

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

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

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

APPEARANCES (Cont.)

PUBLIC MEETING COMMENTERS: (*Online testimony)

Bruce Wick, Housing Contractors of California
Dan Leacox, Leacox & Associates, Inc.
Michael Miiller, 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
AnaStacia 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, IEAWU
*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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C. NEW BUSINESS 148

1. Future Agenda Items

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 ---

Matters Pending Litigation

1. Western States Petroleum Association (WSPA) v. California Occupational Safety and Health Standards Board (OSHSB), et al. United States District Court (Eastern District of California) Case No. 2:19-CV-01270
2. WSPA v. OSHSB, et al., County of Sacramento, CA Superior Court Case No. 34-2019-00260210

Personnel

E. RETURN TO OPEN SESSION ---

1. Report from Closed Session

F. ADJOURNMENT OF THE BUSINESS MEETING 148

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 149

Transcriber's Certificate 150

1 P R O C E E D I N G

2 MAY 18, 2023

10:01 A.M.

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

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

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

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

22 Supporting the meeting remotely are Steve Smith,
23 Principal Safety Engineer - Special Consultant; Lara
24 Paskins, Staff Services Manager; and Jesi Mowry,
25 Administration & Personnel Support Analyst.

1 Copies of the agenda and other materials related to
2 today's proceedings are available on the table near the
3 entrance to the room, and are posted on the OSHSB website.

4 This meeting is also being live broadcast via
5 video and audio stream in both English and Spanish. Links
6 to these non-interactive live broadcasts can be accessed
7 via the "Meetings, Notices and Petitions" section on the
8 main page of the OSHSB website. By the way, before I
9 forget, we welcome Jeff Killip, Cal/OSHA Chief.

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

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

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

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

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

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

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

1 extended by the Board Chair.

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

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

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

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

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

1 meeting.

2 Amalia?

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

4 "Good morning, and thank you for participating in
5 today's Occupational Safety and Health Standards Board
6 public meeting. The Board Members present in San Diego are
7 Chris Laszcz-Davis, Management Representative and Acting
8 Chair for today's meeting and Kathleen Crawford, Management
9 Representative.

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

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

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

11

1 avoid disruption.

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

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7 videoconference, the instructions for joining the public
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12 queue voicemail.

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

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

25 "Please be sure to speak slowly and clearly when

1 addressing the Board, and if you are commenting via
2 teleconference or videoconference, remember to mute your
3 phone or computer after commenting. Please allow natural
4 breaks after every two sentences so that an English
5 translation of your statement may be provided to the Board.

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

13 "After the public meeting, we will conduct the
14 second part of our meeting, which is the public hearing.
15 At the public hearing, we will consider the proposed
16 changes to the specific Occupational Safety and Health
17 Standards that were noticed for review at today's meeting.

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

21 "Thank you."

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

23 If there are in-person participants who would
24 like to comment on any matters concerning Occupational
25 Safety and Health, with the exception of the public hearing

1 topic of Heat Illness Prevention in Indoor Places Of
2 Employment, you may begin lining up at this time. We will
3 start with the first three in-person speakers. And then we
4 will go to the first three speakers in the teleconference
5 and video conference queue. Thank you.

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

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

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

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

14 I just wanted to follow up on some --

15 A/CHAIR LASZCZ-DAVIS: Introductions?

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

20 In 2018, I think it was December 2018 -- maybe
21 it's 2019, I don't recall for sure. You know, seeing the
22 heat illness rule, indoor heat, and workplace violence and
23 some of these rules in the work I actually made a little
24 bit of a sea change in my comments and decided that
25 somebody needs to start talking about good governance.

1 Because we're seeing these rules that have massive
2 application to all businesses across the boards with a lot
3 of burdens to them. Yep.

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

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

20 So but you have to care about filtering out the
21 unproductive burdens, and the SRIA is an opportunity to do
22 that. And one of the unique things about that economic
23 analysis is that it's due at the start of the rulemaking to
24 (audio distortion: indiscernible). And the others are due
25 at the end, but that one is specifically designed to

1 consider alternatives, shine a light on the unproductive
2 burdens, and alternative approaches. Of course, it has to
3 be well done. And of course you have to care. But the
4 suggestion that it shouldn't be done is just a shutting
5 down of an avenue, an opportunity to expose those
6 unproductive burdens.

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

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

12 MR. LEACOX: All right.

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

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

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

23 Consensus regs gather together the real
24 stakeholders. That's Labor, that's Management, and experts
25 in that particular field and they roundtable. And they are

16

1 people who have experience implementing regs, they know
2 what it takes to go from paper to protecting workers like
3 that paper says, which is a lot of work. That's why they
4 go -- we go through, we sit around our table and go
5 sentence by sentence through a reg to say, "How clear can
6 we make this?" Because what we want to do is get as close
7 as we can. An employee can read the reg and understand it.

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

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

20 So a good reg, a consensus reg, comes out the
21 vast majority of stakeholders agree you always have
22 outliers who will oppose it, but that's okay. The vast
23 majority of people say yes. Implementation takes place,
24 employees understand it. And a high degree of protection
25 is from the get-go. And then we enforce internally, safety

1 coordinators to their supervisors, supervisors to
2 employees. But then externally employees and their
3 representatives can call Cal/OSHA and say, "My employer
4 isn't complying and I can tell you specifically why because
5 I understand this reg." And the Division can come out and
6 enforce quickly, clearly, and if needed severely.

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

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

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

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

24 MR. WICK: Thank you.

25 A/CHAIR LASZCZ-DAVIS: Thank you.

1 Anybody else at this point, before we move over
2 to the remote commenters? Maya, who are our first three
3 remote commenters in the queue?

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

7 MR. MIILLER: Good morning. Can you hear me,
8 hello?

9 MS. MORSI: Yes, we can hear you.

10 MR. MIILLER: Okay, good. Thank you. All right.
11 Good morning, Michael Miiller. I'm with the California
12 Association of Winegrape Growers.

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

22 For example, Californians has gotten notice last
23 week that the California Notify Program is no longer
24 operational, and California is no longer tracking and
25 notifying close contacts. That the regulation requires

1 employers to keep this information and share it with local
2 state and federal agencies on demand. When there's a lot
3 of outreach at the federal level about the end of the
4 pandemic, there's only the FAQs and a line from the
5 Division. I'm not seeing any press releases or any
6 outreach from the state.

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

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

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

24 MS. SHUPE: Mr. Miiller?

25 MR. MIILLER: Yes?

1 MS. SHUPE: This is the public comment period.
2 The period for the public hearing on indoor heat will
3 follow this.

4 MR. MIILLER: Thank you so much. Okay, I will
5 chime back in later. Thank you. That's all I have to say.
6 Thank you for your time.

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

9 MR. MIILLER: Thank you, so much.

10 A/CHAIR LASZCZ-DAVIS: At this time, are there
11 any additional in-person attendees who would like to
12 comment on any matters concerning Occupational Safety and
13 Health? (No audible response.)

14 Maya, do we have any additional commenters in the
15 queue?

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

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

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

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

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

25 We will now proceed with the public hearing.

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

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

19 I would also like to remind the audience that the
20 public hearing is a forum for receiving comments on the
21 proposed regulations, not to hold public debates. While
22 rebuttal comments may be appropriate to clarify a point, it
23 is not appropriate to engage in arguments. If you would
24 like to comment orally today, please line up at the podium
25 when I ask for public testimony. Please state your name

22

1 and affiliation, if any, and identify what portion of the
2 regulation you intend to address each time you speak.

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

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

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

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

24 And at this time, I'll ask Amalia Neidhardt to
25 provide instructions to the Spanish speaking commenters so

1 they are aware of the public hearing comment process for
2 today's public hearing.

3 Amalia?

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

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

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

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

21 "We would also like to remind the audience that
22 the public hearing is a forum for receiving comments on the
23 proposed regulations, not to hold public debates. While
24 rebuttal comments may be appropriate to clarify a point, it
25 is not appropriate to engage in arguments regarding each

1 other's credibility.

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22 your phone to unmute yourself if you're using the
23 teleconference line. We ask all commenters to speak slowly
24 and clearly when addressing the Board, and if you are
25 commenting via teleconference or videoconference, please

25

1 remember to mute your phone or computer after commenting.

