

BEFORE THE OCCUPATIONAL SAFETY
AND HEALTH STANDARDS BOARD
STATE OF CALIFORNIA

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TRANSCRIPT OF PROCEEDINGS
Occupational Safety and Health Standards Board Meeting
Public Hearing
Thursday, January 15, 2026

Reported by:

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2 AND HEALTH STANDARDS BOARD
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12 TRANSCRIPT OF PROCEEDINGS, taken via
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15 reported by Christina L. Rodriguez,
16 CSR No. 14898, a Certified Shorthand Reporter
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1 Sacramento, Thursday, January 15, 2026

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4 P R O C E E D I N G S

5 CHAIRMAN ALIOTO: All right. Thank you,
6 folks. We're going to move on here to the presentation.
7 We have two presentations on today's agenda.

8 The first presentation is entitled,
9 "Protecting Workers Without a Ban, an Emergency
10 Licensing Solution and Enforcement Support." This will
11 be presented by Laurie Weber, Chief Executive Officer of
12 the International Service Fabricators Association.

13 And the public will be giving an opportunity
14 to comment on the presentation; board members will be
15 given the opportunity to comment and ask questions, and
16 we'll do that afterwards.

17 LAURIE WEBER, good morning to you. Thank you
18 so much for being here, and the microphone is yours.

19
20 PRESENTATION

21 LAURIE WEBER: Good morning, Chairman, and the
22 Board. Thank you for giving us this opportunity. I'm
23 going to start a timer. I was told I only had 10
24 minutes, and my head is full of a lot. So I'm going to
25 keep a streamline.

1 I want to also take a moment to also thank
2 Sarah and Ginger for their support and helping me --
3 making sure you can hear me. And to the court reporter,
4 I'm going to do my best to make sure I don't talk fast.
5 I'm a little nervous, and there's a lot to say. So I'm
6 going to say within this presentation -- tell you a
7 little bit about ISFA. Is there a clicker I should be
8 using?

9 Again, my name is Laurie Weber, I'm the CEO
10 for the International Surface Fabricators Association.
11 Thank you so much. And what you're going to see today
12 is a program that's structured with oversight, shared
13 accountability, and realtime correction when we're
14 talking about fabricators fabricating material.

15 So why are we here? We have Cal/OSHA, the
16 Board, has two issues to address right now. One is to
17 combat silicosis, and there has been a petition to ban a
18 product in California. I want to acknowledge, people
19 have been exposed and harmed -- that is real. That's
20 urgent. And it deserves action that actually stops
21 exposure, not just reacts after the fact.

22 So just a little bit of ISFA
23 history -- because I heard, "Who are you? Where'd you
24 come from?" So there was a few different CEO transitions
25 between the time that there was a call from LA County

1 and this national -- the three counties' urgent response
2 to silicosis. Our -- there's an organization called
3 Natural Stone Institute that stepped in to help IFSA.
4 And then we had a CEO that started December of 2023,
5 and they resigned in July of 2025.

6 I started in August of 2025, and in my first
7 100 days I spent a significant amount of time doing a
8 full assessment of the industry, and ISFA's purpose.
9 We looked at our articles of incorporation --
10 understanding why we were formed. We looked at all of
11 our programs. We wanted to make sure that they aligned
12 with what we were to do, and the operational structure
13 along with interviews, research, and surveys.

14 I just say that because part of the plan that
15 we approved on November 6th was a three year strategy to
16 introduce a licensing program. So just -- our
17 membership is made up of shops and workers, and their
18 families -- a lot of them are generationally shop
19 owners, and they've been in this industry for a very
20 long time. We represent an industry, not just our
21 members. And safety is not a side issue for us. And so
22 we have what we call our five -- four purposes, and
23 safety, health, and regulatory is one of those purposes
24 that was approved just by our membership on
25 November 6th, 2025.

1 Our core values are not just for ISFA, but the
2 countertop and surface fabricator industry honest work,
3 proven truth, always improving, purpose driven, future
4 focused -- that is also the values that we expect from
5 our team. Which, you know, we are not just an industry,
6 this has to be culturally who we are to be able to
7 address the issues head on.

8 So part of -- without getting into full
9 details -- a big part of our 2026, 2028 goals included
10 the launch of the certification and licensing process
11 for countertop and surface fabricators. I'm
12 highlighting in this slide one of our reasons we exist.
13 Part of that, we looked at the -- we did a root cause
14 analysis on SB 20 -- really understanding what happened,
15 and why we could not get certain parts of that approved.

16 Year one of our three year plan included
17 developing a licensing standard; year two was on
18 boarding; and year three it was very important that we
19 were using the ANCI and ISO consensus building process
20 to do that. Part of that plan also included creating
21 regional membership to align with OSHA regions. And,
22 also, it was important for us to really get into the
23 shops and understand their challenges and help them to
24 be successful to provide for their families and become
25 better business owners.

1 And we set everything with intentional
2 collaborative agreements. There has to be KPIs in the
3 work that we're doing. We can't just do work and not
4 understand how we're making an impact. All right. And
5 bear with me. I'm new. I get to play that card for
6 maybe for a year, I guess.

7 SB 20, really looking at it, what it, the purpose
8 of it was to protect workers from silicosis exposure
9 without banning products, right. So there were elements of
10 this that were -- we did not get passed. And the biggest
11 one was inspections and citations -- oh, I'm sorry -- licensing,
12 audits, an approved shop list. And, you know, we wanted
13 a supply chain control so you had to be on the list to
14 get the materials. So it was a proposal where
15 enforcement became reactive, not preventative.

16 And then, I was a 108 days on the job, there
17 was a presentation at the November 20th board meeting on
18 this board meeting about the Australia's engineered
19 stone ban. At that time, the chairs asked for a
20 solution, a creative solution, which, clearly, hearing
21 about the retiring past Chairman always looking for
22 collaborative ways to solve problems.

23 It's really important to do that together.
24 And the presentation was given by the people within
25 OSHA, our staff within OSHA that are from the medical

1 world and we wanted to present an actual option.

2 An actual -- actionable option for resolution
3 and the response was a ban on product. I just found
4 that interesting because, you know, we believe that
5 bands happen when systems fail and we're here to help
6 fix the system.

7 We want an opportunity to set up a table and
8 talk about how to solve this together. So we have one
9 collaborative regulations. This isn't done in a
10 silo , and I would like the opportunity to
11 present from a very high level how this is suggestive
12 and how it works. All right. So acceptance
13 collaboration and quality assurance and performance
14 improvement.

15 I spent a lot of time -- our office was closed
16 for a couple of weeks over the holidays. Just watching
17 these videos of these meetings and understanding the
18 medical process of, like, what happens when something
19 fails -- the system fails within the medical world and
20 what is the reaction and how does it get solved. I
21 learned a lot about this quality assurance performance
22 improvement process.

23 You know there have been a lot of situations
24 where there were illnesses or deaths, unfortunately.
25 That product or the system did not get banned even

1 within the LA County world of medical. I have a lot of
2 details on those. I don't want to get into, those, but
3 I will just highlight just, like, hospital infections
4 when they did a process.

5 They cut it by 40% to 70% of deadly
6 infections. They didn't ban process. They didn't ban
7 the tool, they didn't ban the process. What they did is
8 they did an industry oversight with government support.
9 And what will this look like. And I love this slide
10 because -- and I wish I had water. I'm so sorry. I
11 forget my cup. And I sound very -- You are amazing. I
12 appreciate you so much. Thank you so much for that.

13 All right. This is one of my favorite slides.
14 I've worked in the association management for a long
15 time -- trade association management, specifically
16 around what we call blue collar work. And this is what
17 the change process looks like in anything that we do.
18 And so I love to use this slide because it's a good
19 representation of what happens when new status quo kicks
20 in and it takes time.

21 All right. So I introduced to you the
22 fabricator safety initiative. We call this our level 4.
23 1.0 was introduced, and the response of that group was
24 they create support of creation of SB20. This year we
25 introduced level one, two, and three because it was a

1 significant part of going out into our regions and
2 getting into the shop and understanding the challenges
3 within the shop.

4 And then this level four was created in a very
5 short period of time before the holiday. So what does
6 this look like? We're in phases. Phase one, the
7 foundation in program design being completed by July
8 31st of 2026, or 2020 -- yeah we're in 2026. Sorry.
9 Establishing region nine leadership, and I'll break that
10 down in just one moment.

11 But this is a phase rollout process where we
12 can control and measure the results fast. Again, I
13 remind you that we had a three year plan and we're
14 implementing in a -- in one year is what we're
15 suggesting. Phase two, the California pilot program
16 which is to be complete October 31st of 2026. Launch
17 pilots in Los Angeles, Orange, and San Diego County.
18 Develop an auditing framework. Have the digital
19 infrastructure.

20 Manufacturer and distributor alignment -- and,
21 again, I know that you guys all have copies of this
22 presentation, so I won't go into each little bullet
23 point in detail. Phase three, rolled out by March of
24 2027. By that point, we'll have it expanded out through
25 the State of California. And then phase four, our goal

1 is by April 1st of 2027 to take what we have done in
2 California and implement it across the country.

3 So what does this look like? We want to hire
4 two people in the State of California. Bilingual, and
5 they need to be within those three counties, an
6 executive director of safety health and respiratory
7 compliance coordinator. It's going to take quite a few
8 committees, and I have goals and descriptions for each
9 one of those committees. We won't get in details of
10 that.

11 What kind of support will Region 9 receive?
12 We have a team of leaders from the national side that
13 will support them. Legal support, again, I go back to
14 the certified auditors. It's really important for us to
15 make sure that they're qualified. And we have
16 identified that we want them to be certified ISO 4,
17 5's -- they're auditors. Administration outreach and
18 onboarding, communications, change management, IT, and
19 data security; so we are taking that on.

20 So how does this look? So the finance and
21 government committee for IFSA will have the judiciary
22 oversight, but our committees really advise and decide.
23 IFSA is just executed. We have identified six
24 different types of committees that we need and why we
25 need them. When I talk manufacturers, I'm not talking

1 about the owner of companies. I'm talking about the
2 safety people, the distributors -- all of them are going
3 to have to standardize what they do as well.

4 And then we have a tag committee. I would
5 also add that, you know, for our trade and safety
6 associations, I've already reached out to the Latino
7 Fabricator's Association, and they're very supportive
8 and want to be a part of this effort.

9 Policing bodies -- you know, I know there's
10 some association and support when it talks about for the
11 police departments. Medical research and medical
12 community, we have a partnership right now with Yale
13 research -- with Yale -- doing some research. We want
14 the doctors in this room in the medical community to
15 help us. Equipment and supply alliance, we hear you
16 loud and clear. How much is this going to cost for
17 companies to become compliant, and we need to hear from
18 them -- solutions as well.

19 So while I've heard a lot of different things,
20 you know, with we need to have all parties involved,
21 including the trade unions and everyone to make it work.
22 So what is the next steps in this? We're requesting an
23 immediate alliance with CalOSHA, if that's possible,
24 with the enforcement team. In my career, I have worked
25 with some amazing OSHA people from California;

1 and -- you know, and implemented an alliance where there
2 had been tangible reductions in illnesses and injuries.
3 And I can talk about that at some point if requested.

4 And we want that person or that team to
5 service on that committee. We also ask for the medical
6 community to join us as well in this effort. We ask for
7 time for updates in our progress every single month on
8 this Board agenda.

9 And I -- if I can ask what happens next with
10 that petition, that would be super helpful for us to
11 understand time. We understand there is a lot of things
12 that have to happen, and we want to help. But we are
13 asking for the same opportunity to fix something within
14 our industry, as is afforded to other industries as
15 well.

16 And, again, I'm open for questions. And there
17 you go. 15 minutes and 34 seconds.

18 CHAIRMAN ALIOTO: It's not bad. It's okay.
19 It's really important, and I really very much
20 appreciate your presentation.

21 I think -- what I -- I'll defer to everybody
22 else -- but I will say at the outset, I think you nailed
23 it on the head about the need for a collaboration to
24 figure out a solution to this, and I very much
25 appreciate the fact that you represent these

1 fabricators, many of whom had contributed to this
2 problem. And I appreciate you not resisting that, and
3 instead, addressing what we can do positively to solve this.
4 I had the fortune, I guess -- maybe the misfortune -- I'll
5 call it the fortune -- of listening in on the hearing --
6 the federal hearing and subcommittee yesterday of -- I can't
7 remember the house resolution number -- and I found it
8 to be extremely informative and very educational, maybe
9 with one exception, which was factually an incorrect
10 statement by a certain gentleman that Cal/OSHA and the
11 regulators in California have sat idly by, while this
12 epidemic has occurred. And I think that was attributed
13 to us being a sanctuary state of some sort -- whatever
14 that means.

15 I don't blame this man. He suffers from the
16 same human condition that we all do, which is sometimes
17 making conclusions without relying necessarily on all of
18 the facts -- it's just that he may suffer from a
19 disproportion of it. So but what was so educational to
20 me, and what was so important, was to learn and see how
21 not to solve this problem.

22 We have a position here where instead of
23 us -- and, you know, everybody in this industry is,
24 right now, in battle stance. There are tremendous
25 lawsuits -- and a huge number of lawsuits pending

1 against the manufacturers, against fabricators, that
2 really pose it as an existential threat to these folks.

3 And I completely recognize how important it is
4 for the fabricators and the manufacturers to defend
5 themselves; I completely respect their right to do that.
6 But everybody seems to be taking -- and, of course,
7 that's true for the other side, too -- the plaintiffs,
8 who have filed some of these lawsuits, are also
9 suffering tremendously.

10 But where we are right now in this battle
11 stance is that everybody is pointing the finger at
12 everybody else. And, like I said, there are so many
13 lawsuits pending, I almost assume -- that has to be the
14 case, you know. We can't have -- a manufacturer is not
15 going to stand up and say, "Yes. I'm responsible for
16 some of this," because doing so, that statement is going
17 to end up as a trial exhibit 1/A in their trial.

18 So I completely appreciate that they can't do
19 that. So I'm going to do that for them if I can.
20 Everybody here has a responsibility. Everybody. Okay.
21 We have manufacturers creating a product that, by its
22 nature, contains something where if it is misused and
23 not done correctly, it kills people. Everybody knows
24 that. The manufacturers know that.

25 They cannot necessarily say "I get this"

1 publicly that that is causing these deaths and
2 sickness, but it's just a fact that there is a product
3 that is being produced at a high profit that is creating
4 this problem. They bear the responsibility for it.
5 The fabricators bear responsibility for it for the
6 simple reason that we have fabricators who are doing
7 this incorrectly and misusing the product -- a
8 foreseeable misuse, probably, that the manufacturers now
9 know about -- and that there are no controls that are
10 being implemented for how to control those in the supply
11 chain.

12 The plaintiffs, I imagine, there's probably
13 some folks out there who -- I have no facts to back this
14 up, so I'm not going to make a conclusion -- but I will say
15 maybe there's evidence -- maybe there's folks out there
16 that knowingly disregarded warnings and said "I'm just
17 going to do it anyway without a mask." So maybe they're
18 to blame. The State is responsible for this, we have a
19 regulation. Maybe this board is responsible; maybe we
20 should've came up with a regulation sooner. Maybe, as a
21 State, we need to figure out to get more money so we can
22 enforce the rules that we have already have on the books.

23 Everybody is at fault. Everybody is
24 responsible. And what's not helpful -- which was
25 glaring at the hearing yesterday that I listened to -- was

1 everybody pointing fingers at everybody else. So I so
2 very much appreciate you, your presentation, because
3 that collaboration is absolutely essential. Right? We
4 just have to do this. We have to work together.

5 We have to all just inherently -- even if you
6 can't say it out loud because you don't want to be a
7 trial exhibit -- if you just recognize that you play a
8 role in creating this problem. We have a -- forget
9 about whether you have a legal obligation, and that's a
10 foreseeable -- we all have a moral obligation to fix
11 this now. Like, right now.

12 So thank you. I'm sorry. I didn't mean to go
13 off on that so much. I'm going to open up questions
14 from the Board. But thank you very much. I just want
15 to say that I appreciate your spirit collaboration.
16 I've spoken to the manufacturers. I feel that I see one
17 of them here, Ms. Shult, and I heard your testimony on
18 the way up from San Francisco yesterday.

19 The manufacturers are open to working towards
20 a solution. I know that they recognize that they are
21 partly responsible for this. The fabricators are. I
22 have not heard from the folks who are damaged by this,
23 you know, the individuals who are suffering from the
24 diseases. I wish we had a representative that can
25 provide a story. I know that they are interested in

1 collaborating.

2 So all of which to say is thank you for that,
3 and I'm looking for, hopefully, playing a role in
4 getting this fix as soon as we can.

5 Alright. Sorry you guys. That took too long.
6 Comments or questions, first of all? Okay. Let's go to
7 public comment. Sorry, everybody. I just -- I thought
8 were going to go to questions, and so I was posing a
9 brief comment. Okay.

10 Let's go to public comment. We have three
11 folks here in-person, and then we will go to folks
12 online. So if you are interested -- and we're only
13 going to be talking silica at the moment. And we'll
14 keep the discussions a little bit to that.

15 Sir, welcome.

16 MR. KIMMELSHUE: Mr. Chairman, Board members.
17 Kirt Kimmelshue on behalf of ASTA Worldwide. Good to be
18 with you again this month. The organization I
19 represent, ASTA, was founded in 2006 to promote certain
20 values in the agglomerated stone, also referred to an
21 engineered stone or quartz stone industry.

22 One of those key values, as we've shared with
23 you and individual meetings and at these venues before,
24 is that, workers' safety and health.

25 Our members are committed to the health and

1 safety of our workers and finding real-world practical
2 solutions to this ongoing safety crisis that are in
3 certain fabrication shops. And we look forward to the
4 continued work with this board on promoting safe work
5 with our products.

6 ASTA has been working to support solutions
7 that will protect workers for years, including the two
8 pieces of legislation that we've talked through
9 here -- prior AB 3043 and later, SB 20.

10 Our organizations supports a program such as
11 that is proposed by ASTA to ensure only compliant
12 fabrication shops are allowed to do this kind of work in
13 the State of California, given the incidence of
14 silicosis are clustered in California. This was a
15 logical place to start, with the objective of working to
16 implement a nationwide program to certify or license
17 compliant fabrication shops.

18 Unfortunately, we haven't been unable to make
19 that happen to date, and today we are optimistic that we
20 can now work together to ensure that businesses meet
21 some minimum requirements before they are able to
22 fabricate stone. We are available to share information
23 and resources with the Board and others and very much
24 appreciate, Mr. Chairman, your generous time the other
25 day, and I know we've got requests from the other board

1 members, and we look forward to those discussions with
2 you as well.

3 One just key point, I think, too, that we'd
4 like to highlight hasn't been brought up yet today, but
5 I know we've had conversations about it in previous
6 meetings about Australia. And one thing that we think
7 is important to note there is that it took years of work
8 setting up new regulations, cleaning up shops, and
9 hiring many more inspectors that all happened in
10 conjunction with the country's ban.

11 So I think we think those items are obviously
12 also to be part of the solution to make sure that things
13 move forward smoothly, and workers' safety is
14 protected.

15 Thank you for your time.

16 CHAIRMAN ALIOTO: Thank you very much. Nice
17 meeting you.

18 MR. NEVIN: Good morning. I'm James Nevin
19 from the law firm Braton Purcell, LLP. We represent
20 approximately 500 California actual fabrication workers.
21 These workers all support WOEMA' petition and oppose
22 IFSA's support.

23 IFSA claims to be a fabrication association.
24 It has zero fabrication worker members according to its
25 own website. It has 157 stone-slabs supplier company

1 owners; it has 112 members who are actually slab
2 manufacturers, distributors, and two equipment
3 manufacturers. 99% of the crystal and silica toxic
4 artificial stone slabs are made by foreign manufacturers
5 in 17 countries such as Iran and China, and 1% is made
6 in Minnesota by Cambria. They're dumped here in
7 California.

8 Adopting WOEMA's petition and injecting
9 IFSA's petition will not actually lead to any jobs, with
10 the exception of Cambria, all the major manufacturers
11 have already changed their ingredients to switch to
12 nontoxic, recycled glass of amorphous silica. In
13 response to the Australian ban -- it's now all they sell
14 in Australia, and they sell it here in California right
15 alongside their toxic product.

16 The Australian fabricators simply switched to
17 fabricating nontoxic-recycled glass slabs. The
18 Australian consumers switched to buying nontoxic slabs.
19 The various Australian building trades did not lose
20 their jobs. Australian construction did not slow down.
21 There was no slippery slope of job loss whatsoever.

22 The countertop fabrication industry existed
23 with natural stone for decades prior to the introduction
24 of artificial stone. The number of fabrication workers
25 with silicosis anywhere in the world was zero. That all

1 changed when natural stone was replaced by the uniquely
2 toxic artificial stone. There would be no epidemic
3 without it.

4 The problem is not just the high 95% silica
5 content, but also the nano size and the toxic metals and
6 resins that are added. The CDPH confirmed that there
7 are now 480 fabrication workers from 688 different
8 California fabrication shops. That's 54% of the
9 fabrication shops. It is not a few bad actors. They
10 just need to be licensed; they just need to be enforced.

11 Niyas, Australia, 100 published-purview global
12 settees have shown that crystal and silica artificial
13 stones cannot be fabricated safely by human beings.
14 This is not new. This is established science. Human
15 being workers with jobs can safely fabricate recycled
16 glass and natural stone slabs. Only robots can
17 fabricate artificial stones with crystal and silica. I
18 ask that at the next meeting you'll allow me to make a
19 more complete presentation on behalf of the actual
20 California fabrication workers.

21 Thank you.

22 CHAIRMAN ALIOTO: Thank you very much.

23 MS. ORTIZ: Good morning, Board, Chair, and
24 board members. Maegan Ortiz with IDEPSCA, the Instituto de
25 Educacion Popular del Sur de California

1 For those of you who don't know, the last two
2 years, we've worked with the Los Angeles County Department
3 of Public Health on the actual workers' side as well doing
4 outreach. Sorry! I will slow down for the interpretation.
5 I should have known better.

6 We have done outreach and education over the
7 last two years with the Los Angeles Department of Public
8 Health, talking to the actual workers in these shops
9 across Los Angeles -- the heart of the silicosis crisis
10 that we know of to date.

11 What we know is that licensing and training
12 was tried in Australia. Right. And with the very
13 similar population, we're talking about predominantly
14 immigrant workers; we're talking about predominantly
15 nonunion workers as well. And still, the ban was the
16 best option, because there is no safe way to cut this
17 stone.

18 The majority of shops, even when using wet
19 methods, we have seen it ourselves; I've seen it with my
20 own eyes -- still are creating measurable dust that is
21 above the action level that causes silicosis.

22 We also have to remember that Australia has
23 something that we don't have, and that is a nationalized
24 medical system that actually surveilled all of these
25 workers even after the ban. So what we are seeing right

1 now is a severe undercount of cases. What we are seeing
2 right now is a severe undercount of workers being
3 treated, especially with Medi-Cal cuts that have now
4 gone officially into effect.

5 So what we are seeing right now is that, yes,
6 we have young men in their forties who are walking
7 behind their toddler sons carrying oxygen tanks. We
8 want the WOEMA petition to go through. It
9 needs to go through. It needs to continue. The
10 petition that is being presented today is not
11 representative of what we have experienced and what we
12 have seen and what we have heard from workers.

13 Thank you.

14 CHAIRMAN ALIOTO: Thank you, Ms. Ortiz.

15 Let's go online, please.

16 JOHN ROENSCH: We have several preregistered
17 commenters for this topic. Our first is Andrea Cook
18 with Cook and Associates.

19 Ms. Cook, if you can unmute your microphone.
20 You can address the Board.

21 (No response.)

22 CHAIRMAN ALIOTO: Let's come back to Ms. Cook.

23 JOHN ROENSCH: All right. Our next online
24 preregistered commenter is Raphael Metzger with the
25 Metzger Law Group and Council for Education and Research

1 on Toxics.

2 CHAIRMAN ALIOTO: Good morning, Mr. Metzger.

3 JOHN ROENSCH: Mr. Metzger, if you'd like to
4 address the Board, please unmute your microphone, and
5 you may do so.

6 CHAIRMAN ALIOTO: All right. Let's go back to
7 Mr. Metzger.

8 JOHN ROENSCH: Very good. Our next commenter
9 is Mark Merlaux with the National Stone Institute.
10 Mr. Merlaux, if you would like to just work -- please
11 un-mute your microphone and you may do so.

