

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

ADVISORY COMMITTEE ON
CONSTRUCTION SAFETY AND HEALTH (ACCSH)

Friday, May 24, 2013

Frances Perkins Building
200 Constitution Avenue, N.W.
Washington, D.C.

COMMITTEE MEMBERS PRESENT:

EMPLOYEE REPRESENTATIVES:

Erich J. (Pete) Stafford, Chairman
Director of Safety and Health, Building and
Construction
Trades Department, AFL-CIO

Roger Erickson
International Brotherhood of Boilermakers, Iron
Ship Builders, Blacksmiths, Forgers & Helpers
AFL-CIO, MOST Administrator

EMPLOYER REPRESENTATIVES:

Kristi Barber (telephonic)
President, Glenn C. Barber & Associates

Kevin R. Cannon
Director of Safety and Health Services, Associated
General Contractors of America

Thomas Marrero, Jr.
National Safety Director, Tradesman International

Donald L. Pratt
President and CEO, Construction Education and
Consultation Services of Michigan

Jerry Rivera
National Director of Safety, National Electrical
Contractors Association

STATE REPRESENTATIVES:

Charles Stribling
OSH Federal-State Coordinator, Kentucky Labor Cabinet,
Department of Workplace Standards

Steven D. Hawkins (telephonic)
Administrator, Tennessee Occupational Safety and
Health Administration

COMMITTEE MEMBERS PRESENT: [Continued]

PUBLIC REPRESENTATIVES:

Letitia K. Davis (telephonic)
Director, Occupational Health Surveillance Program,
Massachusetts Department of Public Health

Jeremy Bethancourt (telephonic)
Co-Owner and Program Director, Arizona Construction
Training Alliance

FEDERAL REPRESENTATIVES:

Matt Gillen
Deputy Director, Office of Construction Safety
& Health, CDC/NIOSH, Office of the Director

DESIGNATED FEDERAL OFFICIALS:

Dean McKenzie (Alternative)
Office of Construction Services, Directorate of
Construction

COMMITTEE CONTACTS:

Damon Bonneau, ACCSH Coordinator, Office of
Construction
Services, Directorate of Construction

COMMITTEE COUNSEL:

Sarah Shortall
ACCSH Counsel, Office of the Solicitor, DOL

OSHA:

Louise Betz
Paul Bolon
Garvin Branch
Teresa Butler
Tiffany DeFoe
Lolita Oliver
Hank Payne
Vernon Preston
Maureen Ruskin
Blake Skogland
David Valiante

ALSO PRESENT:

Graham Brent, National Commission for Certification
of Crane Operators

Lance Burney, Sigalarm

Chris Cole, Inside OSHA

Tim Couples, Federal Highway Administration

Rich Gottwald, International Sign Association

Dan Glucksman, International Safety Equipment
Association

LaTonya James-Rouse, Esq., American Staffing
Association

George Kennedy, NUCA

Lisa London, University of Texas, Arlington

Kate Lynn, OSHA, Office of State Plans

John Masarick, Independent Electric Contractors

ALSO PRESENT: [continued]

Mike McCauley, Sheet Metal and Air Conditioning
Contractors Association

Lana Nieves, Office of Health Enforcement

Beth O'Quinn, Specialized Carriers and Rigging Assoc.

Travis Parsons, Laborers Health and Safety Fund of N.A.

Andrea Paulyette, Army Corps of Engineers

Richard Rye, Army Corps of Engineers

Jim Tigon, Aginomics

Stephen Todd, Specialized Carriers and Rigging Assoc.

Jim Tomaseski, International Brotherhood of Electrical
Workers

Francisco Trujillo, Miller & Long Concrete

Bruce Watson, Occupational Safety and Health Reporter

Rod Weber, PENTA Building Group

Chris Williams, Associated Builders and Contractors

Lauren Williams, Associated Builders and Contractors

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

2 (10:02 a.m.)

3 OPENING REMARKS/AGENDA OVERVIEW

4 CHAIRMAN STAFFORD: I believe that we have a
5 quorum so we will go ahead and call the meeting to
6 order.

7 My name is Pete Stafford. I'm a labor
8 representative and Chair of ACCSH. Welcome to this
9 morning's meeting.

10 Right out of the gate, I was reminded
11 yesterday we had over 100 people in the room. We had a
12 big turn out for our discussions. At the end of the
13 day, we had only about 15 folks sign up. We are going
14 to be sure we have the sign-in sheet go by. It's
15 important, of course, as a public meeting, those folks
16 are here and sign the sign-in sheet. We appreciate
17 that.

18 Also, at the end of this meeting, like most of
19 our meetings, we will have an opportunity for public
20 comment. If anyone wants to make comments to the
21 Committee, we will carve out some time at the end,
22 depending on how our agenda goes to do so. There is

1 also a sign-in sheet in the back if you would like to
2 make public comment. I appreciate it.

3 Let's get started by introductions. Starting
4 on my right?

5 MR. McKENZIE: Dean McKenzie, designated
6 Federal official for today.

7 MR. STRIBLING: Good morning. Chuck Stribling
8 for Kentucky Labor Cabinet representing state plan
9 programs.

10 MR. CANNON: Kevin Cannon, The Associated
11 General Contractors, employer rep.

12 MR. GILLEN: Matt Gillen, NIOSH, Office of
13 Construction Safety and Health, NIOSH rep.

14 MR. RIVERA: Jerry Rivera, NECA.

15 MR. MARRERO: Tom Marrero with Tradesmen
16 International, employer rep.

17 MR. ERICKSON: Roger Erickson, MOST Programs,
18 International Brotherhood of Boilermakers, employee
19 rep.

20 MR. PRATT: Don Pratt, employer rep.

21 MS. SHORTALL: Sarah Shortall, ACCSH counsel.

22 CHAIRMAN STAFFORD: Let's go to the back. Why

1 don't we start with you, Paul, and work our way around
2 the room.

3 MR. BOLON: Paul Bolon, I'm in the Standards
4 Office in the Directorate of Construction, OSHA.

5 CHAIRMAN STAFFORD: Why don't we stop right
6 there for one sec. I forgot the people on the phone.
7 Will the ACCSH members on the phone introduce
8 yourselves, please?

9 MR. HAWKINS: Mr. Chairman, this is Steve
10 Hawkins with Tennessee OSHA, public safety agency
11 representative.

12 MR. BETHANCOURT: Mr. Chairman, Jeremy
13 Bethancourt, public representative.

14 MS. BARBER: Good morning. This is Kristi
15 Barber, employer representative.

16 CHAIRMAN STAFFORD: Tish, are you there? Tish
17 must not be on yet. Let's go back around.

18 MR. COLE: Chris Cole, Inside OSHA.

19 MR. PARSONS: Travis Parsons with Laborers
20 Health and Safety Fund of North America.

21 MR. BONNEAU: Damon Bonneau, ACCSH
22 Coordinator, Office of Construction Services,

1 Directorate of Construction.

2 MR. COUPLES: Tim Couples, Federal Highway
3 Administration.

4 MR. BRENT: Graham Brent, National Commission
5 for Certification of Crane Operators.

6 MR. GOTTWALD: Rich Gottwald, International
7 Sign Association.

8 MS. O'QUINN: Beth O'Quinn, Specialized
9 Carriers and Rigging Association.

10 MR. TODD: Stephen Todd, also Specialized
11 Carriers and Rigging Association.

12 MR. WEBER: Rod Weber, PENTA Building Group,
13 Las Vegas, Nevada.

14 MR. TIGON: Jim Tigon, Aginomics.

15 MR. GLUCKSMAN: Dan Glucksman, International
16 Safety Equipment Association.

17 MS. LYNN: Kate Lynn, OSHA.

18 MS. NIEVES: Lana Nieves, OSHA.

19 MS. LONDON: Lisa London with University of
20 Texas at Arlington and the OSHA Training Institute
21 Education Centers.

22 MR. BRANCH: Garvin Branch, Directorate of

1 Construction.

2 MS. BUTLER: Teresa Butler, OSHA.

3 MR. BURNEY: Lance Burney, Sigalarm.

4 MR. WILLIAMS: Chris Williams, Associated
5 Builders and Contractors.

6 MR. MASARICK: John Masarick, Independent
7 Electrical Contractors.

8 MR. McCAULEY: Mike McCauley, Sheet Metal and
9 Air Conditioning Contractors Association.

10 MR. KENNEDY: George Kennedy, NUCA.

11 MS. WILLIAMS: Lauren Williams, Associated
12 Builders and Contractors.

13 MS. PAULYETTE: Andrea Paulyette, U.S. Army
14 Corps of Engineers.

15 MR. RYE: Richard Rye, U.S. Army Corps of
16 Engineers.

17 MR. WATSON: Bruce Watson, Bloomberg,
18 Occupational Safety and Health Reporter.

19 MS. OLIVER: Lolita Oliver, OSHA.

20 CHAIRMAN STAFFORD: That is Damon carrying the
21 microphone around.

22 MS. DAVIS: Tish Davis, I'm a public

1 representative and I work with the Massachusetts
2 Department of Public Health.

3 CHAIRMAN STAFFORD: Thank you. Dean, any
4 announcements?

5 MR. McKENZIE: Nothing right off.

6 CHAIRMAN STAFFORD: Ms. Sarah?

7 MS. SHORTALL: No.

8 CHAIRMAN STAFFORD: The first thing on the
9 agenda this morning is to start talking about the OSHA
10 outreach training program. Before we do that, we have
11 a couple of items of business that the Committee needs
12 to take action on based on our discussion yesterday,
13 and for many of us, it was a very interesting
14 discussion that we had, and I was struck by the
15 comments about OSHA's plan to push the crane and
16 derrick training certification back for three years.

17 I think we have talked amongst some of our
18 Committee members and with the folks with OSHA. We
19 heard those comments. For the Committee, I would like
20 to offer up a motion to be considered, and we can have
21 a discussion about that and hopefully move this
22 forward.

1 Actually, there are going to be two
2 recommendations with respect to the crane standard, one
3 on the training certification issue and the other on
4 the crane amendments that we discussed.

5 With that said, I am going to go ahead and
6 read this motion and we will throw it up for discussion
7 and debate and we will vote on it.

8 M O T I O N

9 CHAIRMAN STAFFORD: I move ACCSH recommend to
10 OSHA that the crane operator certification requirement
11 due to take effect December 10, 2014, be suspended
12 until such time as OSHA reopens the rule to clarify
13 third party certification and employer training and
14 qualification requirements while keeping employer
15 duties to ensure operator qualifications.

16 I think what that does is we hope that OSHA
17 will move on the rulemaking process, open this up
18 quickly, and get it done, and there is no point if they
19 do that to arbitrarily say that we are going to put
20 this off for another three years. I hope this motion
21 will change OSHA's thinking in terms of the three year
22 requirement, and hopefully, we can start moving on

1 this.

2 I would like to open it up for discussion.

3 MR. BETHANCOURT: Mr. Chairman, do you need a
4 second on that?

5 CHAIRMAN STAFFORD: I do.

6 MR. BETHANCOURT: This is Jeremy. I will
7 second that motion.

8 CHAIRMAN STAFFORD: Okay. Don?

9 MR. PRATT: I was going to second the motion.

10 Also, I just want to comment that our members really
11 need a decision on this quickly. The guys out in the
12 field really don't know what they are doing at this
13 point, and whether it is going to be training or
14 certification or both. We really need some guidance.
15 We are going to urge OSHA to act quickly on this.
16 Thank you.

17 CHAIRMAN STAFFORD: Okay.

18 MR. BETHANCOURT: Mr. Chairman, this is Jeremy.

19 I agree with Don. To be clear, I think folks know
20 what they are doing, they just don't know what
21 direction they need to go in as far as making sure they
22 are not only compliant with best practices but we have

1 a statutory obligation, so I think folks in my area and
2 the folks that have crane companies that I interact
3 with and speak to, they are concerned because they want
4 to ensure that they are not only providing best
5 practices, but they are also doing what they need to
6 under their legal obligations.

7 I agree with Don and everyone that this is
8 something that really should not be put off if at all
9 possible, and they should work on it immediately.
10 That's what I have to say.

11 CHAIRMAN STAFFORD: Okay. I appreciate that,
12 Jeremy. I think we all feel the same. Roger?

13 MR. ERICKSON: Yes, I just want to
14 speak -- Roger Erickson, employee representative. I
15 wanted to speak in favor of the motion. I know it was
16 brought up yesterday regarding a lot of trust funds
17 that are training their people through joint
18 labor/management funding and everything.

19 We need to make a commitment to those funds
20 and get some type of determination as soon as possible.
21 Thank you.

22 CHAIRMAN STAFFORD: Thank you, Roger. Jerry?

1 MR. RIVERA: Mr. Chairman, I vote in support
2 of the motion to extend it, I do want to make sure the
3 Agency considers in the rulemaking process, if there is
4 any significant financial impact, whether we include or
5 address the type and capacity issue, that be considered
6 as far as a SBREFA Panel.

7 I know that's beyond the scope. Like I said,
8 I support the motion to extend it, but let's keep that
9 in mind, besides expediting the process of the
10 rulemaking, we need to consider the impact it will have
11 on small businesses as well.

12 CHAIRMAN STAFFORD: Thank you, Jerry. Kevin?

13 MR. CANNON: I was just going to pretty much
14 echo what everyone else said, although not ideal. I
15 think it eliminates the concern of most, that they have
16 invested in training and certification only to find out
17 that upon whatever effective date, they would be
18 non-compliant.

19 Also, as Jerry said, if there is any change
20 that impacts on small employers, that should be
21 considered.

22 CHAIRMAN STAFFORD: Thank you.

1 MS. SHORTALL: I hate to bring up a point of
2 clarification here, but the motion technically says you
3 only want to have the time for meeting the training
4 requirements suspended until OSHA opens the record. I
5 don't think that is what you intend. I think you
6 intend that you want it suspended until after OSHA
7 completes that rulemaking.

8 CHAIRMAN STAFFORD: The motion is to open the
9 rule to clarify, which I guess was the intent, that it
10 completes the rulemaking, but if you want to --

11 MS. SHORTALL: I think you would add "complete
12 the rulemaking" somewhere in there.

13 CHAIRMAN STAFFORD: Gee, Sarah, now I have to
14 rewrite this for a second. Hold on.

15 [Pause.]

