

STATE OF CALIFORNIA
DEPARTMENT OF INDUSTRIAL RELATIONS

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

CERTIFIED COPY

PUBLIC MEETING, PUBLIC HEARING, AND BUSINESS MEETING
OF THE OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

HYBRID MEETING VIA WEBEX AND IN-PERSON

RONALD REAGAN STATE BUILDING
Auditorium
300 South Spring Street
Los Angeles, California 90013

Thursday, November 21, 2024

Reported by:

MARCENA M. MUNGUIA,
CSR No. 10420

Job No.:
51314DIR-OSHSB REV

STATE OF CALIFORNIA

DEPARTMENT OF INDUSTRIAL RELATIONS

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OSHA Standards Board Meeting)
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TRANSCRIPT OF PROCEEDINGS, reported via
Webex Videoconference, commencing at 10:00 a.m.
and concluding at 12:42 p.m., on Thursday,
November 21, 2024, heard before the State of
California Department of Industrial Relations
Occupational Safety and Health Standards Board,
reported by Marcena M. Munguia, CSR No. 10420,
a Certified Shorthand Reporter in and for the
State of California.

1 APPEARANCES

2
3 BOARD MEMBERS PRESENT IN LOS ANGELES:

4 Kathleen Crawford, Management Representative

5 Dave Harrison, Labor Representative

6 Nola J. Kennedy, Occupational Health Representative

7 Chris Laszcz-Davis, Management Representative

8 Derek Urwin, Occupational Safety Representative

9
10 BOARD MEMBERS PRESENT VIA TELECONFERENCE AND/OR WEBEX:

11 Joseph M. Alioto, Jr., Chairman

12
13 BOARD STAFF PRESENT IN LOS ANGELES:

14 Millicent Barajas, Executive Officer

15 Autumn Gonzalez, Chief Counsel

16 Kelly Chau, Attorney

17 Amalia Neidhardt, Principal Safety Engineer

18 Ruth Ibarra, Staff Services Manager, Regulations Unit

19 Sarah Money, Executive Assistant

20
21 BOARD STAFF PRESENT VIA TELECONFERENCE AND/OR WEBEX:

22 Michelle Iorio, Attorney

23 Jesi Mowry, Administration & Personnel Support
Analyst

24 Ki Lucero, Legal Assistant

25

APPEARANCES

CAL/OSHA STAFF PRESENT IN LOS ANGELES:

Eric Berg, Deputy Chief of Health

Cal/OSHA STAFF PRESENT VIA TELECONFERENCE AND/OR WEBEX:

Katie Hagen, Chief of California Department of
Industrial Relations

Jason Denning, Principal Safety Engineer, Research
and Standards Unit

Yancy Yap, Senior Safety Engineer, Research and
Safety Standards Unit

TKO STAFF:

Ricardo Argueto

Sean Acrea

John Roensch

SPANISH INTERPRETERS:

Lourdes Alcala

Ann Elvia Sanchez

Lourdes Alcala

APPEARANCES

PUBLIC COMMENTERS:

PUBLIC HEARING RE: CONFINED SPACES In CONSTRUCTION:

Steve Johnson, Associated Roofing Contractors of the Bay Area Counties

Mike Donlon, MD Safety Service, LLC

PUBLIC COMMENT RE: AUTONOMOUS AGRICULTURAL VEHICLES:

Anna Ferrera, Wine Institute

Maegan Ortiz, Instituto De Educacion Popular Del Sur De California, IDEPSCAS

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

Danny Merkley, California Association of Winegrape Growers

Nick Tindall, Association of Equipment Manufacturers

Anne Katten, California Rural Legal Assistance Foundation

Cassie Hilaski, Nibbi Brothers General Contractors

Kevin Bland, California Framing Contractors Association and the Western Steel Council, CFCA/WSC

Matthew Allen, Western Growers Association

Mitch Steiger, CFT

Dan Leacox, Leacox & Associates

Robert Moutrie, California Chamber of Commerce

Jassy Grewal, United Food and Commercial Workers

AnaStacia Nicol Wright, Worksafe

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

Steve Johnson, Associated Roofing Contractors of the Bay Area Counties

APPEARANCES

PUBLIC COMMENT ON NON-AGENDA ITEMS OR TO PROPOSE NEW OR
REVISED STANDARDS (cont'd):

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

Ron Grubb, Phylmar Regulatory Roundtable

Bruce Wick, Housing Contractors of California

AnaStacia Nicol Wright, Worksafe

Mark Meriaux, Natural Stone Institute

Justin Lehr

Cassie Hilaski, Nibbi Brothers General Contractors

Robert Moutrie, California Chamber of Commerce

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1 Thursday, November 21, 2024

2 10:00 a.m.

3
4
5 CHAIR ALIOTO: Good morning, everybody. Welcome to
6 the November 21, 2024 public meeting, public hearing, and
7 business meeting of the Occupational Safety and Health
8 Standards Board, which is now being called to order.

9 I am Joseph Alioto. I am the chairman of the
10 Board and I am going to be attending remotely via WebEx
11 for this particular meeting. I can assure everybody, and
12 for purposes of the record, that there is nobody over the
13 age of 18 years present with me here. I am in my office
14 in San Francisco and unfortunately I'm unable to attend
15 because I'm under the weather and I didn't want to make
16 everybody sick.

17 I'll keep my camera on and if it does go off, I
18 will let you know and inform you the reasons why.

19 The other Board Members that are present in
20 Los Angeles today are Kathleen Crawford, Management
21 Representative; Dave Harrison, Labor Representative; Nola
22 Kennedy, the Occupational Health Representative; Chris
23 Laszcz-Davis, Management Representative; and our newest
24 Board Member, Derek Urwin, Occupational Safety
25 Representative. I'll have some words for -- about

1 Mr. Urwin shortly and he'll take his oath of office later
2 on this morning.

3 Also present from the Board staff for today's
4 meeting are Millicent Barajas, Executive Officer; Autumn
5 Gonzalez, Chief Counsel; Kelly Chau, Attorney; Amalia
6 Neidhardt, Principal Safety Engineer; Ruth Ibarra, Staff
7 Services Manager, Regulations Unit; and Sarah Money, our
8 Executive Assistant.

9 Also present in Los Angeles from Cal/OSHA is
10 Eric Berg, Deputy Chief of Health for Cal/OSHA.

11 The Board staff supporting this meeting remotely
12 are Michelle Iorio, Attorney; Jesi Mowry, Administrative
13 and Personnel Support Analyst; and Ki Lucero, Legal
14 Assistant.

15 On September 24, Governor Newsom appointed
16 Derek Urwin, as I mentioned earlier, to the Occupational
17 Safety Representative seat of the Occupational Safety and
18 Health Standards Board.

19 Joining us today via WebEx is Director Katie
20 Hagen, who will now administer the oath of office for
21 Member Urwin.

22 Katie?

23 DIRECTOR HAGEN: Great. Thanks.

24 Good morning, everyone. I'm sorry I can't be
25 there in person with you today. I'm actually in

1 Pleasanton at another Board meeting, but I'm pleased to
2 join remotely and welcome our newest Board Member.

3 Derek Urwin, congratulations. I hope to meet
4 you in person very soon. I'm going to ask you at this
5 time to please raise your right hand and repeat after me.

6 All right. Can he hear me okay? I'm not
7 hearing anything on that end. Still nothing.

8 MR. ROENSCH: He can hear you; however, we'll need
9 him to turn on his microphone for you to be able to hear
10 him.

11 DIRECTOR HAGEN: Yeah. Okay. Is it on?

12 BOARD MEMBER URWIN: I believe it's on.

13 DIRECTOR HAGEN: Oh, there we go. All right. We're
14 in business.

15 All right. I'm going to say a few words and
16 then you'll repeat after me.

17 I do solemnly swear that I will support and
18 defend the Constitution.

19 BOARD MEMBER URWIN: I do solemnly swear that I will
20 support and defend the Constitution.

21 DIRECTOR HAGEN: Of the United States and the
22 Constitution of the State of California.

23 BOARD MEMBER URWIN: Of the United States and the
24 Constitution of the State of California.

25 DIRECTOR HAGEN: Against all enemies, foreign and

1 domestic.

2 BOARD MEMBER URWIN: Against all enemies, foreign and
3 domestic.

4 DIRECTOR HAGEN: That I will bear the faith and
5 allegiance.

6 I haven't -- I'm not hearing anything. Are you
7 back?

8 CHAIR ALIOTO: Katie, maybe just repeat for him.

9 DIRECTOR HAGEN: Okay. Let's see.

10 Against all enemies, foreign and domestic.

11 BOARD MEMBER URWIN: Against all enemies, foreign and
12 domestic.

13 DIRECTOR HAGEN: That I will bear true faith and
14 allegiance to the Constitution of the United States.

15 BOARD MEMBER URWIN: To the Constitution of the
16 United States.

17 DIRECTOR HAGEN: And the Constitution of California.

18 BOARD MEMBER URWIN: And the Constitution of
19 California.

20 DIRECTOR HAGEN: That I take this obligation freely.

21 BOARD MEMBER URWIN: That I take this obligation
22 freely.

23 DIRECTOR HAGEN: Without any mental reservation.

24 BOARD MEMBER URWIN: Without any mental reservation.

25 DIRECTOR HAGEN: Or purpose of evasion.

1 BOARD MEMBER URWIN: Or purpose of evasion.

2 DIRECTOR HAGEN: And that I will well and faithfully.

3 BOARD MEMBER URWIN: And that I will well and
4 faithfully.

5 DIRECTOR HAGEN: Discharge the duties upon which I am
6 about to enter.

7 BOARD MEMBER URWIN: Discharge the duties upon which
8 I am about to enter.

9 DIRECTOR HAGEN: Great. Congratulations. Thanks for
10 rolling with the technical problems, and thank you very
11 much.

12 BOARD MEMBER URWIN: Thank you.

13 CHAIR ALIOTO: Excellent. That was fantastic.

14 Congratulations, Derek.

15 And for the folks, I want to say just a few
16 brief words of introduction for our newest member,
17 our newest Occupational Safety Representative.

18 Dr. Urwin is a Ph.D. and he is an Assistant
19 Adjunct Professor of Chemistry and Biochemistry at UCLA
20 and he is also an engineer with the Los Angeles County
21 Fire Department. He's assigned to Fire Station 170 in
22 the city of Inglewood and he is a member of the IAFF
23 Local 1014.

24 Derek currently chairs the Fire Scope Cancer
25 Prevention subcommittee. He serves as Chief Science

1 Advisor at the IAFF and he works collaboratively with
2 academic researchers across the country to quantify
3 firefighters' carcinogenic exposures and the associated
4 biological effects.

5 Dr. Urwin and his collaborators recently
6 established the California Firefighter Cancer Research
7 Study, a collaborative research effort across the cancer
8 control continuum at UCLA and at the U.C. Davis
9 Comprehensive Cancer, which aims to reduce cancer risk
10 for California firefighters.

11 On behalf of the entire Board, I want to welcome
12 you, Derek. We are going to have -- we'll -- one of the
13 great things about this particular Board is the
14 free-flowing ideas and the unfettered discussions and the
15 respectful comments that people always have. I know that
16 you are going to be a very valuable contributor to this
17 Board and we welcome you wholeheartedly.

18 Please join me, folks, in welcoming again
19 Dr. Derek Urwin.

20 All right. Fantastic. Now let me continue with
21 the meeting here, and copies of the agenda and other
22 materials that are related to today's proceedings are
23 available on the table near the entrance to the room and
24 they are posted on the OSHSB website.

25 This meeting is also being live broadcast via

1 video and audio stream in both English and in Spanish.
2 Links to these noninteractive live broadcasts can be
3 accessed via the "Board Meeting Schedule, Notice of
4 Proposals, and Agendas" section on the main page of the
5 OSHSB website.

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

12 If you are participating via teleconference or
13 videoconference, the instructions for joining the public
14 comment queue can be found on the agenda. You may join
15 by clicking the public comment queue link in the "Board
16 Meetings" section on the OSHSB website, or by calling the
17 following phone number: (510) 868-2730 to access the
18 automated public comment queue voicemail. If you
19 experience any technical issues with the teleconference
20 or videoconference, please email us at oshsb@dir.ca.gov.

21 I also want to announce a small change. We've
22 heard your comments regarding the non-agenda public
23 comment and I know that we made some changes when I
24 assumed the position of the Chair of this Board where we
25 moved non-agenda public comment to the end of the meeting,

1 and we've come up with a solution for those who are not
2 able to attend or may have to leave early, and that
3 solution is to please put your comments down in writing
4 and if you can send your written comment to the following
5 website -- I'm going to read for you -- we will do our
6 best to read any comments that are time-stamped by let's
7 call it 10:45 a.m. this morning on the day of the
8 meeting. Our preference of course is to receive them
9 before that at 5:00 p.m. the night prior to your
10 meeting -- to the meeting, and please limit your comments
11 to 500 words, and OSHSB staff will read them into the
12 record.

13 So here's that website. It's
14 OSHSB_NAComments@dir.ca.gov. Here it is one more time:
15 OSHSB_NAComments@dir.ca.gov. All right. So "na
16 comments" means "non-agenda comments." So if you are
17 somebody who is here who has something that you want to
18 say in public as part of the public comment non-agenda
19 items that will be at the end, it will be in a couple of
20 hours; if that prohibits you from attending work and you
21 want to make your comment but you're not able to stay
22 until the very end of the meeting, kindly submit those
23 comments to that email address. If you do it before
24 10:45, we will do our best to read them into the record
25 during the nonpublic -- non-agenda public comments section

1 and if we are not, then they will certainly nonetheless
2 still be added to the record as your public comment.

3 So we're going to give that a try. Hopefully it
4 addresses some of the concerns that we've heard about
5 folks who are interested in making public comment at the
6 end but are not able to take the three or four-sometimes
7 hours out of their day because they're working in order
8 to do that.

9 I want to say thank you to all those who do
10 sacrifice their time and volunteer their time and efforts
11 to participate in these meetings. We consider the public
12 comment to be as important as the comment of any
13 particular Board Member and we appreciate and value your
14 comments and thoughts.

15 All right. So for our participants who are
16 native Spanish speakers, we are also working with
17 Brenda Tamez to provide interpretation into English for
18 the Board.

19 At this time, Brenda will provide introductions
20 to the Spanish-speaking commenters. We will provide
21 further instructions for the public comment process later
22 in the evening -- later in the meeting.

23 Ms. Tamez?

24 (Introductions and comment instructions
25 given in Spanish)

1 CHAIR ALIOTO: Thank you very much, Brenda.

2 Before we get going with the public hearing, I
3 want to -- can we just get an idea about how many folks
4 are in the audience who are interested in making public
5 comment on -- either in the public hearing or at the end
6 of the meeting during the non-agenda public comments
7 section? And can somebody just let me -- give me an idea
8 about how many people are raising their hands, more or
9 less.

10 MS. BARAJAS: Hi, Joe. I see about four hands.

11 CHAIR ALIOTO: Okay. And then, Sean, can you let me
12 know how many folks we have online who are interested in
13 making comments on any topic today?

14 MR. ACREA: As of right now, there are nine names
15 listed for online.

16 CHAIR ALIOTO: All right. Great.

17 So let's go ahead and go into the public hearing
18 and let's limit comments to -- we'll limit comments to
19 three minutes per person, folks. We'll expand to three
20 minutes, I should say.

21 Before we open the public hearing, though,
22 Amalia is going to brief the Board on the rulemaking
23 proposal before us. The Board Members will then have the
24 opportunity to make some comments and ask questions of
25 Amalia, and the public hearing will then be opened after

1 the Board has finished its discussion.

2 Today's public hearing item that is scheduled on
3 the agenda is Title 8, Construction Safety Orders related
4 to Sections 1951, 1952, 1953, 1955, 1956, and 1960.

5 These are the General Industry Safety Orders, Section
6 5156, related to Confined Spaces in Construction
7 Clean-up.

8 Amalia, would you please brief the Board.

9 MS. NEIDHARDT: Good morning, Chair Alioto and
10 Members of the Board. The package before you today is
11 the Confined Spaces in Construction Clean-up Regulatory
12 package for Construction Safety Orders, as Chair Alioto
13 mentioned, Sections 1951, 1952, 1953, 1955, 1956, 1960
14 and General Industry Safety Order Section 5156,
15 but first some background.

16 On November 19, 2015, the Occupational Safety
17 and Health Standards Board adopted, via Horcher, the
18 Federal Confined Spaces in Construction standard,
19 Subpart(AA), as Construction Safety Orders Sections
20 1950 to 1962, Confined Spaces in Construction.

21 During this rulemaking process, stakeholders
22 and members of the Board raised concerns regarding the
23 concurrent applicability of Section 5158 of the General
24 Industry Safety Orders with the Confined Spaces in
25 Construction standard. So, clean-up rulemaking was

1 proposed and staff was directed to convene an advisory
2 committee meeting.

3 Concerns were directed at the clarity of certain
4 provisions within Article 37, incorporating portions of
5 Section 5158 into Sections 1951 through 1960 and amending
6 portions of Sections 1951 through 1960 to retain existing
7 workers' protections.

8 As noted in the slide, the advisory committee
9 meeting was held on September 6, 2017.

10 To highlight some of the changes that took
11 place, the advisory committee reached consensus that
12 amendments should take place consisting of definitions or
13 clarifying existing definitions, identification of
14 "confined spaces," requirements for a written program,
15 inclusion of certain provisions from 5158 to retain
16 workers' protections.

17 And in this list, you will see if you want more
18 information, right, it's a coordination of multi-employer
19 work sites, require surveillance, and then there was also
20 resolve the use of multi-gas testers and the order of
21 testing.

22 In summary, the advisory committee was held on
23 September 6, 2017. Delays was due to COVID, staff
24 resources, and finding an expert that could assist us in
25 identifying the cost for this clean-up.

1 This brings us to today. Federal OSHA has
2 submitted an official letter stating that they believe
3 this proposal is at least as effective as Federal OSHA
4 regulations. The proposal was noticed on October 4th, so
5 today is the last day of the 45-day comment period, an
6 opportunity for the public to provide comments that you
7 will hear today.

8 At this time, no further action is expected.
9 Chair Alioto and Board Members, the proposal is now ready
10 for public comment and your consideration. Thank you.