12 CHAIRMAN ALIOTO: Is this maybe a technical
13 issue on our end?

14 JOHN ROENSCH: Mr. Merlaux?

15 MARK MERLAUX: There. I just got it. Thank
16 you. First of all, I want to say happy new year and
17 thank you to Chairman and the rest of the team Board
18 members and staff.

19 Also, thank you today, Dave Thomas, for his lengthy
20 career service and legacy with this board for worker
21 safety in California. I've got brief statements so I'll
22 read it and be done here shortly.

23 The Natural Stone Institute -- we've been in
24 front of you all before -- represents companies that
25 quarry, supply, and fabricate natural stone products in

1 California and around the World. On behalf of NSI
2 member companies, we support an industry managed
3 registration and licensing program for silica safety.

4 When California's SB20 was past last year, it
5 failed to include the government led licensure
6 provisions which would have kept silica bearing
7 materials out of the hands of unqualified or unregulated
8 employers. We believe that an industry led effort is
9 definitely worthy of consideration, and we look forward
10 to collaborating with our friends at ISFA. Thank you.

11 CHAIRMAN ALIOTO: Thank you very much, sir.
12 Appreciate your comments. Happy new year to you, as
13 well.

14 Can we go back and see if we can get,
15 Ms. Cook?

16 JOHN ROENSCH: Ms. Cook and Mr. Metzger do not
17 appear as named participates in today's session. If
18 it's possible that you've signed on with a different
19 name or with a default name, if you can change your name
20 to those -- the name that you registered with, we can
21 allow you to speak.

22 And for Andrea Cook and Mr. Metzger -- Raphael
23 Metzger, that is the case at this time.

24 CHAIRMAN ALIOTO: Okay, great. Let's go to
25 the next speaker then, please.

1 JOHN ROENSCH: All right. Robert Blink with
2 W-O-E-M-A is our next commenter, and I will enable his
3 ability to speak. He is online.

4 Mr. Blink, you can address the Board.

5 ROBERT BLINK: Yes, good morning. And happy
6 new year to all, and also congratulations to Dave
7 Thomas.

8 Dr. Robert Blink, an occupation on
9 environmental medicine physician, former president of
10 WOEMA, and active with the legislative committee of
11 Western Occupational Enviromental Medicine Association.

12 We've submitted this petition after having
13 work successfully with Cal/OSHA's standards board for
14 the past several years trying to regulate this toxic
15 material to protect the workers who have been
16 grotesquely damaged and killed by fabricating artificial
17 stone slabs.

18 We considered why did we go back and do this
19 after having agreed to the restrictions that were put in
20 place for the permanent standard just enacted a year
21 ago.

22 Because we gotten additional information since
23 that time that the material is much more toxic than we
24 initially believed and because evaluation of workplaces
25 has shown that even with appropriate protections in

1 place the exposures are still way too high.

2 So we've now calculated that in order to get
3 exposures down to a level that would be an acceptable
4 level of risk, one would have to have the perfect
5 situation with a circular saw underwater with local
6 exhaust ventilation and the worker would need to be
7 wearing essentially a spacesuit to isolate themselves
8 from the material.

9 Essentially, it cannot be worked with safely
10 as the gentleman who spoke recently said, we need robots
11 to do this. Human beings cannot do it. I'd like to
12 point out that while we're debating this and trying out
13 other approaches, a death clock is ticking. So
14 according to the proposal that was put forward by ISFA,
15 they would put this in place by April 2027.

16 That's 15 months from now. Estimate would be
17 that in that time an additional 62 workers will develop
18 silicosis which will debilitate them. Of those 62,
19 approximately 10% will die of the disease quickly and
20 another three or so will need lung transplants which
21 might extend their lives another five years. So the
22 clock is ticking.

23 As we discussed, as we tried this and that,
24 why are we protecting this cosmetic material for which
25 there is a particularly appropriate and excellent

1 substitute, which is amorphous silica. Why are
2 we -- and natural stone -- why are we doing this while
3 we're waiting for people to die?

4 So we really urge that this petition be
5 adopted and we'd like to ask our partners who have seem
6 to of -- that everyone else who has spoken here, for
7 instance, I think that the ISFA people seem to be put
8 forth an earnest effort, but they assume that the
9 material can be worked with safely.

10 Unfortunately, it just cannot. So let's
11 substitute materials that can be worked with safely.
12 Crystalline and silica, artificial stones is not that
13 material. It can't be done. Thank you.

14 CHAIRMAN ALIOTO: Thank you, Doctor.

15 One more online, please.

16 JOHN ROENSCH: We have no additional
17 preregistered commenters, but we do have a hand raised
18 online.

19 Our online commenter Genghmun Eng. If you
20 would like to address the Board, you can un-mute your
21 microphone and speak to them at this time.

22 GENGHMUN ENG: Yes. Can you hear me? Hello?

23 CHAIRMAN ALIOTO: Yes, good morning. Welcome.

24 GENGHMUN ENG: Thank you. My question is that
25 when you have ready mix concrete, when you

1 have -- often, workers from city agencies or their
2 subcontractors grinding down sidewalks and you have
3 pavement grinders, all these things, I believe, are also
4 containing in the same kind of crystalline silica that
5 causes silicosis.

6 I looked these up on the web, and my question
7 is, is this Board going to put those workers and those
8 cities who hire workers under the same kind of control
9 and requirements to prevent silicosis in their workers?
10 I've seen the cement outside my house owned by the City
11 of Torrance. In this case, you know, where the pavement
12 is lifted to the tree roots.

13 And they come in and, instead of replacing it
14 and fixing it, they come in with their contractors, come
15 in with portable grinders, and they just grind it away
16 making lots of dust.

17 I want to know how these things are going to
18 be controlled as another cause of silicosis for a lot of
19 workers. Thank you very much.

20 CHAIRMAN ALIOTO: Thank you very much.
21 Appreciate your comments. Let's go in person. Do we
22 have another commenter here?

23 REBECCA SHULT: For the record, my name is
24 Rebecca Shult, and I am Chief Legal Officer at Cambria.
25 Good morning.

1 CHAIRMAN ALIOTO: Good morning. Welcome.

2 REBECCA SHULT: Thank you for the opportunity
3 here in Sacramento again today about this very important
4 topic. As I was at the last meeting -- and I promise
5 I'll do my very best to be here going forward as well so
6 we can work on this together. I'm voluntarily here
7 today, and we genuinely want to work with you and
8 collaborate on this important issue.

9 Cambria is a family-owned, American made
10 business that produces all of our stone slabs from
11 naturally occurring quartz in our single factory in
12 Minnesota. While we were there, the first domestic
13 manufacturer of this product in the U.S., there are
14 multiple factories now in the U.S.

15 And today, our companies production accounts
16 for approximately 40 to 50% of the domestically produced
17 quartz fabricated in the U.S. but I should note that
18 imports of stone greatly surpass domestic production.

19 The quartz in our product is the same mineral
20 from the same deposits that quartzite of quarried
21 stone is taken from. That's why we call our product
22 natural quartz. Quartz is naturally occurring
23 crystalline silica. It's found in all types of stone
24 including quarried stone such as quartzite which has
25 approximately 90% to 99% quartz content.

1 Cambria is only one of a long and an ever
2 growing list of 80 or more businesses throughout our
3 industry that are being sued for workplace injuries at
4 shops we don't own, we don't operate, we don't control.
5 The wrong parties are being sued. In fact, in the first
6 two cases that went to trial we never even sold directly
7 to those workplaces where the workers got sick.

8 I'm not here to repeat what I said at the December
9 meeting but I want to note that since the opening of our
10 own fab shops more than 20 years ago, we've had more
11 than a thousand workers, over 10 million hours cutting
12 and fabricating over 650,000 of our own slabs without a
13 single reported case of silicosis or occupational
14 disease. Quartz slab products can be cut safely.

15 CHAIRMAN ALIOTO: Thank you very much, Ms.
16 Shult. Appreciate your time.

17 NATE KOLINSKI: Good morning, Chairman Alioto
18 and Board. I'm working with most of you for a long time
19 on this. My name is Nate Kolinski, I'm the CEO of Block
20 Tops, a fabricator in California. And I guess I'm a
21 unicorn, too, because I'm also a fabricated member of
22 ISFA, which I think doesn't exist, but I'm one.

23 So we worked together with OSHA, we worked with
24 industry, we worked with legislation on licensing, and
25 we haven't got there yet, but we absolutely support

1 ISFA's position and licensing on this product. It can
2 be fabricated safely. We just need to control it.

3 Thank you.

4 CHAIRMAN ALIOTO: Thank you very much.
5 Appreciate your brevity.

6 KHALED TAQI EDDIN: Good morning, Chairman
7 Alioto, and the rest of the Board, and congratulations
8 to the new retiree. There is a lot of discussion here
9 in regards to bans and everything else, but there's not
10 enough discussion --

11 CHAIRMAN ALIOTO: Can I interrupt --

12 KHALED TAQI EDDIN: Oh. My name is Khaled
13 Taqi Eddin, I'm a trial attorney from Womble Bond
14 Dickinson. There's a lot of discussion here in regards
15 to bans and in regards to the litigation, but there's not
16 enough discussion in regards to what needs to be done to
17 prevent what's going on. And that's the source of the
18 issue that we got going on here is: we know that silica
19 dust can be controlled.

20 Silica dust is not something new to
21 California. It's not new to products. With equipment
22 with -- for smaller operations, for example, using hand
23 tools. Cambria is an example that hand tools can be
24 used and people can work with it safely.

25 In fact, I will share with the Board we

1 actually did a study where hand tools only were used and
2 this was monitored over a three day period where three
3 and a half kitchens were produced using only hand tools
4 complying with OSHA and the numbers actually surprised
5 me.

6 They were well below the PEL and at or below
7 the action level for most functions with the exception
8 of two which were barely above the action level.

9 We know that this can be worked with safely.
10 What we need to figure out is how do we communicate that
11 and how shops be able to work with these products safely
12 because the reality is the products are going to
13 continue to be used by these shops. They're going to
14 cut products that have other contents that could be
15 cancer causing.

16 Could be silicosis causing. If we do not hit
17 the root problem, if we do not enforce compliance,
18 people will continue to get sick. And people will say,
19 "Well, it was -- look at the engineered stone."

20 Well, the fact to the matter is we're ignoring
21 the fact that there was a huge construction boom at that
22 exact same time.

23 Necessitating these shops opening up. We need
24 to address the root problem and the root problem is
25 education, teaching, and enforcement in regards to

1 compliance. And I stand here in support of the ISFA
2 program.

3 Thank you.

4 CHAIRMAN ALIOTO: Thank you very much.

5 Good morning.

6 JORDAN UTER: Good morning. Jordan Uter on
7 behalf of Worksafe. We would just like to reiterate
8 that we believe any proposed solution that doesn't end
9 in a ban of this toxic substance is going to be
10 ineffective. So to be brief, we would like to see an
11 advocate for WOEMA petition to advance here.

12 Thank you for your time.

13 CHAIRMAN ALIOTO: Appreciate your brevity,
14 too. But before you go, did you say you'd like to see
15 some of -- a representative of WOEMA make a presentation?
16 Is that what you said?

17 JORDAN UTER: No. We would like to see their
18 petition -- be approved. Thank you.

19 CHAIRMAN ALIOTO: Thank you so much.

20 Mr. Roensch, any other speakers online?

21 JOHN ROENSCH: Chairman, at this time, we have
22 no hands raised, and we have no preregistered
23 commenters. However, it may be worth while since we
24 have a very large number of remote attendees -- well
25 over a hundred -- for use to reiterate that if they'd

1 like to make a comment, they can use the raised hand
2 feature on webinar to alert us that they would like to
3 make a comment.

4 At this time, we have no hands raised but if
5 you would like to comment during the session -- here we
6 have a hand here gone up. Please do use the raised hand
7 feature where we welcome your comments and we're glad to
8 bring you into the discussions.

9 Everybody that makes a comment will have a
10 timed comment. And the chairman today has asked for a
11 two minute timer. So we do have a commenter that's
12 raised his hand that's already made a comment; is that
13 okay, Mr. Chairman?

14 CHAIRMAN ALIOTO: No. If they've already made
15 a comment on this particular agenda item, then that
16 would have exhausted their right. Is Ms. Cook or Mr.
17 Metzger -- have they -- those two who we had some
18 technical issues with, are they available to comment?

19 JOHN ROENSCH: At this time, I do not see Mr.
20 Cook or Mr. Metzger -- or Ms. Cook are online.

21 CHAIRMAN ALIOTO: All right. Anybody else in
22 person like to make a comment on this particular agenda
23 item? No. Okay. So what is this -- why don't you go
24 ahead and elevate the person who has their hand raised
25 the whole time.

1 JOHN ROENSCH: Mr. Eng. If you would like to
2 address the Board at this time. The Chairman has asked
3 for us to do all that.

4 GENGHMUN ENG: Yes. I just -- one comment. I
5 got a chat comment from Sarah, the executive assistant
6 for the Board, and she asked me for my full name and
7 affiliation. The chat is disabled for this, so I wanted
8 to add it to the record. My name is Genghmun Eng, And
9 I'm going to be speaking later on another topic. And my
10 affiliation is I am an individual. I represent myself.

11 Thank you very much.

12 CHAIRMAN ALIOTO: Fantastic. Really
13 appreciate you doing that. Thank you, sir, for catching
14 it.

15 Anybody else like to make a comment on this
16 online? Raise your hand, please, if you do.

17 JOHN ROENSCH: Mr. Chairman, we have no one
18 else raising their hand. And just to follow up on the
19 last comment about not being able to chat, chat in Zoom
20 is not an official record of the meeting. It's not
21 included in the official record.

22 As a result, we do disable chat to the public
23 that may otherwise believe that the chat message is part
24 of the official record.

25 CHAIRMAN ALIOTO: Understood. Thank you very

1 much. All right. There being no further public
2 comment, we'll do questions, comments from the Board.

3 DAVE HARRISON: I have a question. And this
4 is for, I believe Ms. Weber. During your presentation,
5 in a way, you referenced trade associations and unions
6 several times. Two questions, is this a unionized
7 workforce at any level and, if so, which unions that
8 you're aware of?

9 LAURIE WEBER: I'll get back to you on that
10 question, Dave. So I -- again, 168th day -- so I've
11 been bombarded. I know there are certain areas of the
12 country, yes, but I can't speak on behalf on that. So
13 if you'll give me an opportunity to respond to that
14 question after this, I'd appreciate that.

15 DAVE HARRISON: Of course. Thank you. That's
16 all I have.

17 CHRIS LASZCZ-DAVIS: I've got several. Would
18 you allow me to play devil's advocate here?

19 LAURIE WEBER: Well, of course.

20 CHRIS LASZCZ-DAVIS: All right. You know that
21 the concept that you've outlined is an excellent concept
22 but it's always in the detail and the implementation
23 where things begin to fall apart. I mean I've been in
24 the industry for a long time and just is what it is.

25 Some processes work more smoothly than others.

1 Couple of questions, you know, given the proposals that
2 you have, what are your metrics for success? How do you
3 know when you're going to be effective.

4 LAURIE WEBER: That's a really good question.
5 And, like I said, we're accelerating a three year plan
6 in one year but it was given to the committee, and I
7 believe that was in phase 2 that we were going to
8 determine when that was. So it's really not just on ISFA
9 for us to do that. I think that becomes part of the
10 committee work, as well.

11 CHRIS LASZCZ-DAVIS: As part of the
12 committee's work, is there an effort to integrate less
13 hazardous products as you move through this so that the
14 end of the day you don't have a slate of products that
15 are more hazardous than not.

16 LAURIE WEBER: Yeah, another good question, right?
17 And I understand where the questions coming from and,
18 you know, we are here on behalf of the fabricators and
19 we're product neutral.

20 So while there might be some, you know,
21 feedback on that. I don't know if that comes from the
22 work that we're doing here but definitely something that
23 one of the manufacturers committees or maybe one of the
24 other organizations that represent that product should
25 actually speak on it.

1 CHRIS LASZCZ-DAVIS: All right. Let me ask
2 you another one. You talked about third auditing
3 framework, who is part of that third party auditing
4 framework and who pays for that?

5 LAURIE WEBER: Are you sure you want me to
6 break this down, because it's very -- there's a lot of
7 moving parts to that, but I'll just say that there are
8 certain standards that are ISO standards that when
9 companies they become accredited basically. You can get
10 auditors certifications and so there are companies all
11 over the country.

12 There are companies within California that
13 already have those accreditations. So partnering with
14 them is the goal.

15 Eventually, when we move out nationally and
16 within our region, we'll build teams that do that, as
17 well. The goal for cost is to keep it as low as we can
18 for the fabricator but at the end of the day the cost
19 has to be covered; right? So it becomes part of the
20 program.

21 CHRIS LASZCZ-DAVIS: Okay. Wonder if I'd
22 might ask another question. Dr. Blink mentioned the
23 fact that while we have a three year proposal that's
24 been put on the table. There will be a number of
25 victims during that period of time. How do you account

1 -- where is the accountability on that one?

2 LAURIE WEBER: So, I'm not a doctor. I don't
3 claim to be. I know that there have been organizations,
4 there are process -- and, again, I will acknowledge --
5 I've been doing this for 25 years so I, too, understand
6 when it works and when it doesn't work. And there's
7 always a room for error; right? It's the same thing
8 with safety, right?

9 There's an element of one to five percent, I
10 think it's what it is for -- and I don't want to speak
11 about that, because I'm not a doctor. I'm not in there.
12 I would just ask that we're looking at these numbers
13 from a bigger level than just three counties because
14 just one to five percent of the overall fabricator in
15 the world, I can't answer that question.

16 I think that there are there's a difference
17 between someone that has silicosis and someone that
18 needs to have a lung transplant. And what I've learned,
19 again, I'm not a doctor, but I think there's -- this is
20 why that committee is so important so we can ask more
21 questions and I would love for you to be a part of that
22 committee, if you'd like to join us.

23 You have very good questions. But I think
24 that there's numbers that as I've researched that have
25 been presented. As I said, we represent an industry,

1 not just our membership; right? So numbers are thrown
2 out as facts and we really need to spend some time to dig
3 deeper in that and I wish -- I mean it's -- lets do it;
4 right?

5 Let's make sure that -- here's another part.
6 I just challenge everyone in this room. I was in
7 Seattle recently and I was at the gas station filling up
8 a rental car and there was a gentleman that had a
9 countertop in the back of his truck and it was covered
10 in dust and I ran up to that guy. He spoke Spanish. I
11 did not.

12 Thank God for the translate app I had. I
13 said, "Please. Please. Do not do this without a mask."
14 Are we going to speak up when we see it, or are we just
15 going to sit down? So if we've known that and I
16 challenged the medical -- when I go to the doctor, they
17 asked me the question, "Are you safe in your home? Is
18 there domestic violence going on? Are you being human
19 trafficked?".

20 I get asked that question all the time. Can
21 we not in the medical community talk about this as
22 patients are coming through the doors. I don't know. I
23 wish I knew how all this plays out but at the end of the
24 day, I have hope in something because it doesn't just
25 affect those three counties. And it's really

1 unfortunate.

2 Somebody mentioned the construction boom that
3 happened. Recently, I worked in the remodeling world,
4 right, where consumers were, I mean -- you guys have
5 really good guidelines around remodeling it's always
6 the response, the reaction. We don't think through the
7 reaction whenever we're trying to respond. So I'm sorry
8 I couldn't give you a more direct answer. I hope to
9 maybe in a year we'll be able to answer those questions.

10 CHRIS LASZCZ-DAVIS: No need to apologize. I
11 was playing devil's advocate so these are considerations
12 that I think you guys may want to put on table as you
13 move forward.

14 And one final comment on the medical use of
15 it, you know, with all this transpired in the United
16 States and California, you know, we're going to have
17 victims, we're going to have people who experience
18 adverse impacts so there's got to be some accountability
19 for how to deal with these people. In the meantime,
20 should we have a three year plan.

21 So, any ways. Thank you.

22 LAURIE WEBER: No, one year. One year.
23 That's what we're saying. Thank you.

24 CHAIRMAN ALIOTO: Do you have any questions?
25 Please.

1 DEREK URWIN: So my fellow board members heard
2 me say this before, but I think it's an important point
3 worth making, and that's that, you know,
4 policies, rulemaking, etc, they're all theoretical until
5 they are put into practice by the workers their meant to
6 protect; right? And the only source for feedback or
7 answers in so far, whether or not, in given approach is
8 going to be affected is those workers themselves.

9 And so can you give us a break down some
10 details and so far as what worker engagement would look
11 like in your organizational plan. Would they be
12 included in the steering committee as opposed to just
13 having small or minor vice on subcommittee or advisory
14 groups?

15 LAURIE WEBER: Absolutely. I agree that the
16 California fabricators group and maybe I would invite
17 the medical group to actually bring in some workers that
18 have these experience that they've had and serve on the
19 tag and also the steering company as a final -- I would
20 encourage it.

21 DEREK URWIN: Great. Thank you. And just a
22 follow up comment and a point to make is that when we
23 talk about workers, we're not talking about worker
24 representatives. While we appreciate their effort and
25 everything, we're talking about the workers themselves.

1 And to give context for this, right; there's,
2 for example, PPE didn't use in the fire service that's
3 design to protect us when we're working but very often
4 in a given emergency situation one can find themselves
5 in a situation where they had to discard their PPE to
6 get their job done.

7 In other words, you know, this happens in all
8 workforces, right? So that feedback is essential.

9 We can put things on paper, we can develop
10 policies, if a worker says that that's not going to
11 work. That's feedback that's essential towards
12 developing a solution.

13 LAURIE WEBER: Thank you.

14 CHAIRMAN ALIOTO: Ms. Crawford, do you have
15 any questions?

16 MS. CRAWFORD: No. I think the Board has
17 asked tremendous questions. So I'm just going to stand
18 on the moral obligation piece of this.

19 CHAIRMAN ALIOTO: All right. Thank you, very
20 much.

21 LAURIE WEBER, I do have a couple questions for
22 you. I recognize that this idea is in response to some
23 questions from the Board and some suggestions from the
24 Board to come with creative solutions. So I want to
25 reiterate that I would very much appreciate that, but I

1 also appreciate that the idea is not yet fully
2 developed.

3 So I just want to ask a couple implementation
4 questions. Is this -- would this be a private
5 certification that would be overseen by the industry
6 itself?

7 LAURIE WEBER: Correct.

8 CHAIRMAN ALIOTO: And would -- how would you
9 enforce that?

10 LAURA WEBER: So I feel that we would have to
11 spend some more time in understanding. I mean, it's a
12 co-collaborative. You know, we -- our goal is to make
13 sure that we are following OSHA guidelines. The laws
14 that are in place. We may even have more. I mean, you
15 may have to wear a space suit. I don't know. We don't
16 get to decide that; right?

17 But at the end of the day, the goal is to help
18 support your team, the OSHA enforcement team, having a
19 tool to be able to help them with enforcement, and then
20 keeping a public list of companies that are proved, as
21 well. That is also part of the plan I believe to be
22 introduced and notified in July 31st.

23 In my past life, I worked with Scaffold Maxis
24 Groups and industry association where they have very
25 sophisticated process of approval and national OSHA

1 standards actually depend on that -- those standards
2 that are written. To help them. To be the most
3 up-to-date information.

4 So I don't know if I answered your question
5 completely. But at the end of the day, it's to help and
6 not have to hurt.

7 CHAIRMAN ALIOTO: I understood. But if you
8 have somebody, for instance, who's certified and then
9 they fall out of certification for employing dangerous
10 methods of cutting or polishing stone, how -- what I'm
11 asking, if you don't have an answer to this now, that's
12 fine, but to think about -- how would that be enforced?

13 Would they lose their certification? Would
14 the manufacturers then agree among themselves not to
15 sell to particular distributors.

16 There's some fairly obvious legal issues that
17 pop up when I say that out loud. There are, you know,
18 myriad different things to contemplate, whether or not,
19 is the distributor being not certified not because it's
20 unhealthy but because it's a, you know, a vital competitor.
21 Is somebody else who has some -- there's a lot of
22 issues.

23 The idea of having this run by a third party
24 strikes me as being something to considered. I don't
25 know how you would go about doing that but just

1 something to think about. Does the -- I want to
2 reiterate with what doctor had to say. I think that's
3 absolutely vital. My question is does this have
4 industry acceptance among the workers themselves.

5 It sounds from the counsel on the first row
6 here that it does not. And I'm wondering if -- you did
7 mention that you reached out to the Latino fabricators
8 association; is they're support for this type of thing
9 among workers themselves?

