

STATE OF CALIFORNIA
DEPARTMENT OF INDUSTRIAL RELATIONS
OCCUPATIONAL SAFETY & HEALTH STANDARDS BOARD
PUBLIC MEETING, PUBLIC HEARING, AND BUSINESS MEETING

In the Matter of:)
March 21, 2024 OSH)
Standards Board Meeting)
_____)

IN-PERSON & TELECONFERENCE

Attend the meeting in person:

County Administration Center
Room 310
1600 Pacific Highway
San Diego, CA 92101

Attend the meeting via Video Conference

THURSDAY, MARCH 21, 2024

10:00 A.M.

Reported by:
M. Nelson

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

APPEARANCES

BOARD MEMBERS PRESENT IN SAN DIEGO:

Dave Thomas, Chairman
Kathleen Crawford, Management Representative
Dave Harrison, Labor Representative
Nola Kennedy, Occupational Health Representative
Chris-Laszcz Davis, Management Representative
Laura Stock, Occupational Safety Representative.

BOARD MEMBERS PRESENT VIA TELECONFERENCE:

BOARD STAFF PRESENT IN SAN DIEGO:

Autumn Gonzalez, Chief Counsel and Acting Executive Officer
Amalia Neidhardt, Principal Safety Engineer
Sarah Money, Executive Assistant

BOARD STAFF ATTENDING VIA TELECONFERENCE AND/OR WEBEX:

Kelly Chau, Legal ~~Counsel~~Analyst
Michelle Iorio, Legal Counsel
Jesi Mowry, Administration & Personnel Support Analyst
Ruth Ibarra, Staff Services Manager, Regulations Unit
Jennifer White, Regulatory Analyst

CAL/OSHA STAFF:

Kathryn Tanner, Attorney, Cal/OSHA Legal Unit
Eric Berg, Deputy Chief of Health, Cal/OSHA
Kevin Graulich, Principal Safety Engineer, Cal/OSHA
Keummi Park, Senior Safety Engineer, Cal/OSHA
Stacey Christian, Senior Safety Engineer, Cal/OSHA Research
and Standards Health Unit
Jason Denning Principal Safety Engineer, Research and
Standards, Cal/OSHA

FED OSHA:

*Matt Kuzemchak, Federal OSHA, AD Oakland
*Vernon Preston, Federal OSHA, Directorate of Construction
*Damon Bonneau, Federal OSHA

APPEARANCES (Cont.)

TKO STAFF:

Maya Morsi

PUBLIC MEETING COMMENTERS: (*Online testimony)

Bruce Wick, Housing Contractors of California
Kurt Jordan, RND Construction, Inc.
Kevin Meehan, Circle M
* Enrique Huerta, Climate Resolve
Amy Strommer, TWR Framing Enterprises
John Taylor, RND Construction, Inc.
Bertha Servin, Self
Mitch Steiger, California Federation of Teachers
Elmer Lizardi, California Labor Federation
Katherine Hughes, SEIU Nurse Alliance of California
Rudy Lambaria, IATSE Local 122
Fernanda Flores, IATSE Local 122
Mauricio Juarez, Self
Raquel Saldana, SEIU USWW
Christian Ramirez, SEIU USWW
Maegan Ortiz, Instituto de Educación Popular del Sur de
California, IDEPSCA
Eddie Sanchez, Southern California Coalition for
Occupational Safety and Health
Renee Guerrero Deleon, Southern California Coalition for
Occupational Safety and Health
Kevin Riley, UCLA Labor Occupational Safety and Health
Program
Sheheryar Kaoosji, Warehouse Worker Resource
Manny Valenzuela, International Brotherhood of Boilermakers
Victor Ramirez, Self
Sara Fee, Warehouse Workers Resource Center
Henry Salazar, United Auto Workers
Jassy Grewal, UFCW Western States Council
Janet Resendiz, Warehouse Worker Resource Center
Yesenia Barrera, Warehouse Worker Resource Center
Kathryn Melendez, Warehouse Worker Resource Center
Hector Flores, Warehouse Worker Resource Center
* Alice Berliner, UC Merced Community and Labor Center
* Marissa Bankert, International Surface Fabricators
Association
* Fabian Plascencia, Laborers' (LiUNA) Local 67
* Michael Donlon, MD Safety Service

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Although any Board Member may identify a topic of interest, the Board may not substantially discuss or take action on any matter raised during the meeting that is not included on this agenda, except to decide to place the matter on the agenda of a future meeting. (Government Code sections 11125 & 1125.7(a)).	
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	Gilroy City Hall	
	Council Chambers	
	7351 Rosanna Street	
	Gilroy, CA 95020	
	10:00 a.m.	
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P R O C E E D I N G

MARCH 21, 2024 10:00 A.M.

CHAIR THOMAS: Good morning, this meeting of the Occupational Safety and Health Standards Board is now called to order. Let's stand for the flag. Salute, please.

(Whereupon the Pledge of Allegiance was recited.)

CHAIR THOMAS: Thank you. I'm Dave Thomas, Chairman. And the other Board Members present today are Kathleen Crawford, Management Representative; Dave Harrison, Labor Representative; Nola Kennedy, Occupational Health Representative; Chris Laszcz-Davis, Management Representative; and Laura Stock, Occupational Safety Representative.

Present from our staff for today's meeting are Autumn Gonzalez, Chief Counsel and Acting Executive Officer ~~for today's meeting~~; Amalia Neidhardt, Principal Safety Engineer who is also providing translation services for our commenters who are native Spanish speakers; and Sarah Money, Executive Assistant.

Also present from Cal/OSHA are Kathryn Tanner, Attorney, Cal/OSHA Legal Unit; Eric Berg, Deputy Chief of Health -- can we get that door shut? Thank you. That was quick, thank you -- Deputy Chief of Health for Cal/OSHA; Kevin Graulich, Principal Safety Engineer; Keummi Park,

1 Senior Safety Engineer; and Stacey Christian, Senior Safety
2 Engineer of the Cal/OSHA Research and Standards Health
3 Unit.

4 The Board staff supporting the meeting remotely
5 today are Kelly Chau, Attorney; Michelle Iorio, Attorney;
6 Jesi Mowry, Assistant Administrative Services Manager; Ruth
7 Ibarra, Staff Services Manager, Regulations Unit; and
8 Jennifer White, Regulatory Analyst.

9 Copies of the agenda and other materials related
10 to today's proceedings are available on the table near the
11 entrance to the room and are posted on the OSHSB website.

12 This meeting is also being live broadcast via
13 video and audio system in both English and Spanish. Links
14 to these non-interactive live broadcasts can be accessed
15 via the "Meetings, Notices and ~~Petitions~~Agendas" section on
16 the main page of the OSHSB website.

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

23 As reflected on the agenda, today's meeting
24 consists of three parts. First, we will hold a public
25 meeting to receive public comments on proposals on

1 occupational safety and health standards. Anyone who would
2 like to address any occupational safety and health issue
3 including any of the items on our business meeting agenda
4 may do so when I invite public comment.

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

12 If you experience any technical issues with the
13 teleconference or video conference, please email
14 oshsb@dir.ca.gov.

15 When the public meeting begins, we are going to
16 alternate between three in-person speakers and three remote
17 commenters. And when I ask for public testimony, in-person
18 commenters should provide a completed speaker slip to the
19 staff person near the podium and announce themselves to the
20 Board prior to delivering the comment.

21 For commenters attending via teleconference or
22 videoconference, please listen for your name and the
23 invitation to speak. When it's your turn to address the
24 Board, unmute yourself if you are using WebEx, or dial *6
25 your phone -- and that's *6 on your phone -- *6 on your

1 phone. A lot of people don't do that -- to unmute yourself
2 if you're using the teleconference lines.

3 We ask all commenters to speak slowly and
4 carefully when addressing the Board. And if you are
5 commenting via teleconference or videoconference remember
6 to mute yourself, your phone or computer after commenting.

7 Today's public comment will be limited to two
8 minutes per speaker. And the public comment portion of the
9 meeting will extend up to two hours so that the Board may
10 hear from as many members of the public as is feasible.
11 Individual speakers and total public comment time limits
12 may be extended by the Board Chair.

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

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

21 Let's see, we're supposed to have a presentation.
22 Is this the one?

23 MS. GONZALEZ: Fed OSHA is next.

24 CHAIR THOMAS: Well we're not going to do that
25 right now. We have other things that we have to attend to.

1 So we're now going to proceed with the public
2 meeting. Anyone who wishes to address the Board regarding
3 matters pertaining to occupational safety and health is
4 invited to comment. Except, however, the Board does not
5 entertain comments regarding variance matters. The Board's
6 variance hearings are administrative hearings where
7 procedural due process rights are carefully preserved.
8 Therefore, we will not grant requests to address the Board
9 on variance matters.

10 For our commenters who are native Spanish
11 speakers, we are working with Amalia Neidhardt to provide a
12 translation of their statements into English for the Board.
13 At this time, Amalia, will you provide instructions to our
14 Spanish speaking public.

15 MS. NEIDHARDT: [READS THE FOLLOWING IN SPANISH]
16 Public Comment Instructions.

17 "Good morning and thank you for participating in
18 today's Occupational Safety and Health Standards Board
19 public meeting.

20 "The Board Members present today are Dave Thomas,
21 Labor Representative and Chairman; Kathleen Crawford,
22 Management Representative; Dave Harrison, Labor
23 Representative; Nola Kennedy, Occupational Health
24 Representative; Chris-Laszcz Davis, Management
25 Representative; Laura Stock, Occupational Safety

1 Representative.

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

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

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

19 "If you are participating via teleconference or
20 videoconference, the instructions for joining the public
21 comment queue can be found on the agenda. You may join by
22 clicking the public comment queue link in the "Meetings,
23 Notices and Petitions" section at the top of the main page
24 of the OSHSB website, or by calling 510-868-2730 to access
25 the automated public comment queue voicemail.

1 "When public comment begins, we are going to be
2 alternating between three in-person and three remote
3 commenters. When we ask for public testimony, in-person
4 commenters should provide a completed request-to-speak slip
5 to the attendee near the podium and announce themselves to
6 the Board prior to delivering a comment.

7 "For our commenters attending via teleconference
8 or videoconference, listen for your name and an invitation
9 to speak. When it is your turn to address the Board,
10 please be sure to unmute yourself if you're using WebEx or
11 dial *6 on your phone to unmute yourself if you're using
12 the teleconference line.

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

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

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

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

9 "Thank you."

10 CHAIR THOMAS: Thank you, Amalia.

11 CHAIR THOMAS: Thank you Amalia.

12 Now before we start with any speakers, I know
13 many of you today have heard that what we're really here
14 for today is the indoor heat. That that has been pulled.
15 And we don't really have an explanation as to why and it
16 certainly wasn't us. But I want everybody who were going
17 to comment on it to make their comments. We're going to go
18 through this meeting just like we go through any other
19 meeting and we will come to that. And we will have the
20 explanation from Eric Berg and then we're going to discuss
21 it and then we're going to go from there. So I don't want
22 anybody not to comment on this, because it was pulled,
23 right? So that's where we're at right now.

24 So the first speaker, go right ahead.

25 MR. WICK: Chair Thomas, Board Members, thank

1 you. Bruce Wick Housing Contractors, California. And
2 yes, we do know there'll be a lot of comments about indoor
3 heat. While we were in Southern California some of our
4 Southern California framing contractor folks wanted to come
5 and give you their testimony about potential changes to the
6 residential fall protection regs, so you'll hear from them.

7 As you know Fed OSHA has said, "We don't
8 understand physics. That 15 feet is higher than 6 feet."
9 These people build structures all day. They have an
10 excellent understanding of the laws of physics.

11 We're talking about how you best protect workers
12 at 9 to 9-and-a-half feet when you're building a
13 residential housing unit. We've been told we're the lone
14 holdout in California, in the country, and rightly so. We
15 spent 20 -- 20 years ago we spent 2-and-a-half years,
16 Carpenters Union, industry, Cal/OSHA personnel, what's the
17 safest way to do every phase of framing? We believe we
18 have the best. So yes, we've been a holdout. And in a
19 sense that's why we continue to oppose the strict, the pure
20 imposition of the federal regs.

21 We've been told we don't do anything positive
22 below 15 feet. That's not true. Our folks stand on
23 surfaces using their pneumatic nailers at their feet. As
24 you know, on the first floor at 9-and-a-half feet nets
25 don't work. Interior scaffolding doesn't work because of

1 the bracing.

2 The three ways people say that they comply in
3 Federal OSHA states is one where states have -- where
4 there's no OSHA enforcement. In California, California
5 employers spent \$200 -- this year we'll spend \$217 million
6 to fund Cal/OSHA. We expect consistent and effective
7 enforcement of our non-compliant competitors.

8 CHAIR THOMAS: I'm feeling like it's been about
9 two minutes. Just feeling that way, so but continue.

10 MR. WICK: I will wrap it up, sir.

11 So these personal fall-arrest systems, which
12 don't work at 9 feet, they have people work off of ladders.
13 Ergonomically bad news, much more susceptible to falls.
14 It's an unstable platform and your pneumatic nailer is
15 operating around your head or chest level. So we really
16 look for possible amendments that we need to try and make,
17 keep our regs the safest in the country. Thank you.

18 CHAIR THOMAS: Thank you.

19 Good morning.

20 MR. JORDAN: Good morning, Board Members. Kurt
21 Jordan, Director of Operations for RND Construction. We
22 are a framing contractor here in Southern California.

23 And as Bruce said the methods that we have and
24 have had for 20-plus years of using the joists, the
25 trusses, other methods, other methods for Fall Protection

1 has been incredibly successful. Whether it's a passive or
2 active fall protection system it's worked great. In the
3 20-plus years we've been doing this we've had no serious or
4 fatal falls working off heights, working at heights above
5 six6 feet to 15 feet and above three, four stories.

6 The way the regulation is written ladders are
7 pretty much the only way we're going to comply. And that
8 is incredibly unsafe and incredibly damaging to our
9 workers. Several workers I've talked to -- one worker who
10 is one of our supervisors who unfortunately couldn't be
11 here today, because he has a safety inspection at his job
12 which takes priority over this -- he was previously a
13 siding installer for many years. And most of the time he
14 had to work off ladders. And now he tells me he has many
15 issues with his foot. He's had to have foot surgeries,
16 because of all the time standing on ladders and going up
17 and down ladders.

18 Conventional fall protections, harnesses and
19 ladders, they just don't -- oh, sorry -- conventional fall
20 protection harnesses and lanyards, they just don't work
21 between below 12 feet. I've talked to all the
22 manufacturers and they all say that what you're trying to
23 accomplish is virtually impossible. It makes no sense to do
24 this. Why are you trying to change what works well in
25 California? So, you know, you're asking us to make our

1 workers more unsafe.

2 I took a look at some of the things from this
3 handout from Fed OSHA. Half of these things in here
4 wouldn't even be legal under the new standard, so we've got
5 to take a hard look at the way we do things. And we're
6 certainly open to improving the standard, improving the
7 standard as it currently is.

8 We always want to make our workers safer. We
9 always want to protect our workers. But we need to do it
10 in ways that are going to make them safer, not transfer
11 injuries to other things such as working on ladders,
12 installing more fall protection. Ultimately, like I said,
13 we want our workers to be safe. We want them all to go
14 home in the same condition or better. But with this new
15 regulation we just don't see that happening. Thank you.

16 CHAIR THOMAS: Thank you.

17 Good morning. Good morning.

18 MR. MEEHAN: Hi. My name is Kevin Meehan. I was
19 going to write out everything and have it all fixed, but I
20 wanted to speak from the heart. I've been in the industry
21 for 40 years. I work for a company called Circle M. I'm
22 the General Superintendent. And I was asked to come speak
23 to you guys about a month ago.

24 So I started to go to all my projects and talk to
25 the guys about what they thought about putting scaffold up

1 at six feet. And I heard nothing but horror stories about
2 the nail guns shooting them in the face, or guys getting
3 hit with their saws, cutting stuff at face level. When
4 you're joisting you're down here and you don't have the gun
5 at your face or the saw.

6 So the reason I came in and wanted to share is I
7 don't think it's a great idea. It's very dangerous to work
8 that way. And the guys that work up at that height, that
9 were up there for three quarters of a day, versus the guys
10 who are going to put up all the scaffolds, six guys,
11 they're more likely to get hurt on a ladder. So I googled
12 deaths or injuries on ladders, how many per year, are
13 300,000 people get hurt on ladders every year in America.

14 So I know you have good intentions, but I don't
15 think they're practical or good. I think more people will
16 get hurt trying to be safe than actual exposure time.

17 And I've seen injuries. I've seen people shoot
18 their face, shoot a nail through their cheek, through their
19 teeth through the other side. I've seen -- I wasn't there
20 -- I saw the guy fall. He was cutting something with a
21 saw. The saw kicked back, hit him in the head, he fell off
22 the ladder, fell on the ground. It was my friend's
23 project. He had to go to the house that night and tell his
24 wife, "Hey, your husband died on the job. I don't know
25 what to tell you."

1 So that's why I'm here, because I don't want
2 people to get hurt by this new law. Thank you.

3 CHAIR THOMAS: Thank you.

4 We're going to go to callers that we have on the
5 line. So Maya, who do we have?

6 MS. MORSI: We have Enrique Huerta with Climate
7 Resolve.

8 CHAIR THOMAS: Enrique, can you hear us?
9 Enrique? It's always the first caller. You can press *6.
10 Enrique can you hear? I think you're muted, Enrique.