16 MR. RIVERA: Mr. Chairman, could you read that
17 motion one more time?

18 CHAIRMAN STAFFORD: The one I initially
19 proposed?

20 MR. RIVERA: Yes.

21 CHAIRMAN STAFFORD: I move that ACCSH
22 recommend to OSHA that the crane operator certification

1 requirement due to take effect November 10, 2014 be
2 suspended until such time as OSHA reopens the rule to
3 clarify third party certification and employer training
4 and qualification requirements, while keeping employer
5 duties to ensure operator qualifications. That is the
6 initial motion.

7 MR. MCKENZIE: Why don't you say "reopens and
8 amends?"

9 MS. SHORTALL: I think you could say "until
10 such time that OSHA completes its rulemaking on
11 operator certification, including opening the record to
12 clarify," and then finish with the rest that you have.

13 CHAIRMAN STAFFORD: All right. I'm not the
14 sharpest tool in the shed.

15 MS. SHORTALL: Pete Stafford moves that ACCSH
16 recommend to OSHA that the crane operator certification
17 requirement due to take effect 11/10/14 be suspended to
18 such time that OSHA completes its rulemaking on
19 operator certification, including opening the record to
20 clarify third party certification and employer training
21 and qualification requirements, while keeping employer
22 duties to ensure operator qualifications.

1 CHAIRMAN STAFFORD: Sounds like a lawyer to
2 me. I think that captures it.

3 MS. DAVIS: Pete, this is Tish. Do you want
4 to have something in the motion about timeliness?
5 That's what I'm hearing from the discussion, we are
6 urging them to proceed quickly. Should that be in the
7 motion itself or is it fine just to be in the record?

8 CHAIRMAN STAFFORD: I don't know what to say
9 with respect to timing. We want them to do it quickly.
10 I don't know how we could say a particular time. I'm
11 looking at the OSHA folks.

12 MS. DAVIS: I'm not saying a particular time,
13 just the notion that they proceed in a timely fashion.

14 MR. RIVERA: Mr. Chairman, I think what is
15 missing is maybe we should add that in the interim, the
16 employer will follow the phase in criteria that was
17 highlighted initially. That gives some direction as
18 far as to what the employer should do in the meantime,
19 which is to train, qualify independently.

20 MR. MCKENZIE: You're talking about the
21 existing 1427(k) requirements?

22 MR. RIVERA: Yes.

1 MR. BETHANCOURT: Mr. Chairman, I apologize.
2 I'm having trouble hearing some of the folks.

3 CHAIRMAN STAFFORD: Okay. We'll make sure to
4 be closer to the microphone, Jeremy. That was my
5 intent, "while keeping employer duties to ensure
6 operator qualifications." I think we are all saying
7 the same thing, let's just get the language straight
8 and move on.

9 MS. SHORTALL: I think it would be enough to
10 say "while keeping in place current employer duties."

11 CHAIRMAN STAFFORD: Is that satisfactory as
12 far as timing?

13 MR. RIVERA: To a certain degree, it might not
14 be a given. I just mention that aspect. Employer
15 groups, when they read that language, it's kind of
16 confusing. That is just my thought on it.

17 CHAIRMAN STAFFORD: Chuck?

18 MR. STRIBLING: Chuck Stribling. We already
19 have a motion and a second. I'm presuming that needs
20 to be undone and this amended motion entered in the
21 record.

22 MS. SHORTALL: If both the person making the

1 motion and the person who seconded it accepts it as a
2 friendly amendment, there is no need to withdraw and
3 re-propose or remove.

4 MR. STRIBLING: From a regulatory standpoint,
5 you have 27 states out there and territories that
6 already have a rule on the books. I'm kind of confused
7 what this recommendation is essentially saying to the
8 Agency, how they will proceed. This could take -- I
9 don't see it getting done any quicker than five years.
10 You have to go through rulemaking and SBREFA, and I
11 think that's optimistic.

12 Now we have 27 states and territories with the
13 regulation on the books. You have some municipalities
14 with the regulation on the books. I'm not saying they
15 will or won't go with any type of amendment that comes
16 out the door, and I don't know there is a good answer
17 to this.

18 I just don't know. If this is the best
19 solution for now, it's the best solution, and each
20 state is going to have to review what it is going to
21 do. It doesn't necessarily -- I don't see this being a
22 mandatory thing for the states because so many

1 employers have gone forward and got certification, and
2 to go back now and tell those employers oops, never
3 mind for now, we're going to extend this out sort of
4 indefinitely, because we don't know when it would
5 be -- it's going to put at least my state in a little
6 bit of a peculiar situation.

7 Steve, if you're on the line?

8 CHAIRMAN STAFFORD: Steve, do you have any
9 comment about that? Chuck's comments?

10 MR. HAWKINS: It is going to be a concern for
11 the other 27 states. They will all have to take some
12 kind of legislative action to suspend that. Every six
13 months, we adopt the Federal standard as written. As
14 long as a rule comes out, as long as the standard comes
15 out, we will adopt that, most likely we will adopt that
16 automatically.

17 There are 26 other entities that potentially
18 may stay with the November 2014 date. That's just one
19 of the issues to deal with. I think likely we would
20 adopt the change.

21 CHAIRMAN STAFFORD: I appreciate that. Paul,
22 can you speak at all with respect to timing and what

1 OSHA is thinking about?

2 MR. BOLON: We are thinking about issuing a
3 proposal as soon as we can. I don't think it is a five
4 year thing. If we happen to follow the path that ACCSH
5 is recommending, the analysis will be pretty
6 straightforward and simple. There is obviously no new
7 burden.

8 I can't predict the timing of the whole
9 clearance process, but just in terms of writing it, we
10 have already drafted something and not exactly this. I
11 don't see this five years. It can't take five years
12 because we are going to start the other rulemaking on
13 qualification. We have already started that, the
14 development of that also.

15 MS. SHORTALL: Can I ask a question of Mr.
16 Bolon? Has there been a determination whether this
17 additional rulemaking would require an additional
18 SBREFA process? I hear you saying there is no new
19 additional burden.

20 Are you saying that means there is no
21 additional significant financial impact on small
22 businesses?

1 MR. BOLON: When we were considering what we
2 presented to ACCSH before, just moving the date by
3 three years, there was a little bit of economic work to
4 do. There was not going to be much impact, but it was
5 not cleanly no cost.

6 This one is much cleaner and the analysis
7 would really be pretty simple and straightforward.

8 MS. SHORTALL: Does that indicate there most
9 likely would not be a SBREFA panel?

10 MR. BOLON: Just off the top of my head, the
11 impacts are cost savings. It's certainly not a new
12 cost. I'm a little uncertain about SBREFA. Usually,
13 you are bringing in employers to introduce the concepts
14 if they are going to be costly. I would think not, but
15 don't hold me to it.

16 CHAIRMAN STAFFORD: Chuck, please.

17 MR. STRIBLING: If I understand you right, you
18 believe the Agency would have a proposal out the door
19 quickly?

20 MR. BOLON: We will have it out of our
21 Directorate. It goes to the Assistant Secretary, it
22 goes to the Department, theoretically, goes to OMB. We

1 can only do our part and get the package ready and then
2 it goes to the clearance process, which can be short or
3 lengthy, and that is beyond my control.

4 MR. STRIBLING: When you say "proposal," do
5 you mean proposed rule or final rule or direct final
6 rule?

7 MR. BOLON: I mean proposed. Direct final
8 rules, as Sarah can tell us, work when they are fairly
9 non-controversial. I don't think this is. If you give
10 us an adverse comment, then you have to withdraw it and
11 do a proposal. We're thinking proposal.

12 MR. STRIBLING: I think it will be a matter of
13 time because after a proposed rule, there will be
14 comment, and then there will be a final rule. Although
15 OSHA's proposal was to extend it for three years, I
16 think this will be at least the same time frame if not
17 longer. It might lead to a better resolution instead
18 of just an extension. This may sort of get that going
19 a little bit quicker.

20 CHAIRMAN STAFFORD: This seems to me in some
21 ways it's dealing with the problem as opposed to
22 putting it off for another three years.

1 I have forgot what the original motion was
2 now. I will have to go back and look. Is there any
3 more discussion?

4 [No response.]

5 CHAIRMAN STAFFORD: Sarah, would you read the
6 motion one more time?

7 MS. SHORTALL: Sure. Mr. Stafford moves that
8 ACCSH recommend to OSHA that the crane operator
9 certification requirement due to take effect on
10 11/10/14 be suspended to such time that OSHA completes
11 its rulemaking on operator certification, including
12 opening the record, clarifying third party
13 certification and employer training qualification,
14 while keeping in place current employer duties to
15 ensure operator qualifications.

16 CHAIRMAN STAFFORD: Everyone is comfortable
17 with the intent of that or no?

18 MR. RIVERA: Phasing criteria maybe towards
19 the end of that? Again, I just want to pinpoint
20 somewhere, okay, what does that mean, oh, I know what
21 it means now. I understand the point, it's implied,
22 but --

1 MS. SHORTALL: I'm not certain I understand
2 what you are saying, Mr. Rivera.

3 MR. McKENZIE: Our proposed rule to make
4 whatever modification, be it an extension for a finite
5 amount of time or suspension of the effective date,
6 will include the employer requirement to maintain the
7 operator's qualification with 1427(k), and part of the
8 removal of the effective date of 2014 for operator
9 certification will be an extension of the phase-in
10 date. That will be covered in the proposed rule,
11 whatever version exactly we choose to go out with.

12 CHAIRMAN STAFFORD: Jerry, if we add the
13 sentence of what you proposed earlier, in the interim,
14 employers are still required to continue to ensure that
15 operators can safely operate equipment following the
16 existing phase-in criteria.

17 MR. RIVERA: Does the phase-in criteria
18 capture what you just mentioned?

19 MR. McKENZIE: Yes.

20 MR. RIVERA: Yes, they must follow the
21 phase-in criteria. It points them back to some
22 direction of what they need to do.

1 MR. McKENZIE: The existing phase-in
2 requirement.

3 MR. CANNON: Pretty much what you said without
4 specifying specifically paragraph (k).

5 CHAIRMAN STAFFORD: Mercy. Sarah, I want you
6 to read it again and I think we will just add this
7 sentence here.

8 MS. SHORTALL: Mr. Stafford moves that ACCSH
9 recommend to OSHA that the crane operator certification
10 requirements due to take effect on 11/10/14 be
11 suspended to such time that OSHA completes its
12 rulemaking on operator certification, including opening
13 the record, clarifying third party certification,
14 employer training and qualification, while keeping in
15 place current employer duties to ensure operator
16 qualifications.

17 In the interim, employers are required to
18 ensure that operators continue to ensure that operators
19 can safely operate equipment following the existing
20 phase-in criteria.

21 I'm reading verbatim.

22 In the interim, employers are still required

1 to follow the existing phase-in criteria.

2 MR. RIVERA: There you go.

3 CHAIRMAN STAFFORD: Thanks. Matt?

4 MR. GILLEN: Whatever decision OSHA makes with
5 ACCSH input, they will announce it somehow, and the
6 announcement can also have additional information about
7 the phase-in; right?

8 They are less likely to see this motion, but
9 the point is when OSHA communicates this, they include
10 that information.

11 CHAIRMAN STAFFORD: Sarah, just for
12 clarification, because it is obviously very important,
13 I'd like for you to read that one more time, and
14 hopefully we are to the point where we can take a vote.

15 MS. SHORTALL: I have to make one
16 clarification. The final sentence sounds like right
17 now you are dictating to OSHA what they have to do. I
18 need to put it into the motion.

19 M O T I O N [revised]

20 MS. SHORTALL: Mr. Stafford moves that ACCSH
21 recommend to OSHA that the crane operator certification
22 requirements due to take effect on 11/10/14 be

1 suspended to such time that OSHA completes its
2 rulemaking on operator certification, including opening
3 the record, and clarifying third party certification,
4 employer training and qualification, while keeping in
5 place current employer duties to ensure operator
6 qualifications.

7 I further move that ACCSH recommend OSHA
8 require employers to follow the existing phase-in
9 criteria in the interim.

10 CHAIRMAN STAFFORD: Any more discussion?

11 [No response.]

12 CHAIRMAN STAFFORD: The motion has been made
13 and seconded. All in favor, signify by saying aye.

14 [Chorus of ayes.]

15 CHAIRMAN STAFFORD: Opposed?

16 MR. BETHANCOURT: This is Jeremy, aye.

17 MS. DAVIS: Tish, aye.

18 MS. BARBER: Kristi, aye.

19 MR. HAWKINS: Steve Hawkins, aye.

20 CHAIRMAN STAFFORD: Any opposed?

21 [No response.]

22 CHAIRMAN STAFFORD: Okay. Thank you, Sarah.

1 The second motion I would like to consider is on the
2 crane issue, but this is on the amendments. I think we
3 heard a pretty compelling -- I'm not going to say
4 argument but a pretty compelling situation from Mr.
5 Burney and Mr. Sapper with respect to proximity alarms
6 and insulating links.

7 I think I am going to offer up a motion again
8 for discussion based on that. I think the Committee
9 has heard it. I, certainly, as Chair have heard it,
10 and I know in talking to some of the OSHA staff, they
11 heard those remarks. I think those will certainly be
12 considered.

13 M O T I O N

14 CHAIRMAN STAFFORD: I move that the Agency
15 proceed with the amendment to the crane standard on
16 NRTL approved equipment, but consider the remarks in
17 this meeting with respect to proximity alarms and
18 insulating links.

19 MS. BARBER: Mr. Chairman, could you please
20 repeat that one more time?

21 CHAIRMAN STAFFORD: Sure, Kristi. I move that
22 the Agency proceed with the amendment to the crane

1 standard on NRTL approved equipment, but consider the
2 remarks at this meeting with respect to proximity
3 alarms and insulating links.

4 It could be stronger, of course, but I think
5 the point is we heard what was happening and the
6 proximity equipment/devices that Mr. Burney described.