10 LAURA WEBER: In my -- from the workers that
11 I've talked to in other companies, absolutely for us. I
12 mean, it's a culture. It's a culture that you build and
13 is the expectation where you get to go home to your
14 family and don't have to worry about dying at night.
15 So that is, you know, we have a code of ethics for ISFA
16 members, as well, that they have to follow up.

17 And so we drive those standards in what they
18 are. And so at the end of the day, they have to have
19 input in our membership approved of three, the plan,
20 right, when we did the strategic direction that we were
21 -- what we're going to focus on for the next three
22 years, it was approved by our membership.

23 It is been -- we have done extensive press and
24 even non-members going in to the Chicago area recently,
25 they're not members of ISFA. We love what you're doing.

1 You know, we have a network of over 14,000 fabrications
2 shops across the country that we are communicating with.
3 They don't have to be members. Keep doing what you're
4 doing.

5 So that's what we hear, right? This does
6 accelerate a typical ANSI process to get consensus,
7 right? So we would eventually have to move through
8 that. Not necessarily in a pilot in California and the
9 implementation in California.

10 But then, once we become an ANSI developer,
11 that's going to take some time then we'll get the proper
12 -- everybody will have proper feedback.

13 Right now, we have an issue registry that we
14 just launched for any countertop manufacturer which is
15 our fabricator world. There's a definition of that.
16 And they'll be able to comment on this stuff. They'll
17 be able to provide us feedback. So there's a lot of
18 people in this room that can help us communicate that
19 out.

20 Like, love your feedback. And there's a
21 verification process; right? We want to make sure it's
22 legit information. But there is a consensus. We have
23 thought through this in a way that, you know, it's going to
24 take a lot of time and effort and this is why we have a
25 separate team that we're hiring to focus on it.

1 CHAIRMAN ALIOTO: Thank you. Thank you very
2 much for that. Can I ask a --

3 Yes, do you have something for LAURIE WEBER?

4 CHRIS LASZCZ-DAVIS: Just one more thing. I'm
5 sure you're familiar with the states asbestos and lead
6 certification programs. You may want to go ahead and
7 take a look at that to see what your plan aligns with
8 that because that's something we've had in the state for
9 years.

10 LAURA WEBER: Thank you.

11 DAVE HARRISON: May I? Just a follow up. And
12 I'll follow up with my original question. The reason I
13 ask is if it's a unionized workforce. We're talking about
14 fabricators in California here today, and we understand
15 that that workforce is predominantly an immigrant
16 workforce.

17 And I said this under other rulemaking
18 discussions and conversations that an immigrant
19 workforce are the least likely to stand up and be honest
20 for fear of retaliation.

21 And we have an employee representative, like a
22 union representative or some other group, I think we're
23 more likely to get honest feedback as to what rule
24 making should look like. And so I just wanted to
25 clarify why I was asking this question.

1 LAURA WEBER: The meeting with the Latinos
2 Fabricators Association went really well, as well. They
3 do believe that we need a licensing structure. They
4 understand the challenges; right? And fears.

5 And so I think that bringing them to the table
6 and having these conversations with them they absolutely
7 have to be at the table. Thank you.

8 CHAIRMAN ALIOTO: Another concern -- I'll just
9 -- the obvious concern to me is how long will this take
10 to implement and how many people will literally die in
11 the meantime. And I don't know how you would address
12 that. I'd love to know from the doctor's perspective.
13 Even from the WOEMA perspective, whether or not, if there
14 were a full licensing program in place fully active today
15 where the -- where only licensed fabricators could be
16 sold there.

17 Their license -- let's say it's enforceable to
18 manufacturers have to be licensed. The whole thing. I'm
19 just curious to know, whether or not, they think that
20 would satisfy the issues. So I'll just leave that out
21 there for them.

22 But, LAURIE WEBER, thank you very much.

23 LAURIE WEBER: Thank you.

24 CHAIRMAN ALIOTO: I do have a couple -- is
25 there any -- can I ask somebody about a question here on

1 this, Eric? Is anybody willing to maybe answer some
2 questions? I know you're not prepared, so I just
3 figured. I have a scientific question. One of the

4 ERIC BERG: Oh yeah, sure.

5 CHAIRMAN ALIOTO: One of the things I'm trying to understand
6 is the artificial stone verses natural stone and the dangers
7 associated with both.

8 I'm hearing literally two different sides of this story and
9 I just want the fact of what's going on. We have on the one hand
10 Dr. Blink artificial stone in of itself just by virtually being artificial.

11 I think Mr. -- the counsel of (indiscernible)
12 also said this, something like this, the size of
13 particle, it's combination with resins, the percent of
14 silica within artificial stone which apparently is much
15 higher than natural stone, and some other factors.

16 I think at some point, Dr. Wilson, you
17 mentioned that the shape of the atom was something that
18 impacted, whether or not, it would stick in the aveoli more easily
19 than natural stone silica. And then we have Ms. Shult
20 who says that we have quartz and quartzite are made
21 from the exact same atom -- I'll call it -- same
22 molecule. Same molecular design.

23 And I just would love to know what the science
24 is saying about -- is there something specific about
25 artificial stone that makes it more inherently more

1 dangerous than natural stone.

2 ERIC BERG: Yeah. Artificial stone is
3 inherently and intrisically more toxic and more dangerous than
4 crystalline silica from natural stone.

5 CHAIRMAN ALIOTO: And why is that?

6 ERIC BERG: Well, it may have been -- I mean
7 it was that it came from natural stone but it's grounded
8 into a very fine powder -- Dr. Harrison was explaining
9 last month. So it's very fine powder. Very small
10 particle in this powder glued together with the pigments
11 of other chemicals. And then that's worked on, its a
12 much different product than natural stone.

13 And the crystal in particles when it's worked
14 on you it's much more smaller, they're much for spikier,
15 more reactive, and goes deeper in the lungs, cause more
16 damage in the lungs. Plus they're mixed with chemicals.
17 That also helps it do more damage to the lungs.

18 So it's a whole host of factors -- Dr. Wilson has
19 going through many scientific studies. So crystalline silica,
20 artificial stone, is much more dangerous than let's say
21 from concrete or cement. It's much more dangerous than
22 that and much more dangerous than natural stone. No doubt about
23 that.

24 CHAIRMAN ALIOTO: Thank you. I appreciate that very much.
25 So I'll just -- a general question for industry for manufacturers,

1 if you have signs that says something to the opposite
2 would you mind submitting it to the Board, and I would
3 love have you comment on what ever they submit as well.

4 BETSEY NOTH: Yeah, I just want to
5 say that we're happy to present to you an enormous
6 amount of recent science but out of respect we have not
7 necessarily overwhelmed you with all the stuff that's
8 coming out, but I think as we presented before the speed
9 of publication on this product is faster than any
10 product that I've seen in my career.

11 We would be happy to bring you up to speed on
12 the toxicity and the research that's going on with that
13 in a subsequent presentation or in a document. Very
14 happy do that.

15 CHAIRMAN ALIOTO: All right. Thank you.
16 Let's -- I'll hold off on that until further notice.

17 Anybody have any other questions or comments,
18 or anything like that? Yes, please.

19 DEREK URWIN: We just -- we bring back to the
20 point Dave was making about the workforce. Workers
21 often, I think, don't even realize they can engage us
22 here at the Board or are afraid to do so. And so maybe
23 it's a question for Mr. Eddin, and if that's okay as far
24 as how might be be effective in going about engaging the
25 workforce.

1 And I mean the workforce, right? They're
2 people who are attempting to put controls into place or
3 seeing how it failed. So that we can hear first hand
4 what works, what doesn't work, etc. And I think that
5 type of feedback would be essential to any next step --
6 next steps whether it's disposable or any Board action.

7 CHAIRMAN ALIOTO: Mr. Eddin, you want to
8 comment on that?

9 KHALED TAQI EDDIN: Yes, thank you. We remain
10 willing able to collaborate with anybody who wants to
11 collaborate with representatives of actual workers.
12 There other organizations, as well, that actually
13 represent the workers that want to be engaged. Many of
14 the workers -- it's a very incredibly skilled trade.
15 They're artists, but they're also uneducated.

16 Most of them don't have any formal education.
17 So they rely on advocates to speak for them. I think
18 it's important to understand that we're seeing more and
19 more cases from incredibly sophisticated shops. Their
20 sophisticated shops where 100% of the workers have
21 silicosis. The man from Block Tops, he submitted data
22 to Yale saying his workers don't have silicosis.

23 We represent several of his workers with
24 silicosis. So the problem is these workers who even are
25 educated, even are licensed, even are sophisticated

1 shops, doing everything right, because they're using
2 artificial stone, they're still get silicosis. Which is
3 why you heard from WOEMA, and they said, look, two years
4 ago we didn't realize it was this bad.

5 Now we looked at the science. We realize this
6 bad. The only solution is to ban it and switch to
7 recycle glass. They can all cut that safely. But we're
8 happy to engage with anyone that wants to engage on that
9 topic. Thank you.

10 DEREK URWIN: Just a follow-up question, what
11 do you mean by a sophisticated shop? What types of
12 features would that entail, and what would be a not
13 sophisticated shop.

14 KHALED EDDIN: So there are shops with many
15 million dollars of safety equipment that still couldn't
16 -- as WOEMA explained when he called in -- Dr. Blink,
17 that still couldn't get the levels below the OSHA action
18 level which still not a safe level anyway. And so you
19 can spend many millions of dollars and still not get a
20 safe shop with -- if you're fabricating artificial
21 stuff.

22 You can fabricate natural stone with very
23 unsophisticated methods and no one is going to get
24 silicosis. You can fabricate recycle glass labs with
25 very unsophisticated methods and nobody is going to get

1 silicosis. As I said before, the disease rate in the
2 entire world before artificial stone was introduced was
3 zero.

4 No documented cases of silicosis among
5 countertop fabrication workers for decades. The only
6 thing that changed are the artificial stone because of
7 the unique toxicity of the product. As staff keep
8 saying, there's been over a hundred published peer view
9 medical articles in the last 10 years focused on why
10 this is a uniquely toxic product.

11 Which is why Australia, who is a few years
12 ahead of us, they did all of this already. They looked
13 at all the licensing, they talked to all the workers,
14 they looked at what preventative methods we can do and
15 they determined none of this is working. We have to ban
16 the product.

17 CHAIRMAN ALIOTO: I would love to hear of --
18 are there any shops that you're aware of, I would
19 imagine the most sophisticated among the ones that
20 you just listed, who have been successful in fabricating
21 natural -- I mean artificial stone without injury to the
22 workers?

23 KHALED EDDIN: There are shops that say they
24 have been successful and I say that those shops show me
25 your high resolution CT scan. Because you can do a

1 four-view chest X-RAY or a one-view chest X-RAY on a
2 worker all day long and not see anything. But if you do
3 a high resolution CT, we're finding that about 80% of
4 these workers have silicosis.

5 And so we have clients from many, many,
6 sophisticated shops. We have a shop in Colorado. It's
7 been perfectly sophisticated since day one. State of
8 the art methods from the entire time they've been
9 fabricated and 100% of those workers have silicosis.

10 We have a former shop in Southern California
11 that was incredibly sophisticated. Many millions of
12 dollars of safety equipment and there's at least 10, 15
13 workers out of that shop that has silicosis.

14 CHAIRMAN ALIOTO: Do you all have a
15 confidentiality order in your case? Protective order?

16 KHALED EDDIN: Mostly, no.

17 CHAIRMAN ALIOTO: Do you -- are you able to
18 share with the Board evidence that you might have of one
19 of these highly -- not one, as many as you can -- of
20 these sophisticated shops and the number of folks and the
21 severity of the diseases that have been suffered by the
22 workers there.

23 KHALED EDDIN: Absolutely. Happy to submit
24 that. And again, as I mentioned, I would happy to speak
25 in full in the next meeting.

1 CHAIRMAN ALIOTO: Here's what I'd like to do.
2 The lawsuits that are pending have elevated the tensions
3 so greatly here and the problem is that it's -- we're
4 not a jury, we're not going to decide who's right and
5 who's wrong. And the purpose of what we're trying to do
6 is set all of that aside and it's -- I see it and I feel
7 it in everybody who presents.

8 You have folks that have been devastated and
9 their families by this disease that you represent. They
10 have businesses that they literally see an existential
11 threat if they lose the ability to sell this product.
12 So tensions are very high and I mention that only because
13 I would love to hear from the employees. I've been
14 asking for that for years, or year anyway, of
15 representative of the employees.

16 I would like for it to be from their own
17 representatives to the extent that that's possible, and
18 I want to get away from who's, the blaming, and I just
19 want to stick on, if we can, the science and what we can
20 do about it right now to help save people.

21 Maybe Ms. Ortiz knows some folks. And if you
22 do, would you mind maybe make it a -- I would love to
23 see a presentation from the employees is what I'm
24 getting at.

25 So would you mind writing us an e-mail? Or

1 we'll keep your name and we'll figure out how to do
2 that.

3 KHALED EDDIN: Happy to do that. Also, I
4 think it could be great if you hear from WOEMA who
5 presented their position; right? They haven't actually
6 presented it --

7 CHAIRMAN ALIOTO: Yes. We are definitely
8 going to do that as well. All right. Thanks folks.
9 Any --

10 CHRIS LASZCZ-DAVIS: You know, and I don't
11 know whether or not it's appropriate or not, but I do
12 know that Dr. Wilson has certainly dealt with the people
13 from Australia. Would there be any value in having one
14 of their lead silica experts Zoom in and make a
15 presentation here?

16 BETSEY NOTH: Always. I think that if our
17 question in particular is engineered stone a toxic
18 product and testing pretty different from natural stone.
19 I think that, yes, they have a particular expertise in
20 that. Shandy is an expert in that and has published a
21 number of papers. She might be willing to present.

22 CHRIS LASZCZ-DAVIS: Yeah, I don't know if we
23 do that kind of a thing but it does provide a
24 perspective from a part of a world whose shoulders we're
25 trying to stand on.

1 CHAIRMAN ALIOTO: We do do that kind of
2 thing because you just asked for it. So anybody else?
3 Yes.

4 DEREK URWIN: Just a question for maybe
5 Dr. Wilson or Dr. (indiscernible), we heard about the
6 potential of CT as a prognostic indicator. Can we get
7 information when you get the next meeting on what other
8 types of prognostic indicators, whether they be, you
9 know, blood based bio markers, or what not might be
10 useful in this environment in so far as indicators of
11 pending silicosis.

12 And then one other thing that I
13 just -- thinking back to Dr. -- WOEMA's presentation,
14 you know, you mentioned the use of a spacesuit, but I
15 think he's probably alluding to a use of, like, a
16 Level-A suit. And I think just for the benefit of
17 everybody that's here -- or the comment, can either of
18 you just give a breakdown of a level A suit is and,
19 whether or not, that's something that might be, you
20 know, in the cards, or necessary.

21 DR. WILSON: I mean those are both great
22 questions -- Dr. Urwin -- and we can certainly
23 do that. And I think, you know, thinking about a
24 Level-A suit and the level of sophistication of
25 this industry that it gives one pause as to the ability

1 of a shop with five employees to have the capacity and
2 willingness to protect workers at that level and, you
3 know, the economic feasibility of it.

4 And I think underscores the point that's been,
5 you know, raised around the unique toxicity of the
6 product. And I would just say, you know, one way
7 to think about it is entered this problem as we've heard
8 today from the public with the rise, sort of
9 extraordinarily rise of cases and case reporting.

10 And so the epidemiology is really reading this
11 with, you know, where we're seeing an extraordinary
12 severity of disease, a rate of disease onset that is
13 unprecedented, and the aggressive nature of the
14 silicosis that results with respect to lung transplant
15 or fatality that results in a short amount of time.

16 That has led to investigation of the
17 toxicology. And understanding that, oh, in fact, these
18 particles are uniquely toxic as you've pointed out for
19 the reasons you've highlighted. And I think we're in
20 thinking about the fact of as we're seeing from CDPH
21 more than half of the shops across the state are, have
22 generated cases.

23 But we have a real case rate from Australia
24 that has been doing active surveillance. So we have 20
25 to 25% percent of these workers are going to develop

1 silicosis.

2 We expect 19% of those cases will likely die
3 of mass pulmonary fibrosis. So I think, you know, as
4 doctor just noted -- you know, just noted we have a
5 substantial body of summation of the literature that we
6 would be happy to provide to the Board, that sort of is
7 a question to ask as to the toxicity.

8 BETSEY NOTH: And I think, if I may,
9 Dr. Urwin, there are a number of people -- not so much
10 Mike and myself, since we are exposure scientists and
11 industrial hygienists -- but CDPH and our medical unit
12 have done a lot looking at the leading indicators. And
13 a lot of it is more about time between diagnosis and
14 death. Like, looking at that prognostic indicator, but
15 there is -- like, looking in that prognostic indicator,
16 but there is, like, that literature is moving, too.

17 And we could definitely talk to CDPH and see
18 if they might be able to come in and give a presentation
19 or the medical unit. Whoever would be appropriate but I
20 just want to acknowledge that part of your question that
21 they're definitely more answers on that, as well.

22 CHAIRMAN ALIOTO: I would really like to know
23 the answer to the question, whether or not, it can be
24 fabricated safely. Whether or not artificial stone can
25 be safely fabricated.

1 I heard yes. I heard no. It sounds to me
2 those that are saying no -- let's just imagine for a
3 moment that we did have, in fact, a certification
4 program, it sounds to me, like, if they're right, that
5 those people would simply never get certified.

6 So if you have science to answer that -- for
7 the fabricators in the room -- Mark, manufacturers,
8 everybody else -- please, any evidence of the ability to
9 safely fabricate artificial stone. Fact, please. Like,
10 science. All right.

11 DEREK URWIN: Just a follow up on why
12 I asked about level A suits and giving that some context
13 is the point that their exist products, hazardous
14 materials, that require the use of things like a level A
15 suit in order to work with them. And so to be clear,
16 you know, where the existing PPE standard is is not the
17 only line that can be drawn, right?

18 And those hazardous materials that require the
19 use of a Level-A suit, you don't work with those
20 materials without a Level-A suit. And so the question
21 is, what's required in order to work safely? And,
22 again, we want to make the point that when you hear a
23 comment like it takes a spacesuit, a Level-A suit, if
24 you haven't seen one, is essentially a spacesuit that
25 you would use here on Earth.

1 It's fully encapsulated with self contained
2 breathing apparatus, etc. And that is a type of PPE
3 that's utilized in certain hazardous work environments.
4 So just want to make that point.

5 CHAIRMAN ALIOTO: All right. Anyone else?
6 Ms. Crawford? Anything else to add? All right. Folks,
7 thank you very much.

8 I want to say thank you to everybody who has
9 traveled near and far to be here to provide their
10 valuable opinion on this difficult topic. I want to say
11 thank you to all of you for all the work that you have
12 done on behalf of everybody that you represent.

13 We're going to take a 10-minute break for our
14 court reporters and interpreters, and we'll get back
15 here in 10 minutes. Thanks folks.

16 (Break.)

17 CHAIRMAN ALIOTO: So we are going to continue
18 with our agenda and the next item. We have another
19 presentation, and that is entitled "Refinery Safety Only
20 Works With Union Or Workers Selective Representatives."
21 This is going to be presented by Norman Rogers, USW
22 Local 675, and Nick Purlowski, USW Local 5.

23 You all have an opportunity to comment on the
24 presentation or on this issue after the presentation,
25 and then we'll go to the board for questions and

1 comments. Thank you.

2 Gentleman, please. Good to see you both, and
3 good morning.

4

5 PRESENTATION

6 NORMAN ROGERS: So thank you. I'm Norman
7 Rogers, I'm from USW Local 675, we're located down in
8 Southern California, and represent a number of the
9 refineries there -- the inclusive of Marathon, Chevron,
10 and PBF.

11 I'd like to start by going back in time
12 to -- there we go -- back to the summer of 2012.

13 June 11th of 2012, ExxonMobil refinery of
14 Torrance, they had a fire; June 15th, 2012, Conoco
15 Phillips in Rodeo had a release from a tank failure;
16 July 2nd, 2012, Chevron refinery El Segundo, superior
17 gas release due to a mechanical integrity failure;
18 August 2nd, Chevron Refinery, Richmond, 8,600
19 barrels -- excuse me -- 8,600 pounds of hydrogen sulfide
20 release due to mechanical integrity issue; August 6th,
21 Chevron Richmond had a refinery fire; August 13th, 2012,
22 Shell Refinery in Martinez had a fire; and August 29th,
23 2012, Rodeo had a refinery fire.

24 I want to go back to August 6th. This is
25 Chevron Richmond. And we will come back and see this

1 picture again -- or a different version of this picture.
2 But on August 6th, there was an incident at Chevron
3 Richmond. The factual data from this comes from the
4 Chemical Safety Board.

5 There was a pipe that ruptured, releasing
6 flammable hydrocarbons. And we had to vapor cloud out
7 of it, and the vapor cloud ignited, and 19 people that
8 had responded barely escaped -- serious injury -- barely
9 escaped death.

10 The white smoke, that's the vapor cloud. And
11 then you see that it ignites, and then you see the cloud
12 that forms of the burning fuel. This is what it looks
13 like from a distance. And it's typical to call this an
14 accident, because this pipe is the pipe that failed.

15 You can see it's very thin. Here's another
16 view showing what -- the bottom picture shows on the
17 right what it should have looked like, and on the left
18 is what it wore down to before it released.

19 And this is why I say it's difficult to call
20 it an accident. This is Chevron as an organization, at
21 corporate level, what they knew about sulfidation
22 corrosion, different sites that had different
23 incidences, and then reports that came out from Chevron
24 to the rest of their facilities; saying watch out for
25 this, you need to take precautions against it.

1 So at corporate level, there was an
2 understanding of it, up until -- excuse me -- 2009.
3 Chevron's Energy Technology Center issued detailing --
4 issued a report detailing sulfidation corrosion hazard,
5 and requiring a 100% inspection.

6 So this is part of the reason why I say it's
7 difficult to call it an accident, because everything was
8 in place to have what happened, happened.

9 This is another view. This is the cloud, the
10 vapor cloud -- not vapor cloud, but the smoke that wafted
11 over the city, which ended up making this a
12 public-health event as well, because 15,000 people
13 sought medical attention from the fume. They were
14 having respiratory issues.

15 This is what Chevron Richmond knew. Similar
16 to the other slide, there was different events that
17 happened throughout Chevron -- not necessarily industry-wide
18 -- but Chevron, in their instance, what they had, a
19 portion did come out, and information that the local
20 facility was given that you need to fix your equipment.

21 That didn't happen, and then we had the
22 release. It was kept secret. It was -- there was no
23 transparency with it. And I mention that because part
24 of the Regulation 5189.1 is that there's an employee
25 participation piece that these meetings shouldn't have

1 happened the way they did -- where knowledge was there,
2 it was withheld. Actions that should have been taken to
3 preserve the safety of the workers and the community,
4 those actions did not take place. And that's the piece.

5 While there's a number of items under attack
6 in the current regulations, the employee participation
7 piece is particularly important, because so many other
8 sections of the standard rely on that. So this is why
9 we want to protect and have employee participation preserved.

10 This is what it looked like on the ground.
11 There was allegations made in the lawsuit that WSPA has
12 been brought, talking about unqualified workers or
13 unqualified people being involved in the process. We
14 would not bring in unqualified people when we're having
15 safety meetings about process safety, because we know
16 that this is a potential that can happen if we don't get
17 it right.

18 It's for ourselves. There's a lot of folks
19 who have whole families who work at refineries. Maybe not
20 necessarily the same one, but the concerns are the same
21 everywhere. We know what we're doing when we work at
22 these places. If everything goes right, we're making
23 something that's designed to explode.

24 Ideally it's as needed inside the confines of a
25 cylinder, but all along that path, making that product,

1 this is a possibility and why we want to have an
2 employee participation preserved -- is so that we don't
3 have information hidden from us.

4 This is the fire truck. So those 19 people
5 that barely made it out, those were firefighters. The
6 one in particular, the last one to make it out, ended up
7 having to walk through a wall of fire to get out of
8 harm's way. And I'll leave it there.

9 Nick.

10 NICK PLURKOWSKI: Hey, everyone. Nick
11 Plurkowski, USW Local 5. I'd like to add to what Norman
12 was saying with this image from Planes, Trains, and
13 Automobiles from 1989. So I'm just going to read
14 through this really quick.

15 The officer, "Do you feel this vehicle is safe
16 for highway travel?"

17 And John Candy is the driver, "Yes, I do.
18 Yes, I really do. I believe that. And I know it's not
19 pretty to look at, but it will get you where you to go."

20 And the officer is clarifying, "Now you got no
21 outside mirror."

22 "No, we lost that."

