week. I’ve also sent our letter on this to Board staff and requested that it be shared with you.

CNA opposes the recent decision to end requirements for universal indoor masking. As you’ve heard me say before, CNA believes a multiple-measures approach to infection control is necessary to prevent the spread of COVID-19 and its variants. Proper infection control means using an approach that includes vaccination with a booster shot, testing, isolation after infection, quarantine after exposure, and the simple and effective measure of masking.

Now is not the time to roll back protections that help us keep each other safe. Although California’s COVID-19 numbers may be declining, they still remain well above pre-Omicron levels. Test positivity and case rates as of Tuesday were roughly three and four times higher, respectively, than on December 15th.

In California only 38 percent of vaccinated Californians have gotten a booster shot. And booster
uptake varies widely by region and demographic. In some counties, including Mariposa, Calusa and Merced, as few as 23 percent have gotten a booster.

Also, the BA.2 sublineage of the Omicron variant is beginning to spread across California. Already, six California counties have reported cases of BA.2, which is more transmissible and has been spreading widely in other countries. And the CDC study also found that the proportion of COVID-19 hospitalizations from un-fully vaccinated patients was higher during the period of Omicron dominance compared to when Delta was dominate.

Endemic does not mean a virus is necessarily harmless. Viruses do not evolve over time to become less virulent. For example, Alpha and Delta were both more transmissible and more virulent than the wild-type strain.

And long-term health consequences are a serious concern across all age groups. Reports indicate that COVID-19 may result in long-term heart problems. Study results were true for people who have never had heart issues and included people with mild COVID-19 infections, as well as those hospitalized with severe disease.

So for all of these reasons, CNA believes a multilayered approach is needed to combat the pandemic.

Thank you, again, for the time today.

CHAIR THOMAS: Thank you.
Maya, who do we have up next?

MS. MORSI: Up next will be Jose Ramirez with Fight for $15.00 and a union.


MS. NEIDHARDT: Chairman, if I may, I can read this person’s request in Spanish. Let me just explain in Spanish. [READS INSTRUCTIONS IN SPANISH]

CHAIR THOMAS: I don’t think we have him there.

MR. RAMIREZ: (Speaking Spanish.)

CHAIR THOMAS: Oh, there we go.

MS. NEIDHARDT: Yes, we hear you. (Speaking Spanish).

MR. RAMIREZ: (Speaking Spanish.)

MS. NEIDHARDT: Okay. One minute. (Speaking Spanish.)

MR. RAMIREZ: (Via Interpreter.) My name is Jose Ramirez. I have ten years working in the food industry and I have -- I’m a father of three children.

MS. NEIDHARDT: Continua.

MR. RAMIREZ: (Via Interpreter.) And 2020, January 2020, he got sick and he wasn’t able to work, and he didn’t get paid.

MS. NEIDHARDT: Continua.
MR. RAMIREZ: (Via Interpreter.)

MS. NEIDHARDT: Okay. Un momento.

MR. RAMIREZ: (Via Interpreter.) He was sick for two weeks and he had -- even now, he’s just been able to go back to work.

MS. NEIDHARDT: Continua, por favor.

MR. RAMIREZ: (Via Interpreter.) Okay. Because he wasn’t -- he didn’t have pay, sick pay, he wasn’t able to pay his bills or his rent.

MS. NEIDHARDT: Continua.

MR. RAMIREZ: (Via Interpreter.) Okay. It’s very important to have sick pay because that way the workers wouldn’t be forced to go to work sick and will be able to pay their bills.

MS. NEIDHARDT: Continua.

MR. RAMIREZ: (Via Interpreter.) Okay. He’s saying that we need -- they need a permanent regulation that will protect all workers in general against COVID before the end of the year.

Thank you.

CHAIR THOMAS: Thank you.

Who do we have next, Maya?

MS. MORSI: Up next is Mike, excuse me, Mastrangelo or Mastrangelo. Sorry about that. Mike Mastrangelo.
CHAIR THOMAS: Mike, are you with us? Hello?
Mike? We’re not getting Mike, so we’ll go on to the next.

MS. MORSI: Okay. The next will be Anna.

CHAIR THOMAS: Anna, are you with us? Remember to unmute your computer or star six on your phone. Are you with us, Anna? Anna?

Let’s move on to the next, Maya.

MS. MORSI: Okay. Next will be Michael Strunk, who is Director of Safety, IUOE, Local Union Number 3.

CHAIR THOMAS: Michael, are you with us?

MR. STRUNK: Thank you, Chair Thomas. I am.

Thank you.

CHAIR THOMAS: Go right ahead.

MR. STRUNK: Thank you, Chair Thomas and Board Members. My name is Michael Strunk. I’m the Director of Safety for the International Union of Operating Engineers Local Union Number 3. I am here to speak to you today about Petition 596, which is the autonomous vehicle variance, experimental variance, that I noticed in the Cal/OSHA newsletter in January.

We believe that Petition 596 seeks to add language to Title 8 section 3441(b) allowing driver-optimal tractors once certain conditions have been met.

While we appreciate the proponents effort --

CHAIR THOMAS: Oh, I think we’ve lost you.
MR. STRUNK: -- (indiscernible) insurmountable and strongly believe that this petition must be rejected. Additionally, we see that this issue has been addressed by the Board in Petition 571 as early as 2019. And we feel this is, essentially, the same issue that’s come back around to see us. And we strongly urge that when this is in front of the Board, we request you reject it.

Thank you.

CHAIR THOMAS: Thank you.

BOARD MEMBER KENNEDY: Can I --

CHAIR THOMAS: Who do we have up next, Maya?

BOARD MEMBER KENNEDY: Excuse me, Dave, this is Nola.

CHAIR THOMAS: Yeah, Nola?

BOARD MEMBER KENNEDY: Can we get the last speaker, if there was anything substantive in the first couple sentences of this comment repeated? Because it cut out for me. I don’t know if it did for anyone else.

CHAIR THOMAS: Maya, do we still have that -- was it Michael?

MS. SHUPE: Michael Strunk.

CHAIR THOMAS: Do we still have him on the line?

MS. MORSI: I’m not quite sure.

MR. STRUNK: Yes, I’m here.

MS. MORSI: Okay.
CHAIR THOMAS: Why don’t you repeat? Just start from the beginning again because you were cutting in and out a little bit and some of the Members couldn’t hear you.

MR. STRUNK: My apology.

CHAIR THOMAS: Go ahead.

MR. STRUNK: We feel that Petition 596 is sufficiently similar to Petition 571 and we urge the Board to reject it when it comes before them.

CHAIR THOMAS: I think that was succinct enough. Thank you.

Maya, who do we have next?

MS. MORSI: Up next is Robert S. Moutrie with Chamber -- California Chamber of Commerce.

CHAIR THOMAS: Rob, can you hear us?

MR. MOUTRIE: Yes, I can, Chair and Members. Hopefully you can hear me.

CHAIR THOMAS: We can. Go right ahead.

MR. MOUTRIE: Perfect. And I’d like to thank the announcer for including my middle name. That’s the first time I think it’s been referenced and it was very, very nice.

MS. MORSI: Thank you.

MR. MOUTRIE: So a couple of points on the data, and then a couple of points going forward for the -- related to the COVID-19 regulation. I think there were
some comments earlier about the state of our present kind of situation I’d like to flag.

On the Chamber side, we’re happy to see that daily case rates are down 75 percent over the last 14 days. We’re happy the holiday surge is looking like it’s moving towards its end though, obviously, we’re not at the June rates yet; right? We’re still above there. So with that in mind, I want to touch on two legislative pieces that I think interact with the Board’s upcoming March vote that I think the Board may not be aware of and I want to just flag for Board Members awareness.

First, on the vaccine mandate, I think there was some discussion about vaccine mandates and the recent Supreme Court ruling, which I won’t share my personal thoughts on.

But on that point, I do want to flag, there’s actually legislation moving on the vaccine mandate topic that was introduced just recently, AB 1993, Wicks, which is actually a hard vaccine mandate that’s moving through the legislative process now, so I want to flag that for Board Members to be aware of. And obviously, Cal Chamber supports vaccination, we have from the beginning, and urge everyone on the call who is not speaking up to get their vaccination and boosters.