7 I don't think the intent is not to see those as an
8 option. They are out there and they apparently work
9 and that would be counter to what our goals are here.

10 I would welcome if anyone wants to wordsmith,
11 to make it stronger. I just wanted to get this on the
12 record that we heard this, and the Agency has heard
13 this, and it's going to be considered.

14 MR. CANNON: Kevin Cannon. Agency employer
15 rep.

16 MR. PRATT: This is Don Pratt. I second the
17 motion.

18 MR. CANNON: Sorry.

19 MR. PRATT: You're out of order.

20 MR. CANNON: Yes, I am.

21 CHAIRMAN STAFFORD: Go ahead, Kevin.

22 MR. CANNON: Instead of just saying

1 "consider," the position statements that were made
2 yesterday, can we insert "consider alternatives to NRTL
3 based on the comments made yesterday?"

4 MR. RIVERA: Jerry Rivera, NECA, employer rep.
5 The way it is worded right now, it doesn't allow any
6 direction. I think that captures it, "alternatives."

7 MR. CANNON: To the NRTL requirements based
8 on.

9 CHAIRMAN STAFFORD: Chuck?

10 MR. STRIBLING: I was kind of hoping it
11 wouldn't get a second so we could work it out a little
12 bit before it did. I agree with the intent and I agree
13 with what's being said. I don't like the word
14 "consider." I think a stronger word would be better.
15 I don't know what that word is.

16 CHAIRMAN STAFFORD: Just like the one before,
17 I think this is important and let's come together on
18 what we think the right language should be. Sarah has
19 my cheat sheet so I can't look at it. Do one of you
20 want to take a crack at coming up with something?

21 MS. SHORTALL: Mr. Stribling, you could ask
22 that OSHA incorporate into their rulemaking record the

1 proceedings from this meeting, which would get all of
2 the discussion in the transcript. I don't know if that
3 is where you are going.

4 The most important thing that you are doing is
5 giving ACCSH's recommendation and not other people's
6 recommendations. Are you trying to pick a side or pick
7 a position from those comments?

8 MR. STRIBLING: No, not particularly. I would
9 just like to see that the technologies that are out
10 there that we heard about are addressed in the rule and
11 those options are there for employers and for employee
12 protection.

13 MR. CANNON: Maybe instead of "consider,"
14 "allow?"

15 SPEAKER: "Acknowledge?"

16 MS. SHORTALL: I think what Mr. Stribling
17 wants to do is make sure the discussion of the
18 different technologies that are available make it into
19 that rulemaking record. Is that what you are trying to
20 say?

21 If you were to say simply that you request
22 OSHA incorporate into that rulemaking the record from

1 this meeting, everything that was said, all the
2 material that has come in about those issues, including
3 the additional material the commentors submitted for
4 the record, would be part of that record, so there
5 would be some assurance OSHA consider that as well as
6 its own record in reaching a determination.

7 MR. PRATT: Mr. Chairman, what if we just said
8 we encourage OSHA to consider and then what Sarah just
9 said, so that everything that was discussed yesterday
10 would be incorporated in their consideration?

11 MS. SHORTALL: If you incorporate this record
12 into that, it is a duty for OSHA in that rulemaking to
13 consider it. They must base their final determination
14 on the entirety of the rulemaking record, and that
15 rulemaking record would then include the proceedings
16 from this meeting.

17 MR. PRATT: That's what I was trying to
18 accomplish.

19 CHAIRMAN STAFFORD: Go ahead, Chuck.

20 MR. STRIBLING: Mr. Chair, would you be
21 acceptable to changing the word "consider" to
22 "incorporate?"

1 CHAIRMAN STAFFORD: Incorporating the remarks
2 from this meeting?

3 MS. SHORTALL: I would say incorporate into
4 that rulemaking docket the record from this meeting.

5 CHAIRMAN STAFFORD: Does that sound fine to
6 everyone? We will have you read it one more time,
7 Sarah. I think that will hit it.

8 MS. SHORTALL: Pete Stafford moves that ACCSH
9 recommend that OSHA proceed with the amendment to the
10 crane standard on NRTL approved equipment and
11 incorporate into that rulemaking docket the record from
12 this meeting.

13 CHAIRMAN STAFFORD: Any other discussion?

14 [No response.]

15 CHAIRMAN STAFFORD: Sarah, since that has
16 changed, we have had a motion and a second --

17 MS. SHORTALL: If you accepted, we can move
18 forward.

19 CHAIRMAN STAFFORD: Okay. That's fine.

20 MS. SHORTALL: Do you want me to read it one
21 more time?

22 CHAIRMAN STAFFORD: Yes.

1 MS. SHORTALL: Pete Stafford moves that ACCSH
2 recommend that OSHA proceed with the amendment to the
3 crane standard on NRTL approved equipment and
4 incorporate into the rulemaking docket the record from
5 this meeting.

6 MS. DAVIS: You want the entire record from
7 the meeting or the relevant parts of the record of the
8 meeting?

9 MS. SHORTALL: It's not going to make any
10 difference.

11 CHAIRMAN STAFFORD: Okay. We have a motion
12 and a second. Any more discussion?

13 [No response.]

14 CHAIRMAN STAFFORD: All those in favor,
15 signify by saying aye.

16 [Chorus of ayes.]

17 CHAIRMAN STAFFORD: Those of you on the phone?

18 MR. BETHANCOURT: This is Jeremy, aye.

19 MS. DAVIS: Tish, aye.

20 MS. BARBER: Kristi, aye.

21 MR. HAWKINS: Steve Hawkins, aye.

22 CHAIRMAN STAFFORD: Any opposed?

1 [No response.]

2 CHAIRMAN STAFFORD: Okay. I'd like to offer
3 one more motion and this is finally off the crane issue
4 and moving to the SIP issue. We had the presentation
5 yesterday on one of OSHA's proposals on chest x-rays.
6 It was to be included in SIP IV.

7 While I understand the intent of it, it seems
8 to me there is a disconnect. I obviously don't want to
9 be hard on the Agency. We are here to support the
10 Agency.

11 The OSHA Act created both OSHA and NIOSH at
12 the same time, and for NIOSH to do the science to
13 inform regulation. The fact that OSHA is talking about
14 an issue like this and not talking to its sister agency
15 at NIOSH is a little bit bothersome, at least to me.
16 That was the intent of Congress when we created these
17 two organizations.

18 I think with that said, I'm offering the
19 following motion on that particular issue on the SIP
20 IV.

21 M O T I O N

22 CHAIRMAN STAFFORD: I move that OSHA consults

1 with NIOSH before ACCSH consider recommending to OSHA
2 that it remove requirements for chest x-rays in certain
3 health standards affecting construction workers and
4 permit digital storage of x-rays as part of SIP IV.

5 MR. STRIBLING: Second.

6 CHAIRMAN STAFFORD: Any discussion?

7 MR. BETHANCOURT: Mr. Chairman, this is
8 Jeremy. If I understand the motion correctly, what you
9 are asking is that before ACCSH actually gives a
10 recommendation to OSHA on this matter, that OSHA
11 consult with NIOSH and bring us back their --

12 CHAIRMAN STAFFORD: Yes. Any more discussion?

13 [No response.]

14 MS. SHORTALL: I apologize. I neglected to
15 say something at the beginning of the meeting. Mr.
16 Stafford, yesterday, we put a proxy into the record for
17 Mr. Walter Jones. Today, Ms. Shadrick and Ms. Coyne
18 have also given Mr. Stafford their proxies. However he
19 votes, their votes will be recorded accordingly.

20 CHAIRMAN STAFFORD: Thank you. No more
21 discussion?

22 [No response.]

1 CHAIRMAN STAFFORD: All those in favor,
2 signify by saying aye.

3 [Chorus of ayes.]

4 MS. DAVIS: This is Tish, aye.

5 MR. BETHANCOURT: This is Jeremy, aye.

6 MS. BARBER: This is Kristi, aye.

7 MR. HAWKINS: This is Steve Hawkins, aye.

8 CHAIRMAN STAFFORD: Any opposed?

9 [No response.]

10 CHAIRMAN STAFFORD: Okay. Thank you. Now we
11 can move on with our agenda for this morning. I am
12 going to rely heavily on my training work group
13 co-leads to talk about the next issue.

14 Before we get into that, any other business
15 that we need to clear up? Is everybody comfortable
16 with moving forward?

17 DISCUSSION OF THE TWO HOUR INTRODUCTION TO THE OSHA
18 10 HOUR AND 30 HOUR TRAINING COURSES

19 CHAIRMAN STAFFORD: Our training work group
20 has been working on that at the last meeting this
21 Committee made a recommendation to OSHA that OSHA do
22 away with the two hour time requirement for the intro

1 to OSHA for both the OSHA 10 and the OSHA 30.

2 I think for many of the stakeholders in the
3 industry, we view a time requirement on an introduction
4 to OSHA is in some ways not necessary, and a lot of us
5 feel instead of having to spend two hours on an intro
6 to OSHA, and as long as we recognize that is an
7 important training module for both the OSHA 10 and 30
8 and we keep the objectives so we cover all the
9 objectives of the intro to OSHA, if we can do that in
10 less than two hours, then our trainers can move on and
11 start training to the hazards they want to teach to
12 their workers.

13 That was the start of this conversation. I
14 believe there is a handout in the back and in your
15 packet for the ACCSH members, an one page that the
16 training work group put together. I would like to
17 refer to that document for the purposes of our
18 discussion.

19 I think Dr. Payne was at our last meeting, and
20 I think he heard us. I have since talked to DOC staff,
21 folks in Dr. Michaels' office as well. I think there
22 is overall reception and support of what we are trying

1 to do, again, as long as we keep the objectives in
2 place.

3 With that, Kevin or Roger, however you would
4 like to proceed with this discussion, I will turn it
5 over to you to kind of walk us through these objectives
6 and see if we can kind of move this forward.

7 MR. CANNON: As Pete mentioned or referenced
8 the document that was included in our packet, it
9 basically lays out a problem statement. I think Pete
10 covered the problem statement pretty well.

11 MS. DAVIS: Excuse me, I can't hear. Can you
12 speak into the microphone, please?

13 MR. CANNON: Sorry; yes. The document Pete
14 referenced has kind of laid out as far as two parts,
15 the problem statement as well as the recommended
16 solution. Pete covered the problem statement pretty
17 well as far as the specified two hours to cover the
18 intro, whereas many trainers have felt as though the
19 time could be spent covering more serious hazards in
20 the workplace, and also that it really does not take
21 for the most part two hours to cover that information.
22 I think in the last discussion, we heard folks

1 say they could do it in as little as half hour, and
2 make sure they meet all the objectives that were there.

3 With that problem statement, the recommended
4 solutions have been to the current terminal and
5 enabling objectives should be maintained, however, they
6 should be enhanced. We kind of lay that out at the
7 bottom of the sheet there.

8 It cites a minimum of one hour. I don't know
9 if that is a time frame we have committed to at this
10 point or if that is part of this discussion as far as
11 identifying that.

12 CHAIRMAN STAFFORD: I'm not necessarily sure
13 we need to identify a particular time limit, if that's
14 what you are asking, for the intro. I think we can
15 just come up with a recommendation, again, as long as
16 the objectives are covered. It could be covered in an
17 hour or whatever that time is.

18 We could say a minimum of an hour, but it
19 sounds like in some cases it doesn't take that long.
20 As long as we cover the objectives, that would be the
21 goal as opposed to say there is a certain time limit on
22 it.

1 MR. ERICKSON: Roger Erickson, employee
2 representative. I believe the time limitation is
3 really secondary here. I concur, we list the
4 objectives, cover those objectives in the requirement,
5 and make that recommendation.

6 CHAIRMAN STAFFORD: Okay. I appreciate that.
7 I'm looking at the OSHA staff here. I thought Dr.
8 Payne was going to be on the phone with us. Is Damon
9 here?

10 DR. PAYNE: I am on the phone.

11 CHAIRMAN STAFFORD: Okay. Hi, Hank. Good to
12 hear from you. We're having this discussion, Hank. We
13 recommended and talked about this at the last meeting.
14 With these objectives that we have, if that satisfies
15 you, OSHA, what are the next steps for implementing a
16 policy that would address this issue for us?

17 DR. PAYNE: Pete, I'm at a bit of a
18 disadvantage. My understanding is that you and Jim
19 Maddux had a meeting with Chief of Staff, Debbie
20 Berkowitz, about this. I'm not real clear what it was
21 you all discussed and necessarily agreed to. I had a
22 very brief conversation with Jim. I'm not aware of the

1 details.

2 He mentioned to me that he was under the
3 impression that the work group was going to go through
4 and prioritize all of the materials that were in the
5 intro to OSHA module.

6 Is my understanding incorrect?

7 CHAIRMAN STAFFORD: I was hoping -- Dean?

8 MR. MCKENZIE: Dean McKenzie with OSHA. Hank,
9 one of the things we had was an assignment for the work
10 group that we wished to propose for them, on the two
11 hour intro, to take the existing material and maybe
12 pare it down.

13 We have heard from your folks that with 18,000
14 and some trainers across the country, we believe there
15 should be a minimum requirement and material that this
16 will be covered as part of the program.

17 If the Committee and the work group believe
18 there is an opportunity to pare that material down by
19 identifying existing material in the package, giving us
20 suggestions on where we could go with that. We would
21 look to that recommendation.

22 We concur with some of your staff's comments

1 that there needs to be a specified amount, a bare
2 minimum.

3 DR. PAYNE: The issue is the requirement to
4 get the card is ten hours of training. We are
5 extremely uncomfortable in saying that the intro to the
6 OSHA module has no time requirement, that it is
7 whatever the trainer thinks he or she needs to cover
8 the material.

9 We are still dealing with a lot of fraud
10 issues in terms of trainers who don't do what they are
11 supposed to do now, and we are concerned about the
12 uncertainty of what a nebulous time requirement would
13 create in terms of a recordkeeping nightmare for the ed
14 centers that would be required to verify the trainers
15 are in fact meeting all the training requirements.

16 CHAIRMAN STAFFORD: Hank, it sounds like we
17 will go through the materials and make specific
18 suggestions on material, where they can be either
19 replaced or cut down, in terms of exercises; right?

