

U.S. DEPARTMENT OF LABOR
OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

ADVISORY COMMITTEE ON CONSTRUCTION
SAFETY AND HEALTH

Thursday, December 9, 2010

8:05 a.m.

U.S. Department of Labor
Room N-3437 A/B/C, Frances Perkins Building
200 Constitution Avenue, N.W.
Washington, D.C. 20210

PARTICIPANTS:

Frank Migliacco, Chairman
Ben Bare, DFO
Sarah Shortall, SOL
Eric Harbin, AFO
Michael Thibodeaux
Steve Hawkins
Susan Bilhorn
Kevin Beauregard
Daniel Zarletti
Emmett Russell
James Tomaseski
Liz Arioto
William Ahal
Thomas Shanahan
Walter Jones
Matt Gillen
Thomas Kavicky

PRESENTERS:

Bill Parsons
David Michaels
Pam Susi
Mohammad Ayub
Travis Parsons
Dean McKenzie
Kevin O'Shea
Tony Groat
Wayne Creasap
George Kennedy
John Kurtz
Gerri Ryan
Eileen Beatty
Tom Trauger
Gerald Houvener
Fran Dougherty
Garvin Branch
Gavin Burge
Kelly Baker
Gary Riley
Aaron Trippler
Clint Bridges
Lori Webber
Christopher Cole

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

2 CHAIRMAN MIGLIACCO: I'd like to bring the
3 meeting to order.

4 I'd like to get the housekeeping out of the
5 way first, for fire drills. You can look on the side
6 here, it tells you where to exit out through, using the
7 stairways. Use the exits to go out to the street
8 levels.

9 Shelter in place. I think it's still in this
10 room. It's not listed anymore, but I think it's in
11 that -- most of the stuff's in the cabinet there.

12 The rest room locations on both sides of the
13 -- the men and women on both sides of this room here.
14 I'll read the morning agenda, and before I go any
15 further, please turn off all your cell phones and put
16 your cell phones on vibrate.

17 Okay. So far this morning, we'll have the
18 Opening Remarks going on now.

19 Then we have DOC Regulatory Update.
20 Assistant Secretary David Michaels will come in and
21 speak to us, and we'll take a break after that.

22 We have Silica and Health Hazard Multilingual

1 Issues Work Group Reports. And we have a presentation
2 on Mast Climbing Work Platform Presentation. Then we
3 have the Committee Administration.

4 And then we'll break for lunch.

5 In the back of the room, there's a sign-in
6 sheet for public comment that will take place this
7 afternoon. Anybody interested, sign in, please.

8 And I'll mention that several times through
9 the day.

10 All right, before we go any further, I'd like
11 self-introductions, starting with Sarah, please.

12 MS. SHORTALL: Oh, hello. Good morning. My
13 name is Sarah Shortall. I'm from the Office of the
14 Solicitor, and I'm the Counsel for ACCSH.

15 MR. KAVICKY: Good morning. My name is Tom
16 Kavicky, United Brotherhood of Carpenters and Joiners
17 of America. I am an Employee Rep of ACCSH.

18 MR. GILLEN: Good morning. And I'm Matt
19 Gillen. I'm with the -- Office of Construction Safety
20 and Health, and I'm the NIOSH rep.

21 MR. JONES: Good morning. My name is Walter
22 Jones. I'm with the Laborers' Health and Safety Fund.

1 I'm an Employee Rep.

2 MR. SHANAHAN: Good morning. I'm Tom
3 Shanahan with the National Roofing Contractors
4 Association, and an Employee Rep.

5 MR. AHAL: Good morning. Bill Ahal, Ahal
6 Preconstruction Services, Employer Rep.

7 MS ARIOTO: Ms. Arioto, Elizabeth Arioto,
8 Safety and Health Consultant Services, Public Rep.

9 MR. TOMASESKI: Jim Tomaseski, International
10 Brotherhood of Electrical Workers, Employee Rep.

11 MR. THIBODEAUX: Mike Thibodeaux -- Employer
12 Rep.

13 MR. BRODERICK: Tom Broderick, Construction
14 Safety Council, Public Representative.

15 MR. HAWKINS: Steve Hawkins, Tennessee OSHA,
16 State Plan Representative.

17 MS. BILHORN: Susan Bilhorn, Jacobs
18 Engineering, Employer Representative.

19 MR. BEAUREGARD: Kevin Beauregard, North
20 Carolina Department of Labor, State Agency
21 Representative.

22 MR. ZARLETTI: Dan Zarletti, Kenny

1 Construction Company, Chicago. Also an Employer Rep
2 with ACCSH.

3 MR. RUSSELL: Emmett Russell with the
4 Operating Engineers International, and I am an Employee
5 Rep.

6 MR. HARBIN: Eric Harbin, OSHA's Directorate
7 of Construction --

8 MR. BARE: And I'm Ben Bare, the Deputy
9 Director of the Directorate of Construction. Thank
10 you.

11 CHAIRMAN MIGLIACCO: And I'm Frank Migliacco,
12 Executive Director of Safety and Health for the
13 Ironworkers International and an Employee
14 Representative.

15 I'd like the public to give us their name and
16 who they represent, starting over here, please.

17 MS. SUSI: Pam Susi, Center for Construction
18 Research and Training.

19 MR. PARSONS: Travis Parsons with the
20 Laborers' Health & Safety Fund.

21 MR. CREASAP: Wayne Creasap, the Association
22 of Unique Instructors, and the National Maintenance

1 Agreements Policy Committee.

2 MR. KENNEDY: George Kennedy, NUCA.

3 MR. KURTZ: John Kurtz, International Staple,
4 Nail & Tool Association.

5 MR. RYAN: Gerry Ryan, Plasterers and Cement
6 Masons International Union.

7 MS. BEATTY: Eileen Beatty, CPWR.

8 MR. TRAUGER: Tom Trauger, Winchester Homes.

9 MR. PARSONS: Bill Parsons, OSHA as
10 Directorate of Construction, Office of Construction,
11 Standards, and Guidance.

12 MR. HOUVENER: Gerald Houvener, OSHA
13 Directorate of Construction.

14 MS. DOUGHERTY: Fran Dougherty, Office of
15 Construction Services, OSHA.

16 MR. MCKENZIE: Dean McKenzie, Office of
17 Construction Services, OSHA.

18 MR. AYUB: Mohammad Ayub, DOC, Directorate of
19 Construction.

20 MR. BRANCH: Garvin Branch, Directorate of
21 Construction, Construction Standards and Guidance.

22 MR. BURGE: My name is Gavin Burge. I'm here

1 on behalf of OPNAV, US Navy Safety Liaison Office.

2 MS. BAKER: Kelly Baker, National Office of
3 Job Corps, Safety and Occupational Health.

4 MR. GROAT: Tony Groat, the International
5 Powered Access Federation.

6 MR. RILEY: Gary Riley, the International
7 Powered Access Federation.

8 MR. TRIPPLER: Aaron Trippler, American
9 Industrial Hygiene Association.

10 MR. HINTON: James Hinton with EZ Scaffold.

11 MR. O'SHEA: And Kevin O'Shea, International
12 Powered Access Federation and Scaffold Industry
13 Association.

14 MR. BRIDGES: Clint Bridges with EZ Scaffold.

15 MS. WEBBER: Lori Webber, Scaffold Industry
16 Association.

17 MR. COLE: Christopher Cole, Inside OSHA.

18 CHAIRMAN MIGLIACCO: Ready? Okay. Thank
19 you.

20 Before we go any further, I'd like to make
21 one more announcement. Tomorrow is a travel day. So
22 business casual clothing is accepted for the committee.

1 All right. Like I said, the public comment
2 sheets in the back of the room. Anybody who wishes to
3 speak this afternoon, please sign in your name and who
4 you represent.

5 All right, the DOC Regulatory Update,
6 Directorate of Construction.

7 (Discussion was held off the record.)

8 MR. BARE: It's a pleasure to be here this
9 morning. My name's Ben Bare. I'm the Deputy Director
10 of Construction, brand new with the Department.

11 Been here about four or five months, and it's
12 been a great experience and I'm learning a lot. And I
13 appreciate everybody's patience with me, and with the
14 Directorate until we get things kind of rolling.

15 First, you know, to put the meeting together
16 and get everything organized, it's been a tremendous
17 effort on the part of Eric and his staff. And I want
18 to just thank Eric, and all of his staff for the good
19 work that they have done in putting this together.

20 It's taken a lot of work to do that. It may
21 seem simple, sitting here now; but it takes a lot of
22 work and a lot of coordination, and we appreciate your

1 patience with us, and hope that we'll do this better
2 next time, and things will come along.

3 If you were looking for your input and
4 examples and recommendations on how we could improve,
5 the Directorate of Construction has done a lot of good
6 work over the years, and in the last few years,
7 particularly in the area of standards making, with
8 Cranes and Derricks.

9 And I wanted to take just a minute to kind of
10 turn it over to each one of the directors to give you
11 an update on the types of works and the activities that
12 they've been doing for the last few years, and over the
13 recent year or so.

14 So with that, I would like Eric and Bill
15 Parsons and Mohammad Ayub to give a brief update for
16 the committee.

17 MR. HARBIN: Thank you, Ben. Good morning to
18 the distinguished members of the Committee. And I
19 thank you for the opportunity to come and speak before
20 you.

21 As you may know, the Office of Construction
22 Services has undergone many changes over the past year.

1 I joined the Office as Director just before the last
2 meeting in April in Houston. And since that time, the
3 Office has gained, in addition to myself, two more
4 staff;

5 Two safety specialists, Michael Payne, who I
6 hope you've come to meet over the last few days. He
7 comes to us from the Manhattan Area OSHA Office.

8 And also Damon Bonneau. He came to us from
9 after working many years for a contractor in Honolulu,
10 and I hope he's enjoying the weather now here in D.C.

11 (Laughter.)

12 MR. HARBIN: And he has also a 30-year career
13 in the U.S. Air Force, so we welcome him and his
14 experience, and I hope you get to know him over the
15 days that follow.

16 I particularly would like to recognize Mr.
17 Michael Buchet for his many years of service, working
18 hard and diligently with you, the members of ACCSH,
19 currently, and past members.

20 I've learned how much work he's actually put
21 into it over the last years. And I very much
22 appreciate, along with the rest of my staff, how much

1 he's done to help the ACCSH work and move forward.

2 Additionally, I also want to thank the hard
3 work that my staff has put into making this meeting
4 take place. In particular, Fran Dougherty and Dean
5 McKenzie, who've worked many hard months and long days
6 to make sure this happens.

7 The office has been extremely busy over the
8 previous year, and I expect that the work level will in
9 all likelihood increase in the coming months and years.

10 Since the last meeting, we worked with the
11 Department on the renewal of the charter for ACCSH, and
12 we've also solicited for new nominees for appointments
13 to the Committee.

14 The Office of Construction Services has
15 worked closely with the other offices in the
16 Directorate on keeping our stakeholders informed, in
17 particular with Cranes and Derrick Standard.

18 We took part in the rollout of the standard
19 by participating in a web chat, development of fact
20 sheets on the new standard; and also we developed or
21 worked with the other offices in the Directorate to
22 develop a presentation, so that we could keep employers

1 and work groups, labor groups, trade associations
2 informed, and give them a tool to help train their
3 members.

4 In particular, we've also worked with other
5 groups to put on a webinar. Some of the ones we worked
6 with is the AGC, Associated General Contractors, and
7 the Sheet Metal and Air Conditioning Contractors
8 National Association, as well as Chartis Insurance
9 Group.

10 This is a unique and novel approach that the
11 Directorate of Construction has taken.

12 We continue to look for ways to maximize our
13 outreach and to work with our stakeholders to ensure
14 that the workers and employers are aware of the
15 requirements and new standards, and any new standards
16 that may be promulgated.

17 Additionally, we've participated in numerous
18 outreach activities to keep the stakeholders abreast of
19 the current activities that DOC, the Directorate of
20 Construction, is working on.

21 We've given presentations at a number of
22 meetings to include the National Safety Conference,

1 that American Wind Energy Safety Conference, and the
2 American Fire Sprinkler Association Convention, and
3 many others.

4 We developed an article for the Alliance
5 Quarterly Magazine, to keep our members of the
6 Alliances informed. This article addressed the new
7 requirements of the crane standard. And as time goes
8 forward, we will continue to develop those articles, to
9 make sure our stakeholders are informed.

10 The office has continued to monitor and make
11 changes to our website. That's one of the
12 responsibilities of the Office of Construction
13 Services. There is a lot of information on there that
14 we have observed to be outdated.

15 We've tried to update it, but as you may
16 understand, it's a large task. And if any of you come
17 to notice any dated material, please feel free to let
18 me know, and we will make changes to it.

19 We handle any correspondence that the
20 Directorate of Construction handles in a given month.
21 Our Directorate alone can expect anywhere from 50 to 70
22 questions.

1 It take quite a bit of time for us to
2 research and give a proper answer to all of those
3 people who send us electronic correspondence. And we
4 welcome the opportunity to reach out to folks that way.

5 One of our primary concerns has been to
6 continue to work closely with our field staff, and the
7 other national office directorates, to make sure that
8 we have open lines of communication within our agency.

9 And one of our particular concerns has been
10 trying to work with and improve our construction
11 targeting system.

12 We work closely with the Directorate of
13 Evaluation and Analysis, to conduct a webinar for OSHA
14 staff members, not only in the National Office but
15 throughout the field offices.

16 And we hope that, giving that update and
17 refresher training makes that system more user-friendly
18 and understandable to those who use it.

19 We continue to monitor the effectiveness of
20 the targeting system, and as we observe ways to improve
21 it, we will take those steps.

22 Without any further questions, pending your

1 questions, I thank you for the opportunity to speak.
2 And unless there are questions, I'll be followed by
3 Bill Parsons.

4 CHAIRMAN MIGLIACCO: Any questions of the
5 Committee? Liz?

6 MS. ARIOTO: Liz Ariota.

7 I'd personally like to thank your department.
8 They've been a great help to me. I'm sure for the
9 rest of the committee, especially Dean McKenzie, and I
10 wrote names down. Damon Bonneau?

11 MR. BONNEAU: Bonneau.

12 MS. ARIOTO: Right. And our friend. And
13 they're excellent. I mean, I was here at 6:30, and
14 they've been helping me for the last couple of days.

15 So let me tell you, they've worked very, very
16 hard. So thank you, gentlemen, thank your department.

17 MR. HARBIN: Thank you.

18 CHAIRMAN MIGLIACCO: Any other questions?
19 Seeing none, thank you.

20 MR. PARSONS: Good morning, ladies and
21 gentlemen. It's a pleasure to see you this morning.

22 I'm going to be brief. I have a couple of

1 things that I'd like to talk about.

2 I've been a Safety and Health Professional
3 for over 34 years now, seems like since I left home at
4 18. But I'm a little older than that, so it's been a
5 little longer than that.

6 But during my past couple years with the
7 Directorate of Construction, it's been my pleasure to
8 work with you. And I've never met a more committed
9 group of people to Occupational Safety and Health than
10 the folks I'm looking at right now.

11 And I sincerely appreciate that. And it
12 means a lot to both me, the Directorate, and the Agency
13 that you're here to do that.

14 And I say that with all sincerity.

15 Each of you know that it takes hard work and
16 commitment to have a good safety and health culture
17 within an organization.

18 It takes hard work and commitment also within
19 the Agency, the Directorate of Construction, and my
20 office, to do the work that we do.

21 And we demonstrated that, I believe, most
22 recently with the product that was published, which was

1 the Cranes and Derricks final rule.

2 That supported by many of you who
3 participated with the CDAC Committee, with the
4 stakeholders, the Agency, and you know, it truly takes
5 a team to put something like this together;

6 And this negotiated rule-making process was,
7 indeed, a team effort; and it was a tough one, as all
8 of you know.

9 We continue that work in the Directorate of
10 Construction, and the Office of Construction Standards
11 and Guidance by developing, as Eric mentioned a little
12 bit earlier, guidance products, quick cards, fact
13 sheets, so on.

14 We're also currently working on a directive
15 that will assist compliance officers in how to enforce
16 that new rule.

17 And beyond that, you know, while that took a
18 lot of our time and effort, working on the Cranes and
19 Derricks final rule, we were also working on the final
20 rule for confined spaces.

21 And that work continues today. I think
22 without question, I have 12 of the hardest-working,

1 most dedicated folks that work for OSHA; and they're
2 working hard to get this new rule put together, and to
3 get it out.

4 I know questions are going to be: When's it
5 going to be out, Bill? It's the same as the previous
6 answers. It will be out as soon as we can get it out.

7 And we're working very hard to get it out.

8 I don't want to go into a lot of the other
9 things that we're doing, because quite frankly, Mr.
10 Harbin covered many of those things. We share much of
11 the same work within the Directorate of Construction.

12 It's pretty hard to draw lines: This office
13 does this and this office does this. You know, we
14 intermingle those activities quite a bit.

15 But what I would like to do is entertain any
16 questions that you might have.

17 CHAIRMAN MIGLIACCO: Any questions of the
18 Committee for Bill? Steve?

19 MR. HAWKINS: You know, Bill, I don't think
20 most people in the Safety & Health Community realize
21 how few people actually produce those standards.

22 And I think sometimes those of us on the

1 outside of OSHA, and certainly across the nation, you
2 know, think there might be 300 people working on
3 confined spaces -- for construction.

4 And we realize that Garvin and some of these
5 other guys are doing the bulk of that work, and it's a
6 relatively small group of people.

7 So I just personally -- understand more about
8 the process. I'm really impressed with the work that
9 your office does on the standards and development.

10 Just wanted to comment on that.

11 MR. PARSONS: Well, thank you very much, I
12 appreciate that.

13 And I will say that I think many people don't
14 really understand that we have a very limited number of
15 people to perform these assigned duties.

16 And there is a lot to do. I mean, we're not
17 talking about working on one issue. We're talking
18 about thinking about planning working many issues at
19 the same time, while continuing to push forward on
20 getting out these rules.

21 And it does take a lot of hard work. And of
22 course, we would love to have that 300 people, you

1 know.

2 MR. HAWKINS: Yeah.

3 MR. PARSONS: But we're not going to get
4 that.

5 CHAIRMAN MIGLIACCO: Any other questions?
6 Emmett?

7 MR. RUSSELL: Yeah. Just one comment.

8 On behalf of the operating engineers, I would
9 like to thank OSHA for their excellent job in ruling
10 out the Cranes and Derrick Standard, which is a very
11 sensitive standard to my organization;

12 As well as I have to commend our Garvin
13 Branch. He actually did a presentation at our Safety &
14 Health Conference, and his presentation was extremely
15 well received.

16 But again, on behalf of the operating
17 engineers, I'd like to thank OSHA.

18 MR. PARSONS: Thank you.

19 CHAIRMAN MIGLIACCO: Any other questions?
20 Tom?

21 MR. KAVICKY: Tom Kavicky with the
22 carpenters. Bill, you've always had time to sit down

1 and listen to our concerns and give us a little bit of
2 guidance. And I'd like to say "Thank you for that."

3 I did have a question regarding the Cranes
4 and Derrick Standard. I know you guys have been
5 flooded with a lot of questions for interpretations.

6 Do you have any idea when those
7 interpretations would start coming out?

8 MR. PARSONS: Well, I would expect to start
9 seeing interpretations any time. You know, my office
10 is currently working on putting together a plan that
11 will require a more speedy response to interpretations.

12 And I think I'll probably end my statement
13 there.

14 We're working very hard to get them out as
15 quickly as we can. It helps not only the users, the
16 people that the rule applies to; but it helps us
17 because it allows us more time to continue the work in
18 other areas, such as the confined spaces rule. And so
19 on.

20 So the sooner we get that out, the better off
21 everyone is.

22 MR. KAVICKY: Thank you, Bill.

1 CHAIRMAN MIGLIACCO: Bill?

2 MR. AHAL: Bill Ahal, Employer
3 Representative.

4 Bill, I want to thank you, on behalf of the
5 Associated General Contractors of America, for your
6 help, both in your current position and of course, when
7 you were in acting positions prior to Mr. Bare being in
8 Washington, and in taking the time to work with the AGC
9 and its Safety & Health Committee, so that they can
10 continue the mission of safety to the members and to
11 the construction industry.

12 I know that you put a lot of time in with us,
13 traveled to be with us at our meetings when we could;
14 and in the absence of that, were always available, even
15 for a tele-report.

16 And I can't tell you enough, and to the
17 others in the room, how important that is to the AGC
18 Safety & Health Committee members, and the membership,
19 so they can maintain a safe job site for the workers.

20 You put in a lot of hours, and we recognize
21 it, and we certainly appreciate it.

22 MR. PARSONS: Thank you.

1 CHAIRMAN MIGLIACCO: Jim?

2 MR. TOMASESKI: Yeah. Just a question on
3 another issue.

4 Those of us outside the Agency were hoping
5 that Sub-Part B would have published yesterday; but
6 seeing that it wasn't, any idea what's -- do you have a
7 target date for that?

8 MR. PARSONS: I can't respond to Sub-Part B.
9 Quite frankly, that's handled by the Directorate of
10 Standards and Guidance, and they may have a
11 representative in here today or tomorrow that may be
12 able to respond to that.

13 CHAIRMAN MIGLIACCO: Any other questions?
14 Liz?

15 MS. ARIOTO: Liz Arioto.

16 Bill, I would like to thank you for always
17 taking time out, no matter what it was -- for five
18 minutes or ten minutes -- to listen to me and to give
19 me so many good suggestions and advice.

20 So thank you very much.

21 MR. PARSONS: Well, I thank you all very
22 much. Did my doctor call somebody? Or?

1 (Laughter.)

2 MR. PARSONS: I very much appreciate the
3 comments, and I'm always here to assist in any way I
4 can.

5 Thank you.

6 CHAIRMAN MIGLIACCO: Any other questions?
7 Seeing none, thank you, Bill.

8 MR. PARSONS: Thank you.

9 CHAIRMAN MIGLIACCO: For the benefit of the
10 recorder, please state your name when you come forward,
11 and the committee also. He has your names down, but
12 it's a little easier for him if you state your name and
13 who you're with, so when he does his write-ups, it
14 makes it easier.

15 Thank you.

16 MR. AYUB: Last but not the least, I'm from
17 the Office of Engineering in the DOC. And as you know,
18 we are a resource for all the matters concerning
19 geotechnical engineering and civil and structural
20 engineering.

21 CHAIRMAN MIGLIACCO: Can you state your name
22 for the recorder, please?

1 MR. AYUB: Mohammad Ayub, A-y-u-b the last
2 name. And I'm Director of the Office of Engineering in
3 DOC.

4 CHAIRMAN MIGLIACCO: Thank you.

5 MR. AYUB: As you know, that our major task
6 in the office is four-fold:

7 One is to provide technical assistance to the
8 field, regional offices, and national offices, and also
9 different directorates here.

10 And we do provide engineering support in
11 writing standards, interpretation of the standards, if
12 there are some new innovative methods in order to
13 enhance safety.

14 So we try to examine it from an engineering
15 point of view.

16 And our task is also to conduct
17 investigations of major construction collapses. And
18 you that we have so far investigated 96 major
19 collapses.

20 And an article has been published this month
21 summarizing the causes of the collapses of all the 96
22 incidents that we have been involved in.

1 If you would like to get a copy of it, please
2 let me know, and I will get you a copy of it.

3 Many of you may not be aware of the fact that
4 20 percent of the cause of the collapses are not
5 construction flaws; they are design flaws.

6 A structural design was not done properly,
7 either in the office of the structural engineer, or in
8 the office of the engineer retained by the contractors.

9 Our task is to respond to the major
10 construction incidents within eight to ten hours of the
11 collapse. And the manner in which it works is that the
12 area director of the regional administrator is going to
13 make a call here to the national office.

14 And then we will able to respond there within
15 eight to ten hours. Once we go there, our task is to
16 examine the collapse, and to stabilize that portion of
17 the building that has not collapsed;

18 And also stabilize those portions of the
19 structures, means columns, flat beams, which are in a
20 very precarious situation.

21 And our job is to find whether or not there
22 have been some violations of the OSHA standards, or

1 violation of the generally recognized industry
2 standards.

3 And of course, lastly, we are tasked to
4 determine the cause of the collapse.

5 Recently, last month actually, we have
6 completed two major incident investigations. One was
7 the concrete silo collapse in Kansas; and the other was
8 a bridge collapse during reconstruction in Connecticut.

9 We also, a month before, went to Hattie,
10 Missouri, where there were fertilizer storage bins and
11 there was a walkway and that walkway collapsed, and it
12 killed two of its employees.

13 And once we went there and once we examined
14 the structure, we came to the conclusion that there is
15 an imminent danger of collapse. So we had advised the
16 plant owner to shut off the entire facility.

17 And they agreed to replace the entire
18 walkway.

19 I have been able to hire another structure
20 engineer, his name is Dr. Godemo. He has a Ph.D. in
21 structural engineering, and he's an excellent resource
22 for me in vibration analysis, and in the dynamic

1 analysis of the buildings, bridges, tunnels, and
2 towers.

3 This is about all that we do. And any time
4 there is some interpretation of standards, we have a
5 role to play because we are asked to advise from the
6 point of view of civil and structural engineering.

7 And we are not only helping the DOC here, but
8 my office extends itself to all the directorates in the
9 national office.

10 This will conclude my presentation. If you
11 have any questions to ask me -- or I will be hanging
12 around in the back -- feel free to ask.

13 Then I can provide to you a copy of the
14 magazine publication that gives a synopsis of all the
15 structural collapses that have taken place.

16 CHAIRMAN MIGLIACCO: Okay. Any questions?
17 Matt?

18 MR. GILLEN: Gee, I'd like to really applaud
19 the work that your office does. It's a difficult job,
20 and it's a small office.

21 And I especially think it's been great that
22 you've been able to find the time and to sort of be

1 able to packages some of these cases together.

2 Because it's really, really important to get
3 the information out there, so that others can learn
4 from some of these, you know, important engineering
5 issues related to collapses, et cetera.

6 So thank you very much.

7 MR. AYUB: Thank you.

8 CHAIRMAN MIGLIACCO: That was Matt Gillen.

9 MR. GILLEN: Matt Gillen. Sorry.

10 CHAIRMAN MIGLIACCO: Any other questions?

11 Okay. Thank you very much.

12 MR. BARE: Thank you. I just want to
13 reiterate and say thank you to Bill and Eric and
14 Mohammad for the great work that they've done, that
15 they have done and that they do.

16 They have done a yeoman's job on supporting
17 the Agency, supporting Safety & Health, supporting me.

18 And I think they deserve a round of applause, and our
19 thank you.

20 So, thank you very much.

21 (Applause.)

22 MR. BARE: To just kind of wrap up and give

1 you kind of an overview of where we're headed within
2 DOC and some of the priorities that we have and things
3 that we've been working on, I'd like to just touch on a
4 few things.

5 We recognize that improvements need to be
6 made, and we need to make better utilization of
7 information technology sources, doing webinars,
8 reaching out to folks, and using their information
9 technology, the websites and so forth, to better
10 transmit information, and get information back from our
11 stakeholders, including ACCSH and other organizations.

12 So we're working to update our website, and
13 we would appreciate ideas that you might have on how we
14 can better utilize electronic or information technology
15 to improve our communication with you and improve our
16 services.

17 We want to be responsive and I want to try to
18 improve our responsiveness to you, and take into
19 consideration your recommendations and ideas that you
20 have.

21 So we're looking for those, and I very much
22 support and very much would appreciate your input on

1 how we can improve.

2 We're also looking for better ways to utilize
3 our resources in cooperation with other agencies, like
4 NIOSH. We have been working with them on the nail gun
5 document. And I think that's been -- it's a new
6 approach, it's something that I think has been long
7 overdue, and we're looking for not only working with
8 NIOSH, but other agencies and other organizations as
9 well, and our stakeholders.

10 We would like to expand and explore on how we
11 can leverage our resources to improve our enforcement
12 programs, particularly in construction targeting, so
13 that we make sure that we have, when the -- officers,
14 or compliance officers arrive at work site, that the
15 work site is active, and it's at a stage in
16 construction where the most prevalent and the most
17 dangerous hazards would possibly exist.

18 And so we're exploring new ways and using
19 different databases other than Dodge in some cases, or
20 help us supplement Dodge reports in some cases, to
21 assure that we can get to the site in a timely fashion,
22 when we need to bring the compliance officers or

1 enforcement folks need to be there.

2 But we're also looking at new ways of
3 compliance assistance. And we still value the
4 compliance assistance component. We'd like to work
5 cooperatively with organizations to develop Safety &
6 Health programs, or ways to improve Safety & Health,
7 and get that information out, and expand that and
8 leverage that to our stakeholders.

9 So with kind of that idea in mind, I just
10 wanted to say that, you know, we do have -- we are
11 ongoing and we have a work group working on I2P2,
12 Injury & Illness Prevention Program.

13 That was primarily being led by Standards.
14 But we are involved in the standard development. And I
15 wanted to thank Frank for his support in pulling
16 together a Task Force to get rolling on that, so that
17 we have a construction component in that, and we're
18 able to contribute from a construction standpoint to
19 development of that standard.

20 As I mentioned earlier, we have worked with
21 NIOSH and we're also getting input from other
22 organizations about our nail gun document. We think

1 that's an extremely important issue that needs to be
2 addressed.

3 The agency has also proposed some amendments
4 to workplace noise, and we're looking at feasible
5 engineering controls, and a redefinition of how to
6 enforce noisy engineering controls in our compliance
7 efforts in that area.

8 Also, as Bill mentioned, we're running as
9 fast as we can to issue compliance documents for the
10 Cranes and Derrick Standard. We know that that's
11 extremely important, but there's a lot of levels of
12 review that it has to go through.

13 And we appreciate Emmett's support and help
14 in that area, particularly with helping us with the
15 rollout activities and providing us the ability to show
16 cranes and show the exact types of equipment that would
17 be covered by the Cranes and Derrick Standard.

18 And it's that type of cooperation that I
19 would look forward to from other organizations, as we
20 move along in developing our standards.

21 We still have an activity on residential
22 construction in roofing activity and reviewing and

1 considering changing the standard or the directive that
2 was currently in place.

3 And we're moving forward on rescinding that
4 directive. But I don't know exactly when that might
5 happen, or what the final outcome might be.

6 So with that in mind, we're also moving
7 forward on trying and develop, no matter what happens
8 with the directive, additional compliance documents
9 that we would issue to on our website and provide to
10 help employers, particularly in the roofing industry,
11 and construction industry, with fall protection
12 techniques and ideas and how they can use personal fall
13 protection systems in a feasible manner;

14 And provide that compliance assistance to the
15 employers.

16 We also are working very cooperatively with
17 other directorates, and I'm trying to improve that
18 cooperation, so that construction is represented with
19 any type of general industry enforcement, where that
20 enforcement component may have an impact on
21 construction.

22 And one of those areas that we've worked in

1 is -- there's been some changes in the penalty
2 structure, there's been some new programs that identify
3 severe violators;

4 And a number of those severe violators under
5 that program that have been identified during the
6 construction industry, almost about 75 percent of the
7 industries or companies that are in that program are
8 construction, are construction employers;

9 And that is something that we need to take
10 note of, and pay attention to, and try to marshal our
11 resources to reduce the number of injuries and
12 illnesses in construction industry.

13 That is kind of a red flag, I think, for us,
14 and something that we need to focus our resources on
15 and try to better help employers comply up front.

16 The prevention through design activities I
17 think is a step in the right direction. We're also
18 trying to use data to better target our resources and
19 to move us in the right direction, and help us develop
20 compliance documents, and maybe even notify employers
21 that are in a particular high-hazard sector in advance
22 of doing inspection activity that they are in a high-

1 hazard section or a high-hazard industry or doing a
2 high-hazard job that needs their attention.

3 And we're using the information technology to
4 track and data analysis to identify those sectors and
5 individual employers that may need our assistance.

6 So it's not just all enforcement. It's a
7 complete package of compliance assistance, as well as
8 enforcement programs, and using our outreach programs
9 effectively to reduce injuries and illnesses, which is,
10 as you know, the overall goal of the agency.

11 Lastly, I would just like to take a minute to
12 thank the committee members for their excellent work
13 that you have done and are doing. I appreciate, again,
14 the work that you've done putting the Task Force
15 together on I2P2 activity.

16 And I look forward to your continued support.

17 I deeply value and the Agency deeply values all the
18 work that you have done. And we need your help and
19 support.

20 And so thank you. And that's all I have.

21 Thank you.

22 CHAIRMAN MIGLIACCO: Any questions?

1 Questions on the Committee? Walter?

2 MR. JONES: Walter Jones, Laborers. And I
3 just have one question. I guess we haven't met since
4 Houston and/or a series of recommendations that the
5 committee made at that time, and I believe at the prior
6 meetings as well.

7 And is there any way that we can get an
8 update on the status of any of those recommendations?

9 One that jumps off, comes to mind quickly is
10 the sanitation recommendations that this Committee made
11 in terms of making toilet facilities gender equal on
12 construction work sites, so that the status -- some had
13 thoughts of making the construction standard more in
14 line with the general industry standard, and other
15 recommendations that this group has made to your
16 office?

17 MR. BARE: Well, I don't have an update right
18 now. But I can work on that, and provide you. Maybe
19 we can send out an update or get that information for
20 you. But I'm just not prepared at this point to
21 address that.

22 CHAIRMAN MIGLIACCO: Susan?

1 MS. BILHORN: Susan Bilhorn Jacobs.

2 Yeah, just to tag along. You know, I think
3 there had started -- wasn't there the last two
4 meetings, there was on the agenda, there was kind of a
5 statusing of those actions?

6 You know, it would be really helpful if there
7 was just maybe a tracking of them.

8 MR. BARE: Okay.

9 MS. BILHORN: And I know that was done the
10 last two times. But I wasn't sure how comprehensive.
11 Because you know, it was kind of like drawing from a
12 memory from meeting to meeting, to recall.

13 So I was going through it the last couple
14 days myself. So Walter, you and I must have doing some
15 of the same thinking.

16 MR. JONES: Yeah.

17 MS. BILHORN: And yeah, it would be nice to
18 track them.

19 MR. JONES: Okay.

20 MS. BILHORN: And the only reason is because
21 we want to make sure we're in sync with the advice that
22 we can give that can be helpful to the Agency, as

1 opposed to running down two parallel paths.

2 MR. BARE: Okay.

3 Eric, do you have anything, by chance? Or --

4 MR. HARBIN: No, not off the top of my head,

5 I don't have the list of all the recommendations. But

6 I do realize that we updated FIDO, which tracks what

7 the advice that the Committee gives to the Agency.

8 And off the top of my head, with specifically

9 regards to Mr. Jones' comment. I don't recall that

10 answer to the exact question with regards to the

11 working group on women in construction.

12 But --

13 MS. BILHORN: So what's FIDO?

14 MR. HARBIN: FIDO is -- I may need Ms.

15 Shortall to assist me on this -- but it's an electronic

16 record-keeping system that keeps where we track what

17 the Advisory Committee's recommend to the agency.

18 And it's not just in OSHA.

19 And I may have the name incorrect here. But

20 --

21 MS. SHORTALL: It is FIDO.gov. It's a

22 website maintained by the Government Accounting Office

1 for all advisory committees. It includes things like
2 your charters, your membership lists, all those type
3 things.

4 It's also supposed to include recommendations
5 that ACCSH has made to the Department.

6 Now what we do is we record all of those in
7 the minutes, so oftentimes he'll be able to find it
8 there.

9 (Discussion was held off the record.)

10 MS. BILHORN: But is it like, you know, Item
11 1(d)x? This is the action and then like a summary of
12 the recommendations? Or is just the meeting minutes
13 that you then go through to figure out?

14 MS. SHORTALL: It is not at this point a --
15 Recommendation A was made. This is OSHA's response to
16 it. It's not that formal, as of yet, at least for this
17 agency.