11 MR. HUERTA: Yes. Hello, Chair.

12 CHAIR THOMAS: Oh, there we go.

13 MR. HUERTA: Thank you, Chair, apologies for
14 that.

15 CHAIR THOMAS: Go ahead.

16 MR. HUERTA: Oh, hi, good morning. My name is
17 Enrique Huerta and I'm with Climate Resolve. Thank you for
18 the opportunity to speak in support of re-agendizing the
19 heat illness prevention in indoor places of employment
20 standard as soon as possible. It's been close to five
21 years since legislation mandated that the Standards Board
22 adopt this critically important rule.

23 Heat threatens the health and safety and
24 productivity of workers in many other settings, including
25 factories, schools and public buildings, and especially for

20

1 workers in low-income communities of color that are five
2 times more vulnerable to the impacts of high heat than
3 those in the top income tier. Please protect our indoor
4 workers from unnecessary and avoidable heat illness and
5 death.

6 I respectfully ask that you re-agendize the
7 standard as soon as possible as it will minimize heat-
8 related illness and injury before summer arrives. Thank
9 you.

10 CHAIR THOMAS: Thank you.

11 Who do we have next, Maya?

12 MS. MORSI: Up next is Ricardo Baez, affiliation
13 as private citizen.

14 CHAIR THOMAS: Ricardo, can you hear us?
15 Remember to unmute yourself. Ricardo?

16 All right, since Ricardo is not there or we can't
17 get him to speak we'll go -- we'll move on to the next.

18 MS. MORSI: Up next is Meghan Stanczak with UFCW
19 Local 5.

20 CHAIR THOMAS: Is that Meghan? Meghan, can you
21 hear us? It's going to be a long meeting if we can't get
22 them. Meghan, can you hear us? Remember, you have to
23 unmute yourself. If you're on a phone, *6. All right, go
24 on to the next.

25 MS. MORSI: Up next is Danett Abbott-Wicker with

1 Climate Action CA.

2 CHAIR THOMAS: What was the first name?

3 MS. MORSI: Danett Abbott-Wicker.

4 CHAIR THOMAS: Danett? Danett, can you hear us?

5 Hello? (Inaudible.) Yeah, we're having a little technical

6 difficulty here.

7 All right. Can you hear them, Maya? And are

8 they unmuting themselves or not?

9 UNKNOWN SPEAKER: Yeah, these -- the last three

10 commenters have not been listed by name in the commenter

11 list. So when they logged in with WebEx, if they did they

12 didn't use their name. So it's possible they just

13 literally are not connected to WebEx.

14 CHAIR THOMAS: Okay.

15 UNKNOWN SPEAKER: Yes.

16 CHAIR THOMAS: Well, then I have to -- so what

17 I'm going to do is I'm going to have in-person speakers

18 here, so we're going to go through you guys. And then

19 we'll come back to that later. So whoever's next please go

20 to the podium. Thank you.

21 MS. STROMMER: Thank you. Good morning, Chair

22 Thomas and Board Members. My name is Amy Strommer. I'm

23 the Risk Manager for TWR Framing. I've been working there

24 for over 30 years.

25 I'm here today to comment about the fall

1 protection standard proposal for the revisions to the
2 1716.2. Of great concern to our company and our industry
3 is that these proposed changes may create a greater hazard
4 for our workers. And this should be considered in the
5 review of these recommendations being proposed.

6 Let me explain further. I've recently analyzed
7 our OSHA 300 data for a period of five years. We, our
8 company, recorded close to 2-and-a-half million worker
9 hours cumulatively. This equals about 10,000 units framed.
10 Out of these worker total hours, we estimate that about 5
11 percent of the total work time employees were on a ladder.
12 During that same period I noted that 50 percent of our
13 falls were from a ladder; 5 percent of our total worker
14 hours. That's only 175,000 hours, contributed to more than
15 50 percent of our falls.

16 Another point of data that I reviewed was the
17 frequency of the injuries related to the use of pneumatic
18 nailers, which is the tool that most framers use. Upon
19 review of that data we noted that our pneumatic nailer
20 injuries, which are most commonly puncture wounds to hands
21 or feet, lower extremities, are consistently no-time-lost
22 injuries. In that same period I found that only one case
23 where we had lost time of an injury with a pneumatic
24 nailer, the worker was only off work for 21 days and
25 returned to full duty at the end of that time. That

1 particular injury only represented 1 percent of the total
2 number of pneumatic nailer injuries that occurred during
3 that period.

4 Changing the fall protection regulations would
5 require our workers to work more frequently from ladders.
6 This would also put them at risk of sustaining more severe
7 injuries due to the proximity of them using the pneumatic
8 nailers at chest or above. Let us consider that with the
9 change in fall protection regulation we increase the total
10 workers hours on ladders to 50 percent of the total working
11 time, or 10 times the current exposure to the risks of
12 falling. Then you add in the pneumatic nailer use while on
13 a ladder, potentially creating a more serious risk to the
14 worker like falling from a ladder with a pneumatic nail gun
15 injury, which currently being only a minor incident could
16 become fatal.

17 We want to bring our workers home safe, and we
18 ask that you consider not making these changes to the
19 current regulation. Thank you.

20 CHAIR THOMAS: Thank you.

21 Next.

22 MR. TAYLOR: Good morning. My name is John
23 Taylor. I am the Director of Construction for RND
24 Construction. Thank you for having us.

25 Regarding the proposed changes to our current

1 fall protection criteria is what I'm here to speak
2 regarding. As a journeyman carpenter I learned to install
3 floor joists and roof systems when few if any fall
4 protection measures were in place. While working in
5 California, Washington and Utah I built two, three, and
6 four-stories multifamily buildings. At that time I only
7 witnessed OSHA inspections in California and not in any
8 other state.

9 I'm proud of being part of the implementation of
10 some of our current fall protection measures. The
11 evolution of passive fall protection of hanging brackets
12 and full-height scaffolding has been a game changer to
13 those in the trade. Those systems provided the safest
14 means for protection and an excellent process to monitor.
15 It's my opinion that some plans that include lanyards
16 hinder mobility and provide a false sense of security while
17 installing joists and roof systems.

18 The proposal of working from ladders is rife with
19 safety concerns. Ladder weight limits and trying to move
20 beams, joists and trusses are of extreme concern.
21 Monitoring our processes will become more difficult with
22 installers on ladders, as the line of sight will be
23 obstructed by wall framing.

24 In closing, a system of hanging brackets and
25 full-height scaffolding fall protection installed at the

1 exterior walls will be the safest and clearest means of
2 monitoring. Thank you.

3 CHAIR THOMAS: Thank you.

4 Who do we have next?

5 MS. SERVIN: Good morning. My name is Bertha
6 Servin. I work at the Mission Linen industry in Chino. The
7 weather over there right now, well right now it's real
8 nice. But ultimately during summer time the heat there is
9 too much.

10 So but our work is laundry industries where we
11 need to use our PPE. So sometimes we need to put on
12 insulation glass, safety glass, everything, so we're
13 covered. We use more than regular clothes, so that's when
14 it's more affecting us during summertime.

15 So usually this industrial, thus we have a big
16 laundry machine, big dryer machine where the linens is
17 coming out from the from the ironers so it's still hot. So
18 then we process it after flatwork ironing, so it's very,
19 very hot. Because it's hot and steamy, because we use
20 steam over there to press out all the linens. We put -- we
21 complete for the services there, the company provides to
22 the hospitals, hotels, and restaurants.

23 And fortunately in that company I have union.
24 And the union works together with the company, and the
25 company puts so much effort to control the heat inside the

1 building. So they have big fans, coolers, and heat
2 extractors. But it's not all the co-workers inside the
3 warehouse or other laundry workers that have the same
4 benefits, the same benefits we have because of the union.
5 That's why I'm here today, so just to let you know how
6 important for us that is.

7 The whole day working we work indoors. It's not
8 really because we are indoor building it's mainly really
9 cool over there. Because the temperatures get 100 degrees
10 when outside. And in the Inland Empire when it's over 100
11 degrees inside is worse, because we are touching all the
12 hot products to process them. And the processes don't
13 stop, because we need to send to the customers. They are
14 waiting for that and we understand, so that's why I here.

15 So please, the reason I'm here is to request, so
16 the other co-workers who don't have the same privilege we
17 have with the union, I think they have the right to get the
18 same. They need to take care of them, especially during
19 summertime to control inside the buildings. You know, to
20 benefit the co-workers. Because really we need our work,
21 but we need each other. So we need a solution for this one
22 too, just to help them.

23 That's my personal request from all the co-
24 workers like us. Thank you.

25 CHAIR THOMAS: Thank you.

1 MR. STEIGER: Thank you Mr. Chair, Members and
2 staff. Mitch Steiger with CFT. We are a union of
3 educators and classified professionals, about 120,000
4 across California. Hopefully that's a train. And I'm here
5 today to speak about indoor heat.

6 So it's hard to know what to say, because we
7 don't know where we are or how we got here or what happens
8 next. But what we do know is that we need a standard, that
9 the hazard of heat is bad. It's getting worse. It's
10 gotten worse every one of the seven years that we've been
11 working on this standard, and that need hasn't changed.

12 But then suddenly last night we were informed by
13 the Administration that the standard was being pulled,
14 because of compliance costs tied to an unspecified state
15 agency. And, to be honest, that argument is very hard to
16 accept. Because if you go back through the record you look
17 at the SRIAs, there is a letter from Finance where we're
18 told this objection is coming from to Cal/OSHA saying --
19 referencing this exact issue. That there are compliance
20 costs related to state facilities. The SRIA does not
21 adequately reflect -- the methodology does not adequately
22 reflect that and it needs to be changed.

23 So Cal/OSHA changed it. And they gave it back
24 and it was approved. It was signed off. How do we know
25 this? Because we're here today. We cannot get to this

1 point in the process until Finance signs off on the SRIAs.

2 So everything was fine. It had been that way for
3 over a year. And then all of a sudden last night we're
4 told that this concern is so serious that the whole thing
5 needs to die right today. It needs to be pulled off the
6 agenda.

7 And frankly it's pretty offensive to us, because
8 those SRIAs took a lot of time. They took years. There
9 were two of them. And during that time we had members in
10 boiler rooms, in industrial kitchens, in toolsheds
11 suffering through this hazard. Dealing with the impact of
12 it while we were telling them, "Don't worry, help is
13 coming, they're doing something about it."

14 We were told that it was necessary because of the
15 SRIA. And the results of the SRIA are that important. It
16 is worth the health of your members for us to get that
17 analysis.

18 We in the labor movement sponsored two bills to
19 exempt Cal/OSHA from the SRIA process, because of the fact
20 that these delays cost our members their lives. And we
21 were told that the SRIA was just so important that they
22 couldn't do it. Those bills couldn't happen, whatever the
23 risks to workers are, they need to be accepted because the
24 SRIA is that important.

25 And then last night the SRIA is thrown out.

1 We're told it doesn't matter. We're told we don't need it.
2 That the conclusions there are not good enough on which to
3 base a standard, the whole thing has to go away.

4 So it doesn't say much about how much we value
5 the lives and the health of those workers who suffered
6 during those years that the SRIA was being developed. That
7 all of a sudden at the very end of the process the SRIA is
8 just yanked away and told that it doesn't work, that it
9 doesn't qualify. Because why? Because some employer
10 doesn't want to comply with the law.

11 That's not what this agency is about. This
12 agency, this is about occupational safety and health. The
13 priority here needs to be us. It needs to be the workers,
14 and it needs to be keeping them safe. The priority is not
15 pulling things back, because some employer somewhere
16 doesn't want to comply with the law. Just because some
17 employer doesn't want to comply with the law that doesn't
18 mean that we should get hurt while doing our job. Just
19 because they don't want to do their job, that doesn't mean
20 that we should suffer because we have to do ours. But
21 that's the message that is being sent here.

22 And it's incredibly frustrating. But we've been
23 told by the Administration that this is not an effort to
24 kill the standard. That they're still going to move
25 forward. They're exploring all possible options. That

1 this came on really suddenly. But they've committed to
2 still moving with this. That they're not trying to -- this
3 isn't some backdoor attempt to try to kill the indoor heat
4 standard. That they support it.

5 So we're mentioning that here to put that out on
6 the record and say, "Yeah, we trust them." We have no
7 reason not to. And we plan, we look forward to working
8 with them, but we will very much hold them to that
9 commitment. And we very much hope that it happens as soon
10 as possible. We're told they don't plan to do anything to
11 delay it. They want it in place as soon as possible and we
12 certainly hope that's the case. We would support any other
13 efforts to make it happen as soon as possible. That may
14 happen here today.

15 But we think, overall, the only way this process
16 works is when it focuses on workers, when the needs of
17 workers are at the center. That is not what happened
18 today. What happened today is that the needs of workers
19 were cast aside, because some employer didn't want to
20 comply with a very modest standard. This does not require
21 anyone to spend billions of dollars on HVAC systems. This
22 just requires very small steps in the right direction. If
23 it's not feasible you don't have to do it. There are all
24 sorts of allowances in here for struggling employers. But
25 we still decided to kill the entire thing on behalf of tens

1 of millions of workers, because some employer didn't want
2 to comply.

3 And it's incredibly disappointing. But we will
4 trust that the Administration is committed to moving
5 forward as soon as possible. And we look forward to
6 working with them to make that happen. Thank you.

7 CHAIR THOMAS: Thank you.

8 Go ahead.

9 MR. LIZARDI: Good morning Chair and Members of
10 the Board. My name is Elmer Lizardi. I'm here on behalf
11 of the California Labor Federation. I'm here to voice our
12 concern and to condemn the decision to pull the proposed
13 heat illness prevention and indoor places of employment
14 standard from today's agenda. It is shameful to us that
15 the Board would pull the standard proposal the day of the
16 hearing without prior notice.

17 By refusing to approve the standard, the State of
18 California is failing to protect workers from preventable
19 workplace injuries and deaths. Five years of delays have
20 already been detrimental. And it is a matter of life and
21 death for workers as rising temperatures continue to
22 threaten their health and safety every single day. In
23 every corner of the state we have workers in schools and
24 restaurants, manufacturing facilities and hospitals and
25 warehouses continue to suffer every day that they go

1 without any real enforceable protections from indoor heat
2 exposure.

3 It is incredible to see all the workers here
4 today who have all been willing to share their stories
5 about how heat exposure is affecting them in their
6 workplace. But it is also important to remember all those
7 who cannot voice their opinion today because they are at
8 work. Thankfully today it is not 100 degrees, but for many
9 parts of the state it will be soon.

10 The proposed indoor standard includes basic
11 guidelines to protect workers when temperatures start
12 rising, things like heat prevention training, access to
13 drinking water, access to cooldown areas. These are all
14 very simple and effective ways to help and protect these
15 workers. Workers deserve ultimately better protections,
16 but they demand the minimum. Human lives have a value that
17 cannot be calculated for a bottom line.

18 We urge the Board to take immediate action to
19 fulfill its stated mission to protect workers with
20 reasonable and enforceable standards. The indoor heat
21 proposal was reasonable, enforceable, and necessary. And
22 by delaying it further we are guaranteeing that California
23 will see more preventable worker deaths and injuries.
24 Thank you.

25 CHAIR THOMAS: Thank you.

1 MS. HUGHES: Good morning. I'm Katherine Hughes
2 and I'm a registered nurse and the Executive Director of
3 the Nurse Alliance with SEIU California. I haven't been
4 here in a while, it's good to see some familiar faces.

5 But I was looking forward to asking you all to
6 adopt the standard. And now with this devastating news,
7 addressing the fact that we have -- I represent about
8 30,000 registered nurses, some of which work in burn units
9 and birthing centers. SEIU California represent 700,000
10 workers, many of whom are affected by the hazards of
11 extreme indoor heat: airlines, schools, and corrections to
12 name just a few.

13 It's been over five years since these workers had
14 been looking forward to the standard that would save their
15 lives. And I stand proudly in solidarity with the workers
16 in this room, across the state, and their representatives.
17 To say that there is disappointment within the Nurse
18 Alliance and SEIU is an understatement.

19 Considering new cost burdens that just suddenly
20 come up that prevent that standard from moving forward.
21 Looking at the lack of adequate ventilation and the air
22 conditioning units in our most vulnerable communities,
23 especially in our schools where I'm assuming they're in the
24 low-income underserved communities of color and not in the
25 schools where they are affluent communities. We understand

1 that there are budget constraints, but this is disgraceful.

2 We look forward to working and making sure that
3 this happens as soon as possible. Thank you very much.

4 CHAIR THOMAS: Thank you.

5 Good morning.

6 MS. WILSON NIEVES: Good morning. My name is
7 Eryn Wilson Nieves and I'm with the San Diego Black Worker
8 Center. Our organization represents and works with black
9 workers throughout the County of San Diego and across all
10 sectors. We work to ensure all black San Diegans have the
11 opportunity to work in safe workplaces whether that be
12 mentally, physically or emotionally.

13 High heat indoor workplaces, high heat in indoor
14 workplaces is not a new issue. As warehouse and service
15 workers of San Diego's most profitable buildings and
16 companies have shared, that even when heat prevention
17 measures are available they are not used.

