STATE OF CALIFORNIA

DEPARTMENT OF INDUSTRIAL RELATIONS

In the Matter of:)
OSHA Standards Board Meeting)
)

CERTIFIED COPY

PUBLIC MEETING, PUBLIC HEARING, AND BUSINESS MEETING

OF THE OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

HYBRID MEETING VIA WEBEX AND IN-PERSON

RANCHO CORDOVA CITY HALL

American River Room

2729 Prospect Park Drive

Rancho Cordova, California 95670

Thursday, December 19, 2024

Reported by:

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Job No.:
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Transcript of Proceedings, reported via Webex Videoconference, commencing at 10:00 a.m. and concluding at 4:58 p.m., on Thursday, December 19, 2024, heard before the State of California Department of Industrial Relations Occupational Safety and Health Standards Board, reported by Marcena M. Munguia, CSR No. 10420, a Certified Shorthand Reporter in and for the State of California.

APPEARANCES

BOARD MEMBERS PRESENT IN RANCHO CORDOVA:

Joseph M. Alioto, Jr., Chairman

Kathleen Crawford, Management Representative

Dave Harrison, Labor Representative

Nola J. Kennedy, Occupational Health Representative

Chris Laszcz-Davis, Management Representative

Dave Thomas, Labor Representative

Derek Urwin, Occupational Safety Representative

BOARD STAFF PRESENT IN RANCHO CORDOVA:

Millicent Barajas, Executive Officer

Autumn Gonzalez, Chief Counsel

Kelly Chau, Attorney

Amalia Neidhardt, Principal Safety Engineer

Maryrose Chan, Senior Safety Engineer

Sarah Money, Executive Assistant

BOARD STAFF PRESENT VIA TELECONFERENCE AND/OR WEBEX:

Michelle Iorio, Attorney

Michael Nelmida, Senior Safety Engineer

Simone Sumeshwar, Senior Safety Engineer

Jesi Mowry, Administration & Personnel Support Analyst

APPEARANCES

DEPARTMENT OF INDUSTRIAL RELATIONS STAFF PRESENT IN RANCHO CORDOVA:

Katie Hagen, Director

CAL/OSHA STAFF PRESENT IN RANCHO CORDOVA:

Eric Berg, Deputy Chief of Health

Michael Wilson, Senior Safety Engineer

Cal/OSHA STAFF PRESENT VIA WEBEX:

Kevin Graulich, Principal Safety Engineer

Christine Hoffman, Senior Safety Engineer

TKO STAFF:

Conner Helm

Sean Acrea

John Roensch

SPANISH INTERPRETERS:

Lourdes Alcala

AnaElvia Sanchez

APPEARANCES

PUBLIC COMMENTERS:

PUBLIC COMMENT RE: DIRECTOR HAGEN'S PRESENTATION, RECRUITMENT AND HIRING:

Pamela Murcell, California Industrial Hygiene Council

Bruce Wick, Housing Contractors of California

Michael Miiller, California Association of Winegrape Growers

Maegan Ortiz, IDEPSCA

PUBLIC HEARING RE: TITLE 8 CONSTRUCTION SAFETY ORDERS, SECTION 1635, CONE AND BAR BARRICADES:

Greg McClelland, Western Steel Council

Michael Donlon, Construction Employers Association

Kevin Bland, Ogletree Deakins, representing the California Framing Contractors, the Residential Contractors Association, and the Western Steel Council

Len Welsh, Ironworkers Management Progressive Action Cooperative Trust

PUBLIC COMMENT RE: TITLE 8 GENERAL INDUSTRY SAFETY ORDERS, SECTION 5204, OCCUPATIONAL EXPOSURES TO RESPIRABLE CRYSTALLINE SILICA:

Don Schinske, WOEMA

Pamela Murcell, California Industrial Hygiene Council

Dave Smith, Safety Consultant

Adam Harper, California Construction and Industrial Materials Association

Alice Berliner, L.A. County Department of Public Health

Renee Guerrero Deleon, Southern California Coalition for Occupational Safety and Health, SoCalCOSH

APPEARANCES

PUBLIC COMMENT RE: TITLE 8 GENERAL INDUSTRY SAFETY ORDERS, SECTION 5204, OCCUPATIONAL EXPOSURES TO RESPIRABLE CRYSTALLINE SILICA (cont'd):

David Harrington, Retired Cal/OSHA

Jim Hieb, Natural Stone Institute

Ayan Ortega, Southern California Coalition for Occupational Safety and Health, SoCalCOSH

Maegan Ortiz, IDEPSCA

Dr. Sally Sadaghiani, WOEMA

PUBLIC COMMENT ON NON-AGENDA ITEMS OR TO PROPOSE NEW OR REVISED STANDARDS:

Bryan Little, California Farm Bureau

Ron Grubb, Phylmar Group

Helen Cleary, HCC - Safety & Regulatory Compliance Consultant

Bruce Wick, Housing Contractors of California

AnaStacia Nicol Wright, Worksafe

Robert Moutrie, California Chamber of Commerce

Ruth Lopez, Valley Voices

Maegan Ortiz, IDEPSCA

Dave Smith, Safety Consultant

Pamela Murcell, California Industrial Hygiene Council

Ayan Ortega, Southern California Coalition for Occupational Safety and Health, SoCalCOSH

Renee Guerrero Deleon, Southern California Coalition For Occupational Safety and Health, SoCalCOSH

Jorge Luna Monterrey, Valley Voices

I N D E X

Thursday, December 19, 2024

10:00 a.m.

CHAIR ALIOTO: Good morning, everybody, and thank you all for coming. This meeting of the Occupational Safety and Health Standards Board is now called to order.

Having done that, I want to first wish everybody a happy holidays. We haven't seen you since before Thanksgiving. I hope that you and all of your families had a wonderful Thanksgiving and will continue to have a great holiday through the course of the remaining month.

We're going to start this meeting. I'm going to ask all to stand and join me in reciting the Pledge of Allegiance.

(Pledge of Allegiance)

CHAIR ALIOTO: All right. My name is Joseph M. Alioto Junior. I am the Chairman, and the other Board Members that are present here in Rancho Cordova here with me today are: Kathleen Crawford, Management Representative; Dave Harrison, Labor Representative; Nola Kennedy, Occupational Health Representative; Chris Laszcz-Davis, Management Representative; Dave Thomas, Labor Representative; and Derek Urwin, Occupational Safety Representative. It's good to have everybody here.

Director Katie Hagen is also joining us in person.

Good morning, Director Hagen.

And present from the Board staff for today's meeting are: Millie Barajas, our Executive Officer; Autumn Gonzalez, Chief Counsel; Kelly Chau, Attorney; Amalia Neidhardt, Principal Safety Engineer; Maryrose Chan, Senior Safety Engineer; and Sarah Money, our incomparable Executive Assistant.

Present in Rancho Cordova from Cal/OSHA today is: Eric Berg, Deputy Chief of Health for Cal/OSHA; and Michael Wilson, Senior Safety Engineer.

Welcome to you both.

The Cal/OSHA staff members present via WebEx are: Kevin Graulich, Principal Safety Engineer; and Christine Hoffman, Senior Safety Engineer, though Kevin I think is here in person.

The Board staff supporting the meeting remotely are: Michelle Iorio, Attorney; Michael Nelmida, Senior Safety Engineer; and Simone Sumeshwar; Jesi Mowry, Administration and Personnel Support Analyst.

All right. Copies of the agenda and -- first, welcome to all of you and to all of our visitors today and those who wish to and speak, and we'll talk through that in a moment. Copies of the agenda and other

materials related to today's proceedings are available on the table near the entrance to the room and are posted on the OSHSB website.

This meeting is also being live broadcast via video and audio stream in both English and Spanish. Links to these noninteractive live broadcasts can be accessed via the "Board Meeting Schedule, Notice of Proposals, and Agendas" section on the main page of the OSHSB website.

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

If you are participating via teleconference or videoconference, the instructions for joining the public comment queue can be found on the agenda itself. You may join by clicking the public comment queue link in the "Board Meetings" section on the OSHSB website or by calling the following phone number: (510) 868-2730. And that will allow you to access the automated public comment queue voicemail. If you experience any technical issues with the teleconference or the videoconference, I'm going to give you an email that you can send an email

to and describe what's happening. That email address is oshsb@dir.ca.gov.

Our non-agenda comment period will take place towards the end of the meeting. For those participating who are not able to attend or have to leave early and would like to make a non-agenda comment, please send your written comment to -- I'm going to give you another email address -- OSHSB_NAComments@dir.ca.gov.

Now, just briefly on this, this will allow you if you are -- the non-agenda public comment section of this meeting will happen at the end. This is going to be a long meeting. That's going to be in about three or four hours. If you cannot make and cannot wait until that time, go ahead and send your comments to that email website and we will read those comments into the record at the time of the non-agenda public comments section.

Okay. That email one more time, OSHSB_N, as in Nancy, A, as in alpha, Comments@dir.ca.gov.

All right. Please have those sent in and time-stamped by 10:45 this morning. That's in 45 minutes or so, and anything that's -- anything that's delivered to that email address after 10:45, we cannot assure that that will be read into the record during the appropriate time during this meeting, but it will make its way into the written record. So go ahead and send us your

comments.

All right. Please limit your comments to 500 words, if you're writing something into an email like that, and an OSHSB staff will read it into the record, as I just described.

For our participants who are native Spanish speakers, we are working with Amalia Neidhardt to provide interpretation into English for the Board.

At this time, Amalia Neidhardt will provide introductions and instructions to the Spanish-speaking commenters.

Ms. Neidhardt?

(Introductions and instructions given in Spanish)

CHAIR ALIOTO: Thank you, Amalia.

All right. Before we continue with the agenda, I just want to get a feel for timing. I think this might -- has the potential to be a pretty long meeting.

So I want to first find out from folks in person, if you could just give me by show of hands whether you are going to be looking to comment on the public hearing with respect to the Cone and Bar Barricades.

Anybody present that's going to be talking about that? Okay. One commenter. Two. Two commenters?

Okay. Great. And then folks, if you are online and you are interested in making a comment about Cone and Bar Barricades, would you kindly raise your hand on the -- on the videoconference so we can get a count of how many folks are looking to do that.

MR. ACREA: I don't see any hands raised online.

CHAIR ALIOTO: Okay. How about if you plan to talk at all about silica today? If you have a public comment on the silica vote, if you're present here, would you mind raising your hand? Okay. Just a couple?

How about online, if you could raise your hand online.

MR. ACREA: I see seven as of right now, seven hands raised.

CHAIR ALIOTO: Let's give that a couple minutes. Folks are clicking in. Again, this is if you wish to make a public comment. I'm just trying to get a count here, if you wish to make a public comment during Silica. It looks like about eight.

All right. And then finally, if you could put your hands down online -- thank you for doing that -- and then anybody who wishes -- who is online who wishes to make any kind of public comment that's not on the agenda towards the end, would you mind raising your hand.

All right. Thank you, folks. That looks to be

about eight; 16, 20, 25. Let's call it 25.

All right. And then folks that are present looking to make a comment on non-agenda items, a quick raise of the hand? Oh, we have a few here. Okay. Raise them up high, please. Okay. I've got it.

All right. So we're going to have a pretty long meeting today. We're going to limit public comments to two minutes per person and if you could, please abide by that. And then for Spanish-speaking folks who require translation, they'll have four minutes. I think you already translated it as such, so I think we're good there, and let's proceed with the agenda.

Director Hagen, thank you so much for coming.

DIRECTOR HAGEN: Yes. Thanks for having me. Good morning, everybody.

CHAIR ALIOTO: Good morning.

DIRECTOR HAGEN: If I can get my PowerPoint up here. All right. Is it working? Oh, it is. I went too fast.

All right. Well, thanks again for having me. And I want to apologize to those of you who attended the CHSWC meeting last week. This may be a repeat of what you heard from me there, but last week I spoke about DWC as well as Cal/OSHA and today's presentation is focused mainly on Cal/OSHA, so I will do my best.

All right. So I wanted to show a chart first

off. Everybody likes numbers, and what this is is the vacancy rate for Cal/OSHA and for DIR. I believe the lower line is the DIR and so what that includes is sort of the rest of DIR, all the divisions, the independent boards and commissions, and then Cal/OSHA has its own line; and what I like about this particular chart is it's about 18, 20 months' worth of data that I'm tracking and you can see a couple years ago, we were at 35, 38 percent vacancy rate for Cal/OSHA and steadily it has been declining.

We've been slowly bringing down the vacancy rate and what's significant about this is during that period of time, we've received a large number of new positions in the budget change proposal process either that we requested or that accompanied legislation, new legislation. I believe we had approximately 55 bills we had to implement two years ago, about 35 bills this last year. So there's quite a few -- a couple hundred every year, it feels like, throughout DIR, new positions to implement those various new laws.

And then we also have attrition. Like everybody else, we have turnover in the organization and so I'm really proud of the team that, you know, over the last couple of years, they've steadily brought that number down. I would say in the last six months, it's

definitely going in the right direction. Debra Lee and her team are doing a great job at keeping the emphasis on hiring throughout the organization.

And you'll notice that DIR number is not quite as impressive, but we are going down, but it is a lower rate if you look at the other divisions and I want to talk about why we still struggle to some extent with Cal/OSHA vacancies. I'll talk about that during my presentation.

So I thought I would start with challenges that we're facing in Cal/OSHA and then some of the strategies that we're implementing in order to address those challenges.

So one of the biggest reasons that CalHR -- excuse me. I'm already jumping ahead to my discussion about CalHR. The reason that Cal/OSHA struggles frequently is we have candidates that don't necessarily meet the minimum qualifications for the classification.

So we've got a big marketing campaign out there. Folks are, you know, word of mouth. Everybody knows we're hiring, but often the folks find they don't meet the minimum qualifications. There's educational and experience requirements and so we find that that's a big challenge, continues to be a challenge for us, and it's very restrictive. Our candidate pools are small because

of the way the minimum qualifications are outlined for the engineer and the industrial hygienists classifications. So that's one challenge.

And then another challenge specifically is bilingual engineers. So if we're lucky enough to find an engineer, you know, we try to find folks that speak various languages to help us communicate more effectively with the workers that we serve and unfortunately, it's very hard to find bilingual engineers. We have quite a few Spanish speakers, fortunately, within Cal/OSHA, but it's very difficult to find Spanish and/or many other languages that we actively recruit for.

Finding industrial hygienists altogether is very challenging, specifically in certain geographic areas. Rural areas, we're trying to stand up an agricultural effort in the Central Valley. We've got offices that -- new offices that we're opening with Cal/OSHA and Labor Commissioner staff and it's very challenging to try to find safety engineers and industrial hygienists that either live in those areas or are willing to relocate to those areas.

So those are our core challenges and so I thought I would start talking a little bit about what we're doing to try to meet those challenges.

So you may or may not be aware that we have

emergency hiring authority and that's fairly unique in Civil Service. The only other department that I'm aware of that was awarded emergency hiring by the legislature was DMV when they were getting the new driver's licenses up a couple years ago. I forget what that was called. Yeah. And so they were given temporary emergency hiring authority and basically it's a temporary hire.

It sounds wonderful, but like most things in Civil Service, it's complicated to implement. And so it's a temporary hire. You don't -- the good news is you don't have to be on a certification list. You don't even have to meet the minimum qualifications. It's generally -- it's just an emergency hire. I can say, "You, you're hired and we appoint you." There's no sort of screening criteria at all that's required to appoint someone and it's meant for temporary work up to nine months.

So what that means is if we were able to hire some folks on an emergency basis -- and we have. We've begun to hire. I think we've hired about 16 I think so far in Cal/OSHA -- we -- unfortunately, they still have to go through the merit-based hiring process in order to get appointed permanently. So it's truly -- my hope had been initially that we could just sort of roll them in to a permanent position, but alas, you cannot do that with

the merit-based hiring process. You have to compete for the job. So -- but we are looking at glass half full and really trying to find situations in which we can grab some people quickly.

We've done a couple hire-in-person events where we were able to hire some folks. I believe the classes in Cal/OSHA -- we're using the Labor Commissioner and the Cal/OSHA's office and for Cal/OSHA, I believe we're focusing on clerical support because the period of time to train them is minimal compared to, you know, perhaps an industrial hygienist or a safety engineer and we desperately need clerical support to help us with our mailings and, you know, processing citations and the like.

So we have had some luck in hiring office tech-level emergency hires and a few senior IHs that are -- that happen to be going through the merit-based hiring process as well. We were able to appoint them as emergency hire while they go through that process.

So we intend to continue to expand the use of this emergency hiring. I believe we have a couple years until it expires and we'll see, you know, if that helps us with our temporary need going forward, but the one downside to it, unfortunately, as well is these are, in State vernacular, blanket hires, which means there's no

authorized positions associated with them. So we have to watch our budget like everyone and once we begin to fill all of our permanent positions, we're not going to have the budget necessarily to continue to hire emergency hires; right? We're filling -- using that budget funding for these.

So we're also adding support staff capacity in Cal/OSHA and DIR/HR to support hiring managers. One of the things that Cal/OSHA had had trouble sort of increasing the volume of its hiring efforts over the last couple of years is because the managers of the field offices and district offices and enforcement were super busy; right? They're supervising their staff. They're rolling out, overseeing, you know, complicated investigations and they just didn't have the capacity to do all of that, plus hiring.

So we've added a whole new Recruitment and Hiring Unit within the Enforcement Branch of Cal/OSHA and then we've added HR staff at the headquarters to be able to review and approve all of those merit-based hiring packages that come up.

So we're hoping that alleviates some of the sort of the support work associated with hiring for the field managers and if anything, it also allows us to get out and do more recruitment, in-person recruitment than we

had been doing, as well, before. So it's nice to have that capacity.

The next strategy is probably one of the more significant ones and that is working on a class specification change in 2025 and, in fact, I just got an email on my way here today that we're good to go to start the study next month.

So we had been focused -- we've been working with a vendor focused on the Labor Commissioner's two-class series first. We've been doing that for the last six months with a vendor where we've redesigned the minimum qualifications, we've reduced the educational requirements and some of the experience requirements so that we can open up the candidate pool, and we intend to do the same sort of assessment and review of all of the Cal/OSHA classifications starting in January.

And so that -- I don't know if that will mean reducing our educational requirements. It could in a sort of training capacity classification. At the lower level, we could offer some sort of training program if they don't have a degree. That's yet to be established or worked out, but we are trying to look for opportunities to bring people in at all levels, including or not excluding potentially an apprentice classification that I would like to try to tackle.

So we have that class study with our vendor. Probably that will take three to four months. We do -- we work closely with the people actually doing the jobs to get an idea of what their day-to-day work is, we do sort of desk audits as part of that process, and then from there we will make proposed changes to the class spec changes in keeping -- making sure that it still describes the job that was established probably in 1978; right? The jobs have changed a lot in the years these classes were created.

And so once we finalize the class spec, we'll send it to our control agency, CalHR. They will review it along with a salary study that's a part of the process.

Once we get to a point where they're comfortable with our proposed changes, CalHR will then work with the unions to discuss what we're proposing. I believe there could be a meet-and-confer as part of that on salary and then eventually, if parties, you know, agree, it will move on to the State Personnel Board where it will be posted for 30 days for public comment and then hopefully approved at that point.

So we have a ways to go, if you couldn't tell by that lengthy process, but I'm excited that we're finally in the queue and ready to go with Cal/OSHA and Debra Lee

and her team are excited about that as well.

While we were waiting for the Labor Commissioner's class spec change project to finalize so that we could start Cal/OSHA's, Cal/OSHA was working with the same vendor but a different group on a workload assessment and what that is is, you know, at many of our public hearings, I hear folks say, you know, "Cal/OSHA just doesn't have enough staff. Even if they filled every position, Cal/OSHA just doesn't have enough staff for the population of California."

So what the workload assessment is intended to do is to assess: What do we need for staffing? What is the right number of engineers? What is the right number of industrial hygienists for the State of California in order for us to accomplish our mission to meet federal requirements, et cetera?

So that is coming to a conclusion and hopefully in the next budget cycle, we'll be using that as supporting documentation for a budget change proposal to support requesting additional staffing as appropriate, but it's very important for the budget cycle that Cal/OSHA try to fill as many vacancies as we can prior to that. They generally don't like to see a high vacancy rate when you're asking for more positions, which makes a whole lot of sense.

I mentioned a marketing campaign. We have been targeting Cal/OSHA and Labor Commissioner vacancies. As I mentioned earlier in our challenges, we're really trying to find those bilingual engineers and industrial hygienists. At this point, we've filled a lot. I won't say the majority. I think we have about 120 enforcement vacancies that still remain across the state. Those aren't all field enforcement. Those are ART. Those are elevator. A lot of those are elevators. It's spread across the division, but we do have 332 active enforcement staff within Cal/OSHA.

So just on the marketing campaign, we've been doing it since March. I met with our communications team last week and talked to them about working with our vendor to now narrow the targeting down some more potentially to really get to those industrial hygienists and bilingual engineers because we're getting to a point where we're posting several times for bilingual engineers and we aren't getting very many candidates. So we need to pump up the volume on the marketing for those two.

And then we have other industry-specific strategies. We've consistently been working towards like advertising with professional organizations. We've had a number of our Cal/OSHA staff attend conventions and talk to colleagues about joining us. So in addition to

marketing, we have a number of other recruitment strategies that are also under way.

This is just another slide with some key data. Cal/OSHA had 186 hires in 2024. 64 of those were internal transfers or promotions. Cal/OSHA and the Labor Commissioner are fairly unique in that they are -- it's an entire department-specific series. So our folks, once we hire them, they tend to stay. There isn't a lot of other job opportunities within State service because they're in a Cal/OSHA specific classification and, thus, our separation rate is pretty low, which is good. It's 1.9 percent over the last year and that's much lower than what you will see at other State agencies, which is about 8 percent separation rate.

The number of new positions, just for kicks, I added in there. So you could see for the last four or five years, we got 141 new positions and about 63 million dollars for various legislative and regular program BCPs.

And off to the right, I like to present this slide and, boy, I'm pushing my staff for that last number because we're getting down to the wire and I want to exceed the 2022 number. We're really trying to push through. We've got about 29 packages pending just for Cal/OSHA and so I'm hoping we can get those approved by the end of this month, but I wanted to point out the vast

difference in a year over year.

For those of you who've been around a while, you probably recall 2019 was when the Department lost its hiring authority. There was a special investigation done and it was determined that the Department had made a number of illegal hires inconsistent with the merit principles and the Department lost its hiring authority and that was vested with the CalHR.

In 2020, we were still working towards -- I started in March 2020 and a year to the day, in March 2021 is when the Department got its hiring authority returned. During that period of time, we had to reestablish every single Civil Service examination that was online. They were all taken down when the Department lost its authority. So most of the hires that you see in 2019 and 2020 were done as TAUs, temporary authorization, because there were no examination lists of which to appoint people from.

So if you've -- I'm probably speaking State bureaucracy right now, but that's very significant. Essentially, there's no way to legally hire someone when there's no examination cert list. So it was very, very, very disruptive not to have any examinations to the organization and that's why hiring plummeted.

In 2021, we started to bring the number back up

and recruitment sort of really hit the stride in hiring in 2022. We dipped down in 2023 I -- believe this is just conjecture -- because our pools were diminishing in the Labor Commissioner and Cal/OSHA. We'd done an incredible amount of hiring in 2022, but we sort of started seeing the candidate pool level out in 2023.

2024, early 2024 is when we began the marketing campaign and our candidate pool started to go back up again.

These are -- the first slide I showed you with challenges and strategies, those are sort of today's challenges and strategies. This slide is meant to sort of comprehensively capture the challenges and strategies, things that we've accomplished or have worked on or are working on in some cases. You know, I mentioned the hiring managers struggle to find time to work on hiring tasks, so we got additional staffing.

We acknowledge that our hiring process was over-corrected. Once we got our hiring authority returned to us, we locked that hiring process down pretty significantly because we were concerned. We were on sort of a probationary period with CalHR. We were worried if we messed up, they'd take it away again. So we are in the process of rolling back some of that very restrictive hiring processes and, again, these -- I put these up in

these slides to try to address many of the comments I've heard at public hearings and, you know, I hear about this quite often. "You know, why is your process so restrictive?" And it's because of the loss of the hiring authority.

We have inherent limitations and challenges with Civil Service merit-based hiring. There are just certain steps, you know, we have to abide by. There's certain time frames that we have to advertise our positions. We must conduct reference checks and file reviews, all of those things. So there's inherent limitations there.

I mentioned the small candidate pools. Many of our candidates are unfamiliar with Civil Service hiring altogether. They don't understand. "I have to take an exam? What are you talking about? And the exam is not content based? It's based on my experience?" You know, it does not make sense to a lot of people, so we find that we have to do a lot of education around how to get a State job.

And we have launched a webinar. When we started our marketing campaign, we do monthly webinars where we educate people on how to get a job with DIR and those are very, very popular. We have hundreds of people often that will call in on those.

We also have limited automation tools.

Essentially, we deal with hiring via email. We are in the process currently to automate the hiring process end to end. We're going to use ServiceNow. We've begun the process documenting business requirements and eventually we will get to a point where we have a workflow system and our poor HR analyst won't be getting 10,000 emails a day on a hundred different recruitments. It's very difficult to manage that. It's also difficult for hiring managers to manage everything via email. So we're looking forward to a few months from now when we will hopefully go live on that.

Strategies: Periodic communication to managers to, you know, remind people, Please prioritize hiring. You know, I don't do as much of that anymore as I used to. People are on it. You know, they're very motivated to fill their positions.

We've also done flexible interviews outside business hours, on the weekends. I mentioned we've done in-person hiring job fairs. Let's see. We do a lot of training, coaching and education on best hiring practices. We moved away from the CalHR required best hiring practices recently and implemented our own DIR best hiring practices and made it mandatory for all hiring managers to go back through it. There's a lot of people unhappy with me because it's an all-day training,

but I've gotten a lot of positive feedback that the training is very effective. So I'm pleased that that continues. I got a report last week that all but about 13 managers have gone through it in the Department.

We're also addressing pervasiveness allocations, developing our -- you know, again, these are things I've heard. "Why do you have to go back and forth with duty statements between HR and the program?" The reason is the Department has a number of misallocated positions, meaning the duties don't necessarily -- in their duties statement doesn't necessarily reflect what they're actually doing and there could be a compensation difference in that, and so it's important when you post a new vacancy that the job is correctly described, right, and it's for the right classification.

So we spend -- and that was another reason that the Department lost its hiring authority was because of pervasive misallocations.

We've -- I've talked about recruitment strategies. Let's see. I've talked about the automation project.

This is just a sample brag book of our recruitment campaign. I'm really happy with how it turned out. These are just standard -- that's a digital ad. These are our physical billboards that we've had

throughout the state. I'm really excited about the testimonials that we're adding in the new year from our own staff. So we grabbed a bunch of inspectors and Labor Commissioners and put them on video, asked them why they love their job, and so we've got some fun new recruitment videos coming up in the new year that I'm hoping folks will resonate with candidates.

And then these are just for your information, historical information. We conducted a peer review of hiring. We asked another HR shop in the State department -- in the State agencies to come and review our hiring process for efficiency because we get a lot of feedback that our process is not efficient, it's not fast enough.

So we brought them in in 2021. They made a number of recommendations which we've implemented and because we're in the process of automating our hiring process, we're doing another review of our hiring steps to ensure that we're automating an efficient process end to end.

We have submitted collective bargaining proposals to CalHR for our engineers. I'm not at liberty to share what was in those proposals. It's confidential at this point; but, you know, I get that question a lot. You know, "Well, why haven't you increased the pay,

Katie, for all your engineers?" And, you know, we are in a collective bargaining situation. I don't have the authority to do that, but we have let CalHR know what we would like to see for the engineers in Cal/OSHA as well as for the Labor Commissioners classifications.

We've automated -- I mentioned we lost our hiring authority. We also lost our examinations a few years back. We've -- since then, we've automated 18 DIR-specific exams and we continue to automate additional exams as we move forward.