18 CHAIRMAN MIGLIACCO: Mike?

19 MR. THIBODEAUX: Mike Thibodeaux.

20 The last two meetings, Bill Parsons was the
21 one who gave us those updates on what the status was
22 with, you know, with our recommendations to the agency.

1 So you do recall that correctly. But it was
2 Bill Parsons, and a specific time was set aside for him
3 to do that for us. And I think that would be helpful
4 to the Committee in the future.

5 CHAIRMAN MIGLIACCO: Okay. All right. Thank
6 you.

7 MS. BILHORN: Because I believe you've been
8 proposed specific language that could be used as a
9 draft for quick cards, and that sort of thing.

10 And just really nice to know. Because if we
11 aren't aligned, then we need to shift our focus to an
12 area that we can provide recommendations that are
13 useful.

14 MR. BARE: Mm-hmm. Absolutely. Yeah. Those
15 are the kinds of information and what you need to
16 better focus our resources and make sure we're on track
17 together.

18 So I appreciate that.

19 CHAIRMAN MIGLIACCO: Bill?

20 MR. AHAL: Bill Ahal. Mr. Bare, it was about
21 five meetings ago that I made the recommendation
22 brought forth to this group that we would keep an

1 update, so that efforts of this committee, if we needed
2 to re-emphasize something.

3 So again, I know you're kind of new to town,
4 and -- your position.

5 MR. BARE: Mm-hmm.

6 MR. AHAL: And since our last meeting
7 together.

8 It was a regular update, that had been
9 started a couple or three meetings ago. And that way
10 we would know from the last meeting where that status
11 was. We could re-emphasize it if necessary, or be
12 assured that the agency was really far, or what they
13 were -- so.

14 MR. BARE: Mm-hmm. Okay.

15 MR. AHAL: It was very helpful.

16 MR. BARE: Okay.

17 CHAIRMAN MIGLIACCO: Liz?

18 MS. ARIOTO: Yeah. Liz Arioto. Mr. Bare,
19 I'm on the Diversity of Women in Construction, and the
20 sanitation is a very important part of my --

21 MR. BARE: We'd --

22 MS. ARIOTO: I've been working on that with

1 the work groups for 14 years. And I hate to see it go
2 on for another 14 years.

3 (Laughter.)

4 MS. ARIOTO: So we would like to have some
5 update on this if possible. Okay? So we could have a
6 little at each meeting. And our meetings are spread
7 apart, so --

8 MR. BARE: Okay.

9 MS. ARIOTO: I'm going to request that that
10 be done.

11 MR. BARE: Yeah. That's very, very
12 reasonable. So thank you.

13 MS. ARIOTO: Thank you.

14 MR. BARE: Thank you.

15 CHAIRMAN MIGLIACCO: Any other questions?
16 Seeing none, thank you, Ben.

17 MR. BARE: Okay. Thank you.

18 (Discussion was held off the record.)

19 CHAIRMAN MIGLIACCO: All right. We're in a
20 little bit of a gray area right now. We're ahead of
21 schedule, but only by ten minutes.

22 And we're waiting for Dr. Michaels to come

1 down.

2 (Discussion was held off the record.)

3 CHAIRMAN MIGLIACCO: We're going to check on
4 his availability. Otherwise, we'll start and we'll go
5 with a work group.

6 MS. SHORTALL: Mr. Chair, I'd like to mark as
7 entrant to the record, under the exhibits for the
8 December 9-10, 2010 ACCSH meeting is Exhibit .1, the
9 Agenda for the December 9-10 ACCSH meeting, and as .2
10 the schedule of the ACCSH work group meetings on
11 December 7 and 8.

12 CHAIRMAN MIGLIACCO: They're done?

13 MS. SHORTALL: Yes.

14 CHAIRMAN MIGLIACCO: Okay.

15 We just passed out the structural collapse
16 during construction that Mohammad was speaking about
17 earlier.

18 (Discussion was held off the record.)

19 CHAIRMAN MIGLIACCO: Mohammad, they ask is
20 there a chance to get that electronically?

21 MR. AYUB: Yes.

22 CHAIRMAN MIGLIACCO: Okay.

1 Thank you.

2 MS. SHORTALL: And Mr. Chair, I'd like to
3 mark as Exhibit 0.3 Structural Collapses During
4 Constructions, Lessons Learned, 1990 through 2008, by
5 Mohammad Ayub.

6 CHAIRMAN MIGLIACCO: So done.

7 Matt, you say you don't have your --

8 MR. GILLEN: We have the quarterly meeting,
9 we forgot to get a copy of --

10 CHAIRMAN MIGLIACCO: Okay. Hold on a minute.

11 Multilingual issues? Tom, Mike, and Jim?

12 Are you guys ready?

13 Who's going to give the report? No, wait,
14 hold on.

15 Tom, are you ready on multilingual issues?

16 MR. BRODERICK: Oh, sure. Go ahead, we'll
17 fill in the time with that, and then when Dr. Michaels
18 comes in, we might have to stop you.

19 So we'll have the Work Group Committee's
20 Report on Multilingual Issues. Tom, you're going to
21 speak first?

22 MR. BRODERICK: Yes.

1 The Multilingual Issues on Construction Work
2 Sites Work Group met on December 7th. The Work Group
3 began at 8:00 a.m. Both co-chairs were present,
4 Michael Thibodeaux and Tom Broderick.

5 We reviewed and acknowledged the minutes from
6 the April ACCSH meeting that was held at the Hispanic
7 Summit in Houston.

8 Feedback from the Work Group on the Hispanic
9 Summit was positive. Work Group participants described
10 some activities that occurred as a result of the
11 summit, including residential safety classes that were
12 held on-site in Texas in several cities by an ACCSH
13 member, and a guest speaker from our meeting at the
14 summit.

15 The training was performed in both English
16 and Spanish. Contractor supervisors attended the
17 training, and most of it was hands on with scaffold,
18 fall protection equipment, floor openings, guard rails,
19 et cetera.

20 Questions were asked and answered by
21 instructors and participants, and instructors rewarded
22 trainees for answering questions.

1 The NAHB -- produced workbooks were used as
2 handouts for residential safety training.

3 It was pointed out that we need to ensure
4 workers can understand signs and barrier warnings that
5 are commonly posted in English.

6 As some workers may not read either language,
7 we she encourage wider use of universal symbols to
8 convey safety warnings.

9 Where do we go from here to keep the Hispanic
10 issue on the front burner? We discussed some regional
11 Hispanic initiatives. Several regional Latino summits
12 have been held and others are in planning stages.

13 Mexican consulates have assisted.

14 CHAIRMAN MIGLIACCO: Tom, can I -- Dr.
15 Michaels is here now. After he's finished, we'll go
16 ahead back with your report.

17 Dr. Michaels?

18 DR. MICHAELS: Good morning, Mr. Chairman.
19 How are you?

20 CHAIRMAN MIGLIACCO: Fine.

21 DR. MICHAELS: Good morning, members of
22 ACCSH. Well, thank you, I need no introduction any

1 more.

2 (Laughter.)

3 DR. MICHAELS: It's nice to see all of you.

4 This is the first time we've met in this
5 group since the Latino Summit in Houston in April. And
6 so there's lots of cover since then. I know you've
7 been very busy.

8 That summit was a tremendous success. And I
9 want to thank you for your help in supporting it. Much
10 of it focused on the construction industry and hazards
11 facing the Latinos in the construction industry.

12 And since then, OSHA in really all of our
13 regions, has followed up on the issues that were raised
14 there: Working with consulates, with community faith-
15 based groups, employer union groups.

16 We've reached out and done training. We've
17 tried to get information out about hazards and
18 construction to workers who are at risk for injury and
19 fatality.

20 We've also issued a memo to our field staff,
21 reminding them to ensure that when training is done,
22 for workers -- not just in construction, but across the

1 board -- that the training is provided in languages
2 workers can understand.

3 That seems an obvious directive, an obvious
4 choice.

5 But we unfortunately saw numerous situations
6 where training occurred, training was given to workers
7 in English, and they didn't speak English.

8 So we've asked that that not continue, and we
9 will ensure that it not continue.

10 Driving down injuries and fatalities in
11 construction remains a very high priority of OSHA, and
12 I'm sure for everyone in this room.

13 Construction fatalities in fiscal year 2009
14 went down, and that's obviously a good thing. We think
15 we contributed to that. But a slower economy and, you
16 know, industry compliance, obviously has a big impact.

17 We're pleased the numbers are going down. It
18 is great. But it's still too high. We can do better.

19 Fully one-third of the construction
20 fatalities last year were due to falls from elevations,
21 obviously. These were unnecessary, they're wasteful,
22 we're very concerned about this. And we're pleased to

1 be working with you to address these.

2 Two weeks ago, OSHA cited a steel erection
3 contractor. We gave willful and serious violations
4 after a worker fell from a construction site in
5 Brooklyn.

6 The worker was a foreman named Luis Zaruma.
7 He was working on top of a six-story residential
8 building under construction. The steel beam section he
9 was working on shifted, and he fell 50 feet to the
10 ground, and he died.

11 Our inspection found that the beam hadn't
12 been stabilized to prevent displacement. The worker
13 lacked fall protection. His life could easily have
14 been saved.

15 He was 36 years old.

16 I say that to remind us of our job here.
17 Construction workers and their families should not,
18 they cannot, and they must not, risk death as a
19 condition of employment.

20 And we can't allow that to happen.

21 As our economy recovers -- and it is
22 recovering and we're hoping the recovery speeds up --

1 we can presume that worker fatalities and injuries may
2 start to rise, and we can't let that happen.

3 We know that when new workers come on to work
4 sites, they're at greater risk; and when construction
5 activity and economic activity picks up, the number and
6 the rate of fatalities rises, and we have to be
7 particularly cognizant of that, and do our best to make
8 sure that as the economy improves, we don't see an
9 increase in fatalities to go with the improved and
10 increased economic statistics.

11 A couple of months ago in October the Labor
12 Department under the leadership of Secretary Hilda
13 Solis, announced our six-year strategic plan, setting
14 goals and priorities through 2016.

15 The plan is based on essentially our belief,
16 expresses our belief that, first of all, everyone in
17 America deserves an opportunity to secure a good job;

18 That employers have responsibility to comply
19 with the law and protect workers; and that all workers
20 deserve a fair wage in exchange for a day's work, and
21 all businesses deserve a level playing field, rather
22 than competing against those that gain unfair advantage

1 by breaking the law.

2 So that's sort of the basis of our strategic
3 plan, and that out of those imperatives come a lot of
4 our activities.

5 Now under this plan, OSHA will work very hard
6 to reduce worker deaths associated with four leading
7 causes: Falls, electrocutions, caught-in, caught-
8 between, and struck-bys.

9 Our objective is to reduce these fatalities
10 by nine percent in construction and general industry.
11 So we're very much going to focus on those, and you'll
12 see more and more activities around those.

13 We believe we can have a big impact there.

14 Over the next six years, we also aim to
15 reduce, we hope by as much as 14 percent, the number of
16 bad hazards -- and we're particularly focusing on
17 hearing loss in construction and manufacturing; illness
18 in general industry and construction; and we're
19 focusing on workplace amputations.

20 The plan sets a goal for OSHA to remove seven
21 percent more workers from hazards through inspections
22 in 2016 than we did last year in 2009.

1 These goals are ambitious, but the results
2 will be priceless.

3 Also as many of your know from attending the
4 recent NIOSH/NORA meeting, that NORA is launching a
5 campaign to prevent fatalities and construction.

6 The current plan is to launch a fall
7 prevention campaign for construction workers. We
8 applaud this, and we hope and we encourage ACCSH to get
9 involved in this.

10 Now our next regulatory agenda has not been
11 announced. But I can talk a little bit about our most
12 recent accomplishments and priorities, which I think
13 will be reflected in the regulatory agenda.

14 Now first before that, we have completed --
15 and we issued our nationwide standard on Cranes and
16 Derricks. It went into effect on November 8th, just a
17 month ago. I don't think I need to tell you if that
18 happens.

19 We expect to complete a directive for the
20 final rule in 2011, in June. There's no question
21 compliance with this regulation will save lives.

22 Crane riggings present significant dangers

1 for workers, and we were long overdue to modernize the
2 standard.

3 We believe that employers who already have
4 good processes and work practices will probably only
5 need to make minor adjustments in their efforts to
6 comply with this new standard.

7 But those employers who are operating outside
8 the norm -- and I think we're not talking about anyone
9 in this room or who is so intimately involved in --
10 activities that applies to, but those employers will
11 have to comply the most.

12 We've made great progress, I think, on other
13 aspects of our regulatory agenda, and we're poised to
14 issue several more final rules very soon.

15 We're finalizing rules on confined space in
16 construction workers, and we expect to complete that in
17 November.

18 We're finalizing rules in electrical power
19 transmission and distribution to protect workers from
20 electrocution.

21 We're harmonizing our HAZCOM standard with
22 international standards to improve worker comprehension

1 of chemical hazards, and to make it easier for
2 manufacturers and others who produce these materials to
3 produce the same materials that can be used throughout
4 the world.

5 We're continuing to push to reach other
6 milestones. We're focused on getting a rule out to
7 protect workers from silica exposure.

8 We soon will have a revised residential
9 construction fall-proof protection directive. And in
10 2011, we'll begin our small business review of
11 regulatory approaches to combustible dust hazards.

12 And of course, we're going to be developing
13 compliance assistance materials on some specific
14 construction hazards; cranes in construction, and nail
15 guns I think you've all heard some of the thing we're
16 doing on that.

17 The most important initiative we're working
18 on, which I think will affect everybody in construction
19 and in general industry, is our rule that we're calling
20 the Injury and Illness Prevention Program Rule.

21 We've talked about this, we haven't issued
22 it. We haven't moved into actually issuing a

1 regulation yet. But this is part of the Department of
2 Labor's larger plan, prevent, protect initiative.

3 But so it's we're doing, MSHA's doing, other
4 worker protection agencies are doing, it represents the
5 most fundamental change in workplace culture that we've
6 tried to make since the passage of the OSHA Act, which,
7 as you know, was signed by President Nixon 40 years ago
8 this month.

9 With this change, with the Injury and Illness
10 Prevention Programs, employers would be required to
11 take an active approach to ensuring safe and healthful
12 conditions for their workers.

13 So, in other words, we're asking employers
14 not to wait until OSHA comes and makes inspection, or
15 that workers get injured, or they get sick on the job;
16 but that employers take a risk-based approach, look
17 what their hazards are, identify them, and fix them,
18 and not say we're trying to just meet OSHA's standards;
19 we're trying to provide the safe workplace.

20 And I think that's what every employer in
21 this room does. And we expect all employers to do
22 that.

1 So I2P2 would cover hazards, not just in
2 OSHA's standards, but ones that we would be using in
3 General Duty Clause 4.

4 We announced this regulatory effort almost a
5 year ago. We've had the series of stakeholder meetings
6 -- I know a number of you have participated. We've
7 conducted a lot of research.

8 We've talked to the states. There are a
9 number of states that have programs like this,
10 certainly California, Oregon, and Washington all have
11 Injury and Illness Prevention Program regulations.

12 A lot of states have voluntary programs
13 associated with their workers compensation systems.
14 We've learned a great deal, we're soon to begin our
15 small business review of that.

16 And I believe that the Directorate of
17 Standards and Guidance has prepared a more detailed
18 presentation. And you'll be receiving that some time
19 later on in this meeting.

20 I want to thank you very much, because I know
21 you've created an Injury and Illness Prevention
22 Program, Prevention Work Group.

1 I think this is a very important development
2 for us, for OSHA, for you, and for the construction
3 workers and construction industry in the United States.
4 I'm grateful for that.

5 Now hold on for one second here. Let's see
6 if -- taking me down in size here --

7 (Laughter.)

8 DR. MICHAELS: The building industry is
9 stepping up its solutions as well, incorporating
10 engineering controls into construction; and I think
11 ACCSH and its members are raising expectations for what
12 is expected, what's desirable, and forward-looking.

13 I am grateful that you've put together your
14 Prevention Through Design Work Group. It's a very
15 exciting idea, I think it's an exciting development.

16 This was a novel idea a few years ago. I
17 think its gaining wide acceptance. It has great
18 support with its forward impact and the Building Trades
19 Employers Association of New York, ACCSH, and others.

20 I think these are life-saving controls that
21 are really moving into the mainstream, and hopefully
22 will soon become the norm for new buildings and for

1 renovated buildings.

2 I've seen that in New York, when I've been up
3 there and looking at some of the new procedures being
4 used. The cocooning; poured-in-place concrete
5 buildings are being cocooned. It's very impressive.

6 I also went up to New York and visited the
7 Freedom Tower, being built on the World Trade Center
8 site with the ironworkers at impact. I was very
9 impressed with their commitment to safety.

10 There was a Rebuilding for Unity Campaign
11 there, which I was really very pleased to be a part of
12 and to endorse their goal of zero injuries and
13 fatalities.

14 We'd like to see that, we'd like to see
15 prevention built in through design. We'd like to see
16 labor/management cooperation in putting these
17 construction projects together and making safety such a
18 high priority.

19 Obviously, this isn't all being done
20 voluntarily. And we have to look at ways to encourage
21 others to get involved, who haven't seen the light and
22 how important this is.

1 I also want to mention our Building Inspector
2 Pilot Program that has recently started. It's another
3 way we're attempting to reduce fatalities and serious
4 injuries on construction sites.

5 We've been working with municipalities across
6 the country. We don't want to turn building inspectors
7 into OSHA inspectors. But we want them to be vigilant.

8 When they see problems, we want them to raise them
9 with employers, or they can call OSHA if they feel like
10 the problems are not being addressed.

11 But the people are on site and they see
12 problems, they should be able to address them. And
13 this is something that's not just happening in the OSHA
14 world.

15 Many of you have read, for example, that in
16 considering the gigantic recall of eggs that occurred a
17 few months ago, there were, I think, half a billion
18 eggs that were potentially contaminated with
19 salmonella, that were recalled.

20 What's sometimes not discussed in that recall
21 is over a thousand people had already been made sick by
22 those eggs, and that recall probably saved many lives.

1 But certainly it was a difficult situation
2 for everybody involved.

3 Well, it turned out that inspectors from
4 government agencies who were not in charge of
5 protecting the health of consumers were in those egg
6 facilities and saw some of those problems,

7 And didn't raise them sufficiently to have
8 the problem dealt with early.

9 And that's unfortunate. I mean, in this case
10 I think what I read was the Department of the
11 Agriculture was in the facilities, and the Agriculture
12 inspectors are in charge of making sure the eggs were
13 the right size, get their size right.

14 But they saw some of the problems.

15 But the fact they were there wasn't enough to
16 stop the eggs from being contaminated, that hasn't
17 changed.

18 So you should know, just as an aside, OSHA
19 has been working closely with the Food and Drug
20 Administration, because FDA contacted us after that
21 recall, because they had read that not recently, but we
22 had been in many of those same sites and saw, you know,

1 terrible conditions for the workers;

2 And of course, if workers are mistreated,
3 it's reasonable to think that there are problems with
4 the eggs as well.

5 So we are working with the FDA when we see
6 problems. They're working with us. And this sort of
7 across-the-government-agencies cooperation is something
8 that we see more and more and want to encourage.

9 Because no government agency can be
10 everywhere all the time. But if an agency is in a work
11 site or in a factory or in any sort of place and sees a
12 potential public health problem, they should alert the
13 proper authority, so we can save lives.

14 So this building inspector program I think is
15 a very good example of cooperation between agencies --
16 in this case, federal agencies -- and local
17 governments. And it really is to the benefit of all of
18 us.

19 So we're now evaluating this program to see
20 if we can expand it to other cities as well.

21 As many of you know, we've also announced
22 more than \$10 million in grants through our Susan

1 Harwood Training Program to 61 organizations.

2 Many of these focused on construction workers
3 and construction hazards.

4 In addition, I think many of these
5 organizations that we gave money to of the new
6 grantees, are organizations very much focused on
7 reaching the vulnerable workers, those of us who have
8 been actively involved in Safety & Health for a long
9 time, seen as being workers in particular need for
10 education, workers who are not necessarily reached
11 through the employer organizations, the trade unions;
12 but workers who are at great risk and need to know what
13 their rights are and how to work safely.

14 Enforcement, needless to say, remains a
15 priority for OSHA, it's a proven useful deterrent.
16 It's useful not just for the employers who are cutting
17 corners, but it reminds good employers that they need
18 to ensure that their work is done safely.

19 As I mentioned earlier, OSHA takes the level
20 end of the playing field very seriously. We see and
21 all the time we meet with employers, we see employers
22 who try to do the right thing, who spend the extra

1 money, who slow the job down, who take the extra time
2 to make sure the work is done safely.

3 We can't let them be undercut by employers
4 who don't care, who are willing to, you know, hire the
5 untrained worker off the street, put them in situations
6 where they can be hurt, not give them proper training,
7 not give them proper equipment;

8 Not take the time to, you know, make sure
9 they're using the proper safety equipment.

10 They can make a greater profit, they can
11 sometimes get the job; but they're putting workers'
12 lives at risk, and they're undercutting the employers
13 who are trying to do the right thing.

14 So our job, among others, is to make sure the
15 playing field is level, that employers who care enough
16 to protect their workers aren't put at a financial
17 disadvantage.

18 In FY 2010, federal OSHA did nearly 41,000
19 inspections, including 66 hundred health inspections.

20 Our state plan partners conducted an
21 additional 57 thousand safety inspections, including
22 12,000 health inspections.

1 So close to 100,000 inspections were
2 conducted by OSHA, federal or state, last year. We'll
3 continue to try to do more. But obviously, given the
4 number of work sites in the United States, we can't get
5 out to all the work sites. We can't see all the
6 problems that are out there.

7 So we have to take different approaches that
8 will leverage our resources.

9 One of the things we're doing to focus
10 particularly on those employers who we think are at
11 most risk for workers being hurt, we belong to the
12 Severe Violators Enforcement Program.

13 That's SVEP.

14 We have a special office that comes up with
15 these acronyms.

16 (Laughter.)

17 DR. MICHAELS: And the pronunciation of them.

18 So this is the SVEP program. It's part of our
19 Scandinavian branch.

20 And essentially what it does is when we've
21 identified an employer, because for things that we
22 found in our initial inspection, and the serious

1 problems that we saw there -- it involves more
2 mandatory inspections of those identified employers;
3 more mandatory follow-up inspection; intensified
4 examination and employer's histories.

5 We really look at systemic problems, not just
6 at one work site but many work sites, where they are.

7 We believe that rooting out these systemic
8 problems can eventually make a huge difference in the
9 lives of many workers.

10 We think these are some of the places where
11 workers are at greatest risk.

12 Now we recently finished FY 2010, when we
13 went back and counted what we did. We issued more
14 egregious and significant cases than any time in the
15 last decade;

16 Including some very highly publicized cases,
17 obviously, the \$81 million penalty against BP,
18 following up the Texas City catastrophe. That was the
19 largest fine in OSHA's history.

20 The second largest fine was the initial fine
21 against BP, following the Texas City catastrophe.

22 The third largest fine in OSHA's history was

1 issued last year. We issued it against Clean Energy
2 and other contractors. That was a \$16 million fine to
3 several Connecticut contractors after six workers were
4 killed and 50 workers were injured in the blast at the
5 construction site for the power plant in Middletown,
6 Connecticut, a blast never that never should have
7 happened.

8 Our Directorate of Construction has provided
9 engineering assistance to field offices enforcement in
10 cases across the country.

11 They've just completed two major
12 investigations of failures: The collapse of concrete
13 silos in Russell, Kansas, and the collapse of a bridge
14 during reconstruction in Nawgatuk, Connecticut. And
15 they do some very interesting and high-quality work.

16 Penalties are one of the strategies we use to
17 encourage hazard abatement. The fear of penalty, or
18 the attempt to avoid getting a penalty certainly
19 encourages many employers to abate hazards.

20 Penalties have meaning when they're large
21 enough to convince employers that compliance is better
22 than playing catch-me-if-you-can with OSHA.

1 Essentially what we're trying to do is change
2 the calculus. So in October we instituted a new
3 penalty policy. Now our maximum penalties are set by
4 law, and they're set at a low level, that have not been
5 updated in many years, almost two decades.

6 But we still control within that structure
7 how we issue penalties and what sort of reductions we
8 provided.

9 So we have instituted some new administrative
10 changes to reduce the level of reductions in some
11 situations to send a stronger message to employers that
12 cutting corners is unacceptable.

13 We believe that if employer see they'll get
14 more than token penalty, they're more likely to do
15 something before the OSHA inspector arrives, or before
16 a worker gets hurt.

17 Now employers fear of being publicly
18 identified as a violator of OSHA regulations is a
19 powerful incentive to abate hazards.

20 When some employers learn of others receiving
21 OSHA citations and fines, they abate their own hazards
22 to avoid unwelcome notoriety.

1 I know this is successful. I was recently at
2 a conference where an attorney who represents employers
3 and I were both speakers. And this attorney got up and
4 said, "You know, OSHA is being very aggressive with its
5 press releases."

6 And he said, "You know, it's being very
7 effective."

8 I get calls from my clients, who ask me "How
9 do I make sure I don't get in one of these press
10 releases?"

11 (Laughter.)

12 DR. MICHAELS: And of course, there is an
13 easy answer to that. Abate your hazards.

14 (Laughter.)

15 DR. MICHAELS: And that's exactly what we
16 want. We want employers to understand that they need
17 to abate the hazards before OSHA gets there, before
18 someone gets there.

19 I didn't want to have to say, "Look, we're
20 going to give you a big penalty." I want them to say,
21 "Look, I didn't want to get in that situation, I want
22 to take care of the problem now."

1 So I think this is controversial. I think
2 you'll hear over the next upcoming period that some
3 people say, "You know, this is what OSHA is, you know,
4 calling people guilty before the trial."

5 But this is a standard public health and
6 regulatory approach. It's what health inspectors for
7 restaurants do. You know, by putting up the notice
8 that said: This restaurant got a C rather than an A
9 in, you know, when the health inspector came.

10 It's very effective.

11 And it's cost effective. It saves the
12 taxpayers money, and it saves lives. You know, in our
13 case. I don't know if the restaurant inspectors save
14 lives, but they certainly prevent a great of
15 gastrointestinal unpleasantness.

16 (Laughter.)

17 DR. MICHAELS: And so we like to encourage
18 that, and we'll be doing more of that.

19 So we're going to continue to issue strong
20 press releases that name employers, expose failings and
21 detail hazards that we uncover in our inspections.

22 We've proposed several changes in our

1 regulations covering our on-site consultation program.

2 Just we went to clarify situations where my office can
3 define sites that receive inspections regardless of
4 their exemption status.

5 This is an issue for a small number of
6 employers, with employers who are in the SHARP Program.

7 We feel there are certain situations where our
8 inspectors have to do inspections, even though there's
9 been an exemption given.

10 And that's all detailed in our proposal.

11 We think it's a useful, very useful proposal.

12 We had a federal regulatory notice. We received
13 public comment. The comment period ended November 3rd,
14 and now we're reviewing comments.

15 We've also made some changes in our Alliance
16 Program, and we're revised the criteria for
17 participation. And I think you're going to be hearing
18 more of that later on today.

19 These revised criteria for participation in
20 Alliances will let us better meet our strategic goals.

21 We want to ensure that workers have a voice in the
22 Alliance efforts.

1 And we want to reach constituencies most in
2 need of OSHA's assistance. And so we want Alliances to
3 reach out to those populations and to ensure that
4 workers have better knowledge of what their rights are
5 under OSHA.

6 So these are small changes in the Alliances
7 program that I think will have a big impact.

8 But we will continue to work with and
9 establish and support alliances with increasingly
10 diverse groups, and not just the ones we've always
11 worked with. But we want to include community and
12 faith-based organizations; other groups that can reach
13 out to workers who we normally can't reach so easily.

14 We greatly value the alliances we have in the
15 construction community, and we look forward to working
16 with all these alliances and strengthening them to
17 prevent injuries and death in construction workers.

18 So let me say in closing again how much I
19 appreciate all of your work. I know this is not your
20 primary activity. All of you are taking time out from
21 your regular job to do this. It's a very important
22 contribution you make to the country.

1 We value your recommendations and we
2 consider, you know, we always consider the advice that
3 you offer.

4 We tried to implement your recommendations
5 when we can, and your perspective is very valued to us
6 and very valuable.

7 We've very much taken to heart President
8 Obama's vision of government transparency and
9 responsiveness, and so we're working with the
10 Directorate of Construction to make sure that all the
11 materials that you produce in your advice is not just
12 given to us in a private way, put out on the web and
13 posted and so everybody sees this well.

14 We're also trying to get our Green Job
15 website up. We expect it's going to be up very soon.
16 And I think it will be a really important addition to
17 this discussion.

18 I should tell you that the ACCSH membership
19 nominations are being reviewed right now. I'm
20 reviewing them in my offices. I will be sending the
21 recommendations to Secretary Solis shortly, since she
22 is the one who actually makes the final decisions.

1 And so for some of you, this may be your last
2 meeting. I want to thank you deeply for your service.

3 I know you've put in a great deal of time over the
4 years, helping us.

5 For others of you, I'm looking forward to
6 continuing to work with you. Actually for all of you,
7 I'm continuing to with you, some of you on the
8 Committee and some not on the Committee.

9 But thank you again for your work, and happy
10 holidays to all of you. And we look forward to a very
11 productive 2011 and 2012.

12 So thank you very much. And I'll take a few
13 questions if you like.

14 CHAIRMAN MIGLIACCO: Any questions? Tom?

15 MR. SHANAHAN: Tom Shanahan with the National
16 Roofing Contractors.

17 Two things. First, I just wanted to
18 compliment you on your staff. You know, those of us, I
19 think especially on the employers side of the fence
20 appreciate positions being opened and changes in
21 staffs, and all that stuff.

22 And you guys had your share of that. And we

1 really enjoyed working with everybody, and all the
2 changes. They've been very responsive and helpful to
3 all of us.

4 So thanks for that.

5 The second thing is I just wanted to
6 underscore something that you had said in your
7 presentation here.

8 The fact of the matter is you know, the
9 number of deaths and everything have decreased. And of
10 course, you tie that a little bit, as we think we all
11 probably would, to some degree of the economic
12 downturn.

13 But importantly, the fact of the matter is --
14 and you had mentioned it -- you know, we're all
15 anticipating that the downturn will turn upwards. And
16 of course, when that happens, you know, we'll all be
17 looking forward to taking on more jobs and hiring more
18 people.

19 And you know, I've been around long enough
20 I'm happy to say to have experienced, you know,
21 recessions and coming out of them before, and you know,
22 worry about the accidents and injuries that tend to

1 occur as we take it on.

2 It's easier to downsize, it's much harder to
3 upsize, if you will.

4 And so in my speeches -- and I speak quite a
5 bit in classes and things that I'm teaching -- I'm
6 really talking about that to our contractors and asking
7 them to anticipate the upturn and think about maybe
8 hiring sooner, doing a lot of safety training ahead of
9 time with these folks;

10 So that when they get on the jobs -- you
11 know, because when people have been out of work for a
12 long time, when owners haven't been hiring for a long
13 time, everybody wants to take on work, everybody's
14 excited to work.

15 And I think sometimes that leads to a culture
16 of risk-taking. And we've seen that. So anything --
17 like I said, what we're trying to do it in our CA, what
18 I'm trying to do personally is to be ahead of that curb
19 and really talk to people about that.

20 And I just wanted to encourage the Agency --
21 and I'd be happy to help in any way, shape, or form --
22 I'm sure all my colleagues here would be too -- to get

1 the word out a head of time, to really start thinking
2 about this stuff, as we anticipate an upturn.

3 DR. MICHAELS: And you know, that's a great -
4 - I hadn't thought about actually formally putting
5 things out there, but maybe we should as well.

6 I mean, it may be a little premature. I hope
7 not.

8 (Laughter.)

9 DR. MICHAELS: But I think you're absolutely
10 right. We should think about how -- to just remind
11 people of that on a regular basis.

12 CHAIRMAN MIGLIACCO: Bill?

13 MR. AHAL: I'm Bill Ahal, Employee
14 Representative.

15 Dr. Michaels, as the co-chair of the
16 Prevention Through Design Work Group, which met
17 yesterday afternoon, I appreciate your comments and
18 enthusiasm towards that effort.

19 I would like to ask you one question. Could
20 you take just a few additional moments, and expound a
21 little bit on your commitment for the Agency to help
22 this group move forward with that opportunity to expand

1 into, say, some nontraditional areas with other groups
2 outside, like AIA and such like that, towards making a
3 better, safer work site?

4 DR. MICHAELS: Absolutely.

5 I mean, unfortunately our most powerful tools
6 is probably the bully pulpit in this case. I'd like to
7 think we had stronger tools; but we certainly want to
8 encourage organizations that can play an active role in
9 prevention through design to be involved, and for the
10 economic forces that drive it to embrace that.

11 Because we can talk about it all we want; but
12 it really is something that architects, builders,
13 others have to build with it. And we, you know, we can
14 certainly make a strong case, but that's really all we
15 can do is make that case, and hope they believe it.

16 But I try to do that in my speeches. I try
17 to talk very much about the importance of this, that
18 really it's a great -- I'm looking for the right word
19 here -- it's meaningful that we don't include the
20 protection of workers in the design of buildings.

21 And it's a loss, it's a poor reflection on
22 the United States. I mean, think about this, and we'll

1 go back to the eggs for a minute.

2 When we think about the, you know, what we
3 want for the health of our children, for example, or
4 for our health, we go into supermarkets now, and you
5 see not only do you want eggs to be salmonella-free,
6 but there is a great market now for free-range
7 chickens, and cage-free eggs.

8 And we care deeply about, you know, the
9 health of, you know, the chickens. But we don't care
10 about the workers in the chicken factories.

11 I mean, no one says, "Let's purchase chickens
12 where workers are at risk for carpal tunnel syndrome."

13 And so we have to raise these issues and say,
14 look, we have to -- it's the right thing to do, to
15 incorporate prevention into the design of these
16 buildings, because we care about people being killed;
17 and we care about workers, you know, making it home
18 safely every night.

19 You know, we believe that there is some
20 economic value as well to the developer; but I try to
21 make this case, and I speak to different groups and
22 raise this in a way that I think they hear us.

1 I mean, obviously we encourage our staff to
2 support these activities and work closely with NIOSH,
3 you know. And I'm glad to see Matt here, and NIOSH
4 certainly is taking a lead in that.

5 We, everybody supports those activities, and
6 NIOSH and OSHA are working probably more closely than
7 they have in many years in terms of making it clear
8 that we share our policies on these things.

9 And as we put out materials, we're for the
10 first time co-branding them -- not for the first time,
11 but for the first time in decades -- cobranding things,
12 where we're saying "This comes out from OSHA and
13 NIOSH," so it has a little bit more weight.

14 And so those are the things we're trying to
15 do. And if you have suggestions of other things we can
16 do to encourage that to happen, we certainly will do
17 more like that.

18 MR. AHAL: Thank you.

19 CHAIRMAN MIGLIACCO: Susan?

20 MS. BILHORN: Susan Bilhorn, Jacobs
21 Engineering.

22 Tagging onto a comment that Tom made, Tom, I

1 don't know the companies that you guys represent, how
2 many companies can actually bring on people before they
3 have jobs? Which is the challenge.

4 DR. MICHAELS: Yeah, that's -- yes.

5 MS. BILHORN: So the one thing I was going to
6 say.

7 But there is -- this is where the unions can
8 have a far greater play, because they have a
9 constituent that they can actually in a down time when
10 they are fully occupied, use that time for additional
11 training and perspective.

12 So that's where I think you can bring that
13 in. Because it's really very difficult for companies
14 to hire on with an anticipation, and you know, no work.

