

BEFORE THE OCCUPATIONAL SAFETY  
AND HEALTH STANDARDS BOARD  
STATE OF CALIFORNIA

TRANSCRIPTION OF PROCEEDINGS  
Board Meeting  
Thursday, June 20, 2024

CERTIFIED COPY

Reported by:

CHRISTINA RODRIGUEZ  
HEARING REPORTER

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1                                   BEFORE THE OCCUPATIONAL SAFETY  
2                                   AND HEALTH STANDARDS BOARD  
3                                   STATE OF CALIFORNIA  
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12                                   TRANSCRIPT OF PROCEEDINGS, taken via DIR Webex  
13 Remote, commencing at 10:00 a.m. and concluding at 3:20  
14 p.m. on Thursday, June 20, 2024, reported by Christina L.  
15 Rodriguez.  
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1 APPEARANCES:

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4 Occupational Safety  
And Health Standards  
5 Board:

Joseph Alioto  
Chairman

6 Kathleen Crawford  
7 Management Representative

8 Dave Harrison  
Labor Representative

9 Nola Kennedy  
10 Occupational Health  
Representative

11 Chris Laszcz-Davis  
12 Management Representative

13 Dave Thomas  
Labor Representative

14  
15 OSHSB Staff:

Autumn Gonzalez  
16 Chief Counsel and Acting  
Executive Officer

17 Amalia Neidhardt  
18 Principal Safety Engineer

19 Kelly Chau  
Attorney

20 Ruth Ibarra  
Staff Services Manager

21 Sarah Money  
22 Executive Assistant

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Cal/OSHA:

Eric Berg  
Deputy Chief of Health

Kathryn Tanner  
Attorney, Legal Unit

Michael Wilson  
Senior Safety Engineer,  
Research and Standards  
Health Unit

Cal/OSHA VIA  
TELECONFERENCE:

Kevin Graulich  
Principal Safety Engineer

Keummi Park  
Senior Safety Engineer

Stacy Christian  
Senior Safety Engineer,  
Research and Standards  
Unit

REMOTE BOARD STAFF:

Michelle Iorio  
Attorney

Jessica Mowry  
Administration and  
Personnel Support Analyst

Jennifer White  
Regulatory Analyst

1 Live/Webex Proceedings, Thursday, December 20, 2024

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5 CHAIRMAN ALIOTO: Good morning, folks. Thank you.  
6 Nice to see everybody here. This meeting of The  
7 Occupational Safety and Health Standards Board is now  
8 called to order. I am Joseph Alioto, Chairman, and the  
9 other Board Members present here with me in Vacaville are:

10 Kathleen Crawford, Management Representative;  
11 Dave Harrison, Labor Representative; Nola Kennedy  
12 Occupational Health Representative; Chris Laszcz-Davis,  
13 Management Representative; and Dave Thomas, Laborer  
14 Representative.

15 Present from our staff for today's meeting are  
16 Autumn Gonzalez, Chief Counsel and Acting Executive  
17 Officer for today's meeting; Amalia Neidhardt, Principal  
18 Safety Engineer; Kelly Chau, Attorney; Ruth Ibarra, Staff  
19 Services Manager Regulation's Unit who is also providing  
20 translation services for our commenter's who are native  
21 Spanish speakers; and Sarah Money, Executive Assistant.

22 Present here in Vacaville for Cal/OSHA is Eric  
23 Berg, Deputy Chief of Health for Cal/OSHA; Kathryn Tanner,  
24 Attorney, Cal/OSHA Legal Unit; and Michael Wilson,  
25 Senior Safety Engineer, Cal/OSHA Research and Standard's

1 Health Unit. Welcome to all of you.

2 Also present from Cal/OSHA via teleconference are  
3 Kevin Graulich, Principal Safety Engineer; Keummi Park,  
4 Senior Safety Engineer; and Stacy Christian, Senior Safety  
5 Engineer, Cal/OSHA Research and Standards Health Unit.

6 The Board staff supporting the meeting remotely  
7 are Michelle Iorio, Attorney; Jesi Mowry, Administration  
8 and Personnel Support Analyst; and Jennifer White,  
9 Regulatory Analyst.

10 Copies of the agenda and other materials related  
11 in today's proceeding are available on the table near the  
12 entrance to the room and are posted on the OSHSB website.  
13 This meeting is also being live broadcast via video and  
14 audio stream in both English and Spanish. Links to these  
15 noninteractive live broadcast can be access via the  
16 meetings and notices and petitions section on the main  
17 page of the OSHSB website.

18 If you are you participating in today's meeting  
19 via teleconference or video conference, we are asking  
20 everyone to please place their phones or computers on mute  
21 and wait to un-mute until they are called to speak. Those  
22 with who are unable to do so will be removed from the  
23 meeting to avoid disruption.

24 As reflected on the agenda, today's meeting  
25 consist of three parts. First we will hold a public

1 meeting to receive public comments on proposals on  
2 occupational safety and health and matters. Anyone who  
3 would like to address any occupational safety and health  
4 issue including any item on our business meeting may do so  
5 when I invite public comment.

6           If you are participating in via teleconference or  
7 video conference, the instructions for joining the public  
8 comment queue can be found on the agenda. You may join by  
9 clicking the public comment cue link in the meetings  
10 notices and petitions section on the OSHSB website. Or by  
11 calling 510-868-2730 to access the automated public comment  
12 cue voicemail. It's 510 -- I'll read that again --  
13 510-868-2730. If you experience any technical issues with  
14 the teleconference or video conference, please e-mail  
15 oshsb@dir.ca.gov.

16           When the public meeting begins, we are going to  
17 alternate between three in-person and three remote  
18 commenters. When I ask for public testimony, in-person  
19 commenters should provide a completed speaker slip to the  
20 staff person near the podium and announce themselves to  
21 the Board prior to giving a commenters. For commenters  
22 attending via teleconference or video conference, please  
23 listen for your name and an invitation to speak. When it  
24 is your turn to address the Board, un-mute yourself if  
25 you're using Webex or dial \*6 on your phone to un-mute

1 yourself if you're using the teleconference line.

2 We ask all commenters to speak slowly and  
3 clearly when addressing the Board. And if you're  
4 commenting via teleconference or video conference,  
5 remember to un-mute your phone or computer after  
6 commenting. Today's public comment will be limited to two  
7 minutes per speaker. And the public comment portion of  
8 the meeting will extend for up to two hours so that the  
9 Board may hear from as many members of the public as is  
10 feasible.

11 Individual speaker and total public comment time  
12 limits may be extend by Board Chair. After the public  
13 meeting, we will conduct the second part of our meeting  
14 which is the public hearing. At the public hearing, we  
15 will consider proposed changes to the specific  
16 occupational safety and health standards that were noticed  
17 for today's meeting.

18 Finally after the public hearing is concluded, we  
19 will hold a business meeting to act on those public items  
20 listed on the business meeting agenda.

21 All right. We will now proceed with the public  
22 meeting. Anyone who wishes to address the Board regarding  
23 matters pertaining to occupational safety and health is  
24 invited to comment; except, however, the Board does not  
25 entertain comments regarding variants matters. The Boards'



1 variance hearings are administrative hearings where  
2 procedural due process rights are carefully preserved.  
3 Therefore, we will not grant request to address the Board  
4 on variance matters.

5           Now as I indicated a moment ago, we are also  
6 going to be having a public hearing in a moment -- well  
7 not in a moment, after the public meeting regarding  
8 respirable crystalline silica. If you have a comment  
9 related to silica, I'm going to ask that you please wait  
10 until the public hearing to make those comments and limit  
11 the comments that you make during the public meeting --  
12 which we will do now to topics other than those related to  
13 silica.

14           All right. For our commenters who are native  
15 Spanish speakers, we are working with Ruth Ibarra to  
16 provide a translation of their statements into English for  
17 the Board. At this time, Ruth Ibarra will provide  
18 instructions to the Spanish speaking commenters so they  
19 are aware of the public comment process for today's  
20 meeting.

21           Ms. Ibarra.

22           (Ms. Ibarra translating instructions in Spanish.)

23           CHAIRMAN ALIOTO: Thank you, Ruth. Before we begin  
24 with public comment, I want to take a couple of moments to  
25 very briefly address some of the changes that you see on

1 the Board over the last couple of weeks.

2 And, specifically, I want to take a few moments  
3 on behalf of myself and also on behalf of all of the Board  
4 Members and the staff to recognize the very valuable  
5 contributions of two dedicated public servants.

6 Our outgoing Chair, Dave Thomas, who is going to  
7 remain on the Board as our Labor Representative; and also  
8 our Outgoing Occupational Safety Representative, Laura  
9 Stock. Together, these two extraordinary advocates have  
10 served on the Board for a combined 26 years. And during  
11 that brief time, Dave oversaw and Laura participated in  
12 extremely significant nation leading regulatory  
13 achievements. And I want to tell you some of the things  
14 that they were responsible for helping shepherd through.

15 In 2014, they helped pass a safe patient handling  
16 regulation to protect hospital staff engaged in lifting  
17 and moving patients; the workplace violence prevention in  
18 the health care industry -- passed in 2017; hotel  
19 housekeeping musculoskeletal injury prevention -- a  
20 regulation passed in 2018 to protect hotel housekeepers  
21 whose duties involve repetitive physical motions; the  
22 emergency protection from wildfire smoke in 2019 at a time  
23 when this state was experiencing the acute effects of  
24 climate change.

25 Of course in 2020, the emergency Covid-19

1 prevention regulation -- both an emergency measure and a  
2 permanent regulation; and I'll have another thing to say  
3 about the Covid regulation and the process there in a  
4 moment. The outdoor agricultural operations during hours  
5 of darkness regulation which was passed in 2021.  
6 Significant updates to the fire fighters personal  
7 protective clothing and equipment regulation in 2022; and,  
8 of course, most recently in the past year, the historic  
9 lead regulation and the emergency measure to protect  
10 workers from respirable crystalline silica.

11 Both Dave and Laura made very significant  
12 contributions to these important regulations but there is  
13 much more that they contributed. Let me start and say a  
14 word about Laura Stock -- she's the Director of the Labor  
15 Occupational Health Program, and she has been in the field  
16 of occupational safety for over 30 years. She's been a  
17 member of this Board since 2012. And in the past decade  
18 plus, she has been an outspoken advocate for worker health  
19 and safety.

20 I know that since the moment I joined this Board  
21 I immediately recognized Laura as I know all the other  
22 Members of the Board agree as both eloquent and extremely  
23 effective. She uses her sharp wit and intellect to ask  
24 the probing and often difficult questions. She  
25 courageously expresses her views regardless of their

1 popularity; but she is always personally respectful to  
2 those with whom she disagrees. That's just one of her  
3 example of her dedication and commitment.

4           Laura readily volunteered for one of this Board's  
5 only subcommittees -- at least that's what I understand  
6 from Mr. Harrison -- only subcommittees during the Covid  
7 pandemic, working tirelessly in a volunteer basis to  
8 ensure workers' safety -- her overriding cause. Her  
9 passion dedication and impact over the past decade simply  
10 cannot be denied. And on behalf of the Board and the  
11 staff, I want to than Laura -- if she's watching -- I want  
12 to thank you, Laura, for your tremendously valuable  
13 service.

14           Okay. Something about my friend Dave. As many  
15 of you know Dave is President of the Northern District  
16 Council of Laborers and has represented labor on this Board  
17 since he joined in July 2010; 14 years ago.  
18 He sat as Chair for over a decade since 2013. Now during  
19 that time in addition to overseeing significant regulatory  
20 actions -- like the ones that I just listed -- which is  
21 also, by the way, a very small sample size. Dave's  
22 stewardship has been highly valued and really, at times,  
23 essential during some of this Board's most challenging  
24 times.

25           Perhaps most notable, Dave is universally praised for

1 his capable leadership during the Covid pandemic. During  
2 that time when 12 hour meetings of 1,000 plus attendees --  
3 that required a confident and competent voice at the helm  
4 that maintained a cool control of an often chaotic setting  
5 while always ensuring that every voice was heard.

6 But maybe more important than that, Dave has always  
7 encouraged a deep sense of respect opinions among all of  
8 of Members of this Board. He is a kind man; he values  
9 personal relationships; he is always approachable,  
10 disarming you with his good natured sense of humor. When  
11 I joined this Board, Dave welcomed me with his  
12 characteristic open arms. He has always gone out of his  
13 way to make others -- including myself -- feel  
14 comfortable. And for that, Dave, as well as all your  
15 indelible contributions, as Chair of this Board, we  
16 express our deep gratitude.

17 All right. Now in typical government fashion, Autumn  
18 and I have requested the creation of some plaques to  
19 celebration the service of Laura and Dave, and they're not  
20 ready yet. Dave probably knows that drill better than  
21 anybody so I hope you'll bear with us, Dave, on that.F

22 Okay. Let's begin public comment and the  
23 public meeting. If there are any in-person participants  
24 who would like to comment on any matters concerning  
25 occupational safety and health, you may begin lining up at

1 this time. We are going to start with the first three  
2 in-person speakers, and then we will go to the first three  
3 speakers in the teleconference and video conference queue.  
4 And just as a reminder, I do want to just remind you if  
5 you do have comments related to silica, please wait until  
6 that agenda item is called during the public hearing.

7 All right. Sarah, do you have the first public  
8 speakers. Okay, ma'am, why don't you go ahead and  
9 introduce yourself. Thank you very much.

10 MS. SERRANO: Good morning, Chairman Alioto and the  
11 Members of the DOSH Standard Board. I am standing in  
12 support of the request made by Tracy Scott, and the United  
13 Steelworkers Union, Local 5, to make change in the PSM  
14 5189.1 Scope to remove the word "Petroleum" from the  
15 documents description of the type of refineries that are  
16 covered under this rule.

17 As you know and may be familiar with the case of  
18 Jerome Serrano, I am his wife, and his mother of four  
19 children. I'm sure you're aware of the incident on  
20 November 19th of 2023 at the Marathon Renewable Fuels  
21 Refinery in Martinez. I'm here to let you know of the  
22 impact and the avoidable event that devastated and injured  
23 my husband's life, and they actually did not expect him to  
24 survive.

25 And I'm very grateful that he's made it through

1 multiple surgeries and he will be the oldest living burn  
2 victim to suffer a case of that degree and that size to  
3 walk out of the UC Davis medical burn unit. Our world has  
4 changed in every way, and from here on out, our lives have  
5 and will be forever changed for me and all of his  
6 children.

7           It's important for you to ensure that the workers  
8 in these types of incidences -- in these fields of work  
9 are covered to the greatest extent possible in the process  
10 safety management standards that actually already exist in  
11 the State of California.

12           On the morning of November 19th, my entire world  
13 changed. I was waiting for Jerome to return home on his  
14 daughter's birthday and his son's birthday five days after  
15 when I received a call at my Sunday school class of my  
16 in-laws screaming, and I knew then and there that something  
17 tragic had happened to my husband because he wasn't home,  
18 and we reside in Houston, Texas.

19           We're not immune to possibilities of tragedies in  
20 any of our lives, but if there ever could be something  
21 implemented to diminish that, I think it should be done --  
22 if there's something that could be implemented in the  
23 standards, in the Board; such as the PSM 5189 scope in  
24 removing the word "Petroleum" from the document  
25 description.

1           Whatever would bring the highest realm of safety  
2 to the employees in these fields that are already very  
3 harsh environments and harsh circumstances that they have  
4 to work everyday. I believe it's of great importance, and  
5 I believe that you should certainly decide on making that  
6 decision today to change the lives of people that come  
7 after us, and let this experience be known that this  
8 didn't have to happen.

9           And in closing, I would like to ask you to accept  
10 the recommendations made by Cal/OSHA staff to adopt these  
11 simple, yet grieve the important changes to the language  
12 so that the requirements of the PSM 5189 Regulations will  
13 apply to renewable fuels refineries.

14           And that the workers of the facilities would feel  
15 safer and more confident in going to work and their security  
16 of their work environments and their ability to come home  
17 when they have completed their daily work.

18           And Board Chairman Alioto and distinguished Board  
19 Members, I thank you very much for hearing me out this  
20 morning, and I pray that you critically consider this  
21 motion to change this. Thank you very much.

22           CHAIRMAN ALIOTO: Thank you, Ms. Serrano.

23           TRACY SCOTT: Good morning, Chairman Alioto and  
24 distinguished Board Members. My name is Tracy Scott, and  
25 I'm here to speak and support of United Steelworker, Local



1 5, the 601 petition requesting the Standards Board  
2 provide emergency rule making so that renewable fuels  
3 refineries like the Martinez Marathon facility would be  
4 included in process safety management 5189.1 and that the  
5 recommendation made to the Standards Board by Cal/OSHA  
6 staff be adopted.

7 Our request to the standards Board moves to make  
8 the simple correction to the PSM 5189.1 by changing the  
9 use of the term "Petroleum Refinery" to "Fuel Refinery" in  
10 subsection (b), Scope and Purpose of the standard. I have  
11 been involved in the oil industry since 1981, and I say  
12 that to let you know that over the time that I have been  
13 involved in this industry, I've seen a huge evolution in  
14 health and safety in the field.

15 But what I would say to you is that not until  
16 2012 in the incident that Chevron Richmond facility that  
17 led to the promulgation of the 5189.1 standard had I ever  
18 witnessed a public outcry that required something be done  
19 to force the petroleum industry to take its  
20 responsibility to the environment, the community, and  
21 workers' safety seriously -- and that something more than  
22 lip service be paid to the risk associated with the  
23 production to motor vehicle fuels and other products in  
24 this state; and for it to be addressed in meaningful way.

25 The impact of the surrounding community was so

1 significant that instead of being a local or county issue,  
2 it rose to the level of state's scrutiny; and the impact  
3 on the city, the state, and it's economy is outlined in  
4 the States Interagency Task Force report certainly  
5 couldn't be ignored from the impacts of the state.

6 Five years of hard work went into promulgating  
7 that standard, and in the process required bringing a  
8 broad based group of stakeholders to the table to create  
9 what is, in my opinion, by far a national best practice  
10 and a well conceived model of prescribed requirements for  
11 workplace and workers' safety that brought these practices  
12 into reality for the people that work in this industry.

13 I believe that the requested change is clearly  
14 consistent with what the standard provides and its  
15 effectiveness will remain in full force if the term  
16 "Petroleum Refinery" is replaced with "Fuel Refinery".

17 And in enclosing, I want to hold Jerome Serrano  
18 up as an amazing and courageous human being that deserved  
19 the safest possible workplace that this great State can  
20 provide, and so did his family.

21 You have the power to make sure that oversight is  
22 corrected for them and that it is corrected for all of the  
23 hardworking people that produce motor vehicle fuels for  
24 this state's consumers of this product and energy  
25 transitions underway in this state. But until it is

1 complete, we owe it to the people doing this work to be  
2 able to go home from work in the same condition they  
3 showed up to work.

4 Thank you. I appreciate your time.

5 CHAIRMAN ALIOTO: Thank you for your  
6 testimony, Mr. Scott.

7 Next speaker please.

8 MR. KNIGHT: Good morning, Chair Alioto and Members  
9 of the Board. Stephen Knight, Executive Director with  
10 Worksafe with the mission focused on health safety and  
11 justice for all California workers.

12 I'm here today to voice concerns about the action  
13 taken by the Governor to dismiss Occupational Safety and  
14 Health Standards Board Member Laura Stock from her  
15 appointed position and remove Board Chair Dave Thomas as  
16 the Chair. The only explanation in public that I've heard  
17 so far is that the Governor wants to go in a different  
18 direction.

19 As we've already heard here this morning, Laura  
20 Stock has been one of the strongest and most experience  
21 voices for workers' health and safety, and Dave Thomas as  
22 Chair steered the Board through the biggest worker safety  
23 crisis in a hundred years during Covid.

24 I'm sure most people in the room remember that  
25 June 2021 Board meeting in which Chair Thomas managed

1 hundreds and hundreds of angry anti-vaccine and anti-mask  
2 protesters who tuned up to this meeting because the  
3 Governor has decided to declare the state was reopening on  
4 June 15th -- just six days prior, I believe.

5           And just a few weeks before the explosion of the  
6 Delta Covid variant across the world and this state, this  
7 Board stayed strong and did it's work and saved many  
8 lives. Worksafe is concerned about what these surprise  
9 removals may mean about Governor Newsom's commitment to  
10 worker health and safety and climate justice. If the  
11 Governor has a positive vision for a direction in which to  
12 advance worker health and safety that looks different from  
13 what we've seen under recent leadership -- I don't think  
14 it's one that he's articulated to this community.

15           We look forward to working with Chair Alioto and  
16 this Board to ensure health and safety for all California  
17 workers. And one positive direction I might suggest is  
18 trying to, you know, more thoughtfully unpack the  
19 consistent false economy presented in this space --  
20 between profits on the one side and health and safety on  
21 the other.

22           And the heat standard is a perfect example with  
23 extensive science documenting the deep impacts on  
24 productivity for workers from excessive heat. And that's  
25 clear economic benefit to employers, workers, and

1 communities from regulating workplace heat in at least a  
2 strong manner as the standard that's before you today.

3 I saw a report in the New York Times Health just  
4 this week saying that extreme heat impacts which as many  
5 as 80 million Americans are under threat today across this  
6 country makes us suffering -- those of us suffering from  
7 extreme heat aggressive and stupid.

8 That's quoting the New York Times Health, and I  
9 think we can all look forward to recognizing science and  
10 supporting workers' safety.

11 Thank you for your time.

12 CHAIRMAN ALIOTO: Thank you, sir.

13 All right. Let's go to some of the online  
14 speakers.

15 MR. ROENSCH: Chairman Alioto, today we have 15  
16 commenters for both public comment and hearing that are  
17 registered for us. The first three, I'll announce, and  
18 then I'll go back to the first two to request that they  
19 speak.

20 So for the first three public commenters today  
21 that are on Webex as remote participants are Juanita  
22 Constible and then Veronica Wilson, and Alice Berliner.

23 Juanita Constible is our first commenter and  
24 she's from the Natural Resources Defense Counsel. Juanita,  
25 please un-mute your microphone and make your comments.

1 CHAIRMAN ALIOTO: Ms. Constible? Ma'am, are you  
2 there? Un- mute or hit \*6 if you're on a telephone.

3 All right. We'll go to the next speaker.

4 MR. ROENSCH: Yeah, we'll go to the next public  
5 commenter and that is Veronica Wilson, and there's no  
6 affiliation listed for Ms. Wilson.

7 Ms. Wilson, if you would, please un-mute your  
8 microphone on Webex and make your public comment.

9 CHAIRMAN ALIOTO: Ms. Constible, are you in line? Is  
10 that what I'm hearing?

11 MS. WILSON: I'm Ms. Wilson, and I was just going to  
12 get in line.

13 CHAIRMAN ALIOTO: Understood. Great. Thank you so  
14 much. Lets go to the next one.

15 MR. ROENSCH: Our next commenter is Alice Berliner,  
16 and Alice is with the LA County Department of Public  
17 Health.

18 Ms. Berliner, if you would, please un-mute your  
19 microphone and make your comments.

20 MS. BERLINER: Hey. Can you hear me?

21 CHAIRMAN ALIOTO: Yes, mam. Thank you. Go ahead and  
22 proceed.

23 ALICE BERLINER: Okay. One second. Hey, good  
24 morning. My name is Alice Berliner and I'm the Director  
25 of the LA County Department of Public Health's new office

1 of Worker Health and Safety. And today we want to express  
2 our strong support for adopting both the indoor heat  
3 standard and also share comments on the silica standards  
4 -- I'll come back to those later on in the meeting.

5 But on heat, we really believe as a department  
6 that this standard will help workers; particularly those  
7 in high hazards and low wage industries stay safe from  
8 increasing threat of high heat on the job. Heat related  
9 illness is a preventable condition.

10 It is urgent today that we pass this rule so that  
11 workers have legal protections in place during the Summer  
12 and Fall -- especially as we continue to see record  
13 breaking heat and heat related deaths on the rise.

14 Thank you.

15 CHAIRMAN ALIOTO: Thank you ma'am.

16 Next speaker, please.

17 MR. ROENSCH: All right. Our next public commenter is  
18 Renee Guerrero Deleon, and she is with SoCalCOSH.

19 MS. DELEON: Thank you. Can you guys hear me all  
20 right?

21 CHAIRMAN ALIOTO: Yes, mam. Go ahead. Thank you.

22 MS. DELEON: Hi, everyone. I want to thank the Board  
23 staff and interpretation for your work in receiving our  
24 comments today. My name is Renee Guerrero Deleon with the  
25 Southern California Coalition for Occupational Safety and

1 Health, and our organization is founded on the principle  
2 that workplace deaths and injuries are preventable.

3 And today, as we approach an historic vote on  
4 indoor heat that would undoubtedly change the working  
5 conditions for millions in the state, there's a notable  
6 vacancy in a time where we know that worker fatalities are  
7 on the rise; there's an empty occupational health and  
8 safety seat before us.

9 Laura Stock was a strong advocate on this Board  
10 -- the champion to keeping workers safe. Her work was  
11 rooted in science, reality -- an acknowledgement of the  
12 struggles that workers experience. And following her  
13 removal earlier this month, we are left to wonder what  
14 direction the Governor wants to take this Board.

15 Last summer, over 2,000 people were believed to  
16 have died from excessive heat; and this year, we face the  
17 painful reality that workers will lose their lives to  
18 heat. And in years to come, the hazards for workers will  
19 only get worse.

20 It is important that this Board pass the heat  
21 standard that will protect all workers despite industry and  
22 cost; and we cannot say that California's a gold standard  
23 for occupational safety and health and on the other hand,  
24 question if we're going to pass this indoor heat standard  
25 today.



1           We call on need to pass these protections now.  
2 Thank you to the Board, staff, interpretation for your  
3 time and consideration.

4           CHAIRMAN ALIOTO: Thank you.

5           Let's do one more online.

6           MR. ROENSCH: Very well. The next online commenter is  
7 Robert Harrison, MD, and he is with the California  
8 Department of Public Health.

9           Mr. Harrison, please, go ahead.

10          DR. HARRISON: Thank you very much. My comment is  
11 about the silicosis rule, do you want me to say it now or  
12 do you prefer to postpone?

13          CHAIRMAN ALIOTO: I would rather you do it during that  
14 agenda if you don't mind, Mr. Harrison.

15          DR. HARRISON: I will stay tuned.

16          MR. ROENSCH: Very well --

17          DR. HARRISON: If you could just come back to me, I'd  
18 appreciate it. But I will stay on.

19          MR. ROENSCH: Mr. Harrison, we will have time for you  
20 during the public hearing. Thank you for that.

21          Our next party that has registered for public  
22 comment -- which is this section of the meeting -- is Mike  
23 Donlon, and he's with MD Safety Service.

24          MR. DONLON: Good morning, Board, Chairman Alioto.  
25 I'm sorry I'm not there in person, but my grand kids

1 decided to come visit and as much as I like all of you, I  
2 like them more.

3 First I want to talk about the indoor heat  
4 illness, and it's been way too long in coming; and there's  
5 a reason for that. The initial talk even before Senate  
6 Bill 1167 was about indoor heat illness and warehouses and  
7 other such environments where there were true high heat  
8 standards.

9 And even in Senate Bill 1167, it allowed for  
10 directing this standard towards those industries where it  
11 kind of went off the rail is when it got expanded to all  
12 indoor places of work -- including air conditioned  
13 offices. And that's where you kind of lost a lot of  
14 people and that's where it got kind of controversial.  
15 And even your own Executive Officer at the time, Marley  
16 Hart, wrote in her comments the draft regulatory text  
17 discussed at the February 28th, 2017, advisory meeting  
18 proposes an approach that appears to be more complicated  
19 and burdensome than necessary. Especially taking into  
20 consideration that Labor Code Section 6720 allows for the  
21 standard to be limited to certain industry sectors.

22 And, unfortunately, the Board didn't listen to Marley  
23 in that topic because you would have been protecting these  
24 who are most at risk, the ones who have significant  
25 heat hazards six, seven years ago potentially

1 and by broadening it so much, that really slowed down the  
2 process.

3 I'm going to kind of turn to the residential fall  
4 protections standard and that -- what we have right now is  
5 a standard that is in place that everyone understands and  
6 works, and now we're talking about replacing that with a  
7 number that as you heard from actual carpenters that do  
8 this work -- union carpenters, the best in the business  
9 -- is just not feasible, not workable.

10 And based on my experience in safety and health  
11 including an enforcement officer, that turns into  
12 noncompliance and people -- companies doing nothing.  
13 When they don't understand what to do, they simply shut  
14 down. And that's why I think it's critical to keep what  
15 we have in place as a rule -- you know, a couple meetings  
16 ago, I talked about the numbers. The numbers show  
17 California does fall protection better. And I really --  
18 you know, again just kind of like the indoor heat illness,  
19 if we were to stay true to the mission, we would have had  
20 a standard years ago. And this one, if we stay true to  
21 our mission, we want to keep what works in place.

22 Thank you very much.

23 CHAIRMAN ALIOTO: Thank you. Let's go to some  
24 in-person speakers.

25 Next speaker, please, thank you.

1 MS. ORTIZ: Hello. Hi, everyone. Good morning. Good  
2 morning, Chair, Members of the Board, and also OSHA staff.  
3 I will be speaking on the silicosis Standards later but --  
4 my name is Maegan Ortiz, and I'm the Executive Director --

5 CHAIRMAN ALIOTO: Could you -- I'm sorry, go ahead.  
6 State your name, please.

7 MS. ORTIZ: Yeah. My name is Maegan Ortiz, the  
8 Executive Director of the Instituto de Educacion Popular  
9 del Sur de California, IDEPSCA. We're one of the few  
10 worker's centers organizations in the state that work in  
11 the intersection of worker's rights and workforce  
12 development.

