STATE OF CALIFORNIA
DEPARTMENT OF INDUSTRIAL RELATIONS

OCCUPATIONAL SAFETY & HEALTH STANDARDS BOARD
PUBLIC MEETING, PUBLIC HEARING AND BUSINESS MEETING

In the Matter of: )
May 18, 2023 OSH )
Standards Board Meeting )
___________________________)

IN-PERSON & TELECONFERENCE
Attend the meeting in person:
County Administration Center
Room 310
1600 Pacific Highway
San Diego, CA 92101

Attend the meeting via Video-conference

THURSDAY, MAY 18, 2023
10:00 A.M.

Reported by:
M. Nelson
APPEARANCES

BOARD MEMBERS PRESENT AT COUNTY ADMINISTRATION CENTER:

Chris Laszcz-Davis, Management Representative, Acting Chair
Kathleen Crawford, Management Representative

BOARD MEMBERS PRESENT VIA TELECONFERENCE:

Barbara Burgel, Occupational Health Representative
Dave Harrison, Labor Representative
Laura Stock, Occupational Safety Representative

BOARD STAFF PRESENT AT COUNTY ADMINISTRATION CENTER:

Christina Shupe, Executive Officer
Amalia Neidhardt, Principal Safety Engineer
Autumn Gonzalez, Chief Counsel
David Kernazitskas, Senior Safety Engineer
Sarah Money, Executive Assistant

BOARD STAFF ATTENDING VIA TELECONFERENCE AND/OR WEBEX:

Steve Smith, Principal Safety Engineer - Special Consultant
Lara Paskins, Staff Services Manager
Jesi Mowry, Administration & Personnel Support Analyst

ALSO PRESENT IN SAN DIEGO:

Jeff Killip, Cal/OSHA Chief
Eric Berg, Deputy Chief of Health, Cal/OSHA

TKO STAFF:

John M. Roensch
Sean Acrea
John E. Roensch
Maya Morsi

INTERPRETERS:

Erin LaFargue
Fabian Londono
PUBLIC MEETING COMMENTERS: (*Online testimony)

Bruce Wick, Housing Contractors of California
Dan Leacox, Leacox & Associates, Inc.
Michael Müller, California Association of Winegrape Growers
Mauricio Juarez, Jack in the Box/Fight for $15
Maribel Aceves, McDonalds, Fight for $15
Robert Moreno, Teamsters/UPS
*Anastasia Christman, National Employment Law Project
*Athena Tan, Plug In IE, Inland Empire Labor Institute
*Eric Frumin, Strategic Organizing Center
Mirella Deniz-Zaragoza, Warehouse Worker Resource Center
Melissa Ojeda, Inland Empire Amazon Workers United
Daniel Rivera, Inland Empire Amazon Workers United
*Mitch Steiger, California Labor Federation
*Dan Glucksman, International Safety Equipment Association
Ana Stacia Nicol Wright, Worksafe
Anna D. Ortega, Inland Empire Amazon Workers United
James Diaz, Inland Empire Amazon Workers United
Sarah Fee, Inland Empire Amazon Workers United
*Robert Moutrie, California Chamber of Commerce
Renee Guerrero Deleon, Southern California Coalition for Occupational Safety and Health, SoCalCOSH
Anthony Wooden, Amazon, IEWU
*Andrew J. Sommer, Fisher Phillips
*Katie Davey, California Restaurant Association
*Bryan Little, California Farm Bureau
Gideon Baum, California Hospital Association
Helen Cleary, Phylmar Regulatory Roundtable OSH Forum
Heath Lopez, DAX 8, Teamster 396/Amazon
*Veronica Pardo, Resource Recovery Coalition of California
*Beth Malinowski, SEIU California
Jesus Lopez, Amazon Driver/Teamsters Local 396
Viviana Gonzalez, UPS
Carlos Avalos Porras, BTS Amazon/Teamsters
*Alice Berliner, UC Merced Community and Labor Center
*Judith Neidorff, IFPTE Local 21
Johann Amberger, Amazon Air/IEAWU
Jassy Grewal, UFCW Western States Council
Steve Johnson, Associated Roofing Contractors of The Bay Area Counties, Inc.
*Travis West, California Nurses Association
*Alexis Teodoro, Orange County Communities Organized for Responsible Development (OCCORD)
APPEARANCES (Cont.)

PUBLIC MEETING COMMENTERS: (*Online testimony)

Dwayne Garrett, Teamsters Local 542
Chris Martinez, Teamsters Local 542
Kevin Bland, California Framing Contractors Association,
   Residential Contractors Association, and the Western Steel Council
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Although any Board Member may identify a topic of interest, the Board may not substantially discuss or take action on any matter raised during the meeting that is not included on this agenda, except to decide to place the matter on the agenda of a future meeting. (Government Code sections 11125 & 11125.7(a)).

D. CLOSED SESSION

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Personnel

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F. ADJOURNMENT OF THE BUSINESS MEETING

Next Meeting: June 15, 2023
Walnut Creek City Hall
Council Chambers
1666 N. Main Street
Walnut Creek, CA 94596
10:00 a.m.

Reporter’s Certificate

Transcriber’s Certificate
A/CHAIR LASZCZ-DAVIS: Good morning. This meeting of the Occupational Safety and Health Standards Board is now called to order. I am Chris Laszcz-Davis, Acting Chair for today’s meeting, and the other Board Member present here in San Diego is Kathleen Crawford, Management Representative.

The Board Members attending via teleconference are Barbara Burgel, Occupational Health Representative; Dave Harrison, Labor Representative; and Laura Stock, Occupational Safety Representative.

Present from our staff for today’s meeting are Christina Shupe, Executive Officer; Amalia Neidhardt, Senior Safety Engineer, who is providing translation services for our commenters who are native Spanish speakers; Autumn Gonzalez, Chief Counsel; David Kernazitskas, Senior Safety Engineer; and Sarah Money, Executive Assistant.

Also present is Mr. Eric Berg, Deputy Chief of Health for Cal/OSHA.

Supporting the meeting remotely are Steve Smith, Principal Safety Engineer - Special Consultant; Lara Paskins, Staff Services Manager; and Jesi Mowry, Administration & Personnel Support Analyst.
Copies of the agenda and other materials related to today’s proceedings are available on the table near the entrance to the room, and are posted on the OSHSB website. This meeting is also being live broadcast via video and audio stream in both English and Spanish. Links to these non-interactive live broadcasts can be accessed via the “Meetings, Notices and Petitions” section on the main page of the OSHSB website. By the way, before I forget, we welcome Jeff Killip, Cal/OSHA Chief.

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

As reflected on the agenda, today's meeting will consist of three parts. First, we will hold a public meeting to receive public comments on proposals on occupational safety and health matters. Anyone who would like to address any occupational safety and health issue, including any of the items on our Business Meeting agenda, may do so when I invite public comment.

If you are participating via teleconference or videoconference, the instructions for joining the public comment queue can be found on the agenda. You may join by
clicking the public comment queue link in the “Meetings, Notices and Petitions” section on the OSHSB website, or by calling 510-868-2730 to access the automated public comment queue voicemail.

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

For commenters attending via teleconference or videoconference, please listen for your name and an invitation to speak. When it’s your turn to address the Board, unmute yourself if you’re using WebEx, or dial *6 on your phone to unmute yourself if you are using the teleconference line.

We ask all commenters to speak slowly and clearly when addressing the Board, and if you are commenting via teleconference or videoconference, remember to mute your phone or computer after commenting. Today’s public comments will be limited to two minutes per speaker, and the public comment portion of the meeting will be extended for up to two hours, so that the Board may hear from as many members of the public as is feasible. Individual speaker and total public comment time limits may be
extended by the Board Chair.

After the public meeting, we will conduct the
second part of our meeting, which is the public hearing.
At the public hearing, we will consider proposed changes to
the specific occupational safety and health standards that
were noticed for today's meeting.

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

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

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

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

Amalia?

MS. NEIDHARDT: [READS THE FOLLOWING IN SPANISH]

“Good morning, and thank you for participating in today’s Occupational Safety and Health Standards Board public meeting. The Board Members present in San Diego are Chris Laszcz-Davis, Management Representative and Acting Chair for today’s meeting and Kathleen Crawford, Management Representative.

“The Board Members attending via teleconference are Barbara Burgel, Occupational Health Representative; Dave Harrison, Labor Representative and Laura Stock, Occupational Safety Representative.

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

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

"As reflected on the agenda, today’s meeting consists of three parts. First, we will hold a public meeting to receive public comments or proposals on occupational safety and health matters.

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

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

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

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

“After the public meeting, we will conduct the
second part of our meeting, which is the public hearing.
At the public hearing, we will consider the proposed
changes to the specific Occupational Safety and Health
Standards that were noticed for review at today’s meeting.

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

“Thank you.”

A/CHAIR LASZCZ-DAVIS: Thank you, Amalia.

If there are in-person participants who would
like to comment on any matters concerning Occupational
Safety and Health, with the exception of the public hearing
topic of Heat Illness Prevention in Indoor Places Of Employment, you may begin lining up at this time. We will start with the first three in-person speakers. And then we will go to the first three speakers in the teleconference and video conference queue. Thank you.

So Maya Morsi, who are our first three -- well, we're not into our remote -- our in-person speakers.

MR. LEACOX: Don't start my time yet.

A/CHAIR LASZCZ-DAVIS: I got it, I got it.

MR. LEACOX: Yeah, okay. Good morning Board, Division, Chief, staff, Board staff, those on whom we depend. Probably should be acknowledged before something goes wrong.

I just wanted to follow up on some --

A/CHAIR LASZCZ-DAVIS: Introductions?

MR. LEACOX: Oh, I'm Dan Leacox, Leacox & Associates. I represent various clients before the Board. And I'm following up on some comments I made last month via video conference.

In 2018, I think it was December 2018 -- maybe it's 2019, I don't recall for sure. You know, seeing the heat illness rule, indoor heat, and workplace violence and some of these rules in the work I actually made a little bit of a sea change in my comments and decided that somebody needs to start talking about good governance.
Because we're seeing these rules that have massive application to all businesses across the boards with a lot of burdens to them. Yep.

And then my comments last month were very much directed to a suggestion that the reason for slow rulemaking was the SRIA. And my response to that is well, really, it's these massive rules because they get in their first conception they're filled with typically very unproductive burdens. And the stakeholders respond to that. And these get filtered out by consideration of alternative approaches. And this can occur in a number of ways and this Board used to be very insistent on consensus rulemaking to filter those out.

The SRIA is another tool that can filter those out, it's supposed to do that economically with numerical analysis. Now that can cut in different ways, you know, numbers can be -- shine a light on a subject or they can be used -- they're kind of like workers, (indiscernible) right.

So but you have to care about filtering out the unproductive burdens, and the SRIA is an opportunity to do that. And one of the unique things about that economic analysis is that it's due at the start of the rulemaking to (audio distortion: indiscernible). And the others are due at the end, but that one is specifically designed to
consider alternatives, shine a light on the unproductive burdens, and alternative approaches. Of course, it has to be well done. And of course you have to care. But the suggestion that it shouldn't be done is just a shutting down of an avenue, an opportunity to expose those unproductive burdens.

And I think that the Board should care, should look at that closely, try to look past the surface of numbers and what they really mean in terms of the impact on stakeholders. And that's my response.

A/CHAIR LASZCZ-DAVIS: Thank you, Dan.

MR. LEACOX: All right.

MR. WICK: Good morning, Chair Laszcz-Davis, Acting Chair Laszcz-Davis.

A/CHAIR LASZCZ-DAVIS: You even said it correctly. Thank you.

MR. WICK: Board Members, everyone, good morning. Bruce Wick Housing Contractors of California. I just wanted to respond to a comment that was made at the last Board meeting, that maybe we should avoid consensus regs. And I think there's a misconception about what consensus regs are.

Consensus regs gather together the real stakeholders. That's Labor, that's Management, and experts in that particular field and they roundtable. And they are
people who have experience implementing regs, they know what it takes to go from paper to protecting workers like that paper says, which is a lot of work. That's why they go -- we go through, we sit around our table and go sentence by sentence through a reg to say, “How clear can we make this?” Because what we want to do is get as close as we can. An employee can read the reg and understand it.

Some regs are a little more complicated, but at least for sure the supervisor can read that through and understand it. And that way, when that reg hits it just goes from the safety coordinator, trains the supervisors who -- and we train the employees, and everybody understands. That's how a reg is supposed to work.

A non-consensus reg is where those people give input, but someone goes off and room and writes the reg themselves. And it appears sometimes that person writing it has never been a safety coordinator or supervisor, not having to implement the regs they’re writing. That creates challenges.

So a good reg, a consensus reg, comes out the vast majority of stakeholders agree you always have outliers who will oppose it, but that's okay. The vast majority of people say yes. Implementation takes place, employees understand it. And a high degree of protection is from the get-go. And then we enforce internally, safety
coordinators to their supervisors, supervisors to employees. But then externally employees and their representatives can call Cal/OSHA and say, “My employer isn't complying and I can tell you specifically why because I understand this reg.” And the Division can come out and enforce quickly, clearly, and if needed severely.

When Stuart Knotts was being — in his appointment hearing for Labor Secretary, he made the comment — it was specifically in regards to a labor law but I think it's the similar thing. He said, “It's harder and takes more time to enforce complex regs and complex laws.”

So the simpler, cleaner we can make them — and that's why we spend all this time when the Standards Board does an advisory committee working with all the stakeholders to get to a consensus, and we have a reg that doesn't hope it protects employees, but actually does. And enforcement allows protection to come out pretty high, and they just keep growing.

A non-consensus reg challenges that. A non-consensus reg is hard. It takes time. And enforcement is just a continual battle because it's hard to understand.

A/CHAIR LASZCZ-DAVIS: Thank you, Bruce.

MR. WICK: Thank you.

A/CHAIR LASZCZ-DAVIS: Thank you.
Anybody else at this point, before we move over to the remote commenters? Maya, who are our first three remote commenters in the queue?

MS. MORSI: The first three will be -- actually there’s only one public commenter and it's Michael Miller with California Association of Winegrape Growers.

MR. MILLER: Good morning. Can you hear me, hello?

MS. MORSI: Yes, we can hear you.

MR. MILLER: Okay, good. Thank you. All right. Good morning, Michael Miller. I’m with the California Association of Winegrape Growers.

Today I want to briefly address two quick issues. One is a COVID-19 non-emergency standard, and the second issue is the proposed Indoor Heat Illness Prevention Standard. I'll be especially brief on COVID. I would just like to simply ask that the Board and or the Division consider some public education or outreach to inform the public that the standard is still in place, and what is required of employers. I say this because there's currently a lot of confusion.

For example, Californians has gotten notice last week that the California Notify Program is no longer operational, and California is no longer tracking and notifying close contacts. That the regulation requires
employers to keep this information and share it with local
state and federal agencies on demand. When there's a lot
of outreach at the federal level about the end of the
pandemic, there's only the FAQs and a line from the
Division. I'm not seeing any press releases or any
outreach from the state.

So it might be a good idea for the state to
notify Californians, that the end of the pandemic doesn't
really change anything for California employers and tell
them to continue complying with the regulation.

Relative to the proposed Indoor Heat Standard, we
align ourselves with comments that were submitted by the
California Chamber of Commerce and by the Phylmar
Regulatory Roundtable. And more specific to our growers,
we've also submitted a letter raising a few issues that we
believe could probably be easily resolved and addressed.
And we opt ourselves to work with the Division staff and
Board staff to hopefully address these.

The first issue is, this pretty widely accepted
that exposure to moderate heat for less than 15 minutes in
a 60-minute period is considered, “incidental exposure”
meaning there's no need for additional regulatory
protection.

MS. SHUPE: Mr. Miiller?

MR. MIILLER: Yes?
MS. SHUPE: This is the public comment period. The period for the public hearing on indoor heat will follow this.

MR. MILLER: Thank you so much. Okay, I will chime back in later. Thank you. That’s all I have to say. Thank you for your time.

A/CHAIR LASZCZ-DAVIS: Well, we’ll I’m sure have Mike back to speak to us.

MR. MILLER: Thank you, so much.

A/CHAIR LASZCZ-DAVIS: At this time, are there any additional in-person attendees who would like to comment on any matters concerning Occupational Safety and Health? (No audible response.) Maya, do we have any additional commenters in the queue?

MS. MORSI: As of now, we only have public hearing commenters.

A/CHAIR LASZCZ-DAVIS: I'm sorry, I didn't understand. You do or do not?

MS. MORSI: We do not have any public commenters.

A/CHAIR LASZCZ-DAVIS: Okay. Well, thank you very much.

The Board appreciates your testimony. The public meeting is adjourned, and the record is closed.

We will now proceed with the public hearing.
During the hearing, we will consider the proposed changes to Occupational Safety And Health Standards that were noticed for review today. The Standards Board adopts standards that in our judgment are enforceable, reasonable, understandable and contribute directly to the safety and health of California employees. The Board's interested in your testimony on the matters before us. Your recommendations are appreciated and will be considered before a final decision is made.

If you have written comments you may read them into the record, but it is not necessary to do so as long as your comments are submitted via email at OSHSB@dir.ca.gov by 5:00 o'clock today. Board staff will ensure that they are included in the record and forward copies of your comments to each Board Member, and I assure you that your comments will be given every consideration. Please include your name and address on any written materials you submit.

I would also like to remind the audience that the public hearing is a forum for receiving comments on the proposed regulations, not to hold public debates. While rebuttal comments may be appropriate to clarify a point, it is not appropriate to engage in arguments. If you would like to comment orally today, please line up at the podium when I ask for public testimony. Please state your name.
and affiliation, if any, and identify what portion of the regulation you intend to address each time you speak.

If you are participating remotely and would like to comment you may join the comment queue by clicking the public comment queue link in the Standards Board Updates section at the top of the main page of the OSHSB website, or by calling (510)-868-2730 to access the automated public comment queue voicemail.