20 MR. CANNON: That was an approach that Bill,
21 who was formerly on the work group, as well as Roger
22 and myself, had discussed that, actually going through

1 the module and identifying some of the areas.

2 You have some of the information that's
3 covered in other modules.

4 CHAIRMAN STAFFORD: Like HAZCOM.

5 MR. CANNON: Yes, like HAZCOM, for instance.
6 That was the approach we were going to take. However,
7 we weren't sure if that would have been accepted.

8 CHAIRMAN STAFFORD: Hank, it sounds like that
9 is the next exercise for the work group and this
10 Committee, to go through that and offer specific
11 suggestions on how that could be done.

12 MR. CANNON: Also, making sure the six
13 objectives are maintained.

14 DR. PAYNE: Pete, if there is anything we can
15 do to help facilitate that review, for example, if you
16 would like us to make copies of all the material and
17 send it to the respective members, we would be willing
18 to do that to help facilitate the review.

19 CHAIRMAN STAFFORD: Okay. I appreciate that,
20 Hank. Jerry?

21 MR. RIVERA: As far as time frame, I think our
22 recommendation on solution number two that says minimum

1 of one hour, I think that might capture a time frame.
2 I understand when you are conducting the training,
3 there needs to be a time limitation, and by having a
4 minimum, you ensure that an hour is covered and you can
5 allocate the rest of the time to other modules.

6 As long as these objectives are covered, then
7 I think the message is there. I guess we are committed
8 to continue the discussion on what should be pulled in
9 as far as material.

10 CHAIRMAN STAFFORD: I think we should do that.

11 The building trades' ten hour program, the
12 introduction module for that started out as an hour
13 module. Obviously, as labor representatives, we are
14 very attuned and think it is very important that the
15 members that go to this training understand their
16 rights and what OSHA is, so we are not short changing
17 that.

18 I personally think it could be done adequately
19 within an hour. I think the exercise now is to go
20 through the materials with Hank's help, work closely
21 with you, Hank, our work group and your office. We
22 will just go through the materials and reach agreement

1 on what we can do.

2 DR. PAYNE: Pete, in the past, you guys have
3 been very good at helping us once we come up with
4 material in terms of validating the material. I would
5 hope we could work with your guys to do that again once
6 the Committee finishes its work.

7 CHAIRMAN STAFFORD: We would be glad to help
8 in that way, Hank. Yes, Matt?

9 MR. GILLEN: Matt Gillen with NIOSH. I think
10 it is really important to give people objectives and to
11 list specific things you want to have covered as a way
12 to make sure it gets covered.

13 There is one topic that I thought isn't
14 explicitly listed and I think is a fundamental one, and
15 a problem in the construction industry. That is the
16 issue of rights related to employees reporting an
17 injury. There are probably far more workers that would
18 be affected by that, workers contemplating calling
19 OSHA.

20 If you remember at the last meeting, I had
21 brought a copy of a study done by Hester Lipscomb.

22 DR. PAYNE: I'm sorry. I can't hear.

1 MR. GILLEN: It was a study done by Hester
2 Lipscomb about reporting of work related injuries among
3 Union carpenters. She found there was considerable
4 evidence of fear of reprisal for reporting injuries,
5 and that 30 percent of the folks that injuries were
6 almost never or rarely reported.

7 Based on that, I wanted to make a motion that
8 we explicitly add the worker rights to report injuries
9 to the recommended modifications language. I think it
10 is a fundamental issue and important to sort of make
11 sure it's covered in the 10 hour.

12 MS. DAVIS: I strongly second that.

13 CHAIRMAN STAFFORD: Hank, do you have any
14 thoughts on that?

15 DR. PAYNE: I couldn't hear what he was
16 saying.

17 MR. GILLEN: I don't know if the motion is to
18 us or to OSHA. What would it be?

19 CHAIRMAN STAFFORD: Why don't you read the
20 motion?

21 MR. GILLEN: The motion would be for OSHA to
22 explicitly add worker rights to report injuries to the

1 recommended modifications language. In other words,
2 there is an enabling objective about worker rights, and
3 it actually says the following rights, it lists rights.

4 It doesn't really explicitly mention that. It also
5 talks about discrimination but it doesn't explicitly
6 mention that.

7 I feel it's more likely to be discussed if
8 it's explicitly listed in this guidance.

9 CHAIRMAN STAFFORD: It seems maybe, Matt, it
10 should be a part of the conversation at the work group
11 level, and when they come back, that is what they are
12 recommending, that be incorporated in the intro. I
13 agree, I think that is important, if that's fair
14 enough.

15 DR. PAYNE: I think that would work, Pete.

16 CHAIRMAN STAFFORD: Okay. Any other
17 discussion on the two hour? We can follow up with the
18 work group co-leads and put together timing and trying
19 to get this done.

20 Hank, I don't know when the next meeting would
21 be. I would imagine September/October time frame. I
22 am hopeful we can kind of move forward at the work

1 group level and try to get this moving sooner than
2 later.

3 MS. DAVIS: I'd like to see the materials as
4 well. I'm not on the education work group, but I'd
5 like to see them.

6 CHAIRMAN STAFFORD: Sure, Tish. All members
7 will get the materials and are more than welcome to
8 comment. The work group will take the lead on it.
9 Yes, Jerry?

10 MR. RIVERA: Mr. Chairman, Jerry Rivera, NECA,
11 employer rep. Maybe we can consider this towards the
12 end of the meeting, but we didn't have work groups
13 during this meeting. As we move forward to the next
14 one, maybe consider a work group to get together on
15 this end, so time allotted for work group work to be
16 performed.

17 CHAIRMAN STAFFORD: Yes, we kind of forego the
18 work groups this time around just because of the
19 difficulties of trying to do this over the telephone.
20 As the Chairman, the work groups are very important, to
21 keep us on our toes here. I agree we do need to work
22 out a process that the work groups become more active

1 or stay active as opposed to become more active.

2 Hank, I hope you are still on the phone. At
3 the last meeting, the Committee recommended that OSHA
4 OTI go back and do an overall assessment of the OSHA
5 outreach training program. This is very important to
6 the construction industry. I think 80 percent of all
7 the students that goes to the OTI outreach programs are
8 out of the construction industry.

9 I think over time we can see things as
10 industry stakeholders where things might be done a
11 little bit better or more efficiently, in our view,
12 kind of go back and take a look-see at the policies and
13 think about this Committee making recommendations.

14 At that time, we had talked about bringing in
15 a third party group to do that kind of an assessment.
16 I recognize now with the budget issues and I haven't
17 really talked any further other than I understand now
18 that within the Department of Labor, there is a group
19 not within OSHA but DOL overall, and I don't know the
20 name of that office that does have some funds to do
21 evaluation and assessments.

22 That is a potential option. I think working

1 through our work group and having stakeholders like we
2 have, working with them and kind of developing
3 consensus around the policy is the way for us to
4 proceed.

5 As I recall, last time there was some issues
6 with respect, for example, to the 502 in our industry,
7 where our instructors have to go back every four years
8 for four days, and the intent of that refresher was to
9 really update them on standards.

10 The question becomes without a lot of
11 standards coming out at the end of the pipe, do we
12 really need to pay, the industry need to pay for
13 someone to go four hours, the registration and cost of
14 doing that in addition to the travel and the paid time
15 to do it, does that make sense.

16 It could be something that we all agree there
17 needs to be some kind of refresher but maybe it doesn't
18 have to be four days, it could be two days or there are
19 other options potentially.

20 That is the kind of thing we were looking at
21 or at least I was thinking in terms of an assessment.
22 With that said, from my role as Chair, I'd be glad to

1 follow up with DOC staff about the Department of Labor
2 group that could come in and potentially help us, but
3 certainly I think this is an important area, Hank, that
4 we would like to work with you on through our training
5 and outreach work group.

6 DR. PAYNE: Absolutely. Jim and I had a
7 follow up conversation on this. We think probably
8 taking a look at the program in smaller bites as
9 opposed to an once over, try to identify what we think
10 are specific problems like the refresher requirement
11 and go after that. I think it's something that could
12 be done relatively quickly and we could get good
13 recommendations out of the group and then move forward
14 to another issue.

15 CHAIRMAN STAFFORD: Okay. Sounds good. Any
16 other comments or discussions? Roger?

17 MR. ERICKSON: Mr. Chairman, Roger Erickson,
18 employee rep. While we have Mr. Payne here, and this
19 is kind of along this vein, I wanted a clarification.
20 We have noticed lately that more and more of our
21 employers, boilermaker employers, particularly due to
22 owner demands, are wanting to see the 10 hour card.

1 A number of our people -- we know the
2 requirement for the 30 hour class, which is within a
3 six month time frame with the same primary
4 instructor -- is it true that once you get your 10 hour
5 card and move forward and go to the 30, that you have
6 to turn that 10 hour card in?

7 DR. PAYNE: Yes, you do.

8 MR. ERICKSON: I realize a lot of people would
9 think the 30 hour is just an extension, but it's very
10 hard sometimes to get our contractors and even the
11 owners to recognize the 30 hour is, of course, more
12 training, but they still want to see the 10 hour card.

13 DR. PAYNE: Roger, we have a document that I
14 will send up to DOC to share with ACCSH. It's
15 basically a hierarchy of the cards, which shows the 10
16 hour and the 30 hour and the trainer card, et cetera,
17 and those kinds of things.

18 We actually had employers want people with
19 trainer cards to go back and take it to them. We put
20 together this hierarchy of cards that some
21 organizations have been willing to accept to show if
22 you want a 10 hour and somebody had a 30 hour, they

1 have exceeded that requirement.

2 I'll send that to DOC and they can share it
3 with the Committee.

4 MR. ERICKSON: I appreciate that. Thank you.

5 CHAIRMAN STAFFORD: Thank you, Hank.

6 MR. MCKENZIE: This is Dean McKenzie with DOC
7 again. There were two other things that we hoped to
8 talk to the work group about to consider prior to our
9 next meeting. One would be for the research and
10 evaluation of the program. We talked about it with
11 some of the evaluation folks here in DOL. One of the
12 first issues we came up with was what are the questions
13 that we want an evaluation to identify.

14 The program means a number of things to
15 different people. When you start to look at that, what
16 are the questions we want to ask for the third party
17 evaluator to look at. We understand Tish is not on the
18 committee or assigned as a work group chair, she would
19 understand what a researcher would need to look into.
20 That would be something that would be beneficial.

21 What are those questions. It sounds simple,
22 but when you get down to what do you go ask 18,000

1 trainers or all the ed centers, it becomes a little
2 more cumbersome.

3 The other one was in the discussion on the
4 502, what would a modification look like. Is there
5 something with the frequency of the training given. If
6 it's somebody that does a 30 hour once every five
7 years, perhaps he needs the full refresher. If it's
8 someone that does the 10 and 30 hour every month,
9 perhaps they don't. Some analysis along those lines as
10 well.

11 CHAIRMAN STAFFORD: I'm going to look at my
12 work group co-leads, is that something we can do. I'll
13 be glad -- all the Committee can help -- we will be
14 glad to frame up some things that we are interested in
15 assessing.

16 MR. MCKENZIE: It would be beneficial for a
17 motion to consider in the future.

18 MS. DAVIS: I totally agree. I think crafting
19 the specific evaluation questions that can range from
20 quality of the education to resources allocated to the
21 program. It could be at all different levels. I think
22 articulating those questions and maybe that sets up the

1 frame for picking on smaller bits.

2 CHAIRMAN STAFFORD: Okay. I think that is
3 good. We will work on that. I think we need to come
4 up with some questions and we can start on that sooner
5 than later. Any other discussion on that?

6 [No response.]

7 CHAIRMAN STAFFORD: One last thing I would
8 throw out without muddying the waters, CPWR
9 participated with McGraw-Hill on a study of
10 construction safety and health management. McGraw-Hill
11 did just an amazing job. They collected an incredible
12 amount of data in about a seven day period and had a
13 sample of about 300 contractors in the United States,
14 all sizes, one to ten, all the way up to contractors
15 that had 500 or more employees.

16 All those contractors across the board, number
17 one, said training of supervisors is more important to
18 their safety and health performance than training of
19 workers. A large majority of those contractors,
20 including the large ones, rely on the OSHA 30 for their
21 supervisory training.

22 Of course, I'm just offering this up, the

1 distribution of the OSHA outreach program is really a
2 pretty incredible network that we have out there, Dr.
3 Payne, and there is a lot of people doing a lot of good
4 training.

5 In construction on the research side, we hear
6 and we are talking a lot about -- the "safety culture"
7 is the buzz word. We are getting different proposals
8 from different people from areas of the country who are
9 interested in developing supervisory training,
10 leadership training, whatever you want to call it.

11 I was thinking as opposed to developing
12 separate training programs about the possibility of
13 seeing if we could explore how we could develop some
14 training that could be embedded in the OSHA 30 to be
15 included perhaps as an alternative module of OSHA 30
16 that would provide some of that supervisory training.

17 In our industry, as you know, you can come out
18 of the hall as a journeyman one day and then the next
19 day, you're a foreman. You're a foreman because you're
20 a good hand and you put work into place, but you are
21 also given some responsibilities in some way in my mind
22 and aren't prepared, for example, how you would do a

1 good tool box talk, what are the resources out there
2 for those kinds of things, and how do you with still
3 good communication take care of -- management kind of
4 training.

5 That might be a little off the wall, but if we
6 could develop something as an industry that we through
7 this Committee could take a look at and figure out, Dr.
8 Payne, how that might be incorporated into the OSHA 30,
9 it seems to me it could one, standardize it, and two,
10 the distribution of that kind of training could be
11 significant.

12 I just throw that out as food for thought and
13 whether that is even an option or what the Committee
14 thinks about that. It's something based on this study
15 and that kind of struck me that might be a possibility.

16 Jerry?

17 MR. RIVERA: Mr. Chairman, I'd like to
18 recommend maybe the subgroup invite members of the ET&D
19 Partnership. They currently have a supervisor training
20 that was geared to kind of mirror the 30 hour but for
21 supervisors. It has not been accepted by our Training
22 Branch from OSHA, outreach centers, but it does have a

1 curriculum as part of a partnership that OSHA holds
2 with the electrical power transmission and distribution
3 industry, and I think it's a good starting point.