18 This proposed indoor heat standard is a necessary
19 step to protect workers in our communities, especially with
20 San Diego temperatures rising every year. Workers should
21 not be in fear of their safety due to threats of high
22 temperatures that can cause serious injuries,
23 hospitalization, and a generally unsafe workspace.

24 The San Diego Black Worker Center is here today
25 to advocate that workers have access to cooldown areas and

1 time to utilize those cooldown areas, cool drinking water
2 and equipment, and gear to prevent heat illness. We cannot
3 keep delaying this issue. Workers are suffering in the
4 meantime, and it will only get worse as we approach the
5 summertime.

6 Thank you for the opportunity to share why we
7 believe that this proposed indoor heat standard is
8 important. And we encourage you as well as other decision
9 makers to prioritize and protect workers sooner than later.

10 CHAIR THOMAS: Thank you.

11 Good morning.

12 MR. LAMBARIA: Good morning Chair and members of
13 the Board. My name is Rudy Lambaria and I'm here in strong
14 support of the indoor heat standard proposal. I am a
15 resident of the City of San Diego District 3 and I am a
16 proud stagehand field representative and now Assistant BA
17 for the International Alliance of Stagehand Employees,
18 Local 122. Since 1905 Local 122 specializes in providing
19 well-trained, professional and reliable crews for
20 everything involved with production in Southern California.
21 We proudly represent 1,500 stagehands.

22 This proposed indoor heat standard code will
23 protect our most vulnerable workers. I remember working at
24 the Sheraton San Diego during summer. It was over 90
25 degrees outside, but it felt hotter in the ballroom we were

1 setting up. There was a crew of over 20 stagehands
2 building a general session and the air conditioning wasn't
3 on. Everybody was drenched in sweat and most of us were
4 dehydrated. Many of us thought we were going to pass out,
5 because of the heat. Convention Services who set up the
6 tables and chairs were working alongside us with a crew of
7 10 and they were struggling as well. Everyone agreed this
8 was a safety issue.

9 Thank you for listening to my testimony. And we
10 urge you to vote to protect working San Diegans and their
11 livelihood. Thank you.

12 CHAIR THOMAS: Thank you.

13 Good morning.

14 MS. FLORES: Good morning Board. My name is
15 Fernanda Flores, and I am a Political Director with IATSE
16 Local 122. We represent stagehands here in San Diego and
17 Palm Desert as well.

18 We have all seen the climate in the summers. Our
19 weather, it peaks now over 105 degrees here in San Diego.
20 These convention centers, these ballrooms that our members
21 have to work in prior to the event day are closed down.
22 Here we have some technicians here that can attest that
23 they work with equipment with high voltage, and it produces
24 just enormous amount of heat. And when you're in a closed
25 area without AC, without proper ventilation, it puts our

1 members at risk.

2 And we are here today because we were under the
3 assumption that this was going to be in the agenda item.
4 But once again, five years later, we still have not been
5 heard. And it's really disappointing. I hope that we can
6 continue to work together and that this proposal is a
7 priority to this body that is here to serve workers in our
8 State of California. Thank you.

9 CHAIR THOMAS: Thank you.

10 MS. GONZALEZ: I just want to ask the commenters
11 to please slow down your comments, so that our Spanish
12 translators can keep up with you. Thank you.

13 CHAIR THOMAS: Thank you.

14 Continue. Good morning.

15 MR. JUAREZ: (Through Interpreter Neidhardt.)

16 Good morning. My name is Mauricio Juarez. He
17 has worked for more than nine years at Jack in the Box.
18 He's a member of the California Fast Food Workers Union. I
19 am here to ask you to pass the rule to protect California
20 workers from heat in our workplaces. I understand you do
21 not plan to vote on the heat rule today. But he would like
22 to invite you to change your mind. The last time he was
23 here he shared with you his experiences. Nobody told him
24 to say that. And that's his experiences, and they're very
25 difficult situations.

1 My coworkers have a sign that says, "Heat kills."
2 He was surprised because he thought that was a very
3 aggressive message. I did not see him dead. He thought he
4 had fainted. And after a while and some way trying to
5 still do your work while putting up with the heat he will
6 tell his co-workers, "Hey, don't faint, because I don't
7 think I could carry you." Because it is dangerous that
8 someone can faint and you will have to provide aid while
9 they're waiting for the ambulance.

10 Employers fix the air conditioning units, but
11 they again break down. It's like a band aid measure while
12 something bad is happening. There is no place in their
13 workplace where they can seek relief from the heat.
14 Sometimes they have to go inside the cooling refrigerators
15 and the cooling storage units.

16 He is saying the truth is he is hoping that you
17 will use your own mind or conscience to rethink and vote on
18 this heat rule.

19 I hope it is very soon. Thank you.

20 CHAIR THOMAS: Thank you.

21 MS. SALDANA: (Through Interpreter Neidhardt.)

22 Good morning everyone. My name is Raquel Saldana
23 and I'm very proud to be a migrant woman that works really
24 hard. I work as a janitor and I help clean or work
25 cleaning important businesses, the most important

1 businesses here in San Diego. And she is very proud to be
2 part of a union and to be a member of SEIU USWW.

3 Today I am very disappointed with this Board and
4 with this Administration. We, a lot of us workers put our
5 confidence in you, and today you guys have failed us. It's
6 been a fight. It's been at least -- it's been more than
7 five years since the laws of the law forced this board to
8 adopt these rules. This is very important for us and for
9 janitors. Well, for all workers, workers that have been
10 working through the pandemic risking our health.

11 We have been waiting patiently and today you tell
12 us that it's going to be a no, that first is the money and
13 first are the earnings. And you guys are not taking a look
14 at our dignity and our health. I have been in the cleaning
15 industry or janitorial industry for more than 18 years. I
16 know what it is to work cleaning a building during the
17 summer with the air conditioning turned off. It's like an
18 oven, and it's a major sacrifice.

19 I want to remind you that due to the excessive
20 load of work in the janitorial industry, on average it's
21 like cleaning the equivalent of a White House. And this is
22 every day. And on top of that we have to deal and fight
23 against sexual harassment in our industry and excessive
24 heat.

25 When, I would ask, how much longer are we going

1 to have to wait? When is justice going to come? You have
2 a moral obligation to adopt this rule because the time is
3 here. The time is here for the rich people to be the ones
4 cleaning and for them to say, "Enough is enough."

5 I ask for justice for the workers and justice for
6 the janitors. That's it.

7 CHAIR THOMAS: Thank you.

8 MR. RAMIREZ: Good morning Chair and members of
9 the Board. My name is Christian Ramirez. I am with SEIU
10 USWW, representing 50,000 essential workers throughout the
11 state of California, primarily the janitorial industry, but
12 also in the airport industry and the aviation industry.
13 Our members are primarily women, people of color who are
14 working in hellish conditions.

15 You heard from Raquel. When we go home today in
16 this building the AC will still be turned off. And the
17 folks that come and clean will be working in at least 95-
18 degree weather or conditions. I invite you to turn off the
19 AC just for 30 minutes and see how much we'll last sitting
20 in our chairs in this very building. I've been in this
21 building when the AC is turned off and just walking up the
22 stairs I break a sweat. Could you imagine having to clean,
23 disinfect restrooms, cubicles.

24 Imagine sitting in a tarmac. I'm sure some of you
25 flew into San Diego. Imagine sitting in that tarmac for

1 30, 40, 45 minutes, an hour, with no AC on. Now imagine
2 cleaning that airplane.

3 This is not just disappointment, but it's a slap
4 in the face to the hard-working men and women who
5 shouldered this economy in one of the most difficult
6 moments in our nation's history during the pandemic. The
7 least that we could do is respect the process, not to pull
8 a last-minute stunt to take this item off the agenda. It's
9 not fair. It's an insult. But we look forward to working
10 with you and working with this administration to ensure
11 that the right thing is done. The right thing is to make
12 sure that, yes that we care. This administration cares so
13 deeply about the environment, it should also care deeply
14 about the folks that made sure that this economy thrived
15 with the pandemic and we made a rebound.

16 I have printed statements, but I'm not going to
17 read them. Because I think we all know that it is shameful
18 to balance budgetary constraints on the health and safety
19 of workers. Particularly those workers who died making
20 sure that our offices were cleaned, disinfected, and
21 guarded. Thank you for your time.

22 CHAIR THOMAS: Thank you.

23 MS. ORTIZ: Hi, good morning. Thank you. My
24 name is Maegan Ortiz. I'm the Executive Director of the
25 Instituto de Educación Popular del Sur de California,

1 IDEPSCA. We're the largest day labor and domestic worker
2 organization in the state of California, based in Los
3 Angeles with six locations.

4 I was at a day laborer center in the San Fernando
5 Valley on Monday in Van Nuys. And all I heard from about
6 the 50 or so day laborers that were there waiting for jobs
7 were "Ya viene el calor."

8 MS. GONZALEZ: Can you slow down a little?

9 MS. ORTIZ: Sure, sorry. What I heard from the
10 workers was "Ya viene el calor, here comes the heat."

11 They knew that I was coming today to speak about
12 the indoor heat standard and to share why it's important to
13 them. They are workers, migrant workers who are already are
14 among the most exploited and among the least protected.
15 They are workers who, in one single day especially during
16 extreme climate-accelerated desert heat disasters, could be
17 working on a rooftop in the morning and inside doing
18 drywall in the afternoon. They could also be working in a
19 warehouse, unloading a container, and then go back to a
20 private home with poor or no ventilation, no air
21 conditioning.

22 Exposure to extreme heat, indoor and outdoor, has
23 become part of the job for day laborers where workers often
24 have to make the decision between taking a job in extreme
25 heat conditions, or buying their meal for the day, paying

1 their rents.

2 We also know that this is Women's History Month.
3 And let me tell you about a group of workers who know a
4 little bit something about delaying health and safety
5 protections, domestic workers, which often include day
6 laborers who work doing gardening work. They've been
7 excluded from Cal/OSHA protections. And those workers came
8 to this Standards Board to ask that the wildfire smoke
9 standard be created even though they knew they weren't
10 going to be protected. And that's why today they also
11 asked me to come because even though they are working both
12 indoor and outdoor without time for their bodies to
13 properly acclimatize to changes in temperature, and they
14 know that if this were to pass many of them still wouldn't
15 be protected, it's important.

16 The legacy of exclusion that the Administration
17 has used to not protect domestic workers and day laborers
18 is a legacy of chattel slavery. I would like to know from
19 the Administration why the delay today? Because I know
20 those thousands of day laborers and domestic workers that
21 are going to ask me later, "How did the meeting go?"
22 they're going to want to know. Thank you.

23 CHAIR THOMAS: Thank you.

24 Good morning.

25 MR. SANCHEZ: Good morning. Hello, everyone. I

1 would want to first thank the Board, staff and
2 Interpretation for receiving our comments today. My name
3 is Eddie Sanchez, Co-director with the Southern California
4 Coalition for Occupational Safety and Health, SoCalCOSH.
5 I'll slow down a little bit.

6 I wanted to take a moment to also echo the
7 comments that we heard from our friends and allies today
8 advocating for indoor heat protections. We look forward to
9 the Board re-agendizing indoor heat as soon as possible.

10 I live in the Inland Empire where the heat can
11 get intense and sporadically. Workers in the Inland Empire
12 face the complexities of poor air quality, environmental
13 hazards, alongside, of course, heat being one of them,
14 alongside all the other challenges that workers face across
15 the state from retaliation, COVID and all the rest.

16 Without strong regulations around indoor heat
17 workers are forced to fend for themselves. We hear stories
18 of indoor workers having to take precautions, protections
19 into their own hands, because the rules and regulations
20 aren't spelled out enough. In some cases, these workers
21 are doing things such as collective concerted action just
22 to take a heat break safely. Having to take such a drastic
23 action to ensure that collectively together they can take a
24 step away from the heat and collect themselves.

25 Unfortunately, the workers who are able to take

1 action into their own hands are the lucky ones. Many
2 workers who succumb to heat illness aren't able to identify
3 the severity of the physiological impacts. Our bodies are
4 designed to move the blood away from our brains and into
5 the places where it needs to cool down. So many times
6 workers aren't in their usual state of mind, they're in an
7 altered state of mind and having to look out and fend for
8 themselves.

9 We want to say that projected costs do not
10 outweigh workers lives. Workers need indoor heat
11 predictions, and they need them now. We look forward to
12 your action to re-agendize heat immediately. And once
13 again I want to thank our allies, friends and community
14 that's advocating for indoor heat protections.

15 We also want to again, thank you Board, staff and
16 interpretation. And we know you, Board, will make the
17 right decision for working-class families. Thank you.

18 CHAIR THOMAS: Thank you.

19 Good morning.

20 MS. GUERRERO DELEON: Thanks. My name is Renee
21 Guerrero Deleon. I'm also with the Southern California
22 Coalition for Occupational Safety and Health. And as Eddie
23 mentioned previously our organization -- oh sorry -- our
24 organization is founded on the principle that all workplace
25 deaths and injuries are preventable. We do stand with the

1 comments you've heard and will continue to hear today about
2 re-agendizing heat. I heard somebody mentioned earlier
3 that there are workers who cannot be here, because they are
4 working in the very conditions that the Board has the power
5 to prevent.

6 Last summer was one of the hottest summers on
7 record yet again. Unfortunately, it will be one of the
8 coolest summers we will have moving forward. Extreme
9 weather is already here in California, this year will be no
10 exception. The state has the opportunity and did not take
11 the opportunity today to lead the way in the nation for
12 indoor heat regulations.

13 And unfortunately, this year workers will work in
14 triple-digit heat for days on end. And by implementing an
15 indoor heat standard as quickly and effectively as possible
16 they can mitigate hazardous working conditions. Because we
17 know that when temperatures rise, heat will kill. Sorry.
18 The protections that we have failed to consider today were
19 needed many, many years ago.

20 And lastly, I just want to say that projected
21 costs do not outweigh workers lives. Thank you.

22 CHAIR THOMAS: Thank you.

23 Oh, excuse me one second. We're going to take a
24 ten-minute break for the Board up here and we'll be back at
25 11:15, so a ten-minute break. Thank you.

1 (Off the Record at 11:05 a.m.)

2 (On the Record at 11:19 a.m.)

3 CHAIR THOMAS: All right, we're back in session.
4 So we have a commenter.

5 Good morning. Welcome, go ahead.

6 MR. RILEY: Good morning. Good morning. Thank
7 you Chair and Members of the Board. My name is Kevin
8 Riley. I am Director of the UCLA Labor Occupational Safety
9 and Health Program in Los Angeles. I'm also affiliated
10 with UCLA Center for Occupational and Environmental Health.

11 And I had intended to come here today to applaud
12 this board for moving forward with an historic and
13 critically needed standard. And like so many people in
14 this room I've found myself at the last minute having to
15 revise my comments to express a deep sense of
16 disappointment and concern about what's happened here over
17 the last 24 hours.

18 In addition to the many reasons that have been
19 already spoken here, I'm not going to repeat those. I
20 think folks have shared those better than I can. I'd like
21 to add just one additional perspective to this discussion,
22 and that's one of a broader kind of public health
23 framework.

24 We are experiencing, at this point, the hottest
25 years on record in California. And we have no reason to

1 believe that this coming year is not going to be hotter
2 still. We know that one of the most vulnerable groups to
3 extreme heat are workers; outdoor workers, but yes also
4 indoor workers. And there are workers who are in places
5 where there's not sufficient controls from exposure to the
6 environmental temperatures. This room, by the way, we have
7 a thermometer right here is 69 degrees, it's actually very
8 pleasant in this room today. There are a lot of workers
9 represented here for whom they don't have that luxury to be
10 in spaces that are so comfortably cooled.

11 Workers' exposures are driven in large part by
12 the work environment that they're in, by the tasks that
13 they're required to do. They do not have the same freedoms
14 as other members of the public to step away from extreme
15 heat to go seek a cooling shelter, to go take a break when
16 they want to. In addition, as we all know, workers are
17 doing often physical work. They're often wearing heat-
18 restrictive clothing or protective equipment that makes
19 their exposures all the more severe. It puts a much, much,
20 much more burden, much heavier burden on their bodies.

21 Employers play a critical role here in being able
22 to mitigate those exposures for this vulnerable population,
23 though employers need good guidance. And yes, at times
24 they may need prodding to ensure that they're taking proper
25 measures to protect their folks.

1 This standard in addition to addressing a long-
2 standing, well-recognized hazard, what this standard would
3 do is to give us a critical tool in our collective arsenal
4 to be able to adapt to these new climate realities and
5 protect a particularly vulnerable climate population. So
6 for that reason, I'm additionally disappointed at this
7 decision to suspend the process moving forward. This is a
8 set of protections that we need now. We know they're
9 critically important now. And I urge this Board to do
10 everything in your power to ensure that this process
11 continues moving forward as quickly as it can. Thank you.

12 CHAIR THOMAS: Thank you.

13 Next. Good morning.

14 MR. KAOOSJI: Good morning, my name is Sheheryar
15 Kaoosji. I'm the Executive Director of the Warehouse
16 Worker Resource Center. We organize non-union workers in
17 the warehouse industry in Southern California. Our focus
18 is on improving conditions for workers across the state.
19 And I've been working on this issue for over 15 years. I
20 worked with United Farm Workers on outdoor heat issues.
21 The UFW had got to the point where they weren't able to get
22 the state to enforce the rules, so they had to actually
23 litigate to make sure that OSHA would take on the outdoor
24 issue.