Let's see. I think I've talked about most of this. We also are doing business process review and performance measure development. I find in State government in my almost 30 years, we do a really good job of implementing innovative and great new projects, but we don't do a great job of evaluating those and the effectiveness of those and so we've started an internal process where we establish performance measures as we implement new measurements to see if they're effective, including our marketing campaign.

And then, finally, we also have a comprehensive workforce plan. It's available on our website if anyone's interested in that. As you might imagine, when you're hiring 800-plus people per year, there is a lot of onboarding, a lot of training that needs to happen across

various divisions and programs. So we have a ton of really great workforce initiatives under way. We have leadership training that we've introduced, new employee orientation. You name it, we've got a whole variety of workforce initiatives as well. That would take a whole other presentation to talk about those, which I won't do.

But thank you. Let me know if you have any questions. I did pull a couple stats. I mentioned we have 332 active enforcement staff out doing investigations, including 180 in the field, 99 elevators, 25 in pressure vessel, 15 in PSM and 13 in ART, our amusement rides. Since the data that I had up there on the chart, we've hired an additional 29 staff in Cal/OSHA. We have 118 recruitments in process in Cal/OSHA and some of those are for multiple hires, so we hope to make multiple hires from a single recruitment, and that -- it remains, as I mentioned, about 120 vacant positions that we still need to fill in Cal/OSHA.

And with that, I will open it up for questions.

CHAIR ALIOTO: Katie, thank you very much. Obviously a Herculean task, but one that you're clearly up for and are making great progress on. So I'll say congratulations.

Let's just open it up for questions from the Board.

BOARD MEMBER HARRISON: Director Hagen, thank you. Great report. I'm glad to see that the hiring process is moving along.

In your process, have you addressed exempt-level hires, like executive officers and positions of that nature? As you know, we ran for quite a while without an executive officer on this Board and I'm wondering if you're addressing that need as well.

DIRECTOR HAGEN: Well, exempt hires for the boards and commissions are not under my authority necessarily; right? They're under your authority. But yes, we have.

In fact, we're establishing a new position in the Office of the Director that will be focused on supporting all of our boards and commissions. I believe we have about seven now independent boards and commissions and even though about half of them have support staff like the Standards Board, some do not and we find that, for example, when a position turns over in an executive role, it takes a while to get the wheels running when the executive officer role is vacant, and personally I found that I actually was doing a lot of that work in absence of, you know, someone to perform that work.

So we have been successful to obtain a position. We're in the process of recruiting for that role and I'm

really looking forward to having another pair of hands that can support all of the Board staff and commissions in all the various tasks, administrative tasks associated.

We do have -- in addition to the independent boards and commissions, we do have a number of exempt hires in DIR. I believe we have about 25 Governor-appointed exempts that work for me and all of those -- I'm trying to -- I'm running through them in my head. I believe they're all filled, with the exception of Division of Apprenticeship Standards. Our chief just left and we will be hopefully soon appointing a new chief. Oh, and my Chief Deputy Director, I forgot that, my number two, and I just finished interviews last week, so I'm hoping that that soon will be filled as well.

So, you know, we're doing pretty well. I think in the five years that I've been on board, we've hired 20 executives, which is pretty significant for any agency and -- but I don't know that it's the hiring process that delays the exempts. It's more about, you know, public meeting notice that's required. You have to have a closed session in order to do interviews and, you know, it's just a very -- it adds a more -- a level of complexity that the merit-based hires don't necessarily have. I don't know if that answers your question.

BOARD MEMBER HARRISON: It does. Thank you.

DIRECTOR HAGEN: Sure.

BOARD MEMBER LASZCZ-DAVIS: That was a great report. Just a couple of questions.

You know, especially I'm particularly interested in your apprenticeship program, your bilingual inspectors and enforcers, and the truth is is there a process in place to collaborate with local community colleges, you know, to bring the people on board and train them, and is asynchronous learning a part of that as well?

DIRECTOR HAGEN: You know, let me -- asynchronous learning. Oh, boy. So yes. We -- it's always -- everything's so complicated, so I'm trying to abbreviate it.

The apprenticeship program -- as you probably are aware, Division of Apprenticeship Standards just happens to also be within the DIR umbrella and we work to support employers, work with unions to establish new apprenticeships. That's what our division does.

And so they're actually working with the State of California to do the same for various State agencies. The challenge with State apprenticeship models is that you either have to have a classification, a stand-alone classification that is an apprentice class, right, because they don't meet the minimum qualifications for

the other jobs before they start the apprenticeship program. So we need some sort of mechanism to appoint them. That only exists for a handful of classifications currently and, actually, the ones that we have are -- you know, have been around for 20-plus years and so we're trying to find a solution.

We, DIR, DAS, Division of Apprenticeship Standards, is trying to find a solution with CalHR and SEIU to perhaps make a legislative change or some other mechanism to be able to appoint people into. So that, we have to figure out before we can launch an apprenticeship program.

We do have apprenticeship programs within State government currently, but unfortunately they're -- well, it's not unfortunate. They're limited to Civil Service classifications. So, for example -- and they use the training and development assignment mechanism. So they are -- say an office tech wants to become an accounting tech. That person -- they're already a Civil Service appointee -- could go through an apprenticeship program that's approved by SEIU and DAS and within a couple of years, you know, go to a local community college, take classes, do on-the-job training, and they can transfer into that class at the end of their apprenticeship program. That exists in State service, but unfortunately

it doesn't allow for people to come in from the outside; right? So that's what I would like to be able to solve and that's what we're trying to accomplish with CalHR and DAS. That said, there are several other states that have an industrial hygienist apprenticeship program. I've got the curriculum. I'm ready to rock and roll. I just need that appointment mechanism. But until that happens, my hope was that during the class spec process change that I described earlier within CalHR, I'm wondering -- I don't know if this is possible, but I'd like the vendor to look into this, is if we can develop an apprentice class as part of the IH series so that we can grow our own basically and then hopefully also solve it for the rest of the state. But my job today is to focus on getting IHs hired and so that's within the scope of our project.

Does that help? And obviously a lot of our apprenticeship programs work with the community colleges. They get a lot of the educational fulfillment through community colleges, trade schools, et cetera.

You mentioned bilingual. You know, one of the things that we struggle with, everybody within State government struggles to find -- you know, we don't have a bilingual classification. Like none of us go around translating 24/7. We all have other jobs, but it's an add-on if you're able to pass the bilingual exam and get

the pay differential for bilingual pay. If we cannot find positions -- you know, candidates into key positions, then we probably will have to remove the bilingual requirement at some point and advertise broadly to fill it and then continue to use the supplemental tools that we have available for Cal/OSHA now. They can schedule an interpreter to talk to workers. They can bring another employee with them to a worker interview who's bilingual.

And then we recently launched an application, Translate Live. It's a Google application that we're piloting in Cal/OSHA that we hope will help with translation. It translates 150 languages with the press of a button. DMV uses it. I feel like I'm copying DMV on a lot of these things, but it's just coincidence.

But anyway, so we want to give it our best effort. Debra really wants to try to fill a number of the Central Valley positions with bilingual staff; but if we're unable to find them, then we will pursue other approaches.

BOARD CHAIR ALIOTO: Other questions from the Board?

BOARD MEMBER THOMAS: I think I just have -- so you said you're trying to establish a pre-apprenticeship program that will funnel people basically from high school and community colleges toward the State in

certain positions? I'm not sure if I was getting that right. I mean, that's what we do for our crafts.

DIRECTOR HAGEN: So we don't have a preapprenticeship program, yet. We have an apprenticeship -- we have several apprenticeship programs through SEIU for -- in the State of California, not just necessarily DIR, but for the State of California. They're in -- generally, I think it's information technology, financial services, sort of the non-tech, you know, the generalist classifications for the most part, and we have -- DIR has participated in a couple of those. But, again, that's limited to current State employees and what we would like to do is be able to hire from outside State government into the IH field so that we can train them up.

We anticipate that the staffing assessment that I mentioned is going to tell us we need a lot more IHs. We know we do and so we want to -- we can't fill the ones we have now, so we've got to do something different, right? They just don't exist in the numbers that are needed in the state of California and so we want to grow our own, but we're in the very -- I just want to emphasize we're in the very early stages of, you know, how to tackle this and we're trying to go two different directions, the IH class spec revisions and then a statewide solution for the Division of Apprenticeship

Standards and CalHR that would help everyone, not just DOSH.

BOARD MEMBER THOMAS: Thank you.

CHAIR ALIOTO: Any other questions from the Board? All right. I -- yes. Go ahead.

BOARD MEMBER KENNEDY: I just have a quick comment, not really a question.

So I'm a professor of industrial hygiene and, you know, I know that Cal/OSHA is doing this recruiting effort. I have not had anyone from Cal/OSHA recruitment reach out to me to interact with my students.

DIRECTOR HAGEN: Yes. We can't currently hire new graduates, so we have not -- our MQs don't allow for -- most of our classifications require some level of experience, so we have not yet been targeting college classrooms to try to fill our existing vacancies; however, we really want to be able to. We want to find a pathway through our class study to revise it hopefully to allow for college graduates right out the gate.

We have been doing some job fairs at colleges. We just haven't been going into the classrooms necessarily. A lot of the professors -- I don't know about you, Nola, but some of them don't want us in the classroom or we have to bring pizza, strangely.

So -- so -- but we would like to get there. We

have a very small recruitment team that we're still building upon, so I hope we're going to get there, but we're really just focused on filling our current existing vacancies that generally require some level of experience.

BOARD MEMBER KENNEDY: Does that mean that the -- 'cause there used to be a junior industrial hygienist. Does that not --

DIRECTOR HAGEN: It exists.

BOARD MEMBER KENNEDY: Okay.

DIRECTOR HAGEN: Unfortunately, it's very difficult to find candidates that meet the minimum qualifications of that particular classification, so --

CHAIR ALIOTO: Director Hagen, I have just a couple of questions. The first is about supply, labor supply, and I'm looking at your vacancy graph that you presented in your slides. The very first thing I want to do is note and congratulate Ms. Lee. It looks to me like the vacancy rate at DOSH dropped from 28 percent to 23 percent in six months, which I --

DIRECTOR HAGEN: Yes.

CHAIR ALIOTO: -- I find is extraordinary. That is about a 20 percent reduction in the vacancies, which I think is just really terrific. So please convey to her our congratulations --

DIRECTOR HAGEN: I will. Thank you.

CHAIR ALIOTO: -- and congratulations to you as well.

But the rate itself remains high; right? To what do you attribute that? Is that -- are there not enough trained folks? I guess are there not enough trained folks? Is it a lack of demand? Are the salaries not high enough? And one way to gauge this is are these similar vacancy rates in the private sector or is this specifically a labor shortage that is being felt by the government agencies?

DIRECTOR HAGEN: That's a lot.

CHAIR ALIOTO: Yeah, but really what it's about is --

DIRECTOR HAGEN: The labor market.

CHAIR ALIOTO: -- what's the source of the labor shortage?

DIRECTOR HAGEN: Right. Well, I tried to describe some of that in my presentation. I mean, really, we've done a very good job, I think, of filling our safety engineer series; right? Safety senior, safety engineer, we're able to find them.

Now, there are some offices where we've had to advertise multiple times and we don't get a good candidate pool. That's hit or miss, right, and we keep trying to fill those positions.

But what's very challenging is the industrial

hygiene series. They -- we have the industrial hygienist, senior IH, and we're able to fill a number of our senior IH. The salary is at a level that is attractive. The entry level, we frequently have declines due to salary level. Thus, our, you know, pursuit of the collective bargaining proposal that went over. Also, our pursuit of the class spec changes, which includes the salary survey, and that will compare us to competitors, right, state agencies, private entities, local, you know, county levels, and we will hand that off to the financial unit at CalHR and they will look at that and that will hopefully at some point be collectively bargained. So it is -- salary is definitely a challenge with the Industrial Hygiene classification series in terms of hiring folks.

We're able, like I said, to get safety engineers. Whether, you know, the salary is sufficient, I -- you know, it is from a recruitment standpoint. I guess the point -- we'll have to see how it goes in terms of retention over the next few years.

CHAIR ALIOTO: All right. One more question for you then. A quick follow-up and then one more. It's kind of a separate question, but is the collective bargaining position that's being represented by CalHR, management's being represented by -- management -- represented by

CalHR. Is that because of the loss of the hiring authority?

DIRECTOR HAGEN: No. No. No. That's just how it's done for all State agencies.

CHAIR ALIOTO: Okay. So --

DIRECTOR HAGEN: They represent all of the -- they represent the administration. They stand in the shoes of the Governor with the unions negotiating agreements. Yeah.

CHAIR ALIOTO: So the best you can do is present a proposal. You can't be at the table.

DIRECTOR HAGEN: Correct. Correct.

CHAIR ALIOTO: All right. Would you mind -- you mentioned at the end there 180 folks. I want to talk about enforcement personnel. That's an issue dear to my heart. So 180 people in the field. What is the vacancy rate for field enforcement and do you -- are you experiencing the same headwinds with respect to meeting those vacancies or filling those vacancies?

DIRECTOR HAGEN: I don't have the numbers off the top of my head for field enforcement, but they are on our website. They -- it's -- I've been thinking about removing the percentages, though, because they are I think very -- when there's only three people in a field office, one vacancy, it skews the percentages. So -- but

we do have 121 engineers and IH vacancies across the organization. But, again, those are not all field enforcement. I don't have the mix on hand with me. A lot of those positions are in the Elevator Unit. We received a very large multiyear BCP a couple years ago for elevators and we're still working on finding those very -- those are also very hard to recruit for, mostly coming from the elevator industry, experienced personnel. So those, we're filling. We have great contacts within the industry. It's just taking us a while to fill all of those vacancies.

I'm sorry. What was your first question?

CHAIR ALIOTO: That's about the collective bargaining, but you answered that.

DIRECTOR HAGEN: Okay.

CHAIR ALIOTO: So I'll just say we hear at every meeting about employers -- we're going to hear from employers later on today about what excellent jobs they do to keep their employees safe and they end up being the brunt of many of the regulations that are so difficult for people who are already following the regulations to comply with when the real problem sometimes seems to exist among those who are scofflaws where enforcement would really make it easier for everybody to be able to follow regulations.

So I think I would just emphasize how important it is, at least to me personally -- you and I have talked about this -- how important it is to continue to hire aggressively for enforcement.

DIRECTOR HAGEN: Absolutely. Yeah. And if I could add, perhaps at a future Board meeting, you might be interested in a presentation on our CWOP program. Oh, gosh. I'm going to mess up the acronym. It's our outreach initiative that we got a large fund during COVID, actually, that allows us to give grants to CBOs and universities that help us in communicating, doing outreach with workers and employers. I believe the dollar amount's around 30 million dollars annually that we're administering these grants and we have an incredible touch with all of these CBOs across the state of California and they are carrying our message from Cal/OSHA forward, everything from avian flu to COVID -- for several years, that was the main purpose -- silica.

I think it would be helpful. In addition to enforcement, we also have to engage consistently in outreach and we have a whole other program dedicated to outreach. We have both Cal/OSHA and DIR staff dedicated to outreach in addition to the enforcement staff.

CHAIR ALIOTO: Thank you very much. I don't think we have any other questions. I'll just dovetail what you

said, and before I open it up for public comment on this issue, outreach. Let's do some outreach right now.

The people that we have on the -- attending this meeting, the folks that are here in the public to make public comment, folks who are online attending this meeting, the people at the diocese in front of me and to my left and to the right, this is the brain trust for the California Health and Safety -- Occupational Health and Safety right here, among many other people. But there are -- this is really a core of the folks who are involved here. So I will implore you -- I don't know where the camera is. It's over there.

I'm going to implore you folks, everybody here, to reach out to your contacts and to do everything that you can to help plug some of these vacancies so that we can increase enforcement -- we need bilingual engineers, industrial hygienists -- and do the best that we can to preserve the safety and health of California workers.

So with that, let's open it up to public comment.

Folks, anybody present in person who'd like to make comment? Please. And if you don't mind coming up and filling out a speaker card and handing that to Ms. Money.

And then folks online who might want to comment

on this topic, if you could begin -- well, Mr. Roensch, can you manage that part?

MS. MURCELL: Are you ready for me?

CHAIR ALIOTO: Indeed. Good morning.

MS. MURCELL: Good morning, everyone. A quick comment related to the director's comments about the junior IHs and Nola's question. This is Pamela Murcell.

CHAIR ALIOTO: Ma'am, would you -- I'm sorry. Would you mind just stating your name for purposes of the record.

MS. MURCELL: This is Pamela Murcell. I'm the President of the California Industrial Hygiene Council and just -- I looked up right quick the qualifications, but I already knew them because I was a junior industrial hygienist. I started with Cal/OSHA in 1980 when one of the junior IH classes was formed and it was an excellent opportunity and way to get involved with Cal/OSHA and it was also an incredible learning experience, and the way that the program ran was that they brought in -- brought in about 20 of us in Southern California where I was and about 20 in Northern California in the Berkeley office and they basically had us job shadow. And along with that, we would be -- monthly also be receiving additional training, additional educational opportunities that Cal/OSHA sponsored.

Some of our trainers were Cal/OSHA staff, seniors and supervising IHs. Some of our trainers were through various vendors and consultants. It was an excellent program. It was a one-year program.

After we finished our one year, we were advanced into assistant IH positions within various offices in the Cal/OSHA program and some of us stayed on to be associate IHs, et cetera, et cetera. So the opportunities were definitely there.

As far as minimum qualifications, I actually pulled up to just jog my memory of what's actually written in the CalHR listing for junior IHs and I'm sorry to contradict, but there are no minimum qualifications stated for experience. What it states is there's an education requirement equivalent to graduation from college with major work in industrial hygiene, environmental health, engineering, chemistry, biology, physics, medicine, public health, or in a field directly related to occupational health and safety, and that's it.

So that's how I found out about the junior IH program. I'm actually a graduate of the Cal State Northridge bachelor's and master's program and I found out about it while I was attending undergraduate there.

So just wanted to add that to the record.

CHAIR ALIOTO: Thank you very much for your comments.

MS. MURCELL: Thank you.

CHAIR ALIOTO: Anyone else?

Mr. Wick?

And then, Mr. Roensch, can you run a clock, please, for us and I'm just going to remind everybody we have a two-minute limit for today. Thank you. Sorry, but that's just the way it goes.

MR. WICK: Thank you. I appreciate Director Hagen and I'll make a similar comment I made at the CHSWC meeting last week that I think one more real aspect here would be engaging employer groups, leading employer associations in this process.

We were promised in 2010 when we started funding DIR that we would be fully engaged annually in how things are going, you know, staffing, 'cause -- and that happened the first year after 2010 and then the new administration, that has not happened since. So we've been operating blind, but the contribution has gone from 488 million dollars in 2010 for DIR to 2.06 billion dollars this year. Employers are paying.

We want funding. We want Division workers' comp fully funded. My people want the underground employers gone after by both the Labor Commissioner and Cal/OSHA. So I think we could engage employer associations to put pressure on the legislature, on CalHR to say, Let's

get -- if we need to raise the pay, let's do it so we get really competent people doing a great job out there. Thank you.

CHAIR ALIOTO: Thank you very much.

Good morning.

MR. MIILLER: Good morning. Michael Miiller with the California Association of Winegrape Growers, and happy holidays. I'll be very, very brief.

We fully agree with what the Chair is saying about enforcement and align ourselves with the comments from Bruce that were just made. By all means, bad actors, go after them. Take all the enforcement action you need and do all of that.

We have one concern and that is with how enforcement actions are sometimes announced. Earlier this week, a news release came out with an enforcement action against an animal shelter in Los Angeles. Without regard to the merits of that case, or lack thereof, the realities of the news release says that the citation was due to the employer's willful violations of safety regulations.

This is routine at Cal/OSHA where they put out a news release and it's guilty until proven innocent. If you look at news releases for enforcement actions from environmental agencies like CalEPA, Resources Agency,

DPR, whoever, they go out of their way to say, This is an accusation, This is alleged. There's a due process.

That doesn't happen with these news releases and what that does is that now goes on their website. So when you do a Google search for that employer, this pops up, and if that employer wins on appeal and the citation is dismissed, there's not a second news release that comes out to correct the record, so forever this is on their Google search. That harms the employers.

So we'd just ask that when a news release goes out, if you can make it clear that it is alleged, that the citation is the beginning of the enforcement action subject to appeal and due process. Thank you very much.

CHAIR ALIOTO: Thank you for your comments.

Anyone else?

MR. MIILLER: Happy holidays.

CHAIR ALIOTO: Happy holidays to you too, Mr. Miiller.

Anyone else like to -- that is in person that would like to make a comment?

All right. Let's go online, Mr. Roensch.

MR. ROENSCH: We have a hand raised from Maegan Ortiz with IDEPSCA.

Maegan, go ahead.

MS. ORTIZ: Thank you. Good morning, Chair and Members. Apologies. I'm usually there in person.

Maegan Ortiz, Director of the Instituto de Educacion Popular del Sur de California or IDEPSCA.

I just want to thank Director Hagen for her presentation today. IDEPSCA works with all of those workers in the so-called "underground economy." I don't think there's an underground economy. Really, there's just workers who are not protected for a number of reasons.

I also just want to take the opportunity to highlight and congratulate Chief Lee and her staff who have been working really hard in hires within Cal/OSHA really to protect workers, right, because that is really the purpose of Cal/OSHA and DIR. IDEPSCA is part of the California Worker Outreach Program, CWOP, and also Domestic Worker Education and Outreach Program, DWEOP, because the thing is you can have all the laws on the books and all the regulations on the books, but if employers are not educated as to what their responsibilities are, it's going to be hard to find compliance.

But I wouldn't be a good worker advocate if I also didn't say that the vacancies do still continue to hurt low-wage workers, especially immigrant workers. Those vacancies equal more wait times for these cases when they are filed and for especially workers working in

low-wage industries and immigrant workers, those wait times mean less time being able to work, less time being able to put food on the table.

So while we congratulate DIR, we also look forward to continuing to work with them to really make sure that all workers get the help that they need. Thank you.

CHAIR ALIOTO: Thank you, Ms. Ortiz.

MR. ROENSCH: Mr. Chairman, we have no further hands raised.

CHAIR ALIOTO: All right. Thank you, folks. That's going to close public comment on the presentation of Director Hagen. I want to thank you on behalf of the Board for coming --

DIRECTOR HAGEN: Thank you.

CHAIR ALIOTO: -- and a very informative presentation and we congratulate you on your continued efforts to improve this issue. Thank you.

All right, folks. We are going to go to the public hearing and before we open the public hearing, Maryrose Chan will brief the Board on the rulemaking proposal. The Board Members will then have an opportunity to make comments and ask questions.

Today's public hearing item is on Title 8: Construction Safety Orders, Section 1635. This is Cone

and Bar Barricades.

Ms. Chan, will you please brief the Board.

MS. CHAN: Happy holidays, Chairman and Members of the Board. It's a pleasure to be here to brief you on the Cone and Barricades System, Section 1635.

On August -- oh, sorry.

On August 7, 2018, the District Council of Iron Workers/California Ironworker Employers Council filed a petition, which was designated as Petition 570.

On January 17, 2019, the Board adopted a decision to grant Petition 570.

We convened a two, we convened a two-day advisory committee meeting on October 10 and October 11, 2019. The meeting was attended by Cal/OSHA and labor and management representatives.

On April 20, 2020, due to the State's stay-at-home order in response to COVID-19, Board staff notified the committee that the proposal to amend Section 1635 will move forward and the committee's work to review the specific subsections in 1710 will resume at a later time.

The proposal was eventually noticed on November 1st, 2024.

Over the years, it has taken us a longer time to get the proposal ready to be noticed. Rulemakings

undergo more layers of review and greater scrutiny, particularly the economic impact analysis. More often than not, Board staff requires assistance of the research data analyst from DIR.

Petition 570 was received on August 8, 2018. The petition letter dated August 7, 2018 was jointly submitted by Don Zampa, President of District Council of Iron Workers, and Greg McClelland, Executive Director of the Western Steel Council.

The Petitioner sought for amendments in subsections in 1710(l), Temporary Flooring, Skeleton Steel Construction in Multi-story Buildings. The subsections were (l)(1), temporary flooring, planking and decking; (l)(3), fall protection at the periphery of buildings; (l)(4), mid-rail protection; (l)(5), installation of metal decking; (l)(6), holes and openings; and a request for a new subsection (l)(8) for the Cone and Barricade System.

The Board's adopted decision on January 17, 2019, directed Board staff to conduct an advisory committee meeting to consider the issues raised by the Petitioner. The rulemaking addresses the Petitioner's request to add a subsection (l)(8), Cone and Bar Barricade System; however, instead of amending Section 1710(l)(8), the amendments were made in Section 1635, Floors, Walls and

Structural Steel Framed Buildings. Section 1635(c)(2) already contained provisions for barricading floor openings while work is in progress.

During the advisory committee meeting, we were able to resolve sections 1710(l)(l), (l)(3) and (l)(6) and we have language for that, but a future advisory committee meeting still needs to be convened to discuss subsections (l)(4) and (l)(5). Changes to Section 1710 will be handled as a separate rulemaking.

As you can see, the cone and bar barricade consists of high-visibility green cones. Employees are more accustomed -- have become accustomed to the orange color, so the high-visibility green cones call more attention to them, and it's also required to be labeled "Danger Floor Opening."

The cones are connected by bars, the high-visibility bars. The hook shows that personal fall protection is required when working inside the demarcated area.

So the Cone and Bar Barricade System addresses fall hazards relating to openings and leading edges when work is in progress. So what does "work in progress" mean? Openings are created to provide access to welding structural members. It's also used to accommodate design changes and to insert equipment.

During the advisory committee, we reviewed accidents that have occurred while the employee was in the process of removing the cover. As a matter of habit, people naturally move forward and there has been very sad accidents that have resulted because the employee removed the cover and stepped into the opening. The barricades communicates the presence of an opening or leading edges and demarcates the area where personal fall protection is required.

The rules that we created in this proposal specifies the materials, the setup, inspection and training on safe use.

The benefits of the proposal is that it will help prevent falls through openings. It standardizes the current use of the Cone and Bar Barricade System. It eliminates the use of rope, caution tape, or other piled materials as a means of barricading the area, and it also will lessen the use of plank and plywood.

We received a letter from Federal OSHA that the proposal is at least as effective as the federal standard. Today is the last day for the public to comment, December 19 and the proposal is ready for the Board's consideration and comments.

CHAIR ALIOTO: Thank you, Maryrose.

For those interested in Maryrose's presentation,

if you would like to obtain a copy of it -- and for that matter, since I forgot to tell you this last time, if you would like to obtain a copy of Director Hagen's presentation, kindly send a public record request to oshsh-pra@dir.ca.gov and describe with particularity the presentation that you'd like.

Let's open it up to questions from the Board for Maryrose.

BOARD MEMBER KENNEDY: Again, no question, just a comment and I wanted to congratulate Senior Engineer Chan on a nice process and a successful advisory committee.

CHAIR ALIOTO: Yes. Agreed. I echo that. Congratulations.

Any other comments or question?

BOARD MEMBER CRAWFORD: Well, ditto; however, I do have just a quick question. Is there a specific height on these cones?

MS. CHAN: Yes. They are required to be at least 28 inches high, so it's -- and it has to be a pretty sturdy cone. It has to have a 10-pound weight capacity so that it doesn't easily blow with the wind.

BOARD MEMBER CRAWFORD: Yeah. Okay. Thank you very much.

CHAIR ALIOTO: Anyone else? Okay.

All right. We will now proceed with the public

hearing. During the hearing, we will consider the proposed changes to the Occupational Safety and Health Standards that were noticed for review today.

The Standards Board adopts standards that, in our judgment, are enforceable, reasonable, understandable, and contribute directly to the safety and health of California employees. The Board is interested in your testimony on the matters before us. Your recommendations are appreciated and they will be considered before a final decision is made.

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

I would also like to remind the audience that the public hearing is a forum for receiving comments, so this is not for holding public debates.

If you would like to comment orally today, please line up at the podium and then when I ask for public testimony or when I do ask for public testimony, please state your name and affiliation, if any, and identify what portion of the regulation you would like to address with your remarks.