13 First we want to express our shock resent and are  
14 raising an alarm bell in abrupt changes at the Standards  
15 Board. As an organization that has been involved and  
16 engaged in the indoor heat standard process as well as  
17 numerous other Standards mentioned today including  
18 wildfire smoke, we have had the honor of working with  
19 Laura Stock. She has shown the utmost respect for the  
20 system that has been set up while also being a fierce  
21 advocate for workers.

22 As an organization who has filed numerous  
23 retaliation claims on behalf of workers, the changes to  
24 the Standards Board including the removal of Chair  
25 Thomas from his role, sure look like retaliation and beg

1 the question if what we are witnessing is a shift from an  
2 administration who claims to care about workers, but only  
3 if they and their advocates don't hurt feelings.

4 Our collective job is to protect workers.  
5 For example, from the impact of climate accelerated  
6 disasters -- including indoor heat -- a standard that  
7 needs to move forward as soon as possible; a standard that  
8 should have moved forward.

9 Right now, for example, managers of my organization are  
10 in the San Fernando valley talking to day laborers and  
11 domestic workers who actually work both indoor and outdoor  
12 -- many times in the same day going back and forth in one  
13 day at multiple job sites doing multiple jobs. Everything  
14 from unloading a container in a warehouse to cleaning up a  
15 garden to taking care of someone's loved one.

16 So this is why the indoor heat standard needs to move  
17 forward and why we also need fierce occupational health  
18 and safety experts represented on this Board.

19 Thank you.

20 CHAIRMAN ALIOTO: Thank you.

21 Next speaker please.

22 MS. WHELAN ESCOBAR: Good morning. My name is Megan  
23 Whelan Escobar, I am the Deputy Director for the  
24 California Domestic Workers Coalition. We are the state's  
25 leading voice for the more than 300,00 house cleaners,

1 home care workers, and childcare providers who work in a  
2 home -- the majority of whom are women of color and  
3 immigrant women.

4           And I'm here today to express our disappointment  
5 in the decision to remove Laura Stock from her appointed  
6 position on the Board. She has over 30 years of  
7 experience working at the Labor Occupational Safety and  
8 Health Program at UC Berkeley -- who we've partnered with  
9 for a number of years -- where she's developed various  
10 training programs and educational materials on  
11 occupational safety and health and provide technical  
12 assistance to workers, unions, employers, and policy  
13 makers.

14           In 2022, Laura Stock played a key role in working  
15 with Cal/OSHA, domestic workers, and domestic employers to  
16 develop the first of its kind voluntary occupational  
17 safety and health guidelines for our industry. Her  
18 experience and knowledge have been invaluable for our  
19 industry; especially in the light of the fact that  
20 domestic workers are still excluded from basic health and  
21 safety rights.

22           So our hopes are that the new constituted Board  
23 continues to work to ensure health and safety protections  
24 for all California workers.

25           Thank you.

1 CHAIRMAN ALIOTO: Thank you, Megan.

2 Next speaker, please.

3 MR. SMITH: Good morning, everyone. I'm Dave Smith,  
4 Safety Consultant. For some positives, residential fall  
5 protection, I hope that we're getting some positive  
6 negotiations between Fed/OSHA and the Cal/OSHA program --  
7 hoping for success there. As Mr. Don pointed out, we  
8 already have an effective safety procedure in Title 8,  
9 Section 1716.2 -- it's covered in prior meetings.

10 Next, I think that the Board staff deserves many  
11 thank you's -- so thank you, Board staff, for doing this  
12 advisory committee status flow chart or calendar, so clear  
13 communication helps everyone. It would be great to see a  
14 project rule making calendar for the many pending and  
15 overdue standards; and this includes first aid kits which  
16 originally started in 2006 -- now 18 years ago -- when I  
17 submitted Petition 483. I know it's in the works, but  
18 it's still a pending issue.

19 So three pending issues: first aid kits,  
20 Petition 602 from the National Safety Council, and  
21 Naloxone Hydrochloride -- or Narcan -- the brand name is  
22 easier to say -- and pending in the Assembly and Senate is  
23 Assembly Bill of 1976 which would tell the Standard's  
24 Board to enact for regulations for including Narcan in all  
25 first aid kits in a workplace. So I completely support

1 getting more Narcan kits out in the world as a public  
2 health measure. Too many people die from overdoses.

3           However, I agree with the Standards Board staff  
4 and their analysis of this petition to making all 1.2  
5 million plus in California employers putting Narcan in  
6 first aid kits is, "unnecessarily burden to many  
7 employers." Keep in mind that 85 percent of those over a  
8 million employers have fewer than nine employees.

9           So depending on what happens to AB 1976, the  
10 Board may not have any option. It raises many issues and  
11 just a few. Training who gets trained -- will this  
12 training fall under the IPP, the Injury and Illness  
13 Program regulation to document employee safety training.  
14 The National Safety Council themselves recommends training  
15 select employees -- whoever those are, or how they're  
16 selected.

17           Physician approval -- and this is why we needed  
18 first aid kits -- do employers need a doctor letter for  
19 Narcan? It's a medication. Will the physician approval  
20 letter and 3500 and 1512 applied to Narcan? It's really  
21 great that the Division has proposed exceptions for  
22 infeasibility --what's that? What is infeasible?

23           Feasible, like the word effective, means  
24 different things to different people. So I may think  
25 something is infeasible, but a regulator might disagree.



1 So we need to clearly define what is going to be  
2 considered infeasible and what is not.

3 So here's a plan: Get first aid kits done as  
4 soon as possible; keep working on Narcan under Petition  
5 602; monitor AB 1976 -- see where that goes, see how we  
6 might have to adjust; and, four -- and I think this might  
7 be more for the consultation service side -- is promote  
8 Narcan in workplaces. It's a voluntary public health  
9 measure along with the California Department of Public  
10 Health -- which is doing so -- as well as The National  
11 Safety Council and many others.

12 As the saying goes, we live in interesting times.  
13 Thank you.

14 CHAIRMAN ALIOTO: Thank you, Mr. Smith. Can we go to  
15 some online commenters, please.

16 MR. ROENSCH: Yes. We have our next three commenter's  
17 are Robert Moutrie, Enrique Huerta, and Tim Shadix. So  
18 we'll go back to Mr. Moutrie as our first commenter for  
19 the second series.

20 Robert Moutrie is with the California Chamber of  
21 Commerce. Go ahead, Mr. Moutrie.

22 MR. MOUTRIE: Thank you. Good morning, everyone.  
23 Hopefully you can hear me okay. First off, let me say I'm  
24 sorry I can't be with you all. The legislative calendar  
25 is a bit too hot -- no pun intended -- right now so I'm

1 tied to Sacramento.

2 First echo the words of praise for Laura and Dave,  
3 I won't go through them all, but your service is appreciated  
4 and I've just enjoyed working with both of you since I  
5 started working with Cal/OSHA. I want to touch on the  
6 indoor heat regulation briefly. Obviously understand the  
7 Board's concern here and intention to address heat;  
8 however I will say that the business community remains  
9 concerned about some of the subsequent elements of the  
10 regulation. Notably, we are not opposed to 3396(c),  
11 regarding water; 3396(f), emergency response; and other  
12 provisions.

13 We do remain concerned about the feasibility for  
14 small employers -- particularly those who don't control the  
15 physical structure their business is in if you rent space.  
16 As a restaurant -- places like that -- to create the  
17 required cool down zones under Section 3396(d). We also  
18 have concerns with the functionality of the de minimis  
19 exposure language that's been worked on in the last couple  
20 revisions and remain concern about the feasibility and  
21 approachability of the temperature measurement  
22 requirements particularly for smaller employers.

23 On the point of Narcan -- which was just discussed  
24 by my colleague -- I do want to flag we do have some concerns  
25 about Narcan in all first aid kits. We have worked with

1 this issue legislatively; in fact, we worked supportively  
2 with Prosal last year to include Narcan in select  
3 workplaces where it was most needed, but we have some  
4 concerns a terms putting it in every statewide first aid  
5 kit. However, we look forward to working with you all on  
6 that as that moves forward.

7 Thank you, and that's all from me.

8 CHAIRMAN ALIOTO: Thank you. Next speaker please.

9 MR. ROENSCH: Our next online commenter on Webex is  
10 Enrique Huerta with Climate Resolve.

11 CHAIRMAN ALIOTO: Mr. Huerta, are you there?

12 MR. HUERTA: Yes. Thank you Chair and Members of the  
13 Standards Board. My name is Enrique Huerta and I'm the  
14 Legislative Director here at Climate Resolve. I am  
15 speaking this morning to urge the Standards Board to  
16 please adopt the revise standard for the heat illness  
17 prevention in indoor places of employment. It is critical  
18 that that get adopted as soon as possible.

19 Not only that, but we would also urge the  
20 Standards Board to get the rule procurement process for  
21 the Department of Corrections indoor heat standard started  
22 as soon as possible as well. And, finally, we urge the  
23 Standards Board to hire more enforcement officers -- and  
24 that is the biggest way that we can ensure that these  
25 standards are implemented.

1           Again, Enrique Huerta with Climate Resolve. Here,  
2 climatologists and meteorologist are predicting an  
3 extremely hot summer for California, and we need these  
4 standards in place as soon as possible.

5           Thank you for your time, and I encourage you to  
6 vote aye on the heat illness prevention for indoor place  
7 of employment standards. Thank you.

8           CHAIRMAN ALIOTO: Thank you, Mr. Huerta.

9           Next speaker, please.

10          MR. ROENSCH: Our third public commenter from the  
11 Webex remote audience is Tim Shadix, and Mr. Shadix is  
12 with the Warehouse Worker Resource Center.

13          Mr. Shadix, please go ahead and make your  
14 comments.

15          MR. SHADIX: Thank you. Good morning, Chair and  
16 Members of the Board. Tim Shadix, I'm Legal Director with  
17 the Warehouse Worker Resource Center. We work directly  
18 with the warehouse workers in the Inland Empire. I like  
19 to comment on two matters this morning.

20          First, we also are very concerned and  
21 disappointed by the recent changes in the Board  
22 membership. The departure of Laura Stock we think is a  
23 huge loss to the Board. Anyone who's been to a Standards  
24 Board meeting has seen that she was always incredibly  
25 prepared, demonstrated the deepest expertise on this issue

1 and was relentlessly committed to the mission of the  
2 Standards Board to advance workplace safety.

3 It's completely baffling and outrageous to us that she  
4 would be dismissed from the Board. Likewise, I think  
5 Thomas was an exemplary Chair of the Board and guided the  
6 Board through a very tumultuous time with the credible grace  
7 and professionalism. We see no reason that he would be  
8 demoted from that position -- that's very concerning to us  
9 that that happened on the heels of both members being  
10 strong advocates for moving indoor heat standard at the  
11 March Standards Board meeting.

12 But regardless of the reason we're concerned about any  
13 kind of indication or message that this might mean that a  
14 change in directions of the Board from what we've seen as,  
15 again, just exemplary service from both member. That  
16 said, we of course remain committed and look forward to  
17 working with the current leadership and Members of the  
18 Board.

19 Secondly, we wanted to express our support for the  
20 indoor heat standard and urge the Board to adopt that  
21 today. This has been a long time coming. We have seen  
22 warehouse workers suffer from very serious heat exposures  
23 and heat illness. Working in incredibly difficult and  
24 dangerous conditions in indoor workplaces for decades now.  
25 This standard is long overdue and we hope that it will be

1 adopted today. And we also hope that we will hear from  
2 the agencies on a plan for an expedited process to give it  
3 some place before the usual quarterly rulemaking deadline.

4 We're well into Summer, everyday we go by without the  
5 standard in place -- risking workers getting sick and  
6 risking incredibly significant injury and illness; even  
7 death from heat. It would be a tragedy to see any more  
8 of those events happen. We hope the standard will be in  
9 place well before the end of Summer.

10 Thank you for your time.

11 \*\*

12 CHAIRMAN ALIOTO: Thank you.

13 Let's go to the next in-person speaker, please.

14 MR. MILLER: Hi. I'm Brian Miller with Rudolph and  
15 Sletten. Real quickly, I'm going to -- I have to do this  
16 every few years and now we have a new Chair for the Board  
17 -- and thank you Board Members and staff. Now we have a  
18 new Chair, I have to do this so when I make my comments  
19 they can understand and come from where they come from and  
20 how my employer reacts to our safety standards in what we  
21 are doing the State of California.

22 I'm a carpenter by trade; I did my apprenticeship  
23 in early '90s, turned out after three years -- which was  
24 quick. I joined Rudolph and Sletten in 1996 -- I've been  
25 with them for 28 years now. I started as a carpenter

1   pounding nails, placing concrete. Shortly after we came  
2   and got jobs as safety coordinator -- as a side note, this  
3   year Rudolph and Sletten celebrates its 40th year of  
4   designated job site safety coordinators with the orange  
5   hard hat. So if you walk to our job, you'll see the  
6   orange hard hat and some job have multiple hard hats. We  
7   did that so people knew who to go to if they had a safety  
8   concern or question.

9           They could go -- there's the orange hard hat, go  
10   over there. And this celebrates our 40th year of having  
11   designated jobs safety coordinators we had. Designated  
12   safety professionals way before that, but this marks the  
13   40th anniversary of that.

14           R&S fully supports me being here. We are a VPPC  
15   contractor -- we're only one of seven in this state, which  
16   is one of 13 projects that are protected by the VPPC --  
17   which is the voluntary protection program in construction.  
18   It means we open our doors to Cal/OSHA for a thorough  
19   review of our written programs and a more thorough review  
20   -- because if you have Gary McIver and your job site is  
21   going to be extremely thorough, a more thorough review of  
22   your effective and practice policy procedures in the field  
23   including management interviews and employee interviews.

24           Moreover as a VPPC to get that we have to get  
25   trade contractors through what's called the golden gate in

1 California. So we have gotten 13 projects through the  
2 VPPC in the past 13 years, that means we've put 90-110  
3 trade contractors through the golden gate process. So  
4 Rudolph and Sletten fully supports safety. And this is a  
5 side note, we are signatory with the laborers, the  
6 carpenters, cement masons and OE3s.

7           Oddly enough, I'm not here to ask for a no vote  
8 on the indoor heat standard. I think it's needed for some  
9 of the industries. I think some of these employers do not  
10 care about their employees in those environments. I've  
11 helped my in-laws -- who own a small hotdog stand in Los  
12 Gatos -- navigate through heat safety standards because  
13 they know I'm a safety professional, and they've made  
14 major improvements in their work environment for people  
15 flipping burgers and doing hotdogs.

16           What I'm asking for is that you might see a  
17 movement from the construction industry to get a variance  
18 or the process to get the construction industry exempt  
19 from 3396 because we comply with 3395. I am a member of  
20 CEA, I do work with agency members from time to time, and  
21 I have interviewed hundreds of general contractors -- and  
22 not one of them turns off the switch when we go inside the  
23 building.

24           We preach, practice, and put in place heat  
25 illness prevention standards, water, shade, high heat



1 pre-tasking at 95 degrees -- whether inside or outside  
2 because a lot of the buildings we have do not get  
3 ventilation that are 80 or 90 percent complete. And even  
4 then, it's poor ventilation because we're in balancing  
5 process, we're getting up and running and find out where a  
6 pipe might have been missed or whatever so we're always  
7 concerned about our employees heat, Acclimatization, buddy  
8 system, the partner system.

9           So if that does come to pass, we just ask that  
10 you listen to our concerns. You understand that we do  
11 care about our employees, and you understand that we are  
12 fully vetted with 3395. We love it. It works when you  
13 put it in place, I can't believe there's people who  
14 complain about 3395. It works.

15           But then the confusion might come into the play  
16 on whether indoors or outdoors -- and I know that there's  
17 that language in 3396 that define when you're indoors, but  
18 for the construction industry, if we just had one standard  
19 we've been following for a very long time to go by and not  
20 have to reeducate my crews and the crews of our trade  
21 contractors on another standard -- sorry, thank you --  
22 another standard, that would be great.

23           Thank you for your time and have a great day.

24           CHAIRMAN ALIOTO: Thank you, sir.

25           Next speaker, please. Folks, let me ask you to

1 the extent you can self regulate on the timing. If we  
2 keep it to two minutes, we'll get through everybody in the  
3 two hours. Thank you. Please.

4 MS. HEATH: Good morning Chair, Board Members, and  
5 members of the audience. My name is Nicole Heath, I am  
6 the Director of the Hazardous Materials Program at Contra  
7 Costa County Health. I would like to comment and express  
8 support on the Cal/OSHA recommendation that renewable  
9 refineries are covered by Section 5189.1 Process Safety  
10 Management for refineries.

11 Contra Costa County is one of the most  
12 industrialized counties in the state of the California.  
13 There are currently two renewable fuels facilities in our  
14 county -- the Marathon Martinez renewable fuels facility,  
15 and the Phillips 66 Rodeo renewed facility. The current  
16 state regulatory framework does not regulate renewable  
17 fuels facilities at the highest level of risk. Which means  
18 that Cal/OSHA's 5189.1 and the CalARP Program 4 rules are  
19 not applicable to these facilities.

20 This does not allow regulators the ability to  
21 inspect, implement, and enforce elements of process safety  
22 such as human factors, damaged mechanism reviews, safety  
23 culture, and management systems. Additionally, regulators  
24 are no longer afforded the authority to seek independent  
25 investigations should a major incident occur at a

1 renewable fuels facility. Speaking not only from my 20  
2 plus years of experience, but also from Contra Costa  
3 County's history of large industrial accidents in which some  
4 resulted in injuries and fatalities in the 80's and 90's  
5 and was the impetus for our industrial safety ordinates,  
6 or ISO.

7 Increased process safety regulations make a  
8 difference, as does more regulatory oversight. The ISO is  
9 structured to make no distinction between petroleum and  
10 renewable refineries thus allowing Contra Costa County  
11 Health to regulate these facilities to the same standards  
12 as petroleum refineries. We share in Cal/OSHA's opinion  
13 that the risk from a renewable refinery is no different  
14 than that from a petroleum refinery.

15 On November 19th, 2023, in Contra Costa County,  
16 the Marathon renewable fuel facility had a fire at the 2  
17 HDO Unit which resulted in significant injury to Jerome  
18 Serrano and impacted his family. The Contra Costa County  
19 Board of Supervisors and Contra Costa Health are concerned  
20 about the safe operation of this renewable fuels refinery;  
21 especially in regards to safety culture and management  
22 system review under the authority of our ISO -- something  
23 that state regulatory framework does not currently allow  
24 other implementing agencies.

25 Contra Costa County Health advocates for and

1 supports changes to existing state regulations to provide  
2 consistency in California for process safety regulation,  
3 oversight, and accountability. It is our belief that the  
4 highest risk facilities should be held to the highest of  
5 standards to ensure safe operation and result in  
6 protections to public health, the community, the  
7 environment, and workers.

8 Thank you.

9 CHAIRMAN ALIOTO: Thank you.

10 Next speaker, please.

11 MS. CLEARY: Good morning Board Members, Chair Alioto,  
12 and staff. My name is Helen Cleary and I'm the Director  
13 of PRR/OSH Forum. We're commenting today on two items,  
14 the indoor heat rule and Petition 602 -- and I'll do my  
15 best to keep it brief.

16 First on indoor heat. PRR recommended the  
17 exception of 95 degrees and we were pleased to see that it  
18 was proposed. We believe it's practical, it aligns with  
19 the outdoor high heat trigger, and, most importantly, it's  
20 protective. It follows the same scientific logic as  
21 NIOSH's work/rest schedule when working in hot environments.

22 Our biggest concerns with the rule apply to three  
23 types situations:

24 One, workers already protected under the outdoor  
25 standard, but access storage sheds that meet the

1 definition of indoor; two, office workers who work inside  
2 buildings with functioning HVAC systems; and, three,  
3 workers who may grab supplies from outdoor storage shed  
4 that can't be temperature controlled, or it just shouldn't  
5 be temperature controlled.

6 The final statement of reasons -- and the Board  
7 responded to PRR's concerns with a couple following  
8 statements that I'm going to quote so you understand where  
9 I'm going with this.

10 "Any building with effective and functioning HVAC  
11 systems that maintain temperature below 82 degrees  
12 Fahrenheit will be outside the scope of the proposed  
13 regulation. If the HVAC system malfunctions, it will be  
14 covered by Sections 3328 and 5142."

15 Second,

16 "Workers momentarily accessing storage units to  
17 obtain supplies or a tool would not have sufficient  
18 exposure to high heat to be exposed to the hazard of heat  
19 illness."

20 And, finally, the final statement of reasons  
21 states.

22 "Momentary exposures that pose no risk are not  
23 covered by this proposal pursuant subsections (a)(4) which  
24 states the proposed regulation only applies to the control  
25 of heat illness risk."

1           So putting all of these together, we are  
2 cautiously optimistic that heat illness prevention  
3 programs including the detailed training simply because  
4 the HVAC may malfunction, or a few workers may quickly  
5 grab supplies from an outdoor storage shed is not  
6 required. To be sure and to ease some concern from, you  
7 know, PRR members and I think some other stakeholders in  
8 the community, we ask the Board prior to adopting the  
9 standard today to confirm with the Division that this is  
10 indeed the intent, and how the standard should be applied,  
11 and how it will be enforced.

12           We'd also like to understand how the issue of  
13 shipping containers used in construction will be addressed  
14 as requested months ago by stakeholders and a few Board  
15 Members. Finally, the final text doesn't address all of  
16 our issues or concerns, but positive changes were made and  
17 we absolutely appreciate the effort by the Division and  
18 the Board to listen to PRR feedback on this important  
19 rulemaking.

20           Okay. Second. Regarding Petition 602 from the  
21 National Safety Council. PRR submitted a letter to Board  
22 Members that details of our perspective and concern, we  
23 hope you had time to review it. So I'll be sure not to go  
24 into great detail on that today. But we will say that PRR  
25 recognizes the importance of addressing opioid overdose

1 emergencies promptly and we support a holistic approach to  
2 managing the opioid crisis in California including the  
3 significant role that employers play in substance abuse  
4 and overdose prevention.

5           However, we don't believe that it is  
6 appropriate to address this community public health issue  
7 in a Title 8, Occupational Safety and Health Regulation.  
8 We're also concerned about the additional risk to workers  
9 who medically administer opioid antagonist, including  
10 exposure to unsafe conditions and workplace violence,  
11 bloodborne pathogens, and infectious diseases. We  
12 respectfully ask the Board to pause, objectively evaluate  
13 the recommended petition decision and defer to  
14 alternatives outside the scope and responsibility of the  
15 Board.

16       So thank you for your consideration of our comments on  
17 602 and for your support in getting some answers from the  
18 Division on our indoor heat questions. Thank you.

19       CHAIRMAN ALIOTO: Thank you.

20           John, can we go to online, please.

21       MR. ROENSCH: Yes. We have two remaining online  
22 public commenters and the first of which is Colleen  
23 Koperek, and the second will be Keith Umemoto.

24           Ms. Koperek, please go ahead and make your  
25 comments. And Ms. Koperek is with ROC United.

1 MS. KOPEREK: Hi. Thanks for having me. My name is  
2 Colleen. I'm an organizer and advocate for restaurant  
3 workers at ROC United, a restaurant workers' center, and  
4 I'm a former pastry chef and line cook.

5 There's a saying if you can't stand the heat, get  
6 out of the kitchen. I had to. At my last job as a pastry  
7 chef, I suffered from heat illness due to extreme indoor  
8 heat. I was dry heaving in between taking rounds of  
9 pastries out of the oven, and I had to quit; effectively  
10 ending my career. And while it pushed me to become an  
11 organizer, I did love my craft, even if the working  
12 conditions didn't love me back.

13 Restaurant workers, especially back-of-house  
14 workers -- which I was for 12 years -- are exposed to  
15 extreme indoor heat daily, and it's not just seasonal.  
16 No worker should have to risk their health for their job.  
17 As an advocate for restaurant workers, I must implore you  
18 to enact protections for indoor workers and to enforce  
19 these standards.

20 There're so many greedy restaurant owners who feel they  
21 can justify not fixing the air conditioning, not providing  
22 water or breaks, and treating their employees as  
23 expendable -- we are not expendable. All workers deserve  
24 a healthy and safe workplace. And you'll have the unique  
25 opportunity to create that healthy and safe workplace



1 today.

2 Also, Dave and Laura, thank you so much for speaking up  
3 for restaurant workers and workers in general. And to  
4 those who made the decision to retaliate against them,  
5 think of the awful precedent you are setting. Your  
6 organization encourages workers to speak up and, yet, you  
7 punish your own for doing so. So many workers --  
8 especially our undocumented back-of-house comrades -- do  
9 not feel supported speaking up, and Cal/OSHA leadership is  
10 effectively saying don't; do better.

11 Pass that indoor heat standard now. Thank you.

12 CHAIRMAN ALIOTO: Thank you. One more speaker.

13 MR. ROENSCH: Actually, it looks like we have a couple  
14 here. So they can add in during the session.

15 The next public commenter is Keith Umemoto, and  
16 Mr. Umemoto is with the California Alliance for Retired  
17 Americans. Mr. Umemoto, if you're with us on Webex,  
18 please make your comments.

19 CHAIRMAN ALIOTO: Mr. Umemoto.

20 John, can we go to the next one until he can come  
21 back.

22 MR. ROENSCH: Yeah. We have an additional two public  
23 commenters. I'm not sure if they're in the room or they  
24 may be online. We have them as Elmer Lizardi, and also  
25 Nohemi with ROC LA. So let me start with Mr. Lizardi.

1 Elmer Lizardi with the --

2 CHAIRMAN ALIOTO: Could you hold one one moment sir?  
3 We're gonna go online and see if we can wrap that up.  
4 Mr. Lizardi is here with us present.

5 MR. ROENSCH: Very good. Alright. Let me move to the  
6 next commenter then. That's Nohemi with ROC LA, which is  
7 a restaurant opportunity center.

8 MS. WOODS: Hi. My name Nohemi Woods. I am the  
9 Restaurant Opportunity Center in our LA Chapter. I am  
10 also advocating to pass indoor heat standards, and I'm  
11 advocating for workers because I work for worker center  
12 and I have been a bartender having to bar tend through the  
13 heat in LA. But, also, I'm advocating for our guests that  
14 come in.

15 Last summer, when I worked at a restaurant in West  
16 Hollywood, I had one of my guest pass out and hurt their  
17 head from the heat. And as someone witnessing it, it was  
18 really traumatic and scary to see that happen in front of  
19 me. And as a guest that goes out and enjoys supporting our  
20 local business, I don't want to have to worry about that  
21 when I'm out trying to enjoy life.

22 So the logical here thing is for everyone's  
23 safety to pass indoor heat protections, and make sure that  
24 we're protecting our workers and also ourselves and our  
25 communities as guests in these businesses. Thank you.

1 CHAIRMAN ALIOTO: Thank you.

2 Did Mr. Umemoto, are you available on the online?  
3 You can either un- mute your computer or hit star six if  
4 you're on the phone.

5 All right. John, are there any others?

6 MR. ROENSCH: At this time, we have no additional  
7 online commenters.

8 CHAIRMAN ALIOTO: Okay. Mr. Lizardi, are you ready?  
9 Thank you, sir.

10 MS. LIZARDI: Good morning, Chair Alioto, and Members  
11 of the Board. Thank you for allowing me to speak. Elmer  
12 Lizardi on behalf of the California Labor Federation. The  
13 California Labor Federation stands with indoor workers and  
14 strongly supports the proposed indoor heat standard.

15 First, I want to thank the Board and everyone  
16 involve for the work to finally bring this standard  
17 forward. We want to give a special thank you to the Board  
18 for its action during the March Board meeting to vote in  
19 favor of this standard. And, obviously, we want to urge  
20 you all to, once again, do that to the updated standard  
21 today. Now that summer has arrived and the temperatures  
22 are already high, I do not think that the urgency with  
23 which California requires the standard to be approved now  
24 can be overstated.

25 Indoor workers in every industry from

1 warehouses to schools and restaurant kitchens and every  
2 workplace in between, they're all depending on the Board  
3 now to finally get the protections that they need for a  
4 safer workplace.

5 The proposed and updated standard includes basic  
6 guidelines that will help protect workers, and as I've  
7 stated in previous Board Meetings, there are simple and  
8 effective ways to keep workers safe and obviously prevent  
9 future tragedies.

10 Again, just to be brief, we want to thank the Board for  
11 it's diligent work on this and their commitment to  
12 protecting indoor workers now and in the future, and we  
13 hope to see positive progress in the form of your votes  
14 today.

15 Thank you so much.

16 CHAIRMAN ALIOTO: Thank you.

17 Next speaker, please.

18 MR. SONNENFELD: Good morning, thank you for the  
19 opportunity to speak. My name is Josh Sonnenfeld, and I'm  
20 with Blue Green Alliance. We're a national coalition of  
21 14 labor unions and environmental organizations  
22 collectively representing millions of Californians,  
23 community members, workers here in California and across  
24 the country.

25 I'm here in strong support of Petition 601 to

1 include renewable fuel production in 5189.1. Blue Green  
2 Alliance works closely involved in promoting the process  
3 safety management regulation after the 2012 Chevron  
4 Richmond Refinery fire along with the coalition of  
5 workers, community health, environmental and environmental  
6 justice organizations. I think we all remember that fire  
7 back in 2012; it was severely -- it was an incident that  
8 severely threatened many workers and sent 15,000 community  
9 members to the hospital or to seek medical care.