4 They have a set foundation of the training.
5 They are currently conducting the training across the
6 country even though it's not accepted by meeting a 30
7 hour requirement. It is specific to the industry. It
8 does address supervisors directly and it also addresses
9 the change in the culture. It might be something for
10 the subgroup to look into, and Mr. Payne to be a part
11 of as well.

12 CHAIRMAN STAFFORD: Okay. Any other
13 discussion on that?

14 [No response.]

15 CHAIRMAN STAFFORD: It is something I think we
16 should through the work group take a look at.

17 MS. DAVIS: I just wanted to support the
18 concept.

19 CHAIRMAN STAFFORD: Okay. Any other
20 discussion?

21 [No response.]

22 CHAIRMAN STAFFORD: Sarah, please.

1 MS. SHORTALL: I have a number of exhibits
2 that I want to make sure get into the record here.

3 First, Exhibit No. 13, a written copy of the
4 presentation yesterday by Graham Brent from NCCCO.

5 Exhibit 14, the proxy submitted by Sarah
6 Coyne.

7 Exhibit 15, the proxy submitted by Laurie
8 Shadrick.

9 Exhibit 16, the proxy submitted by Roger
10 Erickson, and I know he's here, but he's going to be
11 leaving early.

12 Finally, as No. 17, OTI work group
13 chair -- Kevin, are you the chair?

14 CHAIRMAN STAFFORD: Co-chair.

15 MS. SHORTALL: Co-Chair recommendations on
16 modifications on the introduction to OSHA Construction
17 Outreach Program for ACCSH's consideration.

18 CHAIRMAN STAFFORD: Thank you, Ms. Sarah. We
19 have the folks from the Directorate of Standards and
20 Guidance so we are going to come back to our discussion
21 on the checklist more toward the end of the day. We
22 are going to move the agenda around a little bit so we

1 can get to these other issues.

2 First on the agenda is to talk about
3 occupational exposure to beryllium. I'm not sure,
4 Dean, who is here to do that. We welcome you. David
5 is here. We know David. Come on up, David.

6 OCCUPATIONAL EXPOSURE TO BERYLLIUM

7 MR. VALIANTE: Good morning, everyone. Good
8 morning, Committee members here in the room and also
9 Committee members teleconferencing here.

10 Thank you for the opportunity to update the
11 Committee on OSHA's Notice of Proposed Rulemaking for
12 beryllium.

13 Before I start, I'd like to just point out a
14 couple of key people that are working on this
15 rulemaking. Tiffany DeFoe, who is also with Standards
16 and Guidance, and she is the team lead in this
17 rulemaking process. I'd also like to mention Louis
18 Betz, with our Solicitor's Office here at the
19 Department of Labor. She's also another key person,
20 attorney, that is working with us.

21 Also, I want to mention Maureen Ruskin who is
22 our Office Director, who is giving us a lot of

1 guidance. She has a lot of experience in rulemaking,
2 and most recently with the GHS, globally harmonized
3 system, update of our hazard communication standard.

4 With that, because of this format, I have
5 table top slides so there is no presentation, but
6 everyone on the Committee has a copy of the slides.
7 People in the audience, I believe there are copies in
8 the back for you to look at.

9 I'm not really sure why we call them "slides."

10 There is no sliding going on the way the old carousel
11 system was set up. For want of a better word, I'll
12 just call them slides.

13 To begin with, we are here to talk about the
14 beryllium rulemaking update. Beryllium is on the 2013
15 OSHA regulatory agenda. That is in your second slide,
16 you can see a copy of the Federal Registry.

17 OSHA has been at work on developing the
18 rulemaking for beryllium. As I mentioned, we have a
19 team that has been working on it for a while now.

20 If we go to the next slide, the third slide, I
21 want to go over some of the rulemaking activities that
22 have occurred throughout this time. Rulemaking, as you

1 might expect, is a very complex process. It begins
2 early on with a Request for Information and that
3 information is collected, and it goes through a number
4 of steps.

5 I do want to point out in this particular
6 slide that there is a requirement for a SBREFA Panel.
7 For any regulation, there is a requirement that a panel
8 is put together. This is under the Regulatory
9 Flexibility Act. That really is to determine economic
10 impact on small businesses. The SBREFA Panel was put
11 together. We develop information for their review, for
12 example, a draft beryllium standard. That is reviewed
13 and comments are obtained from this panel. We are
14 required to take into consideration these comments and
15 suggestions.

16 In addition to the SBREFA Panel that was
17 completed in 2008, an unique activity that occurred in
18 this process is that the United Steel Workers, and an
19 industry leader in beryllium manufacturing and
20 processing, Materion, which was formerly called Brush
21 Wellman, they jointly developed a model beryllium
22 standard. That model standard was presented to OSHA in

1 2012. We did receive that and have taken that model
2 standard under consideration.

3 Needless to say, development of the proposed
4 standard is continuing. Our next steps, as I
5 mentioned, it is on our regulatory agenda for 2013. We
6 hope to publish the proposed rule at some point. Once
7 that is proposed and put in the Federal Registry, then
8 it is followed by a public comment period and public
9 hearings.

10 If we go to the next slide, because ACCSH is
11 the construction advisory committee, I wanted to talk a
12 little bit about construction and beryllium. Where are
13 the exposures in the construction industry? Well,
14 primarily they are in abrasive blasting, where the
15 beryllium comes from is in primarily coal slag and even
16 other types of slag like copper slag.

17 This is again a primary source of exposure in
18 construction and also in maritime with ship building.

19 The beryllium exposures are elevated really
20 due to the abrasive blasting, and as most everyone
21 knows, very high dust exposure concentrations that are
22 generated during abrasive blasting.

1 Even though a coal slag has only very small
2 amounts of beryllium in it, less than .1 percent,
3 because of the high dust levels that are created in
4 abrasive blasting, you can get elevated levels of
5 beryllium in abrasive blasting.

6 Again, in abrasive blasting, the blaster is
7 typically protected from high dust levels for obvious
8 reasons, these are extremely high levels of dust and
9 other materials that may be present in either the
10 blasting material or what they are blasting. They are
11 protected typically in respirators and in protective
12 clothing.

13 If we go to the next slide, I want to talk a
14 little bit about the draft proposed standard that was
15 presented for SBREFA review. As you can see, it was
16 what we call our typical 6(b) standard, other terms
17 that are used, for example, expanded standard, where
18 there are ancillary provisions in the standard, such as
19 regulated areas, medical surveillance, medical removal,
20 typical of standards that you may be more familiar with
21 such as asbestos and lead that have a number of these
22 ancillary provisions.

1 You will see in that first section there, the
2 permissible exposure limit, what was considered. There
3 was a range that was considered from the current PEL of
4 two micrograms per cubic meter cubed to .1, down to .1,
5 and numbers in between.

6 Going to the next slide, we also in this
7 process provided the SBREFA Panel with options for
8 regulation of beryllium and beryllium exposure.

9 You can see in the first bullet, there was an
10 option for a PEL only standard, and that would
11 entail -- currently, there is a PEL for beryllium in
12 what we call the "Z Tables," and there is a Z Table for
13 general industry, a Z Table for construction, a Z Table
14 for maritime.

15 The PEL only standard would update the
16 beryllium PEL in the Z Table, and of course, it would
17 be an option as to what level that would be. As we
18 talked about earlier, the range of levels that were
19 considered for the PEL.

20 Under this PEL only standard, there are
21 existing standards that would in effect, depending on
22 the level of the PEL, once the PEL was set, these

1 standards would be in effect to protect for that
2 particular level of PEL or permissible exposure limit.

3 For example, ventilation in construction,
4 which includes abrasive blasting, PPE, another
5 construction standard, and respiratory protection, also
6 a construction standard, as well as standards in
7 general industry, et cetera.

8 If we go to the next slide, this continues
9 talking about the beryllium options that were presented
10 in the SBREFA process. Another option was to adopt the
11 DOE regulation. The DOE regulation is for DOE sites
12 that use a lot of beryllium alloy. They have their own
13 regulation. I believe it's 10 CFR 850, Part 850, which
14 covers employees exposed to beryllium, including
15 contractors that are on-site under 851, which is the
16 safety and health program, that includes beryllium
17 requirements under 850.

18 Another option which is limited scope, a
19 limited scope option, which would exempt construction
20 and maritime, and even limited coverage to materials
21 that are -- limited coverage to materials that are over
22 0.1 percent for beryllium.

1 An example of what is something that is under
2 0.1 percent would be coal slag, which has trace amounts
3 of beryllium in it at levels less than .1.

4 With that, that is my update. At this point,
5 I can take questions.

6 CHAIRMAN STAFFORD: Thank you, David. Any
7 questions?

8 MR. CANNON: You said the SBREFA Panel
9 completed its process in January 2008. Were there any
10 recommendations that came out of that?

11 MR. VALIANTE: Yes. There were quite a few
12 recommendations. It was a public comment period and
13 OSHA has received -- it is publicly available in the
14 Federal Register, this information, and in the Docket.
15 That is available on --

16 SPEAKER: Regulations.gov.

17 MR. VALIANTE: Yes, Regulations.gov. I can't
18 give you the number of comments but there are quite a
19 few.

20 MR. CANNON: Any type on construction?

21 MR. VALIANTE: Offhand, there may have been a
22 few. I would say the answer is yes, but I couldn't

1 give you a percentage of how many there were.

2 CHAIRMAN STAFFORD: Any other questions or
3 comments? Chuck?

4 MR. STRIBLING: Chuck Stribling, representing
5 state plans. Any target date for publication of a
6 proposed rule?

7 MR. VALIANTE: Yes, we're moving ahead with
8 developing this draft proposal. I don't have a target
9 date. We are moving forward and hope to get it out at
10 some point.

11 CHAIRMAN STAFFORD: Any other questions or
12 discussion? I'm assuming, David, you don't want any
13 particular action, you are just informing the Committee
14 where OSHA stands right now, you are not asking for
15 ACCSH for anything at this point?

16 MR. VALIANTE: That's correct. We are just
17 here to update the Committee on what we are doing and
18 where we are at in this beryllium rulemaking.

19 MS. SHORTALL: I have a couple of questions
20 for clarification, and that is the proposal for
21 beryllium that went to SBREFA for consideration, did
22 that include application or scope that included

1 construction?

2 MR. VALIANTE: Again, it's a matter of public
3 record, the draft that went to SBREFA. Yes, it did.
4 It covered general industry, construction and maritime.

5 MS. SHORTALL: Thank you.

6 CHAIRMAN STAFFORD: Any other questions or
7 discussion?

8 [No response.]

9 CHAIRMAN STAFFORD: Thank you very much. Why
10 don't we go ahead and take about a ten minute break
11 here? We are about in the middle of the meeting. We
12 will reconvene at 11:35. Thank you.

13 [Brief recess.]

14 CHAIRMAN STAFFORD: Let's call the meeting
15 back to order. We are back on SIP IV. Paul, I guess
16 you will handle that. Just for clarification, Paul,
17 what is the timing on SIP IV? We took some action on
18 some elements yesterday. We will be doing the same
19 thing today. At what point is SIP IV going to be
20 finalized and moving forward? Just for my
21 understanding.

22 MR. BOLON: I expect we will present another

1 batch of SIP candidates at the next ACCSH meeting, and
2 that will be a wrap, then we will quickly proposed
3 after that.

4 CHAIRMAN STAFFORD: All right.

5 MR. BETHANCOURT: Mr. Chairman, do we have a
6 quorum?

7 CHAIRMAN STAFFORD: I'm a quorum on my own.

8 [Laughter.]

9 CHAIRMAN STAFFORD: Paul, let's turn it over
10 to you to talk about the decompression tables first.

11 SIP IV - ALTERNATIVES TO THE DECOMPRESSION TABLES IN
12 SUBPART S - UNDERGROUND CONSTRUCTION, CAISSONS,
13 COFFERDAMS AND COMPRESSED AIR

14 MR. BOLON: "SIP" stands for Standards
15 Improvement Project. The Agency has been doing these
16 every three or four years to try to clean up,
17 streamline, bring things up to date throughout its
18 standards.

19 This fourth one is focused mainly on
20 construction things. We published an RFI in December.
21 We had comment until February. We had 25 or 30
22 comments. We are presenting six items here to ACCSH,

1 and we did four yesterday and we have two more today,
2 and the first one is on decompression tables, which are
3 in our Subpart on underground construction, and these
4 are the tables you follow if you have a worker that is
5 under more than atmospheric pressure, how you bring
6 them back to keep them from getting the bends, which is
7 what it used to be called.

8 Vernon Preston to my right is on my staff and
9 he's the staff that has been doing the work on revising
10 the decompression tables. Vernon?

11 MR. PRESTON: Again, my name is Vernon
12 Preston. Thank you, Paul, for the introduction.

13 OSHA received comments to the SIP RFI from
14 NIOSH and the Laborers Health Safety Fund of North
15 America and the Building and Construction Trade
16 Department of the AFL-CIO on the update to the
17 decompression tables in Subpart S.

18 Those trades recommended updating to tables
19 that the industry uses and tables that have been
20 approved prior or in the variance process. The
21 Laborers Fund recommended updating to the French tables
22 for lower pressures and tri-mixed tables for higher

1 pressures, and also recommended that anything above
2 eight bars of pressure must be approved by the variance
3 process.

4 NIOSH recommended requiring staged
5 decompression, allowing the use of 100 percent oxygen
6 decompression, vary the decompression schedule based on
7 the exposure time of the worker, and allowing for
8 greater pressures in underground construction projects.

9 NIOSH also included studies that showed that
10 the current tables that we have in our OSHA standards
11 are not receptive for workers that are doing the work
12 while they are compressed. There were examples of
13 workers who suffered from decompression illness
14 following the decompression tables that we currently
15 have in our standards.

16 It shows we need to update the tables because
17 workers are put at risk following what we currently
18 have in the standards.