11 CHAIR ALIOTO: Amalia, thank you very much.

12 I'm going to -- let's open this up to questions
13 first from the Board, questions or comments.

14 And Millie, would you just help me with this, as
15 I can't really see the Board that well.

16 If anybody has comments or a question, would you
17 just go ahead and speak instead of raising your hand or
18 anything.

19 MS. BARAJAS: I do not see anyone indicating they
20 want to make comments on the Board.

21 CHAIR ALIOTO: Okay. Excellent. Any questions? No
22 questions? No comments?

23 All right. I think my only question or comment,
24 Amalia, is just about the timing and I know that we have
25 been resourced -- have had resource difficulties and

1 issues related to COVID certainly had a profound impact
2 starting in 2020. I just -- the comment that I want to
3 make is for a clean-up type of proposal of a regulation,
4 is there any reason why -- that you can help us with that
5 this took as long as it did to come to the Board?

6 MS. NEIDHARDT: Yes, Chair Alioto. As explained, but
7 you hit it right on the nail, this is a clean-up, so --
8 excuse me -- we had economic costs when we did the
9 Horcher and we needed an expert to help us identify or
10 better represent the costs that were associated with the
11 clean-up rather than the entire Horcher, the entire
12 change of the regulation, and that's why it took awhile.
13 But I am very thankful with the support from,
14 specifically in DIR, Jennifer Spore, that she is one of
15 the persons that has helped us identify these costs.

16 So the package that you have in front of you, it
17 specifies the costs in the notice and the Initial
18 Statements of Reasons and it's -- it's an expert that we
19 wanted to have that information rather than rely on our
20 own at the Standards Board.

21 Hopefully that answers your question.

22 CHAIR ALIOTO: Yes, definitely.

23 And does that -- do we have access to experts of
24 this nature on a more expedited basis for, you know,
25 clean-up proposals or other proposals that might come to

1 us in --

2 MS. NEIDHARDT: We do.

3 CHAIR ALIOTO: -- the future?

4 MS. NEIDHARDT: Yes, we do now. We have DIR
5 supporting us and I'm very thankful for that. We have --
6 can I say learned our lesson to go to them sooner and to
7 be able to seek their assistance sooner. But, again, it
8 is through this particular support, and I give kudos to
9 Jennifer that helped us move this package forward. With
10 their assistance, we were able to identify the costs
11 associated just to the clean-up of these regulations.

12 CHAIR ALIOTO: Okay. All right. Excellent. Thank
13 you. Thank you for helping me understand that a little
14 better.

15 Any other questions or comments from any members
16 of the Board?

17 MS. BARAJAS: No.

18 CHAIR ALIOTO: No. Okay. Great. Then let's go
19 ahead and proceed with the public hearing. We'll open it
20 up for public comment on this, on this issue.

21 During the hearing, we will consider the
22 proposed changes to the occupational safety and health
23 standards that were noticed for review today. The
24 Standards Board adopts standards that, in our judgment,
25 are enforceable, reasonable, understandable, and

1 contribute directly to the safety and health of
2 California employees. The Board is interested in your
3 testimony on the matters before us and your
4 recommendations are appreciated and will be considered
5 before a final decision is made.

6 If you have written comments, you may read them
7 into the record, but it is not necessary to do so. As
8 long as your comments are submitted via email, they will
9 be made part of the record. Please submit all your
10 written comments to OSHSB@dir.ca.gov by 5:00 p.m. today
11 and as long as we receive them by that time, they will be
12 considered as part of the record. They will be
13 considered by the Board before making a decision. Board
14 staff will ensure that those comments are included in the
15 record and forward copies of your comments to each Board
16 Member and I assure you that your comments will be given
17 every consideration. Please include your name and
18 address on any written materials that you submit.

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

1 testimony, please state your name and affiliation, if
2 any, and identify what portion of the regulation you
3 intend to address each time you speak.

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

10 When public comment begins, we will alternate
11 between three in-person and three remote commenters.

12 Since there's only four commenters in person,
13 we'll just go ahead and do all four of those first unless
14 additional people start lining up.

15 And then when I ask for public testimony,
16 in-person commenters should provide a completed speaker
17 list slip to the attendee near the podium and announce
18 themselves to the Board prior to delivering a comment.

19 I'd just remind, everybody, please speak slowly
20 and make sure that you do identify yourself by name in
21 your opening comments.

22 For commenters attending via teleconference or
23 videoconference, please listen for your name and an
24 invitation to speak. When it is your turn to address the
25 Board, unmute yourself if you're using WebEx or dial

1 star 6 on your phone to unmute yourself if you're using
2 the teleconference line.

3 Public hearing comments will be limited to three
4 minutes per speaker, so that the Board may hear from as
5 many members of the public as feasible. Individual
6 speaker and the comment time limits may be extended by
7 the Board chair.

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

11 And at this time, Brenda will provide
12 instructions to the Spanish-speaking commenters so they
13 are aware of the public hearing comment process for
14 today's public comment.

15 Brenda?

16 THE INTERPRETER: Thank you, Mr. Chairman.

17 (Public hearing comment instructions
18 given in Spanish)

19 CHAIR ALIOTO: Brenda, thank you so much. And if you
20 don't mind, Brenda, before you go, would you just -- I
21 want to clarify for those Spanish-speaking folks that
22 have comments that will require your translation, those
23 folks will have six minutes to speak. Would you just
24 mind quickly clarifying that for the Spanish speakers.

25 (Translation given in Spanish)

1 CHAIR ALIOTO: Very good. Thank you so much.

2 Let's go ahead and start with the folks that are
3 there present. First speaker, please.

4 MR. JOHNSON: Good morning, members of the Board,
5 Chairman Alioto remotely and Members of the Division,
6 Standards support staff.

7 My name is Steve Johnson. I'm with Associated
8 Roofing Contractors of the Bay Area Counties and I just
9 want to support the consolidation or the redirection of
10 confined space to construction.

11 Prior to 2015, all we had was 5158, other
12 confined spaces, and for 15 years I wrote up confined
13 space plans for contractors just based on that
14 regulation, so it's -- it's much less confusing now to
15 have the regulations in one place and I appreciate the
16 efforts of the Standards Board over a period of time to
17 get that consolidated and redirected into construction.
18 So thank you.

19 CHAIR ALIOTO: Thank you, Mr. Johnson.

20 The next speaker, please.

21 MR. ACREA: There are no more in-person speakers for
22 the public hearing.

23 CHAIR ALIOTO: Okay. Let's go to folks who want to
24 comment on this particular topic only who are online.

25 MR. ROENSCH: Mr. Chairman, at this time, we have 14

1 commenters listed, one of which has requested to make a
2 comment on confined spaces, and that is Mike Donlon.

3 CHAIR ALIOTO: Okay. Mr. Donlon.

4 MR. DONLON: Good morning, Board Members.

5 Congratulations, Board Member Urwin. It's great
6 to have you on board here and have a full Board.

7 While I am generally in favor of this proposal,
8 if you look at the invitation to the advisory committee,
9 it said it was just to insert the safety requirements of
10 5158 into the Construction Standard and the notice
11 expanded on that a little bit and said, yeah, insert that
12 and also clarify some things, but there are a few areas
13 here that actually create new requirements that are
14 beyond the scope of what was noticed for this rulemaking.

15 So first, in 1951, in the definitions for both
16 "lockout" and "tagout," the original -- the current
17 definitions talk about lockout is in accordance with an
18 established procedure and the same for tagout, and they
19 changed that word to "effective" and that's a totally
20 different meaning and it -- all these create citations
21 where the Division will say something's not effective and
22 then the employer has to actually go to a hearing to
23 fight that.

24 It also conflicts with 3314, which says you have
25 to have a written procedure and then you have to test

1 that procedure once you lockout to see if that procedure
2 is effective. So it conflicts with that also and I
3 think, you know, what we should have here is we should
4 just say "Written procedure to match 3314."

5 The next one is in 1952(a). The current
6 language talks about, you know, the employer shall ensure
7 a competent person identifies all confined spaces in
8 which one or more of the employees may enter, or may work
9 in, and then it was changed to "the employer shall have a
10 competent person conduct an initial survey of the work
11 area for confined spaces existing at the time work
12 begins."

13 Well, you know, what is a work area? You know,
14 if someone was going to be doing work at the Hyatt Power
15 Plant that DWR runs up in Oroville, you know, that power
16 plant has literally hundreds of confined spaces. So a
17 contractor comes in. They have to identify all of those?
18 No. They have to identify the ones that their people
19 enter.

20 And then (a)(2) says the employer shall have a
21 competent person periodically inspect the workplaces to
22 effectively identify new confined spaces. That's a new
23 requirement completely. There's no requirement for that
24 now, so that's a completely new requirement. That's not
25 a clarification and if I remember right, the legal

1 definition for -- from DARS (phonetic) on "periodically"
2 is more than 12 times a year. I haven't looked that up,
3 but -- so there we have a brand-new requirement.

4 And then finally, in 1953(d), there was a note
5 that talked about when the employer can't reduce the
6 atmosphere to below 10 percent of the lower flammable
7 limit, they have to do certain things, and that was taken
8 from being the note and made a requirement, and so what
9 was a note directing employees but not enforceable is now
10 a new legal requirement for employers, and so that either
11 should be a note or that should be in a separate
12 rulemaking to add that in there. It's great stuff. I'm
13 not arguing about the stuff, but it wasn't noticed as
14 such and so it's a procedural error.

15 And I think -- oh, one other thing. In 19 --

16 CHAIR ALIOTO: Mr. Donlon --

17 MR. DONLON: Yes?

18 CHAIR ALIOTO: -- let me just ask you to wrap up,
19 please. You're at the three-minute mark.

20 MR. DONLON: Okay. There's one more in 1960. I will
21 just submit some written comments in more detail and get
22 those to you by the end of the day. Thank you.

23 CHAIR ALIOTO: Very good. All right. Excellent.
24 Thank you so much.

25 Are there any other people that would like to

1 make a comment on this particular topic for the -- during
2 the public hearing, either remotely or in person?

3 Mr. Roensch, why don't you let me know if
4 there's anybody remote.

5 MR. ROENSCH: Sure. Mr. Chairman, at this time,
6 there are no additional commenters for this topic.

7 CHAIR ALIOTO: All right. Great.

8 And Millie, are there -- is there anybody there
9 present?

10 MS. BARAJAS: There is not.

11 CHAIR ALIOTO: Okay. Excellent. There being no
12 further persons coming forward to testify on this matter,
13 this public hearing is now closed. Written comments will
14 be received until 5:00 p.m. today, per my prior
15 instructions.

16 All right. We are now going to proceed to the
17 next part of the agenda, which is the business meeting.
18 The purpose of the business meeting is to allow the Board
19 to vote on the matters before it and to receive briefings
20 from staff regarding the issues listed on the business
21 meeting agenda. As reflected on the agenda, public
22 comment on non-agenda items or to propose new or revised
23 standards will take place after the subcommittee report
24 listed in Item B. Public comment is not accepted for any
25 other items during the business meeting unless a member

1 of the Board specifically requests public input.

2 Let's move to the proposed variance decisions
3 for adoption that are listed on the consent calendar.

4 Ms. Chau, would you please brief the Board.

5 MS. CHAU: Thank you, Chair Alioto and Board Members.

6 Matters 1 through 23 are ready for your vote and
7 possible adoption.

8 CHAIR ALIOTO: Thank you.

9 Are there any questions from the Board for
10 Ms. Chau? If not, do I have a motion to adopt the
11 consent calendar?

12 BOARD MEMBER LASZCZ-DAVIS: I so move.

13 CHAIR ALIOTO: Is there a second?

14 BOARD MEMBER HARRISON: I'll second.

15 CHAIR ALIOTO: Thank you. It's been moved and
16 seconded that the Board adopt the consent calendar as
17 proposed.

18 Ms. Money, would you please call roll.

19 MS. MONEY: Okay. So I have Ms. Laszcz-Davis, Chris
20 Laszcz-Davis, as the motion and Mr. Harrison as the
21 second; correct?

22 CHAIR ALIOTO: Correct.

23 MS. MONEY: Kathleen Crawford?

24 BOARD MEMBER CRAWFORD: Aye.

25 MS. MONEY: Dave Harrison?

1 BOARD MEMBER HARRISON: Aye.

2 MS. MONEY: Nola Kennedy?

3 BOARD MEMBER KENNEDY: Aye.

4 MS. MONEY: Chris Laszcz-Davis?

5 BOARD MEMBER LASZCZ-DAVIS: Aye.

6 MS. MONEY: Derek Urwin.

7 BOARD MEMBER URWIN: Aye.

8 MS. MONEY: Chairman Alioto?

9 CHAIR ALIOTO: Aye. And the motion passes. Thank
10 you.

11 Let's move on to reports. We'll go to the
12 Executive Officer's report first.

13 Millie, would you please brief the Board.

14 MS. BARAJAS: Yes. Good morning, Chairman and Board
15 Members. I have a few program updates that I'd like to
16 share and some hiring updates as well.

17 So recently we had an advisory committee. The
18 Snow Avalanche Blasting and Remote Avalanche Control
19 Systems Advisory Committee was held on November 14th.
20 The meeting was held remotely and included a presentation
21 from the Director of the National Avalanche Center for
22 the U.S. Forest Service.

23 This avalanche -- this AC was considered the
24 advisability of allowing remote controlled deployment of
25 avalanche charges and it built upon proposed revisions to

1 certain sections, 5349, 5350, 5357. These were all
2 discussed at the 2018 Snow Avalanche Control Blasting AC.
3 We appreciate the stakeholders' attendance and
4 participation. There'll be more to come.

5 I would like to provide an update on the crane
6 operator recertification requirements. This came from
7 Petition 598. The meeting notes in a post-advisory
8 committee draft was circulated among the committee
9 members for input and corrections. This will happen
10 before initiating the internal development of the stage
11 one rulemaking documents.

12 I also have a few updates on rulemakings that
13 are in process and in your Board packet this month, we've
14 included a rulemaking time line and that has been updated
15 recently with all the rulemaking packages.

16 The first one is diving operations. This is
17 Section 6050, 6052, 6054 and 6056. The Standards Board
18 submitted this package for a SAR review on October 1st.
19 We were notified the package was moved to the Labor
20 Agency for review yesterday on November 20th.

21 The next update I have is regarding the Elevator
22 Safety Rrders, Group V. The package was sent to the
23 State Fire Marshal on August 27th for approval. The
24 State Fire Marshal sent their approval on October 29th
25 and the package was submitted for a SAR review on

1 November 4th.

2 The next update I have is on the First Aid Kit.
3 This is Title 8, the Construction Safety Order
4 Section 1512 and GISO Section 3400, First Aid. The
5 package was submitted for a SAR review on November 15th.

6 I have an update on the Fall Protection Trigger
7 Heights for Residential Construction. The package was
8 approved by the Department of Finance and we're waiting
9 to hear back from OAL.

10 The Fall Protection Around Floor Openings and
11 Use of Cone and Barb Barricades: The proposal was
12 noticed on November 1st and public comment closes at 5:00
13 on December 19th. The public hearing will be held at the
14 December 19th Board meeting in Rancho Cordova.

15 That's all of the updates I have on the
16 rulemakings.

17 I would like to give a quick hiring update. We
18 have two Senior Safety Engineer vacancies and we've held
19 our first round of interviews and anticipate second-round
20 interviews coming up shortly.

21 Our Regulatory Analyst Cathy Deietrich retired on
22 October 31st. We want to thank her for her service and
23 we'll be recruiting for this position in coming months.

24 Finally, our Contracts and Procurement Analyst,
25 Jen White, has accepted a new position with another State

1 agency. We'll be recruiting for her position in the
2 coming months.

3 Thank you.

4 CHAIR ALIOTO: Okay. Great. Thank you, Millie.

5 And then I just -- for everybody's edification,
6 Millie and I did discuss putting the rulemaking time line
7 into the Board packet.

8 Millie, what did we decide? Every quarter or
9 every month?

10 MS. BARAJAS: Every month, the rulemaking time line
11 will be in the Board packet. It may not change
12 significantly from month to month, but quarterly I'll be
13 making updates on each of the packages.

14 CHAIR ALIOTO: Excellent. Okay. Great. Thank you
15 so much.

16 And then I'll just ask you to field whatever
17 questions come up there because I can't really see what's
18 happening, if you don't mind.

19 Folks, questions or comments for Millie?

20 MS. BARAJAS: No questions --

21 CHAIR ALIOTO: Okay. Great. Let's go on to the --

22 MS. BARAJAS: -- except the --

23 CHAIR ALIOTO: Yes. Go ahead.

24 MS. BARAJAS: I was going to say the rulemaking time
25 line, we're going to work on the font size. Getting it

1 larger was the one comment I got.

2 CHAIR ALIOTO: Okay. Totally fair because I know
3 it's a large document, so a good comment. Thank you for
4 that.

5 All right. Unless there's anything else,
6 Autumn, let's go to the Legislative Update, please.

7 MS. GONZALEZ: Good morning, Board Chair and Members.

8 The legislature is currently out of session.
9 They're coming back for a special session next month. So
10 if there's anything that happens during that period,
11 we'll let you know. But otherwise, no report this month.

12 CHAIR ALIOTO: Very good. Thank you so much.

13 Let's go to the Cal/OSHA update.

14 Mr. Berg, good morning to you. Would you kindly
15 brief the Board.

16 I'm sorry. I guess there's no questions for
17 Autumn, but I should open it up anyway. Does anyone have
18 any questions for Autumn anyway?

19 MS. BARAJAS: I don't see any.

20 CHAIR ALIOTO: Okay. Great.

21 Eric, if you don't mind, take it away. Thank
22 you.

23 MR. BERG: Thank you, Chair Alioto.

24 I have a PowerPoint to go over the 15-day
25 changes, second 15-day changes to the silica regulation

1 and permanent silica regulation to replace the emergency
2 regulation. So I'll go over those currently.

3 Okay. We have received an update on silicosis
4 cases from the California Department of Public Health,
5 and here in this table you can see by year the number of
6 silicosis cases and you can see it's drastically
7 increased and 2024 is already higher than any other year.

8 So now we have a total of 219 workers since 2019
9 with silicosis cases caused by silica exposure in
10 artificial stone shops, and there have been 14 silicosis
11 deaths and 26 lung transplants.