The other touch is, as stated by Helen Cleary,
we’re eager to see the March draft so we can talk to
members to get the clarity on it, try to understand what it
means, and also to, you know, start looking and getting
into compliance. As Helen noted, depending on the changes,
you know, it takes time, so we’re looking forward to seeing
that. I know the Division is working very hard, as is
Standards Board staff, but looking forward to seeing that.

One note of substance I should flag is the
exclusion pay issue. The legislature also just did pass
COVID-19 supplemental sick leave which provides 80 hours of
sick leave and, also, includes some purposes beyond what
the regulation’s exclusion pay does, including time to seek
vaccination or care for family members.

So I think that’s an important point to make in
reference to, you know, guaranteeing ongoing solution pay
because my recollection from almost two years ago now,
right, was that exclusion pay was really discussed to fill
a hole, that we didn’t have additional sick leave kind of
lined up. The legislature has now stepped into that space,
which I think is something for the Board and staff to
consider as we look to March.

With that, thank you for your time, and hope you
all have stayed healthy and safe through the last month.

CHAIR THOMAS: Thank you, Rob.

Who do we have next, Maya?
MS. MORSI: Up next is Mitch Steiger with California Labor Federation.

CHAIR THOMAS: Mitch, are you with us?

MR. STEIGER: Yes. Thank you, Chair Thomas and Members. Mitch Steiger with the California Labor Federation. I appreciate the opportunity to testify today. Just wanted to briefly touch on Petition 596, as well as the ETS.

Regarding Petition 596, the one related to autonomous tractors, we would like to echo some of the previous concerns raised. I know it’s not on the agenda today but did just want to flag it. And also, we’ll try not to rehash our written comments that we submitted.

But, fundamentally, we do think that the concept of an autonomous tractor really does run contrary to the concept of worker safety but, also, to clarify that in no way do we oppose technology. We completely support making tractors or any other kind of machinery more safe. Anything that improves visibility or adds new ways for operators to know if there are other workers nearby or adds ways for workers to know that a tractor is nearby, we support all of that kind of thing.

But it’s a big leap from that to removing the operator from the tractor and putting all of our faith in the technology to not make any mistakes, to never
malfuction, to never have a glitch. It could cause some
pretty disastrous results.

And so we think the best of both worlds is to
have improvements in technology and the operator there on
the vehicle so that their training and more experience can
best be used to keep workers safe. I assume everybody who
operates one of these things has all sorts of stories of
when their knowledge and their background in the industry
has allowed them to save the life of a coworker, avoid
serious injury from a coworker. And with moving entirely
to an autonomous system we eliminate all of that skill and
all of that experience and we think the results could be
pretty scary.

And so it’s a conflict that we don’t really think
can be resolved and we would urge rejection of that
petition when it comes before you, whenever that is.

And regarding the COVID-19 ETS, we would also
echo the points raised by Worksafe and CNA. Things are
better than they were a few weeks ago but they’re still
pretty bad.

I just checked where I live in Sacramento County.
We’re averaging about 65 new cases per 100,000 residents.
That is roughly eight times worse than what would have put
us in the purple tier when we had a color-coded tier system
under which most indoor businesses would be closed.

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We still have two-and-a-half million Californians too young to be vaccinated, many more immunocompromised. I’m starting to be a broken record on all of these things but we are still in a pretty bad place with this pandemic, better than we were a few weeks ago but still in a very concerning place.

And we would strongly urge the Board to readopt something at least as strong as what we have now, wherever we are in March or April, that we’ve seen this go up and down and up and down and it can suddenly get worse. And leaving us with nothing -- without something that’s at least as strong as what we have right now also comes with a pretty serious potential for disaster.

So we would just urge the Board to consider the unpredictable nature of this virus but, also, that we are now getting used to the standard that we’ve got and we hope that whatever is adopted is at least as strong as what we’ve got now.

Thank you.
MS. VALENTINO: Good morning. I can hear you just fine.

CHAIR THOMAS: Good morning.

MS. VALENTINO: All right. Thank you for hearing me today.

Yesterday, I was out to lunch with friends. There were not a lot of other people in the restaurant, yet the service was incredibly slow throughout the entire process. This seems to be the new normal. And much of it is due to your workplace restrictions.

Last month, Steve H. Hank, professor and founder at the Johns Hopkins Institute of Applied Economics, released a metanalysis of the medical and economic impact of compulsory nonpharmaceutical interventions, or NPIs. It’s important to note that while our economy is supposedly open, we still practice these NPIs they studied, including practices like masking, social distancing, contact tracing, quarantining, and routine testing. I now quote the conclusion from the abstract.

“An analysis of each of these groups support the conclusion that NPIs have little to no effect on COVID mortality. Stringency index studies find that lockdowns in Europe and the United States only reduced COVID mortality by 0.2 percent on average. Shelter-in-place orders were also ineffective, only reducing
mortality b 2.9 percent on average. Specific NPI studies also find no broad-based evidence of noticeable effects on COVID-19 mortality.”

“While this metanalysis concludes that NPIs have little to no public health effects, they have imposed enormous economic and social costs where they have been adopted. In consequence, NPI policies are ill founded and should be rejected as a pandemic policy instrument.”

In short, the cost-benefit ratio of nonpharmaceutical interventions are devastating our economy but has done nothing to save lives. Two years into this we have clear data. We know that cloth and surgical masks are ineffective against COVID-19, yet they remain a key component of your emergency temporary standards. We know from Delta and Omicron that transmission is the same amongst the fully vaccinated and unvaccinated, yet you still have discriminating policies in place for unvaccinated workers. Your temporary standards were supposed to be just that, temporary.

We also knew that emergency implies you were doing the best that you could without solid data. We are well past that point. By keeping these unfounded emergency standards in place, you are severely neglecting your duty.

I plead with you to drop emergency standards that
are killing businesses and, essentially, have no impact on COVID-19 mitigation.

Thank you for your time.

CHAIR THOMAS: Thank you.

Maya, who do we have up next?

MS. MORSI: Up next is Anne Katten with California Rural Legal Assistance Foundation.

CHAIR THOMAS: Anne?

MS. KATTEN: Good morning. Hi. Good morning.

This is Anne Katten and I’m speaking today on behalf of California Rural Legal Assistance Foundation and for my first topic, also, for Jassy Grewal of UFCW.

We join previous speakers asking you to deny Petition 596, which seeks to change the tractor operation regulations to allow for autonomous tractor use. As has been pointed out, this is very similar to a petition that the Board denied in 2019 after concluding that driverless operation is an emerging technology without a proven track record. This is still the case.

The petitioner states that they’ve operated under an experimental variance since last August without mishap. But they fail to add that during the first full year of the variance a trained operator must remain on the vehicle, as we think should always be the case.

We are especially concerned that the petition
envisions use of autonomous tractors to move equipment
around in vineyards where employees are working, both
during daytime and nighttime operations, and to travel in
autonomous mode on farm roads. Safe operation of these
tractors in autonomous mode relies heavily on safety
guardrails that are programmed to deploy when a human is
within seven feet of the moving tractor. But of course, if
this technology fails it will put a worker who steps or
falls into a tractor’s path, such as when they’re loading or
unloading a bin or crossing a farm road, at risk of serious
injury or death.

We urge you to deny this petition when it comes
to a vote.

Switching to the COVID regulation needs, we join
the concerns expressed by Worksafe, CNA, and the Labor
Federation. We’re very concerned that the state’s mask
mandate rollback eliminates a simple and effective means of
protection for many indoor workplaces, especially
considering that only 38 percent of Californians have
gotten booster shots, and in light of the higher infections
rates and lower vaccination rates in many rural areas where
produce and meat packing operations are located and work
conditions are very crowded.

California needs to retain strong COVID workplace
protections and renewal of the ETS in drafting a more
permanent regulation, including, also, exclusion pay
because, as has been mentioned, the renewed supplemental
paid sick leave requirement excludes employees of smaller
operations.

It’s also important to retain enhanced
ventilation and air filtration requirements for workplaces
in employer-provided housing.

Thank you for your hard work in these difficult
times.

