

STATE OF CALIFORNIA

DEPARTMENT OF INDUSTRIAL RELATIONS

OCCUPATIONAL SAFETY & HEALTH STANDARDS BOARD

PUBLIC MEETING AND BUSINESS MEETING

In the Matter of:)
February 15, 2024 OSH)
Standards Board Meeting)
_____)

IN-PERSON & TELECONFERENCE

Attend the meeting in person:

Burbank City Hall
Council Chambers
275 E. Olive Avenue
Burbank, CA 91502

Attend the meeting via Video Conference

THURSDAY, FEBRUARY 15, 2024

10:00 A.M.

Reported by:
M. Nelson

APPEARANCES

BOARD MEMBERS PRESENT IN BURBANK:

Dave Thomas, Chairman
Joseph Alioto, Public Member
Kathleen Crawford, Management Representative
Dave Harrison, Labor Representative
Nola Kennedy, Occupational Health Representative
Chris-Laszcz Davis, Management Representative
Laura Stock, Occupational Safety Representative.

BOARD STAFF PRESENT IN BURBANK:

Autumn Gonzalez, Chief Counsel and Acting Executive Officer
Amalia Neidhardt, Principal Safety Engineer
Sarah Money, Executive Assistant

BOARD STAFF ATTENDING VIA TELECONFERENCE AND/OR WEBEX:

Kelly Chau, Legal Analyst
Michelle Iorio, Legal Counsel
Jesi Mowry, Administration & Personnel Support Analyst
Jennifer White, Regulatory Analyst

ALSO PRESENT IN BURBANK:

Eric Berg, Deputy Chief of Health, Cal/OSHA
Susan Eckhardt, Senior Safety Engineer Cal/OSHA Research &
Standards Unit
Kathleen Vork, Office of Environmental Health Hazard
Assessment, OEHHA

TKO STAFF:

John Roensch
Maya Morsi
Sean Acrea
Conner Helm

INTERPRETERS:

Alejandro Echevarria Gil
Juan Lopez

APPEARANCES (Cont.)

PUBLIC MEETING COMMENTERS: (*Online testimony)

Bruce Wick, Housing Contractors of California
Michael Kosnett, MD, Colorado School of Public Health
Dan Napier, DNA Industrial Hygiene
Constantine Gean, MD, Examinetics
*Catherine Baldi, Small Business Owner
Alice Berliner, UC Merced Community and Labor Center
Renee Guerrero Deleon, Southern California Coalition for
Occupational Safety & Health (SoCalCOSH)
Helen Cleary, Phylmar Regulatory Roundtable (PRR)
Sally Sadaghiani, M.D., Western Occupational and
Environmental Medical Association
Jeff Buchanan, Petitioner 549
*Chandran Achutan, PhD., CIH, National Institute for
Occupational Safety and Health
*Barbara Materna, PhD, Retired, California Dept. of Public
Health
Sharon Hilke, Painting and Decorating Contractors of
California
Brian Miller, Rudolph and Sletten
Amber Novey, Laborers' International Union of North
America, LiUNA
*Tracy Berry, American Subcontractors Association of
California
*Todd Schoonover, CIH, CSP, Washington State Department of
Labor & Industries
Brian Parra, Laborers' Local 67
Steve Johnson, Associated Roofing Contractors of the Bay
Area Counties
Roger Miksad, Battery Council International
Chris Walker, California Association of Sheet Metal and Air
Conditioning Contractors, CAL SMACNA
Jose Reyes, Rudolph and Sletten
Kevin Bland, California Framing Contractors Association,
Residential Contractors Association
*Perry Gottesfeld, Occupational Knowledge International
*Amy Boas, NELCO Worldwide
*Robert Harrison, MD, California Department of Public
Health
*Mark DeLaquil, Association of Battery Recyclers
*Ulrike Luderer, MD, UC Irvine Center for Occupational and
Environmental Health
*Stephen Rehrmann, Stromper Co, Inc.

PUBLIC MEETING COMMENTERS: (*Online testimony)

- *David Harrington, Self
- *Coby Graham, California Department of Toxic Substances Control
- *Alaina Dahlquist, National Safety Council
- *Sarah Peiper, International Surface Fabricators Association
- *Dr. Tanisha Taylor, ACOEM, WOEMA
- *Dr. Cris Williams, International Lead Association
- *Mitch Steiger, CFT
- *Christopher Lee, United Contractors
- *Beverly Yu, State Building and Construction Trades Council
- *Kevin Riley, UCLA Labor Occupational Safety and Health Program
- *AnaStacia Nicol Wright, WorkSafe
- *Dr. Bob Blink, Western Occupational Environmental Medical Association
- *Michael Fischman, MD, Self

I N D E X

	Page
I. CALL TO ORDER AND INTRODUCTIONS	8
II. PUBLIC MEETING (Open for Public Comment)	11
A. PUBLIC COMMENT - 14	
B. ADJOURNMENT OF THE PUBLIC MEETING - 115	
III. BUSINESS MEETING - All matters on this Business Meeting agenda are subject to such discussion and action as the Board determines to be appropriate.	115
<p>The purpose of the Business Meeting is for the Board to conduct its monthly business.</p>	
A. PROPOSED SAFETY ORDER FOR ADOPTION	115
1. TITLE 8: CONSTRUCTION SAFETY ORDERS Section 1532.1 GENERAL INDUSTRY SAFETY ORDERS Sections 5155 and 5198 Lead (Heard at the April 20, 2023 Public Hearing)	
B. PROPOSED PETITION DECISION FOR ADOPTION	153
1. Brand Safway Tanya Charlesworth, PE Petition File No. 599	
C. PROPOSED VARIANCE DECISIONS FOR ADOPTION	161
1. Consent Calendar	

I N D E X (Cont.)

	Page
III. BUSINESS MEETING (Cont.)	
D. REPORTS	162
1. Division Update -	162
2. Acting Executive Officer's Report -	168
E. NEW BUSINESS	169
1. Future Agenda Items	
<p>Although any Board Member may identify a topic of interest, the Board may not substantially discuss or take action on any matter raised during the meeting that is not included on this agenda, except to decide to place the matter on the agenda of a future meeting. (Government Code sections 11125 & 1125.7(a).).</p>	
F. CLOSED SESSION	---
<p><u>Matters Pending Litigation</u></p>	
1. Western States Petroleum Association (WSPA) v. California Occupational Safety and Health Standards Board (OSHSB), et al. United States District Court (Eastern District of California) Case No. 2:19-CV-01270	
2. WSPA v. OSHSB, et al., County of Sacramento, CA Superior Court Case No. 34-2019-00260210	
<p><u>Matters on Appeal</u></p>	
1. 22-V-054T Operating Engineers Local 3, District 80.	
<p><u>Personnel</u></p>	

I N D E X

III. BUSINESS MEETING (Cont.)	Page
G. RETURN TO OPEN SESSION	---
1. Report from Closed Session	
H. ADJOURNMENT OF THE BUSINESS MEETING	170
Next Meeting:	
March 21, 2024	
County Administration Center	
Room 310	
1600 Pacific Highway	
San Diego, CA 92101	
10:00 a.m.	
Reporter's Certificate	171
Transcriber's Certificate	172

1 P R O C E E D I N G

2 JANUARY 15, 2024

10:26 A.M.

3 CHAIR THOMAS: Good morning, this meeting of the
4 Occupational Safety and Health Standards Board is now
5 called to order.

6 I'm Dave Thomas, Chairman. And the other Board
7 Members present today are Joseph Alioto, Public Member;
8 Kathleen Crawford, Management Representative; Dave
9 Harrison, Labor Representative; Nola Kennedy, Occupational
10 Health Representative; Chris-Laszcz Davis, Management
11 Representative; Laura Stock, Occupational Safety
12 Representative.

13 Present from our staff for today's meeting are
14 Autumn Gonzalez, Chief Counsel and Acting Executive Officer
15 for today's meeting; Amalia Neidhardt, Principal Safety
16 Engineer who is also providing translating services for our
17 commenters who are native Spanish speakers; and Sarah
18 Money, Executive Assistant.

19 Also present Eric Berg, Deputy Chief of Health
20 for Cal/OSHA; Susan Eckhardt, Senior Safety Engineer
21 Cal/OSHA Research & Standards Unit; and Kathleen Vork,
22 Office of Environmental Health Hazard Assessment.

23 The Board staff supporting the meeting remotely
24 are Kelly Chau, Attorney; Michelle Iorio, Attorney; Jesi
25 Mowry, Administration and Personnel Support Analyst; and

1 Jennifer White, Regulatory Analyst.

2 Copies of the agenda and other materials related
3 to today's proceedings are available on the table outside
4 of the room.

5 This meeting is also being live broadcast via
6 video and audio system in both English and Spanish. Links
7 to these non-interactive live broadcasts can be accessed
8 via the "Meetings, Notices and Petitions" section on the
9 main page of the OSHSB website.

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

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

23 If you are participating via teleconference or
24 videoconference, the instructions for joining the public
25 comment queue can be found on the agenda. You may join by

1 clicking the public comment queue link in the "Meetings,
2 Notices and Petitions" section on the OSHSB website, or by
3 calling 510-868-2730 to access the automated public comment
4 queue voicemail.

5 If you experience any technical issues with the
6 teleconference or video conference, please email
7 oshsb@dir.ca.gov.

8 When the public meeting begins, we are going to
9 alternate between three in-person speakers and three remote
10 commenters. When I ask for public testimony, in-person
11 commenters should provide a completed speaker slip to the
12 staff person near the podium and announce themselves to the
13 Board prior to delivering the comment.

14 For commenters attending via teleconference or
15 videoconference, please listen for your name and the
16 invitation to speak. When it's your turn to address the
17 Board, unmute yourself if you are using WebEx, or dial *6
18 if you're on a phone to unmute yourself, if you are using
19 the teleconference line.

20 We ask all commenters to speak slowly and clearly
21 -- like I'm not doing right now -- when addressing the
22 Board. And if you are commenting via teleconference or
23 videoconference remember to mute your phone or computer
24 after commenting.

25 Today's public comment will be limited to two

1 minutes per speaker. I've got my Seargent-in-Arms Dave
2 Harrison timing you guys. And the public comment portion
3 of the meeting will extend that up to two hours, so that
4 the Board may hear from as many members of the public as
5 possible. Individual speakers and total public comment
6 time limits may be extended by the Board Chair.

7 After the public meeting is concluded, we will
8 hold a business meeting to act on those items listed on the
9 business meeting agenda.

10 We will now proceed with the public meeting.
11 Anyone who addresses the Board regarding matters pertaining
12 to occupational safety and health is invited to comment.
13 Except, however, the Board does not entertain comments
14 regarding variance matters. The Board's variance hearings
15 are administrative hearings where procedural due process
16 rights are carefully preserved. Therefore, we will not
17 grant requests to address the Board on variance matters.

18 For our commenters who are native Spanish
19 speakers, we are working with Amalia Neidhardt to provide
20 translation on their statements into English for the Board.
21 At this time, Amalia, will you please instruct the Spanish
22 speaking population.

23 MS. NEIDHARDT: [READS THE FOLLOWING IN SPANISH]
24 Public Comment Instructions.

25 "Good morning and thank you for participating in

1 today's Occupational Safety and Health Standards Board
2 public meeting.

3 The Board Members present today are: Dave Thomas,
4 Labor Representative and Chairman; Joseph Alioto, Public
5 Member; Kathleen Crawford, Management Representative; Dave
6 Harrison, Labor Representative; Nola Kennedy, Occupational
7 Health Representative; Chris-Laszcz Davis, Management
8 Representative; Laura Stock, Occupational Safety
9 Representative.

10 "This meeting is also being live broadcast via
11 video and audio stream in both English and Spanish. Links
12 to these non-interactive live broadcasts can be accessed
13 via the "Meetings, Notices and Petitions" section on the
14 OSHSB website.

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

23 "As reflected on the agenda, today's meeting
24 consists of two parts. First, we will hold a public
25 meeting to receive public comments or proposals on

1 occupational safety and health matters.

2 "If you are participating via teleconference or
3 videoconference, the instructions for joining the public
4 comment queue can be found on the agenda. You may join by
5 clicking the public comment queue link in the "meetings,
6 notices and petitions" section on the OSHSB website, or by
7 calling 510-868-2730 to access the automated public comment
8 queue voicemail.

9 "When public comment begins, we are going to be
10 alternating between three in-person and three remote
11 commenters. When the Chair asks for public testimony, in-
12 person commenters should provide a speaker slip to the
13 staff member near the podium and announce themselves to the
14 board prior to delivering a comment.

15 "For our commenters attending via teleconference
16 or videoconference, listen for your name and an invitation
17 to speak. When it is your turn to address the board,
18 please be sure to unmute yourself if you're using Webex or
19 dial *6 on your phone to unmute yourself if you're using
20 the teleconference line.

21 "Please be sure to speak slowly and clearly when
22 addressing the Board, and if you are commenting via
23 teleconference or videoconference, remember to mute your
24 phone or computer after commenting. Please allow natural
25 breaks after every two sentences so that an English

1 translation of your statement may be provided to the Board.

2 "Today's public comment will be limited to four
3 minutes for speakers utilizing translation, and the public
4 comment portion of the meeting will extend for up to two
5 hours, so that the Board may hear from as many members of
6 the public as is feasible. The individual speaker and
7 total public comment time limits may be extended by the
8 Board Chair.

9 "After the public meeting is concluded, we will
10 hold a business meeting to act on those items listed on the
11 business meeting agenda.

12 "Thank you."

13 CHAIR THOMAS: Thank you, Amalia.

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

17 We will start with the first three in-person
18 speakers and then we will go to the first three speakers in
19 the teleconference or videoconference queue.

20 Welcome, go right ahead.

21 MR. WICK: Thank you. Good morning, Chair
22 Thomas, Board Members. Bruce Wick, Housing Contractors of
23 California. I want to clarify a couple of things that were
24 said at last Board Meeting and then have one other comment.
25 There you go, thank you.

1 Joseph Alioto asked on our fall protection
2 issues, what do you do with 13 feet, 14 feet? And we want
3 to make clear that number is only the demarcation between
4 two-story at 18 feet and single story at 9 to 9-and-a-half
5 feet. The work is done at 9 to 9-and-a-half feet. There
6 is no 13-foot or a 7-foot fall. It's 9 to 9-and-a-half
7 feet.

8 So you were also given the message by Fed OSHA
9 that they didn't see us do anything positive at 9 feet.
10 And because they sent this message, Laura, you correctly
11 said they don't mandate ladders and tying off at 9 feet.
12 Well, that's why. Because people want to do something that
13 looks positive at 9 feet. Those are false positives. We
14 do positive for instance installing trusses at 9 feet.
15 They're loaded on the top plate by power equipment and
16 employees tilt them up. No ergonomic issues, use the
17 pneumatic nailer at their feet, not around their head or
18 their chest. And they stand on secured trusses as they go
19 across the roof. So we do very positive things. That's
20 why we in the Carpenter said this is the best and safest
21 way to do it. And we should be recognized for those
22 positive things we do.

23 Secondly, different topic, regulations, changes
24 to regulations. I've heard it said that the mission of
25 this Board is to pass regulations and I respectfully

1 disagree. I believe the mission is to pass effective
2 regulations or changes. Words on paper don't protect
3 workers, actions by employers and their employees do.

4 We have 1.4 million employers in California that
5 have 20 or less employees. We have 110,000 that are
6 between 20 and 100. That's 1.5 million safety directors
7 who individually have to address every regulation. They
8 have to work to keep in compliance. And I'm working sir,
9 as fast as I can.

10 We need regs that are clear, understandable and
11 implementable. And unfortunately, the lead regulation
12 before you today is neither of those things. And what I'm
13 hearing from people over the last couple of days, it seems
14 the belief is we only have this option to vote today to do
15 something about lead.

16 And I laid before you today thinking about this
17 yesterday, what can we do? You have an engaged set of
18 stakeholders who are ready to participate. We can start
19 over and we should. Do use the current reg. Use the
20 current SRIA. Do three different true advisory committees:
21 science community, general industry, construction. Two
22 days in-person. That's where we get to know each other,
23 work through things, resolve things, and come out with 115-
24 day notice. And we can have a new reg in 7 to 11 months.

25 We've done this before with the wildfire. We've

1 seen the wildfire smoke converting that two 15-day notices
2 from the date of notice to the date it's effective, 10
3 months.

4 The hoisting elevators, employees by elevators.
5 The work was done prior by true advisory committees and
6 within six months from novice to effectiveness.

7 We all can get together and expedite a
8 regulation. This regulation unfortunately, some will
9 declare it a victory if it were to pass today. It would be
10 a hollow one because it those 1.5 million safety directors
11 are going to turn usually to their Workers' Comp carrier
12 safety and loss control person for help. Very few people
13 in California will understand this reg and be able to truly
14 help them. So please, we need to have an effective reg.

15 Please expedite a new process. We are as you
16 see, a stakeholder community ready to get engaged and rock
17 and roll and get an effective reg done. Thank you.

18 CHAIR THOMAS: Thank you.

19 DR. KOSNETT: Good morning. I'm Michael Kosnett.
20 I'm a physician specializing in occupational and
21 environmental medicine and medical toxicology. I'm on the
22 faculty at the Colorado School of Public Health. And I
23 flew in here today from Denver, because I wanted to see
24 something happen that I've been working on for more than 30
25 years, since I was actually a medical student and an

1 occupational medicine resident at UCSF, and then on the
2 faculty at UCSF. And I've been working -- and I've
3 intended since the first Cal/OSHA advisory committee on
4 looking at this lead standard in 2010.

5 Now when the OSHA standard was first passed in
6 1978, and I think some of you have -- have you seen these,
7 I've said these slides. You know, on page two of the
8 slides it shows that OSHA says that they're concerned about
9 the effects of lead in 1978. And they mentioned things
10 like peripheral neuropathy, kidney issues, and other health
11 issues. But they don't mention something that has emerged
12 in the past 30 years since then. And that is that lead,
13 levels of lead in blood that are permissible under the
14 current standard lead to a markedly increased risk of death
15 from cardiovascular disease.

16 And that wasn't on, that wasn't envisioned. What
17 how do we know that in the past 30 years? Well, there's
18 been prospective cohort studies done on people in the
19 general population of the United States who lived decades
20 of their life before 1980 when the average blood lead of
21 all of us who were alive then was about 15. And studies
22 have been done looking at people have had blood leads
23 between 10 to say 25, and also bone lead concentrations,
24 which have been done by a noninvasive technique. And they
25 showed that the risk of dying from lead exposure over those

1 range is anywhere between 1.5 to 5 fold higher for
2 cardiovascular disease.

3 Now, I want you to think about that for a second.
4 Many of the things that you have looked at in terms of
5 endpoints for occupational health standards have been
6 things like elevations and liver function tests, or some
7 symptoms that people may be having, some neurologic
8 weakness or things of that nature. We're talking about
9 death, okay? There is no more serious endpoint that you
10 will ever be asked to try to prevent in your tenure here on
11 the Board. Okay, and this is the highest quality type of
12 study, prospective cohort studies. This isn't from
13 animals. There's no extrapolation. And that's the other
14 point I want to mention. And I only have three points.

15 The other point I want to mention is that this
16 standard is a compromise, okay? The one you're looking at
17 today is a compromise. Normally, if we find a level of a
18 hazardous substance in the workplace that causes harm we
19 put in a margin of safety, tenfold, a hundredfold below.
20 This standard is designed to maintain workers with blood
21 leads below 10. Okay, the effects begin above 10. There's
22 no margin of safety.

23 The third thing I want to mention to you is that
24 this standard is feasible. And it's cost effective. You've
25 all heard about this SRIA, the standard standardized risk

1 evaluation that was done by UC Berkeley, okay. That showed
2 that over the next 20 years, the savings by reductions in
3 mortality and morbidity, particularly from cardiovascular
4 disease are not in the tens of millions or the hundreds of
5 millions. Over 20 years they're almost \$4 billion.

6 Now, you may hear anecdotal reports by people and
7 companies that say that can't be possible. I want you to
8 look at the scientific economic analysis that was done.

9 And then the last point is that there is a
10 dramatic reduction right in the PEL that's proposed, the
11 Permissible Exposure Level, from 50 to 10. However, this
12 is not unprecedented. In 1992, the cadmium standard for
13 cadmium in air was 200 micrograms per cubic meter. It was
14 reduced to 5 by OSHA that year. And there was no reduction
15 in the apparent -- in the consumption of cadmium and the
16 number of people employed in that field.

17 And in 2006, the hexavalent chromium standard was
18 reduced from 52 to 5, tenfold, okay? And the same thing
19 applied.

20 I really urge you today to take action to do a
21 feasible and cost effective proposed revision to the
22 standards, which are before you. Thank you very much.

23 CHAIR THOMAS: Thank you.

24 I see everybody's breaking my rule, so let's try
25 and stay within two or three minutes, please. Thank you.

1 MR. NAPIER: Good morning.

2 CHAIR THOMAS: Good morning.

3 MR. NAPIER: I'm Dan Napier, certified industrial
4 hygienist. I worked my way through university as a steel
5 worker and that steel worker is still there. I have a
6 master's degree in environmental safety and a lifetime of
7 study of medical, working to improve the conditions and
8 environment.

9 The proposed standard is not what we the
10 regulated public asked for. I was part of the committee
11 that stopped several years ago, and has not continued.
12 This was supposed to be easier, simpler to understand.

13 I agree with Mike about the issue of blood lead.
14 In my practice, over the years, I've done technical
15 abrasive blasting on very high blood, high lead content
16 equipment. We always kept all the blood leads below 10.
17 Always. In fact, they were lower than that and that can be
18 done. It's feasible following the current standard. But
19 the current standard I agree with everyone, needs to be
20 revised. But I think that this standard is not -- it's not
21 what we want.

22 One of your Board Members is very active in an
23 international committee for training people and setting
24 standards for health and safety training, which is
25 commendable. The standard doesn't -- our standard for the

1 lead, this proposed standard, doesn't have anything for
2 training. It's vague. So this Cal/OSHA standard is asking
3 to take a pass on what we're asking for international
4 people.

5 The cost estimates are simply a fiction. For
6 example, DAR says a worker will reuse a disposable suit for
7 a week. You don't walk out to the lunch truck with a
8 disposable suit on. You take it off. Workers are going to
9 burn through four or five suits a day. And that's just one
10 minor item, but it's huge. And when you multiply it by the
11 cost it's a huge mistake.

12 I understand Cal/OSHA enforcement, they've only
13 seen four or five cases of people with elevated blood leads
14 in the last year. Those were related to and were cured by
15 simply meeting the current standard. The current standard
16 would have protected those people. And that the levels were
17 related to improper use of PPE.

18 What we have is a very costly, overly broad
19 regulation that will not improve worker health. It will
20 cost much more to endanger workers. This regulation will
21 not further protect workers families. It will not be
22 supervised by competent professionals, and will be very
23 costly. And unfortunately will simply add to the
24 additional burden of workers and their employers to protect
25 themselves.

1 Professional oversight and requirements to ensure
2 public safety has been removed. DOSH has said oh well,
3 anybody watching a YouTube video can learn how to do air
4 monitoring and learn how to manage a lead project. I think
5 that that's a terrible mistake. We need professional
6 oversight. I think the jobs that I provide a professional
7 oversight are an example of that. Nobody, nobody on the
8 jobs that I've provided oversight has ever had an elevated
9 blood lead ever.

10 CHAIR THOMAS: Thank you

11 MR. NAPIER: Thank you.

12 CHAIR THOMAS: Go ahead.

13 DR. GEAN: Thanks, I try and stick to your time.

14 CHAIR THOMAS: Go ahead.

15 DR. GEAN: My name is Dr. Constantine Gean. I am
16 an occupational medicine physician, past president of the
17 Western Occupational and Environmental Medicine
18 Association. And I work as a Medical Director with
19 Examinetics, a national mobile medical surveillance
20 company. And I've -- probably more importantly, I've seen
21 and treated patients for the past three decades. And I'm
22 here because the current lead standard is outdated, I think
23 dangerously outdated.

24 You know, the lead standard was made when we had
25 very little knowledge about all of the impacts of lead, as

1 Dr. Kosnett had pointed out so elegantly. And we've got
2 huge studies now, valid studies, quality studies that show
3 that lead has just an incredibly bad impact on occupational
4 health and safety.