12 So the problem continues to get worse because
13 these are resulting from usually several years of
14 exposure, at least three years of exposure, so we expect
15 cases to continue to get worse because these are mostly
16 based on exposures that happened in the last few years,
17 and I just want to remind everyone that silicosis is a
18 permanent disease. There's no real cure. A lung
19 transplant extends the life of persons for a little bit,
20 but it's not a solution.

21 And here's a graph showing the growth of
22 silicosis cases in California, and we still do expect
23 many more cases for 2024 as those reports continue to
24 come in.

25 Okay. Now I'll go over some enforcement data we

1 have, just updating that data from my last presentation.

2 So the emergency regulation went into effect
3 December 29th and since that, we have inspected 82
4 fabrication shops and 53 of those inspections have been
5 closed and 29 of those inspections are ongoing, and then
6 50 of the 53 inspections that we've completed had
7 violations, so 94 percent, a high percentage, and then 22
8 of the 82 inspections that have been opened, we issued an
9 order prohibiting use, which basically stops work until
10 they implement the correct engineering controls, you
11 know, using wet methods and also the correct respiratory
12 protection.

13 Okay. Now we'll go over the second 15-day
14 changes. There were four changes made during this last
15 change period.

16 So first, number one, was (a)(3). In the Scope
17 and Application, we moved some of the exceptions that
18 were previously in the definition of "high-exposure
19 trigger tasks," we moved it to the scope just to make it
20 clearer and easier to understand for people.

21 And the second change was in the definition of
22 "high-exposure trigger task." We clarified that
23 definition and had another exception.

24 And then the third was a clarification of the
25 subsection on regulated areas and the exemption for

1 respirator use for short-term exposures.

2 And the fourth change was adding a pictogram to
3 the signage to regulated areas, and the pictogram comes
4 from the HazCom regulation.

5 Okay. So I'll go over each of these in a little
6 more detail.

7 Okay. Now, the first one, as I said, has moved
8 the four exceptions from the definition of "high-exposure
9 trigger tasks" to the Scope and Application of the
10 regulation.

11 Okay. So here is the exception for geologic
12 field research. This is pretty much identical to what we
13 had before, but now it's in the Scope and Application.

14 So all of these exceptions are basically
15 specific industries that are exempted from being covered
16 by the high-exposure trigger task requirements. So the
17 first is geologic field research.

18 The second one listed is quarries, mines,
19 concrete and cement manufacturing. So those are
20 exempted. And geologic field research has some
21 limitations like you work in the field for less than 30
22 days total in a 12-month period and you use respiratory
23 protection, whereas the exception for the quarries,
24 mines, and concrete and cement manufacturing, there's no
25 limitations on that.

1 And then we also have the exception for
2 manufacturing fired ceramic or porcelain tiles. That's a
3 different process than artificial stone. Basically, it's
4 cooked or fired rather than bound together through --
5 through glues.

6 And then the fourth exception is for finishing
7 of natural stone tombstones or monuments, and that one
8 also has a qualifier that they have to have air sampling
9 conducted by a qualified person at least once every six
10 months that shows exposures are under the action level.

11 So all those four exceptions previously existed
12 in the definition, and now they're in the Scope and
13 Application.

14 And the second change we made was to the actual
15 definition of "high-exposure trigger task" and added a
16 new exception to that.

17 Okay. So here's the definition. Everything's
18 the same except for the blue underlined text. So it
19 covers artificial stone the same at 0.1 percent and
20 before we had just natural stone and we added "other
21 silica-containing products." In case something is not
22 artificial stone or natural stone, we didn't want to
23 leave any, I guess, cracks in the regulation.

24 Something went wrong. Okay. Thank you.

25 So we clarified that definition to make sure

1 there's no cracks in the regulation, nothing missing.

2 All right. So here's just a flowchart showing
3 how the regulation works. So if it's artificial stone
4 that's less than 0.1 percent or another silica-containing
5 product, including natural stone, more than 10 percent,
6 then it's in the -- it's called a high-exposure trigger
7 task and if it's not within those, then it's the
8 preexisting Section 5204.

9 And then we had another exception. The
10 exceptions we moved under definition were all by
11 industry and so this exception is different. It's by
12 tasks. So we're saying if it's not fabrication of
13 countertops, backsplashes, walls, countertop edges, and
14 similar products from panels or slabs, there's an
15 exception. So we're putting everything you're seeing on
16 the fab shops that make these countertops and similar
17 products, and then the exception applies if the employer
18 demonstrates employee exposures are below the action
19 level, through representative air sampling conducted by a
20 qualified person every year or in accordance with
21 subsection (d)(3).

22 Okay. And then the third change is a
23 clarification of the exemption for a need for respirator
24 protection for short-term exposures. So we had this
25 exception before, but we just clarified it. It's a

1 pretty small change. So we just made it clear that
2 regulated areas established for high-trigger exposure
3 tasks, this is not applicable to regulated areas under
4 tasks or work covered by the old version of 5204, so we
5 just made that clear this is requiring -- regarding
6 regulated areas established for high-exposure trigger
7 tasks, and nothing else is really changed. It just says
8 respirators are not required in certain circumstances.

9 And the fourth change was to communication. We
10 added a pictogram to the signage at the entryways to
11 regulated areas, and this comes out of the existing
12 HazCom regulation.

13 On the left, you can see the pictogram. So
14 that's -- we added that to what needs to be on the sign,
15 just to make it clear. It's used in in HazCom for
16 carcinogen hazards and respiratory hazards, which both
17 apply to silica. It kind of shows -- I guess it shows
18 the lungs exploding. I'm not exactly sure what it is,
19 but it shows a hazard to the lungs; and then on the
20 right, we have the list of the words that have to be in
21 there. It has to be in Spanish as well, and that's not
22 changed at all. We're just using the pictogram in
23 addition to those words.

24 And that's all the changes. So it's a pretty
25 small set of changes, and I'd be happy to answer any

1 questions you may have.

2 CHAIR ALIOTO: Thank you very much, Mr. Berg.

3 I will just comment on the -- it's a very
4 graphic pictogram, a powerful pictogram, I might add.

5 Any questions or comments from the Board?

6 MS. BARAJAS: Yes. There are.

7 BOARD MEMBER KENNEDY: Thank you, Mr. Berg.

8 I just wanted to get -- could you just give me
9 some examples of either industries or industrial tasks
10 that are covered other than artificial stone, fabrication
11 for surface coverings? So would this include, say,
12 finishing or fabrication on -- with natural stone of
13 buildings that aren't monuments or statues or are those
14 considered related items? "Related items" is a little
15 vague in the exception and I'm just trying to --

16 MR. BERG: Oh, for the exception to --

17 BOARD MEMBER KENNEDY: Yes.

18 MR. BERG: To -- I guess what's exempted from, it's
19 countertops, walls, like shower walls, countertop edges
20 and similar products.

21 BOARD MEMBER KENNEDY: So I guess what I'm really
22 trying to get at is are we really just focusing this
23 regulation on the artificial stone industry?

24 MR. BERG: Well, it would cover natural stone over
25 10 percent silica, too, so it covers that, too.

1 BOARD MEMBER KENNEDY: And that's my question. So
2 what else does it cover?

3 MR. BERG: It would be like a granite as well because
4 granite has more than 10 percent, so it would be granite
5 countertops.

6 BOARD MEMBER KENNEDY: So, again for surfaces.

7 MR. BERG: Yeah, for like surface materials like
8 countertops and shower walls.

9 BOARD MEMBER KENNEDY: Okay.

10 MS. BARAJAS: Okay. Derek --

11 CHAIR ALIOTO: All right. Any other questions from
12 the Board?

13 MS. BARAJAS: Yes, Derek Urwin.

14 BOARD MEMBER URWIN: Just a brief clarifying comment
15 on the pictogram. That's one of the standard health
16 hazard pictograms that's used that indicates
17 carcinogenicity, mutagenicity, respiratory toxicity,
18 reproductive toxicity, and a number of other things. So
19 it sounds appropriate under the circumstances for what
20 you're trying to address.

21 CHAIR ALIOTO: Excellent. Thank you for that
22 insight, Derek.

23 Any other comments or thoughts, questions?

24 MS. BARAJAS: I think that's everything from the
25 Board.

1 CHAIR ALIOTO: Okay. All right. Now we're going to
2 move into Board discussion of the Cal/OSHA Autonomous
3 Agricultural Vehicles memorandum.

4 And Eric, are you going to be making a
5 presentation about that?

6 MR. BERG: No. I don't have any presentation. I
7 think we sent the memo a couple months ago, but it speaks
8 for itself and I also have on the line Jason Denning,
9 Principal Engineer, and Yancy Yap, Senior Safety
10 Engineer. They're subject matter experts with the
11 Division, so they can -- if there's any questions from
12 Board Members, they can help me answer those.

13 CHAIR ALIOTO: Okay. That's great. Thank you for
14 that.

15 Then what we'll do is we'll first do quick
16 discussion questions from the Board and then I think
17 we're going to open it up to public comment. I know
18 there's a number of folks that are going to want to
19 comment on this particular topic.

20 Just by way of background, this agenda item
21 includes a Board discussion on the August 30, 2024
22 memorandum from Cal/OSHA regarding the Autonomous
23 Agricultural Vehicles. It will be in your Board packet.
24 It should be at the very end there, the last tab entitled
25 "Others," and it's the first document for the Board.

1 For those other folks, a copy of this memorandum
2 is also going to be on the table near the entrance to the
3 room and there is also an electronic copy of the Board
4 packet in which this memorandum is located on our website
5 at www.dir.ca.gov/OSHSB and let's just open this up for
6 questions or comments from the Board.

7 Anybody have any questions or comments? I can't
8 really see. Millie?

9 MS. BARAJAS: Chris Davis.

10 BOARD MEMBER LASZCZ-DAVIS: Just a real quick
11 comment. I know the Board had an opportunity to review
12 this subject matter within the last couple of years and I
13 know there was some reticence to address the subject
14 matter. I'm glad to see that it's moving along. I mean,
15 the future is here. It's a perfect opportunity for us to
16 get our arms around this, so good move.

17 CHAIR ALIOTO: Excellent. Great.

18 Any other comments from the Board or questions?

19 MS. BARAJAS: Yes. Dave Harrison.

20 BOARD MEMBER HARRISON: So we're back doing this
21 again and I know over the years we've had a really,
22 really challenging time getting Labor's involvement on
23 this particular topic and so I'm going to encourage the
24 Division staff, whoever's doing the outreach for the
25 proposed advisory committee to do everything they can to

1 get folks from labor involved and hopefully committed to
2 staying engaged on this topic.

3 CHAIR ALIOTO: Excellent. Thank you, Mr. Harrison.

4 Any other comments or questions?

5 MS. BARAJAS: Nothing additional from the Board.

6 CHAIR ALIOTO: All right. So I have a couple of
7 comments and then I have a few questions, too.

8 So first, let me echo Ms. Laszcz-Davis's
9 remarks. Mr. Berg, just identifying this portion of
10 the -- in your introduction to the memorandum that based
11 on the new knowledge, Cal/OSHA rescinds its opposition to
12 the use of autonomous vehicles in agriculture, and I
13 really appreciate the open-mindedness that you have had
14 over the course of the last couple of years. There's a
15 history with this particular regulation, this discussion
16 that far predates my presence on the Board, and I
17 appreciate the work that you all have done on this.

18 I know and I am -- I recognize and I acknowledge
19 and appreciate that your position is coming, one, purely
20 from the interests of protecting California workers and
21 employees and so I want to say thank you for that.

22 I also want to echo Mr. Harrison's comment and I
23 think you note at item 4.0 of your memorandum your
24 commitment to ensuring a well-balanced advisory committee
25 that's not dominated by any one perspective on autonomous

1 vehicles and that of course necessarily requires robust
2 participation not just from industry but also from labor.
3 So I want to appreciate your recognition of that, too.

4 What I want to do, though, is ask some questions
5 about the scope of your memorandum and the scope of the
6 inquiry or the proposal and I'll just address what you're
7 going to probably hear in public comment and that is with
8 respect to the scope of the advisory committee being
9 limited to lightweight, low-power and slow autonomous
10 vehicles, which is defined at page three of your memo as
11 those under 500 pounds, less than 20 horsepower and
12 having a maximum speed of under 2 miles per hour.

13 I would like to have this conversation openly
14 with you and with the representative you have and
15 hopefully with all the members of the Board about what is
16 the proper scope of this?

17 I understand -- I was at FIRA, whatever it was,
18 a month ago. I've seen some of these autonomous vehicles
19 and I think it's extremely important that we have as much
20 clean and proper data as possible in order to make a
21 decision about whether to amend 3441, and how do we go
22 about getting that data seems to be the difficulty here.

23 I recognize and I think if I -- if I'm stating
24 this correctly, Eric, and let me know if I'm not, the
25 reason that you are suggesting that the scope of the

1 advisory committee be limited in this way is because you
2 are concerned about machines that are heavier and faster
3 and the potential for those to harm people, and I
4 couldn't agree more with the suggestion that we want to
5 make sure that we're not moving too quickly and that we
6 are collecting enough data as possible to make an
7 informed decision about this. I appreciate your
8 reluctance to proceed too quickly.

9 The question that I pose for hopefully to have
10 this discussion is, Is this too limiting? Are we
11 limiting this advisory committee, which is not a
12 regulation? We're not passing regulation here, but
13 why -- and I'll pose this to you.

14 Here's my question after that preamble. Why not
15 open this up for a discussion among all of the
16 stakeholders and all of the people concerned about
17 perhaps even having the advisory committee come back with
18 a proposal for what the scope of a potential regulation
19 would be? It strikes me that this will encompass so few
20 autonomous ag vehicles that the advisory committee will
21 effectively -- will not be effective, will ultimately
22 result in recommendations that impact a very small
23 percentage of the agricultural autonomous machines that
24 are in use, like, you know, lawn mower type things and
25 very, very small units.

1 So could you just -- let's talk about this and
2 hopefully have an open and wholesome discussion about it.

3 Mr. Berg, go ahead and comment on that.

4 MR. BERG: Okay. Yeah. These vehicles would be --
5 the small, lightweight, slow vehicles would be ideal for
6 collecting data since that's what we're looking for now
7 is collecting more data, which we were lacking, because
8 they're much less likely to cause injury. So that's why
9 we're wanting to start with these vehicles, because we
10 can collect a lot of data because they work closely with
11 people like in grape harvesting or other areas like that.
12 So they'll be in close contact with people and we can
13 gather data and find out how good the technology works,
14 and since they're smaller and lighter, they're less
15 likely to cause -- they could still cause injury for
16 sure, but they're much less likely to be a serious injury
17 or death. So these are just the ideal vehicles to
18 collect more data.

19 So I guess that's why we want to start out with
20 these. We don't necessarily think that the advisory
21 committee meeting has to be limited to those. That was
22 our idea for, you know, a regulation. The first
23 regulation that would basically apply statewide would be
24 these smaller vehicles and gather a lot of data with
25 these smaller vehicles less likely to cause harm, and

1 they could still cause harm otherwise because they could
2 force people to work faster, which would be very
3 hazardous. So that's why we had the speed limitation,
4 because one of the concerns is basically these robots
5 will control the pace of work and force people to work
6 much faster, more risk of heat illness, more risk of
7 ergonomic injuries and such.

8 But I guess that's what our thought was for a
9 regulation that applies to the whole state and just
10 allows these vehicles wholesale. You want to start with
11 something small that's less likely to cause injury and
12 then get a lot of data from that and then use that to
13 move further. I don't know. So that's -- that's kind
14 of -- that's our thinking. I don't know if that answers
15 your question.

16 CHAIR ALIOTO: All right. If we were -- if we were
17 to vote on and approve the assembly of an advisory
18 committee, would you be open to allowing for that
19 discussion to include regulations that will possibly
20 include larger vehicles?

21 MR. BERG: Yes. We're open to discussions.

22 CHAIR ALIOTO: Yeah. Yeah. So here's what my
23 concern is, is that you have -- we have this advisory
24 committee, the scope is as set forth in your memo for
25 these relatively small machines, we spend all this time

1 and effort to have this advisory committee and developing
2 the roster and having a complete representation from
3 various stakeholders, and then we go into this advisory
4 committee and no discussion is allowed or tolerated for
5 anything that's over 500 pounds or over 20 horsepower or
6 goes faster than 2 miles an hour.

7 Because that would limit the discussion, I
8 think, it seems to me like the idea would be to go in
9 with a blank slate and maybe the idea of the advisory
10 committee should be to develop what the original scope
11 should be of the size of these agricultural vehicles so
12 that we can develop the correct amount of data. Would
13 you agree with that?

14 MR. BERG: Yeah. Yeah. And we're open for the
15 advisory committee to discuss all ideas, yes.

16 CHAIR ALIOTO: Okay. All right. I don't want to --
17 let me just stop there for a moment and ask for any -- is
18 there any other input or questions from the Board on that
19 topic or any other topic?

20 MS. BARAJAS: So Joe, we do have some additional
21 comments up here. But just for a point of clarification,
22 this would be a Board-driven advisory committee.

23 CHAIR ALIOTO: Okay.

24 MS. BARAJAS: Okay. So Chris Laszcz-Davis.

25 CHAIR ALIOTO: Thank you. Thank you for that.

1 BOARD MEMBER LASZCZ-DAVIS: You know, actually, Joe,
2 I liked that line of questioning because that was my
3 thought as I read the MOU or at least the initial
4 rendering.

5 You know, I'm a big believer in looking at the
6 50,000-foot view and then scoping down to where the
7 conversation takes you, so while the focus might be the
8 smaller, lighter-weighted vehicles, I think in the longer
9 term we need to take a look at the broader landscape and
10 I think starting an advisory committee with a clean slate
11 is absolutely critical. Otherwise, it'll be viewed as
12 our being -- our predisposition to a certain outcome and
13 I don't think we want to go there.

14 MS. BARAJAS: Dave Harrison?

15 BOARD MEMBER HARRISON: Yep. So thanks for the
16 comments, Joe. I don't disagree with most of what you
17 said.

18 As I read the memo, I was in support because of
19 the lightweight vehicles and the hazard posed to
20 employees. You know, we tried this experimental variance
21 to collect accurate data and that has been a problem and
22 we found through discovery with that experimental
23 variance that the data collected was not accurate and --
24 because of a multitude of reasons that I don't need to go
25 into.