23 "You have no functioning gauges."

24 "No, not one. However, the radio still works.
25 Funny as that may seem with all this mess, the radio is

1 the only thing that is really working good. And it's as
2 clean as a bell, don't ask me how."

3 And then the officer, "I can't let you
4 go ahead in this vehicle." And the vehicle gets
5 impounded.

6 And what I'm trying to illustrate with this is
7 you have company executives and engineers that are
8 trying to keep these units running in condition similar
9 to this car. No functioning gauges, you know, hard to
10 read stuff. And the officer -- in this case, being the
11 operator with the authority to shut this down.

12 And so Norm's scenario of, you know, all this
13 behind-the-scenes planning and stuff, and I'd like to
14 bring it right to the same Chevron incident where this
15 is the CSB video. A number of managers, engineers, and
16 technicians gathered there informally to assess the
17 problem. This is before the smoke and fire I might add.

18 The word that stands out to me is the word
19 "informally." What does that mean? You know you have a
20 leak in your refinery, and you're going to informally
21 approach this? The group discussed the recommendations
22 from an operator to shut down the unit. That operator
23 knows how to run the unit, and how to shut down the
24 unit.

25 And if it's leaking, the operator, through our

1 recommendation -- this is before stop-work authority was
2 put into this regulation -- and anybody know what
3 happened? They decided to try something else first.
4 And I don't think Chevron would disagree that they
5 should have followed the shut down recommendation.

6 And so what we're getting at is in all these
7 safety reviews and points of PSM, you absolutely need
8 someone there who has the insight to say, you know, at
9 what point do we stop? At what point is this going to get
10 worse?

11 And I'd really like to point out that workers
12 are typically the first to discover the hazards, and
13 they're trained and qualified to safely shut down the
14 units. There's no way around it. And to run a
15 refinery, you have to be able to safely shut down as
16 well, and those are your operators with the help of
17 maintenance and everyone else.

18 But once management gets involved, and they
19 come up with any sort of plan -- like, let's remove some
20 of the insulation and keep poking at it, and keep trying
21 to figure out how bad the leak is while it's running,
22 while there's no other way to isolate or
23 anything -- that becomes work direction. And just
24 agreeing with work direction leads to insubordination,
25 which is disciplinary and a terminable offense.

1 And so you have a fine line that the board is
2 being asked to walk where employees that are currently
3 in a place to make a decision -- that's about to change.
4 If this language proposal goes through as currently
5 written, that's about to change.

6 You take these employees that know what
7 they're doing, and you substitute them with hand-picked
8 company employees. You're not going to have the same
9 results. So, essentially, I know there's a lot of
10 pressure to get this language through, but I really like
11 to point out that, you know, in the reports that came
12 out of this incident, if you have -- it's really hard to
13 read up in the corner -- but you have recommendations
14 for workforce input, because all signs and evidence is
15 there.

16 So again, please, the changes proposed will
17 remove the selection power from the union of workers,
18 and without that person, this regulation will be
19 ineffective. I don't know what that little plug in the
20 boat is called, but, you know, these refineries are
21 running, and if you pull that little plug on the whole
22 safety reg, the whole reg is going to sink. And we'll
23 be right back here talking about more fires and more
24 community impacts.

25 And so please consider alternative language

1 proposed by United Steel Workers, and, yeah, do the
2 right thing.

3 Thank you for your time.

4 CHAIRMAN ALIOTO: Thank you both very much.
5 You could probably stick around for questions if you
6 don't mind. But, first, let's go to public comment.

7 Anybody like to comment on this particular
8 topic here in person? And then as we go, if there's
9 anybody online and is interested in discussing this
10 agenda item, please raise your hand.

11 Good afternoon.

12 CHARLOTTE BRODY: Good afternoon. I'm
13 Charlotte Brody. I'm a registered nurse by training,
14 and the Occupational and Environmental Health Director
15 for the BlueGreen Alliance.

16 I was the only green member of the stakeholder
17 process that created 5189.1, and I'm quite sure I was
18 the person in the room who knew the least of PSM when
19 the stakeholding process began. But I knew that
20 Governor Brown had instructed us to make sure that what
21 happened at Chevron Richmond never happened again.

22 So I learned about PSM, and I came to
23 understand that it's an engineering process designed to
24 solve problems when they're small enough to solve by
25 putting everybody who knows anything about the problem

1 in a room together and figuring out what we can do to
2 fix the problem before it blows up.

3 And I also learned that PSM had been a rule
4 nationally, and in California since 1992. But it'd
5 become a paper tiger used beautiful on paper but not
6 actually working every day for the refineries in
7 California. So the language that we wrote was intended
8 to move the content from paper to reality. And the
9 central piece of that was giving workers full-sized seat
10 at the table to figure out how to fix the problem before
11 it gets any worse.

12 If the -- if WSPA proposed amendments are
13 burdensome, because it is a burden to involve more
14 people in solving problems; but that's the burden that
15 keeps refineries safe. And so I would ask you to note
16 that WSPA bullied the AG's office and bullied Cal EPA
17 and Cal/OSHA, and to not let them bully you.

18 Thank you.

19 CHAIRMAN ALIOTO: Thank you very much for your
20 comments.

21 Good afternoon.

22 TIMOTHY JEFFERIES: Good afternoon, Chairman.
23 My name is Timothy Jefferies with that International
24 Brotherhood of Boiler Makers representing boiler makers
25 in refineries and building refineries.

1 And much like what USW said earlier, my point
2 I want to make is that the language -- taking the
3 workers out of the equation, I don't think is seemingly
4 that the pose language is writing the union out --
5 writing the work representation out. As stated -- I
6 mean, safety starts with the minor and small -- with the
7 worker on the field that's actually doing the work.

8 If they're not going to wear that
9 protective -- that PPE, then it's up to the industry to
10 make that PPE worth their while. If you're doing the
11 test and, in your mind, it's easy to remove that PPE
12 just to get the test done and then if the worker chooses
13 to do that, that's not going to make the contract to the
14 owner to provide the proper PPE so the job could be done
15 properly. It would shortcut the system.

16 It may be the reason why the language was one
17 to be proposed or adjusted. I don't think that taking
18 the worker -- the hands and the rank and file member
19 out of the equation and their experience out of the
20 equation is the answer though.

21 Thank you.

22 CHAIRMAN ALIOTO: Thank you for your comment,
23 sir. Thank you for coming.

24 RANDY THOMAS: Good afternoon. My name is
25 Randy Thomas. I'm the business manager for Boiler

1 Makers Local 549 located in Pittsburg, California,
2 representing over 700 welder makers that work in heavy
3 industrial areas including all the refineries in the Bay Area.

4 One of the things that we lack is a
5 standardization in between all of these different
6 facilities. But our workers -- members go and work and
7 every single one of them -- right -- the one thing that
8 we have to deal is with the fact that we do have --
9 today you have the stop work authority, which gives the
10 worker a voice to be able to see something and say
11 something. And that needs to continue, and not just at
12 the level of being out there in the field, but getting
13 those workers to be on the board to be able to have us
14 say as well, too.

15 I'm a representative of the boiler makers.
16 I'm a graduate apprentice. I worked at Chevron. I know
17 what the facility is like, but I'm not the person that
18 you need on that council. You need one of the workers
19 that are out there day-to-day dealing with the tools,
20 dealing with the roadblocks that we deal with. And
21 they're individuals for each one of these facilities,
22 right?

23 So a reminder that we teach a lot of OSHA to
24 our apprentices -- OSHA 10, OSHA 30 -- and something
25 that I remind our students everyday is that OSHA is here

1 to protect the worker, not to protect the facility that
2 we're working in, right? And so it's important for the
3 worker to understand their rights to be able to keep
4 them safe in the facilities that we work at. And one of
5 the best way of doing that is having a voice on it.

6 Thank you very much.

7 CHAIRMAN ALIOTO: Thank you, sir.

8 MIKE WEST: Good afternoon, Mr. Chairman,
9 members of the board. My name is Mike West, and I
10 represent the 450,000 men and women of the State
11 Building in Construction Trades Council of California.

12 It's my honor to follow my brothers from the
13 boilermakers to make a few additional comments. Senate
14 Bill 54, which is authored by Senator Loni Handcock in
15 December of 2012, had a specific purpose.

16 In Senator Handcock's words, SB 54 will ensure
17 that contracts at refinery facilities should use skilled
18 and qualified workers to reduce public health and safety
19 risks. As it was our due incidence, risking public
20 health including Chevron refinery explosion in Richmond,
21 then Governor Brown and members of the legislature
22 called for changes to implement safety in these
23 facilities.

24 SB 54 was signed in the law on October 13,
25 2013, and remains essential as it requires that 60% of

1 the workforce are graduates of California state approved
2 apprenticeship programs. Before then, many of the
3 workers were coming from Texas, Louisiana, and other
4 states undercutting area standards and required training
5 protocols.

6 As it was previously stated, it is essential
7 that building-trade members working in refineries have a
8 seat at the table when health and safety policies are
9 updated and adopted. And I do want to point out, there
10 was a CalMatters that dropped yesterday that was titled
11 "California Shouldn't Let Oil Companies Rewrite Refinery
12 Safety Rules."

13 Thank you for your time and the opportunity to
14 speak today.

15 CHAIRMAN ALIOTO: Thank you very much,
16 Mr. West.

17 Do we have anybody online that'd like to
18 speak?

19 JOHN ROENSCH: Yes, Mr. Chairman. We do.

20 At this time, Ellen Widess is our first
21 commenter online for this topic.

22 Ellen, if you'd like to unmute your
23 microphone, you may do so and speak to the board.

24 CHAIRMAN ALIOTO: Let's keep moving,
25 Mr. Roensch.

1 JOHN ROENSCH: Okay. All right. Our next
2 commenter is Jane Thomason with the California Nurse
3 Association.

4 Jane, if you'd like to speak to the board, you
5 can unmute your microphone at this time.

6 JANE THOMASON: Hi. Thank you so much. This
7 is Jane Thomason, I'm the Assistant Director for Health
8 and Safety for the California Nurses Association or CNA,
9 which represents over 100,000 registered nurses in the
10 State of California.

11 CNA wholeheartedly agree that worker engagement
12 is key to work safety and health, and our experience for
13 our members at hospitals and other healthcare settings,
14 as well as you've just heard of the presentation for
15 refinery workers and others in many industries.

16 As nurses, CNA's members, sees the impacts of
17 refinery admissions and disasters. RNs -- our RN CNA
18 members were on the cut lines treating for 15,000
19 community members harmed by the effects of the Richmond
20 Chevron refinery explosion in 2012.

21 CHAIRMAN ALIOTO: Ma'am, excuse me. I'm
22 sorry. Would you mind just slowing down a bit. We'll
23 give you a couple extra seconds to finish up. Go ahead.

24 JANE THOMASON: My apologies. It's a short
25 comment.

1 We were in the front lines treating the
2 15,000 community members harmed by the effects of the
3 Richmond Chevron refinery explosion in 2012, which you
4 all just heard about in the presentation, and which the
5 Chemical Safety Board investigated and found that if
6 management had not been able to commit to the warnings
7 from employees, the incident could have been avoided.

8 So CNA opposes the amendments to the process safety
9 management rules because of enacted, these amendments
10 will endanger the safety of workers and communities in
11 and around California's refineries, including our
12 members.

13 CNA urges the Standards Board to reject the amendments
14 to the PSM rules.

15 Thank you so much.

16 CHAIRMAN ALIOTO: Thank you, ma'am.

17 JOHN ROENSCH: Our next online is Kathy
18 Kerridge with Benicia Community Air Monitoring Program.

19 KATHY KERRIDGE: Good afternoon. Thank you
20 for taking my comment. The Benicia Community Air
21 Monitoring Program is an independent air monitoring
22 station in Benicia, and as a resident of the refinery
23 corridor in the Bay Area, who lives near five
24 refineries, I know the worker involvement and safety and
25 community safety are totally intertwined.

1 If something is dangerous for a worker,
2 they're going to want to fix it before it becomes
3 dangerous to the community. So workers should
4 definitely be involved. I wanted to make comments on
5 the next thing, too -- and I'm going have to leave -- so
6 as an environmentalist, I often don't support union
7 positions on some refinery regulations, but I am
8 completely in support of the unions on this and on the
9 next agenda item.

10 We need to listen to the people who work in
11 the refineries, and we need to let them bring in other
12 experts. And I don't think rulemaking should be done in
13 a private settlement conference. If you're going to
14 make rules in a private settlement conference, you have
15 to bring in the unions and community members.

16 So I completely support the union's position
17 on this agenda item and the next one.

18 Thank you very much.

19 CHAIRMAN ALIOTO: Thank you, ma'am. And I
20 just want to let you know, if you're interested in
21 sending a written comment, you may. And we'll -- and if
22 you send it now, we'll read it at the end of the public
23 comment period.

24 KATHY KERRIDGE: Okay. I send it to the e-mail?

25 CHAIRMAN ALIOTO: I'll tell you what it is

1 right now. It's oshsb_nacomment@dir.ca.gov.

2 KATHY KERRIDGE: Thank you very much. I will
3 submit my comment.

4 CHAIRMAN ALIOTO: Thank you, ma'am.

5 JOHN ROENSCH: Our next commenter is
6 preregistered by telephone, as well as online. That's
7 Julia Sebastian, and she's with Jobs with Justice in SF,
8 San Francisco.

9 Julia, if you press star six, you can unmute
10 your microphone and address the board.

11 JULIA SEBASTIAN: Did that work?

12 JOHN ROENSCH: It worked.

13 JULIA SEBASTIAN: Okay. Good morning or
14 afternoon. My name is Julia Sebastian, I'm the climate
15 policy directorat Jobs with Justice San Francisco. Just
16 calling tosupport other comments made by the United
17 Steel Workers and other community organizations and
18 unions representing the workers and residences
19 surrounding the refineries.

20 Refinery workers and nearby residents will be
21 put in increased difficult risk if the proposed changes
22 to the PSM moves forward. This is because the changes
23 that are the result of legitimate pressure applied by WSPA
24 and our health and safety bodies. It's not fundamentally
25 about making all workers more safe, it's a watering down

1 process.

2 The language proposed as of today is
3 exceedingly similar to that, which was proposed in 2015
4 and '16, following that explosion in Richmond, as Norman
5 Rogers spoke to, that language was rejected at the time
6 to avoid future catastrophes, and it should be rejected
7 now.

8 California's oil infrastructure is aging, and
9 given market forces, refineries are actually
10 investigating less and less in proper maintenance; so
11 refineries are only becoming more and more dangerous,
12 and we really need the strongest PSM regulations including
13 the worker participation language, the language that
14 we have to protect workers and residences in the future.

15 Also, the process, condition workers were
16 completely excluded from the original settlement
17 negotiations -- fully an inadequate process and the
18 outcome that came out of that. Just want to add our
19 voice in asking the board to reject these amendments in
20 order to really codesign -- go back and codesign that
21 solution that upholds that mission of Cal/OSHA, which is
22 to protect California workers.

23 Thank you.

24 CHAIRMAN ALIOTO: Thank you.

25 Should we go back in-person.

1 TED WICKERS: Thank you. My name is Ted
2 Wickers. I am a process safety management rep for Local
3 326 in Rodeo, California. We recently converted from
4 fossil fuel to renewables. So if you want to know what
5 an example of good employee involvement is, all you need
6 to do is look at our competitor across the way who shut
7 down the refinery, put all trained and skilled labor on
8 the street, rebuilt it, blew it up, and then put one of
9 our members in the hospital.

10 We were involved from ground level up with
11 every aspect of that Rodeo renewal plant. The
12 conversion to shut down six other units to redistributed
13 of manpower inside that plant. Us, in conjunction,
14 because that's employee involvement. Anything else is
15 superficial. So I would ask that regulatory language
16 stay the way it is.

17 A lot of times a relationship is tough. Is it
18 all encompassing? No. But we were there from the
19 ground level. Our people knew, looking into the
20 trainer's eyes, those were our folks -- brothers,
21 sisters, men, women, grandchildren have been there since
22 '83. That plant has been home grown and organic as you
23 can get.

24 I'm not going to quote our safety records,
25 because it's on the books about process safety. Please

1 do not undercut our ability as labor to manage these
2 facilities from the inside. This is all great on the
3 outside, the magic happens inside the fence line.

4 Thank you for your time.

5 CHAIRMAN ALIOTO: Thank you, sir, and your
6 experience.

7 Anyone else in person would like to make a
8 comment?

9 Anybody online like to make a comment?

10 JOHN ROENSCH: Yeah, Mr. Chairman. Our first
11 commenter, spoken earlier as public comment, Genghmun
12 Eng.

13 GENGHMUN ENG: Yes. I also have some
14 information that I sent off to the board a couple days
15 ago for the next agenda item on PSM. And I didn't
16 comment on any of the weakening of the regulations by
17 the court settlement because it was a court
18 settlement, but I support everything that was said by
19 the union and everybody else for rejecting those aspects
20 of that court settlement that weaken workers rights,
21 and put the public at an increased health and safety
22 risk.

23 And I don't know that my comments -- several
24 pages -- which I just went through everything else and
25 fought 5189.1 showing a lot deficiencies that I also

1 think need to be corrected.

2 So what I would like to recommend here is that
3 this entire matter -- that the board consider all the
4 public comments here and defer decision on this matter
5 -- or defer this decision on these matters to the next
6 board meeting; and, in 15 days, to include evaluation of
7 all the public comments and everything that's been said
8 here, to issue a revised, updated, more
9 worker-participation of version 5189.1.

10 Thank you very much.

11 CHAIRMAN ALIOTO: Thank you, sir. Appreciate
12 your comments.

13 JOHN ROENSCH: Our next online commenter is
14 Jeff Kilbreth.

15 JEFF KILBRETH: Am I on?

16 JOHN ROENSCH: Yes, you are.

17 JEFF KILBRETH: Good afternoon. Hi, my name
18 is Jeff Kilbreth. I spent the last five years being on
19 the AB 617 steering committee for the Richmond, San
20 Pablo AB 617 area. We were one the first 10 communities
21 in the state picked for particular focus in terms of
22 pollution and public health. But I live half a mile
23 from the Richmond refinery, and I saw the 2012 fire
24 close up. And I went out to every Chemical Safety Board
25 hearing, and I read the Chemical Safety Board's report.

1 I hope all of you on the Board have read the
2 Chemical Safety Board's report on the 2012 Richmond
3 fire. It was sobering, serious, and probably much more
4 in depth than any work done by legislative analysts. You
5 should be sure to take advantage of it.

6 And a few things I want to say
7 about this issue, in general, the real important point
8 -- bottom line here -- is that you have to trust the
9 workers on subjects related to maintenance and emergency
10 procedures. Those are two different things -- I mean,
11 maintenance planning and maintenance execution, as well
12 as the right to shut the place down if there's an
13 explosion about to happen. So you have to trust them.
14 They have no conflict of interest. They care about
15 their own safety, and they care about the community, and
16 they care about the health of the business. So it's not --
17 like, they have no conflict. This is not true for
18 Chevron management or WSPA.

19 One more point on this, the burden issue, I
20 just want to give you a Richmond perspective -- the
21 Chevron refinery is the biggest in the state; biggest on
22 the west coast, \$30 billion dollars a year in revenue,
23 at least, \$2 billion a year in net profit. They can
24 afford \$50 or \$100 million to be extra careful about
25 their workers and the community's health and safety.

1 So it's the same issue that we had with
2 pollution in terms of public health, but this is
3 different. This is safety. So, you know, the two are
4 quite separate and quite different. At any rate, I
5 would just urge you to recognize that the cost of doing
6 this stuff right and giving the workers a full dignified
7 way to participate -- both in the planning of the
8 maintenance of the facility and then the operations at
9 critical points. You know --

10 CHAIRMAN ALIOTO: Sir, I'm sorry, but we're
11 past the time. Would you mind just wrapping up, please.

12 JEFF KILBRETH: Yeah. If you checked out the
13 amount of money Chevron gives to WSPA every year, you'd
14 probably could fund all of the kinds of improvement to
15 worker participation and safety. You know, it's just
16 not that big of a deal, and, you know, they can do it.

17 CHAIRMAN ALIOTO: Thank you so much for your
18 comments.

19 Anybody else online?

20 JOHN ROENSCH: Yes. With do Byron Chan had
21 raised his hand online.

22 (No response.)

23 CHAIRMAN ALIOTO: Let's try the next person
24 online.

25 JOHN ROENSCH: The next person is Ellen

1 Widess.

2 (No response.)

3 JOHN ROENSCH: That's it, Mr. Chairman. Those
4 are all our commenters.

5 CHAIRMAN ALIOTO: All right. While those
6 folks are trying to sort out, Mr. Chan and who else?

7 JOHN ROENSCH: Ms. Widess.

8 CHAIRMAN ALIOTO: Folks, if you wouldn't mind
9 seeing if you can sort through your technical issues
10 that you might be having on your end. I believe
11 everything is working well on our end.

12 In the meantime, is Gabriela or Julie
13 available to please announce to the folks in Spanish
14 that they can make comments on this issue as well.

15 (Interpreter speaking in Spanish.)

16 CHAIRMAN ALIOTO: Thank you.

17 Anybody else here in person like to make a
18 comment? The answer to that is no. And anybody else
19 with their hands raised -- Spanish speakers or otherwise
20 -- Mr. Chan, Ms. Widess? No one else?

21 BYRON CHAN: Can you hear me?

22 CHAIRMAN ALIOTO: Yes. Here we go.

23 BYRON CHAN: Sorry about that. Good
24 afternoon. My name is Byron Chan, I'm an attorney at
25 EarthJustice. I'm calling just to support the union

1 workers and community members proposing the proposal to
2 water down the PSM standards.

3 The refineries are inherently dangerous
4 operations, and California should do all it can to make
5 sure that workers and communities are kept safe. So I'm
6 calling on the Board to reject the WSPA written
7 amendments.

8 Thank you so much.

9 CHAIRMAN ALIOTO: Thank you.

10 Anyone else online?

11 JOHN ROENSCH: We do have telephone callers.
12 If they would like to comment, they can press star nine
13 on their telephone to raise their hand.

14 No hands are raised.

15 CHAIRMAN ALIOTO: Okay. Great. Thank you.

16 That's going to close public comments on that
17 agenda item. Thank you all folks very much for that.

18 We're going to go questions for the presenters
19 -- if you don't mind, gentleman, coming back up --
20 questions from the board.

21 DAVE HARRISON: So my question is not for the
22 USW representative, but more for, I guess, Millie. And
23 we're going to see a presentation on the next agenda item,
24 correct? On both rulemaking. I want to ask about timeliness
25 of therulemaking, so is now a good time? Or probably wait

1 until the after next presentation?

2 MILLIE BARAJAS: So I think the recommendation
3 would be, if you have questions, to address those now.
4 And later during public comment, we just want to accept
5 the public comment and not engage in additional
6 conversations back and forth.

7 CHAIRMAN ALIOTO: Yeah. The next portion should
8 be public hearing where the public has an opportunity to
9 speak. So if you have any questions, now would be a
10 good time.

11 DAVE HARRISON: I do not.

12 CHAIRMAN ALIOTO: Gentleman, I got one for
13 you. And maybe it's -- the gentleman who spoke before
14 us, Mr. Wickers?

15 TED WICKERS: Wickers.

16 CHAIRMAN ALIOTO: Yes, sir. So I was just
17 hoping you all can just describe for me or us the
18 process by which the employee participates in the PSM
19 process.

20 And the reason I'm curious about this is, if
21 they are hiding things from employees by not having
22 representatives during the course of these discussions,
23 how would they be prevented from simply having the
24 discussions outside of PSM context when an employee is
25 not there anyway? Is there some --

1 NICK PURLOWSKI: Well, I'll say, as the reg is
2 written in all phases, the employee should be and shall
3 be -- as the reg is written -- included in that. But,
4 yeah, it's definitely still happening.

5 Did that answer your question?

6 CHAIRMAN ALIOTO: Well, when this process
7 happens -- go ahead. Yes.

8 TED WICKERS: So I can tell you how it works
9 in my plant. The PSM reg. We pick and choose based
10 off the situation of PSM. That's coming up -- it's a
11 PHA, I know the schedule. I make sure we get the right
12 people in the right groups. Incident investigation,
13 training -- we solicit for our trainings, and we
14 approve them and give them to the company.

15 So we're out front in what's going on in the
16 business, which is what we should be; more so than ever
17 what we transition from fossil fuel to renewables. We
18 built a billion-dollar plant, that we had to redesign
19 and write procedures for. So we pick our people to go
20 where we need them to go. Understanding the needs of
21 the business.