15 DR. MICHAELS: Yeah.

16 MS. BILHORN: Certainly when you do the ramp-
17 up, it's like how do you bring those people on with the
18 training that they need?

19 So I just wanted to follow on to that.

20 But I do also have a question. While there
21 may be fewer injuries this past year, and there may be
22 an attribution to the economy, my question is whether

1 it's proportionately different by work hour.

2 Because, for example, this was a concern back
3 with some of the quick spending on ARRA to be able to
4 get that work going, and the workforce it would be
5 drawing upon.

6 So the question is proportionately are you
7 seeing it different?

8 DR. MICHAELS: Well, it's hard to discern, to
9 pull apart all these different things. There's no
10 question that injuries and fatalities are decreasing.

11 In terms of injuries, all injuries are going
12 down a little less than serious injuries. And I'm
13 trying to figure out what that means.

14 But all the studies show that for whatever
15 reason, once you wrap up, you can expect to have a
16 higher -- the increase in injuries will be
17 disproportionately higher than the --

18 MS. BILHORN: The work hours --

19 DR. MICHAELS: Than the work hours that will
20 increase. And the assumption is that's because you got
21 people who are either well-trained or familiar with
22 the jobs.

1 I was just actually on the phone yesterday
2 with the NCCI, the National Compensation folks, who
3 have all the data from 34 states, who were expecting
4 this.

5 And they're getting ready because they're
6 seeing exactly, you know, they've seen this over the
7 years with economic booms and busts.

8 The understanding sort of what's driving
9 these data is something that's very important to us and
10 to NIOSH, and we're trying to wrestle with it now,
11 because we haven't put enough time or resources into
12 that to understand it.

13 But certainly we have to be prepared, given
14 the upcoming economic upturn, which -- for historical
15 reasons, we know that there will be an impact of that.

16 But I think your point is well taken. You
17 can't hire people in anticipation, or certainly --

18 And so I think it will be impossible for all
19 of us to think about ways to make sure that when the
20 hiring is done, that, you know, the first work is done
21 in a way that safety is particularly encouraged and
22 observed.

1 MS. BILHORN: Because one of the interesting
2 dynamics that also occurs in the business environment
3 is that when you go through an economic downturn,
4 everything gets reset at a lower margin.

5 DR. MICHAELS: Right.

6 MS. BILHORN: Which means that when you do
7 bring people on, it's at a lower margin --

8 DR. MICHAELS: That's right --

9 MS. BILHORN: Which means you don't have as
10 much money to invest in, et cetera.

11 So it's kind of an interesting dynamic from a
12 business perspective. You know, so you can't hire on
13 any additional, because you're actually going to be
14 working at lower margins, because all your competition
15 is gone into that.

16 So it's kind of when the economy's healthy,
17 you've got more money to invest, because you know,
18 you're able to move that forward.

19 We're resetting back to probably the '80s or
20 early '90s actually.

21 DR. MICHAELS: You know, firms like yours,
22 which have obviously, you know, large firms that keep

1 good records, you know, really dedicated to safety, as
2 I know Jacobs is.

3 And you're a recent corporate VPP recipient,
4 and congratulations for that. I think you all are
5 doing a terrific job.

6 If from your data you think you can see any
7 trends like this that would be of interest to us, I'd
8 love to hear more from you, you know, afterwards at
9 some point.

10 MS. BILHORN: Okay.

11 DR. MICHAELS: It would be very helpful to
12 me.

13 CHAIRMAN MIGLIACCO: Any other questions?

14 I just have one, Dr. Michaels. Frank
15 Migliacco, with the Employee Representative.

16 You touched on the fall regulatory agenda.
17 Do we have any idea, a ballpark figure, of maybe when
18 it might come out?

19 DR. MICHAELS: I actually -- well, I dropped
20 the word "fall" from my discussion, because I'm hoping
21 it comes out in the fall.

22 CHAIRMAN MIGLIACCO: A couple more weeks when

1 it will be here?

2 DR. MICHAELS: Well, we still have a few more
3 weeks in the fall.

4 But you know, this is an administration-wide
5 agenda. So I don't know when it's actually coming out,
6 and they aren't telling me.

7 But I'm hoping it comes out soon. I think we
8 have a number of exciting things on there. And once it
9 comes out, we'll be able to talk more concretely about
10 taking on some of those activities.

11 But I'm told it's going to come out in the
12 next few weeks. And that's my hope.

13 CHAIRMAN MIGLIACCO: Okay. Thank you.

14 Any other questions? Thank you.

15 Debbie, are you going to --

16 (Discussion was held off the record.)

17 DR. MICHAELS: Well, thank you all, and thank
18 you again for your work.

19 CHAIRMAN MIGLIACCO: Thank you very much.

20 (Applause.)

21 CHAIRMAN MIGLIACCO: Tom, if you'll complete
22 your Work Group? And then we'll take a break after

1 that.

2 MR. BRODERICK: Oh, yes.

3 (Discussion was held off the record.)

4 MR. BRODERICK: Well, let's see. We left off
5 -- this is Tom Broderick speaking -- talking about
6 where do we go from here? And discussing some regional
7 summit.

8 There have been several regional Latino
9 summits, and they've had a good measure of success, a
10 lot of participation.

11 The Mexican consulates in the respective
12 areas have been very supportive in terms of assisting
13 with speakers. And they're also a good resource to
14 market the initiatives to the at-risk workers.

15 The Work Group also learned about each region
16 having an ESL coordinator -- English as a second
17 language, or Hispanic coordinator.

18 At least one is in each region of OSHA's ten
19 regions. Anyone interested in planting a summit should
20 check with their regional office and their ESL
21 coordinator.

22 ACCSH members may volunteer to assist with

1 planning regional summits. And as an aside, we are
2 discussing the possibility of doing one in Region Five
3 in the spring.

4 A suggestion was also made to develop fact
5 sheets based on some of the sessions that were held at
6 the Hispanic Summit in Houston, and that these fact
7 sheets or data sheets that could be produced would be a
8 good product coming from our Work Group.

9 And we will investigate doing that and
10 looking back over the sessions that were held and
11 communicated with the people who delivered those
12 particular sessions.

13 In an update on agency efforts to continue to
14 focus on Latino workers and high-hazard work, we
15 discussed the use of 11(c) protections, or protections
16 that workers have from retaliation for making an issue
17 of safety and health problems at job sites.

18 And one of the things that was brought up is
19 that it's very important for someone who comes forth
20 with an 11(c) complaint that they sign the complaint
21 and make the complaint be an official complaint that
22 really helps the 11(c) investigators to be able to sink

1 their teeth in it.

2 And if it's just a rumor or a phone call from
3 someone who doesn't want to leave their name, it's very
4 difficult for the agency to substantiate it.

5 And the group agreed that it would be good to
6 have someone from this agency address the Work Group at
7 our next meeting, and that's assuming that our Work
8 Group is still intact by the next meeting.

9 And then we can distribute accurate
10 information in English and Spanish about filing a
11 complaint.

12 We discussed the role of the Wage & Hours
13 Division within the Department of Labor, as it works on
14 virtual contractors who hire day laborers without
15 establishing proper employment requirements;

16 Such as workers' compensation insurance,
17 payroll taxes, social security, and medical withholding
18 and so forth.

19 The DOL Wage & Hours Group is getting
20 involved in helping day laborers get a fair shake when
21 doing temporary work.

22 It was pointed out that ten to 15 percent of

1 the day laborers who go to work don't get paid for
2 their work. And it was suggested that we have someone
3 from Wage & Hours within the Department of Labor come
4 to our next meeting to explain their perspective on
5 this issue.

6 We reviewed a Construction Safety Council
7 Harwood Grant that the Construction Safety Council has
8 received on developing a Latino safety training
9 resource center. And the basic elements of this multi-
10 year grant were issued as a handout, which is found
11 attached.

12 Not attached to this document right now, but
13 it will be distributed before the end of the meeting.

14 We are deferring our consideration of the
15 Work Group charge and mission statement to the next
16 ACCSH meeting. And I think that that is prudent,
17 because it appears as though we may have a new cast of
18 characters who will be coming in to staff the Work
19 Group.

20 So I think it's only fair that they get a
21 shot at putting their fingerprints on the Work Group.

22 And in other business, we need to make sure

1 that we pay attention to how people learn in developing
2 new media. And also it was suggested that we be true
3 to the title of our Work Group, multilingual.

4 So far we've been focusing, I think where the
5 most pressing problem has been. And that is the Latino
6 workforce. But it was pointed out that there are many
7 other ethnic groups that are staffing our construction
8 jobs, Eastern Europeans being an example that was
9 brought up.

10 And then finally, we are recommending that
11 future documents that are put out, that impact
12 instruction, be developed in both English and Spanish.

13 There was some discussion about information
14 coming out, fact sheets on signaling and rigging and on
15 cranes, that I believe so far are being done in
16 English.

17 But we also recommend that they be
18 distributed in Spanish, as well. The Work Group
19 adjourned at five minutes of 10:00.

20 Thank you.

21 CHAIRMAN MIGLIACCO: Thank you, Tom.

22 Mike, do you have anything to add?

1 MR. THIBODEAUX: No. Except for one thing.
2 We had 23 attendees at this function that -- comments
3 about it. Especially he talked about the Eastern
4 European workers that some regional areas I think Tom's
5 folks in Chicago have tried to address that issue in
6 other areas of the country, where you have a lot of
7 those workers, and they don't speak English.

8 And so one thing that we talked about was not
9 always being able to translate into those languages,
10 but going to the signage that is universal world-wide,
11 you know, warning signs, et cetera, would be more
12 helpful.

13 CHAIRMAN MIGLIACCO: Thank you. I'll
14 entertain a motion to accept this Work Group's report.
15 Okay.

16 Matt Gillen? A second?

17 MR. GILLEN: Second.

18 CHAIRMAN MIGLIACCO: Tom, questions or
19 discussions? Any questions of the Work Group?

20 MS. SHORTALL: I had a couple of questions
21 about your report.

22 On page two of the report, under the first

1 bullet, the word, "We can then distribute accurate
2 information in English and Spanish," could you explain
3 what "We" refers to?

4 MR. BRODERICK: I'm sorry. The first bullet

5 - MS. SHORTALL: The first bullet at the end of
6 it, the paragraph below it, the last sentence is "We
7 can then distribute accurate information in English and
8 Spanish." Could you explain who "We" refers to?

9 MR. BRODERICK: Oh, regarding rights under
10 11(c).

11 MS. SHORTALL: No, no. Who does "We" refer
12 to? Is that OSHA?

13 MR. BRODERICK: I'm sorry, yes.

14 MS. SHORTALL: All right.

15 My suggestion would be if they would amend
16 their report to, say, OSHA?

17 CHAIRMAN MIGLIACCO: Do you agree, Tom?

18 MR. BRODERICK: I agree.

19 CHAIRMAN MIGLIACCO: He agrees. Okay.

20 All right. All in favor of accepting this
21 report, say "aye."

22 (Chorus of ayes.)

1 CHAIRMAN MIGLIACCO: Opposed?

2 (No response.)

3 CHAIRMAN MIGLIACCO: Seeing none, the motion
4 is carried. All right.

5 It's quarter of, we're right on time. We'll
6 take a 15-minute break. All right.

7 (A brief recess was taken.)

8 CHAIRMAN MIGLIACCO: Next on the agenda will
9 be the Silica and Health Hazards Work Group. Matt,
10 you're going to speak for the group?

11 MR. GILLEN: Sure.

12 (Discussion was held off the record.)

13 MS. SHORTALL: Mr. Chair, while Mr. Gillen
14 gets prepared, I'd like to enter as Exhibit 4 the
15 Approved Multilingual Issues Work Group Report from the
16 December 7, 2010 meeting.

17 CHAIRMAN MIGLIACCO: So done. There we go.

18 All right, Matt.

19 MR. GILLEN: Okay.

20 So the Silica & Other Health Hazards Work
21 Group met on December 8th from 10:00 a.m. to 12:00 p.m.
22 around noon. There were 37 attendees, and Co-Chair

1 Walter Jones presided, and Co-Chairs Dan Zarletti and
2 Matt Gillen assisted.

3 The meeting began with self-introductions,
4 and then acceptance of the minutes from that April
5 meeting we had.

6 So we first got a silica update from David
7 O'Connor of OSHA's Directorate of Standards and
8 Guidance. And he provided a short status report on the
9 proposed rule for silica in construction.

10 And he indicated that the regulatory agenda
11 target date for a proposal publication is February 1,
12 2011. And the DSG will be close to meeting this date,
13 but expects final steps to take perhaps a few months
14 longer.

15 And the proposal's almost ready for OMB, and
16 OMB has 90 days to review the rule and return comments
17 to OSHA.

18 And DSG had no specific requests for
19 information at this time, but did remind ACCSH members
20 that they were interested in input on what they call
21 Table 1, the Table 1 concept for the rule.

22 And Table 1 involves providing employers an

1 option to follow specified control and respirator
2 requirements as an alternative to approaches based on
3 --

4 And Co-Chair Matt Gillen reiterated the
5 earlier work of discussion and recommendation that
6 supported this approach, along with the work of
7 recommendation about the importance of linking it to a
8 silica-competent person.

9 We then talked about Noise & Hearing
10 Conservation for most of the meeting. Walter Jones
11 described how noise was an example of a construction
12 health hazard and they needed additional Work Group
13 discussion.

14 We had two speakers on the agenda. The first
15 speaker was Scott Schneider of the Laborers' Health &
16 Safety Fund of North America. And he provided a review
17 of the ANSI standard A10.46, which covers noise and
18 hearing conservation in construction.

19 His presentation provided background
20 information about noise, including its current
21 regulatory status, and the prevalence of hearing loss
22 among construction workers.

1 He reviewed the nine provisions in the ANSI
2 standard, including unique features such as the concept
3 of overprotection and double protection.

4 And overprotection refers to the need to
5 ensure that the hearing protection used does not
6 interfere with communication.

7 And double protection referred to the use of
8 both ear plugs and ear muffs for noise levels in excess
9 of 105 decibels.

10 The Appendix in the Standard includes
11 information about noise levels associated with common
12 construction tasks, and the Standard describes the
13 number of audiometric testing options that employers a
14 pursue.

15 And questions and discussions addressed
16 ambient noise consideration, the use of "should" versus
17 "shall" language for administrative and engineering
18 controls in the Standard, and other issues.

19 We then heard from Chuck Hayden of NIOSH, and
20 he described current NIOSH efforts to promote "Buy
21 quiet approaches to noise reduction," with both
22 equipment manufacturers and construction contractors.

1 He described how equipment noise can
2 fundamentally be attributed to either vibration or
3 turbulent flow conditions.

4 He briefly described the options that
5 engineers can take to reduce such conditions.

6 So Buy Quiet involves "taking the issue
7 upstream to equipment manufacturers, and by including
8 noise in procurement decisions to move purchasing
9 towards best available technology."

10 Equipment noise is being targeted by the
11 Europe Union Directive 2002 49EC in Europe, which is
12 requiring equipment noise testing and noise labels for
13 construction and other equipment.

14 And he also described how NASA is an example
15 -- the National Aeronautics and Space Administration --
16 is an example of a U.S. organization that is currently
17 implementing Buy Quiet.

18 So he then described the NIOSH Buy Quiet
19 project, and their using this NASA Buy Quiet road map
20 as a template for creating an approach for construction
21 contractors.

22 A steering committee will provide input on

1 contractor and other perspectives.

2 One important component underling Buy Quiet
3 is the testing of the equipment. And Chuck described
4 important testing considerations, such as testing while
5 it's loaded versus unloaded.

6 Loaded would be, for example, when a saw is
7 cutting wood, what the noise levels are, versus
8 unloaded is when the saw is operating, but not cutting.

9 Other components include a user-friendly
10 database, that contractors can use to quickly identify
11 Buy Quiet options, and simple procurement guidance.

12 Questions and discussions focused on how
13 equipment testing was done, and the considerations that
14 would encourage contractors to pursue a Buy Quiet
15 approach.

16 Given that contractors make significant
17 equipment purchases or rentals, this represents an
18 important options for reduction of noise levels over
19 time.

20 Environmental considerations and noise
21 ordinances are also drivers for contractors and the New
22 York City Department of Environmental Protection

1 requirements to use lower noise level equipment on
2 construction jobs was discussed.

3 Work around noise-sensitive possibilities,
4 such as schools or hospitals was also mentioned.

5 Rob Matuga of the National Association of
6 Homebuilders made the point that the other side of the
7 issue from Buy Quiet to Sell Quiet was also important
8 to consider. He recommended considering approaches
9 similar to the EPA Energy Star Label.

10 Work Group members indicated that awareness
11 of noise as a hazard in construction was relatively
12 low, compared to other issues.

13 In addition, there's a acceptance that
14 construction is noisy. This is an impediment to
15 improving conditions.

16 Lack of short-term effect from noise was
17 mentioned as an additional contributor to low awareness
18 of noise.

19 The group then discussed the feasible
20 administrative or engineering controls for noise
21 interpretation that OSHA issued in the Federal Register
22 on October 10, 2010;

1 And a variety of perspectives were shared by
2 the folks attending the meeting on how this
3 interpretation might affect construction and noise
4 control efforts.

5 This included a discussion of current OSHA
6 targeting and enforcement efforts for noise. And Scott
7 Schneider of the Laborers indicated that OSHA issued a
8 low number of citations, 36, for noise in construction.

9 I believe this was in the last year, or
10 something, what date it was available.

11 And the targeting is an issue cutting across
12 multiple health hazards, and is a topic for future Work
13 Group discussions.

14 Tina Jones of the OSHA Directorate of
15 Technical Support and Emergency Management introduced
16 David Valiente from her office, and described how their
17 office has been charged with looking at emerging issues
18 for OSHA.

19 And she indicated an interest in sharing
20 information about potential construction hazards, and
21 in also hearing perspectives from ACCSH members about
22 emerging issues as well.

1 (Fire alarm sounds.)

2 SPEAKER: Everybody exit the building,
3 please.

4 (Interruption to the proceedings.)

5 CHAIRMAN MIGLIACCO: All right. We'll bring
6 the meeting back to order.

7 The good news, everybody got to go outside
8 for a little bit. The bad news is, is that was your
9 afternoon break.

10 (Laughter.)

11 CHAIRMAN MIGLIACCO: So you got to give and
12 take here. Come on people.

13 (Discussion was held off the record.)

14 CHAIRMAN MIGLIACCO: All right. Matt, if
15 you'll?

16 MR. GILLEN: Sure. I was basically at the
17 end.

18 So if there were any questions people had --
19 I mean, we do have the two presentations, that are on
20 the computer that we'd like to put into the record as
21 well. We just don't have the paper copies yet.

22 CHAIRMAN MIGLIACCO: All right.

1 Dan, do you have anything to add?

2 MR. ZARLETTI: No, nothing to add.

3 CHAIRMAN MIGLIACCO: Walter?

4 MR. JONES: I'm good, I think that's fine.

5 CHAIRMAN MIGLIACCO: At this time, I
6 entertain a motion to accept this report from this
7 Committee.

8 MR. SHANAHAN: So moved.

9 CHAIRMAN MIGLIACCO: Tom Shanahan. Second
10 it?

11 MR. ZARLETTI: Here.

12 CHAIRMAN MIGLIACCO: Dan Zarletti.

13 Questions? Discussion? Any questions of the
14 Committee? Any discussion?

15 Seeing none, all in favor say "aye."

16 (Chorus of ayes.)

17 CHAIRMAN MIGLIACCO: Opposed?

18 (No response.)

19 CHAIRMAN MIGLIACCO: The ayes have it.
20 Motion carries.

21 Sarah?

22 MS. SHORTALL: Yes, I would like to mark this

1 exhibit .5, then. The approved Silica Work Group
2 Report from the December 8, 2010 meeting.

3 CHAIRMAN MIGLIACCO: Okay.

4 (Discussion was held off the record.)

5 MR. GILLEN: The two presentations that are
6 on the computer, can you at a later date get those put
7 into the record?

8 MS. SHORTALL: Well, we'd like to have those
9 as soon as possible, because --

10 MR. GILLEN: So would we (laughing).

11 MS. SHORTALL: Huh?

12 MR. GILLEN: I'm just kidding, but we would
13 like to get them off and make paper copies. And we
14 just didn't have time to do it yet. So we'll do it.

15 MS. SHORTALL: Oh, all right.

16 MR. GILLEN: We'll work with Fran to do it.

17 MS. SHORTALL: Okay.

18 CHAIRMAN MIGLIACCO: All right. Next up is
19 the Mast Climbing Work Platform's presentation. Pam
20 Susi, are you ready?

21 MS. SUSI: Okay, yeah. I'm just going to
22 need the --

1 (Discussion was held off the record.)

2 MS. SUSI: Okay. So my name is Pam Susi.
3 I'm with the Center for Construction Research and
4 Training. And I wanted to thank the Chair, Frank
5 Migliaccio, for making time for us to talk about this
6 topic in the Committee and OSHA.

7 What I'm going to talk about is really just a
8 short presentation to introduce the new white paper
9 that just came back from the printer this week.

10 And let's see, let me just forward -- okay,
11 so I think most of you know who we are: CPWR. But
12 those who may not, we're a private non-profit that was
13 created by the Building Trades Department and the AFL-
14 CIO.

15 And we conduct research on Construction
16 Safety & Health issues. And since about 1990, '91,
17 we've served as a NIOSH construction center, so that we
18 help do outreach in terms of getting the research out
19 there to the industry.

20 Our main office is in Silver Spring, but
21 we've got staff all over the country. I live in the
22 New Jersey/Philadelphia area. We have a staff member

1 that lives out in Washington State.

2 So we're kind of spread out.

3 Next slide?

4 The reason we're focused on mast climbers is
5 that it's been out there a while, but they're
6 relatively new to the U.S., becoming more popular in
7 the last 20 years or so.

8 It seems like the use is increasing; and
9 although these are covered in the OSHA scaffold
10 standard, the scaffold standards don't specifically
11 address this type of equipment.

12 So I think I did a word search a while back,
13 and the only time that mast climbers comes up is in the
14 context of referencing a non-mandatory appendix, which
15 is, you know, going on 20 years old now;

16 So it's very little in there specific to that
17 equipment, and what is in there is out of date.

18 And then the other thing that got out
19 attention was that we had started receiving several
20 calls from the painters union nationally, and then from
21 the building trades locally;

22 Because in a period of one year, they had two

1 fatal accidents in that area, both involving glazers.

2 And this is a picture of our Work Group.

3 We got together in 2006, and we've been working for the
4 past few years and coming out with these
5 recommendations.

6 And now we've begun to focus a little bit
7 more on training.

8 But we've got a good group, a lot of
9 different interests represented. And Dr. Ayub is on
10 our Committee; we've got Domenick Salvatore is an OSHA
11 Area Director; NIOSH and others.

12 And we've also -- wait, too fast -- so we're
13 co-chaired by Steve Martini with International Masonry
14 Institute, and Jim Kinateder, who's a contractor rep
15 out of Milwaukee, Wisconsin.

16 And we're really lucky that we have
17 participation of, you know, the manufacturer folks, the
18 industry folks, government. We have the chair -- Greg
19 Janda, who's the Chair of the NCA 92.9 Group on our
20 Committee; Kevin O'Shea, whom you'll hear from in a
21 little bit. He's also on that group.

22 So we've got some really knowledgeable

1 people.

2 So the goals of our group were to:

3 One, research the causes of accidents that
4 have occurred with mast scaffolds; assess the adequacy
5 of the current regs, and other consensus standards; and
6 then make recommendations with the idea that we could
7 try to make some difference in terms of improving safe
8 use of this equipment.

9 You can go ahead.

10 So two years ago I came to this Committee and
11 I presented kind of an overview in general of what some
12 of our preliminary recommendations were. And also I
13 think prior to that, you'd heard presentations by Dr.
14 Ayub and also Kevin O'Shea.

15 So this has been kind of, I guess, on the
16 radar here for the last couple years.

17 There was a motion made at that meeting to
18 update the OSHA standards as expeditiously as possible.

19 Because I remember Bob Kuhl, who's the most eloquent
20 roofer I know who made that motion (laughing).

21 And it was carried. So I guess it would be
22 interesting to see if there has been any motion made in

1 that direction.

2 But this is the white paper, you should all
3 have a copy of that. Its primary audience is really
4 regulators and people who would be responsible for
5 drawing up bid documents to try to get, you know, on
6 jobs where this equipment is being used, it's being
7 used safely.

8 It provides some background on mast climber
9 use, the advantages, the hazards.

10 Our co-chair asked me to really emphasize
11 that there are, in fact, a lot of advantages. You
12 know, this equipment really does improve productivity.

13 You don't have people climbing as much in
14 terms of the erection ideally, if it's being used
15 correctly.

16 And it has some ergonomic advantages in that
17 you could position the platform to an optimum elevation
18 for the operator.

19 There's a table in the white paper that goes
20 over the description of about, I guess it's about a
21 dozen fatal incidents or serious injuries that have
22 occurred over the last roughly 20 years.

1 So I won't really go into detail on this.

2 But just looking at the table -- and in many
3 cases, they don't specify the trade involved; but you
4 can see from the description of the accident that there
5 was stucco workers involved in the multiple fatality in
6 Austin.

7 A lot of bricklayers and quite a number of
8 glazers are represented in that list.

9 So then just to summarize, going over these
10 12 events that involved 18 deaths, you know, one thing
11 to note is that in the majority of these categories of
12 contributing factors, the number of fatalities exceeds
13 the number of incidents.

14 So that's the other issue that was a concern,
15 that, you know, when there is an accident, it's often
16 catastrophic and involves multiple fatalities.

17 But in going over the contributing factor,
18 the number one cause was -- in terms of number of
19 incidents anyway -- it was fall hazards;

20 Which was interesting to hear Dr. Michaels
21 say that continues to be the number one issue in
22 general.

1 Loading issues followed that, and in terms of
2 fatalities, was actually the number one. Failure to
3 use the correct parts or faulty configuration
4 contributed to two of the incidents, four of the
5 deaths;

6 Instability of the mast climber, while they
7 were dismantling it, contributed to two incidents and
8 four deaths.

9 And then equipment failure, which is pretty
10 uncommon, but it occurred in one incident, and I think
11 in that incident two things failed at exactly the same
12 time.

13 If one of them had not, that wouldn't have
14 happened, but they both happened at the same time.

15 So I think this kind of just talks a little
16 bit about the white paper content. The most important
17 part of it, though, is the recommendations for safe
18 use.

19 And like I said, this was developed through a
20 consensus process. We had a lot of discussion over a
21 two-year period. You know, we had it reviewed by a lot
22 of groups, including your own.

1 And in addition to the recommendations, there
2 is some appendix material, which includes a detailed
3 outline for a four-hour user training program. And
4 that's also been developed through a consensus process.

5 And just to highlight some of the major
6 recommendations, one set of recommendations deals with
7 training, and basically says that, you know, training
8 of a specified duration, in this case, four hours,
9 should be required for users or for awareness level
10 training;

11 And then twelve hours with user training for
12 erector dismantlers, or 16 hours if they haven't
13 received the awareness.

14 And then additional site and model-specific
15 training is very important. And this awareness
16 training is not at all intended to replace that, but
17 just to provide a foundation.

18 So in the recommendations, we get into some
19 content elements that we think are important to
20 include.

21 And then there's a lot of discussion about
22 engineering and administrative controls,

1 recommendations for that. Again Dr. Ayub was a real
2 big help in that area.

3 And then Chris Pan at NIOSH is also one of
4 our Work Group folks, and he's done a lot of really
5 stellar research in aerial lift scaffolding in the
6 past.

7 So he's helped inform that whole process.

8 Go ahead, Travis.

9 Another thing that came up -- and really when
10 I would talk to bricklayers in the field, the thing
11 that they had seemed to raise the most concern about
12 was that with some of this equipment they're asked to
13 actually climb the towers like this.

14 And oftentimes the tower is not really
15 designed to be climbed; or if it, it's not designed
16 very well.

17 And as you can see, it's like a complete, you
18 know, there is no incline whatsoever.

19 So we had a lot of discussion about this.
20 And what we came down to was that in every case, there
21 should be job hazard analysis required when there is
22 any sort of vertical climbs involved, that for

1 platforms that ideally that they be lowered, so that
2 there is no more than a 20-foot climb.

3 But where for equipment reasons or the
4 conditions of the job, it's just really difficult or
5 impossible to lower the platform to less than 20 feet,
6 then that there be a safe method statement required and
7 a rest platform for every 20 feet, and that there be
8 fall protection.

9 But the problem here is that apparently there
10 is some of the manufacturers have some first-generation
11 equipment that the way it's tied off to the building,
12 it makes it very difficult to lower the platform
13 without having to spend a lot of labor time removing
14 the ties.

15 And it happened that our co-chair owned, I
16 think about a hundred of those shipping units. So, you
17 know, there was concern about requirements that would
18 make it very difficult to use the equipment that's
19 already out there in use.

20 The other thing we get into is: Define
21 responsibilities for manufacturers, suppliers,
22 distributors, users, and owners. Because I think Kevin

1 can tell you about how someone might buy a piece of
2 equipment from a manufacturer, who's not even in
3 business any more, maybe they've gotten it through
4 like, you know, down the chain of multiple suppliers.
5 So there's a lot of information that kind of gets lost
6 in the translation.

7 Also have specific qualifications and roles
8 for the parties involved, such as, you know, structural
9 personnel -- or safety personnel;

10 And we discussed when it's necessary that you
11 have someone qualified and structural engineering
12 involved.

13 Which it also interesting to hear what
14 somebody said, 20 percent -- I guess it was Mohammad --
15 about 20 percent of the accidents involved -- collapses
16 involved design issues, so that was -- he kind of
17 helped reinforce that concept where we needed it.

18 And then, you know, the roles and
19 qualifications of operators, users, contractor reps.

20 But probably the most important
21 recommendation we make and the one that's most relevant
22 to this group is that we -- and this is verbatim from

1 the recommendations in the white paper -- is that the
2 conclusion was that OSHA standards are inadequate in
3 addressing mast climbers, and she be strengthened in
4 accordance with the above recommendations.

5 The ANSI standard has been updated and is due
6 to for publication, I think in early 2011. So we'll
7 have an updated standard.

8 We've got folks from our Work Group now who
9 are on the ANSI Subcommittee and you know, we're
10 already working on updating that standard.

11 And as we do, hopefully we can try to
12 encourage that Committee to look at our recommendations
13 and think about kind of upgrading things. But it's
14 also important that OSHA update their appendices too to
15 include the current standard that's coming out.

16 So I just also want to acknowledge that the
17 Building Trades Safety Committee, myself and Kevin
18 presented to that group.

19 And I think there was a meeting in June where
20 they endorsed the recommendations of the white paper.
21 And in fact, they've established a Subcommittee, and
22 Travis Parsons is the Chair of that Subcommittee.

1 And one of the things we'd like to do is work
2 more with SIA, Scaffold Industry Association, and IPAF,
3 International Powered Access Federation.

4 I want to acknowledge Lori Webber, who is
5 back here with SIA, who really does a terrific job
6 organizing that group, and has really been a real --
7 very cooperative with us in trying to work training.

8 And everyone here sitting next to her -- you
9 know, even if they're not on our Work Group, they've
10 come to meetings, and they've kind of provided
11 feedback.

12 So I appreciate everyone's effort and want to
13 acknowledge that.

14 And that's all I have. I mean, I'll
15 introduce Kevin next, but before I do that, I guess I
16 just wanted to get any feedback from the Work Group.
17 You know, there was that question about: Has there
18 been any followup since the recommendation was made in
19 '08?

20 Is just one question I had. But what are,
21 like any next steps that you see happening around this
22 issue? If I may ask (laughing).

1 CHAIRMAN MIGLIACCO: Any questions of the
2 Committee to Pam? Matt?

3 MR. GILLEN: Matt Gillen. Do you have any
4 more? This is great work. I'm really, I look forward
5 to reading it in more detail. It's really terrific.

6 So we're at the point where we have guidance
7 out there. I'm wondering, do you have any suggestions
8 for how OSHA might look at updating the regulation?

9 For example, my recollection is the Scaffold
10 Standard is structured so there's many different
11 sections that address just the different many unique
12 types of scaffolds.

13 MS. SUSI: Right.

14 MR. GILLEN: And it seems like it's almost a
15 modular standard. I mean, has the group talked about
16 how, you know, OSHA might go about adding a section to
17 that? Or?

18 Any of your thoughts on that?

19 MS. SUSI: We haven't yet. But that probably
20 is a good thing to think about. I mean, I'm certainly
21 no expert on the scaffold standard, but that's what
22 I've noticed what you say, Matt, is how there's these

1 subsections that go into a lot of great detail about
2 specific systems with charts, and --

3 MR. GILLEN: Kind of like a scaffold, you
4 know, modular.

5 MS. SUSI: Yeah (laughing).

6 (Laughter.)

7 MS. SUSI: So I mean, that's kind of think
8 what's needed.

9 MR. GILLEN: Mm-hmm.

10 MS. SUSI: But you know, folks here from OSHA
11 would probably have a better sense of how that would
12 happen.

13 CHAIRMAN MIGLIACCO: Any other questions?

14 MS. SUSI: Has there been any activity at
15 OSHA, I wonder, since the recommendation was made in
16 '08 about updating the standards?

17 MR. HARBIN: Go ahead, Mike.

18 MR. THIBODEAUX: We haven't received any
19 feedback since your presentation and our recommendation
20 back in '08.

21 So, you know, I don't remember Bill bringing
22 that up at the last time that he made his update.

1 MR. HARBIN: I'm not aware of any movement,
2 any changes that have occurred since your last
3 presentation.

4 MS. SUSI: Okay. I know you obviously are
5 very close to that issue. And I think we have a quote
6 from Eric in our white paper (laughing).

7 (Discussion was held off the record.)

8 MS. SUSI: So hopefully that's going to help
9 (laughing).

10 MR. HARBIN: The unfortunate reality is that
11 you know, I do have some personal involvement in here.
12 There is a case that occurred, where a scaffold
13 collapsed while I was the area director in Austin,
14 Texas. And unfortunately three workers did not go home
15 that day.

16 So this presentation actually is very
17 valuable, your material here. And I hope it will be
18 fruitful, and we'll see what happens, going forward.

19 MS. SUSI: Okay. Well, thanks.

20 MR. PARSONS: I just --

21 CHAIRMAN MIGLIACCO: Travis, you want to add
22 to Pam?

1 MR. PARSONS: Yes.

2 CHAIRMAN MIGLIACCO: Give your name please.

3 MR. PARSONS: Yeah. Hello, Travis Parsons,
4 the Laborer's Health & Safety Fund. Most of you know
5 me.

6 I just want to reinforce a lot of what Pam
7 was alluding to. When it comes to the mast climbers,
8 what we're finding and we've already known, is they are
9 a totally different animal than a regular scaffold.

10 Whereas they are more productive and safer a
11 lot of times, and you know, in a lot of ways, which is
12 why they're being used. And they do a lot of great
13 things.

14 But when they fail, they collapse. And it's
15 a catastrophe. It's not a slip-trip fall, where
16 somebody hurt their back. It's not a strain-sprain
17 injury. It's a catastrophe; as you can see the
18 prevalence of the fatalities in reference to the
19 incidents.

20 So as more and more use catches on and
21 contractors realize that it's profitable to use these
22 scaffolds in the long run -- which is what they're

1 finding -- there's going to be more of this, I think.

2 So proper training and proper regulations,
3 proper materials out there, are very vital to Safety &
4 Health.

5 So that's why this is a big problem.

6 Like I said, they are a completely different
7 animal than a regular old scaffold. They're built
8 different, they're erected differently.

9 It takes some type of specialized training.
10 So this really needs to be looked at. So I just wanted
11 to reinforce that.