25 In 2011 we were working with a group of Walmart

1 warehouse workers in the Chino area. One of the workers
2 got injured through heat. We went to OSHA, we had an OSHA
3 complaint. They were told this process isn't set up to
4 deal with indoor complaints. The process isn't set up for
5 the IIPP to apply to indoor heat. So we went and worked
6 with State Senator Connie Leyva in 2016 to establish a
7 bill. We went through the process again to establish that
8 bill. They said within a few years we would get a standard
9 that applied to these workers.

10 There was many delays through the SRIA process
11 and others that we were told, "This is the process. This
12 is what we have to have happen in order to make this work."
13 And now we see that this process is a fiction. We see that
14 these processes are a smokescreen established to create
15 predatory delay. Predatory delay is the process through
16 which administration through a corporate power and
17 corporate influence slow down and don't actually do what
18 they promised to do. You're there for the bill signing,
19 you get a picture taken, "Hey, we're going to do this." And
20 then in the background a few years later you say, "We're
21 actually not going to do this." It's happening through the
22 climate negotiations, it happens all the time. And that's
23 what we're seeing here.

24 And so we have to think about how did we get
25 here, right? We know that you all are not the people who

1 made this decision, but it has huge implications for your
2 role, for your legitimacy as a Board. If you're here
3 saying, "Well, we're in charge, until we're not," and then
4 the people really in charge pull the leash, well, that's
5 where we are. And that's the decision for you all to say,
6 to go to the people who appointed you, and say, "Am I
7 really here to do my job? Or am I here just as a
8 smokescreen to make sure that you get it in a photo op."

9 So from our perspective we believe that you all
10 have the best interests of workers in mind. We believe in
11 you. But we also need to make sure that we're holding the
12 rest of the administration accountable, which we will
13 continue to do. The enforcement agency is accountable and
14 we should be able to decide on indoor heat right now and
15 we're going to make sure that they do.

16 But from our perspective this is just a reminder,
17 a wakeup call of who's really in charge, and we're not
18 going to forget.

19 CHAIR THOMAS: Thank you.

20 Good morning.

21 MR. VALENZUELA: Good morning (indiscernible).

22 Good morning all Board Members. Thanks for having us be
23 here tonight and for having the -- being allowed to speak
24 at this point. Bottom line, I work for the Boilermakers
25 Union. We have shipyards, we do refineries -

1 CHAIR THOMAS: Oh, did we get your name? I'm
2 sorry, can you give it?

3 MR. VALENZUELA: That's my fault. My name is
4 Manuel Valenzuela. There was a change, my partner went
5 before me here, good guy. But my point is that we build
6 shipyards. In fact, your Robert F. Kennedy ship that was
7 released here back in December, it was built by
8 Boilermakers. We have cement industries too as well,
9 refineries, warehousing.

10 Bottom line is heat affects our members. When
11 you work in a shipyard you have defined areas that we're
12 actually working in many a times and there's no standards
13 being set at that point. My best advice to you is to walk
14 down to NASSCO and walk inside the shipyard and investigate
15 for yourselves and you'll see what our members go through.

16 I can't say any better with the previous people
17 have said already, the men and women. They told you their
18 story and I'll tell you mine. I got an injury back in '72.
19 I got out of 'Nam, just got started unloading trucks;
20 actually it was rail cars. People don't know what rail
21 cars are. Those are things that are on the railroad track,
22 the big brown boxes. Now they use containers. It was a
23 tough job back then. That's probably equate to probably
24 about four containers at one particular unit. I tell you it
25 was tough work. That's what happens if you don't take your

1 SATs.

2 But what I'm saying is that I unloaded them and
3 worked hard. And I tell you, heat was a big problem for
4 us. We had no regulation back then, 1972, mind you. We
5 did it then.

6 The industry has changed tremendously. Now they
7 have container warehousing. It's always been done in the
8 Ontario Valley, what's been going, and Amazon UPrise
9 warehousing container-ism. And a lot of these people work
10 in those particular units there. It's very hot.

11 Picture yourself getting into your car, for
12 example. Your car is in a parking lot. It's been sitting
13 there all day, it's about 100 degrees. You open it, boy
14 that comes out, that heat, right? Imagine working in it,
15 imagine working on it. And we work in that particular
16 units; very hot.

17 We care about a dog being in the car don't we,
18 right away, or a child. It's the same thing. You've got
19 to really look at this from the broad sense of things here,
20 because they do their work very hard here. The fact is
21 they're dealing with an issue here with heat. And heat
22 kills. It has an effect on you. I remember working how
23 many hours I used to have to just to relax, just really get
24 my sense of getting the fluids in me at that point here.

25 You're talking -- her, the woman regarding the

1 laundry. I know laundry and how it is too. My family, my
2 Oma, I did not like going and helping them when I had to.
3 It was very hot in that place.

4 So what I'm asking is our great Governor here to
5 sign this bill, move it. Because you're helping delay
6 this. You're delaying what can we do to help other
7 people's lives at this point here. Thank you for your
8 time.

9 CHAIR THOMAS: Thank you.

10 MR. VALENZUELA: Have a good day.

11 CHAIR THOMAS: Thank you.

12 MR. RAMIREZ: (Speaking in Spanish.)

13 MS. NEIDHARDT: Okay, one second sir.

14 MR. RAMIREZ: (Through Interpreter Neidhardt.)

15 Good morning. My name is Victor Ramirez and I
16 have been a warehouse worker for 20 years. When it's time
17 of heat or when the heat comes, he gets very worried
18 because he knows that he feels very tired because of the
19 heat.

20 And businesses care more about quotas and
21 production and the products. And personally what has
22 happened to me, I was inside one of those hot metal
23 containers. I felt like I couldn't breathe and I was
24 drowning, so I went out to get some air. Instead of being
25 helped they told him that he was goofing off. And on other

55

1 occasions he has worked for businesses that do not
2 encourage you to drink water or to take a break. So he has
3 had to decide whether he's going to stay in or get out or
4 continue to work, and it shouldn't be that way.

5 It is very necessary to have these rules to
6 protect workers. We need to be protected in order for
7 protections to be implemented. It's been five years and
8 you're behind. We don't know how much longer is it going
9 to take.

10 I'm a father of a daughter. And I fear that
11 something will happen to me due to the heat. I have been
12 working and suffering for 20 years, because of the heat.
13 And I feel insulted, because I do not have a basic
14 protection. Gracias.

15 CHAIR THOMAS: Thank you.

16 MS. FEE: Hello, thank you for your time. My
17 name is Sara Fee. And I work at the Warehouse Workers
18 Resource Center. I am also a former warehouse worker
19 myself. I worked at KSBD, the Amazon air hub in San
20 Bernardino. And I know that further delay of indoor heat
21 protections for workers is going to cause injury and death
22 this summer. And anything that you can do to protect
23 workers is needed; anything, do anything, help us with
24 anything. Thank you.

25 CHAIR THOMAS: Thank you.

1 Good morning.

2 MR. SALAZAR: Good morning, Henry Salazar, I
3 represent the United Auto Workers out of Region 6 here in
4 Southern California and the western states. I come out of
5 the local that's out of the Inland Empire. As those of you
6 know that's one of the manufacturing hubs in Southern
7 California. And one of the most abused worker areas of the
8 State of California from what we've seen when it comes to
9 heat.

10 The Inland Empire, San Bernardino, Moreno Valley,
11 Riverside, all those cities are flooded with manufacturing
12 warehouses and no regulations for heat indoor control.
13 They have fans, some have fans, others got dock doors where
14 they're just letting in other heat. We came here today to
15 thank you and to push for this legislation or regulation to
16 help workers and instead we're trying to figure out why
17 this is not moving forward. Hopefully you can understand -
18 - explain that to us.

19 What I don't see in this audience and what I
20 haven't heard yet is what I did hear and see last year.
21 There was a lot of big business in here. So some time
22 prior to tonight big business got together with some people
23 high up. It felt like their needs were more important than
24 the workers that are making those profits, because that's
25 what it boils down to: money. How much is one of our

1 workers' deaths worth?

2 If we're not going to implement some changes in
3 this indoor heat regulations, then somebody on the Cal/OSHA
4 Board needs to make a change to the Workmans' Comp cap
5 levels of what they pay out for fatalities and heat-related
6 injuries when they continually know that these issues go on
7 in plants. They continually know, and they know that
8 they're protected by Workmans' Comp. They know that they
9 have a no clause, no suit clause in there.

10 Call an ambulance, I personally have had to sit
11 on the phone last summer while they told me to cut the
12 clothes off of one of my co-workers, who was 65 years old.
13 And she had fallen out from the heat. She was breathing, I
14 wasn't going to strip her down -- excuse me -- and
15 embarrass her even more than her having to fall out after
16 coming into work to do an honest day's work. We need
17 something implemented and we need it now.

18 Our members in California alone are 50,000-plus.
19 There's hundreds and thousands and millions of workers out
20 there that are not going to get the protections that they
21 need. So if somebody could explain, let us know why this
22 was done, how come labor and the workers weren't involved
23 in this last-minute, late-night decision would be great.

24 But our workers need the answers and they need
25 those protections more than those CEOs need that top

1 dollar. Thank you.

2 CHAIR THOMAS: Thank you.

3 MS. GREWAL: Hello Board and Members. Jassy
4 Grewal with the UFCW Western States Council. I want to
5 express our extreme disappointment to learn that the vote
6 today for the proposed standard has been postponed. This
7 delay will directly result in indoor workers being
8 sickened, injured and killed from indoor heat illness.
9 Heat in California is a public health emergency and a
10 worker health emergency and needs to be treated as such.

11 Our UFCW indoor workers at warehouses, packing
12 houses, and food processing facilities work fast-paced and
13 strenuous jobs and will not be afforded the protection of
14 this regulation this summer. And that will threaten them
15 with life-threatening heat illness.

16 And I'm not going to sugarcoat it, low-income
17 workers are five times more likely to be hurt on the job
18 than high-income workers. By delaying the standard we are
19 going to harm low-income workers the most, they are at
20 risk. To ensure that no worker is harmed by indoor heat
21 this summer we asked for a vote in April. And if a vote in
22 April will not happen we asked and we'll petition this
23 Standards Board to immediately adopt an emergency indoor
24 heat standard. We need something this summer while this
25 issue gets addressed.

1 As Standard Board mMembers you are tasked with
2 protecting California's workers, especially our most
3 vulnerable. Will you stand by and let this vote be delayed
4 and risk no indoor heat standard being adopted after
5 waiting for over five years. That's five years of workers
6 dying, being seriously injured, and losing their jobs due
7 to disability caused by heat illness. So we strongly urge
8 this Board to today commit to a vote in April or
9 immediately pivot and adopt an emergency heat standard
10 while this issue of the delay is addressed.

11 And we'd like to know the reason why, it was not
12 shared today. There needs to be transparency for the
13 workers who took time out of their day to be here, a lot of
14 them without pay. So that needs to be acknowledged and
15 recognized. If these workers were your spouse, your child
16 or your family member, who could lose their life or be
17 seriously injured on the job wouldn't you do everything you
18 could to afford these protections of this standard? We
19 need an indoor heat standard this summer. Thank you.

20 CHAIR THOMAS: Thank you.

21 Good morning.

22 MS. RESENDIZ: Good morning. My name is Janet
23 Resendiz with the Warehouse Workers Resource Center. Our
24 organization has been advocating for the protection for
25 workers from heat for many years.

1 I come from a warehouse working family. They
2 share with me their experiences working there that aren't
3 so pleasant to listen to and this matters for all workers.
4 To learn that these important standards were removed from
5 the agenda without any input is extremely disappointing
6 and it breaks my heart. There's been thousands of workers
7 who have fainted, injured, and died due to the heat. How
8 much longer do we have to wait? Because we can't wait any
9 longer. Thank you.

10 CHAIR THOMAS: Thank you.

11 MS. BARRERA: Hello folks. My name is Yesenia
12 Barrera. I'm with the Warehouse Workers Resource Center,
13 advocating for workers' rights. I'm also a former
14 warehouse worker who's had to work in the sweltering heat
15 on a hot summer day, ten hours a day, constantly moving,
16 lifting, loading and unloading trailers, leaving those
17 trailers like if I just came out of a steam sauna. Most of
18 these places don't even have fans let alone AC, so you can
19 imagine how hot it gets inside.

20 The Warehouse Workers Resource Center has been
21 advocating for protections for workers from heat for many,
22 many years. And to learn that these standards were removed
23 from the agenda without any input is extremely
24 disappointing and very saddening.

25 We have learned that the Department of Finance

1 instructed the Standards Board to pull the agenda item out
2 of the public's view. And you guys have decided the fate
3 of all the workers. However, the fight for protections
4 will still continue. The message we're hearing is that
5 corporations would rather not provide basic safety measures
6 like water, rest, and a cooldown period to prevent heat
7 illness amongst workers.

8 How many workers have to end up hospitalized or
9 even worse, end up dying because of heat illness because
10 there's no protections put in place. These workers are our
11 siblings, they are parents, our loved ones. All you all
12 really have to do is step outside on a hot summer day, ten
13 minutes, fifteen minutes, don't move, and you'll feel a
14 pinch of what the workers are facing ten hours a day
15 constantly moving, having to constantly move. Heat kills.
16 Don't kill us. Our health is not for sale. Thank you for
17 your reconsideration.

18 CHAIR THOMAS: Thank you.

19 MS. MELENDEZ: Good morning. My name is Kathryn
20 Melendez and I'm a Lead Organizer at the Warehouse Worker
21 Resource Center. I'm here to voice my resolute support for
22 basic human protections against the sweltering heat for 15
23 million indoor workers, including my partner who is at a
24 warehouse right now.

25 Just last week I learned that one of his

1 colleagues nearly fainted after lifting about 500 boxes
2 minimum that day. And his team had to rush to clear their
3 dusty, crowded work area for her to lay down. What
4 protections will you offer her if she experiences a similar
5 emergency this summer, in July, in August? It is urgent
6 that Cal/OSHA approve the indoor heat standard to guarantee
7 what we all fundamentally need to survive: water and rest,
8 but especially for the workers driven to process your
9 orders at an inhumane pace.

10 Cal/OSHA don't let yourselves be governed by
11 corporations trying to save a fraction of billions in their
12 profits. You are accountable to the workers of California.

13 CHAIR THOMAS: Thank you.

14 MR. FLORES: Hello, everyone. My name is Hector
15 Flores and I'm Organizing Director with the Warehouse
16 Worker Resource Center. There's not much more that I can
17 say that will like add extra weight to the voice and the
18 concerns that my comrades and colleagues have already
19 expressed. I just want to let the Board and the
20 Administration know that more delays on this will only
21 increase the likelihood of workers dying. The
22 Administration must do better.

23 And we just want to let you know who we are and
24 what we are and what we want. We are WWRC. Who are we?

25 WWRC MEMBERS: WWRC.

1 MR. FLORES: Who are we?
2 WWRC MEMBERS: WWRC.
3 MR. FLORES: Who are we?
4 WWRC MEMBERS: WWRC.
5 MR. FLORES: And what do we want?
6 WWRC MEMBERS: Heat protection.
7 MR. FLORES: What do we want?
8 WWRC MEMBERS: Heat protection.
9 MR. FLORES: When do we want it?
10 WWRC MEMBERS: Now.
11 MR. FLORES: What do we want?
12 WWRC MEMBERS: Heat protection.
13 MR. FLORES: When do we want it?
14 WWRC MEMBERS: Now.
15 MR. FLORES: What do we want?
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18 WWRC MEMBERS: Now.
19 MR. FLORES: What do we want?
20 WWRC MEMBERS: Heat protection.
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22 WWRC MEMBERS: Now.
23 MR. FLORES: What do we want?
24 WWRC MEMBERS: Heat protection.
25 MR. FLORES: When do we want it?

1 WWRC MEMBERS: Now.

2 MR. FLORES: What do we want?

3 WWRC MEMBERS: Heat protection.

4 MR. FLORES: When do we want it?

5 WWRC MEMBERS: Now.

6 MR. FLORES: What do we want?

7 WWRC MEMBERS: Heat protection.

8 MR. FLORES: When do we want it?

9 WWRC MEMBERS: Now.

10 MR. FLORES: What do we want?

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12 MR. FLORES: When do we want it?

13 WWRC MEMBERS: Now.

14 MR. FLORES: What do we want?

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16 MR. FLORES: When do we want it?

17 WWRC MEMBERS: Now.

18 MR. FLORES: What do we want?

19 WWRC MEMBERS: Heat protection.

20 MR. FLORES: When do we want it?

21 WWRC MEMBERS: Now.

22 MR. FLORES: What do we want?

23 WWRC MEMBERS: Heat protection.

24 MR. FLORES: When do we want it?

25 WWRC MEMBERS: Now.

1 MR. FLORES: Thank you.

2 CHAIR THOMAS: Thank you.

3 Do we have any other speakers that are here that
4 want to speak on this issue? Except for you. (Laughter.)
5 All right. Go ahead, please.