CHAIR THOMAS: Thank you, Anne.
Maya, who do we have up next?
MS. MORSI: Up next is Pamela Murcell with
California Industrial Hygiene Council.

CHAIR THOMAS: Pamela, can you hear us?
MS. MURCELL: I can.
CHAIR THOMAS: Go right ahead.
MS. MURCELL: Good morning everyone. Thank you,
Chair Thomas and Board Members, also the Standards Board
staff and the DOSH staff. This is Pamela Murcell on behalf
of the California Industrial Hygiene Council. And we do
want to echo our appreciation and thanks for all of the
continuing hard work in these very extraordinary times. We
understand the importance of addressing protections for
California workers related to COVID-19 exposures and what
we can do as best practices to try to minimize the impact
of the disease on California’s workers.

But we also have a lot of concern about the time and the resources and all of the efforts that have been used to address COVID-19 protections but have not been available to address other, also very important, health and safety protections for California’s workers. We really believe it’s time to pay attention to some languishing issues and to move forward expeditiously with action on COVID-19 and the infection disease regulations.

But again, we really do need to be paying attention to some additional health and safety concerns. Some of those would include things like the lead standard that has been a long time on the backburner, the heat illness prevention proposed regulations, the impact that will have on indoor work environments, and it’s just time to move these proposed regulations and changes forward.

There’s a languishing advisory committee on the backburner for asbestos and construction regulation changes. That’s coming up on about five years of no activity at all, not even a first advisory committee meeting.

We have a wildfire smoke protection regulation that was adopted to be a permanent regulation but, essentially, is the emergency regulation language with the intent that there would be an advisory committee convened,
my understanding, it would done fairly expeditiously to
address the wildfire smoke protection regulation and to
make modifications for a permanent regulation. That’s now
going on three years.

So again, there’s a very long list of other
activities that we really, really do need to have some
attention paid to. I understand the constraints. I
understand the staffing issues. I understand that there
are roadblocks or things that need to be overcome to move
forward on some of these issues but they really, really do
need to be addressed.

And these challenges are not going to go away.
The challenges for addressing the other regulations, the
other things that we need to do related to COVID and
infectious diseases in general, you know, it’s not going to
go away, and we understand that. But we cannot have all of
our resources from the Cal/OSHA Program focused on,
especially, one regulatory effort at this point.

I read daily of accidents from things that are
happening that will continue to happen that we really do
need to pay attention to, exposures that are occurring that
we really do need to pay attention to.

So with that, I just want to say, again,
appreciation for all of the hard work, but what can we do
to get things moving on other fronts?
I thank you all for your efforts and appreciate your time.

CHAIR THOMAS: Thank you, Pamela.
Maya, who do we have up next?

MS. MORSI: Up next is Bethany Miner with Miner’s Ace Hardware.

CHAIR THOMAS: Bethany, can you hear us?

MS. MINER: I can. Thank you. Can you hear me?

CHAIR THOMAS: Yeah. Go right ahead.

MS. MINER: Okay. Thank you very much for allowing me the time to speak today. My name is Bethany Miner. I’m an H.R. professional. I’ll make my comments very brief today.

I would like to see a draft of the new ETS as soon as possible. As an employer with over 300 employees, I’ve very invested in keeping updated on all upcoming changes to regulations. As you can imagine, that has been a challenge over the past two years.

I agree with all the points that Helen Cleary raised today and hope that you are able to address those concerns. Please do not add any vaccination mandate to the ETS.

And I also wanted to note that I agree with those who have mentioned exclusion pay is redundant now that supplemental sick pay is mandated from the state.
Thank you very much for your time.

CHAIR THOMAS: Thank you.

Maya, who do we have next?

MS. MORSI: Up next is Cassie Hilaski with Nibbi Brothers.

CHAIR THOMAS: Cassie?

MS. HILASKI: Hello. Can you hear me?

CHAIR THOMAS: Yeah. Go right ahead.

MS. HILASKI: Good. As usual, thank you to the Board for all of your hard work, and to the Division for their hard work.

First of all, I agree with Helen Cleary and Rob Moutrie’s comments.

Secondly, I wanted to talk about the new orders that have been issued relaxing face mask requirements. I’d simply like some clarification about how that effects workplaces.

So Cal/OSHA’s ETS states that CDPH guidelines are to be followed concerning face coverings. CDPH guidelines currently direct employers to the ETS. This leads me to believe that the intent is for the ETS minimum standards to be followed which states that only unvaccinated individuals need to wear masks indoors. Fully vaccinated individuals do not need to wear masks and the ETS defines that term as anyone with at least two shots of the mRNA vaccines or one
shot of J&J.

So I just want to clarify that employers are not to follow the definitions for fully vaccinated and partially vaccinated that are currently used by CDPH when applied to isolation and quarantine guidelines. This clarification would be greatly appreciated to make sure that we are doing what you actually want us to do.

And then, finally, I’d also like to second Board Member Laura’s request at the last meeting, that the Cal/OSHA website make more of an effort to hold all information in one place rather than requiring the user to bounce around multiple locations to sort out the answers to our questions.

Thank you very much for your time.

CHAIR THOMAS: Thank you.

Who do we have up next, Maya?

MS. MORSI: Up next is Eddie Sanchez with Southern California Coalition for Occupational Safety and Health, aka SoCalCOSH.

CHAIR THOMAS: Hello. Are you with us?

MR. SANCHEZ: Hello. Can you hear me?

CHAIR THOMAS: Yeah. Go right ahead.

MR. SANCHEZ: Awesome. I just want to thank the Board and staff for your hard work and consideration of our comments today. My name is Eddie Sanchez with SoCalCOSH,
it’s Southern California Occupational Safety and Health -- excuse me, Southern California Coalition for Occupational Safety and Health. Our organization was founded that workplace deaths and injuries are preventable. I’m here today to comment on the proposed standard for workplace protections of ETS.

We want to continue advocating for a strong ETS that retains PPE requirements, that retains exclusion pay, and that is rooted in the reality that there’s going to be more COVID surges.

We also want to ask that the Board take steps to ensure that the process toward the permanent standard is paved to avoid technical road bumps.

We thank you again, Board staff and Division, for your time and consideration and work on this effort. We know you’ll make the best decision to protect working families.

Thank you.

CHAIR THOMAS: Thank you.

Who do we have up next, Maya?

MS. MORSI: Up next is Bryan Little with California Farm Bureau.

CHAIR THOMAS: Bryan, can you hear us?

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

CHAIR THOMAS: Yeah. Go right ahead, Bryan.
MR. LITTLE: Thank you very much for the opportunity. I’m Bryan Little with California Farm Bureau Federation, California’s largest organization, general interest organization for agricultural producers.

I just wanted to align myself with comments offered by Helen Cleary and Robert S. Moutrie. I don’t know what the S stands for. I’d love to know one of these days.

And also wanted to echo the comments that both of them made to the effect that we would like to see a draft of the March -- the March draft of the standard as soon as possible because we’re going to be working on trying to help the agricultural employees understand and comply with it going forward once we expect that the Board would adopt that.

Also that there is -- given that the legislature is dealing with or has dealt with these issues, there would be no need for any vaccination mandate in that, nor for exclusion pay, given that the legislature had just dealt with that issue with SB 114. We’d urge the Standards Board and the Agency to make sure that that standard is performance based and easy to understand, or as easy to understand as possible, and would look forward to working with all of you to try to accomplish those goals.

I appreciate all that you guys are doing to try
to keep up with a rapidly evolving and changing situation
and thank you for your time.

CHAIR THOMAS: Thank you, Bryan.

Maya, who do we have up next?

MS. MORSI: Up next is Paula Vlaming with Crane
Owners Association and Mobile Crane Operators Group.

CHAIR THOMAS: Paula? Was it Paula?

MS. MORSI: It’s Paula Vlaming.

CHAIR THOMAS: Hello. Can you hear us?

MS. SHUPE: Paula, if you’re -- if you can hear
us, you can begin your comments to the Board. You appear
to be muted. If you’re joining us via phone, please press
star six. If you’re joining us via WebEx, please ensure
that the mute is turned off on your computer. Thank you.

CHAIR THOMAS: Paula? I think we’re going to
have move on to --

MS. SHUPE: Hang on just one second. We just had
somebody try to join from the lobby.