22 NORMAN ROGERS: I would add it's exactly what
23 both Ted and Nick have said. There is the represented
24 workforce, we'll look at those numbers -- the site I
25 come from -- and ever year, January 31st, we give the

1 company a list of the names -- these are the folks that
2 are good. And then as something comes up, a PHA, as Ted
3 referred to, a process hazard analysis -- that's something
4 that can take days. And then we will usher into that,
5 the people that we think would be best to handle that.
6 Same way with its investigations -- much of what comes up,
7 there's advance notice about it. We get to see information.
8 We get to see reports on inspections and see how thick or
9 thin metal is and if it's a concern or not. Or if
10 something hasn't been looked at in awhile because we're
11 there and seeing things everyday, and we remember the
12 last turnaround that got looked at and that needs to be
13 looked at again. And so we get our people in those
14 places as well.

15 Employee designated participants is the big
16 thing. And for us, we're able to do that, because
17 there's union; that also needs to be the case for sites
18 that are nonunion -- that those workers get to choose
19 who represents them. And, very honestly, there's the
20 decision making -- will this person during that meeting
21 speak up or push back as opposed to somebody that will
22 sit there and say "yes." And that's the big thing that
23 we watch out for.

24 CHAIRMAN ALIOTO: So Mr. Wickers, for
25 instance, is making sure that the right person is

1 involved because they are going to go in there and
2 actually represent the interest of the workers, and the
3 refineries want to essentially take Mr. Wickers' job and
4 assign the employees themselves. They don't want to
5 eliminate the employee participation, they want to have
6 the ability to make their own decision about what
7 employee is there.

8 TED WICKERS: Each corporation behaves
9 differently.

10 DAVE HARRISON: That's what I was going to
11 ask. So do you know where P66 is at?

12 TED WICKERS: Yes.

13 DAVE HARRISON: Okay. And the process that's
14 in place at B66, does that follow along standard the
15 current PSM standard? Or does PSM go above and beyond
16 that?

17 TED WICKERS: Well, if you look back for us,
18 conversion over, the language for employee involvement,
19 when all this lawsuit crap started, I sent out a process
20 safety director -- a different one than we currently
21 have -- and we rewrote the employee involvement.

22 We sat down with the company and rewrote the
23 level of employee involvement we were looking for inside
24 that fence line to clearly spell out where we meet
25 employee involvement and to what level.

1 DAVE HARRISON: So that goes along my
2 question. And I love that. I think that's fantastic.
3 Did that happen because the PSM standard required it?
4 Or did P66 choose to implement that process?

5 TED WICKERS: We choose to pull ourselves away
6 from that. Now, conversely, this current
7 administration, that's a tough question -- if this goes
8 the other way, does that policy get changed? Because
9 the years of service in age, I'm looking towards behind
10 me, what are these guys going to have to pick up. If
11 that management changes, then what do we do? Where's
12 that group stuck at? So the language I got needs to
13 stay there.

14 DAVE HARRISON: And that was my next question.
15 If the proposed rule goes into effect, do you believe
16 that what P66 practices today would change?

17 TED WICKERS: They would have the availability
18 to change it. Does it mean this group is going to do
19 it? I don't know. But what I'm saying is, you allow
20 that door to be open. That's what I'm saying.

21 DAVE HARRISON: Yeah. Okay. Thank you.

22 CHRIS LASZCZ-DAVIS: I wonder if I might ask a
23 question. What would motivate a company to want to make
24 the selection process verses having you guys decide who
25 should represent you from an operational-integrity

1 standpoint?

2 TED WICKERS: Well, only because if I knew
3 that, I'd pick lottery numbers, and this conversation
4 wouldn't be happening.

5 CHRIS LASZCZ-DAVIS: Okay.

6 TED WICKERS: Now -- but at the end of the
7 day, convenience. Really, convenience. You know, they
8 don't like being challenged. They don't like us being
9 able to walk around and get feedback from the field, and
10 go "Hey. What are you guys doing over here? Let me see
11 the MLC. Let me see the documentation."

12 Because to be honest with you, I'm one man
13 in the PSM group, but there's hundreds of these
14 changes going on. So when you educate your work force,
15 now there's 270 of us out there. It's only because the
16 level of employee involvement is there. If that's
17 removed, that can get squashed. It's really bad
18 management.

19 NICK PURLOWSKI: Three words come to mind to
20 me: profit, profit, profit. They want it run and they want
21 the money. If it burns down, is insurance going to pay to
22 rebuild it? Or are they going to take the insurance money
23 and leave like the Philadelphia Energy Solutions scenario
24 from a few years ago.

25 PBF made the decision to rebuild the plant

1 with the insurance money, but we don't want these
2 companies to burn these refineries to the ground and
3 leave.

4 NORMAN ROGERS: And along with profit, profit,
5 profit, it's control. It's a matter of control. They
6 don't want to give it up. They want you to do whatever
7 they say. It does end up being an issue of income and
8 making money, which they're doing.

9 As an example, Chevron, since 2018, Chevron
10 spent close to \$100 billion on stock buybacks; and
11 Marathon spent, like, \$41 billion on stock buybacks.

12 So I know we've all run into this situation
13 where we're going, "Oh, you know what. \$41 billion
14 doesn't buy what it used to."

15 But they're trying to, and that's what their
16 goal is, and that's what they want with these
17 regulations. So as with the 2012 incident in Richmond,
18 running that piece of equipment for as long as it can --
19 there's a concept called run to failure -- they say
20 they don't do it, but they do. It's not replace it
21 early, not look at it, we'll wait until it fails, and
22 then we'll switch it out.

23 CHAIRMAN ALIOTO: And the concern -- if I can
24 just sum up the answer to this question -- is the
25 concern is that they will put somebody in as the

1 employee representative that they know will not
2 challenge them than maybe a very junior employee, for
3 instance, who will into the challenge them?

4 NICK PURLOWSKI: Yes. And we've experienced
5 it. I've experienced it myself. But as simple as a
6 procedural overview, like an annual procedural overview,
7 you start making corrections, and they'll take it from
8 you and hand it to someone else who's too busy, and they
9 sign it, and they're done. And now I have no way to be
10 involved in that process.

11 So, again, some things are easy as procedures
12 all the way up to a PHA -- like what Norm described
13 earlier -- you review, you know, the entire unit and all
14 the failure scenarios and make sure that protection is
15 in place to keep that from happening.

16 So if you don't have someone that's going to
17 speak up in that meeting, it doesn't matter what you do
18 in the field later, because it can blow up while you're
19 walking by -- similar to Jerome Serrano scenario at the
20 Marathon Martinez Refinery.

21 TED WICKERS: So let me give you a little
22 snippet. The question was would this business change
23 because of its regulation. So when I ask that tough
24 question, one of our RLT members, his response was, "If
25 our policies is in conflict with the regulation, that

1 policy is getting changed." It's going to get changed.
2 Not to our benefit.

3 CHAIRMAN ALIOTO: All right. Any other
4 questions from the Board? Ms. Crawford, go ahead.

5 MS. CRAWFORD: I have a question. It's
6 actually a different topic, and it's for the three
7 gentleman at the podium.

8 Does anyone have any concern about the
9 language regarding advanced notice of the PSM activity,
10 and what advance notice means?

11 NICK PURLOWSKI: We do. But again, if the
12 company is picking the person, then, you know, it's really
13 not going to matter if they're there or not, and that's our
14 point. Is that they're not going to stand up speak up
15 and push back with the, you know, the pressure and the
16 threat of losing your job for doing so.

17 So while the other changes are problematic,
18 and, personally, I don't know how those other ones got
19 in there with the claims towards the national
20 labor relations act being used in the lawsuit, the definition
21 of major change and thresholds for chemicals. But,
22 again, none of it is going to matter when you pull that
23 little plug out of the boat that is this regulation
24 protecting workers and a refinery.

25 CHAIRMAN ALIOTO: All right. Any other

1 questions? Ms. Crawford, followup?

2 MS. CRAWFORD: No.

3 CHAIRMAN ALIOTO: All right. Great. Thank
4 you very much for your presentation. Yeah. Thank you,
5 sir. Thanks for your time.

6 That is going to do it for this portion of the
7 agenda and the presentations. We're going to move on to
8 public hearing portion of the meeting. And during this
9 hearing, we'll consider proposed changes to occupational
10 safety and health standards that were noticed for review
11 today.

12 The standards board adopts standards, that are in
13 our judgement are enforceable, reasonable, understandable,
14 and contribute directly to the safety and health of
15 California employees.

16 The Board is interested in your testimony on
17 matters before us. Your recommendations are appreciated
18 and will be considered before final decision is made.
19 If you have written comments, you may read them into the
20 record, but it's not necessary to do so.

21 You may also hand OSHA SB staff your written
22 comments, or you can submit them via e-mail to
23 oshsbrulemaking@dir.ca.gov by 5 p.m. today.

24 Staff will ensure that those are included in
25 the record and forward comments to each board member,

1 and I assure you that your comments will be given
2 consideration. Please include your name, your address
3 on any written materials that you present.

4 I also want to remind the audience that the
5 public hearing is a forum for receiving comments on the
6 proposed regulations. It is not to hold a public
7 debate. Although rebuttal comments may be appropriate
8 to clarify the point, it is not appropriate to engage in
9 arguments in this particular forum.

10 If you would like to comment orally, please
11 begin to line up here at the podium. And when you come
12 up, please state your name, again, for the record, your
13 affiliation, and identify what portion of the regulation
14 that you -- as specifically as possible -- that you tend
15 to address each time you speak.

16 If folks that are participating remotely, if
17 you would like to comment, you may join the comment queue
18 by clicking the public comment queue link in the board
19 meeting section on the main page of the OSHSB website,
20 or by calling this phone number, 510-868-2730, and that
21 will allow you to access the public comment queue
22 voicemail.

23 For commenters attending via teleconference or
24 video conference, please listen for your name and
25 invitation to speak. I'll remind you that you press

1 star-six if you want to unmute your phone.

2 And we're going to limit public comment to two
3 minutes per speaker, so that we can hear from as many
4 people as possible. And after all testimony has been
5 received, and the record is closed, staff will then
6 prepare recommendation for the Board to consider at a
7 future business meeting.

8 At this time, Gabriela and Julie, would you
9 mind providing instructions to the commenters so that
10 they're aware for today's public hearing.

11 (Interpreter speaking in Spanish.)

12 CHAIRMAN ALIOTO: Folks, there are two items
13 scheduled for public hearing for today's meeting.

14 And the first is General Safety Orders,
15 Section 5189.1. This is process safety management for
16 petroleum refineries.

17 Before we open the public hearing for this
18 proposal, we're going to have Mr. Paganelli will brief
19 the Board on the rulemaking proposal, and we'll then
20 have the opportunity to make comments and ask questions.
21 So Dave, there you go. The public hearing will be open
22 after the Board's discussion.

23 Carl, would you mind please briefing the
24 Board. Thank you, sir.

25 CARL PAGANELLI: Good afternoon. Thank you

1 for having me. I am Carl Paganelli, one of the Deputy
2 Chiefs at Cal/OSHA. I oversee the process safety
3 management unit.

4 I'm going to talk about the purpose of these
5 amendments, how it got there, and I'm going to give you
6 a very brief overview of what they consist of. I don't
7 have a written presentation, can't hardly type these
8 days. And I'm happy to come back if needed at a later
9 time.

10 So the purpose is to keep 5189.1, our process
11 safety management regulation for refineries
12 durable -- meaning, enforceable in all of its aspects --
13 so that we can have robust and comprehensive protection
14 for the thousands of workers at refineries, and, also,
15 for the communities that surround them, because
16 incidents that happen in refineries don't stay in the
17 fence line. They often have a direct effect in the
18 communities and the environment nearby.

19 So how we got here, I thank Mr. Rogers for his
20 excellent presentation on the Chevron 2012 fire that
21 nearly killed 19 workers, that led to a task force, the
22 United States Chemical Safety Board investigation, a lot
23 of work to make this regulation, which is the best regulation
24 in the country. It's the model for everybody.

25 And one of the main lessons that came out of

1 that Chevron incident was the key importance of having
2 effective employee participation from people who know
3 what they're talking about, know what they're doing,
4 know what's going on in the units that are affected.
5 That's one of the key things that we're trying to keep
6 going with this regulation.

7 So how do we get here to this point? In
8 2019 -- the regulation that was adopted in 2017, Cal
9 EPA, through the California Accidental Release Program,
10 has parallel provisions in their regulations, called program
11 four -- it's essentially the same set of regulations. It
12 keeps purposes not so much for the workers, but protect
13 the community and the environment.

14 So 2019, Western States Petroleum Association,
15 WSPA, sued the standards board, sued the predecessor of
16 Cal EPAs, sued us, and to invalidate major provisions
17 of this regulation. We were sued in the state court or
18 certain provisions, major change, the definition of a
19 highly hazardous material, and the hierarchy of hazard
20 control analysis -- I'll go into those.

21 And then we were sued in Federal Court on
22 federal preemption grounds -- that the employee
23 participation, employee selection provisions, are
24 preempted by Federal Law of the National Labor Relations
25 Act. The allegation is that we overstepped what the

1 state can do in telling an employer, a refinery, and a
2 union, how they engage in collective bargaining. And,
3 essentially, the allegation is that we were
4 dictating what the outcome would be.

5 So we settled in September of 2024. Cal EPA
6 has begun -- well, they're almost done with their
7 rulemaking on the proposal. We're just starting. And
8 I'll talk first about the scope. It applies to the
9 petroleum refineries that are eight so remaining in petroleum
10 refineries in California, does not apply to the
11 renewable refineries. There are three in the Bay Area,
12 a few in San Joaquin Valley, they're quite small; and
13 then the rest are in LA.

14 You know, the cost is quite minor, costing
15 hundreds of thousands of dollars at the very, very most,
16 and most likely less. And the purpose is to provide
17 clarity where needed. And, as I said, to keep us able
18 to enforce 5189.1. Every refinery can ensure that
19 employees are participating in all phases of the Process
20 Safety Management Program and to provide definitions and
21 thresholds where we didn't have them before, and to keep
22 us going straight forward.

23 So I end with employee participation, because
24 that's the most complex thing -- and the one that's caused
25 all the controversy. We're changing a few definitions.

1 One of them is highly hazardous materials that's kind of
2 the trigger, like, once -- it's in Section (c) -- if you
3 look at the text, it's a trigger. Like, what -- we do
4 process safety management at refineries because we have
5 hazardous materials. There's currently no threshold in
6 that other process safety management regulations from '92
7 -- there's thresholds of lots of chemicals, and then
8 there's formulas for calculating whether it applies in
9 this regulation -- there are none.

10 So in order to put threshold, we picked
11 something that's quite low, and it's something that
12 refineries already keep track of. So their hazardous
13 material business program, which is administered by Cal
14 EPA, and the quantities are minuite for a refinery.
15 Fifty-five gallons for liquids that are hazardous, 500 pounds
16 for solace for 200-cubic feet for compressed gases. And
17 there's two sets of thresholds listed to capture as much
18 as possible, and to keep the threshold as extremely low.
19 So that's one change.

20 We have a definition of major change. Most of
21 the changes are grammatical, just to make sure that
22 everything lines up properly. And one of the changes
23 is, that also has a very, a threshold when it applies --
24 like, how do you know when you have a major change.
25 Currently, we say if it increases an existing hazard

1 creates a new one, but we don't say how much of an
2 increase, or what does "worsen" mean, right. We don't
3 have that.

4 So, instead, the proposal says if it goes
5 outside established safe operating limits, that comes
6 from a regulation that they had with the general safety
7 orders for a very long time, 3328. 3328 says it's
8 written in the negative, so I'll put it in the positive,
9 that you can't operate equipment or machinery outside of
10 the manufacturer's recommendations. So if you have a pump
11 or a pipe, you only operate it under thresholds within the
12 thresholds that the manufacturer recommends. If you can't
13 have manufacturer recommendations, you have to calculate
14 the engineered design.

15 So we use that in Cal/OSHA enforcement all the
16 time. People misuse their equipment. They overload
17 something or put into stresses that it's not able to
18 handle -- that's the citation. So refineries operate at
19 that. So it's a more defined standard. We can't say
20 'cause refineries are so complex, we can't give a
21 number. We have to give something like the regulation
22 that we have -- 3328.

23 Hierarchy of hazard control, that one we made
24 a number of changes to -- we turned a directive on all
25 of the many, many things that you're supposed to look at

1 into a note, so it's more examples than requirement.
2 Because, right now, the regulation requires refineries
3 to consider even recommendations by local agencies
4 anywhere in the world rather than actual rules. So it
5 gives it, as an example, still very broad, what has to
6 be considered when you're looking at a hazard and you're
7 trying to examine it, it just clarifies what we really
8 need to look at. It makes it easier for us to enforce,
9 too, because as the enforcers, we also have to be
10 looking at a worldwide body of literature on a
11 particular hazard -- this just narrows it.

12 The other change is that it gives a little
13 more flexibility to what is selected. So you have a
14 hazard -- say high corrosion -- how are you going to
15 resolve it? And you're supposed to look at everything
16 that you can think of -- all the hazards and all the
17 ways of correcting it. And the team is supposed to
18 recommend the method that reduces the hazard the
19 most, considering everything.

20 Because you can pick one way of reducing
21 something, like switching from carbon steel pipe to
22 stainless steel pipe, which will solve a particular
23 corrosion problem, but it may lead to other problems
24 down the line about measuring the corrosion, the rate of
25 corrosion, examining, all those other things. So

1 there's a little bit of flexibility for picking the
2 measure that solves the problem the best, given the
3 situation.

4 The third thing is, we don't have this now,
5 but it would be -- if there's a method that the
6 committee is considering, or the team, and they reject
7 it, they have to give a reason. Not just write down why
8 we rejected this reason.

9 And then we get to the main issue that's here
10 today -- is employee representative and employee
11 participation. So currently, we have two
12 different -- we have two different ways of picking
13 employee representatives and the participants. It
14 depends on whether you're at a union refinery, or a
15 nonunion refinery. So the nonunion, in practicality -- the
16 nonunion refineries are Valero Benicia, which is still
17 running, at least for now; and Valero in Wilmington, and
18 the small refineries in the Central Valley.

19 At those places, the employee representatives
20 have to be onsite, meaning they work there, and qualified for
21 the job. If they're currently under the system now that
22 we have for union shops, there's no requirement in the
23 regulation that they have to be qualified or on site.
24 So that's one of the rubs and one of the reasons for the
25 preemption lawsuit.

1 And we also, as you heard, the union
2 representatives can pick people who are going to be on
3 these teams to evaluate the hazard analysis. And a
4 nonunion shop and the nonunion refinery, that's governed
5 by the employee participation plan. There's a written
6 employee participation plan that they all have. So this
7 proposal aligns it so that everybody does the same
8 thing -- it's all the same. And there's nothing in this
9 proposal that would eliminate employee participation in
10 all phases. It's just that this is really boiling down
11 to who's selecting the employee representatives.

12 And I'm keeping it very short, because we had
13 a long day. I am happy to answer questions and happy to
14 come back.

15 CHAIRMAN ALIOTO: Can I -- I just have a quick
16 question here. Show me, if you don't mind, which is the
17 particular language in the current regulations -- the
18 amendments that address about employee selection.

19 CARL PAGANELLI: It's in two places. It's in
20 two parts. So in Section (c), we have a definition of
21 employee representative. And so it's a union
22 representative where you have a union, and if there's no
23 union at the site, then it's somebody selected by the
24 employees, right? And --

25 CHAIRMAN ALIOTO: And is that objectionable?

1 Is that objectionable to the -- I just want to
2 understand where the rub is exactly.

3 CARL PAGANELLI: I don't think -- I think
4 they're fine with the way it is now.

5 CHAIRMAN ALIOTO: Okay.

6 CARL PAGANELLI: That's what they want, right?
7 And then in -- if you go down to Q2, and that also talks
8 about selection and employee participation. Currently,
9 it says that if it's a union, that -- if it's a union
10 refinery, then the union will select the employees who
11 will participate. The proposal is to say, which is what
12 happens at the nonunion places currently is that the
13 written employee participation plan, which is Q1, is
14 going to govern that. So this is something that can be
15 bargained for, and the unions make their own arrangements
16 with refineries and how they do that.

17 CHAIRMAN ALIOTO: Questions for Mr. Paganelli?

18 DAVE HARRISON: Several. Sir, so the proposal
19 that's in front of us, prior to the advisory committee,
20 how is that crafted? How is that language crafted
21 before input from the community? The proposed changes.

22 CARL PAGANELLI: These came out with the
23 settlement agreement, and they were proposals that comes
24 before you, so that -- again, the public process begins
25 here with public comment, the notice period, and today

1 and the rest of the formal APA rulemaking is the
2 proposal.

3 DAVE HARRISON: So the settlement conference,
4 there was actual language discussed during the
5 settlement process?

6 CARL PAGANELLI: I don't want to get into the
7 settlement. Yeah, conference -- we ended up with this.

8 DAVE HARRISON: Okay. And then I looked
9 through the advisory committee, and those are very hard
10 to track. And I'm not sure how we keep minutes for the
11 advisory committees, but reading through them is a
12 little tough.

13 But it looked like very, very little
14 conversation with the operators of the refineries that
15 are proposed to the employee representatives that was
16 predominated by them, were there any changes that came
17 out of the advisory committee.

18 CARL PAGANELLI: No. No.

19 DAVE HARRISON: All right. That's all I have
20 for now.

21 CHAIRMAN ALIOTO: Anyone else? Ms. Crawford?

22 All right. I have just some basic things that
23 I'm -- sorry I've just been running for a bunch of years
24 -- and some background information.

25 This is the language that came out of the

1 settlement agreement that's been -- the settlement is
2 already finished?

3 CARL PAGANELLI: Yes. The lawsuits have been-

4 CHAIRMAN ALIOTO: So the Board has already
5 agreed to this language?

6 CARL PAGANELLI: The Board has agreed to --
7 well, I cannot speak on behalf of the Board -- but the
8 Board has agreed to consider this -- well, we agreed --
9 Cal/OSHA agreed that we will propose this language to the
10 Board. And the Board does not agree to do anything other
11 than consider it.

12 CHAIRMAN ALIOTO: Okay. Thank you. So -- but
13 the case is settled, and you're done with court?

14 CARL PAGANELLI: We're done with court for now.

15 CHAIRMAN ALIOTO: Maybe. And if this is
16 approved -- I mean, if this is rejected, you're going to
17 go back to court?

18 CARL PAGANELLI: I can't speak for WSPA,
19 but I would image yes.

20 CHAIRMAN ALIOTO: Right. Okay. And the
21 Federal preemption issue is what, exactly? So does
22 Fed/OSHA law and for PSM regulation allow the employer
23 to develop an employee plan and select the employee
24 representative?

25 CARL PAGANELLI: I do not know. My

1 understanding is that the federal PSM regulation, which
2 is much -- it's essentially the same as 5189. So it
3 probably doesn't go that far. Our 5189, the 1992 regulation
4 that we adopted or adopted, is essentially the Federal
5 PSM regulation. So I don't think it goes into it
6 anywhere close to this kind of detail about who's selecting who.

7 CHAIRMAN ALIOTO: So how does this
8 language -- how does this language a --

9 CARL PAGANELLI: How did we get to preemption?

10 CHAIRMAN ALIOTO: How does this resolve their
11 preemption concern?

12 CARL PAGANELLI: There's supervision -- which
13 I didn't mention -- that says nothing in the employee
14 selection process supercedes a collective bargaining
15 agreement. I forgot to say that.

16 So there's a provision in this proposal that
17 says we're not as the state trying to supercede anything
18 that is the result of collective bargaining. So if the
19 union and the refinery agree on an employee selection
20 process, so who's going to be their safety reps, there's
21 that, right? And then we move on. So we're not
22 trying -- we're trying to separate us from the state
23 from telling an employer and a union how to arrange their
24 business.

25 CHAIRMAN ALIOTO: Okay. I still don't

1 understand how that addresses preemption. I mean, maybe
2 you gave an overview of preemption for everybody else,
3 but if we have a federal law and the federal government
4 has occupied the field of that law, we cannot issue a
5 state law that contradicts it.

6 CARL PAGANELLI: That's correct. And in this
7 case, it's not the OSHA regulations, it's the National
8 Labor Relations Act.

9 CHAIRMAN ALIOTO: Okay. So the NLRB has a
10 provision that allows the employer to select the
11 employee?

12 CARL PAGANELLI: It allows -- as I understand
13 it -- the employer and the unions to decide that
14 particular issue between themselves. That's an issue
15 that they decide.