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

For commenters attending via teleconference or video conference, please listen for your name and an invitation to speak. When it is your turn to address the Board, unmute yourself if you're using WebEx, or dial *6 on your phone to unmute yourself if you're using the teleconference line.

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

And at this time, I'll ask Amalia Neidhardt to provide instructions to the Spanish speaking commenters so
they are aware of the public hearing comment process for today's public hearing.

Amalia?

MS. NEIDHARDT: [READS THE FOLLOWING IN SPANISH]

“The Standards Board adopts standards that, in our judgment, are enforceable, reasonable, understandable, and contribute directly to the safety and health of California employees.

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

“If you have written comments, you may read them into the record, but it is not necessary to do so as long as your comments are submitted to staff via email at OSHSB@dir.ca.gov by 5:00 p.m. today. Staff will ensure that they are included in the record and forward copies of your comments to each Board Member, and we assure you that your comments will be given every consideration. Please include your name and address on any written materials you submit.

“We would also like to remind the audience that the public hearing is a forum for receiving comments on the proposed regulations, not to hold public debates. While rebuttal comments may be appropriate to clarify a point, it is not appropriate to engage in arguments regarding each
other’s credibility.

“If you are participating via teleconference or videoconference and would like to comment orally today, you may join the public hearing comment queue by clicking the public comment queue link in the Standards Board updates section at the top of the main page of the OSHSB website, or by calling (510)-868-2730 to access the automated public hearing comment queue voicemail.

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remember to mute your phone or computer after commenting.

“If you have not provided a written statement before today’s meeting, please allow natural breaks after every two sentences so that an English translation of your statement may be provided to the Board.

“Thank you.”

A/CHAIR LASZCZ-DAVIS: Thank you, Amalia.

We will now turn to the proposal scheduled for today's public hearing, Title 8: General Industry Safety Orders, new Section 3396, Heat Illness Prevention in Indoor Places of Employment.

Eric, will you please brief the Board?

MR. BERG: Jeff, (indiscernible).

A/CHAIR LASZCZ-DAVIS: So Jeff, you'll be briefing the Board?

MR. KILLIP: Just a general intro and then I'll hand it off to Eric, if that’s okay?

A/CHAIR LASZCZ-DAVIS: It's okay.

MR. KILLIP: Yeah, good morning Acting Board Chair Laszcz-Davis.

A/CHAIR LASZCZ-DAVIS: Thank you for pronouncing it correctly.

MR. KILLIP: And Board Members for presiding over this public hearing to consider the Cal/OSHA Proposed Worker Protection Standard for Indoor Heat Illness.
As we know California has experienced record breaking heat over the last few years. Climate change models forecast increasing temperatures and worse heat waves in our future. Occupational related deaths, injuries and illnesses, will increase unless we take preventative actions now. Indoor heat-related hazards at work can be anticipated. Measures can be taken to prevent indoor heat illness in the workplace.

For these reasons, Cal/OSHA has proposed an Indoor Heat Illness Prevention Standard to complement our existing Outdoor Heat Illness Prevention Regulation. Cal/OSHA's initial proposal in 2017, was based on the threshold limit values and biological exposure indices developed by the American Conference of Governmental Industrial Hygienists known as the ACGIH. We did this because Labor Code 6720 require Cal/OSHA to consider these guidelines when developing the regulation.

Cal/OSHA held advisory meetings and received feedback from stakeholders on the 2017 proposal. Stakeholders told us that the regulation -- that any regulation based on these ACGIH guidelines would be too complex, too difficult to understand, and should not be used. Cal/OSHA listened and heeded the advice of stakeholders and abandoned this proposed approach.

In 2018, Cal/OSHA proposed expanding the existing
regulation for Outdoor Heat Illness Section 3395 to include indoor workplaces. This proposal was also rejected by stakeholders. Cal/OSHA again listened to stakeholder input. We pivoted again and we adjusted our approach to develop the current proposed standard for indoor heat worker protection.

The current proposed indoor heat standard would be a separate standard separate from the outdoor heat illness regulation. But the proposed indoor heat standard is very similar to the outdoor heat standard. And it follows the same structure as the outdoor heat regulation. Throughout this rulemaking process, Cal/OSHA has listened and thoughtfully incorporated stakeholder input to make the proposed indoor heat standard as easy as possible to both understand and to comply with.

And at this time, I'd like to hand this off to Deputy Chief of Health, Eric Berg, to walk us through this proposed indoor heat standard to protect workers.

A/CHAIR LASZCZ-DAVIS: Thank you.

MR. KILLIP: Thank you.

MR. BERG: All right, thank you very much. So I’ll go through this and explain the proposal to everybody.

First, this first slide kind of explains the timeline for developing the regulation, so there's a lot of questions on that. The first three years were meant for
developing and researching scientific literature. As Jeff said, the ACGIH, they have a recommended standard for heat illness prevention.

And then going with advisory committees, with stakeholders, going through different drafts. And as Jeff said we had several different drafts, I think nine total just getting input from stakeholders, making revisions, or the first couple that were abandoned completely after stakeholders’ input. After that just taking stakeholder input into account and refining the proposal. And so that took about the first three years of the process.

And then it went to review with several different agencies as listed up here. I forgot when the Department of Finance was actually the first reviewer of the Economic Impact Statement, or the Standardized Regulatory Impact Assessment. So there are several different agencies reviewing the proposal, giving feedback, and us responding or making changes to that feedback.

And then we started the formal rulemaking on March 31st, 45 days ago which was Cesar Chavez Day. I mean, that was not intentional, but it's important to recognize Cesar Chavez dedicated his life for fighting for protecting workers. So it's good that happened. And we recognize the great work that Cesar Chavez did.

And then today is the public hearing where we’re
going over the regulation. And then I kind of just guessed that the vote on this would probably be in the first quarter of next year, just based on how long it takes to review all the comments, make any changes to the standard if necessary. And then post that again, get more comments, and refine it. And then develop the stage two rulemaking documents. So I anticipate first quarter of next year will be the vote. And then if it passes then it would be in effect by the 2024 heat season. (Moving to next slide.)

There we go. Okay, just a brief overview of the hazards of heat, same hazards as outdoor heat. So we've been going over those many years as we enforce and educate and provide guidance on just heat illness prevention in general as we use the outdoor heat standard. It's kind of just this -- some of the commonly known illnesses, the short-term ones. The most serious one being heatstroke, which is a medical emergency that can lead to death or permanent damage.

And then some of the long-term hazards, which might not be apparent in day-to-day work, but over time dehydration and heat can lead to kidney damage, chronic heart disease, and chronic neurological effects.

BOARD MEMBER STOCK: Hey, Eric, excuse me. Can everybody hear Eric back there? No? Can you speak just a little bit louder?
MR. BERG: I can move the microphone (indiscernible).

BOARD MEMBER STOCK: Okay. Thank you, Eric.

MR. BERG: Okay. Sorry about that.

Okay, this one -- this slide compares the outdoor regulation with the proposed indoor regulation. On the left is the outdoor regulation and on the right is an indoor regulation. I don’t know if you can see that, but they are almost identical. They follow the exact same structure. Subsection (e) is the only one that's really different. In outdoor, it's called “high heat procedures” and indoor it’s “assessment and control measures,” but other than that, they're almost identical and follow the same structure. And as Jeff explained that was to make the indoor heat as easy to understand and to comply with for employers and employees, and anyone that's interested in the regulation.

The screen is a little bit cut off, but the first subsection is the scope of the regulation. So it's a little different than outdoor heat. The outdoor heat applies regardless of temperature. So if it's 70 degrees outside, the outdoor heat regulation still applies. For indoor, that's not the case. It goes into effect at 82 degrees. There we go. So it has a smaller scope than the outdoor regulation.
And there's two parts of the regulation, as I mentioned before. So the base regulation, which is everything except subsection (e) goes into effect at 82 degrees. And then the entire regulation including subsection (e), goes into effect of 87 degrees. And there's a couple of other instances where it goes into 82 if employees wear clothing that restricts heat removal, or they're in a high radiant heat area.

Okay, I'll go over some of the key definitions in the standard. I’m not going to go through all of them, just some of the really important ones, because there's many definitions. First is “administrative control,” which is one of the ways to prevent heat illness. And that is the method to limit exposure to hazard by adjustment of work procedures, practices, or schedules. And so for heat illness, one of the primary ones of course is climatization. And this little image from Fed OSHA just makes it clear that most of the deaths and serious injuries from heat come in the first week of work for employees. So climatization is a critical administrative control.

And we also list all of the administrative controls applicable to heat illness prevention. So as I said before, climatizing employees, rotating employees, scheduling work earlier in the day. We see that a lot with outdoor agricultural work where they’ll start at maybe 5:00
or 6:00 in the morning and quit by noon before the heat gets too bad.

Using work/rest schedules, which means for example, working 50 minutes in a hot environment at a high rate of work, and then taking a 10 minute rest. And then just completing that schedule or continuing that schedule to prevent heat illness. And that's commonly used in industry.

Reducing work intensity or speed, reducing the total work hours, changing required work clothing, and using relief workers. And so a little graphic on here just shows a climatization schedule that's commonly used in industry, just as an example.

Okay, clothing that restricts heat removal. So if employees wear clothing and restricts heat removal, subsection (e) kicks in at 82 degrees rather than 87, so this is an important definition. I have a picture there showing what this type of clothing is. It's full-bodied clothing covering the torso, arms and legs that's either waterproof, or designed to protect the wearer from chemical, biological, physical, radiological, or fire hazard, or are designed to protect the wearer or the work process from contamination. So it's those types of work --

And there's an exemption for knit or woven flame
retardant. It’s commonly used in refineries, it’s called Nomex. It's one of the common ones. If it's used instead of work clothing this is exempted from this, because it breathes and is not restrictive.

“Cool-down area” is the next definition. In the outdoor regulation it requires shade. In this regulation they require cool-down areas, which is very similar to the shade concept. You know, it blocks the sun or other radiant heat and provides a place where people can recover from heat exposure.

“Engineering controls,” is one of the major controls used to prevent heat illness. It’s a device that removes or reduces hazardous conditions, or creates a barrier between the employee and the hazard. A couple of pictures showing engineering controls for reducing human illness risks.

And we have some examples of engineering controls: Isolating hot processes, isolate employees from the source of heat, air conditioning, and cooling mist fans, natural ventilation if it's colder outside, shielding from radiant heat sources, and then insulation.

And “high radiant heat area” which kicks in subsection (e), if you're in a high radiant heat area it kicks it into 82 rather than 87. It’s a work area where the globe temperature, which we also define in the
regulation, but it's the black bulb around a thermometer. And it's five degrees hotter than the normal dry bulb temperature.

And then also we define “Indoor” so we can distinguish when 3395 applies, the outdoor standard or when this new indoor standard will apply. So it's under -- it's a space under a ceiling overhead covering that restricts airflow and is enclosed around the entire perimeter of the space. And anything that's not indoor will be outdoor, so there's no falling between the cracks between the two regulations. And there's an exception for shade that complies with 3395. This is automatically not indoors.

Okay, subsection (c) in this proposal is almost the same as the outdoor regulation. It requires water to be available to employees in a convenient place. It also requires water to be provided in cool-down areas, which 3395 is missing but we have it here.

Access to cool-down areas, very similar to the existing regulation 3395. In addition, cool-down areas have to be less than 82 degrees so employees can actually recover in this area. And there's exception if it's not feasible.

Subsection (e), which is the control measures and assessment portion of this regulation. Subsection (e)(1) is determining if control measures are needed. So it's up
to the employer who has to measure and record the
temperature or heat index, whichever is greater, you know,
after the regulation kicks in. And they have effective
procedures for involving employees and union
representatives in this process.

And there's an exception to this portion of the
regulation. The employer can assume that the workplace is
covered by this subsection, it's over 87 degrees in most
cases, and simply comply with (e)(2) and not do this
portion of the regulation, which would be helpful for
Central Valley, Imperial Valley employers in the summertime
where they know it's going to be over 87 degrees.

And (e)(2) is the actual control measures
required to reduce heat illness prevention. First is
engineering controls, which I defined earlier and provided
a list of examples. So those have to be implemented unless
it’s not feasible. If it's not feasible to reduce the
temperature, then implemented to the greatest extent
possible or feasible.

Then administrative controls. That's the next
step in the hierarchy is to implement administrative
controls to protect employees.

And lastly is personal protective equipment to
minimize risk of heat illness. And so this follows the
standard hierarchy of control used in almost all our health
regulations and industrial hygiene principles. Is engineering controls is at the top of the hierarchy, then you go to administrative controls, and then you go to personal protective equipment.

The next subsection is emergency response procedures. This is pretty much exactly the same as 3395. Close observation during the climatization, also similar to 3395. Just observe employees closely during heat waves and observe employees closely -- new employees or newly assigned employees during their first 14 days when it's over 87 degrees, or 82 if they're wearing clothing that restricts heat removal or in high radiant heat areas.

And the last two subsections are pretty much the same as the outdoor regulation 3395. So that's the kind of overview of the entire regulation. So thanks for your patience.

A/CHAIR LASZCZ-DAVIS: Okay, thank you very much for that, Eric. By the way, if any member of the public would like a copy of the Division slide presentation you can request it by sending an email to OSHSB@dir.ca.gov.

So that brings us to the point where we can accept public comment. At this time, we'll accept public testimony. If there are in-person participants who would like to comment you may begin lining up at the speaker's podium at this time. When it is your turn to speak please
provide a completed request-to speak slip to the attendee
near the podium and announce yourself to the Board prior to
delivering a comment.

We will start with the first three in-person
commenters and then we will go to the first three speakers
and the teleconference and video conference comment queue.

MR. JUAREZ: (Through Interpreter Neidhardt.)

Good morning, everyone. My name is Mauricio Juarez. He
has worked for more than eight years for Jack in the Box
and he’s also part of the Fight for 15.

He noticed a very high heat where he works, but
no one said anything. And with time he started to
complain, and he started to say this was not okay. There
were moments that the thermometer was 102 degrees. Some of
the (indiscernible) our employees, other coworkers fainted.
We didn’t know that we had to call the paramedics to
assist, help -- to seek help.

He will tell his manager that there was a
problem, and the manager will reply “I already told the
owner.” And he believes life gives you some changes. The
Fight for 15 told him, “We can help you, and OSHA also.”
They had to go on strike to get them to fix the issue about
the A/C. They fixed it but it looks like they went for the
cheaper remedy. He believes that it was a cheap way,
because sometimes it works and sometimes it doesn’t.
Today he is very happy to see that this is being taken seriously, because he says to restaurants, it’s always the same situation. Because he wants you to be aware that it will be now in the law, right. And so they will have to make sure the workers are okay. I hope you guys do it, I know you can. Thank you. (Applause.)

A/CHAIR LASZCZ-DAVIS: Thank you.

MS. ACEVES: (Through Interpreter Neidhardt.) Hello, my name is Maribel Marcela Aceves and I work at a McDonald’s. I have been working there for four years. It’s always been hot at the McDonald’s. And she also went on strike. And they fixed the A/C. But now it’s back again and they are sweating. But also, her coworkers sweat a lot because of how hot it is. And I have already been there 5 years, working there. And sometimes they fix the A/C but sometimes it breaks down again. She wished that there would be something to get them to fix the A/C because she cannot work without it. And she appreciates being a part of the Fight for 15. That’s all. (Applause.)

A/CHAIR LASZCZ-DAVIS: Thank you.

MR. MORENO: Good morning. My name is Robert Moreno. I sit on the Executive Board with Teamsters local 542. But today I come to you guys, as an employee of UPS. I've worked for UPS for close to three decades now. That means I've spent the majority of my life inside of a
I've also been a victim of heatstroke, where I've had to be taken in an ambulance while on the job to the hospital and hospitalized. So I speak to you guys from experience.

I do appreciate Cal/OSHA, and I appreciate the standards you guys set. But these standards, and these thresholds and proposed standards, I feel are too high.

The temperatures are high if we're just sitting out and having lunch with our family and high if we're at the beach. But now think about these temperatures inside of a warehouse that's been sitting in the sun all day long. Most of these warehouses are sheet metal, sun radiates inside all day long. You go into these warehouses there's zero to no airflow, very stiffening heat.

At UPS then we go into trailers all day long. And we're unloading trailers that have been sitting in the sun all day. We're moving tens of thousands of boxes. Not only is the heat bad, but then you're moving constantly for hours all day long. Like you're moving out of the house, lifting boxes all day, some days up to 12 hours long.

What I'm asking this Board to do is to be a beacon for, what I feel, is the heroes of this country, the blue collar worker. California has always set standards. We've always been very progressive. I want us to be proactive and not reactive. I don't want to wait for
someone to die for us to make changes. If we look back through history, see the working conditions men and women of this country had to work into, we think to ourselves, how are they ever able to work in those conditions?

What I’m asking from you guys is 20 years from now I want someone to look back at what this Board did and say okay, in 2023 California did it right. They set standards that are above and beyond. I want other states to look at California and say California is doing it right. They are putting people over profits.

So let's please help all the workers that are behind me, the workers that have come after me, let's help my grandchild. Let's help everybody stay safe in this state of California. I know we can do it. We are doing great things in California. You guys are doing great things now. We just need a little bit more help to make sure everybody stays safe. Thank you, guys.

A/CHAIR LASZCZ-DAVIS: Thank you.

At this point we’ll shift over to the speakers, any commenters in the queue. Maya, who are our first three speakers in the queue?

MS. MORSI: The first three speakers are Anastasia Christman, Athena Tan and Eric Frumin. So the first one is Anastasia Christman with National Employment Law Project.
MS. CHRISTMAN: Hi, good morning. Can you hear me? Yes?

A/CHAIR LASZCZ-DAVIS: Just barely.

MS. CHRISTMAN: Oh, okay. I'll try to sit very close to my computer. My name is Anastasia Christman. I am with the National Employment Law Project, a national advocacy group that believes that every worker has the right to a decent job and to go home safe and healthy at the end of the day at that job.