1 I hesitate to open this up so broad that at some
2 point for the sake of collecting data, employees are put
3 at risk and so I'm more comfortable with the
4 smaller-scope, setting groundwork to collect data and
5 growing from there. I don't have a problem with the
6 conversation during the advisory committee, but I will be
7 way more comfortable with the hazards that are at risk,
8 like I've stated at several meetings prior, to limit the
9 scope to the size of vehicles in the memo.

10 MS. BARAJAS: Nola Kennedy?

11 BOARD MEMBER KENNEDY: Thank you. So I don't
12 disagree with a limited scope. I don't think I like the
13 limitation based on weight and speed necessarily. I
14 think we had a conversation -- it's probably been a year
15 or so ago in which we talked about perhaps starting with
16 the types of autonomous ag equipment that would be used
17 in fields that are not occupied by people and looking at
18 data from them and beginning there because I'm trying to
19 picture these lightweight vehicles and I didn't know
20 about little things that work with grape harvesters, I
21 assume you're talking about, and I thought we were -- at
22 one point had thought about just trying to focus on
23 limited applications.

24 Most of the equipment that I've looked at anyway
25 or has been presented to me has not been related to

1 harvesting and has been related to pesticide spraying,
2 which could potentially really reduce occupational
3 exposures, and tillage and those types of operations that
4 don't require a lot of workers working beside the
5 machinery.

6 So, you know, that's a limited scope I think I'd
7 be more comfortable with than just a lightweight vehicle
8 that's moving slowly. But again, I like the idea of
9 leaving this conversation up to the advisory committee to
10 think about what would be the best place to start.

11 MS. BARAJAS: Okay. Kathleen?

12 MR. BERG: I was just going to comment. I think
13 pesticide application is a good idea because there's
14 usually no employees there except for the driver and if
15 we can reduce exposure to pesticides, that's always good
16 because they can be very dangerous.

17 BOARD MEMBER CRAWFORD: I'm really comfortable
18 leaving this discussion to the advisory committee. I
19 think that's exactly the right way to go and I also just
20 want to go on the record that I am so pleased that this
21 is going forward and I think we have a lot of great
22 people involved that can come to the right conclusions to
23 move it forward for the State.

24 CHAIR ALIOTO: Excellent. Any other comments?

25 MS. BARAJAS: No.

1 CHAIR ALIOTO: I -- let me just then address some of
2 these.

3 First of all, Nola's point about the limitation
4 being related to weight or speed, I don't want to call it
5 arbitrary. It's not arbitrary, but it might not be as
6 directly related to protecting folks whereas these
7 pesticide applications that we saw, if I'm not
8 mistaken -- I'm obviously not an expert on this
9 particular topic, but even when people are spraying
10 currently, they have to clear all the neighboring fields,
11 everybody's got to be gone, and really the only person
12 that might be exposed to those pesticides, which are
13 extremely highly regulated, is the driver. So there's
14 certainly something to be said about those machines where
15 autonomous use of these machines would actually be
16 protecting workers more thoroughly than they're being
17 protected now.

18 Dave's hesitation, I'll call it, Dave -- I hope
19 that's fair -- is one that I share, too. None of us on
20 the Board, I don't think -- certainly nobody on this
21 Board wants to move ahead so quickly as to put anybody in
22 danger. I don't think anybody's going to do that.

23 I think it's important that we collect the data,
24 but it's also important that we have valuable data that's
25 something that we can use going forward. I'm not sure

1 how much valuable data we're going to be able to collect
2 from if we limit the discussion of this advisory
3 committee to such small machines.

4 So it sounds to me like we have some consensus
5 on the Board about moving forward with an advisory
6 committee that's open-ended. I think Dave might have
7 some different thoughts on this, but it's somewhat
8 open-ended to allow for a discussion among these people
9 who would then come back to us with a proposal for a
10 regulation that might be aimed at collecting data and
11 with the recognition and I can tell the people that
12 are the stakeholders, many of them are present at this
13 meeting, I think you all recognize that there's going to
14 be a hesitancy to speed ahead with this in a way that's
15 not reasonable. And so I think on behalf of the comments
16 I think on behalf of everybody, it feels like we should
17 not have a limitation on what the advisory committee
18 should discuss, that we should keep this issue open and
19 that these are exactly the types of issues that should be
20 resolved in spirited debate at the advisory committee.

21 All right. Anybody else? Thoughts? Comments?
22 Questions at all?

23 All right. Autumn, is there some -- is there a
24 way that -- are we going to vote on something here or can
25 we vote on something or does it have to be properly

1 noticed?

2 MS. GONZALEZ: I think it would be appropriate at
3 this point for someone to make a motion and then the
4 Board can vote on it, just so we have it in our records
5 that that's what we did.

6 CHAIR ALIOTO: Okay. If we do do that, would we do
7 that before or after public comment?

8 MS. GONZALEZ: Probably appropriate to let the public
9 go ahead and comment first in case they raise something
10 you end up wanting to address in your motion.

11 CHAIR ALIOTO: Okay. Great. I agree with that. So
12 let's do that. Why don't we go ahead to public comment.

13 Folks that are present in person, why don't you
14 go ahead and start lining up and for commenters attending
15 via teleconference or videoconference, please listen for
16 your name and an invitation to speak. If you don't mind,
17 please make sure that you are in the queue for discussing
18 this topic.

19 Yes. I think Ruth's waving at me. Are you
20 waving at me, Ruth?

21 MS. IBARRA: I have a comment. We received a
22 comment. Sorry. We received a comment via the non-agenda
23 comments from Anna Ferrera.

24 "Good morning, Cal/OSHA Safety and
25 Health Standards Board and Staff. Thank you

1 for the opportunity to comment on the agenda
2 item Board's Discussion of Cal/OSHA
3 Autonomous Agricultural Vehicles Memorandum
4 and Advisory Committee.

5 "On behalf of Wine Institute, a public
6 policy advocacy group representing more than
7 1,000 California wineries and affiliated
8 organizations responsible for 85 percent of
9 the nation's wine production, we would like
10 to align ourselves with the testimony of
11 California Association of Winegrape Growers,
12 CAWG, regarding the Cal/OSHA Autonomous
13 Agricultural Vehicles Memorandum and
14 Advisory Board.

15 "The CAWG Wine Institute believes that
16 in the interest of a safer workplace and
17 better working environment through
18 technology, the regulation in place needs
19 updating. If the Board approves an advisory
20 committee on this issue, Wine Institute
21 believes that this committee be empowered to
22 gather data more broadly to include
23 equipment used in vineyards and other
24 agricultural, in current and actual
25 workplace settings.

1 "Finally, we support CAWG's comments
2 regarding how section 3441 is applied during
3 the interim period when the advisory board
4 is not doing its work.

5 "Please contact me with any questions
6 regarding these comments.

7 "Anna Ferrera, Director, Legislative
8 and Regulatory Affairs, Wine Institute."

9 Thank you.

10 CHAIR ALIOTO: Excellent. Thank you, Ruth. Were
11 there any other submissions on this particular topic,
12 just related to this agenda item?

13 MS. GONZALEZ: No.

14 CHAIR ALIOTO: Great. Why don't we go ahead and
15 start with the in-person speakers, and please limit your
16 comments to three minutes, and if you don't mind just
17 introducing yourself to begin.

18 MS. ORTIZ: Of course.

19 CHAIR ALIOTO: Thank you.

20 MS. ORTIZ: Good morning, Chair and Members. My name
21 is Maegan Ortiz. I'm the Executive Director of the
22 Instituto De Educacion Popular Del Sur De California,
23 IDEPSCA, the largest worker center in the state, working
24 specifically with day laborers and domestic workers.

25 One, I would like to make public comment on the

1 public comment issue. I appreciate the attempt to come
2 to some solution so that this doesn't come so late for
3 people; however, I will note that the email solution
4 still doesn't address a lot of concerns, especially for
5 workers and other members of the public who actually
6 don't have access to the Internet and email for a number
7 of reasons, including lack of broadband access and
8 literacy across languages.

9 The majority of people who come and stay
10 throughout the meeting, including myself, are coming here
11 in the scope of our roles, our jobs, so we can afford to
12 stay. Workers who are most directly impacted, though,
13 are not usually paid to be able to testify and provide
14 comment on issues that impact them directly.

15 Regarding silicosis, you know, thank you,
16 Director Berg, Deputy Director Berg, for sharing updates,
17 as we're in the epicenter of the silicosis crisis here in
18 Los Angeles. IDEPSCA has been doing outreach and
19 education with workers and employers. Our outreach team
20 is actually here today. We know that cases are going up.
21 Deaths are going up. Lung transplants are going up. We
22 had an event a few weeks ago that had the participation
23 of Cal/OSHA and other community members and we know that
24 these are undercounts, actually, right, given the fact
25 that it takes time to diagnose this illness and because

1 the population, predominantly a male immigrant workforce
2 that is uninsured and/or underinsured with English not as
3 their primary language.

4 We are really pleased with the inclusion of the
5 pictogram, as per our recommendations, given the fact
6 that we have workers who are not just English dominant
7 but also may not even be Spanish dominant.

8 We also do want to share, though, that we do
9 also know that exposure to respirable crystalline silica
10 also occurs in demolition and installation where there's
11 a lot of dry cutting happening and we look forward to
12 figuring out how to protect those workers as well who are
13 often the same workers.

14 And I think, finally, with the 30 seconds I have
15 left, given the recent decision to allow for continued
16 forced labor inside of California prisons and given that
17 under California Labor Code, prisoners engaged in the
18 correctional industry are deemed to be employees, we
19 really urge the Division to draft a corrections-specific
20 indoor heat guideline to protect those workers and
21 prisoners and other employees inside the system.

22 Thank you.

23 CHAIR ALIOTO: All right. Thank you very much for
24 your comments.

25 We are going to continue during this period,

1 however, with just comments related to this agenda item,
2 and this agenda item is only autonomous agriculture. So
3 we'll first take that and then we are going to go into
4 the non-agenda item public comment later in the meeting.

5 So if you have comments about autonomous ag,
6 please line up to the microphone and go ahead with the
7 next speaker.

8 MS. GUERRERO DELEON: Hello. My name is Renee
9 Guerrero Deleon. I'm with the Southern California
10 Coalition for Occupational Safety and Health.

11 I'll get into some of the other comments later,
12 but speaking around autonomous vehicles, I wanted to
13 express concern around the use of autonomous vehicles
14 around agricultural workers. If you're on a work site,
15 you should be able to know about the presence of a
16 vehicle in use and if we want to fully understand what
17 autonomous vehicles means for the workers on the ground,
18 there should be a way in which workers and also worker
19 advocates can report incidents or accidents without fear
20 of retaliation and we hope that the Board exercises
21 caution without creating an unregulated landscape for
22 autonomous vehicles in which workers face direct
23 consequence, because technological advancements in the
24 state do not mean that workers have to be sacrificial.

25 Thank you.

1 CHAIR ALIOTO: Thank you.

2 The next speaker?

3 MS. BARAJAS: There's no one additional in the
4 audience.

5 CHAIR ALIOTO: Okay. Great. Thank you.

6 Let's go, Mr. Roensch, if we can go to online
7 speakers, just on autonomous agriculture, please.

8 MR. ROENSCH: Yes, Mr. Chairman. We have several
9 commenters today. It looks like seven. We will start
10 with Dan Merkley from the California Winegrape Growers
11 Association and then we'll move to Nick Tindall.

12 Danny Merkley, you're ready to speak. If you're
13 ready to speak now, you may address the Board.

14 MR. MERKLEY: Yes. Thank you, Board Chair, Members,
15 and Staff. I am Danny Merkley with the Gualco Group,
16 representing the California Association of Winegrape
17 Growers.

18 As you all know, Michael Miller has been working
19 on this issue for about four years now. Unfortunately,
20 he's unable to participate in the hearing today and asked
21 me to provide some very brief comments on his behalf.

22 First and foremost, Winegrape Growers fully
23 support the creation of the advisory committee.
24 Mr. Miiller would also like to offer himself and the
25 association as a resource and he would be happy to serve

1 on the advisory committee as well.

2 This work is so critically important to vineyard
3 growers because this technology provides for a safer
4 workplace, is better for the environment, and represents
5 the future of farming.

6 Conversely, the regulation that is currently in
7 place is 50 years old and does not recognize the
8 innovation of the last five decades. If an advisory
9 committee is created today, we would ask that the
10 committee be empowered to gather real data from real
11 equipment that is used in real agricultural workplace
12 settings.

13 For example, looking to DMV as a model, as DMV
14 continues to gather data on autonomous cars, it is not
15 relying on data from autonomous mini carts on a closed
16 track at Sonoma Raceway. Instead, DMV is looking at real
17 vehicles in use on California streets. We recommend that
18 we take a similar approach with this advisory committee.

19 For this to be successful, the Board may want to
20 look at how Section 3441 would be applied in the interim
21 period while the advisory committee is doing its work.
22 If the equipment that is being studied is prohibited
23 under Section 3441, that prohibition would substantially
24 hamper the advisory committee's ability to study the
25 issue and to then make an informed recommendation based

1 on real data from California workplaces.

2 Mr. Miiller asked me to express his appreciation
3 for the Board's and the Division's work on this important
4 issue and he looks forward to continue working with all
5 in updating section 3441 to reflect today's science,
6 technology and innovation.

7 Thank you for your continued interest in the use
8 of technology in the agricultural workplace.

9 CHAIR ALIOTO: Thank you, Mr. Merkley. We appreciate
10 your comments. Please send our appreciation to
11 Mr. Miiller as well.

12 MR. MERKLEY: Will do.

13 CHAIR ALIOTO: Mr. Merkley -- the next speaker.

14 Thank you, Mr. Merkley. Thank you for coming
15 today.

16 MR. ROENSCH: Chairman Alioto, our next commenter
17 online that is preregistered for this topic is Nick
18 Tindall. Mr. Tindall is with the Association of
19 Equipment Manufacturers, and after Mr. Tindall will be
20 Bryan Little.

21 Mr. Tindall, if you are with us on WebEx, please
22 address the Board.

23 MR. TINDALL: Are you able to hear me?

24 MR. ROENSCH: Yes, we are.

25 MR. TINDALL: Hello? Okay. Thank you very much.

1 Again, I'm Nick Tindall, Senior Director of
2 Regulatory Affairs with the Association of Equipment
3 Manufacturers. We represent the off-road equipment
4 manufacturers for anything you see on a construction,
5 farm, utility, mining site, one of our thousand-plus
6 member companies is probably the manufacturer of that
7 product or service.

8 Off-road autonomous equipment has been around
9 now for some time in the mining field. Over 90 million
10 miles of autonomous trucks have been driving around with
11 not a single reported incident and today autonomous
12 agricultural equipment is used across the Midwest and in
13 a variety of other states, performing all sorts of
14 different functions, and we would like to align ourselves
15 with the comments made by the California Winegrape
16 Growers.

17 We do fully support the creation of this
18 advisory committee and really do applaud the Board
19 Members for their willingness to learn about these
20 topics, particularly in your attendance at the FIRA tour
21 last month.

22 We do also want to urge that the advisory
23 committee looks at real equipment and real situations on
24 real California farms, not in a laboratory study, but
25 it's important to grab actual data and how this stuff

1 will be operated and used in real-world conditions and
2 encourage that the Board -- the advisory committee have
3 the broad scope of the equipment it's looking at. I
4 think none of the pieces of equipment that were viewed on
5 the tour in October would actually fall under the current
6 scope because the fact of the matter is there's a wide
7 range of functions that can be used and it's just
8 important to try to make this advisory committee work as
9 relevant as possible because this technology continues to
10 advance at a breakneck speed and I would hate for
11 California growers to be left behind.

12 AEM hopes to be an active participant in this
13 and please use us as a resource, and thank you for your
14 time and attention to this important topic.

15 CHAIR ALIOTO: Thank you, Mr. Tindall. We appreciate
16 your comments.

17 Mr. Little?

18 MR. ROENSCH: Bryan Little with the California Farm
19 Bureau, you're up next.

20 Mr. Chairman, with your permission, since we are
21 not hearing yet from Mr. Little, I'd like to move on to
22 the next commenter.

23 CHAIR ALIOTO: Please do. Thank you.

24 MR. ROENSCH: Anna Ferrera with the Wine Institute is
25 on the line and has requested to comment on this topic.

1 After Anna will be Anne Katten.

2 Ms. Ferrera, if you're available, please address
3 the Board.

4 CHAIR ALIOTO: Anna, I believe --

5 MS. FERRERA: Thank you so much.

6 CHAIR ALIOTO: -- your comments have been read into
7 the record, but you go ahead.

8 MS. FERRERA: That's exactly what I was going to say.
9 I didn't know if I would be here until the very end, so
10 they have been read into the system, so I appreciate that
11 and have nothing more to say. Thank you.

12 CHAIR ALIOTO: Great. Thank you so much for your
13 comments. Thank you for participating.

14 MR. ROENSCH: Great. Then the next up will be
15 Anne Katten and then after Anne will be Cassie Hilaski.
16 Anne is with the California Rural League Assistance
17 Foundation.

18 And Ms. Katten, if you'd like to address the
19 Board, please do.

20 MS. KATTEN: Yes. Good morning. I am Anne Katten
21 with the farmworker advocacy organization California
22 Rural Legal Assistance Foundation, and welcome to Board
23 Member Urwin and greetings to all the rest.

24 We appreciate Cal/OSHA's recent memo and we
25 recognize that California OSHA doesn't have jurisdiction

1 to enforce if there aren't any workers in an area where
2 there are autonomous equipment being used, but Cal/OSHA
3 does have a role if employers don't have a policy to
4 assure that workers don't enter that area, policy
5 including notification, training and signage, and we
6 think that guidance needs to be developed right away and
7 posted on the Cal/OSHA's website as soon as possible and
8 that this also needs to be included as a topic for
9 rulemaking by an adv- -- by the advisory committee if it
10 is convened.

11 We agree with Cal/OSHA's recommendation to
12 collect data first from lightweight, slow-moving
13 vehicles, but we also share the concern that these
14 vehicles could increase the pace of work as they have in
15 warehouse work.

16 We continue to have very grave concerns about
17 hazards of use of autonomous equipment or any driverless
18 equipment in agricultural fields, especially larger
19 vehicles where workers are present and often working at
20 fast pace on uneven ground near or on equipment. Sensors
21 and cameras could be obstructed by dust and mud and
22 damaged by contact with branches and debris, and also
23 spotty cellular service in remote areas could interfere
24 with reliable remote operation of the equipment.