16 CHAIRMAN ALIOTO: And this new proposed
17 language does not do that? This proposed language
18 allows the employers to select?

19 CARL PAGANELLI: It allows that union and the
20 employer to come to whatever agreement that they come
21 to, and that's how the selection process will occur.

22 CHAIRMAN ALIOTO: I'm completely not
23 understanding why this is helpful; why that language was
24 necessary to settle the case.

25 CARL PAGANELLI: It was necessary to resolve

1 that preemption issue so that we will stay out of
2 Federal Court. And state --

3 CHAIRMAN ALIOTO: I still don't under- -- but
4 where's the language in our original regulation? What's
5 the language in our original regulation that is in
6 conflict with the NLRBA.

7 CARL PAGANELLI: Yes, Q2. It says authorized
8 collective bargaining agents, which means the union, may
9 select employees to participate an overall PSM program
10 development -- that's the PSM -- the main PSM
11 representative. And, B, that union selects employees
12 to participate in PSM teams and other activities
13 pursuant to this situation.

14 CHAIRMAN ALIOTO: Okay. And then in what way
15 does the NLRB preempt that?

16 CARL PAGANELLI: The argument goes that that
17 is the subject that is exclusively to be bargained for
18 under the NLRA between the employer and the union. So
19 that -- anything related to that --

20 CHAIRMAN ALIOTO: I see. So this regulation
21 -- this regulation is interfering with a provision in
22 the NLRA by requiring or allowing the union instead
23 of allowing it to be the result of collective
24 bargaining.

25 CARL PAGANELLI: Yes. It's directing a

1 particular selection process when that process is
2 something that is a subject of collective bargaining.
3 So that's the argument, and that's the risk for us.

4 CHRIS LASZCZ-DAVIS: I wonder if I'd might ask
5 a question. You think you're confused -- I'm confused.
6 What are we trying to solve here?

7 CARL PAGANELLI: We are trying to -- over --
8 with just this provision, or overall? Overall -- so
9 provide clarity where we have ambiguity. Provide
10 thresholds or measurable changes -- measurable things
11 like changing a hazard, right? So a major change.

12 How do we know when it's a major change? We
13 have something more measurable now to enforce. Is this
14 change going outside a safe operating -- established
15 safe operating, right?

16 We don't have that now, right? We don't have
17 thresholds now, so we're adding a threshold that's very,
18 very low that should attach everything, change nothing
19 in operations, but make sure that we have a threshold
20 that we can enforce so an the employer can't come and
21 say you can't cite me for this. You're citing me for
22 it, there's no threshold. How do you even know that
23 this regulation applies? Right. That's the problem.
24 How do you know that this was really a major change.

25 CHAIRMAN ALIOTO: So the answer is,

1 nevertheless, to Dave's question, though, what we're
2 trying to solve here is, the Board passed a regulation,
3 the refinery sued us, Cal/OSHA settled it, and in the
4 settlement, offered this language, which ILW doesn't
5 like.

6 CARL PAGANELLI: USW. But, yes.

7 CHAIRMAN ALIOTO: Sorry. Yes.

8 CARL PAGANELLI: And the other. So we're
9 solving a clarity problem, an ambiguity problem, and a
10 potential preemption problem.

11 DAVE HARRISON: So reading through the
12 proposal, to me -- and I've never worked in refinery --
13 it looks reasonable to point.

14 But one sentence, one section -- and I really,
15 really have a problem with it -- goes through all the
16 employee selection process. And if you go to Q1 (b), at
17 the very end of that section, it says, "Nothing in this
18 subsection shall be construed to require an employer
19 to accept recommendations of refineries of employee
20 representatives."

21 After that it's all this language about how
22 employee representatives are selected. Then it says
23 nope. Is that accurate?

24 CARL PAGANELLI: That's accurate. That's
25 actually the case now, that they're not required to --

1 these are all recommendations. It's saying what already
2 exist. They should, yes. But it's -- and even now,
3 it's a recommendation. All of these things are all
4 recommendations.

5 DAVE HARRISON: Right.

6 CHAIRMAN ALIOTO: I'd love to know the legal
7 merits of the preemption issue. Maybe that's a closed
8 session. Okay.

9 Anybody else have questions? You do.

10 DEREK URWIN: Yeah. I mean, just as we're
11 trying to sift our way through this, and now that we're
12 down to particulars of the language, it can be asked the
13 labor representatives for their particular input on
14 these details of the language at this point.

15 CHAIRMAN ALIOTO: Well, they're going to have
16 public comment. They're going to be able to comment
17 during the public hearing portion. So that's when we'll
18 do that.

19 Anyone else have questions?

20 DAVE HARRISON: Is now a good time to ask my
21 question to Millie?

22 Where are we at in the rulemaking process as
23 far as timelines? And I see what's in front of us
24 during the public hearing, but what happens -- give me
25 the "what ifs" if there's at some point it comes to a

1 business meeting as a yes or a no. Where are we at?

2 MILLIE BARAJAS: So with the public hearing,
3 we're starting the one year right now. And so we have
4 12 months to bring this back in front of the board for a
5 vote. So what will happen, is the public comments will be
6 entered into a record. And I'm not sure with the
7 lawsuit, but typical regulation process would say that
8 we would take those under advisement and make changes to
9 the language. This might be a little bit different
10 because it's a lawsuit. So Autumn might have to jump in here.
11 But from those public comments, we could look at another
12 15-day comment period and go through that process
13 several times.

14 DAVE HARRISON: Thank you.

15 CHAIRMAN ALIOTO: Any other questions
16 comments, concerns? Okay. Let's move on. Mr. Paganelli,
17 thank you. Very impressive.

18 All right. At this time, we're going to
19 accept public testimony on this proposal. If there are
20 in-person participants who would like comment, you may
21 begin lining up at the podium. And when it's your turn
22 to call, please provide a request, a slip to Ms. Money.

23 And when you come up, please identify yourself, your
24 affiliation, and the very specific item, if you can, about what
25 you want to comment on. And we're going to allow for two minutes.

1 Let us begin. Sir.

2 NICK PURLOWSKI: Nick Purlowski, USW Local 5.

3 Hello, again. Can I just clarify that all the comments
4 about the presentation be included -- when they ask a
5 question, are they going to be included in this hearing
6 section so that everybody doesn't have to call on again,
7 and we don't have to discuss that again?

8 CHAIRMAN ALIOTO: Can we do that, Autumn?

9 AUTUMN GONZALEZ: If you want, we can.

10 CHAIRMAN ALIOTO: If we want to?

11 AUTUMN GONZALEZ: Yeah. We have before.

12 CHAIRMAN ALIOTO: Is that something we have to
13 vote on?

14 AUTUMN GONZALEZ: No.

15 CHAIRMAN ALIOTO: Okay. So yes, it will both
16 included. And I'm sorry to the engineer -- I'm sorry
17 you have to deal with all of that additional -- I know
18 that's going to be a little more work. But, thank you.
19 And yes, they will be included.

20 NICK PURLOWSKI: Yeah, thanks for doing that.

21 And I'm holding a transcript of that -- the advisory
22 committee meeting from January 9th, 2025. I just want
23 to comment, Carl's descriptions today are
24 infinitely more detailed than what we got in this committee
meeting.

1 This was literally -- here's the proposed
2 language, do you have comments or whatever. So getting
3 into what the language is even trying to address is a
4 start. So I feel like it's a very -- it's a pretty
5 truncated process so far. You know, kept it brief and
6 kind of hush-hush and everything like that. So I
7 recommend that we take a real open stab at what this
8 language is, and what it should be to move forward.

9 So we'll be offering alternative language and
10 stuff like that. But thank you for your questions. I
11 feel like you hit the heart of what we were trying to
12 present toward and everything. And I know you're under
13 tremendous pressure from this being the lawsuit, and
14 kind of a curve ball, but I'd really like to get the
15 attention that it needs. So thanks for doing what you
16 do, and let's continue this process.

17 Thank you.

18 CHAIRMAN ALIOTO: Thank you very much.

19 Good afternoon.

20 MARIE CHOI: Good afternoon. Hi, everyone.
21 My name is Marie Choi, I'm with the Asian Pacific
22 Environmental Network. Oh, yes. Sorry. It's also my
23 first time here.

24 CHAIRMAN ALIOTO: Well, welcome. That's a
25 very special welcome.

1 MARIE CHOI: Thank you. You know, for the
2 past -- for over 30 years, our organization has been
3 bringing together working-class Asian immigrant and
4 refugee families who live alongside some of the state's
5 biggest refineries, including the Richmond Chevron
6 refinery that blew up.

7 Our members were here, week after week,
8 caravanning up to Sacramento to talk with legislators,
9 regulators, to demand stronger safety measures after
10 that refinery explosion. And the PSM is something that
11 resulted from -- I think the efforts of so many people
12 in this room -- as well as community working together.

13 At the preschool surrounding the refineries,
14 teachers hand out inhalers at the start of each recess.
15 It's not uncommon for nearly all of the kids in a class
16 to have asthma as young as three, four, five years old.
17 We have higher rates of asthma, cancer, and other
18 chronic illnesses as a result of refinery pollution.
19 And when refineries explode, it's our communities that
20 breathe the consequences.

21 We're deeply concerned about the proposed
22 changes to the regulation here. I think it's common
23 sense that if you allow the companies to pick their own
24 representatives, that they will -- you know, that
25 they'll choose people who are not going to challenge

1 that. And so we're fully in support of all the comments
2 that we heard today from the USW.

3 The proposed changes also reduce oversight of
4 Hazardous chemicals at refineries, and we're
5 concerned about that. We know that refineries are
6 inherently hazardous. A single failure can result in
7 sickness, injury, or death. And so workers
8 need to be able to select their own representatives.

9 We're especially concerned with what we're
10 seeing in California right now -- is that so many
11 executives are disinvesting from maintenance at aging
12 refineries. Some of the comments that we've heard on
13 the picket lines about, like, hot-welding patches onto
14 pipes while things are still flowing through them that --
15 of people saying we put in work orders year after year
16 after year.

17 "Oh, yeah. We knew that pipe was corroded
18 before that spill happened."

19 The company knew is really concerning. And so
20 I'm here to say we're really relying on you all to
21 uphold safety in all of this, and we are to reject the
22 proposed changes to the rule; and, instead, consider the
23 alternatives that are bringing brought forward to us.

24 Thank you so much.

25 CHAIRMAN ALIOTO: Thank you very much.

1 Good afternoon. Welcome.

2 KERRI GUERIN: Good afternoon, Kerri Guerin,
3 she/her Richmond Staff Attorney for Communities for a
4 Better Environment. CB is in strong opposition to the
5 proposed amendments, and we're in proud solidarity today
6 with workers, including the United Steel Workers, because
7 we know when workers are kept safer, fenceline communities
8 are kept safer.

9 We are dismayed that the agency has proposed
10 rulemaking in such a manner. We are here because the
11 oil industry sued the State to challenge the 2017 rules
12 that were derived of collaborative, expertise driven at a
13 process, and then the industry won a settlement
14 agreement from the State to copy and paste the language
15 into rulemaking.

16 The threat of industry litigation resuming,
17 should the agency deviate from the settlement's words,
18 portends the process will end and adopting the industry's
19 rules without meaningful public participation. This is
20 zombie rulemaking -- where after the agency was sued in court,
21 it now marches for an uncritically toward a far-gone
22 conclusion. In this way, this rulemaking violates the
23 California Administrative Procedure Act and must be
24 rejected.

25 The proposed amendments also fail scrutiny

1 under the APA for lack in clarity and necessity
2 throughout. Substantively, the rules spell out
3 disaster. The 2017 rules center worker expertise. The
4 amendments now shove it aside through changes through
5 the employer representative of participation definitions
6 under erroneous interpretations of law and is an
7 industry giveaway for bargaining.

8 The 2017 rules offer greater worker and
9 community protections through more rigorous analysis of
10 hazards controls and strong regulation of highly
11 hazardous materials. Far from your clarifications,
12 these changes threaten worker and community safety,
13 will impact gasoline prices -- through greater market
14 and disruption risk -- and stand to have significant
15 environmental impact triggering CEQA review.

16 We offer more details in our written comments
17 submitted yesterday, we thank you for your time, and
18 urge the Board to reject the rulemaking.

19 Thank you.

20 CHAIRMAN ALIOTO: Thank you very much.

21 Let's go online, if you don't mind.

22 JOHN ROENSCH: Thank you. We have a hand
23 raise from Genghun Eng. Go ahead, Mr. Eng.

24 GENGHUN ENG: Hello.

25 JOHN ROENSCH: Go ahead.

1 THE WITNESS: Can you hear me?

2 JOHN ROENSCH: Yes, we can.

3 GENGHUN ENG: I sent in a whole bunch of
4 public comments two days ago. And, you know, at the
5 beginning of this meeting, you said, "Oh, yeah. We'll
6 look at --" have you gotten those public comments from
7 me? Which I asked Ruth Ibarra to give to the Board.
8 Yes or no? Can I get an answer to that?

9 CHAIRMAN ALIOTO: Yes.

10 GENGHUN ENG: Okay. Thank you very much.

11 Again, I ask the the Board to differ their
12 decision on this matter at least until the next board
13 meeting, so that they can take into account all of the
14 public testimony on these updated proposed rule changes,
15 and then come up with a updated rules so it doesn't look
16 like it's a faith accompli and predetermined conclusion.

17 So I really hope the Board does differ a final
18 judgement on this -- to actually take into consideration
19 everything being said here. I think, you know, a lot of
20 it is employee participation. That one section I think
21 should be concentrated on a little bit to get a better
22 balance between the workers and the refinery interests.

23 Lastly, I'd like to say -- assuming that you
24 do do that -- one of the things that is not really well
25 defined is a safe operating procedure limits. The

1 new rule basically say "use of manufacturers" thing, and
2 the trouble is we have a lot of things (indiscernible)
3 together. You can't run everything at the limit of all the
4 upper-and-lower limit of that. It's very unsafe.

5 So I have proposed to use statistical process
6 control to define a safe operating limits and to have it
7 a change from the present proposal of using the extremes
8 from a manufacturer's initial point.

9 So please consider that very carefully as a
10 way to keep it safer. Thank you.

11 CHAIRMAN ALIOTO: All right. Thank you, sir.

12 Let me just take a brief moment. We're not
13 voting on anything today. This is a public hearing.
14 This allows the public to comment on the proposal that's
15 been done. Rulemaking started with the filing of the
16 notice of proposed rulemaking action. And that was
17 when? Yeah. 45 days ago, and that's when the clock
18 starts, and we have one year to vote on this issue.

19 So just that everyone understands this
20 procedurally what's happening here. Nobody is voting on
21 everything. We're going to consider every single
22 comment, as we always do. We're going to consider every
23 single comment, whether it's written to us, whether it's
24 spoke to us here, whether it's online, whether it's on a
25 telephone call -- you name it. If you want to

1 participate, you may, and you are welcome, and I fully
2 encourage it.

3 So bring your comments in if you want.
4 They're due by 5:00 p.m. if I'm not mistaken. Please
5 submit them. If you have additional written comments
6 that you would like to make, they will be considered.
7 Mr. Paganelli will then consider them. We'll come back,
8 and we'll do this again in, sometime soon, and then
9 we'll go from there with the rulemaking process.

10 Thank you so much for that. Thanks for
11 indulging me.

12 Mr. Rogers, take it away.

13 NORMAN ROGERS: All right. I know you guys
14 are under a lot of pressure. There's a lawsuit hanging,
15 and I do believe there are some dates there within the
16 lawsuit that need to get some scrutiny, because they put
17 some limits on some things. So I don't know how it will
18 affect the formal rulemaking process, but I would double
19 check that.

20 Back to the employee participation. Going to
21 the written plan, it's problematic. And as I mentioned
22 earlier, there's a lot of controls companies can have as
23 to who's in the meeting and who helps develop a written
24 plan as far as employee participation goes.

25 And, again, you end up with people in those

1 meetings that are -- some have a stronger backbone than
2 others -- I'll put it that way. There's also language in
3 there about consulting with people -- consulting with
4 employees. We've run into a situation during
5 negotiations where we'll end up dealing with something
6 outside of the negotiation process, and we say 180 days
7 we'll meet and discuss. So we've had a situation where
8 we get there -- before there and meet, and we discuss
9 and then everyone goes, "Okay. We're done. We met and
10 discussed."

11 No resolution was made. Nothing substantive
12 came out of it but consult and meet and discuss -- I
13 view them all the same way. So it's a way to undercut
14 employees having something to say and have no weight.

15 One other item is the definition of employee
16 representative. We need to pay attention to that,
17 because right now, as the USW, we have a health and
18 safety department back in Pittsburg, and, as needed,
19 we're able to call in experts who have industry
20 knowledge so we get away from that unqualified piece,
21 but that's available to us the way the current regulations
22 stand.

23 Thank you.

24 CHAIRMAN ALIOTO: Thank you very much.

25 Good afternoon. Tim, welcome back.

1 Mr. Jefferies, would you just mind introducing
2 yourself again. Do it slowly so we make sure that we
3 get it on the recording and in the transcript, and also
4 that you -- what you union you represent.

5 TIMOTHY JEFFERIES: My name is Timothy
6 Jefferies. I'm the international rep for International
7 Brotherhood for Boiler Makers. And our members serve
8 the refineries in the state here. And the different
9 than the USW -- the difference I want to make is that
10 sort of boiler makers with their day to day maintenance
11 turnarounds as operators -- USW operates their facilities
12 -- but safety is the same for both of us, but it's different
13 for both of us at the same time. They're be a part of a
14 process -- heavy process -- but as the rank and file members
15 that are in the field doing the work, stop work authority is
16 the samebut the opportunity to walk a job down a lockout
17 tag out procedure, that procedure is exactly the same.
18 Every time you invite to the facility, whether
19 contractors has changed or not, you want to make that
20 the same procedure, you're involved in that. It's your
21 job to make sure -- and it is as a worker in a field --
22 to make sure that you're working safely as possible at
23 the very least.

24 Thank you.

25 CHAIRMAN ALIOTO: Thank you, Mr. Jefferies.

1 TED WICKERS: Hello, again. Ted Wickers, PSM rep
2 326. So I'm here to talk about safety really brief.
3 It's quite obvious safety is taking a backseat because
4 of the lawsuit. And I'm not talking about employee
5 involvement safety at this point, because we all know
6 what happens when we're removed from the process, so the
7 community is at risk.

8 With that being said, the inflammatory comment
9 I heard -- what really gets to me -- I'm also
10 negotiating chairman -- to sit here and think this
11 regulation is going to put the burden on the workers to
12 get the language they need to stay safe and ultimately
13 community is just -- all I can do is take a deep breath
14 I would like us all to look hard at what is it that
15 we're trying to accomplish here.

16 And if somebody has to bargain, it's coming
17 down to verbiage. But it should not come down to us to
18 during a labor dispute, and it comes down to
19 contract language to keep people employed and families
20 fed and safe.

21 Peace out.

22 CHAIRMAN ALIOTO: Thank you. Thank you for
23 your comments. Let's go online.

24 JOHN ROENSCH: Thank you for asking. We have
25 no commenters at this time.

1 MIKE DONLON: Mike Donlon, MD Safety Service.
2 I really appreciate the union guys and the presentation
3 they gave, but they missed one very important point.
4 When you're developing safe work procedures -- if
5 employees feel their voices are heard and appreciated,
6 their concerns are heard and addressed, they are way
7 more likely to comply with those safety worker
8 procedures. If they feel like it's shoved down their
9 throat -- even if it's a great work procedure -- they're
10 less likely to comply. And I think that's a critical
11 thing here.

12 Thank you.

13 CHAIRMAN ALIOTO: Thank you very much.

14 Anyone else? Yes, sir. Come on up.

15 RANDY THOMAS: Hello. Thank you for allowing
16 me the opportunity to speak. Once again, my name is
17 Randy Thomas, I'm with Boiler Makers Local 549 in
18 Pittsburg, California.

19 This industry, as far as gas and oil in the
20 State of California, is on attack from all different
21 types of angles, right? And it's definitely a necessary
22 commodity, as far as California being the fifth largest
23 economy in moving forward, we do not have a replacement
24 at this point in time.

25 This is a facility, and there's facilities

1 that need to maintain until we're able to bridge the gap
2 and get to where it is that we need to go. The only way
3 that we're going to be able to achieve that is by
4 working together, right? Working together on the
5 solutions, and definitely incorporating the worker into
6 that conversation is extremely important.

7 And I know that you guys have a difficult task
8 here because of the industry and because of the lawsuit,
9 I just think that it's critical. I've worked in the
10 refineries. We've had a certain amount of work that
11 needed to be done during a turnaround. As we got closer
12 and closer towards that date of when that turnaround
13 needs to be done, some work was no longer as important
14 to be able to get done.

15 Prior to being a boilermaker, I was an
16 automotive mechanic, and there's a minimum thickness on
17 rotors, and you take your car at any shop, and if
18 they're too thin, it gets replaced. You're not driving
19 that car home -- it's for public safety altogether.

20 Unfortunately, a lot of those same rules and
21 regulations don't apply to some of the most hazardous
22 facilities that are there. And, really, the only thing
23 that you have going for you are the eyes and ears of the
24 people that are working there. And it may be the
25 operator that's working there every single day and knows

1 the facility like the back of their hand, or maybe the
2 brand-new person that's coming in that's looking at it
3 from a completely different perspective and seeing
4 something that may have been overlooked by somebody
5 else.

6 So worker involvement is the most important
7 part, and that's your guys' role is to protect us as
8 workers. So thank you very much.

9 CHAIRMAN ALIOTO: Thank you.

10 Anyone else like to make any comment on this
11 particular issue? No one else is here in person.

12 Do we have anybody else online.

13 JOHN ROENSCH: At this time, there are no
14 online hands raised for a comment.

15 CHAIRMAN ALIOTO: May I just ask Julie, would
16 you mind making one more announcement, please, about
17 anyone who would like to make a comment in Spanish.

18 (Interpreter speaking in Spanish.)

19 CHAIRMAN ALIOTO: Thank you, ma'am.

20 All right. If you've submitted a written
21 comment, then it will be added to the record and made
22 part of the record, we will consider it.

23 If you are participating remotely and were,
24 for whatever reason, unable to join a comment queue for
25 whatever reason and you'd like to comment, you can send

1 your written comments still by the end of today at
2 5:00 p.m., and if we receive them at 5:00 p.m. today,
3 which is statutory rule, then we will be able to include
4 them into the record.

5 All right. Any other hands at all? Any
6 online?

7 JOHN ROENSCH: Nothing online.

8 CHAIRMAN ALIOTO: All right. Then this is
9 going to conclude the public hearing in it's entirety.
10 Yes? Okay.

11 And there being no further persons coming
12 forward to testify on this matter, the public hearing on
13 this proposed matter is now closed.

14 (Break.)

15 CHAIRMAN ALIOTO: This is a long meeting, and
16 I'm sorry that, frankly, everybody had left before I
17 realized that I probably should have just given
18 everybody, like, 45 minutes for lunch. So please
19 forgive me. I know you all ran around and tried to get
20 something to eat.

21 I want to say special thanks to our court
22 reporter for being really cool, and, also, our
23 interpreters, and we'll try to get through this next
24 part and hopefully this will be the last session.

25 So we are going to continue along with public

1 hearing. This is going to be Item Number 2, Title 8,
2 Construction Safety Orders. This refers to Section
3 1512, General Industry Safety Order, Section 3400 as it
4 relates to First Aid.

5 Before we begin the public hearing and when
6 you all have an opportunity to present your comments,
7 we're going to have a brief -- a briefing from Mike
8 Wilson on the rule-making proposal. Then the Board
9 members will have an opportunity to ask Dr. Wilson some
10 questions, and then the public hearing will be open
11 after the Board has finished that discussion. All
12 right.

13 So with that, would you mind, Dr. Wilson
14 please brief the Board.

15 MIKE WILSON: Great. Thank you very much,
16 Chair and members. I'm Mike Wilson, Senior Safety
17 Engineer in Research and Standards, and I'll be going
18 over the proposed updates to the First Aid standards for
19 Construction Section 1512 and General Industry Section
20 3400.

21 In most cases, first aid is used to treat
22 minor injuries. In some cases, however, first aid can
23 make an important difference in the outcome of an
24 injured person. And this is just photographs sort of
25 illustrating the emergency medical services system.

1 That includes three key pieces. One is
2 intervention by a member of the public administering
3 first aid, followed by treatment and transport by the
4 fire and emergency medical services system in the top
5 right there to Stage 3, which is to an emergency
6 department or trauma center for definitive care.