We did submit written comments that go into some detail and include some suggested language for improvements to a strong standard that we appreciate Cal/OSHA working on. So I'll just hit a couple of high points here.

We believe that the temperature that triggers the proposed protections and the temperature called for in indoor cool-down areas are set too high to fully protect workers from the dangers of heat stresses and illnesses. If you look at indoor heat standards from Minnesota and Oregon, the proposed one for the state of Washington, you'll see a threshold temperature of 80 degrees Fahrenheit. And we believe that's also consistent with expert recommendations. And we urge California to put that in place for indoor workers.

We would also urge further clarity on the definitions regarding a climatization, and the instructions...
to employers on how to implement this important safety measure. We believe that the employer should be required to include an acclimatization schedule, sort of like we saw in that presentation earlier in their heat prevention or the heat illness prevention plan. And train supervisors to use it appropriately to build bodily adaptations in workers exposed to heat.

   We urge explicit directions to employers who use temporary workers or other staffing agency services regarding the shared responsibility for climatization and the other interventions. There are strong policies and practices already in place. And we would recommend that they be included by reference in here so that it's clear that both the client host and the direct employer are responsible for the safety of workers in heat.

   We recommend more specific guidance to employers regarding the provision of heat protection training, especially using language and cultural awareness to maximize worker understanding and retention. We think it's important workers be able to ask questions and get answers in a language that they understand. And the training should be annual and not just upon hire, so that they always have a refresher on how to protect themselves.

   And finally, we urge an expansive definition of worker representation for the worker participation in
developing the heat prevention plans. Rather than using only “union representative” we urge you to recognize the non-unionized workers and industries subjected to extreme indoor heat, and instead use language like “designated representative” or “employee representative.”

Again, we have submitted written comments, and I thank you for your time today and for addressing this issue.

A/CHAIR LASZCZ-DAVIS: Thank you.

Next commenter in the queue?

MS. MORSI: Next commenter is Athena Tan with Inland Empire Labor Institute.

MS. TAN: Good morning, my name is Athena Tan. I'm with Plug In IE, a California hybrid training partnership between the Inland Empire Labor Institute, Teamsters Local 1932 and Warehouse Worker Resource Center. Can you hear me all right?

A/CHAIR LASZCZ-DAVIS: You know, could you just speak a little louder?

MS. TAN: All right. We appreciate that this regulation is before us today. Our project aims to increase the quality of work in warehousing and logistics in San Bernadino and Riverside Counties. Achieving that means putting the experiences of warehouse workers first.

So I strongly support the testimonies of workers
from our region who haven't spoken yet but have traveled
there in-person today, to tell you that the 82 and 87
degree thresholds in the proposed regulation don't make
sense for active fast-paced work, as the gentleman from the
teamsters just described. These thresholds also don't make
sense for a realistic range of body masses. We need
realistic heat index and temperature thresholds that are
based on workers' actual experiences.

The indoor heat illness prevention regulation
isn't marginal in our counties, it's about the everyday
work of hundreds of thousands of warehouse workers who have
limited other career options and limited ability to shape
their individual working conditions. I'm also here in
strong support of low wage workers in other industries who
are testifying today, like the members of Fight for 15 who
have spoken.

We and our partners are doing our part to create
heat safety awareness in our communities among individuals.
So I call on the Standards Board to do your part to put the
health and safety of workers first. Thank you very much.

A/CHAIR LASZCZ-DAVIS: Thank you, Athena.

Next commenter in the queue, Maya.

MS. MORSI: Next commenter is Eric Frumin with
Strategic Organizing Center.

MR. FRUMIN: Can you hear me okay?
A/CHAIR LASZCZ-DAVIS: Yes.

MR. FRUMIN: Great. Hello, Chair Thomas, other members of the Board. It’s good to see you again. I'm Eric Frumin with the Strategic Organizing Center, a national coalition of labor unions, 3 million members across the country. And I’m happy to be back here at the Board talking about innovative standards.

I want to build on the comments that you've already heard from the fast food workers, and also from Anastasia Christman about the need to look at the fissured (phonetic) workplace. The responsibility of multiple employers when dealing with the underlying conditions that create these hazards.

The Fight for 15 comments that had been submitted for the record as well spell out some of the challenges that compliance officers will have when confronting a workplace. Where for instance, a local business owns the franchise for running a fast food restaurant, but they don't control the equipment in that restaurant. They don't specify what equipment has to be used. They don't have the authority to change the equipment. And that authority often rests usually on the franchisor, the multibillion dollar corporation who's using the franchisee as a way to make a lot of money, but without having to be the employer of record on someone's paycheck.
The policy and procedure document for Cal/OSHA on multi-employer citation policy clearly identifies categories of employers like franchisors, who either create or control these hazards. This problem is not unique to the restaurant industry. It's common in many industries outside of construction, but we have very little active role by Cal/OSHA in enforcing standards on creating controlling employers under the multi citation multi-employer citation policy outside of construction.

So we urge you to, at a minimum in the Statement of Reasons when you issue this standard, make it crystal clear that when this standard talks about employers it's not only talking about who's signing the paycheck. Or in the case of the fast food industry, the franchisee, but to every employer who controls or creates a hazard. That will go a long way to achieving the goal that one of the earlier commenters in the public session talked about, making this standard understandable to employers, to supervisors, to workers, as to who is really responsible for fixing these problems.

It's terrible that fast food workers have had to go on strike. That they've seen their conditions change and then revert to what they were before they went on strike. People fainting. It's an outrage. This is a high risk industry for heat hazards. And you can do a lot to
fix that by making the responsibility for complying with
the standard as explicit as possible. Otherwise, the
sections on training, on assessment of controls, and other
key sections of the standard will ring hollow and will
never reach the workers whom it's intended to benefit.

So thank you for your time, and appreciate any
effort you can make to address the multi-employer citation
policy in the implementation of the standard when you issue
this standard and say so. Thank you.

A/CHAIR LASZCZ-DAVIS: All right, thank you very
much.

And with that, we'll move to the in-person
presenters. So please step forward.

MS. DENIZ: Good morning, Members of the Board.
My name is Mirella Deniz, and I'm with the Warehouse Worker
Resource Center. In over 10 years of working with
warehouse workers and other low wage workers, we have
consistently seen heat as one of the top safety complaints
raised by workers.

In the Inland Empire region where we work, many
warehouses lack air conditioning, and good insulation.
Indoor temperatures in these facilities regularly equal or
exceed the already high outdoor temperatures, which
regularly reach the 80s and 90s throughout the year. Not
surprisingly, we've seen instances of very serious heat
illnesses, including heatstroke, in such workplaces over
the years. Even in warehouses with air conditioning,
workers face serious heat hazards. The strenuous nature of
work puts workers in danger of heat illness at much lower
temperatures.

Here today are our warehouse workers who can
share their firsthand experiences working in an air-
conditioned facility where temperatures still reach the 80s
and where workers have experienced heat illness symptoms in
those temperatures and even lower. Again largely because
the workload is so heavy.

Warehouse and other indoor workers urgently need
a strong heat standard. At this point, the standard is
over four years behind the timeline required in SB 1167.
The proposal from the Division is a very strong framework
overall and should not be delayed any further. It has a
glaring problem, however. The application in control
measure temperatures are set too high, 82 and 87 degrees
are arbitrary numbers. Arbitrary numbers not supported by
evidence based standards. And they are too high to protect
warehouse workers and other workers doing physically
intensive jobs.

The ACGIH guidelines, which as the 1167 requires
the Division to consider, recommend control measures
starting at a wet bulb temperature of 77 degrees Fahrenheit
for workers engaging in only moderate intensity work.
Leaving the threshold temperature at 82 and 87 degrees
Fahrenheit would disregard the scientific evidence and
condemn warehouse workers and many others to work in
objectively hazardous heat conditions without the
protection of its standard.

We strongly urge the Division in the Standard
Board to lower the threshold temperature and to enact a
strong indoor heat standard as soon as possible. Thank you
for your time. (Applause.)

A/CHAIR LASZCZ-DAVIS: Thank you.
I wonder if I might ask you, you know I would
applaud -- I applaud everybody as well, but I wonder if you
could hold your applause after each speaker so we could --
and a big applause at the very end, I promise.

MS. OJEDA: Hi, my name is Melissa Ojeda and I'm
a former worker, Amazon worker, and I worked there for a
year and a half. Now I'm a worker at the Warehouse Worker
Resource Center. The Inland Empire workers -- sorry, the
Inland Empire Amazon Workers United recently surveyed over
260 workers and we put together a report. It has been
emailed as evidence, so you can look over it.

We asked different questions and heat safety came
up as a big concern for workers. When I was there, there
was no balance between production and rest, even during the
high heat. I went through this while I worked there, and workers still go through this every day as temperatures get higher. Enough time has passed without clear standards. These standards can be the balance between the mindset of production over workers and their safety that companies currently don't have. These standards will hold companies accountable. Workers deserve that safety.

A/CHAIR LASZCZ-DAVIS: Thank you.

Our next presenter.

MR. RIVERA: Hello, and good morning. My name is Daniel Rivera. I am a current worker at the Amazon Air Hub in San Bernardino. But I'm even more proud to be part of the Inland Empire Amazon Workers United.

Over the past year I've suffered multiple symptoms such as nosebleeds because of heat illnesses. I had to look out for myself, Amazon didn't do anything. They did not give me proper care. They currently have little to no standards for heat exhaustion indoors. And now I'm worried about my new coworkers. Some have even suffered heat illnesses and fatigue already and summer has just begun.

During summer is one of the most brutal times for -- during summer is one of the most brutal times of the year for us indoor workers. The dryness, high temperatures, mixed with high production and stress is a
dangerous combination that could lead to serious and fatal injuries that could change our lives forever. It's heartbreaking to come into work to hear that another coworker, a potential friend has fainted or needed medical attention from heat exhaustion. It's a cycle that's not going to stop until we put a real standard in place. Another summer without these protections will put too many of us workers in danger.

Current and future workers need this high standard to be put in place. It's time for a real change that will help us all. Thank you.

A/CHAIR LASZCZ-DAVIS: Thank you.

Maya, I think we're ready for some commenters in the queue. Who do you have?

MS. MORSI: Up next, excuse me, up next is Mitch Steiger with California Labor Federation.

MR. STEIGER: Oh, looks like there might be an issue with my video. Let me just go ahead and turn that off.

Thank you, Madam Chair and Members. Mitch Steiger with the California Labor Federation. I appreciate the opportunity to testify today.

We signed on to the coalition letter in support of the standard. We won't rehash all the details; previous witnesses have done a pretty good job of covering those.
We would just talk a little bit about the process that got us here, and the fact that it has now been seven years since SB 1167 directed the Board to take a look at this standard and have it in place. It was to be proposed for review and adoption by 1-1-2019. Obviously, we missed that deadline. But here we are.

We think, in short, workers have waited long enough. That the bill was necessary, because frankly relying on the IIPP wasn't working. You go back and you look at that TSI NDC case from 2011, and what was all involved in that. It taught us, we think, everything that we need to know about the need for a specific standard, and that just relying on the IIPP and trusting it to be some sort of magic silver bullet that would give employers and workers everything that they need to stay safe just wasn't working.

In that case where multiple workers fell very ill from heat illness, the employer didn't do nothing. The employer did some things right, but the employer also did a lot of things wrong. For example, sending the worker to be driven to the hospital by another worker that was also suffering from heat illness, also suffering from fatigue and dizziness. And a variety of other mistakes were made. And we think that really shows in and of itself, the failure of relying on the IIPP.
Everyone involved in this system needs details. We need threshold temperature. We need a list of available engineering and administrative and PPE controls. We need a list of what should be in the training. All of that needs to be in the regs to guide everyone towards a safer workplace. What we've been doing, and just hoping that everyone knows what a good threshold temperature should be, what should be included in training, just we think obviously is not going to work, obviously is not going to fail. And obviously is going to lead to a lot of extremely negative impacts for workers up to and including death.

And in addition to the suffering that directly results from indoor heat that's already been detailed, and a lot of other workers can speak to better than I can, it also leads to other workplace injuries and illnesses. That the evidence on this is pretty clear. The hotter a workplace is, the more likely a worker is to suffer all sorts of other unrelated illnesses and injuries that the human body just doesn't do well in temperatures this hot. Especially when that human happens to be doing something really dangerous.

And so while we do think the standard could be stronger, others have mentioned the temperature thresholds, they should be lower. Other changes should be made to strengthen it. We strongly believe that the standard
shouldn't be delayed significantly. That again, we have
waited long enough. We need something in place as soon as
possible.

God only knows how many workers have suffered and
died because we've taken this long, but we've got an
opportunity here to do the right thing relatively soon. So
let's take that opportunity and as soon as we possibly can
pass ideally a stronger version of this standard. Thank
you.

A/CHAIR LASZCZ-DAVIS: Thank you, Mitch.

Another commenter?

MS. MORSI: The next commenter is Daniel
Glucksman, with International Safety Equipment Association.

MR. GLUCKSMAN: Thank you, Commissioner and other
fellow witnesses, some names who I recognize for many years
in this. Again, my name is Dan Glucksman. I'm a Senior
Director for Policy at the International Safety Equipment
Association in Washington DC.

A few comments on hydration and PPE. We believe
that in the various hydration areas the reg should include
a reference to electrolyte replacement beverages. For
example, in subsection (c), titled “Provision of Water”
should include a reference for electrolyte replacement
beverages. And this would allow employers to provide these
beverages, which are popular among employees. And in some
cases encourage employees to consume the required amounts
of hydration. These beverages -- or this in subsection (c)
these should be made free of charge to employees just like
water.

Also Washington State, as people have referenced
here, has the heat stress reg coming up. They include in
their definition of drinking water, note that electrolyte
replacement beverages are also acceptable. We will propose
in our written comments that electrolyte replacing
beverages, or replenishing beverages, shall not consume --
shall not contain the concentration of electrolytes to
carbohydrates of more than 8 percent by volume. And this
tracks with the NIOSH heat stress criteria document, which
people have made reference to here.

NIOSH notes that over 8 percent limits the
ability of our absorption of fluids from the body. That
NIOSH document also says that (indiscernible) workers
working more than two hours in a high heat active
environment should drink sports drinks containing balanced
electrolytes.

Amongst other things, we believe in the reg --
other sections like subsection (h)(1)(C) which is on page
10 of the proposed rule, addresses the importance of
employer training. And employers are told to tell
employees to drink water and here it should say “or
electrolyte replenishing beverage.” And it is the same throughout the rule.

One thing I'd like to point out, (h)(1)(C), talks about small quantities of water. And I want to note that we think the reg should say “a quart per hour,” not “small quantities.” Because this little cup here could be considered a small quantity, but four of these per hour will not get you a quart.

Also in Eric's excellent slide deck, it showed a very small, like cylindrical paper cup. So, again I think there's a real need to show that employees need to drink a quart of hydration per hour, rather than just reference small cups.

And last, on PPE --

A/CHAIR LASZCZ-DAVIS: You’ll forgive me, do you think we can start wrapping up?

MR. GLUCKSMAN: Yeah. On PPE, there's a reference to personal heat protective equipment. We believe this should be personal heat stress “solutions” because personal heat protective “equipment” is the current reference to aluminized clothing that workers wear when working with furnaces, smelting, and in kilns. And again, I'll put that in my written comments.

A/CHAIR LASZCZ-DAVIS: All right, thank you so much.
We have a request from our translators, that we ask our speakers to speak a bit more slowly. I know we're all accustomed to speaking at lightning speed, but if we could slow it down just a little bit that would be great. But thank you for your comments.

MR. GLUCKSMAN: Sure.

A/CHAIR LASZCZ-DAVIS: Any other commenters in the queue before we move over to those in the audience here?

MS. MORSI: We have a few, but up next is AnaStacia Nicol Wright with WorkSafe.

MS. NICOL WRIGHT: Hi, everyone, one second. Oh, my momma is going to be so upset with me, I did not take my scarf off. Sorry. Okay. (Laughter.)

A/CHAIR LASZCZ-DAVIS: It looks good, don’t worry.

MS. WRIGHT: Thank you. Good morning, Board Members and colleagues. I'm AnaStacia Nicol Wright. And I'm here giving comment today on behalf of WorkSafe and 30 plus worker rights, community and environmental organizations who joined us in submitting the comment letter on this matter as well.

The Division’s 2019 heat standard draft is groundbreaking, and it hits many major points of worker safety related concerns. We'd like to thank the Division -
- we’d like to thank the Division for the time and care that you all took with the standard. And while for workers’ sake we don't want to extend the time it takes to implement these real heat protections we do have some concerns.

In 2019, there was a compromise of 80 degrees as the standard’s overall application threshold, and 87 degrees being the threshold for triggering section eight protections. However it’s 2023, and the standard likely won't take effect until 2024. And yet California keeps getting hotter. In fact, evidence continues to mount that California is only trending toward heat extremes.

In addition to high heat being a workplace hazard, it also leads to a variety of workplace injuries beyond heat illness itself. There is a 2021 study of 18 years of California Workers’ Comp data. And it was found that the risk of workplace injuries is 5 to 7 percent higher when the temperature was between 85 and 90 degrees. When temperatures were over 100 degrees, the overall risk of injuries was from 10 to 15 percent greater.

The researchers also reported that lower income workers are at least five times more likely to be hurt on the job due to high heat than high income workers. Given that the science predicts ever increasing temperatures and documents the additional workplace hazards caused by heat,
we'd like to urge the Board to reconsider dropping the
standards application in section (e) thresholds to 80 and
85 degrees respectively. As well as making the additional
science and experience-based suggestions that we had and
that we placed in our submitted comment letter.
Lastly, we'd like to stand in support of
California Nursing Association's comments today relating to
burn units in the medical industry and how they'll be
impacted in particular by this standard. Thank you.

A/CHAIR LASZCZ-DAVIS: Yeah, thank you very much,
AnaStacia.

If I might invite you to step up to the podium,
our next speaker in-person.