Paula, are you with us now? Press star six.

MS. VLAMING: This is Paula.

CHAIR THOMAS: Oh, there we go. Paula?

MS. VLAMING: Yes.

CHAIR THOMAS: Welcome.

MS. VLAMING: This is Paula Vlaming --

CHAIR THOMAS: Go right ahead.
MS. VLAMING: -- of the Crane Owners and Mobile Crane Operators Group.

CHAIR THOMAS: Yeah. Go right ahead.

MS. VLAMING: Yes. Can you hear me?

CHAIR THOMAS: Yes.

MS. VLAMING: Okay. This is Paula Vlaming of the Crane Owners Association and Mobile Crane Operators Group. And I am commenting in support of the National Commission for Certification of Crane Operators’ comment letter. We agree with their letter regarding the three items that they --

CHAIR THOMAS: Oh.

MS. VLAMING: Hello?

CHAIR THOMAS: Oh, go ahead.

MS. VLAMING: Yes.

CHAIR THOMAS: We lost you for a second --

MS. VLAMING: Yes.

CHAIR THOMAS: -- but --

MS. VLAMING: Okay.

CHAIR THOMAS: -- start with the three items.

MS. VLAMING: Okay. Sorry about that. So the three items listed in the National Commission for the Certification of Crane Operators’ letter of February 15th, issue number one, the crane operator physical qualifications. We also support issue number two, crane
operator substance tests, and their comments regarding
issue number three, crane operator recertification.

So we respectfully request that you consider
those issues raised by the National Commission for
Certification of Crane Operators and take those into
consideration before making your adoption order this
afternoon.

CHAIR THOMAS: Thank you.

MS. VLAMING: Thank you.

CHAIR THOMAS: Maya, who do we have up next?

MS. MORSI: Up next is Robert C. Blink, MD, with
Worksite Partners Medical Group.

CHAIR THOMAS: Mr. Blink, are you with us?

Robert? Remember to unmute yourself or star six if you’re
on a phone. Robert?

We’re not getting anything, Maya, so let’s go to
the next and see if you can get him for later.

MS. MORSI: Okay. So we’re going to circle back.

The first one that we did not get to hear speak is Julian
Hisgin.

CHAIR THOMAS: Julian, can you hear us? Julian?

I hear a sound but can you tell if they’re muted?

MS. MORSI: Let’s see if Julian is in there.

CHAIR THOMAS: Who was that?

MS. MORSI: This is Maya. I don’t see a Julian
MS. SHUPE: It doesn’t look like --

CHAIR THOMAS: Okay.

MS. SHUPE: -- he’s joined us.

CHAIR THOMAS: He must have -- who do we have next?

MS. MORSI: Up next is Bruce Wick with Housing Contractors of California.

CHAIR THOMAS: Bruce, can you hear us?

MR. WICK: Yes, sir. Thanks, Chair Thomas.

CHAIR THOMAS: Go right ahead.

MR. WICK: I appreciate the opportunity. We want to talk about a couple of things.

One is, as has been expressed by others, the time frame. The sooner we get a draft the sooner we can try and respond to the -- you know, what’s going to -- and at the next meeting. I was late to this meeting because we’re -- I was with my members trying to sort out the paid sick leave. As of this morning, we don’t have FAQs from the Labor Commissioner on all kinds of very important issues and this law takes effect Saturday morning, and we have no answers for people for very important questions.

So we need to stop, as a state government, putting people in, well, here’s a new law and hope you can comply in time. We need to give ourselves time to go
through things, get FAQs answered. Please, give us that
draft as soon as possible.

One of the things that I think we should consider
here, and construction is one, we’re in competitive bid
situations. We have an underground economy we compete
with. We’ve just been given the new paid sick leave. And
while some tax credits were touted for it in construction,
with my members, those tax credits will cover, at best,
five percent of the total cost. This really helps the
underground economy.

Adding exclusion pay and all the administrative
issues between the two, if we continue that in the new
draft, it’s going to be really problematic. I think the
legislature has spoken. They used the budget trailer bill
process, which is not a good way to do it but, okay, they
have spoken. Please, let’s exclude exclusion pay going
forward and let paid sick leave -- it’s going to be an
enormous burden on employers to go through that
administrative. Besides the cost of it, let’s focus there,
doing that.

And I would like to go back to something Pam
Murcell said about all of the things that have been on hold
and not processed for a long time. We spent an enormous
amount of time between the Division, this Board, processing
the ETS. For construction, we can say, it made no real
difference. We had been in compliance with protecting people from COVID, April 2020, and that hasn’t changed, but we spent all this time on a new reg. We’ve been going through all these changes.

So for this reg coming up in April, please, let’s use the IIPP basis. Let’s flex as COVID, you know, makes its changes and as we go through that so that we don’t spend a ton of time and get some of these other issues through this Board. Everybody’s working really hard but we’ve just let this one issue overtake us. And if we had not done the ETS we would have had huge protection from April of 2020 and we would have processed man of these other issues that need to be addressed at some point.

So I hope we follow those two things, not forward the exclusion pay, and follow the IIPP so we don’t have -- so we can just adjust as things go with the reg that we put into effect in April.

Thank you very much.

CHAIR THOMAS: Thank you, Bruce.

Maya, how many more callers do we have online we’re waiting for?

MS. MORSI: I plan on calling the three that were not able to speak.

CHAIR THOMAS: All right. Let’s see if we can get them.
MS. MORSI: Okay. So up next is Mike, I’m going
to say the name properly this time, Mastroangelo.
Mike Mastroangelo?
CHAIR THOMAS: Mike, are you with us? Let’s see
if we could --
MS. MORSI: He’s not on the list either.
CHAIR THOMAS: Well, I’m not hearing anything, so
let’s move on.
MS. MORSI: Okay. The next one is Anna.
CHAIR THOMAS: Anna, can you hear us? Remember
to unmute yourself. If you’re on a phone, star six. Anna?
All right, let’s go to the next.
MS. MORSI: And finally, Robert C. Blink, MD,
with Worksite Partners Medical Group.
CHAIR THOMAS: Robert, can you hear us? Robert?
I think this is our former Board Member; right?
I’m pretty sure.
Robert, are you there? Unmute yourself if you
can, star six if you’re on a phone. It looks like we’re
not going to hear from Robert. All right.
Do we have any other callers on the line, Maya?
MS. MORSI: We do not.
CHAIR THOMAS: All right. At this time, since we
have no other callers, we’re going to move on to our next
order of business. We thank you and the Board appreciates
your testimony, and the public meeting is adjourned and the
record is closed.

We will now proceed with the business meeting.
The purpose of the business meeting is to allow the Board
to vote on matters before it and to receive briefings from
staff regarding the issues listed on the business meeting
agenda. Public comment is not accepted during the business
meeting unless a member of the Board specifically requests
public input.

Today we have Title 8, various safety orders and
sections, as listed on today’s agenda, for proposals to
consolidate Construction Safety Orders, Article 15, Cranes
and Derricks in Construction into General Industry Safety
Orders, Group 13, Cranes and Other Hoisting Equipment.

MR. SMITH: Chairman Thomas and Members of the
Board, the package before you today is a comprehensive
update and consolidation of all Title 8 Crane Standards
into the General Industry Safety Orders, or GISO. The
existing Construction Safety Order Standards for cranes and
derricks are primary based on the 2010 federal rules that
were later updated in 2018 for cranes and derricks used in
the construction industry nationwide.

Following -- moving the construction crane
standards into the GISO will maintain conformity with
corresponding federal standards and apply consistent
requirements to cranes and derricks used in both
construction and general industry.

The consolidation is expected to have minimal
regulatory impact on general industry as exceptions are
proposed for the limited cases where the updated standards
would impose new and unnecessary requirements on cranes
used solely in general industry. The proposed consolidated
state standards will be remain more protective that the
federal standards since most of the federal standards are
found only in subpart CC for construction and not in
federal standards for general industry.

The proposal was developed with the assistance of
industry stakeholders input during a number of advisory
committee meetings chaired by then Board staff Conrad
Tolson from 2014 to 2015. Staff from the Division and
federal OSHA also participated in the advisory process.