25 We are -- you know, we'll certainly participate

1 actively in any advisory committee that is convened, but,
2 you know, we think it is important to go very slowly with
3 this and also to recognize in California, there's a lot
4 more very labor-intensive work than in the Midwest where
5 these machines have until now mainly been used.

6 A collision obviously with larger equipment can
7 cause debilitating injuries and kill workers and has, you
8 know, in the past and, you know, continues to in
9 agriculture. Thank you.

10 CHAIR ALIOTO: Thank you, Ms. Katten.

11 MR. ROENSCH: Next up be Cassie Hilaski with Nibbi
12 Brothers. After Ms. Hilaski, Kevin Bland with CFCA/WSC
13 will be our commenter.

14 Ms. Hilaski, if you're ready, please make your
15 comment.

16 MS. HILASKI: I'm ready. Good morning. So I
17 actually intended my comments to be under the general
18 comments section, so if you could kind of put me back in
19 the queue for that, but since I'm already here, just a
20 couple of comments on agricultural.

21 I definitely support and liked the Board's
22 comments about keeping the conversation starts at a broad
23 level and then narrowing down the scope for data
24 collection to be based on not just size but also the
25 exposure of the employees so you don't limit yourself too

1 much and cannot -- can also capture really meaningful
2 data that wouldn't require exposure of employees.

3 So thank you and, again, if you can reput me
4 into the -- I wanted to talk about autonomous vehicles on
5 the city streets. Thank you.

6 CHAIR ALIOTO: Thank you, Ms. Hilaski.

7 MR. ROENSCH: Very good. Our next commenter is
8 Mr. Kevin Bland with CFCA/WSC and following Mr. Bland
9 will be Matthew Allen. Mr. Bland, if you're available to
10 make a comment, please do.

11 MR. BLAND: Thank you.

12 Good morning, Chair, Board Members. Welcome,
13 Mr. Urwin, to the fray here. I think you'll be a
14 valuable member to the group.

15 Just real quickly, I want to reiterate, I think
16 what I heard from Chair Alioto, in agreement, in that the
17 idea of limiting a scope before you've determined the
18 scope, so to speak, I think will stifle trying to
19 accomplish something for safety here. I think it's
20 important, and I know I'm kind of repeating what a lot of
21 folks have said, but I feel it's important to point this
22 out is that if the idea is to have a vivid discussion on
23 safety and how the autonomous vehicles provide safety or
24 not in some arenas, I think we need to do that in an open
25 advisory committee so we can have robust discussion by

1 stakeholders and ferret out the opinions without
2 predisposing what the opinions are or should be by
3 limiting the scope of the advisory. So I urge this to be
4 a broader conversation and any limits or expansions
5 should come from that advisory committee group.

6 It's interesting that -- and we can't move
7 forward without any data, but if we stifle the process of
8 trying to get that data, then it becomes a
9 self-fulfilling prophecy that we never have any data and
10 I think that's what we can run into here if we don't open
11 this up and continue with the advancements.

12 And just one -- one comment on kind of a
13 personal note. Interestingly, or -- you know, we're
14 worried about the technology without having, you know, a
15 driver there. My last three fatality cases were struck
16 by equipment with a driver there. Had we had this
17 technology kind of like what we have in other areas,
18 those three lives would still be here, more than likely.

19 So I don't want us to lose sight of that, and
20 make sure our focus is in the right direction for the
21 safety of the men and women working in California.

22 So with that, thank you very much.

23 CHAIR ALIOTO: Thank you, Mr. Bland.

24 MR. BLAND: Oh, one last thing. I do want to be on
25 the advisory committee if and when it takes place, if you

1 can add me to that list of potentials. Thank you.

2 CHAIR ALIOTO: Thank you very much. I think --
3 Mr. Allen, I think you're up.

4 MR. ALLEN: Good morning, Mr. Chair and Members of
5 the Board. I'm Matthew Allen with Western Growers
6 Association. We represent growers in the fresh produce
7 industry in California, Arizona, New Mexico, and
8 Colorado.

9 I am very pleased that we're having this
10 conversation today. We are very supportive of the
11 formation of the advisory committee and believe that we
12 should be looking at real-world actual data out on the
13 farm and not presupposing outcomes and limiting that
14 conversation at the forefront.

15 In the interest of time, I would just align the
16 remainder of my comments and align those with CAWG, AEM,
17 and Kevin Bland. And thank you for your time today.

18 CHAIR ALIOTO: Thank you.

19 MR. ROENSCH: Mr. Chairman, our next commenter is
20 Mitch Steiger with CFT.

21 MR. STEIGER: Thank you, Mr. Chairman, Members.
22 Mitch Steiger with CFT. We are a union of educators and
23 classified workers across California.

24 While we don't represent agricultural workers,
25 we did want to stand in solidarity with the concerns

1 raised by Anne Katten from CRLA and the issues raised
2 there.

3 We also wanted to really raise some serious
4 concerns about the precedent that we're setting here by
5 moving forward with this proposal. I've been listening
6 to a lot of the testimony not just today but over the
7 years that this issue has been being discussed and still
8 really haven't heard much of a compelling argument for
9 why we're moving forward with this technology other than
10 very general arguments of safety and environmental
11 responsibility regarding harmful effects on the
12 environment.

13 There is nothing that stops a tractor with a
14 human being on it from being propelled by electricity or
15 something other than fossil fuels, so I'm not sure that
16 that's a real compelling argument. But as far as safety,
17 we don't really know if these things are safe or not
18 other than self-reported data from the industry that says
19 everything is fine.

20 There were a lot of problems with data
21 collection with the experimental variance. I was in a
22 vehicle last night that had an automatic braking system
23 that engaged out of nowhere when there was nothing in
24 front of me. I happened to be eating. Food flew all
25 over the railcar, but this technology fails.

1 When I was at the labor fed and I was there to
2 see a demonstration of this in Tulare at the farm show,
3 multiple exhibitors were unable to demonstrate the
4 technology because it wasn't working and all of which
5 seems to point back to an argument that's been raised
6 over and over again in relation to this issue that what
7 we need to do is design this technology to take advantage
8 of the best of people and the best of machinery. We
9 should have the safest technology available, but we
10 should also have a human being aboard to make sure that
11 they are there to take over when the machines fail.

12 This proposal seems to be moving in the opposite
13 direction of exploring a world where we don't have
14 workers on these machines, but there doesn't really seem
15 to be a good argument for getting rid of them other than
16 these very general arguments of safety; but, again, we
17 strongly disagree with that and really think that you do
18 need a person there to take over. But the precedent here
19 that we're most concerned with is that there is this
20 argument that when there is a hazard associated with a
21 workplace, we should just get rid of the worker in order
22 to make it safe. We're not here to say there's never a
23 place for that argument. Earlier today we were
24 discussing silica. That's the kind of industry where
25 maybe we should come up with some sort of a standard

1 where if a certain percentage of workers are going to
2 die, maybe we should consider banning this industry or
3 banning this type of activity.

4 I don't know that we're there yet with
5 agricultural and if we are there, that sort of a question
6 should come from the workers, not from the industry that
7 stands to make a bunch of money from the technology. So
8 we would really urge caution, we would urge moving
9 slowly, and we would really recommend that where we take
10 such a big step forward in introducing technology into
11 the workplace that we have stronger arguments in favor of
12 it before we move forward. Thank you.

13 CHAIR ALIOTO: Mr. Steiger, thank you very much for
14 your comments.

15 MR. ROENSCH: Mr. Chairman, we have a number of hands
16 that are raised. We have three hands that are raised at
17 this time. I'd just like to on your behalf, if I may,
18 make the announcement that at this time, we're taking
19 comments on the specific topic autonomous vehicles for
20 agriculture and the question we are asking is if you'd
21 like to make comments with respect to that topic.

22 If you have your hand raised online, we'll call
23 on you. If you don't have your intention to make a
24 comment on that particular topic, please lower your hand
25 at this time and we'll call on others.

1 And so with that, Mr. Chairman, I will announce
2 that Mr. Dan Leacox has raised his hand for this topic.

3 MR. LEACOX: Yeah. Thank you. I'll make this very
4 brief. I just wanted to offer some "Me, too" applause
5 for not letting process interfere with the consideration
6 of alternatives, something I've been sounding for a bit
7 now, and this is a very nice example of, you know,
8 opening up the discussion to considering alternative
9 approaches, in this case, you know, how to move forward
10 on this issue. So others have said it, said it better.
11 I just wanted to chime in on that and say thank you.

12 CHAIR ALIOTO: Thank you, Mr. Leacox. I appreciate
13 you participating.

14 MR. ROENSCH: Our next hand raised is from Robert
15 Moutrie with the California Chamber of Commerce.

16 CHAIR ALIOTO: Mr. Moutrie, good morning.

17 MR. MOUTRIE: Yes. It's still morning. Good
18 morning, Chair Alioto. Robert Moutrie with the
19 California Chamber of Commerce.

20 First, I'd like to of course wish
21 congratulations and welcome to our newest member, Derek
22 Urwin. I look forward to meeting you in person when the
23 time comes, and of course good morning to everyone else,
24 staff as well.

25 On this advisory committee and then, like my

1 colleague Cassie Hilaski, I do have general comments to
2 add at the end, I would like to add a question that
3 hasn't been asked, which is, Can -- you know, we've been
4 discussing whether this should be limited in scope or
5 not, but I think a follow-up question is if we were to
6 limit the scope of our own discussions in the advisory
7 committee, let's say, we limited it as outlined in the
8 memo -- which is quite, quite limited in the scope of
9 vehicles in reality -- how long would it be before we
10 would have the chance to revisit it in a following
11 advisory committee, given the amount of work staff
12 presently has? Because my concern is -- I obviously side
13 with those who would say we should be able to at least
14 discuss the use of broader technology and gather data
15 from that technology, but if we were to limit it, I'm
16 afraid with the staff's workload, it would be another
17 decade before we could look at actually getting to using
18 technology, which is, you know, already used elsewhere
19 and I would say it's already decades behind what's on the
20 street in cars.

21 So the time line that we might look at for a
22 subsequent advisory committee I think is something that
23 hasn't been discussed and I just want to flag for the
24 Board or the staff's thoughts on.

25 Secondarily, I want to flag a personalized note.

1 Kevin made the point that an automated vehicle can, in
2 fact, be safer than a person driving. I will say I
3 consider myself a very good driver. I've only had one
4 accident in my life. I have had the automated features
5 of my present vehicle make me safer and protect me and so
6 I think that, you know, we are in a place where -- it's
7 somewhat absurd to me that we are in a place where we are
8 talking about whether or not it's okay to talk about
9 considering broader technology. I think the discussion
10 certainly should be had broadly because the technology
11 can make it safer for all of us.

12 Thank you. And, again, I'd like to be put back
13 in the queue for the public comment.

14 CHAIR ALIOTO: Thank you, Mr. Moutrie. I appreciate
15 your comments very much.

16 Any other comments?

17 MR. ROENSCH: Yes, Mr. Chairman. We have two
18 additional hands raised. The next up is Jassy Grewal.

19 MS. GREWAL: Hi. This is Jassy Grewal with the
20 United Food and Commercial Workers, Western States
21 Council, a union that does represent farmworkers
22 particularly in the Monterey-Salinas area and the
23 Coachella Valley.

24 We speak today to share concerns about expanding
25 the scope of the advisory committee, especially as it

1 relates to data. As we know from the experimental
2 variance, there were significant concerns with the data
3 collection and so we would ask the Standards Board and
4 prep for the advisory committee to be able to share what
5 those concerns were and how they plan to overcome those
6 concerns throughout this process of data collection,
7 especially as we are talking about not just light-duty
8 vehicles but heavy-duty vehicles.

9 If data is going to be the center of our arguments
10 for whether we allow this or what protections should be
11 in place, we need to make sure that we have compliance
12 and a willingness from companies to be able to share that
13 data and actually report it correctly and not hide the
14 data and say that there aren't issues and concerns.

15 I'll keep my comments there, but we have several
16 comments that we would like to also additionally add for
17 what should be included in the regulatory process and
18 then would like to align our comments with the
19 California -- the Rural Legal Assistance Foundation and
20 those of CFT and those pending by Worksafe. Thank you.

21 CHAIR ALIOTO: Thank you so much very much,
22 Ms. Grewal, for those comments.

23 MR. ROENSCH: Our next commenter is AnaStacia Wright.

24 MS. WRIGHT: Hi, everybody. Just very quickly,
25 AnaStacia Wright with Worksafe and I just wanted to "Me

1 too" the comments on autonomous vehicles made by Anne
2 Katten at CRLAF, Renee Deleon at SoCalCOSH and Jassy
3 Grewal at UFCW and Mitch Steiger at CFT. Thank you.

4 CHAIR ALIOTO: Thank you.

5 MR. ROENSCH: Mr. Chairman, there are no additional
6 hands raised for this topic.

7 CHAIR ALIOTO: Okay. Let's do a last call online if
8 you want to talk about autonomous vehicles and then also
9 anybody in person.

10 Is there anybody in person that would like to
11 make a comment on this topic? Can somebody over there
12 let me know?

13 MS. BARAJAS: No. I don't see anyone.

14 CHAIR ALIOTO: Okay. So no one there, and no
15 additional hands online, Mr. Roensch?

16 MR. ROENSCH: Correct. We have no additional hands
17 raised.

18 CHAIR ALIOTO: Okay. Great.

19 So let's close the public comment on this
20 particular item and let's open it back up for further
21 discussion, further questions, and a possible motion and
22 vote.

23 Let's go to the Board. What do you guys think?

24 I have some thoughts. If there's nobody that
25 has comments, I have a comment or two.

1 MS. BARAJAS: I think go ahead, Joe.

2 CHAIR ALIOTO: All right. So I want to address
3 specifically -- and I'm sorry, Renee, that I missed your
4 last name, but I want to say to Renee, to Ms. Katten, to
5 Mr. Steiger, to Ms. Grewal and to Ms. Wright, so you are
6 the kinds of folks specifically that we need on an
7 advisory committee like the one we're talking about.

8 We have a lot of representatives from
9 agricultural farming, we have a lot of representatives
10 from the manufacturers, from the farming industry, and I
11 just want to address Mr. Harrison's point at the outset
12 about let's make sure that this is balanced. We need
13 your views. Okay? We need everybody's views on topics
14 that are this important and that are going to impact
15 folks that are out in the field.

16 So specifically to those -- to Ms. Grewal and I
17 think to Renee, both of whom -- and perhaps Ms. Katten,
18 too. I don't know. Maybe all of you that to the extent
19 you represent agricultural workers, your voices must be
20 heard and I just want to say that it's folks like you
21 that make the discussions important and move forward.

22 All right. So I've said that.

23 Now, the other thing I want to say is let's talk
24 about if we're going to do this, if we're going to
25 assemble this advisory committee, just to kind of address

1 everybody's comments at the outset, is this an advisory
2 committee that collects data or is this an advisory
3 committee to propose a regulation change?

4 It seems to me from my own point of view is
5 let's collect data that's good, quality data that's not
6 tainted by any bias of those that are presenting the
7 data, and how do we go about doing that? That to me is
8 the way to start, but I think that the way we collect
9 that data is by collecting it from as many different
10 types of real-world machines as we can. Once we have
11 that data, then we can start thinking about making
12 decisions on a regulatory change. That would be my
13 approach.

14 And then I just want to talk, if we can, a
15 little bit about what these variances have been and why
16 they didn't work and, you know, what we're -- how we're
17 proposing to go ahead and collect this data if the
18 machines we're talking about collecting data from are
19 currently in violation of 3441, just to kind of
20 broadly look -- I don't know. Those are my thoughts.

21 Any comments or questions about that?

22 BOARD MEMBER HARRISON: I like the approach, Joe.
23 This is Dave. The approach of collecting data first,
24 good, reliable data, and I would encourage the committee
25 to consider hands-on observations on the data that's

1 being reported from the Division or whichever agency
2 would be responsible for that -- I believe the
3 Division -- to have unlimited access to these work sites
4 that we're talking about, because that was one of the
5 problems with the experimental variance that was
6 previously granted by the Division, was access to the
7 work sites originally. So I think that would be
8 something that I would encourage once we get to that
9 point, to make sure that that's included.

10 CHAIR ALIOTO: Okay. So just to try to direct the
11 conversation a little bit, are we talking about then an
12 advisory committee, the purpose of which is to collect as
13 much clean, robust data across the industry as possible?

14 I'll leave that open-ended for anybody who has
15 thoughts.

16 BOARD MEMBER HARRISON: I can support that.

17 CHAIR ALIOTO: Okay. Let me ask you, Mr. Berg, how
18 do we do this? How would you do this practically? Would
19 there be another variance required or could there -- how
20 would we collect data from larger tractors that require
21 drivers if those can't be operated without drivers? Is
22 there a variance required? Can somebody sit in the
23 cockpit? I mean, how are we going to -- I mean, maybe
24 these are things that you'd have to answer in the
25 advisory committee.

1 MR. BERG: Yeah. I mean, they can be used now with a
2 driver at the controls observing how the machine
3 performs. There's nothing prohibiting the driver at the
4 controls. So it has -- it's an autonomous tractor
5 functioning in time. If it has a driver there present to
6 take control if needed, that would be perfectly fine
7 under the existing regulations.

8 CHAIR ALIOTO: Okay. Who else has thoughts?

9 BOARD MEMBER KENNEDY: I just want to mention that I
10 think -- I mean, I'm a big -- I always talk about data
11 and I'm a big fan of data. When we are talking about
12 data collection, that's not a small task and I'm trying
13 to imagine -- I mean, let me start by saying I'm in favor
14 of pulling together an advisory committee to talk about
15 how we're going to approach this and to define a scope,
16 but data collection takes people to get out there and
17 collect the data and if the Division is the one who's
18 going to be collecting the data, I think this is a pretty
19 hard-pressed group to get their current plate of work
20 done and, you know, how are we going to support that
21 effort?

22 You know, I'm not trying to throw monkey
23 wrenches in things, but we have to be realistic about
24 where are we going to get our data? I mean, there's a
25 lot of work being done in other states using autonomous

1 agricultural equipment. I don't know why we're so
2 focused on collecting data just in California. It seems
3 to me there could be university studies that are being
4 done that focus on this.