5 And just one example, a 2017 study by Emory
6 basically showed that at a blood lead, a medium blood lead
7 level of 26 micrograms per deciliter, there is significant
8 increased, you know, 1.5 to beyond five times the risk of
9 hypertension, stroke, heart attack, etc.

10 And so, you know, workers die every year from
11 lead. The Department of Industrial Relations Standardized
12 Risk Assessment showed adopting the revised lead standard
13 we're considering would avoid 30 deaths per year. So what
14 does 30 deaths look like? I used to be Consulting Medical
15 Director for the County of Los Angeles, and I had occasion
16 to visit the LA morgue. I did it as infrequently as
17 possible. And you walk by these cold rooms, and there
18 would be bodies, they were backed up then as now. And
19 there would be bodies white shrouded, kind of stacked to
20 the ceiling of dead bodies, and each room contained around
21 30. And in my mind, that is what we're talking about here
22 today. This is what adopting the revised standard could
23 avoid.

24 And you know, it's not just me. The American
25 Public Health Association, or the American College of

1 Occupational and Environmental Medicine, the European
2 Union, and all have urged and are pushing for vastly
3 improved standards for lead.

4 So the Standards Board, your mission is to, let's
5 see, promote and maintain reasonable enforceable standards
6 to protect California workers. And I really urge the Board
7 to act on the modern understanding of lead. And I'm
8 confident you'll make the right decision and endorse this
9 revised standard and keep the bodies out of the LA morgue.
10 I appreciate it, thank you.

11 CHAIR THOMAS: Thank you.

12 So at this time we're going to go to callers on
13 the line. Maya, who do we have?

14 MS. MORSI: Up we have Catherine, affiliation
15 small business owner --

16 CHAIR THOMAS: (Overlapping) Can you hear me,
17 Maya?

18 MS. MORSI: Yes, I can hear you.

19 Catherine, (indiscernible) --

20 CHAIR THOMAS: We're not starting over again.

21 MS. BALDI: Yes, can you hear me? Can you hear
22 me? Hello.

23 MS. MORSI: I can hear you. Let me just confirm
24 if the room can hear you.

25 MS. BALDI: Okay.

1 CHAIR THOMAS: So we're going to continue with
2 in-person speakers until we get confirmation from Maya that
3 we can start doing that. So go right ahead, ma'am.

4 MS. BALDI: Hello, you can hear me? Oh no, she's
5 going --

6 MS. BERLINER: Hey, everyone. It's good to be
7 here in person today. Good morning, Members of the Board.
8 My name is Alice Berliner, and I am the Director of Worker
9 Health and Safety at the UC Merced Community Labor Center.

10 Many of our organizational partners in the San
11 Joaquin Valley support workers in agriculture, warehouse
12 packing houses, as well as poultry and food processing
13 plants. These workers deeply understand what it feels like
14 to be exposed to extreme hazards at work, and for many are
15 too fearful to speak up or file a report.

16 Today I'll share data and research relevant to
17 the lead and indoor heat standards and want to first ground
18 my comments in recent data we've published in our farm
19 worker health study around workers' fear of retaliation,
20 and high employer noncompliance.

21 Our study found more than one-third of farm
22 workers said they would not be willing to file a report
23 against their employer for workplace noncompliance. And of
24 these who'd be unwilling to file a report against an
25 employer about two thirds said they would be unwilling to

1 file a report due to fear of retaliation or job loss.

2 I start with, this because I want to first make
3 the case that there is already fear among workers to report
4 any employer noncompliance. When you're living paycheck to
5 paycheck, losing hours or your job means possibly losing
6 your ability to feed yourself and your family. So as a
7 result, we see many serious hazards like heat and lead go
8 unreported. Our findings support the importance of having
9 strong and clear Cal/OSHA standards in place for workers
10 and their representatives, as well as for Cal/OSHA
11 inspectors to point to cite or look to for guidance to
12 prevent serious injuries and fatalities before it's too
13 late.

14 So first on heat. Our farm worker health study
15 primarily surveyed workers covered by the outdoor heat
16 standard. But I do want to note many workers in the ag
17 industry do both indoor and outdoor work whether it's in
18 greenhouses, packing houses, or hoop houses. So having
19 both an indoor and outdoor heat standard that are closely
20 aligned ensures there is both clarity for employers and
21 workers in implementing protective measures and training.

22 Our study found that nearly half reported that
23 their employer never provided a heat illness prevention
24 plan as mandated under law. And a significant number of
25 respondents also reported that employers never did the

1 following: monitor temperature with a thermometer on hot
2 days, provide enough shade during breaks when it was 80
3 degrees or higher, or monitor for heat illness when the
4 outside temperature reaches 95 degrees or higher.

5 And a study from 2019 published in the Journal of
6 Occupational and Environmental Hygiene identified 80
7 degrees Fahrenheit as the heat index threshold to begin
8 heat related interventions for workers. However, we've
9 also found that symptoms of heat-related illness builds in
10 the body the longer the exposure occurs. And for
11 greenhouse workers in particular, we've heard that often,
12 temperatures inside can exceed outdoor temperatures by 10
13 to 15 degrees. So again, this clarity and alignment
14 between the two heat standards is necessary to ensure we
15 protect our most vulnerable workers from heat related
16 illness.

17 CHAIR THOMAS: And can you give us your positions
18 on heat illness? Do you want it to pass, not pass?

19 MS. BERLINER: I can't share position, but I'm
20 here to share relevant research and data.

21 CHAIR THOMAS: Go right ahead.

22 MS. BERLINER: And then briefly on lead, I want
23 to lift up decades of science. And particularly medical
24 guidelines published by CDPH over the years, which finds
25 that at least 120 industries are impacted by lead exposure

1 in the state. And the serious, permanent, and life
2 threatening health impacts associated with chronic exposure
3 to lead.

4 We believe the science clearly supports the need
5 to do what we can to decrease workers exposure to lead and
6 the current language before you today does this. Thank you
7 for your time.

8 CHAIR THOMAS: Thank you.

9 We're going to continue on with the in-person and
10 get through this and then we'll figure out the -- so let's
11 try and try and keep it to two minutes. Thank you, go
12 ahead.

13 MS. DELEON: Wonderful. Hello, everyone. I want
14 to thank the Board staff and interpretation for your hard
15 work and receiving our comments today. My name is
16 Renee Guerrero Deleon, with the Southern California
17 Coalition for Occupational Safety and Health. Our
18 organization is founded on the principle that workplace
19 deaths and injuries are preventable. With last year's
20 record breaking temperatures and recent extreme weather
21 here in Southern California, it should come as no surprise
22 that this summer workers throughout the state will again
23 face conditions of extreme heat. This summer will be
24 hotter than the last and we know that heat will not
25 discriminate against the places in which we work.

1 MS. GONZALEZ: Can you please slow down for our
2 translators?

3 MS. DELEON: Of course, I'm so sorry about that.

4 CHAIR THOMAS: But slow down and do it two
5 minutes, right? (Laughter.)

6 MS. DELEON: Okay, wonderful. I'll do that.

7 CHAIR THOMAS: Sorry, mixed messages, but go
8 ahead.

9 MS. DELEON: Yeah. This summer will be hotter
10 than last. And we know that heat will not discriminate
11 against the places in which we work. But we know that a
12 standard that does not meet the complexities of heat will
13 undeniably leave workers behind. And we hope that the
14 standard implemented acknowledges the ways in which we will
15 be encountering indoor heat for years to come.

16 In emerging industries, we see that workers are
17 always at the forefront of hazards. And we appreciate the
18 Board's adoption of an emergency temporary standard for
19 silica and hope that creating a permanent one maintains a
20 priority.

21 And we also want to emphasize the importance of
22 lead regulations that are up to date. We know that lead
23 exposures can be pervasive and spread not only to workers,
24 but to their families as well. And by lowering lead
25 exposure levels, workers can keep their community safe.

1 Thank you again to the Board staff and interpretation for
2 your time and consideration. And we know that you'll make
3 the best decision for working families. Thank you.

4 CHAIR THOMAS: Thank you.

5 Now that's the way we want. That's the way we
6 want it to go. If it's a little faster recording it, they
7 can figure out the translation. Sorry.

8 Go ahead.

9 MS. CLEARY: Good morning. My name is Helen
10 Clary, and I'm the Director of PRR Occupational Safety and
11 Health Forum. And I did reduce my comments down so I will
12 be brief.

13 CHAIR THOMAS: Thank you. Thank you.

14 MS. CLEARY: I'm here today to comment about
15 lead. We're hopeful that questions and concerns that we
16 have and some Board Members have about the SRIA are
17 addressed today and are resolved prior to any action taking
18 with the rule.

19 Unfortunately, despite some positive revisions to
20 the rule, significant concerns with the draft do remain.
21 And we don't believe that the Board and Division have
22 appropriately considered or acknowledge the unnecessary
23 impact these changes will have on the expansive scope of
24 workers and employers. This is reflected in the grossly
25 inaccurate SRIA. And we don't believe it's okay to

1 disregard the inaccuracies, because the Board and Division
2 don't want to consider cost as a drive for making the
3 decision to adopt.

4 The issue of the SRIA being wrong is not as
5 important not only because it challenges the integrity of
6 the rulemaking process, but these two significant pieces of
7 the required rulemaking package outline vastly different
8 messages on intent and the impact of the changes. The SRIA
9 and the amendments should be in tandem and accurately align
10 with required elements. And they absolutely do not do
11 that.

12 The response to stakeholder and Board Member
13 questions that critiques these drafts of the rule have
14 included that lead is poison, there are no safe levels.
15 The current PEL and action level do not align with current
16 scientific understanding. Lead is a complex issue, and
17 it's too late for a different strategy. These responses do
18 not address the fundamental issues with the proposed text.
19 PRR has consistently agreed that the current levels are out
20 of date, lead exposure is harmful. And occupational
21 exposure needs to be mitigated by the employer. More
22 concerning is these responses imply that stakeholders who
23 don't support this text, don't see a need to update the
24 rule, and support enhancing worker protections. And that's
25 not only inaccurate, but it's an unfair characterization.

1 We genuinely don't understand how the decision
2 makers from DIR, Cal/OSHA and the Board can genuinely
3 believe that the framework is effective. These drafts are
4 well written and this is solid public policy that should
5 become law. We urge the Board to stop this draft, not stop
6 on making the changes. These issues cannot be solved with
7 guidance documents and a 21.5 percent adjustment for
8 inflation.

9 Adopting the proposed draft does more than pass
10 into law an unprecedented PEL at action level. It will
11 punt a bad and costly regulation from Cal/OSHA and the
12 Board's hands to thousands of employers in the State of
13 California. It will also disregard the opportunity to
14 effectively work with your best assets to protect workers,
15 the employer stakeholders that are showing up to say help
16 us help you meet the objective.

17 PRR continues to be available at any time to work
18 with the Board and the Division on drafting a new strategy
19 and different approach. Thank you.

20 CHAIR THOMAS: Thank you.

21 Good morning.

22 DR. SADAGHIANI: Good morning. Thank you for the
23 time to speak. Good day. I am Dr. Sally Sadaghiani. I'm
24 an occupational medicine physician.

25 As we heard about from my colleague, Dr. Kosnett,

1 there is some very impressive data on lead. I am not going
2 to spend more time talking about that. I would like to
3 emphasize the issue with take home lead. Take home lead is
4 the lead that travels on the clothing, shoes, and the
5 bodies of lead workers to their homes. And this way the
6 whole family gets exposed. At home it gets on the couch,
7 on to the floors, into the laundry basket, in the car. And
8 the whole family can be exposed to it.

9 Most vulnerable are children under the age of
10 six. The health effects on the exposures are more harmful
11 on these children, on the younger children, because their
12 bodies are still growing. And they are developing so
13 rapidly. Their tissues are softer and more susceptible to
14 lead. Younger children also put everything including their
15 hands and other objects in their mouths, which is
16 completely normal behavior in that age group. But
17 unfortunately, it does lead to ingestion of lead. Just
18 imagine the little baby crawling on the floors and touching
19 and licking their hands. Just imagine the little toddler
20 running up to daddy hugging daddy's pants.

21 To make matters worse, lead is also absorbed much
22 more efficiently by the GI tract of children compared to
23 adults. Whereas adults absorb 5 to 15 percent of ingested
24 lead, children absorbed 40 percent. That is a lot.

25 Infants are these small bodies with really big

1 heads. And the reason why the heads are disproportionately
2 larger is because in that age group, the brain undergoes
3 such enormous development. Unfortunately, the brain is
4 also the organ that is most affected by lead in that age
5 group. Elevated blood lead levels in children have been
6 shown to result in decreased IQ, dropping IQ points in
7 children. I have a small child, you may have children or
8 grandchildren, no other children. I would want somebody to
9 speak up on behalf of the kids and families as well as the
10 workers.

11 One out of six preschool-aged children of lead
12 workers have shown to have blood lead levels above 10. The
13 national average in that age group is 1.4 microgram per
14 deciliter. That's more than seven times as much. It's
15 very significant. So our regulations are 45 years old.
16 That's longer than I've been alive, so I hope that today
17 will be the day where we take a step in protecting these
18 children and their parents.

19 And with that, I thank you for your time.

20 CHAIR THOMAS: Thank you very much.

21 MS. MORSI: Test.

22 CHAIR THOMAS: Go ahead.

23 (Off-mic colloquy.) No, I didn't.

24 MR. BUCHANAN: Good morning, Jeff Buchanan.

25 CHAIR THOMAS: Can you hold on just one second?

1 Maya, are you there?

2 MS. MORSI: Yes, I am.

3 CHAIR THOMAS: Okay. We're going to have one
4 more in person and then we'll go to you, okay?

5 MS. MORSI: Okay. Sounds good.

6 CHAIR THOMAS: Since you're already up there.

7 MR. BUCHANAN: Start my clock over?

8 CHAIR THOMAS: Yeah. Well, wait a second. Dave,
9 you've got it on the timer. Okay, go ahead.

10 MR. BUCHANAN: Jeff Buchanan, I'm Petitioner 549,
11 a petition back in 2015. We've had two advisory committees
12 to date. The last one was in 2019, which was adjourned to
13 2020. Of course COVID put up a halt on a lot of things.
14 However, the next one was scheduled for April of '23,
15 postponed. The next one was scheduled for July of '23,
16 postponed. And here we are, February '24, nothing in --
17 haven't heard anything. So I want to make the Board aware
18 that we're not -- we're stalled.

19 I want to also make you aware that Joint Powers
20 Insurance Authority is issuing grants for cities that they
21 insure to install safety devices on their woodchippers,
22 which are currently available on market. So is CIRA
23 California (phonetic) and Integrated Risk Authority, so
24 they see the value and are putting their money forward to
25 put these on.

1 Since I've been to the last Board Meeting, Dr.
2 Ball with South Dakota University did a study on
3 woodchipper injuries. We're nearing 13,000 per year.
4 These are not all drawn in, you know chipped to death or
5 lot member dismemberments, but the numbers are certainly
6 increasing.

7 I also want to bring to your attention that the
8 City of Placentia, California has created an ordinance that
9 requires contractors working for the city, any contractor
10 performing tree maintenance under contract with the city,
11 shall be required to utilize a tree or brush chipper
12 equipped with present sensing equipment; design,
13 construction and range to create a sensing field or area
14 that interrupt power to the infeed rollers, stop motion
15 before injuring the operator with conducted wood chipping
16 operations within city limits.

17 That's pretty powerful when you have a small city
18 that sees the value in it. But we can't get motivation
19 from the OSHA group to try to get this thing mandated.
20 They contract with one contractor, West Coast Arborists,
21 who are up and down the entire state. West Coast Arborists
22 put one on to service that city. And then these are not
23 going to move forward unless the businesses are compelled
24 to move forward.

25 Also since we met last, the "American Journal of

1 Industrial Medicine" did a study on woodchipper injuries
2 and/or fatalities. I'm going to read the conclusions, if I
3 can see it.

4 "Chipper-related worker deaths are preventable.
5 Young and inexperienced workers may be at higher risk for
6 fatal caught-in injuries. Better data are needed for
7 accuracy assessing chipper-related fatal injury risk for
8 young, inexperienced or foreign-born workers; workers
9 employed by small businesses; and self-employed
10 individuals. Employers should develop and implement a
11 comprehensive and protective chipper safety program and
12 provide adequate employee training. The current feed wheel
13 control devices are not effective for workers for self-
14 rescue. Woodchipper manufacturers should develop and
15 install fully automatic feed control devices."

16 I'm going to leave this with you for your review
17 as well as the ordinance from the City of Placencia.

18 Now some quick stories since --

19 CHAIR THOMAS: You know we have others --

20 MR. BUCHANAN: I understand. This is going to be
21 super brief. Last year --

22 CHAIR THOMAS: Doubtful but go ahead. (Laughter.)

23 MR. BUCHANAN: So last year, the City of Fremont
24 had an individual pulled into a wood chipper, something
25 really small. A little small branch about the size of my

1 thumb hooked his sleeve, got all the way down to his cuff
2 and pulled him all the way into where his hand was in the
3 feed rollers. That's when somebody was able to hit the
4 control bar and stop him from getting pulled through that
5 machine completely. They now have full safety devices on
6 all their woodchippers. They saw the need after the fact.

7 I want to address this before the fact. I'm only
8 one guy, I'm going all over the country, making chipper
9 safer. I need help. I can't do it by myself.

10 The County of Stanislaus had a guy drawn in all
11 the way into where his hard hat was hitting the feed
12 rollers. And somebody hit the control bar and stopped it.
13 Stanislaus County now has two protected with shippers.

14 The after-incident reports on both of those, they
15 didn't think about bump bars, push bars, last chance
16 cables, anything. All they thought about was stopping the
17 pull of the machine from getting in there. They didn't
18 scream or yell, either one of them. Somebody recognized
19 the situation and stopped it.

20 And in fact, Stanislaus County had a safety watch
21 standing there holding the control bar facing the operator
22 to see that he's not going to go in. That's this guy's
23 sole job. But what happened? We don't know what happened,
24 because that guy didn't fess up to what happened. But he
25 was distracted. You get distracted with one these

1 machines, .75 seconds is all it takes to get pulled in.
2 You'll see that in that study. This person, there's a cool
3 dog. There's a nice car. Look at that. He looks away for
4 a split second. This guy's in the machine with his hard
5 hat hitting the feed roller.

6 CHAIR THOMAS: (Overlapping) I think we
7 understand.

8 MR. BUCHANAN: Something needs to be done.

9 CHAIR THOMAS: I think we understand.

10 MR. BUCHANAN: One more in California and then
11 I'm done.

12 CHAIR THOMAS: No, no, we'll --

13 MR. BUCHANAN: Please.

14 CHAIR THOMAS: No.

15 MR. BUCHANAN: Menlo Park.

16 CHAIR THOMAS: Listen --

17 MR. BUCHANAN: The City of --

18 CHAIR THOMAS: I'm being nice with you. I
19 understand (indiscernible).

20 MR. BUCHANAN: A lot of these people went four or
21 five minutes. I'm just barely at two.

22 CHAIR THOMAS: Cut his mic, please? You know.
23 We understand. We understand. I know West Coast
24 Arborists, so thank you.

25 MR. BUCHANAN: Thank you.

1 CHAIR THOMAS: Thank you.

2 Next -- oh, we're going to go to Maya. Who do we
3 have?

4 MS. MORSI: We have Catherine, affiliation small
5 business owner.

6 CHAIR THOMAS: Catherine, can you hear us?

7 MS. BALDI: Hello, can you hear me?

8 CHAIR THOMAS: Yeah, go right ahead.

9 MS. BALDI: Yes, I can hear you. Oh, great.
10 Good morning. My name is Catherine Baldi. And this is the
11 first time I've ever attended a meeting like this, so I'm
12 not sure how much you hear from small business owners. My
13 husband and I run a small painting company in Northern
14 California. We have 14 painters in the field. Our
15 business is 20 years old.

16 And we are passionate about employee safety,
17 especially when it comes to lead. So I'm here to comment
18 on the lead reg. I have been working my way through it.
19 And it's extremely difficult for me to understand. I
20 really can't sort it out. It's dense. It's confusing. It
21 has a ton of jargon. And I really don't know where to
22 begin to figure out how to implement it.

23 I did look really closely at the new training
24 requirements, and the requirement for the CDPH certificate
25 in order to understand what new costs we would be facing on

41

1 top of what we're already doing. And I was blown away just
2 how one element of this regulation, how expensive it would
3 be. And I went through my -- I did the numbers and
4 basically got it to a cost of about \$15,857 per person over
5 a two year period. So with the current rates of inflation,
6 the homeowner market just will refuse to bear this cost.
7 They don't understand the myriad of regulations that we
8 small c licensed contractors already implement and what it
9 costs us. They're only looking for bottom line pricing.
10 And most homeowners choose a contractor based on price.
11 They don't choose us based on all the background
12 administrative stuff we have to do.

13 So what will happen is this will become -- it
14 will make us less competitive. And we will end up being
15 priced out by other smaller contractors or contractors that
16 don't comply.

17 CHAIR THOMAS: Can you wrap up your comments,
18 please? It's been two minutes. Thank you.

19 MS. BALDI: Yeah, so over time I just wanted to
20 point out at the end of 10 years, this whole regulation,
21 this part of the regulation will cost us 540 \$554,750. So
22 it's a humongous expense to undertake as a small business.
23 Thank you.

24 CHAIR THOMAS: Thank you.

25 Who do we have next, Maya?

1 MS. MORSI: Up next is Chandran Achutan, PhD.

2 CHAIR THOMAS: Is it Kendra?

3 MS. MORSI: It's Chandan, Chandran.

4 CHAIR THOMAS: Oh, I'm sorry, go ahead. Go
5 ahead.

6 DR. ACHUTAN: Good morning, Members of the Board.
7 My name is Dr. Chandran Achutan and I am a lead research
8 health scientist for the National Institute for
9 Occupational Safety and Health, US Centers for Disease
10 Control and Prevention, or CDC NIOSH. I hold a doctoral
11 degree in industrial hygiene and I'm a certified industrial
12 hygienist.

13 I am here today in my official capacity at the
14 request of Mr. Eric Berg, Deputy Chief of Health at the
15 California Occupational Safety and Health Administration of
16 Cal/OSHA. As a federal employee, I am permitted to provide
17 factual and background information and materials regarding
18 the subject matter of the proposed regulation at issue, and
19 to provide technical assistance as a request of Cal/OSHA.
20 However, I am not here to offer my opinion, or express
21 favor for or opposition, to the matter currently pending
22 before this body.

23 The current Federal OSHA permissible exposure
24 limit for lead was established in 1978. In 1997, NIOSH
25 adopted the OSHA permissible exposure limit for airborne

1 lead of 50 micrograms per cubic meter of air, averaged over
2 an eight-hour work shift as a NIOSH recommended exposure
3 limit. However, research conducted since then suggests
4 that adverse health effects can occur at exposure levels
5 below that NIOSH recommended exposure limit.

6 The OSHA blood lead level for medical removal is
7 60 micrograms per deciliter or more for general industry,
8 and 50 micrograms per deciliter or more in construction.

9 In 2012, the National Toxicology Program reported
10 that with blood lead levels below 10 micrograms per
11 deciliter health effects can include increased blood
12 pressure, hypertension, and the incidence of essential
13 tremor. Furthermore, NIOSH recommends that pregnant women
14 should not exceed a blood lead level of 5 micrograms per
15 deciliter.

16 Workplace air levels corresponding to those blood
17 lead levels are well below the current NIOSH recommended
18 exposure limit. NIOSH and state health departments have
19 maintained the Adult Blood Lead Epidemiology and
20 Surveillance Program or ABLES, a state-based surveillance
21 program of lab-reported adult blood lead levels.

22 In 2019 the prevalence of blood lead level --

23 CHAIR THOMAS: (Overlapping colloquy.) Excuse me?

24 DR. ACHUTAN: Yes, sir?

25 CHAIR THOMAS: I said can you please wrap up your

1 comments please? Thank you.