10 And it was really a wake up call for us here in  
11 California about the need to improve refinery safety. This  
12 was a ground breaking policy that has since become a  
13 national model. Many of us were involved in actually  
14 spreading this model to Washington state earlier this  
15 year, which we are excited for them to adopt; and they're  
16 looking to California for our leadership.

17 Keeping refineries safe is critical for the tens  
18 and thousands of workers across the State of California  
19 that work in the refineries, and the millions of community  
20 members who live in close proximity to the refineries  
21 across the state. I live in Concord. My in-laws are  
22 less than half a mile from the Marathon Martinez Refinery  
23 where we unfortunately experienced this incident recently.

24 As we transition to lower carbon fuels, it's  
25 essential that we do not erode our safety standards that

1 we have collectively worked for decades to establish.  
2 Incorporating renewable fuels into 5189.1 is a straight  
3 forward action that we urge the Standards Board to  
4 implement as soon as possible so that we can move swiftly  
5 to minimize the risk of potential future catastrophes like  
6 that which occurred with Jerome Serrano and his family --  
7 that his family so regrettably experienced recently.

8           So thank you for the opportunity to hear my  
9 comment.

10           CHAIRMAN ALIOTO: Thank you, Mr. Sonnenfeld.

11           Good morning.

12           MR. PLURKOWSKI: Good morning, Chair Alioto, and the  
13 Board. I'm Nick Plurkowski, President of United  
14 Steelworkers, Local 5. I represent about a little over a  
15 thousand members at Local 5, and I wanted to talk about  
16 process safety management for a second.

17           Process safety management is when you're at work  
18 and you're walking by something, and it blows up. It's not  
19 a slip, trip, and fall or anything like that. Why do these  
20 things blow up? There's usually a lot of different stuff  
21 that comes into that. And the 1992 5189 Reg, you know,  
22 put a lot of stuff forward for what you can do to help  
23 prevent that; and there's a lot of trust that has to go  
24 into that as well.

25           What the 2017 5189.1 Reg does is it brings in the

1 trust, but verify. It brings the workers in within  
2 industry and the regulators as Nicole mentioned, and  
3 everybody gets together and they find all these things  
4 that can add up to something like that, that can lead to  
5 an explosion and a fire and a brother being burned over 90  
6 percent of his body.

7 So I would ask that you support the  
8 recommendation to eliminate the word "Petroleum" and  
9 protect our workers from having something like this happen  
10 again. Thank you for your time.

11 CHAIRMAN ALIOTO: Thank you.

12 MR. SMITH: Good morning, Chair and Board Members.  
13 Thank you for the opportunity to speak. My name is Mike  
14 Smith, I'm the Chair of the United Steelworkers National  
15 Oil Bargaining Program. In the US, we represent about  
16 30,000 oil workers including thousands here in the state.  
17 I'll keep it short because I'm not sure how much more  
18 impact fuel I can be than Tracy and the family statement  
19 earlier.

20 But 5189.1 is what we've described as the gold  
21 standard. We spent the last five years training our  
22 members across the US trying to push states to actually do  
23 the right thing, and the industry as well. We've been  
24 successful in Washington, and we're currently pushing in  
25 other states as well. As the state transitions, though,

1 it's imperative that the regulations don't fail the  
2 workers inside the plant.

3 The state's energy transition is leading to  
4 transition of our facilities; therefore, the safety reg  
5 seem to be eroding. So I urge you to make the quick  
6 change -- the quick passage to ensure that there's no gap  
7 in those safety protections for the workers at these  
8 facilities. Thank you very much.

9 CHAIRMAN ALIOTO: Thank you, Mr. Smith.

10 Good morning.

11 MS. WILSON: Good morning. My name is Veronica  
12 Wilson. I will also try to be quick. I grew up a couple  
13 of miles from an oil refinery and I'm here in support of  
14 applying California's refinery safety section 5189.1 to  
15 renewable refinery process safety management. We know  
16 from the Chevron Refinery fire in Richmond in 2012  
17 refineries are dangerous places to work and are dangerous  
18 for communities.

19 The recent incident in Martinez Marathon is noted  
20 in Petition 601 by United Steelworkers leaders and by  
21 family and coworkers of Jerome Serrano. It's imperative  
22 that the Board adopt staff recommendations knowing that  
23 petroleum and renewable feedstocks are processed into  
24 highly flammable materials like gasoline, jet fuel,  
25 diesel, and other industrial chemicals.



1           The incident in November '23 was preventable.  
2 I struggled to comprehend why Jerome Serrano has to be  
3 fighting for his life. We urge the Board to cover  
4 renewable refineries under 5189.1 to create safer  
5 conditions for workers and communities.

6           I'd also like to comment on indoor heat rule as well.  
7 I'm supporting that the Board adopt the strongest indoor  
8 heat standards possible and enforce those indoor heat  
9 standards. I'm concerned about people working in  
10 childcare; and education; and safe conditions for workers  
11 and students. Indoor heat is a concern anywhere the air  
12 conditioning is lacking.

13           One example, Alison, a home based family childcare  
14 provider shared with me that when her power is out during  
15 extreme heat, she's unable to maintain a viable  
16 temperature for children to learn, and there's a risk to  
17 her business shutting down on hot days. Many California  
18 buildings lack air conditioning.

19           This is especially a problem at schools. Only 15  
20 percent statewide beat industry standards for annual  
21 facilities spending, including upkeep and renewal. As a  
22 former teacher at LA Unified, I know this well. According  
23 to a 2020 study of 104 schools, 20 percent of schools  
24 experienced temperatures in excess of 78 degrees for more  
25 than 20 percent of the school day, despite having new HVAC

1 system units. I don't know what the temperature is in  
2 here today, but it feels like it's less than 78 degrees.

3 Indoor heat problems are due to improperly selected  
4 equipment lack of commissioning and maintenance, and we  
5 know that adopting stronger standards will create jobs,  
6 protect childcare givers, teachers, and students and  
7 children.

8 Among many others, please adopt the strongest indoor  
9 heat standards. Thank you, and I appreciate your time and  
10 consideration.

11 CHAIRMAN ALIOTO: Thank you, Ms. Wilson.

12 John, do we have any more online speakers?

13 MR. ROENSCH: Thank you for asking. Yes, we do. We  
14 do have a few additional public comment request from our  
15 online audience. First of which is Arielle, and she's  
16 with the California Nurses Association.

17 Arielle, please try to make your comments if you  
18 can un-mute your microphone.

19 MS. HERNANDEZ: Good morning. Arielle Hernandez,  
20 Regulatory Policy Specialist with the California Nurses  
21 Association. CNA represents more than a 100,000 members  
22 who work as registered nurses. CNA continues to support  
23 Cal/OSHA's adoption of an indoor heat standard. We align  
24 our comments with the California Labor Federation,  
25 Worksafe, Warehouse Workers Resources Center, and others.

1           Our members see the drastic impacts on workers  
2 when they need medical care to the heat related illness or  
3 other injuries that happen at work as a result of their  
4 employers failure to protect them. Nurses know that safe  
5 workplaces are essential to their patients' health and  
6 that the Cal/OSHA Standards Board has the power to protect  
7 workers by issuing a protective standard on indoor heat.

8           The standard would provide basic protections for  
9 workers to prevent heat illness through reasonable  
10 measures that are particularly critical in workplaces  
11 where ventilation systems are poorly maintained. These  
12 measures are particularly important for nurses who may be  
13 impacted when employers fail to maintain ventilation  
14 systems that can handle high outdoor temperatures as well  
15 as the high temperatures in burn units.

16           While we support the indoor heat standard  
17 overall, we are deeply concerned about the exclusion of  
18 corrections facilities from the standard today. This  
19 exclusion means that a number of CNA nurse members who  
20 work to treat and provide humane care to incarcerated  
21 people throughout the state will not have the same  
22 protections as other workers in the state; and as a  
23 result, their health may be placed at risk as temperatures  
24 rise in the coming months.

25           We support and continue to urge the Standards

1 Board and the Division to expeditiously work on extending  
2 the standard to corrections facilities. In closing, the  
3 Standards Board should not delay issuance of a strong and  
4 effective standard. The delay will only put more workers  
5 at risk of heat related illness, work related injuries,  
6 and death. Thank you.

7 CHAIRMAN ALIOTO: Thank you.

8 Next online speaker, please.

9 MR. ROENSCH: Next online speaker is Meghan Stanczak,  
10 and she's with UFCW5.

11 Go ahead, Ms. Stanczak.

12 MS. STANCZAK: Good day, Chair, Members of the Board.  
13 My name is Meghan Stanczak. I'm here in strong support of  
14 the indoor heat standard proposal. I am a worker's  
15 coordinator with United Food and Commercial Workers, Local  
16 5, with 16 years in the grocery industry. I have been in  
17 situations with coworkers that proposed indoor heat  
18 standard -- will have an immense impact on my personal  
19 health and the safety and will make sure that my coworkers  
20 and I are protected from the dangers of high heat;  
21 especially during the summer since temperatures have been  
22 increasing.

23 Indoor heat is a real concern with broken AC and  
24 no fans in the break room, where we are expected to cool  
25 down from our varied jobs across the sales floor.

1 The air conditioner does not work in our break room and  
2 even with the concerns being raised with management, we  
3 are not seeing any follow through. Working on the sales  
4 floor, it's also hot from the doors opening and closing  
5 with each customer coming in and out, with no location to  
6 cool down during our breaks or lunch is problematic.

7 In addition, seeing my union siblings phase AC not  
8 working on the sales floor in heartbreaking 90 degree heat  
9 in a Rite Aid in my local area, being forced to work eight  
10 hour shifts with the standards just 10 minute breaks, and  
11 30 minute meal breaks is not enough to keep cool. They're  
12 told to keep working through days of heat, and there's no  
13 fix in sight for them for days. Where are they supposed to  
14 be able to cool down?

15 With no additional options to keep cool offered, some  
16 workers had to take leave and loss of hours and pay. The  
17 impact is not just with the workers with the heat related  
18 illness, but with products in-store that the company  
19 continues to sell even though we do not think it is safe  
20 to sell -- including medications and foods.

21 This heat standard will help us mitigate hazardous  
22 workplace conditions so that we can do our jobs safely  
23 without fear of being injured or getting sick because of  
24 high heat. We simply want to make sure that we have a  
25 right to cool down in areas and drink plenty of cold

1 water. When temperatures rise, we need to do our jobs.  
2 And I want to say thank you for listening to my testimony,  
3 and please remember to think of me when you take your vote  
4 today.

5 CHAIRMAN ALIOTO: Thank you, ma'am.

6 Do we have one more speaker?

7 MR. ROENSCH: We don't have any additional parties.  
8 However, if I may, I'd like to circle back to Mr. Umemoto.  
9 He had both called us and also registered online. So we  
10 don't see him in the Webex participant queue, but he may  
11 be calling in by telephone.

12 CHAIRMAN ALIOTO: Okay.

13 MR. ROENSCH: So Mr. Umemoto is with the California  
14 Alliance for Retired Americans.

15 Mr. Umemoto, if you're online with us today,  
16 whether on Webex or telephone, please submit your  
17 comments. And if you're on by telephone, pressing "star"  
18 "six" can help you to unmute and address the Board.

19 CHAIRMAN ALIOTO: Mr. Umemoto?

20 All right. We'll circle back at the end when  
21 we're finished up here.

22 Okay. Thank you for waiting. Next speaker,  
23 please.

24 MR. WICK: Oh, John. Thank you.

25 Chair Alioto, Board Members, Bruce Wick, Housing

1 Contractors California.

2 Thank you for the opportunity. I have two things  
3 to talk about. One, I want to express my encouragement  
4 and appreciation for your responses on the residential  
5 fall protection that you gave to our testimony in April.  
6 And I want to thank Amalia Neidhardt and your staff for  
7 working hard with us to try and resolve the issues. And  
8 also Eric Berg and Division staff. We're all working  
9 together.

10 We believe we can come to a place comports with  
11 federal OSHA without compromising the safety of our  
12 California carpenters. It's really important. It's hard  
13 work to get there. Appreciate your staff and Division  
14 staff working with us. So thank you.

15 Second point, I would like to make a couple  
16 comments about the indoor heat illness prevention. There  
17 has been, as you are all aware, criticisms leveled at you  
18 and workers and worker advocates over what's happened the  
19 last couple months about indoor heat. In my opinion,  
20 those criticisms are unfair and misplaced. You should  
21 never have been put in that position, nor should they.

22 The problem with indoor heat illness, somebody  
23 made decisions. I was at the first meeting in  
24 February 2017 where it was expressed "we're going to cover  
25 everybody with this regulation." In other words, we're

1 going to delay protection for warehouse workers,  
2 restaurant works, and those who have a higher level of  
3 exposure to cover everybody. That was wrong. I expressed  
4 my opposition then; I've expressed it since; and I express  
5 it today. That was a wrong decision.

6 It was also clear that Division was going to  
7 conduct their regulatory process at an arm's length.  
8 Instead of sitting around a table with the stakeholders  
9 and getting to what's needed.

10 You are likely going to vote on indoor heat  
11 illness prevention today. This is version 11 and it's  
12 still not right. It still has problems. That's the  
13 problem when you do it at an arm's length. You delay it  
14 and you have a hard time getting it right. Because you  
15 fix one person's comments and that creates problems for  
16 some other stakeholder.

17 So, please, we need to change that philosophy,  
18 whoever's making those decisions at the Division's level.  
19 We need to focus our regulations on those who have the  
20 serious exposure first. We should have done that and then  
21 we would have covered warehouse workers in those at that  
22 level five years ago. And then we would have talked about  
23 who else needs to be covered for what? For indoor heat  
24 illness.

25 That's the way we should do it. We should do the



1 roundtable so that whatever we do, we get it done timely  
2 and correctly.

3           So I'm sorry for the criticisms level that you --  
4 and for those who express themselves at the meeting at San  
5 Diego. That's unfair.

6           Thank you.

7           CHAIRMAN ALIOTO: Thank you, Mr. Wick.

8           Next speaker, please.

9           Let me ask that every folks that remain, please  
10 try to limit your time to two minutes, and we'll see if we  
11 can wrap up in about ten minutes here. Thank you.

12           MS. BRIEGER: All right. Good morning, Chair and Board  
13 Members. My name is Tracey Brieger and I'm the  
14 deputy director of Jobs With Justice  
15 San Francisco, an alliance of thirty unions and community  
16 groups fighting for workers rights statewide.

17           I'm here to talk quickly about to issues. First,  
18 I urge you to pass the indoor heat standard. It's only  
19 mid June and we're already experiencing dangerous extreme  
20 heat. With a long, hot summer in sight, indoor workers  
21 need protections now with no further delays.

22           A custodian we interviewed named Usevio  
23 (phonetic) -- I'll just use his first name -- Usevio and  
24 his coworkers walk miles per day at work, sometimes in  
25 buildings with broken or no elevators. The amount and

1 speed of work that employers want done has caused him  
2 profuse sweat and headaches. He said, quote, "You have  
3 people who are pretty much headed towards retirement  
4 climbing up and down stairs in the heat, carrying  
5 equipment, bending and stooping repeatedly. If clientele  
6 are coming in, they want us to run in that heat."

7 Since Usevio was in contact with feces and urine  
8 during his job, his hands may be contaminated. So he  
9 can't always safely drink water, even though he always  
10 carries a water bottle.

11 We've also talked to school custodians in the  
12 Central Valley where, as soon as students leave for the  
13 summer, the schools turn air conditioning off, leaving  
14 custodians working inside during the hottest months of the  
15 year.

16 California workers, like you said, are in need of  
17 strong indoor heat standard. They need it now. I urge  
18 you to adopt the standard today.

19 I also urge you to adopt, strongly, United Steel  
20 Worker Local 5's petition number 601 to eliminate the  
21 double-standard that currently allows renewable fuel  
22 refineries to be more dangerous for workers and  
23 surrounding communities than petroleum refineries.

24 After the 2012 Chevron refinery fire, it took  
25 15,000 people being sent to the hospital than five years to

1 strengthen refinery safety standards. California adopted  
2 those standards because we know that refineries of all  
3 kinds can cause serious injury to workers and surrounding  
4 communities. Jerome Serrano should not be fighting for  
5 his life right now.

6 If you don't close the loop hole that exempts  
7 renewable fuel refineries from safety standards, the next  
8 incident won't be an accident, it will be a predictable  
9 and preventable tragedy. I urge you to adopt Petition  
10 601.

11 Thank you.

12 CHAIRMAN ALIOTO: Thank you.

13 Good morning.

14 MS. KATTEN: Good morning.

15 Good morning. I'm Anne Katten from California  
16 Rule Legal Assistance Foundation. And good morning,  
17 Chair Alioto, Board Members, Board staff, and  
18 Division staff.

19 We are urge you to vote to adopt the proposed  
20 indoor heat illness prevention regulation today, a  
21 specific indoor heat illness regulation is long overdue  
22 and urgently needed to prevent debilitating heat illness,  
23 heat-related injuries and fatalities impacting houses,  
24 group houses, warehouses, and other indoor facilities as  
25 we head into, again, another summer where record-breaking

1 heat is expected.

2 During rulemaking, both in stakeholder meetings  
3 and after the official proposal was made, many revisions  
4 have been made to the proposed regulation to address  
5 concerns, some of worker groups and many other employer  
6 groups.

7 Unfortunately, the bulk of these revisions have  
8 weakened protections for workers, but we still conclude on  
9 balance that the regulation will provide much needed  
10 protection and urge you to support it.

11 We are, however, very concerned about the  
12 exemption of correctional facilities from this regulation  
13 because staff, including incarcerated workers, in these  
14 facilities also urgently need heat protection. And we  
15 urge the Board and the Division to work quickly to draft  
16 and adopt a regulation to protect these workers.

17 And in closing, we want to express our  
18 appreciation to Dave Thomas for many years of strong  
19 leadership on the Board, especially during the COVID  
20 epidemic. And our great appreciation also for  
21 Laura Stock's twelve years of outstanding work and  
22 expertise, scrutiny, and passion for work health and  
23 safety that she always brought to these proceedings.

24 Laura's term should have been renewed, not  
25 rescinded. That was the direction that should have been

1 taken. Thank you.

2 CHAIRMAN ALIOTO: Thank you, Ms. Katten.

3 MR. STEIGER: Good morning. Mitch Steiger with CFT,  
4 a union of educators and classified professionals

5 Thank you, Mr. Chair, Members, and staff. We  
6 appreciate the opportunity to testify today.

7 Regarding indoor heat, this is a hazard that  
8 affects many, if not most of our members. We represent  
9 not just teachers but also classified workers, those who  
10 are in kitchens and boiler rooms and storage and  
11 maintenance sheds where, especially in the Central Valley  
12 and southern areas of the state, it gets really, really  
13 hot.

14 And right now they don't have a lot there to  
15 protect them. They don't have many options when it get's  
16 too out of control. And there are many negative effects  
17 to our members, many to our students, and it is definitely  
18 time to do something about it.

19 It's hard to believe that it might actually pass  
20 today. I'd be lying if I said I wasn't expecting my phone  
21 to buzz at any second with some announcement that it's  
22 actually not going to happen. Just kidding. It's been  
23 delayed again. But hopefully I'm just being paranoid, it  
24 actually does get approved today.

25 We've been working on it for a very long time.

1 It's also hard to believe that it's been seven years since  
2 that initial advisory committee in Oakland and then the  
3 one in Ontario where I tried to get Amalia to let me turn  
4 off the air conditioner. And she said no, for the record,  
5 fortunately, for everyone in the room. And I tried to  
6 find it anyway, but I couldn't. It was all locked up.

7 So we didn't get the taste of indoor heat that I  
8 was hoping we could. But we are here. We finally made  
9 it. We've got a final version of it that we really hope  
10 gets approved. And it'll make a big difference for our  
11 members.

12 Regarding the refinery proposal, we don't  
13 represent anyone in refineries, but we did want to express  
14 our sympathies to the family of brother Serrano. And he  
15 shouldn't be fighting for his life. This is what happens  
16 when employers try to save money by cutting corner on  
17 worker safety. And sometimes this Board needs to step in  
18 and do something. And today's one of those days. And we  
19 certainly hope it gets approved.

20 And we'd also like to express our appreciation to  
21 Board Member Stock and Board Member Thomas for all their  
22 work for all these years in defense of worker safety.  
23 Also very disappointed to hear about the changes and we  
24 wouldn't speculate on the reasons as to why that happened.

25 But we did just want to express our deep hope

1 that whatever the reasons were, that this doesn't in any  
2 way dampen the willingness of this Board to stand up and  
3 defend workers when necessary to say really unpopular  
4 things to invite the criticism that sometimes happens.

5 And -- because that is the only way to keep workers  
6 safe. Whenever we have one of these victories here at the  
7 Board, that is why the system by which we keep workers  
8 safe in California has a lot of issues and a lot of  
9 problems that need to be fixed.

10 But the work of this Board and specifically these  
11 Board Members has not been one of those problems. We  
12 think it's a real bright spot in this whole system. And  
13 it's because of that willingness, that willingness to be  
14 strong and be sometimes confrontational and unpopular.  
15 And we certainly hope that that continues with the new  
16 structure of the Board.

17 And thank you for your time.

18 CHAIRMAN ALIOTO: Mr. Steiger, I have a quick question  
19 for you. I'm sorry. I don't mean to step on your  
20 comments. There was a comment earlier about them turning  
21 the air conditioning off for some of the janitorial staff.  
22 Have any of your members complained to you, or are you  
23 aware of that happening with any of your members?

24 MR. STEIGER: Well, we haven't heard of there being  
25 functioning air conditioning that's been turned off. The

1 main thing that I've heard of is that it just doesn't work  
2 very well and it doesn't keep the temperature down where  
3 it needs to be. And that even when it is on, it doesn't  
4 do what it should, in terms of keeping the temperature  
5 down low enough. But -- so it's a real mixed bag out  
6 there. But we have heard, from a lot of our members, that  
7 it is a real problem, one form or another.

8 CHAIRMAN ALIOTO: Thank you.

9 Next speaker, please.

10 MR. REBECCHI: Hello. My name is Mateo Rebecchi. I'm  
11 here today representing California Labor for Common Jobs,  
12 which is a statewide coalition of over sixteen different  
13 unions focusing on area of climate change and adjust  
14 transition off of fossil fuels.

15 One of the things that we really focus on is  
16 minimizing climate hazards in the workplace. Today I'm  
17 speaking on indoor heat standards.

18 So although outdoor workers are exposed to the  
19 elements, there's a growing recognition that extreme heat  
20 impacts indoor workers as well. This is especially true  
21 for those workers in hot environments or facilities where  
22 air conditioning is unavailable or inadequate.

23 This came up in a recent focus group that we  
24 conducted with food packing workers on how climate change  
25 impacts them in the workplace. Kadita (phonetic), a food



1 packing worker, shared the following story with us:

2           The heat is very excessive in packaging. In  
3 fact, from the time that I arrive at work at 7:30 until  
4 the time that I leave at 4:30, 5:00, or 6:00, I sweat,  
5 sweat, and sweat. It's the headaches. I feel so  
6 horrible, horribly desperate that once I even felt like  
7 running out of -- running out of there.

8           Sometimes when it's really hot I leave work with  
9 a headache and horrible stress because it's too much. The  
10 heat is too much. I feel that the stress and -- I feel  
11 the stress in my back and my neck. Sometimes, once, I  
12 felt that my vein began to throb very hard and I felt as  
13 if I was about to pass out.

14           Hilda, another food packing worker in the focus  
15 group, shared that in the kitchen department, where pasta  
16 and sauces are cooked, the temperatures are sometimes as  
17 high as 120 degrees and there is not enough ventilation to  
18 cool it down.

19           Hilda also shared, there's no place to cool off  
20 besides food processing rooms, which can be as cold as 40  
21 degrees. After a brief near freezing break, Hilda always  
22 has to go back to the extreme heat, since she always has  
23 to be there constantly for her work.

24           This is similar to experiences that a  
25 Los Angeles Times investigation documented at a Rite Aid

1 warehouse in the Inland Empire, where indoor temperatures  
2 regularly reached a 90 degrees, and they stayed there for  
3 hours. One day it was already 88 degrees indoors at 5:30  
4 a.m. And another day a worker collapsed and had to be  
5 taken to the hospital.

6 And another case where three Rite Aid workers  
7 filed OSHA complaints since 2015, but none have resulted  
8 in a penalty. Similarly, workers recorded temperatures as  
9 high as 96 degrees inside cargo planes and tractor  
10 trailers at a San Bernardino Amazon airfreight fulfilment  
11 center, and 90 degrees inside the warehouse.

12 At this time we're asking that you pass the long  
13 awaited indoor heat standard. Thank you.

14 CHAIRMAN ALIOTO: Thank you.

15 Next speaker, please.

16 MS. NICOL WRIGHT: Hi, everybody.

17 CHAIRMAN ALIOTO: Hi. Good morning.

18 MS. NICOL WRIGHT: Good morning, Chair Alioto, Board  
19 Members, staff. I'm Anastasia. Most of you know me. If  
20 you don't, hi, nice to meet you. I'm a policy manager at  
21 Worksafe. And I'd like to express  
22 Worksafe's strong support for the passage of the  
23 prevention of heat and illness injury indoor places of  
24 employment.

25 Bless you.

1           We believe that the adoption of this regulation,  
2 without further delay, as Mitch pointed out, is crucial  
3 for protecting workers from the dangers of heat-related  
4 illnesses and injuries in indoor workplaces.

5           The proposed standard is a significant step  
6 forward toward protecting workers from the oncoming high  
7 heat temperatures that California will be experiencing  
8 this summer. However, we are deeply concerned that the  
9 correction's detentions and juvenile facilities have  
10 been excluded from this standard.

11           The California Department of Correction alone  
12 employs 57,000 staff across 35 institutions. This  
13 includes correctional officers, health care professionals,  
14 and maintenance staff. These workers are at risk of heat  
15 exhaustion and dehydration due to working in often  
16 archaic, poorly ventilated buildings with little  
17 protection from temperatures. And that will only worsen  
18 in the coming years.

19           Moreover, incarcerated workers are also employees  
20 under California Labor Code, and they're subject to the  
21 same workplace safety regulation as any other employee.  
22 Excluding correction facilities from the heat standard  
23 will only exacerbate the unique challenges and hazards  
24 that this organization -- or industry faces.

25           Given the critical importance of protecting the

1 safety and well-being of incarcerated workers and  
2 correction staff -- and when I say "corrections" I'm  
3 including detention facilities and juvenile facilities.  
4 We urge that the Division take immediate action to develop  
5 a corrections-only standard to address the unique  
6 hazards faced by incarcerated workers and staff, such as  
7 the inadequate air conditioning, poor ventilation, and  
8 inadequate shade structures.

9           The Division can help ensure that incarcerated  
10 workers and staff are protected from heat illness-related  
11 injuries illnesses -- I already said that, heat illness  
12 and injuries -- by working fast to put the standard in  
13 place.

14           Thank you, all.

15           CHAIRMAN ALIOTO: Thank you, Anastasia.

16           Mr. Little, good morning.

17           MR. LITTLE: Good morning. I'll be quick.

18           All right. Good morning, Mr. Chairman and  
19 Members of the Board and Members of the Cal/OSHA staff.  
20 Thank you for the opportunity to address you.

21           I thought I was I (indiscernible) clean up. It  
22 looks like Kevin thinks he has -- might have to clean up  
23 something that I say, so I'll try to be even briefer than  
24 I thought I was going to be.

25           Couple points I would like to raise with you: It

1 is -- there's a -- something circulating in the vernacular  
2 right now. It kind of makes you go hmm. And you look at  
3 how the process unfolded around how Corrections Department  
4 activities came to be exempted from this twice-baked  
5 version of the indoor heat illness standard that you all  
6 are, apparently, going to pass today that kind of makes  
7 you say hmm, particularly from a perspective of an  
8 employer advocate who I don't know exactly because of the  
9 non-transparent nature of the process by which that all  
10 happened. We don't really know what the Corrections  
11 Department's objections were.

12 I'd be willing to hazard a guess that they were  
13 not dissimilar from the concerns that I've raised with you  
14 on many, many, many, many prior occasions in the long half  
15 life that this regulation has had.

16 I'll build on Mike Donlon's comments, if I  
17 could, that perhaps it might have made a little more sense to  
18 do a more narrowly targeted regulation narrowly targeted at  
19 industries and activities where there were real, readily  
20 identifiable hazards that could be easily addressed.

21 As it is, I'd be awfully surprised if the  
22 Corrections Department's objections didn't have to do with  
23 things like the infeasibility of engineering controls in  
24 certain situations, the vagueness of when you have to move  
25 from engineering controls that may be infeasible to

1 administrative controls to personal protective equipment  
2 because we don't really have a lot of experience with that  
3 in the outdoor heat illness standard because that's mostly  
4 about administrative controls because you really can't do  
5 anything in the way of engineering control in an outdoor  
6 employment situation.

7           For our employers who are going to have workers  
8 who are going to be moving back and forth between the  
9 applicability of those two regulations, we are going to  
10 have a lot of confusion. And by the way, I would like to  
11 thank the agency for letting us borrow David Hornung for  
12 an hour on July 16th to help me explain to our members exactly  
13 what the agency seems to expect them to do in order to implement  
14 this regulation.

15           Because I'm getting questions now that I can't  
16 answer because I don't know the answers to those  
17 questions. So as an employer advocate, one kind of  
18 wonders what it takes to get -- sometimes wonder what it  
19 takes to get heard. Evidently, the Department of  
20 Corrections figured out what it takes to get heard and got  
21 their problem, at least temporarily, taken care of.  
22 That's a bit of a source of frustration and concern.