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

6 "Thank you."

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

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

12 Eric, will you please brief the Board?

13 MR. BERG: Jeff, (indiscernible).

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

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

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

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

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

23 MR. KILLIP: And Board Members for presiding over
24 this public hearing to consider the Cal/OSHA Proposed
25 Worker Protection Standard for Indoor Heat Illness.

1 As we know California has experienced record
2 breaking heat over the last few years. Climate change
3 models forecast increasing temperatures and worse heat
4 waves in our future. Occupational related deaths, injuries
5 and illnesses, will increase unless we take preventative
6 actions now. Indoor heat-related hazards at work can be
7 anticipated. Measures can be taken to prevent indoor heat
8 illness in the workplace.

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

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

25 In 2018, Cal/OSHA proposed expanding the existing

1 regulation for Outdoor Heat Illness Section 3395 to include
2 indoor workplaces. This proposal was also rejected by
3 stakeholders. Cal/OSHA again listened to stakeholder
4 input. We pivoted again and we adjusted our approach to
5 develop the current proposed standard for indoor heat
6 worker protection.

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

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

19 A/CHAIR LASZCZ-DAVIS: Thank you.

20 MR. KILLIP: Thank you.

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

23 First, this first slide kind of explains the
24 timeline for developing the regulation, so there's a lot of
25 questions on that. The first three years were meant for

1 developing and researching scientific literature. As Jeff
2 said, the ACGIH, they have a recommended standard for heat
3 illness prevention.

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

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

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

25 And then today is the public hearing where we're

1 going over the regulation. And then I kind of just guessed
2 that the vote on this would probably be in the first
3 quarter of next year, just based on how long it takes to
4 review all the comments, make any changes to the standard
5 if necessary. And then post that again, get more comments,
6 and refine it. And then develop the stage two rulemaking
7 documents. So I anticipate first quarter of next year will
8 be the vote. And then if it passes then it would be in
9 effect by the 2024 heat season. (Moving to next slide.)

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

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

23 BOARD MEMBER STOCK: Hey, Eric, excuse me. Can
24 everybody hear Eric back there? No? Can you speak just a
25 little bit louder?

1 MR. BERG: I can move the microphone
2 (indiscernible).

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

4 MR. BERG: Okay. Sorry about that.

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

18 The screen is a little bit cut off, but the first
19 subsection is the scope of the regulation. So it's a
20 little different than outdoor heat. The outdoor heat
21 applies regardless of temperature. So if it's 70 degrees
22 outside, the outdoor heat regulation still applies. For
23 indoor, that's not the case. It goes into effect at 82
24 degrees. There we go. So it has a smaller scope than the
25 outdoor regulation.

1 And there's two parts of the regulation, as I
2 mentioned before. So the base regulation, which is
3 everything except subsection (e) goes into effect at 82
4 degrees. And then the entire regulation including
5 subsection (e), goes into effect of 87 degrees. And
6 there's a couple of other instances where it goes into 82
7 if employees wear clothing that restricts heat removal, or
8 they're in a high radiant heat area.

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

21 And we also list all of the administrative
22 controls applicable to heat illness prevention. So as I
23 said before, climatizing employees, rotating employees,
24 scheduling work earlier in the day. We see that a lot with
25 outdoor agricultural work where they'll start at maybe 5:00

1 or 6:00 in the morning and quit by noon before the heat
2 gets too bad.

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

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

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

25 And there's an exemption for knit or woven flame

1 retardant. It's commonly used in refineries, it's called
2 Nomex. It's one of the common ones. If it's used instead
3 of work clothing this is exempted from this, because it
4 breathes and is not restrictive.

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

11 "Engineering controls," is one of the major
12 controls used to prevent heat illness. It's a device that
13 removes or reduces hazardous conditions, or creates a
14 barrier between the employee and the hazard. A couple of
15 pictures showing engineering controls for reducing human
16 illness risks.

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

22 And "high radiant heat area" which kicks in
23 subsection (e), if you're in a high radiant heat area it
24 kicks it into 82 rather than 87. It's a work area where
25 the globe temperature, which we also define in the

1 regulation, but it's the black bulb around a thermometer.
2 And it's five degrees hotter than the normal dry bulb
3 temperature.

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

13 Okay, subsection (c) in this proposal is almost
14 the same as the outdoor regulation. It requires water to
15 be available to employees in a convenient place. It also
16 requires water to be provided in cool-down areas, which
17 3395 is missing but we have it here.

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

23 Subsection (e), which is the control measures and
24 assessment portion of this regulation. Subsection (e)(1)
25 is determining if control measures are needed. So it's up

1 to the employer who has to measure and record the
2 temperature or heat index, whichever is greater, you know,
3 after the regulation kicks in. And they have effective
4 procedures for involving employees and union
5 representatives in this process.

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

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

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

23 And lastly is personal protective equipment to
24 minimize risk of heat illness. And so this follows the
25 standard hierarchy of control used in almost all our health

1 regulations and industrial hygiene principles. Is
2 engineering controls is at the top of the hierarchy, then
3 you go to administrative controls, and then you go to
4 personal protective equipment.

5 The next subsection is emergency response
6 procedures. This is pretty much exactly the same as 3395.
7 Close observation during the climatization, also similar to
8 3395. Just observe employees closely during heat waves and
9 observe employees closely -- new employees or newly
10 assigned employees during their first 14 days when it's
11 over 87 degrees, or 82 if they're wearing clothing that
12 restricts heat removal or in high radiant heat areas.

13 And the last two subsections are pretty much the
14 same as the outdoor regulation 3395. So

15 that's the kind of overview of the entire
16 regulation. So thanks for your patience.

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

21 So that brings us to the point where we can
22 accept public comment. At this time, we'll accept public
23 testimony. If there are in-person participants who would
24 like to comment you may begin lining up at the speaker's
25 podium at this time. When it is your turn to speak please

1 provide a completed request-to speak slip to the attendee
2 near the podium and announce yourself to the Board prior to
3 delivering a comment.

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

7 MR. JUAREZ: (Through Interpreter Neidhardt.)
8 Good morning, everyone. My name is Mauricio Juarez. He
9 has worked for more than eight years for Jack in the Box
10 and he's also part of the Fight for 15.

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

18 He will tell his manager that there was a
19 problem, and the manager will reply "I already told the
20 owner." And he believes life gives you some changes. The
21 Fight for 15 told him, "We can help you, and OSHA also."
22 They had to go on strike to get them to fix the issue about
23 the A/C. They fixed it but it looks like they went for the
24 cheaper remedy. He believes that it was a cheap way,
25 because sometimes it works and sometimes it doesn't.

1 Today he is very happy to see that this is being
2 taken seriously, because he says to restaurants, it's
3 always the same situation. Because he wants you to be
4 aware that it will be now in the law, right. And so they
5 will have to make sure the workers are okay. I hope you
6 guys do it, I know you can. Thank you. (Applause.)

7 A/CHAIR LASZCZ-DAVIS: Thank you.

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

20 A/CHAIR LASZCZ-DAVIS: Thank you.

21 MR. MORENO: Good morning. My name is Robert
22 Moreno. I sit on the Executive Board with Teamsters local
23 542. But today I come to you guys, as an employee of UPS.
24 I've worked for UPS for close to three decades now. That
25 means I've spent the majority of my life inside of a

1 warehouse. I've also been a victim of heatstroke, where
2 I've had to be taken in an ambulance while on the job to
3 the hospital and hospitalized. So I speak to you guys from
4 experience.

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

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

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

21 What I'm asking this Board to do is to be a
22 beacon for, what I feel, is the heroes of this country, the
23 blue collar worker. California has always set standards.
24 We've always been very progressive. I want us to be
25 proactive and not reactive. I don't want to wait for

1 someone to die for us to make changes. If we look back
2 through history, see the working conditions men and women
3 of this country had to work into, we think to ourselves,
4 how are they ever able to work in those conditions?

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

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

18 A/CHAIR LASZCZ-DAVIS: Thank you.

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

22 MS. MORSI: The first three speakers are
23 Anastasia Christman, Athena Tan and Eric Frumin. So the
24 first one is Anastasia Christman with National Employment
25 Law Project.