19 OSHA has been thinking about doing this in the
20 past, mainly because it's an extra step for the
21 employers who have to do the work. They have to submit
22 a variance to use a different table than what we

1 currently have in our standards. Not only is it a
2 benefit to the employers that have to do the work but
3 also it frees OSHA up as we wouldn't have to review
4 that as part of the variance application.

5 The suggested changes that we have are to
6 remove the current table that we have in the OSHA
7 standards, and we decided to recommend replacing them
8 with a few different tables that were mentioned in the
9 comments we received to the SIP's RFI, and those tables
10 would be the Edel-Kindwall tables, the British
11 decompression tables, the French decompression tables,
12 the German decompression tables, and the Brazilian
13 decompression tables.

14 The idea of including all these different
15 tables was to give employers the option of using the
16 tables they might be more comfortable with. There are
17 studies that have shown generally all these tables are
18 more receptive than what we currently have in our
19 standards.

20 The French and Edel-Kindwall Tables were
21 mentioned in both the NIOSH and Laborers Fund
22 recommendations, and both have been used in variance

1 applications for work. The British, German and
2 Brazilian Tables were also mentioned in NIOSH's
3 comments to the SIP's RFI. They were included in an
4 U.K. study from their Health and Safety Executive that
5 compared various decompression tables.

6 There are also other tables, such as U.S. Navy
7 Tables, the Canadian Navy Tables, that have been part
8 of variance applications that have been approved in
9 state plans. We would consider adding those also to
10 the list.

11 There are a few issues that we have with
12 including these tables. One is the availability and
13 whether we would actually be able to add them to our
14 current regulations, if there would be any copyright or
15 any other legal issues that we might run into. We have
16 to do a little bit more research on that.

17 In the NIOSH comments, they recommended
18 updating the working pressure from what we currently
19 have in our standards, which is 50 psi. That is
20 something we might consider, but we want to make sure
21 we are not going to choose an arbitrary number.

22 Generally, when variance applications come in,

1 they tell us what pressures they think they will be
2 working at and they will pick a decompression table
3 based on that.

4 If we were going to consider updating the
5 working pressure, we would have to do a little bit more
6 digging before we decided exactly what we would update
7 it to.

8 Also, if we were to increase the working
9 pressure, the tri-mixed tables, which are tables used
10 for decompression, and a blend of various gases to
11 bring the workers back to atmospheric pressure. Those
12 are usually used at greater pressures. We would
13 consider maybe adding those as well if we were to up
14 the working pressure.

15 I guess I'll take any questions at this time.

16 CHAIRMAN STAFFORD: Any questions or comments?

17 Chuck?

18 MR. STRIBLING: As far as increasing the
19 allowable pressures, it's my understanding a lot of the
20 alternative tables that you are going to incorporate or
21 add into the standard go along with increased pressure
22 work; is that correct?

1 MR. PRESTON: Yes.

2 MR. STRIBLING: Through a SIP project, would
3 the Agency be comfortable with increasing the
4 pressures, whatever number you might come up with, when
5 used in conjunction with the tables or would that be
6 seen as rulemaking that wouldn't be good for SIP?

7 MR. BOLON: We will look at it. It's probably
8 beyond the scope of SIP because we would have to -- the
9 context of this, as you know, Chuck, the technology of
10 tunneling has changed a great deal, and now you have
11 workers under much higher pressures than our old 50
12 pound pressure. Changing that is probably beyond the
13 scope.

14 MR. STRIBLING: If it can incorporate in the
15 tables but we still have the existing pressure
16 limitations, employers who would be going beyond that
17 would still need to go through the variance process?

18 MR. PRESTON: Yes, to work at greater
19 pressures, yes. They can then use the tables that we
20 would change, they would no longer have to ask for a
21 variance to use a different set of tables.

22 MR. BOLON: Our understanding is these tables

1 are better at 15 below also.

2 MR. STRIBLING: Is it feasible that in a SIP
3 effort, it can be a non-mandatory appendix or something
4 like that if an employer was working at a higher
5 pressure? I'm just throwing that out there.

6 I ask these things because they are going to
7 dig a tunnel in Kentucky for a new bridge that is going
8 to be going from Kentucky to Indiana. It just happens
9 a French firm is doing that tunnel. I'd like to stay
10 away from variances as much as possible.

11 CHAIRMAN STAFFORD: Any other questions or
12 comments? I guess like yesterday, you are looking for
13 action now from this Committee, the decompression
14 tables be included in SIP IV?

15 MR. BOLON: Sure; yes.

16 CHAIRMAN STAFFORD: Chuck, go ahead.

17 MR. STRIBLING: I agree. I certainly support
18 this effort. I think the standard really does need to
19 be addressed, but if I also heard you right, there are
20 a couple of other things you have to check into, mainly
21 copyrighting and if it is reproducible. I think that
22 is pretty important.

1 Is there any way -- if you are going to bring
2 us another round of SIPs at our next meeting, maybe at
3 that time we could hear again, see what we find out?
4 That could have a significant bearing on what the final
5 product might look like from the Agency.

6 MR. BOLON: Sure.

7 CHAIRMAN STAFFORD: That sounds like a good
8 recommendation. Any other questions or discussion?
9 Matt, go ahead.

10 MR. GILLEN: I was just going to say I think
11 it's terrific that OSHA is doing this. It's a great
12 effort.

13 CHAIRMAN STAFFORD: Okay. Who is the next
14 victim?

15 SIP IV - UPDATE THE INCORPORATION BY REFERENCE OF THE
16 MANUAL OF UNIFORM TRAFFIC CONTROL DEVICES (MUTCD)

17 MR. BOLON: The last SIP item we are
18 presenting to the Committee today is on updating the
19 references of the Manual of Uniform Traffic Control
20 Devices, MUTCD. Blake Skogland is on my staff. We
21 recently wrote a compliance directive on highway
22 safety, and he wrote it. He is going to tell you about

1 the MUTCD update.

2 MR. SKOGLAND: This came up writing the
3 directive. One of the biggest comments afterwards was
4 why don't you just use the 2009 version. That's a
5 really good question and we are going to try to fix
6 that now.

7 Three sections of the construction standard
8 incorporate Part 6 of the Manual on uniform traffic
9 control devices, which is 200(g)(2), traffic signs and
10 devices; 201(a), flaggers, and 202, barricades, and
11 OSHA wants to update to the most recent version, which
12 is the 2009 version, and then there are two revisions
13 to that as well that we would include that are from May
14 2012.

15 This is always sort of a difficult area
16 because OSHA can't just say we're going to adopt the
17 most recent version. Every time this is updated, we
18 have to go through this process.

19 The Manual is pretty much continually updated
20 by DOT. We feel like now it's been ten years since the
21 last update, so this is a good time, and it really will
22 help out OSHA and employers to know what exactly they

1 have to do.

2 Right now we allow compliance with the 2009,
3 and any version that goes beyond the 1988 and 2000
4 versions, which we have incorporated.

5 We have also had some issues having two
6 versions at once incorporated, which will be eliminated
7 now if this goes through, just having one.

8 All of the commentors that commented, there
9 were about five, all were in support of this because in
10 general, most employers right now are either required
11 to or do use the 2009 or they don't use any at all.
12 There are not a lot of employers out there saying I'm
13 going to stick to the 1988, this is going to cause a
14 lot of problems. Actually, I haven't heard any say
15 that at all.

16 If anyone is not familiar with the MUTCD,
17 basically, it's a guidance document that has standards
18 in it. In the past, it was difficult sometimes for
19 OSHA to say exactly what we meant by it because it was
20 written in paragraph form, and didn't lay out exactly
21 what the requirements were.

22 The new version has options, it has guidance,

1 and it has standards. It specifically says what is a
2 standard. Those are the parts that OSHA would be
3 adopting as rules under these three standards.

4 Just a couple of the areas that are new that
5 DOT has identified, they apply more now to just -- in
6 the past, it was really just Federal funded roads, now
7 they are making an effort to make this apply to all
8 public roads and even private roads open to private
9 travel, which OSHA in the past has always done, even
10 though it was in their rule, we have always applied it
11 everywhere, anywhere traffic is disrupted. That is not
12 a change for OSHA.

13 With the new signs they require, DOT generally
14 allows old signs to be used until they wear out unless
15 there is something really unsafe about them and they
16 have target dates for compliance with those new signs.

17 They have updated their high visibility safety
18 apparel section, which we already enforce as well under
19 the general duty clause, and they include a lot of new
20 technology which most of the new technology is
21 optional, and it says if you use it, this is how you
22 have to use it. Again, it won't really create any new

1 costs unless employers choose to go with the new
2 technology.

3 That's pretty much it. It's not really
4 anything major. Everything that the 2009 version does,
5 OSHA can already enforce and does in some way, even if
6 it's not through this standard, it is through
7 200(g)(1), which is posting signs, or through the
8 general duty clause.

9 If anybody has any questions, I would be happy
10 to take them.

11 CHAIRMAN STAFFORD: Go ahead, Jerry, and then
12 Don.

13 MR. RIVERA: Jerry Rivera, employer rep, NECA.

14 I just want to ask as far as adopting the Manual in
15 general, is that available for on-line viewing for the
16 contractors that are going to be affected by this?

17 MR. SKOGLAND: Yes.

18 MR. RIVERA: The reason why I ask is because
19 we have gone through this challenge before where we
20 reference consensus standards and then there is no
21 access --

22 MR. SKOGLAND: It's available on the OSHA

1 website and it's available on DOT's website under the
2 Federal Highway Administration.

3 One issue that we again can't get around is
4 they update their versions quite often, and they will
5 still call it the 2009, but OSHA is going to be
6 adopting the version from one point in time. OSHA will
7 have the correct version always on its website. DOT
8 always has old versions available. You may have to
9 look for the correct one if that is not their most
10 recent version.

11 MR. RIVERA: I guess my challenge with that is
12 that is good they have it available, that is kind of a
13 positive side of things, but my challenge is how would
14 the end user know whether they are complying with the
15 right version if they all refer to one global one?

16 MR. SKOGLAND: If they go to the OSHA website,
17 it will have the correct version available.

18 CHAIRMAN STAFFORD: Don?

19 MR. PRATT: Thank you, Mr. Chairman. Just a
20 quick question. Has there been any document developed
21 for residential construction? We don't get involved in
22 heavy road work and things like that, but we do get

1 involved many, many times in having to close a lane or
2 putting in an acceleration or deceleration lane into a
3 new subdivision.

4 Has there been anything prepared that would be
5 a specific document for residential construction that
6 we could give to our members to make sure they are
7 complying with this?

8 MR. SKOGLAND: I don't think OSHA has anything
9 specific on residential construction, but the MUTCD has
10 options, guidance and diagrams for all these
11 situations. The reason a lot of these standards aren't
12 very specific is because it's very hard to come up with
13 an exact traffic control plan that fits everything.

14 For residential construction, there are plenty
15 of applicable situations and diagrams and things
16 available in the document. The answer is no, there is
17 nothing specific to residential but all of the
18 information that anyone would need for any traffic
19 control, large or small, is available in the DOT
20 document.

21 MR. PRATT: What I am really saying is that we
22 have a hard enough time with our members trying to get

1 them to read anything, but specifically, this is
2 something that is critical, especially for new
3 construction.

4 If we could have our association, NAHB, work
5 with your department to try to come up with something
6 that would be specific to that industry, I think it
7 would be something that would be very well used in our
8 industry to help keep those people safe.

9 Is that possible?

10 MR. BOLON: Yes, that's possible. Actually,
11 Dean McKenzie and I are going to your Safety Committee,
12 I think, in a few weeks. This could be an item we
13 could take up with you there.

14 MR. PRATT: Okay; good. Maybe we can carry on
15 the discussion there.

16 Also, since there was a change between -- if I
17 may, Mr. Chairman -- between 2000 and 2009, has there
18 been a matrix or some type of a chart made up to show
19 the differences between the two, so that we can inform
20 our members of what the changes were?

21 MR. SKOGLAND: We have some internal documents
22 that we have worked on and also DOT has comparison

1 documents between the 2009 and 2003 versions and the
2 2003 version is nearly the same as the 2000 version.
3 It was mainly a cosmetic change.

4 Like I said, as far as standards are
5 concerned, there aren't a lot of new requirements. It
6 is mainly these updates are to inform people of new
7 technology, new ways to do things, and to make it a
8 better, more readable document.

9 As far as any ground breaking changes as in
10 oh, you didn't have to do this before, and now you do,
11 there really aren't a lot of changes. I will look to
12 see what we have, and if DOT has anything specific on
13 that.

14 MR. PRATT: Appreciate that. Thank you.

15 CHAIRMAN STAFFORD: Thank you. Any other
16 questions or comments?

17 MR. BETHANCOURT: Mr. Chairman, this is
18 Jeremy, if I can make a comment that I hope would help
19 Don. We work with folks in commercial and residential
20 construction. There really is no differentiation on
21 the requirements, to kind of reiterate what I think I
22 was hearing the folks at OSHA saying.

1 One thing that we found and that we urged the
2 folks that we interact with was to contact the actual
3 municipality that you are working with, where you may
4 need to have restrictions, and they are generally
5 speaking very helpful. In fact, they assume the
6 control over their streets.

7 Don, if you want to contact me off line, I'll
8 be happy to share my experiences that I think would
9 help a lot of folks realize it really can be very
10 simple and there are a lot of resources out there.

11 That's just my comment, Mr. Chairman. Thank
12 you.

13 CHAIRMAN STAFFORD: Thanks, Jeremy. Any other
14 questions or discussion?

15 MS. SHORTALL: I'd like to go down a long,
16 long old path and probably only Matt Gillen will
17 remember these two people. Former ACCSH member, Daniel
18 Zarletti, and former ACCSH member, Steve Cloutier, both
19 have been pushing for years for years for OSHA to stay
20 on top of the road traffic safety issues. If they ever
21 read this transcript, it is nice for them to know that
22 some of their work is coming to fruition here with

1 ACCSH.

2 CHAIRMAN STAFFORD: How many years ago was
3 that, Sarah?

4 MS. SHORTALL: I think it goes back over 15
5 years for Mr. Cloutier and five years now for Mr.
6 Zarletti.

7 MR. GILLEN: That's before my time.

8 CHAIRMAN STAFFORD: Any other questions or
9 discussion?

10 [No response.]