7 So in some cases and, you know, examples would
8 include electrocution or cardiac or pulmonary arrest,
9 severe hemorrhaging, anaphylaxis, others. First aid
10 administered by a coworker can make a real difference in
11 the outcome of an injured person. And so that is sort
12 of just setting the stage for what we're -- I'm talking
13 about this afternoon -- the proposal updates to sections
14 of Title 8.

15 Section 1512 is currently titled emergency medical
16 services, and Section 3400 in the general industry
17 safety orders currently titled Medical Services and
18 First Aid. Both sections will be retitled Emergency
19 Medical Services and First Aid. So the proposal
20 response to Petitions 41, 82, 83 and 519 and their
21 associated advisory committees from the period 2006 to
22 2011. It affects all California employers with certain
23 exceptions.

24 The methodology with respect to the proposal
25 you have in front of you is identical to the 2022

1 proposal to the Board with updated financial and
2 employment data. So the proposed changes do not apply
3 where a Title 8 vertical standard includes its own
4 first aid requirements and these include logging and
5 sawmill safety, the mining safety orders, and
6 agricultural operations.

7 The scope affects 1.7 million businesses and
8 17.6 million employees in construction and general
9 industry. And this just sort of gives you the
10 breakdown. This -- if you read this horizontally, the
11 total affected businesses in construction are a little
12 under 90,000, 1.6 million businesses in general industry
13 for a total of 1.7.

14 And you can see the numbers there for total
15 affected employees from the far right, 17.6 million and
16 just the breakdown in terms of percentages between
17 construction and general industry. Looking at the
18 effect on small businesses versus typical businesses and
19 small businesses are those with less than a hundred
20 employees, typical being 100 or more, it affects 1.6
21 million small businesses and a little under 25,000
22 typical businesses.

23 Again, this reads more easily vertically where
24 total businesses, you can see in the far left column.
25 And I guess one thing to point out here is where the

1 typical businesses account for only 1.5% of businesses.
2 They account for 44% of total employees, 7.8 million
3 employed by typical businesses and 9.8 by small
4 businesses.

5 So the purpose of this proposal is fourfold.
6 One is to reduce the time it takes an injured employee
7 to receive first aid treatment and improve the
8 effectiveness -- improve the effectiveness of such
9 treatments.

10 Two is to improve the safety of employees who
11 provide first aid treatment. The third is to facilitate
12 employer compliance and reduce costs by harmonizing the
13 requirements for first aid kits with the 2021 ANSI
14 standard will also allow in consultation with a physician
15 or a licensed healthcare provider in lieu of requiring
16 only consultation with a physician.

17 And, finally, to improve public safety, and
18 this is to the extent that employers or employees may be
19 able to offer first aid supplies if a member of the
20 public is injured in their workplace.

21 So in service of that purpose, there are a
22 number of objectives embedded in this revision. The
23 first is to establish a minimum standard. So the
24 proposal contemplates that the contents of first aid kit
25 must meet either the Table 1 list of supplies, which is

1 in both these standards -- which is provided in both
2 these standards.

3 And that Table 1 list complies with the 2021
4 version of the ANSI ISEAC 308.1 standard and that's the
5 American national standard for minimum requirements for
6 workplace first aid kits and supplies for Class A first
7 aid kits or the contents can be determined by the
8 recommendations of the employer's physician or licensed
9 healthcare provider. Two pathways there.

10 Objective 2 is to provide for flexibility. So
11 as an alternative to complying with Table 1, basically
12 the employers may choose to consult with the physician
13 or licensed healthcare professional on the contents of
14 the first aid kits.

15 However, the PLHCP recommendations must not
16 conflict with the new requirements in Sections 1512 or
17 3400. We'll talk more about that. Objective 3 is making
18 the locations of first aid kits obvious. So employers
19 must ensure that the location of first aid kits is
20 clearly indicated in the workplace.

21 Objective 4 is providing for ready access and
22 essentially, the proposal requires that employers ensure
23 that employees have ready access to a first aid kit,
24 meaning within three to four minutes. And so I'll
25 describe some of these examples in a minute after

1 looking at Objective 5, which is evaluating and
2 preparing for ready access and unique hazards.

3 So I'm going to just read directly from the
4 proposal, which is based upon its size, the locations of
5 employees and the types of hazards in the workplace, the
6 employer shall evaluate the need for and shall provide
7 additional first aid kits and additional types and
8 quantities of first aid equipment and supplies.

9 And I'm just going to touch on a couple
10 examples looking at this requirement. So one has to do
11 with the size and layout of the workplace. So we're
12 talking about the requirement of employers to evaluate
13 and prepare for ready access and unique hazards. So
14 this is -- goes beyond this sort of Table 1 list of
15 first aid items that have to be in a first aid kit.

16 In addition to that, employers need to
17 evaluate and prepare for these unique hazards. One of
18 them is the size and layout of the workplace. So in all
19 facilities, employers must assess the time it takes
20 employees to access a first aid kit and if necessary,
21 provide additional kits to meet the ready access
22 requirement in three to four minutes.

23 So you can just see in this illustration on
24 the right, that can get a little complicated in a large
25 warehouse.

1 Example 2 has to do with mobile and remote
2 locations. So to meet the ready access requirement,
3 employers will need to provide a first aid kit to any
4 employee who works in a vehicle or a remote location.

5 So Example 3, evaluating and preparing for
6 ready access of unique hazards and the example is high
7 heat. If employees could be exposed to high indoor or
8 outdoor heat, employers are going to be required to
9 assess the potential frequency, intensity and duration
10 of heat exposure and provide first aid items that could
11 be used to cool and hydrate heat stress employee while
12 emergency medical services are being summoned. This is
13 an example of a unique hazard.

14 Another unique hazard, just as sort of an
15 example, if employees could be exposed to bees or other
16 stinging or biting insects, employer will be required to
17 assess the likelihood of a sting or bite occurring and
18 provide first aid items for an employee who experience
19 topical discomfort as well as an employee who experience
20 an anaphylactic reaction while emergency medical
21 services are being summoned.

22 So this just sort of illustrates this decision
23 process just to sort of lay it out, how it works in both
24 sections. Just as a practical guide, as employers are
25 looking at this proposal, the first question comes to

1 mind is, how many first aid kits are needed? And the
2 answer to that question is, all employees must have
3 ready access to the first aid kit in three, four
4 minutes. So you have to determine that this is a
5 performance standard essentially. So that's the answer
6 to that question.

7 The next question is how should each of these
8 first aid kits be stocked? And this is where the employer
9 can choose in both Section 1512 and 3400 to comply with
10 Table 1 and I'll show what that is in a minute. Or they
11 can consult with their physician or licensed healthcare
12 provider and they then sort of have three options in
13 what to do.

14 One is they could purchase pre-assembled ANSI
15 Class A compliant first aid kits in their entirety. The
16 second approach would be to augment their existing first
17 aid kits with the new required first aid items in this
18 proposal.

19 Or three, they could build entirely new kits
20 by purchasing individual first aid items. Each of those
21 comes with cost and locations of course. The employer
22 then needs to add any additional specialized first aid
23 items to address any unique workplace hazards and
24 getting sort of, you know, back at the question of high
25 heat for example, or insect stings or bites, whether if

1 those are relevant and similar kinds of hazards.

2 And then final step here being to distribute
3 properly stocked first aid kits to all locations, ensure
4 ready access, and clearly indicate locations. It's
5 pretty basic, it's pretty straightforward. This is the
6 list of required supplies that are in Table 1 in both
7 these sections. This meets the ANSI standard. It's
8 harmonized verbatim.

9 Harmonizing with the ANSI 2021 standard
10 ensures that compliant first aid kits will be readily
11 available on the market at reasonable cost, simple to
12 implement and sufficient for most first aid needs. The
13 list also includes some sort of footnotes that the first
14 aid kit lists in Table 1 requires a chemical cold pack
15 rather than a cold pack that must be refrigerated. It
16 references a new mandatory Appendix A that lists the
17 topics that have to be included in the first aid guide,
18 which is part of that first aid kit, and that complies
19 with Appendix A of ANSI 308.1.

20 And finally, it specifies requirements for
21 medical-grade scissors to prevent the use of poor
22 quality scissors that can cause injuries when used to
23 cut clothing and contain infectious agents if not
24 properly sterilized after use.

25 So in most cases, as I said earlier, first aid

1 supplies will be used to treat minor injuries. In some
2 cases, the newly required supplies in this proposal
3 could make an important difference in the outcome of an
4 injured person.

5 Examples include a newly required breathing
6 barrier that improves the likelihood and effectiveness
7 of rescue breathing and CPR, medical scissors allowing
8 quick access to a serious injury. Trauma (indecipherable)
9 with roller bandage staunch severe breathing and a foil
10 blanket is now required. They can help first stall
11 shock.

12 In protecting employees who provide first aid,
13 the newly required supplies that are in Table 1 improve
14 the safety of employees who render first aid by the
15 requirement of a breathing barrier or rescue breathing
16 and CPR, medical exam gloves and hand sanitizer.

17 So what is the problem that we're trying to
18 solve here? The proposed changes correct shortcomings
19 in Section 1512 and 3400. 3400 currently requires
20 physician approval for the contents of first kits.
21 That's costly and unnecessary, we heard that in the
22 advisory committees.

23 The Section 3400 also lacks specificity and
24 uniformity in their required first aid supplies. 1512
25 on the other hand is overly prescriptive and in the list

1 of first aid supplies, it varies by the number of
2 employees present on the job. So as the number of
3 employees rises, the types of first aid items change,
4 in the first aid kit.

5 That becomes logistically challenging for
6 construction employers. 1512 currently requires
7 unnecessary or inappropriate supplies and examples
8 include tongue compressors, forceps, safety pins, a
9 magnifying glass, oxygen and breathing equipment.
10 Section 1512 lacks clarity regarding the meaning of a
11 phrase readily available but not necessarily within
12 first aid kits.

13 For a subset of supplies in the list in that
14 standard, 1512 requires only one first aid kit
15 regardless of the construction project size. It lacks
16 specificity on the contents of a first aid text or
17 manual and both 1512 and 3400 do not require the
18 employer to evaluate the need for and provide additional
19 first aid kits for -- and/or specialized supplies based
20 on the size of the workplace, the locations of
21 employees, and any unique hazards in the workplace.

22 The changes that we're proposing here will
23 require a minimum set of standardized supplies that
24 complies with the ANSI standard and reflects the modern
25 practice of first aid, ensures that employees have ready

1 access to an appropriate stock first aid kit and ensures
2 that employers will evaluate the need for and provide
3 additional kits or specialized supplies based on the
4 size of the workplace, the locations of employees and
5 the types and hazards present, and it retains the option
6 of employers to consult with a physician while expanding
7 this to include physicians or other licensed healthcare
8 professionals.

9 Looking at the sort of difference with the
10 federal OSHA standard, both for general industry and
11 construction overall, those federal standards do not
12 require specific types of first aid supplies. The
13 language essentially says that adequate first aid
14 supplies shall be readily available.

15 There's no mention of that on the construction
16 side, they are not harmonized with the current ANSI
17 standard and they do not require employers to evaluate
18 and provide additional supplies based on the size of the
19 workplace, location of employees, and any unique
20 hazards.

21 They do not allow employees, employers to
22 determine their first aid needs by consulting with a
23 PLHCP. I'm going to just give a little -- just an
24 overview on the costs and -- well, so the total first
25 year cost estimates for this proposal are a little over

1 15 million across both construction and general industry
2 with annual maintenance costs per year of about 13
3 million.

4 Total savings for new businesses between 2026
5 and 2030 are a little over 67 million or \$11 million
6 annually, and that's based on expected 17% growth in
7 businesses and employment by 2030, adding about 282,000
8 new businesses and 3 million new employers.

9 Those savings are generated primarily by the
10 change in the physician consultation requirement for all
11 new businesses coming online in California. And again,
12 that affects -- 95% of the effect here is in general
13 industry, 5% in construction.

14 You have the tables here in front of you in
15 the handout, so I won't go through the costs. I'll just
16 direct your attention to the far right column, which
17 sort of illustrates that the first year cost per
18 employee for both Section 1512 and 3400 is \$0.87.

19 When we break down the math, this is what it
20 comes down to. We also did a breakdown on costs for
21 small businesses versus typical businesses. And again,
22 on the far right column, what you see is again the cost
23 per employee is about \$0.87 for small businesses. In
24 the second to far right column, it's about \$5 per
25 business. And for typical businesses with 100 employees

1 or more, it's about \$280 per -- in the first year.

2 The maintenance costs -- again, I'll just
3 direct your attention to the far right column, the
4 annual cost per employees about it's \$0.75 for both
5 small businesses and typical businesses and the same
6 goes for local agencies. This is -- the top table is
7 for local government agencies.

8 Again, the annual cost is \$0.75 and state
9 agencies \$0.81. So again, in most cases first aid
10 treatment is used to treat minor injuries. In some
11 cases, however, first aid can make an important
12 difference in the outcome of an injured person and make
13 the proposed changes we -- to move the -- both
14 objectives. With that all, any questions? Thank you,
15 Chair.

16 CHAIRMAN ALIOTO: Thank you very much. Any
17 questions for Dr. Wilson? Yes, sir.

18 DEREK URWIN: Just a quick question
19 on the breathing barrier that's described. Is this the
20 type of mask that one uses to create a seal when you
21 rescue breathing or is it just like one of those
22 PPE-type barriers for rescue breathing? Is that
23 specified in the --

24 MIKE WILSON: It's a CPR-type barrier, so it
25 allows for more effective sort of mouth-to-mouth

1 resuscitation. So there's a little airway, there's a
2 litte -- there's a short airway that's provided along
3 with the facial protection to -- just to avoid direct
4 contact between the rescuer and the victim as you
5 were. Does that make sense?

6 DEREK URWIN: Yeah. No, I was asking
7 just in terms of whether or not that was the pocket mask
8 type of design that has the triangular shaped mask that
9 one uses to obtain a seal or if this was just a barrier
10 type. It sounds like it's just a barrier type.

11 MIKE WILSON: That's right.

12 CHAIRMAN ALIOTO: Okay. Thank you.

13 CHRIS LASZCZ-DAVIS: Mike, how do you arrive at
14 those costs? What's the source of your costs?

15 MIKE WILSON: Well, I can run you through
16 the -- but let's see what would be the level of detail.
17 I --

18 CHRIS LASZCZ-DAVIS: Guess -- just in general.

19 MIKE WILSON: Yeah. We -- I guess probably
20 the most important, we had to build this cost estimate
21 on 10 assumptions, which are spelled out in the
22 statement of reasons and also our attachment to the 399.
23 But the most important one is that -- the most important
24 one is the ready access requirement so that, you know,
25 the employee has to have access within three to four

1 minutes.

2 And so we made the assumption that that is
3 about one first aid kit for 25 employees in a sort of
4 co-located workplace, but it's a single first aid kit
5 for a single employee if they're out in a vehicle
6 somewhere, if you're a UPS driver. And so we had to
7 look at employment development data, you know, now and
8 leading up to 2030 and looking at projections
9 for small businesses and making assumptions about how
10 many people are in small businesses and how many are in
11 typical businesses.

12 And, you know, honestly, because it affects
13 every employer in the state, you know, from corner donut
14 shop to, you know, Intel or what have you. That was a
15 complicated calculation and we worked, you know, very
16 closely with our, you know, economists internally as
17 wells with budgets in the department and agency.

18 CHRIS LASZCZ-DAVIS: Thank you. You had to build,
19 it was the bottom line. Okay.

20 MIKE WILSON: Say again.

21 CHRIS LASZCZ-DAVIS: The bottom line is you had to
22 build it.

23 MIKE WILSON: That's exactly right. And
24 because of all this assumptions that we, you know, had
25 to have you building the model, we felt like the most

1 useful thing we could do for employers would be to be
2 really clear on what the cost is per employee.
3 Obviously, a big difference between a small versus a
4 very large employer.

5 CHRIS LASZCZ-DAVIS: Thank you.

6 CHAIRMAN ALIOTO: Any other -- anything else?
7 Okay. Ms. Crawford, do you have any questions?

8 All right. So two quick ones
9 if you don't mind, Mike. I don't quite understand
10 Objective One, which allows the recommendations of the
11 employer's PLHCP to provide the content of the thing,
12 but then it says objective two PLHCP recommendations
13 must not conflict with the new requirement.

14 Can you just explain that.

15 MIKE WILSON: Sure. Yeah. So the existing
16 standard requires the employer to consult with a
17 physician on the contents of their first aid kit. So we
18 retained that and we expanded it to include physician or
19 licensed healthcare provider.

20 So that would include a registered nurse, a
21 licensed paramedic, a physician assistant who are, you
22 know, fully qualified to be able to make those kinds of
23 consultations.

24 The flip side of that is if that physician or
25 licensed healthcare provider was to come forward with a

1 set of recommendations that didn't meet the requirements
2 of this new standard, it's incumbent upon the employer
3 to make that call.

4 CHAIRMAN ALIOTO: So that's what I'm not
5 understanding. Is Objective One allows for the contents
6 to be the recommendation of the PLHCP.

7 MIKE WILSON: Right.

8 CHAIRMAN ALIOTO: So that's confusing.
9 Strikes me as a potential confusion in the regulation if
10 hey, my PLHCP told me this was what I should do, you
11 guys said that the contents can be what they recommend,
12 but if it violates something else that -- I don't know.

13 MIKE WILSON: Yeah. Two responses on that.
14 One is that the Table 1, which is in, you know, both
15 1512 and 3400 is titled minimum requirements. So if a
16 physician or licensed healthcare provider was to
17 recommend to an employer that really only needed, they
18 only needed a box of band aids or they needed an ice
19 pack and a H bandage that would be inconsistent with the
20 requirements.

21 Table 1 is very clear, this is a minimum set
22 of requirements. The second place to your question is
23 for an employer whose workers could be exposed to high
24 frequency hydration, high intensity heat for example,
25 and the physician or licensed healthcare provider offers

1 nothing having to do with taking care of a heat-stressed
2 employee, that would also fall short of the requirements
3 and that is the responsibility of the employer to
4 understand any unique hazards in the workplace to that
5 effect.

6 And I guess, I'm sorry, a third example would
7 be a recommendation that wouldn't meet the ready access
8 requirement. So if a healthcare provider says you
9 really only need one first aid state kit for this warehouse,
10 that wouldn't be the right reaction.

11 CHAIRMAN ALIOTO: I'll just clarify it and
12 we'll move on.

13 MIKE WILSON: Sure.

14 CHAIRMAN ALIOTO: What my, I think, potential
15 for confusion in the language is simply related to the
16 contents of the first aid kit.

17 So the contents of the first aid kit according
18 to Objective 1, I don't know how it reads in the
19 regulation so I don't know which section it is exactly,
20 but it says that it must meet either Table 1 or what the
21 person recommends.

22 If the PLCH recommends something, then that is
23 compliant with the contents. So it's really hard, I
24 would think for an employer to say, why am I getting
25 cited? This is what my PLCH said and you said that the

1 minimum requirement should be that.

2 And I think what you just said was it must
3 have everything in Table 1 as a bare minimum. And if
4 you -- there's additional things that you -- I think
5 there's a confusing part of that language. I don't know
6 if --

7 MIKE WILSON: I think if I hear you -- what
8 you're saying is that by using or --

9 CHAIRMAN ALIOTO: Yeah. Exactly.

10 MIKE WILSON: That gives you two options.

11 CHAIRMAN ALIOTO: That is what I'm asking.
12 That is what I'm suggesting. Yeah. Okay. Objective 5.
13 Just real quick on this because types of hazards in the
14 workplace, so if there's a requirement that they have
15 items in the first aid kit that address specific hazards
16 in the workplace, that strikes me as ambiguous and that
17 maybe hard to enforce.

18 If there's somebody working in the field and
19 it's a day like today where we had a bunch of smoke and
20 they are not given a mask of some sort, they, I guess
21 arguably, Cal/OSHA you could go cite them and say, well
22 you should have known because we have a lot of days that
23 have smoke.

24 Do you understand what I'm saying? Who
25 determines the type of hazard in that particular

1 workplace? Seems like there's enough ambiguity there to
2 make it potentially confusing for employers, which would
3 make it harder to enforce. This is a comment more than
4 anything else. I don't know.

5 MIKE WILSON: Yeah. This is both a highly
6 prescriptive standard and a performance standard. So
7 the prescriptive element, you know, lays out Table 1 as
8 a minimum set of items that are required in first aid
9 kits.

10 And the performance element is, you know,
11 requiring the employer to make a determination both on
12 the number of kits that are going to be needed based on
13 the size and locations of employees.

14 But then as you said, to characterize and
15 understand any unique hazards that could be in --
16 employees could be exposed. And admittedly, that, you
17 know, it opens it up for the employer's judgment and
18 understanding of the hazards in their workplace and we
19 couldn't -- it's sort of unrealistic to sort of try to
20 spell out, you know, what would be a list of unique
21 hazards.

22 Does that mean -- yeah, I mean it opens up
23 this proposal for some ambiguity.

24 CHAIRMAN ALIOTO: Yes. There's discretion,
25 makes it hard to enforce. I disagree with you that that

1 is a hazard that we have to deal -- I mean I'm just
2 presenting that. I don't know, maybe there's a way to
3 deal with that, I'm not sure. But that did stand out to
4 me. Comment? Very good.

5 You have a comment?

6 DEREK URWIN: Just to maybe contribute
7 towards clearing things up a little. I think your goal
8 is to have a minimum standard of this is what must be in
9 your first aid kit, but if there's sort of this obvious
10 hazard of significant burn injury, right? You probably
11 need more than just a four inch by four inch gel soap
12 burn gel.

13 You might need a full body burn blanket under
14 the recommendation of a licensed healthcare provider.
15 And then separate from that, if there's say major
16 likelihood of lacerations or something like that because
17 saws in use, then you know, separate from just a five
18 inch by nine inch trauma pad, you may be required to
19 have several trauma pads or maybe it's prudent to have
20 tourniquets in addition, right? And so I think that's
21 sort of the spirit of what you're getting at here,
22 right?

23 There's this minimum set of requirements, but
24 if it's clear that there's these additional hazards,
25 this additional equipment is what a licensed healthcare

1 provider would likely recommend, whether that's a
2 paramedic, a nurse or a physician.

3 And one way to sort of break that down without
4 just throwing out like hey, do an assessment, you could
5 go to, like, a basic EMT textbook and it breaks down the
6 of different types of injuries that are possible that
7 EMTs deal with, whether they be bone injuries or
8 lacerations, et cetera, crash injuries and go from
9 there.

10 And that might help to give some guidance. In
11 other words, you could have what you have here maybe
12 change the origin and, you know, with this additional
13 guidance based off of the types of injuries that are
14 likely based off of the workplace hazards, whether those
15 be boiling liquids or saws or something like that, that
16 might help to guide this a little bit to address what
17 the Chair is bringing up. Just a suggestion.

18 MIKE WILSON: It's a great suggestion. I
19 think those are really good illustrations and I think it
20 speaks to one of the challenges of this proposal that
21 it, on its face appears, pretty simple, you know,
22 contents of first aid kits.

23 But in going back and looking at the, you
24 know, the record from advisory committee meetings convened
25 over several years on this question where they really

1 got hung up and were not able to reach a conclusion on
2 actual regulatory language was this kind of tension
3 between, well we need a minimum standard, but what about
4 all of these other scenarios where the minimum standard
5 is just going to be insufficient? What do we do about
6 those?

7 And you could come up with a nearly infinite
8 number of potential scenarios. Burns like as you
9 mentioned is a good one, high heat, insects, what have
10 you. And so the direction that the advisory committee
11 is, in looking at the record, called for was really a
12 performance standard that makes it the responsibility of
13 the employer to understand and to characterize the risks
14 in their workplace and to provide first aid items
15 accordingly. And it introduces -- introduces some
16 ambiguity.

17 I think, you know, there's also probably some
18 bright lines here where the question of sort of chronic
19 disease outcomes. So for example, smoke exposure
20 doesn't really fall into the category of first aid.

21 And, you know, first aid is administered for
22 an acute injury or an acute illness, a heat illness for
23 example, or a traumatic injury, but would be less
24 applicable -- sort of less applicable in a situation
25 where employees are exposed to a chronic hazard. I

1 think other Title 8 safety orders would apply in those
2 kinds of settings.

3 CHAIRMAN ALIOTO: Yeah. I think you
4 understand -- I know you understand the point. Dr. Owen
5 brings up some great examples. My smoke example was
6 much poorer, an example than his two examples, but I
7 think you get my point. I think that there's maybe a
8 way to work through and remove as much discretion there
9 as possible, as much ambiguity. Maybe it's a third
10 party, maybe it's the PLCH.