MS. ORTEGA: Good morning, my name is Anna
Ortega. I'm a proud member of the Inland Empire Amazon
Workers United in San Bernardino. And yeah, stronger heat
protections for indoor workers are long overdue, and the
dangers are only getting worse with climate change.

A/CHAIR LASZCZ-DAVIS: Could you move the mic
towards you just a little bit?

MS. ORTEGA: Like that?

A/CHAIR LASZCZ-DAVIS: Speak louder.

MS. ORTEGA: Okay. Yeah, so a regular workday
for myself and for many of my coworkers include sweating
all day, the moment we walk into the moment we walk out.
I've personally experienced headaches, nausea, lightheadedness and nosebleeds, because of how hot I get when I'm in my workplace conducting the physically demanding duties of my 10-hour work shifts.

My department specifically works with and around a lot of heavy machinery and conveyance that is running for hours on end during my shifts. Not only do they emit heat, but they also stop the airflow, because of how big they are. And yeah, our employers are not doing enough to protect us.

Yes, that is all I have to say. Thank you for your time.

A/CHAIR LASZCZ-DAVIS: All right. Thank you.

Next presenter.

MR. DIAZ: Good morning, members of the Board.

My name's James Diaz, I'm here with the Inland Empire Amazon Workers United. I've been working at my current Amazon for six months. I'm here to talk about strengthening the standards to protect indoor workers. I also believe that 82 to 87 percent -- or the 82 to every 87 degree, threshold is too high.

In the warehouse, we are already experiencing high temperatures, but temperatures that are lower than the 82 and 87 percent threshold. We have high end coolers from companies like Igloo and Yeti who boast for seven days they...
can keep ice frozen. Yet, before the seven days these coolers are already just coolers full of water. Just susceptible to waterborne bacteria, since they don't get changed often either.

It's only May and it will only get worse from here. If the ice is already melting at this rate, with the current or at temperatures that are below the proposed threshold, then the proposed threshold is too high. Thank you very much.

A/CHAIR LASZCZ-DAVIS: All righty, thank you.

Next.

MS. FEE: Good afternoon. My name is Sarah Fee, and I work at the Amazon Air Hub in San Bernadino. And I'm also a proud member of IEAW committee. I'm here today to talk about the heat and the struggles that we have inside that building due to the heat.

We are in constant motion. Throughout the day my shirt is soaked in sweat three to four times. I also agree that the heat standard of 82 to 87 is too high.

I have felt heat illness myself. I have been nauseous, dizzy. And we are told that we have to find a manager and let them know we are suffering from heat stress, and then our walk to a cool-down area is more than half the length of the warehouse. I need cool water in close proximity, and I need a place to cool down that's not
half a mile away. Thank you for your time.

A/CHAIR LASZCZ-DAVIS: Yeah, thank you.

Right now, we'll move over to any additional

commenters in the queue. Maya?

MS. MORSI: Next up is Robert Moutrie with the
California Chamber of Commerce. (No audible response.)

Rob, are you with us?

A/CHAIR LASZCZ-DAVIS: We don't hear him.

MS. MORSI: I’ll go to the next one.

A/CHAIR LASZCZ-DAVIS: Yeah, let’s go to the next

commenter in the queue, and then we’ll come back to Robert

if we can pick him up again.

MS. MORSI: So our next speaker is Katia Birt

with USW 675, working for Marathon Petroleum in Carson,

California. (No audible response.)

A/CHAIR LASZCZ-DAVIS: This one’s not coming

through either.

MR. MOUTRIE: I’m so sorry, this Rob Moutrie with

the California Chamber of Commerce. I understand you just
called me.

MS. MORSI: Let’s go back to Rob.

A/CHAIR LASZCZ-DAVIS: So let's go back to Rob.

MR. MOUTRIE: Thank you. You can hear me all

right in there?

A/CHAIR LASZCZ-DAVIS: A little muffled, but try
MR. MOUTRIE: Okay, I’ll try to speak up. How’s that?

A/CHAIR LASZCZ-DAVIS: Okay, so far. But speak slowly, Rob. You have a tendency to talk real fast.

MR. MOUTRIE: I will do my best, Madam Chair.

Good stem morning everyone, Robert Moutrie for the California Chamber of Commerce. Sorry, I can’t join you. The legislative work here in Sacramento is keeping me.

I'm here to comment briefly on the indoor heat. We have submitted at-length written comments, but so I will only briefly touch on key issues.

First I want to say the point that the concern on the California Chamber of Commerce’s side, or the industry side, is not about putting in some kind of protection here. And we’re very sympathetic to what was said today, I mean the stories told. Our concerns about the ones who have to implement these pieces are about the details and making sure that it is feasible and clear for employers, particularly small employers, to put this into practice.

Amongst those concerns we’ll have a concern that definition of indoor, still seems to include vehicles, which we think expands the reach of this standard into awkward and unintended places.

We also have ongoing concerns about the
feasibility of creating the required cool-down areas,
particularly for small employers such as restaurants, or
others who rent space, and do not have full control of the
area around where they work.

A key suggestion that I would emphasize to the
group is we have asked for a temporal trigger to be included in the regulation. And what I mean here is that, as written, the regulation is triggered the instant a temperature is reached in an indoor space, and an employee for example, walks in. No matter how briefly, they walk in and step out of that space. So we would suggest a brief amount of time, such as 10 minutes, wherein that regulation is not triggered until they step out.

This would eliminate what we view as some of the obscure and unintended consequences such as stepping into a hot car and waiting for the air conditioning to turn on, not triggering this regulation. Slowly stepping into a hot shed to grab something and stepping out where you'll be inside only for a moment, but under the present draft compliance would be triggered for that moment.

I'd like to also flag or respond to one comment that was made regarding seven years of work here. I just want to say something in defense of staff. And that is not commonly a place that I find myself, but I think it needs to be said. Staff, we all know that staff was consumed
working on the emergency COVID regulation, as they should have been. And you know how many times they revised that standard and the overtime they worked. It was truly a heroic and heavy effort. And so well as was said here, “well, how come it's been so long?” I just think we need to remember years were spent with staff working overtime on the COVID regulation to keep up. And that’s what they should have done, it’s what they did do. But I don't think that we should now pretend that didn't happen when we talk about where workload has been.

The last thing, separate from this I'd like to flag is that -- well, actually it's not appropriate given we’re in the hearing now and not public comment. So I will leave that there. Thank you for your time.

A/CHAIR LASZCZ-DAVIS: Thank you, Rob.

I think we've got one more commenter in the queue possibly. And then we'll go back to in-person presentations. Anybody else? Maya.

MS. MORSI: I'm going back to Katia Birt USW 675 working for Marathon Petroleum. (No audible response.)

A/CHAIR LASZCZ-DAVIS: Is she having a difficult time coming in?

MS. MORSI: I see her in the WebEx, but she's not speaking.

A/CHAIR LASZCZ-DAVIS: Okay, anybody else?
MS. MORSI: We have quite a few. Katia, you need to unmute yourself.

A/CHAIR LASZCZ-DAVIS: I'm not understanding.

MS. MORSI: Katia is in WebEx and she's next, but she's muted.

MS. SHUPE: So at this time, I'm going to recommend to the Chair that we go ahead and resume the in-person comments.

A/CHAIR LASZCZ-DAVIS: All right, fair enough then. Thank you for that, Christine.

MS. DELEON: Hello everyone. I want to thank the Board, staff and interpretation for your hard work and for receiving our comments today.

A/CHAIR LASZCZ-DAVIS: I’m having a difficult time understanding you, my apologies.

MS. DELEON: No worries. Okay. My name is Renee Guerrero Deleon with the Southern California Coalition for Occupational Safety And Health, also known as SoCalCOSH. Our organization is founded on the principle that workplace deaths and injuries are preventable.

SoCalCOSH supports lowering the heat threshold, which allows for a standard that is effective and prevents workers from encountering heat illnesses and heat fatalities on the job. This standard needs to reflect a threshold that is supported by fact-based evidence in a
time where we know that due to climate change the workplace is only getting hotter.

Lastly, we want to thank and acknowledge a myriad of organizations and unions here.

A/CHAIR LASZCZ-DAVIS: Could you just like slow down, just a little bit?

MS. DELEON: Of course, thank you. Yeah, we want to recognize and acknowledge the myriad of unions and organizations who have been pushing for an indoor heat standard for years. That includes WorkSafe, Warehouse Workers Resource Center, Fight for 15, California Labor Federation. And most importantly, the workers who have given their testimony, and speak to why this is necessary and why it's imperative that we get a standard as soon as possible and without delay.

Thank you to the Board, staff and interpretation for your time and consideration. We know that you'll make the best decision for working families. Thank you.

A/CHAIR LASZCZ-DAVIS: Thank you. Next speaker.

MR. WOODEN: Hi, good morning. My name is Anthony Wooden, and I'm an Amazon worker. I work for the Amazon Air facility with my coworkers here, and I'm also a proud member of the IEAWU. Can you hear me, okay?

A/CHAIR LASZCZ-DAVIS: You know what? I almost hate to ask you. Can you bend over a little more to speak
MR. WOODEN: Okay. How's that?

A/CHAIR LASZCZ-DAVIS: Better.

MR. WOODEN: Okay. So sorry I didn't prepare statement. I'm with Amazon, the Amazon Air Freight facility. And I'm here as a proud member of IEAWU as well, right.

I want to clarify a comment that one of my coworkers made about the water coolers being full of water. They're not full of bottled water. They're full of melted ice. That's just to clarify the statement that he was making. I've been there since the launch of this air freight facility in 2001. And the only reason we have water coolers in the first place, and fans, is not because they offered it. It's because we took it. We had to confront them and demand these basic dignities in the workplace, right?

So about a year ago, I was working with a coworker of mine who started experiencing heat illness right in front of me. He became dizzy and disoriented and I told him to have a seat on this stepstool before he passed out. But then he went to the in-house Amazon little health care clinic. And from there, the last we heard is that he was being transferred to the custody of paramedics and rushed to the hospital. That's who we're dealing with,
with Amazon.

So there this standard, this heat standard of 82
to 87 is just way too high, because the heat is just one of
the factors that we're dealing with in the workplace. So
we never see less than -- we never see a day of less than
handling about 100 to 200,000 packages. That's just
divided up between me and about a dozen or two of my
buddies here, right?

So and it's intense work, we're dealing with tens
of thousands of pounds of freight at a time. That means
we’ve moved everybody on this panel from one home to a new
address within the span of about eight hours, of ten hours.
You go to the gym, that workout is going to take you maybe
45 minutes, and you're on your way.

So we feel like Amazon has kind of waived their
right to participating in the heat conversation. They have
no stake in this conversation. They sit in air-conditioned
offices all day while we do the work. So when we
confronted them about a week ago and told them summer is
coming again, what are you going to do to protect us from
the heat? This is a half million square-foot facility that
we work in. And until we demanded water coolers, we had to
literally go outside the building to find water. This is
unreasonable. You've waived your right to participate in
this conversation.
A/CHAIR LASZCZ-DAVIS: Could we wrap it up pretty soon? Just to make sure we can honor everybody --

MR. WOODEN: I’m wrapping it up, seven seconds.

We are counting on -- the only reason that they're going to do anything is not because we asked them to, it’s because heroes like you are going to set the standard and say this is where it stops. Because there are rules in place that are protecting the working people.

Thank you.

A/CHAIR LASZCZ-DAVIS: Thank you very much.

MR. WICK: Acting Chair Laszcz-Davis, again.

A/CHAIR LASZCZ-DAVIS: Somebody referred to me as Chair Tom, so I'll take either today.

MR. WICK: Okay, thank you. Bruce Wick, Housing Contractors of California. I agree with the written comments submitted by CalChamber and Phylmar Regulatory Roundtable. I want to talk about just two different things.

One is, again this is not a consensus reg. And this has created two real problems. And I appreciate Chief Killip saying there was input, and then there was rewriting and redoing. But that is not consensus development, consensus is where we roundtable. And I was at the first meeting on heat illness in 2017 over six years ago. And you had workers, like all who have taken a day off of work
to come here today, and they spoke. Warehouse workers in
significant numbers, restaurant workers, a few others who
said, “Protect us, please.”

But the information was sent -- was given, “We're
going to cover everybody.” Senator Leyva said, “You don't
have to cover everybody.” She was mainly concerned about
warehouse workers and said, “Get them taken care of.” And
I testified at that meeting. Please don't try and cover
everybody. It'll take too much time. It'll take -- and we
didn't know COVID would hit. But it will take too much
time. Take care of these workers. Expedite your process,
get it done. And that didn't happen.

The other part is, being a non-consensus reg
there's a lot of changes that have to be made to make it,
to implement it. So we have to go through that process
now.

And then finally the SRIA, the impact economic
assessment is just vastly wrong. And the law requires you
as a Board and us as the public to know what a reg would
cost before you vote on it. The SRIA said -- the
Department of Finance said the SRIA has two main problems.
It excludes from its estimate workers who are exposed to
high heat fewer than once per week. Again, we included
everybody but they are included. And so now it says even
one day out of the year, the employer has to go through
this whole reg.

    And they said the SRIA must adequately justify
the assumptions made. An example being they said 20
percent of the enterprises and effective industries and 80
percent of manufacturing and restaurant will not need
additional action to comply. You've heard there's going to
be additional action to comply.

    A/CHAIR LASZCZ-DAVIS: Bruce, can we begin to
wrap it up, perhaps?

    MR. WICK: Just now --

    A/CHAIR LASZCZ-DAVIS: Okay, perfect.

    MR. WICK: -- the SRIA said 8 percent of workers
would be impacted by this. The number is actually 80.
They said it would cost a billion dollars over 10 years.
That's at least 10 times too low. So please get the SRIA
redone correctly. You and us need to know what this reg
will cost. Thank you.

    A/CHAIR LASZCZ-DAVIS: Thank you very much,
Bruce.

    What we're going to do right now is take a 15-
minute break and then we'll go back to the commenters in
the queue. And then thank you for your patience, but don't
go away. We're here for the for the day.

    (Off the record at 11:42 a.m.)

    (On the record at 11:57 a.m.)
A/CHAIR LASZCZ-DAVIS: I’m going to ask Christina Shupe to make an announcement at this point.

MS. SHUPE: I want to thank everyone who is attending the Board meeting today, both in-person and via our online platforms. We just want to let all of our stakeholders know that based on our speaker signup reports, we are anticipating exceeding our allotted public speaking part time by over an hour. So at this time, we will be closing the signups to new speakers.

This does mean though, that you can still submit comments to the Board via our email address, which is OSHSB@dir.ca.gov. Thank you.

A/CHAIR LASZCZ-DAVIS: And so with that, I believe we shift over to our commenters in the queue. So Maya, who do we have?

MS. MORSI: We have up next, just a moment, Alexis Teodora with Orange County Communities Organized for Responsible Development.

A/CHAIR LASZCZ-DAVIS: Maya, could you speak just a little louder, a little clearer. I'm having a hard time, sometimes understanding. Maybe not.

MS. MORSI: We have up next Alexis Teodora with Orange County Communities Organized by Responsible Development.

A/CHAIR LASZCZ-DAVIS: All right, thank you so
much. (No audible response.) We're not hearing them come through, whoever it is.

MS. MORSI: Alexis Teodoro with OCCORD.

A/CHAIR LASZCZ-DAVIS: Alexis, are you there? (No audible response.)

Well, let's move to the next commenter in the queue.

MS. MORSI: The next commenter is Katie Davey with California Restaurant Association. (No audible response.)

MS. SHUPE: Katie, you may need to unmute yourself.

A/CHAIR LASZCZ-DAVIS: Well, maybe we can come back to Katie. How about the next commenter in the queue?

MS. MORSI: The next commenters Andrew J. Sommer with Fisher Phillips.

MR. SOMMER: Good afternoon, Madam Chairwoman and Members of the Board, Andrew Sommer from Fisher Phillips in Los Angeles. I wanted to highlight several concerns that we have with the drafting of the proposed indoor heat illness rule. We understand that this rule has had various iterations, has been considered and potentially sidetracked during the pandemic. But we do believe that there are serious concerns with the drafting of the rule that should be considered before any heat illness rule is adopted.
First there are concerns about the application of the rule, the scope in terms of its application to various workforces and employees. As one concern, the proposed indoor rule gives no consideration to the intersection of outdoor and indoor workplaces and respective roles. This creates confusion and unmanageable compliance obligations for employers with employees working both outside and within buildings throughout the workday.

The rules cannot be reconciled for employees transitioning from indoor to outdoor work. If an employee works primarily outdoors, why apply the indoor rule for the isolated instances where the employee is indoors? And that raises another subject.

One is regarding employees that work for very limited durations, whether at one time or cumulatively throughout the workday, in indoor workplaces. We believe there should be an exception for employees working cumulatively for a short duration above the temperature thresholds of this rule. And this would be akin to the wildfire smoke rule, recognizing in that instance that employees who work outdoors for up to an hour during a work shift would be exempt from the rule. And this is in line with concerns that were expressed by former speaker Mr. Moutrie.

Another problematic aspect of the indoor heat
illness rule is a hierarchy of controls. The hierarchy requires then that the employer first in order implement engineering controls to reduce the temperature, and heat index to below the required threshold. As the rule is presently written, employers are required to implement engineering controls to reduce the indoor temperature except where the controls are infeasible. Problematically, the Appeals Board equates feasibility with possibility that effectively mandates engineering controls no matter what the cost efficiency or practicability.

There are limited engineering controls that can significantly reduce the temperature to the stated threshold, and air conditioning is not always an effective option. What happens if employees are working at a warehouse with docks that are open as trucks regulate enter-exit such that air conditioning system would not be effective in reducing the temperature sufficiently. Under this rule, the ventilation might be deemed infeasible -- or excuse me, might be deemed feasible even though it's cost prohibitive and inefficient.

And the heat illness rule requires that employers consider engineering controls over administrative controls. And we believe that is problematic. There may be situations where administrative controls such as reassigning employees to work shifts where, you know, in a
time of day where it's cooler, may be more effective than
an engineering control, or simply just more feasible. And
--

A/CHAIR LASZCZ-DAVIS: Could we begin to wrap up
a little bit, Andrew?