2 DR. ACHUTAN: Sure, I would just say -- I'll
3 point out that in 1995 NIOSH reported to the US Congress
4 about the importance of limiting take-home lead exposures.
5 And take-home lead exposures, as we've heard before, is
6 when lead dust settles on workers clothing or skin and
7 becomes a source of lead exposure for the workers
8 themselves.

9 And so in 2023 NIOSH is still concerned about
10 occupational lead and take-home exposures. In 2023, NIOSH
11 published a fact sheet on lead, "Leave Lead at Work" and
12 information for workers exposed to lead during water pipe
13 removal. And that's titled, "Reducing Workers Lead
14 Exposure During Water Pipe Removal and Replacement." And
15 these new NIOSH resources reinforce existing NIOSH research
16 and recommendations for reducing lead exposure based on
17 applying the hierarchy of controls.

18 Finally, recent NIOSH health hazard evaluation
19 reports have recommended ways to minimize exposures to lead
20 in specific occupational situations.

21 In conclusion, NIOSH is continuing to monitor,
22 evaluate, and advise on the hazards posed by lead to US
23 workers. Thank you for the opportunity to provide this
24 testimony.

25 CHAIR THOMAS: Thank you.

1 Who do we have next, Maya?

2 MS. MORSI: Up next we have Barbara Materna, PhD.

3 CHAIR THOMAS: Barbara, can you hear us?

4 DR. MATERNA: Yes. Can you hear me?

5 CHAIR THOMAS: Yes, go right ahead.

6 DR. MATERNA: Great. I'm Barbara Materna,
7 certified industrial hygienist and retired Chief of
8 Occupational Health in the California Department of Public
9 Health.

10 Lead is an insidious silent killer that gradually
11 accumulates in a worker's body and damages it over time.
12 The need for changing these standards may not seem as
13 dramatic and important as preventing deaths from heat, or
14 lung transplants due to silica exposure. But our
15 collective failure to act on the science about lead
16 toxicity that has accumulated since the 1970s by improving
17 the lead standards means that an unknown number of lead
18 exposed workers have died early from heart disease or
19 suffered a diminished quality of life from kidney disease
20 or reduced cognitive function. The impact might not be
21 readily quantified, but it is real. It's a societal impact
22 much like the reduction in IQ that results from childhood
23 lead poisoning. The time to act to reduce lead's toll on
24 California workers' health is now.

25 The proposed lead standards incorporate the key

1 changes formerly recommended by CDPH in 2010, that are
2 necessary to better protect workers and their family
3 members who might be exposed to lead brought home from
4 work. Cal/OSHA has made an effort to address industry
5 concerns by considering feasibility and its proposed PEL.
6 Having phase-in periods for some provisions, and easing the
7 shower requirement for construction as an example.

8 CDPH will work with Cal/OSHA to create
9 educational materials to help employers and workers
10 understand and implement the new requirements. I urge you
11 to recognize the enormous investment of state resources
12 that has gone into this regulatory effort to date. You
13 must realize that voting against adoption would force
14 Cal/OSHA to start over from the very beginning, ultimately
15 to propose a similar set of changes, which we know are
16 necessary to protect health. We cannot allow more decades
17 to pass before we take a step forward to improve
18 California's lead standards. Vote yes, today. Thank you.

19 CHAIR THOMAS: Thank you.

20 Oh, we're going to go to in-person speakers. So
21 go right ahead. We'll be back to you in a few minutes,
22 Maya.

23 Go right ahead, thank you.

24 MS. HILKE: (Indiscernible) My name is Sharon
25 Hilke. I represent the Painting and Decorating Contractors

1 of California. I just want to agree with everything that's
2 been said here today. And if somebody could get on the
3 woodchipper thing that would be so helpful, Eric. What I'm
4 saying is --

5 CHAIR THOMAS: (Laughter.) Yeah, Eric.

6 MS. HILKE: Get on this thing. They're being
7 killed.

8 Opposing the lead regulation in its current form,
9 in no way means that we don't support the lead regulation.
10 I've told you this, my painting contractors are small
11 businesses. They are on the job site every day.

12 And I know this, because I call them sometimes
13 and they're on top of the ladder, not going to give you
14 their name. It's probably a nice Cal/OSHA citation. There
15 they are, and they have children, and they have families.
16 Nobody wants to be exposed to lead. Nobody wants to see
17 anybody around us be exposed to lead. But there are some
18 significant flaws in this legislation and regulation. And
19 we're looking at it from the people that are going to have
20 to do it.

21 I mean, you can write this regulation, but we're
22 the ones that have to do it. When we talk about
23 incomprehensibility, I think we keep saying that we don't
24 understand it, which is not an easy thing for any of us to
25 get up and say in public. But it doesn't mean that we just

1 don't understand big words. It means that the words in the
2 regulation are not consistent. They're not precise. And
3 they're not clear. And the Government Code mandates it.
4 My favorite sentence in the Government Code is that the
5 regulations shall be written in plain English. It doesn't
6 get more plain English than that.

7 You can be on a page where it says "changing
8 stations" where we're supposed to be changing our clothes
9 and getting out of our lead-contaminated garments. That
10 it's a changing station. Thirty pages later it's a
11 "changing area." On page 99 it's a "changing room." We
12 don't know what that means, because those things are three
13 distinctly different requirements. It's not consistent.

14 I think I'm going to tell you what I think your
15 moral imperative is. I think you have a both a moral and a
16 legal imperative to guarantee that the rules and
17 regulations that we're supposed to follow, and that we
18 can't comply with if we don't understand what's being asked
19 of us. Use the words "lead decontamination soap." Not,
20 "special soap compound." I think you have a moral and
21 legal imperative to make sure that the rules are clear.
22 And that they're consistent and they're precise.

23 I'm going to actually be brief today. I hear us
24 talk about money all the time and it sounds like that's all
25 we're interested in is the money part of it. But when do

1 costs not matter? You can't put in a legislative bill, you
2 can't put in a regulation without fiscal impact. The SRIA
3 is required to make a statement about the impact on the
4 regulated industry. That's us. And here's what it says.
5 "There's not going to be an impact, because all costs will
6 be passed on to the consumer." I don't think that is a
7 valid evaluation of the cost impact on our industry. And
8 it does matter. And we know it matters. Because the state
9 of California put it into the law that we had to have a
10 SRIA. So it does, it actually does matter.

11 I'm wrapping up, Dave. Which brings me to the
12 third leg of this stool. The epic failure to meet its core
13 mission. This bill does not -- this legislative regulation
14 does not -- sorry, monopolist (phonetic) -- does not, in
15 fact, protect families. It says it does. We talk about
16 it. We put it on the flyers. People congratulate this
17 regulation for protecting families by keeping lead away
18 from them. But when you look at the regulation there is
19 absolutely no language in the regulation about preventing
20 bringing lead home to your families. It's all about the
21 protective garment that you wear or the Tyvek suit, how
22 often you have to change it, what they think you can wash
23 it, wear it, how you take it off, where you store it, how
24 you should change it during lunch, and all of these things.
25 It does not solve their core mission, which is to keep lead

1 off of children. It's not in there.

2 We gave them some options when we met with them
3 in August. And they told us that this was the driver of
4 this regulation, and the language isn't in there. So it's
5 not even doing what they're saying that it's going to do.
6 I think you have a chance to give us another shot at making
7 a regulation that we understand, that actually protects
8 families from having lead brought home. I think that's a
9 really worthy reason to not pass this.

10 Thank you so much for the time. I appreciate it.

11 CHAIR THOMAS: Thank you

12 MS. HILKE: Sure.

13 (Off-mic colloquy.)

14 CHAIR THOMAS: Good morning.

15 MR. MILLER: Good morning, Chairman Thomas and
16 Board Members and staff. Thank you very much. Ditto.

17 I've actually revised, my paper has been
18 crumpled. I've got plenty of ink on here. I've actually
19 revised my comments several times --

20 CHAIR THOMAS: (Overlapping colloquy.) Oh, can
21 you please give us your name and your title?

22 MR. MILLER: Oh, I'm sorry. I'm and I'm Brian
23 Miller. I'm the Safety Director for Rudolph and Sletten.

24 CHAIR THOMAS: Thank you.

25 MR. MILLER: I appreciate the time. I apologize

1 for my attire today. Normally, when I address the Board,
2 this distinguished group of people and the staff members,
3 I'm in my slacks, my loafers, and a button-up shirt, and
4 sometimes a tie. Today I came in my normal work clothes,
5 because I do this for a living. I am CPH certified, have
6 been since 2004. I'm a CAC, have been since 2003. I go in
7 containment regularly. I'm on jobs where it's paint
8 stabilization. I go on jobs where we're removing paint. I
9 go into containment where we're removing asbestos. I go in
10 harm's way. Luckily, I just had a whole bunch of lung
11 issues last year and I got a clean bill of health and my
12 lungs for my lead and asbestos exposure, and my PLL and CPP
13 are great. So I'm doing good. I do this for a living.

14 I do this for living. I read this for a living.
15 And I'm going to have a hard time explaining how this new
16 standard that went from a half an inch thick to almost two
17 inches thick, is reasonable and enforceable. And now I
18 have to go out in the field and not only Rudolph and
19 Sletten employees, but I have to go to the other 85 percent
20 of the employees out in the field, the trade partners out
21 there, and try to explain to them how this new regulation
22 is reasonable and enforceable.

23 And what's going to happen is we're going to lose
24 work. We're going to lose qualified employers. We already
25 heard a few months ago that Nelco, which is one of the few

1 groups that installs lead line shielding -- and I have
2 personally installed lead line drywall. I've personally
3 installed lead brick. If you've never picked up a lead
4 brick, I advise you to do it. It's pretty interesting,
5 they're darn heavy. I've personally done that myself when
6 I was an apprentice. They are threatening to leave the
7 state, because they can't figure out the standard.

8 And they're one of very few qualified good
9 contractors that installed lead shielding. And I want to
10 remind everybody briefly, that lead shielding is still the
11 preferable lead shielding, because of its thickness. You
12 need that much lead to protect from an X-ray diffraction
13 machine in a room. You need that much concrete. And you
14 need that much steel. So when you're on the 16th floor of
15 a building installing shielding, lead is preferable because
16 of the weight constrictions of the building. So lead is
17 preferred.

18 It's also very malleable. It's recyclable. It's
19 an environmentally friendly product. Oddly enough,
20 actually when we go into buildings we're taking it out. We
21 don't throw it away. We send it back to the manufacturer.
22 They peel it off of the drywall and they reuse it, so they
23 don't have to make new lead product out of it.

24 So briefly before I close -- and I will close --
25 none of us here are saying don't do something. We're okay

1 with lowering the PEL and the blood burden. We're okay
2 with that. We're okay with lowering the action level.
3 We'd like to see it where a flame AA is still usable,
4 because we're going to see a huge burden of waiting for
5 these new machines that are very expensive to be able to
6 read the samples to get down to those action levels below
7 that 5 micrograms, which is the flame AA's limit. So we're
8 not against it.

9 And again, Rudolph and Sletten is a VPPC
10 contractor. We have been for 10 years. If anybody doesn't
11 know that let me explain to you, what that means. Over the
12 past 10 years, 11 projects, we've opened our doors to
13 Cal/OSHA to come in and do a thorough review of our written
14 program, and a thorough review of our in-place program.
15 That means they interview the president of the company, the
16 executives, the superintendent, the supervision, and if we
17 have some perform work in the field people.

18 And moreover, I want you to understand something.
19 For us, and I'll just give you an example -- the Apple
20 Campus 2, the spaceship -- 2,600 employees at that time on
21 that job site, three general contractors at the same time
22 got VPPC. In order to do that the Division requires we get
23 trade contractors through the Golden Gate process. So
24 during our 10 years, just Rudolph and Sletten's 10 years of
25 being a VPPC participant we've gotten 70 to 90 trade

1 contractors through the Golden Gate process. So we care.
2 We care about their health.

3 I want to say thank you very much for your time.

4 CHAIR THOMAS: Thank you, appreciate it.

5 Go ahead, thank you. Good morning.

6 MS. NOVEY: Good morning. Hello, my name is
7 Amber Novey. And I proudly serve as the Tri-Fund Field
8 Coordinator for the Pacific Southwest Region of the
9 Laborers' International Union of North America. Our
10 acronym is LiUNA.

11 I would like to start by thanking Cal/OSHA and
12 the Cal/OSHA Occupational Safety and Health Standards Board
13 for having me speak today. And I commend them on this bold
14 step to increase worker protections from toxic lead
15 exposures in the State of California. I'm here to
16 represent 76,000 workers and members of LiUNA throughout
17 the great state of California.

18 Laborers build California from the ground up.
19 They perform work in road and bridge building, demolition
20 abatement, energy infrastructure, tunnel construction,
21 concrete, general construction and everything in between.
22 Many of these job tasks can undoubtedly lead to harmful
23 overexposure from lead. That is why it is imperative to
24 have protocols and work practices that follow current
25 science, follow the hierarchy of controls, and adequately

1 protect our workers.

2 We believe that this update is warranted and
3 overdue. And we support Cal/OSHA with their efforts to
4 update the standard. Exposure to lead is a serious health
5 and safety concern for all people. However, while efforts
6 to protect consumers from the dangerous effects of lead are
7 ramping up, there's one group that's been left out: the
8 workers.

9 Because of outdated standards, workers can be
10 overexposed to levels of lead well beyond what's considered
11 safe for the general public. Current regulations do not
12 reflect the most up-to-date research about lead and do not
13 adequately protect our workers. We all know that lead is a
14 harmful neurotoxin and workers deserve adequate protections
15 from harmful exposure to it. Not only is on-the-job lead
16 exposure a problem, but as an unstated potential bringing
17 home the hazards to family members and children. This is
18 especially important for our young children as they
19 develop. We believe that the proposed updates to the
20 woefully outdated standard will absolutely improve the
21 health of our workers and their families. There's no
22 reason for any worker to be overexposed to lead in 2024.

23 We know the dangers of lead where they exist and
24 the ways to protect workers from those dangers. It is time
25 to revise old standards and codify better worker

1 protections. After these changes are made Cal/OSHA's
2 standard will be the most protective in the United States,
3 and has the ability to spark positive change for the
4 workers across the country. If successful, this plan will
5 be a blueprint for Fed OSHA and other states to follow.

6 On behalf of the Laborers' International Union of
7 North America I thank you for your dedication to the safety
8 and health of workers of California. Thank you.

9 CHAIR THOMAS: Thank you.

10 Now we're going to go to Maya for callers. Maya,
11 who do we have?

12 MS. MORSI: Up next we have Perry Gottesfeld,
13 Occupational Knowledge International.

14 CHAIR THOMAS: I believe that was Gary. Are you
15 with us? Gary? Carrie?

16 MS. MORSI: Perry.

17

18 CHAIR THOMAS: Hello?

19 MS. MORSI: Perry Gottesfeld.

20 CHAIR THOMAS: Yeah, Gary.

21 MS. MORSI: It's Perry.

22 CHAIR THOMAS: Yeah, Gary. Are you there, Gary?

23 MS. MORSI: It's Perry.

24 MULTIPLE SPEAKERS: It's Perry.

25 CHAIR THOMAS: He doesn't even know. Yeah, is

1 anybody there by any of those names?

2 BOARD MEMBER LASCZC-DAVIS: Perry, it's Perry
3 Gottesfeld.

4 CHAIR THOMAS: Okay, Perry. Can you hear us?

5 MS. MORSI: I don't see a Perry in the
6 participant list. If you're on the phone, please press *6
7 to unmute yourself.

8 CHAIR THOMAS: Hello, Perry.

9 Okay, we're going to go to the next.

10 MS. MORSI: Okay, up next is Tracy Berry.

11 CHAIR THOMAS: Tracy, can you hear us?

12 MS. BERRY: Yes, thank you --

13 CHAIR THOMAS: Go ahead.

14 MS. BERRY: -- Board, and thank you very much for
15 your time today. We very much appreciate it. I am Tracy
16 Berry. I'm an Industry Volunteer Government Relations
17 Chair of the American Subcontractors Association of
18 California, and President of the Bay Area Chapter American
19 Subcontractors Association.

20 I've worked in the commercial construction
21 industry for about 25 years, for both extremely small and
22 very large construction companies. ASAC represents all
23 licensed trade contractors, whether they are members of our
24 organization or not. That consists of every size in the
25 state from sole proprietors to corporations, most of which

58

1 are small businesses. There are 147,000 specialty trade
2 contractors in the State of California of all sizes.

3 I read the lead regulation several times, and
4 while I won't take the time today to line item serious
5 concerns, the fact is that it is extremely confusing,
6 difficult to follow, and a challenge at best to locate
7 references. My job over the past two and a half decades is
8 to review, communicate the terms and obligations as they
9 relate to regulations and laws, for the firms that I work
10 for, to ensure compliance. Therefore, if it is difficult
11 for me to extract the intent and requirements of this
12 lengthy regulation, the vast majority of contractors in the
13 state will not either.

14 ASAC contractors are safety first in every way,
15 and embrace ensuring their employees' safety at all times
16 as it relates to their work. But most of these small
17 contractors in the state do not have a risk manager or
18 corporate legal individual like me, or an attorney sitting
19 in their office or at their reasonable disposal to extract
20 the obligations under this regulation as written. If the
21 average contractor cannot understand the regulation,
22 understanding or compliance is not a reality.

23 As well it appears little consideration has been
24 given to the HIPAA regulations with regard to medical
25 requirements for testing under the regulation. I believe

1 we all recognize that contractors are extremely safety
2 conscious to ensure their employees are provided the tools,
3 PPE, and means to work safely. And are cognizant each and
4 every moment of every day with regard to safety risk
5 exposures at work. But the requirements of this regulation
6 are so broad, we simply are not convinced every contractor
7 in the state will physically be able to meet the onerous
8 standards set forth therein.

9 This regulation has been in the works for 13
10 years. And while we realize Cal/OSHA is intent on voting
11 on this regulation today, I will pair up Bruce Wick and
12 several others that we begged you to collaborate with us
13 safety first construction stakeholders, general business,
14 and the public to take the course for an expedited,
15 understandable effective lead regulation.

16 We represent a vast number of contractors that
17 will simply close business rather than be an instant
18 automatic noncompliance with this regulation. That will
19 result in an astronomical number of unemployed workers --
20 I'm almost done -- workers and affected families, public
21 works not being built, and taxes not collected by the
22 state. Can we assume the Board factored all of this in?

23 ASAC and the coalition it is a member of request
24 Cal/OSHA to consider voting no at this time, and rather
25 promptly and immediately move stakeholder involvement to

1 restructure the regulation so that it ensures compliance
2 rather than forcing immediate noncompliance on hundreds of
3 thousands of businesses in the state that provide the
4 livelihood to millions of employees and their families that
5 rely on that livelihood.

6 Employee health and livelihoods rely on employer
7 business success. Let's work together to ensure both and
8 thank you very much for your time.

9 CHAIR THOMAS: Thank you.

10 We're going to check one more of the callers.
11 Maya, who do we have?

12 MS. MORSI: Todd Schoonover, CIH, CSP.

13 CHAIR THOMAS: Is it Todd?

14 MR. SCHOONOVER: Yeah, Todd.

15 CHAIR THOMAS: Go ahead, Todd. We can see
16 (indiscernible).

17 MR. SCHOONOVER: Greetings, Board Members. Thank
18 you for this opportunity. I'm a Certified Industrial
19 Hygienist with the Washington State Department of Labor and
20 Industries.

21 For the last 15 years, I've managed the
22 Washington State Adult Blood Lead Epidemiology and
23 Surveillance Program. In this role I have extensive
24 firsthand experience with how the outdated lead standard
25 allows workers and their families to suffer the physical

1 and psychological effects of lead. So I commend the Board
2 for its engagement of the business, labor, and occupational
3 safety and health communities for the last 12 or so years.
4 Your combined efforts have produced a deliberate,
5 scientifically credible update of the lead standard that I
6 strongly support.

7 The knowledge accumulated over the last several
8 decades regarding the health effects of lead, provides
9 clear rationale for lowering the medical removal and
10 exposure levels. We have studied the models and estimates
11 prepared by California Office of Environmental Health
12 Hazard Assessment and consider them an improvement on
13 previous efforts. We believe they strongly support
14 revising the standard.

15 Important as well in the proposed standard is the
16 incorporation of trigger levels. These will promote early
17 actions to reduce lead exposures to workers at risk, and in
18 part allow employers and workers to work together to
19 prevent exposures without the need for airborne exposure
20 monitoring. The California Occupational Lead Poisoning
21 Prevention Program has always provided assistance to
22 workers, employers, and physicians to understand and
23 implement difficult parts of the lead standard, and no
24 doubt will continue to do so. This will only enhance the
25 effectiveness of the updated standard.

1 Lastly, we in Washington have been watching
2 closely and rely upon the leadership of California, and the
3 work done, to inform our own lead rulemaking process. We
4 believe that this proposed standard will guide and help us
5 to further protect workers and their families from
6 unnecessary and unjust lead poisoning. Thank you.

7 CHAIR THOMAS: Thank you very much, Todd.

8 We're going to continue with in-person speakers
9 and then we'll go back after these next three.

10 Go right ahead. Good morning.

11 MR. PARRA: Good morning, Board Members. My name
12 is Brian Parra, here on behalf of the Laborers Local 67
13 Union of Asbestos and Lead Removal Workers, Northern
14 California.

15 We are here to support you know, these proposed
16 changes to the lead standard. You know, hearing both sides
17 it's an interesting place to be in as a union leader when
18 you're not only protecting the lives of workers or helping
19 protect the lives, but also seeing eye to eye with your
20 business partners, you know, our contractors and
21 associations.

22 So we do see where the concerns may lie with
23 these proposed changes. But overall when looking at these
24 changes we have to look at the framework it creates. You
25 know, whether it looks too costly to employers or

1 stakeholders, or even if it just looks like it can't be
2 executed. We've done it before with proposed changes in
3 different standards. You know, we heard it earlier whether
4 it was the chromium, or whether it was asbestos, or
5 whatever it may be. And now we have silica standards. So
6 this is framework for the future, you know?

7 If we want to start protecting our workers better
8 we have to look at the near future when they're kids or
9 other kids in the communities maybe the next generation of
10 workers. What are they going to be exposed to? PCB oils,
11 synthetic compounds, things that aren't building components
12 that we don't know in 50 years what they're going to do to
13 us, but we know what lead does to us. So if we see these
14 changes, and we see this language, and it's confusing to
15 us, maybe we're just not asking the right questions.
16 Because when I sit in classes with people who don't have a
17 formal educational background, and maybe English isn't
18 their first language, they're still able to understand the
19 dangers and risks of asbestos, lead, mold. And be able to
20 execute that knowledge on the job site.

21 So I'm here to speak in support, but also urge
22 you guys to just look at the science deeper. And also look
23 at you know, the cost that's going to put on stakeholders
24 and construction industry as a whole. But ultimately, we
25 have to look at the health and safety of our workers and

1 the communities and the children all around us. Thank you.

2 CHAIR THOMAS: Thank you.

3 MS. MORSI: Just a heads up. Please slow down as
4 you're speaking. We have interpreters interpreting into
5 Spanish.

6 CHAIR THOMAS: We'll try.

7 MR. REYES: Good morning.

8 CHAIR THOMAS: Good morning. Good morning.

9 MR. JOHNSON: Chairman Thomas, Members of the
10 Board, Division staff. My name is Steve Johnson and I
11 represent Associated Roofing Contractors of the Bay Area
12 Counties. We are a union trade association, and so our
13 contractors strive to work with trade partners like Rudolph
14 and Sletten as a preferred general contractor, because they
15 understand the importance of safety. And so I just like to
16 thank Rudolph and Sletten for being here and representing
17 general contractors, I think overall.

18 So my concern is that initially Title 8 regs way
19 back in the '70s were intended to be for the regulated
20 public. And as the regulated public the duty is for
21 regulations to be understandable, enforceable and fair.
22 And I don't see that with the lead standard. I don't see
23 that with the indoor heat standard coming up next month.
24 And you'll be hearing from me again on that next month.

25 Somewhere between the Initial Statement of

1 Reasons and the Final Statement of Reasons over that 12
2 year span, I think something was lost with the
3 stakeholders. I think input from the stakeholders is
4 nonexistent. I just don't feel that it's happening that
5 Cal/OSHA, I don't feel is partnering with industry.