1 MS. CHRISTMAN: Hi, good morning. Can you hear
2 me? Yes?

3 A/CHAIR LASZCZ-DAVIS: Just barely.

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

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

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

24 We would also urge further clarity on the
25 definitions regarding a climatization, and the instructions

1 to employers on how to implement this important safety
2 measure. We believe that the employer should be required
3 to include an acclimatization schedule, sort of like we saw
4 in that presentation earlier in their heat prevention or
5 the heat illness prevention plan. And train supervisors to
6 use it appropriately to build bodily adaptations in workers
7 exposed to heat.

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

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

24 And finally, we urge an expansive definition of
25 worker representation for the worker participation in

1 developing the heat prevention plans. Rather than using
2 only "union representative" we urge you to recognize the
3 non-unionized workers and industries subjected to extreme
4 indoor heat, and instead use language like "designated
5 representative" or "employee representative."

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

9 A/CHAIR LASZCZ-DAVIS: Thank you.

10 Next commenter in the queue?

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

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

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

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

25 So I strongly support the testimonies of workers

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

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

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

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

22 Next commenter in the queue, Maya.

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

25 MR. FRUMIN: Can you hear me okay?

1 A/CHAIR LASZCZ-DAVIS: Yes.

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

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

14 The Fight for 15 comments that had been submitted
15 for the record as well spell out some of the challenges
16 that compliance officers will have when confronting a
17 workplace. Where for instance, a local business owns the
18 franchise for running a fast food restaurant, but they
19 don't control the equipment in that restaurant. They don't
20 specify what equipment has to be used. They don't have the
21 authority to change the equipment. And that authority
22 often rests usually on the franchisor, the multibillion
23 dollar corporation who's using the franchisee as a way to
24 make a lot of money, but without having to be the employer
25 of record on someone's paycheck.

1 The policy and procedure document for Cal/OSHA on
2 multi-employer citation policy clearly identifies
3 categories of employers like franchisors, who either create
4 or control these hazards. This problem is not unique to
5 the restaurant industry. It's common in many industries
6 outside of construction, but we have very little active
7 role by Cal/OSHA in enforcing standards on creating
8 controlling employers under the multi citation multi-
9 employer citation policy outside of construction.

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

21 It's terrible that fast food workers have had to
22 go on strike. That they've seen their conditions change
23 and then revert to what they were before they went on
24 strike. People fainting. It's an outrage. This is a high
25 risk industry for heat hazards. And you can do a lot to

1 fix that by making the responsibility for complying with
2 the standard as explicit as possible. Otherwise, the
3 sections on training, on assessment of controls, and other
4 key sections of the standard will ring hollow and will
5 never reach the workers whom it's intended to benefit.

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

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

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

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

20 In the Inland Empire region where we work, many
21 warehouses lack air conditioning, and good insulation.
22 Indoor temperatures in these facilities regularly equal or
23 exceed the already high outdoor temperatures, which
24 regularly reach the 80s and 90s throughout the year. Not
25 surprisingly, we've seen instances of very serious heat

1 illnesses, including heatstroke, in such workplaces over
2 the years. Even in warehouses with air conditioning,
3 workers face serious heat hazards. The strenuous nature of
4 work puts workers in danger of heat illness at much lower
5 temperatures.

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

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

23 The ACGIH guidelines, which as the 1167 requires
24 the Division to consider, recommend control measures
25 starting at a wet bulb temperature of 77 degrees Fahrenheit

1 for workers engaging in only moderate intensity work.
2 Leaving the threshold temperature at 82 and 87 degrees
3 Fahrenheit would disregard the scientific evidence and
4 condemn warehouse workers and many others to work in
5 objectively hazardous heat conditions without the
6 protection of its standard.

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

11 A/CHAIR LASZCZ-DAVIS: Thank you.

12 I wonder if I might ask you, you know I would
13 applaud -- I applaud everybody as well, but I wonder if you
14 could hold your applause after each speaker so we could --
15 and a big applause at the very end, I promise.

16 MS. OJEDA: Hi, my name is Melissa Ojeda and I'm
17 a former worker, Amazon worker, and I worked there for a
18 year and a half. Now I'm a worker at the Warehouse Worker
19 Resource Center. The Inland Empire workers -- sorry, the
20 Inland Empire Amazon Workers United recently surveyed over
21 260 workers and we put together a report. It has been
22 emailed as evidence, so you can look over it.

23 We asked different questions and heat safety came
24 up as a big concern for workers. When I was there, there
25 was no balance between production and rest, even during the

1 high heat. I went through this while I worked there, and
2 workers still go through this every day as temperatures get
3 higher. Enough time has passed without clear standards.
4 These standards can be the balance between the mindset of
5 production over workers and their safety that companies
6 currently don't have. These standards will hold companies
7 accountable. Workers deserve that safety.

8 A/CHAIR LASZCZ-DAVIS: Thank you.

9 Our next presenter.

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

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

22 During summer is one of the most brutal times for
23 -- during summer is one of the most brutal times of the
24 year for us indoor workers. The dryness, high
25 temperatures, mixed with high production and stress is a

1 dangerous combination that could lead to serious and fatal
2 injuries that could change our lives forever. It's
3 heartbreaking to come into work to hear that another
4 coworker, a potential friend has fainted or needed medical
5 attention from heat exhaustion. It's a cycle that's not
6 going to stop until we put a real standard in place.
7 Another summer without these protections will put too many
8 of us workers in danger.

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

12 A/CHAIR LASZCZ-DAVIS: Thank you.

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

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

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

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

23 We signed on to the coalition letter in support
24 of the standard. We won't rehash all the details; previous
25 witnesses have done a pretty good job of covering those.

1 We would just talk a little bit about the process that got
2 us here, and the fact that it has now been seven years
3 since SB 1167 directed the Board to take a look at this
4 standard and have it in place. It was to be proposed for
5 review and adoption by 1-1-2019. Obviously, we missed that
6 deadline. But here we are.

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

17 In that case where multiple workers fell very ill
18 from heat illness, the employer didn't do nothing. The
19 employer did some things right, but the employer also did a
20 lot of things wrong. For example, sending the worker to be
21 driven to the hospital by another worker that was also
22 suffering from heat illness, also suffering from fatigue
23 and dizziness. And a variety of other mistakes were made.
24 And we think that really shows in and of itself, the
25 failure of relying on the IIPP.

1 Everyone involved in this system needs details.
2 We need threshold temperature. We need a list of available
3 engineering and administrative and PPE controls. We need a
4 list of what should be in the training. All of that needs
5 to be in the regs to guide everyone towards a safer
6 workplace. What we've been doing, and just hoping that
7 everyone knows what a good threshold temperature should be,
8 what should be included in training, just we think
9 obviously is not going to work, obviously is not going to
10 fail. And obviously is going to lead to a lot of extremely
11 negative impacts for workers up to and including death.

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

22 And so while we do think the standard could be
23 stronger, others have mentioned the temperature thresholds,
24 they should be lower. Other changes should be made to
25 strengthen it. We strongly believe that the standard

1 shouldn't be delayed significantly. That again, we have
2 waited long enough. We need something in place as soon as
3 possible.

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

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

11 Another commenter?

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

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

19 A few comments on hydration and PPE. We believe
20 that in the various hydration areas the reg should include
21 a reference to electrolyte replacement beverages. For
22 example, in subsection (c), titled "Provision of Water"
23 should include a reference for electrolyte replacement
24 beverages. And this would allow employers to provide these
25 beverages, which are popular among employees. And in some

1 cases encourage employees to consume the required amounts
2 of hydration. These beverages -- or this in subsection (c)
3 these should be made free of charge to employees just like
4 water.

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

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

21 Amongst other things, we believe in the reg --
22 other sections like subsection (h)(1)(C) which is on page
23 10 of the proposed rule, addresses the importance of
24 employer training. And employers are told to tell
25 employees to drink water and here it should say "or

1 electrolyte replenishing beverage." And it is the same
2 throughout the rule.