If you are participating remotely and would like to comment, please join the comment queue by clicking the comment queue link in the "Board Meetings" section of the main page of the OSHSB website or by calling the following phone number, (510) 868-2730, to access the automated public comment queue voicemail or if you're online, just raise your hand.

Right? Yeah? Okay.

When public comment begins, we will alternate between folks in person and commenters. Please present a completed speaker slip to Ms. Money when you come up to the podium; and for commenters attending via teleconference, just please listen for your name. Please keep your computer muted until your name is called and then unmute to speak yourself -- to speak.

If you are on the phone, then you can dial star 6 to unmute yourself.

We're going to limit public comment today to two minutes unless you're a Spanish speaker or other language

speaker that requires a translation, in which case we'll increase that to four minutes.

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

Amalia, would you kindly announce to the Spanish-speaking audience the instructions for making comments.

(Instructions given in Spanish)

CHAIR ALIOTO: Thank you very much.

Let's start with in-person speakers, folks who are interested in commenting on this item. Anyone?

Sir, good morning to you.

MR. MC CLELLAND: Good morning, sir. My name is Greg McClelland. I am the Executive Director of the Western Steel Council.

I was one of the co-signers of the initial Petition 570. We have been anxiously awaiting this day and we appreciate Board staff's work, especially Maryrose. I think I drug her all over Northern California on a bunch of different job sites.

So as you guys can see, this is a different type of system and as with any new technology and any new system, there's obviously a long vetting process.

As a 30-year union ironworker here for

Local 118, I have worked and ran jobs up and down the West Coast and in Las Vegas. One of the most horrible things you can have is is a terrible accident or a fatality on a project. This was in direct response to several unnecessary fatalities of mostly apprentices, the folks that are most at risk on the jobs, picking up a sheet of plywood or a long plank and having natural habit of walking forward to remove that plank.

I will give you some numbers just to make yourselves sleep better at night. Since this has been implemented, we started this -- it was implemented by one of our foremost directors, the Hare corporation, back in 2014. District council wide, we've worked 170 million man-hours since this system was instituted. Two-thirds of those hours are structural steel. That would be around 112 million man-hours worked with this system in place, and zero fatalities associated with Cone and Bar Barricade System.

This is one of the few times where I think in the last 20 years, probably one of the most significant safety changes and increases for the steel erection industry, and I appreciate your time. Happy to answer any questions.

CHAIR ALIOTO: Thank you very much, Mr. McClelland. Let me say I want to thank you for bringing this petition

in 2018. We appreciate the efforts and all of the work that you've put into it, especially with Mary, with Maryrose, and the numbers that you've cited are very helpful for us. And so I want to say thank you to you personally for having brought this to our attention and having done all the work that you've done.

MR. MC CLELLAND: Thank you. My pleasure. Thank you.

CHAIR ALIOTO: Thank you.

Any other people that would like to make a comment on this item?

MR. DONLON: Yes. Mike Donlon and today I'm representing the Construction Employers Association.

This proposal allows a plastic bar the height of a mid rail, 22 inches high -- the cones have to be taller, but the bar can be at 22 inches -- as the sole protection from a serious fall hazard.

In the Walking-Working Surface Advisory Committee, the Division proposed banning engineered portable guardrails that are much more stout than this. Now, this works for the ironworkers when they're there working. There's no doubt about that. But CEA has concerns about allowing Cone and Bar Barricades to be the only fall protection when ironworkers are not actively working or even in the area.

This -- the proposal allows a Cone and Bar Barricade to be the sole protection for days, even weeks, as long as there is work in progress. There doesn't seem to be consensus on what that means, but the CEA firmly believes that the hole should be covered at the end of the day. Now, there is a fall hazard when you do that, but as Maryrose stated, they're required to be wearing fall protection when they're in that area, so that eliminates that fall hazard.

Other trades may need to access to these areas. They may need to pass through these areas and be exposed to this hazard. Superintendents at the beginning of the day before the trades are there, at the end of the day, survey their job sites and will be exposed to this fall hazard.

A construction site is an attractive nuisance. Despite fencing, actively monitored cameras, roving security, people trespass onto construction sites. While the safety boards are not intended to protect the public, we should not accept a proposal that allows a deadly fall hazard be unprotected for extended periods.

The second thing is the proposal requires "Dangerous Floor Openings" on the cones in two-inch letters. When you have an asbestos containment area, you have to have a danger sign. Okay?

Section 3340 gives the requirements for safety sign use. Danger signs shall be used where an imminent hazard exists. General safety signs shall be used where there is a need for general instruction or suggestions.

So we're putting the general safety sign up where we need the danger sign. When they're putting in the decking and they have a controlled access zone, they have to have a danger sign. We should have a danger sign here also. Thank you.

CHAIR ALIOTO: Thank you very much for your comments. Thank you.

Anyone else in person that would like to make a comment on this item? All right. I don't see anyone else.

Is there anyone online that would like to make a comment on the Cone and Bar Barricade issue?

MR. ROENSCH: We do have a hand raised by Kevin Bland from Ogletree.

CHAIR ALIOTO: Good morning, Mr. Bland.

MR. BLAND: Good morning, Chair and Board Members, staff. Kevin Bland, representing Western Steel Council, also the Residential Contractors Association, and California Framing Contractors Association.

As many know, I was an ironworker and my father was an ironworker for many years. I participated in the

advisory committee just before COVID that Mr. McClelland was discussing and we are in complete support of the language and what's been proposed.

I think some of the issues that were just brought up by Mr. Donlon, although many times we agree, this is one point where we disagree. On this, it's been a proven safety measure on job sites, as Mr. McClelland pointed out with some amazing statistics here.

The concerns that were raised regarding attractive nuisance and someone wandering in, they'd literally have to wander through the cone and bar that is very obvious and very clear that you don't enter that unless you're authorized. It is limited to the ironworkers. It says in the regulation that addresses that concern that no one, no other trades should be in there. When this is put in place, it's so many feet back, as you can see in the regulatory language, like from where, say, the column line would be, there is no reason, at least in my experience, that anyone else would need to enter in for any reason, and it also by covering the holes at the end of the day defeats the purpose of avoiding the hazard where we've had.

In fact, I have a personal experience with this. This is how my dad fell and ended his career, through removing a sheet of plywood and accidentally

stepping in years ago. He was severely injured. If this had been in place, we wouldn't have had that injury and he wouldn't have had to retire early with his injury.

So there's -- it's very important. We sat through the advisory. We came to a clear consensus. Maryrose did an amazing job of making sure that all the points were covered, discussed thoroughly, vetted, and all the safety concerns that were raised during that process were addressed and we see the language here today that is the consensus and protects the men and women working in using the Cone and Bar System in the industry.

So I urge the Board when it comes time to vote in the next meetings or two -- I don't know when the vote will be -- but to have an aye vote and pass this as written.

So thank you very much. Happy holidays to everyone. I don't know if I'll have any other speaking today, so I want to make sure I wish everyone happy holidays and a prosperous new year, and I wanted to thank the Board and the Board staff for all their work throughout 2024. There have been a lot of accomplishments and a lot yet to go and we know how hard you guys work and you guys are basically almost a volunteer organization sitting there at the Board and that doesn't go unnoticed by those in the public and we

appreciate your service. So thank you very much.

CHAIR ALIOTO: Thank you.

MR. BLAND: If you have any questions, I'm happy to answer them.

CHAIR ALIOTO: All right. Thank you, Mr. Bland, and happy holidays to you as well.

MR. BLAND: Thank you.

MR. ROENSCH: Mr. Chairman, we do have another hand raised from Len Welsh.

Mr. Welsh, if you would unmute your microphone, you can address the Board.

MR. WELSH: Good morning. Can you all hear me?

CHAIR ALIOTO: Yes, we can. Good morning. And, Mr. Welsh, if you would limit your comments, please, to two minutes.

MR. WELSH: Will do. Len Welsh, representing the Ironworkers Management Progressive Action Cooperative Trust, otherwise known as IMPACT.

I do want to echo the last words of Kevin Bland complimenting you all for the hard work you've done. It's been a productive year. We're finally recovering from the COVID episode. We've still got a ways to go.

I do totally respect Mike Donlon's opinion on many things, but like Kevin and like Greg, I I fall on the side of supporting this proposal.

Unlike many situations, we have a track record here of zero fatalities, which is what we're looking at when we talk about covering holes. It's not that often we have this kind of a track record and I think that speaks volumes. It's also true these issues were gone over with the advisory committee. They were gone over with Cal/OSHA Enforcement when we first came to an understanding about what existing regulations would permit and this procedure was begun back in 2014 with Cal/OSHA's approval.

So I would urge the Board to adopt this proposal. It's been way too long. It's been since 2019 we've been trying to get this done. It needs to happen now and we should not let the good be the enemy of what might -- what some might think is the perfect, although I think what we have right now is pretty darn good for a realistic, effective proposal.

Thanks again for your hard work. Happy holidays, all, and I'm looking forward to working with you in 2025.

CHAIR ALIOTO: Thank you, Mr. Welsh. And happy holidays to you and your family as well.

Mr. Roensch, any other speakers online?

MR. ROENSCH: Mr. Chairman, at this time, we have no hands raised and we also have no preregistered commenters

for this topic.

CHAIR ALIOTO: All right. Thank you. That will close the public comment or -- close the public comment and the public hearing.

If anybody remotely is participating and was unable for whatever reason to join the comment queue and would like to comment, please raise your hand if you haven't tried to do that already. I also have -- I'm going to read you an email address that you can send your comments to in the event that you were unable to make your comments on this issue, and that is OSHSBRulemaking@dir.ca.gov. Your comments are due by 5:00 p.m. in order to be considered part of the written record.

There being no further persons coming forward to testify in this matter, this public hearing is closed and written comments will be received until 5:00 p.m. today.

Folks, we've been going for almost two hours. Let's take ten minutes and report back at 12:00 p.m. Thank you.

(Recess)

CHAIR ALIOTO: All right. Good afternoon, folks, and welcome back to the meeting. We will now proceed with the business meeting. The purpose of the business meeting is to allow the Board to vote on the matters

before it and receive briefings from staff regarding the issues listed on the business meeting agenda.

As reflected on the agenda, public comment will be accepted for Item A after the Board has received a briefing on that particular item from staff. Public comment on non-agenda items or to propose new or revised standards will take place after the Cal/OSHA report. In other words, when we take public comment on this issue, it will only be on the issue that is listed on the agenda.

All right. So we're going to move on to the agenda. This is Item A, Proposed Safety Order for Adoption, Title 8, General Industry Safety Orders. This is Section 5204, Occupational Exposures to Respirable Crystalline Silica.

Today's Cal/OSHA briefing will include a number of presentations and they will be done in the following order. We're first going to hear from Dr. Heinzerling. I hope I didn't butcher that too bad, Amy, and she's here with us today.

We're also going to hear from Jenny Houlroyd, who is online, and she is going to be remote from Georgia Tech University.

Jenny, are you online there?

Is she online still?

DR. HOULROYD: I am still here, yes.

CHAIR ALIOTO: Okay. Great. Welcome. We're really excited to hear from you.

DR. HOULROYD: Thank you.

CHAIR ALIOTO: Thank you for being here.

We're also going to hear from Mike Wilson, Cal/OSHA, and Eric Berg.

And Mr. Berg, why don't you take it over and brief the Board. Thank you.

MR. BERG: All right. Thank you very much, Chair Alioto.

Okay. So we have a couple speakers first. First we'll have Dr. Houlroyd from the Georgia Institute of Technology. Dr. Houlroyd serves as the Occupational Health Group manager for the Safety, Health, and Environmental Services Program at Georgia Tech. She's a Certified Industrial Hygienist with the OSHA Consultation Program and assists small businesses throughout Georgia to ensure that their workplaces are as free from hazards as possible and that workers are protected from potential health risks. She also serves as faculty for the OSHA Training Institute Education Center at Georgia Tech and for the Professional Master's in Occupational Safety and Health Program. I'll let Dr. Houlroyd take it over.

We've got the wrong PowerPoint up there.

CHAIR ALIOTO: All right, Dr. Houlroyd. Let's get our PowerPoint presentation. We'll figure this out from our end, if you can just stand by.

DR. HOULROYD: No problem.

CHAIR ALIOTO: All right, Doctor. Go ahead. Thank you so much.

DR. HOULROYD: All right. Good afternoon, everyone. Thank you, Chairman and the Board, for allowing me to share my experience with all of you as an industrial hygienist working with stone countertop fabricators.

Next slide, please.

The results, images and videos included in this presentation are from real-life industrial hygiene sampling. The results were collected as part of the Georgia OSHA 21(d) Consultation Program, which is funded by the U.S. Department of Labor, OSHA.

The images and videos are from OSHA consultation visits. We also hired Mixed Bag Media, which is a film crew, to take some video footage as part of a Susan Harwood Training Grant that we received, and I am required to say whenever I share Susan Harwood Training Grant material that this does not necessarily reflect the views or policies of the U.S. Department of Labor, nor does mention of trade names, commercial products, or organizations imply endorsement by the U.S. Government,

And I have also served as an expert witness for silicosis cases.

Next slide, please.

All right. So how did I end up here speaking with you guys today? I started my career as an industrial hygienist with the Georgia Tech OSHA Consultation Program in 2005. I remember my first year as a consultant visiting stone countertop fabrication shops while training in my position.

Our primary goal at the time was to demonstrate to employers the hazards of cutting dry. There was no specific OSHA standard for respirable crystalline silica or RCS at the time and typically we would endeavor to convince them to implement wet methods and we knew this method would successfully reduce exposures to silica. However, something changed around like 2017. Suddenly, for some common fabrications tasks, referred to as similar exposure groups, we were seeing air sampling results from stone fabrication shops multiple times the OSHA PEL, which is 50 micrograms per cubic meter; and even though the companies have been using wet methods or local exhaust ventilation, if fabrication tasks were conducted dry, results were turned back well over 40 times the OSHA PEL.

Our conversations with employers went from,

"This is how we reduce exposure" to "We need to research additional controls, but in the meantime, we must protect the employees with additional respiratory protection." These are dangerously high levels of exposure and they are primarily impacting vulnerable workers.

On average, our program assists approximately five stone fabrication companies annually and over the past 19 years working at Georgia Tech, I've had the privilege to speak with hundreds of workers cutting and polishing stone slabs.

Here, I have five of those workers shown; however, given the growing epidemic of cases of silicosis due to RCS exposure from fabricating engineered stone slabs, I know unfortunately, given the estimated prevalence, at least one of these men will develop and die from silicosis.

Next slide, please.

I thought long and hard about what I wanted you to lead with as my key points for you to remember and these are the five points I want to convey through my presentation: The first is that common engineering controls for stone fabrication do not consistently reduce exposures below the permissible exposure limit when current, the current formulation of engineered or artificial stone is present.

Both large and small fabricators have exposure to respirable crystalline silica.

Three, industrial hygiene monitoring typically only captures a snapshot of exposure, and this is particularly true in cases of fabrication versus manufacturing and careful analysis of our air sampling results show wide variation exposure over time and within work dates.

Four, caution should be used when using respirable dust as a proxy for respirable crystalline silica exposure.

And then, finally, five: Respiratory protection is necessary for all employees who are working with stone fabrication shops that process engineered stone slabs.

Next slide, please.

The data I will present today consists of air sampling for both respirable dust and respirable crystalline silica that was conducted as part of Georgia Tech OSHA Consultation Program visits at stone fabrication shops from 2017 through 2023. The results of this analysis have been written into a scientific journaled manuscript and have been submitted to the Annals of Work Exposures and Health. We will also be publishing the dataset that is the source for this analysis.

Next slide,

So starting with point one, I want to emphasize that engineering controls for stone fabrication did not consistently reduce exposures below the permissible exposure limit in our dataset. We had 75 employees that we monitored for a full shift. Six cut dry, three were support workers, three used wet methods in the vicinity of dry cutting; and for the remaining 63 employees who exclusively used wet methods, 51 percent had exposures at or above the permissible exposure limit, reaching as high as 370 micrograms per cubic meter, and 70 percent of those monitored had exposures above the action level. Water and ventilation did not reduce exposures below the PEL when fabricating engineered stone quartz countertops due to the high silica content in this product.

Next slide.

If you could click on the bottom, there is a video that goes with this. There we go. It's showing.

Okay. For this to further demonstrate point one, I want to emphasize that this video shows a water-fed CNC circular saw used to cut a slab and typically the employee that is programming this machine is working in this location or nearby while the work is being done, and you can make out that employee in the back. He's wearing a yellow hard hat.

When the saw cuts, it uses a steady stream of water to suppress dust; however, what you can see happening is fine mist droplets of water get thrown into the air, containing silica dust, and these water droplets contain silica dust; and depending on the humidity, the size of the droplets, these droplets can remain suspended in the air for a period of time and then settle along with the silica dust to surfaces throughout the shop.

Next slide, please.

This is also a video, if you could -- there we go. The second main wet method that we see with employees in stone fabrication shops is when they are using small tools. Here is a gentleman and he is polishing using a fully integrated water delivery system in his polisher and because of the high velocity, water is thrown into the air and that water is also containing respirable crystalline silica.

And I think it's also important to note that this video represents what most shops look like. It is a large shared space where everyone works in a common area.

Next slide.

This is just an image and this image is of a water jet that is used to cut a slab. We used a film crew that used back lighting to allow us to see that as the water cuts through the slab, you have both dust

emissions and fine dust particles being thrown in in addition to the water being used.

Next slide.

Coming back to my second point: My second point is that those both large and small fabricators are exposed to respirable crystalline silica above the PEL for the sites that we visited. We worked with six companies that had fewer than 25 employees and five companies that had 25 or more employees. We conducted eight visits at the small companies and monitored 28 total employees and their exposures ranged from 9.2 to 370 micrograms per cubic meter.

In contrast, we conducted nine visits at larger companies where we monitored 49 employees and their exposures ranged from below the detection limit for our lab to up to 5,100 micrograms per cubic meter.

Ultimately, when you look at the percentages of employees exposed to respirable crystalline silica above both the action level and the permissible exposure limit, you can see that they're relatively similar regardless of the company size.

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My third point is related to industrial hygiene monitoring and I think industrial hygiene monitoring is particularly challenging when you're looking at

fabrication versus manufacturing because fabrication changes from day to day, and I wanted to point out several key points. When I review air sampling conducted by a company or the consultants that they hire, there are several questions that I ask, including: Have an appropriate number of samples been collected? We want to see if the results represent all the different jobs at the shop, including support employees working in and around fabrication, such as forklift drivers.

Do they represent the ratio of natural versus engineered stone slab fabrication on any given day? At the fabrication shops we have visited, the orders vary greatly from day to day. If the day of sampling was conducted was primarily natural stone versus engineered stone, we can tell by looking at the exposure monitoring results, the difference.

We also look at intraday variation and if that's been captured. We switched to a higher flow rate cyclone so that we could collect two samples from each employee throughout the day to see if there are differences between morning and afternoon, and I will share some of those results later.

Is the employer counting -- accounting for engineering control failure and have all similar exposure groups been included in the air sampling?

And in our paper, we present four different exposure groups: The support workers, those who fabricate around using automated machines, small tool operators, and those employees performing fabrication and lamination activities.

Next slide.

Drilling down on my third point, I have this first case study, which is the intraday variation. In this slide, I reviewed the lab reports to see what type of intraday variation was observed in our dataset. Time-weighted averages represent what has been shown to employees over an entire work shift and often missed some of the peak exposures that occur throughout a day.

For the first worker, a polisher using wet methods, the exposure was twice the PEL in the morning and then below the lab's reporting limit in the afternoon.

The next two employees were fabrication fabricators that were laminating two slabs together. One was dry cutting and the other was using wet methods. In both cases, the exposures doubled from the morning to the afternoon.

The fourth employee was just a forklift driver and designated as a floater. His exposure was 65 micrograms per cubic meter in the morning and was 470

micrograms per cubic meter in the afternoon. He was not engaged in fabricating but was in the vicinity of fabrication taking place.

And finally, the highest exposure in our dataset was a fabricator at a large company working in a location where the water curtain ventilation system failed. The exposure ranged from 2,200 to 6,800 micrograms per cubic meter and represents the difference between requiring an APF of 50 or Assigned Protection Factor for a respirator of 50 versus the Assigned Protection Factor of 1,000.

Next slide, please.

Another limitation of industrial hygiene monitoring is variation over time. At site six, we did conduct four visits throughout the five-year time frame. At the first visit, the consultant identified exposures well above the permissible exposure limit. As a result, the company prohibited dry cutting and installed water curtain ventilation systems.

At the next visit, with the implemented changes, exposures were reduced, though they were not reduced below the permissible exposure limit.

At the third visit, however, exposures had returned to being multiple times the permissible exposure limit. Employees had resorted to dry cutting and the water curtain ventilation system was no longer

functioning.

Follow-up monitoring wearing full gear, a return to wet methods and the water curtain ventilation system had been fixed showed that exposures were once again reduced but still above the action level.

Next slide.

A third example for the related to industrial hygiene monitoring and the third concern is that relying on industrial hygiene monitoring is that oftentimes support employees are often not included in the monitoring. We have inputted -- we monitored several support workers and so we took them out of our dataset and did a separate analysis and using the Bayesian Statistics analysis, we were able to demonstrate that workers have a 22 percent probability of needing at least an APF of 50, Assigned Protection Factor of 50, to adequately be protected when it comes to respiratory protection, and virtually 100 percent of workers in this category would require a respirator.

Next slide.

A fourth key point -- and I only bring this up because I've had several companies and employers and professionals ask, "Can we use respirable dust to estimate what the respirable crystalline silica exposure is?" and I caution against that. Respirable dust, we

analyzed. We took a respirable dust sample for every respirable crystalline silica exposure and we analyzed them.

Now, while they were strongly correlated for those in which we had a respirable crystalline silica exposure result and a respirable dust result, we looked at 22 samples where the respirable dust level was below the reporting limit for the lab, which basically means that the lab said that they couldn't identify any respirable dust present, and eight of those 22 had respirable crystalline silica exposures that were above the action level, meaning if we used respirable dust as a proxy, we would have missed eight cases of people being overexposed.

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And finally, my fifth key point is that respiratory protection is absolutely necessary for all employees working in stone fabrication shops that process engineered stone slabs. We analyzed our entire dataset using Bayesian decision analysis to determine what category of respiratory protection is necessary for workers.

For the prior, we inputted the actual respiratory protection that was used by the workers. So 56 -- most, 56 percent of the workers, wore an APF of 10,

meaning they were either wearing an N95 or a half-mask elastomeric respirator, and then 41 percent wore no respiratory protection at all, and then there were two employees that were wearing a full-face elastomeric respirator which had an APF of 50. However, while we looked at the actual air sampling results, which are presented in the table for the likelihood, based off of these different categories, 75.5 percent of all workers have a probability of needing to wear a respirator with an Assigned Protection Factor of at least 50 for their respiratory protection, which would include the powered air-purifying respirator category.

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Another way to look at this is by using a risk assessment based on the 95th percentile, and this is really taking into account that air sampling results typically in industrial hygiene are not normally distributed and typically have a -- you'd need to do a lot more where we get into the math, but we won't.

But what I want to show you is that the 95th percentile of our dataset has the exposures being at 605 micrograms per cubic meter, which is many times above the permissible exposure limit, and when you look at the distribution of our air sampling results, which is the image that's on the right-hand side, you can see that the

majority of the air sampling results were above the occupational exposure limit, and the credible range for this 95th percentile is 418 micrograms per cubic meter up to 935 micrograms per cubic meter.

Next slide, please.

One of the reasons why I passionately believe that all workers working with engineered stone slabs need to wear respiratory protection is because there's still so much that we're learning about why workers who fabricate engineered stone slabs are developing silicosis at such an accelerated rate and why there is such a high prevalence of cases.

There is a complex mixture of resins, volatile organic chemicals, metals, and respirable crystalline silica all impacting the workers' lungs, yet we are really only in the field quantifying the exposure to respirable crystalline silica. We must also remember that engineering controls do fail, leaving workers exposed.

I commonly refer employers to the OSHA Small Entity Compliance Guide, which states that OSHA considers failure of engineering controls to be a situation that is reasonably foreseeable when it relates to silica and although engineering controls are usually reliable means for controlling employee exposure, equipment does

occasionally fail, and let me show you what that looks like.

Next slide, please.

In this slide, there are three images. The first two were taken at company six, which I shared the results for that company already. This company relaxed worker protections after installing engineering controls; however, the water curtain ventilation system was not functioning properly, as shown in these images. The first two images are from that site.

What it should look like I have included in the third image, which you can see. I'm not sure if you can see it from where you're sitting, but there is water coming down and you can visibly see what's going on and that it is effectively pulling any silica out of the air.

Yes, the employees in the first two pictures were wearing respirators; however, these were half-masked-type fitting elastomeric respirators with a combination P100 organic vapor cartridges, but they were not effective for the exposure levels. Not only that, these employees, as we often see in fabrication shops, were working 12-hour shifts due to the large number of orders, which means that during these 12-hour shifts, they were -- their lungs were bearing the burden of equivalent to a shift and a half every single day, not to

mention how for these negative-pressure respirators, the machine operating the respirator is the employee's lungs. The respirable crystalline silica occupational exposure limits were based off of an eight-hour workday and for many fabrication shops, the actual dose time is much longer.

If we were to be protective, we would want to reduce the action level and the PEL even further threshold during these longer shifts, which is another reason why respiratory protection to reduce exposure further is critical to protecting worker health and reducing the risk of developing accelerated silicosis.

Next slide, please.

I want to thank my colleagues that helped collect and analyze the data. We had an external researcher, Dr. Jhy-Charm Soo, who was a biostatistician, conduct the statistical analysis and my colleagues Hilarie Warren, Brandon Philpot, Sean Castillo and I were the consultants who collected the data and performed the visits.

Next slide, please.

And thank you so much for your time and I'd be happy to answer any questions you have.

CHAIR ALIOTO: Thank you so much, Doctor. It was a very informative, eye-opening presentation.

Mr. Berg, how do you want to do this? Would you like to have all of your presentations or should we do questions one at a time?

MR. BERG: Would you prefer to have questions now, Dr. Houlroyd, just so you can leave if you have to leave? I know you're three hours ahead of us.

CHAIR ALIOTO: Why don't we see if -- if it's okay with you, Doctor, we'll ask you questions about your presentation now --

DR. HOULROYD: Okay.

CHAIR ALIOTO: -- and if you are able to stay until the end of the other presentations for potential follow-ups, that would be great. If you have to go, we recognize that it's 3:30 in -- where you are, I think.

DR. HOULROYD: Yes.

CHAIR ALIOTO: Okay. So we completely understand. I don't want to take up too much of your time.

DR. HOULROYD: I'd be happy to stay. Thank you.

CHAIR ALIOTO: Okay. Thank you.

Are there any questions from the Board for Dr. Houlroyd? Please.

BOARD MEMBER THOMAS: Yeah. I was just looking at the statistics here. Is it possible to work safely in this industry without destroying your lungs over a period of time, even with controls?

DR. HOULROYD: It is my professional opinion, as long as the high-silica-content engineered stone slabs are present, I do not -- we have not been able to consistently and effectively get companies to keep their exposures below the occupational exposure limits, so no.

BOARD MEMBER THOMAS: Thank you.

CHAIR ALIOTO: Any other questions? Mr. Urwin?

BOARD MEMBER URWIN: You mentioned in one of your last slides that when engineering controls were in place that some of those worker protections were relaxed. Can you just mention what those protections were that you observed that were relaxed and the presence of engineering controls, whether they were functioning or not?

DR. HOULROYD: Yes. Thank you for your question.

Oftentimes when people cut wet or polish wet, we see them feel that the water is protective enough and so they cease to wear respiratory protection. There's a myriad of reasons of why they want to do it. Respirators are hard to breathe through and it's hard to wear them all day long and so they create a false sense of security that if they're doing some form of engineering control, they've reduced the risk enough to make it comfortable to not wear a respirator, and that's most common what we see.

BOARD MEMBER URWIN: And just a follow-up question: Are there ways that the effectiveness or the correct function of engineering controls are measured in these environments or is it just, Hey, the device is on or it's not on?