6 In response to my comments that in the Final
7 Statement of Reasons, these are my own comments, the Board
8 notes that it is possible that there will be an increased
9 demand for industrial hygienists as the result of the
10 proposal. However, the proposed revisions to the
11 regulation do not require hiring an industrial hygienist to
12 conduct air monitoring. I don't understand how the average
13 construction foreman who sometimes has to double as a
14 safety officer will be able to act as an industrial
15 hygienist. I just don't get that connection. I don't see
16 that happening.

17 One of the things that concerns me is that with
18 for example, COVID, we have the CDC now talking about not
19 having an exclusion period, and doing away with the
20 exclusion period. But if you go to the regulation it's
21 still 10 days for an exclusion period in the regulation.
22 So now, as employers we're stuck for another year with a
23 regulation that's out of date, and not in step with CDC.
24 And I see that as a challenge. I don't see that working.

25 With the heat standard -- well, before I leave

1 lead, I would just encourage hitting the reset button,
2 engaging stakeholders, having meaningful discussion, and
3 advisory meetings. As Bruce Wick outlined, there's a path
4 forward, it can be done.

5 CHAIR THOMAS: Can we not do heat today? You'll
6 have ample time next week to do it, because we're trying to
7 get everybody in but wrap up your comments, please.

8 MR. JOHNSON: Okay. In my wrap up, CONEX boxes,
9 Fahrenheit. I want to be able to go on a job site and look
10 at my thermometer and say, "Okay, we've got to trigger
11 temp." I want to be able to use a CONEX box, because the
12 exception doesn't allow that. So I hope I summarized
13 enough there.

14 CHAIR THOMAS: That's fine.

15 MR. JOHNSON: So thank you. I appreciate -- I
16 know time is limited, and I do appreciate the chance to be
17 heard. Thank you.

18 CHAIR THOMAS: Thank you.

19 Please. Good morning.

20 MR. MIKSAD: Good morning. Good morning,
21 Chairman Thomas, and I will ask your indulgence as I did at
22 the last meeting. I've been involved in this lead
23 rulemaking for 12 years, so I have a lot in my head
24 rattling around. But I will try and --

25 CHAIR THOMAS: If you can do it in two minutes

1 that's okay.

2 MR. MIKSAD: I will try and stick to two minutes
3 and I will have one request if --

4 CHAIR THOMAS: Oh, did you not say your name? I
5 --

6 MR. MIKSAD: I did not. I apologize. I'm Roger
7 Miksad. I'm President and Executive Director of Battery
8 Council International.

9 CHAIR THOMAS: Thank you.

10 MR. MIKSAD: If you do feel the need to cut me
11 off, which I hope you won't, I do have a second very short
12 issue to raise as related to the lead rule but more of a
13 procedural issue than substantive.

14 CHAIR THOMAS: See, you've wasted -- no, go
15 ahead. (Laughter.)

16 MR. MIKSAD: Firstly, I do want to say in
17 recognition of your statement last month Chair, I see Dr.
18 Vork at the table. I have comments on the modeling. We
19 respect Dr. Vork. We as an industry disagree, and I think
20 there's a respectful disagreement that continues. This is
21 not a personal attack on anyone's work. It's disagreement.

22 As a trade association, our members have actually
23 been out ahead of Cal/OSHA and other OSHA agencies for more
24 than 25 years. We reduced voluntarily the blood lead
25 removal levels applicable in our members; facilities 25

1 years ago. When it comes to the blood lead levels being
2 proposed in the rule, and many of the other measures, we
3 agree with the proposal. We've been there for 10, 15, 20
4 years plus. No, no objection there. So why are we here?
5 Why are we so adamant about what our topic is?

6 It is that as the Final Statement of Reasons
7 makes clear, all of the benefit of the rule comes from
8 reducing worker blood levels. That's it. All of monetary
9 benefit. Most of the cost comes from the impact on
10 businesses of implementing lower air lead levels, the PEL.

11 Industry data, real world data in our facilities
12 shows that the PEL is the least effective control when it
13 comes to hitting the blood leads that Cal/OSHA is
14 targeting. And why is that? It's because Cal/OSHA staff
15 has relied on PBPK modeling that is now significantly in
16 disagreement with the real world data. At the last hearing
17 you saw a response from staff, and I understand Dr. Vork
18 will give a presentation later responding to additional
19 critique of the model, which called most of the industry
20 comments about the model false.

21 One of those statements was that industry one of
22 the critiques we've had of the model is that it relies on
23 relatively old data that is not representative of modern
24 exposures to avoid the accusation of B and what -- sorry,
25 and the presentation cited two documents. A subsequent

1 report from the authors of the original study and one
2 third-party report from Europe. I will read from the
3 European report, the AHS assessment of the OEHHA model.

4 "For the assessment of the performance of the
5 adjusted model OEHHA identified two published studies with
6 sufficiently reported individual air and blood lead
7 concentrations and compared the output of the model with
8 those studies. The first study selected for the comparison
9 was a chamber study by Griffin et al. dated 1975. Twenty-
10 four healthy male prison volunteers were exposed to average
11 air lead concentrations for 16 weeks.

12 "In the second study, Chatterjee et al. dated
13 1969, air and blood lead concentrations of 29 British
14 battery plant workers were reported. The data from 16 of
15 the individuals was selected for model validation."

16 I did not say that. That's not my assessment.
17 That comes from the European authorities that staff cited
18 too. In effect, the question before this Board is a model
19 based on 40 workers -- well sorry, 24 prisoners and a
20 handful of workers from the 1960s, appropriate for setting
21 standards today that directly conflicts with actual real
22 world industry experience? Data that we have given to
23 Cal/OSHA that has not been integrated into subsequent
24 modeling efforts.

25 CHAIR THOMAS: Hey, can you please wrap up? It's

70

1 been four minutes.

2 MR. MIKSAD: You bet. So that's why we disagree.

3 The final issue is actually one of personal
4 integrity is why separate. At the last hearing, Mr. Killip
5 provided a statement to the Board that was read by staff in
6 which industry members were accused of providing
7 misinformation to Cal/OSHA and the Board. The staff
8 presentation labeled industry critiques of the model as
9 false. I take that as a personal affront.

10 And I agree with you, Chairman Thomas, that back
11 and forth tit-a-tat is not what we want here. But I do
12 find that personally offensive. I've been working on this
13 for 12 years. I'm very passionate about it. I would ask
14 that the Board read into the record today that the Board
15 sees no evidence of deliberate misinformation or false
16 statements from industry.

17 CHAIR THOMAS: Thank you.

18 And then we're going to -- how many other in-
19 person speakers do we have? If you're going to speak raise
20 your hand, because I want to try and clear this. Okay, so
21 we have three. So we're going to hear those three and then
22 we're going to go to the callers, so go right ahead. Go
23 ahead.

24

25 MR. WALKER: Chair Thomas, Board Members, Chris

71

1 Walker with CAL SMACNA, Sheet Metal and Air Conditioning
2 Contractors, representing 300 union contractors throughout
3 the State of California.

4 What I hope you take home today, regardless of
5 how you vote, is that there is no daylight between where we
6 are as employers and our labor brothers and sisters on the
7 health effects and concern about lead. I think that's a
8 false dichotomy that's creating a lot of fear and pitting
9 one side against the other.

10 We are absolutely in the field every day. We are
11 with our employees. We are the employees. We are card
12 carrying sheet metal workers that have become business
13 owners. We care about ourselves, we care about our
14 workers, we care about our families, okay? We want an
15 effective rule. And to have an effective rule, the rule
16 should be understandable, should be implementable, and it
17 needs to be enforceable. It needs to be enforceable.

18 Last week, the Chief Officer of the California
19 Labor Federation, Lorena Gonzalez said, "California has the
20 strongest labor laws in the country." All of that, all of
21 that is pointless if we can't enforce these. That's what
22 we're talking about. Instead of adopting an imperfect rule
23 that perhaps strikes a Pyrrhic victory on paper, what about
24 following an expedited process, as suggested by Bruce Wick
25 earlier? You have an engaged stakeholder community that is

1 as concerned about lead exposure as anybody else. But we
2 want to be able to implement the rule and it needs to be
3 enforceable.

4 What we're seeing as business owners,
5 unfortunately is the large corporations have in-house
6 industrial hygienists. They have in-house human resources.
7 They have in-house legal. It's far easier for them to
8 comply. We're competing against those large corporations.
9 And we're also competing against the underground economy.

10 We lay awake at night worrying about making
11 payroll. On top of that, we are worried about complying
12 with every rule that's being passed, not just by Cal/OSHA,
13 but also by the Legislature. And if we don't have
14 confident compliance we know that we are exposed to
15 lawsuits, civil penalties, fines, potentially existentially
16 so. I can't tell you how many of my members are looking to
17 sell and they're not selling to the journeymen that are
18 working for them anymore, because the journeymen don't want
19 it, right? They're selling to the large conglomerates that
20 have the in-house industrial hygienists, the in-house HR,
21 the in-house legal.

22 We are increasing the wealth disparity in our
23 economy. We're decreasing the diversification of our
24 businesses. The absolute, you know, attack on
25 corporations. Understand in California 93 percent of the

1 corporations are businesses with fewer than 20 people.
2 It's us. We want to help. We want to protect our workers.
3 We want to protect ourselves. Give us that opportunity.
4 Let's get a rule that's right. Thirteen years is a hell of
5 a long time to wait to get a rule, an effective rule.
6 Adopting what you have before you today does not do that.
7 In fact, it makes those 13 years a complete waste.

8 I ask that you vote no today, and that you work
9 with the engaged stakeholders on an expedited process and
10 get a rule that's adopted before the end of the year. It
11 is possible. You know that it is possible. This rule if
12 you adopt it today, it may become effective sometime next
13 year, possibly a couple months before an expedited process
14 rule would become effective. Two months, three months, is
15 that worth the difference between an effective and an
16 ineffective rule? Don't the workers and the businesses in
17 California deserve more? I hope they do. Thank you.

18 CHAIR THOMAS: Thank you.

19 Go ahead.

20 MR. REYES: Hi, good morning. My name is Jose
21 Reyes, I'm a Regional Manager, Safety Manager for Rudolph
22 and Sletten. I'm also a member of LiUNA, Laborers'
23 International Union of North America, a member of Local
24 652. And it will be under two minutes, because I was not
25 going to speak but I've been compelled after all the

1 passionate. And I appreciate both sides here in the fact
2 finding and the science.

3 But I just want to make it clear, we are against
4 the new lead standard. Only we're not against lowering the
5 PEL. We're not against, obviously worker safety. And
6 that's coming from a person who is a worker who does go
7 into containments as you can tell from my boots, right? So
8 we're not against safety, as everyone in here. We just
9 want to make sure that the standard is obviously user
10 friendly, not just for contractors, but for the people that
11 are going to be in the field implementing that standard.
12 And that's it, short and sweet. Thank you.

13 CHAIR THOMAS: Thank you.

14 Mr. Bland. Go right ahead.

15 MR. BLAND: Are we still morning? Oh, good
16 afternoon.

17 CHAIR THOMAS: Barely.

18 MR. BLAND: I think we're just past noon. Good
19 afternoon, Chair Thomas, Board Members, Board staff,
20 Division staff. I'm Kevin Bland. I represent the
21 California Framing Contractors Association, and the
22 Residential Contractors Association. I will be brief.

23 I know, Bruce already brought up the fall
24 protection standard that we testified on last week. I
25 wanted to thank the Board for the questions that they had

1 and the discussion that was had. And we had some
2 impassioned discussion from employees and union workers and
3 nonunion workers at the podium. And I hope that helped. I
4 did get some discussion with them. Ms. Neidhardt, and I
5 thought well she had some issues and questions that I
6 thought maybe would be helpful for you guys to hear so that
7 you know what's happening in this process. And we're in
8 hope that we can get to a 15-day notice on this.

9 The issue that we have briefly is we're
10 constantly trying to prove a negative to Fed OSHA, right?
11 Show me why this is unfeasible? We say it is. And so we
12 say, can you give us some example of something that's
13 feasible in fall protection, conventional stipe fall
14 protection? And we get to get that one example that Ms.
15 Neidhardt said they said was you could build the trusses on
16 the ground and lift them onto the house with a crane.

17 Well, as I explained to Ms. Neidhardt well that's
18 great one, if we're in Nebraska in a cornfield and we have
19 all this room. Number two, is you still have to get up
20 there, disconnect it from the crane. You have to get up
21 there and nail it off. You have to get up there and put
22 the braces. So there's all these things that Fed OSHA
23 keeps bringing up that they just get part of the picture,
24 but never give us an opportunity to have the whole
25 explanation. So that's one of the things.

1 Another was the idea of scissor lifts inside the
2 room. Yeah, you walk in any apartment there's a wood frame
3 and a frame in there. You can't drive a scissor lift
4 around when you're trying to build the thing, right? It
5 may work once everything's out and you're putting drywall
6 up and it still didn't work in a closet. So that's another
7 issue, some of the alternatives they said.

8 And then the third is, well show us that there is
9 less falls or well, no falls. Because I said it in my
10 letter, because that's been our personal experience. So
11 how do we have a statistic unless we have a fall to point
12 to? We have ladder falls. We all know that. We have this
13 and so we're constantly having to prove a negative for data
14 that just doesn't exist.

15 So with that, I'm hoping that we get to a 15-day
16 notice and get a resolution for this, for the workers in
17 California that are framing houses and apartments. And
18 appreciate your time. I think it's the first time I was
19 under two minutes. Did I make it?

20 UNKNOWN SPEAKER: No.

21 CHAIR THOMAS: Nope.

22 MR. BLAND: I didn't make it? Dang it.

23 CHAIR THOMAS: Good try.

24 MR. BLAND: All right, I'm just closing.

25 CHAIR THOMAS: Thank you.

1 Do we have any more in-person speakers? Okay,
2 seeing none we're going to take a 10-minute break. And
3 then we'll come back and we'll start with the ones online.
4 People online hold on. We'll give you a chance.

5 All right, we are in recess.

6 (Off the record at 12:04 p.m.)

7 (On the record at 12:18 p.m.)

8 CHAIR THOMAS: All right, we are back in session.
9 And we are going to start with call-ins, but the ground
10 rules are this: we're going to take comments until 1:00
11 o'clock. And if you're commenting be quick, precise. Tell
12 us your point and your either approval or opposition to
13 this regulation.

14 So Maya, who do we have?

15 MS. MORSI: Up next is again Perry Gottesfeld.

16 CHAIR THOMAS: Perry, can you hear us?

17 MR. GOTTESFELD: Yes, thank you. This is Perry
18 Gottesfeld.

19 CHAIR THOMAS: Go ahead.

20 MR. GOTTESFELD: I'm the Executive Director --
21 yes, I'm Perry Gottesfeld, the Executive Director of
22 Occupational Knowledge International based in San
23 Francisco. I am appearing to express my strong
24 encouragement to the Standards Board to adopt the proposed
25 revised lead regulations. This action will not only reduce

1 workplace exposures and protect public health, but it will
2 also save lives.

3 Periodically the US Environmental Protection
4 Agency is required to conduct a thorough review of
5 scientific evidence, which is the basis for the ambient air
6 lead standard under the Clean Air Act. The most recent
7 integrated science assessment was just released a few weeks
8 ago. This massive document expresses a consensus science
9 as brought together for more than 40 experts inside and
10 outside the agency. And is extensively reviewed by
11 additional scientists. The requirement to review this
12 evidence at regular intervals is intended to align
13 regulatory standards with the consensus science on the
14 harmful effects of lead exposure.

15 In contrast, occupational standards are not
16 required to be reviewed or updated on any schedule.
17 Therefore, workplace lead exposures are currently regulated
18 according to the science available in the mid-1970s based
19 on studies conducted in some cases decades earlier. Today,
20 you're considering adopting occupational lead standards
21 that are based on the available science from around 2010
22 when this process began.

23 The Integrated Science Assessment use a hierarchy
24 of five levels to classify the weight of evidence for
25 causation with a causal determination being the highest

1 category. For the first time, the most recent review
2 concluded that lead is causal for renal effects and for
3 reduced cognitive function in adults.

4 CHAIR THOMAS: Okay, can you wrap up your
5 comments, please?

6 MR. GOTTFELD: Yes, in addition for the first
7 time, EPA concluded that lead exposure is causal for both
8 cardiovascular mortality in total non-accidental mortality.
9 There are very few exposures where the EPA is able to
10 demonstrate a similar link to mortality with that weight.

11 In sum the Standards Board could save lives by
12 adopting the proposed Cal/OSHA standard without further
13 delay. Thank you.

14 CHAIR THOMAS: Thank you very much.

15 And who do we have next, Maya?

16

17 MS. MORSI: Up next is Mark W. DeLaquil with
18 Association of Battery Recyclers.

19 CHAIR THOMAS: Mark, can you hear us? Hello,
20 Mark, *6. Got a phone? (No audible response.)

21 All right, let's move on to the next. Who do we
22 have, Maya?

23 MS. MORSI: Up next is Amy Boas with NELCO
24 Worldwide.

25 CHAIR THOMAS: Amy, can you hear us?

1 MS. BOAS: Yes. Hi, there.

2 CHAIR THOMAS: Go ahead.

3 MS. BOAS: I'll be brief. My name is Amy Boas.
4 I work for NELCO Worldwide. I'm commenting on the proposed
5 lead regulations. I do not support the approval as is. We
6 fall under both general industry and construction
7 regulations for lead. We work really hard to protect our
8 employees against lead. And these proposed regulations
9 will be very challenging for us to implement and stay
10 competitive against smaller companies who are ready to not
11 abide by the existing lead regulations.

12 I share the same levels of concern as others
13 about reasonable these proposed regulations are. I will
14 leave it to that. I think that state's my main concerns.
15 Thank you for your time.

16 CHAIR THOMAS: Thank you very much. That was
17 very concise. Thank you. I appreciate it.

18 Who do we have next, Maya?

19 MS. MORSI: Up next is Robert Harrison,
20 California Department of Public Health.

21 CHAIR THOMAS: Robert, can you hear us?

22 DR. HARRISON: I can. Can you hear me okay?

23 CHAIR THOMAS: Yes, go right ahead.

24 DR. HARRISON: Good afternoon. I thought it was
25 the morning, but it's the afternoon. I'm Dr. Robert

1 Harrison. I'm an Occupational Health Physician at the
2 University of California, San Francisco. And I'm the Chief
3 of the Occupational Health Surveillance and Evaluation
4 Program at the California Department of Public Health. I'm
5 speaking, wearing my CDPH hat and in support of the
6 proposed lead standards.

7 Over the past 40 years, I've treated workers with
8 lead poisoning in my practice at UCSF and counseled a lot
9 of other doctors about lead-poisoned workers. As you know,
10 as you've heard today, many of these workers have acute
11 immediate medical problems like headaches, abdominal pain,
12 problems concentrating that keep them from working. But
13 there's also a very large number of workers who probably
14 bear a chronic lead burden over their working lifetimes.

15 I think you've already heard a lot of evidence
16 and I won't go over that, that this I think irrefutable
17 scientific evidence that even blood levels under 5 or 10
18 cause health effects that are not immediately felt by a
19 worker. You've heard high blood pressure, kidney disease,
20 neurological effects, depression, impact on fertility and
21 fetal growth. And it's really been quite alarming over the
22 last decade that cardiovascular disease can occur from even
23 levels below 10.

24 And the economic impact of this, you have in your
25 Board packet by Cal/OSHA that there'll be hundreds of

1 millions of dollars in costs saved to avoid these deaths
2 and chronic diseases.

3 I've been very involved in this process for
4 probably over a decade. And CDPH has consulted closely
5 with Cal/OSHA. There was a modeling completed by work by
6 respective scientists at the CalEPA, using the same
7 approach that the federal government uses to establish your
8 recommended PEL that you're voting on today.

9 There have been countless hearings for input on
10 the discussion draft, close collaboration between Cal/OSHA
11 and the CDPH Lead Poisoning Program to understand the blood
12 lead levels and trends across the state. So --

13 CHAIR THOMAS: Please wrap up your comments,
14 please? Appreciate it.

15 DR. HARRISON: Yes, thank you. I'll just wrap it
16 here. You know, I sat where you are sitting now for about
17 four years on the Standards Board. And I think that you're
18 facing a decision on irrefutable science versus a lot of
19 objections on practical and feasibility grounds. I think
20 there is a time to take a historic vote here and set the
21 standard in the lead nationally to prevent lead poisoning.
22 So thank you for your time.

23 CHAIR THOMAS: Thank you, appreciate it.

24 Who do we have next, Maya?

25 MS. MORSI: Going back to Mark DeLaquil.

1 CHAIR THOMAS: Mark, are you with us?

2 MR. DELAQUIL: I want to thank you.

3 CHAIR THOMAS: Good, Mark.

4 MR. DELAQUIL: Can you hear me now?

5 CHAIR THOMAS: Yes, go ahead.

6 MR. DELAQUIL: Great. I'm Mark DeLaquil, General
7 Counsel of the Association of Battery Recyclers, and I'd
8 like to thank you and the Board for the opportunity to
9 comment today. The Association of Battery Recyclers is a
10 nonprofit trade association that represents the lead
11 recycling industry.

12 I'd like to echo the comments of Mr. Miksad
13 earlier and highlight another concern we have with the lead
14 rule, which is the six-month compliance period. Many of
15 the steps that we will need to take to comply with the lead
16 rule will involve installing new industrial ventilation and
17 associated pollution control equipment in order to keep air
18 levels down to meet the PEL or a C-Cal. (phonetic)

19 We submitted in the comment period detailed
20 engineering comments from our contractor all for explaining
21 that it often takes 30 months to complete those type
22 projects. There's a lot of math underlying this rule. The
23 30 is a lot more than 6 and the 6-month compliance period
24 threatens to create either allegations of noncompliance.
25 Or ad hoc judge judgments about feasibility that are not

1 fair either to Cal/OSHA inspectors or to the regulated
2 community.

3 I would urge the Board to vote no at this time,
4 so that this aspect of the rule could be reconsidered and
5 corrected. Thank you.

6 CHAIR THOMAS: Thank you.

7 Do who do we have next, Maya?

8 MS. MORSI: Up next is Kenneth Rosenman with
9 Michigan State University.

10 CHAIR THOMAS: I think it's Kenneth, are you with
11 us? Hello, Kenneth? (No audible response.)

12 All right. He's not with us, so we will move on.
13 Maya, who do we have next?

14 MS. MORSI: Up next is Ulrike Luderer.

15 CHAIR THOMAS: Ulrike, can you hear us?

16 DR. LUDERER: (Indiscernible.)

17 CHAIR THOMAS: I hear somebody. Can you hear us?
18 Hello, Ulrike? There you go up. We had you.

19 DR. LUDERER: Can you hear me? Hello?

20 CHAIR THOMAS: Okay, who's this?

21 DR. LUDERER: This is Ulrike Luderer, hi.

22 CHAIR THOMAS: All right, go ahead. Thank you.

23 DR. LUDERER: Hi. My name is Ulrike Luderer.

24 I'm a Professor of Environmental and Occupational Health at
25 UC Irvine and an Occupational Medicine Physician at UC

1 Irvine. And as others have said, the current Cal/OSHA
2 standard for occupational lead exposure is extremely
3 outdated. It allows workers blood lead levels to be
4 maintained legally in the range of 40 to 50 micrograms per
5 deciliter. We know that these levels are not safe. We
6 have heard much today about important health effects that
7 can occur at blood lead levels below 20 micrograms per
8 deciliter, and that there's evidence for health effects at
9 even lower levels.

10 We heard from Dr. Kosnett and others about the
11 multiple large longitudinal studies that have demonstrated
12 significantly increased risk of mortality from
13 cardiovascular disease and increase of stroke. And those
14 whose blood concentrations in adulthood were in the range
15 of 4 to 20 micrograms per deciliter.

16 The National Toxicology Program review of the
17 scientific literature about lead already in 2012 concluded
18 there was sufficient evidence that blood lead levels less
19 than 10 in adults are associated with adverse
20 cardiovascular effects. They also concluded that there was
21 sufficient evidence that blood lead levels less than 5 are
22 associated with decreased cognitive function, and increased
23 attention related behavioral problems in children. And in
24 adult women are associated with reduced fetal growth and
25 lower birth weight. These effects are relevant to

1 workplace standards, because of take-home exposure of lead.