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

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

14 And last, on PPE --

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

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

24 A/CHAIR LASZCZ-DAVIS: All right, thank you so
25 much.

1 We have a request from our translators, that we
2 ask our speakers to speak a bit more slowly. I know we're
3 all accustomed to speaking at lightning speed, but if we
4 could slow it down just a little bit that would be great.
5 But thank you for your comments.

6 MR. GLUCKSMAN: Sure.

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

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

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

15 A/CHAIR LASZCZ-DAVIS: It looks good, don't
16 worry.

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

23 The Division's 2019 heat standard draft is
24 groundbreaking, and it hits many major points of worker
25 safety related concerns. We'd like to thank the Division -

1 - we'd like to thank the Division for the time and care
2 that you all took with the standard. And while for
3 workers' sake we don't want to extend the time it takes to
4 implement these real heat protections we do have some
5 concerns.

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

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

21 The researchers also reported that lower income
22 workers are at least five times more likely to be hurt on
23 the job due to high heat than high income workers. Given
24 that the science predicts ever increasing temperatures and
25 documents the additional workplace hazards caused by heat,

1 we'd like to urge the Board to reconsider dropping the
2 standards application in section (e) thresholds to 80 and
3 85 degrees respectively. As well as making the additional
4 science and experience-based suggestions that we had and
5 that we placed in our submitted comment letter.

6 Lastly, we'd like to stand in support of
7 California Nursing Association's comments today relating to
8 burn units in the medical industry and how they'll be
9 impacted in particular by this standard. Thank you.

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

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

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

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

21 MS. ORTEGA: Like that?

22 A/CHAIR LASZCZ-DAVIS: Speak louder.

23 MS. ORTEGA: Okay. Yeah, so a regular workday
24 for myself and for many of my coworkers include sweating
25 all day, the moment we walk into the moment we walk out.

1 I've personally experienced headaches, nausea,
2 lightheadedness and nosebleeds, because of how hot I get
3 when I'm in my workplace conducting the physically
4 demanding duties of my 10-hour work shifts.

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

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

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

14 Next presenter.

15 MR. DIAZ: Good morning, members of the Board.
16 My name's James Diaz, I'm here with the Inland Empire
17 Amazon Workers United. I've been working at my current
18 Amazon for six months. I'm here to talk about
19 strengthening the standards to protect indoor workers. I
20 also believe that 82 to 87 percent -- or the 82 to every 87
21 degree, threshold is too high.

22 In the warehouse, we are already experiencing
23 high temperatures, but temperatures that are lower than the
24 82 and 87 percent threshold. We have high end coolers from
25 companies like Igloo and Yeti who boast for seven days they

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1 can keep ice frozen. Yet, before the seven days these
2 coolers are already just coolers full of water. Just
3 susceptible to waterborne bacteria, since they don't get
4 changed often either.

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

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

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

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

20 I have felt heat illness myself. I have been
21 nauseous, dizzy. And we are told that we have to find a
22 manager and let them know we are suffering from heat
23 stress, and then our walk to a cool-down area is more than
24 half the length of the warehouse. I need cool water in
25 close proximity, and I need a place to cool down that's not

1 half a mile away. Thank you for your time.

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

3 Right now, we'll move over to any additional
4 commenters in the queue. Maya?

5 MS. MORSI: Next up is Robert Moutrie with the
6 California Chamber of Commerce. (No audible response.)
7 Rob, are you with us?

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

9 MS. MORSI: I'll go to the next one.

10 A/CHAIR LASZCZ-DAVIS: Yeah, let's go to the next
11 commenter in the queue, and then we'll come back to Robert
12 if we can pick him up again.

13 MS. MORSI: So our next speaker is Katia Birt
14 with USW 675, working for Marathon Petroleum in Carson,
15 California. (No audible response.)

16 A/CHAIR LASZCZ-DAVIS: This one's not coming
17 through either.

18 MR. MOUTRIE: I'm so sorry, this Rob Moutrie with
19 the California Chamber of Commerce. I understand you just
20 called me.

21 MS. MORSI: Let's go back to Rob.

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

23 MR. MOUTRIE: Thank you. You can hear me all
24 right in there?

25 A/CHAIR LASZCZ-DAVIS: A little muffled, but try

1 again.

2 MR. MOUTRIE: Okay, I'll try to speak up. How's
3 that?

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

6 MR. MOUTRIE: I will do my best, Madam Chair.
7 Good stem morning everyone, Robert Moutrie for the
8 California Chamber of Commerce. Sorry, I can't join you.
9 The legislative work here in Sacramento is keeping me.

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

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

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

25 We also have ongoing concerns about the

1 feasibility of creating the required cool-down areas,
2 particularly for small employers such as restaurants, or
3 others who rent space, and do not have full control of the
4 area around where they work.

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

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

21 I'd like to also flag or respond to one comment
22 that was made regarding seven years of work here. I just
23 want to say something in defense of staff. And that is not
24 commonly a place that I find myself, but I think it needs
25 to be said. Staff, we all know that staff was consumed

1 working on the emergency COVID regulation, as they should
2 have been. And you know how many times they revised that
3 standard and the overtime they worked. It was truly a
4 heroic and heavy effort. And so well as was said here,
5 "well, how come it's been so long?" I just think we need
6 to remember years were spent with staff working overtime on
7 the COVID regulation to keep up. And that's what they
8 should have done, it's what they did do. But I don't think
9 that we should now pretend that didn't happen when we talk
10 about where workload has been.

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

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

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

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

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

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

25 A/CHAIR LASZCZ-DAVIS: Okay, anybody else?

1 MS. MORSI: We have quite a few. Katia, you need
2 to unmute yourself.

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

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

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

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

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

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

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

21 SoCalCOSH supports lowering the heat threshold,
22 which allows for a standard that is effective and prevents
23 workers from encountering heat illnesses and heat
24 fatalities on the job. This standard needs to reflect a
25 threshold that is supported by fact-based evidence in a

1 time where we know that due to climate change the workplace
2 is only getting hotter.

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

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

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

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

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

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

24 A/CHAIR LASZCZ-DAVIS: You know what? I almost
25 hate to ask you. Can you bend over a little more to speak

1 into the mic?

2 MR. WOODEN: Okay. How's that?

3 A/CHAIR LASZCZ-DAVIS: Better.

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

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

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

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1 with Amazon.

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

9 So and it's intense work, we're dealing with tens
10 of thousands of pounds of freight at a time. That means
11 we've moved everybody on this panel from one home to a new
12 address within the span of about eight hours, of ten hours.
13 You go to the gym, that workout is going to take you maybe
14 45 minutes, and you're on your way.

15 So we feel like Amazon has kind of waived their
16 right to participating in the heat conversation. They have
17 no stake in this conversation. They sit in air-conditioned
18 offices all day while we do the work. So when we
19 confronted them about a week ago and told them summer is
20 coming again, what are you going to do to protect us from
21 the heat? This is a half million square-foot facility that
22 we work in. And until we demanded water coolers, we had to
23 literally go outside the building to find water. This is
24 unreasonable. You've waived your right to participate in
25 this conversation.

1 A/CHAIR LASZCZ-DAVIS: Could we wrap it up pretty
2 soon? Just to make sure we can honor everybody --

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

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

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

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

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

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

19 One is, again this is not a consensus reg. And
20 this has created two real problems. And I appreciate Chief
21 Killip saying there was input, and then there was rewriting
22 and redoing. But that is not consensus development,
23 consensus is where we roundtable. And I was at the first
24 meeting on heat illness in 2017 over six years ago. And
25 you had workers, like all who have taken a day off of work

1 to come here today, and they spoke. Warehouse workers in
2 significant numbers, restaurant workers, a few others who
3 said, "Protect us, please."

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

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

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

1 this whole reg.

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

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

10 MR. WICK: Just now --

11 A/CHAIR LASZCZ-DAVIS: Okay, perfect.

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

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

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

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

25 (On the record at 11:57 a.m.)

1 A/CHAIR LASZCZ-DAVIS: I'm going to ask Christina
2 Shupe to make an announcement at this point.

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

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

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

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

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

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

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

1 much. (No audible response.) We're not hearing them come
2 through, whoever it is.

3 MS. MORSI: Alexis Teodoro with OCCORD.

4 A/CHAIR LASZCZ-DAVIS: Alexis, are you there?

5 (No audible response.)