MR. SOMMER: Okay, thank you. So we think there
should be some built-in flexibility as to whether the
employer institutes administrative or engineering controls
or has protective equipment, with the goal of ultimately
reducing the temperature.

And then just lastly, I'll say regarding the
close observation, we believe it's problematic that that is
tied to a heatwave that is based on outdoor temperatures.
Since obviously, here we're dealing with indoor workspaces
that may have temperatures that do not correlate to the
outside temperature.

So lastly, we just believe that the rule should
recognize the realities of indoor operations where air
conditioning cannot be feasible, or they have limited
effectiveness. And we believe it's critical to consider
stakeholder comments to make this a manageable and
understandable rule for employers. Thank you for the
opportunity to comment.

A/CHAIR LASZCZ-DAVIS: Thank you, Andrew.

Do we have anybody else in the queue?
MS. DAVEY: Hi, this is Katie Davey. Is it possible to speak?

A/CHAIR LASZCZ-DAVIS: We can hear. Katie, who are you with again?

MS. DAVEY: The California Restaurant Association. I was called previously, and I'm sorry, I missed my -- the call.

A/CHAIR LASZCZ-DAVIS: Okay, go ahead.

MS. DAVEY: Good afternoon. My name is Katie Davey, I'm with the California Restaurant Association. Just a few comments.

Restaurants are highly regulated businesses, which operate on a slim profit margin. There's a common misconception in the restaurant industry regarding franchisors and franchisees --

A/CHAIR LASZCZ-DAVIS: Katie? Katie, can you slow down just a little bit for our Spanish translators?

MS. DAVEY: Oh, absolutely. There's a common misconception in the restaurant industry regarding the ownership of franchise brands when it comes to the franchisors and franchisees.

Franchisee establishments actually own and operate the stores and make employment decisions for their business. These local business owners are in charge of all employment decisions, including hiring, firing, wages and
benefits. It is the local franchisee who owns and operates the establishment, not the franchisor. In fact, national brands have no role whatsoever in determining the day-to-day operations of the franchisees.

In the counter service industry, franchisees and franchisors do not flout existing labor laws or regulations. And we do not have a disproportional Cal/OSHA violations or citations when it comes to other industries, and when you compare us against other industries.

We urge Cal/OSHA to continue to simplify this regulation to ease compliance and protect employees.

Employee safety is a top concern in the restaurant industry. We value our team members.

Restaurants need to be able to clearly understand the eventual regulations so that they can reasonably meet the proposed mandate. Restaurants use commercial cooking equipment like gas ranges, boilers, ovens and fryers to prepare menu items for our customers. The California retail food code requires restaurants to heat eggs, meat, poultry, and fish to specific temperatures to ensure food safety.

We are concerned that the proposed indoor heat illness regulations may conflict with regulations which affect our ability to heat and hold food to the necessary temperatures to protect the public health from foodborne
illness and comply with the retail food code. We encourage Cal/OSHA to consider how the engineering controls in the proposal before you, conflict with the temperature requirements in the California retail food code.

Restaurants have a limited amount of physical space and extremely little, if any, is not already being utilized to the kitchen or for customer dining. We appreciate Cal/OSHA taking our space limitations into account and revising the definition of cool-down area to include an outdoor area that is shielded from direct sunlight and high radiant heat sources.

However, we still have concerns about this definition and urged Cal/OSHA to include to the extent feasible in the definition of cool-down area to provide for flexibility in case a small restaurant that leases a commercial space is not able to mitigate all factors and an outside cool-down area.

In the assessments and controls measures section of the regulation, restaurants need clarity with regards to temperature taking.

A/CHAIR LASZCZ-DAVIS: Katie, Katie? Could we begin to wrap up? Katie, might we begin to wrap up a little bit here?

MS. DAVEY: Okay. Just finally I want to add that restaurant employees who work both indoor and outdoor
should be able to receive one training that covers both indoor and outdoor heat illness prevention requirements. Thank you for the opportunity to comment.

A/CHAIR LASZCZ-DAVIS: Thank you very much.

Maya, anybody else in the queue?

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

MR. LITTLE: When I originally wrote this statement, I titled it with one (indiscernible). It looks like we’ve moved beyond that at this point.

A/CHAIR LASZCZ-DAVIS: (Overlapping) Oh we can’t -- oh we can’t. Oh, can you speak a little bit louder, Bryan?

MR. LITTLE: I can try. How’s that?

A/CHAIR LASZCZ-DAVIS: You’re much better. Thank you.

MR. LITTLE: Okay, very good. I’m not sure if it’s getting closer or if it’s speaking louder, but I’ll do my best to do either one.

A/CHAIR LASZCZ-DAVIS: Yeah, don’t move. You’re doing well.

MR. LITTLE: Okay, All right. That’s good.

Okay, good afternoon. I very much appreciate the opportunity to offer comments on proposed new regulations on indoor heat illness. I should probably start by saying
that I'd like to offer support for comments that have been offered by Michael Miiller, Rob Moutrie, and I anticipate will be offered by Helen Cleary with the Phylmar Regulatory Roundtable.

And I also should go on to say that nearly all the work performed by employees of agricultural employers is covered by the long-standing outdoor heat standard, General Issue Safety Order 3395. The many activities preformed by agricultural employees will also be impacted by the terms of the proposed indoor heat standard. This raises a number of concerns about potential conflicts between the two standards that this Board should address before approving this regulatory proposal.

First, the new regulations definition of indoors is so broad as to raise issues about employees who in the course of their work day pass from indoor to outdoor spaces and back again. Training record keeping temperature triggers and a number of other requirements of the new indoor standard vary considerably from the outdoor standard. Resolving this problem is simple enough. The regulation should specify that any employer to whom GISO 3395 applies shouldn't be deemed in compliance in situations where employees alternate between indoor and outdoor employment.

The regulation’s definition of indoor is also so
broad as to encompass vehicles like tractors and trucks operated by agricultural employers as typically used by agricultural employees. These vehicles are covered by GISO 3395. Applying the requirements of the indoor regulation is impractical as it will trigger temperature measurement and record keeping requirements as employees enter and start a vehicle, which will soon be cooled by its own air conditioning if it's so equipped and operational.

The regulation should specify that vehicles whose operation is presently covered by GISO 3395 continue to be covered by that regulation or allow the employer to demonstrate compliance with the new regulation by allowing employees to forego temperature measurement and record keeping if the vehicle is equipped with air conditioning that's operational and capable of cooling the interior to 80 degrees.

The definition of cool-down area also raises issues this Board should address before the regulation becomes operational. First, it should allow the use of an air-conditioned vehicle as a cool-down area. The agency argues that proposed regulation -- that the proposed regulation largely tracks with GISO 3395, so it'd be logical to allow air-conditioned vehicles to function as cooldown spaces, as presently allowed by GISO 3395.

Second, the regulations to clarify that a shaded
area used to comply with GISO 3395 is not an indoor space covered by the new regulation. Generally, the definition of indoor space should not include shaded areas used for compliance with 3395.

Last the definition of cool-down area includes conditions like ventilation being blocked in direct sunlight and being shielded from radiant heat. That should be required only if they are feasible, because in many circumstances, meeting those conditions will not be feasible.

The trigger temperature for the new indoor regulation differs from the trigger temperatures for various requirements in GISO 3395. And this will almost certainly cause confusion among employers and employees. The proposed regulation should provide a minimum time exposure trigger for exposure to the new regulations 82 or 87 degree temperature triggers. A trigger time of 15 minutes in a 60 minute period would be reasonable.

A/CHAIR LASZCZ-DAVIS: All right, Bryan, do you think we could wrap up a little?

MR. LITTLE: You know what? I don't -- there's really nothing left here that I need to say. So I can go ahead and wrap up with that. Thank you very much.

A/CHAIR LASZCZ-DAVIS: All righty, thank you so much.
We're back to our in-present presenters. So if you would step forward.

MR. BAUM: Can you hear me? Does this work?

Thank you.

First, Chair, thank you for the opportunity to speak on these regulations. And I appreciate the work from Cal/OSHA staff. My name is Gideon Baum. I'm Vice President of Policy at the California Hospital Association. I'm going to try to speak slowly. Please cut me to the quick if I speak a little bit --

A/CHAIR LASZCZ-DAVIS: Maybe just a little bit louder.

MR. BAUM: A little louder? Okay.

A/CHAIR LASZCZ-DAVIS: Yep, there you go.

MR. BAUM: I appreciate it. So the issue that I'm speaking on today is an issue that I do not believe has been raised in the past, and it deals with hospital burn units.

Specifically, when a burn patient comes into a hospital with significant thermal damage, that worker -- excuse me, worker or patient is actually at a very high risk of hypothermia. It's actually somewhat counterintuitive. This is because skin does a phenomenal job of regulating internal body temperature. So when someone suffers significant thermal injuries over a large
percentage of their body, they actually lose the ability to
on their own regulate their own temperature.

So what that requires in our burn units is that
they operate at a very high temperature. This is
particularly true for pediatric patients. And those
situations, those burn units need to operate in the range
of 85 to 95 degrees depending on the medical needs of the
patients in those rooms.

Now, our burn units have been operating this way
since the 70s. And we have a long history of using
administrative controls to make sure that our workers are
safe. That includes having cooldown rooms that are outside
of the burn unit. That includes opportunities for pre-
hydration as well as hydration during the medical procedure
and post-hydration. And that also includes electrolyte
rich drinks.

The challenge that we have with the regulation,
as currently drafted, is twofold. First, the regulation is
-- I think Eric did a phenomenal job in discussing the
hierarchy -- it requires engineering controls unless it's
infeasible. It is certainly feasible for a hospital to
lower the temperature of a ICU or an operating room.

However, if they do and in the case of burn
patients, we're running the risk of significant adverse
medical conditions: metabolite issues, organ failure and
also unfortunately, fatality. We fundamentally have to keep the thermal temperature of our rooms up. And we can't use other types of technology like forced air blankets or other things to maintain those temperatures, because of the nature of the injury.

So we believe that the feasibility standard when it comes to engineering controls should include language that says feasibility or unless medically contraindicated.

Second, we note that the regulation currently requires someone to monitor the cool air rooms. When you're dealing with medical professionals who know the signs of heat illness and know what could go wrong in dealing with a high heat condition, we think that it makes the most sense for those folks to self-monitor. And to take a nurse off of treating a patient to monitor those folks, we don't know that that is going to make the most sense in a medical situation.

So we offer those two comments. We also think it may be appropriate to do a more narrow exemption in which we just simply say aspects of this regulation do not apply to burn units. We're working with stakeholders. We look forward to working with you to continue to finish this work. Thank you so much for your time.

A/CHAIR LASZCZ-DAVIS: Thank you very much.

Helen?
MS. CLEARY: Good afternoon. We're now in the afternoon.

A/CHAIR LASZCSZ-DAVIS: It is afternoon now, yes.

MS. CLEARY: Acting Chair, Board Members, staff.

My name is Helen Cleary, and I'm the Director of PRR Occupational Safety and Health Forum.

PRR agrees and sees the need for an indoor heat regulation. Our members understand that -- the hazard of heat to workers and we support the objective of the rulemaking. We also fully align with the Board’s stated purpose of application in the Initial Statement of Reasons which says, “The specific purpose of the proposed subsection is to limit the requirements of the proposed standard to employers with employees having considerable exposure to heat and hot environments.” Unfortunately, we don't believe the proposed scope of the standard supports this objective. Today we offer recommendations in a genuine effort to improve the rule.

PRR’s overall concern is that the proposed standard is designed for fixed work locations where heat exposure is either inherent to the environment or work performed, or it's a result of extended exposures to high heat conditions. The text does not effectively consider mobile workforces and solo workers.

It also groups incidental and short duration
exposures in the same risk category as environments that experience high heat conditions and expose employees for extended periods of time. The regulation implies that every worker is at risk of a heat illness whenever they enter an enclosed space that is 82 degrees. The trigger of 82 does consider clothing that restricts heat, high radiant heat areas. However, the high radiant heat areas defined as only five degrees higher and technologies on protective clothing is improving.

PRR doesn't believe these individual factors alone at such a low temperature automatically create an actual heat risk. As drafted the regulation is missing key occupational safety and health principles, specifically the duration of exposure. This missing element combined with the definition of indoor greatly expands the scope beyond, “Employees having considerable exposure to heat and hot environments.”

Employers will be required to define every enclosed space a worker performs a single task and as an indoor space and consider these requirements if the space doesn't have a cooling system. This casts the net beyond traditional indoor spaces. And includes thousands of units across the states without considering other environmental risk factors such as the time spent working in this space, or how strenuous the activity is like the workers who have
demonstrated the hard work that they do in these hot environments. All of these storage containers that are outside are now subject to these requirements.

A/CHAIR LASZCZ-DAVIS: Helen, could we begin to wrap up just a little?

MS. CLEARY: Yep. Yeah, we're not talking about shipping containers being unloaded. We're talking about these incidental entrance and exits. And we don't believe these low exposures actually create an occupational health risk as the rule establishes.

This scope, expanded scope affects outdoor workers, as Bryan Little and Rob Moutrie touched on. So we recommend two exceptions to mitigate. First a short duration exception, 15 minutes in a one-hour period. Second, an exception that allows employers to comply with the outdoor heat standard. The duration inspection aligns with the wildfire smoke and COVID-19 regulations that both consider actual exposure. And a 15-minute every hour parameter will inherently require a cooldown period.

Access to cool-down areas, we have an issue with that. We align with the previous comments on that. Please take a look at our comments and review them. We would request an exemption, an exception to subsection (e). The exception doesn't actually alleviate the concerns that we've expressed previously. And request the exemption that
allows administrative controls and lieu of engineering controls be added back to the draft that was taken out from the last 2019 draft.

Again, we support an indoor heat standard. And we're hopeful that a few changes will improve the applicability to all of the industries that will impact not just the ones at the highest risk. Thank you.

A/CHAIR LASZCZ-DAVIS: Thank you very much.
Next presenter.

MR. LOPEZ: Hello.

A/CHAIR LASZCZ-DAVIS: Hello.

MR. LOPEZ: My name is Heath Lopez and I'm a delivery driver for DAX8, that's D-A-X-8, from Palmdale California and I've been a driver with them for three years. And I'm here with my fellow drivers and Teamster Union 396. I wanted to say that -- thank you for having and giving me your time.

So every day my fellow workers and I go through intense conditions in the summers that involve having to walk or run in dry heat, meeting unrealistic deadlines set by Amazon while enduring excessive heat, and sometimes even having to drive in vans that don't have proper conditions to provide well centralized air or cold air conditioning.

There's not enough -- there's not a time that goes by when I drive a step van that feels like an oven.
percent of the times. You can park the van in the shade
during excessive heat conditions and have all the doors
open, but it would still feel like being in a sauna. Even
the working air conditioners in some of the vans feel like
they don't blow cold air. That it's to the point that I
have to press my face up against it just to feel that cool
air. There's a few times where I have burnt my arms on
some of the shelves in the vans. That's how hot these vans
even get if you need more of an example.

I've seen and heard from fellow drivers how
they've also suffered from the heat, such as feeling
fatigue, exhaustion and even almost fainting on the road.
There's even a few drivers who've told me how fearful they
are each day about even coming into work, because of the
heat. They give us waters to stay hydrated. Amazon gives
us waters to stay hydrated on the road, but would also
limit us on how much we can take. And the fact that Amazon
wants us to finish in under eight hours while trying to
deliver 300 to 400 packages a day per person does not seem
reasonable. Sometimes some of the drivers need aid to even
finish some of their routes.

We may be considered an outside worker to some
but majority of the times we were working indoors. These
vans are where we take our lunches, our breaks, and have to
derelate packages majority of the time. It's like a fight
for survival. Why does our work have to feel like this?

    All of us drivers, all we want is change, a better working environment and a better tomorrow. Not just for me for my drivers, but for future drivers who want to take part in the delivery service.

A/CHAIR LASZCZ-DAVIS: All righty, thank you so much.

MR. LOPEZ: Thank you.

A/CHAIR LASZCZ-DAVIS: We're going to move over to the queue now.

    Maya, do we have anybody in the queue?

MS. MORSI: Yes, up next is Veronica Pardo with Resource Recovery Coalition of California.

MS. PARDO: Hi, thank you so much for your time today. Yes, I'm Veronica Pardo with the Resource Recovery Coalition of California representing haulers, recyclers, and composters throughout the State of California. We're very grateful for the opportunity to comment today.

    We were participating in the informal process many years ago. And actually, my first comment is a process comment. I was part of a listserv and part of a communication listserv in the informal process, but did not receive until very late notice on this rulemaking and this standard, understanding that it was noticed. But I do believe that there are some stakeholders who did not
receive notice of this standard in a timely fashion. And
you may want to consider that for future iterations should
they occur.

Our industry for the most part is following the
outdoor heat illness standard 3395, and we do see clarity
on several issues of concern. I was pleased to see today
some clarification regarding clothing that restricts heat
removal. And I've asked for the slide deck to distribute
that to our membership, because the definition that was
drafted is a little unclear.

As well as we seek clarity on the vehicles. I
know there's been a lot of conversation on that today. In
regard to refuse vehicles our workers are in and out of the
truck throughout the day. And the industry is currently
following the 3395 standard.

Our recommendation is that once the standard is
finalized, that a robust FAQ be provided to employers and
of course employees regarding expectations for the
standard. And we look forward to future communication on
this development. Thank you so much for your time today.

A/CHAIR LASZCZ-DAVIS: All right, thank you.

Next presenter in the queue.

MS. MORSI: Next presenter is Lois Bloomberg with
Rockefeller Foundation Resilience Center. (No audible
response.)
A/CHAIR LASZCZ-DAVIS: Does the presenter need to unmute perhaps?

MS. MORSI: If you're on the phone, please press *6.