2 We also know that about 10 percent of American
3 workers with occupational lead exposure have blood lead
4 levels over 10, and 2 percent have them over 25. I've
5 personally seen workers in our occupational medicine clinic
6 with levels of lead over 25. This means that hundreds or
7 perhaps even thousands of workers in California are
8 continuing to be exposed to unsafe levels of lead. And
9 this proposed standard would significantly lower the blood
10 lead level for medical removal, and the level at which
11 workers can return to work.

12 The standard, also the proposed standard makes
13 other important changes such as adding specific trigger job
14 tasks that would require blood lead testing.

15 So in conclusion, I strongly urge the Standards
16 Board to adopt the proposed new Cal/OSHA lead standard for
17 the sake of the health of California workers and their
18 families. Thank you.

19 CHAIR THOMAS: Thank you.

20 Who do we have next, Maya?

21 MS. MORSI: Up next we have Stephen Rehrmann.

22 CHAIR THOMAS: I'm sorry, what was the first name
23 again?

24 MS. MORSI: Stephen or Steven Rehrmann.

25 MR. REHRMANN: Stephen Rehrmann, Stromper

1 Company.

2 CHAIR THOMAS: There you go. Go ahead. I like
3 that, jump right in.

4 MR. REHRMANN: Hi, everybody. Good morning.
5 Yeah, good morning. Stephen Rehrmann, Stromper Company.
6 We've been doing demolition, lead and construction work
7 almost six years. I'd like to think that our tolerance for
8 worker exposure in our company is zero. We've never had
9 elevated blood levels, let alone exposure to above the PEL.

10 I kept reading about this regulation and I
11 started reading about the study, I can't help but see that
12 the study which this regulation is based off of is flawed,
13 to say the least. And they miscategorized the exposure
14 work as Category Two, not Category Three, which mandates a
15 much higher APF respirator than they were using to the tune
16 of 20 percent effectiveness. Where any worker or company
17 who cares for their employees would be about 100 times, it
18 should be a respirator that is 100 times more effective.

19 No mention of eye protection. No mention of HEPA
20 vacs or negative air machines. No water being used. No
21 other tools or work methods being used: Jasper POA,
22 (phonetic) needle or water blasting. The work method, the
23 sanding is just the most aggressive possible way to do this
24 test. And (indiscernible) content of the lead.

25 The results of this study very clearly say that

1 there was no way that the participating contractors
2 properly implemented exposure -- I'm sorry, properly
3 (indiscernible) their exposure controls. And additional
4 research on the efficacy of exposure controls and the
5 adequacy of OSHA (indiscernible) blood level testing
6 frequency is needed. So that the whole study is
7 inconclusive, needs to be thrown.

8 Now going to the SRIA just to keep this real
9 brief, all the costs that are projected in there maybe hit
10 25 percent of actual real world costs before you factor in
11 paying employees for their time and loss of production.
12 Respirators, 25 percent; PPE, 20 percent; hygiene, 20
13 percent. Blood exam, 33 percent; air monitoring, 25,
14 right? Reusing Tyvek suits, washing them. Who's going to
15 wash them? Where are they going to wash them? How you're
16 going to control that contaminated water? These are all
17 things that need to be determined and hammered out, because
18 the regulation does not adequately address this. One Tyvek
19 suit a week? Our guys use up to three to four a day.

20 So just to finish up, the proposed regulation
21 focuses far too heavily on blood testing, which is a
22 reactive measure rather than engineering control and PPE
23 which are proactive measures. As a company our main
24 concern is worker safety, but it has to be practical.
25 (Indiscernible.)

1 CHAIR THOMAS: Please wrap up your comments,
2 please? Please wrap up your comments, please. Thank you.

3 MR. REHRMANN: I'm working on it. I like
4 everyone else here is in favor of increased worker safety,
5 but this regulation does not help us get there. As it's
6 written it will do nothing to create complication for
7 employers, confusion and anxiety amongst the employees.
8 Not to mention subversion by contractors, because of its
9 difficulties to comply with.

10 Final thought, construction workers account for
11 60 percent of lead work to be done yet I see no evidence of
12 their input here. I'm asking the Board to listen to the
13 contractors and hygienists who've all echoed the same
14 sentiment, and put a hold on this current regulation.
15 Nobody's opposing an increased standard for worker safety,
16 but final thought, it needs to be revised accordingly using
17 stakeholders' input who have real world construction data
18 and experience to share. Thank you.

19 CHAIR THOMAS: Thank you.

20 Who do we have next, Maya?

21 MS. MORSI: Up next is David Harrington.

22 CHAIR THOMAS: David, can you hear us?

23 MR. HARRINGTON: Yes, I can hear you. Thank you.

24 CHAIR THOMAS: Go right ahead.

25 MR. HARRINGTON: Good afternoon, Chair Thomas and

1 other Members of the Standards Board. I'm David
2 Harrington. On December 31 2023 I retired from Cal/OSHA
3 consultation service after nine years working for DOSH.
4 Prior to that, I worked for 21 years at the Occupational
5 Health branch at the California Department of Public
6 Health.

7 I'm speaking to you today in support of the
8 revisions to the construction and general industry lead
9 standards. As with most health based standards, these
10 standards back then and these revised standards now, are
11 very complex and challenging standards. I've had many
12 years of working with employers, both large and small.
13 Unions, workers, community-based organizations, and
14 Workers' Compensation carriers, local, state and state and
15 federal agencies in implementing these lead and other
16 health-based standards at the individual and industry wide
17 level.

18 First, I want to recognize that employers are not
19 a monolith. Some employers will adopt health and safety
20 innovations without Title 8, without a Title 8 standard,
21 some early adopters as leaders who embrace change and are
22 self-motivated to take on the adoption of these standards.
23 However, the first half of the majority of employers need
24 more evidence before they do anything, and may need workers
25 with elevated blood levels are the possibility of

1 enforcement to act.

2 The second half of the majority of employers are
3 skeptical of change and will adopt these lead safety
4 measures after a major incident, and actual enforcement
5 action.

6 Finally there are the laggards who no matter what
7 information they receive refuse to make changes, and they
8 can be serial violators and may not even act after
9 unfortunate actions citing them as willful violators.

10 However, even still, small businesses and others
11 in the first three groups that I listed do not implement
12 lead and other health standards without a considerable
13 amount of assistance and resources. Large companies with
14 resources have a much better capacity to do so. They may
15 not always have the will to do so if you take an example
16 like Gopher Industry (phonetic) is a battery recycling
17 operation in Florida that exposed workers at extremely high
18 levels of lead in the last couple of years.

19 Since the creation --

20 CHAIR THOMAS: Please wrap up your comments,
21 please. Thank you.

22 MR. HARRINGTON: In my time at CDPH, we did a
23 several different projects in collaboration with Cal/OSHA
24 and the Rate. (phonetic) The first one was with the
25 Radiator Trade Association and Ally (phonetic) in San

1 Bernardino Counties. I worked with the County Health
2 Department on identifying lead exposure, take-home lead
3 exposure. And we worked with these shop owners to
4 implement a stepwise lead safety program, which I won't go
5 into now.

6 Another project we did was in 1993 when the
7 Cal/OSHA adopted the federal lead in construction standard
8 that for the first time trigger task were introduced, which
9 previously didn't exist because of the general industry
10 standard was all based on air sampling.

11 We decided to undertake an intervention project
12 with Painting Contractors in San Francisco. We undertook a
13 baseline survey of them and they were all completely out of
14 compliance of course, with a new lead and construction
15 standard. We did this in collaboration with Cal/OSHA and
16 the PDCC. We work with these contractors to implement a
17 stepwise lead safety program, which I won't go into details
18 which we did.

19 We also conducted training for their workers in
20 English, Spanish and Cantonese. These contractors showed
21 improvement in both groups and indicating that contractors
22 who are in substantially out of compliance with OSHA
23 (indiscernible) --

24 CHAIR THOMAS: State your position and wrap up
25 with the final point, please.

1 MR. HARRINGTON: Okay. -- can be successfully
2 encouraged implement components of lead safety program.

3 The final example is that in 2013 to 2014, we
4 worked with the contractors dismantling the Eastern span of
5 the San Francisco Oakland Bay Bridge. California
6 Engineering Silverado, the lead abatement contractor ECO
7 Bay Environmental Services, and the Laborers' Local Union
8 67 that does lead abatement work, who construction locals
9 304 and 315. I won't go into all the details of this
10 program, but I can tell you only three of those workers
11 doing torch cutting had blood leads between 20 and 23.

12 These are three examples of how with a lot of
13 assistance and resources, these contractors and these
14 employers can make good considerable lead safety changes.
15 Adopting these revised lead standards will make a
16 difference in the health and wellbeing of lead exposed
17 workers and their families.

18 It is also good for business. You may sometimes
19 see a logo on the side of a painter's truck that states
20 "EPA Lead Certified Firm," as these companies understand
21 the business value of being a lead save company. Thank
22 you.

23 CHAIR THOMAS: Thank you.

24 Who do we have next, Maya?

25 MS. MORSI: Up next is Coby Graham with CalEPA.

1 CHAIR THOMAS: I'm sorry, who was it?

2 MS. MORSI: Coby Graham.

3 CHAIR THOMAS: Cody, can you hear us?

4 MS. MORSI: It's Coby.

5 CHAIR THOMAS: Coby?

6 MR. GRAHAM: Can you hear me?

7 CHAIR THOMAS: Yes, go right ahead.

8 MR. GRAHAM: Coby.

9 CHAIR THOMAS: Got you, Coby.

10 MR. GRAHAM: Good afternoon, Chair Thomas and
11 other Members of the Board. My name is Coby Graham
12 representing the California Department of Toxic Substances
13 Control or DTSC. DTSC protects Californians and California
14 from toxic substances like lead.

15 Before I begin, I'd like to acknowledge that I am
16 speaking to you from the land of the Ohlone people. And
17 thank you for providing the time to comment on the proposed
18 changes to the lead safety orders. DTSC supports the work
19 of the Board to update the lead standards. The proposed
20 changes are based on good science and they are necessary to
21 protect the health and safety of workers who work with
22 lead.

23 Not only will these changes protect worker
24 health, but they will also protect workers' families. The
25 amount of lead taken home by lead workers will likely

1 decrease, because of the proposed changes. And the impact
2 of these changes will also reverberate throughout
3 California, because the amount of lead released into the
4 environment will also likely decrease, because of these
5 changes. Thus the proposed changes to the lead standards
6 will help ensure that all California thrives in a healthy
7 environment.

8 Accordingly, DTSC supports the proposed
9 amendments to the lead safety standards. Thank you again
10 for the opportunity to comment.

11 CHAIR THOMAS: Thank you.

12 Who do we have next Maya?

13 MS. MORSI: Up next is Alaina Dahlquist with
14 National Safety Council.

15 CHAIR THOMAS: Alaina, are you with us?

16 Hello, Alaina? (No audible response.)

17 All right. We're going to go on to the next --

18 MS. DAHLQUIST: Can you hear me?

19 CHAIR THOMAS: Is that you, Alaina?

20 MS. DAHLQUIST: Yeah, it is.

21 CHAIR THOMAS: Go ahead, go ahead.

22 MS. DAHLQUIST: I had not put in to talk about
23 the lead standard, though. So I don't know if you wanted
24 me to fold?

25 CHAIR THOMAS: No, this is pretty much -- well,

1 you've got one minute, whatever you want to talk about.

2 MS. DAHLQUIST: Okay. I am the State Government
3 Affairs Manager at the National Safety Council. We're
4 requesting the inclusion of a requirement to have opioid
5 overdose reversal medications stocked at job sites as part
6 of Rules 3400 and 1512. According to provisional data from
7 the CDC, 83,000 people died of an overdose in 2022. Over
8 7,000 of those deaths are in California. Now that Naloxone
9 is available over the counter these medications temporarily
10 reverse overdoses, and are not excluding any industries.
11 So we're encouraging them to be kept in a first aid kit.
12 So we would like to see Naloxone included as these
13 standards are updated.

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

15 MS. MORSI: Up next is Sarah Peiper with
16 International Surface Fabricators Association.

17 CHAIR THOMAS: Sarah, can you hear us?

18 Hello, Sarah?

19 MS. PEIPER: Hello, I'm here.

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

21 MS. PEIPER: Hi. Good morning. My name is Sarah
22 Peiper and I'm here today on behalf of the International
23 Surface Fabricators Association and our fabricator members
24 regarding the emergency temporary standard for silica.

25 Chair Thomas, you should have received a letter

1 intended to be shared with the whole committee highlighting
2 our concerns and willingness to collaborate to ensure the
3 safety and awareness for the fabricator community. The
4 association members (indiscernible) adhere to all
5 government mandate OSHA safety standards. However, we
6 would like some clarification on how this ETS is improving
7 the health and safety of California's fabricators. We are
8 getting a lot of questions, some of which include how many
9 silicosis cases arose among fabricators who work for shops
10 that are compliant with Federal OSHA requirements versus
11 ones that aren't. We'd like to understand how you're
12 enforcing this ETs and preventing violators from operating.

13 And we'd also like to understand what is being
14 done through the consultation process to help shops become
15 compliant. Because we are getting reports that compliance
16 is not enforced and grossly non-compliant shops continue to
17 operate and consultations are being cancelled with no
18 rescheduling.

19 The resources to help fabricators achieve
20 compliance aren't either clear or readily available. this
21 would include information about appropriate respirators,
22 where to purchase them, where to obtain proper medical
23 surveillance, and how to adequately document the results.
24 Also other information, anything that breaks down barriers
25 thought to compliance.

1 So we ask that you please provide more
2 information and resources that speak to how shops can be
3 compliant. How this ETS is impacting the silicosis issue
4 with actual statistics that show a decrease in
5 noncompliance shops correlating with a decrease in
6 silicosis cases poses cases overall. We'd also like to see
7 data showing that shops previously compliant with Federal
8 OSHA standards were or were not known to contribute to
9 silicosis cases.

10 We believe that additional information from your
11 institution would improve the context fabricators have
12 about the issue. And we rely on the State of California to
13 properly process businesses, cite violations, and provide
14 shop owners with information that eliminates barriers to
15 compliance. The International surface fabricators
16 Association and its members are committed to the safety,
17 health, and wellbeing of fabricators everywhere. Thank you
18 so much for your time today.

19 CHAIR THOMAS: Thank you.

20 Who do we have next, Maya?

21 MS. MORSI: Up next is Jim Heib with Natural
22 Stone Institute.

23 CHAIR THOMAS: Jim, are you with us? Hello, Jim.

24 No, Jim. Let's go to the next, Maya.

25 MS. MORSI: Up next is Dr. Tanisha Taylor with

1 ACOEM and WOEMA. Tanisha Taylor.

2 CHAIR THOMAS: Tanisha, can you hear us?

3 DR. TAYLOR: Can you hear me, okay?

4 CHAIR THOMAS: Yeah, go right ahead.

5 DR. TAYLOR: I can hear you. Can you hear me?

6 CHAIR THOMAS: Yes.

7 DR. TAYLOR: Thank you, Mr. Chairman. So I'm the
8 President Elect of ACOEM. Dr. Tanisha Taylor. That's
9 WOEMA's parent organization. I'm a practicing physician in
10 occupational medicine. Don't worry, I'll be brief. I have
11 managed lead exposed workers and have been in conflict with
12 employers having to remove workers from the workplace whose
13 lead levels were below the current action levels that
14 trigger medical removal. But those employees were at risk
15 or had already medical issues.

16 So revising the current lead standards, we've
17 heard from all my colleagues including Dr. Kosnett and
18 others today, that would result in avoidance of thousands
19 of premature deaths due to heart conditions, and a
20 reduction in reproductive issues like fetal retardation. I
21 just wanted to highlight the impact on female workers a
22 little bit as mentioned by our NIOSH colleague.

23 The impact on female workers will be extremely
24 significant, and will improve reproductive outcomes. So
25 we're talking about fewer health effects, fewer heart

1 attacks, healthy pregnancies for women in the workplace.
2 Other organizations in support include the AMA, European
3 Union, and of course AECOM. AECOM's 2023 position
4 statement strongly endorsed many of the provisions in the
5 current proposal, so we recommend voting yes today in
6 support of the proposed lead standards to save lives,
7 prevent the death of workers from overexposure to lead in
8 the workplace.

9 In conclusion, AECOM is in strong support for the
10 adoption of the proposed lead standards, which are long
11 overdue and profoundly beneficial. Thank you, Mr.
12 Chairman.

13 CHAIR THOMAS: Thank you very much.

14 Maya, who do we have next?

15 MS. MORSI: Up next is Dr. Cris Williams with
16 International Lead Association.

17 CHAIR THOMAS: Cris, can you hear us?

18 DR. WILLIAMS: Yes. Can you hear me?

19 CHAIR THOMAS: Yes, go right ahead.

20 DR. WILLIAMS: Yeah. Thank you, Chairman Thomas
21 and the Board. First, I'd like to note the letter to the
22 Standards Board that I submitted on Monday, February 12,
23 where I on behalf of the International Lead Association
24 asked the Board to vote no on the proposed regulation. And
25 directed The Division of Occupational Safety and Health to

1 engage in a meaningful dialogue with ILA and other
2 stakeholders on several issues of science related to the
3 state's pharmacokinetic model used to set our lead limits.

4 Second, continuing on one theme from my February
5 12 letter, I wanted to point out another example of the use
6 of outdated and inappropriate data and studies to test the
7 state's pharmacokinetic model. Three studies are used for
8 this purpose and in two of the three studies, a background
9 blood lead level of 20 micrograms per deciliter or greater
10 was assumed as input to the model.

11 While this background may have been appropriate
12 for persons at the time these two studies were published in
13 1969 and 1975, respectively, they are far greater than the
14 blood lead levels found in modern persons. And
15 consequently, they greatly bias downward the associated air
16 lead level that the model would predict, compared to
17 assuming a more appropriate background blood lead level.

18 Finally, I wish to state that ILA are eager to
19 work collaboratively with Cal/OSHA staff to evaluate more
20 recent and relevant worker exposure data that would help to
21 inform the Division with respect to particularly the stakes
22 pharmacokinetic model and the air lead limits of the
23 proposed regulation derived therefrom. Thank you.

24 CHAIR THOMAS: Thank you.

25 Maya, who do we have next?

1 MS. MORSI: Up next is Mitch Steiger with CFT.

2 CHAIR THOMAS: Mitch, are you with us?

3 MR. STEIGER: Yes, thank you, Mr. Chair, Members
4 and staff Mitch Steiger with CFT. We are an education
5 union of over 120,000 teachers and classified workers, some
6 of whom may be affected by the lead standard. And we're
7 here today to strongly urge the Board to adopt the standard
8 has written today. We won't repeat all of the great
9 arguments made by other supporters of the standard. But we
10 would especially point towards those made by a lot of the
11 public health researchers who are aware of the science and
12 treat workers in this area, and their consensus arguments
13 in favor of this.

14 We would also point out that a lot of the
15 objections tend to center around the standard being
16 allegedly complicated, and that when you read it, it's not
17 immediately obvious how to apply it. And I'm not
18 embarrassed to say that as someone who reads the laws and
19 regulations all day, probably every day I come across one
20 that I don't immediately understand. And that's not
21 necessarily an argument to not do it. And in this case,
22 it's definitely not an argument to just vote no on the
23 standard.

24 Going back to the 45-year-old science, go back
25 through the 14-year-old process that we've been going

1 through, and hope for the best for the future. That's an
2 issue that can be addressed through guidances, through
3 special emphasis programs, through FAQs, through a lot of
4 folks in the private sector that can help other folks in
5 the private sector understand regulations. There are all
6 sorts of areas of law that require a little bit of work to
7 implement. But the fact that it requires that work doesn't
8 mean that it shouldn't happen. And it certainly doesn't
9 mean it here. And we would strongly urge the Board to
10 adopt the standard today. Thank you.

11 CHAIR THOMAS: Thank you.

12 Who do we have next, Maya?

13 MS. MORSI: Up next is Christopher Lee with
14 United Contractors.

15 CHAIR THOMAS: Christopher, can you hear me?

16 MR. LEE: Yes. Can you hear me?

17 CHAIR THOMAS: Yeah, go right ahead.

18 MR. LEE: Yes, good afternoon, Chair Thomas and
19 Board Members. My name is Christopher Lee representing
20 United Contractors, 750 union affiliated contractors and a
21 member of a coalition of 30 associations and organizations
22 that have communicated with the Board on multiple occasions
23 regarding lead.

24 I spent the last 43 years of my career in the OSH
25 field serving as Deputy Administrator of Federal OSHA. And

1 as Deputy Chief of Cal/OSHA I'm deeply committed to worker
2 safety and health, as are the members of United Contractors
3 and the coalition. Although I share the concerns of many
4 stakeholders that the proposed reductions in the PEL are
5 too low, it doesn't mean they shouldn't be lowered from the
6 existing standards.

7 I want to focus on three other areas of concern.
8 Comprehensibility, we have a 118-page regulation with 40
9 plus pages of appendices. The overwhelming percentage of
10 California employers have fewer than 20 employees. Small
11 employers typically do not have safety directors or
12 industrial hygienists on staff. This proposal is not only
13 voluminous, it's overly complicated and difficult to
14 follow. Many stakeholders believe the implementation of
15 this proposal will be very difficult for all but the
16 largest employers.

17 Secondary of concern is stakeholder engagement.
18 There has been no recent formal advisory committee process.
19 The last Advisory Committee meeting I believe was held in
20 2019. Other regulations have benefited from such a process
21 with the benefit of employer involvement resulting in a
22 more workable document and enhanced protections for
23 workers.

24 Third and final area of concern, accurate cost
25 projections. Our coalition believes the SRIA is badly

1 flawed and seriously underestimates the true costs of this
2 proposal. Deputy Chief Eric Berg suggested we raise our
3 concerns with DIR. A formal letter was sent to DIR
4 Director Hagen approximately five months ago, seeking a
5 meeting with DIR representative responsible for managing
6 SRIAs. This was a good faith effort on our part to try and
7 resolve the many disparities between the calculations we
8 made and the SRIA. We've yet to receive an answer to that
9 letter.

10 Our coalition calculated real-world costs based
11 on solid demographics. We walked through the regulations
12 subpart by subpart. We consulted various vendors for unit
13 costs for items including Empire Safety Supply in
14 Roseville, California. It is our contention that the SRIA
15 badly underestimates the true costs of this proposal and
16 that small employers will be hit particularly hard.

17 The last concern I want to raise hasn't been
18 raised previously, but has been touched on. And that is
19 the most frequently cited Cal/OSHA standard for the last
20 five years include IIPP and HIP, Heat Illness Prevention.
21 The IIPP was first enacted in 1992. The HIP was first
22 adopted in 2005 as an emergency temporary standard. Both
23 regulations are in plain English and are relatively short
24 in length. All these years later employers are still not
25 in compliance for relatively clear and understandable

1 regulations. I am worried that Title 8 section 1532.1 will
2 take a place in these statistics for all the reasons that
3 our coalition has raised.

4 Finally, one universally held belief of our
5 coalition members is that workers deserve a regulation that
6 is understandable and truly protective. If an employer has
7 great difficulty understanding a regulation, how are
8 employees protected? Thank you.

9 CHAIR THOMAS: Thank you.

10 Who do we have next, Maya?

11 MS. MORSI: Up next is Beverly Yu with State
12 Building and Construction Trades Council.

13 CHAIR THOMAS: Beverly, can you hear us?

14 MS. YU: Yes

15 CHAIR THOMAS: Go right ahead.

16 MS. YU: Thank you, Mr. Chair and Members of the
17 Standards Board. I'm here today on behalf of the State
18 Building Construction Trades Council representing 450,000
19 members statewide. Thank you for the hearing today. We're
20 grateful for the massive amount of time that the Standards
21 Board staff, Cal/OSHA staff, and you all have spent on this
22 important update to California's lead health and safety
23 regulation. It's been a long time coming.