5 I'm just a little worried that if we limit this
6 to just data collection as opposed to having the advisory
7 committee sort of define a scope and what steps need to
8 be taken next in this process that we're going to get
9 bogged down with not collecting any data.

10 MR. BERG: The advisory committee could look at data
11 from all sorts of --

12 BOARD MEMBER KENNEDY: Yeah.

13 MR. BERG: Yeah. They could get it from California.
14 They could look at it from out of state. They could look
15 internationally --

16 BOARD MEMBER KENNEDY: Yeah. And there's also --

17 MR. BERG: -- and it doesn't have to be
18 Division-collected data.

19 BOARD MEMBER KENNEDY: Okay. Great. That's -- you
20 know, that's what it feels like when we were asking would
21 the Division be the one --

22 MR. BERG: Oh, no. That's just one way of doing
23 it --

24 BOARD MEMBER KENNEDY: Right.

25 MR. BERG: -- but the advisory committee would

1 compile all that data with the task.

2 BOARD MEMBER KENNEDY: Great. Perfect. That's
3 wonderful. And also, I'm under the impression that
4 there's plenty of autonomous equipment being used in the
5 state now. It's just being used at locations that are
6 not controlled by -- regulated by Cal/OSHA restrictions.

7 BOARD MEMBER HARRISON: If I may -- I'm sorry, Chris.

8 So we talk about data collection and we've done
9 a lot of research attending FIRA conferences. We've been
10 to several events. We've talked with manufacturers and
11 the -- my concern from day one has been that we're
12 talking about farms that are predominantly family
13 operated or an immigrant workforce that's -- neither are
14 likely to stand up and report an incident and if we don't
15 have good, solid government involvement from some level,
16 whether it's university or whoever it is to verify the
17 data, I still have an issue with it.

18 I heard a commenter earlier say her nine million
19 miles driven with zero incidences and that just backs up
20 my concern. How is that by any stretch of the
21 imagination possible, zero incidents in nine million
22 miles? So I still want -- I still think in my mind the
23 biggest concern is reliable data. Once we get good,
24 reliable data, not self-reported, something that's
25 reliable that this body is comfortable with, then I think

1 we can move forward with the next steps.

2 MR. BERG: I think that part of the advisory
3 committee's duties would be to look at the data and
4 determine if it's good data or not good data. You know,
5 that would be -- part of the task would be looking at the
6 quality of the data.

7 BOARD MEMBER HARRISON: And just my last comment. As
8 we go around to these events, and I didn't complete that
9 thought, we talked to several farmers in other states
10 that have this equipment in operation and we asked every
11 single one of them, "Did you have any government
12 involvement when you collected this data? Was there
13 anyone out there observing the operation, collecting this
14 data with you?" And the answer was always no.

15 So we can talk about equipment in other states.
16 Again, it's self-reported and we have to rely on that,
17 not that I don't -- I'm not -- don't trust farmers or
18 equipment manufacturers, but we have to have a level of
19 comfort with that data.

20 BOARD MEMBER LASZCZ-DAVIS: May I speak now?

21 BOARD MEMBER HARRISON: Please. I apologize.

22 BOARD MEMBER LASZCZ-DAVIS: Okay. I think we're in a
23 situation where we don't know what we don't know and, you
24 know, as you go through life, there are a lot of
25 situations where that's the starting point. I think it's

1 the first job of the advisory committee to cast the net
2 out however they choose to cast that net out, but it
3 ought to include benchmarking, it ought to include trade
4 associations, and it isn't going to be quantitative --
5 the data won't be quantitatively defined, but chances are
6 real high that that advisory committee will begin to
7 identify those forums that will give them the best data
8 available today and then I think they take it from there.
9 But we've got to start somewhere, but we don't even know
10 what we're talking about.

11 MS. BARAJAS: I think that's all the comments here,
12 Joe.

13 CHAIR ALIOTO: Okay. No other comments? All right.

14 Would anybody like to propose a motion? We can
15 work through the language of it if necessary.

16 BOARD MEMBER KENNEDY: Yeah. I think we'll need to.
17 I'll start it.

18 I move that an advisory committee be convened,
19 pulled together, whatever the word is, to look at the
20 scope and define an approach, something along those
21 lines.

22 BOARD MEMBER LASZCZ-DAVIS: I'd support that, Nola.

23 BOARD MEMBER CRAWFORD: I would also support that.

24 CHAIR ALIOTO: What do you visualize being the goals
25 of the advisory committee? Would you want them

1 ultimately to come back with proposed regulations or
2 would you rather that -- or would you rather see them
3 come back with a path forward for eventually proposing
4 regulation changes like a task force?

5 BOARD MEMBER KENNEDY: I'm happy with either outcome.

6 CHAIR ALIOTO: We could also leave it open-ended and
7 allow them to decide.

8 BOARD MEMBER LASZCZ-DAVIS: I'd like to see them
9 define -- you know, Joe, I'd like to see them define the
10 path forward. You know, I go back to my comment about do
11 we know it's going to be a regulation? Is it going to be
12 a set of guidelines initially? Is it going to be
13 engaging with other states or the feds or trade
14 associations for further research?

15 We don't know what the outcome is. I think at
16 the end of the day, ultimately it'll end up in
17 regulation, but I think initially the scope ought to
18 include an approach. You know, define an approach to get
19 our arms around this issue, an issue that we don't know a
20 whole lot about at this point in time, but -- and I
21 forget who made the comment -- I mean, we've got
22 autonomous equipment everywhere, so it's not something
23 that we can ignore. We just need to begin to gather some
24 information, gather the players, and that will help
25 define and inform an approach that will probably lead to

1 several different outcomes. Just a thought.

2 CHAIR ALIOTO: A good thought.

3 BOARD MEMBER URWIN: Just a thought insofar as laying
4 this out, right, how we're talking about a few things
5 here where the sequence or the progression could be
6 something to the effect of first determining a scope,
7 because that's obviously on the table insofar as what
8 needs to be figured out. From there, once a scope is
9 determined, in making a plan for data collection, whether
10 that's from existing sets of data or, you know, new field
11 collection. Then evaluating the implications of that
12 data that's been collected, and then identify issues to
13 be addressed going forward, and this kind of addresses
14 that issue of not knowing what we don't know at the
15 outset so this is kind of figuring out what we don't know
16 and what we need to address going forward.

17 CHAIR ALIOTO: I think that's a fantastic approach,
18 Derek.

19 Nola, does that capture what you wanted to move?

20 BOARD MEMBER KENNEDY: Yes, it does.

21 CHAIR ALIOTO: Okay.

22 BOARD MEMBER KENNEDY: So moved.

23 CHAIR ALIOTO: We have a motion and the motion is
24 from Ms. Kennedy and Mr. Urwin in combination, if that's
25 a thing. Do we have a second?

1 MS. GONZALEZ: Hi, Joe and Mr. Berg. I just wanted to
2 ask you if you wanted to set some kind of time line for
3 this committee to report back to you and, if so, if you'd
4 like to include that in your motion.

5 CHAIR ALIOTO: Please. Thank you for bringing that
6 up.

7 BOARD MEMBER HARRISON: And hopefully there's one of
8 you acting as a scribe. I would like to hear the motion
9 before we vote on it.

10 CHAIR ALIOTO: Of course.

11 MS. KENNEDY: Well, as far as time line goes, I don't
12 know that I'm comfortable picking a time line. I think
13 we need some input from the staff who are going to be
14 working on it and maybe from Ms. Barajas, who's dealing
15 with scheduling.

16 CHAIR ALIOTO: Would it be overly optimistic for
17 asking for a report back in six months?

18 MS. BARAJAS: I'm going to have Amalia --

19 CHAIR ALIOTO: Four months?

20 MS. BARAJAS: Yeah. I'm going to have Amalia address
21 this.

22 MS. NEIDHARDT: So for clarification, if you ask me,
23 there's different steps before we call the advisory. We
24 want to make sure that it is balanced, so we will have to
25 seek labor participation; right? So I will say that,

1 about two months it will take us to make sure that we can
2 reach out to the different laborers to make sure we have
3 enough labor representatives and find a location where we
4 can ensure labor participation as well, right, between
5 two to three months, if that's okay with you guys.

6 And then it sounds like -- and this is Amalia
7 speaking -- a lot of people are interested in part of the
8 committee, so I would like to bring that to you guys, the
9 different committee members, right, because I don't want
10 to hurt anybody's feelings, but I want to make sure it is
11 maintained balance and you guys get informed. So I will
12 say that wouldn't take as long because we're getting a
13 lot of people.

14 So perhaps the next -- if you correct me. I'm
15 looking at our legal over here; right? I'm thinking
16 maybe if you give us maybe like about four months in
17 total, we can come back and report to you about the
18 efforts to reach out to labor, what possible number of
19 participants so it can be balanced, and then let you know
20 the number of people that are interested so we can call
21 this committee because it sounds like -- and I heard you,
22 Derek -- we want to make sure we have a sequence, right,
23 first determine the scope, right, and then to be able to
24 see about, you know, how to go about gathering the data.

25 So, again, I think I'm going to back up and say

1 first reach out to the outreach to labor, two months, and
2 then if you give me two months, we can come back, the
3 number of people interested, and then we can select the
4 balanced committee because it's not just labor and
5 management but you want the manufacturers and all these
6 representatives to keep you informed and we can be
7 transparent. How about that, before we actually call the
8 first meeting?

9 CHAIR ALIOTO: Amalia, are you talking about four
10 months to assemble the roster or four months to assemble
11 the roster, have a meeting and report back?

12 MS. NEIDHARDT: Four months. Exactly. It wouldn't
13 even be assembling the rosters. To keep you posted as
14 to -- how do you say -- how productive we were or our
15 luck, how successful we were, and to be able to reach out
16 to labor and to be able to find a location where we can
17 best ensure that we have their participation, right,
18 because we heard from Jassy, Monterey; right? We have
19 Napa and I was thinking Coachella; right. We want to
20 make sure, possibly have two meetings, to make sure --
21 once we determine that labor will participate, to make
22 sure that we reach out to them.

23 So I will say four months to be able to keep you
24 updated on that before we call that first advisory, and I
25 want to be clear; right? This is for transparency.

1 Because we have a lot of interest on all the groups, but
2 we want to make sure as you said it's balanced and we
3 have labor, but you guys can direct us. You can say to
4 skip this or we want it ASAP. Within three months we
5 want an answer so we can cull the roster for that
6 advisory committee. You direct us.

7 CHAIR ALIOTO: All right. So my thought on that
8 would be I don't want to micromanage you. I'm not
9 interested in doing that, personally. I'm speaking for
10 myself, obviously.

11 I would just as soon set a deadline for the
12 advisory committee for the roster to be created, for the
13 meeting to occur and to report back to the Board in,
14 let's say, six months. We've got two months during the
15 holidays that's going to be tough to get people together,
16 but that -- you know, we can still start to get the
17 roster together and contacting folks over the course of
18 the next few months, have a meeting and report back by
19 whatever that is, April-ish.

20 Is that -- is that within the realm of
21 possibility and would other Board Members chime in?

22 MS. NEIDHARDT: May, May 2025. We can come back and
23 by May 2025, you want us to be able to set the date and
24 tell you where the location and the date of the first
25 advisory committee will be; correct, or you want the

1 first advisory --

2 CHAIR ALIOTO: No.

3 MS. NEIDHARDT: -- committee meeting to have taken --

4 CHAIR ALIOTO: No.

5 MS. NEIDHARDT: -- place?

6 CHAIR ALIOTO: Have the meeting and report back on
7 what's happening.

8 MS. NEIDHARDT: Okay. May 2025.

9 CHAIR ALIOTO: Is that -- hang on a minute. We're
10 not just going to do -- I mean, is that within the realm
11 of reasonable, Millie? Do you want -- thoughts?

12 MS. NEIDHARDT: Yes. So it would be May. I'll have
13 the advisory committee and we'll be pestering everybody
14 during the holidays.

15 CHAIR ALIOTO: I mean, I don't want to impose on you
16 guys an emergency, you know, situation here. It's not
17 like that.

18 MS. NEIDHARDT: I think it's more reasonable to have
19 six months to have the first advisory committee. Again,
20 what I see is going to be one of the barriers that we
21 have to overcome is for us reaching out to labor and
22 identifying the locations to be able to make sure that
23 they can participate, and that is going to take minimum
24 two months. We can call the roster and keep you
25 throughout these six months posted who will be the

1 participants and we need to be able to call the location
2 and hold the first meeting.

3 Now, for advisory committees, we always inform
4 the members at least 60 days and we prepare the documents
5 and in this case, it won't be as complicated because it's
6 just a discussion that is going to be held, that we allow
7 them to be prepared. I mean, we inform them 30 days
8 prior to we give them the information.

9 So we are talking about calling the advisory
10 two months, two months, yeah, six months minimum.
11 If I could get eight months, then we can tell you that
12 the first meeting was certain and more likely that we did
13 held them and the different people and what their input
14 was.

15 MS. GONZALEZ: I think the issue is here that this is
16 going to be a series of advisory committees because
17 there's going to be data to collect and homework to do
18 and coming back and forth. So if we're looking for a
19 final recommendation from this committee, they're going
20 to need more than six months. I would give them a year,
21 and if they get done sooner than a year, great, they can
22 come and they can report back sooner than that.

23 CHAIR ALIOTO: And then we'll have regular updates
24 from Millie on the progress of that maybe?

25 MS. BARAJAS: So, Joe, I would say that a milestone

1 would be at six months, that the first advisory committee
2 has been held and there's a report, and then at 12
3 months, we can look at something more solid.

4 CHAIR ALIOTO: All right. I'm amenable to that.
5 That sounds amenable for me.

6 What do you guys think? Thoughts? Comments on
7 proposing a one-year period to report back with results?

8 BOARD MEMBER KENNEDY: Yes.

9 CHAIR ALIOTO: Okay. Derek, I'm going to put you on
10 the spot right out of the gate. Would you mind trying to
11 put your the language of your motion into a motion again
12 for us?

13 BOARD MEMBER URWIN: Yeah. Will do.

14 CHAIR ALIOTO: Or your thoughts.

15 BOARD MEMBER URWIN: So the motion would be to
16 populate a balanced advisory committee on the topic of
17 autonomous agricultural vehicles that would determine a
18 scope for rulemaking, make a plan for data collection,
19 evaluate the implications of that data collection, and
20 then identify issues to address --

21 CHAIR ALIOTO: And possible rulemaking.

22 BOARD MEMBER URWIN: -- and possible rulemaking, yes.

23 CHAIR ALIOTO: Okay.

24 MS. GONZALEZ: And such committee will report back to
25 the Board within one year.

1 CHAIR ALIOTO: Great. That's the motion. Is there a
2 second?

3 BOARD MEMBER CRAWFORD: I'll second.

4 CHAIR ALIOTO: Okay. We have a motion and a second.
5 Money, will you please call the roll.

6 MS. MONEY: So I have Mr. Urwin is the motion. Who
7 was the second?

8 BOARD MEMBER CRAWFORD: Kate.

9 MS. MONEY: Okay. Kathleen 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: Derek Urwin?

18 BOARD MEMBER URWIN: Aye.

19 MS. MONEY: Chairman Joseph Alioto?

20 CHAIR ALIOTO: Aye. And the motion passes. Thank
21 you, folks, very much. I want to say thank you to
22 everybody over at DOSH for your memorandum, for bringing
23 this issue up, all the members of the Board for this
24 thoughtful discussion, for labor representatives who have
25 voiced their opinions about this topic and of course for

1 the manufacturers and the agricultural folks, I just want
2 to say thanks. I'm really looking forward to seeing
3 this -- these hopefully fruitful discussions that you-all
4 will have in trying to wrestle some of these difficult
5 issues and report back. So thank you to everybody who's
6 played a role in that.

7 All right. Let's move on in the agenda.

8 Now we're going to move on to public comment,
9 non-agenda items. I know we have a couple of folks
10 online.

11 MS. BARAJAS: So, Joe, we need to take a break for --

12 CHAIR ALIOTO: Oh, sorry.

13 MS. BARAJAS: -- our interpreters. So it's been a
14 little over two hours, so we need to take a break.

15 CHAIR ALIOTO: Got it. Thank you so much for
16 interrupting. Let's take 15 or 10?

17 MS. BARAJAS: Yes, 15. 15.

18 CHAIR ALIOTO: Let's take 15. We'll come back. It's
19 12:20 currently. We'll come back at 12:35. Thanks,
20 everybody.

21 (Recess)

22 CHAIR ALIOTO: All right. Let's continue with the
23 meeting. We're back in session and I was about to move
24 on to public comment on non-agenda items, but I'm sorry to
25 say that I forgot to say that I forgot about the

1 subcommittee report and I missed it on the agenda.

2 So we're going to go to Chris Laszcz-Davis and
3 Dave Harrison. Would you mind briefing the Board with an
4 update of the Advisory Committee Subcommittee?

5 BOARD MEMBER HARRISON: Yes. So we're going to give
6 a joint report and I will start, Mr. Chair.

7 So at the July Board meeting earlier this year
8 in this building, Chair Alioto appointed Chris
9 Laszcz-Davis and myself to a subcommittee on how to best
10 address the concerns of stakeholders regarding the
11 advisory committee process and how to optimize its value
12 to both stakeholders and the regulatory framework.

13 We initially researched available written
14 procedures and public documents on the subject from both
15 the Standards Board as well as the Division and we
16 discovered that the Standards Board has a written
17 advisory committee procedure and if anyone's interested,
18 you can find it at www.dir.ca.gov/oshsb/ACguidelines.html
19 and you'll find that document. We were not able to find
20 a written procedure for the Division, but we were -- we
21 did also find an MOU between the Board and the Division
22 dated March 6, 1984. This document outlined the
23 responsibilities of rulemaking for both agencies.

24 Next, Chris and I scheduled interviews with
25 originally ten folks from across the spectrum, ended up

1 with 13 total that we interviewed from labor, management,
2 Division staff, Standards Board staff, and some other
3 industry professionals and through those interviews, it
4 was very successful. We found quite a few things and
5 I'll let Chris elaborate on it.

6 BOARD MEMBER LASZCZ-DAVIS: Thanks, Dave.

7 The first item, the Standards Board procedures,
8 is perceived as more inclusive, collaborative and
9 advisory in nature. The Division process is perceived as
10 a public forum providing all an opportunity to be heard
11 and informational in nature but leaving little
12 opportunity to dialogue and align on language.