23           I'd like to make -- offer a brief comment about  
24 Petition 602. I would like to say thank you to the agency  
25 and the Board staff for recognizing that storage of Narcan

1 for outdoor employers and trucks and other vehicles is  
2 going to be something that we're going to have to figure  
3 out a way to address. Otherwise, whatever Narcan we're  
4 including in our first-aid kits is simply not going to be  
5 effective.

6 Offer a brief comment, Stephen Knight, a few  
7 minutes ago, was right about something very important.  
8 There does not necessarily have to be a conflict between  
9 safety and profitability. A profitable business has the  
10 resources to provide a safe workplace.

11 When you have a regulation that no one can  
12 understand or implement, that equation goes out the  
13 window. And that's when there can be a conflict between  
14 profitability and safety. And that's a situation, I  
15 think, we all want to avoid. And I'm not sure we've  
16 always crossed that bar with some of the things we've done  
17 with this agency and this Board over the last few years.

18 So that's all I have to say for today. I thank  
19 you for your time and your attention.

20 CHAIRMAN ALIOTO: Thank you.

21 Mr. Bland.

22 MR. BLAND: Still morning?

23 CHAIRMAN ALIOTO: It is. Good morning.

24 MR. BLAND: Good morning, Chairman Alioto, Board  
25 Members, Board staff, Division staff.

1 I'll just be quick. I support the -- and join in  
2 the comments by Ms. Cleary, Mr. Wick, and Brian. I wasn't  
3 sure if I was going to join in him until I got up here. I  
4 had to hear it first so...

5 So we're good there. And then, also, I'd like to  
6 comment, Chair Thomas, I did not wear my navy blue shirt  
7 so you wouldn't think I was a mechanic this month. So  
8 that was for you.

9 In all seriousness, on the fall protection issue,  
10 which we've been talking about a lot, I'd like to kind of  
11 reiterate a little bit of what Mr. Wick said. Thank  
12 Amalia. We had a nice conversation on Monday, I think it  
13 was, and with Brian Denny and Eric. I can't believe I forgot  
14 Eric's name. Sorry, Eric.

15 And Eric Berg. We're hoping that with what we've  
16 been working through that we can get something that will  
17 meet our needs and quiet down the fed OSHA. I know that's  
18 yet to be seen. I hope for a fifteen-day notice with some  
19 changes I think we're working on. We're in hopes, anyway.  
20 And we made some adjustments to some of the language to  
21 try to get there.

22 And just wanted to let you know thanks. And  
23 thanks, also, my members, both the union members and  
24 others that have been up to the podium for the last few  
25 months. Appreciate you guys hearing them. And I could



1 tell you heard them. And they felt that way too.

2 So we're hopeful. We're still hopeful. I think  
3 we made some progress, which is good news. So hopefully  
4 we won't be up here next month saying, "This is not what  
5 we wanted," but we'll see.

6 The other thing, just a quick comment on the  
7 indoor heat. I wasn't going to say anything about it, but  
8 what came to mind while I'm standing here and I'm  
9 listening to this and it's kind of been a little bit of a  
10 theme is this "one size fits all."

11 It seems like every time we, as a community, and  
12 the Board, try to create this general industry reg that  
13 just applies to everyone, in the whole state, that have  
14 all these difference, we set ourselves up for failure.

15 And I'm hoping that maybe in the future, as we're  
16 looking at rulemaking, we can think about what has happened  
17 on this one and some others to try to tailor them to the  
18 more specific industries that do have hazards that need to  
19 be addressed.

20 It's going to go, one, help the working men and  
21 woman in the state that are in dire need of those  
22 protections. And it's going to make this process a lot  
23 more streamline and that also gives us a chance to get  
24 around the table -- I think it was Bruce Wick was talking  
25 about -- an advisory committee process that is more akin to

1 the way the Standards Board handles theirs, where we sit  
2 around, we go line by line, we talk about what will work  
3 and what not instead of this back and forth and it  
4 streamlines it.

5 I don't know if you noticed in the history of  
6 rulemaking here, the ones that are focused and are done  
7 in that process, we get them done relatively quick and  
8 effective. And there's not a bunch of people up here from  
9 labor or management usually saying "hey, we don't want  
10 this". They're usually up here saying "hey, we went through  
11 the advisory committee process. Were good with this, and we  
12 appreciate the time."

13 So I hope that kind of looking into the future on  
14 some of these future rulemaking, we think about that.

15 So thank you very much for your time. Appreciate  
16 it.

17 CHAIRMAN ALIOTO: Thank you.

18 Are there anymore speakers online?

19 MR. ROENSCH: Yes, Chairman Alioto. We do have an  
20 additional commenter. Norman Rogers with USW Local 675 has  
21 requested to make a comment.

22 CHAIRMAN ALIOTO: And then after Mr. Rogers, did you  
23 find Mr. Umemoto by chance?

24 MR. ROENSCH: We did not.

25 CHAIRMAN ALIOTO: Okay. Then after

1 Mr. Rogers, we will go ahead and conclude the meeting.

2 Mr. Rogers, good morning.

3 MR. ROENSCH: Mr. Rogers, please unmute your  
4 microphone. We can see you're connected to Webex.  
5 However, in order to make your comments, you'll need to  
6 unmute your microphone on your computer.

7 CHAIRMAN ALIOTO: Mr. Rogers, are you there?

8 MR. ROGERS: Yes.

9 CHAIRMAN ALIOTO: All right.

10 MR. ROGERS: Good morning.

11 CHAIRMAN ALIOTO: Hello?

12 MR. ROENSCH: Go ahead, Mr. Rogers.

13 CHAIRMAN ALIOTO: Go ahead, sir. Thank you.

14 MR. ROGERS: (Poor connection).

15 MR. ROENSCH: It looks like his connection is  
16 unstable.

17 CHAIRMAN ALIOTO: All right. Sounds like we have some  
18 technical problems with Mr. Rogers.

19 All right. Let's do this: Mr. Rogers, let me  
20 ask you to please -- unless -- can you hear me now?

21 MR. ROGERS: I can hear you, yes.

22 CHAIRMAN ALIOTO: Okay. Why don't you go ahead and  
23 speak, maybe, perhaps, without your video. Go ahead, sir.

24 MR. ROGERS: Okay. I'm giving that try. Is this any  
25 better?

1 CHAIRMAN ALIOTO: Yes. Much better. Go ahead. Thank  
2 you.

3 MR. ROGERS: Okay. All right. Sorry about that.

4 CHAIRMAN ALIOTO: No problem.

5 MR. ROGERS: I'm Norman Rogers and I'm with USW Local  
6 675 in Southern California. We are an amalgamated union,  
7 meaning we have a number of different industries under our  
8 roof. We have refining and then we have manufacturing  
9 facilities out in the Inland Empire. And so I'm here to  
10 speak both the indoor heat and to the refineries safety  
11 measure.

12 I'm on the Joint Health and Safety Committee for  
13 the refinery I work at. And our main goal is to answer  
14 the question, what are we willing to do to other people's  
15 children? And that guides us in how we proceed with  
16 things.

17 And it's with that in mind, as far as indoor heat  
18 goes, we have folks now where the ambient temperature  
19 outside is 95 degrees through the summer. This would be  
20 in the city of Rialto. And it's in the high 90s for days  
21 on end.

22 The offices are cool and air conditioned. The  
23 equipment is cooled and air conditioned, but the folks in  
24 the warehouse, while there is -- there are moves to the  
25 get the air to move, there's no cooling. And so we're

1 just moving hot air around this facilities. And it's not  
2 right.

3 And the discussion's been had about profitability  
4 of a company. One person, heat stress, heat exhaustion,  
5 falling over, hitting their head, profitability is undone.

6 So the ask is to please pass the indoor heat  
7 standard as it is. It's not perfect, but it beats what we  
8 have now. And we can always work to improve.

9 Moving on to the refinery safety piece. All the  
10 refineries in the state that are currently running run  
11 under the updated process regulations that came in 2017,  
12 5189.1. We would ask, as you've heard, that that be  
13 extended. Regardless of what the feed stock is, the  
14 processing that takes place, the product that's produced,  
15 the potential harm that comes to employees, that that  
16 language be given over to renewable fee holds as well --  
17 or excuse me -- renewable feed stocks as well.

18 And those are my comments. Thank you.

19 CHAIRMAN ALIOTO: Thank you, sir.

20 Are there any more commenters in the queue  
21 online?

22 No, there are not. There are no more commenters  
23 here.

24 At this time, if there are -- well, there are no  
25 additional comments. If anyone participated remotely was

1 unable to join the comment queue and would like to  
2 comment, please submit your comments in writing to Board  
3 staff.

4 And thank you to all. The Board appreciates all  
5 your testimony. The public hearing is adjourned and the  
6 record on this matter is closed.

7 We're going to take a 10-minute break -- let's  
8 call it a 12-minute break. If everybody could be back by  
9 12:10 and we're going to start promptly at 12:10. Thank  
10 you very much.

11 (Pause in the proceedings.)\*

12 CHAIRMAN ALIOTO: All right, folks. Thank you very  
13 much and welcome back. We will now proceed with the  
14 public hearing.

15 During the hearing we will consider the proposed  
16 changes to occupational safety and health standards that  
17 were noticed for review today.

18 The Standards Board adopts standards that, in our  
19 judgement, are enforceable, reasonable, understandable,  
20 and contribute directly to the safety and health of  
21 California employees.

22 The Board is interested in your testimony on the  
23 matter before us. Your recommendations are appreciated  
24 and will be considered before a final decision is made.

25 If you have written comments, you may read them

1 into the record, but it is not necessary to do so as long  
2 as your comments are submitted via e-mail at  
3 oshsb@dir.ca.gov by 5:00 p.m. today.

4 Board staff will ensure that they're included in  
5 the record and forward copies of your comments to each  
6 Board Member. And I assure you that your comments will be  
7 given every consideration. Please include your name and  
8 address on any written materials you submit.

9 I would also like to remind the audience that the  
10 public hearing is a form for receiving comments on the  
11 proposed regulation and not to hold public debates. While  
12 rebuttal comments may be appropriate to clarify a point,  
13 it is not appropriate to engage in arguments.

14 If you would like to comment orally today, please  
15 line up at the podium when I ask for public testimony.  
16 Please state your name and affiliation, if any, and  
17 identify what portion of the regulation you intend to  
18 address each time you speak.

19 If you're participating remotely and would like  
20 to comment, you may join the comment queue by clicking the  
21 public comment queue link in the Standards Board updates  
22 section at the top of the main page of the OSHSB website  
23 or by calling (510) 868-2730 to access the automated  
24 public comment queue voice mail. That's (510) 868-2730.

25 When public comment begins, we are once again

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

7 For commenters attending via teleconference or  
8 video conference, please listen for your name and  
9 invitation to speak. When it is your turn to address the  
10 Board, unmute yourself if you're using Webex or dial  
11 "star" "six" on your phone to unmute yourself if you are  
12 using the teleconference line.

13 After all testimony has been received and the  
14 record is closed, staff will prepare a recommendation for  
15 the Board to consider at a future business meeting.

16 At this time Ruth Ibarra will provide  
17 instructions to the Spanish speaking commenters so they  
18 are aware of the public hearing comment process for  
19 today's date public hearing.

20 Ms. Ibarra.

21 MS. IBARRA: Thank you.

22 (Spanish interpretation.)

23 CHAIRMAN ALIOTO: Thank you, Ruth.

24 All right. We will now turn to the proposal  
25 scheduled for today's public hearing. This concerns Title



1 8, General Industry Safety Orders, section 5204, related  
2 to Occupational Exposures to Respirable Crystalline Silica.

3 Mr. Berg, will you please brief the Board.

4 MR. BERG: Yes. Michael Wilson on behalf of Cal/OSHA  
5 will do the briefing for silica.

6 MR. WILSON: Good afternoon, Chair and Members. Our  
7 briefing today is called -- let me pull it up here. We're  
8 building on silica emergency temporary standard Cal/OSHA's  
9 proposed changes to section 5204 through regular  
10 rulemaking.

11 Do you have the slides?

12 Okay. Coming back.

13 Thank you.

14 Okay. So the goal of the proposed changes to  
15 section 5204 -- figuring out the navigation here, folks.  
16 Lets see.

17 CHAIRMAN ALIOTO: Mr. Roensch, is there-- are you okay?

18 MR. WILSON: I think so. Let's see how it goes.

19 The goal of our proposed changes to section 5204  
20 is to stop the silicosis epidemic. It's killing workers,  
21 permanently and severely disabling workers and destroying  
22 workers' and their families' lives.

23 As the California state health officer and  
24 director of CDPH, Dr. Tomás Aragón, noted in his letter to  
25 the Board today, "Silicosis is a devastating

1 disease but it is preventable through reduction and  
2 elimination of workplace silica dust exposure."

3 Continuing, the proposed revisions to the silica  
4 regulations under consideration by the Standards Board are  
5 a critical step in protecting vulnerable workers from  
6 hazardous exposure to respirable crystalline and silica.

7 The proposed regulation does a number of things.  
8 It extends the protections of the ETS into a permanent  
9 rule. It approves medical surveillance and exposure  
10 assessments. It improves silicosis and lung cancer  
11 reporting. And it adds new definitions and a new  
12 provision called "medical removal." And I'll describe  
13 each of those changes and we'll be happy to address any of  
14 your questions.

15 As you might recall, the structure of this  
16 regulation begins with a stone fabrication shop. If that  
17 shop is using artificial stone that contains more than .1  
18 percent silica or natural stone that contains greater than  
19 10 percent silica, that shop falls under requirements  
20 having to do with high exposure trigger tasks. And this  
21 where the ETS requirements applied and where the proposed  
22 changes to 5204 will apply.

23 If the shop is using all other stone products,  
24 then the preexisting 5204 requirements apply. So as with  
25 the ETS, the permanent rule will close loopholes for high

1 exposure trigger tasks. And you might recall that those  
2 loopholes included allowing the use of objective data, as  
3 described in 5204, to bypass the regulation in its  
4 entirety.

5           Allowing the use of objective data in lieu  
6 conducting actual air monitoring and allowing feasibility  
7 exemptions to avoid critical work or protections from RCS  
8 exposure.

9           The permanent regulation will continue all  
10 requirements for high exposure trigger tests, regardless  
11 of measured exposures or objective data obtained by the  
12 employer. The permanent regulation will continue  
13 mandating the Cal/OSHA issue and order prohibiting use  
14 when dry cutting is observed and issue OPUs for other  
15 dangerous conditions without the need to conduct air  
16 monitoring.

17           So there are a number of new definitions that are  
18 new since the ETS. The first one has to do with employee  
19 exposure. And there's a new sentence that reads "for  
20 high-exposure trigger tasks, employee exposure includes  
21 employees performing these tasks and employees working in  
22 the regulated area where the high-exposure trigger task is  
23 performed."

24           This change clarifies that employees who do not  
25 perform high exposure trigger tasks directly but work in

1 the regulated area where those tasks occur are also  
2 considered to be exposed and, therefore, need protection.

3 A second definition has to do with qualified  
4 person. And this is an individual for purposes of this  
5 section only and means a person who, by extensive  
6 instruction, knowledge, training, and experience has  
7 demonstrated their ability to effectively perform  
8 representative air monitoring and risk analysis for  
9 occupational exposure to respirable crystalline silica.

10 This new definition helps ensure that air  
11 monitoring for respirable crystalline silica is performed  
12 properly, which helps ensure the veracity of the results.  
13 Air monitoring plays a really important role in employee  
14 safety because in the proposed permanent rule the employer  
15 can avoid or modify certain requirements, such as the  
16 annual medical exam and the use of power air purifying  
17 respirators and certain medical tests, if the monitoring  
18 results show that exposures are continually below the  
19 action level, and measured every six months.

20 So the measurement of exposure is a critical sort  
21 of juncture point. And we wanted to make sure that that  
22 sampling is done properly.

23 Another definition change has to do with  
24 suspected silicosis, where we are amending the definition  
25 to read simply that if this is "an employee with clinical

1 findings suggestive of silicosis." And there are two  
2 other descriptors for suspected silicosis. But this  
3 change essentially defers to the clinician and recognizes  
4 that clinical findings suggestive of silicosis can be  
5 enough to identify a worker with suspected silicosis.

6 It's not necessary to await radiological  
7 confirmation as in the -- as we see in the strike out text  
8 in determining a suspected case. And this allows for  
9 early action to protect a worker from continued exposure  
10 and to ensure prompt medical evaluation.

11 And there's another definition for confirmed  
12 silicosis that involves an -- or includes radiological  
13 confirmation and other findings.

14 There's an addition to the definition of exposure  
15 assessment that reads, "Monitoring shall not be  
16 discontinued for high exposure trigger tasks which shall  
17 be monitored by a qualified person, as defined under  
18 subsection (b), at least every 12 months or more  
19 frequently as required in this section."

20 And, again, the addition of a qualified person  
21 helps ensure that air monitoring for RCS is performed  
22 properly. And it's a remedy to the -- what is an inherent  
23 conflict of interest, potentially, where employers are  
24 conducting their own air monitoring, which if it shows  
25 that exposures are below the action level releases them

1 from certain requirements pertaining to respiratory  
2 protection and medical surveillance.

3 This approach is similar to that of Assembly Bill  
4 3043 from Mr. Rivas, which would require that for purposes  
5 of licensing, air monitoring would have to be verified by  
6 a third party.

7 So moving on to subsection (f), methods of  
8 compliance. Under the written exposure control plan,  
9 we're clarifying here, again, that the results -- and I'm  
10 reading sort of the underlined section -- that "results of  
11 air monitoring conducted by a qualified person, as defined  
12 under subsection (b), is demonstrating the engineering  
13 controls are effective and continuously maintaining  
14 exposure levels below the action level." Again, invoking  
15 the qualified person definition.

16 Also in subsection (f), under methods of  
17 compliance, we're adding a new provision in the written  
18 exposure control plan that reads the procedures that  
19 requires, essentially, reporting on "the procedures that  
20 the employer will use to provide medical surveillance in  
21 accordance with subsection (j) and medical removal, if  
22 necessary, in accordance with subsection (k)."

23 The medical surveillance subsection has been  
24 modernized and a new medical removal requirement has been  
25 added. So it's important that these changes be reflected

1 in the employer's exposure control plan.

2 So also in methods of compliance, we just want to  
3 be clear that the high exposure trigger task protections  
4 that you're familiar with in the ETS and in the ETS  
5 adoption are all continued. Those include their required  
6 use of wet methods, without exception; properly handling  
7 all waste materials; promptly cleaning up all waste  
8 materials; not using compressed air to remove dust from  
9 clothing and surfaces; prohibiting dry sweeping; not  
10 rotating employees to reduce exposures; and not allowing  
11 employees or equipment to move through dust; and  
12 maintaining proper records.

13 Moving on to subsection (h) having to do with  
14 respiratory protection. Again, the addition here is  
15 that -- and I'll read this provision. That "if the  
16 employer demonstrates that exposures are less than the  
17 action level of 25 micrograms per cubic meter through air  
18 monitoring conducted every six months by a qualified  
19 person," that's the addition, "they can provide workers  
20 with a respirator less protective than the PAPR, with an  
21 assigned protection factor of 1,000."

22 So essentially what this does is it allows the  
23 employer to sort of step down their level of respiratory  
24 protection. And rather than using a powered air purifying  
25 respirator with an assigned protection of a factor of

1 1,000, they can -- they can use a respirator with an APF  
2 ranging from 25 to 50.

3 And so that's an important incentive for the  
4 employer to implement dust controls and keep exposure  
5 levels below the action level. Because doing so allows  
6 the employer to move to those lower levels of respiratory  
7 protection, which are less costly, they're simpler to use  
8 and to maintain. But we want to verify this with the use  
9 of a qualified person.

10 Okay. Let's see. So now, I want to move into  
11 just a couple of areas that are seeing fairly substantial  
12 changes. One is in medical surveillance, where we have  
13 added additional protections for high-exposure trigger  
14 tasks and medical removal. Which is a new subsection  
15 that's not in ETS or the previous version of 5204 or in  
16 the re-adoption.

17 So we've updated the medical surveillance  
18 subsection. And this is a key element of early detection  
19 and disease prevention because respiratory symptoms and  
20 other health effects are late indicators of silicosis.  
21 Silicosis can develop without the worker experiencing  
22 obvious symptoms, such as shortness of breath or a cough.

23 So as a result, medical surveillance exams are  
24 often able to detect silicosis at an early stage, when it  
25 may be possible to intervene and prevent further



1 progression of the disease by eliminating further exposure  
2 to RCS.

3           So under the initial medical exam provision in  
4 5204, we've added a new paragraph which reads that "for  
5 each employee exposed to a high-exposure trigger task for  
6 at least ten days each year, employers shall make  
7 available and shall inform employees of their right to an  
8 initial baseline medical examination within 30 days after  
9 initial assignment, unless the employer -- employee has  
10 received a medical examination that meets the requirement  
11 of subsection (j)(4) within the last year."

12           So requiring an initial exam for employees who  
13 perform high-exposure trigger tasks for a minimum of ten  
14 days each year is necessary because the RCS generated from  
15 artificial stone is uniquely toxic, compared to that  
16 generated from natural stone. And this establishes a  
17 baseline for further evaluation.

18           Continuing on medical surveillance. This is,  
19 again, for high-exposure trigger tasks. This pertains to  
20 periodic medical examinations. And this provision -- and  
21 I'll read it -- requires that "for each employee covered  
22 by subsection (j)(2)(A)," which is those employees  
23 performing high-exposure trigger tasks, "the employer  
24 shall make available and shall inform employees of their  
25 right to a medical examination once a year, or more

1 frequently if recommended by a healthcare provider, that  
2 meets the requirements of subsection (j)(4)."

3 Annual medical exams are necessary for these  
4 employees because of the toxicity of artificial stone --  
5 from the RCS generated from artificial stone, compared to  
6 natural stone. We're seeing that, as you know, that  
7 artificial stone silicosis is characterized by short  
8 disease latency, by rapid radiological progression,  
9 accelerated decline in lung function, and high mortality.  
10 So detecting artificial stone associated silicosis as  
11 early as possible is important for the employee's  
12 survival.

13 There's an exception to this. And that is if the  
14 exposures during high-exposure trigger tasks are below the  
15 action level, as measured by a qualified person every six  
16 months, the periodic medical exams can be performed every  
17 three years rather than every year. And this doesn't  
18 apply if the healthcare provider recommends annual exams.

19 And, again, we believe that this exception  
20 incentivizes employers to reduce or eliminate RCS  
21 exposures among employees who are performing these tasks.  
22 And it allows the employer to minimize the costs of annual  
23 medical exams, to push them off every three years. And it  
24 protects the lives and health of their employees, the goal  
25 here being exposure reduction or elimination.

1           Our set of new medical exam procedures. And I'm  
2 not going to go through each one of these. Essentially  
3 what we've done is in consulting with our colleagues at  
4 the occupational health branch at CDPH, we've updated and  
5 modernized the elements of the medical exams that are --  
6 take place both in the initial exam and in the periodic  
7 exams.

8           And what they do is they update the medical and  
9 work history requirements. They allow a chest computed  
10 tomography, or a CT scan, at the lowest possible dose to  
11 be substituted for a chest X-ray, under the direction of  
12 the healthcare provider. And they require a CT scan, as  
13 well as a lung diffusing capacity exam for carbon monoxide  
14 and a pulmonary function test for the initial and periodic  
15 exams, again, under the direction of the healthcare  
16 provider or if there is suspected silicosis or if these  
17 high-exposure trigger tasks are performed at least thirty  
18 days each year for three years.

19           So these updates are need to assist the  
20 healthcare provider in identifying early signs and  
21 symptoms of silicosis, which is the point of the medical  
22 surveillance program.

23           Again, on the -- on these medical exam  
24 procedures, there is an exception similar to the previous  
25 exception, that if the exposures among workers that are,

1 you know, exposed to high-exposure trigger tasks are below  
2 the action level, as measured by a qualified person every  
3 six months, the CT scan, the lung diffusing exam for carbon  
4 monoxide and pulmonary function tests are not required  
5 during the periodic exam unless that's overwritten by the  
6 healthcare provided.

7 So, again, we're sort of offering, in a way, a  
8 built in incentive for the employer to drive down  
9 exposures, which is the whole point here.

10 Less complicated respiratory protection, periodic  
11 medical exams every three years instead of annually, and  
12 avoiding the CT scan during those periodic exams are also  
13 built-in incentives to encourage responsible employers to  
14 move in the right direction and quickly and effectively  
15 reduce exposures.

16 Finally, under the medical surveillance program,  
17 the proposed rule requires that the employer provides  
18 additional information to the healthcare provider and,  
19 just kind of summarize these, that -- and there's a  
20 description of any high-performance -- or high-exposure  
21 trigger tasks that are performed; what respiratory  
22 protection was used, if any; contact information for  
23 previously providers; and reporting requirements for  
24 confirmed silicosis and lung cancer to the Division and to  
25 CDPH for title 17.

1           So, essentially, this is a require this final  
2 provision is reminding the healthcare provider that  
3 they're supposed to -- they're required to perform -- or  
4 to report confirmed silicosis to the Division and lung  
5 cancer cases to CDPH under title 17.

6           The reporting requirements for the employee have  
7 also been updated. The healthcare provider is required to  
8 provide the following to employees: Results of the  
9 initial and periodic exams within 14 days of obtaining  
10 them; recommended limitations to the employee on performing  
11 high-exposure trigger tasks; the findings of the chest CT  
12 exam, lung diffusing exam, and pulmonary function test; and  
13 recommendations on using a supplied air respirator.

14           These changes ensure the results of tests of  
15 recommended limitations on exposure are reported  
16 efficiently and rapidly back to the affected employee.

17           There's -- there are new reporting requirements  
18 from the healthcare provider to the employer. And --  
19 that -- where the healthcare provider is required to --  
20 the employer is required to obtain from the healthcare  
21 provider results of the initial and periodic exam within  
22 14 days and to immediately provide those results to the  
23 employee to obtain what the healthcare provider's opinion  
24 is on the use of supplied air respirator, if any, and  
25 recommended limits on silica exposure during -- including

1 during high-exposure trigger tasks, if any.

2 And, finally, there is a new requirement having  
3 to do with specialist review. Essentially that if a  
4 specialist becomes involved in an employee's case that the  
5 specialist is required to provide the results of their  
6 evaluation within 14 days of the exam as -- compared to  
7 30, which was the previous requirement. And that  
8 employers must obtain written opinion from the specialist  
9 within 14 days of the exam, rather than 30. We've  
10 tightened up that timeline.

11 So that was a lot on medical surveillance. And  
12 I'll move through the medical removal provision, you know,  
13 fairly quickly here. That -- and rather than reading the  
14 requirements, I'm going to summarize what they require.

15 That -- in general, a medical removal provisions  
16 protect employees from job loss and economic hardship. If  
17 a healthcare provider recommends that they eliminate or  
18 reduce their exposures to respirable crystalline silica.  
19 And that protection encourages employees to participate in  
20 medical surveillance.

21 So it's essential for identifying silicosis  
22 before it becomes disabling or fatal. They know that  
23 there's going to be some cushion there economically,  
24 they'll participate in surveillance.

25 Because the costs associated with medical

1 removal, this provision also encourages employers to  
2 prevent employee exposure to respirable crystalline  
3 silica. So this subsection applies specifically to  
4 employees who perform high-exposure trigger tasks.

5 So under this new subsection, the employer is  
6 required to modify work or transfer the employee if the  
7 healthcare provider recommends that exposure to respirable  
8 crystalline silica be reduced. Earnings, seniority,  
9 benefits are maintained -- or must be maintained for six  
10 months or until work is available, until the employee's  
11 able to return to the original job per the healthcare  
12 provider, or the employee is permanently unable to return  
13 to work.

14 If a worker's compensation claim is filed, wages  
15 must be continued for up to six months during the process  
16 of that claim. The -- again, the provisions are necessary  
17 to protect the employee from loss of pay, seniority, and  
18 benefits if they're medically removed from their normal  
19 job and no comparable job is available. And they're also  
20 necessary to limit the employer's liability to six months  
21 when no comparable job is available.

22 The final section of medical removal, there are  
23 two final provisions. One is that wages and benefits may  
24 be reduced based on payments from a public- or  
25 employer-funded compensation program. So basically

1 offset. Or if there's income from another employer.

2 And finally, there's a new independent medical  
3 review requirement which allows the employee to designate  
4 an independent healthcare provider to review findings  
5 with costs borne by the employer. And the determination  
6 of that second healthcare provider is binding on all  
7 parties.

8 The need for an independent medical review is  
9 based on research showing that silicosis is often  
10 misdiagnosed for bacterial pneumonia in 30 percent of  
11 cases that we've seen so far or tuberculosis we've seen in  
12 27 percent of cases.

13 An employee is only able to obtain the rights  
14 associated with medical removal if their silicosis is  
15 properly diagnosed. We felt it was important to provide  
16 for an independent review for that reason.

17 So that's the end of our briefing. I want to  
18 touch on, very quickly, three important questions and  
19 concerns that have come to the Board in this last week.  
20 One is a question, does the proposed rule include  
21 incentives to motivate employers to quickly and  
22 effectively reduce workplace exposures to respirable  
23 crystalline silica.

24 And, in fact, it does. I noted the three  
25 provisions having to do with respiratory protection, the



1 moving from three years to -- or one year to three years  
2 for medical exams and also for going CT scan all -- if the  
3 employer is able to demonstrate, through a qualified  
4 person, that they are maintaining RCS exposures below the  
5 action level, 25 micrograms per cubic meter.