DR. HOULROYD: That's another great question. I have visited many stone fabrication shops and many just industrial plants in general and what I find is that the effectiveness of controls actually varies hour to hour for some of these control methods and what we see sometimes is that the water flow for the fully integrated tools, they will adjust the water flow so that they can better see the edges in which they're working, and so I have witnessed to be able to see a tough corner of a sink hole that they're working on, they may temporarily turn off the control measure and then turn it back on. So that's the first element, so that time by time.

The second element is anecdotally, many, many fabricators have told me that the product itself breaks down the engineering controls over time so that the engineering controls themselves were not necessarily designed to handle the dust that is produced from the engineered stone slabs. So that's another element, which was the case with the water curtain ventilation system.

And they're pretty frenetic job sites where

they're fabricating stone slabs, so sometimes things can get -- sometimes there is poor management of it over time.

BOARD MEMBER URWIN: And sorry. Just to close out the question, just for like the layperson, right, so there's no green, yellow or red light that indicates your engineering control is currently functioning and/or effective. Is that correct, if I've understood your explanation?

DR. HOULROYD: Yes. For the most part, there is no green/red light. Sometimes ventilation systems will have a dial that tells you whether or not they're functioning, but that -- there's also the positioning of the ventilation system adjacent to the slab that has an impact on that as well.

BOARD MEMBER LASZCZ-DAVIS: I've got a question.

It seems to me, given that this is a profession and a product that's fairly lucrative, that the consortium of fabricators would have got together in some such, some sort of forum to develop best practices in terms of engineering controls, especially when you profile the issues as you have. I mean, does such a consortium exist?

DR. HOULROYD: There are professional associations and I believe that they are presenting today as well.

BOARD MEMBER LASZCZ-DAVIS: Okay. Thank you.

CHAIR ALIOTO: Other questions for the doctor?

All right. Doctor, I have a couple.

The data you just presented, we've been hearing a lot about respirable crystalline silica for months now. I felt that I had a pretty good control of some of the facts. You've presented something that in my opinion has now opened a bit of a Pandora's box in light of what you've just presented, so I want to ask you about the quality of your data because if your data is accurate, then I think that will change things potentially.

You mentioned at the outset that you presented your data to a journal, I think. Was that journal peer-reviewed?

DR. HOULROYD: We just submitted it, so we're waiting to hear back if it's been accepted, but it would be peer-reviewed if it's accepted, yes.

CHAIR ALIOTO: I see. All right.

And have you had any -- has there been any criticism of your data with any others with whom you've shared it or them?

DR. HOULROYD: Not that I'm aware of. All of the data collection, we follow the methods and procedures that are policy in the CPPM, which is the Consultation Procedures and Policy Manual, and we sent the data to a

third -- an external person to do the analysis to add the integrity of the data analysis.

CHAIR ALIOTO: Has there been any independent review of your data or its collection?

DR. HOULROYD: We are planning on publishing the entire dataset to allow that to happen.

CHAIR ALIOTO: Yeah. Understood.

And then your sponsor you mentioned is the U.S. Department of Labor. Were there any other sponsors to your study besides Labor?

DR. HOULROYD: No. There was not and, in fact, the -- it was all part of Consultation and the Susan Harwood Training Grant.

CHAIR ALIOTO: All right. So in light of all of that and assuming -- and I have no reason to doubt the integrity of your data at all -- and assuming it to be correct, to follow up on Board Member Thomas's question, there's not a safe way to do this even using wet methods unless you have a full-face mask. Is that a correct conclusion?

DR. HOULROYD: That's correct.

CHAIR ALIOTO: What did you -- what did you mention toward the end of your presentation about use of a half mask?

DR. HOULROYD: So when you look at -- just to kind

of -- I'm sorry if I'm saying this too simply. I just want to make sure everyone in the room understands.

So when you do air sampling for any type of exposure, you have what's called the Assigned Protection Factor, which tells you how many times that exposure limit you can be exposed to and consider that mask to still be working, and so for the images that I shared where there was the employee and the engineering control failed, he was wearing a half-mask elastomeric respirator, which means in theory, he could be exposed ten times the permissible exposure limit. So that would be 50 times 10, so he could be exposed up to 500 micrograms per cubic meter before we would expect that half-mask elastomeric respirator to fail. That employee was exposed to -- over a full shift to 5,100 micrograms per cubic meter.

So doing the math with that, he would need more than 100 times the limit or an Assigned Protection Factor of 100 or greater, which means you would be jumping into either the power -- the tight-fitting powered air purifying respirator as is proposed in the silica standard, per Cal/OSHA.

CHAIR ALIOTO: All right. Just a last set of questions that I had for you. You mentioned that you had served as an expert witness. Is that in a federal court?

DR. HOULROYD: That was in California and it was a civil case.

CHAIR ALIOTO: Okay. So was that in a California court?

DR. HOULROYD: Yes.

CHAIR ALIOTO: So California state court. And did -- were you qualified as a witness in that case -- I mean qualified as an expert?

DR. HOULROYD: I was called as an expert, I was deposed, and then I was actually not -- I didn't end up testifying.

CHAIR ALIOTO: Okay. So you were -- was there ever any kind of motion filed about your expert status in the court or anything of that nature?

DR. HOULROYD: Yes, there was, but I am not a lawyer, so I don't -- I'd have to call somebody else to explain the specifics of that.

CHAIR ALIOTO: I completely understand. I completely understand. All right.

DR. HOULROYD: But yes. I was deemed because the data that I was referencing with Consultation had not been formally published that I could not be qualified as an expert.

CHAIR ALIOTO: Okay. Understood. All right. Great.

What is the time frame do you think for the peer

review of your data?

DR. HOULROYD: I am not sure. We can reach out to the journal and ask. I'd be happy to do that.

CHAIR ALIOTO: That's all right. Thank you so much.

Did anybody else have any follow-up?

Oh, yes. Chris, go ahead.

Thank you, Doctor.

BOARD MEMBER LASZCZ-DAVIS: You know, I don't know if it's appropriate for me to ask, but let me go ahead. I'm sure somebody will tell me to stop if it's not appropriate.

Have you had a chance to read the proposed silica standard?

DR. HOULROYD: Yes, I have had a chance to read the proposed standard.

BOARD MEMBER LASZCZ-DAVIS: And do you think it goes far enough to address the issues that you've identified?

CHAIR ALIOTO: Yeah. Good question.

DR. HOULROYD: I don't know that I'm qualified to say that per se because I know that my doctorate is in public health policy and I know how complex the policy window is. So in an ideal world, I would look to what Australia did and -- but I understand the framework that we're working with.

BOARD MEMBER LASZCZ-DAVIS: Okay.

DR. HOULROYD: I don't know if I answered that appropriately either.

BOARD MEMBER LASZCZ-DAVIS: I mean, I appreciate your stance.

MR. BERG: Australia banned artificial stone. It's completely prohibited, so that's the reference.

BOARD MEMBER KENNEDY: So I'm sorry. This actually is a question that you can probably answer, but there may be other people in the room who can answer it also.

I'm curious, this seems to me while these slabs for countertops are quite large -- when they're working on them, it does seem to me this is a process that could be enclosed and operated, say, computer-controlled or even in a glove box type situation perhaps, although that might be unwieldy, and I'm just wondering if you or anyone else in this room has seen that type of operation, if that exists.

DR. HOULROYD: For the countertop shops that I visited, none have fully enclosed their operations.

MR. BERG: We had in our original proposal a negative -- negative pressure enclosures like that's required for asbestos, but the industry mentioned that they use cranes to lift the product, so it would -- it would not be possible for them to do that, so we eliminated that.

BOARD MEMBER KENNEDY: Okay. It seems to me it could be closed after the piece was put in place but maybe not. I don't clearly understand the process entirely and I'm not trying to take away from this presentation, but maybe later when there are comments, someone will address that question if they know an answer.

CHAIR ALIOTO: Any other questions from the Board for Dr. Houlroyd? No. All right.

Mr. Berg, please continue, thank you, sir.

MR. BERG: Thank you very much.

CHAIR ALITO: Doctor, thank you so much for your time. If you're able to stick around, that would be very helpful and terrific. If you're not, it's completely understood and we really appreciate your input.

DR. HOULROYD: I'd be happy to stick around. Thank you very much for the opportunity to present.

CHAIR ALIOTO: Thank you.

MR. BERG: And thank you for your presentation. It was excellent.

Next we have Dr. Amy Heinzerling. She's the Chief of the Emerging Workplace Hazards Unit in the Occupational Health Branch of the California Department of Public Health. Thank you, Dr. Heinzerling.

CHAIR ALIOTO: Good afternoon.

DR. HEINZERLING: Good afternoon. I'll give them a

moment to pull up my presentation here before I get started. It looks like it's all set.

All right. Good afternoon, Chair Alioto and Members of the Board. Thank you very much for having me again here to speak with you today.

As you heard from Eric, my name is Dr. Amy Heinzerling. I'm a Public Health Medical Officer with the California Department of Public Health Occupational Health Branch where I lead our Emerging Workplace Hazards Unit.

I'm here today on behalf of the California Department of Public Health to share updates about silicosis among about engineered stone countertop fabrication workers in California and to urge your support for the proposed revisions to the silica regulation that are before you for a vote today.

The CDPH Occupational Health Branch has been tracking cases of engineered stone silicosis since we identified the first cases in 2019. This slide shows the number of engineered stone-related silicosis cases by year identified. As you can see, the rate of case identification continues to accelerate. This year alone we've identified more than 100 cases, an average of more than two cases per week.

To frame it another way, at the time of the

Standards Board vote on the Western Occupational and Environmental Medicine Association Petition for an emergency temporary standard for silica in July of 2023, CDPH had identified 52 cases of silicosis among California engineered stone countertop fabrication workers, including at least ten deaths and three lung transplants.

Now, a year and a half later, the number of cases has more than quadrupled. As of this past Monday, December 16th, we had identified 230 cases of engineered stone silicosis, including at least 14 deaths and 27 lung transplants and in the few days since I finalized these slides, these numbers have already changed. We've learned of an additional death and two additional lung transplants, bringing the total to at least 15 deaths and 29 lung transplants among these workers.

As alarming as these numbers are, we're concerned that these cases are just the tip of the iceberg. To date, we've identified more than 800 countertop fabrication shops in California, likely representing 5,000 or more workers.

In a prior study at one employer here in California, we found that 12 percent of their workers who were screened for silicosis using chest X-ray had silicosis.

In Australia where screening programs use more sensitive chest C.T. scans, they found greater than 20 percent of countertop fabrication workers have silicosis.

If you apply these rates to the estimated 5,000 workers in California, that would represent somewhere between 600 and more than 1,000 workers with silicosis, which is three to five times those more than those that we know about already. These additional cases may be in workers who have not yet been screened or not sought medical care, whose diagnosis has not yet been recognized by providers or whose diagnosis has not yet been reported to Public Health.

Almost all of the affected workers we've identified in California are young Latino men with a median age at diagnosis of 46. These are not workers with minor recoverable work-related injuries. These are young workers like Leobardo Segura Meza, pictured here at age 27, who spoke to the Standards Board last July with an incurable, disabling, and ultimately life-limiting disease.

Silicosis occurs when silica dust is inhaled deep into the lungs, causing inflammation and irreversible scarring which makes it harder and harder over time for the lungs to take in oxygen. As the

disease progresses, it leaves these leaves these workers too short of breath to walk down the street or to play with their children, let alone to continue working and supporting their families.

Silicosis is a devastating disease, but it is also entirely preventable with reduction or elimination of silica dust exposure. Engineered stone, however, with its very high silica content makes it very challenging, meaning that multiple levels of controls, as you just heard, are needed to adequately protect workers.

Engineering controls like water-fed tools and appropriately installed ventilation are necessary to reduce dust levels, but as you just heard very clearly from Dr. Houlroyd, their effectiveness is typically dependent on being correctly installed and used.

As I pointed out when I spoke to you previously back in October, the data that the stone industry presented to you in September showed that even with wet methods in use, a quarter of the air samples from their shops still exceeded the action level for respirable crystalline silica. The numbers from Dr. Houlroyd's shops are even worse with over 50 percent of samples exceeding the permissible exposure limit, even with wet methods.

As in the current emergency temporary standard,

the proposed revisions to the permanent permanent silica standard significantly strengthen engineering control requirements as well as Cal/OSHA's enforcement abilities which are essential components of reducing exposure, but because engineering controls alone do not guarantee adequate risk reduction, appropriate respiratory protection is also needed. Cal/OSHA's proposed revisions, with which strengthen respirator requirements for high-risk workers, would help ensure that workers are adequately protected.

You'll likely hear from the stone industry today that for responsible employers with engineering controls in place, respirators are not needed; but as I just mentioned, their own data show that even with wet methods in place, a quarter of workers in their own trade association members' shops remained exposed; and as you heard from Dr. Houlroyd today, workers' exposures can vary dramatically from day to day depending on the task being performed and the material being fabricated. So even if exposure monitoring data on one day show worker exposures below the action level, that does not guarantee that exposures are always well controlled.

Cal/OSHA has already appropriately addressed this concern from the industry by including a provision in the proposed regulation for responsible employers.

In the regulation before you today for a vote, if employers can demonstrate strict compliance with the standards requirements, workers can wear lower-level respirators with an assigned protection factor of 10 or greater rather than a full-faced, tight-fitting PAPR with an assigned protection factor of 1,000 or greater.

We believe that this proposal strikes an appropriate balance adjusting respirator requirements based on controls that are in place while ensuring that workers continue to have a necessary additional level of protection.

The proposed revisions also significantly improve medical surveillance requirements in the standard. Under the current silica regulation, employers must offer silica-exposed workers a medical surveillance examination at baseline and then three years. This exam includes a chest X-ray and other components that screen for silicosis. Unfortunately, however, chest ray chest X-ray has been shown to be an inadequate tool for detecting silicosis in engineered stone countertop workers.

In Australia, where they've done extensive screening of current and former workers in the industry, they found that about 40 percent of cases of engineered stone silicosis are missed on chest X-rays. They instead

recommend the more sensitive chest C.T. scans, which are much better at detecting silicosis, particularly in its early stages.

CHAIR ALIOTO: Doctor, could I interrupt you briefly?

DR. HEINZERLING: Sure.

CHAIR ALIOTO: We have interpreters and a transcribers --

DR. HEINZERLING: Slow down?

CHAIR ALIOTO: -- and some of this is fairly technical. You are doing a fabulous job, but if you could just slow it down a little bit, I'd appreciate it. Thank you.

DR. HEINZERLING: I'm happy to. No problem.

So as I was just saying, in Australia, they're now recommending chest C.T. scan rather than chest X-ray for screening for silicosis, which is a much more sensitive tool.

The proposed revisions to the silica regulations would, therefore, require low-dose chest C.T. instead of chest X-ray for initial and periodical medical examinations for workers exposed to high-exposure trigger tasks. CDPH strongly supports this change, which will help improve detection of silicosis for high-risk workers.

Early detection of silicosis in these workers is

crucial, as it both can help prevent additional silica exposure going forward as well as ensure that these workers are receiving the appropriate medical care.

I want to end today with a reminder of the workers behind the numbers I've presented to you.

Pictured here are Juan Gonzalez on the left and Gustavo Reyes on the right, two California countertop fabrication workers who became ill with silicosis in their early thirties. They were both featured in news stories about this issue in late 2022. At the time these photos were taken, both were awaiting lung transplant.

Gustavo, on the right, later received a lung transplant and is doing well, though he, like other workers who've undergone lung transplant, still faces a limited life expectancy and the need to take powerful immunosuppressant medications for the rest of his life.

Juan, on the left, passed away in the intensive care unit before a donor lung became available, leaving behind four children.

Workers should not be dying or needing lung transplants for the sake of our kitchen countertops. Artificial stone is a uniquely hazardous material and it should be regulated as such. The proposed revisions to the permanent silica regulation that are before you today for a vote do exactly that.

You'll likely hear from the stone industry that more time is needed for Cal/OSHA to work with industry and other stakeholders to amend the proposed regulation, but Cal/OSHA has already been doing exactly that for the past year. CDPH has been part of many of those discussions and Cal/OSHA has already made changes in the proposal in response to industry concerns.

We certainly look forward to continuing to work with partners at Cal/OSHA and in the industry on how best to keep workers safe, but this should not prevent moving forward with today's regulation.

If you do not approve the proposed revisions today, the emergency temporary standard that is currently in place will lapse at the end of the year. It cannot be extended any further. These workplaces would revert to being regulated only by the general silica standard, which does not give Cal/OSHA the tools it needs to ensure these workplaces are safe.

With new cases of this disabling and incurable but preventable disease being identified every week, these workers cannot afford that lapse in protection nor could they afford any more delays.

You have before you today the opportunity to take necessary and historic action to protect them. On behalf of the California Department of Public Health, I

urge you to vote in favor of the proposed revisions.

Thank you very much for your time and I'm happy to answer any questions.

CHAIR ALIOTO: Doctor, thank you very much. I'm going to start with one.

DR. HEINZERLING: Sure.

CHAIR ALIOTO: Do you still believe that the regulation that allows for the use of a half mask if a manufacturer has complied with certain engineering controls is sufficient to keep workers safe?

DR. HEINZERLING: So that -- and I'll let my colleagues from Cal/OSHA correct me if I'm wrong here, but that provision only applies if a workplace can show that they've conducted air monitoring every three months showing levels below the action level, that all of their workers have participated in their medical surveillance program, and that there are no current or former workers who've been diagnosed with silicosis.

I think that those three criteria together, you know, are a reasonably good level of insurance that those employers are doing the right thing. I think, you know, there's always going to be some uncertainty remaining, but I think that's, you know, an appropriate compromise.

CHAIR ALIOTO: Questions from the Board?

BOARD MEMBER THOMAS: So you mentioned -- well, my

question is are there any current shops that apply all those controls to make workers I guess as safe as you can make them?

DR. HEINZERLING: I think you'll hear in the presentation from the stone industry about some of those shops. I think that there are certainly shops out there who go above and beyond to apply controls and protect their workers, but I think that's a very small fraction of this industry and I think even with all of those controls in place, based on what we know based on what you just heard from Dr. Houlroyd, it's very challenging to guarantee that workers are sufficiently protected 100 percent of the time to go without any respiratory protection.

BOARD MEMBER THOMAS: And do you believe that the full respirator, the full mask, a scuba gear type, is really the safest way to work in that industry?

DR. HEINZERLING: I think it provides a necessary additional level of protection; right? We're all familiar with the hierarchy of controls. You know, ideally we'd be up at the top talking about using safety products and ideally we'd have engineering controls in place that would sufficiently reduce exposures, but I think with all the data that Dr. Houlroyd presented and what we're seeing in these cases of silicosis that we

keep identifying tells us that this is a material that's very challenging to work with safely, even if even if you're trying to do all the right things.

BOARD MEMBER THOMAS: Thank you.

CHAIR ALIOTO: Any other questions for Dr. Heinzerling?

Thank you, Doctor.

DR. HEINZERLING: Thank you.

MR. BERG: Thank you. Thank you very much, Dr. Heinzerling.

And then now we'll have the DOSH presentation. I'll do the first three slides and then Dr. Michael Wilson will do the rest of the slides.

Thank you very much.

All right. The goal of the permanent silica regulation that would replace the emergency regulation is to stop the silicosis epidemic that Dr. Heinzerling talked about that is going on right now and it's killing workers, permanently and severely disabling workers, and destroying their lives and their families' lives.

That is the goal of this proposal and here are some of the topics we'll go over in our presentation: A brief review of the industry and the taking of the market by artificial stone; the special emphasis program we had in 2019 and 2020; the deficiencies in the existing

Section 5204 that was in place before the emergency regulation. Silicosis disease projections, I'll skip over that because Dr. Heinzerling already spoke about it. Enforcement inspection update date in this year, 2024; and then the risks and hazards of artificial stone; and also going more into exposure interpretation and then a summary of the proposed revisions to Section 5204.

A brief information on the industry: You see these beautiful shiny countertops. They often come from these shops that can be very dusty. I know there's some exceptional ones that are clean, but they can also have high exposures, but we see many shops like this that are very dusty. And just even if you're not working on anything, just walking through this dust can create exposures over the permissible exposure limit. So just having it on the floor and on the surfaces, it can just be dangerous by itself without even counting the cutting.

And just some of the processes that create very high exposures: Here's grinding to create the bullnose edge on that countertop, edging, and then polishing.

And then as this graph shows, global demand for artificial stone countertops has been steadily increasing 5.4 percent per year to 97 million square meters anticipated in 2028.

Here's some quotes from a market research firm

for the industry that looked at demand for global artificial stone -- or sorry -- artificial stone demand, global demand in this ten-year period, 2013 to 2023.

> "In 2023, North America accounted for the largest regional share, 32 percent, of global engineered stone countertop demand."

So that's here in the United States for the most part.

> "In 2023, a major global development in the market occurred when Australian authorities imposed a national ban on engineered stone products beginning in mid 2024."

And so products are being developed with zero crystalline silica as a result of this ban. So this regulation is creating a positive move.

And the third bullet, this market research has pointed out that:

> "New Zealand and the U.S. state of California have also raised concerns about the adverse effects of silica dust, which could possibly lead to wider scrutiny of these products."

And we're doing that now. We're help leading the fight to protect workers from this product, this

dangerous product.

And the last bullet:

"Major engineered stone producers such as Cosentino and Caesarstone have been investing in formulation changes to lower the silica content of their products."

So positive changes from the industry as a result of these regulations.

I'll go over the 2019 and 2020 inspections we did. I've covered this before. We found widespread compliance when we did these inspections with the old Section 5204, which is much more difficult to enforce, but 72 percent of the countertop employers are in violation of Section 5204 at the time.

Only 5 percent of the workers received the required medical exam, so very few are actually getting that, and 45 percent of workers reported using wet methods, so almost half.

And here was the exposure monitoring we did looking at 47 different companies where we did an exposure monitoring, and over half of the companies had exposure over the PEL and a much larger percent had over the action level PEL and it varied widely. As Dr. Houlroyd pointed out, it can vary widely, the exposures, from day to day.

I'll go on to the deficiencies of the 5204 that existed before we had the emergency regulation.

It has some pretty large loopholes or exceptions in it. 5204 allows employers to avoid implementing key protections in the regulation by claiming these protections are infeasible. So it simply makes statements infeasible and they're pretty much done. They don't have to do anything unless we come in and then we have to demonstrate that it is feasible, so we gather and approve them.

Then objective data: Section 5204 allows employers to exempt themselves from the standard in its entirety by claiming that silica exposures are likely below the action level without conducting exposure monitoring themselves.

And thirdly, monitoring: Section 5204 allows employers to conduct air monitoring on a single day and exempt themselves from further monitoring for that task from that point onward, you know, for the rest of time, for forever, if the results show exposures are below the action level. So one exposure monitoring and you could be done forever and ever and never have to do anything ever again. So that is very unprotective.

I'll skip over this because Dr. Heinzerling already spoke about it and has more current data.

So now I'll go over some of the stats we have for this year's inspections. I had mentioned some from the 2019-2020 Special Offices Program. So here we are also doing the Silica Inspections Program for 2024 and so we have opened 85 enforcement inspections since the emergency regulation came into place at the end of 2023.

And so of those 85 inspections, 56 are closed. So they finished the inspections and then issued citations to the employer and then the employer's then required to abate everything.

29 of those inspections are still ongoing. So 53 of the 56, or 95 percent, had violations, so nearly every single place inspected had violations and had to fix those to come into compliance. So that's a large number of shops that are bad and hopefully are much better now.

And 22 of the 85 shops were issued Orders Prohibiting Use, so they were doing something really dangerous like dry cutting or no respiratory protection and so we shut them down until they fixed it and then once they fixed it, then we lift that Order Preventing Use and they can go back to work.

Here's some quotes from one of our industrial hygienists, Karen Smith. She says she's averaging about ten citations per countertop inspection. Other CSHOs

she's talked to are finding similar results. Even cutting wet, they are still over the PEL.

So that corroborates what Dr. Houlroyd was saying and Dr. Heinzerling.

> "By issuing OPUs without sampling, we can stop exposures immediately. We are also requiring a higher level of protection for those workers once the shops do reopen."

So the emergency regulation is making a big difference in being able to protect workers.

And then I'll hand it over to Dr. Wilson.

DR. WILSON: Okay. Good afternoon, Chair and Members. I'm going to continue to speak to the question of risk, both -- risk as a function of both hazard and exposure, and those are the two elements that come together that determine the likelihood that a worker is going to be harmed.

So I'm going to start here. There we go.

So as we've heard today, artificial stone, a dangerous, potentially deadly combination of: Very high silica content, 93 percent or greater. Cutting it produces high concentrations of ultrafine particles, less than one micron in diameter; large reactive surface areas that enter the deep lung. Particles have irregular shapes, sharp edges, fractures that increase the rate of

cell lysis that leads to lung scarring. And there are also the volatile organic compounds, or VOCs, from the resins that are emitted during the cutting from the material.

So I'm going to summarize a few studies among many in the epidemy epidemiology and toxicology literature regarding the hazards of this, of the product.

So this is the study from Hoy, et al. last year, who looked at 544 workers. 74 percent were exposed to artificial stone more than 50 percent of the time and dry processing was common. 117 of these 402 workers, or 29 percent, were diagnosed with confirmed silicosis. Their median exposure duration was 12 years. Most cases did not experience coughing or shortness of breath and so medical surveillance is, therefore, key.

In 2020, Wu, et al. evaluated 18 patients with artificial stone-associated silicosis. The median exposure duration was just six years. 22 percent of these patients experienced rapid deterioration in six to 12 months, 40 percent required lung transplant and 28 percent died, which was five of those 18. Wu compared these patients against 63 patients with natural stone-associated silicosis and the median exposure duration was 30 years. Only 3 percent required lung transplant and there were no deaths.

In 2020, Leon-Jimenez, et al. evaluated 106 workers with confirmed silicosis resulting from exposure to artificial stone dust. They were all removed from exposure. 35 workers, or 33 percent, with simple pneumoconiosis advanced to progressive massive fibrosis over a mean of just four years, compared to granite workers and former coal miners, where 10 percent advanced to pulmonary massive fibrosis over a mean of 22 years.

The investigators concluded that silicosis from exposure to RCS and artificial stone is aggressive and exhibits rapid disease progression in a high proportion of affected individuals.

So two more. This is Ramkissoon from last year, pointing to the hazards of the volatile organic compounds that are released during cutting, grinding, polishing, and other tasks during fabrication of artificial stone products.

These VOCs included phthalic anhydride, styrene, benzene, ethylbenzene and toluene. Phthalic anhydride made up 26 to 85 percent of the total VOC content. Phthalic anhydride and styrene are respiratory irritants and the others are carcinogens.

And finally, in 2022, Ramkissoon looked at artificial stone again, finding that 80 percent of the mass of the dust consisted of respirable crystalline

silica and when he compared that against natural stone showed that 40 to 30 percent of the mass of the dust consisted of respirable crystalline silica.

So they found that 90 percent of dust particles in both artificial and natural stone ranged from point 19 to point 83 microns, so they penetrate into the deep lung, but essentially what we're seeing is a very large proportion of the respirable dust in artificial stone is respirable crystalline silica for, you know, 80 percent versus 4 to 30.

I want to -- I have one other finding from last year from colleagues at the School of Public Health at Monash University in Melbourne, where they summarized the current state of knowledge on the hazards of artificial stone, stating that, and I quote:

> "There is now global evidence of high incidence of silicosis associated with workers processing artificial stone with a pattern of relatively short exposure times, four to ten years, with severe disease emerging in young workers."

Chair?

CHAIR ALIOTO: Would you mind if I interrupted you briefly?

DR. WILSON: Of course.

CHAIR ALIOTO: Are you aware of any studies that have in any way duplicated or looked at or that would perhaps not replicate but reflect the conclusions of Dr. Houl--

DR. WILSON: Houlroyd?

CHAIR ALIOTO: Yes. Thank you -- regarding the presence of silica dust in -- using the wet methods?