12 MS. SUSI: Okay. Thanks.

13 CHAIRMAN MIGLIACCO: Thank you.

14 Dan first and then Susan.

15 MR. ZARLETTI: Well, I was going to say a
16 couple things. First of all, having worked from mast
17 climbing scaffolds, and having seen some of the other
18 options, with swing-stage scaffolds that are also
19 elevated, I believe and I would agree with what Travis
20 has said, that that's much safer, I think.

21 You know, there's a catastrophic potential
22 with either, because you lose a swing stage that's

1 coming down. You lose a mast climber, it's coming
2 down.

3 The issue is that while it's going to catch
4 on more and more, and it has over the last even five
5 years versus five years ago, I think it needs to be
6 given a sense of urgency for its regulatory issues, so
7 that at the top of training and assessments and more
8 investments, we need to get the regulations to these
9 things set up, so that the design can be made with the
10 regulations in place.

11 MS. SUSI: Mm-hmm.

12 MR. ZARLETTI: And you can build it safely as
13 you go, or as you make them.

14 Probably the best illustration, I would say,
15 is swing-stage scaffold, which is the kind that you'd
16 see a window washer working from.

17 That could be a 36 to 42-inch work deck. And
18 when you get up a couple hundred feet in the air, that
19 can trim itself down to maybe down to maybe what looks
20 like one or two boards across.

21 These mast climbers, you could have 12 feet
22 of a deck behind you. Or nine to 12 feet. And you

1 know, even at 200 feet, that's still like a dance
2 floor, compared to what you're looking at on a swing
3 stage.

4 So you've got perimeter guarding that's
5 primary. You've got a much wider area to work from.
6 It's a very sizeable product. It just has to be done
7 right.

8 And that's why I think before we just keep
9 moving forward on saying it's going to grow, it's going
10 to grab, it's going to become a greater part of this,
11 we should have that speed go along with the
12 regulations; so that there isn't some place down the
13 road in five more years when this thing becomes so
14 popular again, that we have to go back and look at a
15 bunch of retrofits, just to make it safe.

16 MS. SUSI: Right. The standards there are
17 really behind.

18 MR. ZARLETTI: Yes.

19 MS. SUSI: And you're only getting further
20 behind if you don't do anything else.

21 MR. ZARLETTI: Yeah. I think this needs to
22 be raised up. And I would wonder if at this level at

1 ACCSH, we could be given progress reports over time as
2 to what's happening with the mast climbers.

3 So if we're meeting three or four times a
4 year, maybe that's that many times that we should be
5 kept in the loop as to what's going on or what's not
6 going on, so that this thing doesn't lay dormant, but
7 actually picks up momentum as it goes ahead.

8 MS. SUSI: Do you see our existing Work Group
9 as a good forum to try to work on some of these issues
10 you're talking about, like how to dove-tail these
11 recommendations into a standard and so on? Or?

12 MR. ZARLETTI: Right. But if it's going to
13 go to a standard, it's going to be recommended through
14 us.

15 MS. SUSI: Yeah.

16 MR. ZARLETTI: Maybe there's a coordination
17 media, now that we can develop between that core group
18 and work group of yours and ours.

19 MS. SUSI: Yeah. That would be wonderful.

20 CHAIRMAN MIGLIACCO: Okay.

21 Ben is going to give us an update, Susan,
22 what he had asked earlier. He has an update he's going

1 to give, probably this afternoon, of everything we've
2 recommended.

3 MS. BILHORN: Mm-hmm.

4 CHAIRMAN MIGLIACCO: So he has that and he
5 will give it to us this afternoon.

6 Okay. And Susan, you're up.

7 MS. BILHORN: Okay. Susan Bilhorn.

8 Yeah, I appreciate that this looks like a
9 really valuable tool here. And I appreciate the
10 effort. I'm curious how this got on our agenda.

11 Because I think it's great stuff that is very
12 relevant to us. How did this get on the agenda?

13 CHAIRMAN MIGLIACCO: Pam had called myself
14 and asked if she could come and present again with the
15 white paper out. And when I talked with -- at the time
16 it was still Mike Buchet, and we worked it out.

17 And then since then, it's been Fran. And I
18 worked it out -- so that's how it's back on the
19 schedule again.

20 MS. SUSI: Okay. Yeah. And then Fran called
21 me, I guess --

22 CHAIRMAN MIGLIACCO: Yeah --

1 MS. SUSI: About a month ago, or so. Yeah.

2 CHAIRMAN MIGLIACCO: Mm-hmm.

3 MS. BILHORN: Okay.

4 Again, there are two things that I'm not
5 quite sure how to approach. One is: When something
6 like this is on the agenda, it would be really helpful
7 to have the kind of counterpoint, you know.

8 So OSHA being able to say where they're at,
9 if it's on the agenda for us to discuss. Because it's
10 kind of I think unfortunate not to be able to have the
11 two married, you know.

12 So what you guys, you know, have proposed and
13 then the question of, you know, what's going on
14 standards.

15 MS. SUSI: Mm-hmm.

16 MS. BILHORN: So I guess as a matter of
17 protocol, it would be really nice to have the agenda
18 teed up to have that marriage, you know, so that we can
19 actually have that dialogue propagate.

20 So I don't know if that's a motion to -- in
21 the coordination of the agenda, or if it's a matter
22 just for you as chairman to maybe consider.

1 CHAIRMAN MIGLIACCO: No, it's just something
2 that now I'm working with Fran now. I think it's
3 something we'll just have to consider.

4 MS. BILHORN: Okay.

5 And then the second. I would like to I guess
6 maybe put a motion. If there is an outstanding
7 recommendation from 2008, from discussion that we had,
8 which, you know, our historian can help us with on
9 that --

10 (Laughter.)

11 MS. BILHORN: You know, yeah, maybe it's back
12 to just a status every time. But more specifically
13 maybe on this topic, you know.

14 So I don't know if it's a motion to revisit
15 that motion that was made, of recommendation
16 previously, and like Dan said, maybe hold to having
17 this as a specific topic in future meetings.

18 I don't know if this might fit within the
19 agenda of a current Work Group.

20 CHAIRMAN MIGLIACCO: We would have to look at
21 the Work Group. Dean, do you have --

22 MR. MCKENZIE: Well, the recommendations that

1 will happen today are from the April meeting.

2 CHAIRMAN MIGLIACCO: Right.

3 MR. MCKENZIE: So the Committee is presented
4 13-15 recommendations a year for the last number of
5 years.

6 And recently over the last couple of
7 meetings, Bill has presented where we were on the
8 entire list of recommendations.

9 If it was a Committee, you know, request, we
10 would consider having that update again; but when the
11 Secretary makes a decision to not act on something, or
12 it doesn't make the regulatory agenda, it may be
13 redundant to speak, you know, to say the same thing
14 again.

15 But we can provide that --

16 MS. SUSI: Because I don't think there was
17 any update at all. Right? So you haven't heard
18 anything one way or another?

19 CHAIRMAN MIGLIACCO: No.

20 MS. BILHORN: Yeah. I don't know -- and
21 maybe that's the point of closure. It's like, you
22 know, decided not to act, or something that could help

1 us with closure, to know that, you know, it was
2 considered not something that's able to act on.

3 That would certainly be helpful, because then
4 we have closure on it.

5 But with this topic, I'd like to see if we
6 can't fit it into one of our work groups.

7 The fact that you've gained momentum, you
8 know, with the thinking here, I think it's important to
9 leverage that to get to the next step, in terms of the
10 missing pieces in the standard.

11 MS. SUSI: Well, I have to say this work that
12 we put together to really an enthusiastic bunch. I
13 mean --

14 MS. BILHORN: It sounds like it --

15 MS. SUSI: To me like you know, Lori is
16 offering her facility as a venue (laughing), and
17 they're saying, "When's the next meeting, Sue?"

18 So it is a good group to kind of keep going
19 at some level.

20 MS. BILHORN: Well, I hate, you know, when
21 you got momentum like that, not to continue it. So I
22 wonder if it wouldn't fit well within like you know --

1 SPEAKER: Prevention through design?

2 MS. BILHORN: Yeah. Prevention through
3 design, or --

4 (Simultaneous conversation.)

5 SPEAKER: Prevention through design might be
6 the --

7 MS. BILHORN: We don't have a fall protection
8 worker --

9 SPEAKER: Fall protection is residential.

10 SPEAKER: He has a residential fall
11 protection.

12 MS. BILHORN: So could we --

13 SPEAKER: And I agree -- this would be too
14 big for a residential --

15 MS. BILHORN: Could we -- would one of the
16 workers take it on? I don't see it happening with
17 green.

18 SPEAKER: Prevention through design.

19 MS. BILHORN: And I don't see it happening
20 with I2P2, which were the only two that I can --
21 prevention through design, would you guys take that on?

22 (Discussion was held off the record.)

1 CHAIRMAN MIGLIACCO: Bill?

2 MR. AHAL: Bill Ahal. I mean, I think it's
3 the one that it fits into, and I don't have an
4 objection to it, as long as we realize that the core
5 intention was not necessarily towards equipment.

6 Now this is a very specialized and enlarged
7 item. So I think it can be. We got to be careful we
8 don't load it up and go back to where it turns out to
9 be auto equipment, because of the momentum that we
10 generated.

11 But I think it could be put as a subset of
12 prevention by design.

13 MS. BILHORN: Yeah. And it might be a very
14 specific thing for a very finite period of time to go
15 through --

16 MR. AHAL: Yeah. I think it's got a life --
17 it looks like --

18 MS. BILHORN: It's got a life.

19 MR. AHAL: It looks like it's got a life
20 span, a definite finite life span. Let's get the
21 answers or get it going or get it done, or get it over
22 with.

1 MR. HAWKINS: Of course, the thing about your
2 work is it's just now gaining momentum on design
3 through prevention. You hate to throw this in there,
4 at this point.

5 MR. AHAL: As long as this doesn't dilute the
6 initial thrust and everything that we got, because it
7 is a bit of a diversion.

8 I mean, if people are interested in it,
9 that's fine.

10 MS. BILHORN: Or maybe we can work outside of
11 the framework of our formal work groups. I'd just like
12 to see us get, you know, be able to go ahead and
13 support looking through the requirements and say "Where
14 could we propose language, you know, that might be
15 considered?"

16 CHAIRMAN MIGLIACCO: Okay. We can't work
17 outside the Work Group; we have to have a Work Group.

18 MS. BILHORN: No, what I mean is outside of -
19 - on a topic, members on a topic that aren't within a
20 specific work group.

21 MS. SHORTALL: You could establish a work
22 group, you --

1 (Simultaneous conversation.)

2 MS. BILHORN: Okay.

3 MS. SHORTALL: You know, have what would be
4 considered a much more temporary work group, one that
5 would not be a standing one for a long period of time.

6 (Simultaneous conversation.)

7 MR. GILLEN: Matt Gillen.

8 CHAIRMAN MIGLIACCO: Hold on, wait a minute.
9 Walter was before you.

10 MR. JONES: I see my time is --

11 CHAIRMAN MIGLIACCO: Okay. Go ahead, Matt.

12 MR. GILLEN: Matt Gillen.

13 To me it's an interesting issue, because
14 there's obviously groups out there have done a lot of
15 work --

16 SPEAKER: A lot --

17 MR. GILLEN: And have really narrowed down
18 with the issues are and what the recommendations are,
19 and what to do about it.

20 And I'm sure that the better employers out
21 there are trying to do this.

22 The question becomes sort of what we do here

1 -- and we all know that OSHA has a limited bandwidth --
2 there's a limited number of people working on
3 regulations -- and so there's only so many things they
4 can do.

5 I mean, what are other options for
6 dissemination, or webinars for compliance officers?
7 What are the other options of things we can do when we
8 have an issue like this, that's pretty ripe for some
9 sort of action, regulatory or other?

10 You know what I mean? It's sort of a
11 different issue than sort of going back to a Prevention
12 Through Design Work Group to me.

13 It's sort of: What are our options for doing
14 something and moving this further to get people using
15 the precautions? What are the other options we have
16 other than --

17 MS. BILHORN: Well, recognizing that we could
18 form a work group that, you know, is focused
19 specifically on this, you know --

20 MR. GILLEN: Make the motion and I'll second
21 it --

22 MS. BILHORN: I'll motion that we form a

1 specific work group today, or, you know, by the end of
2 this meeting, with members identified by the end of
3 this meeting, to specifically look at, you know, how to
4 integrate -- let's see, let me think about this --
5 somebody want to pop in some words?

6 CHAIRMAN MIGLIACCO: Why don't you go ahead
7 and write up a motion?

8 MS. BILHORN: Okay.

9 CHAIRMAN MIGLIACCO: And I'll go ahead and
10 entertain Liz -- she has a question.

11 MS. ARIOTO: No, not a question. I was going
12 to bring up the same thing.

13 CHAIRMAN MIGLIACCO: Oh.

14 MS. ARIOTO: I believe that there is a need
15 for this. I know back in California we had many
16 companies just shut down because they were using it
17 improperly, whether it was a wind factor, or whether
18 workers were climbing for -- into the buildings.

19 I think it would be a really --

20 CHAIRMAN MIGLIACCO: All right --

21 MS. ARIOTO: I mean, it's a short duration.

22 Because I think a lot of work's been done on this, and

1 I would highly recommend --

2 CHAIRMAN MIGLIACCO: All right. Then, we'll
3 go ahead and -- Susan, you go ahead and work up some
4 verbiage on this.

5 And we have from 11:30 to 12:00 Committee
6 Administration. And we'll put that in play there.

7 MS. BILHORN: Okay. Super.

8 CHAIRMAN MIGLIACCO: Okay. Travis?

9 MR. PARSONS: Just one final comment from me.

10 The work group that exists outside of this
11 Group that did this white paper, already has a lot of
12 common players, common organizations, that, you know,
13 we all work together at all time across the country.

14 So I think the marriage between that work
15 group and any work group formed here would already have
16 the momentum and the products, as Matt pointed out.

17 So, you know, you've heard a lot of the same
18 people, Mohammad, who is one of the directors here at
19 OSHA is on that work group. We have other people from
20 OSHA that we have, labor and management involved.

21 It's a very good and exciting work group. So
22 I think that marriage would be easier than other things

1 that are -- it will be like that.

2 MS. BILHORN: Yeah. Right. This is not
3 something that you would want to invent (laughing) --

4 MR. PARSONS: Okay. So those players are
5 already involved, from pretty much everybody
6 represented here.

7 CHAIRMAN MIGLIACCO: Right.

8 Walter?

9 MR. JONES: I just wanted to say one quick
10 comment. I've had to work on a couple of, develop one
11 Safety & Health program for a guy who has a mast
12 climbing scaffold.

13 And I just want to point out that whatever we
14 decide, or whatever you guys work on, I'd like to see
15 us definitely focus on identifying hazards and
16 developing control strategies to reign in those
17 hazards.

18 And a lot of the stuff I'm seeing is about
19 training, how everybody has to be trained. And if we
20 train, if we train, if we train everybody. And that's
21 great.

22 And I think training is a great component.

1 But I don't think nothing will be developing control
2 strategies to reduce the hazards that -- or to abate
3 the hazards.

4 And like some of these things that we're
5 talking about attaching to the building or climbing up
6 and climbing down -- how can we develop control studies
7 to control this beyond just training somebody not to
8 climb up it, or whatever it may be, what I'm seeing.

9 And a lot of recommendations are very good, I
10 thought, in the original white paper. I haven't seen
11 this one.

12 Again, whatever we work on, I just wanted to
13 say that make sure we're looking at designing in the
14 control strategies instead of always relying on
15 training workers to work better.

16 MS. BILHORN: Mm-hmm.

17 CHAIRMAN MIGLIACCO: Okay. We have another
18 presenter, who is going to present on this issue. When
19 we ask for the motion to accept, we have a discussion-
20 and-question period, then.

21 So we'll stop now. And Pam, if you'll
22 introduce your next presenter?

1 MS. SUSI: Yeah. Okay.

2 So the next speaker, Kevin O'Shea, is someone
3 who really I think is among, if not the, you know,
4 definitely in the top few folks in the country who are
5 most knowledgeable about mast climbers.

6 Not only that, but he's really dedicated to
7 promoting safe use of it. And he's very active in the
8 International Powered Access Federation, so he's got a
9 really good awareness of what's going on in Europe, and
10 he practices worldwide.

11 He's now the co-chair of the Mast Climbing
12 Council, which is in organ, I guess, of SIA, more or
13 less.

14 And he's got an interesting trade union
15 background too, which I'm sure he won't get into today;
16 but it makes him interesting to our group. So.

17 And he's been a real asset to our Work Group
18 that came up with this white paper. So on that note,
19 I'll let Kevin take over.

20 MR. O'SHEA: Good morning.

21 CHAIRMAN MIGLIACCO: Good morning.

22 MR. O'SHEA: Kevin O'Shea. Day job: Mast

1 Climbers, LLC, in Atlanta.

2 But I represent two organizations mainly:
3 International Powered Access Federation, and the
4 Scaffold Industry Association, which I'll describe in a
5 little bit more detail.

6 I guess, as you probably guessed, I'm not a
7 native of the U.S. I did stop at Reagan National and
8 -- a new focus on multilingual information, in fact got
9 my Rosetta Stone American.

10 (Laughter.)

11 MR. O'SHEA: So -- it's a very pressing
12 point, as we go through this, is the communication.

13 And I even find this, when I do training
14 hands-on, there are many phrases that I will use that
15 are Anglified phrases that don't really mean the same
16 thing in American -- vernacular.

17 So I have to be very careful about how I
18 describe things.

19 And I have a presentation. My glamorous
20 assistant, Damon, has volunteered to press the buttons.

21 (Laughter.)

22 MR. O'SHEA: So if you don't mind, I'd just

1 like to try and do two things.

2 First of all, I had the opportunity three
3 years ago to present what I felt was the initial
4 problem that we had for our industry to this Committee.

5 And by way of update on what the industry has
6 been doing in those three years, then, this
7 presentation will cover some of the work that we've
8 been attacking;

9 And some of the awareness that we've been
10 trying to go at to the industry with regard to hazards
11 and hazard abatement.

12 And I have a couple of documents that I'll
13 hand out as I talk. And I'll explain what they are.

14 But if we could make a start. What I wanted
15 to try and do initially was at least get to the stage
16 where we understand exactly what this product is, how
17 it has developed and what the beauty of it is.

18 Now Pam already touched on the last ten years
19 an average of two deaths per year. And obviously the
20 connotation behind that is many more near-misses, minor
21 injury accidents, serious injury accidents, et cetera.

22 So I'm here today to represent a number of

1 interests and organizations, the Scaffold Industry
2 Association.

3 Please, Damon.

4 The International Powered Access Federation.

5 And the other impossible part of this jigsaw
6 is the secretariat that the SIA has of the ANSI
7 standards, which govern the use of mast climbing work
8 platforms.

9 Please, Damon.

10 So what is it? And why is it so popular?

11 Just please click as I talk through, Damon. It's going
12 to be difficult, because it's animated.

13 Well, you see here that the mast climber
14 provides a clear facade. This is the MLK Junior
15 Building in Atlanta.

16 And if we look at the scaffolding on the
17 left-hand side, we can see that there is minimal
18 destruction when it comes to working on the facade of
19 the building.

20 It has a very high capacity. This unit here
21 will probably take something like 20,000 pounds across
22 120 feet of the platform length, and a low-working

1 platform.

2 And then last, we have the ability to move
3 and lift materials from the ground, into position on
4 the platform -- masonry, for instance -- without bring
5 the machine back to ground level.

6 So we have a lot of flexibility, a lot of
7 ability, a lot of capacity, and it leaves the facade
8 relatively clear.

9 Workers in office buildings love mast
10 climbers, because it doesn't black out the office. It
11 doesn't take the sunshine away, like some other methods
12 of access do.

13 And it leaves a very minimal footprint on the
14 ground. Those mast sections that come down to the
15 ground can be sitting on bases, which are three feet
16 square.

17 So there is room on the ground also when
18 these units are in operation.

19 Please.

20 And here is a view of what we see in the
21 platform of a unit such as that. Perfect enclosed
22 working platform. Ideal for material storage, high

1 capacity, highly flexible;

2 And also of benefit as the reduction in
3 repetitive strain injury. We have masons laying brick
4 at exactly the right height. You can see the material
5 is stored behind them, at height, so they're moving
6 material and passing it forward to the work face, and
7 reducing the opportunity for repetitive strain injury.

8 Please.

9 So what is it? Well, if we just click
10 through, Damon, please, we have three essential
11 components of the unit:

12 We have the mast, and then we have the
13 platform section, and then we have the drive units,
14 which drive the whole thing up and down the mast.

15 And it moves in a fashion such as this.

16 And the ANSI standard dictates that it's
17 primarily used to position personnel along with their
18 necessary tools and materials to perform their work.

19 And what do we have at the moment? Well, we
20 have a design standard in A92.9, originally conceived
21 in 1993, never been updated until recently. And it's
22 now due for release 2011 in the first quarter.

1 We have some safe use regulations, which have
2 been put together by the International Powered Access
3 Federation and by SIA, and endorsed by both.

4 And the other thing we have in our armory is
5 interpretation of 1926. Generally, Sub-Part L and M.

6 Please.

7 They can also be pretty flexible. There are
8 very few pieces of access equipment that can access
9 facades, such as this.

10 And that comes with a whole series of other
11 considerations and engineering problems. We have
12 multi-deck platforms, two to one machine.

13 Please just click on, Damon, please.

14 Here is an example of that in action. This
15 is the Ray Building in St. Louis, which is the State
16 OSHA Building. And we have a number of machines, two
17 per mast, with overhead protection and even welfare
18 facilities on the platform.

19 So we have a true -- a workshop in the sky,
20 as some people like to call this.

21 And this particular job was done at night.

22 And it was actually a pretty eerie scene to see these

1 let-up platforms a hundred feet in the air, quietly
2 working away with workers inside them.

3 MR. JONES: When you say welfare, you mean
4 like rest rooms?

5 MR. O'SHEA: Yeah. Yeah. There's rest rooms
6 in there that are, yeah?

7 MR. PARSONS: Yeah, over two, yeah, right
8 there.

9 MR. O'SHEA: There's task lighting inside,
10 there's dust management from the work that they're
11 doing. Yeah, there's a whole series of measures inside
12 that working --

13 (Discussion was held off the record.)

14 (Simultaneous conversation.)

15 MR. O'SHEA: Please, Damon.

16 Here's another example. This is a job that I
17 had designed in Nashville. What you'll see is that the
18 mast climbers were not able to come to the ground. So
19 I designed a special support systems to bring them out
20 and support over the top of precast.

21 And again, this is something -- and one of
22 the challenges that I have had in the last three years

1 is identifying what level of expertise would be
2 required to train someone to do this.

3 And I've had to look at the levels of
4 expertise in some detail.

5 Please?

6 I wanted to take a look at just where the
7 mast climber becomes important in the supply chain, for
8 access.

9 Now if we look at the scaffolding,
10 scaffolding is the eternally flexible product. It has
11 great profiling ability, and a high capacity.

12 However, against booms and scissors, it's
13 less flexible. The booms and scissors can't profile,
14 and the booms and scissors have a low capacity.

15 However, scaffolding has a longer acting
16 time, whereas booms and scissors are rental-ready on
17 the job site.

18 Scaffolding has fixed levels. Booms and
19 scissors have variable height.

20 Scaffolding leaves a large footprint on the
21 ground. And booms and scissors leave a relatively
22 minimal footprint.

1 Mast climbers has the flexibility of the
2 scaffolding. It has the profiling ability of the
3 scaffolding. And it has the high capacity ability of
4 the scaffolding.

5 It also has the variable height capability of
6 the booms and the scissors, and the minimal footprint
7 of the booms and the scissors.

8 But the one thing that a mast climber is not
9 is it's not rental-ready.

10 So please click on.

11 It's a bit like buying furniture from Ikea.
12 Some assembly is required.

13 (Laughter.)

14 MR. O'SHEA: Okay. And if that's the way I
15 was going to describe the opportunity and the challenge
16 of the product, that's what we have.

17 I regularly buy furniture from Ikea, and I
18 regularly take it home, and I regularly throw the
19 instructions away, because I know how to put it
20 together.

21 (Laughter.)

22 MR. O'SHEA: And I regularly go back to Ikea

1 two weeks later and tell them that something was
2 missing in the box, and I couldn't put it together.

3 (Laughter.)

4 MR. O'SHEA: Okay.

5 Unfortunately and obviously, when we take the
6 attitude like that with mast climbers, the unfortunate
7 situation is that we have an injury or a death.

8 But this really encapsulates one of the high-
9 risk areas that we have.

10 Please, Damon.

11 Here are some of the numbers that we as an
12 industry try and compile to make sense of what we have.

13 Estimated 84 hundred units in the U.S., and
14 on an average utilization of 5,880 at 70 percent.

15 Just please click, Damon, as I go through
16 them.

17 An average of three users per unit, which
18 gives us 17,640 users a day on this equipment. Twenty-
19 five percent of that labor could, depending on what
20 state we are in, change every four weeks, or six weeks.

21 Jobs per annual on these units for: Average
22 job duration is about two months. Average dismantles

1 and erects per unit per job, five. And that means then
2 that each unit is erected and dismantled about 20 times
3 each year.

4 That gives us 117,600 times we move these
5 machines up and down.

6 MR. GILLEN: Can you explain a little bit
7 what you mean by "average dismantles"?

8 MR. PARSONS: Yeah. If we have a building
9 that's a hundred feet square, we may cover that
10 building with ten machines and move them three times or
11 four times.

12 We may cover it with 40 machines, and cover
13 it 100 percent of the time. In general, every time we
14 move a machine, we dismantle it, take it to somewhere
15 else, and re-erect it.

16 So when I say "erectations and dismantles per
17 year," that's the number of times on average a machine
18 will go down and up in a year.

19 And that gives us -- what it tells us is that
20 we have about 3 and a half million working hours
21 involved in the dismantle and re-erecting of that
22 product.

1 And for every ten units in the U.S., we
2 really require one trained and certified rigger with
3 one trainee rigger by his or her side.

4 So that's roughly what we have to contend
5 with.

6 Just click one more time, please, Damon?

7 And the opportunity and the challenge that we
8 have is the 17,640, and the fact that they will change
9 over a number of weeks.

10 We have to get the safety information and the
11 training to the people who are using the equipment.
12 And there are a number of ways that we are looking to
13 do this.

14 Please.

15 If we go back to something that I use
16 regularly, which is F. E. Bird's Accident Pyramid --
17 coincidentally coming from Atlanta many years ago,
18 where I am now -- those figures suggest 24 hundred
19 near-misses annually.

20 And as Tom touched on, mast climber accidents
21 are normally catastrophic, and manufacturers have a
22 very responsible attitude in this country, and they do

1 train.

2 But they lose control, and the units are
3 resold or rented, as go down the supply chain.

4 Regulatory bodies are not fully aware of the
5 hazards associated with mast climbers. Rental
6 companies and user companies are not fully aware.

7 Users and operators are not fully aware.

8 And advice is desperate, and it's not always
9 easy to find. This is what we had a few years ago.

10 Let me give you an example.

11 There was an accident in Texas where three
12 people died. And I got a call from the DA. In his
13 exact words, "I went on the Internet, and I found your
14 name. You must be an expert. Could you come and act
15 as an expert witness?"

16 I declined. Because with the work that I'm
17 trying to do it would be counterproductive. I'm trying
18 to encourage the bad ones and really kind of raise the
19 whole industry again.

20 And then I got a call from the Plaintiff's
21 attorneys, of the families of the people who died,
22 asking if I would represent them.

1 And I declined all of those.

2 Then I get a call from people who call
3 themselves experts, asking if they can come and see me
4 for two days' training on mast climbers to be able to
5 stand up in court and represent this family?

6 Now unfortunately, that's a microcosm of the
7 challenge here in America with this equipment right
8 now.

9 And let me also tell you, there is expertise
10 out there. And I do find that. And when I find it, I
11 accredit -- I put them through a regular set of tests,
12 and we put them through some challenges. And our
13 wetness machine is going up, and I go and inspect what
14 they have done.

15 And if I find good responsible people, we
16 will immediately put them through a formal
17 accreditation process to make sure that the people are
18 there who need the training are getting it from the
19 right place.

20 And our other challenge is obviously to train
21 everybody else who is on this equipment. Okay?

22 Please, Damon.

1 Now I came here in December of 2007. I'm
2 back in December of 2010. And the question is now:
3 What has happened in those subsequent few years, that
4 we can point to as progress in our industry?

5 Let me start by taking the Scaffold Industry
6 Association, formed in 1972, to represent the interests
7 of the Scaffold and Access Industry.

8 A net work of Accredited Training Institutes
9 in the U.S., and the secretariat of the ANSI standards,
10 including A92.9, which is the Mast Climbing Standard.

11 Please.

12 Then we have IPAF, formed in 1983 to promote
13 the safe use of Powered Access. Working in 32
14 countries. And issued is something called the Powered
15 Access License, or PAL card. Last year there were
16 80,000 of these cards issued around the world, for
17 various levels of training, accreditation, et cetera.

18 The reason for mentioning these organizations
19 is that they are both not-for-profit organizations,
20 they are both industry organizations. I work with both
21 these organizations, and --

22 Please click on, Damon.

1 We've managed to get together, international
2 agreement to work together on mast climbing work
3 platform training, and the raising of awareness.

4 MS. SHORTALL: Excuse me. Could you identify
5 what IPAF stands for, for the record?

6 MR. O'SHEA: Yeah. It stands for the
7 International Powered Access Federation.

8 MS. SHORTALL: Thank you.

9 MR. O'SHEA: Okay.

10 Please, Damon.

11 And that has led me to work with those
12 organizations and we've come up with a number of levels
13 of what I would call responsibility.

14 And what we've then done -- and I will hand
15 this around -- we have the Safe Use Guidelines from
16 mast climbing work platforms, which was originally
17 presented three years ago; and which has now been
18 updated and endorsed now also by the SIA.

19 And what this document is, is the framework
20 of something that I put together many years ago with
21 some people in the UK, which was a British standard
22 called BS 7981.

1 On the first day of ownership of the company
2 that I had in the UK along with a business partner, a
3 machine that had been erected by the previous owner,
4 fell down with four people on it.

5 We went through a subsequent investigation
6 company in the next six months. And what came through
7 from that was that there was a weak design standard and
8 there was not enough safe-use guidance.

9 So in an attempt to do something about that,
10 and having had the experience of that, when I came to
11 the U.S. eight years ago, this was what I'd decided to
12 try and do here, was raise this awareness through those
13 organizations.

14 We've come up with the operator level, which
15 is the first level -- please, Damon -- as the person
16 who uses the mast climber.

17 Okay.

18 And then we have the mobile operator. And
19 some of these machines will free-stand 60 feet high,
20 maybe, which means that when they're building a big-box
21 retail like a Walmart, where there are no windows or
22 floor slabs or openings to tie onto -- because we tie

1 these machines to the structure -- these units will
2 free-stand to a certain height, and that person would
3 be a mobile operator.

4 Please.

5 We have a demonstrator.

6 The demonstrator was usually what we would
7 term the competent person on the job site, the foreman
8 or the foreperson, who would have been formally trained
9 to introduce the safe use of the product to a new
10 entrance onto the job site, and to control the safe use
11 of the product on the job site.

12 Please.

13 We have the installer, obviously who is the
14 one who assembles and disassembles. And we have an
15 advanced installer.

16 The advanced installer would take the high
17 risk jobs, the special jobs, the structural type stuff,
18 and work with a local engineering or another competent
19 person or qualified person to resolve these issues, and
20 put together a method statement and the risk statement
21 or a hazard awareness statement for what we are going
22 to do on the job.

1 Please.

2 And we have two categories of instructor. We
3 only used to have one category of instructor. I got a
4 little bit uncomfortable with that, because if one
5 person is an instructor, it presupposes that they can
6 train all categories.

7 So I decided we had to split the instructor
8 category into A and B. Therefore, we have an advanced
9 instructor, who is the one who trains the installation
10 people, who are the high-riskers.

11 Please, Damon.

12 This here is just a quick animation of how we
13 use graphics to explain in this occasion 1926's
14 definition of the distance away from the structure;
15 which in this case, obviously in line with the scaffold
16 standard is 14 inches or less away. No front handrail
17 required, and up to 18 inches for plastering.

18 This forms part of webinar material that
19 we're trying to produce currently to be able to
20 introduce this into some kind of webinar scenario.

21 Please.

22 So, where are we three years later?

1 Well, we obviously are still influenced by
2 1926 Sub-Par L&M in particular. We have a new ANSI
3 92.9 standard coming out in 2011. We have the IPAF
4 guidelines for the safe use of mast climbers reviewed
5 and endorsed by the SIA.

6 And this document identifies each of those
7 people and the chain of supply: The operator, the
8 installer, the demonstrator, the competent person.

9 And we have a needs analysis in this document
10 for the skills required. We have the training
11 requirements for those people.

12 We have inspection formats, et cetera. I
13 will hand the documents out to you shortly, so you can
14 maybe have a look at them.

15 The other exciting part of what were doing is
16 we have an alliance, the SIA has an alliance with OSHA,
17 to produce outreach material for mast climbing work
18 platforms.

19 And the first product of that alliance is a
20 tip sheet, which you see in front of you, which again I
21 will hand out. I have copies here in a number of
22 languages.

1 And that contains vital safety information
2 for the users of this equipment.

3 And then we have the SIA IPAF training
4 agreement across the USA. And we're getting busy now
5 and finding people who require training and training
6 them to the standard that they required to be trained.

7 Lastly, I'm currently working on an awareness
8 course for OSHA personnel too, to maybe include into a
9 webinar of some kind. It's designed to be a highly
10 kind of animated graphic type presentation. It's a
11 number of pieces of material, handouts, where we can do
12 this on line, possibly, and make sure that we impact on
13 the largest number of people in the shortest period of
14 time.

15 Please, Damon.

16 So what's our challenges now? Well, if we go
17 back to what we had in 2007 to wrap up, we are training
18 in safety information and the need to get it into the
19 hands of those who really needed it, the users.

20 And so now we have alliance products, we have
21 an SIA and IPAF website. And we have outreach work.
22 We have a full range of industry endorsed training

1 courses for all levels of product interface.

2 Our second challenge was to educate
3 regulators on the top industry safety issues. What are
4 the real things to look for on this equipment? And
5 we're currently working on an awareness program.

6 Improving guidance for mast climbing work
7 platforms was our next challenge.

8 And the IPAF SIA safe-use guidelines are
9 basically a management tool for the management of this
10 product. If you take the IPAF guidelines for the safe
11 use of mast climbing work platforms, and you apply it
12 to your business, you will abate all the hazards that
13 we have identified, as a management tool, as for the
14 management of the product and the safe use of the
15 product, the safe installation of the product, and it
16 identifies the training levels.

17 Now what do we have to do? In my estimation,
18 we have to do a couple of things now. We have to
19 continue our outreach capabilities and increase those
20 now, and get the information to where it's now
21 required. And I think we have now also encourage
22 employers and owners of the equipment to step up and

1 address the training issues that they now have, having
2 now identified and addressed the hazards that exist in
3 our industry.

4 And to finish, I would like to thank you very
5 much for letting me address the Committee. I will hand
6 these documents out for you, please, to pass around.
7 And I'd be happy to answer any questions.

8 CHAIRMAN MIGLIACCO: All right. Do we have
9 questions? Liz first?

10 MS. ARIOTO: Liz Arioto.

11 I know some of the accidents or fatalities
12 were caused by overloaded equipment, you know, mast
13 climbers?

14 MR. O'SHEA: Mm-hmm.

15 MS. ARIOTO: Has the manufacturer devised any
16 warning or load indicators that the mast climber is
17 overloaded? Has that been developed actually into the
18 product?