24 It is clear that the time has come to update
25 these regulations. They will help ensure that workers go

1 home at the end of the day to their families and not bring
2 home traces of this toxic chemical with them. It will
3 ensure that when on the job they are provided with the
4 correct and adequate PPE and not exposed to tasks with high
5 lead exposure possibilities if they have shown elevated
6 blood lead levels. These regulations will lead to safer
7 workplaces where members and all construction workers, even
8 those who are not working directly with or removing lead
9 based products.

10 We're here to make sure that workers are
11 protected on the job. And this regulation today
12 accomplishes that. Thank you all for your work.

13 CHAIR THOMAS: Thank you.

14 Who do we have next, Maya?

15 MS. MORSI: Up next is Kevin Riley with the UCLA
16 Labor Occupational Safety And Health Program.

17 CHAIR THOMAS: Kevin, can you hear us?

18 MR. RILEY: Can you all hear me?

19 CHAIR THOMAS: Yes, go right ahead.

20 MR. RILEY: Great, thank you. Good afternoon,
21 Board. My name is Kevin Riley. I'm Director of the Labor
22 Occupational Safety and health program at UCLA. I'm down
23 here in Los Angeles and I'm speaking today in support of
24 the Board moving forward with the proposed revisions to the
25 lead standards that are currently on the table.

1 As we've all heard today the action levels of
2 PELs in the current standards are sorely out of date. And
3 based on research that's decades old the best scientific
4 evidence today shows that inadvertent health effects in
5 both adults and children are at exposures that are
6 considerably lower than the levels currently permissible
7 under California law.

8 The one thing I wanted to just add to all of the
9 testimony that we've been hearing today is just to
10 underscore the fact that this is a fundamental issue of
11 public health and prevention. The American Public Health
12 Association of which I'm also a member, advanced a policy
13 statement in 2016 advising that OSHA action levels and PELs
14 should be maintained -- those PELs should maintain all
15 workers blood lead levels at less than 5 micrograms per
16 deciliter over a working lifetime. And under our current
17 standards, many workers here in California continue to be
18 exposed at lead levels well above that, which threatens
19 their own health and that of their families.

20 This is both fully legal at this moment in time.
21 And it's in direct contradiction to the scientific evidence
22 that points otherwise. And I'll just also add that from
23 our work, doing outreach and education in Southern
24 California, we know that those exposures are impacting the
25 most vulnerable groups: low-wage workers, nonunion,

1 immigrant workers and their families.

2 The proposed revisions are based on at least six
3 public advisory meetings (indiscernible) since 2011, and
4 reflect input from a wide variety of stakeholders. And so
5 I want to just urge the Board here to finally move forward
6 with passing these proposed changes and underscoring that
7 these actions are really critical for ensuring the safety
8 and wellbeing of families and communities here throughout
9 the state. Thank you.

10 CHAIR THOMAS: Thank you.

11 Maya, we're going to go to our last two callers.
12 This will be our last two. And I'm sorry for the others
13 that are on the line, have waited and won't be heard. But
14 I'm sure your opinions have been stated by others. Who do
15 we have next, Maya?

16 MS. MORSI: Up next is AnaStacia Nicol Wright
17 with WorkSafe.

18 CHAIR THOMAS: AnaStacia, go right ahead.

19 MS. NICOL WRIGHT: Hey, sorry my camera won't
20 work right now. But can you guys hear me?

21 CHAIR THOMAS: It's okay, we can hear you.

22 MS. NICOL WRIGHT: Okay. So good morning or good
23 afternoon everybody, Chairman, Board Members. I'm
24 AnaStacia. I'm with WorkSafe and I'm here to comment on
25 the proposed lead standard.

1 In short, the standard can't be delayed any
2 longer to accommodate the industry's desire for a more
3 watered down and ineffective standard. As the Chairman has
4 said many people have already expressed our points of view.
5 Many doctors, industrial hygienists, and people way smarter
6 than me. So I'll leave it at that and just say that
7 WorkSafe urges the Board to accept the lead standard as is.

8 Also the pending indoor heat standard, also want
9 to again express our support for that being passed. And
10 I'll leave it at that. Thanking you all.

11 CHAIR THOMAS: Thank you.

12 And our last caller, Maya, who do we have?

13 MS. MORSI: Up next is Travis Parsons with
14 Laborers' Health and Safety Fund for North America.

15 CHAIR THOMAS: Travis, can you hear us? Hello,
16 Travis, *6.

17 All right. We'll go to the next caller, whoever
18 that -- if we have one left.

19 MS. MORSI: We have a few left. Dr. Bob Blink
20 with WOEMA.

21 CHAIR THOMAS: Bob, can you hear us?

22 DR. BLINK: Yes, I can. Bob Blink here,
23 occupational environmental medicine physician. Thank you
24 for including us, and I sure hope that everybody is able to
25 speak. I sat through many meetings when I was on the Board

1 where people we sat there and listened to people speak for
2 6, 8, 10 hours. And so I hope that people will be able to.

3 I'm speaking as part of WOEMA and in favor of
4 adopting the revised standards. I have lots of prepared
5 remarks but I'm going to distill it down to three things.
6 Basically, what we've heard about are issues regarding the
7 health effects of the new standards. We've heard no
8 objection to the fact that new standards are needed. That
9 the levels introduced are necessary. And that they will
10 save lives, many lives. This is an insidious disease of
11 lead exposure. And it's essential that these levels be
12 changed.

13 We've been working on this myself personally for
14 15 to 16 years since Dr. Kossnet's study. And we've all
15 been waiting for this for a very long time. And during
16 those 14 years since this was first proposed, countless
17 people have been needlessly exposed both at work and in the
18 homes of the workers. Number two -- so there's really the
19 health effects I think is clear. Nobody really has any
20 argument against that.

21 Number two, is the financial effects. Well, the
22 serious study really I think, addressed this quite clearly.
23 It showed that there would be a \$3.8 billion savings if
24 this were to be adopted in California. Now maybe you can
25 quibble about whether this standard was right or that

1 number was correct, etcetera. But does anybody seriously
2 argue that any difference would make \$3.8 billion
3 difference? I don't think so.

4 So yes, there will be people who are affected by
5 this. And people have mentioned small employers in
6 particular. Well, these are the same kinds of issues that
7 were raised when asbestos standards were adopted. And it
8 may be that there are some kinds of work that require
9 deeper pockets to do safely to protect your workers.

10 And I know that employers believe that they're
11 doing the best for their workers. I consult with industry.
12 I understand that. But you don't see people dropping dead
13 or having their hands cut off from lead exposure. What you
14 see is decades later people dying early have heart disease,
15 high blood pressure, stroke, kidney disease. Who pays for
16 all that? It's you and me. It's all the people in this
17 room. It's all the people online, and public. And those
18 costs are being shifted. And so it's time to stop that.

19 Finally, I'll wrap up. Significant concerns have
20 been raised about implementation. And I think that those
21 are -- I'm not an expert on those things. But we've had 14
22 years to discuss these things. As far as I know we've not
23 had substantive, concrete suggestions as to how to do it.
24 For 14 years, we've been delaying on behalf of industry to
25 come up with some answers. It's time to adopt this now.

1 And if there's problems we can deal with later, let's lean
2 on the sign of protecting our workers and our health.
3 Thank you very much.

4 CHAIR THOMAS: Thank you.

5 Maya, how many callers do we have left at this
6 point, if any?

7 MS. MORSI: About maybe 10.

8 CHAIR THOMAS: Oh my. Well, then we're going to
9 take one more. I'm sorry for the rest of you, but we do
10 have some deadlines here that we have to get to. And so
11 we're going to take one more call, so go ahead, Maya,
12 whoever it is.

13 MS. MORSI: Up next is Michael Fishman, MD.

14 CHAIR THOMAS: Michael, are you with us? Your
15 only chance, Michael, and I hope you can get on. All
16 right, I guess not.

17 DR. FISCHMAN: I'm here.

18 CHAIR THOMAS: Are you there?

19 DR. FISCHMAN: I'm here.

20 CHAIR THOMAS: Okay, go ahead.

21 DR. FISCHMAN: I'm here. So I'm Michael
22 Fischman. I'm an occupational and environmental medicine
23 physician and toxicologist. I have worked for over 30
24 years as a consultant in occupational health and toxicology
25 with large organizations. I'm not speaking on behalf of

1 them today. But I wanted to indicate, you know, that I
2 totally support the passage of the standard and think that
3 it's long overdue.

4 I have had an opportunity to see lead exposed
5 workers over time, and the standards are going to be very
6 protective for those workers. And I think that it's
7 feasible. I certainly support everything that Michael
8 Kosnett and others said in terms of the importance of
9 adopting a standard. Thank you.

10 CHAIR THOMAS: Thank you.

11 And that will end our call session and our public
12 comments for today. We thank you very much for all the
13 comments that we've had. I'm sorry for the ones that we
14 didn't get to, but we're going to continue on with our
15 business meeting. And the public meeting is adjourned and
16 the record is closed.

17 We will now proceed with the business meeting.
18 The purpose of the business meeting is to allow the Board
19 to vote on matters before it, to receive briefings from
20 staff regarding the issues listed on the business meeting
21 agenda. Public comment is not accepted during the business
22 meeting unless a Member of the Board specifically requests
23 public input.

24 Proposed Safety Order for Adoption, Title 8:
25 Construction Safety Orders section 1532.1. General

1 Industry Safety Orders section 5155 and 5198 Lead.

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

3 MR. BERG: Okay, we have a brief PowerPoint. Dr.
4 Vork will have a few slides and then I'll have a few
5 slides.

6 CHAIR THOMAS: It's your presentation. Go ahead.

7 (Off-mic colloquy.) We'll suspend -- I suspended
8 the two minute rule for many of you out there. (Laughter.)
9 So no, go ahead, Eric.

10 MR. BERG: I'd like Kathy to go first or Dr. Vork
11 go first. Thanks.

12 DR. VORK: Okay. Well, Mr. Chairman and Members
13 of the Board, my name is Kathleen Vork. I'm a staff
14 toxicologist at the Office of Environmental Health Hazard
15 Assessment, otherwise known as OEHHA, a department within
16 CalEPA. OEHHA's mission is to protect and enhance the
17 health Californians and our state's environment through
18 scientific evaluations that inform, support, and guide
19 regulatory and other actions.

20 The work I will be commenting on today was
21 conducted by myself, Dr. James Carlisle, and Dr. Joseph
22 Brown from OEHHA. And has been described in our government
23 report posted in 2013 in two recent peer reviewed
24 publications published in the "Journal of Occupational
25 Environmental Hygiene."

1 I'm here today to respond to a few comments about
2 OEHHA's approach to adapting a physiologically based
3 pharmacokinetic, otherwise known as PBPK model, published
4 by Dr. Leggett, Dr. Richard Leggett, for simulating blood
5 levels based on workplace air concentrations. I want to
6 emphasize briefly that Dr. Leggett's model was calibrated
7 with multiple datasets addressing physiologic and kinetic
8 processes in animals and humans at the time Dr. Leggett
9 published it. And afterwards, we incorporated updates that
10 have been tested with a large body of worker study exposure
11 data published into the 2000s.

12 I will focus on comments made regarding the
13 methodology used to derive a default percentage of inhaled
14 lead absorbed to blood made in earlier letters to the Board
15 during the public comments by Dr. Williams on January 18th,
16 and in a letter submitted earlier this week.

17 To put our work into context, Cal/OSHA and the
18 California Department of Public Health recognize that the
19 basis for an occupational air blood lead relationship at
20 lower blood levels than in the current standard was needed.
21 So CDPH requested that OEHHA select and engage PBPK model
22 to simulate exposure levels that would keep blood lead
23 levels from reaching specific levels of interest for
24 workers in California, based on new information about
25 adverse health effects from exposure to lead at levels much

1 lower than previously known. And use PBPK modeling to
2 generate the workplace air blood lead relationship for a
3 range of exposure levels over a working lifetime. That's
4 40-45 years.

5 So OEHHA located, tested, adjusted, and retested
6 the Leggett model. After two rounds of external review and
7 guidance from five distinguished experts in the field of
8 occupational medicine, pharmacokinetic modeling, and
9 toxicology, OEHHA used the adjusted model to generate a set
10 of working lifetime exposure scenarios and released its
11 report in 2013. Since then OEHHA has read reviews and
12 worked with interested parties and journal reviewers to
13 consider new and other existing tools, data, and approaches
14 that have come to light.

15 However, in a reevaluation of our approach
16 published in 2020 and 2023, we did not find that the
17 reevaluation material materially altered the original
18 results. Nonetheless, some public comments submitted by
19 the Standards Board point to Leggett's 2012 peer review of
20 OEHHA's draft report on modeling of the air blood lead
21 relationship in occupational exposure scenarios. From a
22 detailed report submitted in an earlier letter to the Board
23 there were summaries of Dr. Leggett's comments highlighting
24 that overall the recommended values presented in the report
25 are likely to overestimate lead absorption. And thus would

1 overestimate the blood lead concentration predicted to be
2 associated with a specific air lead concentration. And
3 then this was followed by some specific suggestions of the
4 effects based on Dr. Leggett statements.

5 So the commenters suggested based on Dr.
6 Leggett's statements that OEHHA's modelling likely
7 overestimated the degree to which -- specifically
8 overestimated the degree to which inhaled particles would
9 be transferred to the GI, to the gastrointestinal tract.
10 The commenter then argues that the recommended values
11 presented in the 2013 report are likely to overestimate
12 lead absorption and thus would overestimate the blood
13 concentration predicted to be associated with a specific
14 air lead concentration.

15 In addition, comments to the Board pointed out
16 that the role of nose blowing and similar processes for
17 particle removal is not counted for in OEHHA's methodology.
18 The role of nose blowing and new data on particle
19 deposition and clearance in the upper respiratory tract was
20 incorporated into a revised version of the International
21 Commission of Radiologic Protection Human Respiratory Tract
22 Model, ICRPHRTM, at the time Leggett wrote his comments on
23 OEHHA's draft report in 2012.

24 From Leggett's comments studies indicate that a
25 substantial portion of particles deposited in the anterior

1 nose region typically are removed to the environment by
2 nose blowing rather than swallowed, for the regional
3 deposition assumed in the head. The HRTM 2012, which by
4 the way was not published at the time Leggett's comments
5 were submitted, predicts that more than 20 percent of the
6 lead deposited in the respiratory tract is removed to the
7 environment.

8 The commenter then emphasize that based on
9 Leggett's sample scenario, values of 20 percent of the
10 deposited lead in the front part of the head region cleared
11 by nose blowing represent a conservative health protective
12 estimate, especially for large particle environments.

13 However not mentioned in the comments submitted
14 to the Board, Leggett ultimately supported the value of 30
15 percent, which is what we used as a default value in
16 generating the final results that Cal/OSHA has used in
17 their deliberation of an appropriate permissible exposure
18 limit. As we see 30 percent as a reasonable default
19 fraction of inhaled lead that is absorbed in blood when
20 data on particle size and other characteristics of the
21 inhaled lead are unknown.

22 So Dr. Leggett specifically wrote this.

23 "After incorporating corrections such as GI
24 absorption over a workday and so forth, the revised default
25 percent transfer to blood would be about 28 percent. This

1 might be rounded to 30 percent to get a slightly more
2 cautious value, given that some investigators have
3 estimated absorption exceeding 35 percent of the inhaled
4 amount for exposure to certain sizes and forms of lead.
5 Alternatively, the present approach could be abandoned and
6 a default value of 35 percent or more could be assigned as
7 a cautious measure based on reported data." So that was
8 the rest of the story.

9 Since the ICRP human model in 2012 was not yet
10 published at the time that OEHHA received his comments, we
11 engaged in a different model but similar, called the Multi
12 Path Particle Deposition Model, to obtain estimates of
13 regional lead deposition in the respiratory tract. This
14 model based on experimental data applies an equation to
15 reduce the mass due to the size of large particles that
16 would not likely enter the respiratory tract via the nose.

17 So it's a different approach, but it's the same
18 idea. Nose blowing doesn't enter, you know it. It's the
19 same endpoint. In our first process that we did this in
20 2013, did not do the adjustment for large particles. And
21 in our reevaluation, we made sure that we did that
22 adjustment and reevaluated the exposure model accordingly.

23 As I mentioned earlier, as more data on workplace
24 particle size distributions and other relevant information
25 came to light, including a large dataset that was published

1 by Petit O'Boyce, Grady Corporation (phonetic) was
2 considered. And OEHHA reevaluated the inhalation transfer
3 to blood for a wide range of particle size specific
4 exposure scenarios.

5 So briefly, OEHHA simulated exposure scenarios
6 that capture the time course of transfer to and from the GI
7 tract, of lead, during a work day representing the ranges
8 of size of particle sizes reported in the literature, from
9 workplace studies. And in the paper, we used a sample of
10 scenarios of particle size of less than 1, 4 and then 25
11 microns in diameter, median diameter.

12 We incorporated data from one high quality time
13 course study of lead absorption from the GI tract based on
14 hours during and after a meal, and based on updated upper
15 airway clearance estimates, without nose blowing effects.
16 Because we had used this other method of accounting for
17 lead that doesn't get swallowed or breathed into the lower
18 parts of the lung.

19 From this reevaluation OEHHA observed that
20 inhalation transfer of lead to blood ranged from about 10
21 percent to 52 percent, based on the particle size and
22 breathing habits. And concluded that 30 percent is a
23 reasonable default inhalation transfer coefficient for this
24 overall range, the same as the conclusion that Dr. Leggett
25 had suggested in the 2012 set of comments.

1 So now I want to take a minute to address two
2 issues raised in a letter submitted to the Board by Dr.
3 Williams earlier this week.

4 So Dr. Williams reiterated issues about using old
5 data to adjust and confirm OEHHA's model stating that
6 earlier exposure data is not representative of today's
7 workplaces. However, the point of adjusting and confirming
8 a PBPK model does not preclude the use of old studies.
9 Rather, the model is often calibrated by fitting
10 simulations to calibration data available at the time to
11 determine its overall system effect. The model is tested
12 by simulating the same conditions as the available study
13 used to test the model. So it's not taking what's
14 necessarily in the workplace today, and then using that to
15 test the model output from something that was asked for
16 that represents a different condition like 40 years of
17 exposure versus 4 years of exposure or 2 years of exposure.

18 Dr. Williams also argued that simulations from
19 the OEHHA model were a poor fit to data from today's real
20 world workplace represented in a yet-to-be published study.
21 However, a figure showing results for workplace data and
22 predictions from OEHHA's model are generated from vastly
23 different exposures scenarios.

24 When we attempted to simulate the exposure
25 conditions, we determined that the information provided in

1 the comment letter was missing key details that we needed
2 to be able to reproduce their exposure conditions.

3 In addition, based on the details that were
4 provided about the unpublished study, the exposures did not
5 represent the exposure scenario Cal/OSHA must address which
6 is a 40 to 45-year workplace exposure to a similar air
7 concentration that represents a body burden that is more or
8 less at steady state.

9 So that's what I have. And I turn it over to
10 Eric,

11 BOARD MEMBER ALIOTO: May I ask a question?

12 CHAIR THOMAS: Yes, go ahead.

13 BOARD MEMBER ALIOTO: Ms. Vork, two questions for
14 you. Based on what you've just described in the
15 information you've presented is it your opinion that a PEL
16 is an effective indicator of blood lead levels?

17 MS. VORK: Based on the simulations that we
18 generated, and the assumptions that we made, based on the
19 information that we were asked to incorporate? Yes.

20 BOARD MEMBER ALIOTO: Okay. And is it also your
21 opinion that a PEL of 10 micrograms per meter cubed is an
22 appropriate indicator to ensure that exposed to that
23 quantity of lead would maintain a PEL of either 10
24 micrograms per deciliter or less?

25 MS. VORK: A PEL of 10 is to a feasibility rather

1 than a health based PEL. And the incorporation of hygiene
2 requirements for the workplace and other requirements are
3 intended to improve the chances that the workers blood lead
4 levels would stay below 10. So it's recognizing that it's
5 a feasibility level, but it's along with more attention to
6 hygiene. Because you have higher, higher larger particle
7 numbers or higher mass of larger particles that get
8 deposited onto the work surfaces and on to respirators and
9 so forth. You know, that's what's going to keep blood
10 leads below 10.

11 BOARD MEMBER ALIOTO: Thank you.

12 CHAIR THOMAS: Any other questions? (No audible
13 response.)

14 All right, Eric, the floor is yours.

15 MR. BERG: Thank you, Board Chair Thomas and all
16 Board Members.

17 BOARD MEMBER KENNEDY: (Indiscernible.) There
18 was a comment earlier that one of the inputs into the model
19 assumed background blood lead levels much higher than we
20 have today. Can you address that?

21 MS. VORK: We take the data that's available to
22 us that is been published. And the studies, the older
23 studies that were referred to in earlier comments, it was
24 in the general public blood leads were around 20 micrograms
25 per deciliter. The newer studies that we tested our

1 simulations with had lower blood leads, but they were still
2 high. Background blood leads, but they were still high.

3 One of the purposes of a pharmacokinetic model is
4 to then extrapolate that down to levels that are in today's
5 population. And at the time that we did the simulations we
6 argued that workers' blood lead levels, because they most
7 likely would live closer to industrial sites where blood
8 lead levels in the general population tend to be higher
9 than their blood lead levels -- their background blood lead
10 levels -- would be about 1.5 micrograms per deciliter.

11 So we took the information that we had from the
12 studies and used that to test the model by incorporating
13 assumptions into the model, or inputs into the model for
14 background and for other particle size and so forth, to
15 test whether the model could reproduce reasonably well
16 within a factor of two the blood levels that were observed
17 from air lead levels, that same air lead, blood lead
18 relationship. Does that answer your question?

19 BOARD MEMBER KENNEDY: Yes. Thank you.

20 CHAIR THOMAS: Are you read, Eric?

21 MR. BERG: Thank you, Chair Thomas and all Board
22 Members. I'll give a brief presentation on the necessity
23 and need for this proposal and a brief overview of the
24 proposal.

25 First the necessity. The current blood lead

1 regulations are very much out of date and need to be
2 revised. The current regulations allow airborne lead
3 exposures that can lead to dangerously high blood levels.
4 They also fail to detect low level lead poisoning, because
5 the current action level is so high we're missing most
6 workers that have these low level lead poisoning. And
7 they're just not aware of it, because there's no testing.
8 The current regulation puts workers' health and lives at
9 risk. And it can result in serious illness and early
10 death, primarily due to cardiovascular disease.

11 This proposal is the culmination of over 14 years
12 of work by Cal/OSHA, the California Department of Public
13 Health, the California Office of Environmental Health
14 Hazard Assessments, labor and management representatives,
15 workers, medical societies, and many other experts,
16 agencies and institutions.

17 One of the benefits of this proposal there'll be
18 a sharp reduction in cardiovascular mortality due to heart
19 attacks and strokes, affecting thousands of aging and
20 retired lead-exposed workers in California.

21 The public health return on investment is
22 overwhelmingly positive, as documented in the SRIA, and
23 also eliminates some expensive and cost effective
24 requirements such as the ZPP testing of blood. And also
25 improves the quality of medical surveillance.

1 Here's the summary of the changes. So this
2 builds on the existing regulation. It doesn't really
3 change its structure or format or anything. Some of the
4 comments about its complexity are because the regulation
5 that was written 1978 that we've had for 45 years is
6 complicated. And we've changed some of the numbers here
7 that lap over.

8 The permissible exposure limit was reduced from
9 10 micrograms -- I'm sorry, from 50 micrograms per cubic
10 meter to 10. The action level was reduced from 30 to 2.
11 The medical removal of a blood test will be reduced from 50
12 in the current regulation to one test at 30, or two tests
13 at 20, or an average for six months of 20. And it will
14 require a written elevated blood lead level response plan
15 to reduce and maintain employee blood levels below 10.

16 And update requirements for hygiene facilities
17 and hygiene practices to reduce lead ingestion and cross
18 contamination that leads to lead poisoning of workers'
19 families.

20 So our proposed PEL, as Kathy explained, the
21 modeling that was done and CDPH's recommendation. Their
22 modeling came up with 0.5 to 2.1 micrograms per cubic meter
23 as a health based PEL that would keep most workers blood
24 lead levels less than 10 micrograms per deciliter. I know
25 though that 10 is not protective against all harmful

1 effects. But for feasibility, Cal/OSHA proposed the PEL
2 much higher at 10 micrograms per cubic meter. And as I
3 show below, it's 5 to 10 -- 5 to 20 times higher than the
4 modeling. That is the basis for this new PEL.