11 CHAIRMAN STAFFORD: It sounds like Jeremy will
12 talk to Don off line and OSHA will work with NAHB for
13 something specific to help them in that industry.

14 I'm assuming you are looking for some kind of
15 action on this, that the Committee recommends this be
16 included in SIP IV?

17 MR. BOLON: Right.

18 CHAIRMAN STAFFORD: A motion to that effect?
19 I'm tired of making motions. Let's have someone else
20 make a motion.

21 M O T I O N

22 MR. BETHANCOURT: I'd like to make a motion to

1 incorporate that. I think this is a great idea to have
2 that incorporated.

3 CHAIRMAN STAFFORD: Jeremy, your motion is to
4 include this reference of the Manual of Uniform Traffic
5 Control Devices to the 2000 edition in SIP IV.

6 MR. BETHANCOURT: 2009.

7 CHAIRMAN STAFFORD: What did I say?

8 MR. BETHANCOURT: You said 2000.

9 MR. BETHANCOURT: That is my motion, Mr.
10 Chairman.

11 CHAIRMAN STAFFORD: 2009. Do we have a
12 second?

13 MR. PRATT: Mr. Chairman, Don Pratt, second.

14 CHAIRMAN STAFFORD: We have a motion and
15 second. Any other discussion on it?

16 [No response.]

17 CHAIRMAN STAFFORD: All those in favor,
18 signify by saying aye.

19 [Chorus of ayes.]

20 MR. BETHANCOURT: Jeremy, aye.

21 MS. BARBER: This is Kristi, aye.

22 MS. DAVIS: This is Tish, aye.

1 MR. HAWKINS: Steve Hawkins, aye.

2 CHAIRMAN STAFFORD: Okay. Steve, you are kind
3 of fading out a little bit but we got that. Any
4 opposed?

5 [No response.]

6 CHAIRMAN STAFFORD: Okay. Thank you. I see
7 there are two people signed up for public comment. I
8 would like to remind everyone that if you would like to
9 make a comment, please sign up on the sheet in the back
10 and we will make time at the end of the meeting.

11 MS. SHORTALL: Mr. Chair, at this time, I'd
12 like to enter some exhibits into the record. As
13 Exhibit 18, update on OSHA's Notice of Proposed
14 Rulemaking for Beryllium. As Exhibit 19, OSHA's
15 proposed revisions and updates on OSHA standards
16 covering PPE protection, decompression tables, and
17 underground construction, and the Manual of Uniform
18 Traffic Control Devices.

19 CHAIRMAN STAFFORD: Thank you, Ms. Sarah. We
20 would like to switch back and talk a little bit about
21 procurement, but before we do that, I would like to
22 talk just a minute about our work groups. I think it

1 is important, and based on the conversation we had
2 yesterday with David Michaels and OSHA's interest in
3 looking at temporary workers and clearly for
4 construction, temporary workers, is an issue that we
5 need to look at.

6 Leading into the discussion on a procurement
7 document, that was really developed out of our I2P2,
8 our Program Standard Work Group, and that document has
9 now come to the full Committee and we will be working
10 on it as a full Committee.

11 I'd like to suggest perhaps, and I would
12 certainly like the input from the co-leads of the I2P2
13 Work Group, that for now, now that we have the product,
14 the procurement product, at the full Committee level,
15 I'd like to suspend the I2P2 Work Group for the time
16 being. I can't tell that the program standard is going
17 to move any time very quickly out. It looks like it is
18 just stalled.

19 I think for two years we have had a work group
20 that has done excellent work, kind of figuring out how
21 a program standard would work in our multi-employer
22 industry. We brought large employers in here to talk

1 to us about the elements of their programs and what
2 they think is good about a potential program standard.

3 We have brought small employers in here to talk about
4 the potential roadblocks or problems they see with the
5 program standard.

6 We can continue to kind of have conversations
7 around that but at this point, after two years of work
8 and not looking like the program standard is going to
9 be seeing the light of day, I think I would propose we
10 suspend the program standard and replace that with a
11 work group dealing with temporary workers in
12 construction.

13 I'm just throwing that open for discussion. I
14 don't know if we would need, Ms. Sarah, to make a
15 formal motion on that. I think that is kind of an
16 internal organizational thing that we could decide on
17 our own. I would just like the Committee's thoughts
18 about that, especially from those co-leads on the
19 Program Work Group. I just throw that open for
20 discussion.

21 Jerry?

22 MR. RIVERA: Mr. Chairman, Jerry Rivera,

1 employer rep. I support that we create a work group
2 that focuses on that. I think the Assistant Secretary
3 has identified that as a priority, and we see that as a
4 necessity out there in the field for that portion of
5 the workforce.

6 CHAIRMAN STAFFORD: Okay. Appreciate that.
7 Any other discussion or thoughts about that?

8 MS. DAVIS: I support suspending it, and I
9 also support the development of a work group on
10 temporary workers. I want to raise one issue from a
11 surveillance perspective, and that is one of the items
12 on the agenda for consideration in a health and safety
13 program plan that pertains to construction was the
14 issue of site-wide logs.

15 I know NIOSH is sitting at the table and CPWR.
16 In the testimony we heard from many of the large
17 employers, every single one of them I asked if they had
18 site-wide logs, and they do.

19 I really think we need a research and
20 demonstration project evaluating that possibility. I
21 think we need to understand what are the practical
22 issues and barriers, what is really feasible on

1 construction sites of various sizes.

2 It's not unrelated to the issue of temporary
3 workers as well. I just want to put that out there
4 because I think it is important, that if at any point
5 this program will move forward, that's likely to be a
6 topic of serious discussion, and I think we need more
7 data and research to back up our position.

8 CHAIRMAN STAFFORD: Okay. I appreciate that,
9 Tish. I think that's an excellent point, something we
10 should certainly look at. Unless there is any
11 disagreement, I would like to go ahead and take action
12 amongst the Committee that we do that.

13 I have talked to Tom Marrero, who I know is
14 interested, and Tish, I know you are, with
15 Massachusetts being the one state that government is
16 taking action on this issue, I'd like to essentially
17 realign the work groups.

18 As I said earlier, one of the problems of
19 having to meet by telephone now with the budget
20 constraints the Department of Labor has in supporting
21 our Committee and all the other OSHA committees, that
22 we run out of momentum.

1 I think the work and the work groups between
2 the meetings are critically important. I think at this
3 point, Ms. Sarah, I'm looking at you. It's clear now
4 based on our discussion earlier, our training and
5 outreach work group has some work to do. I want to be
6 sure we are straight on if we have a work group meeting
7 in the next week or two or month, whatever that time
8 is, how we include the public that's interested.

9 Typically, we have done that, when we have
10 work group meetings, folks that come to the work groups
11 sign up. When you sign up, if a work group is meeting
12 in between meetings, that notification goes out to the
13 people that signed.

14 We didn't have work group meetings, so I want
15 to be clear, as an example of the training and
16 outreach group that wants to meet next week, what do we
17 need to do to be sure the public who is interested are
18 invited and involved at this point?

19 MS. SHORTALL: We certainly could take the
20 sign-in sheet from today and yesterday and use that.
21 OSHA, very wisely, has started a new element on their
22 ACCSH web page, and that is called "New." It's up in

1 the upper right-hand corner. That would be an
2 excellent place to announce a teleconference meeting,
3 and to have people interested in participating contact
4 OSHA, get the passcode information for that particular
5 call.

6 The other thing that we try to do is to get
7 people to tell other people. If you know of anyone who
8 also wants to participate, to let them know and just
9 use word of mouth to also build up the number of people
10 on that.

11 We have almost an unlimited number of
12 telephone lines available to us in a telephone
13 conference, but we do want to give an indication to an
14 operator how many we are talking about, so if they
15 could contact OSHA if they're interested in
16 participating.

17 I'm certain whatever information OSHA puts on
18 its web page and sends out to members, it will indicate
19 which person OSHA would like to have people contact.

20 CHAIRMAN STAFFORD: Okay. As a staff
21 function, so I understand, Kevin and Jerry want to have
22 a training and outreach work group meeting and Roger is

1 not here, two weeks from today. They would notify OSHA
2 staff to get that announcement on the website?

3 MS. SHORTALL: To get that announcement on the
4 website and to arrange being able to have that
5 teleconference meeting, who we have to contact there to
6 set it up.

7 MR. CANNON: You may have covered this, but
8 what is the advance notice, two weeks, three weeks?

9 MS. SHORTALL: There is no requirement.
10 Subcommittees and work groups technically are not
11 covered by FACA, but President Obama has indicated, in
12 fact, his first Executive Order when he came into
13 office was to try to push more transparent and open
14 Government, and in response to that, we have been
15 holding -- in fact, I think even before President
16 Obama, we were holding all our work group meetings open
17 to the public.

18 Of course, everyone can participate but when
19 it comes down to voting, the only persons able to vote
20 on forwarding recommendations back to ACCSH would be
21 the members of ACCSH.

22 CHAIRMAN STAFFORD: All right. Go ahead,

1 Tish.

2 MS. DAVIS: I'm just trying to figure out a
3 process by which I know, besides going on the OSHA
4 website every day, when the announcement is posted, so
5 if I'm trying to recruit people to participate in this
6 discussion, I can let them know.

7 MS. SHORTALL: We have been taking all of our
8 sign-in sheets from meetings, and that is collected
9 information that we can send out work group meetings.
10 That would be the first source. The second source is
11 going to OSHA's ACCSH web page, so those persons who
12 weren't attending any meeting, who didn't attend this
13 meeting, would be able to find out about it.

14 As a member of ACCSH, as a person who has
15 participated on these committees, you will be informed
16 via e-mail.

17 MS. DAVIS: I will be informed and then I can
18 let people know.

19 MS. SHORTALL: Yes.

20 MS. DAVIS: Thank you.

21 CHAIRMAN STAFFORD: Did Jeremy or Steve,
22 someone else have a question?

1 MR. BETHANCOURT: My question was very similar
2 to Tish, that was exactly my concern. I wanted to make
3 sure I can schedule myself to be able to be there and
4 also to get people as well.

5 CHAIRMAN STAFFORD: All right. It's my
6 understanding that any ACCSH work group that is going
7 to have a meeting, it gets posted and ACCSH members are
8 notified by e-mail.

9 I would like to go ahead, and since I have a
10 few proxies here, that the new work group is going to
11 be established. We can talk further. I would like to
12 ask Tom Marrero and Tish, since we are going to put the
13 I2P2 work group on hold, and Jeremy, who has also
14 indicated interest, as co-leads for the temporary
15 worker work group, if that is okay with you.

16 Jeremy, since you are on the women and
17 diversity work group, you are obviously welcome if you
18 want to continue on, but with our new member, Sarah
19 Coyne, here, she has indicated to me she would be happy
20 to work in any area where she's needed, put
21 Sarah -- either Jeremy, take you off that work group
22 and put you on the temporary worker work group, and

1 replace you with Sarah Coyne.

2 MR. BETHANCOURT: I have no objection, however
3 you would like to align it, Mr. Chairman.

4 CHAIRMAN STAFFORD: Okay. We can talk about
5 the other work groups off line. I'm not sure now with
6 the women and diversity work group, it's been a
7 struggle, but we have now moved forward. OSHA is
8 working on a website dealing with some of the issues
9 that we pointed out that we think are important.

10 I need a feel from the co-leads on whether we
11 need to continue those work groups, modify those
12 somehow. At this point, if we are just providing, as
13 an example, information to OSHA to go on the women and
14 diversity website, we can just do that. To me, it
15 seems continually ongoing. Whether we need a work
16 group to convene and discuss, I'm going to leave that
17 to the group leads, and we can talk about that
18 separately, but I think it is something we have to
19 figure out.

20 Let's move to the procurement document, and
21 this will be the last thing on our formal agenda, and
22 then we will move into the public comment period.

1 //

2 DISCUSSION OF THE DRAFT FEDERAL AGENCY PROCUREMENT
3 CONSTRUCTION, HEALTH AND SAFETY CHECKLIST

4 CHAIRMAN STAFFORD: David Michaels kind of
5 challenged us to take a look at this issue. One of the
6 things we have heard particularly from the large
7 employers is that one of the most important elements
8 they have in their performance is how they select
9 contractors and subcontractors working on their sites.

10 I don't have the latest data, but in 2010, putting
11 about \$45 billion worth of construction in place, so
12 the I2P2 work group has gone down the path of
13 developing a procurement checklist for our procurement
14 officers, for contractors, bidding on Federal
15 Government work.

16 They take a stronger look at qualifications
17 with respect to safety and health. We have some Army
18 Corps' folks here, and there are larger contractors
19 that probably do this anyway.

20 I think from our Committee, this was an
21 exercise that we have gone through under I2P2. Once we
22 get to the point that we have an agreed on checklist

1 and the back-up document, which is in your packet, I am
2 hoping by the next meeting it will be final, and we are
3 going to work on language.

4 We talked about this document being presented
5 in conjunction with the Presidential Executive Order
6 basically saying that the Federal Government is going
7 to pick it up in terms of occupational safety and
8 health in the construction industry and do a more
9 adequate job in qualifying contractors and considering
10 safety and health.

11 That is where we are at with this document.
12 Tish and Tom, if you want to walk through it, or
13 however you want to handle it as the work group leads,
14 I'll yield to you. For purposes of timing, we are
15 asking some procurement officers to take a look at this
16 to give us a gut check on how viable they think this
17 is.

18 We realize anything you ask procurement folks
19 to do is just another thing on the table of things they
20 have to do, and obviously, it's not going to be
21 something that's going to be easy, and we certainly
22 think before we can go to Dr. Michaels and say okay,

1 this is the final document and let's do a Presidential
2 Executive Order and get this out, we need the feedback
3 from the procurement folks that are doing this day in
4 and day out.

5 With that, I just offer this to lead into the
6 discussion and yield to Tom and Tish, whatever you
7 would like to say about it, if anything.