19 MR. O'SHEA: They haven't yet.

20 And this comes into a weighted issue of
21 powered access in general. When you have a platform
22 that's 120 feet long, and you have various areas on the

1 platform that will take point loads, for instance: A
2 pallet to block, a mud pan; and then you have other
3 areas where you have maybe a 500-pound restriction on
4 load; and then we also have the dynamic loads of
5 loading that material onto that, and have workers
6 moving to and from?

7 It's very difficult to control the
8 overloading characteristic in that fashion. And it's
9 very difficult to come up with something -- the
10 industry has found it so far difficult to come up with
11 something that will accurately control that overloading
12 situation.

13 And the way that we have been working with
14 that so far is we have identified load charts,
15 displayed for that specific configuration, actually at
16 the point of operation on the machine.

17 We also have loading information that comes
18 through in the training of the users of this equipment.

19 And we even also have been working with
20 innovative products. We have a graphic that we put
21 inside the visor of the forklift truck.

22 Because one of the things that we have

1 identified is when you are on mast climber and a
2 forklift truck arrives on a busy job site to deliver a
3 pallet of bricks to you, and you have to load that ten
4 feet on either side of the mast for safety purposes, if
5 you're up on that machine and the forklift delivers it
6 25 feet on the left, they will receive it 25 feet on
7 the left, and have now overloaded the platform.

8 So now what we do for the specific
9 configuration is we're working on decals that we can
10 put on the inside of the visor on the forklift, so that
11 the forklift operator knows where to deliver the
12 material --

13 MS. ARIOTO: Hmm --

14 MR. O'SHEA: To the platform.

15 So we're working on a number of loading
16 issues.

17 I'm not sure how effective we can get a safe
18 load indicating device to be on a platform. There are
19 a couple of platforms in Europe, which have this.

20 MS. ARIOTO: Okay.

21 MR. O'SHEA: Varying levels of success. But
22 the industry is trying to attack that problem. And who

1 knows? We may come up with something.

2 If you look at the load chart on a machine,
3 there are maybe three or four different loading
4 characteristics around this platform.

5 MS. ARIOTO: Mm-hmm.

6 MR. O'SHEA: And one of the big questions
7 that comes up was: If it's overloaded, do we cut out
8 the ability to operate the machine?

9 MS. ARIOTO: Mm-hmm.

10 MR. O'SHEA: And the answer may well be yes.

11 The question is: What if it gets overloaded
12 while it's in the air?

13 MS. ARIOTO: Mm-hmm.

14 MR. O'SHEA: You know, and that's one of our
15 industry questions. How do we then effect a rescue,
16 when the system is set to cut the drive on the unit?

17 MS. ARIOTO: Mm-hmm.

18 MR. O'SHEA: So we have a number of those
19 issues. But we are really working very hard to try and
20 get to a workable issue.

21 MS. ARIOTO: Mm-hmm.

22 MR. O'SHEA: You know, that we can design

1 something tomorrow that no one could use. So we have
2 to make it user-friendly. We have to make it work on a
3 busy job site.

4 This is where we're trying to --

5 MS. ARIOTO: How did it come into the
6 scaffold industry, like the regulation, and not maybe
7 like the aerial lift equipment?

8 MR. O'SHEA: Well, I think that's just
9 historical, to be honest. And the same thing happened
10 in Europe many years ago.

11 You know, on many occasions, a product enters
12 the market, and only becomes compatible for regulation
13 after X amount of people have died or accidents have
14 been highlighted.

15 It's unfortunate, but sometimes that's the
16 way it happens. And so what we have now is we have
17 such an array of information, that we have gathered in
18 the last three years, that we now feel confident that
19 the dissemination of this information out into the
20 marketplace is going to radically change the
21 performance figures on this equipment.

22 MS. ARIOTO: Hmm. I think it's an excellent

1 product. I love your accent.

2 MR. O'SHEA: Thank you. Thank you.

3 (Laughter.)

4 CHAIRMAN MIGLIACCO: Kevin?

5 MR. BEAUREGARD: Kevin Beauregard, State
6 Agency Representative.

7 I have a statement and then a question that I
8 think I heard you say that you were working on
9 awareness course for OSHA personnel. And I just asked
10 that when you developed that, and whether you decide to
11 do an webinar or however you decide to disseminate
12 that, if you can also let the state plans know about
13 that, because we certainly would be interested in it.

14 MR. O'SHEA: Absolutely.

15 MR. BEAUREGARD: And you can contact myself
16 or any board member on the Committee.

17 MR. O'SHEA: Absolutely. We've done a couple
18 of pilot schemes. I conducted that awareness course
19 with California OSHA in Monrovia. And then also
20 followed it up with one in Van Nuys.

21 We had about 45 to 50 compliance officers
22 involved, and it was very successful. A lot of good

1 questions. It was a bit like myth-busters, you know?
2 A lot of preconceived notions about how the equipment
3 really performed, and we were able to discuss those,
4 and be able to expose some of those misconceptions,
5 which was very beneficial.

6 MR. BEAUREGARD: Well, thank you.

7 And the other question I have is: Have you
8 run into any situations within any individual states
9 regarding the applicability of elevator standards, or
10 requirements in regards to this type of equipment,
11 because they're being used to transfer personnel as
12 well as material?

13 MR. O'SHEA: Well, you know, this is where
14 the information dissemination is very important.
15 Because the ANSI standards specifically says it is
16 designed for the delivering of personnel and materials
17 to the facade, to the place of work.

18 You know, any moving to and from the
19 platform, the ANSI standard indicates that that is a
20 personnel hoist, or something of that, or a transfer
21 platform, or something of that nature.

22 The use, as defined in ANSI, does not cover

1 that.

2 If that was to be the case -- that is
3 language and for instance, the safe use guidelines --
4 that would say that if you had to transfer for some
5 reason people or materials into a building, it would
6 have to be on a one-off special basis, and it would
7 have to be conducted under the auspices of a hazard
8 awareness session, and report and a specific method
9 statement compelled by a competent person;

10 And would be job-specific. You know?

11 And to give you an example of that, this is
12 where the A92.9 standard that wasn't updated, that had
13 lapsed, if you want to call it that -- which has now
14 been redesigned, redrafted, and will be released in
15 early 2011 -- I think now it's going to become
16 important.

17 Because that will redefine what we all know
18 our mast climber wet platform to be. And it says very
19 specifically in there, it is not a hoist, it is not a
20 personnel hoist.

21 You know, it specifically defines the product
22 for what it is, and will point you in the direction of

1 an elevator under the auspices of ANSI 10.4, if you are
2 going to travel, you know, X number of stories and
3 deliver people and material to a job site.

4 So it's not designed for that purpose.

5 MR. BEAUREGARD: Right. And we've run into
6 that issue --

7 MR. O'SHEA: Yeah --

8 MR. BEAUREGARD: Utilizing this equipment for
9 that purpose. And it's been kind of interesting trying
10 to address that issue.

11 MR. O'SHEA: Yeah. And I've also run into it
12 too. And there is no more vocal person in the U.S.
13 than me, when it comes to making sure the people
14 understand exactly what this equipment is for.

15 You know?

16 And I do challenge it wherever I go.

17 MS. SUSI: Kevin, Cal OSHA has that in --

18 MR. O'SHEA: Yeah. Absolutely. Cal OSHA has
19 addressed this for some specific regulations.

20 They took a couple of areas of use that they
21 felt were pertinent to California, and they redrafted
22 something themselves that says that there is a point of

1 entry and exit, one point, which must be defined.

2 MS. SUSI: Mm-hmm.

3 MR. O'SHEA: And they also have other small
4 paragraphs to do with specific use that seems to be
5 related to California.

6 But yeah, absolutely, they addressed this and
7 they were able to come up with a solution to it.

8 CHAIRMAN MIGLIACCO: Thank you --

9 MR. O'SHEA: And no one has found this
10 advantageous also. Let me just say that. The use has
11 been -- has not affected the use of the equipment.

12 CHAIRMAN MIGLIACCO: Matt?

13 MR. GILLEN: Yeah. Matt Gillen. Can you
14 sort of give us the number of companies or suppliers
15 that currently have this equipment available in the
16 U.S.?

17 MR. O'SHEA: No (laughing). I can tell you
18 that there are 50 manufacturers in the world.

19 MR. GILLEN: There's 50 manufacturers in the
20 world.

21 MR. O'SHEA: Yeah. I can tell you that
22 probably about six bona fide manufacturers in North

1 America.

2 MR. GILLEN: Six in North America.

3 MR. O'SHEA: Most of them are in Canada.

4 MR. GILLEN: Okay.

5 MR. O'SHEA: There is an American
6 manufacturer here today, EZ Scaffold, but they are very
7 much the exception.

8 What we've had in this country for a long
9 time is Canadian supply into North America and European
10 supply into North America. The largest manufacturer in
11 the world, Allen Maheck, is based in Holland.

12 You know.

13 And to give you an example, that company
14 probably last year turned in about \$220 million. The
15 next largest supplying into the U.S. was \$45 million.

16 MR. GILLEN: Mm-hmm.

17 MR. O'SHEA: So there's a bit of a gap.

18 But the products that were developed in
19 Canada were high-value, high-capacity masonry products,
20 which was a different development process from what the
21 European equipment was.

22 So we have this interesting thing at the

1 moment, where we have European equipment and American
2 equipment or North American equipment working on
3 applications that they weren't designed for.

4 MR. GILLEN: Mm-hmm.

5 MR. O'SHEA: You know?

6 MR. GILLEN: Okay.

7 MR. O'SHEA: Because of the competitiveness
8 of the market.

9 In terms of how many people in the U.S. own
10 this equipment, it's very difficult.

11 The European model says large rental
12 companies. The company that I had in the UK that I
13 sold to 300 rental units, that company now has 12
14 hundred rental units in it.

15 So it's a huge thing in the UK.

16 In America, it's owner equipment. Mason's
17 companies will have 30 or 40 pieces of this equipment,
18 in order to do their own work.

19 MR. GILLEN: Well, that's what I wanted to
20 ask, because I thought it was really interesting in
21 this IPAP document that if somebody came up with this
22 concept of a supplier-competent person and a user-

1 competent person.

2 MR. O'SHEA: Mm-hmm. Yeah.

3 MR. GILLEN: And it seems like the supplier-
4 competent person would be important. And if mason
5 contractors are owning their own equipment, do they not
6 have somebody like that?

7 MR. O'SHEA: Well, that's just the challenge
8 that I've been trying to address, you see.

9 And you're absolutely right. The supplier-
10 competent person is the person who comes up from the
11 rental company maybe, and conducts a sales estimate on
12 the job.

13 But when it comes to a mast climber, that's
14 the initial hazard assessment of the job site.

15 MR. GILLEN: That's right.

16 MR. O'SHEA: You know?

17 So the training needs for that person are
18 actually pretty high. You know, that person needs a
19 lot of knowledge.

20 And when you have a mason's company, what you
21 tend to have is a foreman, who is able to direct other
22 masons and training masons and tell them what to do.

1 The category of demonstrator that are
2 highlight in the training is where I've been trying to
3 aim that category; in other words, take that person who
4 already has certain skills and knowledge and take that
5 person and put them through a formal process of
6 analyzing and understanding all of the hazards for the
7 decisions that they are making on a daily basis;

8 In order that they can then control the safe
9 use of that equipment on their job site on behalf of
10 their employer.

11 So we have definite kinds of strategies to
12 attack definite kinds of --

13 MR. GILLEN: Thanks.

14 CHAIRMAN MIGLIACCO: Walter?

15 MR. JONES: I have a couple questions. Does
16 this plug a hole between -- you said, is there an ANSI
17 standard, or not?

18 MR. O'SHEA: There will be.

19 MR. JONES: There will be?

20 MR. O'SHEA: In the first quarter of 2011,
21 roughly. It's been agreed; it just has to be
22 published.

1 MR. JONES: So this plugs a hole between, I
2 guess the scaffold standard, and nothing else?

3 MR. O'SHEA: Yeah. That is what I tried to
4 design that to do.

5 People have regulations. And they have a
6 design standard.

7 MR. JONES: Mm-hmm.

8 MR. O'SHEA: And in the middle of that -- for
9 instance, ANSI does not cover training.

10 MR. JONES: Mm-hmm.

11 MR. O'SHEA: You know, ANSI doesn't really
12 talk about installers.

13 MR. JONES: Right.

14 MR. O'SHEA: You know, it's a design product.

15 And 1926 influences on only a number of
16 issues for us. It influences on --; it influences on
17 the front edge distance and the removal of hand rails,
18 for instance;

19 But nowhere does it talk about inspection
20 procedures. Nowhere does it talk about who should do
21 them, the training they require, et cetera.

22 So yeah, I believe that that document you

1 have in your hand, I believe does plug that gap. But
2 it takes hazards that have been identified by various
3 means.

4 The white paper would be another example of
5 the identifying hazards.

6 And to me, that document is a management tool
7 for the abatement of those hazards.

8 MR. JONES: So I guess a follow-up question -
9 - and it wouldn't necessarily be yours, directed to
10 you, it would probably be more directed I guess to Ben
11 or someone above him -- would be the potential of using
12 something like this as a 5A1 basis to, in lieu of a
13 standard, to look at the safety associated with mast
14 climbers.

15 MR. BARE: It would just depend on how
16 widespread it becomes, if it becomes an industry
17 standard, or knowledge --

18 CHAIRMAN MIGLIACCO: They can't hear you --

19 MR. BARE: I think it would depend on -- you
20 know, we have the ANSI standards, and they're
21 probably --

22 MR. JONES: And you reference those when you

1 cite --

2 MR. BARE: Yeah and we reference those,
3 right.

4 MR. JONES: Right.

5 MR. BARE: And so this would have to become
6 recognized in the same order, or with the same --
7 recognized with industry or recognized by a particular
8 employer, and we'd have to show that knowledge for it
9 to be a 4A1 situation;

10 Or for us to use it to cite 5A1.

11 MR. JONES: All right. And you can make that
12 case, right?

13 MR. O'SHEA: Yeah.

14 CHAIRMAN MIGLIACCO: Okay.

15 Any other? Emmett?

16 MR. RUSSELL: Emmett Russell. One question.

17 Most of this equipment I would think comes with
18 equipment manuals. Do the equipment manuals have gaps
19 in them? Or would you say that the equipment manuals
20 are complete, but they're not used?

21 Can you give us some of your expertise or
22 feeling as it relates to the equipment manual and the

1 safety items discussed in the meeting today?

2 MR. O'SHEA: No, I think that the equipment manual
3 is that ANSI stipulates that the operating manual for
4 the piece of equipment must be in the equipment itself.

5 So that our manual is a -- I think I said in
6 the presentation, manufacturers are very diligent in
7 the information they provide at that point of sale.

8 They have a responsibility and they attack it
9 with great vigor. And they have good training courses
10 and they have good information.

11 And one of the challenges we have is that
12 information may well be removed from the mast climber
13 and not replaced, or the mast climber may be sold on,
14 or may be rented to someone else, you know, that the
15 product changes hands through the supply chain;

16 And we lose the effectiveness of the original
17 information and training. That's what we're finding.

18 And manufacturers themselves are actually now
19 at the moment penalized by that, because at the moment
20 there is no clear definition of lines of responsibility
21 after the sale of the equipment.

22 But yes, absolutely, the operators' manual

1 should be in the platform, should be consulted.

2 The challenge sometimes comes when someone is
3 trained on one type of mast climber, that's driven by a
4 rack-and-pinion device, and is the next day asked to
5 operate a hydraulic type piece of equipment, which is
6 not rack-and-pinion.

7 It may be a twin mast instead of a single
8 mast. It may have large, planked areas at the front of
9 the machine or the back of the machine, and other
10 safety considerations.

11 And one of the challenges -- a big challenge
12 we have is -- a mast climber is very specific to its
13 working environment. It's never the same job twice.

14 So there's always a retraining situation.

15 And one of the big challenges I've got is
16 making people understand at what point their training
17 stops, and when they should require more information to
18 do the next job that they're going to do.

19 And the manufacturers do provide very good
20 information, but sometimes that is not something that
21 crosses from one machine or one job site and one
22 application to another.

1 CHAIRMAN MIGLIACCO: Any other questions?

2 Seeing none. Sarah?

3 MS. SHORTALL: I have a number of exhibits to
4 enter into the record.

5 As Exhibit .6, a Powerpoint Presentation on
6 the ANSI A1046 Standard on Noise and Hearing
7 Conservation and Construction, presented by Scott
8 Schneider, at the Silica and Other Health Hazards Work
9 Group Meeting;

10 As Exhibit .7, the Powerpoint titled Buy
11 Quiet, presented by Chuck Hayden of NIOSH, at the
12 Silica and Other Health Hazards Work Group Meeting;

13 As Exhibit .8, the Powerpoint on Mast
14 Climbing Work Platforms, presented by Pam Suzi, Center
15 for Protection of Worker Rights, the Committee for
16 Construction, Research and Training;

17 .9, Reaching Higher, the Recommendations for
18 Safe Use of Mast Climbing Platforms developed by the
19 CPWR Work Group on Mast Climbing Work Platforms.

20 As Exhibit .10, Communication we will be
21 receiving from CPWR granting OSHA permission to make
22 Reaching Higher available to read and download on Line;

1 As Exhibit .11, Powerpoint entitled Mast
2 Climbers and Overview presented by Kevin O'Shea,
3 Director of Safety and Training Mast Climbers, LLC;
4 .12, IPAF Guidelines for the Safe Use of Mast
5 Climbing Work Platforms, Copyright 2010;
6 And Exhibit .13, OSHA's and Scaffold Industry
7 Association Alliance Product Safety Tips for Mast
8 Climbing Work Platforms.

9 I have a question for Mr. O'Shea. Since the
10 IPAF guidelines are copyrighted, we cannot put them and
11 make them available on line for anyone, unless we
12 receive permission from IPAF.

13 MR. O'SHEA: Yeah.

14 MS. SHORTALL: Mm-hmm.

15 MR. O'SHEA: Yes. So we can get you official
16 permission.

17 MS. SHORTALL: Will it have to be in writing?

18 (Discussion was held off the record.)

19 MS. SHORTALL: Okay.

20 MR. O'SHEA: Yeah, we can do that. Plus
21 that's fine, we can do that.

22 MS. SHORTALL: Okay. That means that would

1 be available for anyone on Internet?

2 MR. O'SHEA: Yeah.

3 SPEAKER: -- download on our sites now.

4 MR. O'SHEA: Yeah. Yeah.

5 MS. SHORTALL: Okay.

6 And then with reference to the motion that
7 Susan Bilhorn was putting together, if I captured it
8 correctly, Susan Bilhorn moved that ACCSH Formal Work
9 Group to examine possible ways that OSHA could address
10 hazards related to mast climbing work platforms?

11 CHAIRMAN MIGLIACCO: We need a motion to
12 accept?

13 MS. BILHORN: I accept, yeah.

14 MS. SHORTALL: Was that capturing it
15 correctly?

16 MS. BILHORN: Were you --

17 (Discussion was held off the record.)

18 SPEAKER: Could you read that back one more
19 time?

20 MS. SHORTALL: Sure. Susan Bilhorn moves
21 that ACCSH Formal Work Group to examine possible ways
22 that OSHA could address hazards related to mast

1 climbing work platforms.

2 SPEAKER: Great.

3 CHAIRMAN MIGLIACCO: Motion to accept was by
4 Dan, seconded by someone, who? Okay, Mike?

5 Any questions, discussions?

6 MS. SHORTALL: Well, actually that would be
7 Susan Bilhorn's motion.

8 CHAIRMAN MIGLIACCO: Yeah.

9 MS. SHORTALL: Okay. So she moved.

10 SPEAKER: And Dan seconded it.

11 MR. ZARLETTI: I think -- correct me if I'm
12 wrong, sir -- but this is also designed to help
13 initiate a promulgation of a standard for mast
14 climbing, whether it be from within or an extension of
15 Sub-Part L, or some other place.

16 Isn't it my understanding that that's what
17 ultimately you would like to see?

18 MR. O'SHEA: I think ultimately what we want
19 is a way to use everything that we have.

20 MR. ZARLETTI: Right.

21 MR. O'SHEA: You know. And I regularly begin
22 with 1926, because it's the key document for us. And

1 I'm a realist. I'm quite well aware of the fact that
2 1926 may stay the same for a while.

3 And that's fine, because it's become
4 ingrained in peoples' psyche and they know exactly what
5 we have.

6 One of the challenges we have is it doesn't
7 particularly traditionally and hasn't applied to our
8 product. So therefore the supplementary safe use
9 guidelines, et cetera, et cetera, is an area that I
10 would be trying to encourage basically to supplement
11 what we have in 1926.

12 I think when we marry the two of those
13 together, what we have is a successful recipe for safe
14 use, that I'm just very keen to find the right
15 mechanism to rule out to every area of the U.S., and to
16 every owner, and to make them aware of the hazards that
17 exist, and to give them a method of abatement at the
18 same time.

19 You know?

20 MR. ZARLETTI: Well, I guess my point was
21 this:

22 Right now 1926 has a Sub-Part L --

1 MR. O'SHEA: Yeah --

2 MR. ZARLETTI: That speaks specifically to
3 scaffolds of 26 different varieties.

4 MR. O'SHEA: Yeah.

5 MR. ZARLETTI: In regards to that, if we
6 wanted to find out the specific way of working safely
7 with tube-and-clamp scaffolding, we would go to Sub-
8 Part 451 and find it there.

9 MR. O'SHEA: Yeah.

10 MR. ZARLETTI: Okay. Or aerial work
11 platforms would be in 453.

12 MR. O'SHEA: 453, yeah.

13 MR. ZARLETTI: Okay.

14 So my point, I guess, would be: Is this
15 something that we would want to see it be the 27th
16 different style of scaffold covered under Sub-Part L of
17 1926?

18 Or is it a stand-alone?

19 MR. O'SHEA: Okay. I see what you're saying.
20 And I don't think it relates to scaffold particularly
21 as a product.

22 If we go back to Sub-Section 453, A92.9 is

1 already mentioned there as a design standard in the --
2 Standard Section.

3 I guess what would be my first and chosen
4 path would be to basically take the standard, the A92.9
5 when it's released, and immediately give that
6 credibility, and give this document, the safe-use
7 document, credibility.

8 Then we have a design, a safe use, and a law.
9 (Simultaneous conversation.)

10 MR. O'SHEA: You know?

11 And I think that's going to give us all the
12 tools that we've acquired there to abate all the
13 hazards that have been identified.

14 MR. ZARLETTI: Right.

15 MR. O'SHEA: You know?

16 MR. JONES: Exactly.

17 MR. BEAUREGARD: But that's not true, right?
18 You can't really enforce the non-mandatory appendix,
19 right? You can reference it, but you can't enforce it,
20 right, unless you --

21 MR. ZARLETTI: So goes your 5A1. To go back
22 to ANSI.

1 MR. O'SHEA: Well, yeah.

2 The thing about a 5A1 obviously is employer
3 knowledge. You know, the demonstration of employer
4 knowledge, given the information that's out, you know,
5 and the supposition or the presupposition that the
6 employer should have known, because of the information
7 that's out.

8 You know.

9 So beginning that huge dissemination process,
10 and using, you know, IPAF SIA, you know, using the
11 industry organizations and the Alliance products, we
12 seem to have a rather large vehicle for the
13 dissemination of that information.

14 MR. ZARLETTI: Mm-hmm.

15 Well, I'm absolutely all for it. Don't get
16 me wrong.

17 But I'm trying to place it.

18 MR. O'SHEA: Yeah.

19 MS. SUSI: Yeah.

20 MR. ZARLETTI: And that's how this Committee
21 can work most efficiently is either having a Work Group
22 that discusses this, or having a Work Group with a

1 liaison that stays connected with your group.

2 MR. O'SHEA: Sure.

3 MR. ZARLETTI: So that we understand that --

4 MR. O'SHEA: Sure --

5 MR. ZARLETTI: And all the rest.

6 So I'm just trying to get that commonality.

7 MR. O'SHEA: Yep.

8 CHAIRMAN MIGLIACCO: Any other questions or
9 discussions?

10 Steve?

11 MR. HAWKINS: The ANSI standard that you --
12 Steve Hawkins, Tennessee OSHA -- the ANSI standard you
13 said would be about when, maybe?

14 MR. O'SHEA: Hmm --

15 SPEAKER: The first quarter of 2011.

16 MR. O'SHEA: (Off mic.)

17 (Simultaneous conversation.)

18 MS. SUSI: March 2011 --

19 MR. O'SHEA: March. It's the SIA or the
20 secretariat for A92.9 standards, so March is its
21 anticipated release date.

22 MR. HAWKINS: And will that be like all the

1 ANSI standards that I'm aware of, and there would be a
2 charge for that when you buy a copy?

3 MR. O'SHEA: Yeah.

4 MR. HAWKINS: And is there any concern in the
5 industry that you're talking about users of this, and
6 sometimes those ANSI standards can be as much as a
7 hundred dollars --

8 MR. O'SHEA: Well --

9 MR. HAWKINS: Per copy, so it's hard for, you
10 know, --

11 MR. O'SHEA: Well, this comes down to --

12 MR. HAWKINS: That's a real concern I have.

13 MR. O'SHEA: Yeah. I know, I understand what
14 you're saying, and I'm comforted by the fact that the
15 ANSI standard is a design standard.

16 And if you're going to manufacture a mast
17 climber, you take ANSI 92.9.

18 And the reason for producing the safe-use
19 guidelines was because as a user or as a rental
20 company, the ANSI standard is really not very good for
21 you.

22 MR. HAWKINS: Not for you?

1 MR. O'SHEA: Yeah.

2 MR. HAWKINS: Okay.

3 MR. O'SHEA: So we produce those safe-use
4 guidelines to say, "Here is how you should manage
5 safely that product to abate all of the hazards."

6 So that's why I believe it's a complementary
7 document to the ANSI standard.

8 (Simultaneous conversation.)

9 MR. HAWKINS: And those will be free?

10 MR. O'SHEA: Yeah. Absolutely, they're
11 downloads on website right now.

12 (Simultaneous conversation.)

13 MS. SUSI: (Off mic) Frank, could I just add
14 to that, too, that when we wrote our recommendation, we
15 actually wrote it in a standard fashion, like we put
16 "shall," this, that, and the other, so that -- ready
17 and you could almost cut and paste --

18 CHAIRMAN MIGLIACCO: That's what you did in
19 2008. Now, in what you have now also.

20 MS. SUSI: But it's also in the white paper -

21 -

22 (Simultaneous conversation.)

1 CHAIRMAN MIGLIACCO: All right.

2 Any other questions or discussions?

3 MS. SHORTALL: Mr. Chair? I'd like to mark,
4 then, as Exhibit .14, Communication from IPAF, granting
5 OSHA permission to make the IPF guidelines on safe use
6 of mast climbing work platforms available on line to
7 read and download.

8 CHAIRMAN MIGLIACCO: So done.

9 Okay.

10 (Discussion was held off the record.)

11 CHAIRMAN MIGLIACCO: All in favor of
12 accepting the motion?

13 (Chorus of ayes.)

14 CHAIRMAN MIGLIACCO: Opposed?

15 (No response.)

16 CHAIRMAN MIGLIACCO: The ayes so have it.

17 All right.

18 MR. O'SHEA: Excused?

19 CHAIRMAN MIGLIACCO: Yes, you're excused.

20 (Laughter.)

21 CHAIRMAN MIGLIACCO: Thank you very much.

22 (Applause.)

1 All right. It's five after 12:00. I'd like
2 the Committee back at 1:00.

3 (Luncheon Break.)

4 A F T E R N O O N S E S S I O N

5 MR. BARE: I'm Ben Bare, Deputy Director with
6 the Directorate of Construction, just for the record.
7 This morning, you asked about the update from the April
8 meeting, of your recommendations to us.

9 And I have those, and I'd like to just review
10 that, and give you a status update. ACCSH recommended
11 that OSHA move forward expeditiously with the silica
12 rule making. And OSHA agreed, and the rule-making is
13 in progress.

14 ACCSH recommended that the Susan Harwood
15 grant be used to provide additional training on fall
16 protection in residential construction specific to the
17 type of residential construction being performed.

18 OSHA disagreed with making this a priority.
19 ACCSH strongly recommended that OSHA put to the top of
20 its regulatory agenda the update of its construction
21 standards for a sanitation standard, including updating
22 the requirements for the number of toilet facilities on

1 construction sites, employers must provide and update
2 the requirement to provide separate facilities or
3 separate toilet facilities for male and female.

4 And you further moved that OSHA provide ACCSH
5 with an update at every meeting until OSHA has
6 promulgated a final standard updating the construction
7 sanitation standard.

8 OSHA is considering this recommendation.

9 It was also moved that OSHA consider an ANSI
10 standard and the California OSHA standard addressing
11 toilet and washing facilities when moving forward on
12 this, on the previous issue, or this same issue.

13 And OSHA is considering this recommendation.

14 ACCSH strongly recommends that OSHA and NIOSH
15 work together to collect information on federal orders
16 and requirements relating to construction safety and
17 health, and to develop an executive order that clearly
18 directs federal entities to lead by example in
19 construction safety and health by employing design of
20 safety constructability concepts, including training
21 for workers and supervisors and subcontractors, pre-
22 qualifications based on demonstrated programs and

1 performance.

2 This recommendation is currently in progress.

3 And that concludes my report on the
4 recommendations received from ACCSH in April.

5 CHAIRMAN MIGLIACCO: Any questions?

6 CHAIRWOMAN JOHNS:

7 (Discussion was held off the record.)

8 MS. BILHORN: I'm sorry, Susan Bilhorn. Can
9 you clarify, what does "in progress" mean? What's "in
10 progress" mean?

11 I said my name already. Is that what you --

12 CHAIRMAN MIGLIACCO: I know --

13 (Discussion was held off the record.)

14 MR. BARE: That we are considering it and
15 we're working on that, working on developing or taking
16 action on recommendation.

17 MS. BILHORN: Okay. Right.

18 CHAIRMAN MIGLIACCO: Okay. Any other
19 questions?

20 Thank you, Ben.

21 MS. ARIOTO: I'm sorry, excuse me.

22 Liz Arioto. Could you just expand a little

1 bit more, what you mean by "consideration"? And how
2 long does it consideration take?

3 MR. BARE: Under consideration, it means that
4 we -- or it's an item that we are looking at to
5 consider whether to take action or not.

6 MS. ARIOTO: Can you give me a general idea
7 how long that might be?

8 MR. BARE: I can not --

9 CHAIRMAN MIGLIACCO: Considering putting the
10 gavel down, that's consideration.

11 MS. ARIOTO: That's consideration.

12 (Laughter.)

13 MS. ARIOTO: Okay.

14 MR. BARE: I cannot.

15 MS. ARIOTO: Okay.

16 (Laughter.)

17 MS. BILHORN: One more thing. Susan Bilhorn.
18 One more thing, and I appreciate -- and I think I
19 probably speak on behalf of everyone -- I appreciate
20 the follow-up with that, that was good.

21 And you were following up from April. There
22 are other recommendations that have been made that, you

1 know, I think even one was mentioned back in 2008, that
2 have yet, you know --

3 For example, there was a -- I know, because
4 one of the committees I was on -- there was language
5 put together on subcontractor selections, for a fact
6 sheet.

7 And that was put, I think over a year ago.

8 And so there's a number of others that would
9 be helpful. And maybe this isn't something that we
10 necessarily -- maybe it's not the best use of time to
11 just read all of those;

12 But if there were a listing of them, then
13 maybe they could even just be given to us in advance in
14 the meeting, or with the package at the meeting, so
15 that we could look at it;

16 And if there was any questions on the
17 progress, then we could ask. Maybe line by line.

18 SPEAKER: Mm-hmm.

19 MS. BILHORN: And you know, this was, you
20 know, proposed the next date, this is what you just
21 said, the statement of it's in progress.

22 SPEAKER: Mm-hmm.

1 MS. BILHORN: You know, it's in progress.

2 And if it was given to us, maybe in the
3 packet, then we could look at it and see if there's any
4 questions we have --

5 MR. BARE: Excellent recommendation, and I'll
6 try to follow up on that. Yes. Excellent.

7 MS. BILHORN: Well, thank you.

8 MR. BARE: Mm-hmm. Will do.

9 CHAIRMAN MIGLIACCO: Any other questions?
10 Seeing none. All right. Thank you, Ben.

11 We'll go ahead and start with the Work Group
12 on Green Jobs. I think Emmett, you said you were going
13 to speak?

14 MR. RUSSELL: Yes.

15 The Green Job Work Group Report. We had
16 welcome and introductions. Co-Chair, Susan Bilhorn,
17 Matt Gillen, Emmett Russell opened the meeting, giving
18 an overview of the goals the group would try to
19 accomplish today.

20 Matt Gillen, Deputy Director for NIOSH Office
21 of Construction Safety & Health, gave a presentation on
22 the NIOSH perspective and activities on Green

1 Construction.

2 The presentation was called Making Green Jobs
3 Safe, and the presentation, Green Construction, was
4 defined.

5 The BLS definition was: Jobs and Business
6 that produce goods or provide services that benefit the
7 environment or conserve natural resources;

8 Jobs in which workers' duties involve making
9 their establishments production process more
10 environmentally friendly, or use fewer natural
11 resources.

12 BLS has estimated that construction had the
13 largest number of green establishments.

14 EPA definition: The practice of creating
15 structures and using processes, that are
16 environmentally responsible and resources efficient
17 throughout a building's life cycle, from setting to
18 design, construction operation and maintenance,
19 renovation and deconstruction.

20 This practice explains and complements the
21 classical building design concern of economy, utility,
22 durability, and comfort.

1 Green building is also known as a sustainable
2 or high-performance building.

3 In the presentation a number of reports were
4 referenced. The Committee will obtain copies of these
5 reports. A copy of the remainder of that presentation
6 is attached.

7 Members of the Work Group discussed some of
8 the ongoing activities in conjunction with green
9 construction, which included: OSHA and NIOSH made some
10 preliminary contacts with the U.S. Green Building
11 Council.

12 NIOSH has generated a white paper on
13 integrating occupational safety and health into Green
14 Construction and plans further contacts with the UFGBC.

15 The concept of Green Jobs being safe jobs,
16 all construction should be safe, whether green or
17 other. We have safety standards in place for
18 construction. These standards apply for most elements
19 of Green Jobs.

20 The roofing industry has developed its own
21 certification program for roofing contractors, which
22 has a Safety & Health component. Tom Shanahan will

1 share this information with the Committee.

2 For safety guidance, as it relates to the
3 Solar Energy Industry, there are a number of guides
4 available that contain construction rules for the solar
5 industry;

6 Specifically guides for the states of
7 California and Oregon.

8 OSHA standards are based on activities.
9 There are no standards for wind energy or solar energy.

10 There is a perception that OSHA standards do not apply
11 to these and other green industries.

12 Even though OSHA standards cover most
13 hazards, there are a few new hazards generated through
14 Green Construction industries that may not be included
15 in current standards and/or guidance.

16 Green Construction has many of the same
17 hazards as non-Green Construction. An example would be
18 the main hazards of wind tower construction, its
19 heights, or walls, and confined space.

20 The lead system is updated every few years.
21 Concern was expressed about opening the lead
22 certification process to incorporate safety, given that

1 it is just starting to gain momentum in the
2 construction industry.

3 Green Jobs in Construction Work Group to some
4 degree parallels the Prevention through Design Work
5 Group, because many of the Green Construction hazards
6 can be eliminated through design.

7 Contractors' safety records should be
8 considered in the green points system. Guidance
9 generated for cell towers might be an example of what
10 can be done for Green Construction.

11 In some cases, Green Construction has lots of
12 small employers, who have a lack of understanding or
13 awareness of hazards and the appropriate safety
14 practices similar to those developed for the cell tower
15 industry.

16 This Work Group should be concerned with the
17 safety to the life cycle of a structure, from design
18 through construction and maintenance.