6 The second question is, should the Board await  
7 passage of AB 3043 from Assembly Member Rivas which would  
8 establish a licensing and apprenticeship structure for the  
9 stone fabrication industry.

10 And we -- that -- that legislation contemplates  
11 formalizing this industry, which is a good idea. There's  
12 been a lot of questions around underground employment and  
13 operations in this industry. But we want to be very clear  
14 that any licensing program that is intended to reduce or  
15 eliminate employee exposures to crystalline silica is  
16 based on the strength of 5204.

17 It is -- that is what you are licensed to do,  
18 essentially, is that you demonstrate that you have a  
19 business license. You demonstrate you have worker's  
20 compensation. And you demonstrate that you're complying  
21 with Cal/OSHA's regulations.

22 So the strength of 5204 is essential to any  
23 licensing strategy that's being contemplated. It brings  
24 meaning to licensing, in fact.

25 And then the final question that has come up is,

1 is this a problem that resides, really, only in the  
2 underground or sort of what would -- sometime we call "low  
3 road employment." That it's really in those shops where  
4 the problem is.

5           And I'm going to re-invoke the comment from Dr.  
6 Aragón where he summarizes the findings from  
7 Dr. Heinzerling, our colleague at Occupational Health  
8 Branch, that his review of silicosis medical surveillance  
9 records from a large California countertop employer has  
10 revealed that 12 percent of their current workers had  
11 silicosis. Twelve percent.

12           This was a facility that was providing material  
13 to high-end retail and wholesale outlets. This was  
14 published in 2021 by Dr. Heinzerling in the America  
15 Journal of Respiratory and Critical Care.

16           So that is all that we have for our briefing.  
17 And if there are any questions, we'd be happy to address  
18 them. Thank you very much for your attention.

19           CHAIRMAN ALIOTO: Thank you, Mr. Wilson.

20           If anyone would like to obtain a copy of Mr.  
21 Wilson's presentation, please send a request to  
22 oshsb@dir.ca.gov.

23           Yeah. Let's start with any questions from the  
24 Board and flesh out any issues.

25           Yes, Ms. Kennedy, please.

1 MS KENNEDY: Thank you for that presentation. And I  
2 just want to thank you and the rest of the Division staff  
3 who's been working on this.

4 I do have some questions -- or really for  
5 clarification purpose. First, I want to say thank you. I  
6 appreciate the addition of a requirement qualified person  
7 for monitoring purposes. But I wanted to start -- when --  
8 your very first slide sort of defines the scope of who's  
9 going to be covered. And you basically say any shop with  
10 using manufactured -- or engineered stone with more than  
11 one tenth of one percent or any shop using natural stone  
12 greater with crystalline and silica content of greater  
13 than ten percent.

14 And then somewhere in the Division analysis  
15 basically you point out that a natural stone depending on  
16 if we're looking at granite or marble, it's ten percent or  
17 higher.

18 So are there any stone fabrication shops that  
19 wouldn't be included? I'm just curious.

20 MR. WILSON: Not that I would be aware of.

21 MS. KENNEDY: Okay.

22 MR. WILSON: Yeah.

23 MS. KENNEDY: And then --

24 MR. WILSON: Yeah.

25 MR. BERG: It'd have -- oh, sorry. It'd have to

1 be shop that specializes in marble, which has almost no  
2 silica in it. I don't know if that was --

3 MS. KENNEDY: Okay. I just think -- I think I remember  
4 seeing that marble was ten percent in --

5 MR. BERG: No, I think it's much less than that.

6 MS. KENNEDY: It's less than that. Okay. Great.

7 Thanks.

8 And then I have, I guess, a little bit of concern  
9 around the use of the term reg -- term "regulated area."  
10 Because it's based on a high-exposure trigger task. And I  
11 understand the use of trigger tasks to avoid having to do  
12 monitoring for enforcement purposes. But if the regulated  
13 area which is demarcated by the employer as the area where  
14 someone either working -- doing the -- conducting the work  
15 or in the area where the work is being conducted, how is  
16 an employer supposed to identify the regulated area? I  
17 mean, what guidance is going to be provided by the  
18 Division? Or what are the expectations by inspectors who  
19 are going to be going out in the field and doing  
20 inspections on what the regulated area -- or should be?  
21 And I can see as an employer I might have trouble, if I'm  
22 not taking air samples, determining what the regulated  
23 area is. So that -- I think that's going to require some  
24 pretty well-structured guidance to employers. And I don't  
25 know if you have a response to that.

1 MR. WILSON: Sure. I guess it is the concern that  
2 without actually enclosing those processes, that you're  
3 going to have silica exposure throughout the facility.  
4 That a regulated area is almost an artificial entity,  
5 unless it's physically enclosed.

6 Is this the concern that you're raising?

7 MS. KENNEDY: Well, yes. I mean, you know, these are  
8 aerosol particles that don't --

9 MR. WILSON: Right.

10 MS. KENNEDY: -- travel forever. They do travel, but  
11 they will eventually settle. So you would assume that you  
12 could identify or regulated area. They're small, so they  
13 can travel a distance.

14 MR. WILSON: Right.

15 MS. KENNEDY: But -- and I'm just looking at this from  
16 the -- I think it's a good. I think these people should  
17 be protected in this area. But if I was in an employer's  
18 shoes trying to figure out where I'm going to put my  
19 yellow tape on the floor and say "you need to wear a  
20 respirator inside this area," I'm going to have a little  
21 bit of trouble doing that.

22 And I do think that the Division needs to provide  
23 some guidance to employers around that issue. Maybe I'm  
24 the only one who feels that way. I don't know.

25 MR. WILSON: No, I think -- we -- yeah. Thank you.

1 MS. KENNEDY: I mean, short of that I would be saying,  
2 you know, "Okay. This is my facility. The whole thing's  
3 a regulated area."

4 MR. WILSON: Right.

5 MR. BERG: I have, you know, Jessie in the corner  
6 working on that. So --

7 MR. WILSON: Right. We share your concern.

8 MS. KENNEDY: Okay.

9 MR. WILSON: And, originally, in developing the ETS,  
10 you know, contemplated a physical barrier, essentially  
11 with laminar air flow to ensure that you're not  
12 contaminating the entire facility. Because these are  
13 aerosol products -- or particles.

14 And we ended up forgoing that, essentially, for  
15 practical reasons and that we -- and also a lot of concern  
16 from the industry in terms of permitting and  
17 reconstruction of their facility. And we wanted to make  
18 sure that the ETS moved forward as quickly as possible.

19 But I think, in terms of sort of the industrial  
20 hygiene elements of this, we share your concern. And I  
21 think it's a very important one that you've raised. Yeah.

22 Eric, you have anything else on that?

23 MR. BERG: Yeah, the -- I guess the revisions to 5204  
24 do not, you know, excuse any air sampling. It still  
25 mandates all the air sampling to be done. And the

1 regulated area is still set based on the air sampling. So  
2 that hasn't changed. It's still required. So that's  
3 still in there. We haven't deleted any of that.

4 MS. KENNEDY: Okay. All right.

5 CHAIRMAN ALIOTO: Any other questions from the Board  
6 or any comments?

7 MS. LASZCZ-DAVIS: You know, actually, to dovetail what Nola  
8 just shared -- I mean, it was a good question, Nola. Good  
9 response. But, I mean, you can't assume that you've got a  
10 static situation in the workplace. That's going to change  
11 daily, let alone weekly. So, I mean, you've got another  
12 set of dynamics to consider as you try to respond to that.

13 MR. WILSON: Precisely. We'd agree. Thank you.

14 CHAIRMAN ALIOTO: Any other questions or comments from  
15 the Board?

16 I had a quick question. I wanted to follow up  
17 from -- last meeting, I know that we talked a little bit  
18 about, in the purview of the ETS, an exemption for  
19 monument and tombstone fabricators. And I wanted to know  
20 whether or not that exemption you would consider that to  
21 be ongoing. And my ultimate question is, kind of feeding  
22 off some of the comments that Eric just made about marble,  
23 is that exemption going to continue and what is the  
24 purpose of that instead of defining it based on the  
25 material being modified as opposed to the ultimate outcome

1 of what the stone looks like? Can you just respond to  
2 that?

3 MR. WILSON: Yeah. And the question is, will those  
4 exemptions sort of be carried through --

5 CHAIRMAN ALIOTO: Yes.

6 MR. WILSON: -- into the -- because, yeah, they're  
7 not in the current draft --

8 CHAIRMAN ALIOTO: Right.

9 MR. WILSON: -- as you, yeah, see them.

10 I guess the -- our expectation is that they would  
11 be carried through. And those exemptions also require  
12 that the -- that those employers maintain RCS exposures  
13 below the permissible exposure limit. So the burden of  
14 demonstrating safe operations still lies with the  
15 employer. We're not -- that exemption doesn't -- doesn't  
16 give a free pass, if you will, or an off ramp to that  
17 industry. They're still required to meet the exposure  
18 limits. But at this point, those will be continued into  
19 the regular rule.

20 CHAIRMAN ALIOTO: All right. So -- well, to your  
21 point then --

22 MR. WILSON: Yeah.

23 CHAIRMAN ALIOTO: I just -- the important part to me  
24 is that that exemption will not permit a certain  
25 fabrication industry to avoid regulation merely by the end



1 product that they create.

2 MR. WILSON: Right.

3 CHAIRMAN ALIOTO: Okay.

4 MR. WILSON: I think that's a great point and  
5 that's -- correct. Yes.

6 CHAIRMAN ALIOTO: Okay. All right.

7 Any other comments or questions?

8 MS. KENNEDY: I have one more. And this really is a  
9 comment, I think, and not a question. So -- and it's not  
10 in the language of the regulation, but in a lot of the  
11 discussion and in your presentation, you know, it was  
12 mentioned, basically, that the RCS in fabricated is -- you  
13 used the term "more toxic" than RCS, say, in natural  
14 stone.

15 And I have a little bit of trouble  
16 understanding -- to be honest, understanding that. I can  
17 understand that as a composite product, engineered stone  
18 might have -- be more hazardous or actually contain  
19 components that are toxic. You know, monomers that might  
20 be released when it's ground or cut. But I don't know --  
21 no one has explained to me why the actual crystal and  
22 silica content -- it is higher. It is a higher  
23 concentration which, you know, would make it more  
24 hazardous.

25 But I don't understand the comment that the

1 actual RCS in engineered stone is more toxic or more  
2 hazardous than RCS found in anywhere else.

3 MR. WILSON: Yeah. I'll respond to that in a couple  
4 ways. And, again, it's a really important question. And  
5 it did inform the decision to drop that content level to  
6 .1 percent. And there were couple of important findings.

7 One has been through electron microscopy where  
8 they're able to show that the artificial stone particles  
9 are uniquely hazardous in that they're just essentially  
10 very spiky. And so they lice the macrophages that are  
11 attempting to eliminate those particles from your body.  
12 They lice those cells very efficiently and cause the  
13 acidic contents of those cells to spill into the lung and  
14 cause the scaring that leads to silicosis.

15 There -- in looking at those micrographs, they  
16 look like glass particles to me, where as the natural  
17 stone is really a rounder more gentler particle, if you  
18 will.

19 So there's the microscopy aspects of it. The  
20 other has been the particle distribution that, when this  
21 material is cut that the particle distribution tends to  
22 fall to the smaller size, less than one micron. And in  
23 some cases, nano level particles. And so you have  
24 particles that are able to travel and into the deep lung  
25 very efficiently.

1           And what we've seen has been that that  
2 distribution of submicron particles is much higher with  
3 engineered stone compared to natural stone. But the -- I  
4 think the other question that you're raising here is, that  
5 does it mean that someone who performs cutting or, you  
6 know, is working with natural stone for forty hours a  
7 week, is that less hazardous than someone who works with  
8 artificial stone for two hours a week?

9           And I think that's -- you know, that's a really  
10 good question. And it's sort of why we ended up going  
11 toward a task-based approach and a sort of content  
12 approach rather than looking at an exposure -- sort of an  
13 exposure process. But, I guess, you know, we'll keep --  
14 we'll sort of -- it's like maintaining our attention to  
15 that question of toxicity. But at this point we're pretty  
16 well convinced from the evidence that it's a uniquely  
17 toxic or hazardous product.

18           MS. KENNEDY: Thank you.

19           MR. WILSON: Yeah.

20           CHAIRMAN ALIOTO: Any other questions or comments?

21           Yes, Mr. Thomas.

22           MR. THOMAS: Is the qualified person, is that an  
23 outside vendor that comes into test always?

24           MR. WILSON: It's a good question. Our sort of --  
25 in thinking about this, it would normally be an outside

1 vendor. But you can imagine someone in a large facility  
2 who demonstrates expertise. And, you know, we qualify it  
3 in a definition -- you know, in the definition that they  
4 have experience, expertise, knowledge of air sampling for  
5 respirable crystalline silica.

6 If someone is in-house who is able to, you know,  
7 demonstrate and to verify that they have those  
8 qualifications, they would not be prohibited from being a  
9 qualified person.

10 MR. THOMAS: But they would be responsible for  
11 their findings.

12 MR. WILSON: They would be responsible --

13 MR. THOMAS: In the company --

14 MR. WILSON: -- for the --

15 MR. THOMAS: Yeah.

16 MR. WILSON: Absolutely.

17 MR. THOMAS: The company employee, I mean, of  
18 course.

19 MR. WILSON: Yes.

20 Are you -- do you mean that they would be  
21 responsible for the conduct of their exposure assessment?

22 MR. THOMAS: I mean, it would anyway. But I  
23 mean, it seems like in-house is a little too close, but I'd  
24 prefer a third party because that would seem to be much  
25 more reliable.

1 MR. WILSON: Yes. Yeah. Thank you.

2 MS. LASZCZ-DAVIS: Now let me follow that Dave, because  
3 that's a pretty good line of question.

4 I mean, a number of standards use the term  
5 "qualified." And that can mean different things. And,  
6 you know, as that term came up, I just assumed it would be  
7 somebody who was professionally competent and received a  
8 license or a certificate after some very targeted  
9 training. I mean, have you guys defined that or are you  
10 leaving it pretty open at this point in time?

11 MR. WILSON: Well, let me read you the definition,  
12 see what you think.

13 MS. LASZCZ-DAVIS: Okay.

14 MR. WILSON: So "the qualified person, for purposes  
15 of this section only, means a person who by extensive  
16 instruction, knowledge, training, and experience has  
17 demonstrated their ability to effectively perform and  
18 interpret the results of representative air sampling for  
19 occupational exposure to respirable crystalline silica."

20 Doesn't it mention licensure? No.

21 MS. LASZCZ-DAVIS: No.

22 MR. WILSON: But we've tried to set up a series of  
23 requirements that that person would need to meet, yeah, to  
24 qualify.

25 MR. HARRISON: And I think the Rivas bill will probably

1 go a long way in helping with that.

2 MR. WILSON: Mm-hmm.

3 MR. HARRISON: I assume there's an agreement there.  
4 But, yeah.

5 MR. WILSON: It's certainly the same approach that  
6 Mr. Rivas is taking in, you know, wanting to ensure the  
7 veracity of sampling and results and requiring an  
8 independent verification.

9 MR. HARRISON: Right.

10 CHAIRMAN ALIOTO: Okay. So how -- to Dave's point,  
11 then, how is objectivity going to be preserved and how  
12 will there be -- how can you provide confidence to the  
13 public in the regulation that there will not be a conflict  
14 of interest among the testing and the entity being tested?

15 MR. WILSON: Yeah. I mean, that was the whole  
16 motivation for, you know, invoking the qualified person in  
17 the regular rule. And -- and our own concerns about the  
18 validity of employer conducted sampling because of the  
19 inherent conflict of interest.

20 So we've kind of had to walk a fine line where we  
21 wanted to -- we've established qualifications that this  
22 person needs to meet. And, you know, I think, frankly  
23 they're pretty high -- extensive instruction, knowledge,  
24 training, and experience -- that this is going to be a  
25 person that's hard to find in-house, honestly.

1           You know, maybe there's someone in a very large  
2 facility that would meet these requirements, but they  
3 would need to demonstrate their ability to -- that they  
4 would need to -- the burden is on the employer to  
5 demonstrate that if there's an in-house person, that they  
6 are meeting this definition.

7           We would be surprised, honestly, that, you know,  
8 the tendency here is going to be -- the direction here is  
9 going to be to pulling this in from outside. This is  
10 going to be a third party. And we expect that the  
11 exception will be an in-house person.

12          CHAIRMAN ALIOTO: And that would put a larger company  
13 at a distinct advantage over a much smaller one. And that  
14 raises its own concerns for me. Because if you have small  
15 businesses disadvantaged because they don't have the  
16 resources to be able to keep somebody like this on staff,  
17 where as you might have this huge, larger corporate entity  
18 that can and they pay them a lot of money and there might  
19 be pressure on that employee to provide the result that  
20 its employer wants.

21           So I would be -- the whole thing, it all rises  
22 and falls on the legitimacy of the data; right?

23          MR. WILSON: Yes, sir. I think that's true. And  
24 what -- it sounds like what we're hearing from the Board  
25 is a strong preference for stipulating in this proposal

1 that the qualified person be external to the employer.

2 MS. KENNEDY: I'm going to say I don't think it's  
3 necessary that the person be external to the company. I  
4 mean, I think with the qualifications that are stated, any  
5 person in that position with that background and knowledge  
6 would be -- should be and would be expected to be ethical  
7 in their measurements and their reporting.

8 MS. LASZCZ-DAVIS: Let me push back just a little bit here.

9 This is all going to rest on interpretation.

10 MS KENNEDY: Oh, yeah.

11 MS. LASZCZ-DAVIS: Your interpretation is going to differ  
12 from mine. So basically, the person or the organization  
13 that's at a loss is a small- to medium-sized employer  
14 who's going to have to sort through this.

15 UNIDENTIFIED: Yeah.

16 MR. WILSON: And just to be clear, I think, you  
17 know, this -- the direction that the legislature is going,  
18 at least as contemplated by the assembly bill, is through  
19 a third party. It's very clear. It's in the black letter  
20 of the text. Verification for the quality of air  
21 monitoring is verified by a third party.

22 MS. KENNEDY: I just have a question. So is it -- so  
23 there's a lot of reference to using -- for the health care  
24 providers; right? And it's sort of -- so is there also a  
25 requirement for a third party healthcare provider? If



1 you're a large industry and you have your own occupational  
2 health nurse or occupational health physician, are they  
3 not required to do the in-house work?

4 MR. WILSON: Do you mean for the medical  
5 surveillance and medical removal? Is the question that  
6 would an in-house person be able to do that work?

7 I don't think there's anything in here that would  
8 prohibit that. Yeah.

9 CHAIRMAN ALIOTO: Well, the concern that you  
10 summarized is certainly my concern. It sounds like it  
11 might not be Ms. Kennedy's, which is fine. But I do think  
12 that that's -- it leads, from what I'm hearing, is  
13 something that we should at least attempt to address to  
14 fix -- not fix, but --

15 MR. WILSON: Yeah.

16 CHAIRMAN ALIOTO: -- to provide some comfort that the  
17 data is pure.

18 MR. WILSON: I think it's a fundamental point.

19 CHAIRMAN ALIOTO: Yeah.

20 MR. HARRISON: Because there's important provisions in  
21 the regulation that are released. The employer's released  
22 from important provisions if they have valid air  
23 quality -- air sampling data showing that their exposure  
24 levels are below the action level. And so it does come  
25 down to a question of the validity of those results. And

1 so I think, you know, we share your concern. And this is  
2 the approach that we've taken at this point.

3 MR. THOMAS: I don't know if I'm comfortable  
4 with in-house because you just know that there's so much  
5 pressure, especially in a bigger facility, that nothing  
6 ever gets shut down. That there's no exposure. That they  
7 don't have -- they're above the limit.

8 So I think what the legislature did was probably  
9 smarter, if they're saying a third party would be much  
10 more difficult to, you know, change those results. But  
11 that's my opinion.

12 But if that's going to be the law, I mean -- I'm  
13 not sure if we're going to have a regulation but there's  
14 also a law that stipulates that, I think, from what you  
15 read. So, yeah, should be -- in my opinion, should be a  
16 third party.

17 CHAIRMAN ALIOTO: I agree.

18 MR. WILSON: Thank you.

19 CHAIRMAN ALIOTO: Any other thoughts or questions?

20 Okay. Let's open up to public comment.

21 Okay. At this point we'll take public testimony.  
22 If there are any in-person participants who would like to  
23 comment, please begin lining up at the speaker's podium.  
24 And when it's your turn to speak, please provide a  
25 completed request to speak to the attendee, to Ms. Money,

1 prior to delivering your comment.

2 Let's -- and I know that there are some folks --  
3 John, I know that, at the very least, Mr. Harrison wants  
4 to comment on this. So I know there's probably others  
5 online. If you could start thinking about the comments if  
6 you're online and be prepared to do that expeditiously.

7 All right. Sir, are you ready?

8 UNIDENTIFIED: Sorry.

9 CHAIRMAN ALIOTO: Not at all.

10 Go ahead. Thank you.

11 MR. MULLINER: Good afternoon.

12 CHAIRMAN ALIOTO: Good afternoon.

13 MR. MULLINER: My name is Mark Mulliner. I  
14 am the Northern Regional Director for the California State  
15 Building Trades.

16 We are here to support the permanent adoption. The  
17 California State Building Trades represents 480,000  
18 construction workers throughout the whole state. 80,000  
19 of them were apprentices. And we know that by passing and  
20 supporting this kind of change is not only going to help  
21 our members, but it's going to help all construction  
22 workers in the state.

23 I do want to add, I'm a 32-year UA member. I ran  
24 a lot of fab shops. Hexavalent chromium. We all know  
25 about hexavalent chromium. We actually had to have a

1 third party come in. And I'm going to tell you, I was the  
2 general superintendent and I wasn't going to test  
3 everybody in the whole facility, I was only going to test  
4 the production workers that were out in the facility.

5 What we found when we had done that, by the  
6 recommendation of the third party air monitoring, they  
7 made everybody wear an air monitor and they said "we're  
8 going to make your office staff wear an air monitor also."  
9 I would have never done that. Not because I thought  
10 anything was wrong, but because they're office staff,  
11 they're not in the facility.

12 It came back that they were being bombarded ten  
13 times more than the guy welding because the ventilation  
14 was drawing the air in and putting it through into the  
15 office. So everybody in our office was being contaminated  
16 worse than the shop.

17 So I must say that a third party, I think that  
18 that's the way to go. I would have never done, you know,  
19 what we ended up doing.

20 So thank you for allowing me to speak, Mr. Chair.

21 CHAIRMAN ALIOTO: Thank you very much.

22 Hi. Good afternoon.

23 MS. ORTIZ: Good afternoon, again. Hi. Now we are in  
24 afternoon. Maegan Ortiz, executive director of the  
25 Instituto de Educacion Popular del Sur de California.

1           So over the last few months, our staff have been  
2 out looking at shops, talking to workers, doing outreach  
3 and education on the ETS. And I'm going to ask a strange  
4 question: Does anyone have a penny?

5           I see smiling over there 'cause -- if you can see  
6 a penny, that's the amount our -- of silicosis dust that  
7 is dangerous. So I think when we talk about, like, can we  
8 see -- you know, talking about regulated areas  
9 specifically and even talking about air monitoring, a  
10 penny is not that big. And I have been to these shops.  
11 My staff have been to these shops. Frankly, I've been  
12 worried about my staff doing outreach and education even  
13 just outside these shops with the amount of dust that  
14 we've seen. Even when they're not right by where it's  
15 being cut.

16           So I just want to give that sense in terms of how  
17 pervasive the dust is in these cutting and fabrication  
18 facilities, all throughout Southern California, where we  
19 are based.

20           I think I also do want to point out that we think  
21 the permanent standard should happen. We also just do  
22 want to highlight, though, that -- something else that  
23 we've seen. I know that the wet cutting is very well  
24 described in the current -- in both the permanent and the  
25 temporary standard. However, what we are seeing is that

1 being interpreted in shops as having a water bottle and  
2 squeezing. And this is something we have seen with our  
3 eyes. So I just want to highlight that as well.

4 I think it's also important to know that, as we  
5 look at the training and the communication piece, which is  
6 a piece that us as a worker organization are experts in.  
7 We're contracted with the Department of Public Health.  
8 Have also worked with Department of Industrial Relations  
9 on other projects, that when we [sic] talking about  
10 information and signage being in a language that is  
11 appropriate to the literacy level that we also consider  
12 using imaginary and/or pictograms.

13 This is something that came up a lot also  
14 during -- looking at chemical exposures of cleaners in  
15 offices and even in private homes. Literac -- speaking  
16 Spanish and reading Spanish, speaking English and knowing  
17 English is very different than understanding the very  
18 technical language that says "using this product, cutting  
19 this product could cause you to die."

20 So I just also want to highlight and encourage  
21 something that includes the usage of some sort of  
22 imagery as well in outreach and education material.

23 I think I'm really happy to see the clarification  
24 of employee exposure. As I said, in terms of because  
25 we've seen how pervasive the dust is in shops. I also am

1 pleased with, actually, not needing X-rays.

2           Because we also do know that the workforce that  
3 we're talking about here, which hasn't been mentioned so  
4 far, at least not in public comment, we're talking about a  
5 predominantly male immigrant workforce. We're talking  
6 about predominantly Latino workers.

7           And we're talking about workers who, despite the  
8 changes in Medi-cal in the State of California, have  
9 incredible difficulty accessing health care. And we're  
10 also talking about them using a safety net that's already  
11 strained.

12           And a lot of the community health clinics that  
13 workers use and we work with to get them enrolled in  
14 Medi-cal, they don't ask questions like "what kind of job  
15 do you do?" "Oh, you have a cough? It's probably  
16 asthma." Which it could be, but it could also be  
17 silicosis.

18           So I think, also, there's a loss -- also a lot of  
19 education and outreach that needs to happen to medical  
20 providers about this risk, as well as the fact that I do  
21 think I do have some concerns in terms of all of the  
22 medical surveillance, how that would be practically happen  
23 with this particular workforce.

24           Yeah. So I'm [sic] just really hope that we do  
25 move forward, we continue the conversation on this, and

1 really consider what's the workers journey in these stone  
2 cutting fabrication shops. Because I think, also, the  
3 thing that we've noticed that's missing is that we're  
4 talking about fabrication.

5 We're talking about cutting. We're not talking  
6 about what happens to workers when they're demolishing  
7 these materials. We're not talking about what happens  
8 when workers are going into homes and cutting to fit,  
9 which happens often.

10 We're not talking about the fact that, even with  
11 the ETS, what we're seeing is shops just starting to work  
12 at night to avoid seeing educators and/or Cal/OSHA staff  
13 and investigators.

14 Thank you.

15 And I'll be happy to answer more question about  
16 what workers are telling us.

17 CHAIRMAN ALIOTO: Thank you.

18 Good afternoon.

19 MR. DAVIDSON: Good afternoon. My name is Grant  
20 Davidson. I'm with the Tile Council of North  
21 America. This is my first time at one of these meetings,  
22 so I'm glad to be here. We're an association representing  
23 manufacturers of ceramic floor and wall tile. We're based  
24 in South Carolina, but we have members all across the  
25 country, including members with factories in the State of



1 California.

2 I wanted to speak today to comments that we had  
3 actually written and submitted, but I just wanted to speak  
4 in person to those. They were submitted by our executive  
5 director, Eric Astrachan. He's on the Webex, if  
6 you have an any questions.

7 But they were submitted regarding the section  
8 5204. We certainly understand the urgency to develop  
9 these permanent regulation for the countertop fabrication  
10 industry. However, it's worth noting that section 5204  
11 also applies to tile factories manufacturing ceramic and  
12 porcelain tiles.

13 While such factories engage in fabrication and  
14 automated finishing activities using materials containing  
15 crystalline silica, these factors are well-regulated.  
16 They use engineering controls and they maintain air  
17 exposure levels of RCS well below the action level of 25  
18 micrograms per cubic meter.

19 As such, these operations aren't related to the  
20 rise in silicosis cases in California. So I just wanted  
21 to talk to our two main points in our comments.

22 Number one, we proposed editing subsection (b)(2)  
23 of 5204, the definition for artificial stone. To add  
24 clarity and avoid confusion with products manufactured  
25 through the ceramic firing process. These materials don't

1 contain adhesives, polymers, et cetera, and are entirely  
2 different from the resin agglomerated products. And they  
3 are used differently in application.

4 And certainly none of the documents relied upon  
5 by Cal/OSHA upon review have in any way stated that use of  
6 these types of products has contributed to the rise in  
7 silicosis in California.

8 So accordingly, we ask that that definition be  
9 modified as proposed in our written comments.

10 And then, two, our second main point, to add an  
11 exception to the subsection (b) (9) for high-exposure  
12 trigger tasks. To exempt fabrication or finishing of  
13 fired ceramic or porcelain tiles or panels in tile  
14 manufacturing facilities where the employer demonstrates  
15 that employee exposure, as defined in subsection (b) (7),  
16 is below the PEL for respirable crystalline silica.

17 So we believe that is in keeping with the three  
18 prior exemptions that have been issued that are unrelated  
19 to stone countertop fabrication.

20 I'll also lastly and quickly just add that we  
21 support NSI's position in adding definitions consist with  
22 the statutory provisions and definitions in AB 3043, to  
23 harmonize the non-emergency regulation for respirable  
24 crystalline silica with AB 3043.

25 Thank you for your time and consideration of our

1 comments.