6 MS. VASQUEZ: Hi, Good morning Chair and members
7 of the Board. My name is Andrea Vasquez, and I am here as
8 a representative of the UFW and the thousands of workers in
9 agriculture in Fallbrook who are unable to be here today
10 due to timing.

11 I am in strong support of the indoor standard
12 proposal, as many of the people in this room are here
13 today. This proposed indoor heating standard will have an
14 immense impact on the agriculture workers, not just in
15 Fallbrook but in San Marcos and in other parts of San Diego
16 who are not being heard. Not only is it hot in indoor
17 agriculture, but it is also humid. A lot of our co-workers
18 have to be in 80-plus degrees. Personally I did not do the
19 labor, I was a supervisor. And as a supervisor I was
20 extremely disappointed to see the climates that these
21 workers are conditioned to work in. And I believe that the
22 changes that you guys have, the power that you guys have
23 will protect workers this summer. Thank you.

24 CHAIR THOMAS: Thank you.

25 So Maya, how many speakers do we have online?

1 MS. MORSI: We have about ten.

2 (Meeting interrupted by audience members chanting

3 repeatedly.)

4 CHAIR THOMAS: Can I have your attention for just

5 a minute, please? Right.

6 (Microphones cut, meeting adjourned briefly.)

7 (Off the Record at 11:49 a.m.)

8 (On the Record at 11:54 a.m.)

9 CHAIR THOMAS: So I understand their frustration.

10 And I don't think they really understand our frustration

11 either with all this. And that didn't help, because we

12 need to get through the comment period so we can take care

13 of business, which could have benefited them. I mean, I

14 don't know that it would benefit us as a Board. But I

15 think there was some things that we were thinking we might

16 just do anyway, but --

17 (Off-mic colloquy.)

18 CHAIR THOMAS: Oh, yeah, yeah. I'm not -- but I

19 want to make sure that nobody got arrested. I was getting

20 a little heated, they were heated, and it went on a little

21 bit too long. But anyway, we're going to continue on now.

22 I wish they would have stayed, so they could hear some of

23 the discussion later, but they decided that was more

24 important.

25 So anyway, who do we have online, Maya? Do we

1 have anybody online?

2 MS. MORSI: I'm going to call the first three.

3 Lee Sandahl, Alice Berliner, Marissa Bankert. So the first

4 one is Lee Sandahl.

5 CHAIR THOMAS: Lee, can you hear us? Lee?

6 Who was the next one?

7 MS. MORSI: Up next is Alice Berliner.

8 CHAIR THOMAS: Was it Alex or Alice?

9 MS. MORSI: Alice.

10 CHAIR THOMAS: Alice.

11 MS. BERLINER: Hey, it's so hard to follow that.

12 And I just want to say how beautiful that was to witness

13 the amazing worker voices, and in that space today.

14 But my name is Alice Berliner. I am the Director

15 of Worker Health and Safety at the UC Merced Community and

16 Labor Center. Many of our partners in the San Joaquin

17 Valley support workers in agriculture, warehouse packing

18 houses, as well as poultry and food processing plants. All

19 are low-wage, high-hazard industry with rampant employer

20 noncompliance, wage theft, and retaliation. And I'm here

21 today to speak to indoor heat.

22 Our Farmworker Health Study surveyed 1,242

23 farmworkers. And while most workers in the study primarily

24 work outdoors, the data tells us an important story of how

25 the outdoor heat standard has helped to prevent heat

1 illness, and how we can do better when it comes to the
2 outdoor heat standards.

3 In 2017 when we heard from hundreds of employers,
4 workers, OSH experts, worker advocates, all who informed
5 our current draft 2019, the original deadline, felt far.
6 We heard then and know now how many heat cases go
7 unreported, the workers who have died due to preventable
8 heat illness, and the connection between hot days and
9 increased injuries as detailed in the Jisung Park study.

10 Last summer, we had 118-degree days in our
11 region. And when you're doing physical and strenuous work,
12 as you heard today directly from workers, your internal
13 body temperature heats up. And for many asking for a break
14 or access to clean drinking water feels impossible.

15 Our Farmworker Health Study found more than one
16 third of farm workers surveyed said they would not be
17 willing to file a report against their employer for
18 workplace noncompliance. Two thirds of whom said they'd be
19 unwilling to file a report due to fear of retaliation or
20 job loss. Our study found that nearly half reported that
21 their employer never provided a heat illness prevention
22 plan as mandated under law. And a significant number of
23 respondents also reported that employers never provide
24 enough shade during breaks when it's a was 80 degrees or
25 higher or monitor for heat illness when the outside

1 temperature reaches 95 degrees or higher at 22 percent.

2 Again, most of these respondents are outdoor
3 workers, so we can gather for those working indoors heat
4 prevention measures in low-wage industries are rare. So
5 this is urgent. Workers are dying. As I'm talking I'm
6 feeling emotional. I know there's a lot of emotion in that
7 room. And heat protection save lives. So this move to
8 delay is knowingly putting lives at risk. Thank you.

9 CHAIR THOMAS: Thank you.

10 And who do we have last?

11 MS. MORSI: Up next is Marissa Bankert.

12 MS. BANKERT: My name is -- oh, sorry -- my name
13 is Marissa Bankert, and I'm here on behalf of the
14 International Surface Fabricators Association, and our
15 fabricator members regarding the emergency temporary
16 standard for silica. You've heard from some of our members
17 in the past. And I want to thank you for taking time to
18 hear our concerns surrounding the ETS and a little change
19 of pace in regards to what's been happening there for you
20 today.

21 The Association encourages its members to adhere
22 to all government-mandated OSHA safety standards. And we
23 were pleased to see reports of those not in compliance with
24 the standards being held accountable in order to ensure
25 safety.

1 However, we'd like some additional clarification
2 on how the ETS is improving the health and safety of
3 California's fabricators. And so we're asking for you to
4 help us understand how are you enforcing the ETS and
5 preventing violators from operating? So specific to some
6 of the shops that have received enforcement notifications,
7 how are -- what are the next steps for them in regards to
8 violation? We'd love for our members to know so that that
9 way we can pass that information along.

10 In addition, we'd love to know how many silicosis
11 cases arose among fabricators who work for shops that are
12 compliant with Federal OSHA requirements versus those that
13 are not. Do we have some exposure data that you can share
14 in regard to that for our association and its members?
15 What is being done through the consultative process to help
16 shops become more compliant? Our goal is really to educate
17 our members and to provide safety for the workers that are
18 there.

19 Given that we see that compliance is not
20 regularly being enforced, and we understand that there's a
21 workforce shortage even for you all, grossly non-compliant
22 shops do continue to operate and consultations are being
23 cancelled without rescheduling. And resources to help our
24 fabricators achieve compliance aren't readily available.
25 This includes information about appropriate respirators and

1 where to purchase them, where to obtain proper medical
2 surveillance, and how to adequately document results and
3 other information as it pertains to compliance.

4 If you could, please provide more information and
5 resources that speak to how the fabrication shops can be
6 more compliant. How this ETS is impacting the silicosis
7 issue with actual statistics that show a decrease in non-
8 compliant shops, correlating to a decrease in silicosis
9 cases overall. We'd like to see that data, so that that
10 way we can understand if the previous -- those shops
11 previously compliant with Federal OSHA standards are
12 actually non-contributing to those silicosis cases.

13 We believe that additional information from your
14 institution would help to improve the context for our
15 fabricators surrounding this issue. We are relying on you
16 to properly process business site violations and provide
17 shop owners with information that eliminates barriers to
18 compliance. We are committed to the safety, health and
19 wellbeing of fabricators everywhere.

20 I appreciate your time today and overall
21 appreciate your work in helping to keep workers in
22 California safe. Thank you.

23 CHAIR THOMAS: Thank you.

24 Who else do we have, Maya?

25 MS. MORSI: The next three are Fabian Plascencia,

1 Mike Donlon and Dave Smith. First up is Fabian Plascencia
2 with L-I-U-N-A.

3 CHAIR THOMAS: Fabian, can you hear us?

4 MR. PLASCENCIA: Hello, Chair Thomas and Board
5 Members. Thank you.

6 CHAIR THOMAS: Go ahead, Fabian.

7 MR. PLASCENCIA: Hi. Can you hear me?

8 CHAIR THOMAS: Yeah.

9 MR. PLASCENCIA: Hello?

10 CHAIR THOMAS: Yeah.

11 MR. PLASCENCIA: Hello Chair Thomas and Board
12 Members. Thank you for the opportunity to speak today. My
13 name is Fabian Plascencia. I'm the Vice President of
14 Laborers' Local 67. Our Local specializes in remediation
15 of hazardous materials such as asbestos, lead and mold in
16 all 46 northern California counties.

17 The heat illness standard up for comment today is
18 particularly important to our members and our Local because
19 remediation workers are exposed to the dangers of heat
20 illness every day due to the requirements of our work.
21 Local 67 members work inside of containments in high-
22 humidity environments, all while wearing the respirator and
23 Tyvek suit. Essentially, they work in a sauna. Due to the
24 PPE and decontamination process needed for members to leave
25 the containment required in our line of work members do not

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1 have the same easy access to water or are used to cool down
2 as other trades, leading to the high possibility of
3 suffering a heat illness or death.

4 With summer around the corner it is essential
5 that the Board stops overlooking the safety of indoor
6 workers. Every day you wait is another day that a life may
7 be lost. The lives of our members are in your hands.
8 Therefore we hope you can come to a vote on April 18.
9 Thank you.

10 CHAIR THOMAS: Thank you.

11 Who do we have next, Maya?

12 MS. MORSI: Up next is Mike Donlon with MD Safety
13 Service.

14 CHAIR THOMAS: Mike, can you hear us?

15 MR. DONLON: Yes.

16 CHAIR THOMAS: Go ahead.

17 MR. DONLON: I'm Mike Donlan. And I'm just
18 speaking as an independent safety consultant today and will
19 address residential fall protection. But before I get to
20 that I just would like to let everyone know that these
21 Board Members are all volunteers. These are unpaid
22 positions. They do it out of passion. And they are
23 passionate about this indoor heat standard. And I
24 guarantee you, no one is more upset than the Board Members.
25 So I just wanted to get that out there.

1 CHAIR THOMAS: I just want to say one thing, not
2 totally unpaid. We get \$100 a month for the pleasure
3 (indiscernible).

4 MR. DONLON: Yeah.

5 CHAIR THOMAS: Anyways, continue on.

6 MR. DONLON: The "Cal-OSHA Reporter" quoted OSHA
7 Area Director Matt K. as saying, "That falls from 15 feet
8 are more hazardous than falls from 6 feet. It's not open
9 to debate. It's a matter of physics." I have a great deal
10 of respect for Matt, and while this statement is factually
11 true, we must look at severity of injuries that may occur
12 and the probability of an injury occurring when evaluating
13 risk.

14 The California residential fall protection
15 regulations provide safe work practices that reduce the
16 probability of a fall. In general, it is more effective to
17 lower the probability of an injury than lowering the
18 severity.

19 As Bruce Wick has pointed out, typical working
20 heights in residential framing are 9 to 10 feet. While the
21 six-foot rule would slightly reduce the severity of
22 injuries, it will result in more falls. It will force
23 carpenters to work from ladders. And we all know year
24 after year falls from ladders are the most common falls.
25 The proposed language will result in more carpenters

1 falling and more carpenters injured.

2 There's one hazard that hasn't been discussed
3 that worries me. Currently, when trusses and joists are
4 rolled out and secured it is done from above. Once in a
5 while a joist may be dropped, which is why they don't allow
6 any workers underneath them when they're doing this. This
7 regulation would force carpenters to roll the trusses and
8 the joists from below. And then when a joists falls a
9 carpenter will be caught between a joist and a hard place.

10 I know there's a great deal of from OSHA to adopt
11 their, quite honestly, inferior regulation. If the Board
12 does vote to approve in the coming months I ask to include
13 a requirement for your staff to convene an advisory
14 committee to develop the safe work procedures that will
15 keep carpenters safe for the next 20 years. Let's prove
16 California is the leader in occupational safety and health.
17 Thank you.

18 CHAIR THOMAS: Thank you.

19 How many callers do we have left in total, Maya?

20 MS. MORSI: I'd say about ten.

21 CHAIR THOMAS: Okay. Well we're going to cut off
22 the comments now. Tell those people I'm sorry, but I think
23 we've heard from everybody on every issue so far. And
24 we've got other business to attend to.

25 So thank you for your comments. The public

1 meeting is adjourned and the record is closed.

2 We're going to go to the business meeting right
3 now. Let me get there.

4 So we will now proceed with the business meeting.
5 The purpose of the business meetings is to allow the Board
6 to vote on matters before it and to receive briefings from
7 staff regarding the issues listed on the business meeting
8 agenda.

9 Public comment is not accepted during the
10 business meeting unless a Member of the Board specifically
11 requests public input.

12 BOARD MEMBER STOCK: Okay. (Indiscernible.) Is
13 it possible to switch our order of discussion so that we
14 can begin with discussing the heat standard?

15 CHAIR THOMAS: Sure. Sure, we can do that. We
16 could let Eric do his thing first. And then --

17 BOARD MEMBER STOCK: Well, whatever is related to
18 the heat standard.

19 CHAIR THOMAS: Yeah.

20 BOARD MEMBER STOCK: Just to start there rather
21 than whatever has been scheduled first.

22 CHAIR THOMAS: (Overlapping colloquy.) Right.
23 Well the heat is, but --

24 BOARD MEMBER STOCK: Oh, perfect then. Thank
25 you.

1 CHAIR THOMAS: So Proposed Safety Orders for
2 Adoption, General Industry: Safety Order, New Section 3396
3 "Heat Illness Prevention in Indoor Places of Employment."

4 Eric, would you please brief the Board.

5 MR. BERG: So am I supposed to brief the Board on
6 the heat --

7 CHAIR THOMAS: I just wanted everybody to know
8 this is my decision. It's not Eric's, and I don't want to
9 get him in trouble. But I want this discussed by the
10 Board. And I want a briefing of the indoor heat illness
11 from you. And if they tell you, you can't do it then we
12 can discuss whatever we want to up here. But I want it
13 discussed, because we got blindsided today and I don't
14 think it was fair. And I don't think those people were
15 fair, because they don't know what's going on either. But
16 anyway, please brief the Board.

17 MR. BERG: I had a lengthy PowerPoint on this
18 presentation and then deliberative process we went through
19 to get to the proposal. I don't know if you wanted that
20 now or at a future meeting or I should just --

21 BOARD MEMBER STOCK: (Overlapping colloquy.)
22 Well, Eric, I'm wondering whether you could start with
23 explaining, giving more background? If you could to be
24 able to be a little more transparent for the general public
25 about exactly what happened when you heard, what the issue

1 was, as much information as you can share with both us and
2 with the public about what happened.

3 MR. BERG: Okay. The Department of --

4 BOARD MEMBER LASZCZ-DAVIS: Can you speak --
5 Eric, speak up.

6 MR. BERG: Sorry. The Department of Finance
7 informed the Standards Board and Cal/OSHA that the
8 potential fiscal impacts on public sector entities are not
9 fully analyzed and need further examination.

10 The Department of Finance informed us that the
11 current figures do not fully address the potential public
12 sector fiscal impacts. Thus, the Department of Finance
13 cannot sign the current version of the Form 399, which is
14 the Economic Impact and Fiscal Assessment and the
15 Standardized Regulatory Impact Assessment, also referred to
16 as SRIA, its initials. Those two fiscal impact statements,
17 which were developed by a third-party, outside expert in
18 economic impact analysis and was contracted by our
19 Department.

20 Cal/OSHA and the Standards Board staff are
21 committed to ensuring California workers are protected from
22 the impacts of indoor heat, and is evaluating options to
23 promulgate these protections as soon as possible.

24 Cal/OSHA will continue enforcing current
25 regulations such as the Injury and Illness Prevention

1 Program to ensure employers are addressing the hazards of
2 extreme heat.

3 CHAIR THOMAS: So I have a question, Eric --
4 what's that, sorry -- I have a question. That was already
5 approved, right? And then it was disapproved? Or we
6 wouldn't have been voting on this today up until sometime
7 last evening.

8 MR. BERG: Yeah.

9 CHAIR THOMAS: Because they had had already
10 approved the SRIA. They said it was fine. They had some
11 discussions, and then they approved it.

12 And then last night we get a call that it's being
13 pulled. We don't know why exactly. We've heard things,
14 but we don't know. And I truly believe that there's no
15 reason this shouldn't be passed in my mind. Because I
16 mean, they are right, that their lives are the ones that
17 are on the line. And people that work in heat, I used to
18 work in it when I was much younger, but it's difficult.
19 And it's hotter now than it was then.

20 And I don't understand why there was a change.
21 And I don't understand why we weren't more informed. They
22 hung our ass out to dry, is what they did. Because they
23 think we did it and we didn't do it. But we don't really
24 know what happened, so.

25 Yeah, Laura?

1 BOARD MEMBER STOCK: Yeah. And I just wanted to
2 add a few comments. And it is clear that the public is
3 angry, and who can blame them? And I and I think other
4 Board Members here are equally angry and frustrated by what
5 happened. And in my mind it undermines the entire process
6 of what we're doing here. As far as I understand it there
7 is a process that has been -- that we have been following
8 where there are public hearings, there are SRIA analyses
9 being worked up, performed. There are numerous
10 opportunities over the last four-and-a-half, five years for
11 everybody engaged to be able to share their information
12 just like everyone else. Everybody has exactly the same
13 opportunity to come and speak up.