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

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

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

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

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

17 MR. SOMMER: Good afternoon, Madam Chairwoman and
18 Members of the Board, Andrew Sommer from Fisher Phillips in
19 Los Angeles. I wanted to highlight several concerns that
20 we have with the drafting of the proposed indoor heat
21 illness rule. We understand that this rule has had various
22 iterations, has been considered and potentially sidetracked
23 during the pandemic. But we do believe that there are
24 serious concerns with the drafting of the rule that should
25 be considered before any heat illness rule is adopted.

75

1 First there are concerns about the application of
2 the rule, the scope in terms of its application to various
3 workforces and employees. As one concern, the proposed
4 indoor rule gives no consideration to the intersection of
5 outdoor and indoor workplaces and respective roles. This
6 creates confusion and unmanageable compliance obligations
7 for employers with employees working both outside and
8 within buildings throughout the workday.

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

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

25 Another problematic aspect of the indoor heat

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

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

21 And the heat illness rule requires that employers
22 consider engineering controls over administrative controls.
23 And we believe that is problematic. There may be
24 situations where administrative controls such as
25 reassigning employees to work shifts where, you know, in a

1 time of day where it's cooler, may be more effective than
2 an engineering control, or simply just more feasible. And
3 --

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

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

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

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

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

25 Do we have anybody else in the queue?

1 MS. DAVEY: Hi, this is Katie Davey. Is it
2 possible to speak?

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

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

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

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

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

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

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

22 Franchisee establishments actually own and
23 operate the stores and make employment decisions for their
24 business. These local business owners are in charge of all
25 employment decisions, including hiring, firing, wages and

1 benefits. It is the local franchisee who owns and operates
2 the establishment, not the franchisor. In fact, national
3 brands have no role whatsoever in determining the day-to-
4 day operations of the franchisees.

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

10 We urge Cal/OSHA to continue to simplify this
11 regulation to ease compliance and protect employees.
12 Employee safety is a top concern in the restaurant
13 industry. We value our team members.

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

22 We are concerned that the proposed indoor heat
23 illness regulations may conflict with regulations which
24 affect our ability to heat and hold food to the necessary
25 temperatures to protect the public health from foodborne

1 illness and comply with the retail food code. We encourage
2 Cal/OSHA to consider how the engineering controls in the
3 proposal before you, conflict with the temperature
4 requirements in the California retail food code.

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

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

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

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

24 MS. DAVEY: Okay. Just finally I want to add
25 that restaurant employees who work both indoor and outdoor

1 should be able to receive one training that covers both
2 indoor and outdoor heat illness prevention requirements.
3 Thank you for the opportunity to comment.

4 A/CHAIR LASZCZ-DAVIS: Thank you very much.
5 Maya, anybody else in the queue?

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

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

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

14 MR. LITTLE: I can try. How's that?

15 A/CHAIR LASZCZ-DAVIS: You're much better. Thank
16 you.

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

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

22 MR. LITTLE: Okay, All right. That's good.
23 Okay, good afternoon. I very much appreciate the
24 opportunity to offer comments on proposed new regulations
25 on indoor heat illness. I should probably start by saying

1 that I'd like to offer support for comments that have been
2 offered by Michael Miiller, Rob Moutrie, and I anticipate
3 will be offered by Helen Cleary with the Phylmar Regulatory
4 Roundtable.

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

14 First, the new regulations definition of indoors
15 is so broad as to raise issues about employees who in the
16 course of their work day pass from indoor to outdoor spaces
17 and back again. Training record keeping temperature
18 triggers and a number of other requirements of the new
19 indoor standard vary considerably from the outdoor
20 standard. Resolving this problem is simple enough. The
21 regulation should specify that any employer to whom GISO
22 3395 applies shouldn't be deemed in compliance in
23 situations where employees alternate between indoor and
24 outdoor employment.

25 The regulation's definition of indoor is also so

1 broad as to encompass vehicles like tractors and trucks
2 operated by agricultural employers as typically used by
3 agricultural employees. These vehicles are covered by GISO
4 3395. Applying the requirements of the indoor regulation
5 is impractical as it will trigger temperature measurement
6 and record keeping requirements as employees enter and
7 start a vehicle, which will soon be cooled by its own air
8 conditioning if it's so equipped and operational.

9 The regulation should specify that vehicles whose
10 operation is presently covered by GISO 3395 continue to be
11 covered by that regulation or allow the employer to
12 demonstrate compliance with the new regulation by allowing
13 employees to forego temperature measurement and record
14 keeping if the vehicle is equipped with air conditioning
15 that's operational and capable of cooling the interior to
16 80 degrees.

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

25 Second, the regulations to clarify that a shaded

1 area used to comply with GISO 3395 is not an indoor space
2 covered by the new regulation. Generally, the definition
3 of indoor space should not include shaded areas used for
4 compliance with 3395.

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

11 The trigger temperature for the new indoor
12 regulation differs from the trigger temperatures for
13 various requirements in GISO 3395. And this will almost
14 certainly cause confusion among employers and employees.
15 The proposed regulation should provide a minimum time
16 exposure trigger for exposure to the new regulations 82 or
17 87 degree temperature triggers. A trigger time of 15
18 minutes in a 60 minute period would be reasonable.

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

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

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

1 We're back to our in-present presenters. So if
2 you would step forward.

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

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

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

13 MR. BAUM: A little louder? Okay.

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

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

19 Specifically, when a burn patient comes into a
20 hospital with significant thermal damage, that worker --
21 excuse me, worker or patient is actually at a very high
22 risk of hypothermia. It's actually somewhat
23 counterintuitive. This is because skin does a phenomenal
24 job of regulating internal body temperature. So when
25 someone suffers significant thermal injuries over a large

1 percentage of their body, they actually lose the ability to
2 on their own regulate their own temperature.

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

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

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

23 However, if they do and in the case of burn
24 patients, we're running the risk of significant adverse
25 medical conditions: metabolite issues, organ failure and

1 also unfortunately, fatality. We fundamentally have to
2 keep the thermal temperature of our rooms up. And we can't
3 use other types of technology like forced air blankets or
4 other things to maintain those temperatures, because of the
5 nature of the injury.

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

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

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

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

25 Helen?

1 MS. CLEARY: Good afternoon. We're now in the
2 afternoon.

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

4 MS. CLEARY: Acting Chair, Board Members, staff.
5 My name is Helen Cleary, and I'm the Director of PRR
6 Occupational Safety and Health Forum.

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

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

25 It also groups incidental and short duration

1 exposures in the same risk category as environments that
2 experience high heat conditions and expose employees for
3 extended periods of time. The regulation implies that
4 every worker is at risk of a heat illness whenever they
5 enter an enclosed space that is 82 degrees. The trigger of
6 82 does consider clothing that restricts heat, high radiant
7 heat areas. However, the high radiant heat areas defined
8 as only five degrees higher and technologies on protective
9 clothing is improving.

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

18 Employers will be required to define every
19 enclosed space a worker performs a single task and as an
20 indoor space and consider these requirements if the space
21 doesn't have a cooling system. This casts the net beyond
22 traditional indoor spaces. And includes thousands of units
23 across the states without considering other environmental
24 risk factors such as the time spent working in this space,
25 or how strenuous the activity is like the workers who have

1 demonstrated the hard work that they do in these hot
2 environments. All of these storage containers that are
3 outside are now subject to these requirements.

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

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

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

20 Access to cool-down areas, we have an issue with
21 that. We align with the previous comments on that. Please
22 take a look at our comments and review them. We would
23 request an exemption, an exception to subsection (e). The
24 exception doesn't actually alleviate the concerns that
25 we've expressed previously. And request the exemption that

1 allows administrative controls and lieu of engineering
2 controls be added back to the draft that was taken out from
3 the last 2019 draft.

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

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

9 Next presenter.

10 MR. LOPEZ: Hello.

11 A/CHAIR LASZCZ-DAVIS: Hello.

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

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

24 There's not enough -- there's not a time that
25 goes by when I drive a step van that feels like an oven 100

92

1 percent of the times. You can park the van in the shade
2 during excessive heat conditions and have all the doors
3 open, but it would still feel like being in a sauna. Even
4 the working air conditioners in some of the vans feel like
5 they don't blow cold air. That it's to the point that I
6 have to press my face up against it just to feel that cool
7 air. There's a few times where I have burnt my arms on
8 some of the shelves in the vans. That's how hot these vans
9 even get if you need more of an example.