2 CHAIRMAN ALIOTO: Thank you, Mr. Davidson, and  
3 welcome. Welcome to the meeting and thank you for your  
4 comments.

5 I just have a quick question while we're waiting.  
6 We'll get some folks queued up. Just question for you,  
7 Mr. Mike and Eric. Is that something that you've  
8 analyzed? Have you considered their requests and is that  
9 something that you're analyzing or have analyzed?

10 MR. WILSON: Not yet.

11 CHAIRMAN ALIOTO: Okay. Great. All right. So that's  
12 something you can take a look at though?

13 MR. WILSON: Mm-hmm. Absolutely.

14 CHAIRMAN ALIOTO: All right. John, is there -- are  
15 there some commenters online?

16 MR. ROENSCH: Yes, we do have a few. Our first three  
17 will be Robert Harrison, MD, and then Eric Astrachan, and  
18 Mark Meriaux

19 And so we'll start with Robert Harrison, MD, with  
20 the California Department of Public Health.

21 CHAIRMAN ALIOTO: Dr. Harrison, go ahead, please.

22 Do you see him on there?

23 Let's go to the next speaker and we'll ask Dr.  
24 Harrison to come back to comment.

25 MR. ROENSCH: Okay. Our next public hearing commenter

1 is Eric Astrachan. And Eric is with the Tile Council of  
2 North America.

3 Eric, if you are online with us, please unmute  
4 your computer or telephone with "star" "six" and make your  
5 comments to the Board.

6 MR. ASTRACHAN: Thank you. Can you hear me? I'm on  
7 the Webex.

8 CHAIRMAN ALIOTO: Yes, Mr. Astrachan. Thank you.  
9 You're welcome.

10 MR. ASTRACHAN: Thank you very much. My comments will  
11 be sort of further and in support of what our engineer  
12 Grant Davidson said.

13 I'm the executive director of the Tile Council of  
14 North America. For perspective, our associate is some 240  
15 companies. We represent both the very largest tile  
16 manufacturers in the country and some of which are largest  
17 in the world, but also many, many artisanal manufacturers.  
18 Both many of these large companies and artisanal  
19 manufacturers are located in California.

20 Importantly, all of these companies are regulated  
21 under section 5204. They all use engineering controls to  
22 operate below the action level of 25 micrograms of RCS per  
23 cubic meter. Some of these factories do have operations  
24 that would fall under the high-exposure trigger task  
25 definition.

1           But these operations, as Grant said, they're done  
2 by automated machines. They have extensive vacuum and  
3 filtration equipment. Some cases, these machines are  
4 state-of-the-art from Italy and use dry processing-type  
5 equipment. But there's no human exposure whatsoever.

6           These are not countertop fabrication operations  
7 at all. And as such, we believe they should be exempted  
8 from the high-exposure trigger task requirements developed  
9 for countertop fabrication, in line with the exceptions  
10 that have already been considered for geological field  
11 research, mining (indiscernible), fabrication and  
12 finishing of natural stone, tombstones, et cetera.

13           I'll also make the point that Grant did that, you  
14 know, we feel that the definition for artificial stone is  
15 a little confusing as written. We have provided comments  
16 in line with what Grant said, but in our written  
17 submission, that clarifies that resin agglomerated  
18 engineered port slabs, some of which may contain porcelain  
19 powder, because the porcelain powder can be used to  
20 replace the ports and reduce the silica content. But  
21 those are completely different from fired porcelain tiles  
22 from the ceramic tile industry. And we want to avoid the  
23 confusion between a fired porcelain tile and a resin  
24 agglomerated engineered ports slab.

25           So, again, we've submitted that suggestion on how

1 that could be rewritten.

2 And, again, we do appreciate the work of Assembly  
3 person, Luz Rivas, with AB 3043. We think a lot of great  
4 work is going into that and recognizing that there are  
5 countertop fabrication operations with extensive controls  
6 and who are operating with air levels, as we understand  
7 it, well below the action level. And perhaps they can be  
8 differentiated in enforcement from many of these  
9 operations that very, very sadly and very, very  
10 unfortunately are not protecting their works.

11 Thank you. Very happy to work with Cal/OSHA,  
12 answer any questions, provide more information as desired.  
13 Appreciate your time today.

14 CHAIRMAN ALIOTO: Thank you, sir.

15 MR. ROENSCH: Our next hearing public commenter  
16 is -- I hope I say his name properly -- Mark Meriaux. And  
17 he does appear to be on Webex. So, Mr. Meriaux, if you  
18 would please unmute your Webex session and address the  
19 Board.

20 MR. MERIAUX: Yes. Thank you very much and great  
21 pronunciation. Thank you, Chairman Alioto and the Board  
22 Members for this time.

23 I work with -- I'm Mark Meriaux. I work with the  
24 Natural Stone Institute. We represent over 2,000 member  
25 companies worldwide, including over 200 stakeholder

1 businesses within the State of California, many of which  
2 who employ countertop fabrication workers.

3 The proposed 5204 permanent standard is a huge  
4 step in the right direction to prevent additional cases of  
5 workplace silicosis in California. The Natural Stone  
6 Institute is helping, will be able work with Deputy Chief  
7 Berg and Mike Wilson and the rest of his team to give them  
8 a stronger understanding of the countertop fabrication  
9 industry and also assist with some recommended revisions  
10 to the standard that will prove to both effective and  
11 practical for employers and Cal/OSHA enforcement to  
12 ultimately prevent workers from the avoidable exposures to  
13 respirable crystalline silica.

14 We have submitted written comments from my CEO,  
15 Jim Hieb, so you'll have those separately, and I  
16 look forward to working with, again, Deputy Chief Berg and  
17 Mike Wilson with some additional discussions offline.

18 CHAIRMAN ALIOTO: Thank you, Mr. Meriaux.

19 MR. MERIAUX: Thank you.

20 CHAIRMAN ALIOTO: Thank you for your comments.

21 John, anyone else?

22 MR. ROENSCH: Yes, we do. We have another  
23 public hearing commenter, Alice Berliner. Alice with the  
24 LA County Department of Public Health.

25 Alice, please go ahead.

1 MS. BERLINER: Okay. One second. Let me just get my  
2 video working.

3 Okay. There we go. Can you see me?

4 CHAIRMAN ALIOTO: Can't see you yet, but we can hear  
5 you fine.

6 MS. BERLINER: Okay. Maybe we'll have to do without  
7 video.

8 Okay. Good afternoon.

9 CHAIRMAN ALIOTO: There you go.

10 MS. BERLINER: My name is Alice -- all right. Great.

11 CHAIRMAN ALIOTO: Now we see you.

12 MS. BERLINER: My name is Alice Berliner and I'm the  
13 director of LA County Department of Public Health's new  
14 office of worker health and safety. And today we want to  
15 express our strong support for adopting the permanent  
16 general industry standard for exposure to respirable  
17 crystalline silica.

18 So as of June 10th, 2024, there have been 154  
19 confirmed cases of silicosis in California, with 60  
20 percent, about 92 of those cases located in Los Angeles  
21 County. So our jurisdiction is arguably at the epicenter  
22 of this emerging epidemic and really see it impacting  
23 primarily low wage and immigrant workers with limited  
24 access to health care as expressed by  
25 Maegan Ortiz.



1           Given the impact in our region, we're also at the  
2           forefront of deploying a coordinated multi-pronged and  
3           multi-agency response and are developing and disseminating  
4           educational resources, trainings, and outreach to the most  
5           impacted communities, in close partnership with  
6           community-based organization such as IDEPSCA and Pacoima  
7           Beautiful.

8           We've seen and heard directly from workers that  
9           few shops use the wet method to cut stone and often don't  
10          provide appropriate -- respirators to workers. We want to  
11          emphasize the importance of broadening efforts across the  
12          state to educate workers and employers of the grave risks  
13          of long-term silica exposure and how to implement  
14          preventative measures to mitigate risk.

15          We fear that, you know, many more workers are  
16          sick with silicosis than we are aware of, and see a  
17          permanent standard as an important and much needed  
18          component to addressing this emerging crisis.

19          We would also urge the consideration of need for  
20          resources and implementation of mass scale-screening,  
21          and testing to identify workers that have silicosis early  
22          on so they can be connected with medical care and  
23          necessary resources, improving their chances of survival  
24          and quality of life.

25          As it stands, there's no -- currently, there is

1 no free or low cost mechanism to screen workers. And we  
2 see this as a huge impediment to addressing the epidemic  
3 of silicosis in our state and county.

4 The County of Los Angeles looks forward to  
5 continuing our partnership with the state, Cal/OSHA, other  
6 local jurisdictions, community-based organizations,  
7 workers, industry representatives, and the medical  
8 community to develop the most sound equitable, and  
9 effective approaches possible to reduce exposure to  
10 respirable crystalline silica and protect the most  
11 vulnerable workers from developing silicosis.

12 Thank you.

13 CHAIRMAN ALIOTO: Thank you so much.

14 John, do we have Dr. Harrison on the line? Or  
15 anyone.

16 MR. ROENSCH: We do. Robert Harrison has  
17 rejoined us. Robert Harrison is an MD, and he's with the  
18 California Department of Public Health.

19 Mr. Harrison, if you --

20 DR. HARRISON: Oh, thank you -- thank you all for  
21 looping back to me.

22 I am chief of the Occupational Health  
23 Surveillance and Evaluation Program. I'm with the  
24 California Department of Public Health and I'm speaking in  
25 favor and in support of the Cal/OSHA revisions to the

1 permanent regulation for silica dust.

2 This is the third time, I think, in less than a  
3 year that I've spoken before you. Twice before on the  
4 emergency reg. And, really, I think my message is the  
5 same on behalf of CDPH. As mentioned by the previous  
6 speaker, we're up to over 150 cases of silicosis and  
7 counting. I think we have 11 counties that have reported  
8 cases, at least 13 deaths, 17 lung transplants. And we  
9 basically are not yet seeing a stop to this rise in the  
10 increase number of cases.

11 They've all been in young immigrant workers.  
12 Most are doing a lot of dry cut and few consistently use  
13 respiratory protection. Rapid onset. There's some good  
14 data coming out of Australia on the prevalence or how  
15 often this disease occurred. And when they did a  
16 widespread testing campaign, they found about 25 percent  
17 have silicosis. So undoubtedly we're just seeing the tip  
18 of an ice berg in California because very few workers have  
19 yet to be tested.

20 So this current rule that's before you is  
21 necessary, in our view, to address this severe preventable  
22 lung disease.

23 We have submitted more detailed written comments  
24 to the Board Chair, Mr. Alioto, so you'll have an  
25 opportunity to look at those and see some suggestions and

1 comments that we've made in more detail.

2 So I just want to, again, thank the Board for  
3 considering this important rule. We think it's going to  
4 be a great public health benefit. And so with that I'll  
5 end. Thank you.

6 CHAIRMAN ALIOTO: Thank you very much.

7 John, are there anymore online commenters?

8 MR. ROENSCH: We have one remaining online  
9 public commenter and that is Pamela Murcell.  
10 And Pamela is with the California Industrial Hygiene  
11 Council.

12 Ms. Murcell, please go ahead and make your  
13 comment.

14 Pamela, you may need to unmute your Webex  
15 session. I see that you are connected. However, we're  
16 not able to hear you in the room, if you're speaking.

17 CHAIRMAN ALIOTO: All right. While Ms. Murcell is  
18 trying to connect, is there anyone else in the queue?

19 MR. ROENSCH: We have no further online public  
20 hearing commenters.

21 CHAIRMAN ALIOTO: Okay. Is there anyone else in  
22 person who would like to make any comments on the silica  
23 regulation?

24 I don't see any.

25 All right. Lets give Ms. Murcell a moment here.

1 MR. ROENSCH: Ms. Murcell, if you have your  
2 Webex session open, which we see is connected, but if it's  
3 available to you, please unmute your microphone, and you  
4 can address the Board with your public hearing comments.

5 CHAIRMAN ALIOTO: All right. Let's keep moving. She  
6 might be having some technical issues. I'll say that to  
7 Ms. Murcell and anyone else who's online that would like to  
8 make any comments, if you do have additional comments, as  
9 I mentioned earlier in the session, kindly e-mail those  
10 to -- to staff and we would be happy to consider them.

11 If there's anyone else online participating  
12 remotely who's unable to join the comment queue and would  
13 like to comment, please unmute yourself now and state your  
14 name and affiliation as you would like it listed in the  
15 record.

16 And since we don't have any speakers physically  
17 and there's none left online, there being no other persons  
18 coming forward to testify on this matter, this public  
19 hearing is now closed.\*.

20 (Pause in the proceedings)

21 CHAIRMAN ALIOTO: Written comments will be received  
22 until 5:00 p.m. today.

23 All right. We will now proceed with the business  
24 meeting. The purpose of the business meeting is to allow  
25 the Board to vote on the matters before it and to receive

1 briefings from -- let me stop and say -- I want to say  
2 thank you very much to staff, especially you, Mr. Wilson  
3 and Mr. Berg, for -- and your teams, for the extraordinary  
4 job and great detail analysis that you provided to us and  
5 the public. I want to say thank you to you.

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

13 Proposed Item A, proposed safety order for  
14 adoption. This is title 8 and all industry safety orders.  
15 New section 3396, Heat Illness Prevention in Indoor Places  
16 of Employment.

17 Mr. Berg, will you please brief the Board.

18 MR. BERG: Yeah, thank you.

19 CHAIRMAN ALIOTO: Thank you.

20 MR. BERG: Thank you, Chair Alioto.

21 I have a PowerPoint.

22 All right. Thank you very much, everyone, for  
23 considering the indoor heat illness prevention  
24 standard. So I'll go over the requirement  
25 standards. First I'll go over some of the process we

1 developed because there's questions about that, of how we  
2 got to the state right now. So I'll skip through some of  
3 this intro.

4           So the history of the indoor heat proposal  
5 started with Senate Bill 1167 in 2016. It was proposed --  
6 or the bill required it to do rulemaking by January 1,  
7 2019. We obviously didn't make that deadline. It was  
8 based on environmental temperatures, work activity  
9 levels, and other factors that was in the bill. And also  
10 the bill said to take into consideration the threshold  
11 limit values and biological exposure indexes developed by  
12 the American Conference of Government Industrial  
13 Hygienist.

14           That was what the bill asked us to look at. And  
15 that's how we started the process.

16           So here's the timeline. Started working on this  
17 2017 through 2021 with seven different draft proposals and  
18 the SRIA, which is the economic impact assessment. And it  
19 was under review in 2021 and 2022 and started rulemaking  
20 last year, March 31, Caesar Chaves day. And the public  
21 hearing was May 18 of last year. And of course we've had  
22 a couple of votes. We had the vote in March and now we'll  
23 have another vote today.

24           The effective date will be determined, but we're  
25 going to request OAL to have an effect as soon as they

1 approve. They have -- assuming if it is approved by  
2 the Board, they have 30 cal -- no, 30 working days.  
3 Sorry. Thirty working days, which is about 45 calendar  
4 days to review and approve or deny.

5 They don't necessarily have to take the whole  
6 time, but we don't know how long they will take. They  
7 could take the whole time. And prior to -- they have  
8 taken the entire time. So that would put it around early  
9 August, if they take the entire time.

10 And we would ask them to have it go into effect  
11 immediately. They could grant that or deny that. If they  
12 deny that, then it would go into effect October 1st, the  
13 next quarter.

14 So that's kind of out of our control at this  
15 point.

16 Let's go into the history of how the standard got  
17 where it was. Just answer some question we've had on  
18 this.

19 So we came out with our standard -- our first  
20 draft, I should say -- sorry -- back in February 2017. It  
21 was modeled after the ACGIH kind of recommended standard  
22 that's in their publication. And we did that because  
23 that's what the bill requested we look at. In the  
24 required controls to reduce employee exposures, basically  
25 similar to commercial exposure limit for a toxic chemical.



1 It basically set like a exposure limit but to a  
2 temperature, which is the way ACGIH does it.

3 And it had a different range depending on  
4 activity level, clothing level -- or clothing  
5 acclimatization, and radiant heat. And it was also based  
6 on the wet-bulb globe temperature, which takes into  
7 account radiant heat.

8 And as I said, the work activity levels. There's  
9 four different work activity levels that were specified in  
10 the draft. Clothing-adjustment factors, four different  
11 types of clothing adjustment factors; acclimatization and  
12 radiant heat again.

13 So it was complex. I think Mike Donlon  
14 commented -- think he had a quote that it was too  
15 complicated -- or he was talking about the February 2017  
16 version that was overly complicated.

17 So we got that feedback from employer  
18 stakeholders, that it was too complicated and burdensome  
19 to employers. The work activity levels, it was too  
20 subjective. And the ACGIH clothing-adjustment factors  
21 were also very difficult to follow or implement.

22 And the wet-bulb globe temperature, which  
23 requires a specific instrument, it's difficult to follow  
24 and challenging and expensive for employers. And they  
25 recommended the leading ACGIH-based exposure limits, that

1 we had in our first draft.

2 So we did much of what they asked for, for the  
3 second draft. So we got rid of the ACGIH exposure limits.  
4 We added an 85 degree trigger into a 77 degrees. We had a  
5 list of specific industries that would be covered by the  
6 high radiant heat provision. So it had a list of  
7 industries, which was requested. And we removed from the  
8 first draft the wet-bulb globe temperature, the  
9 ACGIH-based exposure limits, and work activity levels, and  
10 clothing-adjustment factors. So all that was deleted.

11 And instead of wet-bulb globe temperature, we  
12 kept heat index 'cause that accounts for humidity and  
13 temperature. It's widely understood and used. And it's  
14 been used since 1970s by the National Weather Service. It  
15 doesn't account for radiant heat, but it does account for  
16 humidity temperature which, usually, indoors are the  
17 primary drivers of heat illness.

18 And the second draft we also replaced the ACGIH  
19 exposure limits with three risk levels based on the heat  
20 index. And it gets lowered -- it would be lower for high  
21 radiant heat areas. And so here we have three different,  
22 basically, trigger temperatures. Level one at 85 degrees  
23 for high radiant heat areas or 90 degrees for other areas.  
24 And level two would be 85 to 95 or 90 to 100. And then  
25 level three is over 95 or over 100 degrees.

1           So this is still in our second draft. So if any  
2 place of employment was at that level three level, it  
3 would require feasible engineering controls to reduce this  
4 risk level one or two. Also feasible administrative  
5 controls and a ten-minute break every hour. And personal  
6 heat-protective equipment.

7           And then we got stakeholder feedback on that  
8 second draft. Employer organizations thought the three  
9 risk levels was too complicated and too burdensome for  
10 employers. They thought it should be made more similar to  
11 3395, which is what we ended up doing in this case. We  
12 ended up pretty much modeling it after 3395 and copying  
13 that.

14           And employer organizations thought the 85 trigger  
15 was much too high and should be 80 degrees. And that the  
16 three risk levels we had were too high and did not protect  
17 against heat illness.

18           They also thought that we should not exclude  
19 industries from writing -- high radiant heat provisions  
20 'cause it's not science based, it's not risk based. And  
21 regardless what industry you work in, you can succumb to  
22 heat at the time. Doesn't matter what industry you're in.

23           And they were in favor of the exposure limits  
24 from the first draft.

25           So then we went on to our third draft. And this

1 we proposed to all the stakeholders was two options. One,  
2 to mend 3395, the outdoor standard to put indoor within  
3 that. Just have one standard for all heat illness  
4 prevention requirements. And we had a -- trigger for  
5 indoor locations, with some exceptions.

6 And we still had specific industries covered by  
7 high radiant heat provisions. And it required control  
8 measures when the heat was over 95 degrees, using  
9 engineering, administrative, and personal heat protection  
10 equipment.

11 So that was option A to amend existing 3395 and  
12 include indoor in that existing regulation.

13 Option B was to have a standalone indoor heat  
14 standard with an 80 degree trigger, some exceptions. And  
15 it would follow the same structure and language in 3395  
16 wherever possible, except for subsection (e), which covers  
17 the control measures, which can't be done outdoors. And  
18 we had subsection (e) requiring control measures at a  
19 temperature heat index over 95 degrees. Again, it's  
20 engineering, administrative, and personal heat-protective  
21 equipment are the controls.

22 And so we got feedback from both -- well, I'll  
23 start the stakeholders. But everyone was opposed to  
24 amending 3395 to put heat -- indoor heat into the outdoor  
25 standard. So we had pretty much unanimous opposition to

1 that.

2 Some of the reasons provided were that they  
3 didn't want us to mess with a successful regulation. And  
4 so we went with what the stakeholder input was and  
5 discarded option A and went with option B, which was to  
6 develop a standalone indoor heat regulation.

7 And then from the stakeholders and employer  
8 organizations had a preference for an 85 degree trigger.  
9 And the employer organizations had preference for 80  
10 degree trigger or lower.

11 And so we're on to our fourth draft. It was  
12 similar to the third draft but just using the option B for  
13 a separate -- for a separate standalone indoor heat  
14 regulation. And the only difference -- only major  
15 difference is subsection (e), which is the controlling  
16 heat illness. So you wanted us to assess the heat illness  
17 risk factors, which is, you know, measuring the  
18 temperature and heat index. And (e)(2) was implementing  
19 the controls, engineering, administrative, and personal  
20 heat-protective equipment.

21 So it's pretty similar to what we have now. So  
22 this fourth draft, it's similar to what we have now.

23 So we did make some changes. We changed trigger  
24 temperatures to 80 degrees. Again, we still had specific  
25 industries, which have been eliminated in this version.

1 And we have 80 degree trigger for employees that wear  
2 protective clothing. And then other industries are --  
3 where there was not protective clothing is 85 degree  
4 trigger.

5 And then there was other triggers for subsection  
6 (e), which has a higher threshold.

7 And then we got feedback, again, on this fourth  
8 draft. Assessment of, I guess, employer representatives,  
9 they were generally was the feeling that the assessment  
10 environmental risk factors was burdensome to employers,  
11 especially those with many locations. And the definition  
12 we had for clothing that restricts removal was too broad.  
13 And a reference to IIPP 3203 to identify, evaluate, and  
14 correct heat hazards just created confusion and we ended  
15 up deleting that.

16 And employee representatives thought the  
17 temperature thresholds were too high to protect workers.  
18 The definition of indoor and what was an indoor location  
19 had loopholes that allow employers to escape and use the  
20 outdoor standard. And the limit or specific industries  
21 leaves most workers unprotected.

22 And then we go on to our fifth draft. We changed  
23 it to what is now the trigger for this one is 82 degrees  
24 for the base standard, except for subsection (e). And for  
25 subsection (e) it had two thresholds: 90 degrees and 82

1 degrees for work in high radiant heat areas or work with  
2 clothing that restricts removal.

3 And so that draft removed industry-specific  
4 temperature triggers. It said earlier subjective and not  
5 risk based, not science based. And we changed the  
6 subjective industry list to an objective measurement. So  
7 it's now an objective measure and not based on a  
8 (indiscernible). So the definition was basically if  
9 the globe temperature is five degrees higher than the dry  
10 bulb temperature, then that would be considered a high  
11 radiant heat area.

12 And we deleted reference to 3203, as requested by  
13 employers. And we deleted requirement to assess environmental  
14 risk factors, as requested by employers.

15 And then the sixth draft -- we're moving on -- in  
16 the October 2018, the employers proposed to the 82-degree  
17 trigger. It should be 85. And they thought the  
18 regulation should be listed -- limited to nine specific  
19 industries, which are listed there. And then employers  
20 should be given one year to conduct the initial  
21 temperature measurements.

22 And then employee representatives thought the  
23 82-degree trigger was too high. Especially the 90-degree  
24 trigger for control measures was much too high. The  
25 definition of clothing that restricts heat removal was too

1 narrow. Cool-down areas should be maintained below  
2 80 degrees. They're opposed to deleting the requirement  
3 to assess environmental risk factors. And they thought  
4 the control measures should have more specificity and  
5 should mandate specific rest periods. And that more  
6 recordkeeping requirements were needed, specifically about  
7 assessing environmental risk factors.

8 Okay. And then we moved on to our sixth draft in  
9 2019. We kept the 82-degree trigger for the base  
10 standard. And we changed the trigger for subsection (e),  
11 which is assessment and control to 87 degrees. And then  
12 82 degrees for high-radiant heat areas and where clothing  
13 that restricts heat removal is used.

14 And then we added the cool-down areas have to be  
15 maintained less than 82 degrees, if feasible. And then we  
16 added new definitions to help -- to help people understand  
17 the requirements.

18 And then on the response to the sixth draft, one  
19 of the -- I guess one of the comments from employer  
20 representatives was that indoors presents less risks than  
21 outdoors but yet requires greater protective measures.  
22 Again, the triggers should be raised to 85 degrees. The  
23 regulation should not apply to short-duration exposures.  
24 The regulation should be limited to specific industries.  
25 And remote locations should be excluded from the



1 regulation.

2 And then employee representatives thought the  
3 82-degree trigger was too high. It's higher than the  
4 ACGIH recommendation, which was in the bill that told us  
5 to do the regulation. And the outdoor regulation requires  
6 shade at 80 degrees, which is a lower threshold. And the  
7 definition of clothing restricts heat removal is too  
8 narrow.

9 The trigger for subsection (e) about control  
10 measures should be lower based on ACGIH, NIOSH, and US  
11 Military guidelines. Should add requirements to maintain  
12 records of environmental risk factors and should require  
13 annual refresher training.

14 And they point out that the ACGIH recommendation,  
15 which is in the bill, has much lower temperatures than  
16 what we have at -- you know, they have requirements going  
17 down to 71.6 degrees and other requirements at 75 degrees.  
18 Much lower than what we have in our proposal.

19 And then by choosing a trigger temperature of  
20 82 degrees, we're deviating significantly from the best  
21 available scientific recommendations. And these  
22 criticisms are true. It's not as protective as science  
23 would have us do. But we're trying to balance, I guess,  
24 practicality with science. So that's -- we're making  
25 compromises and we -- we understand it's not completely

1 protective, but we're trying to balance different needs of  
2 practicality.

3 And then the seventh draft, we also add an  
4 exception to the assessment and control measures, giving  
5 employers the option to get out of subsection. They can  
6 just assume (e)(2), the control measures apply and they  
7 can skip (e)(1). And then we met at clarification  
8 requirements. But it's very similar. This version, five  
9 years ago, is very similar to what we have now.

10 Here's a comparison to the outdoor heat standard  
11 with this proposed indoor heat standard. The outdoor heat  
12 standard is called the Maria Isabel Vásquez Jimenez heat  
13 illness standard. She was a young -- she was a girl. She  
14 was a 17-year-old. She died of heat illness. She was a  
15 farm worker who died many -- around the time 3395 was  
16 promulgated. And the standard's named after her. And it  
17 was a completely preventable incident. And we always want  
18 to remember her. She died at such a young age to heat  
19 illness that was preventable.

20 But if you look, the comparison, the regulations  
21 are almost identical. We try to keep everything the same.  
22 All the titles are the same, pretty much all the content  
23 is the same in the subsection, except for subsection (e),  
24 where an indoors would require control measures. You  
25 don't have in outdoors 'cause you can't do that outdoors,

1 for the most part.

2 So that's the comparison. And the regulations  
3 are very close to each other.

4 Again, the scope. It triggers at 82 degrees for  
5 everything except for subsection (e). And then (e)  
6 triggers at 87 degrees -- or heat index 87. And then  
7 82 degrees for clothing that restricts heat removal in  
8 high radiant heat areas.

9 And the -- some of the necessity for these  
10 temperature triggers, we looked at a few studies. The  
11 first study listed there, they looked at 25 heat  
12 illnesses, including 14 fatalities. And the heat index  
13 was less than 91 degrees in 12 of 25 cases and in 6 of 14  
14 fatalities. And 4 of the fatalities occurred when the  
15 heat index was between 85 and 90 degrees. So serious heat  
16 illness can occur at these lower temperatures.

17 The second one was 20 heat illnesses -- 20 heat  
18 illness investigations by fed OSHA. CDC looked at those.  
19 Included 13 fatalities and 7 locations that had multiple  
20 heat illness cases. And in 7 of 9 fatalities, the  
21 temperature was under 92 degrees. And 2 of 7 of the  
22 incidents with multiple heat illness cases, it was under  
23 92 degrees. And the temperature's under 85 degrees in 3  
24 of 9 fatalities.

25 And the third study we looked at, it was a meta

1 study of 588 heat illness deaths. Four percent of deaths  
2 were under 80 degrees. And 15 percent of deaths were  
3 under 91 degrees.

4 And then there are exceptions to the regulation.  
5 There's an exception for teleworking; incidental heat  
6 exposures, if it's under 95 degrees for less than  
7 15 minutes in a 60-minute period; and emergency  
8 operations.

9 And as you know, prisons are exempt. I'm not --  
10 I wasn't involved in that. Then -- anyways. Sorry. I'm  
11 kind of dry.

12 And I know there's been request for more  
13 exemptions for short-term exposures. I feel another  
14 exemption -- or more exemptions are not needed. There is  
15 a subsection (a) (4). Think Helen Cleary mentioned  
16 it. And we have it mentioned in the final statement  
17 reasons. But it limits application of the proposed standards  
18 where there's a risk of heat illness.

19 So a momentary exposure, someone goes into a  
20 storage ditch to -- storage shed -- sorry -- to grab  
21 something. They're in there for couple seconds, it's over  
22 95, there's no risk of heat illness. So it wouldn't be  
23 covered by the standard.

24 Okay. Some of the key definitions are  
25 administrative controls, which means procedures,

1 practices, or schedules. Basically changing those around  
2 to reduce heat illness risks. Some examples of  
3 administrative controls: Acclimatizing employees,  
4 employee rotation, scheduling work earlier in the day or  
5 later in the day when temperatures are cooler, using  
6 work/rest schedules, reducing work intensity or speed,  
7 reducing work hours, changing required work clothing, and  
8 using relief workers.