A/CHAIR LASZCZ-DAVIS: Why don't we move on to the next presenter and we'll circle back with this person.

MS. MORSI: No problem. Next is Beth Malinowski with SEIU California.

MS. MALINOWSKI: Hi, good afternoon. Beth Malinowski with SEIU California. Can you hear me okay?

A/CHAIR LASZCZ-DAVIS: We sure can.

MS. MALINOWSKI: Wonderful, wonderful. I really appreciate the opportunity today and want to strongly support the proposed new standard, align ourselves with the concerns and recommendations put forward by WorkSafe, and our labor colleagues.

I want to acknowledge how critical getting this right is and moving us into implementation as soon as possible is for our low-wage workers, including those in fast food settings. And for work settings at risk of high temperature that are not always front of mind like cabin cleaners on airplanes, on the tarmac in California, so important as well.

Lastly, SEIU is proud to represent health care workers in public and private hospitals with burn units.
And we appreciate deeply the concerns raised by our colleague at CHA regarding the interplay of this standard and care burn units. SEIU members providing care to burn patients are committed to providing the best care to their patients while also guaranteeing the health and safety of the whole care team. We do not agree with CHA’s proposed solution, but are happy to participate in dialogue on how to guarantee that worker and patient needs are met. Thank you so much.

A/CHAIR LASZCZ-DAVIS: Thank you very much.
Next presenter in the queue.

MS. MORSI: Michael Miiller with the California Association of Winegrape Growers.

MR. MIILLER: Good afternoon. I'm Michael Miiller with the California Association of Winegrape Growers. And I apologize for jumping the gun earlier this morning. Your competent staff notified me in advance by and I just missed it. I'm so sorry.

Regarding the proposed --

A/CHAIR LASZCZ-DAVIS: Not at all, and welcome back, Michael.

MR. MIILLER: Thank you. Regarding the proposed indoor heat standard regulation, we align ourselves with the comments and the letter submitted by California Chamber of Commerce and the Phylmar Regulatory Roundtable. We also
concur with several other comments raised concerning issues, especially those comments from Bryan Little at the Farm Bureau.

More specific to our growers. I'll be brief, as we have submitted a letter raising a few concerns that we believe can be easily resolved and addressed. In short, we are seeking the following.

First, we would like to see an incidental exposure exemption for exposure to moderate heat for less than 15 minutes at a 60 minute period.

Second, draft regulations should be amended to address issues where employees are covered by both the draft regulation and the outdoor heat illness preventions regulation that exists already. As Eric Berg stated this morning, both the indoor and outdoor standards are intended to prevent heat illness. So we believe it is duplicative to have two standards for the same purpose apply to the same employee in the same workplace in the same work shift. And we’ve already be provided a draft to address this.

Third, the proposed exemption for shaded areas is a bit confusing, and needs to be clarified.

Fourth, we believe that draft regulations should include an exemption for vehicles, as previously discussed. And I think potentially as a way of writing that, that separates the difference between a vehicle that's used for
delivery purposes and other vehicles, as well. But I defer
to your staff, and we’re happy to help in drafting that.

Now finally, our biggest concern is for indoor
heat issues where engineering controls and personal heat
protective equipment are infeasible. And we’ve provided a
language that we think may resolve that as well.

In the big picture, though, the comments from
Gideon Baum really hit hard the issue raised by Dan Leacox
earlier. That taking a broad-based approach, this
regulation is going to have unintended consequences. It
just is what it is, it's almost impossible to address all
the issues and every occupation and every industry covered
by this regulation. In a situation raised by Mr. Baum,
this regulation could actually cause physical harm to
patients at a burn unit.

I know that there's a general perception that
standards are needed to protect against people dying. But
that is best achieved in collaboration where all parties
come together. And we look forward to working with you,
the Board staff, Division staff, on these issues. And
please consider us a resource, so we can be of any
assistance in any way.

Again, thank you for your time and attention.

A/CHAIR LASZCZ-DAVIS: All right, thank you,

Michael.
We're back to our in-person presenters, if you could step forward.

MR. JESUS LOPEZ: Good afternoon. Ma'am, this is Jesus Lopez.

A/CHAIR LASZCZ-DAVIS: Could you speak up a little louder?

MR. JESUS LOPEZ: My name is Jesus Lopez. I am a driver for Amazon. We just recently joined the Union, the Teamsters Local 396. And we drove all the way from the Anza Valley, because of the subject of the matter is the regulation about the heat. And as you can tell, the Anza Valley is a desert, you know, and we deliver up to 300 packages a day, or even more. So the heat is coming in and it's going to be coming in hot this year, you know, because the weather's changing. So there's no doubt about that.

So what I'm asking you here today is pretty much to have better heat standards, and have a reasonable policy for our drivers. We cannot take certain things. Like from us like this policy, it helps us stay hydrated, I guess, but more alive out there.

So I am just trying to do my part because I work as a driver. And you might -- guys not see the things that we have to encounter on the road, especially during this heat. So all I'm asking is to not take away that policy they are trying to remove, but to add more stuff to it for
our safety and the drivers on the road.

So that's pretty much it. That's all I’ve got to say today. And everybody, have a good day.

A/CHAIR LASZCZ-DAVIS: Thank you very much.

Next presenter.

MS. GONZALEZ: Good afternoon, my name is Viviana Gonzalez. I am a Shop Steward for the Palmdale Building. It is the Antelope Valley. It is a desert. I've been working there for nine years and I’ve been a shop store for about seven. And I have encountered several summers where a lot of our indoor employees have heart palpitations, they suffer heatstroke, and all they can do is drink more water, electrolytes.

We need something more firm in our law to show the company that we need some sort of heat relief, because they will only give us the minimum. If you guys say, just drink water. Well, the law only says you guys got to drink water. Or if you guys tell the company that we are allowed to take 15-minute breaks every hour, that would really help, because our building burned last year. The building that we currently have right now does not have fans.

And if it gets to 115 degrees, the inside of a truck gets to 140 to 150. That's like in a sauna. If you guys go to the gym, and you guys are at sauna, you start getting heart palpitations after a few minutes. So just
imagine unloading a trailer for two hours and a half, or
maybe three, because the company says that you're allowed
to take a break after two and a half hours.

By then a lot of our coworkers are suffering
plenty of things internally. We've looked at what our
gentlemen here showed us, how our body goes through many
phases of kidney failure. All the exhaustion that the body
goes through, because of the heat. So we're just asking
for more of a solid wording in our laws that are able to
protect us, because we are people and want to go home to
our families.

Now as a driver we already had Esteban Chavez Jr.
died last year in Pasadena. The company knows that he died
in the back of the truck, because of the heat. What are we
doing about that? The company is not doing anything other
than worrying about their packages being delivered. And
I'm here on behalf of our local, our building, our other
coworkers and fellow delivery drivers that are looking to
have some sort of a relief from this heat. Because the
deserts, also like Palm Springs, get to 119.

And this is serious. I'm not talking about oh,
we just got to 102. No, we're out there working with 115
degrees. The back of the trucks get to 140 150, and our
bodies go through a lot of stress. So I'm just here asking
you guys to put everything in writing, because the big
corporations are looking to see what the bare minimum is for us.

And that's all I have for you guys. Thank you.

A/CHAIR LASZCZ-DAVIS: Thank you very much.

Next presenter.

MR. PORRAS: Good afternoon, my name is Carlos Avalos Porras. I'm a DX8 driver for Amazon for about a year. I'm here today to represent my fellow coworkers and drivers out there today working in the heat.

The experience I've been out there as a driver is heat exhaustion, fatigue. Yesterday, I almost fainted. I did fall due to the heat. That jug right there of water, I drink like seven or ten of those a day in the heat. So that -- it's hot out there, you know, and I would like this law to be you know, more up there in scale. Because we're out there risking our lives every day for big corporations that don't care about us at the end of the day. And there's no AC in the trucks. The trucks, like they said it was 140 to 130. I live in the desert, so those conditions are not reasonable. So pretty much thank you for your time.

A/CHAIR LASZCZ-DAVIS: Thank you very much.

MR. PORRAS: Thank you.

A/CHAIR LASZCZ-DAVIS: With that, we're going to move over to the commenters in the queue.
Maya, who do we have?

MS. MORSI: Up next is Alice Berliner with UC Merced Community and Labor Center. Alice Berliner.

A/CHAIR LASZCZ-DAVIS: Does Alice need to unmute herself?

MS. MORSI: If you're on the phone, please press *6.

MS. MORSI: Maybe move on to the next commenter and we'll circle back.

MS. MORSI: Next commenter is Edwin Brown with Teamsters 542 UPS.

MS. BERLINER: Hi, this is Alice. I'm back on, and I can talk afterwards.

A/CHAIR LASZCZ-DAVIS: I'm sorry, I didn't understand. Oh is that Alice? Oh.

MS. BERLINER: Yeah.

A/CHAIR LASZCZ-DAVIS: Okay, well, let's just take Alice.

MS. BERLINER: Okay, great. Sorry about that. Let me just pull up my talking points.

Well, good afternoon, everyone. I am so sorry I can't be there in-person. But my name is Alice Berliner, and I'm the Director of Worker Health And Safety at the UC Merced Community and Labor Center.

We work closely with workers, communities, unions
and community-based organizations across the San Joaquin valleys. And many of the organizations and workers we work in close partnership with serve farmworkers, warehouse workers, and poultry workers, or our workers themselves and deeply understand what it feels like to work in extreme heat.

In the Central Valley and across the state, we are seeing record temperatures. And last summer we had multiple 118 degree days and anticipate similar weather this summer and fall. A study from July 2021, public health researchers collected 18 years of California workers compensation injury reports and built a database of more than 11 million injuries. Each of them cross-referenced with the temperatures of each day in place.

And the researchers actually found that on days when the temperature was between 85 and 90 degrees, the overall risk of workplace injuries was 5 to 7 percent higher than days when the temperatures were in the 60s. So it's clear that on extreme heat days, there's a direct correlation with increased workplace injuries.

And then we also published our farmworker health study report, just this last January in 2023. And we surveyed over 1,200 farm workers from across the state. And we actually found similarly that among women respondents, they experienced three different types of
adverse pregnancy outcomes. So things like low birth weight, preterm birth and birth defects, at twice the rate of the general population. And these outcomes in our report are directly associated with exposure to elevated temperatures during pregnancy. And about more than one in three respondents also reported problems keeping their house cool.

And so that means for a lot of folks that they just don't have an opportunity to cool down on days that reach up to 118 degrees, making temperature controls at work all the more important. So we know based on research that I've cited that when temperatures exceed 80 degrees, workers need opportunities to cool down, to rest and drink clean drinking water. Otherwise, we will continue to see these direct correlations to increased injury rates, to impacts on overall health outcomes, and overall impact on workers’ ability to be both productive and safe.

So we see a standard like the indoor heat standard are being discussed today as an important step to ensuring indoor workers and our state workers are safe.

Thank you so much.

A/CHAIR LASZCZ-DAVIS: Thank you.

Our next commenter?

MS. MORSI: Next commenter is Edwin Brown with Teamsters 542 UPS. (No audible response.)
A/CHAIR LASZCZ-DAVIS: We may need to unmute, or you may need to unmute.

MS. SHUPE: Maya, can you see Mr. Brown in the queue online?

MS. MORSI: Edwin is not on WebEx.

MS. SHUPE: So Mr. Brown, if you are online via the phone you'll need to press *6 to unmute yourself.

A/CHAIR LASZCZ-DAVIS: Next. Why don’t we move over to the next commenter then and we'll circle back.

MS. MORSI: The next commenter is Navdeep Kaur with Jakara Movement. (No audible response.)

A/CHAIR LASZCZ-DAVIS: If you need to unmute *6 please.

Maya, who else do we have then?

MS. MORSI: Next up is Judith Neidorff.

MS. NEIDORFF: Hi, my name is Judith Neidorff. I work in safety for a public utility and I'm a proud member of IFPTE Local 21. I'm lucky enough to spend most of my indoor time in buildings with central air, but a number of my union and nonunion siblings do not. So these proposed regulations are very dear to me.

I want to start by actually listing some of the recommended and required maximum indoor temperatures by various agencies and organizations. I did a little research, and the Bureau of Prisons recommends keeping...
prisons a maximum temperature of 76 degrees Fahrenheit during the summer. The WHO guidelines on health and housing has 24 degrees Celsius, a little under 76 Fahrenheit, as the upper temperature at which there's no demonstratable risk to the health of healthy sedentary people.

    CDC has indoor air recommendations for temperature and occupancy settings. They reference ASHRAE 55, which I know other people have referenced. And they specifically note that during the summer, the operative temperature range should be between 75 and 80.5 Fahrenheit if there is slow air movement, and the indoor air humidity is around 50 percent.

    And finally, the Federal OSHA Technical Manual recommends 76 Fahrenheit as the maximum indoor temperature under their indoor air quality investigation chapter. Now the Federal OSHA Technical Manual also ties their data to the ACGIH 2017 TLVs and BEIs, which I want to talk about. The ACGIH ties their heat stress action and threshold limits to the level of activity a person does. They indicate the action limit as the temperature at which an unacclimated person is at risk for heat stress, and the threshold limit as the temperature at which an acclimated person is at risk for heat stress.

    So looking at somebody who only performs
occasional light work less than 25 percent of their job
like walking to a printer maybe, their action level is
actually pretty high. It's 86 degrees Fahrenheit, and the
threshold is 90.5. However, these people are also the
people who are generally working in areas that are air
conditioned. More realistically, if we look at somebody
who performs moderate work 75 to 100 percent of the time
during their day, their action level is 77 degrees
Fahrenheit and their threshold is 82.5.

A/CHAIR LASZCZ-DAVIS: Judith, could we begin to
wrap up a little bit?

MS. NEIDORFF: Yeah, I'm just getting to the
point right now. My concern with the current limits is
that they seem to line up with the ACGIH action and
threshold limits for a person who performs light work full
time, which is not realistic as the way that work is broken
up, those people tend to be the ones with access to
temperature controlled areas.

I recommend that Cal/OSHA rethink their
temperatures in the following way. Change the 82
regulatory applicability level to 77, which is one degree
over the ASHRAE maximum recommendation. Which also aligns
with the Bureau of Prisons, WHO and Federal OSHA maximum
recommendation. And change the 87 degree trigger level to
81.5 degrees, which is the threshold limit value for
employees who perform heavy work between half and 75
percent of their time on the job. Thank you very much.

A/CHAIR LASZCZ-DAVIS: Well, thank you very much.

I think that we can now shift to our in-person
presenters.

MR. AMBERGER: Good afternoon, my name is Johann
Amberger. I have worked at the Amazon Air Hub in San
Bernardino since the facility launched in April 2021. I
work on the robotics crew and in flow control and I'm also
a proud member of the Inland Empire Amazon Workers United.
My coworkers have already given ample testimony on the
impact of indoor heat on our physically demanding work and
on our struggles to get our employer --

A/CHAIR LASZCZ-DAVIS: Could you slow down just a
little bit? We want to make sure that the Spanish
translators have the benefit of your observations.

MR. AMBERGER: Absolutely. So my coworkers have
already given ample testimony on the impact of indoor heat
on our physically demanding work and on our struggles to
get our employer to respond adequately. I would like to
offer a brief anecdote as to why I believe that the 82/87
degree standard is insufficient.

So during the August and September heatwave last
year, after scores of coworkers implored site leadership to
take our health seriously, our general manager actually did
lower the thermostat. Several days later, however I walked
into work around 6:45am or so to sweltering indoor
temperatures reaching 85 degrees on the robotics floor and
87 in the flow control office. No circulation --

A/CHAIR LASZCZ-DAVIS: Slow down. Slow down just
a little bit.

MR. AMBERGER: Okay. So I walked into sweltering
indoor temperatures, 85 degrees on the robotics floor and
87 in the flow control office. No air circulation was
present and it took about, if memory serves correct, about
two hours until 9:00 a.m. or so when the rooftop units
actually kicked on. So I asked the maintenance supervisor
if there had been a problem with the HVAC. But he informed
me to my surprise, that actually what had occurred was the
corporate office in Seattle discovered that the temperature
had been deviated from the standard set out in their own
internal red tape. And ordered the air to be cut off
overnight to allow the temperature to rise before bringing
it back down.

So if temperatures can spike into this range,
with only a few hours of HVAC cut off during a California
late summer night, then I do not think it is a sensible
solution for our state's seasonality. But maybe in
Seattle, though. Thank you for your time.

A/CHAIR LASZCZ-DAVIS: All right. Thank you so
Next presenter.

MS. GREWAL: Good afternoon, Madam Chair and Standards Board Members. My name is Jassy Grewal. And I'm here on behalf of the United Food and Commercial Workers Western States Council to speak on behalf of our 180,000 members, the overwhelming majority who work in indoor workplaces in strong support of this Board pursuing the proposed indoor heat illness standard.

This standard is beyond long overdue and urgently needed to protect California workers from current and increasing conditions of high heat and extreme heat in their indoor workplaces. It is unfortunate that workers will continue to have no protections from indoor heat this summer, as temperatures are already starting to rise all throughout California.

UFCW represents workers and packing houses, meatpacking facilities, processing plants, warehousing and retail stores, where there's often little to no ventilation and temperatures can rise significantly during the hotter weeks of the summer. Right here in the Imperial Valley, UFCW represents workers at the Spreckels Sugar Factory, who are -- at the Spreckels Sugar Factory where there's no ventilation inside the processing plant and temperatures can rise to upwards of 120 degrees. These are dangerous
conditions for workers who are doing physically intensive labor.

Additionally, in the City of San Diego UFCW represents workers at cannabis retail locations where there is no indoor air conditioning. With global warming and extreme heat events, these locations can experience high internal temperatures with very few measures taken by employers to reduce to reduce the heat exposure indoors.

As we're all acutely aware, high heat is a hazard that leads to a wide variety of workplace injuries far beyond heat illness itself. On days where temperatures are between 85 to 90 degrees, the overall risk of workplace injuries was 5 to 7 percent higher. And on days where temperatures are over 100 degrees, the overall risk of injuries is 10 to 15 percent higher. This is very alarming.