DR. WILSON: I do and I'll speak to those. In addition to Dr. Houlroyd's work, NIOSH has demonstrated this as well.

CHAIR ALIOTO: Okay. If you could at some point during your presentation talk about those, the presence of the dust and then perhaps the percentages of whatever else when using the wet method, that would be helpful.

DR. WILSON: Great.

CHAIR ALIOTO: Thank you. Sorry to interrupt.

DR. WILSON: No. Of course.

Okay. So I'd like to move on to the exposure interpretation and this is important in the proposed revisions to Section 5204 which allow for less protective respiratory protection if the employer evaluates exposures every six months using a qualified person and shows that those exposures are below the action level for RCS of 25 micrograms per cubic meter.

In addition, the question of exposure is also at

the heart of the argument made by the fabricated stone industry, which has continued to seek relief from the worker protections required for high-exposure trigger tasks if the employer can demonstrate that RCS exposures are below the action level.

So what does it mean to conduct sampling for RCS and show that exposures are indeed below the action level?

So this is picking up from Dr. Houlroyd and Dr. Heinzerling's presentation. With picking up on this key point that they made that even among similar exposure groups, so these are people who are sort of doing the same tasks, worker exposures vary widely. They vary day to day for the same worker, they vary across different workers and tasks, and they vary over time. So conducting representative samples -- sampling is really challenging.

So this slide shows individual eight-hour time-weighted average exposure levels for 250 workdays or one year for a worker performing the same task. The horizontal axis represents the day the sample was taken and the vertical axis shows the exposure concentration that day. So each red dot represents an eight-hour time-weighted average daily exposure concentration.

The red horizontal line represents an

occupational exposure limit or an action limit and you can see that exposures vary more than sixfold essentially from 0 to nearly 6.5. Most exposures are below the OEL line.

And I want to thank Dr. John Mulhaussen for this slide and a few others I'm going to present. He presented this work at the California Industrial Hygiene Conference earlier this month and he generated these exposure profiles based on his work as Director of Industrial Hygiene at 3M.

Yes, Dr. Kennedy? Please

BOARD MEMBER KENNEDY: I'm interested since there are no units on concentration, but do you know what the average of all those values was? I mean, is it the red line?

DR. WILSON: No. The red line is an -- so this is an --

BOARD MEMBER KENNEDY: It's there.

DR. WILSON: So this is generated data that Dr. Mulhaussen produced to demonstrate the fact of variability across the --

BOARD MEMBER KENNEDY: Yes, I understand that. I'm just curious what the average level was since time-weighted averages represent a 40-hour workweek over a lifetime. I'm curious what the average level is over

this variability and then what the units are for concentration.

DR. WILSON: Yeah. Well, let's see if I answer that question --

BOARD MEMBER KENNEDY: Okay.

DR. WILSON: -- as we get into it.

BOARD MEMBER KENNEDY: Thank you.

DR. WILSON: So the concentration that's on the vertical axis ranges from 0 to 6.5. This is a theoretical distribution.

BOARD MEMBER KENNEDY: Do you know what the units are?

DR. WILSON: There are -- no units are provided. It's -- the units are from 0 to 6.5, but this is -- he's not demonstrating micrograms per cubic meter or PPM. He's just demonstrating the --

BOARD MEMBER KENNEDY: Percentage of an action level?

MR. BERG: It's a ratio compared to the occupational exposure limit.

BOARD MEMBER KENNEDY: Perfect.

DR. WILSON: There's that, yeah.

BOARD MEMBER KENNEDY: Thank you.

DR. WILSON: So the point of this is you can see what happens if -- if you take samples across -- so a worker who's experiencing this sort of exposure variability

overtime. You take samples. You would take five samples and you happened to take them here on these days versus if you take them on these days and so what you can see is that you get a very different impression of the exposures happening to this worker from the blue samples versus the ones from the red samples and it's simply a matter of the days that you took those samples.

Now, this sort of problem of variability becomes more extreme when you add more workers into the mix. So this is ten workers with exposure profiles over the course of 250 workdays. If you take five full-shift samples from these ten workers in a similar exposure group, which together worked 2500 days each year, you end up with 0.2 percent of their exposures for that year. Measuring 0.2 percent exposures can in no way reasonably capture the exposure conditions of these workers. So how do industrial hygienists capture and characterize exposures?

So studies published since the 1960s, as Dr. Houlroyd described, show that exposure data are lognormally distributed. So if you took all if you took samples from all of those workers over 2500 days and dumped them into a distribution from low to high in their exposure concentration, this is what it would look like. They're lognormally distributed, so they don't follow a

standard bell shape normal distribution that characterizes most types of data.

So what you see here is exposure concentration on the horizontal axis and measurements or the number on the vertical axis.

This profile is typical of worker exposures across multiple types of industries, hazards, time periods, and so forth. So the lognormal distribution is powerful because we can apply exposure measurements to it mathematically as a probability distribution. We can then calculate a geometric mean, standard deviation, and we can illustrate the full-exposure profile using a small number of samples.

So we're basically inferring what the true exposures are by applying our sample data to the mathematical properties of this distribution.

One other feature of this distribution is that we can calculate the 95th percentile of the exposure distribution and so in good industrial hygiene practice, again, as Dr. Houlroyd mentioned, the upper 95th percentile of the exposure distribution needs to be below the action level. This is showing a theoretical exposure distribution for 2500 samples from ten workers where most samples are down in the low to medium exposure range but some are much higher up in the right tail. We need to

pay attention to the tasks that resulted in these high exposure concentrations and protect those workers who are performing those tasks. We do not want the 95th percentile of the distribution to exceed the action level.

So what does this all the mean in practical terms? We're taking these samples, estimating from what we looked at, our five samples. We're using knowledge of the underlying shape of the lognormal distribution to generate an exposure profile of these ten workers and this is how you characterize the actual exposure conditions based on a small number of samples. You don't do that by evaluating the small numbers of samples themselves and consider those -- considering those to be true.

So I'm just going to do a quick example here. So if we think of the action level as 25 micrograms per cubic meter and we take five samples, and these are in micrograms per cubic meter, and we get 18 micrograms per cubic meter, 3, 12, 17, 22, the arithmetic mean is 14, the geometric mean of 12, the standard deviation of 2.2 and a coefficient variation of 51 percent. But you look at those five samples and they're all below the action level. And so the question is: Are these workers safe, just looking at what we have in front of us?

So what the American Industrial Hygiene Association has developed is what's called Expostats. It draws on these five datapoints to derive the expected exposure concentration for a one-year period or 250 workdays, fit in mathematically to the lognormal distribution. So the sequential plot shown here relies on the five samples to generate the distribution and shows us what it would look like if we obtained eight-hour samples every day for 250 days. This models a full year of exposure.

What it shows is that even though the measured data are all below the action level, the likelihood is that nearly 20 percent, or what is showing here as the exceedance fraction of 18.8, nearly 20 percent of days over the course of the year will exceed the action level. That comes to 47 eight-hour days where workers would be exposed over the action level.

This program then provides you with the likelihood that based on these samples, what is the percentage likelihood that workers are going to be exposed over the action level? And they use OEL here, but we can also use action level, and it's about 92 percent that is the probability that exposures will occur that are over the action level and that -- even though the measured exposures were all below the action level.

So what happens then if you get one worker in those five who has -- comes back with a high exposure? So everyone else is below the action level and you get one person who comes back with 50 micrograms per cubic meter. It draws again on these five -- the program draws on these five datapoints and what it shows us is that the likelihood -- it's it's that -- that over the course of the year, 30 percent of the days are going to exceed the action level.

Even though, you know, we're looking at samples that you might think, Well, maybe this worker is an outlier or what have you, that comes to 75 eight-hour days and when you look at the probability that workers are over the action level, it's 99 percent. So you have a high-exposure scenario over the course of those days.

So the point of this is to clarify that the first point being that exposures are highly variable for the same worker and among different workers across different days. Sampling a small fraction of days is not able to capture this variability and show actual exposure conditions. If you take exposure measurements for RCS and they happen to show that exposures are below the action level, this does not mean that workers are actually exposed below the action level. In fact, some portion of them will likely exceed the action level

significantly over the course of a year and it's essential that our regulation protects those workers.

For these reasons and given that exposure to RCS from artificial stone has proven to be disabling and lethal, worker protections for high-exposure trigger tasks in our proposed regulation are required in the revisions regardless of employee exposures, exposure assessments or objective data. We do not want to make the health and potentially the life of workers in this industry dependent on highly variable, often misinterpreted exposure measurements. In fact, we believe it would be unethical to reduce worker protections based on exposure assessments when those exposures could result in permanent disability or death to the affected workers.

Finally, when the industry asks for relief from high-exposure trigger-task requirements based on their own exposure measurements, we encourage the Board to keep these elements of exposure assessment and interpretation front of mind.

Okay. Come on back. John?

MR. BERG: There we go.

DR. WILSON: Thank you.

So I'd like to turn now to the proposed revisions to Section 5204 and I'll summarize the final

regulatory text as it compares to the preexisting section.

Okay. So overall, the proposed revision that you have in front of you extends the protections of the ETS into a permanent rule. It improves medical surveillance and exposure assessments. That is by requiring the involvement of a qualified person independent of the employer. It improves silicosis and lung cancer reporting and adds new definitions and a new "Medical Removal" subsection.

So as you recall, if a stone fabrication shop handles artificial stone with more than 0.1 percent silica or other silica-containing products, including natural stone that contain more than 10 percent silica, they fall under the requirements of high-exposure trigger tasks and all of these new requirements apply.

All other stone products end up falling under the preexisting 54 5204 requirements.

So under the Scope and Application, there are exceptions with some caveats. The high-exposure trigger task requirements do not apply to: geologic field research; quarries, mines and concrete and cement manufacturing facilities; manufacturer of fired ceramic or fired porcelain tiles or panels; and the fabrication of finishing or fabrication or finishing of natural stone

tombstones, monuments and so forth.

There are new definitions which we can go into if you're interested. These are for: artificial stone, for confirmed silicosis, employee exposure, high-exposure trigger task, qualified person, suspected silicosis, and wet methods.

Subsection (d) under Exposure Assessment requires that all high-exposure trigger tasks shall be monitored by a qualified person at least every 12 months, or more frequently as required in this section.

This is an exception for high-exposure trigger tasks to the existing language at (d)(3)(B) which states that if initial monitoring indicates that employee exposures are below the action level, the employee -- the employer may discontinue monitoring for those employees whose exposures are represented by such monitoring that Eric Berg referred to earlier.

In subsection (e) and the Regulated Area, (e)(1) requires that all trigger tasks shall be conducted in a regulated area.

This is simply an area demarcated by signage where respirators are required and access is limited to certain persons, and respirators are not required for exposures less than five minutes in an eight-hour period where exposures are less than the action level, as

demonstrated through air monitoring conducted every six months by a qualified person. Employer is required to encourage voluntary use of filtering face-piece respirators during these five-minute entries. So that's also known as an N95.

So under subsection (f) Methods of Compliance, a substantial improvement in the worker and worker protections. Subsection (f) corrects a key weakness in the existing language of 5204, which requires employers to use engineering and work practice controls to reduce and maintain employee exposure to respirable crystalline silica to or below the PEL unless the employer can demonstrate that such controls are not feasible. That's in the preexisting Section 5204. "Feasible" is not defined. So under the existing language, the cost of installing engineering controls could be used as an argument for not installing them. That is, the controls are not feasible because they're too expensive.

We've closed that off-ramp with language requiring engineering and work-practice controls for high-exposure trigger tasks regardless of exposures, exposure assessments or objective data, without exception.

This section requires proper containment of dust and debris from these tasks. High-exposure trigger-task

dust debris must be cleaned up using wet methods or HEPA filter vacuuming. Again, the preexisting section only requires this if it's feasible. There are prohibitions on the use of compressed air, dry sweeping, use of employee rotation as a means of reducing exposure and prohibitions on walking or moving through debris.

And, again, in the preexisting section, the prohibitions on compressed air and dry sweeping are again based on feasibility.

And then, finally, there are additions to the written exposure control plan that include five new requirements that we can go over if there is interest in that.

Subsection (g) is our Imminent Hazards provision and makes the issuance of an Order Prohibiting Use, or an OPU, very efficient for our compliance officers. This is essentially red tagging, if you will, the facility and requiring abatement of imminent hazards before the shop or equipment can be reopened. And as Eric noted, OPUs have been issued for 26 percent of the shops visited by Cal/OSHA this year.

Coming back here, I'll just describe this.

So just one other thing on the Imminent Hazards, if dry methods are being used, it's a mandatory OPU and then there are other OPUs that it's up to the discretion

of the CSHO whether to issue them with violations related to respiratory protection, the reporting requirements, and the carcinogen reporting violations.

So I'm going to turn to respiratory protection, try to here. This is subsection (h). So subsection (h), Respiratory Protection, requires a tight-fitting powered air-purifying respirator with Assigned Protection fracture Factor of 1,000 with a HEPA N100, R100 or P100 filter.

So this is the baseline requirement for all workers in this industry. In the Australian paper from November 2024 published last month that I mentioned earlier, investigators found that 87 percent of more than a thousand workers they studied began wearing respirators as required after the providence of Victoria passed a new regulation for this industry in 2019. These respirators were half or full-face PAPRs or non-PAPRs as well as soft-top hood or helmet PAPRs. The proportion of workers using these masks prior to the regulation was 45 percent.

We believe that this finding helps to support the conclusion that the use of PAPR and non-PAPR-type respirators is feasible in this industry, even if it can be difficult or inconvenient at times to do the work while wearing one.

Now, the respiratory protection requirements have two exceptions.

Under -- exception number 1: A loose-fitting PAPR or a half-face PAPR or full-face nonpowered air-purifying respirator with a HEPA filter is permissible if exposures to RCS are below the action level through representative air sampling taken by a qualified person at least once every six months.

There's a second exception that a respirator with an APF of only 10 with a HEPA filter is permissible if all of those above conditions are met and all employee all employees are participating in the medical surveillance program and there are no silicosis or suspected silicosis cases, and that exception does not apply if the physician or licensed healthcare provider recommends a more protective respirator.

And then a supplied air respirator is required for workers with suspected silicosis or as recommended by the PLHCP.

So why require respiratory protection when wet methods are also required?

And getting to your point, Chair, studies from NIOSH and Georgia Institute of Technology, Dr. Jenny Houlroyd, show that weth wet methods are not sufficient by themselves to protect workers from RCS exposure while cutting, grinding or polishing artificial stone.

So I'm going to show you just a couple of

examples of videos from NIOSH, who did work similar to Dr. Houlroyd and found similar results. So this is a water stream that's an internal stream that's intended to suppress dust. You can see that the water stream is misdirected away from the blade.

Second video -- there we go. Oops. I'm going to go back -- so here you have what's going on here John -- now we have not enough water, causing exposed dry sections of countertop. You can see dust being emitted here. So technically a wet method but clearly insufficient for controlling dust. What NIOSH demonstrated was that flooding the surface and using an internal tool stream was more effective.

Go ahead and play that one, John.

So they're basically flooding water across the surface with a hose. Okay.

CHAIR ALIOTO: But if Dr. Houlroyd's data is correct, even that would be not be sufficient.

DR. WILSON: That's right.

CHAIR ALITO: Okay.

So then under subsection (i) under Housekeeping, the existing Section 5204 includes feasibility exemptions or loopholes, if you will, that allow employers to sidestep essential dust controls during housekeeping tasks such as using wet sweeping methods and not using

compressed air on clothing and surfaces. The revision closes these feasibility exemptions for high-exposure trigger tasks.

So now I'm going to turn to Medical Surveillance. We've added a number of provisions. So initial and periodic exams must be made available at no cost at a reasonable time and place. An initial exam within 30 days is required for employees who are exposed to high-exposure trigger tasks if they if they're exposed at least 30 days each year. And that's, again, regardless of the exposure assessments or objective data, as it's called, unless the employee has received an exam that meets the requirements of the section within the last year.

So does that make sense? If they've received -- yeah. If they've received an exam in the last year that meets the requirements of this section, they don't need an initial exam.

CHAIR ALIOTO: Could I interrupt you briefly?

DR. WILSON: Yes.

CHAIR ALIOTO: We have to take a break soon.

DR. WILSON: Yes.

CHAIR ALIOTO: I'm wondering if this might not be a good hold in your presentation. Is that okay with everybody? Take 15? Let's go ahead and just take --

because we're going to have to come back and go again for another couple hours after this. Let's -- go ahead. Okay.

MS. BARAJAS: We could just take the lunch now.

CHAIR ALIOTO: What's the technical requirement for that?

Folks, let's take ten minutes right now, a quick recess. We'll come back to you to finish up your presentation.

DR. WILSON: Okay.

CHAIR ALIOTO: Thank you.

(Recess)

DR. WILSON: Okay. So I think what we'll do is -- sorry. Chair?

CHAIR ALIOTO: Oh, we're good. Oh, we're on. Okay. Perfect. Go ahead. Sorry, Mike, Dr. Wilson.

DR. WILSON: I will I will, I think what I'll do is touch on these topics and we can come back for questions and I'll sort of just hit the highlights, if you will.

So there's -- so Medical Surveillance has both an initial and periodic exam requirement and the initial exam is required for any worker who performs a high-exposure trigger task more than 30 days per year and if you're not performing a high-exposure trigger task, it's required only if the RCS levels are over the action

level for more than 30 days per year. So there's a little distinction there.

These are the elements of the -- both the initial and periodic exam, and what's been added here is the chest -- about halfway down, the chest X-ray, B Reader, or a C.T. scan if deemed appropriate by the physician or licensed healthcare provider.

And then as Dr. Heinzerling noted, a chest X-ray scan at the lowest -- C.T. scan. Sorry. The chest C.T. scan at the lowest dose possible shall be substituted for a chest X-ray in both the initial and periodic exams for the following, and that's as deemed appropriate by the physician or licensed healthcare provider for any employee with suspected silicosis or any employee who performs high-exposure trigger tasks for at least 30 days each year.

And as Dr. Heinzerling pointed out, what Hoy, et al. have found was that 37 percent of engineered stone silicosis cases are missed by chest X-ray. So this is a C.T. scan to solve that problem.

Okay John, we've gone dark again here.

Okay. So now there are information requirements. This is information that's provided to the physician or licensed healthcare provider by the employer. There's written -- and then the physician's

written report to the employee and then there's a physician's written medical opinion for the employer. And in the end, the physician or licensed healthcare provider is required to provide a referral, if it's appropriate, to a specialist based based on their evaluation.

The final element of Medical Surveillance is -- has to do with additional exams, and where the -- sorry. For any additional exams. So referral to a specialist within 30 days if requested by the physician or a licensed healthcare provider and the employer's required to ensure that specialist reports, those results, come back to the employee within 14 days, and the employer is required to obtain the opinion from the specialist within 14 days.

And the PLHCP then is also required to report to CDPH not only confirmed cases of silicosis or fatalities, but their written silica medical exam to the Occupational Health Branch within 14 days, and this is a way for for Occupational Health Branch to closely track the development of silicosis. So it's a leading indicator, whereas confirmed cases and deaths are lagging indicators.

Okay. So then we have Medical Removal, which is a new section. Sorry.

There we go.

So the employer is required to modify work or transfer the employee if the PLHCP recommends exposure to RCS be reduced. Earnings, seniority, and benefits are maintained for six months or until the employee is able to return to work or the employee is permanently disabled essentially and unable to return to work. If there's a workers' compensation claim filed, wages continue for up to six months during the claim processing. Here we go. Wages and benefits may be reduced based on payments from public or employer-funded compensation programs or income from another employer.

And then there's an Independent Medical Review requirement designated -- the Independent Medical Review is designated by the employee to review findings and conduct tests with costs covered by the employer, and the determination of the second opinion is binding on all parties.

Okay. So then moving on to subsection (l), the new sections require that training and communications be in a language that's understood by employees at an appropriate level of education and literacy that's appropriate for the workforce, and we've added the globally harmonized system for classification and labeling, a health hazard legend which I'll show you in a

second, and the phrase is "Causes permanent lung damage that may lead to death" in place of the existing language where it says, "Causes damage to lung lungs."

The employee information and training must include symptoms of RCS exposure and how to prevent RCS exposure during high-exposure trigger tasks.

This is the warning sign at the entrance to the regulated area:

> "Danger. Respirable crystalline silica causes permanent lung damage that may lead to death. May cause cancer. Wear respiratory protection in this area. Authorized personnel only."
>
> "Peligro. Silice cristalina respirable. Provoca dano permanente a los pulmones que podria causar la muerte. Puede provocar cancer. Usar proteccion respiratoria en esta area."

Subsection (m) -- Okay, where did we go? Okay.

The communication requirements also include measures implemented by the employer to prevent employee exposure to RCS including for high-exposure trigger tasks and -- let's see.

So these are training requirements, the use of engineering controls, work practices and respiratory

protection; the increased risk of death from smoking and RCS exposure and the increased risk of latent TB infection becoming active due to RCS exposure.

And then finally, the communication subsection now requires the employer to encourage employee reporting of symptoms related to exposure to RCS without fear of reprisal. There's an explicit prohibition against taking or threatening adverse action against employees who report symptoms or who suffer from a silica-related illness.

And then there's final section on Reporting of Silicosis. So within 24 hours of receiving information regarding a confirmed silicosis or lung cancer case related to RCS exposure, the employer's required to report that information and there's information items A through K, both to Cal/OSHA and to CDPH. And then within 24 hours of identifying confirmed silicosis or lung cancer cases, health practitioners and specialists must report the case to Cal/OSHA and must comply with silicosis reporting requirements for CCR Title 17, and that has to do with lung cancer and, again, there are information Items A through G that are required in the regulation.

The last -- it is the last subsection that employers -- the addition here from the existing language

is that employers must record the specific product or materials that are the source of respirable crystalline silica, including the crystalline silica content of any such products or materials.

Okay. So we want to thank our colleagues for their efforts and collaboration in protecting vulnerable immigrant workers in this industry. Specifically, the Occupational Health Branch at CDPH, NIOSH, U.C. San Francisco, UCLA, the Georgia Institute of Technology, U.C. Berkeley and the Los Angeles County Department of Public Health, and we want to offer our special thanks to the leaders in labor, community-based organizations, professional associations, and industry who have offered their expertise in developing the revisions to the section.

So thank you, Chair and Members, for your attention and leadership in this rapidly evolving worker safety crisis. We'd be happy to take any questions.

CHAIR ALIOTO: Excellent. Thank you so much for your presentation. It was very informative and thorough, as usual.

Let's take questions from the Board. Thoughts, questions? Ms. Dr. Kennedy.

BOARD MEMBER KENNEDY: Yeah. I have a question. Of course the hope of doing all of this is that we're going

to stop seeing these cases. When do we expect to be able to see that? I mean, you know -- and so when can we say, okay, we have had an impact? And I'm assuming maybe four years from what's been presented as far as onset times, but I don't know.

DR. WILSON: Maybe I'll -- maybe I'll join the table here and we'll --

CHAIR ALIOTO: Sure.

DR. WILSON: -- answer questions as a panel.

CHAIR ALIOTO: Sure.

BOARD MEMBER KENNEDY: Okay. Thanks.

DR. HEINZERLING: Yeah. I think no matter what happens here today, we're going to continue to see cases for some years to come based on exposures that have already happened. I think based on what we know about exposure duration of workers in this industry, my hope would be within five to ten years, we would start seeing decreases in cases.

BOARD MEMBER HARRISON: So I know we chatted a little bit during the break, but I just want to ask on the record, do you know of any action that's being taken at the fed OSHA level, because -- and the reason I ask, the action we take here, if we force employers to move across the border to an unregulated state, what effect have we had on those workers? And so I would ask, is there any

action being taken at the federal level that you're aware of?

MR. BERG: I'm not aware of any action on the federal level.

DR. WILSON: Yeah. I think did an emphasis program.

MR. BERG: No. Regulatory changes.

DR. WILSON: Oh, yeah.

MR. BERG: I'm not aware of any regulatory changes that are planned by federal OSHA. As Mike was saying -- sorry. Dr. Wilson was saying, they did have a special emphasis program, our site employers, but they're using the old standards that's hard to enforce and is not very protective, but they're doing that.

BOARD MEMBER HARRISON: Thank you.

BOARD MEMBER CRAWFORD: Just a couple of quick questions. Is there anything in the legislature right now regarding eliminating engineered stone from the marketplace in California?

MR. BERG: None that we're aware of, any such legislation.

BOARD MEMBER CRAWFORD: And here's a really in-the-weeds question not related to that. For the 24 hours for reporting in subsection (m), is that business 24 hours or like if -- is that -- is it 24 hours from the moment that you have that information? So is there a

hotline or something set up?

DR. WILSON: Sorry. It's 24 hours without any qualification. So in other words, it's not three business days, for example. It's 24 hours by the clock.

And I'd just note in response to your first question, we -- in our response to the Western Occupational Environmental Medicine Association for an emergency rule, we stated that if we continue to see cases and we continue to see the kinds of noncompliance that we've seen in our special emphasis program that we should take steps to form an advisory process to consider prohibiting the use of this product in California.

MR. BERG: And then Cal/OSHA has the ability to take calls and reports 24 hours, seven days a week, in enforcement offices.

CHAIR ALIOTO: Any other questions from the Board? Questions? Comments? Thoughts?

BOARD MEMBER CRAWFORD: I have a question.

CHAIR ALIOTO: Yes. Go ahead.

BOARD MEMBER CRAWFORD: So, Eric, can I have just a clarification on the ETS? How many times can the current ETS be renewed?

MR. BERG: It can be renewed twice and it has been renewed twice. It expires December 23rd.

Is that right, Millie?

I think it's December 23rd and it cannot be extended anymore. So it will cease to exist if we don't approve this today.

BOARD MEMBER CRAWFORD: Thank you.

CHAIR ALIOTO: Nola?

BOARD MEMBER KENNEDY: So these are just questions of curiosity. In the special emphasis program that has been undertaken, I think you said about 85 shops were visited, which is about 10 percent of the estimate of shops in California. How were those shops selected? Do you know?

MR. BERG: I don't know. I'd have to ask enforcement.

BOARD MEMBER KENNEDY: You may not know. Okay. Thank you.

CHAIR ALIOTO: Anyone else?

BOARD MEMBER KENNEDY: Oh, I did have one other question.

Because silica is a carcinogen and many of the additives in the engineered stone products have been identified as carcinogens, are we seeing any cases of cancer? And I recognize that the silicosis is a much faster moving disease and overwhelms, but I'm still curious.

DR. HEINZERLING: Right. And I would say the surveillance that we are doing for that is not -- is not

the same, so I don't think we really know the answer to that question. There isn't, you know, statewide surveillance for lung cancer and then even if we are aware of cases, that requires investigation to determine whether or not someone works in this industry.

So my guess would be that we -- they're probably out there or will be in the coming years, but right now we don't have a good way of seeing that.

CHAIR ALIOTO: Anyone else?

Okay. I have a couple.

Two takeaways from today for me: Number one, wet methods don't work and, number two, periodic testing that shows that the shop is within the permissible limit is not indicative of a safe environment. Do you agree that those two things are true that I just said?

MR. BERG: Wet method does reduce exposure, so it's helpful, but it's not sufficient on its own.

CHAIR ALIOTO: Right.

MR. BERG: Yeah.

CHAIR ALIOTO: Part two?

MR. BERG: Yeah. We agree with part two. I agree with part two.

CHAIR ALIOTO: All right. So the current regulation that we're voting on today, number one says in subsection (g) that -- subsection (g)(1) that a violation of the

subsection (f)(2) wet methods is a mandatory OPU, which is to say that if you see somebody doing dry work, then you can automatically red tag them; right? And I'd just suggest that based on the data that's been presented to us today through Dr. Houlroyd and through yourselves and through the NIOSH study that it sounds to me like applying wet methods is not is not a salve even even even then. So it strikes me that that subsection is already obsolete before we've even voted on it. Would you agree with that?

MR. BERG: Well, it's not obsolete. It's just it needs to include other things. Like we say, respiratory protection, not having the proper respiratory protection is an Order Prohibiting Use, but we do leave it at the discretion of Cal/OSHA enforcement to make that decision on the spot. So I guess if we could go back in time, we'd move that into, You have to issue an OPU no matter what.