14 We heard from somebody testifying today that
15 there had in fact been an explicit call for information
16 about that, that would influence the SRIA for state
17 agencies and in particular, any state agencies impacted by
18 this regulation several years ago.

19 And so now at the absolute nth hour, a backroom
20 conversation happens where some stakeholders are able to
21 come in there, object to the analysis that they had the
22 opportunity to be speaking up about for four to five years.
23 And that that would carry so much weight that everybody
24 else who has been playing by the rules, all the workers who
25 come here month after month after month, the workers who

1 came here today prepared to celebrate and to have to come
2 to this news, and the people who are dying, and the summer
3 is happening, and people have talked forever about the need
4 to have this in place before the summer.

5 And what happened is a complete -- I feel as a
6 Board Member this completely undermines the role we have in
7 making any of these decisions if we can't trust that the
8 process that has been in place, that everybody is complying
9 with, is actually going to result as it's supposed to be on
10 a vote that was scheduled for today, the very final moment
11 that that vote could take before the whole thing had to go
12 back to zero. So why at 48, 24 or 18 hours before this
13 vote is happening, did this happen? It's absolutely
14 outrageous. And I feel like we don't have information.

15 What I would like to discuss, and I -- a couple
16 of things. First of all, I don't know how the rest of the
17 Board Members would have voted. I definitely would have
18 voted yes. And I think other Board Members would have as
19 well. And I would really like to hear what the options
20 are. Because first of all, this deadline has run out. And
21 I know we've been told that it's a statutory deadline, it
22 has one year. And now we have to start the process all
23 over again. And everybody's saying, "Yes, it's going to go
24 fast, going to go fast." We've heard that before a million
25 times. So I would like to know have there ever been any

1 circumstances where there have been exceptions to these
2 statutory deadlines?

3 I remember, for example, during the COVID
4 regulation, there were a variety of executive orders and
5 other kinds of steps that were taken in order to address
6 urgent public health issues. This is an urgent public
7 health issue. So I would like to know what are the options
8 to be able to get an extension on that deadline so this
9 vote can occur next month. And if that can't happen, what
10 are the steps that can be put in place that are over and
11 above "Let's just start the process all over?"

12 I know we heard an emergency standard, so I know
13 that's at least faster. But the goal is to get something
14 in place before the summer. So I would like to know what
15 options are available, if any? Who is the decision maker
16 that would be able to grant an opportunity to have this get
17 a vote before this summer?

18 CHAIR THOMAS: That was a lot, Eric. I hope you
19 were keeping notes.

20 MR. BERG: (Inaudible.)

21 CHAIR THOMAS: Go ahead.

22 BOARD MEMBER STOCK: I'm sorry. Because I feel
23 like all of us are listening to this and share the
24 frustration, that I understand why everybody did exactly
25 what they did. People are really angry. They came here.

1 They had participated in the system. They expected to see
2 a result. And it got pulled right out from under them.
3 And I think everybody here shares that frustration.

4 CHAIR THOMAS: Go ahead. Yeah. Let's let Eric
5 respond to what he can right now. If you can.

6 MR. BERG: As far as extending the deadline I
7 don't. I mean, yeah, there were for COVID, there were
8 executive orders that extended the deadline. I don't know
9 any other options. It's in the Government Code, this
10 process, and it was started on March 31st, Cesar Chavez Day,
11 but that's quickly approaching. I don't know. I don't
12 know how that could be extended.

13 CHAIR THOMAS: So let's let Chris -- go ahead
14 Chris.

15 BOARD MEMBER LASZCZ-DAVIS: Unless Laura's got
16 something she wants to say. (Inaudible)

17 CHAIR THOMAS: How much do you have?

18 BOARD MEMBER STOCK: No, I was just going to ask
19 one question. Because in order to meet the deadline, it's
20 now March 20th. So obviously, it's conceivable that there
21 could be a special session or something called for a vote
22 between now and March 30th. Is that correct?

23 MR. BERG: Yeah, because during COVID we had
24 several special meetings.

25 CHAIR THOMAS: Okay, Chris.

1 BOARD MEMBER LASZCZ-DAVIS: Okay, just real
2 quick. And I appreciate your passion and I think we're
3 pretty aligned with that, quite frankly. But at the end of
4 the day, Government Code or not we have a responsibility to
5 the workers in California. Things are always negotiable,
6 especially when health and safety and people's livelihoods
7 are concerned.

8 There must be, there is something that could be
9 done to fast-track this and make sure that our people, our
10 workers this summer are not subject to the same conditions
11 that they have been subject to in the last several years.
12 We've got a responsibility, you've got a responsibility.
13 So let's get to thinking about what we can do and forget
14 the rules and regulations and the code. Everything is
15 negotiable.

16 MR. BERG: Yeah. I mean, we were caught off
17 guard by this, so we'll have to do some adjustments. And I
18 don't have it off the top of my head, but yeah we need to
19 brainstorm and do something, too.

20 CHAIR THOMAS: So is there anything that stops us
21 from voting?

22 MR. BERG: No.

23 CHAIR THOMAS: I didn't think so. And I don't
24 know why we wouldn't do it. It's either up or down, and
25 then let them deal with it. Because we're giving them

1 exactly what they gave us.

2 BOARD MEMBER HARRISON: So I believe OAL would
3 just kick it back and say it's not appropriate. So I agree
4 100 percent with what you're saying, Dave. And before we
5 vote, if I could, I have just a couple of things --

6 CHAIR THOMAS: Sure.

7 BOARD MEMBER HARRISON: -- I'd like to say as
8 well. I agree 100 percent with Laura, with everything that
9 she said. We heard a lot today. A speaker said we failed
10 -- one said we failed her, one said -- referred to a last-
11 minute stunt. And we know that every single summer is
12 hotter than the last.

13 With that, a few questions. One was what's the
14 drop-dead date? March 30th it sounds like. And do we have
15 time to notice a special meeting between now and then to
16 get something on the books, a formal meeting? That is the
17 first question.

18 The second would be, would it be productive? Is
19 the state government still going to tell us no?

20 We heard in Eric's report that the Board was
21 notified. And I'm curious what that means, because I
22 believe we're the Board up here. And I never heard
23 anything until this morning from one of the other Board
24 Members. And so I don't know that the Board was notified.

25 And I also think that this Board and the general

1 public deserves to know what happened to stop everything.
2 Which agency, undeclared agency was responsible for the
3 last-minute stunt to stop rulemaking, knowing exactly what
4 the timeline was.

5 And then I can't help but -- I can't --

6 CHAIR THOMAS: It was the CDCR.

7 BOARD MEMBER HARRISON: Okay.

8 CHAIR THOMAS: That's what I was told.

9 BOARD MEMBER HARRISON: Okay. I understand that.
10 I understand what we believe it was.

11 CHAIR THOMAS: And I don't know that that's true.
12 We got a call at 5:20 last night. Autumn asked me to come
13 down, she wanted to talk to me. And then that's when it
14 kind of came up. I had a phone call and I think Eric was
15 on the line. And I don't know who the call was originally
16 from, if it was from Eric or somebody else that said, "Hey,
17 it's getting pulled."

18 Now that's never happened. I've been here longer
19 than anybody else, I've never seen anything like that
20 happen. And usually when they have already agreed to the
21 SRIA in writing, and we're voting on it, they don't pull
22 it. That just doesn't happen. So there's other stuff
23 going on here.

24 I don't see why we just don't vote on it and let
25 them know how we feel.

1 BOARD MEMBER HARRISON: I agree. If I could make
2 one last comment?

3 CHAIR THOMAS: Sure. No, go ahead. Go ahead.

4 BOARD MEMBER HARRISON: I apologize. I don't want
5 to be too long-winded. But I think I can speak on behalf
6 of every Board Member, that every single one of us are up
7 here because we care. We're taken away from our careers.
8 We're taken away from our families and our friends as a
9 personal sacrifice, because every one of us care. And God
10 knows we're not doing it for the money, right Dave? A
11 hundred bucks a month. That's not what we do it for. And
12 for the state to come back and completely disgrace the
13 rulemaking process is a slap in the face to everyone.

14 CHAIR THOMAS: Absolutely. Absolutely.

15 BOARD MEMBER HARRISON: And I'm extremely
16 disappointed. So that's all I have.

17 CHAIR THOMAS: Anybody else? Anyone else want to
18 comment while we're at it?

19 (Off-mic colloquy.)

20 CHAIR THOMAS: Well, since I'm on a roll, I'm
21 going to make a motion that we pass this Industry Safety
22 Order for Heat Illness. And I would appreciate a second
23 and then let's vote. And let's see where it goes.

24 BOARD MEMBER STOCK: Second. Second.

25 CHAIR THOMAS: That was shocking, right?

1 BOARD MEMBER STOCK: Right.

2 CHAIR THOMAS: So we have a motion and a second.

3 And are there any questions before we call the

4 roll? If not, Sarah.

5 MS. MONEY: So I have a motion from Dave Thomas

6 and second from Laura Stock to adopt the proposal, correct?

7 CHAIR THOMAS: Correct.

8 MS. MONEY: Okay.

9 Kate Crawford?

10 BOARD MEMBER CRAWFORD: Aye.

11 MS. MONEY: Dave Harrison?

12 BOARD MEMBER HARRISON: Aye.

13 MS. MONEY: Nola Kennedy?

14 BOARD MEMBER KENNEDY: Aye.

15 MS. MONEY: Chris Laszcz-Davis?

16 BOARD MEMBER LASZCZ-DAVIS: Aye.

17 MS. MONEY: Laura Stock?

18 BOARD MEMBER STOCK: Aye.

19 MS. MONEY: Dave Thomas.

20 CHAIR THOMAS: Aye.

21 MS. MONEY: (Indiscernible.)

22 CHAIR THOMAS: And the motion passes. And thank

23 you. Thank you. (Applause.)

24 BOARD MEMBER STOCK: And so I think --

25 CHAIR THOMAS: Thank you, because I may not be

1 here next month. That's a possibility.

2 BOARD MEMBER STOCK: Yeah, ditto. That might be
3 a number of us. But what would be -- it would be great to
4 also see what effect, if any, this has.

5 But this idea of the deadline, if for some reason
6 this isn't enough and if there is the rejection of the
7 proposal by the Department of Finance, it feels like if the
8 rules were going to be followed -- which it doesn't feel
9 like they have been -- the Department of Finance would have
10 to approve what they rejected. And then we would have to
11 get together between now and March 30th in a special
12 session to pass it with that approval again.

13 And so I guess, partly there's a discussion about
14 the conversation with the Department of Finance and what is
15 involved there. Is there more information that was
16 requested that's now on its way? Or just if there's
17 anything to explain about what might happen between now and
18 March 30th?

19 That was for you, Eric.

20 CHAIR THOMAS: That was a question I think, Eric.

21 BOARD MEMBER STOCK: Nobody else will look at
22 him, in the room.

23 MR. BERG: I mean March 30th is a Saturday, but
24 we could do March 29.

25 BOARD MEMBER STOCK: All right, March 29th.

1 MR. BERG: What was the question again?

2 BOARD MEMBER STOCK: Well, so what would have to

3 happen to -- in order to make this actually pass, the

4 barrier right now is the withdrawal of support from the

5 Department of Finance. That's what we've heard. Some

6 missing form and some new information that they evidently

7 never asked for before or whatever the reason was. So what

8 steps could be taken between now and then to get that

9 information to the Department of Finance, so that it might

10 approve it? And so we might vote again, if needed?

11 Or could this vote stand? We just took a vote.

12 If the Department of Finance was able to sign off on it,

13 would that -- we could use this, the vote that we just

14 took, to provide that final vote?

15 MR. BERG: I think it's more a question for

16 Autumn.

17 BOARD MEMBER STOCK: Oh, yeah Autumn. I forgot

18 you're here. Go ahead, Autumn.

19 MS. GONZALEZ: So the question is, what happens

20 if we don't get the sign-off? Is that --

21 BOARD MEMBER STOCK: I guess question one is what

22 would it take to get the sign-off? And if we got the sign-

23 off could the vote we just took count as our vote? And if

24 not, could we schedule another vote in order to have that

25 happen?

1 MS. GONZALEZ: Yeah. I mean, this is uncharted
2 territory for me, and I'm guessing it is for the other
3 folks in this room.

4 CHAIR THOMAS: I'd say so.

5 MS. GONZALEZ: I think that there is probably
6 significant work that needs to be done on the finances.
7 And I honestly, just not being someone who's ever worked on
8 that piece, the economics, I don't know how long
9 realistically, that's going to take. We will do our best
10 to find out. And I think it's realistic to say we could
11 try to schedule another emergency meeting if it's necessary
12 to do another vote. So but this is completely uncharted
13 for me. And I don't want to commit to anything and provide
14 wrong information to you all and to the public, so.

15 CHAIR THOMAS: Well, I appreciate that we voted
16 on this and that it was unanimous, and because it should
17 have been. And I don't know what Finance is going to do.
18 And personally I don't care, because they didn't say
19 anything to us. No warning, no anything, just take this
20 bullet. And you know what, that's disrespectful. They
21 don't have to face the people, we do.

22 And even though I know they were venting, I got a
23 little heated because this is what I thought we were going
24 to do before the outburst. And I was hoping it was anyway,
25 but then it went on a little bit too long for my taste.

1 But I didn't want anybody to be arrested over it. I
2 understand that everybody was heated up and ready to go.
3 And that's fine. So was I a little bit.

4 But I don't know what they're going to do with it
5 at this point. All I know is we did the right thing. I
6 don't care what they say. We did the right thing, because
7 there's no way you go five years and you actually sign off
8 on it and then you say no, ten minutes before a vote. I
9 mean, that's just -- I don't care. Sorry about that, but
10 (indiscernible). (Applause.)

11 BOARD MEMBER STOCK: And Dave, just one other.
12 So we are in uncharted waters, we just voted for it. We
13 don't know yet whether that's going to have any impact
14 whatsoever.

15 CHAIR THOMAS: No.

16 BOARD MEMBER STOCK: We don't know yet whether
17 there's going to be any pressure that is able to be put to
18 bear on the Department of Finance. I'd encourage the
19 public to look into this as well and add your voice to
20 this, as we've been hearing.

21 But if all of those things don't happen, then it
22 feels like the other options are things that maybe need to
23 be considered. And I wondered what the process for that
24 would be, is to initiate the process of an emergency
25 regulation. That we would somehow be able to pivot to an

1 emergency, so we're not just starting the clock over in
2 this year-long timeframe, or whatever it was.

3 So Autumn, maybe, can you just share like what
4 would that look like? What would we have to do to make
5 that happen if these other efforts fail?

6 MS. GONZALEZ: Well, it would look just similar
7 to what we've just did with the silica standard. So
8 Cal/OSHA would need to get the package in front of you
9 again, and then we would do that more expedited process for
10 a temporary reg, while the permanent reg is worked on.

11 CHAIR THOMAS: Could we -- and I think we could
12 also go through the petition format. I mean, it's quick,
13 quicker possibly. I don't know if that would work or not.
14 But that's another thing that we can look at.

15 And we may have to have another meeting,
16 regardless, before the end of the month. I mean, I don't
17 know. I mean, I'm sure I'm going to get some phone calls,
18 so that'll be fun.

19 BOARD MEMBER STOCK: But maybe we could put the
20 word out to the Division since according to what you said
21 it's going to then be in your department about -- if these
22 other efforts are failing, at least I'd like to kind of go
23 on record as saying that I would request that we initiate
24 the emergency standard, along with any other strategies we
25 have. But at least get that process going as quickly as

1 possible.

2 MR. BERG: Yeah, we could prepare the documents
3 for an emergency regulation. (Overlapping colloquy.) As I
4 recall, was it the firefighter PPE? I believe the 399 had
5 changes after your votes in favor, so I think that's
6 historical.

7 CHAIR THOMAS: Yeah, what was that?

8 BOARD MEMBER LASZCZ-DAVIS: We can't hear you,
9 Eric.

10 MR. BERG: We can prepare the emergency -- I
11 guess the rulemaking documents for an emergency rulemaking.
12 And then I was just mentioning the firefighter personal
13 protective equipment proposal about, I don't know, two
14 years ago maybe? But I believe changes were made to the
15 399 after your vote to approve. And Autumn would have more
16 knowledge about that than I would. That was a Standards
17 Board staff vote (Overlapping colloquy.) proposal.

18 CHAIR THOMAS: It's been done before. I just
19 think we've got to leave all our options open. And I'm
20 going to have to make some uncomfortable phone calls, but
21 that's what we have to do. Because of this can stand that
22 would be good.

23 And I don't know what kind of dance they would
24 have to do to straighten all that out. But they had plenty
25 of time to fix it before a few hours ago. They had plenty

1 of time to give us warning and not set us up. And I mean
2 that's exactly what they did. And it's not right and I
3 don't appreciate it. And now they're going to get it right
4 back at them. And then they can figure out what to do with
5 it. But since they didn't tell us I don't need to -- I'll
6 talk to them, but they'd better figure something out.

7 I'll have those people come back and go to other
8 public meetings, and use their blow horn and snare drum
9 there. So yeah, I don't have a problem with that.

10 But anyway, any other -- I don't know what else
11 to say at this point except there's going to be a lot of
12 phone calls. So let's -- go ahead.