5 And this new PEL will also help reduce, or
6 significantly reduce ingestion of lead, which has been
7 brought up a few times as a major contributor to blood lead
8 levels and lead poisoning. So lowering the air levels
9 reduces the amount of lead that settles on surfaces and the
10 amount that settles on surfaces, that lead that settles on
11 surfaces, the contamination that leads to ingestion. So
12 that's where a lot of the ingestion exposure comes from.
13 All the dust in the air that has lead settles on surfaces
14 and gets under respirators, on the tables, on any work
15 surfaces. And employees touch those surfaces of course,
16 and it gets on their clothing as well. So those lead
17 directly to lead ingestion if proper hygiene is not
18 implemented. So reducing the air levels reduces that
19 surface contamination and directly leads to reduced
20 ingestion.

21 I had a few slides here on some of the comments
22 received or questions we received. One was that one person
23 goes back in a cubicle and writes this regulation by
24 themselves after an advisory committee. And that is far
25 from the truth. The internal rulemaking team is very

1 diverse and involves dozens of persons. It includes
2 industrial hygienists, safety engineers, toxicologists,
3 doctors, nurses, attorneys, economists, field staff that
4 work at construction sites and manufacturing sites, and
5 many others. And also in this case the internal regulatory
6 team included several agencies: Cal/OSHA, CDPH, OEHHA,
7 DIR, Labor and Workforce Development Agency and others.

8 And this large team conducts the scientific
9 research and interviews with industry and other experts.
10 And then this team was also involved in the multiple
11 advisory committees convened, with representatives from
12 industry, management, labor, workers, academia, medical
13 experts, and others. And all that input is used and taken
14 by the team.

15 There was a question that we directed employers
16 to dump contaminated water down drains, which is not true.
17 We had a specific talked about filtering the water and
18 having the water tested before it is disposed of.

19 And on training there's also comments saying that
20 employees had to completely memorize 165 pages of text or
21 else the employer would be cited. That of course is false.
22 The information shared with employees is in two appendices,
23 which is 27 pages. Employees do not have to memorize this
24 information. And a large part of these 165 pages is a non-
25 mandatory appendix. And that's meant for healthcare

1 providers, not for the workers. Because it requires
2 medical surveillance by doctors and other health
3 professionals. And that appendix is to help those
4 professionals.

5 Cal/OSHA would not issue or be able to sustain a
6 citation, because an employee does not remember details of
7 the regulation. Cal/OSHA will issue a citation if an
8 employer fails to provide specific required training to
9 exposed employees.

10 That there's a possibility of Federal OSHA
11 regulations, and that we should wait and not do this
12 rulemaking and wait for the Federal OSHA regulation. We're
13 against this because Fed OSHA may take many more years or
14 possible decades, like silica took 20 years for Fed OSHA.
15 But we didn't want to wait that long. We don't know if
16 they're actually complete, the rulemaking. And of course,
17 we have the Labor Code that says we're supposed to at least
18 vote on this by September 2020.

19 Another issue that came up was that if lead
20 poisoning was a problem, there would be more Workers'
21 Compensation claims. The problem is none of these
22 illnesses actually show up in Workers' Comp claims. Low
23 level lead poisoning causes high blood pressure,
24 cardiovascular disease, kidney disease, other chronic
25 health conditions, and early death. Since these are

1 conditions that are common in the population, and don't
2 occur after many years of exposure, they do not appear in
3 Workers' Compensation claims.

4 Also as I mentioned before, since the action
5 level is so high, many workers with low level lead
6 poisoning are not being tested and are not aware of their
7 blood lead level.

8 And just a little high overview. Kathy already
9 talked about the PBPK modeling. But there's concerns that
10 we didn't discuss this with stakeholders or have
11 interaction with stakeholders. But there was quite a bit
12 of interaction with stakeholders. Going back to 2013,
13 there was a scientific symposium moderated by Dr. John
14 Howard of NIOSH, (indiscernible) discussion with a panel of
15 experts. And also a question and answer session. This was
16 all published on CDPH's website. And it's still there if
17 you want to review all the videos and comments and
18 questions and answers.

19 And we had multiple advisory meetings also
20 discuss this, the modeling. This is the Cal/OSHA advisory
21 meetings. And then their input was considered and
22 discussed amongst CDPH, OEHHA, and Cal/OSHA and other
23 medical experts.

24 And OEHHA, as Kathy mentioned earlier, responded
25 to all these critiques in peer reviewed studies that had

1 quite a bit of review and analysis.

2 And so lastly I'll go over to assistance to
3 employees. So we're going to delay implementation if it
4 passes to next year, to 2025. And in that, I mean our
5 staff has been working on this, but we are planning to
6 provide a substantial amount of assistance deployers to
7 help them comply with it, as we've done in the past through
8 consultation and publications. So the Publications Unit
9 will develop employer guidance documents working with
10 employers, and also fact sheets for both employees and
11 employers. And CDPH will also be developing a lot of help
12 and guidance for employers, employees, and medical
13 professionals.

14 And we also have the consultation service to
15 provide onsite assistance to employers, offsite assistance,
16 educational outreach, and partnership programs.

17 So that's my briefing. Thank you, Chair Thomas.

18 CHAIR THOMAS: Are there any questions for Eric?
19 Oh, I think we have one. We have two.

20 BOARD MEMBER KENNEDY: (Indiscernible - off mic.)
21 Sorry, there have been some other comments made by
22 stakeholders through this process. And if you could
23 address those, that would be great.

24 One is, and I heard you say that you would delay
25 implementation until 2025. One of the concerns I've heard

1 is that it could take as much as two-and-a-half years to
2 put in place some of the engineering controls that would be
3 required to bring down the air levels. How, I mean is that
4 -- can you respond to that?

5 MR. BERG: Yeah, employers are allowed to use
6 respiratory protection while they're in the process of
7 implementing engineering controls.

8 BOARD MEMBER KENNEDY: Okay. And then we've
9 heard a lot about the SRIA and you did state that the
10 filtering and testing water from the showers, was the cost
11 of that process included in the SRIA?

12 MR. BERG: Well, that's one of the reasons why we
13 changed the shower requirements. Because employers were
14 upset about the shower, so we changed it back to 50, at
15 least in construction.

16 BOARD MEMBER KENNEDY: Okay. And I think that's
17 it.

18 CHAIR THOMAS: Can you repeat the shower thing
19 again?

20 MR. BERG: Oh, in construction it used to be you
21 had to have a shower with the new PEL. And that was
22 changed back to the old PEL or trigger task, I forgot
23 (indiscernible). It's called a stage 3 trigger task for
24 the shower. I think it's a stage 3 --

25 CHAIR THOMAS: But that's already in place; is

1 that what you're saying?

2 MR. BERG: For the most part, it's the same as
3 what's required right now.

4 CHAIR THOMAS: Okay, yeah.

5 Go ahead, go ahead. I'm sorry (indiscernible).

6 BOARD MEMBER KENNEDY: No, that was great. Thank
7 you.

8 CHAIR THOMAS: Go ahead, Joe.

9 BOARD MEMBER ALIOTO: Thank you, Mr. Berg. A
10 couple of questions for you, following up again on some
11 comments that I've heard, not just over the course of this
12 meeting, but over the course of many meetings that we've
13 had regarding this new proposal.

14 My first question is, I'm following up on some of
15 the responses that you had to some of the stakeholder
16 concerns. And the one that I haven't heard a ton about is
17 the impact of this regulation on small businesses in
18 particular. And I don't think there's any question that
19 the burden on small independent businesses will be
20 significant. Is there any comfort that you can provide?
21 Are you aware of any state programs or anything else? Or
22 is there any programming offered by the State of California
23 or by DIR that assist small businesses in complying with
24 regulations like this?

25

1 MR. BERG: Well, as I mentioned before our
2 consultation service is available to come out to the
3 worksite and help small employers. Usually their onsite
4 services are mostly targeted for small businesses, not for
5 large businesses that have safety staff. So that's one of
6 the big benefits of Cal/OSHA consultation. But they also
7 do phone call support or through emails, and going out and
8 doing outreach, just giving talks to groups of employers
9 ready to help educate them. And then our publication team
10 will provide guidance documents to help employers as well
11 as CDPH.

12 BOARD MEMBER ALIOTO: Okay, thank you.

13 And then another final question I have for you
14 is, was there feedback during the course of the six
15 advisory committee meetings that you had regarding the
16 trigger tasks and how they were categorized? And what
17 trigger tasks fell within sections or subsections 1, 2 and
18 3? Were there discussions? Was there feedback from
19 stakeholders regarding where those tasks should be? And
20 did you make any adjustments as a result of any of that
21 feedback?

22 MR. BERG: Yeah, I don't have that knowledge off
23 the top of my head. Those changes we made to the trigger
24 tasks, I mean they preexisted this. We changed them,
25 because the exposure levels went down. But I'm not sure --

1 I'd have to go back to the advisory committee minutes.

2 BOARD MEMBER ALIOTO: Okay, right. No, that's a
3 good point. So there are some of the tasks that move from
4 one subsection to another based on the different levels
5 that have now been established in the new regulation. And
6 that's the basis of the change. But was there ever any
7 ever feedback about this trigger tasks should not be in
8 this category, but it should be in some other category? Do
9 you recall anything like that?

10 MR. BERG: Yeah, I don't have -- got it in my
11 memory, sorry.

12 BOARD MEMBER ALIOTO: Okay, thank you.

13 CHAIR THOMAS: Go ahead. No, please.

14 BOARD MEMBER LASCZC-DAVIS: Let me go first.

15 BOARD MEMBER HARRISON: Thank you.

16 BOARD MEMBER LASCZC-DAVIS: I have a few
17 comments. Today's session was interesting. Let me play
18 back what I heard today. There were a few comments about
19 the pharmacokinetic modeling. It wasn't overwhelming in
20 terms of the comments, they did exist. And I'm not really
21 sure and quite frankly since I'm not a pharmacokinetic
22 modeler, you know where we sit on that. Okay, that's one.

23 The overriding theme I heard today was that we
24 need reasonable, enforceable standards, strong and clear
25 standards. And I heard that from management and labor.

1 There wasn't anybody in here that discounted that at all.
2 And I know we've had this discussion here on the Board. I
3 think the Board has a responsibility to enact regulations
4 that are scientifically sound, but they have to be clearly
5 understandable and enforceable. And as I hear what I heard
6 today, I don't think there's any quibbling about the
7 science. I think everybody's pretty comfortable with the
8 lowering of the PEL and the action levels. There's
9 probably some discord about what actions from a performance
10 criteria standard one needs to take. So that your enabled
11 healthy worker situation.

12 But what I really hear as an overarching theme is
13 this standard as its proposed, I know it's been 13 years in
14 the making, but that doesn't make it a quality standard.
15 This standard, as its proposed is not clear. It's not
16 enforceable. And quite frankly, given the large number of
17 small businesses, that probably won't be actionable. So
18 have we fulfilled our responsibility or not?

19 I actually didn't watch the Super Bowl, I read
20 all the whole regulation. And I'm fairly bright. I had a
21 hard time working my way through that standard. And I've
22 been in a role executing standards in a big corporation
23 where we had small plants, and large plants. This one is
24 very difficult to understand. And I daresay the small to
25 medium employer will say, "I want to do the right thing.

1 But I'm not able to because I don't understand what I need
2 to do. I don't know what's actionable. And I don't know
3 what my options are to get there." That's one comment or
4 series of comments.

5 Just a couple of other things as I went through
6 the standard. And by the way, what I will say is I think
7 it was David Harrington, I found this kind of telling, he
8 used to be with Cal/OSHA. Who said that when he was in the
9 enforcement arm they provided -- what he saw, he talked
10 about what he saw when they benchmark to calibrated medium
11 businesses and large businesses. And he said for the small
12 businesses, he said it was clear that they needed lots of
13 resources and assistance. Well, I can tell you, this
14 standard will not only require that, but more.

15 Other things, they're minor but they're all part
16 of the standard, and some of the inaccuracies or
17 misrepresentations. And I know everybody worked hard on
18 this, but bear with me here. There's nothing in there
19 about a certified industrial hygienist to do the exposure
20 sampling. There is a science to this. And it's why CIHs
21 have the licenses they do. So it's got to be integrated
22 somewhere into the standard.

23 And a lot of comments about the SRIA, I'm
24 beginning to think that everybody agrees it's probably not
25 valid as it was presented. But at the very minimum, and I

1 know the Board asked for it, can we have a revisiting of
2 the SRIA cost so we have a realistic representation of the
3 costs versus accepting what the Berkeley organization
4 pulled together for us?

5 The NIOSH analytical method does not exist
6 presently to meet the accuracy requirements of the
7 analytics. And so who within Cal/OSHA will specify the
8 NIOSH analytical methods, which are acceptable and capable
9 of detection below required limit of 2 micrograms per cubic
10 meter? I'm glad to hear that the six-month compliance date
11 has been extended.

12 But at the end of the day, my overriding concern
13 is science may be okay. We've got a lot of excellent
14 people in here who have attested to that. I think we are
15 short on implementation and the blueprint for our employers
16 to do what they need to do. And it's not a labor management
17 issue. It is what it is. So I would submit to you that if
18 we have an opportunity, we put a pause on this regulation.
19 And I think within a year, maybe nine months we -- I mean,
20 what I think is required is what Bruce Link (phonetic)
21 suggested. That we have several stakeholder groups who
22 really take the standard where it exists now and recraft
23 it, so that it's understandable and enforceable and
24 actionable. Because I think we all want the right thing,
25 so I would submit to you we need to put a pause on this,

1 the way it's presently crafted, 13 years are not that.
2 That's it.

3 CHAIR THOMAS: Go ahead, Dave.

4 BOARD MEMBER HARRISON: So I'm not a CIH, but I
5 did work in a lead hazard environment when I was in the
6 field. So I've experienced it myself. My question will
7 revolve around the practical timeline. You know, I looked
8 through as I read through the inordinate comments in this
9 very large book, a delayed implementation was referenced
10 several times. And I heard Eric say today that we're
11 looking at 2025 implementation. I would ask one, which
12 part of '25? Early '25? Because I read January 1.

13 MR. BERG: January 1, 2025.

14 BOARD MEMBER HARRISON: Okay, and then the other
15 question would be procedurally where are we? It's like
16 we're kind of painted into a corner and we have to act
17 today or the rule dies? Which is a loss for everyone, I
18 think. So if we don't act today what happens?

19 MS. GONZALEZ: The one year timeline for this is
20 March 1st. So this is the Board's only real opportunity to
21 vote on this.

22 I don't know, Eric, if you want to add anything
23 to that.

24 MR. BERG: Yeah, I agree that this is the
25 opportunity. If there's a no vote then it has be restarted

1 from scratch.

2 CHAIR THOMAS: Laura -- oh, do you have any more
3 questions? Laura, go ahead.

4 BOARD MEMBER STOCK: So I'm going to be, you
5 know, strongly urging Board Members to vote for this
6 proposal. It's been in the works, not 13 years, not 15
7 years, when I was listening to Barbara Materna it's 20
8 years. In that time there have been, you know, I feel like
9 in a way this regulation in all my years of the Board has
10 more preparation, more science, more stakeholder engagement
11 than I've ever seen.

12 And I also just want to kind of comment on what
13 you said, which I -- Eric -- and I heard you say last time.
14 It's a complicated regulation, but not because of these
15 changes. It was inherently when it was first passed,
16 however many years before, a complicated regulation that
17 people have been complying with. And I want to say, a
18 couple of things on the substance. But before I get to
19 that, I feel like in all the years on the Board every
20 regulation that has come to us I think literally has had a
21 lot of employers have expressed very similar concerns.
22 It's too complicated. It's too expensive. The SRIA has
23 not accurately really thought about the impact on small
24 employers. We've heard the concern of small employers.

25 And this is not to invalidate or minimize those

1 comments. I'm not saying that they were not true then.
2 And they're not true here. But in every instance where we
3 have passed a regulation in spite of those comments -- and
4 many people said we're going to leave the industry,
5 everybody's going to need to leave California -- we've
6 heard that many, many times before. But I'm bringing that
7 up as a way of sort of reassurance that we have been here
8 before. We have had complicated regulations that people
9 have been very concerned about.

10 And I would like to congratulate Cal/OSHA and
11 Cal/OSHA Consultation for stepping up to the plate. There
12 have been -- they have taken tremendous effort looking at
13 COVID and many other complicated issues, the airborne
14 transmissible disease. I mean, there's many, many, many
15 that we've heard, many things. And Cal/OSHA has come up
16 with guidance, got documents, with training, and with many
17 other resources as well as other agencies. I know, I've
18 spoken to some people like with State Comp Insurance Fund,
19 for example, that that insures small businesses
20 particularly, and often people who don't have the resources
21 to go to other insurers. They have a tremendous amount of
22 resources that they have stepped up to provide for
23 regulation.

24 So I think we need to trust the infrastructure
25 that has been demonstrated time and time again that when

1 things are complicated, as I said before it's complicated
2 to regulate. And this is a complicated issue, but that
3 should not stop us from doing what has been clearly
4 demonstrated is absolutely necessary. So that's when I
5 want to go back to the sort of necessity that people are
6 not only dying, families are being impacted. We've known
7 for many, many years that that lead is poison. It's not
8 safe in any level and certainly not at the level that we
9 have.

10 So if we don't vote yes on this, we are looking
11 at the 15 to 20 years of work with all the smart people you
12 can imagine at the table, I fail to see what another year
13 is going to add to that because everybody has been at the
14 table. I'm very concerned when I hear all the stakeholders
15 talking about like they haven't been engaged. Because I've
16 seen that engagement. I've seen people here.

17 At the last meeting, Eric, you presented if I'm
18 remembering correctly a list of the changes that have
19 occurred in this standard, specifically because of
20 stakeholder engagement from employers. I mean, you didn't
21 present that today. But I remember seeing it, they had a
22 number of different things which I could ask you to
23 reiterate. But I feel like we have seen lots of engagement
24 of stakeholders and lots of responsiveness. At the very
25 minimum as many people have said, the level that is being

1 proposed now, 10 is a compromise. As somebody said early
2 on, I think you were saying early on that in fact it's way
3 higher than what if we were looking purely by health what
4 we would need. So it already what's taking that into
5 account.

6 So I strongly urge the Board Members not to throw
7 away the last years of work. Not to discount the ability
8 of Cal/OSHA and other organizations in the state to step in
9 and provide the education and training that are going to be
10 necessary and vote to pass the standard today.

11 CHAIR THOMAS: Thank you, Laura.

12 Anybody else? Go ahead.

13 BOARD MEMBER CRAWFORD: I think there's a false
14 urgency. And I just want that to be out there, 13 years or
15 15 years does not mean that the regulation as proposed is
16 correct or implementable or comprehensible, clarity, all of
17 all of those words, right?

18 Someone said, I think it was Amber said, this
19 would be the blueprint for the nation. And if that is part
20 of the goal, or part of what we should acknowledge, then we
21 have to acknowledge that we really do have to get this
22 right. And there are so many pieces of it that are not
23 right. You haven't met the goal that you're after. You
24 haven't met the goal that we or the standard that we have
25 to meet, right?

1 We have stakeholders begging, and begging to be
2 heard. And I just think that it is time to make a pause.
3 It is time to actually hear it from a different
4 perspective. We talked last month about talking past each
5 other, right? I think this is the moment that you really -
6 - one really has to hear it isn't workable, the way that it
7 is proposed when you have stakeholders begging for you to
8 listen to them. I mean that's just the way it is. Those
9 words were used today.

10 I'm not going to get into the science piece of it
11 for smarter people than me to figure out. I have no claim
12 to that kind of knowledge. But I think that it's an
13 example of a missed opportunity, this opportunity that
14 could have been brilliantly done is not. And you've heard
15 an opportunity for a pathway. There's a pathway out of
16 this. I think it's appropriate to vote no on this and
17 figure out a different way to go.

18 CHAIR THOMAS: Well, I have a comment. Nobody's
19 just -- I don't think anybody said that they disagree with
20 the PEL or the science of this. They may not like a
21 report, but in the end we all know over 10 is -- most
22 people out there don't even get tested for it. So we're
23 already in a bad situation. And it's taken 14 years to get
24 here. And I can tell you one thing, the people that are
25 going to be affected by this are my members, because

1 they're the ones that are exposed to this day in and day
2 out.

3 And this reminds me a lot of asbestos when it
4 first started. People were in there. They were wearing a
5 little mask and they were beating this stuff into the air
6 and it was floating around. Nobody thought anything of it
7 until finally the science came through and said hey, you
8 can't breathe this stuff. And this mask doesn't work and
9 you've got to wear Tyveks. And you've got to shower.

10 I'm surprised that the showers are gone, because
11 they figured it out with asbestos. And you know all these
12 costs to save people's lives or misery in their lives.
13 Yeah, you know what the employer pays for it and the
14 employer passes that cost on to whoever the consumer is and
15 we know that's how it works. So we're saying we can't pass
16 this, because there is some cost that may be more than we
17 think. But we don't really give a shit about the guys that
18 are suffering out there right now, because it's happening
19 right now because we don't test for it. But we know
20 they're out there. Thousands. And their reproductive
21 systems, men and women, are going to be affected. Their
22 kids are going to be affected.

23 Look at Flint, Michigan. That was almost 10
24 years ago, I think when that happened, and they still
25 haven't removed the pipes and put new pipes in so kids are

1 not drinking water that is contaminated with lead. This is
2 ridiculous. We should pass this. We should pass this
3 today, because if we don't it's going to be another 20
4 years of this standard. And all these people are going to
5 go on. And we're going to find out 20 years later where
6 they're at, and the people coming up under the same
7 regulation and going to go through the same thing.

8 So I'm sorry, but I disagree. I think all you
9 people out there understand exactly what's in this. You
10 don't want to comply. It might be too hard. And it might
11 cost more money than you think. But what's more important,
12 your employees or the cost that is going to -- that you
13 have to pass on to the consumer. You tell me that.

14 So I move that we pass this. And I'll entertain
15 if there's no other comments.

16 Go ahead, Joe.

17 BOARD MEMBER ALIOTO: Thank you, Mr. Chair.

18 I'm the public member on this Board, and whether
19 intended or not I understand that to mean that I am to
20 represent my opinion of the public best that I can. And
21 I've been thinking long and hard about this regulation for
22 as soon as we started hearing about it when I took when I
23 sat on this Board a few months ago.

24 I've been thinking hard about the comments of the
25 stakeholders. And there have been some comments that I

1 want to specifically address. A few folks reiterated that
2 the people that are working in this business, and they're
3 running these small businesses, are average contractors.
4 And they want safety. They want safety for their children.
5 They want safety for themselves. Many of these folks don't
6 only run these businesses, but have families that they feel
7 deeply about protecting. And they have kept their family
8 safe is the message that I hear from the folks who are so
9 interested in this particular topic that they're here in
10 front of us today, or virtually were present.

11 I think it was Mr. Walker who commented that
12 there has been a false dichotomy created between those who
13 are opposed to this regulation and those who are for it.
14 That false dichotomy being that the people that are opposed
15 to it necessarily means that they don't want greater
16 protections from lead. And I want those folks to know that
17 I don't see a dichotomy there. And I appreciate and value
18 what you have done, sometimes even beyond the regulation to
19 ensure that people remain safe from lead.

20 I also acknowledge the comments that this is a
21 confusing and complex regulation. And that training will
22 be difficult, but I'm going to lend and lean on the
23 comments of Mr. Parra. Who, in my opinion said it better
24 than anybody else. This is a framework. We've done it
25 before and we can do it again.

1 I'm not overly concerned, notwithstanding the
2 complexity. I've read it multiple times. It is complex,
3 especially with respect to the medical surveillance, and
4 the different points at which you need to do testing, and
5 when you do them.

6 The thing that's hardest for me is the impact
7 that this will have on small businesses, because that's
8 what I do in my day job. I represent consumers and small
9 businesses as an attorney and I feel very strongly about
10 protecting these small businesses. I consider them to be
11 the backbone, not just of the California economy, but of
12 the American economy.