During the 45-day comment period and the May 2021
public hearing a few commenters provided comments that were
summarized and fully considered by Board staff. A 15-day
notice was issued in November 2021 for some minor
modifications to the proposal that resulted from the
comments received. Federal OSHA representatives provided
comments on the equivalency of the proposal to federal
standards and indicted the overall proposal appeared to be
commensurate with federal standards and, in some cases, even more stringent. However, federal OSHA did provide a few comments on some minor deficiencies that were addressed during the 15-day process.

Finally, a few comments were provided on existing requirements, such as the certification procedures that did not result in modifications as they went beyond the intent of this rulemaking to consolidate and update existing requirements, those existing requirements that have been in place for over ten years and would not change with the adoption or rejection of this proposal.

Therefore, it is Board staff’s opinion that the substantive issues raised by the commenters on existing requirements would best be addressed in a follow-up advisory and rulemaking process.

Finally, Board would like to express our gratitude to our former Board staff engineer and the offerer of this package, Mr. Conrad Tolson, who even in retirement displayed his willingness to provide assistance to staff in getting this proposal through the rulemaking process.

At this time, Board staff believes the proposal is now ready for the Board’s consideration and adoption.

CHAIR THOMAS: Thank you, Steve.

Are there any questions for Steve at this time
from Board Members?

BOARD MEMBER HARRISON: No, I just -- I’ve got a few comments if I can, Dave?

CHAIR THOMAS: Yeah. Go ahead.

BOARD MEMBER HARRISON: So, Steve, thanks for the brief. That summarized it pretty well. This is a long time in the making. I’ve got a lot of folks to thank. I feel like it’s a Grammy awards. I want to thank my fans. No, I’m kidding.

I truly, truly want to echo Steve’s comments about Conrad Tolson. He was the champion with this, along with Mike Manieri, and who else? Steve Smith, your work to kind of wrap this up has been great. You know, it started under Marley Hart. And Christina’s, again, able to wrap this up. I think we’ve been working on this for about eight years or so.

I do want to recognize the commenters, the comments that were submitted in writing and verbally today, and orally.

I think the benefits of this rulemaking far, far, far outweigh the little bit of -- the few concerns from stakeholders, however, I recognize those are legitimate concerns. And I would support a future advisory or petition to address those issues around the certification process.
But with all of that said, I think this package is put together. Once again, it looks like California is going to lead the was for the rest of the country. We’re getting phone calls from folks all over the country around cranes and rules and stuff we’re able to do in California.

So thanks again, Board staff, and anyone that had anything to do with this rulemaking. I’m happy to still be a Board Member and get to vote on its approval.

CHAIR THOMAS: Thanks Dave.

Any other Board Member comments at this time? I don’t see any, so I would entertain a motion?

BOARD MEMBER HARRISON: Motion to approve.

BOARD MEMBER LASZCZ-DAVIS: Second.

CHAIR THOMAS: I have a motion. Do I have a second?

BOARD MEMBER LASZCZ-DAVIS: Second.

CHAIR THOMAS: I have a second. Are there any other questions?

Hearing none, Ms. Money, will you please call the role?

MS. MONEY: Ms. Burgel?

BOARD MEMBER BURGEL: Aye.

MS. MONEY: Ms. Crawford?

BOARD MEMBER CRAWFORD: Aye.

MS. MONEY: Mr. Harrison?
BOARD MEMBER HARRISON: Aye.

MS. MONEY: Ms. Kennedy?

BOARD MEMBER KENNEDY: Aye.

MS. MONEY: Ms. Laszcz-Davis?

BOARD MEMBER LASZCZ-DAVIS: Aye.

MS. MONEY: Ms. Stock?

BOARD MEMBER STOCK: Aye.

CHAIR THOMAS: Chairman Thomas?

CHAIR THOMAS: Aye. And the motion passes and we thank you.

Now we will go to a proposed variance decisions for adoption, and they’re listed on the -- they are listed on the consent calendar.

Ms. Gonzalez, can you please brief the Board?

MS. GONZALEZ: Sure. Thank you, Chair Thomas.

Good morning Board Members. We had a very busy hearing schedule last month and we have decisions A, all the way through DD ready for your consideration and possible adoption.

CHAIR THOMAS: That was what, A through --

MS. GONZALEZ: DD.

CHAIR THOMAS: DD?

MS. GONZALEZ: Yeah.

CHAIR THOMAS: That’s quite a few it seems like.

So are there any questions for Ms. Gonzales? All
right.

Hearing none, I’ll entertain a motion.

BOARD MEMBER LASZCZ-DAVIS: I so move.

CHAIR THOMAS: All right. I have a motion from Chris.

Do I have a second?

BOARD MEMBER KENNEDY: I second.

CHAIR THOMAS: I think that was Barbara; right?

BOARD MEMBER BURGEL: No, I think it’s Nola.

BOARD MEMBER KENNEDY: Second.

CHAIR THOMAS: Oh, was it Nola?

BOARD MEMBER BURGEL: Yeah. Someone should.

BOARD MEMBER KENNEDY: Yeah.

CHAIR THOMAS: Okay. Somebody seconded it, so, all right, so we have a motion and second. Are there any other questions?

If not, then, Ms. Money, would you please call the roll?

MS. MONEY: So just to clarify, I’ve got Ms. Laszcz-Davis for motion and Ms. Kennedy for a second; is that correct??

CHAIR THOMAS: Thank you, Nola. I didn’t see you. All right.

Call the roll.

MS. MONEY: Ms. Burgel?
BOARD MEMBER BURGEL: Aye.

MS. MONEY: Ms. Crawford?

BOARD MEMBER CRAWFORD: Aye.

MS. MONEY: Mr. Harrison?

BOARD MEMBER HARRISON: Aye.

MS. MONEY: Ms. Kennedy?

BOARD MEMBER KENNEDY: Aye.

MS. MONEY: Ms. Laszcz-Davis?

BOARD MEMBER LASZCZ-DAVIS: Aye.

MS. MONEY: Ms. Stock?

BOARD MEMBER STOCK: Aye.

MS. MONEY: Chairman Thomas?

CHAIR THOMAS: Aye. And the motion passes.

Thank you.

Let’s see, Division Update.

Mr. Berg, can you please brief the Board?

MR. BERG: Yes. Thank you, Chairman Thomas. Can you hear me okay?

CHAIR THOMAS: Yeah. Go right ahead, Eric.

MR. BERG: Oh, okay. So Cal/OSHA has completed the rulemaking packages for indoor heat, lead in construction, lead in general industry, and first aid, and worked diligently on all these rulemaking packages during the COVID-19 pandemic.

For workplace violence, I know that they were
asking -- Board Members asked for an update on that. So
we, as you know, we posted two previous drafts and received
a number of public comments, and those comments are very
helpful, so we’ve reviewed and reviewed all those comments
and have prepared another draft text that we will post as
soon as we’re able to post that. So please look forward to
the further language to be posted on workplace violence.

And then we’d appreciate stakeholder and public
and interested parties to comment on that. So we’re trying
to balance making it simple and easy to understand and
then, also, protective of employees. So we’ve been trying
to get those two issues correctly balanced as best as we
can. And so this back and forth with stakeholders and
posting language is very helpful in trying to refine that.

As far as the ETS, we’ll get the text posted as
soon as we can, and we’ll be working on that.

I’m trying to think of anything else. Any other
questions on other issues?

CHAIR THOMAS: Laura, then Dave.

BOARD MEMBER STOCK: Thank you. Thank you, Eric.

Yeah, I do have a number of questions.

So back to the ETS, so --

CHAIR THOMAS: Laura, your mike is not working

right.

BOARD MEMBER STOCK: Oh, okay. Can you not hear
CHAIR THOMAS: No, it’s not good.

BOARD MEMBER STOCK: I’m going to put in a headphone.

CHAIR THOMAS: Okay. Unmute

BOARD MEMBER STOCK: Is that better? Can you hear me now?

CHAIR THOMAS: Not much better but you can try.

BOARD MEMBER STOCK: Oh, I’m so sorry. Okay.

How about now? I’m getting even closer.

CHAIR THOMAS: Okay. Try that.

BOARD MEMBER STOCK: All right. Okay. Is that any better right now?