19 A number of hazards are the same for
20 construction workers and building maintenance workers.

21 Some examples would be on the roof parapet,
22 walls 42 inches instead of 32 inches high, using non-

1 breakable materials for sky lights, or installing
2 permanent sky light guards during construction.

3 Recognizing the lack of information on
4 relevant standards and guidance that currently exist
5 for the construction of green projects, the Work Group
6 decided to focus on mapping and/or developing a matrix
7 of life cycle of selected types of Green Construction
8 projects to identify construction-related hazards and
9 applicable safety standards and guidance.

10 In this process of mapping hazards, for which
11 there are no existing standards and/or guidance, gaps
12 will be identified.

13 Maintenance hazards that may be eliminated
14 through design or construction will be considered.

15 Industry associations will be contacted to
16 assist in this process for the technical knowledge and
17 process solutions.

18 Four green projects were selected as pilots
19 for this project. They include solar; wind turbine;
20 installation, which should include spray; blow-in, and
21 other types; and roofs which should include sky lights.

22 For the next Work Group meeting, Christine

1 Covington of the Solar Energy Industries Association,
2 agreed to assist the Committee in developing the
3 construction processes and related hazards for the
4 Solar Industry.

5 CHAIRMAN MIGLIACCO: Thank you, Emmett.

6 Susan, would you have anything to add?

7 MS. BILHORN: No --

8 CHAIRMAN MIGLIACCO: Matt?

9 MR. GILLEN: No.

10 CHAIRMAN MIGLIACCO: (Off mic.)

11 MR. RUSSELL: And also attached is NIOSH'
12 presentation on Green Construction for your review.

13 I do have one other issue I'd like to bring
14 up, Frank. Dr. Michaels reported to our Committee
15 about a Green Jobs website coming up in the future for
16 OSHA.

17 And I'd just like to request that when that
18 website is instituted, could you let the ACCSH members
19 know that the website is up and running?

20 Because again, that website might be
21 important in our deliberation for this Work Group, as
22 it relates to Green Construction.

1 CHAIRMAN MIGLIACCO: Okay. At this time I'll
2 entertain a motion to accept this report.

3 MR. ZARLETTI: So moved.

4 CHAIRMAN MIGLIACCO: Dan Zarletti. Second
5 it?

6 MR. AHAL: Second it.

7 CHAIRMAN MIGLIACCO: Bill Ahal.

8 Questions or discussions? Any questions of
9 the Group? Discussion? Okay.

10 All in favor say aye.

11 (Chorus of ayes.)

12 CHAIRMAN MIGLIACCO: Opposed?

13 (No response.)

14 CHAIRMAN MIGLIACCO: Ayes so have it.

15 Thank you, Emmett. All right.

16 I2P2? Susan, you're going to present?

17 MS. BILHORN: Yes. Okay. Yeah.

18 We were called to order on Tuesday at 1:00
19 p.m. And this is a new Work Group. And Tom Kavicky
20 and I are co-chairing that.

21 So our agenda for the meeting was to overview
22 OSHA's progress plans, and the request to ACCSH for the

1 newly formed Work Group to have a better understanding
2 of where OSHA fits into the process.

3 And then also to develop a Work Group
4 charter, based on that -- objectives, charter, however
5 you want to frame it -- but what it was we were going
6 to do;

7 And then to establish an approach to achieve
8 those.

9 So Mike Seymour of OSHA gave an overview. He
10 gave us some background, talked about different, a
11 little bit like we heard today, about considering
12 different state programs, et cetera, in developing the
13 -- don't laugh, you guys are going to laugh at me
14 again, I know you are -- Injury and Illness Prevention
15 Program, I2P2.

16 (Laughter.)

17 ALL: Got it.

18 (Applause.)

19 MS. BILHORN: Thank you.

20 And of course, Mr. Seymour also said we could
21 come up with a new name if we so wanted to recommend.

22 So as he was going through this, he talked

1 between the proposed rule being framed to some extent
2 around the six core tenants of the effective HSE
3 Program, which are:

4 Management, leadership, employee
5 participation, hazard identification, hazard control,
6 training and education, and program evaluation.

7 He also talked about specific challenges they
8 would like ACCSH's input on. And that's around
9 multiple employee work environments, around transient
10 work forces, and around mobile and temporary work
11 places;

12 And also what documentation should be
13 required to minimize the paperwork that's not aiding in
14 program development implementation.

15 At some point in the discussion, he also
16 mentioned that it would be of some help if ACCSH were
17 to suggest some hazard identification tools that could
18 be of particular value to smaller contractors.

19 He emphasized the prior OSHA has placed, and
20 I think in Dr. Michaels' comments today he also did.
21 And so that this rule-making has high priority.

22 He also mentioned that the next step for that

1 rule-making is meeting with a small business community,
2 possibly in the spring time frame, and that this would
3 probably make the regulatory agenda in the fall of
4 2011.

5 He also talked about the fact that rule-
6 making and guidance are being developed together, but
7 was not sure whether they would both be issued in the
8 same time frame, though recognizing the benefit of
9 doing so.

10 We expressed appreciation, I think as a
11 number of committee members, for the work on I2P2,
12 recognizing that in the frame of the focus of
13 prevention as opposed to just enforcement.

14 So we were encouraged by that.

15 I'll go to the motion Walter made in a minute
16 as a motion; because Walter came up with a motion;

17 Because one of the things we heard is that
18 it's still uncertain, the scope. And so it's
19 construction is in consideration now; but yet it might
20 not be; it's possible it could have been separated from
21 this rule-making.

22 So actually Walter I will make the motion

1 later -- but Walter suggested that, and we agreed that
2 we ought to at least recommend that -- that ACCSH at
3 least recommend that OSHA insure that construction is
4 within the scope.

5 After all this discussion and recognizing
6 that this is also -- the focus of this Work Group is on
7 a specific rule-making, as opposed to a broader issue,
8 we wanted to quickly frame, you know, the objective of
9 the Work Group to keep ourselves focused on an approach
10 to do that, in a timely manner.

11 So we stated the following as our charter:

12 The purpose of the I2P2 Work Group is to
13 provide information on effective injury and illness
14 prevention programs and best practices, and on
15 effective ways to address related issues.

16 And the issue is around employer work sites,
17 small employers, mobile temporary work sites, which
18 pertain to the construction industry that ACCSH can use
19 to provide recommendations and comment to OSHA on the
20 I2P2 proposed rule and guidance documents.

21 So that's the charter of this group. And our
22 approach to try to be timely about it is that -- and

1 with no certainty about the next time we'll actually be
2 together physically for a meeting -- we're going to
3 take a look at each of the -- let's see, I am just off
4 a little bit here.

5 (Pause.)

6 MS. BILHORN: Okay.

7 Yeah. We want to come up with key -- we're
8 going to focus on coming up with key activities and
9 requirements to include in rule-making, that we would
10 suggest, based on experience that the members have with
11 I2P2 programs.

12 So it's like essential minimums that ought to
13 be in that rule-making. And then, and any issues or
14 concerns that should be considered in that rule-making.

15 And then also consider best practices that
16 could be considered in guidance.

17 In preparation for the next meeting, where we
18 want to be able to frame potential recommendations for
19 ACCSH to make, we're going to, with the help of Fran,
20 set up conference calls, probably two or three, where
21 we will specifically discuss the six core tenants.

22 So for example, the first call, we might take

1 two, or three.

2 And then we'll talk through with the members
3 that, you know, everyone would be invited -- the
4 members will all be invited. And then of course, it
5 will be announced for those who signed on, who were in
6 attendance at the meeting, who were interested parties.

7 And Sarah, I think I'm getting this right.

8 MS. SHORTALL: Mm-hmm.

9 MS. BILHORN: But that would be the approach,
10 that we have these conference calls; and in those
11 conference calls, we have a dialogue, so we can kind of
12 frame up what thoughts we have, so that we can continue
13 to develop these issues and challenges and minimums
14 that we might recommend prior to the next meeting.

15 Now when we get to the next meeting, we can
16 review it in the meeting, and discuss it, and come up
17 with recommendations for ACCSH to make to OSHA.

18 So that's the approach that we're going to
19 take.

20 And that's the end of that.

21 And then I have the motion to make that
22 Walter stated.

1 CHAIRMAN MIGLIACCO: And let's hold off on
2 that.

3 Tom, do you have anything to add?

4 MR. SHANAHAN: No. Susan covered it very
5 well, Mr. Chairman.

6 CHAIRMAN MIGLIACCO: Okay.

7 At this time, I'll entertain a motion to
8 accept the Work Group's report. Matt. Second? Liz?
9 All right.

10 Questions and discussions.

11 MR. SHANAHAN: (Off mic)

12 MS. BILHORN: Yes, it's a brief, that is a
13 brief.

14 (Simultaneous conversation.)

15 MS. BILHORN: I wasn't going to try to repeat
16 the acronym.

17 (Laughter.)

18 (Discussion was held off the record.)

19 MS. SHORTALL: Just trips off your tongue.
20 Small Business Regulatory Enforcement and Fairness Act.
21 It's like I2P2.

22 CHAIRMAN MIGLIACCO: Tom?

1 MR. BRODERICK: Tom Broderick. Is this the
2 SBREFA review required statutorily? Or this just
3 running it by them to kind of see what the small
4 business community is thinking?

5 MS. SHORTALL: No, it is statutorily
6 required. It's Section 609 of the Regulatory
7 Flexibility Act, that was added in 1995, and it
8 requires OSHA and EPA, those two agencies, to convene
9 small employer representative panels,

10 If there is a belief by the agency that the
11 proposed rule could impose significant impacts on small
12 business.

13 MR. BRODERICK: But doesn't it sound like
14 this is happening sooner in the development of the
15 standard process than normal?

16 MS. SHORTALL: Well, not really. The SBREFA
17 Act requires that this be done at the proposal stage.
18 Not at the final stage.

19 MR. BRODERICK: So they will have a draft
20 that they would be working on?

21 MS. SHORTALL: Absolutely.

22 (Simultaneous conversation.)

1 MS. SHORTALL: They would have to share that
2 with the panel and with the small employer
3 representative, so that they could provide meaningful
4 comment.

5 MS. BILHORN: We were informed that at that
6 time the language would be available that we could also
7 see --

8 (Simultaneous conversation.)

9 MR. BRODERICK: Okay.

10 MR. JONES: Which -- silica --

11 (Simultaneous conversation.)

12 MS. BILHORN: Yeah. But the reason we wanted
13 to gain some momentum on it in dialogue is that we
14 wanted to be able to provide information as soon as
15 possible, you know, any recommendations and thoughts as
16 soon as possible;

17 And certainly that we wanted to also prepare
18 our thinking, so that when the rule does come up, we
19 can quickly respond as well.

20 CHAIRMAN MIGLIACCO: Any other questions or
21 discussion?

22 Yes, Ben?

1 MR. BARE: Yeah. I just wanted to say I
2 appreciate the Committee and particularly Frank and
3 Susan and Tom's coming together and forming the
4 Subcommittee, recognizing the importance of this I2P2,
5 or Injury and Illness Prevention Program.

6 And this is an excellent start. So thank you
7 very much.

8 (Simultaneous conversation.)

9 CHAIRMAN MIGLIACCO: Any other questions or
10 discussion?

11 Seeing none, all in favor of accepting say
12 aye?

13 (Chorus of ayes.)

14 CHAIRMAN MIGLIACCO: Opposed?

15 (No response.)

16 CHAIRMAN MIGLIACCO: Seeing none, ayes so
17 carry.

18 Sarah?

19 MS. SHORTALL: Mr. Chair, at this time I'd
20 like to enter several things into the record.

21 As Exhibit 15, the approved Green Jobs and
22 Construction Worker Report from the December 7, 2010

1 meeting;

2 As Exhibit 16, a hard copy of Powerpoint
3 entitled Making Green Jobs Safe Construction, presented
4 by Matt Gillen, NIOSH Deputy Director of the Office of
5 Construction Safety & Health.

6 Matt, did you present that at the December 7,
7 2010 Green Jobs in Construction Work Group meeting?

8 MR. GILLEN: Yes.

9 MS. SHORTALL: As Exhibit 17, the approved
10 I2P2 Work Group Report from the December 7, 2010
11 meeting.

12 CHAIRMAN MIGLIACCO: Okay. Thank you.

13 (Discussion was held off the record.)

14 MS. BILHORN: Yeah, we had to motion it.

15 CHAIRMAN MIGLIACCO: Yeah. You had a motion

16 --

17 (Discussion was held off the record.)

18 CHAIRMAN MIGLIACCO: I want to also reminded
19 you right after lunch, but the comment sheets in the
20 back, anybody wishes to speak in the comment period,
21 please sign in.

22 Now, time for your motion.

1 MS. BILHORN: Okay. Hmm, the motion that the
2 Work Group proposes -- well, the motion is for ACCSH to
3 request OSHA to ensure that construction is addressed
4 within the scope of OSHA's rule-making and guidance on
5 requirements on Injury and Illness Prevention Programs.

6 So.

7 SPEAKER: Second?

8 CHAIRMAN MIGLIACCO: Yeah. She made the
9 motion. Second?

10 MS. SHORTALL: Well, could I make sure I got
11 the -- are you requesting that OSHA do this, or
12 recommending that OSHA do it?

13 (Simultaneous conversation.)

14 SPEAKER: Recommending.

15 MS. BILHORN: Recommending.

16 CHAIRMAN MIGLIACCO: Yeah, I thought we were
17 --

18 MS. BILHORN: Oh, recommending. Okay.
19 Recommending, recommending, yes.

20 So ACCSH recommends to OSHA to ensure that
21 construction is addressed within the scope of OSHA's
22 rule-making and guidance on Injury and Illness

1 Prevention Programs.

2 CHAIRMAN MIGLIACCO: Okay. It's been
3 seconded. Any discussion, questions?

4 (No response.)

5 CHAIRMAN MIGLIACCO: All in favor say aye?

6 (Chorus of ayes.)

7 CHAIRMAN MIGLIACCO: Opposed?

8 (No response.)

9 CHAIRMAN MIGLIACCO: Seeing none, motion
10 carries.

11 All right. We want to go ahead and move on
12 with our next Work Group. It will be Power Fastening
13 Tools and Nail Guns. Tom?

14 (Discussion was held off the record.)

15 MR. KAVICKY: Thank you, Mr. Chairman.

16 Power Fastening Tools Nail Guns Work Group
17 held its meeting on December 7, 2010. The co-chairs,
18 Liz Arioto, and Tom Kavicky, opened the meeting at
19 10:10 a.m.

20 There were 40 participants present, including
21 seven individuals that were on a teleconference call.

22 A very good, lively Work Group.

1 Following a brief welcome and participant
2 introductions, the co-chairs presented the Work Group
3 agenda. We reviewed the minutes of the April 12, 2010
4 Work Group meeting down in Houston, and they were
5 approved.

6 We began with John Kurtz of the International
7 Staple, Nail, and Tool Association, ISANTA. John
8 addressed the group, brought up a couple of issues that
9 ISANTA had with the Work Group.

10 One of the issues was the lack of proper
11 nomenclature and language that was being used to talk,
12 to discuss from one nail gun to the other;

13 The interchangeability of parts. He wanted
14 to let us know about that, from one nail gun to the
15 other;

16 And then also the commonality of safety
17 features between the various types of pneumatic nail
18 guns.

19 John brought in a member of ISANTA, Mark
20 Hickock of Milwaukee Electric Tools. And Mark
21 discussed some of the issues that John had brought to
22 the Work Group.

1 He did discuss accidental discharges, which
2 we had asked John about at the last Work Group meeting
3 to bring in one of their manufacturer reps and talk
4 about those discharges.

5 And you know, talking about the discharges of
6 the nails, and then the worker inflicted injuries were
7 a common problem caused, in his opinion, by misuses of
8 the tool and lack of worker training.

9 A Work Group member asked the manufacturer
10 representatives what the manufacturers have done
11 recently to improve the design of the gun. Mark again
12 responded that the manufactures have developed and
13 improved the tool's balance and center of gravity;
14 which they felt was causing some of those accidental
15 nail discharges.

16 He informed the Work Group that the design of
17 the tools is very complex, and manufacturers
18 continuously explore design considerations.

19 He mentioned that training workers in the
20 proper use and appropriate application of each nail gun
21 would impact positive ergonomic advantages.

22 We had a teleconference person, Denny

1 Patterson, and Jim Nolan of the Greater Saint Louis
2 Regional Council of Carpenters, they informed the Work
3 Group of a survey that was created amongst their
4 regional council carpenters.

5 And they developed it along with Hester
6 Lipscomb. They gave the survey to over 3,000
7 carpenters in the Saint Louis region.

8 The survey results illustrate that the
9 contact trip trigger nailer was responsible for up to
10 as many as twice as many injuries and incidents as was
11 the sequential trigger nailer.

12 Mr. Patterson also discussed an issue
13 regarding high-velocity dangers of nails as they left
14 the nail gun notes.

15 This high velocity played a large role in
16 producing the seriousness of accidents and injuries.

17 Mark Hickock responded to this comment by
18 noting that it is the worker misuse of the tool and
19 lack of using best practices for the tool that caused
20 the injury, and not the velocity of the nail.

21 Comment was provided by Mark Patterson, or
22 Mr. Patterson, that some nail guns are capable of

1 shooting up to nine nails per second.

2 This information was taken from one of the
3 tool manufacturers user's manuals.

4 Mr. Zarletti asked if the nail guns were
5 possibly over-engineered. The manufacturer reps --
6 there were two of them there -- were unaware of a nail
7 gun delivering up to nine nails per second.

8 Mr. Hickock did emphasize that design
9 modifications of newer guns would prevent this
10 occurrence due to ergonomic changes in designs of that
11 nail gun.

12 Matt Gillen, Deputy Director, National
13 Institute of Occupational Safety and Health, NIOSH,
14 Office of Construction, provided copies to the Work
15 Group and presented a newly developed draft document,
16 entitled Nail Gun Safety, a Guide for Contractors.

17 A copy is provided.

18 At the December 2000 Nail Gun Work Group
19 meeting, it was a recommendation from the Work Group to
20 NIOSH to develop a guidance document for contractors
21 with the intent of reducing and eliminating nail gun
22 injuries.

1 A discussion followed the presentation. Some
2 of the comments brought by the Work Group members were
3 -- there were issues regarding clarity among some of
4 the language and terminology in the draft document.

5 Another issue was a breakdown of injuries.
6 We asked them if they could break down the injuries for
7 both the users on the job and off the job, we felt that
8 would be real important to see what's happening in
9 construction, on the job, and the homeowner;

10 Common links between injuries and type of
11 work performed, listing types of hearing protection
12 available to the user, that is exposed to the loud
13 pulsating bursts of noise;

14 Comments continued with include more photos
15 in the document. And Matt did make it clear that NIOSH
16 is searching and asking for help in locating good
17 photographs that they could use in this draft document.

18 Another issue: How to distribute this
19 document to consumers that purchase or rent pneumatic
20 nail guns from retail stores. It was discussed
21 creating a website link for users to download this
22 document off of either NIOSH or the OSHA website.

1 There was a thought that OSHA should alert
2 the Consumer Product Safety Commission once this
3 document is in a final state that it is available for
4 their consumers.

5 All ACCSH Work Group members voted
6 unanimously for NIOSH to continue developing the draft
7 document. All of the Work Group members were
8 encouraged to provide Matt Gillen or Danezza Quintero
9 with their comments regarding changes, additions to the
10 guidance document by January 15, 2011.

11 At that point, John Kurtz stated for the
12 record that ISANTA objected to OSHA, NIOSH, and the
13 Work Group discussing the draft document, Nail Gun
14 Safety, a Guide for Contractors, during this Work Group
15 meeting.

16 He felt that ISANTA, the industry
17 representatives did not have an adequate opportunity to
18 review the document, and provide their comments to
19 NIOSH.

20 John made reference to a letter ISANTA sent
21 on December 3, 2010, to OSHA and other committee
22 members, and that letter is attached with this report.

1 Comment was directed to the manufacture
2 representatives regarding the need for clarification of
3 the nail gun being left unattended. Is it safe for a
4 nail gun to be left unattended?

5 And really, we didn't get a whole lot of
6 response.

7 Another comment was directed to the Work
8 Group that pneumatic nail gun training must be given to
9 the worker in an understandable manner.

10 The Work Group did adjourn at 12:10 p.m.

11 CHAIRMAN MIGLIACCO: Liz?

12 MS. ARIOTO: Do we have the attachments, Tom?

13 CHAIRMAN MIGLIACCO: Yeah, they're here.

14 MS. ARIOTO: Okay.

15 (Discussion was held off the record.)

16 CHAIRMAN MIGLIACCO: Before I ask for a
17 motion, Tom, explain to maybe some people in the
18 audience might not know the difference between a
19 contact trigger and subsequential trigger.

20 MR. KAVICKY: Contract trigger is a nail gun
21 where you can hold down the trigger and bump-fire --
22 you actually bump it against the work piece, like if

1 you're laying down sheeting on a deck, or roofing
2 sheeting, you're installing that;

3 It's a very quick operation. And it doesn't
4 require that finger being pressed every time you shoot
5 the next nail.

6 The subsequential trigger is one that,
7 whether you press the nose against the work piece, and
8 pull the trigger, or you pull the trigger and then set
9 the nose against it, it will discharge one nail at a
10 time.

11 CHAIRMAN MIGLIACCO: Thank you, Tom.

12 MR. KAVICKY: You're welcome.

13 CHAIRMAN MIGLIACCO: At this time I'll
14 entertain a motion to accept the Work Group's report.

15 SPEAKER: I move.

16 CHAIRMAN MIGLIACCO: Bill Ahal. Second it?
17 Tom Shanahan.

18 Questions? Discussion? Any questions in the
19 room? Matt? Oh. Okay. Sarah.

20 MS. SHORTALL: (Off mic) Bring up with regard
21 to that.

22 In the Work Group report, it says that

1 members were encouraged to provide -- Danezza Quintero
2 their comments regarding -- additions to the guidance
3 document by January 15, 2011?

4 If any member of ACCSH provides comments
5 directly, it would have to be in your individual
6 capacity and not as a member of ACCSH. Since ACCSH
7 Work Groups are only authorized to bring their opinions
8 to the body as a whole here.

9 CHAIRMAN MIGLIACCO: Thank you, Sarah. Matt?

10 MR. GILLEN: I respectfully wanted to suggest
11 a couple of minor corrections. On page two there,
12 where it says that in 2009 that at the Work Group
13 meeting a recommendation was tasked to NIOSH, it is my
14 recollection that the recommendation was to OSHA;

15 And that, you know, really OSHA and NIOSH are
16 working together on this joint publication. So I just
17 wanted to make that clear that it's a joint effort, and
18 it is intended to be a joint publication.

19 If that's -- is a clarification.

20 And then in that third paragraph, that the
21 date that was just mentioned, it was January 10th. The
22 date that we were looking for those comments by --

1 (Discussion was held off the record.)

2 SPEAKER: Yeah, I saw it.

3 CHAIRMAN MIGLIACCO: Okay. Very good. Thank
4 you, Matt.

5 Any other questions or discussion?

6 MR. THIBODEAUX: I just have a question --

7 CHAIRMAN MIGLIACCO: Mike?

8 MR. THIBODEAUX: Do you have any more copies?

9 Because --

10 CHAIRMAN MIGLIACCO: Yeah.

11 MR. GILLEN: Of the minutes?

12 MR. THIBODEAUX: Yeah. of he minutes, to go
13 around?

14 MS. SHORTALL: I have a few over here.

15 MR. THIBODEAUX: Oh, okay, got some.

16 CHAIRMAN MIGLIACCO: Those going to take back
17 to California --

18 (Laughter.)

19 CHAIRMAN MIGLIACCO: Any other questions of
20 discussion? Seeing none, all in favor of accepting the
21 Work Groups, say aye.

22 (Chorus of ayes.)

1 CHAIRMAN MIGLIACCO: Opposed?

2 (No response.)

3 CHAIRMAN MIGLIACCO: Ayes so have it.

4 MS. SHORTALL: Okay.

5 Then I would enter into the record:

6 As Exhibit 18 -- excuse me, Exhibit 18, the
7 approved Power Fastening Tools, Nail Guns Work Group
8 Report from December 7, 2010 meeting;

9 As 19, the draft, Nail Gun Safety, a Guide
10 for Contractors' Guidance, Developed Jointly by NIOSH
11 and OSHA;

12 And as Exhibit 20, the Letter from ISANTA to
13 the Directorate of Construction regarding that nail gun
14 safety document.

15 CHAIRMAN MIGLIACCO: Okay.

16 All right. At this time we'll take a 15-
17 minute break.

18 (A brief recess was taken.)

19 CHAIRMAN MIGLIACCO: Let's see if we're on, I
20 guess we're on.

21 Yeah. Our next presentation will be from the
22 Directorate of Standards and Guidance, Dorothy

1 Dougherty and Mike Seymour.

2 Dorothy? It's a pleasure to see you again.

3 MS. DOUGHERTY: Yeah, good to see you.

4 We have a slide presentation. Not that it's,
5 you know, all that (laughing) informative, but at least
6 you can follow along.

7 CHAIRMAN MIGLIACCO: All right. Who's
8 showing it?

9 MS. DOUGHERTY: Does anybody have it?

10 MR. SEYMOUR: I think we're in the process of
11 making that happen.

12 MS. DOUGHERTY: Oh. It's not our fault,
13 right?

14 (Laughter.) (Discussion was held off the
15 record.)

16 MS. DOUGHERTY: If you'd like us to start
17 without it, we can. It just, you know, kind of lists
18 out some of the standards.

19 CHAIRMAN MIGLIACCO: Let's see if --

20 (Discussion was held off the record.)

21 MS. DOUGHERTY: Okay. Talk amongst
22 yourselves (laughing).

1 (Discussion was held off the record.)

2 CHAIRMAN MIGLIACCO: (Gavel sounds.) We're
3 going to go ahead with the Work Group report, while
4 we're getting the presentation set up.

5 Liz?

6 MS. ARIOTO: Okay.

7 The Advisory Committee on Construction Safety
8 Health Diversity of Women in Construction Work Group
9 was held on December 8, 2010, and it started at 8:05
10 and adjourned at 10:00 a.m.

11 There were 19 attendees, and I believe there
12 were ten ACCSH members.

13 There were self-introductions, and the
14 minutes of the April 13, 2010 meeting in Houston were
15 distributed and approved.

16 The documents that were distributed for
17 review at our meeting group will be passed out right
18 now. So there's quite a few, so I'll just read over
19 them.

20 There's the meeting agenda, there is the
21 National Accident Prevention Association, or the IAPA-
22 PPE for Women, Directory of Women in Construction.

1 There's protection updates by the SEA.

2 The fourth one is Women in Construction Fact
3 Sheet, which is revised to read recommended language
4 for the OSHA Quick Card.

5 Five is the IAPA Personal Protective
6 Equipment for Women. And it's titled Addressing the
7 Need.

8 And six is Labor's Health & Safety Fund of
9 North America Life Lines. Got a female construction
10 worker on your shopping list?

11 Number seven is list of PPE suppliers
12 provided by the ISEA.

13 And the last one is the North Carolina
14 Department of Labor Quick Card.

15 I'll make sure that we all have them. So
16 I'll proceed.

17 We reviewed the agenda from the last meeting
18 and held a brief discussion on the meeting activities.

19 Discussion of the North Carolina Department
20 of Labor Women in Construction Quick Card and draft
21 sheet. The North Carolina DOL Quick Card titled Women
22 in Construction will serve as a good basis for a Quick

1 Card that federal OSHA could publish.

2 The OSHA Quick Cards are larger; therefore it
3 would be possible to include additional information.

4 After review of the North Carolina Department
5 of Labor Quick Card and the draft sheet, and after
6 minor revisions, the Work Group concluded they will
7 recommend to ACCSH that ACCSH recommend OSHA produce a
8 Quick Card titled Women in Construction.

9 The work of the OSHA Construction Alliance
10 Roundtable was note, and work items from the Alliance
11 regarding ergonomics could be added or supplement the
12 Quick Card.

13 There was a presentation by Daniel Shiff,
14 President of the ISEA, and Mr. Dan Glucksman, Director
15 of Public Affairs, ISEA.

16 The presentation was focused on the
17 importance of using PPE that correctly fits the
18 employee, male or female.

19 But there are manufacturers that produce PPE
20 items that are sized and designed to specifically fit
21 women.

22 They distributed a list of ISEA members

1 companies that offer PPE designed for women. The group
2 discussed the issue of what opportunities there may be
3 to get information to employers and workers.

4 The Work Group was informed by OSHA's staff
5 that OSHA would probably not publish any specific
6 single entity information on the subject.

7 ISEA will work with the Work Group to update
8 the list, but it was realized that ISEA would not be
9 expected to go outside of their membership to populate
10 the list.

11 It is recommended that ACCSH recommend that
12 OSHA develop methods to disseminate a list of
13 manufacturers of PPE sized for women.

14 Such methods may include posting on the
15 Internet, providing links, providing to regional
16 offices, compliance officers, OTI, education centers
17 and consultants.

18 This would better enable construction safety
19 and health specialists to more readily produce
20 construction information pertaining to the availability
21 of equipment to employers, employees, associations, and
22 other employee representatives.

1 After reviewing that North Carolina
2 Department of Labor Quick Card and Fact Sheet, and
3 after minor revisions, the Work Group recommends that
4 ACCSH recommend to OSHA that production of a Quick Card
5 entitled Women in Construction would be very
6 beneficial.

7 The North Carolina Department of Labor Quick
8 Card revised draft could be used as a basis for the
9 OSHA Quick Card.

10 The work of the OSHA Consultation Alliance
11 Roundtable was noted, and items from that Alliance
12 regarding ergonomics could be added or serve as a
13 supplement to the Quick Card.

14 Future Work Items: NIOSH has begun a study
15 on redesigning fall-arrest harnesses for women. It was
16 suggested and agreed to that time be put on the agenda
17 for Matt Gillen of NIOSH to present an update on this
18 project.

19 And again the meeting adjourned at 10:00 a.m.

20 Oh, and I'd like to add one thing. Jim, my
21 co-chair, would like to just make a statement and --

22 CHAIRMAN MIGLIACCO: Just get ready to ask.

1 Yeah?

2 MR. HAWKINS: I'll make a motion that we
3 accept the minutes.

4 SPEAKER: Second it.

5 CHAIRMAN MIGLIACCO: Wait, not yet.

6 MR. HAWKINS: Well, I think it is. Because
7 you're going to make the official motion, aren't you,
8 Jim?

9 MR. TOMASESKI: Yes.

10 MR. HAWKINS: Yeah.

11 CHAIRMAN MIGLIACCO: Yeah. But I want to ask
12 if he has anything to add.

13 MR. HAWKINS: Oh, sorry.

14 (Laughter.)

15 CHAIRMAN MIGLIACCO: Do you have anything to
16 add to the report?

17 MR. TOMASESKI: Hmm, let's go ahead and we'll
18 do that first.

19 CHAIRMAN MIGLIACCO: Okay.

20 MR. TOMASESKI: And then I'll --

21 CHAIRMAN MIGLIACCO: Now I'll accept the
22 motion to accept the minutes.

1 MR. HAWKINS: Motion to accept the minutes,
2 Mr. Chairman.

3 CHAIRMAN MIGLIACCO: Steve. Second?

4 MR. KAVICKY: Second.

5 CHAIRMAN MIGLIACCO: Tom Kavicky.

6 Any discussion? Questions?

7 Jim?

8 MR. TOMASESKI: I don't have anything to add
9 to the report that's already been made. But I do want
10 to make a motion that the Women in Construction Quick
11 Card and the North Carolina Department of Labor --

12 CHAIRMAN MIGLIACCO: We'll do the motion
13 after we accept the --

14 MR. TOMASESKI: Oh, I'm sorry, I'm sorry.

15 CHAIRMAN MIGLIACCO: Any questions or
16 discussions on the report?

17 (No response.)

18 CHAIRMAN MIGLIACCO: Seeing none, all those
19 in favor of accepting say aye.

20 (Chorus of ayes.)

21 CHAIRMAN MIGLIACCO: Opposed?

22 (No response.)

1 CHAIRMAN MIGLIACCO: Ayes so have it.

2 Now the motion.

3 MR. TOMASESKI: I'll try this again. This is
4 a little lengthy, so I'll have this written out, and
5 Sarah, I'll give it to you after I finish reading it.

6 But I'd like to make a motion that the Women
7 in Construction Quick Card, the North Carolina
8 Department of Labor Quick Card and other materials that
9 were collected and developed by the ACCSH Diversity in
10 Women in Construction Work Group be provided to OSHA,
11 and that OSHA utilize these Work Group products and
12 materials and other available resources to deliver a
13 new OSHA Quick Card and/or Fact Sheet, and Internet
14 page on the OSHA website addressing Safety & Health
15 issues associated with women working in the
16 construction industry.

17 MR. HAWKINS: Second.

18 MS. SHORTALL: No, I think --

19 (Discussion was held off the record.)

20 CHAIRMAN MIGLIACCO: All right. It's been
21 seconded. Any discussion or questions on the motion?

22 MR. HAWKINS: I got a little discussion.

1 You know, the Work Groups looked at this
2 issue two or three meetings in a row, and really want
3 to -- I mean, I'm just wanting to voice my opinion now.

4 I think it truly would be important for the
5 agency to develop a Women in Construction page on the
6 Internet with some of this information and resources
7 available to women who work in the construction field;

8 And ideally, in my mind, you would click on
9 the "W" on the alphabet at the top, and one of the
10 choices would be Women in Construction.

11 And you could have some of this, have this
12 Fact Sheet, and hopefully a link to the Quick Card, and
13 hopefully some other information about proper-fitting
14 PPE, and so forth;

15 And start to have a page where this
16 information as the Work Group develops additional
17 information and products, and of course, as OSHA
18 reviews those, it would have a place to go for Women in
19 Construction.

20 We know that women are not widely
21 represented, but the ones that are in the field should
22 have some expectation that they have properly fitting

1 PPE; and again, that they have separate toilet
2 facilities, which I think we have a good motion already
3 with OSHA there.

4 And I just would really like to encourage the
5 agency to go ahead and take this and move with it.

6 Everyone at the Work Group felt strongly that
7 that would be the next logical step for us.

8 Thank you, Mr. Chair.

9 CHAIRMAN MIGLIACCO: Any other questions or
10 discussion?

11 MS. ARIOTO: May I ask several questions?

12 Sir, with regards to the list that the ISEA
13 gave on personal protective equipment?

14 MS. SHORTALL: Mm-hmm.

15 MS. ARIOTO: And having it listed on an OSHA
16 web page, if I added some other companies, would there
17 be a problem eliciting ISEA and then --

18 MS. SHORTALL: This is the list of people
19 offering equipment that fits women.

20 MS. ARIOTO: From the ISEA association. But
21 that's the only company --

22 MS. SHORTALL: Well --

1 MS. ARIOTO: Now but if I add other
2 companies?

3 MS. SHORTALL: I mean, I think OSHA would
4 have to probably review this. I mean, it has to be
5 careful that we don't give the appearance of endorsing
6 anyone's particular equipment --

7 MS. ARIOTO: That's what I --

8 MS. SHORTALL: Which OSHA does not do.

9 (Simultaneous conversation.)

10 MS. ARIOTO: So if I had other companies
11 besides that, would that be okay?

12 MS. SHORTALL: Well, we have to first see to
13 what extent OSHA feels it can put this --

14 MS. ARIOTO: Okay --

15 MS. SHORTALL: I mean, information about
16 direct vendors. I mean, certainly they could probably
17 do a link-up to ISEA. ISEA had it on their website.

18 MS. ARIOTO: Okay.

19 (Discussion was held off the record.)