13 BOARD MEMBER CRAWFORD: So is there a particular
14 day that we should mark on our calendars for an anticipated
15 meeting?

16 CHAIR THOMAS: I would just say --

17 BOARD MEMBER CRAWFORD: The 29th?

18 MS. GONZALEZ: It would have to be in-person.

19 BOARD MEMBER CRAWFORD: It has to be in-person?

20 MS. GONZALEZ: Yeah. And I just don't know if
21 it's realistic that we will have the finance -- because it
22 is not in our court right now -- finances squared away by
23 next week. But I would say just if you can keep your
24 calendar flexible that would be great.

25 CHAIR THOMAS: So it would probably be the 28th,

1 because 29th is Good Friday. People don't like that, but
2 we could do it on Good Friday too. It's a good thing to do
3 on Good Friday, huh? (Off-mic colloquy.) Yeah, I mean,
4 isn't the last day, the 29th, is at the end of the month?

5 UNKNOWN SPEAKER: Yes, exactly sir.

6 (Indiscernible.)

7 CHAIR THOMAS: Okay.

8 MR. BERG: The 29th would be the last day because
9 the 30th is a Saturday.

10 CHAIR THOMAS: Okay, so I'm just saying keep your
11 calendar open through the 29th. And if it comes to pass
12 then that's when we'll do it.

13 BOARD MEMBER CRAWFORD: Okay, thank you.

14 CHAIR THOMAS: All right. So we have one other
15 order of business of Variance Decisions for Adoption.

16 MS. GONZALEZ: (Inaudible.)

17 CHAIR THOMAS: Oh, yeah. Yeah, we can do that.
18 Sure. I almost forgot.

19 (Off-mic colloquy.)

20 CHAIR THOMAS: Yeah, it's Fed OSHA. I'm sorry,
21 are they still here?

22 UNKNOWN SPEAKER: Our Federal OSHA colleagues, if
23 you'd like to begin your presentation by sharing, please
24 feel free to do so now.

25 CHAIR THOMAS: Sorry about the delay, but we've

1 had a busy day.

2 MR. KUZEMCHAK: Chair Thomas, this is Matt
3 Kuzemchak with the AD from Oakland. I'm trying to ensure
4 that our Director to Construction folks -- they've been
5 standing by. I just want to make sure that they're set up
6 to proceed.

7 CHAIR THOMAS: Okay. Thank you.

8 MR. PRESTON: Matt, this is Vernon Preston from
9 Fed OSHA. I think we're ready to go. I'm going to see if
10 I can get the presentation up.

11 CHAIR THOMAS: Thank you.

12 MR. KUZEMCHAK: Perfect. I'll turn it over to
13 you, Vernon. Thank you.

14 UNKNOWN SPEAKER: Go ahead Vernon at your
15 discretion to start your presentation.

16 MR. PRESTON: Okay. Can everybody see my screen
17 okay there?

18 CHAIR THOMAS: Yes.

19 UNKNOWN SPEAKER: Yes, Vernon.

20 MR. PRESTON: All right. Thank you very much.
21 Good afternoon. My name is Vernon Preston. I'm a
22 Regulatory Analyst from Federal OSHA's Directorate of
23 Construction. I apologize that I cannot be there in-person
24 with you, but I do appreciate the Board taking its time to
25 give us an opportunity to talk a little bit about

1 residential fall protection today.

2 So just a quick overview of the presentation.

3 I'm going to provide a brief background on OSHA's Fall
4 Protection and Residential Construction Requirements, just
5 kind of walk through how we got to where we are currently.
6 Then I'll provide some examples of various ways to protect
7 workers from falls in residential construction.

8 And then lastly, I'll do just a brief discussion
9 of some of our enforcement and some of our outreach efforts
10 to prevent falls.

11 So back in 1994, OSHA published Subpart M-Fall
12 Protection. Subpart M-Fall Protection was created. And it
13 requires workers to be protected from falls to a lower
14 level when they're working at height of six feet or
15 greater. Sorry, one more slide. Yeah, so Subpart M
16 requires fall protection when workers are exposed to
17 heights that are sort of falls to a lower level that are at
18 heights of six feet or greater.

19 It also includes a provision that is specifically
20 for residential construction. And in that provision it
21 requires that residential construction employers use
22 conventional fall protection. That is guardrail systems,
23 safety net systems, or personal fall arrest systems, to
24 protect workers from falls when performing residential
25 construction activities.

1 Shortly after the Subpart M was published some
2 residential construction stakeholders expressed some
3 concerns about being able to comply with the requirements
4 that were listed in Subpart M. In response, OSHA decided
5 to issue STD 3.1, which is just an interim compliance
6 guidance that allowed workers in the residential
7 construction industry to perform residential construction
8 activities without having to meet the requirements of
9 Subpart M. This directive was meant to be in place
10 temporarily, while OSHA took those concerns under
11 consideration to determine the best way to move forward.

12 To gather more information, OSHA issued an
13 Advance Notice of Proposed Rulemaking in 1999. OSHA
14 received public comment from stakeholders and interested
15 parties about whether residential construction employers
16 would have the ability to comply with Subpart M. While
17 OSHA went through these comments OSHA's Advisory Committee
18 on Construction Safety and Health Workgroup created a
19 workgroup that recommended that OSHA rescind the interim
20 guidance and instead require employers to meet the
21 requirements of Subpart M.

22 OSHA also received letters from the Occupational
23 Safety and Health State Plan Association and the National
24 Association of Homebuilders that advocated for the removal
25 of the interim guidance. So in 2011 OSHA rescinded its

1 interim guidance, and it required residential construction
2 employers to meet the requirements of Subpart M. There are
3 a few reasons why OSHA did this.

4 First and foremost, the interim guidance was
5 never intended to be a permanent solution. It was only
6 there temporarily to allow OSHA to consider the concerns,
7 and wanted to make it clear to the industry that it was not
8 intended to be permanent.

9 During this time the comment that we received
10 from stakeholders and from interested parties convinced
11 OSHA that conventional fall protection could be provided
12 safely and feasibly for the vast majority of residential
13 construction activities.

14 Also, during this time the technology and the
15 availability of fall protection that was being manufactured
16 improved and became more readily available to industry
17 members.

18 OSHA received recommendations to rescind the
19 interim guidance, notably saying that it was confusing to
20 the industry. And so rescinding the guidance lends more
21 clarity and consistency and less confusion among the
22 residential construction industry.

23 So here we have some language from our Standard
24 1926.501(b)13. And as I mentioned a little earlier it
25 requires workers who are engaged in residential

1 construction activities six feet or more above lower levels
2 to be protected by guardrail systems, safety net systems,
3 or personal fall arrest systems.

4 There are some other provisions that are listed
5 in Subpart M that residential construction employers can
6 use to provide fall protection and I'll touch on a few of
7 those a little bit later in the presentation as I talk
8 about the examples of fall protection.

9 I also wanted to talk briefly about our fall
10 protection plan. Federal OSHA allows employers, if they
11 can demonstrate that the use of conventional fall
12 protection is infeasible or it would create a greater
13 hazard, to develop a fall protection plan. The fall
14 protection plan has several requirements that must be met
15 in order for it to be compliant.

16 First and foremost, the fall protection plan must
17 be prepared by a qualified person and must be site-specific
18 to where the work will be performed, and it must be
19 maintained on site. It requires the employer to have a
20 discussion of why conventional fall protection would be
21 infeasible or would create a greater hazard. And what
22 methods are going to be used to protect workers while
23 performing residential construction activities.

24 The areas of the site where conventional fall
25 protection would create a greater hazard to be considered

1 infeasible would be identified as a control access zone,
2 and only identified workers would be allowed in those
3 areas.

4 Because the fall protection plan is so extensive
5 OSHA includes a sample fall protection plan as Appendix E
6 to Subpart M.

7 Okay, now I'll switch gears and talk a little bit
8 about some of the examples and ways that fall protection
9 can be provided for different residential construction
10 activities. First, I'd like to say that OSHA does not
11 endorse any particular products. So anything that is shown
12 here is simply to demonstrate or are examples of how fall
13 protection can be provided.

14 Here we have a guardrail system that had been
15 erected around the edge of a roof, and it was protecting
16 these workers while they are still performing reroofing
17 activities. Here we have a properly installed guardrail
18 system. There's a bracket that positions the upright and
19 then allows for a toe (phonetic) board to be installed at
20 the bottom. These guardrails can be left in place while
21 finishing work is being done on the structure and protect
22 workers from falls to the interior of the structure. Once
23 the guardrail is no longer needed that bracket can be
24 reused for any time a future guardrail would be needed to
25 protect the workers.

1 Here we have additional examples of guardrails
2 being used to protect workers from falling through floor
3 openings on the interior of the structure.

4 OSHA would also allow these holes to be covered
5 as long as those covers meet the requirements of Subpart M.
6 This is an example of one of the additional methods that
7 can be used for residential construction workers to protect
8 their workers from falls during residential construction
9 activities.

10 Here's an example of a guardrail system that has
11 been installed in a window and a door opening to prevent
12 workers from experiencing falls through the exterior of the
13 structure.

14 In some instances these guardrail systems can be
15 installed prior to the wall being installed, and so that
16 workers will be protected from falls as soon as the wall is
17 installed on the structure.

18 Now we'll talk a little bit about safety nets.
19 Here we have examples of safety nets that are being used to
20 protect residential construction workers. They are being
21 positioned to protect workers from falls to the interior of
22 the structure. Employers should consult the manufacturer's
23 instructions and/or a registered professional engineer to
24 ensure proper installation of the net and bracing of the
25 stud walls.

1 Installation of floor joists, roof trusses, and
2 roof sheathing are examples of activities that can be
3 performed with safety nets to provide protection from a
4 fall to a lower level.

5 Okay, I'll talk a little bit about personal fall
6 arrest systems starting with anchor points. Here are
7 various examples of anchor points that are designed for
8 different phases of residential construction. All anchor
9 points must be capable of meeting or supporting at least
10 5,000 pounds of force per employee attached or must be
11 designed and used under the supervision of a qualified
12 person. And maintain a safety factor of at least two for
13 any expected impact load caused from a fall.

14 Similar to the guardrail system that was on the
15 picture of the wall that protected workers from falls to
16 the exterior of the structure, personal fall arrest anchors
17 can also be installed prior to structural components being
18 attached to construction.

19 Here we have examples of permanent anchorage that
20 can be installed during roofing operations and left in
21 place after construction is complete. They can provide
22 anchorage points during the life of the roof. These re-
23 used anchors can be used for a variety of roofing
24 applications. It is important to keep in mind that these
25 need to be inspected prior to their use.

1 Here we have two examples of all of our systems
2 being used for residential construction activities. In the
3 first image a worker is using the system while performing
4 reroofing operations.

5 And then on the second image a worker is using a
6 self-retracting lifeline as part of his personal fall
7 arrest system while he's installing the roof sheathing.

8 Okay, I'll shift gears now and just talk a little
9 bit about some of the alternative methods of providing fall
10 protection. I'm going to start with the fall restraint
11 system. The fall restraint system is not listed in Subpart
12 M, but OSHA does allow employers to use it to protect
13 workers from falls. Similar to a personal fall arrest
14 system, a fall restraint system includes an anchor point
15 and a lanyard, but that lanyard has a fixed length that
16 does not allow a worker to reach the fall hazard and
17 experience a fall. For fall restraint systems used it
18 should be rigged to accommodate 3,000 pounds of force or
19 twice the maximum expected force needed to restrain a
20 worker.

21 Here we have ladders. Platform ladders have
22 become more and more prevalent in the industry. These can
23 provide workers with a stable work base and allow more
24 flexibility when maneuvering and positioning things like
25 floor joists and trusses. When using ladders it is

1 important for employers to meet the requirements of OSHA
2 Subpart X-Ladders and Stairways. Federal OSHA does not have
3 a prohibition on working from ladders so long as the
4 requirements of that Subpart are met.

5 Here we have an example of mobile work platforms
6 being used. They are a good alternative for reaching
7 heights if they're properly used. They can also be used to
8 install or remove conventional fall protection systems.
9 Mobile platforms can also be used for performing any wall
10 sheathing work. That is seen in the first image on the
11 page.

12 And particular boom-type elevating and rotating
13 aerial work platforms can offer positioning flexibility and
14 provide stable elevated work platforms.

15 When these types of devices are used it is
16 important for the employer to meet the requirements of our
17 Scaffold Standard.

18 Here we have another example of a scaffold being
19 used in a residential construction application. Here we
20 have mobile scaffolds that are used primarily for the --
21 primarily in the interior of the building. And they can
22 provide a stable work platform while framing, while hanging
23 drywall, or (Indiscernible.) trusses into place. Using
24 equipment like this in accordance with OSHA standards
25 allows workers to be protected from falls to the exterior

1 and the interior of the structure and it's an alternative
2 to walking top plate.

3 Here we have a variety of bracket scaffolds being
4 used for residential construction activities. The first is
5 a worker installing roof trusses from a bracket scaffold.

6 Next is a bracket scaffold system that is being
7 used to protect workers -- sorry -- that is being used to
8 protect workers while performing, while installing floor
9 joists and subfloors. It also allows them to have a
10 working platform to work from.

11 Additionally, in the last picture the bracket
12 scaffold provides a work platform as well as fall
13 protection, while workers perform roofing activities.

14 Here we have an innovative method for providing
15 fall protection. It's to allow workers to build parts of
16 the structure on the ground and not be exposed to a fall in
17 the first place. Here a crane is being used to install a
18 roof section that has been constructed on the ground into
19 place and then attached to the structure.

20 Fall protection devices, such as the anchors that
21 I mentioned earlier, things that can be attached to these
22 structural components prior to their installation to the
23 structure. It's important to know that if you're going to
24 use this option you must follow the Crane Standard that
25 OSHA has.

1 So why is it important for OSHA to require fall
2 protection in the way that it does? Here we have a slide
3 of BLS data that shows falls to lower levels between 6 feet
4 and 15 feet from 2013 to 2022.

5 In the first row it shows that about one third of
6 the falls, about 971 falls, occurred in this height range.
7 When removing structural collapses and falls through
8 working surfaces or through existing openings, the number
9 of falls is reduced to 763, but still was roughly about one
10 third of falls experienced by workers.

11 This is why OSHA has undertaken some enforcement
12 outreach efforts to try to prevent fall in construction.
13 For example, just last year we issued our National Emphasis
14 Program for Falls. The goal of this National Emphasis
15 Program is to significantly reduce or eliminate unprotected
16 worker exposures to fall-related hazards in all industries.
17 That includes residential construction.

18 While the National Emphasis Program discusses
19 procedures for enforcement it also has components for
20 outreach and compliance assistance. OSHA believes that
21 this is a holistic approach to targeting and limiting fall
22 hazards in construction and uses all OSHA's tools:
23 enforcement, compliance assistance, and outreach in order
24 to reduce one of the leading cause of deaths in the
25 workplace.

1 Lastly, I want to talk about one of our major
2 outreach efforts, our National Fall Prevention Stand-Down.
3 For the past ten years OSHA has held a National Safety
4 Stand-Down to eliminate falls in construction. And the
5 Stand-Down is a voluntary event. And it allows employers
6 and employees to talk directly to one another about fall
7 protection. Anyone can participate and that includes
8 residential construction contractors.

9 In the past we've even had manufacturers
10 participate. This is an opportunity to engage with them and
11 learn about what fall protection solutions would work best
12 for particular jobs.

13 This year's National Fall Prevention Safety
14 Stand-Down will take place on May 6th through May 10th, and
15 we really hope that you will be willing to participate.

16 In the past we've had events in all 50 states,
17 and some internationally. And some people have even held
18 events throughout the entire year.

19 That concludes my presentation. I just want to
20 say that OSHA cares very deeply about protecting workers
21 from falls in residential construction. And we believe
22 we've developed a flexible standard that provides options
23 to employers to do that.

24 I hope I was able to share some of that with you
25 today. And we're happy to answer any questions that you

1 may have. Thank you again.

2 CHAIR THOMAS: Thank you. Do we have any
3 questions? All right, go ahead. So we have a question for
4 you.

5 BOARD MEMBER HARRISON: Hi, Vernon. So this
6 seems like the same presentation we had not too long ago.
7 And I asked the question then of Matt, do you have -- when
8 you talked about the fall statistics, do you have that
9 broken out by state? I asked Matt then. And I'm curious
10 if you're able to do that since then, to show what
11 California looks like compared to the rest of the country.

12 MR. PRESTON: Unfortunately, I don't think that
13 we have that broken out by state. I have my colleague
14 Damon Bonneau on the line. I just want to see if he wanted
15 to weigh in there.

16 MR. BONNEAU: Yes, we took a look. We took a
17 look at the BLS data. And even though BLS has data broken
18 out by states when we took a look at California the BLS
19 data does not go into the depth for the state information
20 that it does for their overall. So when I go to the
21 California State page on the BLS webpage it gives me slips,
22 trips, falls. It does not give me falls to the lower
23 level. It doesn't break it down to that degree, so we
24 don't have that information.