UFCW believes that the standard should do more to protect workers. We respectfully urge this Board to pursue these changes without further significant delays. Workers have waited years for an indoor heat illness standard and cannot wait any longer. But workers are also deserving of strong protections after all the unnecessary suffering they have endured year after year without a standard.

Areas where UFCW would urge this Board to offer more protection to workers is reducing the 82 degrees and
87 degrees thresholds to 78 degrees and 85 degrees respectively. Broaden the definition of clothing that restricts heat removal. Mandate minimum rest break schedules and cool-down areas. Training requirements that should ensure that common sense best practices are followed, and strengthening the record keeping requirements.

UFCW appreciates the opportunity to provide public comment today. Workers, especially low-income workers who are five times more likely to be hurt on the job due to heat than high-income workers cannot wait any longer for protections. For these workers and other, delay on this standard is life or death for them. I appreciate the time.

A/CHAIR LASZCZ-DAVIS: Thank you very much.
Next presenter please.
MR. JOHNSON: Good afternoon Cal/OSHA representatives, and I’ll leave it at that.

A/CHAIR LASZCZ-DAVIS: Good enough.
MR. JOHNSON: My name is Steve Johnson. I represent Associated Roofing Contractors of The Bay Area Counties. And I wanted to support the comments of the Phylmar Regulatory Roundtable, Helen Clary and also Rob Moutrie with the CalChamber. So I won't have to repeat any of those comments that they made, but I strongly support
their positions because they do raise some concerns and interesting points.

And one of those is fixed work sites are much different than construction sites where there are storage units, containers where employees will just occasionally have to run and grab material and go back to work outside on the job site. So right now, there is no exception for someone that is not continually working in that space, but just getting materials but it is by definition considered an enclosed indoor space.

So I look forward to hopefully working with the Division on some clarifications of these things that I think were not meant to be indoor workspaces, but somehow fall under the definition and become indoor workspaces.

The other -- you know, throughout the regulation, “reasonable” and “feasible” are used quite frequently. And, unfortunately for the employer the burden is on the employer to prove reasonable and feasible and what is infeasible. Cal/OSHA decides. And if Cal/OSHA decides it's not reasonable, or if Cal/OSHA decides that it's not infeasible, then Cal/OSHA writes a citation. So the employer is caught with some language that I think is prone to interpretation problems. And I just wanted to bring that up.

And I'll, in the interest of time I’ll wrap up
and say thank you for the opportunity to comment. And I appreciate -- I know the bell tolls at 5:00 o'clock today. So for comments -- but I definitely hope that I can work with the Division on working these things out. Thank you.

A/CHAIR LASZCZ-DAVIS: Thank you very much.

Are we back to the queue, or presenting?

MS. MORSI: Back to the queue.

A/CHAIR LASZCZ-DAVIS: I guess we're back to the queue if you'll just hold on. Maya, who do we have up next?

MS. MORSI: Up next is Enrique with Climate Resolve.

MS. SHUPE: Enrique, if you're joining via call in, you'll need to press *6 to unmute yourself. If you are on our WebEx, please make sure your mic is turned on and operational.

A/CHAIR LASZCZ-DAVIS: Why don't we try the next commenter and we'll circle back.

MS. MORSI: The next speaker is Travis West with California Nurses Association.

MR. WEST: Hi, there. Good afternoon, everyone. Can you hear me all right?

A/CHAIR LASZCZ-DAVIS: Yes, we can.

MR. WEST: Wonderful. So I thank you, the Board, for the opportunity to be here and make a comment. I'm...
Travis West with California Nurses Association, which represents more than 100,000 members who work as registered nurses in California.

I wanted to start off by saying that we support the comments made earlier by WorkSafe’s Anastasia Nicol Wright, UFCWs Jassy Grewal, California Labor Federation’s Mitch Steiger, and SoCalCOSH’s Rene Guerrero. We believe they made important points, and we fully support those.

We also wanted to say that CNA supports the Standards Board to issue a strong standard to protect the workers from heat illness in indoor workplaces. Our members can see firsthand the drastic effects on workers when they need medical care due to heat related illnesses and other injuries that happen at the workplace when their employers fail to protect them.

When workers are not protected from indoor heat, they can obviously experience heat related illness and require medical help. And in addition to that, as has been brought up by Anastasia earlier, studies have also shown that the risk of other workplace injuries increase significantly when workers are exposed to high temperatures. So nurses know that safe workplaces are essential for a patient's health and the Cal/OSHA Standards Board has the ability to protect them here by issuing a strong and protective standard on indoor heat.
And in addition to that, nurses themselves can also be impacted by high heat temperatures in certain situations, such as when employers fail to maintain ventilation systems that can handle high outdoor temperatures, which obviously can lead to the temperature indoors increasing as well. In addition to that nurses often have to wear personal protective equipment to care for patients, which can make even moderately high indoor temperatures dangerous for nurses, which of course puts their patients at risk as well.

We also wanted to address some comments made by CHA related to high heat and hospital burn areas. We disagree with CHM, sorry with CHA’s proposed amendments. While it’s true that some nurses work in units where higher temperatures are required as part of patient care, such as burn unit -- or burn patients who are at higher risk of hypothermia as was pointed out, we urge the Standards Board to ensure that medical facilities are still covered under the proposed standard and to not exempt them from any of their requirements. To be clear, not all burn patients require treatment in high heat rooms, and a broad or blanket exemption for burn units or for workers treating burned patients would be inappropriate.

For clarity, a clarifying note can be added that in certain narrow situations, engineering controls may be
infeasible for certain work areas within healthcare facilities where temperatures are higher than 82 degrees, if that's necessary for patient care and treatment, as determined by the patient's treating provider. But this should also make clear that administrative and other personal controls remain in place. We also believe that this issue with burn patients should not delay the standards implementation in any way.

Furthermore, because staff who work in burn units may experience signs and symptoms of heat illness, especially if they've been floating to a new unit, or are new to the area and unacclimated to the to the high temperatures or wearing personal protective equipment, they should not be excluded from cooldown requirements, including the requirement that they'd be monitored for signs of heat illness while in cool-down areas.

In addition to that, we've also heard comments from the Chamber of Commerce about implementing some sort of temporal control. We believe that such controls would be arbitrary and assessments, temperature readings, and other precautions that should be taken as described and proposed in the standard if workers will be in areas with high heat, even for relatively short periods of time -- heat stroke can develop really, really quickly, even within 10 minutes. So we think it's important for this standard
to be applicable to those folks as well.

So just to wrap up here CNA or just the Standards Board to adopt a proposed standard with the changes outlined in the union coalition letter to strengthen the proposed standard. The Standards Board should not delay the issuance of a strong and effective standard. A delay will only put more workers at risk of heat related illness, work related injuries and potentially death. Thank you for your time.

A/CHAIR LASZCZ-DAVIS: Thank you.

Our next commenter in the queue?

MS. MORSI: We're going to circle back to those that did not get to speak. So the first one is Katia Birt with USW 675.

A/CHAIR LASZCZ-DAVIS: Could you unmute yourself if you're online, please, *6. (No audible response.) Why don't we move on to the next commenter and perhaps we'll come back.

MS. MORSI: The next one is Alexis Teodoro with OCCORD.

MR. TEODORO: Hi. On behalf of Orange County Communities Organized for Responsible --

A/CHAIR LASZCZ-DAVIS: Alexis, we're having difficulty hearing you. Do you want to try again?

MR. TEODORO: Can you hear me now?
MR. TEODORO: So on behalf of Orange County Communities Organized For Responsible Development, or OCCORD, I submit this public comment.

We're an organization that strives to transform local economies and communities to be more equitable for working class people. And part of this is making sure that we have an economy that is inclusive and equitable. This means that we need to make sure that health and safety, and most of all, the dignity and lives of workers who do their job under high temperatures are protected.

Ensuring the safety and well-being of workers, especially in an environment exposed to high temperatures is of paramount importance. Heat related injuries and illnesses can have severe consequences on the health and productivity of workers. And it is essential that comprehensive measures are in place to mitigate these risks.

The proposed regulation moves in the right direction, that of the protection of the lives of workers. However, several key provisions do not kick in until high temperatures such as ranging between 82 and 87 degrees are reached. This can place the lives of workers at risk. We want to thank you for your efforts in uplifting the protection of workers. However, please consider revising...
and lowering the temperature thresholds in order for the
strongest protections to kick in sooner rather than later.

Thank you for listening. And let's protect and
uplift the lives of workers, especially those working in
high temperatures such as Amazon and restaurant workers.

Thank you.

A/CHAIR LASZCZ-DAVIS: Thank you, Alexis.

Another commenter in the queue, Maya.

MS. MORSI: Next commenter is Louis Blumberg, a
Climate Policy Adviser, Rockefeller Foundation Resilience
Center. (No audible response.)

A/CHAIR LASZCZ-DAVIS: If you could unmute
yourself we'd love to hear what you have to say, if you
could press *6.

Maya, let's try another commenter and maybe we'll
circle back.

MS. MORSI: Next commenter is Edwin Brown with
Teamsters 542, UPS.

A/CHAIR LASZCZ-DAVIS: If you could unmute
yourself? (No audible response.)

Maya, let's try one more commenter.

MS. MORSI: Next commenter is Navdeep Kaur with
Jakara Movement. (No audible response.)

A/CHAIR LASZCZ-DAVIS: Let's try this again. How
about another commenter?
MS. MORSI: And the last one is Enrique with Climate Resolve. (No audible response.)

A/CHAIR LASZCZ-DAVIS: Do you want to unmute yourself, *6. Do we have any more commenters in the queue that need to be heard?

MS. MORSI: We do not.

A/CHAIR LASZCZ-DAVIS: Okay. Well, at that point why don't we move over to the in-person presenters.

MR. GARRETT: Good afternoon, Board Members.

A/CHAIR LASZCZ-DAVIS: Good afternoon.

MR. GARRETT: My name is Dwayne Garrett. I'm the President of Teamsters Local 542 here in San Diego. We represent just over 8,000 members within San Diego, San Diego County, Imperial County and one location in Yuma, Arizona. So our membership ranges from warehouse workers such as Costco workers, to the UPS drivers that deliver your packages every day. We routinely hear about -- excuse me -- drivers having heat exhaustion. As a matter of a fact, just this past year alone we've had several drivers that have had heat strokes and suffered from heat exhaustion.

We believe that there needs to be stronger protections for the workers that work for a living, the middle class, and the working class people. I know we've heard of -- excuse me -- you've heard from a lot of people
today that are in support of this, of making some kind of changes to the standards. And we are here today to respectfully ask Cal/OSHA and the Standards Board to make the needed adjustments so that we can protect the working class. Thank you.

A/CHAIR LASZCZ-DAVIS: Thank you very much.

Any other in-person presenters at this point?

(Off-mic colloquy.)

MS. MARTINEZ: Hi, I’m Chris Martinez, Communications Director for Teamsters Local 542. I'll be quick, I just --

MS. SHUPE: Please don't be quick. We actually appreciate it when you speak slowly, especially our interpreters.

MS. MARTINEZ: Okay, okay. I'll take my time. So I heard all of the workers today, and everything they said was true.

A/CHAIR LASZCZ-DAVIS: Speak louder.

MS. MARTINEZ: I come from a background of Amazon. I was a delivery driver for a little while. And then I went over to UPS and I was a warehouse worker, so I see both ends.

It's hot. It's very hot. I used to take off the packages from an 18-wheeler. And this is like in the wintertime and it's in those big rigs. It's like 85-90 and
when it’s like 60 outside. I don't think necessarily also
that geographically the heat, the weather was taken into
consideration.

A/CHAIR LASZCZ-DAVIS: Stand closer to the mic.

MS. MARTINEZ: Sorry, I -- okay. San Bernardino,
the temperatures out there are significantly like higher
than when they’re out here. It'll be 72 out here 98 out
here. Like I need -- I just ask that Cal/OSHA, you guys
take into consideration the area you're in. El Centra gets
heat temperatures, we have photos of our UPS drivers in
their cars, 118, 120 of temperatures. It's ridiculous.

I just hope that these locations are taken into
consideration when we're using the 82, 87, 85, whatever.
They need to be lowered for our workers' safety. They
don't wake up every morning thinking, “Hey, I go to work, I
might not come home,” because we don't want to supply the
correct temperature regulations. Or we don't want to add
in air conditioning units. No one wakes up and says, “I
might not come home today, just from my job.” Well, I
mean, some people do, let me let me let me let me clarify that.

Our UPS workers, our Costco workers, our Amazon
workers, they don't wake up saying, “I'm going to go to
work today and I'm going to take these deliveries. I'm
going to stock the shelves. And I might die of heat,
because it's too hot, because my employer, my manager
doesn't want to implement the correct trainings on how to handle myself when I'm experiencing heat exhaustion or the early onset signs of a heat stroke.” I don't know what those are. I don't. And I can't remember Amazon or UPS training me for these things. So I just hope these are taken into consideration. Thank you.

A/CHAIR LASZCZ-DAVIS: Thank you very much.

Any other presenters?

MR. BLAND: All right, now?

A/CHAIR LASZCZ-DAVIS: I guess you're okay, Kevin. We got to hear you next.

MR. BLAND: Sorry. Hello, good afternoon Acting Chair Chris Laszcz-Davis and Board Members, Divisions staff, Standards Board staff. Kevin Bland representing the California Framing Contractors Association, the Residential Contractors Association, and the Western Steel Council here today. I incorporate by reference and join in the comments, both written and oral by Rob Moutrie, Bruce Wick, Helen Cleary, Bryan Little, Andrew Sommer and Michael Miiller.

I'm going to just speak on a little narrow issue that actually I think Steve Johnson brought up, and it's the issue of those that are substantially covered by the outdoor regulation. So think about a framing contractor and when you look at the definition of indoor, which
basically talks about four walls -- it does have -- talks about restricted air, but that's going to be difficult to determine. You have shear walls that go up. And then you have open studs as a portion that’s shear wall now restricted in the portion that’s not now open air.

And then it says -- the phrase that gets me in there is “whether open or closed” so what the heck does that mean, right? So you have open walls or you don't have open walls. And so can you imagine, here's the framing contractor. We've got tens of thousands of folks trained in construction for outdoor heat illness, been doing this since we negotiated this thing in the horseshoe under Governor Schwarzenegger’s purview years and years ago. And so now I'm under the outdoor heat illness reg. Now I'm on the indoor. Now I'm on the outdoor. And now I'm on the indoor. Can you imagine the compliance and enforcement?

So we believe that there's a way that this could be fixed is in the scope and in the definition. But something that would address this -- and by the way, this isn't the first time. (Alarm sounds) Oh, I did my two minutes, sorry. That was two minutes. I’ll wrap it up.

A/CHAIR LASZCZ-DAVIS: I thought that was an emergency call. I’m sorry.

MR. BLAND: It’s an Amber Alert, they're trying to pull me off the stage.
So in the scope, if you're -- if an employee is substantially an outdoor employee, that could be exempted. So then you're under one. When we have all this training, that's going to add confusion, it's going to be hard for the Division to enforce, it's going to be hard for employers to comply with a dual standard. And keep in mind too there are certain industries such as construction, oil and gas, agriculture, under 3395 that has some elevated areas of compliances as well for those on the outdoor.

So with that, I beg, I've been saying this since our first advisory committee here that that needs to be addressed. So thank you very much. I appreciate your time. Have a good evening. I think it's almost evening.

A/CHAIR LASZCZ-DAVIS: Thank you very much.

MS. SHUPE: Thank you. At this time, we've exceeded the time allotted for the public hearing. Does the Chair choose to make anything --

A/CHAIR LASZCZ-DAVIS: Well, one last request.

Maya, are there any other commenters in the queue we need to honor?

MS. MORSI: We do not have any more commenters.

A/CHAIR LASZCZ-DAVIS: All right. And one last call here for presenters in-person. Anybody else dying to say something here? Oh, no, no, no, no. Wrong comment, take that back. Take that back. Well, at this point in
time, let's close the public hearing, and we will take a 10 to 15-minute break. And we will be back, so please stay with us.

(Off the record at 1:15 p.m.)

(On the record at 1:30 p.m.)

A/CHAIR LASZCZ-DAVIS: All right, Board Members are you back on? Laura, (indiscernible) --

BOARD MEMBER STOCK: Yes, yes, I’m still here.

A/CHAIR LASZCZ-DAVIS: Oh, good. You know, at this time, I'd like to have you comment on the heat illness proposal, if you have any observations that you'd like to share with us, Barbara?

BOARD MEMBER STOCK: And I'll go after Barbara too.

BOARD MEMBER BURGEL: Yes. Well, first of all, thank you to all the stakeholders who presented their testimony today.

A/CHAIR LASZCZ-DAVIS: Hey, Barbara, you're a little fuzzy on the mic.

BOARD MEMBER BURGEL: Oh, so sorry. Can you hear me now? Is it better?

A/CHAIR LASZCZ-DAVIS: Yeah, a little.

BOARD MEMBER BURGEL: Okay. I just wanted to thank all the stakeholders. It's very important to hear the impact of not having an indoor heat standard, and how
important it is for us to pass an indoor heat standard as
soon as possible, number one.

Number two, I wanted to support lowering the
current trigger temperatures in the draft standard from the
current 80 to 87 triggers, and would support 78 and 85, or
at least down to 80 degrees Fahrenheit.

I also support, in response to hearing some of
the feasibility issues to include a duration exception in
this standard. Because I do think that Helen Cleary's
point that was made and made by others that, walking into
an outbuilding that's 82 degrees, that would trigger the
standard would be very difficult for some employers. And I
do believe that an exposure definition should be included.

And my final point is that I would support adding
the acclimatization schedule into the standard and adding
that into the training curriculum. And I also would
support an annual training refresher on indoor heat.