9           Next is clothing that restricts heat removal.  
10 This triggers a lower threshold for subsection (e), the  
11 control measures. So that means full-body clothing -- so  
12 it's legs, arms, torso -- that's water proof or protects  
13 the wearer from chemical, biological, physical,  
14 radiological, or fire hazard; or designed to protect the  
15 wearer from the work process or contamination.

16           But there's an exception to that. It's not  
17 clothing that restricts heat removal if it's breathable,  
18 which is number one, basically a knit or woven fibers or  
19 not water vapor perm -- otherwise water vapor permeable.  
20 It's worn in lieu of street clothing. And it's worn  
21 without a thermal vapor moisture barrier.

22           Cool-down area. It's similar to the shade  
23 requirements in the outdoor regulation, that it blocks  
24 radiant heat. It provides an area for people to recover  
25 from heat. Different from the outdoor one, it does

1 require the temperature to be 82 degrees or less, if  
2 feasible. And one of the difference, also, is that  
3 we've -- in the indoor standard, we require water to be  
4 there in the cool-down area, and that's not in the outdoor  
5 standard. But that's mostly an oversight in the outdoor  
6 standard. It should have been there.

7           And then there's requirements for the cool-down  
8 areas. It can't be an area where the environmental risk  
9 factors defeat the purpose of allowing the body to cool,  
10 such as other heat exposures, radiant heat exposures;  
11 exposure to unsafe or unhealthy conditions, like high  
12 noise areas; or other areas that -- where employees are  
13 not allowed or discouraged from using the area.

14           An engineering control is a device that removes  
15 or reduces hazardous condition or creates a barrier  
16 between the employee and the hazard. There's some photos  
17 of, like, a vapor cooling fans. And the lower right one  
18 is insulation to prevent the sun from heating up the  
19 building.

20           High radiant heat area means the area where the  
21 globe temperature, which is specific measurement of the  
22 radiant heat, is five degrees higher than the dry-bulb  
23 temperature.

24           And then we provide in the regulation some  
25 examples of engineering controls. Isolation of the

1 process; isolation of the employees; air conditioning;  
2 cooling fans, cooling mist fans, evaporative coolers;  
3 natural ventilation, when it's cooler outside; local  
4 exhaust ventilation; shielding; and insulation, as was  
5 shown in the picture above.

6           And then we have a specific definition of indoor  
7 so we can differentiate between outdoor and indoor. And  
8 it's basically a covered space that is enclosed on --  
9 along its entire perimeter by walls, doors, windows,  
10 dividers, or other barriers. And regardless if the  
11 windows are open or closed, it's still considered  
12 enclosed. And if it's not indoors, then it's outdoors and  
13 covered by 3395.

14           And then we have an exception that shade areas  
15 used to comply with 3395(d), which is a shade requirement  
16 for outdoor, those are not indoors, specifically.

17           Then we also have a requirement in the control  
18 section on personal heat-protective equipment. So we  
19 define that so employers know exactly what's required  
20 there. And there's some examples. Water-cooled garments,  
21 air-cooled garments; cooling vests; wetted garments; heat  
22 reflective clothing; and supplied-air personal cooling  
23 systems.

24           Subsection (c) in the regulation, it's pretty  
25 much the same as 3395. And I said before, require water

1 in cool-down areas.

2 D, access to cool-down areas. Very similar to  
3 3395. Instead of "shade," it it's called a "cool down  
4 area."

5 Subsection (e)(1). This is where it differs from  
6 the outdoor. Requires measurement of the temperature and  
7 heat index and recording of whichever is greater.

8 Identify and evaluating other heat illness environmental  
9 risk factors. And effective procedures for the active  
10 involvement of employees and union representatives in  
11 taking part in the measurements and recording the  
12 measurements and identifying and evaluating the  
13 environmental risk factors in the workplace.

14 And there's exceptions to (e)(1). The employer  
15 can assume they're subject to (e)(2) and bypass (e)(1). And  
16 also vehicles with effective and functioning air  
17 conditioning are not covered.

18 (E)(2) is the control section. So first -- and  
19 it follows the hierarchy of control that's used in all our  
20 health standards. The engineering controls come first.  
21 And that is to reduce the temperature of heat index below,  
22 you know, 87 degrees, in most cases, with the exception if  
23 the controls are infeasible. And if they're infeasible,  
24 still use engineering controls to minimize the risks.  
25 And, again, there's an exception for controls which are



1 not feasible.

2           And then administrative controls, which, you  
3 know, the most common are work/rest schedules to minimize  
4 the risk of heat illness, again, to the extent feasible.  
5 And lastly, the use of protective equipment, which is the  
6 least effective and is the last of the hierarchy of  
7 controls.

8           And we don't define feasibility. I know a lot of  
9 questions came up and request we define it. It's not  
10 defined because it's a complex term. Usually it's a  
11 case-by-case determination. Lot of -- depends on the  
12 individual circumstances of the work environment and the  
13 conditions where the engineering and administrative  
14 controls will be implemented. And we are working on  
15 guidance documents to provide, you know, help for  
16 employers, what is considered feasible.

17           And then we have some examples here what would  
18 not be feasible: An unoccupied location for a short-term  
19 intermittent exposure. There, it doesn't make sense to do  
20 engineering controls 'cause it's not normally occupied.  
21 No one's there. Engineering controls would be feasible if  
22 you limit the time you're in the space. That's a very  
23 easy administrative control to implement.

24           Controls that would contradict legal -- other  
25 legal requirements, such as energy -- energy regulations.

1 That would not be feasible. Or it was mentioned  
2 hospitals, some burn centers have to be maintain a hot  
3 temperature. That would not be considered feasible. You  
4 wouldn't be required to cool those off.

5 Acclimatization, subsection (g). This is very  
6 similar to the outdoor standard.

7 Subsection (f), the emergency response  
8 procedures. Also very similar to the outdoor standard.

9 H, again, the training, also similar to the  
10 outdoor standard. And then we also added a note for  
11 employees covered by both sections, they can combine the  
12 training to a single training. Just to make that easier.

13 And the written prevention plan. That could also  
14 be combined with the outdoor standard, since the  
15 requirements are very similar in those two subsections.

16 And the employer assistance, the Cal/OSHA  
17 Publications Unit is developing fact sheets, guidance,  
18 documents, FAQs. They're updating the heat illness  
19 prevention model plan, and that is a combined indoor and  
20 outdoor plan, and also e-tools.

21 And also Cal/OSHA Consultation Service will  
22 provide employers off-site assistance, on site assistance,  
23 educational outreach, and partnership programs.

24 And that's the end. Thanks -- thanks for  
25 listening. Appreciate it.

1 CHAIRMAN ALIOTO: And thank you to you and your whole  
2 staff. It's obviously a very detailed proposed  
3 regulation. Thank you for your efforts that you put in to  
4 presenting it.

5 Are there any questions or comments from the  
6 Board?

7 MS. KENNEDY: I just have a quick comment. I really  
8 want to thank you for presenting the history and how we  
9 got to the proposed language that we're at now. I think  
10 I'm the one who sort of pushed for that because I haven't  
11 understood why we're where we're at. And so I really  
12 appreciate it. Thank you.

13 MR. BERG: Sure.

14 CHAIRMAN ALIOTO: Any other questions or comments?

15 Is there a motion to adopt the standard as  
16 proposed?

17 MR. THOMAS: I'll make a motion to adopt the standard.

18 MS. LASZCZ-DAVIS: I second.

19 CHAIRMAN ALIOTO: All right. We have a motion and a  
20 second. Ms. Money, will you please roll -- do the roll  
21 call.

22 MS. MONEY: So I have Mr. Thomas for the motion and  
23 Ms. Laszcz-Davis for the second; is that correct?

24 CHAIRMAN ALIOTO: That's correct.

25 MS. MONEY: Kathleen Crawford?

1 MS. CRAWFORD: Aye.

2 MS. MONEY: Dave Harrison?

3 MR. HARRISON: Aye.

4 MS. MONEY: Nola Kennedy?

5 MS. KENNEDY: Aye.

6 MS. MONEY: Chris Laszcz-Davis?

7 MS. LASZCZ-DAVIS: Aye.

8 MS. MONEY: Dave Thomas?

9 MR. THOMAS: Aye.

10 MS. MONEY: Chairman Joseph Alioto?

11 CHAIRMAN ALIOTO: Aye.

12 And the motion passes.

13 Got everything?

14 Are we good?

15 Okay. All right. I want to congratulate you  
16 again for the amount of effort that you put into this not  
17 proposed but current regulation. So thank you very much.

18 My only request would be a very respectful  
19 request to OAL in light of the pending summer season,  
20 which started, June 21st, to please do what they can to  
21 expedite finalization of this regulation. So I would ask  
22 that very respectfully.

23 Okay. Let's move on to Item B, proposed petition  
24 decision for adoption. This is the United Steelworker  
25 Local 5, Petitioner Tracy Scott, president staff

1 representative and petition 601.

2           Petitioner requests to amend title 8, General  
3 Industry Safety Orders, section 5189.1, Process Safety  
4 Management for Petroleum Refineries. Petitioner requests  
5 to expand the scope of section 5189.1, Process Safety  
6 Management for Petroleum Refineries, to include refineries  
7 that are now processing renewable feed stocks in place of  
8 petroleum.

9           The Petitioner notes the physical properties of  
10 petroleum crude oil versus renewable fats, oils, and  
11 greases may be different, but those differences end at the  
12 point of delivery to the facility where the feed stock is  
13 processed into highly flammable gasoline, jet fuel,  
14 diesel, and industrial chemicals.

15           Petitioner states that because the scope of  
16 5189.1 does not explicitly include refineries that process  
17 renewables, management has exempted their plant from  
18 five -- section 5189.1, California's groundbreaking PSM  
19 regulation for oil refineries that the Standards Board  
20 adopted in 2017 and decided to revert to the antiquated  
21 1992 PSM standard, section 5189.

22           Petitioner states that section 5189 is  
23 ineffective and adds that under section 5189, this  
24 refinery is on a path to a catastrophic loss of  
25 containment that could injure or kill many workers and

1 could threaten the safety and health of thousands of  
2 nearby residents.

3 Petitioner requests that emergency temporary  
4 standard to correct this flaw in Cal/OSHA's refinery  
5 safety regulations after one of their members was  
6 critically burned at their refinery from a loss of  
7 containment of flammable liquids.

8 Ms. Chau, will you please brief the Board.

9 Oh, Eric is going to brief the Board?

10 Okay. Eric, will you please brief the Board.

11 MR. BERG: Yeah. We have a very brief presentation.  
12 Mike Wilson will provide it. Just overview, Cal/OSHA  
13 recommends the Board grant the petition to the extent it  
14 request Cal/OSHA to expedite normal rulemaking to ensure  
15 renewable refineries are covered by section 5189.1 and  
16 supports the petition.

17 Mike has a couple comments on it.

18 MR. WILSON: Great.

19 John, there's a short set of slides, if you could  
20 pull up.

21 Here we go.

22 Okay. So I'll quickly walk you through the  
23 question of applying our refinery safety order, section  
24 5189.1 to renewable refineries that you heard about this  
25 morning from Ms. Serrano from the leadership of the United

1 Steelworkers and community members, the Blue Green  
2 Alliance and from Contra Costa County.

3 So process safety management is unique within  
4 occupational safety and health, as we heard this morning,  
5 in that it focuses not on preventing individual injuries  
6 or illnesses among workers but on preventing large numbers  
7 of casualties that can occur when refineries and chemical  
8 plants lose control of flammable and -- or toxic  
9 chemicals under high temperature and pressure.

10 Since 2017, following the 2012  
11 Richmond Chevron fire, California's 13 refineries have  
12 been covered by a comprehensive process safety management  
13 regulation, section 5189.1. And that was motivated by the  
14 2012 fire that endangered the lives of 19 workers. And as  
15 we heard from the Chemical Safety Board, caused some  
16 15,000 people, community members to seek medical attention  
17 for symptoms related to exposure to products of  
18 combustion.

19 We have two process safety management standards  
20 in California. One of them is .1, that applies to  
21 refineries. That's a 24-part 3,000-word regulation that  
22 this Board adopted in 2017. We have a second antiquated  
23 process safety management standard, which is 5189. And  
24 that covers our 1700 chemical plants. That is a 15-part  
25 300-word regulation.

1           So the development of subsection -- or section .1  
2 was a five-year process. And that regulation has been in  
3 effect since 2017.

4           The question of the Marathon Martinez refinery is  
5 the subject that motivated this coming to the Board today.  
6 And the refinery is using renewable feed stocks to produce  
7 what is called "renewable diesel." And that began in  
8 2022. And it has been a response to Governor Newsom's  
9 executive order and 7920 that is intended to spur the  
10 state's transition from reliance on fossil fuels while  
11 also retaining the capacity to produce transportation  
12 fuels in state and ensure public safety and environmental  
13 protection.

14           As part of this order, Cal/EPA, and the  
15 natural -- California Natural Resources Agency were  
16 directed to expedite regulatory processes to repurpose and  
17 transition upstream and downstream oil production  
18 facilities. And -- so what we're seeing is that, at  
19 Marathon, but then also at the Phillips 66 plant in Rodeo  
20 and two other plants in Southern California -- the  
21 Paramount plant and one other -- are transitioning to  
22 these new renewable feed stocks. And it's driving down  
23 their carbon footprint, and it's driving down the nature  
24 of their emissions, which is beneficial in many ways.

25           However, what has happened is that, as these



1 plants have come online, and in this case with the  
2 Martinez Marathon plant, they're reaching, now, up to 730  
3 million gallons of renewable diesel per year. They have  
4 quietly slipped out from under coverage of our  
5 comprehensive refinery safety regulation. And that is a  
6 consequence of the scope of that regulation, that the  
7 drafters of 5189.1, of which Eric Berg and I were members,  
8 didn't contemplate the emergence of a renewable refinery  
9 sector in California. And so the scope reflects that.  
10 It's -- it applies specifically to petroleum refineries  
11 and states as such with the NAICS codes.

12 Let's see. Let me move on here.

13 The Interagency Refinery Task Force was  
14 established in 2013, after the Chevron Richmond fire -- by  
15 then Governor Jerry Brown -- and consists of 13 state,  
16 federal, and local agencies. And these agencies produced  
17 a report in January of this year calling attention to this  
18 problem.

19 And they anticipated the emerging hazards of  
20 renewable refineries that produce -- process millions of  
21 gallons of flammables, exempting themselves from the  
22 requirements of section 5189.1 because of the stated  
23 scope, even though the hazards are the same. And this is  
24 just a -- sort of a summation from page 22 of that report  
25 that says, "When refineries convert from petroleum to

1 renewable fuel production, it is important that they  
2 continue to be covered by the PSM and CalARP regulations  
3 because the fuels they produce will continue to be  
4 flammable."

5 In this case they're referring to 5189.1 and to  
6 CalARP program 4, which is our sister regulation on the  
7 Cal/EPA side. Sort of fence line out and we're fence line  
8 in. But the language is essentially verbatim, the same.

9 Similarly, the Martinez refinery itself  
10 recognized the hazards of their process as they've ramped  
11 up production of renewable fuels. And this is from the  
12 final impact report from 2022 submitted to Contra Costa  
13 County, where they note that "explosion and fire risks  
14 could increase because byproducts of refining the new  
15 feeds pose new equipment damage hazards, and the extra  
16 hydrogen reacted with HEFA feeds would increase the  
17 frequency and magnitude of dangerous runaway reactions in  
18 high pressure HEFA reactors."

19 And in this case they're referring -- HEFA refers  
20 to hydroprocessed esters and fatty acids, which is the  
21 technical term, essentially, for bio-based feed stocks.  
22 Those are animal tallow and distiller's coin -- corn oil,  
23 soybean oil, and so forth. And their conclusion is that  
24 "even with safeguards in place, recurrent catastrophic  
25 explosions and fires can occur."

1           So our key points today and sort of underscoring  
2 Eric's, you know, recommendation is that the hazards of  
3 refining renewable feed stocks are nearly identical to  
4 those of refining petroleum. Both petroleum and renewable  
5 refineries process large quantities of flammable liquids  
6 and gases at high temperatures and pressures that, in the  
7 event of a release or incident, can cause large-scale and  
8 disastrous fires and explosions.

9           The Marathon Martinez refinery is producing up to  
10 730 million gallons of renewable diesel annually. And  
11 petroleum diesel and renewable diesel are chemically  
12 equivalent, I think is our fundamental point here. Their  
13 flash point is 125 degrees Fahrenheit. You can pour  
14 renewable diesel into a diesel engine and it functions  
15 perfectly well without any questions about some of the  
16 problems that happen with bio -- bio diesel.

17           But only petroleum diesel is covered by section  
18 5189.1 because its scope is limited to petroleum  
19 refineries. And, again, this is because the drafters of  
20 that section did not anticipate the emergence of renewable  
21 refinery sector in California.

22           So the three points here are, in closing, the gap  
23 in refinery safety in California, that 5189.1 is clear.  
24 Any substance with a flash point lower than 199.4 degrees  
25 Fahrenheit that is used in a refinery process must be

1 covered by 5189.1. For this reason, covering renewable  
2 refineries under section 5189.1 is consistent with its  
3 intent and with all its technical elements.

4 Covering these refineries will create far safer  
5 conditions for refinery workers and communities and is a  
6 simple process. We're essentially needing to -- to strike  
7 the term "petroleum" from where -- in the various sections  
8 around the scope. And all of that is reflected in the  
9 materials that were provided to you.

10 So happy to address any questions and, again,  
11 appreciate your attention.

12 CHAIRMAN ALIOTO: Any questions?

13 MR. HARRISON: So I don't have any questions. Just a  
14 couple comments, if it's -- if that's okay, Joe.

15 CHAIRMAN ALIOTO: Please.

16 MR. HARRISON: So I'd like to thank our brothers and  
17 sisters from the United Steelworkers for bringing this  
18 forward. And equally, my sincerest condolence to  
19 Mrs. Serrano and your family for the preventable accident  
20 that happened to your husband. I've had severe burn  
21 victims personally affect -- myself personally affected by  
22 that, and I can't imagine what you're going through to the  
23 extent that you've gone through. And so sincere condolences.

24 As I read through the Board book and I looked at  
25 staff's evaluation on page 890, they talked about

1 renewable feed stock being more flammable in many cases  
2 than petroleum product because of the oxygen levels and  
3 the things that you mentioned. And so you mentioned, in  
4 your presentation, Mr. Wilson, about the dangers could be  
5 equal to petroleum. I would say they're higher because of  
6 the feed stock is more flammable.

7 And so, with that, I think -- I want to thank the  
8 Division for your presentation, your work on this. And  
9 stat that I am highly supportive of approving the  
10 petition. And with that, just talk real quick about the  
11 process. I know you've asked for an emergency temporary  
12 standard.

13 And I don't know if somebody else is going to  
14 speak to this. But the expedited rulemaking, we've  
15 learned over the years in many cases, is a faster process  
16 than an emergency temporary standard. So I'm not sure  
17 which direction the Board's going to go today, but I would  
18 support whichever is more expedited, and I believe,  
19 probably, the expedited rulemaking process over the ETS is  
20 probably the way it will go.

21 But just wanted to, you know, lend my strong  
22 support of the petition. So thank you.

23 CHAIRMAN ALIOTO: Any other question for staff or  
24 comments?

25 MS. CRAWFORD: I think we're all in strong support.

1           CHAIRMAN ALIOTO: All right. Then I do want to -- I  
2 do want to say a welcome to Mr. Tracy and also to you,  
3 Ms. Serrano. I think that you've been through an  
4 incalculable difficulty for you and your husband and, of  
5 course, your whole family. And I do hope that this  
6 measure at least gives you some sense of solace that it  
7 will result in the saving of lives.

8           So I want to say thank you for bringing it to the  
9 Board. All right.

10          MR. WILSON: Chair -- excuse me, Chair, if I may?

11          CHAIRMAN ALIOTO: Yes.

12          MR. WILSON: Apologies for interrupting. I just want  
13 to pick up on Mr. Harrison's point that the Division is  
14 recommending expedited rulemaking as compared to emergency  
15 rulemaking. And we believe we can actually move that very  
16 quickly because the changes to the standard are fairly  
17 surgical.

18          CHAIRMAN ALIOTO: Yeah. All right.

19          MR. WILSON: Thank you.

20          CHAIRMAN ALIOTO: Is there a motion, then, to adopt  
21 the petition decision as proposed by staff, which would be  
22 expedited rulemaking as opposed to an emergency measure?

23          MR. HARRISON: So moved.

24          CHAIRMAN ALIOTO: Mr. Harrison moves. Is there a  
25 second?

1 MR. THOMAS: I'll second.

2 CHAIRMAN ALIOTO: We'll say Mr. Thomas has seconds.

3 And, Ms. Money, will you please call roll.

4 MS. MONEY: So I have Dave Harrison as the motion  
5 and Dave Thomas as the second.

6 CHAIRMAN ALIOTO: Correct.

7 MS. MONEY: Kathleen Crawford.

8 MS. CRAWFORD: Aye.

9 MS. MONEY: Dave Harrison.

10 MR. HARRISON: Aye.

11 MS. MONEY: Nola Kennedy.

12 MS. KENNEDY: Aye.

13 MS. MONEY: Chris Laszcz-Davis.

14 MS. LASZCZ-DAVIS: Aye.

15 MS. MONEY: Dave Thomas.

16 MR. THOMAS: Aye.

17 MS. MONEY: Chairman Joseph Alioto.

18 CHAIRMAN ALIOTO: Aye.

19 And the motion passes.

20 And thank you very much. Thank you very much for  
21 bringing this to our attention.

22 All right. Folks, we need to take about a  
23 ten-minute break for the translators. So we will have to  
24 do that and come back. We will only have, I think, one  
25 more item on the agenda. We'll also have a consent

1 calendar to vote on. So, please, let's limit to seven  
2 minutes, which really is going to be ten minutes.

3 Thanks very much.

4 (A short recess was taken.)

5 CHAIRMAN ALIOTO: All right, folks. Thank you very  
6 much. And welcome back to the business meeting. We're  
7 going to move on to agenda item number 2, which is  
8 National Safety Council, a petition from Lorraine Martin,  
9 president and CEO of the National Safety Council. And  
10 this is petition number 602.

11 Petitioner requests to amend title 8, General  
12 Industry Safety Orders, section 3400, medical services and  
13 first-aid, and Construction Safety Orders section 1512,  
14 emergency medical services.

15 The Petitioner requests to include a requirement  
16 to have opioid overdose reversal medications stocked at  
17 job sites and worker administration training as part of  
18 these regulations.

19 The Petitioner notes that with the number of  
20 workplace overdose deaths on the rise, opioid overdose  
21 reversal medication is now an essential component of  
22 adequate first-aid kit and that no industry or occupation  
23 is immune to this crisis.

24 Petitioner states that workplace overdose deaths  
25 have increased 536 percent since 2011, that nationally,



1 overdoses now account for nearly 1 in 11 worker deaths on  
2 the job, but in California, over 18 percent of workplace  
3 fatalities in 2021 were due to an unintentional overdose.

4 Including these medications at work sites, either  
5 in a first-aid kit or elsewhere and training employees to  
6 use it is a critical component or emergency response to  
7 help save a life and would help California combat the  
8 opioid crisis by ensuring work sites are appropriately  
9 equipped to respond to such an emergency.

10 Michelle Iorio, I understand that you are online.  
11 Will you please brief the Board?

12 Michelle, if you could unmute.

13 MS. IORIO: I am unmuted. Can you --

14 CHAIRMAN ALIOTO: There you are. Now you're good.

15 MS. IORIO: -- hear me now?

16 CHAIRMAN ALIOTO: Now you're good.

17 MS. IORIO: Okay. Great.

18 CHAIRMAN ALIOTO: Excellent. Thank you. How are you?  
19 Good to see you.

20 MS. IORIO: Good. Thank you, Chair Alioto and Board  
21 Members. In the interest of saving of time, I won't  
22 repeat the summary. Thank you for that. I'll just get  
23 into the evaluations.

24 So the petition has been evaluated by both Board  
25 and Cal/OSHA engineers. Cal/OSHA recommends granting the

1 petition, citing the increasing number of opioid overdoses  
2 occurring in California and noting that anyone at a  
3 workplace experiencing an overdose, including workers,  
4 clients, customers, and visitors can be saved by such a  
5 medication being readily accessible.

6 In their grant recommendation, they also reason  
7 that medications like Narcan are available over the  
8 counter, are safe and easy to administer, and are  
9 non-habit forming.

10 They recommend adopting separate regulations from  
11 the first-aid kit specific to such medications because of  
12 consistency concerns with first-aid kits and the ANSI  
13 standards.

14 Board staff engineers, in their evaluation,  
15 recommend denying the petition, flagging concerns  
16 about liability and the potential burden on employers of  
17 storing the medication and its optimal temperature.

18 After further research, Board staff believe there  
19 is very little to no legal risk for those administering  
20 the medication in a good-faith attempt to save someone's  
21 life. And any storage requirements can include exceptions  
22 where an employer can demonstrate infeasibility.

23 For these reasons, the decision before you today  
24 grants petition 602 because the proposal the require  
25 opioid overdose reversal medication at work sites and

1 training for employees to administer the medication would  
2 increase worker safety.

3 Petition 602 is now ready for your consideration.

4 CHAIRMAN ALIOTO: All right. Thank you, Michelle.

5 Are there any questions for Michelle?

6 MS. CRAWFORD: I have a quick question and it's  
7 related to AB 1976 and if there's an advantage to going  
8 one way or the other with this. All right. So AB 1976 is  
9 still making its way through, I believe. But -- so that's  
10 my curiosity, Michelle. I wonder if that's the more  
11 effective way to go or not.

12 MS. IORIO: I think that's a good question for the  
13 Board. It's the same content, the same subject matter.  
14 And I was -- in the legislative update, I was going to  
15 report that a recent amendment has been made to the  
16 language to -- that the Board consider adding language  
17 around requiring guidance on how to store the medication.  
18 Because that is a concern.

19 But it does -- otherwise is moving through the  
20 Houses. It's now in the Senate. So --

21 CHAIRMAN ALIOTO: Michelle, would you mind just --  
22 would you mind giving a little -- a brief update -- or  
23 just what that legislation is and what -- and whether or  
24 not it's duplicative of the proposed regulation -- or the  
25 petition.

1 MS. IORIO: I'm sorry. Can you say that one more  
2 time?

3 CHAIRMAN ALIOTO: Yeah. Would you just mind  
4 describing what that proposed legislation is and how it is  
5 duplicative of what might be in the petition?

6 MS. IORIO: Sure. Yes, it's AB 1976. And it's a bill  
7 that would require employers to provide opioid overdose  
8 reversal medication, like Naloxone or Narcan, in first-aid  
9 kits.

10 It's -- yeah, it passed through the Assembly.  
11 It's currently going through the Senate. And it's nearly  
12 identical. The first-aid kit language, like I noted in  
13 the Cal/OSHA evaluation, there's some concern that  
14 requiring the medication in first-aid kits might conflict  
15 with the ANSI standards. And there's a desire for that to  
16 remain consistent. So to create a separate regulation  
17 that wouldn't require the medication in first-aid kits but  
18 would require it at the worksite in some other storage  
19 outside of the first-aid kit.

20 And, again, after the recent hearing in the  
21 Senate, the language in the bill just would require the  
22 Board to include guidance on how to properly store the  
23 medication.

24 And, again, that's something that the Board could  
25 address as well through the petition process, through

1 creating regulations and any possible exceptions that they  
2 would want to include. For example, it's infeasible for  
3 an employer to properly store the medication at the  
4 optimal temperature.

5 CHAIRMAN ALIOTO: All right. I have a bunch of  
6 questions, frankly. Does anybody have any question -- I  
7 want to defer to folks first, if they want.

8 MR. HARRISON: So --

9 CHAIRMAN ALIOTO: Yeah.

10 MR. HARRISON: I just -- it feels like there's a lot  
11 of unanswered questions. And you're probably going ask  
12 some of the same things I am.

13 Is it possible to overdose on Narcan? And if so,  
14 how easy is that? And I just don't know by reading  
15 through the material that we have.

16 At what temperature can you store it? Because  
17 we're talking about constructions sites where the  
18 employers I represent are working out in 90 to 100 degree  
19 temperature and what's the shelf life of Narcan on a job  
20 site in a first-aid kit? Like, I just think there's a lot  
21 of unanswered questions.

22 I think the legislation is going to drive us to  
23 do something. I just don't want to do it prematurely.  
24 That's my concern.

25 CHAIRMAN ALIOTO: Okay. Thank you.

1 MR. HARRISON: That's all.

2 CHAIRMAN ALIOTO: All right. I do have a couple  
3 questions for you, Michelle. And this is -- I just want  
4 to probe on a couple different points here.

5 This strikes me as -- this struck me as an odd  
6 request for a number of reasons. And I think, primarily,  
7 the one that I'm struggling with the most is that I have  
8 not seen -- in my short time here, I have not seen a  
9 regulation where an employer is providing a remedy for a  
10 risk that the employer did not create.

11 And are there -- okay. That's one. Let's just  
12 put that there; right?

13 The other thing, along the same lines, is what is  
14 the principle that we are going to apply in this  
15 regulation? And so one principle might be, if there is a  
16 bad thing happening in our society and -- look, everybody  
17 has people in their lives who have suffered from addiction  
18 to drugs. Everybody. Me. Probably everybody else here.  
19 And it's a terrible -- these are terrible diseases. Of  
20 course we want to do something to save people's lives from  
21 these terrible diseases.