13 But when I can consider all those things the one
14 thing I cannot deny is that the evidence is undeniable.
15 That even small levels of exposure can have very, very
16 serious effects. So notwithstanding the difficulty that I
17 see in this for all of the folks who are out there, and I
18 see you and I recognize what you do, I feel that I have a
19 moral imperative to vote for this regulation. And that's
20 what I intend to do.

21 I resist the notion that this is not urgent. It
22 is urgent. Somebody earlier gave a very descriptive image
23 of a morgue scene. And that might be a little bit
24 dramatic. But the fact is, is that this will have impacts
25 and it'll start having impacts immediately. I think it is

1 urgent. And I urge the Members of the Board to pass this
2 regulation.

3 CHAIR THOMAS: Thank you.

4 Do we have any other comments? Go ahead.

5 BOARD MEMBER LASCZC-DAVIS: And I don't -- I'm
6 not sure I understand the process. What I hear is that if
7 we do not pass it, we're likely to run another 20 years
8 without a lead regulation, a proposed one. I'm not hearing
9 put this one to sleep. What I'm hearing if I hear anything
10 about a pause is take what we have so far, and just clean
11 it up so that from a textual standpoint and with some
12 stakeholder input it is something that is more
13 understandable and actionable, that it exists presently.
14 And that may take six months, it may take seven. But when
15 we're talking 13, 14 years to pull together a regulation
16 that gives us the beauty of enforceability and
17 actionability I'm all for that. I mean, I don't see where
18 the rub is, because I think we all want the same thing.

19 But if we're going to put a standard out there
20 where everybody scratches their head and says here we go
21 again, we're going to see noncompliance, nonconformance and
22 great confusion. That's my concern.

23 CHAIR THOMAS: Go ahead, Laura.

24 BOARD MEMBER STOCK: So two comments. One in
25 response to the stakeholders that you were mentioning,

1 Kate, who've been begging for us to delay. I just want to
2 highlight the stakeholders that are not able to be here,
3 which are the workers. And, you know, we have not been
4 able for obvious reasons. They are often immigrant
5 workers, undocumented. They are often not in unions.
6 They're not -- they don't have the representative voice.
7 They're not able to come here every month.

8 But I feel like we've gotten a glimpse into that
9 by all of the testimony from the medical professionals,
10 which I really appreciate. People who've been treating
11 people for lead, and they've been telling us what they've
12 actually been seeing in what the workers are. So again, I
13 feel like the urgency associated with immediately taking
14 steps to address that. I just wanted to kind of highlight
15 that stakeholder voice as well relative to what you're
16 saying.

17 I think I have two comments. One is given the
18 tremendous amount of work and what I see as opposed to what
19 some people may have experienced, I see that there has been
20 incredible stakeholder involvement. There have been many
21 opportunities. So I don't really myself personally see
22 what would be contributed by a pause.

23 And the resources that would be required. I
24 mean, we know already we're supposed to be working on it
25 and we've got the heat standard coming up. There's

1 supposed to be a non-emergency infectious disease standard
2 that was supposed to come up immediately, because of COVID.
3 I mean, I very much doubt it's a six-to-nine-month period.
4 And the resources are not there. The burden on the
5 Division and others who would be working on this is
6 enormous. And I don't see how it would contribute
7 anything.

8 If the issue is around how complex it is, I again
9 feel very, very confident in the experience of the
10 Division, of Cal/OSHA Consultation. and of the other
11 stakeholders to be able to step forward and provide the
12 clarity that's needed.

13 I just wanted to make those final comments.

14 CHAIR THOMAS: Thank you, Laura.

15 Any other comments? All right, I'm going to
16 entertain a motion.

17 BOARD MEMBER LASCZC-DAVIS: Can I real quick?

18 CHAIR THOMAS: Go ahead.

19 BOARD MEMBER LASCZC-DAVIS: Yeah, just real
20 quick. But let me push back on that just a little bit.
21 You know, I think it's easy enough to say everybody's got
22 the resources, but I dare say we promulgate this. We're
23 going to require significant resources from Cal/OSHA:
24 webinars, template models, all kinds of personal
25 consultation. So where's the balance of resources? Take

1 another seven to nine months to develop something that's
2 understandable and clear with robust stakeholder around the
3 table crafting. Or to figure out how we're going to take
4 care of all these thousands of employers who are not quite
5 sure what to do with what we have. And you know, the
6 Consultation side citing, and all kinds of appeals is being
7 made by the attorneys in the state. I mean, where's the
8 balance?

9 And the thing is we've got other standards to
10 deal with. We're going to be dealing with the same issue
11 with the other standards as well. This is not the last
12 rodeo. Thank you.

13 CHAIR THOMAS: All right. Do I have a motion?

14 BOARD MEMBER HARRISON: So moved.

15 CHAIR THOMAS: Do I have a second?

16 BOARD MEMBER STOCK: (Overlapping) Second.

17 Second.

18 CHAIR THOMAS: All right. Ms. Money, I have a
19 motion and a second. Will you please call the roll?

20 MS. MONEY: So let me make sure I have this
21 correct. I have a motion by Dave Harrison. And the second
22 by Laura Stock.

23 CHAIR THOMAS: Correct.

24 MS. MONEY: Joseph Alioto.

25 BOARD MEMBER ALIOTO: Aye.

1 MS. MONEY: Kathleen Crawford.
2 BOARD MEMBER CRAWFORD: No.
3 MS. MONEY: Dave Harrison.
4 BOARD MEMBER HARRISON: Aye.
5 MS. MONEY: Nola Kennedy.
6 BOARD MEMBER KENNEDY: Aye.
7 MS. MONEY: Chris Laszcz-Davis.
8 BOARD MEMBER LASZCZ-DAVIS: No.
9 MS. MONEY: Laura Stock.
10 BOARD MEMBER STOCK: Aye.
11 MS. MONEY: Chairman Dave Thomas.
12 CHAIR THOMAS: Aye. And the motion passes.
13 Thank you.
14 (Brief applause.) No standing ovation, come on
15 guys.
16 All right. We'll continue on. Proposed Petition
17 Decisions for Adoption. And then it has Brand Safway,
18 Tanya? That's just one of -- is that the petition? Oh,
19 okay. I'm sorry. Proposed petition, I was thinking of --
20 okay, go ahead. Who's briefing the Board? Is that you?
21 MS. GONZALEZ: Michelle, are you there?
22 CHAIR THOMAS: Is Michelle here?
23 MS. GONZALEZ: She's on Zoom, hopefully.
24 CHAIR THOMAS: Okay.
25 MS. IORIO: Hi, can you hear me?

1 CHAIR THOMAS: I do. Yeah. Go ahead, Michelle.
2 Speak up a little, please. Thank you.

3 MS. IORIO: Yeah, sure.

4 Thank you Chair Thomas and Board Members.
5 Petition 599 was received by the Board on September 26 of
6 2023. The Petitioner requests that the Board amend Title 8
7 Construction Safety Orders section 1604.2(1)(a) to add an
8 exception that would allow the usage of construction
9 personnel hoists, known as CPHs that have larger net
10 platform areas with lower rated load capacities. So long
11 as the CPH is equipped with an overload sensor, and the CPH
12 rated load ratio to inside net platform area is not less
13 than 82 pounds per square foot.

14 The petitioner asserts that overload sensors
15 increase worker safety. That section 1604.2(1)(a) is based
16 on an outdated version of the ANSI consensus standards.
17 And that under the current Title 8 regulation, Petitioner
18 must unnecessarily rent CPHs with greater load capacities
19 when transporting light items that have large footprints.

20 The petition has been evaluated by both Coard and
21 Cal/OSHA staff. Cal/OSHA staff recommend denying the
22 petition, noting in its evaluation that overload sensors
23 are often out of calibration or nonfunctional. And there
24 are no inspection testing, or maintenance protocols,
25 contemplated by the proposed modification or by existing

1 ANSI standards.

2 Further as Board staff note in its valuation,
3 allowing larger CPH platform areas with lower rated load
4 capacities can easily lead to a situation where a CPH is
5 overloaded beyond the maximum capacity of the brake,
6 hindering its ability to stop the overloaded CPH and hold
7 it in place without falling.

8 While the Board staff evaluation recommends a
9 grant of the petition, it does so conditionally and further
10 recommends that a modification should address this narrow
11 margin of safety.

12 For these reasons, the decision before you today
13 denies Petition 599, because the proposed use of overload
14 devices in lieu of the net platform limitations currently
15 required by 1604.2(1) would increase the risk of CPH
16 failure and reduce worker safety.

17 Petition 599 is now ready for your consideration.

18 CHAIR THOMAS: All right, thank you. And I just
19 want to make sure I understand. If we vote -- wait, if we
20 vote then the petition would be -- if we vote yes the
21 petition would be denied.

22 MS. IORIO: Correct, yes.

23 CHAIR THOMAS: Okay, there we go. All right, so
24 I'll entertain a motion.

25 UNKNOWN SPEAKER: Chair, can I just

1 (indiscernible)?

2 CHAIR THOMAS: Oh, go ahead.

3 UNKNOWN SPEAKER: (Indiscernible - off-mic.)

4 MS. GONZALEZ: This would be a denial, but you
5 can always make a motion to do something else if you want.
6 The proposal in front of you is a denial of the petition.

7 CHAIR THOMAS: Yes, I think she mentioned
8 something else that was not really related to the petition.
9 It was a -- I can't remember exactly what she said, but it
10 was not -- she said denied.

11 MS. GONZALEZ: Yeah.

12 CHAIR THOMAS: Okay, (indiscernible) --

13 BOARD MEMBER ALIOTO: But I'm confused though.
14 I'm sorry, Dave, go ahead.

15 CHAIR THOMAS: No, please.

16 BOARD MEMBER ALIOTO: I'm just confused, because
17 the staff recommendation recommends a conditional grant.
18 So I'm not clear what it --

19 CHAIR THOMAS: Well, it wasn't on the petition.
20 It was something else, I think.

21 BOARD MEMBER HARRISON: No. So I engaged on
22 this, if I can?

23 CHAIR THOMAS: Oh, go ahead.

24 BOARD MEMBER HARRISON: I've engaged on this one
25 pretty significantly. I reached out to employers, labor

1 representatives, industry professionals. And the
2 recommendation to deny I think is appropriate, because if
3 you look at the petitioner's rationale why they're asking
4 for the change is based on efficiency, based on economic
5 advantage to whether it be the builder, whether it be the
6 hoist operator, whoever it is. Everything in the petition,
7 none of it relates to worker safety.

8 CHAIR THOMAS: I've got you.

9 BOARD MEMBER HARRISON: And so I've heard
10 arguments from both sides of the fence on this and I feel
11 obligated to vote yes to deny the petition based on that.

12 BOARD MEMBER ALIOTO: But my question though, is
13 why is there an ANSI regulation that does allow for this?

14 CHAIR THOMAS: You know, is Michelle still with
15 us? Michelle?

16 BOARD MEMBER HARRISON: So if I can?

17 BOARD MEMBER ALIOTO: Yeah.

18 BOARD MEMBER HARRISON: One of the things we
19 discussed, is the overload device. And the override device
20 that's going to be relied upon in this situation will not
21 prevent the hoists from being overloaded at the platform
22 and then dropping (indiscernible) brake system.

23 BOARD MEMBER ALIOTO: (Overlapping) Right, so you
24 get on it, it overloads. It turns off the electricity and
25 then it falls.

1 BOARD MEMBER HARRISON: Yep.

2 BOARD MEMBER ALIOTO: Okay.

3 BOARD MEMBER HARRISON: That's right. An
4 overload device will simply not allow you to operate the
5 hoist. It will not lock the brake and prevent it from
6 freefalling if it is overloaded.

7 BOARD MEMBER ALIOTO: Okay.

8 BOARD MEMBER HARRISON: Okay. That's a big part
9 of it.

10 CHAIR THOMAS: Okay, so do I have a motion?

11 BOARD MEMBER HARRISON: Motion to approve the
12 recommendation.

13 BOARD MEMBER LASZCZ-DAVIS: Second.

14 CHAIR THOMAS: I have a motion and a second to
15 approve the recommendation, which is to deny?

16 MS. Money, will you please call the roll.

17 MS. MONEY: So I have the motion as Dave
18 Harrison. And the second as Chris Laszcz-Davis; is that
19 correct?

20 CHAIR THOMAS: Correct.

21 MS. MONEY: Joseph Alioto.

22 BOARD MEMBER ALIOTO: Aye.

23 MS. MONEY: Kathleen Crawford.

24 BOARD MEMBER CRAWFORD: Aye.

25 MS. MONEY: Dave Harrison.

1 BOARD MEMBER HARRISON: Aye.

2 MS. MONEY: Nola Kennedy.

3 BOARD MEMBER KENNEDY: Aye.

4 MS. MONEY: Chris Laszcz-Davis.

5 BOARD MEMBER LASZCZ-DAVIS: Aye.

6 MS. MONEY: Laura Stock.

7 BOARD MEMBER STOCK: Aye.

8 MS. MONEY: Chairman Thomas.

9 CHAIR THOMAS: Aye. And the motion passes.

10 Variance Decisions for Adoption. Kelly Chau, are

11 you with us?

12 MS. CHAU: Hi, I'm here. Can you hear me?

13 CHAIR THOMAS: Yeah, go right ahead.

14 MS. CHAU: Okay. Thank you, Chair Thomas and

15 Board Members. On the consent calendar for this month we

16 have proposed decisions 1 through 75 ready for your

17 consideration and possible adoption.

18 CHAIR THOMAS: Thank you.

19 Do I have a motion to adopt the variance

20 decisions 1 through 75?

21 BOARD MEMBER STOCK: So moved.

22 BOARD MEMBER CRAWFORD: Oh, second. A second.

23 CHAIR THOMAS: A motion by Laura, second by Kate.

24 Ms. Money, will you please call the roll.

25 MS. MONEY: So I have the motion as Laura Stock

1 and the second --

2 CHAIR THOMAS: Second by Kate.

3 MS. MONEY: -- is Kate Crawford, okay.

4 Joseph Alioto.

5 BOARD MEMBER ALIOTO: Aye.

6 MS. MONEY: Kathleen Crawford.

7 BOARD MEMBER CRAWFORD: Aye.

8 MS. MONEY: Dave Harrison.

9 BOARD MEMBER HARRISON: Aye.

10 MS. MONEY: Nola Kennedy.

11 BOARD MEMBER KENNEDY: Aye.

12 MS. MONEY: Chris Laszcz-Davis.

13 BOARD MEMBER LASZCZ-DAVIS: Aye.

14 MS. MONEY: Laura Stock.

15 BOARD MEMBER STOCK: Aye.

16 MS. MONEY: Chairman Thomas.

17 CHAIR THOMAS: Aye, and the motion passes.

18 We're going to continue on. Cal/OSHA Update,

19 Eric, can you please brief the Board?

20 MR. BERG: All right. Thank you, Chair Thomas.

21 There was a update to CDPH COVID isolation. It was
22 mentioned during the comments. It was changed from five
23 days, basically to 24 hours, what CDC is proposing to do
24 now, but CDPH did it about a month ago. And so since the
25 regulation incorporates CDPH orders and regulations it

1 automatically changed the COVID regulation. So the COVID
2 regulation has been changed from the previous five days
3 isolation period to 24 hours. So that's all been
4 automatically changed, and we've updated our FAQs.

5 CHAIR THOMAS: (Overlapping) Did all this come
6 out like this week?

7 BOARD MEMBER STOCK: Last week.

8 MR. BERG: CDC came out recently, but CDPH was
9 about a month ago. And we updated all our FAQs. So it's
10 all on our website, all the (indiscernible).

11 CHAIR THOMAS: I'm sorry, what's this COVID thing
12 you -- (Laughter.) Sorry, but (indiscernible).

13 MR. BERG: Anyways, yeah so we've updated our
14 FAQs and then our guidance documents to incorporate that.
15 So to make it easier for employers to understand that, but
16 that was a month ago. So that's all been updated.

17 And then we have indoor heat next month, and then
18 we're working on the silica as well.

19 And then workplace violence we're working on.
20 Our Consultation Service and our Publications Unit are
21 working on a guidance document to help employers since that
22 bill, SB 553, comes into effect July 1st. So we're coming
23 up as fast as we can to have guidance documents to help
24 employers with that.

25 CHAIR THOMAS: And you will be having guidance

1 documents for lead.

2 MR. BERG: Lead, yes, for the small programs and
3 all that.

4 CHAIR THOMAS: Thank you. I appreciate that.

5 MR. BERG: Sure.

6 BOARD MEMBER ALIOTO: Mr. Berg, I have a question
7 for you. We have had Jeff Buchanan, who made some comments
8 during public comment regarding Petition 549 and the wood
9 chipper. He's been patiently waiting here for many hours,
10 so I want to say thank you, first of all to Mr. Buchanan
11 for his patience.

12 Is there any update that you have on that? I'm
13 sure you were unaware that he was going to speak today. It
14 sounds like the advisory committee meetings have been
15 postponed continually since 2019. If you have an update on
16 that, could you please provide it. If you don't would you
17 mind providing an update on the status of that petition at
18 the next meeting?

19 MR. BERG: Yes. Standards Board staff is doing
20 that rulemaking, so I'm not involved. Well, we go to the
21 advisory meetings and the initial petition from Mr.
22 Buchanan, our position was supportive of it. So we were in
23 support, and we've been to advisory meetings and have
24 participated. And we strongly support his petition.

25 BOARD MEMBER ALIOTO: Okay. Thank you.

1 MR. BERG: But the scheduling and all of that's
2 out of our control.

3 BOARD MEMBER ALIOTO: Got it.

4 MS. GONZALEZ: I can answer somewhat. There is
5 draft language. It's being circulated internally, so it's
6 being worked on. And we're hoping to have an advisory
7 committee scheduled pretty soon within the next few months.

8 BOARD MEMBER ALIOTO: Okay, great. And Mr.
9 Buchanan can get notice of that on the website?

10 MS. GONZALEZ: Yes, there's actually a contact
11 phone and the email for the staff who is working on it.
12 It's on the advisory committee page of the Board's website.

13 BOARD MEMBER ALIOTO: Okay, thank you.

14 CHAIR THOMAS: All right. Anything else, Eric?

15 MR. BERG: No. That's it. That's the big stuff.

16 CHAIR THOMAS: Any questions for Eric?

17 BOARD MEMBER KENNEDY: (Indiscernible - off mic.)

18 CHAIR THOMAS: All right, go ahead.

19 BOARD MEMBER KENNEDY: (Indiscernible.)

20 MR. BERG: Yes, it is. Yeah, we're working on
21 it. It's just the same group of (indiscernible).

22 (Off mic colloquy.)

23 CHAIR THOMAS: I would suggest that everybody
24 pray every day we get (indiscernible) done.

25 MR. BERG: I was guilty of calling them the first

1 aid guys, that was my fault. When I saw him I said, "Oh,
2 you're the first aid guy." So I apologize for that if he's
3 listening.

4 But yeah, the same staff, group of staff that was
5 working on silica is also first aid. So they're just
6 pulled in multiple directions at the same time.

7 BOARD MEMBER KENNEDY: Yeah, I have another
8 question. Different, indoor --

9 UNKNOWN SPEAKER: Your microphone, please.

10 BOARD MEMBER KENNEDY: I'm so sorry. Really?
11 Where were you, Chris, you were supposed to tell me.

12 Indoor heat is next month. Is this another hard
13 end?

14 CHAIR THOMAS: Yeah. How long have we been
15 working on indoor heat, seven or eight years?

16 MR. BERG: I think the bill was 2016, I believe.
17 And we're supposed to be done by 2019. And we're --

18 (Off mic colloquy.)

19 CHAIR THOMAS: And you know, a lot -- and I just
20 not to deflect or a lot of this had to do with COVID.
21 Because when we hit the end of '19 into '20 everything
22 stopped kind of. And then we were on that. And then a lot
23 of internal stuff happened. People were not at work. It
24 was just a lot of things that have slowed the process down.
25 And you know, it's not all just because it's slow. It's

1 because other things happen that took a lot more time and
2 effort and staff too. And we had an emergency. And we've
3 been through several in the last few years including
4 wildfire smoke, COVID, I think there was another, at least
5 one more. But anyway, so.

6 Any other questions for Eric?

7 BOARD MEMBER KENNEDY: Yes.

8 CHAIR THOMAS: Yep, one more.

9 BOARD MEMBER KENNEDY: Follow up on the indoor
10 heat question. So I think I really liked the presentations
11 to respond to comments by stakeholders and Board Members
12 around lead. I still feel like there's some unanswered
13 questions and comments that have been made about indoor
14 heat. And so I would appreciate a similar addressing of
15 those concerns and comments before we vote on it. I would
16 like that. I mean I can --

17 CHAIR THOMAS: I agree, because there were some
18 questions that I have. And although I'm generally for, you
19 know, because I figured they'll ferret themselves out at
20 some point, but it would be nice to have answers to
21 questions that have been asked by the public. That would be
22 nice to have.

23 BOARD MEMBER KENNEDY: And the Board.

24 CHAIR THOMAS: Yes.

25 MR. BERG: Okay. Yeah, I'll have a --

1 CHAIR THOMAS: Well, we are the public, so.

2 MR. BERG: I'll have a detailed presentation next
3 month.

4 CHAIR THOMAS: Thank you.

5 BOARD MEMBER KENNEDY: Okay, all right.

6 CHAIR THOMAS: All right.

7 BOARD MEMBER KENNEDY: Thank you.

8 CHAIR THOMAS: Any other questions?

9 Okay, then Executive, or Acting Executive
10 Officer's Report, Autumn.

11 MS. GONZALEZ: Thank you. So we had our round
12 one interviews. Chris was on the panel. And for the
13 executive officer position we have a round two scheduled
14 for February 28th. You might have got a notice in your
15 email about that, because it's a closed session. All the
16 Board Members are welcome to be there, and hopefully most
17 of them will be able to make it. So that's moving along.

18 We've made an offer to an SSM 1 regulations
19 manager, which is very exciting. And we're hoping that
20 person will be able to start on March 11.

21 The SSM 1 admin manager, we're waiting on HR to
22 get that package complete, but we're hoping to be able to
23 make an offer to someone very soon.

24 We have two regulatory AGPA positions that we've
25 gotten the applications for, and we're hoping to do

1 interviews in the near future. We want to get those SSM 1
2 managers on board, so that they can take the lead on the
3 hiring of their staff.

4 And then we had a retired annuitant. Her name is
5 Terry Tillman, she just joined our team as of Monday of
6 this week. She's helping with procurement and remediation
7 of which we do a whole lot. So we're very excited to have
8 her.

9 And then we have a senior safety engineer
10 position that just posted. It's going to close on March 8,
11 2024. So please let folks who might be interested in that
12 position know. We'd like to get some good candidates for
13 that. And I think that's it.

14 I did want to mention that we're going to start
15 hopefully doing a quarterly report on where regulations are
16 in our process. Just something that you can hold in your
17 hand and look at each month.

18 CHAIR THOMAS: That would be great.

19 MS. GONZALEZ: Yeah, so sorry. It's a lot to
20 remember. Yeah. So hopefully we'll have that for you next
21 month.

22 CHAIR THOMAS: Any questions for Autumn? (No
23 audible response.) All right, hearing none. Future agenda
24 items, I think we've just covered all of those.

25 So there's no closed session today.

1 (Off mic colloquy.)

2 CHAIR THOMAS: All right. So there being no
3 further business, our next scheduled meeting is March 21st,
4 2024 in San Diego, California and via teleconference and
5 videoconference. Please visit our website and join our
6 mailing list to receive the latest updates. We thank you
7 for your attendance today. We really do.

8 There being no further business to attend to this
9 business meeting is adjourned and we are adjourned. Thank
10 you.

11 (The Business Meeting adjourned at 2:28 p.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.

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 19th day of September, 2024.



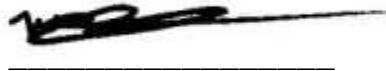
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I do hereby certify that the testimony in the foregoing hearing was taken at the time and place therein stated; that the testimony of said witnesses were transcribed by me, a certified transcriber and a disinterested person, and was under my supervision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

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Myra Severtson
Certified Transcriber
AAERT No. CET**D-852