25 CHAIR THOMAS: Yeah, go ahead Laura.

1 BOARD MEMBER STOCK: Thank you for your
2 presentation. I don't know if you've been listening to the
3 testimony today, but a number of people have been
4 testifying this morning about the risks of using ladders.
5 And when I'm looking at what you describe I wonder if you
6 could just clarify that ladders are just one option,
7 there's no requirement that ladders are used. So I don't
8 know if you have any other comments in response to any of
9 the testimony that we heard this morning, or whether you
10 were on the call?

11 MR. PRESTON: Sure. I was on the call and heard
12 some of the testimony. And one of the things I definitely
13 want to say is we share the same goal. You know, we at
14 Federal OSHA just like those, the people who gave their
15 testimony, we want to make sure that workers go home safely
16 at the end of the day. To your question and more
17 pointedly, yes ladders are just an option beyond
18 conventional fall protection that employers can use to
19 perform some of these residential activities.

20 CHAIR THOMAS: Any other questions? Nola?

21 BOARD MEMBER KENNEDY: I just had
22 (indiscernible).

23 CHAIR THOMAS: Go ahead.

24 BOARD MEMBER KENNEDY: So I just had a question.
25 One of the commenters, Mike Donlon, mentioned it's not just

1 the frequency of falls or the number of them, but also the
2 severity of the fall. And I'm wondering if there's any
3 data on lost time or deaths versus just a number of falls
4 between 15 and above, and 6 to 15 feet.

5 MR. BONNEAU: (Indiscernible.) if I may?

6 MR. PRESTON: Go ahead, Damon.

7 MR. BONNEAU: If I may. So one of the things
8 when we look at that is this, in the BLS data they even
9 have falls that occur less than six feet. So we don't have
10 the information on first aid injuries and things. We only
11 had the fatal numbers, working with those, those type
12 numbers. But in those fatality numbers there were quite a
13 bit of fatal incidents that happened less than 6 feet. And
14 we just concentrated on the 6 to 15 since the 15 foot was
15 in question, falls between 6 and 15 feet. So that's why we
16 didn't have it, we didn't look at first aid injuries.

17 BOARD MEMBER KENNEDY: And then just for my --
18 because I'm not that familiar with the construction
19 industry, why six feet? Why is that as a cutoff? What
20 happens at six feet?

21 MR. BONNEAU: Okay. So we've been --

22 BOARD MEMBER KENNEDY: (Overlapping colloquy.)
23 It's hard for me, because when I picture residential
24 construction I don't think of anything that happens at six
25 feet. So I'm just curious why. I'm not questioning it, I

1 just want to know.

2 MR. BONNEAU: Okay. I know during the rulemaking
3 period prior to 1994, and the six-foot rule came into being
4 back in 1994 with the rollout of Subpart M, as far as I can
5 tell. But they did extensive research. And NIOSH provided
6 OSHA with exceptional -- with a whole lot of data that
7 proved that falls was definitely a leading killer of
8 construction workers.

9 And when we look at that, and even the numbers
10 show today, that at six feet the fall numbers jump up, the
11 fatality numbers increase. Below six feet a few, but from
12 six feet above then the numbers just jump up a great deal.

13 So and what our numbers showed is over the last
14 ten years, it was those numbers between six and fifteen
15 feet that a third of all fatalities occurred.

16 CHAIR THOMAS: Any other questions? And I'm sure
17 anything above 15 feet we don't -- we have a pretty good
18 idea what happens if you fall from there, right?

19 So yeah, the six-foot rule is -- and I'm glad you
20 explained that because that's where death occurs most
21 probably at that height. So lower than that, probably not.
22 That height, or higher, yeah.

23 BOARD MEMBER KENNEDY: That I understand. But
24 this is (inaudible.)

25 CHAIR THOMAS: Oh, sorry.

1 BOARD MEMBER KENNEDY: Yeah, that I understand.
2 But this has been specifically applied to residential
3 construction and not to general industry. And I can
4 imagine a lot of places in general industry where someone
5 might be six feet off the ground. I could -- and in
6 residential construction I imagine once you're off the
7 ground it's higher than six feet that you're at. And so
8 I'm just trying to figure out why six feet, because -- and
9 none of the pictures that were shown to us shows fall
10 protection at six feet. So I'm just curious about why in
11 residential construction.

12 Maybe -- Bruce is raising his hand, maybe he
13 knows.

14 MR. WICK: I can answer that.

15 BOARD MEMBER KENNEDY: Okay.

16 CHAIR THOMAS: This is highly inappropriate, but
17 we'll let you answer.

18 MR. WICK: It's been kind of a weird day anyway.

19 CHAIR THOMAS: Really? I hadn't noticed.

20 MR. WICK: Yeah, just letting you know.

21 So the idea is the difference between first-
22 story, second-story, third-story. So twenty feet is the
23 cutoff for third-story and up. Fifteen feet segments
24 between two-story and one-story. Six foot segments the
25 one-story.

1 Our rule has been seven-and-a-half; our rule for
2 everybody else is seven-and-a-half feet. Because we took
3 seven-and-a-half feet versus fifteen, but there's no
4 difference between six and seven-and-a-half feet. Some
5 people have a had a ten-foot rule, which is the equivalent
6 of fifteen feet, because we're talking nine feet, eighteen,
7 twenty-seven. So at six foot it just says -- the general
8 industry is four foot, but they said, "We're going to six
9 foot to cover everything first-story." Does that help?

10 BOARD MEMBER KENNEDY: Yes, thank you.

11 CHAIR THOMAS: All right. Thank you. Thank you,
12 Bruce.

13 Any other questions? Hearing none --

14 BOARD MEMBER HARRISON: Hey Chair, this is Dave.

15 CHAIR THOMAS: Oh, I'm sorry. Go ahead, Eric.

16 MR. BERG: Oh, the fall protection --

17 BOARD MEMBER HARRISON: Hey Chair, this is Dave.
18 I just wanted to --

19 MR. BERG: -- fall section, especially in general
20 industry is lower than six feet just to clarify that.

21 CHAIR THOMAS: Okay.

22 (Off-mic colloquy.)

23 MR. BERG: It depends. Yeah, 30. I think it's
24 30 inches in some (indiscernible) but there's a bunch of
25 exceptions so it varies. (Overlapping colloquy.) I know

1 Jason is the expert.

2 MR. DENNING: (Inaudible - off-mic.)

3 UNKNOWN SPEAKER: Repeat that, Jason Denning

4 (Indiscernible) Cal/OSHA. (Inaudible.)

5 CHAIR THOMAS: I just want to acknowledge I've

6 lost complete control. (Laughter.) So but go ahead.

7 MR. DENNING: Yeah. Good afternoon everyone on

8 the Board. This is Jason Denning, I'm the Principal Safety

9 Engineer with Research and Standards, Cal/OSHA. And I just

10 wanted to clarify for the general industry the trigger

11 height for buildings is 30 inches for fall protection, and

12 other than buildings is 48 inches.

13 CHAIR THOMAS: Wait, can you say that again? I

14 didn't catch all of it.

15 MR. DENNING: Yes, the fall protection standard

16 in general industry safety orders for buildings is 30

17 inches, and it's actually at 30 inches. And for other than

18 buildings is above 48 inches.

19 CHAIR THOMAS: Okay. Thank you.

20 MR. DENNING: We're good?

21 CHAIR THOMAS: Good. Return the mic, please.

22 All right. Thank you Fed OSHA for giving us this

23 presentation. We appreciate it. And now I think we can --

24 can we continue with the business meeting and finish that

25 up?

1 MS. GONZALEZ: Yes.

2 CHAIR THOMAS: Yeah, lets.

3 MR. PRESTON: Thank you again for the
4 opportunity.

5 CHAIR THOMAS: Oh, thank you. Thank you.
6 Variance Decisions for Adoption. Kelly Chau, can
7 you please brief the Board if you're still there?

8 MS. CHAU: Yes, thank you Chair Thomas and Board
9 Members. I am remote today. On the consent calendar for
10 this month we have Proposed Decisions 1. through 75. ready
11 for your consideration and possible adoption.

12 CHAIR THOMAS: So I need a motion to approve the
13 adoptions of the variance decisions 1 through 75, right.

14 BOARD MEMBER LASZCZ-DAVIS: Yes. I so move.

15 BOARD MEMBER CRAWFORD: Yes. I second.

16 CHAIR THOMAS: Okay, I have a motion and a
17 second. Is there anything on the question? Hearing none,
18 Sarah, can you please call the roll?

19 MS. MONEY: Can you hear me? Okay.

20 So I have the motion as Chris Laszcz-Davis. And
21 who was second?

22 UNKNOWN SPEAKER: Kate Crawford?

23 MS. MONEY: Okay, Kate Crawford vote.
24 Dave Harrison?

25 BOARD MEMBER HARRISON: Aye.

1 MS. MONEY: Nola Kennedy?

2 BOARD MEMBER KENNEDY: Aye.

3 MS. MONEY: Chris Laszcz-Davis?

4 BOARD MEMBER LASZCZ-DAVIS: Aye.

5 MS. MONEY: Laura Stock?

6 BOARD MEMBER STOCK: Aye.

7 MS. MONEY: Chairman Thomas?

8 CHAIR THOMAS: Aye. And the motion passes.

9 So now we need to do the proposal schedule for

10 today's public hearing: General Industry Safety Orders,

11 Appendix A to Appendix 5144, Fit Testing Procedures

12 (Mandatory) (HORCHER) .

13 And Amalia, will you please brief the Board.

14 MS. NEIDHARDT: Chairman Thomas and Members of

15 the Board the package before you today consists of new

16 respiratory fit testing protocols promulgated by Federal

17 OSHA on September 26th, 2019, as an amendment to Title 29,

18 Code of Federal Regulations, Section 1910.134, Appendix A.

19 The proposed regulation, which will amend Section

20 5144, Appendix A, is substantially the same as Federal

21 OSHA's final rule.

22 These two respiratory fit testing protocols are

23 the modified ambient aerosol condensation nuclei counter

24 CNC quantitative fit testing protocols for full-facepiece

25 and half-mask elastomeric respirators; and the modified

1 ambient aerosol CNC quantitative fit testing protocols for
2 filtering facepiece respirators.

3 These protocols are variations of the existing
4 ambient aerosol CNC protocol, but have fewer test
5 exercises, shorter exercise duration, and a more
6 streamlined sampling sequence.

7 These new protocols will serve as alternatives to
8 the four existing quantitative fit testing protocols
9 already listed in Appendix A of Section 5144, the
10 Respiratory Protection Standard, and will maintain safety
11 and health protections for workers while providing
12 additional flexibility and reducing compliance burdens.

13 Labor Code section 142.3(a)(3) exempts the Board
14 from providing a comment period when adopting a standard
15 substantially the same as federal standards of Federal
16 OSHA. However, as indicated in the Notice and Informative
17 Digest, the Board is still providing a comment period for
18 the purpose of identifying only issues related to the
19 following areas: 1. Identify any clear or compelling
20 reasons for California to deviate from the federal
21 standard; and 2. Identify any issues unique to California
22 related to this proposal, which should be addressed in this
23 rulemaking and/or a subsequent rulemaking.

24 To this date, the Board has received no written
25 comments other than Federal OSHA's Letter of Opinion,

1 stating that this proposal appears to be substantially the
2 same.

3 Federal OSHA did point out some minor editorial-
4 type errors that board staff will address when a final
5 proposal is brought back to the Board to consider adopting.

6 Today is the last day or the 45-day comment
7 period, an opportunity for the public to provide comments.
8 The proposal is now ready for the Board's consideration and
9 oral comments from the public. Thank you.

10 CHAIR THOMAS: Thank you, Amalia.

11 Do we have any commenters for this? All right,
12 hearing none we will move on. And I want to make clear to
13 the folks out there that when we had our demonstration I
14 didn't adjourn the meeting. It was a recess. It was just a
15 very violent recess, but it was a recess.

16 All right, let's go to -- all right, so
17 Legislative Update. Kelly Chau, will you please brief the
18 Board?

19 MS. CHAU: Yes.

20 CHAIR THOMAS: Thank you.

21 MS. CHAU: Thank you. Board staff is closely
22 following two new and noteworthy proposed bills that were
23 recently introduced. The first is AB 1976, which seeks to
24 add Narcan, a nasal spray antidote for drug overdoses to
25 all first aid kits in the workplace.

1 The second proposed bill is AB 3106, which would
2 require an employer to ensure that COVID-19 cases are
3 excluded from the workplace until all return-to-work
4 requirements are met. And that the employer continues to
5 maintain that employee's rights and benefits as if the
6 employee had not been excluded from the workplace.

7 It also requires that the Standards Board adopt a
8 standard by February 3rd, 2025, to extend these protections
9 to any occupational infectious disease covered by any
10 permanent infectious disease standard that will succeed the
11 existing COVID-19 protection standard.

12 CHAIR THOMAS: Thank you. Any questions for
13 Kelly?

14 (Off-mic colloquy)

15 CHAIR THOMAS: Kelly, the number of the second
16 one you were talking about?

17 MS. CHAU: Yes. That is AB 3106.

18 CHAIR THOMAS: Thank you.

19 MS. CHAU: And we expect some major revisions
20 coming up on that one.

21 CHAIR THOMAS: Thank you. Thank you, Kelly.

22 MS. CHAU: You're welcome. Thank you.

23 CHAIR THOMAS: And then we'll have our Cal/OSHA
24 Update. Eric, anything of note?

25 MR. BERG: Thank you. As you know, you voted on

1 the emergency silica issue last December, so we have to
2 make that permanent by December 2024. So we hope to have
3 an advisory committee. And we're working on all those
4 documents where we hope to have an advisory committee in
5 the upcoming month or so with stakeholders. We don't have
6 a date yet, but we'll post it on our website. So we're
7 looking forward to having that pretty soon for the Silica
8 Standard and the attempt to make it permanent.

9 CHAIR THOMAS: Any questions for Eric?

10 BOARD MEMBER STOCK: I have one.

11 CHAIR THOMAS: Go ahead, Laura.

12 BOARD MEMBER STOCK: I just want to add at this
13 point of the agenda there were specific requests to you to
14 report back next month if all else, all these other options
15 fail around heat illness, indoor heat. That you could
16 report next month on what options are available, including
17 the potential emergency regulation. So I just want to be
18 sure that that's on the agenda if necessary next month.

19 MR. BERG: Okay.

20 BOARD MEMBER STOCK: Thank you.

21 CHAIR THOMAS: We'd appreciate it. Yeah, thank
22 you.

23 Acting Executive Officer's Report. Autumn.

24 MS. GONZALEZ: Thank you. So the first thing I
25 want to report is we had our second round of interviews

1 with an executive officer candidate. And the Board voted
2 and voted to make a tentative offer. The hiring package is
3 now going through the proper channels, so we hope to have a
4 new executive officer very soon.

5 Today we have a new SSM1 Regulations Manager
6 joining us on WebEx, Ruth Ibarra. She started on March 11,
7 2024 and we're very excited to have her. Jesi Mowry
8 started on February 26th, 2024, in her new role as the SSM1
9 Admin Manager.

10 And then we have two regulatory AGPA, which is
11 governmental program analyst positions. Open interviews
12 are taking place in April. And then Amalia's team is also
13 interviewing for a Senior Safety Engineer in April.

14 And I just wanted to quickly draw your attention
15 to this rulemaking calendar that we put in the board
16 packet. So you can grab it online and you should have a
17 hard copy here. I just want to be clear that this is a
18 roadmap and a guide. But obviously, as we saw today,
19 things can change, so this is not hard and fast. But this
20 is, right now, what the state of our current rulemakings
21 look like.

22 So there's a whole lot out there that we're
23 working on. And we will update this for you, I think maybe
24 on a quarterly basis. Or more often if you'd like to, but
25 hopefully this is helpful to kind of keep track of

1 everything that's going on. And that's all I have.

2 CHAIR THOMAS: Thank you. Any questions for
3 Autumn?

4 BOARD MEMBER HARRISON: I think this rulemaking
5 calendar is amazing. Where has this been my whole life?

6 MS. GONZALEZ: Oh, thank you.

7 BOARD MEMBER HARRISON: Thank you.

8 MS. GONZALEZ: Can I shout out Kelly Chau who has
9 put in so much time?

10 CHAIR THOMAS: Thank you, Kelly.

11 MS. GONZALEZ: And I know she talked to a couple
12 of you for input and she really did an amazing job on this.

13 BOARD MEMBER HARRISON: Yeah. This is amazing.
14 But one thing I would like a report on next month if we
15 could is an update on the crane recertification rulemaking,
16 or advisory committee.

17 MS. GONZALEZ: Amalia, do you want to give that
18 report today?

19 MS. NEIDHARDT: Yes. I can tell you that we are
20 gearing to have an advisory committee meeting. Right now
21 we are doing informal information gathering and data
22 gathering. And we had one informal meeting, we'll have a
23 second one to be able to make sure that we streamline the
24 process and be a successful advisory committee, focus on
25 the topic. And also make sure that we identify every

1 single affected party, so they can be invited.

2 CHAIR THOMAS: All right. Thank you. Any other
3 questions?

4 All right, the next Standards Board regular
5 meeting is scheduled for April the 18th, 2024, in Gilroy,
6 California. Come and see the show, it should be good.

7 Please visit our website and join our mailing
8 list to receive the latest updates. And we thank you for
9 your attendance today.

10 There being no further business to attend to this
11 business meeting is adjourned. Thank you.

12 (The Business Meeting adjourned at 1:14 p.m.)

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