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

22 We may be considered an outside worker to some
23 but majority of the times we were working indoors. These
24 vans are where we take our lunches, our breaks, and have to
25 handle packages majority of the time. It's like a fight

1 for survival. Why does our work have to feel like this?

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

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

8 MR. LOPEZ: Thank you.

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

11 Maya, do we have anybody in the queue?

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

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

19 We were participating in the informal process
20 many years ago. And actually, my first comment is a
21 process comment. I was part of a listserv and part of a
22 communication listserv in the informal process, but did not
23 receive until very late notice on this rulemaking and this
24 standard, understanding that it was noticed. But I do
25 believe that there are some stakeholders who did not

1 receive notice of this standard in a timely fashion. And
2 you may want to consider that for future iterations should
3 they occur.

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

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

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

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

22 Next presenter in the queue.

23 MS. MORSI: Next presenter is Lois Bloomberg with
24 Rockefeller Foundation Resilience Center. (No audible
25 response.)

1 A/CHAIR LASZCZ-DAVIS: Does the presenter need to
2 unmute perhaps?

3 MS. MORSI: If you're on the phone, please press
4 *6.

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

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

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

11 A/CHAIR LASZCZ-DAVIS: We sure can.

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

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

24 Lastly, SEIU is proud to represent health care
25 workers in public and private hospitals with burn units.

1 And we appreciate deeply the concerns raised by our
2 colleague at CHA regarding the interplay of this standard
3 and care burn units. SEIU members providing care to burn
4 patients are committed to providing the best care to their
5 patients while also guaranteeing the health and safety of
6 the whole care team. We do not agree with CHA's proposed
7 solution, but are happy to participate in dialogue on how
8 to guarantee that worker and patient needs are met. Thank
9 you so much.

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

11 Next presenter in the queue.

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

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

19 Regarding the proposed --

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

22 MR. MIILLER: Thank you. Regarding the proposed
23 indoor heat standard regulation, we align ourselves with
24 the comments and the letter submitted by California Chamber
25 of Commerce and the Phylmar Regulatory Roundtable. We also

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1 concur with several other comments raised concerning
2 issues, especially those comments from Bryan Little at the
3 Farm Bureau.

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

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

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

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

22 Fourth, we believe that draft regulations should
23 include an exemption for vehicles, as previously discussed.
24 And I think potentially as a way of writing that, that
25 separates the difference between a vehicle that's used for

1 delivery purposes and other vehicles, as well. But I defer
2 to your staff, and we're happy to help in drafting that.

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

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

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

23 Again, thank you for your time and attention.

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

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

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

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

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

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

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

1 our safety and the drivers on the road.

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

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

5 Next presenter.

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

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

22 And if it gets to 115 degrees, the inside of a
23 truck gets to 140 to 150. That's like in a sauna. If you
24 guys go to the gym, and you guys are at sauna, you start
25 getting heart palpitations after a few minutes. So just

1 imagine unloading a trailer for two hours and a half, or
2 maybe three, because the company says that you're allowed
3 to take a break after two and a half hours.

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

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

21 And this is serious. I'm not talking about oh,
22 we just got to 102. No, we're out there working with 115
23 degrees. The back of the trucks get to 140 150, and our
24 bodies go through a lot of stress. So I'm just here asking
25 you guys to put everything in writing, because the big

1 corporations are looking to see what the bare minimum is
2 for us.

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

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

5 Next presenter.

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

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

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

23 MR. PORRAS: Thank you.

24 A/CHAIR LASZCZ-DAVIS: With that, we're going to
25 move over to the commenters in the queue.

1 Maya, who do we have?

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

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

6 MS. MORSI: If you're on the phone, please press
7 *6.

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

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

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

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

16 MS. BERLINER: Yeah.

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

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

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

25 We work closely with workers, communities, unions

1 and community-based organizations across the San Joaquin
2 valleys. And many of the organizations and workers we work
3 in close partnership with serve farmworkers, warehouse
4 workers, and poultry workers, or our workers themselves and
5 deeply understand what it feels like to work in extreme
6 heat.

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

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

21 And then we also published our farmworker health
22 study report, just this last January in 2023. And we
23 surveyed over 1,200 farm workers from across the state.
24 And we actually found similarly that among women
25 respondents, they experienced three different types of

1 adverse pregnancy outcomes. So things like low birth
2 weight, preterm birth and birth defects, at twice the rate
3 of the general population. And these outcomes in our
4 report are directly associated with exposure to elevated
5 temperatures during pregnancy. And about more than one in
6 three respondents also reported problems keeping their
7 house cool.

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

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

21 Thank you so much.

22 A/CHAIR LASZCZ-DAVIS: Thank you.

23 Our next commenter?

24 MS. MORSI: Next commenter is Edwin Brown with
25 Teamsters 542 UPS. (No audible response.)

1 A/CHAIR LASZCZ-DAVIS: We may need to unmute, or
2 you may need to unmute.

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

5 MS. MORSI: Edwin is not on WebEx.

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

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

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

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

14 Maya, who else do we have then?

15 MS. MORSI: Next up is Judith Neidorff.

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

22 I want to start by actually listing some of the
23 recommended and required maximum indoor temperatures by
24 various agencies and organizations. I did a little
25 research, and the Bureau of Prisons recommends keeping

1 prisons a maximum temperature of 76 degrees Fahrenheit
2 during the summer. The WHO guidelines on health and
3 housing has 24 degrees Celsius, a little under 76
4 Fahrenheit, as the upper temperature at which there's no
5 demonstratable risk to the health of healthy sedentary
6 people.

7 CDC has indoor air recommendations for
8 temperature and occupancy settings. They reference ASHRAE
9 55, which I know other people have referenced. And they
10 specifically note that during the summer, the operative
11 temperature range should be between 75 and 80.5 Fahrenheit
12 if there is slow air movement, and the indoor air humidity
13 is around 50 percent.

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

25 So looking at somebody who only performs

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

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

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

19 I recommend that Cal/OSHA rethink their
20 temperatures in the following way. Change the 82
21 regulatory applicability level to 77, which is one degree
22 over the ASHRAE maximum recommendation. Which also aligns
23 with the Bureau of Prisons, WHO and Federal OSHA maximum
24 recommendation. And change the 87 degree trigger level to
25 81.5 degrees, which is the threshold limit value for

1 employees who perform heavy work between half and 75
2 percent of their time on the job. Thank you very much.

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

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

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

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

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

23 So during the August and September heatwave last
24 year, after scores of coworkers implored site leadership to
25 take our health seriously, our general manager actually did

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1 lower the thermostat. Several days later, however I walked
2 into work around 6:45am or so to sweltering indoor
3 temperatures reaching 85 degrees on the robotics floor and
4 87 in the flow control office. No circulation --

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

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

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

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

1 much.

2 Next presenter.

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

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

17 UFCW represents workers and packing houses,
18 meatpacking facilities, processing plants, warehousing and
19 retail stores, where there's often little to no ventilation
20 and temperatures can rise significantly during the hotter
21 weeks of the summer. Right here in the Imperial Valley,
22 UFCW represents workers at the Spreckels Sugar Factory, who
23 are -- at the Spreckels Sugar Factory where there's no
24 ventilation inside the processing plant and temperatures
25 can rise to upwards of 120 degrees. These are dangerous

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1 conditions for workers who are doing physically intensive
2 labor.

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

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

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

24 Areas where UFCW would urge this Board to offer
25 more protection to workers is reducing the 82 degrees and

1 87 degrees thresholds to 78 degrees and 85 degrees
2 respectively. Broaden the definition of clothing that
3 restricts heat removal. Mandate minimum rest break
4 schedules and cool-down areas. Training requirements that
5 should ensure that common sense best practices are
6 followed, and strengthening the record keeping
7 requirements.