Now, the point about combining the indoor and
outdoor heat standard, I don't have a position on that. I
think -- I commend Cal/OSHA for integrating and looking at
both standards to align those two standards. And I do
think that it -- I mean, obviously drivers in trucks, we've
got that appeals court decision that that is considered an
outdoor environment, but within the actual trailer of the
truck, that would be considered not an external outdoor
place. It's confusing.

So I think any ways in which we can make those two standards interface as efficiently as possible, whether it's one combined standard or two, I'm not leaning towards one or the other. I just want this to move forward in a really timely fashion.

Now, obviously, I think Eric, you said the implementation would be summer of 2024 if all goes smoothly going forward. I hope that the Division continues to do education and outreach to all California workers and employers about heat prevention, because we're going to have another hot, hot, hot summer. And thank you.

A/CHAIR LASZCZ-DAVIS: Thank you, Barbara.

Who was up next?

BOARD MEMBER STOCK: So I'll go next. I can start my video here. Yes, I want to second what Barbara said. Thanks to the Division for all your incredible hard work. I'm really glad that it's in front of us, and at least going to be promulgated by next summer, of concern that it's not going to be in place for this summer.

And so I second the hope that there's going to be both outreach and education this summer, but also where possible enforcement of indoor heat safety provisions that can be enforced within IIPP even though I know that that's not sufficient. But at least that there would be some
recourse for people who are suffering from indoor heat exposure during this summer.

I also want to extend my thanks to everybody, all the workers who testified today. It is extremely important for Board Members to hear your direct experiences and how this plays out in the workplace. And clearly demonstrating the urgency of passing a reg as soon as possible.

I second Barbara's comments, and in specifically the lowering of the threshold. And I appreciated the person who spoke and who shared what the recommended thresholds are by many national and international expert organizations, demonstrating that what's in this reg is higher than all of those.

And at the very minimum, it seems really important to include a measure of work intensity. I think it should be lowered in general, but specifically with intensive work.

And wondering whether work intensity can be included in the list of provisions that trigger the coverage of the control measures (e). Because I think it has these other things about clothing, etc. But work intensity, as we've heard today, is a really important factor. So I think that the threshold should be lowered in general, and specifically triggering of the entire standard should come in cases where there is work intensity.
And then I agree with the comments about training and making that annual refresher. But again, I hope a lot of these changes can be included in a later draft. But equally, if not, more importantly, is that we don't hold the process up so that we can get a standard in place as quickly as possible. But thank you for all your work on this.

A/CHAIR LASZCZ-DAVIS: Thank you, Laura.

How about you, Dave?

BOARD MEMBER HARRISON: I don't really have any specific comments other than what's already been stated by Barbara and Laura. So I feel almost like a stakeholder today, I'm going to support the comments made by those. Thank you, Barbara and Laura, I agree with the lowering of the threshold. I also agree with the idea of intensity of work. And that should be brought into the conversation and recognized.

I appreciate all the speakers today. Somebody we didn't hear from, unless I missed you, I didn't hear from the teachers today. And I know over several years, we've heard a lot from the teachers here in the state of California. And I know there are several work environments where teachers are working in high heat indoor workplaces, that that definitely should be recognized.

So I know that there's anything specific that we
could do for those folks that's not already in the proposed
standard, or in some of the comments that we've heard
today. But thank you to Division Staff, the Board Staff,
everyone that had -- that's worked their butts off on this,
and all the commenters today.

A/CHAIR LASZCZ-DAVIS: All righty, thank you.

There being no other comments, this public
hearing is now closed. Written comments will be received
until 5:00 o'clock today.

Did I say something wrong? Oh, Board Member. Oh
God, forgive me.

BOARD MEMBER CRAWFORD: Acting Chair, if I could
just have a moment? You've done so well, today. I know
you just want to get done.

A/CHAIR LASZCZ-DAVIS: Get on with it.

BOARD MEMBER CRAWFORD: Okay, here we go. So
actually a good call, Dave, on the teachers. I hadn't
recognized that we didn't hear from teachers today. So
thanks for calling that out.

So I think it’s actually kind of interesting,
there's a lot of agreement. I don't I don't think I've
heard really, too much disagreement about indoor heat
moving forward. It's just the devil is in the details,
Eric. I'm all on board on annual training. I think you
just have to do that. That's just something to add.
I can talk about some of these details, but I think others have. The question that I don't know that I can speak to well, is this question that has come up about the SRIA. And so I wonder if you or the Chief can address these questions of the SRIA that have come up both in this meeting and the last meeting regarding this heat illness reg. Are you able to help there?

MR. BERG: Yeah. What specific question? I mean, I know during the comments there were some brought up that I think we underestimated --

BOARD MEMBER CRAWFORD: Yes.

MR. BERG: -- related, comments from the Department of Finance. And we responded to those. They also go in the -- oh, I'm sorry. This microphone's so far away.

A/CHAIR LASZCZ-DAVIS: Much better.

MR. BERG: Yeah, we got some comments from Department of Finance and responded to that all those comments. And those will also go into the stage two rulemaking documents. I forget if they're in the stage one, but they will definitely be in stage two. And any comments today we'll also respond to and put them in the Final Statement of Reasons, which is where we put all our responses to comments, like under finance. I can't answer them off the top my head here. I know, they've said we
underestimate the costs, but I have to go back to documents
then (indiscernible).

A/CHAIR LASZCZ-DAVIS: (Overlapping) Would you, would you?

MR. BERG: Yeah.

A/CHAIR LASZCZ-DAVIS: Go ahead.

MS. SHUPE: If I may? I think it's important for everybody to remember that the SRIA is a living document during the rulemaking process. And so the initial iteration is based on the initial proposal. But any changes to the proposal as well as feedback from the Department of Finance that occurs during the formal rulemaking process will end up in changes.

So that we need to always remember that SRIA is a living document. It's important to get feedback from our stakeholders, both on the labor and the management side so we can take that into account.

MR. BERG: Yeah, so for example if we change the training to annual that would increase costs substantially. So we'd have to do the economic impact of that.

BOARD MEMBER CRAWFORD: Right, exactly.

MR. BERG: Or if we reduce the temperatures, that would also increase the number of workplaces covered. And so it would increase costs and (indiscernible) benefits, obviously. And so that would also mean a redo of the
economic and fiscal analysis.

MS. SHUPE: And if I might with the Chair’s leave, add just one more comment. And I think it was stated earlier that complexity of documents also delays rulemaking. So if this is a rulemaking that really should be moving forward, and we do want to see in place, it may be that some of those items might be attempted in a future rulemaking, in a refinement.

BOARD MEMBER STOCK: Yeah, can I just jump into ask a question about that? This is Laura, again. I know there's -- I thank you for your comment, Christina, because I am very concerned about timeframe.

So if obviously, a number of people, including a few Board Members have raised issues about lowering thresholds, et cetera. And as we're hearing now that would require an adjustment to the SRIA. Would that -- is it possible to get those adjustments done, sort of initiated it now, so that it won't delay the rulemaking? Or what would -- how would it actually work? If there's any changes to what has been in front of us today will it delay the implementation of this regulation? Or have you built that into the process to allow some adjustments to be made based on the testimony that you've heard today and the written comments, and still meet the deadline of being able to vote on it in time to be in place before next summer?
MR. BERG: I mean, it's hard to predict. Like for first aid, we made changes and then had changes in the finances, and we weren't able (indiscernible).

A/CHAIR LASZCZ-DAVIS: Can you speak up, Eric, just a little bit?

MR. BERG: Okay, sorry. It's hard to predict. Like for first aid, we made changes and then we had to change the financial parts of it. And that wasn't able to be accomplished within the limited period we had. That's an example where we weren't able to on time.

And we obviously tried as hard as we could to do this, but there's no way to know for sure. It depends on how complex it is, because has to go through review by multiple different agencies when we do these as well. So it wouldn't just be us.

BOARD MEMBER STOCK: And just a follow up to that. So if it was determined, and I don't know how it gets determined or whether you would be able to alert anybody in advance that some kind of change will in fact impact the timeline.

Christina, you just said that there may be some ways to move forward and make amendments at future times in order to get something in place. Can you describe what that -- how that process would work?

MS. SHUPE: I'm happy to address that. So we've
done this historically through rulemaking, right? When we
had the cranes and derricks regulation, we did the Horcher,
we brought that in. And then we did a cleanup regulation
several years later where we moved that into the
appropriate section for California.

We can adopt a regulation and then we can come
back, and we can refine it. We do this with firefighter
PPE. We just adopted the firefighter PPE regulation.
We're now re-reviewing it based on new NFPA standards. And
we have a follow up rulemaking that isn't already in
development.

I think that it's important to remember that Eric
and his team; they're the experts in developing these
regulations. They are going to be looking at all of the
comments. And they're going to be looking at not only what
is the best outcome, but also what is feasible, so we're
not in a never-ending cycle of development with no adopted
regulations.

BOARD MEMBER STOCK: Thank you. So it'll be
great to be kept apprised of that. So we kind of have a
heads up whether the process is going to -- is working so
that we still can be confident, we'll have something to
vote on in time for it to be promulgated by the summer. So
to the extent that that we can get reports on that in
future meetings that would be very helpful. Thank you.
MR. BERG: And we had 80 and 85 as the two thresholds in initial proposals, and we had a really strong fight against us from stakeholders. So that's why we changed it to 82 to 87.

BOARD MEMBER STOCK: Well, did you have -- and that was prior to doing the SRIA. So the SRIA was done on 82 and 87, and not on 80 and 85?

MR. BERG: Correct.

BOARD MEMBER STOCK: Right. Well, so you're hearing additional testimony today. So we'll look forward to -- obviously people are concerned about that shift to go higher and are hoping that it will be -- can be lowered.

So we look forward to hearing how you proceed. Thank you.

A/CHAIR LASZCZ-DAVIS: All righty, Kate, Dave, Barbara, Laura. Any other comments? Have I missed any other Board Members? There being no other comments, this public hearing is closed. Written comments will be received until 5:00 o'clock today. Moving on to the business meeting.

We will now proceed with the business meeting.

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

Proposed variance decisions for adoption. The proposed variance decisions for adoption are listed on the consent calendar. And Autumn, will you please brief the Board?

MS. GONZALEZ: I will, thank you Chair. Proposed variance decisions numbers 1 through 67 are ready for your consideration and your possible adoption.

A/CHAIR LASZCZ-DAVIS: Anybody willing to make a proposal here?

BOARD MEMBER HARRISON: Sure.

BOARD MEMBER BURGEL: Yes, so moved.

BOARD MEMBER STOCK: Seconded.

A/CHAIR LASZCZ-DAVIS: Are there any questions from the Board for Autumn?

BOARD MEMBER HARRISON: No.

A/CHAIR LASZCZ-DAVIS: Do I have -- okay, we moved through the motion, obviously. It's been moved and seconded that the Board adopt the consent calendar as proposed. And Sarah, will you call the roll please?

MS. MONEY: I have -- can you hear me?

A/CHAIR LASZCZ-DAVIS: Nope. We can't hear you, Sarah.

MS. MONEY: So I have Barbara Burgel as the motion and Laura Stock as a second; is that correct?
A/CHAIR LASZCZ-DAVIS: Yes. It's fine. Yes.

MS. MONEY: Barbara Burgel.

BOARD MEMBER BURGEL: Aye.

MS. MONEY: Kathleen Crawford.

BOARD MEMBER CRAWFORD: Aye.

MS. MONEY: Dave Harrison.

BOARD MEMBER HARRISON: Aye.

MS. MONEY: Laura Stock.

BOARD MEMBER STOCK: Aye.

MS. MONEY: Acting Chair Chris Laszcz-Davis.

A/CHAIR LASZCZ-DAVIS: Aye.

MS. MONEY: And the motion passes.

A/CHAIR LASZCZ-DAVIS: And the motion passes.

Well, with that, let's move over to the Division Update. Eric Berg, will you please brief the Board?

MR. BERG: Thank you. Can you hear me?

A/CHAIR LASZCZ-DAVIS: You know, it's funny. We hear you when you hold on to the mic for dear life.

MR. BERG: Well, it’s so hard to get close to it.

Sorry.

So we completed our evaluation of the petition 597 requested emergency regulation for silicosis prevention. So we've completed that and sent that to the Standards Board staff. We look forward to that. We've heard of many more cases of silicosis and just talking
about CDPH and some physicians and hospitals. And
physicians told us they’re seeing a fatality rate of 18 and
20 percent of employees who come down with silicosis, so
it's really serious. So our evaluation reflects that.

So please look forward to that. I think that's
all I have for now.

A/CHAIR LASZCZ-DAVIS: All righty, thank you very
much, Eric.

Let's move over to the Legislative Update.

Autumn, will you please brief the Board?

MS. GONZALEZ: Yeah, thank you, Chair.

So today's actually a very busy day for a number
of the bills that we're watching. Three of our bills are
in -- well three of the bills we're watching are not our
bills. Three of the bills we're watching have suspense
hearings today. That includes AB 1007, which is the plume
law and then AB 1766, as well as SB 553, which is the
workplace violence proposed legislation. And SB 735 Motion
Picture productions, the firearms bill. So three of the
four of those had their suspense hearings today. So
hopefully by next month, we'll have more information about
whether or not those made it through that process.

And other than that, there's just an interesting
bill on here that's new for you. It's AB 1424. And it
would require cannabis delivery employers to develop,
implement, and maintain driver safety protocols. So that's an interesting one that we added to your list. And that's all.

A/CHAIR LASZCZ-DAVIS: All righty, thank you.

Are there any questions for the Board for Autumn?

BOARD MEMBER CRAWFORD: Would they be drivers that fall under --

A/CHAIR LASZCZ-DAVIS: Your mic.

BOARD MEMBER CRAWFORD: Autumn, would those cannabis drivers fall under the indoor heat?

MS. GONZALEZ: Oh, that's an interesting question. I am not sure. I'm not sure if this bill is -- I think this bill may be trying to provide protections for folks who are currently considered independent contractors, who we would not have jurisdiction over. But it's very early stages, so we'll keep an eye on that.

A/CHAIR LASZCZ-DAVIS: All right, thank you.

With that, we'll move over to the executive officer’s report. Christina Shupe, will you please brief the Board?

MS. SHUPE: Thank you, Chair Laszcz-Davis.

I'm pleased to report that OSHSB has filled two additional staff vacancies in the past month. Matthew Omoahalo joins the Board as our newest Senior Safety Engineer. Mr. Omoahalo, and I will get that just as I got
Amalia Neidhardt, comes to us from the private sector where he has extensive experience working with large employers leading employee safety programs. But more importantly, we were all impressed during his interview, by his commitment to labor and to addressing safety issues, that was very much evident. And we're very happy to have him on our team.

We also are welcoming Monica Prather who comes to us with extensive case management experience and she will be joining our legal unit as a Legal Assistant. Ms. Prather will be supporting our variance program as well as our attorneys. And so we're pleased to have both of them.

And I also have another new hire in the works, which we expect to be able to announce at the next Board meeting.

A/CHAIR LASZCZ-DAVIS: Excellent. Any questions for the Board for Christina?

BOARD MEMBER BURGEL: I have a question, Chris.

A/CHAIR LASZCZ-DAVIS: Go ahead.

BOARD MEMBER BURGEL: Christina, could you update us on the elevator standards? Where are those? I mean, I think they've been, you know all the variance work, it's amazing how much work Autumn and her team do with all those variances. And I'm just hoping that we someday will see those updated standards.
MS. SHUPE: So the Elevator Unit has been hard at work at working on the group five elevator package, they have completed the text of the regulation. But they're currently now working on the supporting documents. That would be the initial Statement of Reasons, the 399 and side by side. Once they have that completed, we'll start a complete review of the package, and hope to bring it to the Board.

We're also considering additional field excursions for Board Members who may not be familiar with the elevator industry. So when that package does come before you, you'll have the support that you need in order to thoughtfully evaluate it.

BOARD MEMBER BURGEL: Great, thank you.

A/CHAIR LASZCZ-DAVIS: Any other questions, comments for Christina?

MS. SHUPE: If I may I’d like to just add, we do have an Attorney III position that is open and the application period for that has been extended. So if any of our stakeholders either in the management or labor side, or any of our Board Members are aware of an attorney with at least I believe it's six to seven years of experience, and would be interested in working on our regulations we'd love to have them apply.

A/CHAIR LASZCZ-DAVIS: All righty. Well, thank
you very much. Did you hear a voice in the audience there?

MS. SHUPE: No, but we always appreciate when our stakeholders’ support pay for our labor.

A/CHAIR LASZCZ-DAVIS: All right, this now brings us to new business future agenda items. Do any of the Board Members have questions for staff, or items that they would like to propose for future Board agenda items?

BOARD MEMBER STOCK: No.

A/CHAIR LASZCZ-DAVIS: She says no.

How say you, Barbara?

BOARD MEMBER BURGEL: I've lost track of the workplace violence -- general workplace violence standards. So it'd be nice to have an update on that at the next meeting.

BOARD MEMBER STOCK: And I guess while we're asking for updates, this may automatically happen, but I'm curious what's happening with the first aid package though Eric gave a little bit of information about it today. But if we can just get an update on some of those pending standards, that would be great. Thank you.

A/CHAIR LASZCZ-DAVIS: Thank you.

Dave, do you have anything?

BOARD MEMBER HARRISON: No, thank you.

A/CHAIR LASZCZ-DAVIS: Fair enough, then.

All righty, and with that, Autumn, do we have to
go into closed session or anything today?

MS. GONZALEZ: No.

A/CHAIR LASZCZ-DAVIS: Wonderful. And with that, we're now moving into the -- what I call the adjournment of the business meeting.

The next Standards Board regular meeting is scheduled for June 15th in Walnut Creek and via teleconference and video conference. Please visit our website and join our mailing list to receive the latest updates. We thank you for your attendance today and there being no further business to attend to, this business meeting is adjourned.

(The Business Meeting adjourned at 1:56 p.m.)
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IN WITNESS WHEREOF, I have hereunto set my hand this 5th day of October, 2023.

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Myra Severtson
Certified Transcriber
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