13 The second point -- and mind you, these are
14 preliminary observations -- facilitators, moderators for
15 the respective advisory committees, whether Standards
16 Board or Division, were generally viewed as critical
17 components of the process. In some cases, the safety
18 engineer assigned was well-equipped to handle the task
19 but not in every case.

20 Specific facilitative training in this area was
21 mentioned as an area of need. When exploring -- fix your
22 P.C. here, Dave. Thank you.

23 When exploring -- third item. When exploring
24 the makeup of the committee, it was agreed that there
25 should be equal representation from labor and management

1 as well as other agencies, specific OEHS skill sets and
2 industry experts when the subject matter dictated the
3 need for specific knowledge and stakeholder impact. It
4 was also agreed that labor was often underrepresented due
5 to the inability to participate because of scheduling,
6 career obligations, and several other reasons.

7 Next item. It was suggested that an advisory
8 committee be formed to discuss and develop a renewed
9 advisory committee procedure which could result in
10 greater effectiveness and impact. That was recommended a
11 few times and we thought that was interesting.

12 And finally, it was suggested that a blended
13 procedure be adopted with the first step being an open
14 forum to talk about the issue at hand, providing comment
15 and concerns. This step replicates the current Division
16 procedures. This could be done both virtually and in
17 person, hybrid. After this first step, a smaller,
18 well-represented group could be formed to better drill
19 down to the specific area of worker health and safety,
20 leveraging the existing Standards Board procedure.

21 The only other item that I think either Dave or
22 I could share, but if I might since I've got my mic here
23 at this point, we did have an opportunity to meet with
24 staff by Zoom about a week or two weeks ago and talked
25 about these initial observations and then brought up the

1 issue of where we go from here. Not only did we realize
2 we had to do a preliminary report here, but it was
3 suggested that we go ahead and do some benchmarking with
4 some other states and organizations.

5 There are other learnings that I think we could
6 benefit from and we'd like to take that opportunity to do
7 so.

8 And, Dave, you may want to comment on that.

9 BOARD MEMBER HARRISON: Yeah. So staff put together
10 a pretty robust list of other agencies not just in
11 California to reach out to and observe their process and
12 so Chris and I have been able to -- one or both of us
13 have been able to attend meetings with Nevada OSHA,
14 Oregon OSHA, Washington State Labor, the L&I Labor and
15 Industry -- that's their form of OSHA. That's their
16 state agency, if you will -- as well as California
17 Resource Board, and so we've got a follow-up meeting
18 tomorrow, in fact, Chris and I do, with Washington L&I to
19 talk about their process, as it seemed most appropriate
20 for the task at hand, and so we're going to continue
21 moving down that path. We've reached out to other
22 agencies and will hopefully come back with a final
23 recommendation at some point. So --

24 CHAIR ALIOTO: Excellent. Well, I'll open this up to
25 questions in a second here, but that is an absolutely

1 tremendous effort that both of you have undertaken,
2 entirely volunteer, 13 separate interviews, obviously a
3 ton of research and then additional interviews and
4 benchmarking it sounds like with other organizations. I
5 want to personally thank Chris and Dave, both of you
6 personally, for taking on this task; not an easy task,
7 one that I think the Board's been talking about
8 addressing for quite some time, and the work and your
9 efforts on this are really so deeply appreciated. Thank
10 you, both, very much for your continued work and I'm
11 really looking forward to seeing your final product and
12 your final recommendations.

13 And then I did -- I just have one question.
14 You know, I know that this has been a collaborative
15 effort not just by the Board but also with the Division.
16 Have you been working with folks from the Division and I
17 think Deborah Lee and some other people who have been
18 participating with their input as well?

19 BOARD MEMBER LASZCZ-DAVIS: We've been participating
20 with everybody, Division, Standards Board and others.
21 And, in fact, we commented several times that each time
22 we were thanked for having invited the participant to
23 share their thoughts with us, we were better informed. I
24 think they felt -- and I hope I'm not speaking out of
25 turn -- but I think each participant felt good about

1 their observations and ability to engage and impart some
2 information that will make this process a whole lot
3 better. The process itself aside from the outcome was a
4 good one.

5 BOARD MEMBER HARRISON: Yes. That's exactly right,
6 and I thank you for your comments, Joe. I just want to
7 say that I didn't know we had a choice.

8 CHAIR ALIOTO: Fair enough.

9 BOARD MEMBER LASZCZ-DAVIS: Yeah. You know, Joe, I
10 have to tell you we're down here in Los Angeles and we're
11 walking by the atrium over here and Dave turns to me and
12 he goes, "That's where we got roped into it with Joe."
13 I said, "Yes."

14 CHAIR ALIOTO: Well, you've taken it. You've really,
15 like, taken it to the next level and I can't thank you
16 enough for your efforts. So thank you, both, very much.

17 Any Board comments or thoughts? Questions?

18 MS. BARAJAS: I don't see any.

19 CHAIR ALIOTO: Okay. I can't see you, so I can't --
20 I'm sure that everybody would echo my gratitude and
21 hopefully maybe we'll hear some thoughts on this during
22 public comment. So thank you, both, very, very much for
23 that update. We'll look forward to the additional
24 updates as you continue your benchmarking, and then
25 hopefully do you envision having some kind of, I don't

1 know, written thoughts on best practices that might --
2 you know, we might be able to implement going forward?

3 BOARD MEMBER HARRISON: Yes. I think so. Nola
4 actually whispered in my ear, "Do we have a time line?"
5 And we don't. We don't really have a time line yet, but
6 we would like to establish something, but still right now
7 it's a little bit of an information gathering, if you
8 will.

9 CHAIR ALIOTO: Yeah. All right. Terrific. Really,
10 really great. Thank you.

11 All right. Let's move on to public comment.

12 If you are -- this is now going to be public
13 comment on the non-agenda items, in other words, anything
14 else that we have not previously discussed. This is not
15 going to be a time to discuss issues that have already
16 been on the agenda. The time for public comment on those
17 items has passed.

18 So if you're participating via teleconference or
19 videoconference, the instructions for joining the public
20 comment queue are found on the agenda. You may join by
21 clicking the public comment queue link in the "Board
22 Meetings" section on the OSHSB website or you can call
23 (510) 868-2730 to access the automated public comment
24 queue voicemail. If you experience any technical issues
25 with the teleconference, please email OSHSB@dir.ca.gov.

1 Let's start with folks that are in person and if
2 you don't mind, you know the drill.

3 Please come up with a completed speaker slip to
4 give to Ms. Money and announce yourself, introduce
5 yourself; and if you are commenting in person, please
6 make sure to write legibly on your comment card.

7 And then for folks that are on teleconference,
8 we'll go to those three next. Please make sure everybody
9 speaks slowly and clearly when addressing the Board, and
10 we are going to have a limitation of three minutes for
11 public comment.

12 All right. Let's go with the folks in person.
13 How many people do we have in person?

14 MS. BARAJAS: I'm seeing three people stand up.

15 CHAIR ALIOTO: Okay. Great.

16 So why don't you guys come on up and introduce
17 yourselves and we welcome your comments.

18 MR. JOHNSON: Thank you, Chairman Alioto. My name is
19 Steve Johnson. I'm with Associated Roofing Contractors
20 of the Bay Area Counties and I'd also like to welcome
21 Board Member Derek Urwin. The way you put the motion
22 together, I think you'll be a welcome addition to the
23 Board. That was really good.

24 I want to make just my -- focus my comments on
25 the lead regulation and it passed in February 2024, the

1 revised version of the lead standard and at that time,
2 there was -- the employer community expressed concern
3 about being able to have time to comply with the
4 regulation and there has been -- recently, the California
5 OSHA has had the Exposure Control Plan. The model plan
6 just recently came out within the last couple of days and
7 I want to thank consultation for that and Cal/OSHA for
8 that, for pulling that together, and then there's also
9 been an executive summary in the last couple of days that
10 has come out and I also appreciate that for guidance for
11 employers.

12 The concern that we still have is that there's
13 a -- the effective date is 1/1/25, January 1st. So in
14 just a little over a month, employers are going to be
15 saddled with coming in full compliance with this
16 regulation and my concern is that for training purposes,
17 for, you know, developing each employer's Exposure
18 Control Plan individually, I just don't think there's
19 going to be enough time to pull that together and I
20 understand that, you know, with the Division, you know,
21 we waited nine months for the materials.

22 I understand that there's limitations and
23 challenges with staffing, but employers also have
24 limitations and employers, especially smaller employers,
25 have challenges coming into compliance with a regulation

1 that is complex as the lead in construction standards.

2 So I'm asking for at least a minimum of a
3 six-month delay for the Division, possibly a July 1st
4 enforcement or a July 1st effective date for employers to
5 come into compliance, because this reg is a monster and
6 it's something that it is going to be a challenge for
7 employers.

8 It looks like my time's up, but I just wanted to
9 say that with the -- just with what the employees have
10 to -- have to -- there's almost 18 pages for Appendix B
11 in section 1532.1 and that was supposed to be for the
12 employees. So, yeah, there's really a concern about
13 effective training. Thank you.

14 CHAIR ALIOTO: Thank you, Mr. Johnson.

15 MS. GUERRERO DELEON: Hello and thank you to the
16 Board, Staff and interpretation in receiving our comments
17 today. I'm Renee Guerrero Deleon with SoCalCOSH and our
18 organization is founded on the principle that all
19 workplace deaths, injuries and illnesses are preventable.

20 I just wanted to emphasize today the need for a
21 heat standard for incarcerated workers as soon as
22 possible. Incarcerated workers are covered under the
23 California Labor Code and deserve the same worker
24 protections when facing high heat. Many facilities do
25 not provide these workers with adequate means to cool

1 down to prevent heat illness and we hope that the Board
2 expedites this process for over 40,000 workers.

3 Lastly, I just wanted to urge the Board to
4 reconsider the structure for public comment to allow the
5 most accessibility to workers, worker advocates and
6 community members to voice their concerns, asking folks
7 who directly work in the conditions that the Board is
8 trying to prevent that face these hazards day-to-day.
9 Their experience cannot be captured in an email on a
10 piece of paper. They deserve the respect, the dignity
11 and, most importantly, the acknowledgment of their
12 struggles to come up here or on WebEx to speak.

13 Thank you, again, to Board staff and
14 interpretation, and we hope that you make the best
15 decisions for working families.

16 CHAIR ALIOTO: Thank you, Ms. Guerrero Deleon. Thank
17 you so much for your comments.

18 MR. GRUBB: Good afternoon, my name is Ron Grubb and
19 I'm affiliated with the Phylmar group. I want to thank
20 Mr. Chairman and the Board and everyone for this
21 opportunity to speak.

22 We would like to commend Cal/OSHA for its
23 leadership and commitment to workplace health and safety,
24 particularly through the implementation of the aerosol
25 transmissible diseases standard and the COVID-19

1 nonemergency standard. These efforts have set a
2 benchmark for other states and demonstrated the
3 importance of proactive infectious disease management.

4 We hope this tradition of excellence will
5 continue as California navigates the transition toward a
6 general industry infectious disease standard.

7 The feedback we are presenting today was
8 gathered by the Phylmar group and represents insights
9 from a number of organizations across various industries.
10 These perspectives highlight shared concerns and
11 opportunities for improvement in the regulatory
12 framework.

13 The complexities inherent in California's
14 Infectious Disease Standards were discussed, particularly
15 the potential gap between the expiration of the COVID-19
16 non-emergency standard in February 2025 and the
17 introduction of a general industry infectious disease
18 standard. Concerns were raised about the uncertainty
19 this could create for employers and local health
20 departments tasked with ensuring workplace safety against
21 infectious threats.

22 There was also an observation that process on
23 developing a general industry standard appears to have
24 stalled, which underscores the need for Cal/OSHA to
25 address this issue proactively.

1 Additionally, clarification is sought regarding
2 the intent of the recording and recordkeeping subsection
3 within the COVID-19 non-emergency standard. Specifically,
4 we seek confirmation on whether employers will be
5 required to continue monitoring and reporting COVID-19
6 cases through 2026. Clear guidance on this matter will
7 help ensure that employers understand their ongoing
8 obligations and maintain compliance.

9 We appreciate the opportunity to share this
10 feedback which reflects the collective voices of
11 organizations across diverse industries and we strongly
12 encourage Cal/OSHA to address these critical issues.
13 California has set a high standard in workplace health
14 and safety and we are confident that continued
15 collaboration will ensure these challenges are
16 effectively managed to protect both workers and employers
17 statewide. Thank you.

18 CHAIR ALIOTO: Thank you, sir.

19 All right. It looks like we don't have any
20 other speakers in person.

21 Mr. Roensch, let's go online.

22 MR. ROENSCH: Very well. We have a number of
23 commenters that would like to make remarks, Mr. Chairman,
24 the first of which is Bruce Wick, followed by Tajai
25 Calip.

1 Mr. Wick, if you're online with us, please
2 address the Board.

3 MR. WICK: Thank you. I am mobile. Can you hear me?

4 MR. ROENSCH: Yes, we can.

5 MR. WICK: Thank you. Bruce Wick, Housing
6 Contractors of California. Chair Alioto, Board Members,
7 Staff, I want to add to Steve Johnson's comments on lead.

8 We face a challenge here and unfortunately, the
9 message that is being sent is Cal/OSHA took 13 years to
10 develop a lead reg and the Division took nine months and
11 employers, with everything else they have to do end of
12 year, refresher training, new laws and regs otherwise
13 coming in, holidays, that employers will have maybe 10 or
14 15 working days to try and implement a serious,
15 complicated regulation.

16 You as a Board asked the Division how they would
17 help employers and you were promised I think a more
18 timely response than what was given. I do want to say
19 Steve Johnson and I spoke with the people doing the
20 detail work at the Division and they were very
21 conscientious and very hardworking and we greatly
22 appreciate their efforts, but too often, as we know,
23 drafts of things have to go up through the chain, up
24 through DOSH Legal, DIR, Labor Agency, and back down.
25 Multiple documents have to do that multiple times.

1 So I would ask two things: One is a delay that
2 you can ask the Division for, but you can ask them to do
3 it. They can delay under enforcement or delay penalties,
4 for citations. That's helpful. But the other part is
5 whenever you are going to vote on a complicated reg in
6 the future and make a formal request of the Division, to
7 provide a thoughtful and realistic time frame on when
8 they will get materials to employers because that -- you
9 know, the message we're sending is not good.
10 Implementation seems to not be all that important to
11 Cal/OSHA and that's not what we want to see. Thank you.

12 CHAIR ALIOTO: Thank you, Mr. Wick.

13 MR. ROENSCH: Our next commenter is Tajai Calip with
14 the Condor Security of America.

15 Tajai Calip, if you are with us by telephone,
16 press star 6 and you'll be able to address the Board.

17 Tajai Calip does not appear to be with us.
18 Their comments were intended to be about the abuse of
19 power.

20 Mr. Chairman, I'll move on to the next
21 commenter. It's Rob Moutrie with the California Chamber
22 of Commerce.

23 Mr. Moutrie, please go ahead.

24 MR. BLAND: Chairman and John, Mr. Moutrie had to
25 skip out for a meeting. He apologizes.

1 MR. ROENSCH: Thank you, Mr. Bland.

2 Our next commenter is AnaStacia Nicol Wright
3 with Worksafe.

4 MS. WRIGHT: Hello. I'm here. Hi, everybody.

5 CHAIR ALIOTO: Hello.

6 MS. WRIGHT: Hi. So I'm AnaStacia Nicole --

7 MS. BARAJAS: Joe, we're unable to hear her on this
8 end.

9 CHAIR ALIOTO: Okay. Thank you for verifying that.

10 Mr. Roensch, let's go to the next speaker.

11 Ms. Wright, if you can hear me, just come on
12 back in when you can and we will get to your comment when
13 you are able to get back into the WebEx.

14 MS. WRIGHT: Okay. Can you not hear me?

15 CHAIR ALIOTO: Oh, Ms. Wright, are you there?

16 MS. WRIGHT: Yeah.

17 CHAIR ALIOTO: Okay. Great. Go ahead and start over
18 with your three minutes, ma'am. I'm sorry. We lost you
19 there for a while.

20 MS. WRIGHT: Okay. No worries.

21 So good morning, everybody. Today I wanted to
22 address an urgent matter concerning workers' safety that
23 particular -- that particularly affects incarcerated
24 individuals in California.

25 While the recently drafted indoor heat standard

1 is a significant advance for workers' safety, the
2 Worksafe -- Worksafe is deeply concerned that
3 incarcerated individuals were excluded. The Division
4 indicated that there should be a corrections-specific
5 standard by 2025, but there's been no mention of this at
6 the recent Cal/OSHA rulemaking updates that were circled
7 at the August advisory committee.

8 So to put this into perspective, California has
9 documented over 600 injuries within its state prison
10 industry work program for over four years and given the
11 shortcomings in data collection for this population, the
12 number is likely larger. Within California's
13 correctional facilities, there's over 40,000 incarcerated
14 workers facing hazardous conditions, including extreme
15 heat, on a daily basis. Moreover, it's important to
16 highlight that correctional staff, the guards and other
17 people who work in prisons, often endure the same extreme
18 conditions. In older facilities, particularly in
19 stand-alone guard towers, staff members work eight-hour
20 shifts with little to no relief from sweltering
21 temperatures; and often to get any relief, the staff or
22 their unions are forced to provide their own fans to cope
23 with these heat levels.

24 The safety and well-being of these workers are
25 not just moral imperatives. They're essential for the

1 overall effectiveness of the corrections system. It's
2 also to consider an additional strain on correctional
3 workers such as nurses and other people who work in
4 trades inside the prison who have to wear personal
5 protective equipment during high-heat conditions. This
6 only amplifies their risk of heat illness and injury and
7 these high indoor temperatures make it unsafe for
8 healthcare staff to properly care for not only themselves
9 but the incarcerated individuals in their charge.

10 So given these pressing issues, I urge the
11 Division to accelerate drafting -- the drafting process
12 for a corrections-specific indoor heat standard. The
13 safety of incarcerated workers and staff members deserves
14 to be prioritized before the scorching summer of 2025
15 arrives.