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

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

16 Next presenter please.

17 MR. JOHNSON: Good afternoon Cal/OSHA
18 representatives, and I'll leave it at that.

19 A/CHAIR LASZCZ-DAVIS: Good enough.

20 MR. JOHNSON: My name is Steve Johnson. I
21 represent Associated Roofing Contractors of The Bay Area
22 Counties. And I wanted to support the comments of the
23 Phylmar Regulatory Roundtable, Helen Clary and also Rob
24 Moutrie with the CalChamber. So I won't have to repeat any
25 of those comments that they made, but I strongly support

1 their positions because they do raise some concerns and
2 interesting points.

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

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

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

25 And I'll, in the interest of time I'll wrap up

1 and say thank you for the opportunity to comment. And I
2 appreciate -- I know the bell tolls at 5:00 o'clock today.
3 So for comments -- but I definitely hope that I can work
4 with the Division on working these things out. Thank you.

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

6 Are we back to the queue, or presenting?

7 MS. MORSI: Back to the queue.

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

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

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

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

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

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

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

24 MR. WEST: Wonderful. So I thank you, the Board,
25 for the opportunity to be here and make a comment. I'm

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1 Travis West with California Nurses Association, which
2 represents more than 100,000 members who work as registered
3 nurses in California.

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

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

16 When workers are not protected from indoor heat,
17 they can obviously experience heat related illness and
18 require medical help. And in addition to that, as has been
19 brought up by Anastasia earlier, studies have also shown
20 that the risk of other workplace injuries increase
21 significantly when workers are exposed to high
22 temperatures. So nurses know that safe workplaces are
23 essential for a patient's health and the Cal/OSHA Standards
24 Board has the ability to protect them here by issuing a
25 strong and protective standard on indoor heat.

1 And in addition to that, nurses themselves can
2 also be impacted by high heat temperatures in certain
3 situations, such as when employers fail to maintain
4 ventilation systems that can handle high outdoor
5 temperatures, which obviously can lead to the temperature
6 indoors increasing as well. In addition to that nurses
7 often have to wear personal protective equipment to care
8 for patients, which can make even moderately high indoor
9 temperatures dangerous for nurses, which of course puts
10 their patients at risk as well.

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

24 For clarity, a clarifying note can be added that
25 in certain narrow situations, engineering controls may be

1 infeasible for certain work areas within healthcare
2 facilities where temperatures are higher than 82 degrees,
3 if that's necessary for patient care and treatment, as
4 determined by the patient's treating provider. But this
5 should also make clear that administrative and other
6 personal controls remain in place. We also believe that
7 this issue with burn patients should not delay the
8 standards implementation in any way.

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

17 In addition to that, we've also heard comments
18 from the Chamber of Commerce about implementing some sort
19 of temporal control. We believe that such controls would
20 be arbitrary and assessments, temperature readings, and
21 other precautions that should be taken as described and
22 proposed in the standard if workers will be in areas with
23 high heat, even for relatively short periods of time --
24 heat stroke can develop really, really quickly, even within
25 10 minutes. So we think it's important for this standard

1 to be applicable to those folks as well.

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

10 A/CHAIR LASZCZ-DAVIS: Thank you.

11 Our next commenter in the queue?

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

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

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

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

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

25 MR. TEODORO: Can you hear me now?

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1 A/CHAIR LASZCZ-DAVIS: Yes.

2 MR. TEODORO: So on behalf of Orange County
3 Communities Organized For Responsible Development, or
4 OCCORD, I submit this public comment.

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

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

19 The proposed regulation moves in the right
20 direction, that of the protection of the lives of workers.
21 However, several key provisions do not kick in until high
22 temperatures such as ranging between 82 and 87 degrees are
23 reached. This can place the lives of workers at risk. We
24 want to thank you for your efforts in uplifting the
25 protection of workers. However, please consider revising

1 and lowering the temperature thresholds in order for the
2 strongest protections to kick in sooner rather than later.

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

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

8 Another commenter in the queue, Maya.

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

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

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

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

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

21 Maya, let's try one more commenter.

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

24 A/CHAIR LASZCZ-DAVIS: Let's try this again. How
25 about another commenter?

1 MS. MORSI: And the last one is Enrique with
2 Climate Resolve. (No audible response.)

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

6 MS. MORSI: We do not.

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

9 MR. GARRETT: Good afternoon, Board Members.

10 A/CHAIR LASZCZ-DAVIS: Good afternoon.

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

22 We believe that there needs to be stronger
23 protections for the workers that work for a living, the
24 middle class, and the working class people. I know we've
25 heard of -- excuse me -- you've heard from a lot of people

1 today that are in support of this, of making some kind of
2 changes to the standards. And we are here today to
3 respectfully ask Cal/OSHA and the Standards Board to make
4 the needed adjustments so that we can protect the working
5 class. Thank you.

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

7 Any other in-person presenters at this point?

8 (Off-mic colloquy.)

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

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

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

18 A/CHAIR LASZCZ-DAVIS: Speak louder.

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

23 It's hot. It's very hot. I used to take off the
24 packages from an 18-wheeler. And this is like in the
25 wintertime and it's in those big rigs. It's like 85-90 and

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1 when it's like 60 outside. I don't think necessarily also
2 that geographically the heat, the weather was taken into
3 consideration.

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

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

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

21 Our UPS workers, our Costco workers, our Amazon
22 workers, they don't wake up saying, "I'm going to go to
23 work today and I'm going to take these deliveries. I'm
24 going to stock the shelves. And I might die of heat,
25 because it's too hot, because my employer, my manager

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1 doesn't want to implement the correct trainings on how to
2 handle myself when I'm experiencing heat exhaustion or the
3 early onset signs of a heat stroke." I don't know what
4 those are. I don't. And I can't remember Amazon or UPS
5 training me for these things. So I just hope these are
6 taken into consideration. Thank you.

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

8 Any other presenters?

9 MR. BLAND: All right, now?

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

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

21 I'm going to just speak on a little narrow issue
22 that actually I think Steve Johnson brought up, and it's
23 the issue of those that are substantially covered by the
24 outdoor regulation. So think about a framing contractor
25 and when you look at the definition of indoor, which

1 basically talks about four walls -- it does have -- talks
2 about restricted air, but that's going to be difficult to
3 determine. You have shear walls that go up. And then you
4 have open studs as a portion that's shear wall now
5 restricted in the portion that's not now open air.

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

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

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

24 MR. BLAND: It's an Amber Alert, they're trying
25 to pull me off the stage.

1 So in the scope, if you're -- if an employee is
2 substantially an outdoor employee, that could be exempted.
3 So then you're under one. When we have all this training,
4 that's going to add confusion, it's going to be hard for
5 the Division to enforce, it's going to be hard for
6 employers to comply with a dual standard. And keep in mind
7 too there are certain industries such as construction, oil
8 and gas, agriculture, under 3395 that has some elevated
9 areas of compliances as well for those on the outdoor.

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

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

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

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

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

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

22 A/CHAIR LASZCZ-DAVIS: All right. And one last
23 call here for presenters in-person. Anybody else dying to
24 say something here? Oh, no, no, no, no. Wrong comment,
25 take that back. Take that back. Well, at this point in

1 time, let's close the public hearing, and we will take a 10
2 to 15-minute break. And we will be back, so please stay
3 with us.

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

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

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

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

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

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

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

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

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

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

23 BOARD MEMBER BURGEL: Okay. I just wanted to
24 thank all the stakeholders. It's very important to hear
25 the impact of not having an indoor heat standard, and how

1 important it is for us to pass an indoor heat standard as
2 soon as possible, number one.

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

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

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

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

1 place. It's confusing.

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

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

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

14 Who was up next?

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

21 And so I second the hope that there's going to be
22 both outreach and education this summer, but also where
23 possible enforcement of indoor heat safety provisions that
24 can be enforced within IIPP even though I know that that's
25 not sufficient. But at least that there would be some

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1 recourse for people who are suffering from indoor heat
2 exposure during this summer.

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

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

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

18 And wondering whether work intensity can be
19 included in the list of provisions that trigger the
20 coverage of the control measures (e). Because I think it
21 has these other things about clothing, etc. But work
22 intensity, as we've heard today, is a really important
23 factor. So I think that the threshold should be lowered in
24 general, and specifically triggering of the entire standard
25 should come in cases where there is work intensity.