20 MR. HAWKINS: Yes, ma'am. That's what we
21 talked about.

22 SPEAKER: That's what we talked about --

1 MS. ARIOTO: Yeah.

2 MS. SHORTALL: Okay.

3 MR. HAWKINS: Possibly a link to their site,
4 with manufacturers and distributors of PPE specifically
5 designed for women.

6 CHAIRMAN MIGLIACCO: Any more questions or
7 discussions on the motion?

8 (No response.)

9 CHAIRMAN MIGLIACCO: Seeing none, all in
10 favor of accepting the motion say aye.

11 (Chorus of ayes.)

12 CHAIRMAN MIGLIACCO: Opposed?

13 (No response.)

14 CHAIRMAN MIGLIACCO: The ayes so have it.

15 MS. ARIOTO: Thank you.

16 (Discussion was held off the record.)

17 MS. SHORTALL: Okay. Quite a stack here.

18 As Exhibit 21, the approved Work Group Report
19 from the Diversity of Women in Construction Work Group
20 Meeting on December 8, 2010;

21 As Exhibit 21, the Directory, Where to Find
22 PPE for Women, from IAPA;

1 As Exhibit 22, Protection Update, News from
2 International Safety Equipment Association, April 2010;

3 As Exhibit 23, Recommended Language for an
4 OSHA Quick Card, Women in Construction;

5 As Exhibit 24, IAPA Personal Protective
6 Equipment for Women, Addressing the Need;

7 As Exhibit 25, Got a Female Construction
8 Worker on Your Shopping List? From Laborer's Health &
9 Safety Fund of North America, December 2010;

10 As Exhibit 26, a list of ISEA member
11 companies the PPE that they provide for women;

12 And as Exhibit 27 -- Kevin, is this now a
13 final? North Carolina?

14 MR. BEAUREGARD: It is --

15 MS. SHORTALL: Okay. North Carolina, OSHA's
16 Women in Construction Fact Sheet? Or Quick Card.

17 MR. BEAUREGARD: It's a Quick Card.

18 MS. SHORTALL: Quick Card.

19 Hmm, I do have one item on here and that is
20 the recommendation language for the OSHA Quick Card
21 Women in Construction.

22 Has ACCSH itself approved this for giving to

1 OSHA?

2 MR. BEAUREGARD: This Quick Card right here
3 recommendation?

4 MS. SHORTALL: Yes. Mm-hmm.

5 MR. BEAUREGARD: I think the Work Group with
6 the motion that Liz just made recommended that this be
7 provided to OSHA, and OSHA use this when they develop
8 their own Quick Card.

9 MS. SHORTALL: Okay. Well, then, OSHA -- I
10 mean, ACCSH would have to separately consider this and
11 whether all members of ACCSH would like to recommend
12 that.

13 MR. BEAUREGARD: She we do that now?

14 MS. SHORTALL: Well, is the computer ready
15 for --

16 SPEAKER: No.

17 MS. SHORTALL: No, it's still not? Okay.
18 There you go.

19 (Discussion was held off the record.)

20 (Simultaneous conversation.)

21 SPEAKER: Everybody that was at the meeting
22 read it. The other members that weren't there didn't

1 read it.

2 (Simultaneous conversation.)

3 (Laughter.)

4 MS. DOUGHERTY: No, they're still trying to
5 get them, but I'll tell you --

6 SPEAKER: Oh, here it comes now.

7 MS. DOUGHERTY: Now I'm afraid that you guys,
8 you know, have been waiting for them, you're really
9 going to be let down (laughing).

10 They're not that great, you know, so
11 (laughing).

12 (Simultaneous conversation.)

13 CHAIRMAN MIGLIACCO: Okay. Can I have a
14 motion on the recommended language? The recommendation
15 by Dan Zarletti?

16 MR. KAVICKY: Right. Second.

17 CHAIRMAN MIGLIACCO: Seconded by Tom Kavicky.

18

19 Discussion or questions on the Women in
20 Construction recommendation language for the OSHA Quick
21 Card?

22 Questions?

1 (No response.)

2 CHAIRMAN MIGLIACCO: Seeing none, all those
3 in favor say aye.

4 (Chorus of ayes.)

5 CHAIRMAN MIGLIACCO: Opposed?

6 (No response.)

7 CHAIRMAN MIGLIACCO: The ayes so have it.
8 All right. Now we'll see if this works.

9 (Discussion was held off the record.)

10 CHAIRMAN MIGLIACCO: Dorothy?

11 MS. DOUGHERTY: So all right. So after
12 disappointing you and not having slides for you, let me
13 start out by saying, you know, David had mentioned the
14 next reg agenda is to be published soon.

15 OSHA does not have control over that process.

16 That's a process that is really run by OMB. And they
17 make decisions for the whole federal government when
18 they're going to publish the regulatory agenda for all
19 of the regulatory agencies in the federal government.

20 And so the date is not something that's under
21 control by us, and we certainly have no, you know, sort
22 of position in stating what date that we want it.

1 So unfortunately for you guys, it's a
2 difficult presentation to do. We never usually get
3 high marks for our presentation when we have to do this
4 the week or two before the reg agenda.

5 Because if we've missed current dates that
6 are in our current reg agenda, we can't tell you what
7 the next date is, until the reg agenda comes out.

8 So you'll have to bear with us a little bit,
9 and we use a lot of terms like: Soon, sooner, very
10 soon.

11 (Laughter.)

12 MS. DOUGHERTY: So you'll hear some of that.

13 So we definitely don't make any friends with
14 the press either, because we're a little irritating
15 with it.

16 But it's just one of those things with rule
17 -making that you're just not at liberty to kind of give
18 out the dates before the reg agenda is published.

19 But we'll try to give you some information.

20 So what we thought we would do is just go
21 through some of the items on our current reg agenda,
22 that we know are of interest to you, that we have

1 probably briefed you on at some point already;

2 Just to kind of give you a status report and
3 let you know where we are. Most of these are scheduled
4 to have some publication soon.

5 So I'll just go through that.

6 The first one is beryllium. It's an item
7 that has been on our reg agenda for a long time. It's
8 still on there.

9 And the next -- the phase that was listed in
10 the current reg agenda was to initiate peer review.
11 One of the requirements that we have to do in rule-
12 making is to peer review to health effects and the risk
13 assessment and the economics.

14 So we are in the process -- we just actually
15 completed the peer review of the health effects and
16 their risk assessment.

17 So our next step will be to initiate the peer
18 review of the economics section.

19 So I'm just here to tell you that we're on
20 track with all this, with the current information. And
21 the current reg agenda is accurate. And we have just
22 completed the peer review.

1 Now that doesn't mean that you'll see any
2 type of formal publication of any information like
3 that. It's all sort of -- oh, an internal process that
4 we do for now. And then as we proceed towards hearings
5 and stuff, we'll have an opportunity to discuss the
6 comments that we've received from the peer reviewer.

7 So it's just one of the many steps in the,
8 you know, long list of steps in rule-making.

9 Silica is the next one. I know that we had
10 Dave O'Connor from my shop attend your Work Group, and
11 give a brief update there. And I have a couple of
12 slides a little bit later, that I'll talk a little bit
13 about in more detail about what we're doing with
14 silica.

15 But we did meet the date for the peer review
16 of the health effects and the risk assessment for that
17 rule, and we are proceeding towards publishing our
18 proposal. And that's one that you'll have to look at
19 the next reg agenda to see what our date is.

20 We are anticipating doing it early.

21 I always like to tell people that, you know,
22 when we do the reg agenda, we're predicting six months

1 out where we'll be in six months;

2 Or even longer, or further out.

3 And if we were really good at it and got it
4 every time, Mike and I would be in Vegas. We wouldn't
5 be here.

6 So it's just a very difficult process of
7 trying to think, you know, ahead, and predict out, you
8 know, the month and for what the next step is, and how
9 you're going to do it.

10 So, but we're pretty much on target with
11 that. The proposal will be next, and it will be soon,
12 I think, in the current reg agenda we had listed. Was
13 it February?

14 And so, you know, it takes a 90-day review.
15 This is a significant rule-making. So OMB will have it
16 for 90 days. So it has a little bit more of review
17 process to go through here, and it's working its way to
18 OMB.

19 So it will be shortly after that.

20 Okay.

21 The next one is the HAZCOM, or the GHS.

22 We've briefed you on this one a couple of times. We've

1 published the proposal, September 30th of '09. And we
2 held hearings in March.

3 We took hearings on the road. We went to
4 Pittsburgh. We had a really nice turnout there. We
5 attempted to do a hearing in California. It did not
6 have as much participation, so we ended up cancelling
7 that hearing.

8 We had hearings in D.C. Good hearings. So
9 we met the date for that one. We're analyzing all the
10 record, putting everything together, and our next step
11 is working towards publishing the final.

12 And the date for that you're going to have to
13 wait again for the reg agenda soon, sooner, you'll see
14 the final for GHS.

15 Okay.

16 The MSD column, for those of you that have
17 been following that. We published the proposal in
18 January 29th of '10. We closed the comment period. We
19 held a public meeting to go to listen to input from
20 people.

21 We have submitted the final 201b, and so it's
22 in the clearance process now with OMB. And we expect

1 that one now to be shortly, you know, so.

2 Electric power generation and transition on
3 Sub-Part V, that one is scheduled to be a final this
4 year as well. And so we are in the final stages of
5 completing our activities on V.

6 And we were having a short conversation here
7 about Dave Wallace. He has definitely an incentive to
8 kind of finish that one. And so we hope to have that
9 one out in final in the early part of the year.

10 Okay.

11 And then I have on the slides -- I put the
12 hex chrome remand on there just to let people know that
13 we did complete that, it was published June 15th of
14 '10. It's on our website, if anyone wants to look at
15 it.

16 I think everybody that followed hex chrome is
17 familiar that we were sued. There was just one small
18 issue about sampling data, and the posting of sampling
19 data that OSHA was asked to look at again.

20 We had detracted from our usual posting
21 requirements, and so the court asked us to look at it.

22 And we agreed with them that we should go back to sort

1 of the traditional requirements for posting.

2 And so a very minor type of rule-making.

3 So that was completed in June.

4 So the next two slides I have are just on
5 silica. Just to kind of let people know, our proposal
6 will be published in the early part of 2011. We're
7 making progress, you know, in working towards that.

8 And we did present to ACCSH I believe I mean,
9 the last time that you were here in D.C. And then we
10 attended a work group in Houston, Mike and I, talked a
11 little bit between where we were.

12 And so, well, we appreciated the comments
13 that we received from ACCSH.

14 And once we propose, you get into a more, you
15 know, to the formal stages then. And we'll look
16 forward to hearing more from you, as we go forward.

17 And as you may recall, the Table One
18 specifies control measures for certain construction
19 activities. And we would really like to hear any
20 comments that you would have about Table One, as well
21 as the rest of the rule-making.

22 And I thought we would spend the rest of our

1 time talking about the Injury and Illness Prevention
2 Program rule-making. And then maybe at the end just
3 see if anybody has any questions on any of the others.

4 (Discussion was held off the record.)

5 MR. SEYMOUR: Well, thank you for being here
6 to listen to us today.

7 We had really a very good full conversation
8 with the Work Group on Tuesday. And I thought we were
9 very, very productive. And I wanted to first, before I
10 said anything else, say thank you to that group.

11 It's a very committed group of people that
12 really would like to see -- prevention programs in
13 place to help protect American workers. And I wanted o
14 say thank you for that at the very outset.

15 I went through some of the concepts that
16 we're considering in the development of rule. And I
17 thought I'd do the same for the full committee here
18 today.

19 We've organized the current draft of our
20 regulatory text according to core elements, which is
21 how OSHA has done this in the past. And our 1989
22 guidelines certainly are VPP and sharp documents

1 reflect that approach.

2 And it's the approach that is consistent with
3 OSHA's history. Slightly different from the approach
4 that, say, the ANSI Z10 and the OSES 18,001, the
5 international standard taken.

6 They've taken a more, if you will, management
7 oriented plan to check act approach.

8 But we felt that was frankly a bit complex
9 for what we were trying to accomplish to address Injury
10 and Illness Prevention Programs in seven and a half
11 military work places in the nation.

12 But let me go through the core elements very
13 quickly to give you some notion of what we're thinking
14 about in them.

15 Before I do that, I also made a commitment
16 and suggestion to work with the Work Group as they had
17 their telephone calls and their conference calls. We'd
18 be more than happy to have staff involved in that to
19 answer questions or to help facilitate that effort.

20 The first core element, of course -- and I
21 know that most of you, probably all of you, have a lot
22 of familiarity with this -- but is management duties.

1 And by that, we're talking about establishing
2 a policy that worker Safety & Health is a key objective
3 in an organization;

4 Setting specific goals for the program to
5 achieve;

6 Planning and allocating resources. It's
7 difficult to accomplish anything in Safety & Health
8 without some resources being allocated;

9 And assigning and communicating roles and
10 responsibilities. If someone isn't responsible for this
11 kind of a program, they typically don't work
12 particularly well.

13 So that's what we're thinking about with
14 respect to management duties.

15 In the 1989 guidelines, management commitment
16 and employer participation were really part of the same
17 core element.

18 And we felt that employee participation is so
19 important that it really needed to be a core element of
20 its own. And so we're working along the assumption
21 that that's how we will proceed.

22 And by employee participation, we're talking

1 about involving employees in establishing the program,
2 involving them in maintaining and evaluating the
3 program, making sure that employees have access to
4 Safety & Health information;

5 And that employee roles in incident
6 investigations are described and required.

7 And that, in our mind, gives the employees
8 really an in, in the critical pieces of Safety & Health
9 Injury and Illness Prevention Programs.

10 Under hazard identification, this is the find
11 part of find and fix that you've heard people talk
12 about. And basically we're saying that which hazards
13 need to be identified, what kinds of information an
14 employer and his employees would gather and review, in
15 identifying hazards;

16 Certainly conducting work place inspections
17 is a key element.

18 Investigating incidents is very important.
19 And by that, we're talking probably not only about the
20 incidents that result in injuries, but also those
21 incidents that we consider near-misses, or some people
22 call near-hits.

1 I think that's actually a better language.

2 But certainly incident investigations are
3 important. We want people to try to identify the
4 hazards associated with changes in the workplace. So
5 there's some requirement, you know, we anticipate some
6 requirement that changed management will be addressed.

7 Emergency hazards. And some hazard
8 assessment and prioritization to take into account the
9 severity of the outcome and the number of people that
10 are actually exposed to the hazard, as a way of
11 deciding which hazards need to be addressed on a
12 priority basis.

13 Finally, we're also talking identifying tools
14 that will help employers and employees identify hazards
15 in the workplace. We feel strongly that many small
16 firms, in particular, need help with doing this and
17 being successful at it.

18 Under Hazard Prevention and Control, we're
19 addressing which hazards must be controlled, again
20 talking about priorities, and having provisions in the
21 Injury and Illness Prevention Programs for judging the
22 effectiveness of the controls in tracking their

1 progress toward completion.

2 Education and training is important.

3 Obviously we're addressing content and how often to
4 train people.

5 And this is also interesting. We're looking
6 at education and training from two perspectives:

7 One, to make sure that the people that have
8 responsibilities under the Injury and Illness
9 Prevention Program, make sure that they have the
10 information to understand what those responsibilities
11 are, and to carry those responsibilities out
12 effectively;

13 And then also training for everyone else on
14 the kinds of hazards and the controls that are being
15 used to protect them from those hazards.

16 So there really is a two-tiered training
17 issue in this.

18 And finally, program evaluation and
19 improvement. Certainly, many programs that have been
20 established in the past that are static and are not
21 evaluated lose their effectiveness over time;

22 So that there is a need to continually

1 observe how the programs perform, and identify ways of
2 improving them, as time goes on.

3 By way of status of the last regulatory
4 during the spring regulatory agenda committed the
5 agency to doing a series of stakeholder meetings.

6 We accomplished that, we had stakeholder
7 meetings in New Jersey, and Dallas, Texas. In
8 Washington, D.C. we actually had two meetings here.
9 There was enough demand to have us fill two rooms, and
10 a fifth meeting in Sacramento, California.

11 And these were very well attended meetings.

12 In each of these meetings, we had somewhere
13 30 and 50 people around the table, actually talking to
14 us, and probably another 50 to 100 people in the
15 audience, listening to the conversation.

16 And we talked in all these meetings for the
17 full eight hours that we allotted for the experience.
18 And it was a very good experience.

19 We learned a lot, we heard a lot of
20 perspectives. And I think that that process was good
21 on a number of levels.

22 It helped us learn quite a bit from people

1 that had implemented programs and from the state folks
2 that had implemented programs.

3 And we learned a lot about what they did
4 right, and some things about what they did wrong. And
5 we heard a lot of broad perspectives.

6 We had a lot of union participation, a lot of
7 individual employers, a lot of trade associations were
8 involved in these meetings.

9 The stakeholder meeting notes: We didn't
10 actually take transcripts of these meetings, but we
11 have very detailed notes, and they're all up on our
12 website at our Safety & Health Programs topics page,
13 which is on our public website.

14 The instructions on how to get that topics
15 page are here on your handout. But it's kind of small.

16 (Laughter.)

17 MR. SEYMOUR: Sorry about that.

18 Some of the take-home points that we learned
19 during the stakeholder meetings -- and in some ways
20 some of them are a little bit dichotomous -- we heard
21 standards should be flexible, yet enforceable;

22 We heard that standards should be simple yet

1 detailed. Safety committees are very effective, and
2 yet they may run afoul of the National Labor Relations
3 Act.

4 We heard management systems are desirable,
5 yet small businesses may not implement them. We were
6 told to write a performance standard, and yet tell
7 employers and compliance officers exactly what's
8 required.

9 Okay. And that's a big challenge.

10 And we heard that everyone should have a
11 written program. And as a matter of fact, there was
12 almost unanimity among the stakeholders at all the
13 meetings that the Injury and Illness Prevention motion
14 be universally applied to all employers.

15 And yet many people said their written
16 programs tend to sit on the shelf.

17 And so writing the rule that addresses these
18 kinds of dichotomies is going to be a challenge. But I
19 believe we're up to it (laughing).

20 (Laughter.)

21 (Discussion was held off the record.)

22 MR. SEYMOUR: Yes.

1 And actually help from groups like this would
2 be helpful in sorting through these kinds of competing
3 desires.

4 From a construction stakeholder perspective,
5 we had three employee representative groups of the
6 Laborers were at the table.

7 The Carpenters -- Council of Saint Louis came
8 to one of the meetings. I believe they were at our
9 Dallas meeting of the building and construction trades,
10 the BTCP folks were at the meetings.

11 And we appreciated their input.

12 We had eight construction trade associations.

13 The Hispanic Contractors Association of Texas was
14 there. Painting and Decorating Contractors of America.

15 The National Association of Homebuilders participated.

16 National Electrical Contractors Association
17 was represented. The Associated Builders and
18 Contractors. The Associated Roofing Contractors. The
19 Associated General Contractors of California were
20 there.

21 So we had quite a few people from the
22 construction trades providing construction perspective.

1 And then we had a number of individual
2 companies there, both people that were involved in
3 commercial construction, as well as residential
4 construction.

5 So we learned a lot about construction in our
6 stakeholder experience.

7 As far as the next steps are concerned, our
8 next step is to initiate the Small Business Regulatory
9 Enforcement Fairness Act Panel, that SBREFA Panel.

10 Okay.

11 I wouldn't get that acronym right, if I
12 didn't have it written down.

13 (Laughter.)

14 MR. SEYMOUR: We were hoping to have that
15 initiated at the end of this calendar year, and it
16 looks like that's going to lapse over into the next
17 year a little bit.

18 So we're working diligently towards that goal
19 of getting the package of information needed to
20 initiate that process in getting it ready to go over to
21 OMB and the Small Business Administration to initiate
22 the Small Business Panel for this project.

1 I think that's it. Any questions?

2 CHAIRMAN MIGLIACCO: Any questions of the
3 Committee? Susan?

4 MS. BILHORN: Yeah. Thank you. Actually,
5 even though we did have a good discussion on Tuesday,
6 this was also very helpful for me.

7 A question on that baseline survey in health
8 practices or the baseline health and safety practices
9 survey that you guys are in the process of, I
10 understand it feeds more than just this rule-making.

11 But I'm trying to understand the time line,
12 if you'll have to have draft language to do the SBREFA,
13 right?

14 MR. SEYMOUR: That's correct.

15 MS. BILHORN: Is that correct?

16 MR. SEYMOUR: Yes, that's correct.

17 MS. BILHORN: Okay. So, and the survey is
18 going out and it hasn't gone out yet.

19 So you're thinking it's just maybe additional
20 data to kind of feed the process? Or maybe?

21 MR. SEYMOUR: Well, this isn't a linear
22 process.

1 MS. BILHORN: Yeah.

2 MR. SEYMOUR: As we learn things along the
3 way, you know, we're obviously working on regulatory
4 language. Now when we release it as part of the SBREFA
5 process, that will not be the final language --

6 MS. BILHORN: Yeah --

7 MR. SEYMOUR: And almost always changes
8 between SBREFA and the proposal to some degree.

9 When the survey is finished, it will inform
10 us of additional requirements we might want to change.

11 But primarily the purpose for that survey is to help
12 us do the economics calculations.

13 I mean, this survey is being managed by our
14 regulatory analysis shop. And basically it's a survey
15 to help us identify baseline practices with respect to
16 in doing illness prevention programs in general, and
17 workplace safety in general.

18 We do a survey like this periodically. I
19 think every ten or 15 years or so. And that we use the
20 information -- this one is actually geared towards I2P2
21 rule-making.

22 But the information we gather will be helpful

1 in future rule-makings as we move forward.

2 MS. BILHORN: I suspect it might also be help
3 in the guidance as well, because it might be more
4 detailed.

5 Is that correct?

6 MR. SEYMOUR: Well, to the extent that we
7 identify through the survey needs for particularly the
8 kinds of guidance, certainly it could help there.

9 MS. BILHORN: Okay. Right. Thank you.

10 CHAIRMAN MIGLIACCO: Any other questions?

11 Seeing none, thank you.

12 See, Dorothy, once it got started, it just
13 flowed right out.

14 MS. SHORTALL: Mr. Chair, at this point, I
15 would mark as Exhibit 29 DSG Standards and Guidance
16 Update, presented by Dorothy Dougherty, Director of the
17 Directorate of Standards and Guidance.

18 CHAIRMAN MIGLIACCO: Okay. Thank you.

19 All right.

20 (Discussion was held off the record.)

21 CHAIRMAN MIGLIACCO: Bill, are you ready with
22 Prevention?

1 MR. AHAL: I am.

2 CHAIRMAN MIGLIACCO: Okay. We'll go ahead
3 and do Prevention by Design Work Group report, please.

4 MR. AHAL: Bill Ahal, Employee
5 Representative.

6 The Prevention through Design Work Group met
7 yesterday afternoon. We had 27 individuals in
8 attendance.

9 First thing we did was approve -- the initial
10 meeting of this group was at the ACCSH meeting in
11 Houston earlier this year. We reviewed and approved
12 the notes.

13 We then reviewed the overall charge and
14 direction of the group, just as a reminder that it was
15 aiming towards the hazards in the design of buildings
16 and structures, and not necessarily in design of tools
17 and equipment.

18 We had Matt Gillen give an excellent
19 presentation basically on NIOSH efforts to date towards
20 Prevention Through Design. He covered a number of
21 topics: The goals of NIOSH, the stages of this; and
22 where they were.

1 He also touched on similar efforts in
2 prevention through design in Australia and the United
3 Kingdom and we saw that, based on this information,
4 they were significantly down the path, farther ahead
5 with Prevention By Design programs.

6 NIOSH is themselves actively working on this
7 topic. They have a conference coming up in August of
8 2011. And they indicated their willingness to partner
9 with groups to promote this concept.

10 We then had a presentation that was put
11 together by the Arizona Construction Training Alliance,
12 provided by the Block Builder, Jeremy Bethancort.

13 However, he at the last minute could not make
14 it. But we still had the presentation, and we viewed
15 it, and its focus was basically showing some pictures
16 and information about how an existing real project, how
17 it had elements of design in it that presented hazards,
18 not only to the construction workers by the design, but
19 those hazards carried through to the public and the
20 users, and then the maintenance and everything else;

21 And involved basically it was showing some
22 heights of some parapets or walls on elevated seating

1 areas in a theater.

2 And it was what I felt was an excellent
3 example of how just a slight design change could have
4 saved not only say cost, but made it much less
5 hazardous as far as safety during construction and
6 through its entire life cycle.

7 We then we had not only a presentation but a
8 discussion and some stories from Jason Edic from
9 Harvard. Jason works really in their Facilities
10 Division, and he brought to us the view from academia.

11 And he brought some excellent examples of
12 where Harvard University in one of their fairly recent
13 buildings in the design of the design element where
14 some HVAC equipment was put on elevated platforms,
15 probably to conserve space;

16 And in doing so, that created a very
17 expensive, as well as a hazardous situation for the
18 university to have to maintain doing routine
19 maintenance.

20 And again, it was a good example of how a
21 relatively small change in the design could have
22 produced some much more beneficial downstream effects.

1 He also then shared with us Harvard's, how
2 they took that and a couple of other examples where
3 they had seen this happen, and actually made a video,
4 which they tried to develop a curriculum within the
5 university to teach the concept of Prevention Through
6 Design.

7 They ran into some internal resistance with
8 their own management; however, it's interesting that in
9 one of these examples the architect for one of the
10 projects he was citing as an example recognized that
11 they could have done a better job of design, and took
12 steps to correct that.

13 They also had a video that they used as at
14 teaching tool and it raised quite a bit of interesting
15 comments once the video came out, because it brought
16 forth this Prevention by Design, what it can mean.

17 Harvard, he reported also has approached
18 other universities about this Prevention Through
19 Design, but found little to no acceptance for
20 furthering the concept.

21 So then there was some general discussion.
22 We talked about things to focus on. A comment was made

1 that owners could probably be a big driver in this by
2 taking a position about the importance of Prevention
3 Through Design;

4 Assuming that design professionals and
5 everyone involved in the process would follow the lead
6 if the owner wants this, that the owner typically gets
7 that in a construction project.

8 It was discussed that the Prevention Through
9 Design really does not exist in the design community.
10 There was a comment made again about the owner's
11 ability to apply pressure on the design entities to
12 embrace this concept.

13 And that could lead to formal education
14 within the design community about the Prevention
15 Through Design concept.

16 A suggestion was made to use BIM, Building
17 Information Modeling, tools, and virtual construction
18 concepts to help mitigate some of these hazards during
19 that design phase of a project.

20 Suggestion was made that the designer just
21 simply be asked, "Why not?" when it comes to Prevention
22 Through Design.

1 Question to the agency from the Work Group:
2 What was OSHA's appropriate actions towards this
3 effort? It was further suggested that OSHA could
4 provide, perhaps provide guidance to the design
5 community and owners about Prevention Through Design
6 opportunities and techniques and the importance of
7 that.

8 Owners may be more interested in the effects
9 as it affects the building maintenance and more than
10 construction. But we talked about how that establishes
11 them as actually having an active stake in promoting
12 this Prevention Through Design.

13 We discussed and learned that OSHA actually
14 has an ongoing group on this effort. One of the
15 alliances, Construction Roundtable Alliance, which is
16 under the order of the Directorate of Cooperative and
17 State Programs.

18 It was suggested that the Prevention Through
19 Design concept, once place within the construction
20 process for the entire projects process would be with
21 site design, or shop drawings -- concrete form designs
22 is an example -- that that would be in one place, but

1 not the only place to apply the concepts.

2 We talked then about things that perhaps
3 could be done as a starting point. One of those was to
4 further develop or develop a construction safety design
5 review process, and how beneficial that could be to the
6 effort.

7 That was actually probably following through
8 on efforts in either Australia or the UK, where they
9 have a similar process that they've developed in their
10 construction industry.

11 We talked about the importance of other
12 groups, such as the American Institute of Architects,
13 AIA; CURT, the Construction User's Roundtable; and the
14 National Society of Professional Engineers.

15 These organizations it was talked about
16 should definitely be invited to a future Work Group
17 meeting.

18 We talked about the liability of the
19 insurance risk management part of the industry's
20 involvement in this, and felt that it was important
21 that they be brought in, since they drive a lot of the
22 current thinking about prevention through design and

1 being a risk-shifting situation.

2 NIOSH has got a study ongoing by a professor
3 at Harvard that is being worked on right now, that
4 we're going to look into in terms of where that stands.

5 And comment was made that Dr. Michaels -- and
6 I think we heard that this morning, that confirmed that
7 -- that he would be supportive of this effort, and I
8 think again we heard that.

9 And I proposed a question to him. So I think
10 that we have that backing or we have that support.

11 And we closed the meeting at 2:45.

12 CHAIRMAN MIGLIACCO: Thank you. And your co-
13 chair was in it. Do you have anything to add?

14 MR. RUSSELL: Only like -- Emmett Russell --
15 I'd just like to add that Bill did a good job on lining
16 up the meeting; and also that the person, Jason, giving
17 a presentation from Harvard University, also said that
18 he would try to do a white paper on the whole Harvard
19 experience;

20 So that the industry could look at what
21 Harvard's experience was in hopes that other owners
22 might think about some similar activities or actions.

1 CHAIRMAN MIGLIACCO: Okay. At this time, I'm
2 undertaking a motion to accept this Work Group's
3 report.

4 MR. KAVICKY: So moved.

5 CHAIRMAN MIGLIACCO: Tom Kavicky. Second?
6 Tom Shanahan.

7 Questions or discussions? Any questions or
8 discussions?

9 (No response.)

10 CHAIRMAN MIGLIACCO: Seeing none, all in
11 favor of accepting the Work Group's report say aye.

12 (Chorus of ayes.)

13 CHAIRMAN MIGLIACCO: Opposed?

14 (No response.)

15 CHAIRMAN MIGLIACCO: The ayes so have it.

16 MS. SHORTALL: I have a couple questions
17 before entering this into the record.

18 You mentioned in your report, Bill, that
19 there were several presentations. Did you receive
20 materials during that? Or were these just all oral
21 presentations?

22 MR. AHAL: Well, two of them were actual

1 disks we used on computer Powerpoints. One was oral.

2 The one from Harvard was just an oral presentation.

3 MS. SHORTALL: Oral presentation?

4 MR. AHAL: Mm-hmm.

5 MS. SHORTALL: And so who were the two that

6 were --

7 MR. AHAL: Matt Gillen's. And then the one

8 that was developed by the Arizona Alliance was

9 furnished to me, once they couldn't make it.

10 They had to bow out of the meeting -- so I

11 have that. They gave it to me. We put it on

12 Powerpoint and presented it on the screen.

13 MS. SHORTALL: Okay.

14 Then at this time I'd like to enter into the

15 record:

16 As Exhibit 30 the approve Prevention by
17 Design Work Group Report from December 8, 2010 meeting;

18 As Exhibit 31, the presentation at that
19 meeting by Matt Gillen;

20 And as Exhibit 32, the materials for the
21 presentation that would have made by La Blanc.

22 MR. AHAL: We actually got an approval if we

1 wanted, could use that. Or, I think Fran's got that.
2 Fran, you got approval from Jeremy Bethancourt to do
3 whatever you wanted to do with that?

4 MS. SHORTALL: All right.

5 So as 32, the materials from the presentation
6 that La Blanc would have given to the Prevention
7 Through Design Work Group.

8 MR. AHAL: Right.

9 (Discussion was held off the record.)

10 MS. SHORTALL: I got them

11 CHAIRMAN MIGLIACCO: Oh, you got them?

12 MS. SHORTALL: Mm-hmm.

13 CHAIRMAN MIGLIACCO: Good.

14 All right. At this time, we'll go to the
15 Public Comment. I know the first name. I can't even
16 tell what the second one is.

17 Daniel? Is he still here? From ISEA?
18 Health & Safety?

19 (Discussion was held off the record.)

20 MS. SHORTALL: Gluckman.

21 CHAIRMAN MIGLIACCO: What is it?

22 MS. SHORTALL: Gluckman.

1 CHAIRMAN MIGLIACCO: Gluckman? Oh.

2 SPEAKER: He left.

3 CHAIRMAN MIGLIACCO: Oh, did he? Okay.

4 How about Tony Groat from IPAF?

5 MR. GROAT: (Off mic.)

6 CHAIRMAN MIGLIACCO: Tony?

7 (Laughter.)

8 MR. GROAT: Good afternoon. My name is Tony
9 Groat. I represent the International Powered Access
10 Federation, which is IPAF.

11 And our association represents manufacturers,
12 rental companies, users of powered-access equipment,
13 which is generally aerial work platforms and mast
14 climbers.

15 Kevin O'Shea is a member of our association.
16 Tom is also a member of our association.

17 And we work with other associations: ARA,
18 the American Rental Association; AEM, the Associated
19 Equipment Manufacturers; AED, the American Equipment
20 Distributors; and SIA, the Scaffold Industry
21 Association, to create a document, which is a statement
22 of best practice for general training and

1 familiarization for aerial work platform equipment.

2 My prior experience is 31 years in the rental
3 equipment providing aerial work platform equipment,
4 actually putting people in the air, with lifts,
5 ladders, and scaffolding.

6 And I would say the one of the problems that
7 we identified in the marketplace is a lack of clarity
8 of what is appropriate operator training.

9 Many people say I've been trained, and you
10 know, but hold up a card and say "I've been trained,"
11 and you know this person's been trained in 15 minutes.

12 And I would say if you were trained in 15
13 minutes, you were not trained.

14 The ANSI standards are really the guidelines
15 that we used, and prior to 1999 the standard said,
16 "Training upon delivery."

17 So when people dropped the equipment off and
18 they showed them the controls on it, most people
19 assumed that they were getting training.

20 And it was in 1999 when one of the standards
21 changed over and used the term, "familiarization," and
22 that was coined throughout the ANSI standards for

1 aerial work platforms in 2006 that the information
2 that's conveyed when they drop it off is just
3 familiarizing it.

4 It's like when you rent a car, and go over
5 and say, "This is where the windshield wiper control is
6 on this one. This is how you turn on the lights on
7 this one."

8 It's familiarizing you with the individual
9 equipment and controls on it, but it's not giving you a
10 driver's license.

11 The driver's license comes from training.

12 And really what this group did was to come
13 together and come up with the best practices.

14 So in this -- and if I were to point out one
15 of the more specific documents in here that gives you
16 some credibility, it's on page -- I believe it's 14
17 (examining document).

18 You look in here and it says, "Length of
19 training for general training is three to six hours,
20 depending upon the amount of people, and the amount of
21 categories of equipment that you're going to be
22 training upon."

1 And familiarization would normally take
2 anywhere from fifteen minutes to 30 minutes.

3 So really what we're trying to do is provide
4 a guidance, a standard for the industry to say, when
5 someone tells you that they have been trained, if
6 here's some guidance that if they haven't met these
7 criteria, you know that these people haven't been
8 properly trained.

9 And we find consistently through the
10 marketplace that whether you're union or you're non-
11 union, and you're a worker in the field, most people
12 say that "I get the training when they drop the stuff
13 off."

14 And that isn't training.

15 And when we talked about mast climbers
16 earlier, we talked about two fatalities a year. You're
17 looking at 26 on average fatalities a year, with aerial
18 work platforms.

19 One of the most notoriety of accidents that
20 occurred recently was at Notre Dame University, where
21 you had a young man who was a cameraman for the --

22 MS. ARIOTO: Notre Dame --

1 MR. GROAT: Football games at Notre Dame, you
2 know, was up on the aerial work platform in 50-mile-an-
3 hour winds.

4 Without exception -- well, we note exception
5 are our boom type driveable units -- but without
6 exception the norm is 28 miles per hours is the maximum
7 wind speed that an aerial lift can be operated in the
8 air.

9 So here, if this person was properly trained
10 and was properly familiarized with that equipment and
11 the information is on the equipment, it's there.