11 If they tell the employer these are the
12 specific hazards you need to be careful on, they can
13 rely on that and not get it a citation if that's -- so,
14 if you guys go in and say, hey, there was this hazard
15 you should have been -- you should have predicted it
16 because a hazard in your workplace and they say my --
17 you know, somebody came in and told me that that was not
18 something that I needed to -- that perhaps relying on
19 that is enough to not be cited for a violation,
20 something to think through about just -- it really goes
21 down to enforcement, of how you enforce that. So -- all
22 right.

23 THE COMMENTER: Excellent. Thank you.

24 CHAIRMAN ALIOTO: Yes.

25 DEREK URWIN: You mentioned that there were

1 a few maybe obvious bright lines that could be addressed
2 and then avoid getting into the minutia, but for
3 example, if the workplace involves many large vats or
4 pots of oil and liquid, full body burn blankets are
5 likely to be put in that type of environment.

6 And so rulemaking can be iterative and
7 develop over time and to address this issue that we're
8 discussing, you could start with the bright lines and
9 some of them are very clear, right? Again, the boiling
10 liquids, the running saws, et cetera, that could be
11 addressed, that are very clear and then sort of leave
12 the minutia for next time.

13 MIKE WILSON: Can I ask just a clarifying
14 question about that? Are you suggesting that
15 we should include those examples in the proposal itself
16 and sort of spelling out industrial processes or what
17 have you that would represent a unique hazard?

18 DEREK URWIN: I would suggest including
19 whatever language makes the intent sufficiently
20 illustrative, right? So again, you've kind of given a
21 few illustrative examples where everybody goes, yeah,
22 okay that's obvious. So something to that effect,
23 whether it's a little bit of language that makes that
24 clear or illustrative examples.

25 MIKE WILSON: Okay. Thank you.

1 CHRIS LASZCZ-DAVIS: If I might just add at least
2 what I've found over the years, what we often did in
3 those situations was do a little bit of benchmarking
4 with like industries.

5 I mean, Department of Labor has statistics
6 what trade associations do and your competitors do and
7 people are quite willing to share information as to what
8 hazards are unique to that industry that might not be
9 dealt with in that first aid kit. That's a common
10 denominator.

11 CHAIRMAN ALIOTO: That's a great point, thank
12 you.

13 Anyone else? All right. Let's move on to
14 public comment. Dr. Wilson, thank you.

15 MIKE WILSON: Thank you for your attention
16 today.

17 CHAIRMAN ALIOTO: Thank you for that report.
18 All right. If we have some folks in-person that want to
19 make some comments, you know the drill, bring your sheet
20 forward and then folks that want to comment on this
21 proposal in the online environment, please raise your
22 hands and if I could ask Julie to please read -- just
23 announce that in Spanish, please.

24 (Interpreter speaking in Spanish.)

25 CHAIRMAN ALIOTO: Fantastic. Thank you. All

1 right. Let's start with the first speaker that we have
2 here. Ms. Cleary, how are you.

3 HELEN CLEARY: I'm well, how are you? Good
4 afternoon, Board member staff. My name is Helen Cleary,
5 I'm the founder and leader of the OSHA Proterie. We
6 want to start by saying that we fully support the goal
7 of this rule-making, modernizing first aid kits removing
8 physician requirement.

9 It makes sense, it seems simple, but as we dug
10 into the rule-making record and I think as we kind of
11 discussed today, we found this proposal has been a bit
12 over-engineered with a new mandate that is justified by
13 a fundamental misapplication of federal OSHA
14 interpretation. So there's a significant new
15 requirement in this draft that employees must be able to
16 access a first aid kit within three to four minutes,
17 that ready access requirement, that there is an error in
18 the initial statement of reasons.

19 The Board's justification for that three to
20 four minute benchmark relies on one section of a 2007
21 federal OSHA letter. But if you read that letter, that
22 three-minute window is about the location of the work
23 site in relationship to EMS response time and whether or
24 not you have to provide someone who's trained in first
25 aid, it's not about employees physical distance from

1 a kit.

2 The letter goes on and says that for office
3 buildings, there may be low risk for serious injuries,
4 15 minutes may be a reasonable time, but that part of
5 the letter wasn't included in the initial statement of
6 reasons. By conflating these two things, ready access
7 and three to four minutes, the Board has created a new
8 stopwatch standard for every workplace in California.

9 This implies that a three-minute timer now
10 dictates compliance for every company vehicle, every
11 corner of a low hazard warehouse, every maintenance
12 worker on a large campus. Federal OSHA never intended for
13 a stopwatch trigger to citation. They were actually
14 asked about location of kits in another letter and about
15 the timing of it and they wouldn't give a time
16 measurement.

17 So we believe this requirement is unnecessary
18 and at a minimum, the record needs to be corrected.
19 This leads to the economic analysis and we're not
20 economists, but looking at those numbers, it just
21 doesn't make sense. The Board estimates it will cost
22 less than \$10 per employee to comply in the first year
23 and \$12 to maintain a kit after that.

24 This is impossible for enforcing a
25 three-minute ready access rule and require checks before

1 construction jobs. Two requirements that were not
2 individually qualified in the analysis.

3 This -- the new information today about what
4 you talked about, Chair, I just want to touch on this
5 real quick to get on the record, that the
6 physician-approved kit can't conflict with the list.

7 It was our understanding that you could
8 maintain your current kits, which were
9 physician-approved, they are physician approved, or you
10 could purchase an off-the-shelf kit, but it sounds like
11 today you can't do that.

12 So last night, I was looking at a member's
13 first aid kit contents and they don't have the foil
14 blanket in the kit. It is a robust kit, it's from
15 Phillips, it has all kinds of things in it, but it
16 doesn't have that foil covering but it's an office
17 setting.

18 They don't need it. But what we're saying is
19 they're going to have to replace their kit or update it
20 and none of that was considered in the cost analysis or
21 understood, to be perfectly frank. That member also
22 spent \$300 in one month replacing items. Yeah, okay.
23 So we're not here to stop it. We want it to work. We
24 want a 15-day notice.

25 We submitted simple changes, please review our

1 comments. There are more issues in it as well. This
2 should be easy, particularly because first aid kits are
3 pretty much robust already, so we don't think it needs
4 to be this complicated.

5 As you deliberate, I suggest looking at the
6 first aid kit in your offices and see what's in it, how
7 robust they are, and consider does this need to be a
8 rule-making that's over \$50 million for California.
9 Thank you.

10 CHAIRMAN ALIOTO: Thank you very much.

11 Welcome back.

12 MIKE DONLON: Mike Donlon, MD Safety Service.
13 And I'm just representing myself with this comment. But
14 I too have concerns with the requirement that employers
15 provide additional types of equipment and supplies.
16 They're not licensed healthcare providers. You're
17 asking them to guess what might happen. And I think the
18 two examples given point out the flaw with this section.

19 One, high heat. Well, the heat illness standard
20 already has requirements for hydration and cooling,
21 shade for a cooling room indoor settings. So this
22 doesn't even apply to first aid, that's in the illness
23 standard.

24 The second one, bee stings. You now, one of
25 the Board staff might get a bee sting on their way to

1 their car, you know, that's not really related to the
2 work, it's just something that happens in nature.

3 Now, on top of that it talks about
4 anaphylactic reaction. Well, what are you supposed to
5 do for that exactly? Because Section 1512(c) (2) or
6 (c) (3) says you can't have any additional drugs in your
7 first aid kit unless they're allowed by a physician.

8 So there's a lot of conflict here and I just
9 think that 1512(c) (2) (b) and 3400(c) (2) are just too
10 vague, ambiguous, you know, it is a ticket for CAL/OSHA
11 to go, oh, you should have had this in there and I just
12 think it's bad rulemaking. Thank you.

13 CHAIRMAN ALIOTO: Thank you. Anybody else
14 present here?

15 Mr. Smith.

16 DAVE SMITH: Hello, everyone. I'm Dave Smith,
17 safety consultant. The Board staff and the division
18 should finalize and pass this first aid kit proposal, finally.
19 I submitted written comments, some background.

20 Around 2006, we were safety consultants to
21 construction general contractor inspected by the
22 division, we received one general citation for no
23 physician approval letter for the first aid kit.

24 That was it. Citations are not parking
25 tickets. Citations on an employer's record can impact

1 if a firm gets hired for something, whether or not
2 CAL/OSHA would issue a permit, for example, and it sets
3 up a serious and/or will repeat citation. So although
4 we got it reduced to a notice, we made sure all of the
5 clients of our company got doctor letters.

6 Most occupational physicians had never heard
7 of this requirement. Then I submitted Petition 483 in
8 2006. I wanted two sentences added to Title 8, which
9 would be use an anti-compliant kit in lieu of a doctor
10 letter. Two sentences. I thought it would be easy.
11 Guess what? Here we are two decades later. So just a
12 couple of comments.

13 In the Board packet were two requests to add
14 to the list, Narcan and EpiPens (epinephrine) to deal
15 with-- there's a beekeeper right there.

16 My understanding is there's already a petition
17 in process on adding Narcan to first aid kits that ought
18 to stay with that process. For EpiPens or perhaps for
19 any of the other examples brought up, you know, the
20 situations are covered by that -- what is understandably
21 a little vague standard is that each employer has to
22 evaluate the hazards.

23 Well, the same thing could be said about
24 injury and illness prevention programs. There's one
25 sentence, employer shall do a hazard assessment. So I

1 think we just need to make sure that people do that and
2 not get prescriptive.

3 I oppose adding medications or anything else
4 to Table 1. Let's keep this a clean regulation and it's
5 been a long and winding road and we're almost at the
6 finish line. Thank you.

7 CHAIRMAN ALIOTO: Thank you. And I think a
8 lot of people are really relieved to see you talk on
9 this topic at this --

10 CHAIRMAN ALIOTO: Thank you for your tenacity.
11 Let's go online. Any commenters online?

12 JOHN ROENSCH: Yes. We have a number of
13 pre-registered commenters and a few of the hands up.
14 Our first pre-registered commenter on this topic is
15 Bruce Wick.

16 BRUCE WICK: Good morning -- good afternoon,
17 actually, I guess I need to say. I'm -- I first want to
18 just come in, Bruce Wick, Housing Contractors. Dave
19 Smith for his genteel comments over this 20-year odyssey
20 of where we've been. His professionalism is greatly
21 admired. Thank you, Dave.

22 I do want to talk about the comments Helen
23 Cleary made. I think those are really important. I was
24 at the second advisory committee meeting on this. I do
25 believe there's a lot of consensus that comes. There

1 has been no advisory committee in the last 15 years when
2 many more things were added to this proposal.

3 And while I too would like to see it
4 finalized, I'm wondering if we really do need to have
5 one focused advisory committee to get consensus on a
6 variety of things, Helen said, Mike Donalan said as well.
7 And I think board member Urwin brought up some important
8 things. You know, we have developed a lot more guidance
9 these days on websites.

10 We have, you know, quite an army of loss
11 control people, safety consultants who can take that
12 information, refer it to people, show people where to
13 find links to things. There's a lot greater
14 availability to find information than we used to. And
15 some things don't have to be in regulations perhaps as
16 much as guidance and expertise available online.

17 And a final comment is, you know, we've worked
18 hard in the last 20 years especially, especially
19 construction with our somewhat remote work sites on
20 communication, emergency action plans, and a real focus
21 on getting emergency medical services to people fast.

22 And I think, you know, we just need to
23 remember first aid is intended for very minor things.
24 We want to get -- we don't want to delay getting
25 treatment to people. That's our main focus.

1 Thank you.

2 CHAIRMAN ALIOTO: Thank you, Mr. Wick. And
3 Happy New Year to you. It's good to hear from you as
4 always.

5 JOHN ROENSCH: Our next pre-registered
6 commenter is Daniel Glucksman with the International
7 Safety Equipment Association.

8 THE COMMENTER: Hi. Thank you very much. Can
9 hear me okay?

10 CHAIRMAN ALIOTO: Yes, sir. Hi, welcome.

11 DANIEL GLUCKSMAN: Great. Thank you. So my
12 name is Dan Glucksman, I represent the International
13 Safety Equipment Association. We represent companies
14 that design, test, manufacture, and supply, PPE and
15 other safety equipment such as first aid kits and as our
16 estimates and yours as well, more than 10 million
17 Californian California workers use some type of PPE or
18 safety equipment.

19 And ICA is the secretariat or sort of the
20 publisher and source of administrative support for
21 NCISCAZ 308.1, the first aid kit standard.

22 So we support the Board of the proposal here
23 to update the first aid kit regs. However, we do
24 respectfully request that the Board delay adoption of
25 the 21 -- 2021 version because the 2026 version of the

1 first aid kit should be published in the near future by
2 end of the first quarter.

3 ANSI/ISCA Z 308.1-2021, that is for
4 reporter and transcriber -- translator. So it is
5 wrapping up its five year revision cycle and again, it
6 is at the very end of that ANSI, you know, process. The
7 2026 version will include an important update which is
8 the recommended but still optional inclusion of opioid
9 overdose reversal medication such as Naloxone.

10 Second, also there's Assembly Bill 1976 which
11 was signed by the governor at 8/24 and AB 1976 mandates
12 the inclusion of opioid overdose reversal medication in
13 workplace first aid kit and in the legislation it
14 actually requires some timelines for the Cal/OSHA
15 and the standard board to take certain action.

16 So in short in closing, putting together the
17 most recent update which will come out soon of 2026
18 version of 308.1 and doing ahead of schedule what AB
19 1976 requires, California could get up to date on first
20 aid kits in one fell swoop.

21 And thank you very much.

22 CHAIRMAN ALIOTO: Thank you, sir.

23 JOHN ROENSCH: Our next pre-registered online
24 commenter is Rob Moutrie with the California Chamber of
25 Commerce.

1 ROBERT MOUTRIE: Hello, Mr. Chair. Members.
2 Can you hear me all right?

3 CHAIRMAN ALIOTO: Yes. Happy New Year's.

4 ROBERT MOUTRIE: Hey, good afternoon. I
5 applaud your persistence. I know it's getting late in
6 the day. I wish I could be with you here at my local
7 Sacramento, but I had a non-workplace injury of an
8 Achilles tear a few days ago.

9 So I am sadly -- again non-workplace -- but
10 sadly unable to join. On that topic, I want to just
11 touch on the first aid regulation. I echo the concerns
12 of Helen Cleary related to cost and the speed of
13 response time.

14 I also submitted a comment letter hoping for,
15 similar to Helen, small adjustments in a 15 or 45-day
16 change. Particularly, I want to flag one which I think
17 Chair Alioto you raised regarding this potential for a
18 healthcare provider to approve a plan, or excuse me,
19 approve essentially elements that go beyond the
20 requirements of the regulation.

21 But then the employers still face liability
22 for their kit being insufficient. And that, you know,
23 we view that as somewhat unfair on the employer side to
24 say, I went out, I did the extra work to get approval
25 and yet here I am facing a citation for what a

1 professional told me was right for my workplace.

2 So that's something which we, you know,
3 suggested language in which staff will see, but the flag
4 verbally since the Chair raised it. Appreciate it.
5 Thank you.

6 CHAIRMAN ALIOTO: Thank you, Mr. Moutrie.

7 JOHN ROENSCH: Our next online commenter is
8 Cassie Hilaski.

9 CASSIE HILASKI: Hello, can you hear me?

10 CHAIRMAN ALIOTO: Yes, hi.

11 CASSIE HILASKI: Excellent. Good afternoon.
12 So I just wanted to echo Helen Cleary's comments and Rob
13 Moutrie as well. In addition, I also don't like the bee
14 sting example because it suggests employers should be
15 asking questions about personal medical conditions.

16 And then I just have a question. If someone
17 could explain to me why over the counter medications are
18 not allowed in first aid kits. I have many employees
19 who don't understand why they can't find ibuprofen in
20 the kits. So the response would be -- the explanation
21 would be great and excuse my ignorance on the topic.
22 Thank you.

23 CHAIRMAN ALIOTO: All right. Thank you.
24 Anyone else in-person like to make a comment?

25 STEVE JOHNSON: Good afternoon, Mr. Chairman,

1 Board members, CAL/OSHA staff and Board staff. My name
2 is Steve Johnson, I'm with Associated Roofing
3 Contractors of the Bay Area Counties. And I also would
4 like to support the comments made earlier by a number of
5 people, Dave Smith, Mr. First Aid, and support
6 wholeheartedly the work that has gone into it.

7 I attended all the early advisory committees
8 as well so I've been through that process as well. But
9 one of the things that you know in just in trying to keep
10 things in an effort to keep things simple, I appreciate
11 the table Table 1 because a construction employer can take
12 a 2019 ANSI kit and update that kit and not have to throw
13 a kit away.

14 So it would be additional requirements that
15 could be just updated and put in the kit and maybe take
16 a sharpie and cross out 19 and put '21.

17 The other issue I wanted to bring up about
18 Narcan is that on construction sites, there are varying
19 temperatures and sometimes in the summer, it can heat up
20 over what could be maybe too hot for Narcan to make it
21 not be effective or to -- if there's a temperature range
22 that it has to be kept at, we wouldn't be able to meet that
23 standard.

24 And, in general industry, there might be a
25 better chance of maintaining a constant temperature

1 inside a building. But on a construction site where you
2 need ready access, you're outdoors.

3 So I'm concerned about that. And if the
4 update to the 2026 ANSI means Narcan has to be in the
5 first aid kit, then there's a direct conflict with being
6 able to provide that on construction job sites.

7 So I see my time's up and I would also like to
8 say hi to Dave Thomas and congratulate him on a long
9 career and best wishes for fantastic retirement. Thank
10 you.

11 CHAIRMAN ALIOTO: Thank you very much.

12 Anyone else in person like to make a comment?
13 All right. Anyone online still?

14 JOHN ROENSCH: Yes, we do. We have a hand
15 raised from Genhmum Eng.

16 CHAIRMAN ALIOTO: All right.

17 GENHMUM ENG: I just want to make that two
18 very quick comments. One of them is that these first
19 aid kits can be put in trucks and even kept cool in a
20 cooler or something for a better control of temperature.

21 And so I think the fact that a lot of these
22 new first aid kits are going to be trucks, the
23 presentation said that will help ameliorate that --
24 somebody's concerns. The other thing is that, I forgot
25 who it was who brought up this question of the first aid

1 kit or the PLHCP that the physician and it's like, oh
2 there's an ambiguity in there.

3 And I think that ambiguity is very easily
4 fixed by saying the more comprehensive of either what's
5 in this table or what a PLHCP person says and then --
6 and you would avoid having a PLHCP person saying
7 something that goes against the minimum standard you're
8 applying.

9 And then you would also be able to apply all
10 these other things that are the unique hazards for their
11 particular workplaces. So I think that's very simple
12 change of more comprehensive of these two fixes the or
13 problem. Thank you very much.

14 CHAIRMAN ALIOTO: Thank you.

15 Anyone else online.

16 JOHN ROENSCH: No. We only have a remaining
17 comment from for a non-agenda.

18 CHAIRMAN ALIOTO: Okay. Julie, would you just
19 mind announce please that this will be the last time
20 that somebody can make a comment? And if you could do
21 that in Spanish, please.

22 (Interpreter speaking in Spanish.)

23 CHAIRMAN ALIOTO: All right. If anyone
24 participating remotely was unable to join the comment
25 queue and would like to comment, please raise your hand

1 when you're called upon, you can state your comment.

2 If there were -- you had a difficulty in any
3 way connecting, you may still submit a comment by 5:00
4 p.m. tonight; is that right? That's true for this,
5 right? Yeah, 5:00 p.m. tonight, and I will give you an
6 email address.

7 Hang on one second, folks. All right. You
8 can send that to oshsbhsb@di.ca.gov. And any other
9 comments? Any other hands raised over there, Mr.
10 Roensch.

11 JOHN ROENSCH: There are, yes. And we do have
12 -- is this okay for non-agenda?

13 CHAIRMAN ALIOTO: No, not agenda items. This
14 is only related to first aid kits. Okay.

15 JOHN ROENSCH: We do have a -- we do have a
16 hand raised for this topic.

17 CHAIRMAN ALIOTO: Okay.

18 JOHN ROENSCH: And it is Behrouz Haghighi.

19 BEHROUZ HAGHIGHI: Yes. Thank you. This is
20 Behrouz Haghighi with the Valley Transportation
21 Authority. I do have a question or recommendation that
22 the Board may address been in this transportation
23 business.

24 We do have a lot of maintenance yards. We do
25 have transit centers. We do provide first aid kits, for

1 example, bus drivers, but there is no clear guidance in
2 the regulation about how often they should be maintained
3 or addressing items that get stolen sometimes.

4 So are we going to be cited, for example,
5 between the maintenance periods? Because we do maintain
6 them on a monthly basis. What if an item is missing in
7 between? So those are just the questions that I have
8 that I hope I can get a clear guidance from the Board.
9 Thank you.

10 CHAIRMAN ALIOTO: All right. Thank you, sir.
11 Any other hands raised on this topic, first aid?

12 JOHN ROENSCH: We do have a hand raised, but
13 it's from a party that's already commented.

14 CHAIRMAN ALIOTO: They commented on first aid?

15 JOHN ROENSCH: Yes.

16 CHAIRMAN ALIOTO: Could you just bring them
17 on? Maybe they have some point of clarification for the
18 record, but we're not going to continue to comment
19 again, I mean.

20 THE COMMENTER: Yeah. This is not a comment
21 on first date specifically.

22 CHAIRMAN ALIOTO: Okay. Then, sir, I'm going
23 to ask you --

24 THE COMMENTER: Wait, it may apply. And that
25 simply is that when I -- well, actually, it's not on

1 first aid. It is on the end of your presentations. You
2 have another public comment period after your business
3 meeting for non-agenda items and proposed rule
4 revisions. And my question is an administrative one.

5 CHAIRMAN ALIOTO: Sir, I'm sorry, but this
6 is -- we are limited right now. We're having a public
7 hearing. It's mandated by law and we are only
8 entertaining comments -- public comments on the first
9 aid kit.

10 If you have a non-agenda public comment to
11 make, you may make that at the proper time in the
12 agenda. Mr. Roensch, anybody else raise their hand.

13 THE COMMENTER: Okay.

14 JOHN ROENSCH: Yes. We do have one additional
15 hand raised. Also a part of this commented on this
16 topic and we'll if you'd like to see if he can --

17 CHAIRMAN ALIOTO: All right.

18 JOHN ROENSCH: -- speak again. This is for
19 Daniel Glucksman. Go ahead, Daniel.

20 CHAIRMAN ALIOTO: Mr. Glucksman, did you
21 already speak on this particular topic?

22 DANIEL GLUCKSMAN: Yeah. One really small
23 point.

24 CHAIRMAN ALIOTO: I'm sorry, but you're --
25 we're already closed on this. Are you referring to

1 something about first aid?

2 DANIEL GLUCKSMAN: Yes.

3 CHAIRMAN ALIOTO: Okay. Go ahead, please.

4 Just 30 seconds.

5 DANIEL GLUCKSMAN: Mr. -- Sure. Mike Wilson
6 mentioned that OSHA does not reference the standard.
7 The MCISC standard is referenced in the OSHA regs in
8 1910, 151, but it's a non-mandatory appendant and I just
9 wanted to mention that. That's all.

10 CHAIRMAN ALIOTO: Thank you.

11 Any other hands, Mr. Roensch.

12 JOHN ROENSCH: There are none.

13 CHAIRMAN ALIOTO: All right. There being no
14 other persons coming forward to testify in this matter,
15 the public hearing on this proposal is closed.

16 (The proceeding concluded at 3:26 p.m.)
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1 REPORTER'S CERTIFICATION

2
3 I, the undersigned, a Certified Shorthand
4 Reporter of the State of California, do hereby certify:

5 That the foregoing proceedings were taken
6 before me at the time and place herein set forth; that
7 any witnesses in the foregoing proceedings, prior to
8 testifying, were duly sworn; that a record of the
9 proceedings was made by me using machine shorthand,
10 which was thereafter transcribed under my direction;
11 that the foregoing transcript is a true record of the
12 testimony given.

13 Further, that if the foregoing pertains to the
14 original transcript of a deposition in a federal case,
15 before completion of the proceedings, review of the
16 transcript [] was [] was not requested.

17 I further certify I am neither financially
18 interested in the action nor a relative or employee of
19 any attorney or party to this action.

20 IN WITNESS WHEREOF, I have this date subscribed
21 my name.

22 Dated: February 23, 2026

23
24 Certified Shorthand Reporter
25 For the State of California