CHAIR THOMAS: No, it’s really not.

MS. SHUPE: There’s some sort of interference, Laura.

CHAIR THOMAS: Yeah. It’s real fuzzy.

MS. SHUPE: It’s not that you’re not close enough, it’s that there’s a lot of interference and status.

BOARD MEMBER STOCK: I’m going to get another headset. So maybe other people can come in and then I’m come back?

CHAIR THOMAS: Okay.

MS. SHUPE: Should we go to Dave?

CHAIR THOMAS: Let’s go to Dave Harrison, and
then Barbara.

Dave?

BOARD MEMBER HARRISON: Yeah. So I want to talk about, and I mentioned this last month, automated equipment, and specifically the experimental variance, temporary variance that was granted by the Division in August of last year, and try to wrap my brain around. And maybe, Eric, you can help me, and maybe come back next month with a report.

So in 2019 there was a petition submitted for automated equipment with the Association of Equipment Manufactures. And if you look at the Division’s evaluation of that petition, the Division said, and I quote,

“Division reviewed the petitioner’s proposed changes to Title 8 3441(b). The review included information provided in the petition’s application,” so on and so forth. “Field evaluations were also conducted at two different locations that employed technology relative to the use of autonomous equipment. Based on the information gathered during the evaluations the Division recommends the Standards Board to deny the petition.”

And fast forward to August of 2021, and now we’ve got Monarch who applied for an experimental temporary variance, and the Division did a complete flipflop and
granted this experimental variance and, in my opinion, putting employees at risk. And I don’t know, these are substantively the same issues, the same petitions, the same equipment.

And there was zero stakeholder involvement. I didn’t even find out about it until -- and I went to the Division’s website, I couldn’t find anything on it. I had to find out through the Cal-OSHA Reporter in January of this year that this, such a variance, was even granted.

And so now we’ve got another petition before us, so I’m not going to talk about 596. But I would ask the Division, if you could come back next month and maybe explain the difference between Petition 571 with AEM (phonetic) and Monarch’s temporary experimental variance, and why the Division decided to have a change of opinion? What are the substantive differences between the two situations so that I can understand where we’re going with protecting workers around this autonomous equipment?

MR. BERG: Okay. Sure. I’ll do that for next month. I can give you a high-level overview now.

BOARD MEMBER HARRISON: That would be great.

MR. BERG: The temporary experimental variance is --

MS. GONZALEZ: Before Eric goes any further, I just want to caution that this is an open matter.
MR. BERG: Oh, okay.

MS. GONZALEZ: And an appeal has been filed, so we should just be a little careful about what we discuss here.

MR. BERG: Oh, okay. I can --

BOARD MEMBER HARRISON: If you want to wait --

MR. BERG: -- not talk about it.

BOARD MEMBER HARRISON: -- I’m fine. I just wanted to ask the question. And we can forego any response today. That’s fine.

MR. BERG: Okay. I’ll hold off on that since the matter is under appeal.

CHAIR THOMAS: Thanks Dave. Thanks Eric.

Barbara?

BOARD MEMBER BURGEL: I wanted to just follow up, and I don’t know, Laura, if this was your point but, you know, Cassie Hilaski and several others commented on the recent guidance from the CDPH regarding masking and if there is going to be some frequently asked questions or some clarification from the Division about what indoor employers, you know, employers should do for indoor worksites? My understanding, when I interpret what we should be doing, is that employers need to verify vaccination status which, again, as Cassie pointed out is the old definition as opposed to the new definition, or are
we adopting the CDPH definition of a booster with fully
vaccination? That’s the first question.

And the second question is that employers still
have the option of not asking about vaccination but
requiring masking for all indoor workplaces.

So could you verify what’s going to happen vis a
vis this recent masking CDPH policy?

MR. BERG: Yeah, well, in the ETS, there’s
section 3205 does require face coverings indoors for -- and
in vehicles for employees who are not fully vaccinated.
And the definition of fully vaccinated is what’s in 3205
right now, so it doesn’t -- that hasn’t changed. And also,
3205 requires face coverings be provided and ensured their
used when required by orders from CDPH. So CDPH changed
that order effective February 15th. So before, everybody,
regardless of vaccination status, had to use face coverings
indoors, at any indoor location, and so that applied.

And that no longer is in effect, that order, so
that changes 3205 where it incorporates orders. CDPH still
does require face coverings in some unique settings,
transportation, some other industries, so that would still
be required, but exactly what’s in the CDPH order.

So I don’t know if that answers your question.

BOARD MEMBER BURGEL: Do you anticipate that the
CDPH is going to change their definition of fully
vaccinated and then comply? I mean, it’s referring people back to the ETS but we have an outdated definition of fully vaccinated, so it’s a little, I think, murky.

But, Laura, I’m sure you’re probably going to ask about this, as well, so --

BOARD MEMBER STOCK: Yeah. Can you hear me now?

CHAIR THOMAS: Hurry up before we lose you but go ahead.

BOARD MEMBER STOCK: Okay. Yeah. It’s funny, I tested my sound when I first joined, but I’m going to go ahead. Stop me if you stop being able to hear me.

So first, definitely, one question is it’s really, really urgent, as everybody has said, to get that draft up as soon as possible. Because if we’re going to be voting on that very shortly, people need to have an opportunity to respond, so I have a couple of questions.

But before I go to the next one, could you just give us any more specificity about when that draft will be even available to review?

MR. BERG: Yeah, I don’t know an exact of when it will be posted, but as soon as possible.

BOARD MEMBER STOCK: Okay. So I guess I’ll just join all the other stakeholders, I see some nods from my fellow Board Members, in just recognizing how urgent it is that it be put up there as soon as possible. I understand
the challenges but it’s really, really important.

And then secondly, I just want to make a few
general comments in response to some of what we’ve heard
this morning. I share the concern that we are, once again,
CDPH and others are prematurely rolling back requirements
when we know that they work and that there is a need for
kind of, you know, multiple efforts.

And I’m concerned about the idea, even though
some mandates are being rolled back by CDPH, they are still
strongly encouraging masks wearing, which indicates that
they believe that it works, but it’s leaving the choice to
individuals. And it’s our job to remember that workers
don’t have that choice. So it’s, really, it’s important
that we recognize that we have a different kind of charge
here. I’m not talking about the general public. I’m
talking about workers who are impacted by the choices of
others. So I join the hope that we’re not going to be
moving backwards in our ETS.

I do think that there is a couple of things. I
think it’s really important to clarify the definition of
vaccinated. And so a new reg does give us an opportunity
to recognize the importance of boosters, so I hope that
that can be incorporated.

And then I finally want to just comment on the
call for people to eliminate exclusion pay. It’s really,
really important to keep reiterating that the new sick
leave law does not cover any places of employment that are
25 and under, and that is a huge percentage of California
workplaces. And we know that the most important way to
stop the spread is to allow sick people to be able to stay
home.

And we heard this morning from someone
representing a fast food worker who described for us the
impact of not having sick leave to stay -- when he stayed
home, he lost the ability to pay his rent, pay his bills,
and that’s what people will be facing.

So it’s very, very important in my mind to retain
that environment, recognizing that the sick leave law
leaves huge numbers of California workers unprotected. So
I’m hoping that that will be, as well, in the new law.

And then I just want to reiterate, and thank you,
Cassie, for referencing that, I hope it is still true, and
I’ve been looking lately, unless it’s changed, that there’s
a need to go to multiple places to understand where things
are. So I know that we’re going to get another change.
And I’m hoping that once that happens, or possibly before,
there will be one link that takes you to all the
requirements that you need rather than, you know, this is
what’s before, this is what CDPH says, these are the
isolation requirements. So I do recognize that that has
been very confusing.

Thank you.

CHAIR THOMAS: Thank you, Laura.

Any other questions for Mr. Berg?

I don’t see any, so we’ll do the Legislative Update.

Ms. Gonzalez, can you please brief the Board?

MS. GONZALEZ: Sure. So I wanted to briefly mention AB 1993. It’s a new bill. It’s not on your list yet but it will be next month. And I think Rob briefly discussed it, Rob Moutrie briefly discussed it, just the vaccine requirement. It would require employees and independent contractors to show proof of vaccination. And there’s exceptions involved in that bill, so that’s AB 1993.