16 And then just very quickly and finally, I want
17 to bring attention to another pressing concern. The
18 news has emerged recently about a child in the Bay Area
19 with bird flu and the transmission of this bird flu
20 that's been raging lately is unknown. We don't know
21 about the risk about transmission right now and so this
22 further emphasizes our urgent need to protect dairy
23 workers under the zoonotic standard, but also to
24 establish an airborne transmission disease for general
25 industry that applies to all workers as quickly as

1 possible. Thank you, everybody.

2 CHAIR ALIOTO: Thank you.

3 MR. ROENSCH: Our next online commenter is Mark
4 Meriaux with the Natural Stone Institute. Following
5 Mark, Justin Lehr will be next.

6 Mr. Meriaux, if you're online, please go ahead
7 and address the Board.

8 MR. MERIAUX: Yes. I just want to make sure you can
9 hear me. I've had kind of connection issues all day.

10 MR. ROENSCH: You sound good.

11 MR. MERIAUX: Very good.

12 Thank you, Chair and Board Members, for your
13 time it had. I'm Mark Meriaux with the Natural Stone
14 Institute. Our trade association represents over 2,000
15 businesses in the natural stone industry worldwide,
16 including over 200 stakeholders businesses within the
17 state of California.

18 We understand the critical need for standards to
19 keep workers safe from silicosis, but the currently
20 proposed 5204, unless modified, will do little to address
21 the growing number of silicosis cases in California.

22 Here are just a couple reasons why we believe
23 additional revisions are still needed. The proposed
24 standard is written as a one-size-fits-all approach by
25 requiring PPE for all workers regardless of assessed

1 risk. This methodology which prioritizes PPE over a
2 proven risk reduction method using engineering controls
3 can create a false sense of security for the workers and
4 does little to have -- make them change current unsafe
5 work habits. It also disincentivizes development and
6 implementation of new and evolving risk reduction
7 strategies. We believe that a standard that prioritizes
8 a hierarchy of control strategy for risk reduction would
9 have a greater impact on reducing further silicosis
10 cases.

11 There are still shops in California ignoring the
12 current standards that are -- that are enacted today.
13 Workers in these shops present the highest risk for
14 silicosis. Existing or new regulatory standards will do
15 little to change the compliance of these shops. We are
16 hearing already unfortunate stories of workers leaving
17 compliant businesses within California to go to work for
18 noncompliant employers that don't follow current
19 standards which require PPE under the emergency temporary
20 standard.

21 So with that, we realize more education, more
22 outreach, and more enforcement of existing standards
23 would have a greater impact than just an update of the
24 regulatory language.

25 We do want to commend Cal/OSHA enforcement on

1 making more visits to countertop fabricators than in any
2 year prior to 2024, but even at the 2024 rate of
3 enforcement inspections, it would take nearly eight and a
4 half years for Cal/OSHA enforcement to visit the 841
5 known shops within the state to verify compliance and
6 that's even if that number is correct. The actual number
7 of shops could be much higher.

8 We continue to support the no dry cutting/no dry
9 processing clause of the ETS and proposed standard which
10 allows for the order prohibiting use so they can stop
11 unsafe activities immediately, but the continued rise in
12 silicosis makes it clear that more enforcement is needed.

13 Getting close to running out of time.

14 Our role in the industry will continue to remain
15 focused on supporting existing and ongoing scientific
16 research, sharing the information directly with those
17 most affected. This can include communicating regulatory
18 updates and education about best practices to businesses
19 and workers. We're all working on the same issue here to
20 reduce cases of work-related silicosis.

21 We appreciate your time and willingness to
22 listen to perspective from the industry and help find
23 workable solutions.

24 CHAIR ALIOTO: Thank you, Mr. Meriaux. Thank you for
25 your comments.

1 MR. ROENSCH: Mr. Chairman, Justin Lehr is our next
2 commenter. He's not listed an affiliation. And then
3 after Mr. Lehr is Cassie Hilaski with Nibbi Brothers.

4 Mr. Lehr, if you are online with us, please
5 address the Board.

6 MR. LEHR: Can you hear me well?

7 MR. ROENSCH: Yes, we can. Thank you.

8 MR. LEHR: So Justin Lehr, California Department of
9 Transportation, CalTrans, and I just wanted to echo an
10 earlier speaker in regards to the soon-to-expire COVID-19
11 regulations. I think many of us are just looking for
12 some guidance on that, wondering if those are going to be
13 allowed to expire, if they'll be extended, if they'll be
14 modified, and then what our obligation as an employer is
15 going forward in infectious disease prevention, tracking
16 and our response. And so I think a lot of us are just
17 looking for some communication on that topic.

18 So I appreciate it. I'll keep it short and
19 sweet, but thank you for your time and we'll look forward
20 to some future communications on it.

21 CHAIR ALIOTO: Thank you so much, Mr. Lehr.

22 MR. ROENSCH: Our next commenter is Cassie Hilaski
23 with Nibbi Brothers.

24 MS. HILASKI: Good afternoon again. First, I wanted
25 to welcome the new Board Member, Derek Urwin, for his

1 contribution. It is a very welcome one.

2 Last month, the DMV presented information on how
3 autonomous vehicles are being regulated on public
4 roadways. While I appreciated that presentation, I was
5 left with a couple of questions that were not
6 satisfactorily answered; therefore, I think the Standards
7 Board needs to thoughtfully consider the following:

8 First, if possible, push the DMV to keep better
9 statistics on the incidents that occur with autonomous
10 vehicles, if for no other reason than to adequately
11 defend their use.

12 Personally, I think autonomous vehicles are here
13 to stay and just like people, I do not expect them to be
14 perfect. Even without data in front of me to support
15 this opinion, I'm sure that the number of incidents
16 occurring with autonomous vehicles is probably fewer than
17 that which would be occurring with people in the same
18 situations who are subject to fatigue, distracted
19 driving, et cetera.

20 And that leads me to my next request. I would
21 suggest that the makers of autonomous vehicles be
22 required to provide some kind of hotline printed on the
23 sides or backs of the cars that can be called in order to
24 report vandalism or unsafe situations. This is a much
25 better solution in my opinion than the one that was

1 suggested by the DMV at October's meeting when asked.
2 Their suggestion was to call the appropriate government
3 agency, which is something that most people are not going
4 to know how to do or take the time to figure out which
5 agency that is. Thank you very much.

6 CHAIR ALIOTO: Thank you, Ms. Hilaski. Thank you for
7 your comments.

8 MR. ROENSCH: Mr. Chairman, we have no additional
9 commenters.

10 CHAIR ALIOTO: Okay. Great. Thank you. Just let me
11 verify that there's no one else that is there in person
12 that would like to make a comment.

13 MS. BARAJAS: Correct. There is no one.

14 CHAIR ALIOTO: Okay.

15 MR. MOUTRIE: I'm so sorry. I missed my chance
16 earlier, but I've returned. This is Rob Moutrie with Cal
17 Chamber. Would it be appropriate to speak now?

18 CHAIR ALIOTO: Indeed it would. How are you doing?
19 Welcome back.

20 MR. MOUTRIE: Yes. I'm so sorry. My meeting went
21 quickly. Again, Robert Moutrie, California Chamber of
22 Commerce. Thank you, all, for the time.

23 I wanted to ask a scheduling question. Much was
24 asked about kind of the timing of the Code regulation
25 next year. I wanted to inquire of staff -- and you'll

1 forgive me, Mr. Berg, if I missed it -- if there was any
2 statement as to the timing of the advisory committee
3 related to the updates to the workplace violence
4 regulation, which I think the last comment of was
5 sometime early next year, but I just wanted to inquire as
6 to any timing there. Thank you.

7 CHAIR ALIOTO: Thank you very much --

8 MR. BERG: Is it okay if I answer that?

9 CHAIR ALIOTO: Yeah, it is, but let's wrap up public
10 comment first, if you don't mind.

11 Anybody else wishing to make a public comment
12 online or in person?

13 MS. BARAJAS: We have one written comment that was
14 sent in that Ruth is going to read.

15 CHAIR ALIOTO: Great. Thank you.

16 Go ahead, Ruth.

17 MS. IBARRA: Thank you. This was submitted by Hailey
18 Hayes and the topic's on heat protection for prison
19 workers.

20 "I'm writing on behalf of many people
21 in the California prison system who suffer
22 and pass away every single year while being
23 forced to work. These people being excluded
24 from the workplace standards for temperature
25 is not only appalling but also a violation

1 of their Eighth Amendment right as citizens
2 of the United States against cruel and
3 unusual punishment.

4 "With a combination of them being
5 forced to work, denied cold water,
6 electrolytes, and medical treatment, many
7 people suffer, some to the point of death.

8 "Many of these buildings are extremely
9 old and run-down. This means many of them
10 are not equipped with A/C, which the staff
11 combats by providing old, run-down swamp
12 coolers that create and spread around black
13 mold while not having much actual effect on
14 the temperatures.

15 "According to UCLA medical
16 anthropologist Bharat Venkat, heat-related
17 deaths definitely happen in California
18 prisons and I'd expect more to happen this
19 summer. We don't have great data on
20 heat-related deaths in California prisons
21 for a variety of reasons, including how
22 deaths in prisons are accounted for, as well
23 as the way heat is often discounted as a
24 cause or a contributing factor when someone
25 has a heart attack or stroke, for example,

1 but recent work has shown that there is an
2 association between increasing temperatures,
3 multi-day heat waves, and an increase in
4 mortality amongst incarcerated people.

5 "Furthermore, the National Library of
6 Medicine studied the correlation between
7 heat deaths inside the prisons. Two- and
8 three-day heat waves were associated with
9 increased total mortality of 5 percent and
10 7.4 percent respectively. The cumulative
11 effect lags one to three of an extreme heat
12 day was associated with 22.8 percent
13 increase in suicides.

14 "The conditions in which the workers
15 are exposed to only exasperates these
16 issues. Please create a heat standard for
17 incarcerated people. Thank you."

18 CHAIR ALIOTO: Excellent. All right. Thank you very
19 much, Ruth, for doing that.

20 I want to go quickly before we close public
21 comment to Ms. Tamez.

22 Brenda, are you still available? And if you
23 are, would you please kindly make an announcement in
24 Spanish requesting if there are any Spanish speakers that
25 wish to make any public comment regarding a non-agenda

1 item and, if so, that they will have three -- six minutes
2 to do so, via your contemporaneous translation?

3 (Spanish interpretation given)

4 CHAIR ALIOTO: And if you don't mind, Brenda, if you
5 could also ask for them if they're online to raise their
6 hand and if they're in the public audience to walk up to
7 the podium if they'd like to speak.

8 (Spanish interpretation given)

9 CHAIR ALIOTO: Thank you so much.

10 Mr. Roensch, are there any hands raised?

11 MR. ROENSCH: There are not at this time.

12 CHAIR ALIOTO: All right. All right. Then in that
13 case, we are going to -- and no one's up at the podium;
14 right?

15 MS. BARAJAS: Correct.

16 CHAIR ALIOTO: All right. Thank you, folks. All
17 right. In that case, we are going to close public
18 testimony on non-agenda items. I want to thank you on
19 behalf of the Board. Everyone who provided a comment, we
20 appreciate your comments, and the public meeting is
21 adjourned and that record is now closed.

22 All right. We are going to move to comments by
23 Board Members. If you don't mind, folks, I'm going to
24 start and I'm going to start by just passing the
25 microphone over to Mr. Berg, who I think wanted to answer

1 a question that was posed. Go ahead, Mr. Berg.

2 MR. BERG: And thank you, Chair.

3 It was asked if we have a date for the Workplace
4 Violence General Industry advisory committee. We don't
5 have a specific date yet. We were, amongst our staff,
6 looking at schedules and looking at the latter half of
7 January. As soon as we have more precise information,
8 we'll let everyone know. Thank you.

9 CHAIR ALIOTO: Okay. Great. Thank you so much.

10 All right. Let me pass this around to the Board
11 members who would like to make comments or have any
12 questions for staff or anything else they'd like to --
13 any regulations they'd like to propose for future Board
14 meetings.

15 BOARD MEMBER LASZCZ-DAVIS: I have a question. This
16 is Chris. We've had at least two commenters discuss the
17 lead regulation. It's not only looming, but it is a
18 mammoth, complex regulation.

19 Having been on the implementation side in
20 industry in many cases, it just takes time to get these
21 things done, especially the training and testing and
22 whatever else needs to get done.

23 Is there any step in this process that allows a
24 delay, a latency in implementation? I mean, we're
25 talking January. Can this implementation process be

1 delayed by six months? Have we -- do we have any
2 precedence on this at all?

3 MR. BERG: I mean, the same issues were brought up to
4 the Cal/OSHA meeting last week, I believe the chief was
5 there and Director Katie Hagen was there. So I'll
6 communicate more with them and see what can be done, but
7 I don't know exactly what can be done. We have to do
8 more research.

9 BOARD MEMBER LASZCZ-DAVIS: Because you know what we
10 do, essentially. I mean, we have a regulation.
11 Implementation is required. Employers will do the best
12 they can. All segments of it won't be embraced and
13 engaged, and implementation -- you know, it's not a
14 comfortable situation all around, especially when people
15 are trying to do the right thing.

16 So to the extent that we can look at that issue,
17 I don't think it would hurt our employers and our
18 employees either so long as there were remedies in place
19 during the time period that the full regulation could be
20 implemented. Just something to consider.

21 MR. BERG: Yeah. I'll follow up on that with the
22 Chief and Director. Thank you.

23 CHAIR ALIOTO: All right. Thank you for those
24 comments.

25 Any other comments or questions by Board

1 Members?

2 MS. BARAJAS: I think we're good on this side.

3 CHAIR ALIOTO: All right. I just had a couple of
4 quick questions then.

5 I just wanted to follow up also with just two
6 questions, and you heard some of these comments.

7 Communication with respect to the COVID and --
8 the COVID regulations. Would you mind just commenting on
9 the status of what that is, Mr. Berg?

10 MR. BERG: Yes. So the COVID regulations expire in
11 February 2025 except for the subsection on recordkeeping.
12 So there's one small subsection on recordkeeping and that
13 expires February 2026.

14 CHAIR ALIOTO: Okay. And is that somewhere -- is
15 that located anywhere on the website or is that
16 information posted somewhere so that people can find more
17 information about this topic?

18 MR. BERG: I mean, it's in the regulation itself. I
19 think it says that up front, but also we have a detailed
20 FAQ on the regulation. I can follow up on that and see
21 if that's addressed in the FAQ. I don't know offhand if
22 it's in there or not, but I'll take a look at that and
23 meet with others at Cal/OSHA if we need to update the
24 FAQs.

25 CHAIR ALIOTO: Okay. Yeah. Just a request to allow

1 people the opportunity to understand how they need to
2 proceed going forward I think would be really helpful, so
3 thank you for that.

4 My only comment is to take another moment and
5 just say welcome again to our new Board Member,
6 Derek Urwin, who's already made a mark, I think, already
7 exemplified in the type of participation that he is going
8 to provide here at these Board meetings. So I just want
9 to say thank you again and welcome to our newest Board
10 Member.

11 All right. Any other comments or questions?
12 Otherwise, I think we're going to go into closed session.

13 No further comments?

14 Okay. Autumn, do we need to have a closed
15 session today?

16 MS. GONZALEZ: We do have a closed session on one
17 ending variance that's on the agenda.

18 CHAIR ALIOTO: Okay.

19 MS. GONZALEZ: So yes.

20 CHAIR ALIOTO: Then pursuant to Government Code
21 subsections 11126 subdivision (a)(1), subdivision (c)(3),
22 and subdivision (e)(1), the Board will now enter closed
23 session to confer with counsel regarding matters under
24 deliberation on appeal and/or pending litigation matters
25 listed on today's agenda in addition to the consideration

1 of personnel matters.

2 After the closed session is concluded, I will
3 reconvene the meeting and we will report on any closed
4 session activity.

5 For members of the public and staff who are
6 attending in person, we will need to have you exit the
7 room so that we can have our closed session.

8 Is that true? Are we doing it here?

9 MS. GONZALEZ: Yeah. Unfortunately, there's no
10 private room in this location, so we're asking folks to
11 leave this room and then TKO is going to hopefully put
12 you, Joe, and Michelle Iorio into a separate breakout
13 room.

14 CHAIR ALIOTO: Okay. Sounds good. Then for those of
15 you who are on teleconference and videoconference, we
16 invite you to remain online until the Board resumes open
17 session. All right. Thank you, folks.

18 (Closed session)

19 CHAIR ALIOTO: All right. The meeting of the
20 Occupational Safety and Health Standards Board is back in
21 session, returning from closed session.

22 The Board took the following action: The Board
23 granted the petition for rehearing in OSHSB case file
24 number 20-V-096.

25 And with that, we are going to adjourn the

1 business meeting. The next Standards Board regular
2 meeting is scheduled for December 19th. It's going to be
3 held in Rancho Cordova, California, and it will be via
4 teleconference and videoconference as well as in person.

5 Please visit our website and join our mailing
6 list to receive the latest updates. I want to thank you,
7 all, for your attendance today. I want to thank you,
8 all, for your comments.

9 And there being no further business to attend
10 to, this business meeting is adjourned. Thank you,
11 folks. We'll see you next time.

12 (Meeting adjourned at 12:42 p.m.)
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1 REPORTER'S CERTIFICATION

2
3 I, the undersigned, a Certified Shorthand
4 Reporter of the State of California, do hereby certify:

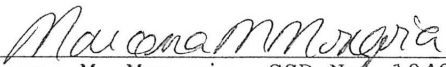
5 That the foregoing proceedings were taken before
6 me at the time and place herein set forth; that any
7 witnesses in the foregoing proceedings, prior to
8 testifying, were duly sworn; that a record of the
9 proceedings was made by me using machine shorthand, which
10 was thereafter transcribed under my direction; that the
11 foregoing transcript is a true record of the testimony
12 given.

13 Further, that if the foregoing pertains to the
14 original transcript of a deposition in a federal case,
15 before completion of the proceedings, review of the
16 transcript was not requested.

17 I further certify I am neither financially
18 interested in the action nor a relative or employee of any
19 attorney or party to this action.

20 IN WITNESS WHEREOF, I have this date subscribed
21 my name.

22 Dated: December 6, 2024

23 
24 Marcena M. Munguia, CSR No. 10420
25 Certified Shorthand Reporter
For The State Of California