12 So really what our hope and intent is, is to
13 try to get this available. Every one of these
14 associations provide this free of charge on their
15 websites.

16 This is a free download. We really think
17 that this is a, you know, a core issue, that with a
18 product that out's on the marketplace, and we would
19 love to see, you know, and endorse, for lack of a
20 better word, a way of getting this out further into the
21 public's eyes, so that that misconception of what is
22 appropriate training is in the field, so that operators

1 are properly trained and safe when they're using these
2 products.

3 Which are a common tool in all industries
4 today.

5 I would further that our associations have
6 continued to work together. We're in the process of
7 creating another best practice document, which is for
8 personal fall protection equipment in use with the
9 aerial work platforms.

10 So when you're in a boom type lift, you're
11 required to wear personal fall protection equipment.
12 And the question is: Well, what is appropriate
13 personal fall protection equipment?

14 In 2009 OSHA put out a letter of
15 interpretation, which clarified that the most common
16 used personal fall protection in the industry was a
17 six-foot lanyard with a shock absorber.

18 Question came out and said, "Well, when you
19 use that, is that okay? Because the PPE manufacturer
20 says you need 18-1/2 feet of clearance from the
21 anchorage point to a lower surface."

22 And I said "Well, don't you get in the aerial

1 lift from the ground? So from zero feet to 18-1/2 feet
2 you're not compliant. So no, it's a non-compliant
3 system.

4 And that's what most people are using in the
5 marketplace. So the question comes, "What is an
6 appropriate system that we can use?"

7 And to try to provide that guidance, we are
8 creating this, again, free document, that will be
9 completed in early Q1.

10 I put out there that if there are other
11 issues that our associations can collectively be of
12 assistance with to this committee, or if we can assist
13 you in any way on other items that are out there, I
14 just want you to be aware that these are initiatives
15 that were taking place, and they're available for you
16 and the public to be using.

17 CHAIRMAN MIGLIACCO: Any questions of the
18 Committee for Tony?

19 MR. JONES: We appreciate everything you're
20 doing.

21 But I just want to clear one thing up. It's
22 the employer's responsibility not to let that guy go up

1 into a boom in that situation of over 30 miles per
2 hour. We've had the same thing here in Washington last
3 year with some folks falling off of a scaffold in 40-
4 mile-per-hour wind.

5 And it's not the training of the employees.
6 Actually the employer allowing work -- instructing
7 workers.

8 And in the case of that individual, he was
9 texting everybody in the world that "God, this is
10 unsafe. Why do they have me up here?"

11 So, you know, we appreciate everything you're
12 doing; but like I've been saying all day today, that
13 you know, sometimes it's beyond training.

14 The employer has to accept some
15 responsibility for the work site and creating a safe
16 work site. And one way to do it is by knowing the
17 rules of operation of these devices and not allowing
18 employees to go up in them, in unsafe conditions.

19 MR. GROAT: We agree wholeheartedly with
20 that.

21 MR. JONES: Yeah.

22 MR. GROAT: We do know that it is exclusively

1 an employer's responsibility. But part of that
2 responsibility is to provide appropriate training --

3 MR. JONES: Right --

4 MR. GROAT: And assuming that the operator's
5 out in the field on a piece of equipment, if he has
6 that tool, at least he has the ability himself to push
7 the control to go down, when supervision isn't in place
8 for him.

9 So it's a complementary element that we think
10 is essential in the safe use of these products.

11 CHAIRMAN MIGLIACCO: Any other questions?
12 Matt?

13 MR. GILLEN: Yes. Matt Gillen. I had a
14 question.

15 So much equipment in construction is obtained
16 through rental associations. And I see that it's great
17 that they're one of your partners.

18 And I was just wondering, so how well has
19 that been implemented that in the average tool-rental
20 place, when somebody is renting, you know, an aerial
21 work platform, that the familiarization is provided?

22 MR. GROAT: Well, familiarization by ANSI

1 standards, is a requirement of anyone who provides the
2 equipment for sale, rental, lease, or any form of use,
3 that they provide familiarization.

4 Familiarization encompasses basically three
5 items. It is saying, "Here's a weather-proof box, here
6 is the ANSI manual of responsibilities and the
7 operator's manual in there."

8 Number two, "Here are the safety controls on
9 this machine and characteristics. And here is the
10 ground control, and here are the platform controls."

11 And they go over those. And it takes about
12 ten to fifteen minutes, and that's what they provide as
13 familiarization.

14 So it is information that is necessary, that
15 is delivered to a qualified person, or the operator of
16 the equipment.

17 So if a person isn't trained, it is the
18 equivalent of going over there and saying, "Here is how
19 the key goes into the car, but you don't have a
20 driver's license. But you know, here's the key."

21 So it's a complement.

22 MR. GILLEN: Do some of the rental companies

1 also get involved with training? Or make training
2 available?

3 MR. GROAT: Our association has a program
4 that we oversee. And we have one of the few programs
5 that is third-party oversight.

6 And we approve instructors, we approve
7 training centers. We approve the curriculum. We audit
8 the programs for the delivery of all of that training
9 that's in place.

10 So that's a vehicle that's in place.

11 We also have training that we provide, which
12 is what we call AWP for Managers or Mast Climbers for
13 Managers.

14 So that the people who are supervising these
15 people understand what their rules and regulations and
16 obligations are.

17 So, yeah, there is a wide range of training
18 that's available.

19 CHAIRMAN MIGLIACCO: Any other questions?

20 MR. GILLEN: Just a last question. Is this
21 available as a PDF or anything on your website?

22 MR. GROAT: Yes, it is.

1 MR. GILLEN: Great. Thanks.

2 CHAIRMAN MIGLIACCO: Sarah?

3 MS. SHORTALL: My question was related --
4 would you like to enter either or both of the documents
5 referred to into the record of this meeting?

6 MR. GROAT: Yes, we would love to have this,
7 which is a completed document. I can't put this in,
8 because this is not completed, and its a work in
9 progress.

10 MS. SHORTALL: Okay.

11 CHAIRMAN MIGLIACCO: Any other questions?

12 MR. GROAT: I believe we have copies in the
13 back. I know Tom has more.

14 CHAIRMAN MIGLIACCO: Tom?

15 MR. BRODERICK: Yeah, there are plenty of
16 original copies of that in the back. And I can bring
17 some more tomorrow.

18 But however, to your point, it was my fervent
19 hope that with the employer representatives that we
20 have in here, and the reach that ACCSH has, that we
21 would get this thing that's being passed around right
22 now out;

1 Because when you go through it and you take a
2 look at what the requirements are to go through this
3 training program, it's pretty extensive.

4 In fact, we became one of their training
5 sites. And it's kind of frustrating, because we have
6 consultants in Chicago that will do a half-hour
7 training, and give a card that someone is now okay to
8 be an operator on an elevated work platform.

9 And this program that IPAF has put together,
10 trying to get it done in a day is a challenge. And it
11 does require hands-on, going out and being tested, that
12 you understand how to control the machine, and so
13 forth.

14 And one of my instructors, who took the
15 training program and has a graduate degree in safety
16 and has worked in construction, flunked the test. And
17 he was not, then, able to get a certificate at that
18 time.

19 I mean, our trainer that came from IPAP, came
20 back and gave him another test. And I had him do a
21 little bit of practicing in the interim.

22 But, you know, it seems to me that really the

1 real deal is compared to what else is out there.

2 MR. HAWKINS: That's what usually done. The
3 real deal as opposed to what's normally done.

4 CHAIRMAN MIGLIACCO: Thank you.

5 MR. GROAT: Thank you.

6 CHAIRMAN MIGLIACCO: Oh, excuse me, I had one
7 question.

8 Tony, you had mentioned the full-body harness
9 with the six-foot lanyard, and there was a letter of
10 interpretation?

11 MR. GROAT: On January 2009 there was a
12 letter of interpretation that was issued by OSHA,
13 answering the question about the compliance of a six-
14 foot lanyard with shock absorber, based on the PEFE's
15 manufacturer's recommendation that from the anchorage
16 point to a lower surface, you need 18-1/2 feet of
17 clearance.

18 So they said, "Can you use that on a aerial
19 work platform?"

20 And obviously aerial work platforms, you come
21 in from the ground level, so from ground level up to
22 18-1/2 foot, obviously you're going to hit a lower

1 surface, if you're using that system and you have the
2 full arrest that takes place.

3 So they said it's non-compliant.

4 And as I mentioned, you know, after 31 years
5 on the rental side, I will tell you, that's the normal
6 product that has been used in the marketplace.

7 And the tendency in the past has been more:
8 Had personal fall protection on, you're okay; not wear
9 personal fall protection, you're not okay.

10 And no one really clicked into what is the
11 right fall protection. So when that question came up,
12 the whole industry was like, "Well, we've never even
13 been asked that question. Never even been asked the
14 question."

15 So now the question would be: "How do we
16 address that?" Because that would mean truthfully, you
17 need to have restraint? No fall from ground up to some
18 elevation.

19 And in certain situations, restraint becomes
20 so restrictive that you can't use the aerial work
21 platform.

22 So really what we're doing is coming up with

1 options that allow you to have a dual system that
2 allows restraint when you're in a position where you
3 have to be concerned about lower surfaces;

4 And one example would be an adjustable
5 lanyard. So it's a restraint when I'm in one position,
6 I can lower or extend it, so I can have fall arrest;
7 and in another position have the mobility to do my job.

8 CHAIRMAN MIGLIACCO: Okay. Now the anchorage
9 pulling on a lift like that, where -- would you find
10 that at the bottom or at the top?

11 MR. GROAT: The anchorage on aerial work
12 platforms are located all over. There is no standard
13 for where they have to be located currently in the
14 aerial work platform.

15 Some of them are on the top of the guard
16 rail, some go down as low as 18 inches. And very few
17 of them are on the toe board, or ground level.

18 MR. HAWKINS: Seems like most are usually on
19 that mid rail.

20 MR. GROAT: That's correct. Or the top rail
21 to 18 inches down is really where you're going to find
22 the majority of them.

1 So in that particular case, as I said, trying
2 to come up with an answer for that was a dilemma that
3 was kind of created, trying to come up with the
4 answers.

5 So we're trying to provide a tool and
6 guidance, so that people can do the right thing and be
7 safe;

8 Because you need, as I said, to have
9 restraint, but you also need to have arrest. So how do
10 you achieve both of those? And we're coming up with
11 some suggestions on how to achieve that.

12 CHAIRMAN MIGLIACCO: Okay. Tom? And then
13 Steve.

14 MR. KAVICKY: Yeah. Mr. Chairman, I would
15 like to suggest that Mr. Groat send us a copy, send the
16 ACCSH Committee members a copy of that when it's
17 finished?

18 MR. GROAT: We sure will.

19 MR. KAVICKY: So we're aware of it. We could
20 take a look at it. Thank you.

21 CHAIRMAN MIGLIACCO: Emmett? And then --

22 MR. RUSSELL: Emmett Russell.

1 Just doing an overview of the document that
2 was passed out, I'd like for possibly OSHA to take a
3 look at this, and consider.

4 Because I think that for the typical person
5 getting training, the document actually gives some
6 pretty good guidance as to what true training is.

7 And without that guidance, someone could
8 actually give a worker working on one of these
9 platforms some training. And they don't have a clue
10 whether the training is adequate or not.

11 But again, some of the charts and guidelines
12 in here are very good, and I would like for OSHA to at
13 least take a look at it, and think about using some of
14 these materials on its website.

15 CHAIRMAN MIGLIACCO: Okay. We had Jim, I'm
16 sorry.

17 MR. TOMASESKI: Yeah. Jim Tomaseski. I'd
18 just like to make as comment about that letter of
19 interpretation that you're talking about; because I
20 think a couple things have happened since that letter
21 was sent in.

22 First of all, there was a response to the

1 letter. There was also an employer down in Florida
2 that received a citation, that had to do a lot with the
3 response to that letter.

4 That's what in a roundabout way, that's how
5 my understanding of the compliance officer decided
6 that's why they were going to issue the citation,
7 because they learned about that letter.

8 Well, two things have happened, I believe;

9 One, the citation was withdrawn. And number
10 two, the response to that letter has been redacted.

11 MR. GROAT: It hasn't, to our knowledge.

12 MR. TOMASESKI: And OSHA is working on
13 drafting another response to that letter.

14 I don't know what that's going to say, of
15 course. But you know, when we heard about this, you
16 know, we were concerned because there's thousands of
17 aerial lifts every single day of the week that use
18 exactly what that letter said you're not supposed to
19 use.

20 (Simultaneous conversation.)

21 MR. GROAT: Well, that's why I ask, because
22 I'm working with a contractor

1 MR. TOMASESKI: And in certain types of
2 aerial lifts, such as an insulated aerial lift, where
3 you don't have rails, guard rails for your anchorage
4 point, it creates an altogether different issue.

5 Because this has been an issue for many, many
6 years. And trying to come up with a different means of
7 fall arrest, when you're working out of especially an
8 insulated aerial lift, has been a task.

9 And we thought, you know, back when I was in
10 my tools, you know, doing this work, we just wore a
11 little belt and stuck a lanyard on, and we were good to
12 go.

13 And it's been a monumental task getting
14 people in a harness and a shock-absorbing lanyard.

15 And even today, we've got people soliciting
16 to the agency that they don't want to do that. They
17 want to use a body belt -- or a bucket belt, as it's
18 commonly called -- and a lanyard.

19 So I applaud you for trying to fix the
20 problem, because I know there's a lot of people out
21 there, trying to figure out "What are we going to do?"

22 Because if you looked at the strictest

1 interpretation of the rule, and you're not supposed to
2 make contact with a lower surface, how do you do that,
3 when you're wearing that with other types of equipment
4 in a six-foot shock-absorbing lanyard and a harness?

5 You got that problem there. So, it would be
6 interesting to see how all this is going to work out.

7 CHAIRMAN MIGLIACCO: Okay.

8 Steve?

9 MR. HAWKINS: Do you ever recommend removing
10 the shock absorbing lanyard, and just going with the
11 straight six-foot lanyard?

12 MR. GROAT: No, because you still have an
13 arrest with a six-foot lanyard. If you have an arrest
14 with a shock absorber, all you did was lower the height
15 that he's going to fall by three feet, but throw his
16 body into turmoil by not having a shock absorber.

17 You know.

18 MR. HAWKINS: Is there consideration given in
19 each specific case to whether or not the anchorage
20 point, is that the floor, the mid rail, or the top
21 rail?

22 Because that would change the dynamics

1 considerably if the anchorage point's in the floor, and
2 you're coming up 42 inches to the mid rail, now you're
3 fall is only a foot and a half, or so --

4 (Simultaneous conversation.)

5 MR. GROAT: Well, the answer is that you have
6 to design the system for restraint. And the restraint
7 system -- so fall protection is really supposed to be
8 applied by a competent person.

9 So answering your question, "Do you take into
10 account where the anchorage point is?" the answer is,
11 "Yes, you do."

12 However, if you go out and we assign a fall
13 protection device to an individual, which is a six-foot
14 lanyard, (laughing) and he goes out to a job site, he's
15 going to put it on whatever the anchorage is.

16 You know, so unless you have something that
17 addresses the variables, you know, the answer is this
18 simple: You must have by definition of OSHA standards,
19 a restraint system to keep you from falling out, until
20 you can have a distance where a fall arrest system,
21 where when you fall out, you won't hit a lower surface.

22 And you know, that's the requirement, and you

1 have to have a competent person define what that is.

2 And really our recommendation is using an
3 adjustable lanyard, which is adjusted so that you're
4 restrained when you're getting in, and you can adjust
5 to that --

6 MR. HAWKINS: As you get up to your working
7 level, which might be 30 feet in the air.

8 MR. GROAT: Yes, sir. Yes, sir. That's
9 correct.

10 And we would always recommend that you wear
11 it as a restraint system when you're traveling, so that
12 you don't know what the ground level's going to be.

13 So there are, again, a risk assessment,
14 competent person. Define how to use that, and there's
15 a way to address it.

16 MR. HAWKINS: See, that's so dependent on
17 each application and each job site. I mean, again
18 you're back to training.

19 Not to go against what you were saying,
20 Walter, but you know, you're back to training a person
21 to assess that hazard and adjust their lanyard, and so
22 forth accordingly.

1 MR. GROAT: Well, or you can take a picture
2 on every job site of a six-foot lanyard with a guy
3 climbing on top of the guard rails.

4 So, you know, which is -- you know, we can
5 argue this to whatever level you want, you know,
6 because one of the things to engineer out don't allow
7 him to move.

8 Don't allow him to move. And then you start
9 losing the utility of the aerial work platform and his
10 ability to reach the work that --

11 MR. HAWKINS: And I'll take -- two foot --
12 because the next thing I'd be really afraid of from a
13 practice standpoint, he gets up there and he needs to
14 step up on the mid rail and his lanyard's too short, he
15 just unhooks it.

16 Now he's standing on the mid rail with no
17 lanyard.

18 SPEAKER: He's not supposed to --

19 (Simultaneous conversation.)

20 SPEAKER: We'll never get home if we keep
21 talking about this.

22 (Laughter.)

1 CHAIRMAN MIGLIACCO: Liz?

2 MS. ARIOTO: Yeah. Liz Arioto.

3 Is -- with like a dual life line, one short,
4 one long?

5 MR. GROAT: Yes. A dual --

6 MS. ARIOTO: So in other words, you can --

7 MR. GROAT: That is one of the options where
8 you can.

9 MS. ARIOTO: Okay.

10 MR. GROAT: But as he said --

11 MR. HAWKINS: That's a good option.

12 MR. GROAT: Then you're in a position where
13 he can take one off, he can put one on. Does he take
14 the right one and pull it off and put it on when he's
15 in the right spot?

16 You know, you can go then with a self-
17 retracting life line. So now you go out there and it's
18 when he's close and he's driving he's in restraint.
19 But it doesn't prevent him from being with a longer
20 lanyard, and a position where he has a lower surface,
21 and he can be catapulted out.

22 Because the risk associated with the boom-

1 type lift is not so much trying to prevent him from
2 climbing the guard rails and jumping off; it's really
3 saying that the design criteria of a boom-type lift is
4 you can be catapulted out.

5 You can be sitting there, doing your job. A
6 crane or a vehicle could hit you, and the moment from
7 the boom arm can actually throw the individual out of
8 the platform.

9 MR. HAWKINS: Two years ago we did a fatality
10 like that, where a person was unloading one from
11 lowboy. And nobody knows why, but he didn't put the
12 ramps down.

13 The device was never upset really. It just
14 drove off the end and just the action of the wheels
15 falling off the end of the trailer and coming down on
16 the frame catapulted him out onto the asphalt -- with
17 the harness half on, and not tied on.

18 (Simultaneous conversation.)

19 MR. GROAT: Yeah. We have a video at our
20 website that you can watch. We have a dummy put in a
21 man lift. We drive over a curb. And you can see the
22 moment that takes place on that boom lift, that the

1 body would be thrown out.

2 We couldn't get anyone to volunteer to do
3 that.

4 (Laughter.)

5 MS. ARIOTO: How about the manufacturers, can
6 they devise a device where a person could slide? An
7 attachment that would go --

8 MR. GROAT: The answer is -- Do they? The
9 answer is: No, the don't. Could they? The answer is:
10 Potentially.

11 And you know, so right now, because this is
12 somewhat of a recent development in the industry, I
13 mean, this has been an accepted practice, using a six-
14 foot lanyard with a shock absorber.

15 I mean, if you've been in the industry,
16 that's probably what you have in your tool box right
17 now.

18 So the answer is -- is there a way about this
19 right now? And there's one manufacturer who we're
20 dealing with, who is trying to design an anchorage that
21 can go onto the floor, it just goes right to the bottom
22 floor, and there's the anchorage, and you go to an

1 arrest system.

2 The problem with that is now you are talking
3 about modifying an aerial work platform, putting on
4 something that now we have to go to every aerial lift
5 manufacturer to get their approval to put this on;

6 Because will that, where the anchor, support
7 the load that's required, which is a design load of at
8 least 36 hundred pounds, when that put that anchorage
9 in that lower position?

10 So now where can you put that, going to every
11 manufacturer. So you can see that this is -- and then
12 we have how many different model machines, that we have
13 to?

14 MS. ARIOTO: Mm-hmm.

15 MR. GROAT: So, there's a lot of initiative
16 going into trying to find a better mouse trap to this
17 question.

18 But at this point in time, we're coming up
19 with feasible tools that are accessible today, with the
20 anchorage systems that are on the aerial work platforms
21 today, to make sure that people who are using them
22 tomorrow can do it safely.

1 CHAIRMAN MIGLIACCO: Steve?

2 MR. HAWKINS: Just one more question.

3 Have you ever gotten into, on an articulating
4 boom lift, where you get out to the extreme operating
5 limits?

6 And then if you have your tile point at the
7 top rail, potentially, and you're talking about the
8 forces that might be generated if a person did leave
9 the basket, and fell the six feet, and then the rip
10 stitch lanyard started to pull out, would there ever be
11 a chance that we would have overloaded the lift with
12 that additional force of that person falling out at the
13 extreme operating limits of an articulating boom lift?

14 MR. GROAT: I will answer the question this
15 way. There is no standard that requires the boom lift
16 manufacturer to design it to withstand that load.

17 Ironically, if you look at this, they
18 designed the anchorage, and it's the anchorage --

19 MR. HAWKINS: That's my point --

20 MR. GROAT: So --

21 (Simultaneous conversation.)

22 MR. HAWKINS: But will the lift stay in the

1 air if you're at that extreme, fully extended far out
2 as you can go, and then you flip out, and --

3 MR. GROAT: If I were to give you a non-
4 engineered response, the answer is I've never seen an
5 aerial lift platform tip over, because an individual
6 has been thrown out.

7 Now if it was going to go over, it was going
8 to over, and you know, wherever he is, you know, is
9 irrespective of that.

10 But the load, generally I would say that most
11 of the manufacturers designed it so that it will not
12 tip over. In fact, the Canadian standards do have a
13 fall protection test in them. And most manufacturers
14 who manufacture in Canada manufacture in the U.S. and
15 they keep that same standard.

16 So I would indirectly say that you should be
17 okay by that design criteria.

18 MR. HAWKINS: And you know, just one last --
19 I mean, this is a hazard about being flipped out with a
20 ripped lanyard and hitting the ground, when you think
21 you think you're in a fall, or you know, you're safe.

22 MR. GROAT: That's correct.

1 MR. HAWKINS: But that same problem exists a
2 lot on construction sites. You see a lot of people
3 with that same set-up, tied off in areas that they're
4 not 18 -- you know, they don't have a distance to allow
5 that to fully extend, if they're heavy enough to fully
6 extend.

7 That's a pretty common --

8 (Simultaneous conversation.)

9 MR. GROAT: Which is indirectly why this
10 industry, the aerial work platform industry, hasn't
11 tried to address it, because you have the Z-359
12 standards, which are, you know, like a voluminous set
13 of standards on fall protection.

14 And you have the fall protection standards.

15 And really what we've said is: Apply that
16 best practice when you're using an aerial work
17 platform.

18 But as aerial work platform experts, people
19 come to us when they're using them, saying "What should
20 we do for fall protection?"

21 So, you know, truthfully, we're extending our
22 level of expertise into an area that really isn't ours,

1 which is personal fall protection. You know, we're not
2 personal fall protection equipment manufacturers.

3 MR. HAWKINS: And fall arrest --

4 MR. GROAT: And fall arrest experts.

5 And you know, so when we get these wide-
6 ranging questions, you know, because of the fact that
7 people are coming to us and they have a need, we're
8 trying to give them a tool.

9 MR. HAWKINS: That's cool.

10 (Discussion was held off the record.)

11 CHAIRMAN MIGLIACCO: Any other questions?

12 Eric?

13 MR. HARBIN: Eric Harbin, Directorate of
14 Construction.

15 I just wanted to give you a follow-up with
16 reference to a letter of interpretation that was
17 mentioned earlier.

18 It's still in effect, it is under review.

19 But it's still in effect. Just so you know.

20 We're reviewing the letter of interpretation
21 regarding the height and getting from the ground to the
22 height, and the appropriate --

1 MR. GROAT: I mean, you know, trying to be
2 critical of that, of the letter of interpretation, I
3 would say that it's quoting an OSHA standard that's in
4 place.

5 I mean, I can't refute that there's 18-1/2
6 foot of clearance that's needed from that anchorage
7 point, and there's a standard that says you can't hit a
8 lower surface.

9 So I mean, for us and in clarity, regardless
10 of what OSHA may say in that interpretation letter, you
11 know, it is an issue of consideration that, you know,
12 must be taken.

13 CHAIRMAN MIGLIACCO: Okay.

14 Any other questions? Thank you very much,
15 Tony.

16 MR. GROAT: Thank you.

17 CHAIRMAN MIGLIACCO: All right.

18 MS. SHORTALL: Can I ask a question?

19 CHAIRMAN MIGLIACCO: Question.

20 MS. SHORTALL: (Off mic.) I was unclear
21 whether Mr. Russell's comment was just a comment or a
22 motion.

1 (Discussion was held off the record.)

2 MR. RUSSELL: Well, initially taking a quick
3 look at the document, there's a number of aspects in
4 the document that would let someone who was supposed to
5 be trained -- and know and understand they were trained
6 -- because it outlines specific items that they should
7 be trained on-- or someone who may have been
8 familiarized with the equipment.

9 But there's a couple charts in here that I
10 think would be excellent for people to really
11 understand where they land as it relates to training
12 and familiarization.

13 And my recommendation was that if OSHA could
14 use some of this information on their website, I think
15 it would help those working in the industry.

16 CHAIRMAN MIGLIACCO: Would you care to make a
17 motion, rather than a recommendation?

18 MR. RUSSELL: Yes. I would not have a
19 problem making a motion to that effect.

20 MR. ZARLETTI: (Off mic.)

21 CHAIRMAN MIGLIACCO: Well, he'll have to make
22 the motion --

1 MR. ZARLETTI: Because we all haven't had a
2 chance to read it. So we might not all know what it is
3 that he's referring to.

4 CHAIRMAN MIGLIACCO: Yes, that's true too.

5 MR. RUSSELL: Well, I can refer it until
6 tomorrow, when everyone has had a chance to review.

7 CHAIRMAN MIGLIACCO: All right.

8 Everybody on the Committee understand -- what
9 I would like you to do is, this handout here, review it
10 this evening, come back in the morning. Emmett will
11 make a motion to have OSHA look at this and use it.

12 So it's a good point, Dan.

13 All right. Everything else for today? Any
14 other business? Okay.

15 Seeing none, tomorrow morning we're going to
16 start at 8:00.

17 (A brief recess was taken.)

18 CHAIRMAN MIGLIACCO: All right, now we're
19 back on the record. We're going to back with the
20 Committee administration that we missed this morning.

21 Susan?

22 MS. BILHORN: Yes? Say what?

1 CHAIRMAN MIGLIACCO: You brought it up --

2 MS. BILHORN: Administration?

3 CHAIRMAN MIGLIACCO: Yeah.

4 MS. BILHORN: I don't know what's all on our
5 agenda, but I would assume one thing we probably need
6 to talk about is future meetings.

7 CHAIRMAN MIGLIACCO: That's true.

8 MS. BILHORN: Generally we usually do that.
9 And I think we try to set some time frames.

10 And in that past we sometimes try to marry up
11 with if there is a specific meeting or something that's
12 on people's minds.

13 So I don't know if, you know, then is this a
14 point that, you know, if we might know the intentions?
15 Is it three, four, shall we try to aim for?

16 So the intention is to move towards four?

17 So then we probably ought to kind of --

18 SPEAKER: March -- April?

19 MS. BILHORN: Yeah. One would have to be
20 like a March time frame.

21 CHAIRMAN MIGLIACCO: Okay.

22 SPEAKER: If we start early --

1 MS. BILHORN: If we start to put it on the
2 calendar as early, it certainly makes --

3 SPEAKER: Yeah, definitely go March, so we
4 can get one in early.

5 CHAIRMAN MIGLIACCO: All right. So if you're
6 looking at March, we're looking at --

7 (Discussion was held off the record.)

8 CHAIRMAN MIGLIACCO: We're looking at the
9 first full week of March, would be the week of the 7th,
10 which is a Monday: 14th, 21st, or 28th.

11 SPEAKER: (Off mic.) I missed that.

12 CHAIRMAN MIGLIACCO: 21st, third week.

13 SPEAKER: Of?

14 CHAIRMAN MIGLIACCO: Of March.

15 (Discussion was held off the record.)

16 SPEAKER: Oh, HEC, it's HEC week for --

17 CHAIRMAN MIGLIACCO: Okay, well there you go.

18 SPEAKER: Annual conference.

19 CHAIRMAN MIGLIACCO: All right, 14th.

20 SPEAKER: The whole --

21 SPEAKER: The whole week is that week.

22 SPEAKER: Where is it?

1 (Simultaneous conversation.)

2 MS. BILHORN: Yeah. Is there a time frame
3 that there's anything? Because one of the things we
4 starting doing was giving some input on some things
5 that were in the hopper for you guys, you all.

6 And we actually did a review of a number of
7 proposed drafts and stuff. Is there any time frame
8 that marries up as far as you know right now with
9 things that you might want us to be looking at?

10 Or can you say? Is that too hard to --

11 MR. HARBIN: Well, the primary one that comes
12 to mind is the matter, if you would, is the nail gun
13 document that we asked for individually if you could
14 provide us some feedback.

15 But that's in January. I don't think that we
16 have time sufficient to schedule a meeting for that.

17 (Discussion was held off the record.)

18 MR. HARBIN: But other dates, no other dates
19 really come to mind that are --

20 MR. BARE: I2P2 is an item that I think -- I
21 don't think that's really pressing.

22 MS. BILHORN: Yeah.

1 MR. BARE: It comes to mind that I don't
2 think it's really pressing. It's not --

3 MS. BILHORN: Yeah --

4 (Discussion was held off the record.)

5 (Simultaneous conversation.)

6 MS. BILHORN: If the draft language comes out
7 with the SBREFA, then we need to digest that a little
8 bit, before, yeah.

9 So we can continue with that regardless, so.

10 MR. BARE: All right --

11 (Simultaneous conversation.)

12 CHAIRMAN MIGLIACCO: The 28th of March is the
13 last week of March, the travel day would the 28th,
14 Monday. Meeting would be the 29th, and 30th for Work
15 Groups. March 31st and April 1st for the Full
16 Committee.

17 MR. GILLEN: That's fine.

18 CHAIRMAN MIGLIACCO: Okay. Everybody mark
19 that on your calendars.

20 MS. BILHORN: I would --

21 (Simultaneous conversation.)

22 CHAIRMAN MIGLIACCO: Now at this time, we're

1 only going to do this one meeting. We're not going to
2 schedule any of the other ones.

3 And the reason I say that is there's going to
4 be new members coming aboard, and we have to take into
5 consideration what they're travel schedules and their
6 work schedules are also.

7 So this one here we can schedule.

8 Now if everybody's in agreement with that, if
9 you think I'm overstepping my boundaries, let me know.

10 (Discussion was held off the record.)

11 CHAIRMAN MIGLIACCO: The 28th, the week of
12 the 28th.

13 MS. BILHORN: I have a very likely conflict
14 that week. That's our business reviews for that whole
15 week, and I can't pin it down until the executives
16 figure that out.

17 So the week of the 14th is fine with me.

18 CHAIRMAN MIGLIACCO: They can't do it on the
19 14th. It has to be either that week in March or it
20 would have to move to April.

21 MS. SHORTALL: It might be helpful, in case
22 of other conflicts for at least there to be a sense of

1 what weeks in late March and April people would be
2 available, now, that they know of.

3 So that we've gathered that information.

4 MR. SHANAHAN: You know, what was helpful in
5 the past is Mike had sent out a calendar and we all
6 entered it in, and --

7 CHAIRMAN MIGLIACCO: We could do that.

8 MS. BILHORN: Yeah. That did help. That did
9 help, because then you could figure out --

10 (Discussion was held off the record.)

11 CHAIRMAN MIGLIACCO: Hold on. Eric?

12 MR. HARBIN: If the Chairman would consider
13 it, I'd suggest that we also try to schedule a second
14 meeting, just in the event we might --

15 (Simultaneous conversation.)

16 MR. HARBIN: Because the reality is that,
17 going forward in the summer many people's weeks fill up
18 very rapidly.

19 But we'll send a calendar out, no problem.

20 CHAIRMAN MIGLIACCO: Okay. And send a
21 calendar out for two meetings, one in available dates
22 in March, I guess, or April. And let's try June.

1 Eric -- to send a calendar out to all the
2 members on the Committee, and we'll just get dates of
3 availability.

4 Okay. But we don't want to go too much
5 further, like I said, we'll have too many people.

6 MS. ARIOTO: When you said that was on the
7 14th, though, is that in Vegas?

8 MR. HARBIN: No, the agency is the 21st.

9 MS. ARIOTO: On the 21st.

10 CHAIRMAN MIGLIACCO: The 14th they said was -
11 - when you get the calendar, depending on what date
12 you're available, if we have a majority of people
13 available, we'll do it.

14 We'll have to do it that way.

15 SPEAKER: Yep.

16 CHAIRMAN MIGLIACCO: I just didn't want to go
17 too far in advance, because you're going to have new
18 people coming on, and they're not -- they got to have a
19 say on when they should be here.

20 All right, we'll do that.

21 By the next meeting, you feel as though the
22 new appointments will be January the -- what's to shoot

1 for?

2 SPEAKER: Soon.

3 CHAIRMAN MIGLIACCO: Soon.

4 (Laughter.)

5 CHAIRMAN MIGLIACCO: Soon, sooner, or
6 yesterday?

7 SPEAKER: Sooner.

8 CHAIRMAN MIGLIACCO: Soon, sooner, or
9 yesterday?

10 (Laughter.)

11 CHAIRMAN MIGLIACCO: All right. And I guess
12 that's where we're at right now, then.

13 MS. BILHORN: Okay. I got one more.

14 There was a picture taken with all of us.

15 CHAIRMAN MIGLIACCO: Yeah?

16 MS. BILHORN: When Dr. Michaels first came
17 in.

18 CHAIRMAN MIGLIACCO: Okay.

19 MS. BILHORN: But I don't recall us ever
20 getting it, a copy.

21 SPEAKER: Or seeing it.

22 MS. BILHORN: Or seeing the copy.

1 CHAIRMAN MIGLIACCO: They don't want you to
2 see it. They just want to take you picture (laughing).

3 MS. BILHORN: To take a picture of it. Well,
4 you know, I didn't see it posted on Facebook. But no,
5 there was a picture taken, when it was literally the
6 first day of his appointment.

7 Right?

8 SPEAKER: Right, it was.

9 MS. BILHORN: And we all met with him, and
10 there was a great picture taken.

11 MR. BARE: Yeah.

12 MS. BILHORN: Maybe that would be a good
13 thing to send to the members when you confirm or deny
14 them.

15 CHAIRMAN MIGLIACCO: Yeah, we used to get
16 them, that's right.

17 (Simultaneous conversation.)

18 CHAIRMAN MIGLIACCO: All right. Anything
19 else for today?

20 Like I said, tomorrow we're going to move
21 everybody up, and better not work on that right now.
22 But we'll still start at 8:00 in the morning. We only

1 have one Work Group.

2 And the Work Group that we have tomorrow is
3 Educational Training OTI. Who's going to speak for
4 that?

5 MR. SHANAHAN: Me.

6 CHAIRMAN MIGLIACCO: You are? You'll be
7 ready?

8 MR. SHANAHAN: Yes.

9 CHAIRMAN MIGLIACCO: All right. We'll do
10 that first thing in the morning after I open it up.

11 All right.

12 (Whereupon, at 3:40 p.m. the meeting
13 adjourned to be resumed the next day.)

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