22 But I just want to kind of go through the  
23 exercise of at what point -- at what point -- where do we  
24 draw the line? Should there be a requirement of stocking  
25 insulin for people that have diabetes?

1 UNIDENTIFIED: Or epinephrine.

2 CHAIRMAN ALIOTO: Or epinephrine for people who might  
3 be susceptible to anaphylaxis?

4 I don't know the answer to these questions. If I  
5 were an employer in a B -- let's call it a beekeeping  
6 operation. If you had a beekeeping operation, I would  
7 have no problem passing a regulation requiring that  
8 beekeeper to maintain epinephrine. Because you never  
9 know, somebody might be allergic to bees. They get stung.  
10 I would consider that, frankly, to be an occupational  
11 hazard. And you should probably be stocking epinephrine.

12 But if you work somewhere else and you come into  
13 it with an allergy that -- that's terrible. I have  
14 allergies myself -- that you might not -- that's not being  
15 triggered by the occupation that you're doing, I just  
16 don't know whether or not that's something should be the  
17 requirement of the employer to stock.

18 So my question, long, convoluted -- sorry -- are  
19 there other regulations that you know of -- I propose this  
20 to Cal/OSHA too -- where the employer is responsible for  
21 remedying something that's not been created by the  
22 occupation of the employer?

23 MR. BERG: Wildfire smoke regulation. Outdoor heat  
24 regulation. Those are two that come off the top of my  
25 head. Those both require employer take action and

1 employer has not created the heat wave or --

2 CHAIRMAN ALIOTO: Okay.

3 MR. BERG: -- wildfire smoke event.

4 CHAIRMAN ALIOTO: Totally fair. The employer's not  
5 creating the smoke, but the employer is in a position  
6 where working every day will expose that worker to a  
7 preexisting hazard.

8 There's -- what I'm getting at is an employer  
9 where the occupation is exposing them to that risk. Let  
10 me give you another hypothetical. If we had a company  
11 that manufactured opioids and they did it by creating, you  
12 know, pills and that created a dust of codeine -- I don't  
13 know -- and the people accidentally ingest it while they're  
14 manufacturing it, that guy has to have Narcan on site, for  
15 sure. Like, for sure. Because it's the production of the  
16 facility that's creating that hazard.

17 So I push back a little bit on the fire as an  
18 analogy. I don't think that fits. I don't think it fits  
19 with outdoor heat. You have a warehouse, you're creating  
20 the hazard by requiring people to work in a warehouse  
21 that's very hot, you got to have it cooled down.

22 I just -- okay. All of this on top of -- on top  
23 of all of this I see, when I read Labor Code 142.3, I see  
24 our regulations and our power somewhat limited by what the  
25 code says and regulation and the statute, at least appears



1 to me, to grant the power and authority to mitigate risks  
2 associated, effectively, with occupational hazards.  
3 Hazards that are created through the occupation.

4 And I just am not -- I'm not seeing this  
5 connection. And I'm hoping that somebody can answer some  
6 questions -- just generally, if anybody understands what  
7 I'm getting at to respond.

8 MR. BERG: Well, we do see overdoses higher in certain  
9 industries that are very physical -- I think  
10 construction's one -- because of chronic pain and  
11 treatments for chronic pain lead to use of opiates. So --  
12 again, maybe that's a stretch. But because the job  
13 creates a lot of musculoskeletal problems and pain,  
14 opioids are used to treat that.

15 MR. HARRISON: And I would ask, you know, what are the  
16 different types of exposure that would cause an overdose;  
17 right? Do you have to ingest it? Can it be absorbed  
18 through the skin or the eyes? Are there other sorts of  
19 exposures that would cause an overdose?

20 And if that's the case, then somebody could be  
21 working, and if it is through an absorption method and  
22 be -- you know, come into contact with an opioid --  
23 fentanyl, if you will -- that the employer didn't introduce,  
24 but it was present at the job site and now the employee  
25 who had nothing to do with it is overdosing.

1           And I think we heard in the evaluation, overdoses  
2 are up 500-plus percent, year over year. I'm kind of  
3 conflicted. I'm not opposed to it. I think there's a lot  
4 of questions that need to be answered. I'm a little  
5 conflicted because of what I just said with the extreme  
6 increase in overdoses as well as the effect -- the ability  
7 for an employee to overdose and it's completely out of  
8 their control, while on the job site.

9           MR. WILSON: Chair -- oh, my apologies. Go ahead.

10          MS. KENNEDY: No, I was just going to follow up. So I  
11 think there was case not too long ago of a law enforcement  
12 officer who got -- had an exposure to fentanyl.

13          MR. WILSON: Yep.

14          MS. KENNEDY: So it can happen in occupations. But --  
15 though, those are very specific occupations where within  
16 their occupation they're expected to come in contact.

17                I sort of had the same personal conflict  
18 around -- because I thought -- well, I compared it to  
19 epinephrine. I'm like, we're not requiring employers to  
20 keep epinephrine on site where allergies and anaphylaxis  
21 are very common.

22                So I'm too -- and I'm someone who has been  
23 arguing with my employer to allow me to buy some Narcan  
24 because I work with a population where it's -- and -- you  
25 know, so it's something I think is useful in a work

1 environment or in -- and I'm not really considering the  
2 work environment. But then again, it's not something  
3 that's coming from a workplace exposure.

4 CHAIRMAN ALIOTO: I -- please.

5 MR. WILSON: Well, I would just add -- thank you -- a  
6 couple of things. One, with regard to the 1975, we had a  
7 lot of concerns about including it in the first-aid kit.  
8 Number one of course being that we've been really trying  
9 to make a uniform standard that everyone can agree on and  
10 harmonize with the ANSI standard we think is effective.

11 But also, practically speaking, the first-aid  
12 regulations are going to require ready access by employees  
13 to a first-aid kit. And that does mean that, assuming it  
14 passes, that first-aid kits will need to be in vehicles  
15 where a single employee is, you know, operating that  
16 vehicle. Need to be in a facility where there's a single  
17 employee operating a donut shop or what have you. There  
18 has to be ready access.

19 So it would it -- it's, you know, impracticable  
20 and probably ill advised to put Narcan in every single one  
21 of those locations for every single employee.

22 But I would -- I guess to your question about is  
23 this the employer's responsibility? And I guess the one  
24 other sort of equivalent would be the use of automatic  
25 external defibrillators that -- yeah. Where employers --

1 it's actually probably a good idea, even though they're  
2 not creating the conditions that cause a cardiac arrest.

3 The similarity -- I mean, so before I came back  
4 to do this work, I worked as a firefighter/paramedic for  
5 thirteen years. I saw a lot of these patients. And, of  
6 course, the most proximal problem is respiratory arrest.

7 And so it's similar to -- it's similar to a  
8 cardiac arrest and the use of an AED at the workplace  
9 that -- by the time we arrive, by the time EMS arrives,  
10 it's too late, if you've had a cardiac arrest. And it's  
11 often too late if you're in pulmonary -- respiratory  
12 arrest from an opioid overdose. It really does have to  
13 happen -- intervention does have to happen on the scene.

14 And -- so just thinking about and just  
15 contributing to the discussion. Thank you.

16 CHAIRMAN ALIOTO: Yeah. Go ahead.

17 MS. KENNEDY: Well, I was just going to ask, where  
18 is -- where are AEDs regulated? Where does that come  
19 from?

20 MR. WILSON: I had the same question. I don't know if  
21 they're required or if it's -- by local jurisdiction in,  
22 you know, public places where the public is gathering or  
23 so forth. But it's probably based on, yeah, city or  
24 county or what have you.

25 CHAIRMAN ALIOTO: And so is there a Cal/OSHA

1 regulation regarding defibrillators, AEDs?

2 MR. WILSON: No.

3 MS. LASZCZ-DAVIS: No. No.

4 CHAIRMAN ALIOTO: Okay.

5 MS. LASZCZ-DAVIS: Well, you know, Michael, I could  
6 tell whether what you were suggesting -- you know, you  
7 kind of give us both side of it. So --

8 MR. WILSON: Right.

9 MS. LASZCZ-DAVIS: -- where do you land on this issue?

10 MR. WILSON: I think we landed sort of in the muddy  
11 middle. Which is that it doesn't make sense to require  
12 this across the Board in first-aid kits. But that it's a  
13 good idea based on what we're seeing with the public  
14 health data.

15 And then the question is, you know, what would be  
16 the factors that have to be considered where it would  
17 actually be required. And maybe it's where there's large  
18 numbers of workers. Like Eric said, there are particular  
19 trades where there are -- you know, you're seeing  
20 overdoses in -- more than in others, occupations.

21 And, also, probably even where there's large  
22 members -- where the public is gathering. And, you  
23 know -- so those are all kind of, I think, factors that we  
24 need to think about it. But, again, sort of lands us in  
25 the middle.

1 MS. LASZCZ-DAVIS: Yeah. You know, just initially,  
2 listening to all this, it doesn't seem to fall reasonably  
3 well under a health and safety mettle, but it's certainly  
4 a public health mettle. Is that CDPH? Just a question.

5 MR. BERG: I mean, we've talked about with CDPH with  
6 is.

7 MS. LASZCZ-DAVIS: Pardon me?

8 MR. BERG: We have discussed this with CDPH.

9 MS. LASZCZ-DAVIS: And?

10 MR. BERG: I think they're in agreement with us, it  
11 should be required in workplaces and -- certain  
12 workplaces. I mean, it's one of the leading causes of  
13 workers now. And our jobs is to try to protect workers to  
14 the best of our ability. And if this is one of the number  
15 one killer -- it's not the number one, but it's in the top  
16 two or three killers in workers now.

17 And just a few years ago it was a very small  
18 number. So it's -- it's just become a really serious  
19 problem for workers. And it's killing workers. I think  
20 we have an obligation to act.

21 MS. IORIO: I was just going to try to answer some  
22 questions I heard that CDPH did try to answer. And so I'm  
23 just going to pull a quote about these opioid overdose  
24 medications, they have very few negative effects. And  
25 they have no effects if opioids are not in a person's

1 system. I think someone asked about the risks of using  
2 these medications. So I just wanted to put that out there  
3 as well.

4 CHAIRMAN ALIOTO: And then, Michelle, I read in one of  
5 the briefs about CDPH recommends that anybody who has an  
6 addiction carry Narcan with them. Are you familiar with  
7 that recommendation? CDC as well, I think.

8 MS. IORIO: That's reasonable. I haven't heard that,  
9 but that makes sense.

10 CHAIRMAN ALIOTO: Is that accord with your  
11 understanding, that CDC and CDPH all -- recommend that  
12 people that have additions carry Narcan with them?

13 MR. WILSON: Yeah. I mean, it seems -- it does seem  
14 logical. I mean, CDPH isn't in the business of  
15 rulemaking.

16 CHAIRMAN ALIOTO: Yeah.

17 MR. WILSON: Yeah.

18 MS. LASZCZ-DAVIS: So where does this leave us?

19 CHAIRMAN ALIOTO: Yeah. Where does it leave us?

20 MR. HARRISON: So would it be appropriate to kick the  
21 can down the road and wait and see what the legislature  
22 does?

23 MS. GONZALEZ: So the Board, under the Labor Code, has  
24 six months to review a petition that comes to it and to  
25 vote on it. That means you can kick it to July. But

1 that's as far as you can kick it.

2 MR. HARRISON: What if we approved, to the extent that  
3 we send it an advisory committee?

4 MS. GONZALEZ: You can certainly do that.

5 MR. HARRISON: And that would give us time to  
6 evaluate, get more direction from the legislature, should  
7 they pass a bill, and consider, you know, what's the right  
8 direction.

9 MS. GONZALEZ: I believe that -- Michelle, correct me  
10 if I'm wrong -- the proposed decision basically calls for  
11 an advisory committee to consider rulemaking.

12 MS. IORIO: I believe that's right. And possible  
13 exceptions in line with what we were talking about  
14 regarding storage.

15 CHAIRMAN ALIOTO: All right. Well, I think y'all  
16 heard my thoughts on it. Is there any other comments?

17 MS. KENNEDY: Actually, Michelle, would you mind  
18 reading the proposal -- the proposed decision?

19 MS. IORIO: Yes. One moment.

20 All right. The Occupational Safety and Health  
21 Standards Board has considered the petition of Lorraine M.  
22 Martin, president and CEO of the National Safety Council,  
23 to make recommended changes to the regulations in order to  
24 require that employers provide opioid overdose reversal  
25 medication at all work sites, as well as training for



1 employees to safely administer the medication.

2 For reasons stated in the preceding discussion  
3 and considering testimony received today, petition 602 is  
4 hereby granted to the extent that Cal/OSHA has requested  
5 to propose a necessary amendment to the regulations  
6 separate from the sections 1512 and 3400 that would  
7 require employers to provide ready access by employees to  
8 opioid antagonists and to train employees on their safe  
9 use were not infeasible.

10 So we may need to amend that language slightly,  
11 if we want to move it to an AC.

12 CHAIRMAN ALIOTO: Can you read what that amended  
13 language might be and can you just do it on the fly in  
14 front of everybody without thinking about it?

15 MS. IORIO: Let's see. Petition 602 is hereby granted  
16 to the extent that the proposal goes before an advisory  
17 committee to consider necessary amendments to the  
18 regulations, separate from sections 1512 and 3400, that  
19 would require employers to provide ready access by  
20 employees to opioid antagonists and to train employees on  
21 their safe use were not infeasible.

22 MR. HARRISON: So that would be for the Division to  
23 conduct the advisory committee.

24 MS GONZALEZ: It would be.

25 MR. HARRISON: Yeah. 'Cause they're looking for work.

1 CHAIRMAN ALIOTO: Is that acceptable to you?  
2 MR. WILSON: That's acceptable to us; right, Eric?  
3 MR. BERG: Yes.  
4 CHAIRMAN ALIOTO: Yeah?  
5 MR. HARRISON: So I would make that motion.  
6 CHAIRMAN ALIOTO: All right. It's been moved.  
7 MS. CRAWFORD: And I second.  
8 CHAIRMAN ALIOTO: And Ms. Crawford seconds.  
9 And, Ms. Money, will you please call roll.  
10 MS. MONEY: So I have Mr. Harrison as the motion and  
11 Ms. Crawford as the second; correct?  
12 CHAIRMAN ALIOTO: Yes.  
13 MS. MONEY: Kathleen Crawford.  
14 MS. CRAWFORD: Aye.  
15 MS. MONEY: Dave Harrison.  
16 MR. HARRISON: Aye.  
17 MS. MONEY: Nola Kennedy.  
18 MS. KENNEDY: Aye.  
19 MS. MONEY: Chris Laszca-Davis.  
20 MS. LASZCZ-DAVIS: Aye.  
21 MR. ROENSCH: Dave Thomas.  
22 MR. THOMAS: Aye.  
23 MS. MONEY: Chairman Joseph Alioto.  
24 CHAIRMAN ALIOTO: Aye.  
25 MR. THOMAS: You know, I was going to say, if addicts

1 carried this, we wouldn't have this problem. But addicts  
2 are the worst ones to follow the rules.

3 CHAIRMAN ALIOTO: Dave. All right. The motion  
4 passes.

5 Thank you, folks. That seems like a good  
6 compromise. We'll study it more.

7 Will you please consider the comments that we  
8 have made here today, which I think are problematic enough  
9 to warrant very deep consideration in the proposed  
10 amendment.

11 All right. Let's move on to variance decisions  
12 for adoption.

13 The proposed variance decisions for adoption are  
14 listed on the consent calendar. Ms. Iorio, will you  
15 please brief the Board.

16 MS. IORIO: Yes. Thank you, Chair Alioto.

17 On the consent calendar this month we have  
18 proposed decisions 1 through 79 for your consideration and  
19 possible adoption.

20 MR. THOMAS: So moved.

21 CHAIRMAN ALIOTO: All right. Mr. Thomas moves for  
22 adoption.

23 MS. LASZCZ-DAVIS: Second. Second.

24 CHAIRMAN ALIOTO: And Ms. Laszcz-Davis seconds.

25 And, Ms. Money, will you please call roll.

1 MS. MONEY: So I have the motion as Mr. Thomas and  
2 the second as Ms. Laszcz-Davis; correct?

3 CHAIRMAN ALIOTO: Yes.

4 MS. MONEY: Kathleen Crawford.

5 MS. CRAWFORD: Aye.

6 MS. MONEY: Dave Harrison.

7 MR. HARRISON: Aye.

8 MS. MONEY: Nola Kennedy.

9 MS. KENNEDY: Aye.

10 MS. MONEY: Chris Laszcz-Davis.

11 MS. LASZCZ-DAVIS: Aye.

12 MS. MONEY: Dave Thomas.

13 MR. THOMAS: Aye.

14 MS. MONEY: Chairman Joseph Alioto.

15 CHAIRMAN ALIOTO: Aye.

16 All right. We're going to move on to legislative  
17 update. Michelle.

18 MS. IORIO: Thank you. Yes. There are a number of  
19 bills we're watching. And the two I was going to discuss  
20 today have already been discussed, so I'll just flag them  
21 again. But AB 3528, which would allow current petroleum  
22 refinery process safety management regulations to apply to  
23 all refineries. That is moving -- it's moved through the  
24 Assembly and it's now moving through the Senate.

25 And AB 1976, which is the Narcan first-aid kit

1 bill that we just discussed. That is also currently going  
2 through the Senate after moving through the Assembly  
3 and -- yeah. The rest of the bills, we are continuing to  
4 watch. There have been no substantive amendments at this  
5 point. And we'll update you more next month.

6 CHAIRMAN ALIOTO: Very good. Thank you.

7 Are there any questions for Michelle?

8 All righty. Let's move on to the Cal/OSHA  
9 update. Mr. Berg.

10 Do you have an update?

11 MR. BERG: No, I didn't prepare anything else. I  
12 apologize.

13 CHAIRMAN ALIOTO: All right. There is no update.

14 Thank you very much.

15 Any questions for Eric about the non-update?

16 All right. Let's move on to the acting executive  
17 officer's report. Autumn.

18 MS. GONZALEZ: All right. Thank you, Chair Alioto.  
19 I'll try to keep it brief.

20 We filled two regulatory AGPA potions. Marlo  
21 who's watching from home or from her telework  
22 location started on June 11th. And Tishara Davis  
23 will be starting on July 1. So welcome to both  
24 of them.

25 And then we have a new senior safety engineer,

1 Kristen Kelly. She's back here today.

2 Welcome, Kristen. Glad to have you. She started  
3 June 4th.

4 Yesterday was Jesie's last day as the  
5 administrative SSM I. She returned to her AGPA position  
6 today. It's very unfortunate for us. We so much  
7 appreciate you, Jesie. She's leaving very big shoes to  
8 fill, but we're going to try to fill those. We're going  
9 to get that position posted really soon.

10 And then we're also going to posting a legal  
11 secretary position very soon.

12 And then Amalia ask I give a couple brief updates.  
13 On brush chippers on May 30th, the Board staff held and  
14 advisory committee meeting to discuss proposed amendments  
15 to the GSO section 3420. The Board is reviewing the input  
16 from that event and suggestions that they received.

17 And then on to 598, petition 598, that's the  
18 cranes -- the cranes petition that was granted awhile  
19 back. The Board staff's going to be holding an advisory  
20 committee meeting on July 24 to discuss potential  
21 amendments related to recertification and clarify that the  
22 hands-on examination waiver will not apply to crane  
23 operators involved in accidents or other related  
24 performance issues.

25 And additional information on that event will be

1 posted on our website shortly.

2 On residential fall protection, Board staff  
3 recently met with framing stakeholders and Cal/OSHA to  
4 hear recommendations related to a possible amendment for a  
5 section within 1716.2. Some agreements seem to have been  
6 reached, so there's some headway happening and everyone's  
7 very excited about that.

8 And then, finally, we wanted to acknowledge Kevin  
9 Goddard, who is here as well. He's one of our new senior safety  
10 engineers. He just achieved his certified safety professional,  
11 CSP, certification. So congrats to Kevin. And that's it.

12 CHAIRMAN ALIOTO: Awesome. That's great. Thank you,  
13 Autumn. And congratulations, Kevin. That's excellent.

14 All right. I think that's bringing us to an end.

15 New business. Future agenda items. Do any of  
16 the Board Members have questions for staff or items that  
17 they would like to propose for future Board agenda items?

18 MR. HARRISON: I'd like a -- make a -- just a couple  
19 of comments, not a request, before we adjourn to closed  
20 session.

21 CHAIRMAN ALIOTO: Okay. Great. Let's do that. And I  
22 think there are a number of comments, actually. And so  
23 lets go to that. And if you don't mind, I would like to  
24 begin.

25 All right. I want to address a few of the public

1 comments as well as, you know, what I said at the very  
2 outset, which is we've had some changes in the Board  
3 makeup. And I've been on this Board for whatever it is,  
4 six to eight months, somewhere in that area, and it's been  
5 a great honor for me to serve on this Board.

6 And one of the main reasons for that is because  
7 of the camaraderie that I feel with my fellow Board Members  
8 who feel deeply passionate about the issues that come  
9 before this Board and have no problem whatsoever speaking  
10 their mind. And yet, at the same time, are always deeply  
11 respectful to one another and to staff and whomever else  
12 may be proposing something to them.

13 I -- it's an honor for me to have been appointed  
14 to this position by the Governor and it is, of course, a  
15 great honor that he had enough faith to designate me as  
16 Chair.

17 I don't speak for the administration. I am not  
18 privy to the administration's decisions. But I don't  
19 challenge the administration's ability to -- their  
20 discretionary authority to make the decisions that they feel  
21 is appropriate. I respect it. And I will do the best job  
22 that I possibly can as Chairman of this Board.

23 I did hear some comments that there are -- that  
24 some of the movements in the positions of this Board might  
25 cause a chilling effect on people to speak and workers and



1 there were some comments about that. I want to dispelled  
2 that immediately.

3 It is true that I am the Chair, and I've got some  
4 huge holes to fill left by Dave Thomas, who did an  
5 extraordinary job as Chair. But before I'm the Chair, I'm  
6 the public member. And I take my role as the public  
7 member very, very seriously.

8 To me, my job on this Board is to be open-eared  
9 to ask questions that I think the public wants to know, to  
10 probe in a way that I think will be beneficial to truth  
11 seeking. Sometimes that's uncomfortable, and I apologize  
12 if it is. But at the end of the day, it's also necessary  
13 to do that.

14 But I view my role as public member to be  
15 absolutely paramount. And I will have an open mind toward  
16 everything that's presented to this Board. My door is  
17 always open to whomever wants to come in and speak about  
18 their mind about any topic that might come across their  
19 Board.

20 No one will ever dictate to me how I vote. I  
21 will vote based on what I think to be the most reasonable  
22 way that we can resolve an issue that's been presented to  
23 us, based on what I understand to be the most fulsome  
24 collection of the evidence. That's my philosophy and  
25 that's how I proposed to help lead this Board. And I

1 wanted to make that clear, how proud I am to be able to be  
2 a part of this Board at all, much less one of its leaders.

3 So thank you for indulging me with those  
4 comments. And I think we have a couple more.

5 All right, Mr. Harrison.

6 MR. HARRISON: So I'll be brief. It's been a long day  
7 already.

8 So I want to say, you know, same comments with  
9 Laura Stock. Laura and I come from the same class, the class  
10 of 2012. Her and I were appointed at the same time. There's  
11 one other. I can't remember who it was.

12 But I served alongside her for the last 12 years,  
13 and she has been an absolute stalwart. I'll just echo all  
14 the comments you made, and some that we heard from the  
15 podium today. And she's going to be missed. And if she's  
16 still listening, want to thank her for her work on the  
17 Board alongside myself and the rest of the Board Members.  
18 She's, yeah, truly going to be missed.

19 Dave Thomas I've known quite a bit longer. He  
20 and I have worked side by side on my day job for almost 20  
21 years now. And when I got appointed to the Board to serve  
22 alongside him, I was honored for that. And everything  
23 that you said earlier about his work, all the rulemaking  
24 that we've been able to accomplish in the state of  
25 California under your leadership, Dave, I appreciate you,

1 man. And I'm glad you're still with us and still fighting  
2 the fight. So thank you for everything you did and  
3 continue to do.

4 And then I also want to say, Joe, looking forward  
5 to working with you as our new Chair. So, yep.

6 CHAIRMAN ALIOTO: Thank you.

7 MR. HARRISON: That was it.

8 CHAIRMAN ALIOTO: Thank you very much.

9 MS. LASZCZ-DAVIS: Well, I won't -- I was going to  
10 start off by saying I won't be as short as you, but I will  
11 try to be pretty short here.

12 You know, just wanted to make a few comments just  
13 real quickly. Just observations more than anything else.  
14 I mean, honest to God, Eric, I hadn't realized the tenuous  
15 process in getting through this heat illness standard.

16 My hat's off to you and the staff for actually  
17 indulging us in go through all that. It's not easy and  
18 it's evident that you integrated the comments and the  
19 concerns and observations that were made. So that was an  
20 ah-ha moment for me. So thank you for that litany of  
21 drafts and changes.

22 But, you know, sitting back and listening to the  
23 comments publicly, there isn't anybody in this room or on  
24 Zoom who has a vision that differs from making sure that  
25 we do the best we can for our workers in the state of

1 California. And I think when we miss a line, it's often  
2 an approach. And I know several people commented.

3 And what I mean by approach is this: I'm a big  
4 believer that, you know, targeting our standards makes  
5 more sense in terms of risk. One size fits all rarely  
6 works very well. And I think it makes for a very tenuous  
7 complicated process with unresolved issues at the end.

8 So to the extent that we continue to deal with  
9 standards that are able to target high-risk industries, I  
10 think we are all better served -- it'll be faster, more  
11 efficient, and actually more effective.

12 And the other thing that I would like to  
13 emphasize, and I emphasize this often enough, the advisory  
14 committee process. I think some people think we have it.  
15 I don't think it's as robust as it ought to be. And I go  
16 back to the comments about what characterizes an  
17 effective advisory committee Board meeting.

18 It's sitting around the table going through these  
19 standards -- proposed standards line by line. It's not  
20 easy, but I think it's the only way we get to where we  
21 need to get.

22 And just -- you know, I got to thinking about  
23 communication. We all think we communicate pretty well.  
24 But there's a saying I'll often use in sessions, George  
25 Bernard Shaw, let me invoke the band. He once said that

1 the single biggest problem with communication is the  
2 illusion that it has taken place.

3 And I think the only place, the only opportunity  
4 we have is this advisory committee process. And it's got  
5 to be more than sitting in a room, going up to a podium,  
6 and commenting. I think we've got to sit around a table  
7 and lend a little constructive tension to the process so  
8 that we come out of it better all around.

9 So anyway, just wanted to share those thoughts.

10 CHAIRMAN ALIOTO: Thank you. Thank you very much.

11 Anybody else have anything that they would like  
12 to say?

13 MR. HARRISON: Can I propose a new title before Dave  
14 goes? We have our Chair and we have our Board Members. I  
15 would like to propose Chair Emeritus.

16 MR. THOMAS: I don't want to make anybody else mad,  
17 all right? We don't need to go there.

18 But I just wanted to say, thank you for the kind  
19 things that have been said. But I'm not here for David  
20 Thomas. I'm here for -- I was actually put here by the  
21 California State Council of Laborers and their advocacy  
22 for me to get on the Board.

23 So it's never been about me. I mean, when I got  
24 the Board, that was nice. I never thought I would be the  
25 Chair. And I've probably been Chair way too long. But,

1 hey, you know, change is good. And I'm fine with it. I  
2 don't have to read all right this stuff anymore.

3 The thing that I'm really sorry about, and I  
4 don't think it should have happened, is Laura should still  
5 be here. I don't know what could have happened. But I do  
6 also want to apologize for how I acted at the meeting in  
7 San Diego because that was not a good performance.  
8 Terrible -- worst performance by a Chair, ever.

9 But there was a lot of factors in that. But I'm  
10 proud I'm still here. I'm proud for everything that has  
11 happened in the 14 or 15 years I've been here. And I'll  
12 always be proud of that. Because I do remember when there  
13 wasn't an OSHA Board for a little while and they took it  
14 from us. And we brought it back through the  
15 proposition -- I can't remember. It was '86 or '87. We  
16 lost it for a while.

17 And I'm just proud to be part of this. I know we  
18 do good work. And thank you very much for all the  
19 comments you've made, but I'm not dead yet. So thank you.

20 CHAIRMAN ALIOTO: And we're glad. I can't think of a  
21 better advocate for labor on this Board than you and  
22 Mr. Harrison.

23 All right, folks. That's going to wrap it up.  
24 We're not going to go into closed session today. We're  
25 going to kick that to July. It's been a long day and I

1 think everybody wants to go have lunch.

2 The next Standard Board regular meeting is  
3 scheduled for July 18, 2024, in Los Angeles, California,  
4 via teleconference and video conference. Please visit our  
5 website and join our mailing list to receive the latest  
6 updates.

7 We thank you for your attendance today. There  
8 being no further business to attend to, this business  
9 meeting is adjourned.

10 (End of proceedings)

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1 REPORTER'S CERTIFICATION

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

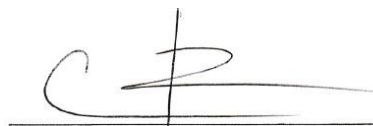
5 That the foregoing proceedings were taken before  
6 me at the time and place herein set forth; that any  
7 witnesses in the foregoing proceedings, prior to  
8 testifying, were duly sworn; that a record of the  
9 proceedings was made by me using machine shorthand, which  
10 was thereafter transcribed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

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

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

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

22 Dated: July 21, 2024

23  
24  
25  


Hearing Reporter