CHAIR ALIOTO: That's what I'm saying.

The second thing is subsection (h) on the exception, the exception one is that you can wear a loose-fitting PAPR or a half-mask PAPR under certain circumstances and one of them is if exposures are below the AL through representative air sampling by qualified person, at least once every six months. That's one

exception.

We saw from your data, Dr. Wilson, that if you take one measurement -- one every six months, you have no idea whether that's going to be an accurate assessment of the crystalline silica airborne in in that area anyway.

So I would propose that this in my opinion is also obsolete even before we've voted on it, which is to say that strikes me as something that should not be an exception.

My point, which is not -- which is probably obvious, is that we'll vote on this today, but I'm going to ask the Board, and I don't know whether I'll have agreement on this because I haven't talked to anybody about it, to send you back and start working again on this, for what it's worth.

MR. BERG: No. We agree with you completely that there's -- we met with industry and had lots of meetings with the industry in trying to make compromises, but there's -- yeah. It's not safe enough. You're right.

CHAIR ALIOTO: Please.

BOARD MEMBER LASZCZ-DAVIS: I should have asked a little bit earlier, but should we vote on this affirmatively, what is the effective date?

MR. BERG: I don't know if I should -- Millie, do you want to answer that or do you want me to answer that?

The effective date would be February 5th, I guess.

BOARD MEMBER LASZCZ-DAVIS: Of 2025?

MR. BERG: Yeah, the latest possible. It could be earlier if we all approved it.

BOARD MEMBER LASZCZ-DAVIS: Well, the follow-up question is this: You know, one of the prerequisites in implementation is monitoring by a qualified person. There are not enough people, not enough professionals in California, to even take the edge off of that. So implementation has to be curtailed by virtue of the fact that the competency doesn't exist here, nor will employers be able to secure them.

MR. BERG: Yeah. Hopefully it incentivizes more people to become competent in industry hygiene practice.

BOARD MEMBER LASZCZ-DAVIS: Well, that's not an overnight cure. You know that, Eric.

MR. BERG: But it's an incentive. You know, it'll take time, but hopefully it works.

MR. WILSON: Well, and one consequence of your point is sort of to what the Chair mentioned, which is that it precludes the ability of the employer to reduce the respiratory protection requirements. So the powered air-purifying respirator is required with an Assigned Protection Factor of 1,000 and it can only be reduced if air sampling demonstrates that the exposure less than the

action level as conducted by a qualified person every six months.

If there's a shortage of qualified persons, it's really difficult to implement that provision and so we are left at step one, which is a powered air-purifying respirator as the baseline requirement.

CHAIR ALIOTO: Any other question?

BOARD MEMBER URWIN: Yeah. So just a clarifying question. Being new to the Board, when you say, Chair, to send them back with additional work to do, does -- what's the implication for that insofar as existing protections for workers and what happens after December 23rd?

CHAIR ALIOTO: My understanding -- and we can hear from the lawyers on this maybe later perhaps -- is there would be a vote on it and then we could also -- we'll talk about the procedures for this and Autumn might be able to chime in on how we would go about doing this, if it can be done at all, which would be to suggest to go back and start looking at this anew in light of certain new data that have arisen, new studies that have come out, including the one that Dr. Houlroyd presented to us today and which would also give time for that, that data that she selected, to be peer reviewed, so among other things.

BOARD MEMBER URWIN: So just a following question to that, because the state of the science is always advancing --

CHAIR ALIOTO: Right.

BOARD MEMBER URWIN: -- whether it's in industrial hygiene science, chemistry, what have you, right, and so this goes to the point of worker protection rules in general. Once they're put into place, do we have the option to revise them as new information comes along and not allow for lapses in protections to happen? I'm just looking for clarification on that because, you know, fast-forward two to three years from now and we may yet learn something new --

CHAIR ALIOTO: Yeah. Right.

BOARD MEMBER URWIN: -- and we don't want to always have to go back to the drawing board and start from zero; right? In other words, the option to revise and update to maintain worker protections and update them or approve them as we go as we learn more.

CHAIR ALIOTO: Very important point. Extremely astute point. Can you bring that up when we discuss it, when we have the Board discussion on the vote?

BOARD MEMBER URWIN: Okay.

CHAIR ALIOTO: Any other questions or comments for the Division?

All right. Thank you very much. Thank you for your very informative presentations.

Okay. We are now going to hear a presentation from the Silica Safety Coalition and that's going to be presented by Glenn Farrel.

All right, folks. Good afternoon. I want you to know something. I've been watching you and I've been admiring your observational powers. I I I know that you're -- I know you see -- I know you're observing what's happening in this room. I want you to know something, that you are both welcome here and it's really important to hear from you and it's really important to have your voices be heard. I want you to know that everything you tell us will be considered. We will think about your positions. They are very, very important. I don't want you to be discouraged about anything that you've heard. I want you to go ahead and give us your view and then we'll have some questions for you at the end. All right?

MR. FARREL: I very much appreciate that, Mr. Chair. Very generous of you. Glenn Farrel. I'm within G.F. Advocacy. I'm here on behalf of the Silica Safety Coalition. The coalition as represented includes stone manufacturers, distributors, fabricators, and I really appreciate the opportunity again to be before you today

and just kind of share some perspectives.

You're right, Mr. Chair. I mean, a lot of new information today and I really appreciate kind of the thoughts about, you know, perhaps starting to reevaluate and look at this and give it a little more time, you know, post today's action by the Board to just look at things going forward again. So I really appreciate that.

I'm going to step aside and yield to my very esteemed colleague, Marissa Bankert. She's with the International Surface Fabricators Association. She has a lot more expertise on this topic than I do and so she's going to kind of walk through some of our perspectives on it. Thanks.

MS. BANKERT: Thank you all so much, Mr. Chair. I really appreciate the introduction in that way and I appreciate your time. I know that we've heard a lot of information not just today but over the course of the past year and so I really want to be thoughtful of your time and really, you know, kind of just provide some additional perspectives that some of you may be familiar with but that we feel is really important to bring to light here again today.

So I will be brief, but I also have some additional things kind of based on what we've heard today that I'm happy to answer kind of based off of some of the

questions that came before you earlier.

Let's see here. Nope. Let me see if I can get it to work. One more time.

MR. ROENSCH: It has a delayed response.

MS. BANKERT: It does? Thank you so much. There we go.

So we want to acknowledge what has happened during the ETS process. Specific to some of the things that have been alluded here earlier, the dry methodology, kind of that immediate like easy button, "Hey, we see that this is dry cutting. We want to make sure that we stop that immediately." We really do support that.

And I would be remiss if I didn't say specifically at this juncture I represent fabricators. That's who I represent when I stand before you. We also don't want people to be ill. We also don't want people to succumb to conditions that are not appropriate for their working environment. So I think that that's an important distinction as I present to you today, just so that everyone is on the same page about what the motivation is, because I think that sometimes that can be clouded through other presentations.

We recognize the public awareness. That's been a great, you know, part of this entire thing. The increased number of visits by Cal/OSHA and the

development of that productive working relationship including Public Health, ourselves as the industry, regulation and enforcement, and community groups who represent employees overall.

What has not worked? We're still seeing these shops that are not compliant; right? And creating more rules is not going to help those people. That's a very clear fact that we know to be true. So it's really important that we acknowledge that moving forward and I think that a lot of those things that you've seen in some of the previous presentations when they refer to "at-risk workers" are specifically referring to completely dry shops and that needs to be noted as you think about some of the previous presentations and the data that was presented there.

We noticed this increasing trend for workers at compliant shops leaving for noncompliant shops and putting themselves at significant health risk. This is a real thing. We're talking about real life, not theory here, where someone says, "I don't want to wear that thing all day." They don't want to do that and they know that they can go to a noncompliant shop and that they're not going to be found out and that they're going to continue working. That's a simple fact that we all have to acknowledge and that's a part of what you're you're

tasked with here today.

We note that the Cal/OSHA Consultation Division is approximately eight months behind, going to the previous mention that you just had, right, where these people can't even get the information in order to become better because they don't know exactly what it is that they're missing. When you're talking about not only do you not have enough industrial hygienists, you also don't have enough people who are already reaching out to ask for help and are not being serviced, and small fabrication shops are still not sending workers for medical surveillance; right? Like this really remains one of the most crucial steps in identifying silicosis symptoms.

So our request, as was noted several times, is that we would encourage a pause. Right? We would encourage a pause in this. This would enable us to find a solution on issues such as the respirator requirements that are comfortable to regulation and that those are a part of those high-exposure trigger tasks. We think that there's a happy medium to be found here and we don't necessarily agree with some of the data that's been presented here and we have data of our own that completely contradicts that. So I think that that's an important note as well.

We also ask you to consider amending the Section 5204 and to provide this kind of TSA pre-check. You've heard us kind of talk about this before, but what we really mean is these rigorous air quality monitoring and we can work together on how many times this is conducted, as we've heard the concerns surrounding annual kind of examination in regards to this; full compliance with the Cal/OSHA silica regulations that were in place prior to the ETS; and full compliance with the new medical surveillance training and employee notifications.

Wet methods are not the only engineering controls that need to be in place. We often talk about it in those simplistic terms, but that -- as you've heard today, that's not a hundred percent of what makes or breaks a safe shop and we're highly aware of that. So it's in working together that we can establish those things to ensure that employees are safe.

I would also note that when we talk about this pre-check style model, we're not talking about a rubber stamp. We're not like, "Oh, looks good. Here's your stamp," moving along. We're talking about the development of a rigorous system that qualifies the organizations in the fabrication manufacturing space who are doing things correctly. We would welcome the opportunity to continue to develop that with Cal/OSHA

overall and I think that there is a real opportunity for us to consider that.

Our concern is the one-size-fits-all approach. The proposed regulations really kind of put this blanket over everyone and we know that there are people that are doing it right. We know that they have that, and shouldn't we take some time to investigate how it is that they're doing it right and help people with resources and education to enable them to get to that place? That's a stronger way to kind of consider this when you think about an overall approach. I would urge you that this is this Board's opportunity to continue to get it right by facilitating a working group who can really work on a process and ensure worker safety surrounding everything that's involved here.

In regards to the regulations that, you know, are thinking about bad actors, this has been made easier with that dry-to-wet metric, but it's not that be-all/end-all approach to something. This is nuanced and we need to address it as such.

If past today we worry about those who are most in need of education and resources, will not believe that moving forward to compliance is achievable, that's again real life talking where people are afraid of the barriers now that you've imposed and, therefore, will just not

move forward. They'll either move out of the state, they'll close their business and those people will lose their jobs, or at worst, they will continue to do operations in in noncompliant ways and they'll just move around and evade. That's exactly what will happen.

This is our kind of model that we've designed, that mandatory AQ monitoring, the frequent -- more frequent monitoring and sampling, the establishment of parameters, periodic random verification and reporting of all data to Cal/OSHA. So we're very, you know, eager to kind of work on this model and bring it to fruition.

In thinking about this, if air quality is below the action level, here's what would happen on your screen; and if there is no air quality testing or results are above the action level, then they are in this bucket as well where they have that full compliance aspect in addition to the first two listed above.

Someone asked earlier about legislation. And so there is a legislative effort currently in the Senate in regards to the supply chain provision and also a fabricator certification. My ask of you is to consider, as the Chair alluded to, that there's already probably going to have to be a rework on this, that we are provided more time to allow for legislative efforts to coincide with this continued work and create a more

comprehensive solution because it's not just about the controls. It's also about access to those products. It's also about having the ability -- the ability to kind of monitor those things and to prohibit supplying slab products to uncertified fabricators. That's where we're talking about supply chain. That might help eliminate some of those things that were alerted alluded to earlier.

I believe that this is a real opportunity to kind of pause and to think about whatever the scope is that you're allowed, because I think that we've learned here today that a third ETS is off the table, but is there something within your scope that would allow industry worker groups, regulation, Public Health, and others to continue to work on solutions that consider all involved?

We think that there might be an opportunity to do this and our suggestion might be a work group dedicated to meeting over the next six months to create a pathway forward in a truly collaborative effort.

If you choose to amend the pre-check, I think that this -- and provide for this pre-check-style model, I think that this allows for a great way to show those great actors who are doing everything right and to really use them as an example moving forward and then you have a comprehensive list of what it is that they're doing,

where they are, and how they could model that for other fabricators in the industry.

I am disheartened that we might pass something that then has those unintended consequences of people moving around and not engaging in the education portion of understanding why they are being asked to wear respirators, why they're being asked to change the way that they have been working for several years, and I think that we just owe it to ourselves to take some extra time to evaluate that across everyone's varied perspectives.

I would add that we want to ensure that industry in California is safe and that we have effective information to make decisions on permanent regulations.

As I mentioned earlier, the data that we have learned and and have been participating in does not necessarily support the other data that was presented here today. If you allow us more time, we can jointly work with Public Health on some medical surveillance data and the collection to better understand the denominator of this issue and not just focusing on the numerator of the issue as well.

A pause also allows for immigrant and migrant workers to better understand the issue and for industry to continue to engage in groups on outreach, which I

think is a pretty critical part to this entire issue.

I would also, going back to an earlier point, note that I think that we need to evaluate the effectiveness of the ETS and I think that that has some time associated with it as well.

That concludes my presentation, but I did want to answer a couple of questions that have come up during the presentation overall.

Earlier, it was asked about fully enclosed machining and does it exist. It does, in fact, exist and so there is that opportunity to think about that as an engineering control moving forward.

As I mentioned before, our data was collected by the Yale School of Medicine and it's not consistent necessarily with the presentation and we have several examples contrary to the exposures listed.

And we are concerned as well in regards to a February 5th start date and the actual, you know, ability for people to be compliant.

CHAIR ALIOTO: Thank you so much for your presentation.

MS. BANKERT: Thanks.

CHAIR ALIOTO: Any questions?

BOARD MEMBER URWIN: I'll start. You mentioned that there's data that was record or gathered by the Yale School

of Medicine. Is that available in like a conference presentation, in any format that's been presented publicly or in the scientific forum?

MS. BANKERT: We did present in September in regards to that. It hasn't been finalized yet, but we do have data that we can provide and that has been provided to the Board before.

CHAIR ALIOTO: I'm I'm going to -- do you mind if I jump you in the line?

So just to follow up on that, are the results of that analysis that you said that they're contradictory to some of the data that we heard about today, is that from the presentation by Dr. Houlroyd?

MS. BANKERT: It is.

CHAIR ALIOTO: Okay. So is there a conclusion that that is in sum or substance that wet methods will -- using wet methods properly will entirely control the spread of aerosol, of --

MS. BANKERT: I think "entirely" is a strong word.

CHAIR ALIOTO: Okay. Fair.

MS. BANKERT: Yeah.

CHAIR ALIOTO: But under the action level?

MS. BANKERT: Yes, that's correct. Yes.

CHAIR ALIOTO: Okay. And that's a Yale study?

MS. BANKERT: That's correct.

CHAIR ALIOTO: Okay. If you have -- do you have a cite for that by chance or any -- do you have a citation for it available?

MS. BANKERT: So like Dr. Houlroyd's presentation, I don't believe that it has been submitted for peer review yet.

CHAIR ALIOTO: Okay.

MS. BANKERT: And so I think that we're in the same kind of boat and it goes back to your earlier point in regards to let's see what the data yields so that that way we can make an informed decision.

CHAIR ALIOTO: Okay. Thank you.

MS. BANKERT: You're welcome.

BOARD MEMBER LASZCZ-DAVIS: Real quick question and refresh my memory. Who do you represent?

MS. BANKERT: So I'm the International Surface Fabricators Association, so I solely represent the fabricators that are involved in the fabrication manufacturing industry.

BOARD MEMBER LASZCZ-DAVIS: How many? How big?

MS. BANKERT: So our association is comprised of about 300 fabricators across across the United States and that's a difficult metric and I think that that was just discussed at an earlier meeting as well in regards to how many actual fabricators are there, how many shops are

there. It's a very moving target and difficult for us to kind of understand.

I also represent, in speaking here today, the Natural Stone Institute, which also has about 800 fabricators that are a part of their membership as well.

BOARD MEMBER LASZCZ-DAVIS: And does that include small, medium and large?

MS. BANKERT: It does.

BOARD MEMBER LASZCZ-DAVIS: Thank you.

MS. BANKERT: You're welcome.

BOARD MEMBER HARRISON: So I just want to thank you for your presentation and also for the reference to S.B. 20, Senator Menjivar -- so while you were speaking, I'm Googling it because that's the first I've heard of it -- came out with a press release on December 2nd and the last sentence or last paragraph in her press release says that:

> "Cal/OSHA will soon approve converting their current ETS into permanent standards. However, the severity and catastrophic effects of the issue necessitate stronger and decisive legislative action."

Thank you for that. It looks like there's a movement afoot legislatively.

MS. BANKERT: Yeah, and we're a big part of that in

regards to really supporting that legislation from an industry perspective and really wanting to see those things happen because, again, we want people to be safe; and candidly, we want to curtail the bad actors that are, you know, really producing a lot of these issues overall.

BOARD MEMBER HARRISON: And something else you asked for was a pause --

MS. BANKERT: Yes.

BOARD MEMBER HARRISON: -- in your presentation and I think you're aware that you heard from the Division that we are up against a wall.

MS. BANKERT: I did.

BOARD MEMBER HARRISON: December 23rd is our drop-dead date. If we do nothing, then everything kind of goes away. So I respect your request, but hopefully you understand where we're at.

MS. BANKERT: I do. Thank you.

CHAIR ALIOTO: Anyone else? Yes.

BOARD MEMBER URWIN: Just a follow-up, an observation, because we're talking a lot about, you know, environmental measurements and inconsistencies in datasets based off of environmental measurements.

When you want to quantify a health hazard, you sort of have to at least measure three things, right, what contaminants are present in the environment, what

the human exposures are, and what ultimately the biological effects are on the human being; right? And, you know, when it comes to environmental sampling, often you're taking a device that's like the size of this or the sampling media is like the size of a water bottle or a coffee cup and you put it in this corner here or you put it in that corner there and this is where inconsistencies in data come up.

Ultimately, though, the marker of effect is the people who get sick in the end or what they get sick with, right, and obviously we're seeing the effect, right, in the numbers of silicosis cases that are out there and the number of deaths that have occurred. So it's evident that there's something that needs to be addressed. So being that environmental sampling -- and this is an observation -- is obviously creating debatable inconsistencies, let's call it, you know, you then in the spirit of protecting the worker have to say, "Okay. Well, if we can't quite get the measurements right between Group A and Group B and Group C, then we have to take measures to protect the workers because we've already seen the effect." Right?

And a key point here is a lack of enforcement capacity that results in bad behavior among bad actors is not a reason to discard an enforceable framework that

could protect workers if the enforcement capacity is there.

So just an observation there to take into consideration; right? I mean, like you can talk about the effectiveness of a particular engineering control by itself or a particular type of PPE by itself, but in reality, what needs to happen to be effective at protecting workers is if you can't be 100 percent certain in your environmental measurements is, okay, I have to use some combination of the two or don't do the action, period, right, to do the best that you can.

So just an observation based off of everything that we've discussed and seen so far today.

CHAIR ALIOTO: Very good. Thank you.

Yes, Chris?

BOARD MEMBER LASZCZ-DAVIS: Just in terms of process, and I'm not sure who responds to this, but let's say we don't endorse the silica regulation as proposed and it, if you will, disappears December 23rd. What are we left with and what process is in place within the Standards Board to enable it to keep moving warp-speed and dealing in a triumviri fashion to come to solutions that might be better than what we have presently? Are we bound by the process that is typically our Standards Board process?

MR. BERG: Yeah. We'd have to restart regular

rulemaking, so we would be a couple years I would think before, at least a year. I mean, once you start, it's about a year. So we'd have to redo things and once we then restart, it's I would say about two years.

BOARD MEMBER LASZCZ-DAVIS: There's nothing that would move it along much faster?

MR. BERG: I mean, another emergency? I guess we could do another emergency regulation, but I don't know if that would work. I don't think OAL -- I don't know. Maybe Autumn knows. I don't think we can do a second emergency regulation.

BOARD MEMBER URWIN: Just maybe another procedural question here, again being new to the Board and trying to understand the process. Once a rule goes into effect, is there not the option to revise that rule without going through the rulemaking process all over again?

MR. BERG: It has to be revised through the Administrative Procedures Act, yeah.

BOARD MEMBER URWIN: And so if a rule is passed, it could, though, be revised.

MR. BERG: Yeah. It would be --

BOARD MEMBER URWIN: Like if you need to pass a rule and say, "Oh, there's something here we need to fix. Let's start rulemaking again."

MR. BERG: Yeah. Like our Outdoor Heat Standard, I

think we've revised it like three times, so it's not that uncommon.

CHAIR ALIOTO: Okay. Any other questions for our speaker? Is it Ms. Bankert?

MS. BANKERT: Yes, it is.

CHAIR ALIOTO: Anyone else? All right.

MS. BANKERT: Thank you all again for your time. Thank you.

CHAIR ALIOTO: Thank you so much for your time.

All right, folks. We are going to go to public comment on this issue. Before we do, I just want to make sure that everybody's aware that if you would like to obtain a copy of any of today's presentations, please send a request for those presentations to oshsb.pra@dir.ca.gov.

All right. Before you begin, Amalia, would you just please announce to the Spanish-speaking audience that they can make comments on this safety item. They'll have four minutes if there's a contemporaneous translation.

(Instructions given in Spanish)

CHAIR ALIOTO: Very good. Let's have our first speaker. Good afternoon.

MR. SCHINSKE: Great. Thank you, Mr. Chair and Members. I promise to be brief. My name is

Don Schinske. I'm here on behalf of the Western Occupational and Environmental Medical Association. We are physicians who work in public health. We work as company medical directors. We work up and down the workers' compensation system. Essentially wherever medicine and the workplace intersect, you'll you'll find us.

We were the original Petitioners for the ETS about a year and a half ago. We certainly appreciate the Board's timely response. We do think the ETS has saved lives.

That said, as you heard today, the number of cases has doubled over the past year. We do have some doctors on the line who will probably talk to some specific points. We certainly wholeheartedly endorse the Board taking action again today. Regarding the S.B. 20 Menjivar bill, obviously it was just introduced. It's a certification bill for shops. We think it's a lovely idea. We'll be happy to support that.

That said, legislation last year, that kind of traveled the same path, stalled, owing to lack of funds available or funding mechanism. Unless we have a banner budget year or we start talking about things like a tax on slabs, I'm not sure a piece of legislation is going to provide any relief on this issue.

So with that, thank you for your work and good luck.

CHAIR ALIOTO: Thank you for your comments.

Do we have any other in-person speakers on this topic?

Yes. Good afternoon. Welcome back.

MS. MURCELL: I'm a lot shorter.

Good afternoon. Pamela Murcell, President of the California Industrial Hygiene Council. I actually wasn't going to make any comments, but some things came up during the presentations that I just wanted to weigh in on.

First of all, the frequency of the monitoring. There was a lot of information presented today and it's all correct in terms of, you know, a-point-in-time monitoring and the variability, but one thing I think that we cannot do in regulation is to try to discuss data quality. It's way too complicated and it would -- it's just way too complicated, but it should be assured by having the right people doing the air sampling and doing the evaluations for exposure.

But the way it's stated now in 5204, the frequency of the monitoring is pretty much the same wording as is stated in other substance-specific regulations that Cal/OSHA already has. So from that

standpoint, I think it's probably the way it should stay.

As far as other engineering controls, I am not an expert on enclosures for silica fabrication for those slabs. However, I am familiar in seeing in certain industries where there's all types of equipment enclosures for control of other problems, such as noise exposures, and so I'm almost certain there's got to be a way out there to do some type of enclosures for the slabs with the equipment that's going to work on it, very different than negative negative pressure containments, which puts the worker in there with the work. So I don't think that was the goal of that requirement and I personally am glad that it was taken out. But enclosures definitely could have a place. Albeit, they're very expensive, I'm sure.

And then the last thing is they talked about a ban on the product, the artificial stone. I don't think that Cal/OSHA has the authority to ban substances. So that might be an avenue for additional legislation.

Thanks.

CHAIR ALIOTO: Thank you so much. You nailed the timing. That was a perfect ten.

We'll have our next speaker, please.

MR. SMITH: Hello, everyone. I'm Dave Smith.

CHAIR ALIOTO: Good afternoon.

MR. SMITH: I'm a safety consultant. So I'll follow your model, Mr. Chair, in that, short and sweet.

The stats are appalling. Action is needed. I also learned that just because you're below the action level means you're not below the action level; right? So why even sample, you know, if you have no confidence in that data.

So the question -- and Member Laszcz-Davis, I appreciate you bringing up the whole issue of how do we get this done? Where are the qualified people? You know, they don't exist. We already have other health standards that go into effect in two weeks that require CIHs, frankly. There aren't enough of them. There's 5,000 shops and I believe I heard before there were about 800 CIHs in California. So no matter what happens, people are going to be out of compliance, period, because they just don't have the people to do such sampling.

So thinking about implementation stuff, why didn't this happen a year ago, you know? And this has been the problem with a lot of these standards is we get to, you know, the end of the road and you have to do something; ran out the clock and then you've got a problem. So that's where it seems to be.

I think the silica coalition has some great ideas. I particularly like focusing on bad actors;

they're the ones who have done nothing. And I also like the idea of licensing and fabricator certification.

Anybody who's done safety in the field knows people that don't like to wear PPE, so that is a problem.

And then looking further up the supply chain, looking at, you know, how do we reduce the amount of silica in the product in itself; if we can solve that, we solve a lot of these downstream problems.

Thank you very much.

CHAIR ALIOTO: Thank you.

Is there anybody else in person that would like to make a comment?

All right. I think we've exhausted the comments here. Let's go online. We are going to have to take a break soon. How many people do we have?

MR. ROENSCH: It looks like we have ten.

CHAIR ALIOTO: Ten?

MR. ROENSCH: We do have one person online who's only available until 3:00.

CHAIR ALIOTO: All right. Let's go ahead.

Folks, I'm going to ask you, we are up against a time line for a lunch break that we are required to provide, so I want to make sure that we are respectful of that. I'm going to ask everybody to please comply with the two minutes and if you see the clock ticking down, if

you could wrap it up and if you can even do it earlier than that, we would much appreciate it.

Go ahead. Thank you.

MR. ROENSCH: All right. Mr. Chairman, we have Adam Harper with the California Construction and Industrial Materials Association online. He's our first commenter.

Mr. Harper, if you'd unmute your microphone, you can address the board.

MR. HARPER: Chair, Members of the Board, Adam Harper with the California Construction and Industrial Materials Association.

I first want to thank Board staff and the Board for the changes made during the 15-day comment periods that properly categorized and excepted mining from the requirements of the high-exposure trigger tasks. I also want to apologize for not raising the same feasibility challenges that apply to mining as they apply to the recycling of asphalt and concrete in our initial comments.

Our industry is committed to the safety and well-being of our employees and want to ensure feasible control methods apply to our operation. An exception from the requirements of the high-exposure trigger task was requested during the second 15-day comment period for

the asphalt and concrete recycling industry.

In the Final Statement of Reasons, it was recognized that the Board is not aware of any cases of silicosis among workers at asphalt and concrete recycling and, further, that the purpose of the revisions to Section 5204 is to prevent further cases of silicosis in the workers in the artificial stone and fabrication industry. However, our request for the exception of the asphalt and concrete recycling industry was not granted. Again, due to the infeasibility of the high-exposure trigger-task requirements and absence of silicosis cases among workers in asphalt and concrete recycling industry, we are asking for an exception from the high-exposure trigger task definition for these activities.

The FSOR recognizes that asphalt and concrete recycling industry facilities are provided an exemption from (f)(2) so long as employee exposures are below the action level. We would note in cases where asphalt and concrete recycling operations were to exceed the action level, the methods of compliance in section (f)(2) would be mandatory and some are not feasible at these facilities. We are, therefore, asking the Board to recognize that like mines, asphalt and concrete recycling operations that include crushing, screening and conveying of materials containing crystalline and silica on sites

covering several acres would find the compliant methods in subsection (f)(2) infeasible.