1 And then I agree with the comments about training
2 and making that annual refresher. But again, I hope a lot
3 of these changes can be included in a later draft. But
4 equally, if not, more importantly, is that we don't hold
5 the process up so that we can get a standard in place as
6 quickly as possible. But thank you for all your work on
7 this.

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

9 How about you, Dave?

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

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

25 So I know that there's anything specific that we

1 could do for those folks that's not already in the proposed
2 standard, or in some of the comments that we've heard
3 today. But thank you to Division Staff, the Board Staff,
4 everyone that had -- that's worked their butts off on this,
5 and all the commenters today.

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

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

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

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

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

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

20 So I think it's actually kind of interesting,
21 there's a lot of agreement. I don't I don't think I've
22 heard really, too much disagreement about indoor heat
23 moving forward. It's just the devil is in the details,
24 Eric. I'm all on board on annual training. I think you
25 just have to do that. That's just something to add.

1 I can talk about some of these details, but I
2 think others have. The question that I don't know that I
3 can speak to well, is this question that has come up about
4 the SRIA. And so I wonder if you or the Chief can address
5 these questions of the SRIA that have come up both in this
6 meeting and the last meeting regarding this heat illness
7 reg. Are you able to help there?

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

11 BOARD MEMBER CRAWFORD: Yes.

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

16 A/CHAIR LASZCZ-DAVIS: Much better.

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

1 underestimate the costs, but I have to go back to documents
2 then (indiscernible).

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

5 MR. BERG: Yeah.

6 A/CHAIR LASZCZ-DAVIS: Go ahead.

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

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

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

21 BOARD MEMBER CRAWFORD: Right, exactly.

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

1 economic and fiscal analysis.

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

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

13 So if obviously, a number of people, including a
14 few Board Members have raised issues about lowering
15 thresholds, et cetera. And as we're hearing now that would
16 require an adjustment to the SRIA. Would that -- is it
17 possible to get those adjustments done, sort of initiated
18 it now, so that it won't delay the rulemaking? Or what
19 would -- how would it actually work? If there's any
20 changes to what has been in front of us today will it delay
21 the implementation of this regulation? Or have you built
22 that into the process to allow some adjustments to be made
23 based on the testimony that you've heard today and the
24 written comments, and still meet the deadline of being able
25 to vote on it in time to be in place before next summer?

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1 MR. BERG: I mean, it's hard to predict. Like
2 for first aid, we made changes and then had changes in the
3 finances, and we weren't able (indiscernible).

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

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

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

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

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

25 MS. SHUPE: I'm happy to address that. So we've

1 done this historically through rulemaking, right? When we
2 had the cranes and derricks regulation, we did the Horcher,
3 we brought that in. And then we did a cleanup regulation
4 several years later where we moved that into the
5 appropriate section for California.

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

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

19 BOARD MEMBER STOCK: Thank you. So it'll be
20 great to be kept apprised of that. So we kind of have a
21 heads up whether the process is going to -- is working so
22 that we still can be confident, we'll have something to
23 vote on in time for it to be promulgated by the summer. So
24 to the extent that that we can get reports on that in
25 future meetings that would be very helpful. Thank you.

1 MR. BERG: And we had 80 and 85 as the two
2 thresholds in initial proposals, and we had a really strong
3 fight against us from stakeholders. So that's why we
4 changed it to 82 to 87.

5 BOARD MEMBER STOCK: Well, did you have -- and
6 that was prior to doing the SRIA. So the SRIA was done on
7 82 and 87, and not on 80 and 85?

8 MR. BERG: Correct.

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

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

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

1 requests public input.

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

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

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

11 BOARD MEMBER HARRISON: Sure.

12 BOARD MEMBER BURGEL: Yes, so moved.

13 BOARD MEMBER STOCK: Seconded.

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

16 BOARD MEMBER HARRISON: No.

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

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

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

24 MS. MONEY: So I have Barbara Burgel as the
25 motion and Laura Stock as a second; is that correct?

1 A/CHAIR LASZCZ-DAVIS: Yes. It's fine. Yes.

2 MS. MONEY: Barbara Burgel.

3 BOARD MEMBER BURGEL: Aye.

4 MS. MONEY: Kathleen Crawford.

5 BOARD MEMBER CRAWFORD: Aye.

6 MS. MONEY: Dave Harrison.

7 BOARD MEMBER HARRISON: Aye.

8 MS. MONEY: Laura Stock.

9 BOARD MEMBER STOCK: Aye.

10 MS. MONEY: Acting Chair Chris Laszcz-Davis.

11 A/CHAIR LASZCZ-DAVIS: Aye.

12 MS. MONEY: And the motion passes.

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

14 Well, with that, let's move over to the Division

15 Update. Eric Berg, will you please brief the Board?

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

17 A/CHAIR LASZCZ-DAVIS: You know, it's funny. We

18 hear you when you hold on to the mic for dear life.

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

20 Sorry.

21 So we completed our evaluation of the petition

22 597 requested emergency regulation for silicosis

23 prevention. So we've completed that and sent that to the

24 Standards Board staff. We look forward to that. We've

25 heard of many more cases of silicosis and just talking

1 about CDPH and some physicians and hospitals. And
2 physicians told us they're seeing a fatality rate of 18 and
3 20 percent of employees who come down with silicosis, so
4 it's really serious. So our evaluation reflects that.

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

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

9 Let's move over to the Legislative Update.
10 Autumn, will you please brief the Board?

11 MS. GONZALEZ: Yeah, thank you, Chair.

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

23 And other than that, there's just an interesting
24 bill on here that's new for you. It's AB 1424. And it
25 would require cannabis delivery employers to develop,

1 implement, and maintain driver safety protocols. So that's
2 an interesting one that we added to your list. And that's
3 all.

4 A/CHAIR LASZCZ-DAVIS: All righty, thank you.
5 Are there any questions for the Board for Autumn?

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

8 A/CHAIR LASZCZ-DAVIS: Your mic.

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

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

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

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

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

22 I'm pleased to report that OSHSB has filled two
23 additional staff vacancies in the past month. Matthew
24 Omoahalo joins the Board as our newest Senior Safety
25 Engineer. Mr. Omoahalo, and I will get that just as I got

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1 Amalia Neidhardt, comes to us from the private sector where
2 he has extensive experience working with large employers
3 leading employee safety programs. But more importantly, we
4 were all impressed during his interview, by his commitment
5 to labor and to addressing safety issues, that was very
6 much evident. And we're very happy to have him on our
7 team.

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

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

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

18 BOARD MEMBER BURGEL: I have a question, Chris.

19 A/CHAIR LASZCZ-DAVIS: Go ahead.

20 BOARD MEMBER BURGEL: Christina, could you update
21 us on the elevator standards? Where are those? I mean, I
22 think they've been, you know all the variance work, it's
23 amazing how much work Autumn and her team do with all those
24 variances. And I'm just hoping that we someday will see
25 those updated standards.

1 MS. SHUPE: So the Elevator Unit has been hard at
2 work at working on the group five elevator package, they
3 have completed the text of the regulation. But they're
4 currently now working on the supporting documents. That
5 would be the initial Statement of Reasons, the 399 and side
6 by side. Once they have that completed, we'll start a
7 complete review of the package, and hope to bring it to the
8 Board.

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

14 BOARD MEMBER BURGEL: Great, thank you.

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

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

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

1 you very much. Did you hear a voice in the audience there?

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

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

8 BOARD MEMBER STOCK: No.

9 A/CHAIR LASZCZ-DAVIS: She says no.

10 How say you, Barbara?

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

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

21 A/CHAIR LASZCZ-DAVIS: Thank you.

22 Dave, do you have anything?

23 BOARD MEMBER HARRISON: No, thank you.

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

25 All righty, and with that, Autumn, do we have to

1 go into closed session or anything today?

2 MS. GONZALEZ: No.

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

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

13 (The Business Meeting adjourned at 1:56 p.m.)

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CERTIFICATE OF REPORTER

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

And I further certify that I am not of counsel or attorney for either or any of the parties to said hearing nor in any way interested in the outcome of the cause named in said caption.

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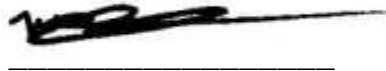
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