And I also just wanted to briefly update you on AB 257, which is the fast food bill. That has passed the assembly and it’s now in the senate. And it creates a fast food council that would, among other things, recommend new safety regulations to the Standards Board.

CHAIR THOMAS: All right. Anything else?

Anything else, Ms. Gonzalez?

Any questions the Board has of Ms. Gonzalez?

CHAIR THOMAS: All right, hearing none, Executive Officer’s Report.
Christina?

MS. SHUPE: Just one moment. Thank you. Thank you, Chair Thomas.

So I just want to let the Board know that the Governor has appointed a new Cal/OSHA Chief. We’ll be welcoming Jeff Killip from Washington. He joins us from the OSHA Program there. And as soon as we have a start date for him, we will invite him to come and attend a Board meeting.

Over the past month, I participated in a presentation on February 8th at the 2022 Safety Forum hosted by the Safety Center. This is an annual event that Board staff participates in to share with safety professionals the nuance and purpose and mission of the Board and its activities.

And then looking forward, we have, over the next month we’ll, of course, have Board consideration of the third COVID ETS readoption. I want to just say for everyone that this is a very high priority, this is our top priority, and as soon as we have everything ready to post and provide that to the Board, we will.

We will also be considering a proposal for applications for permanent variances. This is a streamlining proposal that will help reduce paperwork required for variance applications and let everyone apply
for variances via email.

And I want to take a moment to just pause and really appreciate the team that is working on our variance applications. It’s primarily our Chief Counsel Autumn Gonzalez, but it’s also two very hardworking RA’s that we have, Jackie Kennedy and Linda Mehawk. And Jackie and Linda have just been working tremendously hard.

The Board knows that we had over 700 variance applications go through last year. This month alone there are over 160 variance matters in your Board packet. It just speaks to the incredible volume of work that they are processing and they’re running everything as streamlined as they possibly can. And I just -- I’m in awe of what they’ve been able to accomplish and very, very grateful for the work thieve been doing.

Looking forward to beyond next month, you know, obviously, we’re going to be submitting the CDAC (phonetic) proposal that the Board just approved to OAL, but we’re also -- we have a 15-day comment period for a minor editorial change to our Firefighter PPE. And we are looking to bring that package to the Board for consideration in April.

Are there any questions? Laura?

BOARD MEMBER STOCK: Well, I’ll let Chris go first because she hasn’t spoken yet. I’ll go after her.
BOARD MEMBER LASZCZ-DAVIS: Thank you, Laura.

You know, just real quickly, Christina, why do you guys think we have this tremendous increase in variances? What’s the catalyst?

MS. SHUPE: So the vast majority of our variance applications are for elevators and that is tied directly to construction in the state. So every single one of these variances that you look at, behind that variance is a building, there’s an owner, there’s occupants. And they, in order to start those businesses, to complete those buildings, they need to have their elevators approved and ready to go. And so that’s one of the reasons we treat it as such a high-priority project for the Board.

BOARD MEMBER LASZCZ-DAVIS: All righty. Thank you.

CHAIR THOMAS: Laura? Laura?

BOARD MEMBER STOCK: Yeah. Hi, Christina, I don’t know if this is going to be a question you could answer or whether (indiscernible), I just forgot to mention. I have two questions about going forward.

One, the permanent reg that will now be voted on later in the year, I’m wondering whether there’s progress on getting the SRIA started? Because I know that that’s one of the essential steps that’s needed. And I, you know, would hope that that, itself, would delay action. So I
guess that’s my first question.

And my second question is I did just want to see if there’s any update on the process of beginning to develop a permanent infectious disease regulation that is broader than COVID? So I mean, I know, we’ve heard already the tremendous workload from the variance, the tremendous workload that the Division is under. So I second what somebody said earlier that we need to be advocating for sufficient resources for both the Board and the Division to take on this tremendous workload. So if there’s ever an opportunity to add our voice to the call for more resources, let us know.

But with that, if you could both let us know any report on the SRIA process for a permanent COVID reg and on the process of developing a general infectious disease regulation?

MR. BERG: Yeah, I can speak to that. The SRIA has been -- we’ve been working on that for months now. I’m not sure exactly when we started but, many months, we’ve been working on that. It’s not complete yet but it’s been in the works for a long time, so I don’t know exactly when it will --

BOARD MEMBER STOCK: Okay.

MR. BERG: -- be completed.

BOARD MEMBER STOCK: Do you anticipate that it
will be done in time, in other words, that it won’t delay
the ability to vote on the permanent reg when that deadline
comes up?

MR. BERG: Yeah, that’s what we’re working
towards, to have it -- so there’s no gap in the coverage.

BOARD MEMBER STOCK: Great. Thank you. And
anything to say about the infectious disease?
And then I think I see Barbara’s hand, too.

MR. BERG: Yeah. I mean, we don’t have any
language to share at this time. We’re slowly but surely
working on possible language that we could post but we’re
not at that stage yet.

BOARD MEMBER STOCK: Barbara, were you -- did you
have something you wanted to add?

BOARD MEMBER BURGEL: I wanted to ask, not of
Eric but of Christina, just -- or maybe, Eric, you could
weigh in on this, as well, around the variances for
elevators, as we’ve been waiting and waiting and waiting
for the elevator, I think it’s Group 5, changes to be
integrated. And is there any -- what’s on the horizon vis
a vis the elevator standards upgrade?

MS. SHUPE: So, Eric, with your leave I can go
ahead and address that because I’ve been in communication
with the Elevator Unit, unless you’d like to.

MR. BERG: No. Go ahead. Thank you.
MS. SHUPE: Yeah. So this is actually an active rulemaking. The Elevator Unit pulled it back and they have been working with it. Dan Barker is the leader on that team. He’s part of the ASME committee, as well, that’s looking at regulations that are coming down the pike. They originally wanted to incorporate 2019 standards, as well. Their goal is to help alleviate the variance requests that are coming through and to do so in a way that’s really effective for both management and employees.

My expectation from them is that they should have language ready to -- draft language ready for us by the end of this year.

BOARD MEMBER BURGEL: Oh, that’s good. Thank you.

CHAIR THOMAS: Any other questions for Christina?

MS. SHUPE: Chris?

BOARD MEMBER LASZCZ-DAVIS: You know, just real quickly. Maybe I’ve missed something but have we made a concerted -- has the Division made a concerted division [sic] to actually craft an infectious disease standard? We spent all of our time on a COVID standard. And has an infectious disease standard hit the radar screen such that there’s actually work going to be crafted to post something to the website?

MR. BERG: Yeah, I don’t know when we’ll have
something ready and approved to be posted as far as draft
language for comments. I don’t know when that will be done
yet.

BOARD MEMBER LASZCZ-DAVIS: But Eric,
directionally, that is the plan; right?

MR. BERG: Yes, that’s the plan. Correct.

BOARD MEMBER LASZCZ-DAVIS: All right. Thank
you.

CHAIR THOMAS: Thank you, Chris.

Any other questions? Barbara?

BOARD MEMBER BURGEL: On that same thought, is
there any expectation to have another advisory committee
for the ATD? When we’re saying infectious disease I’m
thinking, you know, we’ve had -- Cal/OSHA hosted a
committee, you know, advisory committee meeting on the ATD
standard. Just to clarify, we’re -- that’s what we’re
talking about when we say an expanded infectious disease or
are we talking about a different standard than changing the
ATD?

MR. BERG: Yeah, it would not be part of the ATD,
it would be a different standard.

BOARD MEMBER BURGEL: Oh, okay.

MR. BERG: But we did have an advisory committee
in ATD. And we hope to have that rulemaking process start
soon because it’s a pretty small package. But the
infectious disease standard for general industry would not
be part of ATD.

BOARD MEMBER BURGEL: Okay. So it’s not the
intention? I haven’t looked at the committee summary from
that advisory committee for the ATD yet. But one of the
proposals was to expand the ATD standard as it currently
reads to general industry but that is not --

MR. BERG: That’s a possibility. We haven’t, you
know, 100 percent eliminated that but it’s not the number
one idea right now.

BOARD MEMBER BURGEL: Okay. Thank you.