Please grant this exception, and thank you for your consideration, and our apologies for not recognizing the full scope of applicability sooner. Thank you.

CHAIR ALIOTO: Thank you very much, Mr. Harper.

Mr. Roensch?

MR. ROENSCH: Our next online commenter is Alice Berliner with the L.A. County Department of Public Health.

Ms. Berliner, if you'd unmute your microphone, you can address the Board.

MS. BERLINER: Great. Thanks for having me.

Good afternoon. My name is Alice Berliner and I am the Director of L.A. County Department of Public Health's new office of Worker Health and Safety.

Today we want to express our permanent strong support for the permanent general industry standard for exposure to respirable crystalline silica. When we last addressed the Board in June to express our support for the permanent standard, there were 154 confirmed cases of silica -- of silicosis in California with 60 percent of those or 92 cases in L.A. County.

As of November 20th -- and I understand that the CDPH colleagues just provided a more recent update, but

as of November 20th there were 219 cases of silicosis in California, 127 of which are in L.A. County, and this sharp increase really signals just how important and needed a permanent standard is and how deeply our county is impacted by this emerging and deadly disease.

We believe that the cases we're seeing are only the tip of the iceberg and that many more workers have silicosis across the state and in our county as a result of ongoing and unregulated cutting and fabrication of engineered stone.

Through our coordinated silicosis prevention initiative and partnership with our L.A. County Board of Supervisors and other county departments and two contracted organizations, IDEPSCA and Pacoima Beautiful, we see how otherwise young, healthy men who are parents, siblings, friends, children are getting sick and dying. We see how preventable this disease is and yet how employers continue to break the law, fail to provide necessary PPE, fail to implement wet methods or screen their workers, and we understand it can be costly to do this work safely, but we also believe that human lives are worth the cost.

And I know I'm just at about time, so I'll close and just say today on behalf of L.A. County Department of Public Health, we support the passage of this standard

and see this action as a part of a larger, multi-prong strategy in taking a vital step towards addressing this urgent and life-threatening issue while setting a precedent for other states to follow. Thank you.

CHAIR ALIOTO: Thank you very much, Ms. Berliner.

We are going to take a 30-minute -- how long do I have to do? 30?

We are going to take a 30-minute lunch break. Folks online, I'm sorry that we can't get to you right now. We'll have to be in recess until 3:35. Thank you.

(Lunch recess)

CHAIR ALIOTO: All right, folks. Thank you very much for coming back. It's -- I guess maybe not everybody did, but we did. We're here.

All right. We're going to get under way again with the meeting.

We're taking public comment currently from folks online regarding the silica standard that's been presented.

Mr. Roensch, you want to call the next speaker, please.

MR. ROENSCH: Yes. Thank you, Mr. Chairman.

Renee Guerrero Deleon with SoCalCOSH is our next line online commenter.

MS. DELEON: Hello, everyone. I want to start off by

thanking staff and interpretation in receiving our comments today as well as Dr. Houlroyd and those on the panel from KYR and CDPH for providing valuable information to the public.

I'm Renee from the Southern California Coalition for Occupational Safety and Health. Our organization is founded on the principle that all workplace deaths, injuries and illnesses are preventable.

We want to align our comments with those you'll hear today from IDEPSCA, an organization that works directly with stone cutters, particularly around methods of compliance, but I'll leave them to speak to that.

I just wanted to say that every worker should be able to return home at the end of the day. They shouldn't have to worry or have the constant anxiety around long-term illnesses developing from occupational hazards, but unfortunately for those who work with fabricated stone, that is the reality they are facing when working with crystalline silica.

Silicosis caused by exposure in the worksite can occur even in low-quantity exposure, as we've learned today, and is something I believe we should consider more when discussing permissible exposure levels. This is an illness in which we know there is no cure and while medical treatments may prolong the worker's life, it

cannot ultimately save it.

It is important that we ask ourselves if crystalline silica is even something that any worker should encounter at the job at all, especially given what was presented today by Dr. Houlroyd on how exposure limits were not able to be consistently lowered.

We should look to countries such as Australia that have gone as far as banning fabricated stone. The work on crystalline silica is not finished today, but today at this Board, you do have the ability to change how this hazard is approached in the meantime. The Board has the opportunity to vote on a silicosis standard that will mitigate the risks of fatal disease and we implore you to do that. Please do not let these protections lapse. Thank you.

CHAIR ALIOTO: Thank you very much.

MR. ROENSCH: Our next online commenter is Mr. David Harrington. He's retired with Cal/OSHA.

Mr. Harrington, if you'd like to address the panel, please.

MR. HARRINGTON: Yeah. Chair Alioto and other members of the Standards Board, I'm David Harrington. I recently retired from Cal/OSHA consultation. I'm speaking to you today in support of the permanent adoption of the ETS silica standard, 5204.

In my capacity as a CSHO in the Bay Area, I had the lead responsibility to conduct Cal/OSHA consultation visits to countertop shops that had a high-experience modification rating due to injuries. However, in all cases, overexposure to silica was really their biggest problem. These shops had a wet bridge saw for major cutting out of counters followed by the use of hand power tools, both dry and wet. All these shops were way above the permissible exposure limit.

For those shops who were committed to addressing the silica dust issues, it meant many changes from improving or purchasing the latest CNC saws with the best controls or water jet cutting saws, purchasing CNC routers, and doing a lot less power hand tool work, keeping all the surfaces in the shop wet, instituting a Respiratory Protection Program, a silica medical program, and conducting extensive training.

Respirators were prior to my arrival were just passed out and there was no Respiratory Protection Program. Then they hired a consultant to conduct air sampling and find that they now are sometimes below and sometimes above the PEL and sometimes above and sometimes below the action level.

As this emergency temporary standard does require that workers be provided PAPRs for respiratory

protection might seem extreme to some, but when it is so difficult and costly to have consistently effective engineering controls, then it becomes the only backstop to protect workers.

Finally, this product is inherently toxic and a dangerous product, which if the silica content cannot be greatly reduced, it needs to be banned. There's no doubt in my mind about this, having been in lots of shops and what it takes to control the dust. These are not countertop shop workers but hazardous materials workers and they should be protected accordingly.

If and until this happens, if we follow the hierarchy of controls, we would eliminate the hazard or reduce it. This regulation protects the workers and sends a message to the manufacturers that they need to do something about their toxic product. Thank you.

CHAIR ALIOTO: Mr. Harrington, thank you very much for sharing your experiences.

MR. ROENSCH: Our next online commenter is Mr. Jim Hieb with the Natural Stone Institute.

MR. HIEB: Yes. Good afternoon. My name is Jim Hieb, CEO for the Natural Stone Institute, and I want to thank you for the warm reception that you provided my industry colleague Marissa earlier.

We are one of several key trade associations who

have collaborated with Cal/OSHA, Public Health, and so many other stakeholders on this subject and we appreciate the opportunity to collaborate with all of you.

For our part, we have brought to the industry much training. We've produced guidance documents as was referenced, much of it with the support of the Yale School of Medicine, and we have scientific reports that are yet to be published. In fact, our most recent study on several fabrication shops is going to print in a few days. But most importantly, we appreciate the warm working relationships that we've had with the Cal/OSHA staff and so many in the Public Health community.

We want to applaud you for the steps you've taken with the ETS, especially the part where you can go in and shut down dry shops, but we must also consider the shops that are compliant. This one-size-fits-all, I want to join Marissa in encouraging you to direct your staff to bring together trade associations like ISFA and the Natural Stone Institute, Public Health.

At this point, we've worked together. We've had many meetings together and we really need to look at this TSA pre-check because we have data that we believe will help us understand how to interact with these companies.

You know, we can look at this as the half glass half full or the glass half empty. As was said earlier,

wet methods may not be the total solution, but when coupled with good housekeeping, routine monitoring, medical surveillance and so forth, so Chairman, we stand ready to work and I encourage you to direct your staff, Let's get us all together. Let's look at the TSA pre-check concept. We want to work together and we will do so much together.

One last comment, if I may. The licensure stuff that was proposed last year that failed, as you all know, there's a new bill. What caused it to fail was there was no budget assigned to it. We are working actively to help present a budget that would be a combination of fabricator registration and also an assessment on the slab material. So we're coming to the table ready to work. Please direct your staff to continue working with us on the TSA pre-check.

Thank you for the extra time. Happy holidays.

CHAIR ALIOTO: Thank you, Mr. Hieb. Happy holidays to you. It's nice to see you, and thank you for your optimism and for your kind words.

MR. HIEB: Thank you.

CHAIR ALIOTO: Mr. Roensch?

MR. ROENSCH: All right. Our next online commenter is Dorian Kenleigh. She's an M.D., MPH and FACOEM, and she's with the Desert Occupational Medicine Group.

Go ahead, Dorian. If you would like to unmute your microphone, you can address the Board.

Dorian Kenleigh, if you are near your WebEx connection, you can unmute your microphone and address the Board.

CHAIR ALIOTO: Mr. Roensch, let's go to the next speaker, please.

MR. ROENSCH: Okay. The remaining preregistered commenters are not showing on WebEx, but if I may, I'll call their names and if they can unmute their microphones, they can make their comments.

The next commenter is Ayan Ortega from SoCalCOSH.

MR. ORTEGA: Hi. Good afternoon, Jeff. Good afternoon, Chair and Members of the Board.

My name is Ayan Ortega. I am with the Southern California Coalition for Occupational Safety and Health and we're here today because we believe that all workers deserve safe working conditions.

The proposed changes to the silica section in Title 8 provide much better responses to this incredibly dangerous and harmful material and I do hope that the Board passes the proposed changes, as they present another step towards protecting workers from the silica-based illnesses and death deaths, but while it

presents a step forward, I would like us to consider taking even stronger measures to ensure the worker safety.

Just as it was mentioned earlier, if these protections were to be put into place today, there might be the possibility of workers or sorry companies going to a neighboring state. I do think that this argument is particularly weak considering that the implication is that workers here in California will have to keep bearing the brunts of these dangers with silica and then it also implies that workers and advocates and other stakeholders will not stand up and fight for the protection of workers when this happens in other states as well. So I do think that we must act on this. It's incredibly important.

In regards to the action level, I think even if a person is exposed to a low amount, a low amount of silica over many years can still lead to irreversible damage, so illness or death, even illness or death in the long run. So what we're seeing with silicosis is an extreme and terrible consequence of exposure, but exposure at any level would have done damage to a person's airway.

So, again, while I do hope that a proposal is accepted by the Board, we do have to readjust what our goal is. The best way to eliminate this danger to

workers would be to eliminate the use of engineered stone. And I realize that may not be within the scope of the Board today, but I do hope that that is part of the long-term goal. Anything less is merely blunting this completely preventable damage done to workers. Thank you.

CHAIR ALIOTO: Thank you for your comments.

MR. ROENSCH: Our next commenter or preregistered commenter is Dr. Sally Sadaghiani and she's with WOEMA Legislative Committee.

Dr. Sadaghiani, if you are online with us, you can unmute your microphone and address the Board.

This commenter does not appear to be in WebEx, so we'll move on.

Nate Kolenski with Block Tops is our next online commenter.

Nate, if you are online with us, you can unmute your microphone and address the Board. Nate Kolenski.

Okay. We'll move on to the next commenter, which is Dr. Robert Blink with WOEMA.

Dr. Blink, if you're online with us, you can unmute the microphone and address the Board.

Mr. Chairman, if I may, I'll move on to the hands that are raised online.

Maegan Ortiz with IDEPSCA has raised her hand.

MS. ORTIZ: Thank you. Good afternoon. Oh, sorry.

MR. ROENSCH: Go ahead. That's all right. Thank you.

MS. ORTIZ: Yes. Thank you. Good afternoon.

Maegan Ortiz, Executive Director of IDEPSCA. We're one of the partners with LADPH that has been going with Spanish-speaking staff to different shops across L.A. County to talk to those stone cutters and we believe that the current proposed regulation is a step in the right direction and we don't think there should be a pause.

There are always questions and concerns, but I will say that a lot of the shops that we meet where there are unprotected workers, contrary to what we heard today, these are not all dry shops.

Immigrant workers are being informed of what their rights are, but employers hold a lot of power, especially over a predominantly undocumented workforce, and we can't erase or act like that power differential doesn't exist when we're talking about the implementation of an emergency standard or a permanent standard.

We also have yet to meet workers who were working in compliant shops and moving to noncompliant shops as has also been stated. You know, as Dr. Houlroyd's presentation demonstrated, there really is

no distinction between small and large shops when it comes to exposures and we're really concerned that the industry's insistence on this dichotomy is really more about the industry's bottom like than worker health.

We feel like the medical surveillance section and engineering controls have really been firmed up and we really like DLHCP's authority over workers' comp and medical surveillance.

We are concerned about capacity, but we hope to get there, and we do not agree that loosening any controls for "good" employers will will help eliminate risk. You know, in a recent listening session that IDEPSCA held, stone cutters, including those who were managing oxygen tank tanks and small children, shared with us that the artificial stone causing this damage should be banned. They don't think this product can be safely regulated and there are conversations in Sacramento about looking at a ban, although that bill has not formally yet been introduced.

I will say that we have seen S.B. 20, which is really a copy of last year's failed bill, and it includes regulations that are actually irrelevant to the actual workforce doing the stone cutting. So that's why worker advocates such as IDEPSCA are not supporting this bill as written.

Delaying the vote is a gift to industry and it means more death and illness to workers. Pass the standards and let's let legislators work on a ban. Thank you.

CHAIR ALIOTO: Thank you, Ms. Ortiz.

MR. ROENSCH: Mr. Chairman, we have no further preregistered commenters and there are currently no hands raised for this topic.

CHAIR ALIOTO: Okay. Great. Let me just make one more announcement. Anybody here in person who would like to comment on this proposal? I see no hands.

Anybody, last chance if you're online to raise your hand, if you would like to make a comment, public comment, on this silica regulation?

DR. SADAGHIANI: Yes. May I comment, please?

CHAIR ALIOTO: Yes, please.

DR. SADAGHIANI: Yes. Hi. I'm sorry. I had my technical difficulties. I was called up, but couldn't speak, so I am on the phone now.

CHAIR ALIOTO: No problem.

DR. SADAGHIANI: I am Dr. -- thank you. Mr. Chairman, dear Board, thank you for the opportunity to speak. I am Dr. Sadaghiani. I am the Chair of the Legislative Committee of the Western Occupational and Environmental Medicine Association, the committee who

originally petitioned for these standards.

Our doctors have found that since the last time the Legislative Committee looked at this, the numbers of the diseased people have more than doubled. We have gone from about 100 people to more than 230 only in California. For us doctors, it is the most devastating to look at a patient and tell them, "There is really nothing else we can do for you" and speaking about real lives, it doesn't get any more real than hearing that your days are counted.

As the doctors, we believe that it is our duty to protect the workers. As inconvenient as it may be, this is a very lethal disease. It is very dangerous to handle this material and we would like to support a permanent standard. This is like the new asbestos and more dangerous. We have to make precautions to protect the workers, and thank you for your time.

CHAIR ALIOTO: Doctor, thank you very much for your comments.

Any other comments online, Mr. Roensch?

MR. ROENSCH: There are none.

CHAIR ALIOTO: All right. This closes the public comment period on the proposed standard. Let's open it up for discussion among the Board. Thoughts? Comments?

BOARD MEMBER LASZCZ-DAVIS: I mean, just thinking out

loud here, it would make some sense to consider the provisions of this proposed regulation with an advisory committee that would immediately be set up to look at possible solutions for implementation. And I don't know what that looks like, but, you know, listening to Marissa's comments certainly suggested that the two coupled together could be very enabling in terms of mitigating the risk that we have presently.

BOARD MEMBER URWIN: I guess just going back to the procedural question, just for all of our benefit on the Board insofar as understanding how things can work insofar as the outcome of a vote and subsequently addressing things that might need to be fixed in a rule. So this goes to a vote momentarily here, if I understood correctly.

CHAIR ALIOTO: Correct. Yeah.

BOARD MEMBER URWIN: And then from there, you know, pass or not pass, the motion could then be made to go to rulemaking to whether this passes or doesn't pass to say, okay, go and address this Issue A or Issue B, like what you brought up insofar I believe it was subsection (h) on the respiratory protection standard. Is that procedurally how the process can go?

CHAIR ALIOTO: Yes. So procedurally right now we're looking at and doing one thing and one thing only and

that is voting on this regulation and we can have any kind of discussion that we want on this regulation and then we vote it up or down and if there's any subsequent business related to it, then we can take it up at that time.

BOARD MEMBER URWIN: And then the time for a motion, would that be subsequent to the vote like say, Hey, I propose that there's rulemaking to address, you know, whatever concerns or issues there might be like with subsection (h) as it relates to respiratory protection? That would happen after the vote?

CHAIR ALIOTO: Yes, unless there's a notice issue that the lawyers tell us about. There's not, so yes. All right?

Okay. Mr. Thomas.

BOARD MEMBER THOMAS: Yeah. I was just going to suggest that what we do is vote on what we have before us and then I think probably the best thing to do, since we know that there's some issues with that, is set up an advisory committee to be formed to go over whatever issues are going to come up with this that may be lacking. The regulation may be lacking a little bit, so if we set up an advisory committee, we can handle those issues as they come up.

CHAIR ALIOTO: Yeah. This is I guess probably a good

time for me to -- I'm going to be voting for this regulation. There's no question about it. This is a devastating disease. The evidence of of of its cause is overwhelming and there's something that we can do about it right now and I'm going to participate in doing something about it. I know many of you are going to join me in that effort.

I also think and I'm concerned that the regulation in some respects does not go far enough. I think that the -- some of the provisions, based on at least some of the preliminary data that we've heard about today, it it it tends to demonstrate to me that we might be offering exceptions for wearing PAPR when that exception might not be scientifically sound where if wet methods are being used and testing is being conducted once every six months, that that that might provide us with false hope that there is no danger, the PAPR is removed, and then that opens up the possibility for a lot of people to become very, very sick.

I am very concerned about that and those are issues that I think arose today really to the forefront probably for the first time over the last six months that we've been talking about this. I know there there have been some discussions and some thoughts, but these are really the first time that I think it was presented in the

manner that it was by our -- by Dr. Houlroyd from Georgia Tech and the issue that I have is not just the fact that the small and large companies can be -- have shown equally potential danger, but this idea that the wet method which I have been presuming was the safe way to do it might not be safe at all is massively concerning for me.

So I'm going to vote for this, and then I think I agree with Dave that I would propose and support of convening another advisory committee to consider additional manners and ways to strengthen this regulation but also to consider some of the ideas that I think are valid that have been presented by the silica the silica safety coalition. I don't know whether those ideas are valid or not.

I want to emphasize, too, that I don't know -- I think there needs to be some work done in validating the data that was presented to us in many forms. So I think there's still work to be done. I think that there's no work to be done on this regulation and I think that it must be passed. So that's my position.

Anybody else? Please.

BOARD MEMBER KENNEDY: To sort of follow up, I think it looks like after we vote, we are going to be requesting further work to refine the regulation. My

concerns -- and I'm saying these now because as we move into that process, I'm hoping we'll have another opportunity to talk about what we think should be approached, but my concerns with it are I don't like the reliance on respirators as the safety net at the bottom after engineering controls.

Recognizing that wet methods may not always work, I think it's -- is it only me hearing the echo? You know, my training and my belief is that respirators are not the way to protect employees on an eight-hour day, day-after-day basis. And so I would like to see more emphasis on how engineering controls other than wet methods can be used. These include -- this includes local exhaust ventilation, chambered operations, glove boxes. There are many ways to approach this problem that are -- and we all know the value of engineering controls over respiratory protection.

So as it moves forward, which I think is going to be the request, I would like to see a focus on that, as opposed to using respirators as a safety net, because I don't know how many people in this room have worn a respirator all day for numerous days. It's a miserable way to work and that's why workers aren't. I mean, that's one of the reasons that contributes to the problem is that these are people that are doing hot, heavy,

manual work, and wearing a respirator is no fun.

CHAIR ALIOTO: Are there any other comments? Yes.

BOARD MEMBER KENNEDY: A follow-up comment, and this is just because I was so confused. If it goes to a reworking, the -- this regulation applies to this person and then the numerous exceptions throughout, if there's a way to clarify who's covered by the regulation in a very simple, easy format up-front -- I know that's not always easy because certain parts are -- different people are excepted from different parts, but that's a confusing part of the regulation. That's it.

CHAIR ALIOTO: Any other comments? Last chance.

All right. Is there a motion?

BOARD MEMBER THOMAS: I'll make a motion that we adopt the regulation.

BOARD MEMBER CRAWFORD: I'll second.

CHAIR ALIOTO: Ms. Crawford? Okay.

There's been a motion to pass the regulation by Mr. Thomas, seconded by Ms. Crawford.

Ms. Money, will you please call roll.

MS. MONEY: So I have Dave Thomas for the motion and Kate Crawford as the second. Correct?

CHAIR ALIOTO: Correct.

MS. MONEY: Kathleen Crawford?

BOARD MEMBER CRAWFORD: Aye.

MS. MONEY: Dave Harrison?
BOARD MEMBER HARRISON: Aye.
MS. MONEY: Nola Kennedy?
BOARD MEMBER KENNEDY: Aye.
MS. MONEY: Chris Laszcz-Davis?
BOARD MEMBER LASZCZ-DAVIS: Aye.
MS. MONEY: Dave Thomas?
BOARD MEMBER THOMAS: Aye.
MS. MONEY: Derek Urwin?
BOARD MEMBER URWIN: Aye.
MS. MONEY: Chairman Alioto?
CHAIR ALIOTO: Aye.

The motion passes and the regulation succeeds.

Let me just take a second to say thank you to everybody who participated with this. There have been people that have been coming to public comment for many months. There have been people that have been spending many days closed -- lots of hours behind closed doors at the Division, on the staff, folks in all of their various roles that they've played in this in this process, and I just want to extend to all of you a thanks and an appreciation for all of the input. And thank you.

Yeah. Is there another -- any other thoughts? Yes, Ms. Laszcz-Davis?

BOARD MEMBER LASZCZ-DAVIS: My supplemental thought

is that on the heels of that, I'd like to propose that an advisory committee be set up to explore further refinement to strengthen the regulation and to make it more implementable.

CHAIR ALIOTO: Is there a second?

BOARD MEMBER URWIN: I'll second.

CHAIR ALIOTO: All right. We have Dr. Urwin second.

Before we go to the roll call, any discussion on this issue? Any further discussion?

All right. Ms. Money, will you please call roll.

MS. MONEY: Yes. So I have Chris Laszcz-Davis as the motion and Derek Urwin as the second; correct?

CHAIR ALIOTO: That's correct.

MS. MONEY: Kathleen Crawford?

BOARD MEMBER CRAWFORD: Aye.

MS. MONEY: Dave Harrison?

BOARD MEMBER HARRISON: Aye.

MS. MONEY: Nola Kennedy?

BOARD MEMBER KENNEDY: Aye.

MS. MONEY: Chris Laszcz-Davis?

BOARD MEMBER LASZCZ-DAVIS: Aye.

MS. MONEY: Dave Thomas?

BOARD MEMBER THOMAS: Aye.

MS. MONEY: Chairman Alioto?

CHAIR ALIOTO: Aye.

And the motion passes and an advisory committee has been approved. Please make sure, obviously, to reach out to all the folks that have played any kind of role in this discussion, including the folks from industry and all the other variety of people that we've spoken to, and we'll be really interested to see what you all come up with through this advisory committee process.

All right. Thank you very much. We're going to move on in the agenda here. I think we're on to variances. Am I right?

MS. BARAJAS: Yes.

CHAIR ALIOTO: Okay.

We're moving on to the proposed variance decisions for adoption. They're all listed in the consent calendar.

Michelle Iorio, will you kindly brief the Board.

MS. IORIO: Thank you, Chair Alioto and Board members.

On the consent calendar this month, we have proposed decisions 1 through 82 for your consideration and possible adoption.

CHAIR ALIOTO: Thank you. Do I have a motion?

BOARD MEMBER THOMAS: I'll make a motion -- oh, sorry, Dave.

BOARD MEMBER HARRISON: Please.

BOARD MEMBER THOMAS: I'll make a motion to adopt the Variance --

CHAIR ALIOTO: All right.

BOARD MEMBER THOMAS: -- 1 through whatever, 80- --

CHAIR ALIOTO: Mr. Thomas proposes to move to adopt the consent calendar, and we have a -- do we have a second from Mr. Harrison?

BOARD MEMBER HARRISON: Second.

CHAIR ALIOTO: We have a second from Mr. Harrison.

Ms. Money, will you please call roll.

MS. MONEY: I know we heard it loud and clear, but I'm going to repeat it just in case. So I have a motion from Dave Thomas and second from Mr. Harrison; correct?

CHAIR ALIOTO: Yes.

MS. MONEY: Kathleen Crawford?

BOARD MEMBER CRAWFORD: Aye.

MS. MONEY: Dave Harrison?

BOARD MEMBER HARRISON: Hi.

MS. MONEY: Nola Kennedy?

BOARD MEMBER KENNEDY: Aye.

MS. MONEY: Chris Laszcz-Davis?

BOARD MEMBER LASZCZ-DAVIS: Aye.

MS. MONEY: Dave Thomas?

BOARD MEMBER THOMAS: Aye.

MS. MONEY: Derek Urwin?

BOARD MEMBER URWIN: Aye.

MS. MONEY: Chairman Alioto?

CHAIR ALIOTO: Aye.

And the motion passes. Thank you, folks.

We're going to move on to reports. We're going to start with the Executive Officer's report.

Millie, would you kindly brief the Board.

MS. BARAJAS: Yes. Thank you. I have one update this afternoon. It's regarding an update on the Fall Protection Trigger Heights for Residential Construction. This was approved by the Office of Administrative Law and Department of Finance and the effective date for this will be July 1st, 2025. Thank you.

CHAIR ALIOTO: Great. Thank you very much, Millie.

Any questions for Millie about that update?

All right. We had planned to have a short discussion both of a recap of all of the regulations and the great successes of this Board and its staff and the Division over the course of the last year and also what to look forward to the next year, but this meeting was very, very long. So we decided to postpone those updates and we'll be conducting -- doing those updates in the beginning of next year.

So we'll get a move on then to the Cal/OSHA

update.

Eric Berg, will you kindly brief the Board.

MR. BERG: Yeah. Thank you.

We sent out a notice for an advisory committee on January 24th for the Workplace Violence Proposal, so that'll be an online-only advisory meeting. So we'll have the agenda and more details coming out soon. That's what's coming up, and that will be to implement S.B. 553, which is Labor Code 641.9, but the proposal is similar to that bill and adds some additional details. So the advisory committee will go through that and discuss all the possible changes.

CHAIR ALIOTO: Okay. Great. Thank you.

Any questions about -- anything else, Mr. Berg?

MR. BERG: No. That's it. Thanks.

CHAIR ALIOTO: Any questions for Mr. Berg? No?

All right. Thank you for your updates.

We're going to move on to public comment, non-agenda public comment. This is the time when you get to comment -- I'm going to hang on a minute -- regarding any issue of occupational safety and health and, however, I would ask during this period that there not be any comment on issues that have already been discussed or have been agendized otherwise.

The Board is not going to entertain comments

regarding any variance matters because the Board's variance hearings are administrative hearings where procedural due process rights are carefully preserved.

Would you care to begin.

MR. LITTLE: I would. Thank you.

CHAIRMAN ALIOTO: Please proceed.

MR. LITTLE: I will not discuss any of the many things you've already discussed because --

CHAIRMAN ALIOTO: Thank you.

MR. LITTLE: -- you've already discussed them ad nauseam and they don't need to be relitigated, and also try not to add any more than necessary to your already very long day.

CHAIRMAN ALIOTO: Thank you.

MR. LITTLE: I'm Bryan Little with California Farm Bureau. I think most of you know me. I've been here many, many times before. I just wanted to offer one thing is happy holidays and thank you to all of you, Board staff, Agency staff and Board Members.

You Board Members do this job on a voluntary basis and all of us appreciate all the time and energy and effort that you put into this and so I just wanted to offer that brief thanks.