MR. BERG: Yeah. Because it’s a pretty complex
standard. It might not be appropriate for many workplaces.
It’s something we’d have to look at carefully.

BOARD MEMBER BURGEL: Okay. Thank you.

CHAIR THOMAS: Thank you, Barbara.

Anything else from the Board for Eric? All
right.

Moving along, we’ll go to new business, future
agenda items. I think we’ve covered some of them.

Christina, do you have any?

MS. SHUPE: So that item is just if we -- if the
Board have any future agenda items they would like us to
address.

CHAIR THOMAS: Anything at this time?
BOARD MEMBER STOCK: Well, I mean, I guess, just it maybe goes without saying that we continue to want to hear updates on the promise of the permanent COVID reg, the infectious disease reg and the other regulatory packages. And Eric has been pretty consistently providing that but make sure that that happens again.

CHAIR THOMAS: Sure.

BOARD MEMBER BURGEL: And I would like to bring up and, in fact, we’ve talked about it and around it for several meetings, and it’s been brought up by some of our stakeholders, as well, is just the whole process by which the Board does not have as much input as one would think or hope in looking at this draft language prior to -- it’s sort of the horse is out of the barn -- or the horse is out of the barn, excuse me, wrong metaphor, the horse is out of the barn, or the horse is in front of the cart or behind the cart, I don’t know, but there seems to be an opportunity to look at our processes so that there is a little bit more opportunity to look at this language before we have to vote on it.

You know, again, we get the comment letters. We basically see the language at the same time that our stakeholders see the language. And then, you know, we’re in a time crunch and we have to vote on, perhaps, something that could have been modified and changed before we are,
you know, at the last minute voting on these renewals or adoptions. And I would like an opportunity to just look at, take the time to do a continuous quality improvement sort of deep dive around our processes to see if indeed, you know, we piloted the subcommittee process with the COVID ETS. That seemed to be sort of parallel to what was happening with the CDPH and the Division.

And so I think there’s opportunities to look at our processes a little bit to see how best we could, again, look at our stakeholder input -- the Board has a lot of talent on it -- making sure we just sort of see this stuff in a timely fashion and have a more active role from a Board perspective. I don’t know if other Members feel that that would be helpful?

BOARD MEMBER LASZCZ-DAVIS: You know, Barbara, I’d agree with you. I’d support that, as well.

MR. BERG: Okay. Yeah, I’ll communicate that to the Cal/OSHA leadership.

BOARD MEMBER BURGEL: And -- yeah. Thank you.

BOARD MEMBER HARRISON: I have a future agenda item if I can?

CHAIR THOMAS: Dave, go ahead.

BOARD MEMBER HARRISON: Yeah. Now that the crane rule has been passed, there were comments, written and oral comments, about the three issues of concern specifically
around certification in regards to physical examination, substance abuse testing, and the 1,000-hour exemption for practical exams for recertification. I’d like to bring that back to the Board for a separate rulemaking, or at least an advisory committee, to discuss those issues.

CHAIR THOMAS: I think that was already kind of baked in this from the beginning but, yeah, it will happen.

BOARD MEMBER HARRISON: Perfect. Thank you.

CHAIR THOMAS: Nola?

BOARD MEMBER KENNEDY: Yeah. I just want to sort of go back to -- can you hear me okay? -- Barbara’s --

CHAIR THOMAS: Yes.

BOARD LASZCZ-DAVIS: Yes.

BOARD MEMBER KENNEDY: Okay. I just want to go back to Barbara’s comment a little bit and maybe expand on it. And I don’t think this is anything that’s urgent. But one of the things that I’ve become increasingly confused about as a Board Member is why the Board staff writes safety rules and the Division writes health rules. It seems to me that this is -- you know, I don’t understand why it’s not all under the purview of the Board staff. And I’m sure there’s some history there that can be explained. It doesn’t need to be done now. But you know, I kind of think, to Barbara’s point, if the Board staff was writing the rules we might have quicker and easier access to the
language.

MR. BERG: Well, the Labor Code says DOSH does the -- or Cal/OSHA does health regulations. And there’s also --

BOARD MEMBER KENNEDY: Yeah, and --

MR. BERG: -- an MOU between the Standards Board and Cal/OSHA --

BOARD MEMBER KENNEDY: No, I -- and I --

MR. BERG: -- saying that we do the health. So, by law, we have to -- we do the health regulation. That’s in the law.

BOARD MEMBER KENNEDY: Right, I understand that it’s codified, I’m just wondering what that history is that brought it there? Because it doesn’t necessarily make sense to me.

Anyway, that’s it. And like I said, it doesn’t have to be discussed now or thought about now but it doesn’t really make sense to me. I understand that it’s the law but it doesn’t mean it makes sense.

CHAIR THOMAS: Well, Eric --

BOARD MEMBER KENNEDY: And that’s it.

CHAIR THOMAS: -- you’ve got your homework now, but for next meeting.

MR. BERG: Okay. I’ll research --

BOARD MEMBER KENNEDY: No, that’s --
MR. BERG: -- the history.

BOARD MEMBER KENNEDY: -- that’s --

MR. BERG: I’ll research the history of that Labor Code section that’s 40 years old --

CHAIR THOMAS: That’s fine.

MR. BERG: -- or something, yeah.

BOARD MEMBER KENNEDY: Yeah. I mean, it -- and it might be time to rethink it, so just throwing it out there for people to chew on.

CHAIR THOMAS: Thank you, Nola.

BOARD MEMBER STOCK: I just want to make one comment. I think the issue that Barbara is raising is, is there an opportunity to have more input and more access? I think that is, you know, that’s a core issue. I don’t know whether that really -- you know, whether it’s being developed by the Board or the Division, it has to have an impact on that. And I think there’s potential to have this, whatever we determine, if there’s more access and more involvement and it’s determined that we’re allowed to have that, I don’t know that it’s impacted by which Staff is developing it. I just want to -- kind of the core issue, I think, is access.

But in any case, kind of here, you know, if there’s more history that is needed to explain why that division, then we can hear that from Eric.
CHAIR THOMAS: All right. We’ll try and have some kind of information related to that at the next meeting, hopefully, Eric, so -- and then we’ll try and get involved and see where that goes to on the -- on our side. But anyway, are there any other questions at this point? Okay.

Seeing that there are not, any -- we’re going into closed session.

So Christina, do you have directions? Do they have the numbers and everything to get into that?

MS. SHUPE: Yeah. So the Board Members should have received closed session information via email and you can go ahead and use that to dial in. I believe we’re going to break now.

CHAIR THOMAS: Yeah. So we’re going to break and we’re going to -- how long do you think; 12:30?

MS. SHUPE: No, no. I would say --

CHAIR THOMAS: No?

MS. SHUPE: -- we only need a five- to ten-minute break and then go -- the Board will meet in closed session and then --

CHAIR THOMAS: Right.

MS. SHUPE: -- we’ll come back. I don’t expect that closed session will last very long, maybe 15 to 20 minutes.
CHAIR THOMAS: All right. So we’re going to go into closed session but we’re going to give you guys ten minutes to do whatever you need to do and then call in, okay? I think will work.

BOARD MEMBER LASZCZ-DAVIS: Okay. Great. Thank you.

CHAIR THOMAS: So at this time, we’re going to suspend the meeting to go into closed session in ten minutes, so we’ll see you around 11:55, all right? Thank you.

(Whereupon the Board adjourned to closed session from 11:42 a.m., until 12:11 p.m.)

CHAIR THOMAS: All right. We are back in session. During the closed session the Board took no action.

So the next Standards Board regulation meeting is scheduled for March 17th, 2022 via teleconference and videoconference. Please visit our website and join our mailing list to receive the latest updates. We thank you for your attendance today.

There being no further business, this meeting is adjourned. Thank you so much. We’ll see you next month.

(The Business Meeting adjourned at 12:11 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 31st day of March, 2022.

ELISE HICKS, IAPRT CERT**2176
CERTIFICATE OF TRANSCRIBER

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.

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.

I certify that the foregoing is a correct transcript, to the best of my ability, from the electronic sound recording of the proceedings in the above-entitled matter.

MARTHA L. NELSON, CERT**367

March 31, 2022