I want to associate myself with some comments that Bruce Wick made earlier about the need to work and

the work that Katie's doing to make sure that the agency is fully staffed because having credible enforcement alongside compliance assistance, robust compliance assistance, is the way that we're going to continue to make California workplaces safer.

I want to thank you for your decision last month to empanel an advisory committee to start looking at how the agency can or should regulate or change its regulations around the use of autonomous agricultural equipment. I think all of you have been, seen demonstrations of autonomous agricultural equipment and you know that it's already being used and is going to be used more in the future than it's being used now. However, we have regulations on the books that are interfering with the use of some of that autonomous agricultural equipment and that's a problem that we need to try to deal with as soon as we can.

I just wanted to mention that when that advisory committee goes forward and starts doing its work, we need to be looking at the issues around the use of autonomous agricultural equipment not in comparison to a perfect world where accidents never happen because that's not the world we're in now. Human operators of agricultural equipment unfortunately make mistakes, have accidents, injure themselves, injure other people, and sometimes

unfortunately die in those accidents.

An autonomous tractor, just as an example, is an opportunity to completely remove the human being from the risk of having an accident that could result in an injury or a fatality. To the extent that we miss the opportunity to be able to take that opportunity and remove that person from that hazard altogether, that will be a huge mistake and I think that's how we need to be looking at how we evaluate the use of autonomous agricultural equipment. I hope to be asked to participate in that effort and that's a message I will bring to that when that starts to happen.

So thank you and have a wonderful holiday season.

CHAIR ALIOTO: Thank you very much. Thank you very much, Mr. Little, for your comments. Happy holidays to you as well.

MR. GRUBB: Good afternoon, Chairman Alioto and Members of the Board. My name is Ron Grubb and I'm speaking today on behalf of the Phylmar Group.

My comments today are based on feedback from the Phylmar stakeholders concerning the California COVID-19 Prevention Nonemergency Standard.

Managing requirements such as reporting, contact tracing and identifying the source of infections,

challenges faced during the COVID-19 pandemic, present significant administrative burdens, particularly if these efforts are extended to Influenza or other respiratory illnesses in the workplace.

There's a clear need for practical, streamlined measures that prioritize employee health while avoiding excessive tracking and reporting obligations that strain employers' resources. From an employee perspective, imposing strict requirements like contact tracing, especially when definitions of close contact include broad interpretations such as shared indoor airspace, may be seen as excessive or unreasonable.

Employers emphasize the importance of sharing general guidance with employees, encouraging them to stay home when symptomatic, and providing clear and commonsense measures to prevent the spread of illness. This approach fosters employee acceptance and aligns with workplace culture while still protecting health and safety.

Further, stakeholders also expressed interest in understanding whether Cal/OSHA plans to engage with task forces or advisory groups as part of the development process for the new standard that will replace the nonemergency regulations. Such a collaborative approach would help ensure the financial standard -- the final

standard reflects practical, real-world considerations from industry experts balancing feasibility and effectiveness.

Finally, questions were raised about the current status of the new Infectious Disease Standard and its priority within Cal/OSHA's broader regulatory agenda. Stakeholders request clarification on the next steps in the drafting and rulemaking process as well as opportunities for ongoing input to help shape the standards development. Thank you so much.

CHAIR ALIOTO: Thank you, sir. Thank you very much, and thank you for your patience and for waiting.

MR. GRUBB: Of course.

CHAIR ALIOTO: Anyone else in person? Okay. Great.

MS. CLEARY: Good afternoon. I'll make it quick.

My name is Helen Cleary and I am a safety and regulatory compliance consultant.

I just wanted to highlight today that we are still waiting for general industry guidance on the lead amendments and it's going into effect January 1st, and I understand that that's out of the Board's purview right now, but it was integral to the conversations we had in January and February when employers asked for an extension because of the complexity of the regulation.

So that conversation was about the Division was

confident they would have the support and the education in place and as of today -- I checked about 30 minutes ago -- there's one document for general industry. It's a two-page document, and there are three that say "coming soon."

So just highlighting as maybe a lesson learned for 2024 and make you all aware, you know, that these are these challenges that employers are dealing with when they are trying to become in compliance.

So thank you. Happy holidays to everybody. It's great to see everyone and I will see you next year.

CHAIR ALIOTO: Thank you so much.

Mr. Wick, good afternoon.

MR. WICK: Good afternoon. We first testified in good morning and now it's afternoon.

CHAIR ALIOTO: Yep. It's evening. It's good evening.

MR. WICK: Oh, boy. Bruce Wick, Housing Contractors. Merry Christmas. Happy holidays, everyone.

I just want to touch on two things.

One, there's a lot of hardworking people in Cal/OSHA. I want to recognize one person who brought an advisory committee to successful conclusion today, Maryrose Chan. She does a great job. She's been doing the Walking Working Surfaces, which is an enormous

regulation with a whole lot of very technically smart people and she keeps it rolling and, you know, it's just taking years, but she keeps at it. She finds consensus when you have a lot of, you know, disparate opinions. So I just want to commend her for that work.

The other part, I want to follow up a little on Helen's comment. We did finally get construction lead information December 12th. That basically gave us six days to try and implement an enormous reg. That wasn't isn't going to happen. It takes effect January 1.

The Division took 13 years before we -- to work on that reg and we gave construction employers six days, basically. General industry, I looked at some federal information. Construction nationally is seven and a half percent of elevated blood lead levels. General industry is most of the rest. They don't have their information today. There's no way they can possibly be implemented and I appreciate Eric has followed up in asking. We asked for a delay in enforcement. I mean, that would be the right thing to do now and I'm sure Eric would have let me know if there was a positive response to that yet and there's not.

So that's a very bad message Cal/OSHA's sending. You all did your job. You asked the Division, "Will you have this information available for people to implement

this reg?" And it didn't happen. And, again, the appropriate thing would be to delay. So here we are. We're trying.

And thank you for all your efforts this year.

CHAIR ALIOTO: Thank you very much.

Let's go online and Amalia, would you be kind enough to announce to the Spanish-speaking audience that they can make comments on any non-agenda item and they'll have four minutes to do so if they require a translation.

(Instructions given in Spanish)

CHAIR ALIOTO: Thank you very much.

Mr. Roensch, do we have any online commenters?

MR. ROENSCH: We have six preregistered commenters and with your permission, Mr. Chairman, I'll begin with those that we can identify are on WebEx at this time.

CHAIR ALIOTO: Please do. Thank you.

MR. ROENSCH: Our first online WebEx commenter is AnaStacia Nicol Wright with Worksafe.

MS. WRIGHT: Hello. Can you guys hear me?

CHAIR ALIOTO: Yes. Hello.

MS. WRIGHT: Hi. Okay. One second. Let me just find my light. Okay.

Hi, everybody. This is AnaStacia with Worksafe.

CHAIR ALIOTO: AnaStacia, we can hear you and see you and you're doing fine. Just start your time over.

MS. WRIGHT: Okay. Sorry. Thank you.

CHAIR ALIOTO: Start her time over.

MS. WRIGHT: Thank you.

CHAIR ALIOTO: Go ahead.

MS. WRIGHT: So hi, everybody. Hi, everybody. I'm here today to express my strong support for the establishment of a heat standard for corrections as soon as possible.

As we find ourselves in the midst of winter, it's easy to forget the extreme heat that California has to deal with in the summer months. This issue has become increasingly pressing as we see with schools, nursing homes, assisted living facilities. They're all struggling to protect their students and residents from heat exposure due to the inadequacies of buildings that were constructed long before California's temperatures began to skyrocket.

This challenge is especially severe in our state's correctional facilities. While we recognize the cost is a is a significant concern for stakeholders, the SRIA for the General Indoor Heat Standard highlighted that approximately 1,500 State-run correctional institutions would be regulated by the proposed regulation; but importantly, around half of those facilities are likely exempt from the indoor heat requirements due to location

or existing climate control measures.

The SRIA also points out that the business costs associated with implementing these standards are minimal as far as businesses, business expenses go. Moreover, investing in heat safety measures can lead to long-term savings by reducing the likelihood of heat-related lawsuits.

In conclusion, we urgently need Heat Standard the Heat Standard rulemaking process to move as fast as possible so that we can protect California's correctional workers and the inmate workers before the arrival of another summer marked by searing heat temperatures. Timely action on this action is critical for ensuring safety the safety and health of the correctional facilities and for saving lives within our correctional facilities. Thank you.

CHAIR ALIOTO: Thank you very much.

MR. ROENSCH: Mr. Chairman, our next online commenter is Robert Moutrie with the California Chamber of Commerce.

MR. MOUTRIE: Good evening, Mr. Chairman, Rob Moutrie, California Chamber of Commerce. Can you hear me all right?

CHAIR ALIOTO: Yes. Thank you.

MR. MOUTRIE: Okay. I am home sick, but I appreciate the opportunity to comment. Sorry I can't be there with

you. I'm would echo the thanks to everybody, Board Members and staff, for the work this year. I know many of you have been away from your families a lot for this Board and for the critical work here, so I hope you get to see them soon; for the next couple of weeks, a little bit more.

I want to flag -- echo the comments of Bruce Wick regarding the need for guidance for employers in a timely manner in lead but also more broadly. I think it's just an important issue to raise.

And I echo the comments of Bryan Little regarding moving to update our outdated autonomous tractor regulation.

I have one practical question that is unique to me, which is looking towards the Workplace Violence Advisory Committee in January, I've been advising inquiring stakeholders to check the Board's website for that regulatory process and I noticed that that advisory committee is not on the Board's website for Workplace Violence Prevention in General Industry. I'd just ask that it be updated as soon as possible so that the stakeholders I've advised to watch that page, you know, can stay apprised.

Thank you and happy holidays to everyone.

CHAIR ALIOTO: Thank you, Mr. Moutrie. I hope you

feel better.

MR. ROENSCH: Our next online commenter is Ayan Ortega with SoCalCOSH.

Mr. Ortega, are you still with us?

I'll move on to Renee Guerrero Deleon with SoCalCOSH. Renee Guerrero Deleon.

Our next is Ruth Lopez with Valley Voices.

Ms. Lopez, if you are online, please unmute your microphone and address the Board.

MS. LOPEZ: Hi. I'm here. I'm just unmuting myself. Thank you so much.

Good afternoon. My name is Ruth Lopez. I'm the Executive Director of Valley Voices, a community-based organization serving Kings County and the unincorporated areas of Tulare and Fresno Counties.

Today I'm here to address the California Occupational Safety and Health Standards Board and the California Division of Occupational Health and Safety regarding the urgent public crisis posed by the H5N1 flu.

Once again our region finds itself on the front lines of public health or emergency. Kings and Tulare Counties is California's significant percentage of California dairies and many of our local leaders are dairy and cattle ranch owners directly impacted by this outbreak.

We are deeply concerned by the lack of a unified response to this crisis. As an organization dedicated to supporting workers with workplace issues, we have found that workers are not being provided enough information about worker protections related to the avian flu. There is no centralized source where the public or local health departments can access data on which dairies have been affected by H5N1. The lack of transparency leaves communities vulnerable to misinformation and limits our ability to advocate for the implementation of necessary personal protective --

MS. BARAJAS: Can you please slow down for our interpreters?

MS. LOPEZ: Yes. I apologize for that -- and safety procedures to keep workers safe.

As you know, dairy workers, many of whom live with their families on-site at the workplace, face unique challenges. Their living arrangements increase their exposure to health risks from the avian flu; however, they have not been briefed on the dangers of H5N1 or the precautions needed to protect themselves and their families.

Many workers have reported not having the proper training to identify the symptoms of H5N1 in animals or humans. Employers have failed to provide PPE or

implement safety procedures.

And I only have ten seconds left, so it is critical that the Board establish clear and consistent and enforceable safety standards. These standards should include transparency on the locations where workers are at risk of infection, increased information sharing amongst the relevant regulatory factors, require the use of appropriate PPE, and require worker protections for workers who miss work because of infection testing and medical monitoring.

Thank you so much for your time.

CHAIR ALIOTO: Thank you very much, Ms. Lopez.

MR. ROENSCH: Our last preregistered commenter -- we do have a hand raised, but our last preregistered commenter is Jorge Luna Monterrey with Valley Voices.

Mr. Monterrey, if you are online with us, you can unmute your microphone and address the Board.

All right. If I may, I'll move to the single hand that we have raised, which is from Maegan Ortiz with IDEPSCA.

MS. ORTIZ: Hi. Yes. Good evening. Last time you'll hear from me today and this year. Thank you, Board Chair and Board Members, for all your work this year. I really appreciate the conversation and learning.

I just want to echo the comments of AnaStacia

Wright from Worksafe regarding the need to move forward as quickly as possible on the Indoor Heat Standard process for correctional facilities, especially given the fact of new laws and regulations that will be going into effect. We actually expect prison populations to actually rise, meaning more people, including incarcerated workers will be exposed to heat illness.

I want to also echo Ruth Lopez's comments on H1N1. You know, there's -- COVID is also still an issue and some of the most vulnerable workers are not getting enough information. Their employers are not providing the adequate PPE. You know, right now our outreach staff are going back to Malibu tomorrow where we have been already in the middle of a small wildfire where even with smoke, a wildfires smoke hazard standard, we are seeing employers not providing the adequate PPE, the adequate respirators, as they're calling employees, including domestic workers and day laborers, to come and clean up.

So I just want to note that as well.

Thank you so much. Have a happy holiday and see you all in January.

CHAIR ALIOTO: Thank you so much. Happy holidays to you as well.

MR. ROENSCH: Mr. Chairman, there are no further online commenters.

CHAIR ALIOTO: All right. Mr. Smith?

MR. SMITH: Hello again, everyone. Dave Smith, Safety Consultant, staying to the bitter end.

CHAIR ALIOTO: It's not over yet.

MR. SMITH: First, I want to compliment the Board staff for this excellent rulemaking timeline that was in the November meeting packet. Communication builds transparency and trust in this process. Down in the footnotes -- always read the footnotes -- I see "First Aid Kits." That's right, First Aid Kits.

I'm the author of Petition 483, First Aid Kits, submitted in 2006. The iron workers were complaining. I've got them beat. Now, 18 years -- soon to be 19 years -- have passed and we still can't tell California employers which first aid kit to buy. A first aid kit proposal before the Board last year had no opposition. It was pulled for I don't know why and then the regulatory clock ran out.

Advisory committees: As the chair observed when launching the advisory committee review process, many issues could be worked out earlier in the standard-setting process and I think we had a good illustration of that today on a variety of issues. If people don't understand what to do, they're not going to do anything, which protects no one. Ambiguities or

unclear provisions then get resolved in litigation, either before the Cal/OSHA Appeals Board or in court. This is not an efficient or collaborative way to protect California workers, so we need to solve more stuff up-front.

Let's try to work together on implementation issues so that people can actually do these standards as part of the standards-writing process instead of passing the standard and then expecting everybody to figure out really complicated things.

So 2025 resolutions: transparency, involvement, practicality, and finally, pass the first aid proposal.

Thank you and happy new year.

CHAIR ALIOTO: Thank you very much.

Any other speakers who would like to make a comment that are here present? Yes.

MS. MURCELL: One more time. Pamela Murcell, President of the California Industrial Hygiene Council, and I will be brief. I had several things, but I just want to focus on two.

The wildfires smoke regulation was passed -- basically, the emergency temporary standard into permanent language -- back in 2019 and we were promised that work would be done on a permanent standard, which was started also in 2019. In August, there was an

advisory committee held to seek input on developing that permanent standard. We really would like to see that moved forward. The wildfire smoke regulation really does need some work.

In my own practice, actually working, as opposed to volunteering, I have gotten a lot of input from the regulated communities, employers specifically, that they feel that the AQI requirements for respiratory protection are too high and that the workers would be better suited with some different definitions as far as relevant to the AQI levels. So that's just one level. Anyway, I'd like to see that moved forward.

Another item is something that you probably haven't heard for awhile is the naturally occurring asbestos in construction petition, which was Petition Number 568. I happened to be the primary author of that petition, so I have a little self-serving process here as well, but it was granted in 2018 that we should have an advisory committee. We're still waiting and we would like for that to get a little higher on the docket. The feeling is that it should be a fairly straightforward regulation effort and it just needs to get forward going forward on NOA projects related to the asbestos regulations because what we have currently is unworkable in that regard. So I will leave that and thank you all. Happy

new year. See you soon.

CHAIR ALIOTO: Thank you. Happy holidays to you. Thank you.

Is there anybody else online who would like to make a non-agenda public comment?

MS. GONZALEZ: I have four comments to read.

CHAIR ALIOTO: Okay.

MS. GONZALEZ: All right. So the first one is from Ayan Ortega from the Southern California Coalition for Occupational Safety and Health:

> "Good afternoon. My name is Ayan Ortega with SoCalCOSH. I want to align my comments with others who are speaking on the need for an indoor heat standard for workers in correctional facilities, be it incarcerated or otherwise. Incarcerated workers deserve safe working conditions just like any other worker.
>
> "I would also like to align my comment with those speaking on the need for a response to the increasing cases of H1N1. Thank you."

All right. The next comment is from Renee Guerrero Deleon, also from Southern California Coalition for Occupational Safety and Health:

"Hello. I was unable to stay online during the entire duration of today's OSHSB meeting. I know I am not alone in this experience and it is unfortunate that worker advocates and workers may not have accessibility to a State meeting that ultimately governs health and safety in the workplace.

"I would like to submit public comment as written below: Hello, everyone. Thank you to staff and interpretation in receiving our comments today. I am Renee with the Southern California Coalition for Occupational Safety and Health.

"As mentioned previously, our organization's founding principle is that worker fatalities, injuries, and illnesses are preventable. We stand in solidarity with comments you will and have heard today from organizations like IDEPSCA, Worksafe, and Valley Voices on worker health and safety issues.

"On indoor heat, we urgently request that this Board prioritizes drafting and implementing a heat standard for

incarcerated workers. These workers are covered by the California Labor Code and deserve the same protections, if not better than the ones passed earlier this year. We hope that the Board takes into account the conditions these workers are in and work as quickly as possible to prevent heat-related fatalities in California's prison system.

"Yesterday, the Governor declared a state of emergency due to the rise in H5N1 cases. California should prioritize and lead the way on worker protections for infectious disease. If there has been any lesson we have learned from the COVID pandemic, it is that protecting workers mean means protecting our communities. We need a stronger and clearer zoonotic ATD. Right now, agricultural workers in dairies are at the forefront of H5N1 exposure and the Board should be doing everything in its power to help mitigate and prevent further spread.

"Thank you for receiving our comments, even in written form, and I hope that the Board finds a more accessible way for the public to speak on issues they are facing

directly at work."

All right.

Nope. I already read that one.

Okay. This comment is from Jorge Luna Monterrey with Valley Voices:

"My name is Jorge Luna Monterrey and I am here representing Valley Voices, a community-based organization serving Kings County and the unincorporated areas of Tulare and Fresno Counties. Today I am addressing the California Occupational Safety and Health Standards Board and the California Division of Occupational Safety" -- "Health and Safety regarding the urgent public health crisis posed by H5N1 avian flu.

"King and Tulare Counties, home to a significant percentage of California's dairies, are at the epicenter of this outbreak. Despite this, there is no centralized source of information for the public, local health departments or community organizations to access critical data on affected dairies. This lack of transparency leaves our communities

vulnerable to misinformation and hinders our ability to respond effectively. Without accurate public data, organizations like ours cannot adequately advocate for the implementation of necessary safety procedures or ensure that workers and their families are informed about the risks.

"Dairy workers, many of whom live with their families on-site, face unique challenges that increase their exposure to H5N1. Unfortunately, the absence of clear and consistent guidance has forced local public health departments to develop their own strategies, leading to inconsistencies in outreach and gaps in communication. Valley Voices has partnered with our local public health department to fill this gap by providing public outreach and coordinating a vaccine effort; however, a more unified statewide approach is urgently needed.

"We urge the Standards Board and Cal/OSHA to establish a centralized public database to track outbreaks at affected facilities. Clear guidance and resources must also be provided to ensure consistency

and transparency in public health responses across the countries. Additionally, collaboration with community organizations is essential to enhance outreach and worker education. By prioritizing open access to data, we can protect vulnerable workers and their families while strengthening community resilience against this ongoing public health crisis. Thank you."

And this is the last comment. This is from Alejandro Garcia, also with Valley Voices:

"My name is Alejandro Garcia and I am here representing Valley Voices, a community-based organization serving Kings County and the unincorporated areas of Tulare and Fresno Counties.

"Today I am here to share the voices of workers who face the daily realities of the H5N1 avian flu outbreak. Their experiences reveal troubling gaps in workplace protections and underscore the urgent need for stronger regulatory action.

"Dairy workers, many of whom live with their families on-site, have reported alarming conditions. They have not been

briefed on the danger of H5 H5N1 or the precautions needed to protect themselves and their families. Many workers reported not having the proper training to identify the symptoms of H5N1 in animals or humans. Employers have failed to provide personal protective equipment or implement safety procedures and there has been no systemic investigation or inspection of high-risk facilities, leaving workers exposed to significant health risks.

"California has reported 34 human cases of H5N1 this year, all linked to cattle exposure, but the actual spread is likely far greater. The pathogen has been detected in over 500 dairy herds, yet workers report a lack of urgency from employers and insufficient enforcement of existing safety regulations.

"We are also concerned about the lack of a unified response from public officials. Workers have told us that the State has not prioritized enforcement of existing regulations, leaving local health departments to fill the gap with

inconsistent and fragmented approaches.

"To address these issues, we urge the Standards Board to take immediate action, strategic inspections of high-risk facilities and workplaces experiencing outbreaks." Excuse me. "Employers should be mandated to provide training and protective measures for workers handling, culling, transporting or disposing of infected animals. Additionally, enforcement of existing safety standards must be strengthened and enforceable. Clear and enforceable safety standards are critical to protect workers and their families."

CHAIR ALIOTO. Thank you very much, Autumn.

All right. The Board appreciates everybody's testimony. The public meeting is now adjourned and the record is now closed.

BOARD MEMBER HARRISON: Excuse me.

CHAIR ALIOTO: Dave, it's fine. I consider it a compliment. I consider it a compliment.

BOARD MEMBER HARRISON: Hello? Did you close public comment? Because I wanted to make a comment and address one of the speakers.

CHAIR ALIOTO: Please do.

BOARD MEMBER HARRISON: Thank you.

CHAIR ALIOTO: Sure, but we also have comments by Board Members in the next section.

BOARD MEMBER HARRISON: Okay. Then I'll --

CHAIR ALIOTO: So public comment is closed, but we're now going to move on to comments by Board Members. Mr. Harrison I think has a comment, Joe Harrison.

BOARD MEMBER HARRISON: Joe?

So I just want to make a -- address the comments that were made in regards to the Lead Standard and several months ago we passed the updated Lead Standard and I was -- I spoke actually in support of a delayed implementation and I believe we asked for July 1 of 2025, as opposed to January 1, and to no avail, and it was reassured that there would be plenty of support through guidance documents with the Division, and I I have a feeling that that delayed implementation is too late, but I am going to just state for the record that if there's enforcement in in this particular area around -- with an employer that requested help through guidance documents, I'm going to be very disheartened and discouraged by the process and I would really hope that the Division works diligently with those employers to help them comply, so thank you.

MR. BERG: Yes. The lead regulations, as you know,

were approved February 15th of this year and then approved by the Office of Administrative Law on April 8th, 2024, and it would have been effective July 1st and we requested Office of Administrative Law to delay it six months, and then Cal/OSHA consultation has been available to assist employers with the updated lead regulations and they continue to provide assistance whenever requested.

I know someone mentioned there's an eight-month backlog, but consultation just recently hired 50 people, so they have they've increased quite a bit. So they're really working on filling a lot of the ranks and they're doing very well. So we're working hard on that, making sure that consultation can reach all the employers that request assistance. And the backlog's for, you know, on-site visits; and I am not aware of the eight-month backlog, but that's true that's for the online one. They also provide, you know, online support and also telephone support.

And as you mentioned, there were there were -- documents weren't posted until December for construction in general industry. Right now, only one is posted and they're still working on the other ones, so that's still coming.

And if an employer's unable to come into

compliance with the regulation by its effective date, which would be January 1st, they can apply for a temporary variance and then instructions are in Labor Code 6450 through -- sorry -- 6450 through 6457. And also, on our website, we have instructions if employers want to ask for a temporary variance because they can't comply by the effective date.

So hopefully we'll have those remaining guidance documents online, but we've had, you know, resources available to help people when they they've asked.

CHAIR ALIOTO: Please.

BOARD MEMBER LASZCZ-DAVIS: Eric, just a question to follow up on Dave's. I know you indicated that there's certainly the hope that the guidance documents are forthcoming. Do you have any sense as to when they might be posted?

MR. BERG: Oh, the remaining guidance documents?

BOARD MEMBER LASZCZ-DAVIS: For lead.

MR. BERG: Yeah. They should be posted before the end of the year is my is my understanding, so hopefully that happens.

CHAIR ALIOTO: Anything else?

BOARD MEMBER KENNEDY: I'll just throw something in here. So we had a couple of people requesting indoor heat for corrections facilities since that was an

exception to the standard we adopted. I I don't know if that's still a hot potato topic or not, but do we have any data about incidents of heat-related illness in the corrections industry in California to inform that?

MR. BERG: I mean, I know there's incidents and it's a serious problem and we are working on language and getting it posted so then we can schedule an advisory meeting.

BOARD MEMBER KENNEDY: Okay.

MR. BERG: So that's in process and part of that will be getting more data.

BOARD MEMBER KENNEDY: Thank you.

MR. BERG: And then if I may comment on bird flu real quick, we have a very robust regulation on bird flu. Someone mentioned the Aerosol Transmissible Disease Standard, Zoonotic, from 2009, we've had guidance documents on that for years.

They're very thorough, so there should be -- I mean, we have to do a better job of getting the guidance documents into people's hands, but I have met with -- you know, I'm meeting with every single local health department where I've explained this this regulation and its requirement for all the dairy dairy farms and much more stringent requirements once they have any infected cows. But it does require quite in-depth training, you know,

complete PPE like coveralls, gloves, goggles, respiratory protection. It requires medical surveillance.

It's a very robust, protective standard. So I think enforcement of that standard -- and understanding that employers -- Consultation's been doing a lot of outreaches as well, you know, with the Department of Agriculture and the Health Department, trying to reach out to dairies. But consultations taking more of a lead trying to get the word out before before we enforce it. So they've been doing most of the work for now, trying to get all the dairy owners aware of it and hopefully they do the right thing and comply.

CHAIR ALIOTO: All right. Thank you, Mr. Berg.

Any other comments from the Board? Anything at all?

I had intended to go into closed session, but I understand that we need to leave here by 5:00. Am I right? That means that I literally have no time to do that. Autumn, I'm sorry if you prepared. We'll do it We'll have to do it in January. All right?

That means that this long but very valuable meeting is coming to an end. So the next Standard Board regular meeting is scheduled for January 16th. It's going to be in Sacramento, California, and it will be via teleconference and videoconference. Please visit our

website. Join our mailing list to receive the latest updates. I want to thank you, all of you, for your attendance, especially those who stayed until the very end.

And there being no further business to attend to, this meeting is adjourned.

(Proceedings adjourned at 4:58 p.m.)

REPORTER'S CERTIFICATION

I, the undersigned, a Certified Shorthand Reporter of the State of California, do hereby certify:

That the foregoing proceedings were taken before me at the time and place herein set forth; that any witnesses in the foregoing proceedings, prior to testifying, were duly sworn; that a record of the proceedings was made by me using machine shorthand, which was thereafter transcribed under my direction; that the foregoing transcript is a true record of the testimony given.

Further, that if the foregoing pertains to the original transcript of a deposition in a federal case, before completion of the proceedings, review of the transcript was not requested.

I further certify I am neither financially interested in the action nor a relative or employee of any attorney or party to this action.

IN WITNESS WHEREOF, I have this date subscribed my name.

Dated: January 15, 2025

Marcena M. Munguia, CSR No. 10420
Certified Shorthand Reporter
For The State Of California