8 MR. MARRERO: Tom Marrero with Tradesmen
9 International, employer rep. With what we have here,
10 I'm not sure which one this is, I think one of the key
11 elements that is missing out of here is reference to
12 possibly an EMR, experience modification rate. I think
13 that's a great indicator of employer safety. I would
14 like to see that added in conjunction with this.

15 CHAIRMAN STAFFORD: Go ahead, Kevin.

16 MR. CANNON: Kevin Cannon, employer rep. That
17 had been discussed and included in the initial
18 checklist. We felt as though that was not an accurate
19 measure because the fluctuation in EMRs can sometimes
20 be a result of things that are not safety related. I'm
21 no expert in it myself but I understand payroll sizes
22 and what not can impact EMR, and then particularly for

1 a small employer, you can have a clean record for the
2 past ten years and you can have just one minor
3 incident, and that can cause your EMR to sky rocket.

4 MR. MARRERO: That is also similar to your
5 OSHA incident rate as well. If you're a small
6 contractor and you have one injury, your incident rate
7 is going to --

8 MR. BETHANCOURT: Mr. Chairman, this is
9 Jeremy. I agree with Kevin in that respect, especially
10 because of the downturn in the economy and the EMR is
11 very much influenced by the past and then going
12 forward. It's not a very accurate -- as far as I'm
13 concerned -- way to evaluate an organization's safety
14 record, per se, on its own. I agree with Kevin.

15 MS. BARBER: Mr. Chairman, this is Kristi. I
16 agree with Kevin as well. The EMR is based on your
17 past third year of history for your OSHA 300. You
18 could be a completely different company during the
19 present time. I don't think it's a good idea.

20 MR. RIVERA: Mr. Chairman, this is kind of a
21 slightly different spin to it, but since we are
22 discussing the procurement process, I think it's off to

1 a great stop. I am just wondering if we can gather
2 some examples of other Federal procurement agencies,
3 just to kind of align to see if we are on the right
4 path, is there anything that we are missing, and most
5 importantly, maybe get the feedback from those groups
6 as to what they are doing and how it is going to relate
7 to them before we move any kind of formal
8 recommendation.

9 CHAIRMAN STAFFORD: We're not looking for a
10 formal recommendation today on this. I think we have
11 collected some of those instruments. This has been now
12 developed over a course of many months. We have gone a
13 long way down that road. We will be happy to back up
14 and provide that documentation and what's been reviewed
15 as part of the process.

16 MR. CANNON: I would support what Jerry was
17 saying because I know shortly after this was
18 distributed, the folks at NAVFAC had sent out a copy of
19 what they are using. For consistency purposes, to make
20 sure that what NAVFAC is looking for and what this is
21 looking for kind of aligns better.

22 CHAIRMAN STAFFORD: What is the acronym you

1 are saying?

2 MR. CANNON: Naval Facilities and Command.

3 SPEAKER: Naval Facilities Engineering
4 Command.

5 MR. CANNON: Yes.

6 CHAIRMAN STAFFORD: Within the Navy. Do you
7 have that? Is that available? I think we should share
8 those. We have now three or four months to finalize
9 this, I would really like to collect all this
10 information and have a final document, so that at our
11 meeting in the Fall, we can make a formal
12 recommendation and tell Dr. Michaels this is is.

13 MR. RIVERA: I know we are looking at making a
14 recommendation but as far as the rationale and thinking
15 behind development of this product, is this going to be
16 a tool in the process or just a screening process that
17 says hey, if you have it, you're good, if you don't
18 have it, you're out?

19 CHAIRMAN STAFFORD: No, this is a tool in the
20 process. There are other considerations. We want
21 safety and health to be more of a consideration than it
22 is. There are obviously going to be other

1 considerations on selection of contractors.

2 MS. DAVIS: I want to compliment those of you
3 who have been working on this. I found it very
4 straightforward. I liked the elements that were
5 included.

6 One of the things, because it has come up over
7 and over again, and I know you have looked at some of
8 the other agency documents, it might be useful to have
9 some kind of -- our next consideration is -- instead of
10 reams and reams of documents, some synthesis of that.

11 I know there are a lot of different tools out
12 there. I'm just trying to think of a process by which
13 we kind of look at this consistency or validate use of
14 the items included here by reference to other sources.

15 CHAIRMAN STAFFORD: Okay, I think we need to
16 do that. Yes, Matt? Go ahead, please.

17 MR. GILLEN: Matt Gillen, NIOSH. I wonder if
18 our sister group, FACOSH, some of the folks on that
19 group, if it might be worth touching base with them to
20 see if they have folks that are knowledgeable about
21 this as well. It might help us.

22 CHAIRMAN STAFFORD: Okay, I appreciate that.

1 I don't know that, so we could look into that.

2 MS. SHORTALL: FACOSH will be meeting in early
3 June.

4 CHAIRMAN STAFFORD: For those folks here
5 today, documents were put on the back table. We would
6 welcome any comments to the drafts. We have been very
7 open about this since we started this process and have
8 tried to share it broadly with anyone that has an
9 interest in looking at it, so please. We would like
10 all your comments.

11 MS. SHORTALL: I have a question, this is just
12 technical. He said this additional information will be
13 gathered. Who will be doing that now that the I2P2
14 work group --

15 CHAIRMAN STAFFORD: I will take that
16 responsibility as the Chair. Any other questions or
17 comments?

18 MR. RIVERA: One last comment, I would also
19 like to consider because GSA is so big, that might also
20 be one of the ones.

21 CHAIRMAN STAFFORD: We have identified a GSA
22 procurement officer who has agreed to review it for us.

1 MR. RIVERA: Great. Would they be able to
2 share that?

3 CHAIRMAN STAFFORD: Yes, sure. We would be
4 happy to do that. Any other questions or comments?

5 MR. CANNON: Question for clarification. You
6 will continue to --

7 MS. DAVIS: I can't hear.

8 MR. CANNON: Kevin Cannon, employer rep. You
9 will continue to receive feedback on this?

10 CHAIRMAN STAFFORD: Yes.

11 MR. CANNON: Is there a cutoff point?

12 CHAIRMAN STAFFORD: The cutoff point is we
13 will have to identify when the next meeting is going to
14 be, but the cutoff point is the point we are ready to
15 come back at this next meeting and make a
16 recommendation that we want OSHA to take this document
17 and use it.

18 We can work through the Summer on this hoping
19 that by September 1, this is final, a general
20 guideline. I don't think OSHA can tell us today when
21 the next meeting is going to be, but we can
22 assume -- you can? Then tell us, help us identify a

1 deadline.

2 MR. MCKENZIE: Dean McKenzie, DOC. We are
3 actually hoping to hold another meeting toward the end
4 of August/early September. It will have to be the same
5 format, we will still be under the same budget
6 constraints. We would like to try to schedule that and
7 we will start working toward that after this meeting.

8 CHAIRMAN STAFFORD: Okay. Working back from
9 that, we could say we would like to have this in the
10 can ready to go by mid-August, so we have three months
11 to try to finalize things.

12 MS. DAVIS: I guess my question is were there
13 any particular areas where you wanted more input?

14 CHAIRMAN STAFFORD: No. We have been so close
15 to this, Tish, I kind of liked it myself, but I
16 understand there are other comments. I wasn't looking
17 for any particular areas.

18 MS. DAVIS: Okay. That's fine.

19 MR. BETHANCOURT: I think this is a great
20 document. I hope it will be used more than other
21 means. Of course, generally speaking, it always seems
22 that safety has taken a back burner to the final budget

1 requirement or cost, but I think this is a great
2 document, and I hope it is something that can be
3 utilized to support the good players as opposed to
4 supporting the bad players, which are done more often
5 where this type of document is not utilized.

6 CHAIRMAN STAFFORD: Okay. I appreciate that,
7 Jeremy. Any other discussion or questions? Sarah?

8 MS. SHORTALL: I'd like to enter into the
9 record two exhibits, the Draft Federal Agency
10 Procurement Construction, Health and Safety Checklist
11 developed by the I2P2 Work Group as Exhibit No. 21.
12 The Draft Federal Agency Procurement Construction,
13 Health and Safety Checklist Score Sheet developed by
14 the I2P2 Work Group.

15 If I could just take a moment for personal
16 privilege, this is the first meeting where it has gone
17 from teleconference into -- all things considered, I
18 think they have done an excellent job of getting this
19 to work. I have a thank you to them.

20 CHAIRMAN STAFFORD: Thank you.

21 MS. DAVIS: I'd like to comment. I've been
22 surprised at how well this has worked from my end, but

1 I also need to say it has worked because I know the
2 people, I know the voices, but face to face meetings
3 are an important component. These can be supplements.

4 I think I need to say that.

5 CHAIRMAN STAFFORD: Thank you, Tish.

6 MR. BETHANCOURT: I need to agree with Tish.

7 CHAIRMAN STAFFORD: I understand that, and we
8 also understand we have to try to do the best we can
9 within the budget constraints, and hopefully that will
10 get better.

11 Now we are at the time for public comment. I
12 think three folks have signed up. We have about 35
13 minutes. Chuck?

14 MR. STRIBLING: I was just going to say while
15 they are coming up, I wanted to make a comment or
16 request. About two or three weeks ago, the Agency
17 issued another variance for chimney construction. I
18 know I've brought this up before and Paul is sitting
19 over there so he can't slap me that far away, maybe it
20 be looked at for a SIP project.

21 Apparently, it looks -- speaking as one of
22 your state regulatory agencies, that is just another

1 variance we have to keep up with, whereas if it is
2 something that is printed in the standard, it is much
3 easier for our staff to be aware of instead of hunting
4 out the variance and reading through it, and we have to
5 get the training done to support the variance when they
6 are out in the field.

7 It seems to me that within that industry, that
8 is becoming a pretty common practice. I sort of see it
9 as another option that is out there for employers, not
10 necessarily a requirement.

11 I would respectfully request the Agency maybe
12 review that again to see if there is a way it could be
13 incorporated into a SIP project.

14 CHAIRMAN STAFFORD: I guess we have another
15 bite of the apple next time. Is that one of the things
16 on the list or no? No.

17 MR. BOLON: We can look at it again.

18 MS. DAVIS: I wanted to also say I know we
19 have an opportunity in these meetings to speak to NIOSH
20 as well as OSHA, and we didn't this time get an update
21 from NIOSH, and one of the recent developments is NIOSH
22 has discontinued funding of their adult blood lead

1 surveillance program, which has huge implications for
2 surveillance in the construction industry because
3 construction workers are among the most commonly lead
4 poisoned.

5 I would like to request that NIOSH speak to
6 this issue in their update at the next meeting.

7 CHAIRMAN STAFFORD: Okay, Tish. Thank you.
8 Chuck, it sounds like your suggestion is OSHA will take
9 another look at the chimney. Sounds good.

10 PUBLIC COMMENTS

11 CHAIRMAN STAFFORD: We have 30 minutes left.
12 We have three. Brad was on and crossed his name out.
13 I will have to ask you to limit it to about ten minutes
14 so we can adjourn at 1:00.

15 LaTonya James-Rouse, American Staffing
16 Association.

17 MS. JAMES-ROUSE: My name is LaTonya
18 James-Rouse. I am the Assistant General Counsel for
19 the American Staffing Association, which I believe Dr.
20 Michaels mentioned yesterday when he brought up the
21 possibility of forming the working group regarding
22 temporary employees that you guys mentioned a few

1 minutes ago. I just have a very brief comment.

2 I just wanted to say on behalf of the American
3 Staffing Association that we have developed a very good
4 working relationship with and have recently met with
5 OSHA to further the interests and to protect temporary
6 employees.

7 To that end, we support additional efforts,
8 including the establishment of the work group that
9 technically you guys just approved, to further enhance
10 and protect the temporary employee welfare.

11 That is all I wanted to say.

12 CHAIRMAN STAFFORD: Okay. We appreciate that
13 very much. Questions or comments?

14 One issue that came up yesterday, your view on
15 the responsibility for safety and health training, is
16 that something your agency takes on itself or is that
17 something you view as an employer's responsibility once
18 they are referred out?

19 MS. JAMES-ROUSE: ASA thinks there is a shared
20 responsibility between the staffing firm and the
21 clients where the temporary employees are being
22 assigned. We do have information available to our

1 staffing firms about best practices for employee
2 safety, but according to OSHA standards, there seems
3 like there is a joint requirement there. It could be a
4 little bit clearer on the responsibilities of each
5 party.

6 The primary responsibility is for the staffing
7 firm, but there is some give and take between the two.

8 CHAIRMAN STAFFORD: All right. Don?

9 MR. PRATT: I would just like to make a
10 statement that in our company we have used several
11 temporary staffing people, especially in positions like
12 laborers, carpenters, masons, things like that. It
13 would be very helpful if they came to our job sites at
14 least having the 10 hour OSHA training. You might want
15 to think about how you can go about doing that, and try
16 to get them that training before they show up on our
17 job sites.

18 CHAIRMAN STAFFORD: Any other questions or
19 comments? Jerry?

20 MS. RIVERA: Jerry Rivera, employer rep, NECA.
21 Just an observation. It is very important, the
22 hosting contractor responsibility there, and as we move

1 forward with the work group, I want to thank LaTonya
2 for stepping up to work up with the subgroup or with
3 ACCSH in general. I think it's a step in the right
4 direction.

5 CHAIRMAN STAFFORD: I appreciate that.
6 LaTonya, you are signed in. When our work group meets,
7 you will be getting those notifications and we would
8 like you involved at that level.

9 MS. JAMES-ROUSE: Thank you.

10 CHAIRMAN STAFFORD: Thank you. Lisa?

11 MS. LONDON: Hello. My name is Lisa London.
12 I work for the University of Texas at Arlington. We
13 serve OSHA as an OSHA Training Institute Education
14 Center. I also serve as the chair of the Executive
15 Committee for the OSHA Training Institute Education
16 Center Directors across the country. There are 28
17 education centers across the country, with 40
18 organizations involved.

19 I would just like to add a few comments and
20 really let the Committee know that we as the OSHA
21 Training Institute Education Centers are here to be
22 supportive, particularly of the efforts of the Training

1 Education Work Group.

2 I did want to let you know about some of the
3 efforts where the things we are doing might be of
4 assistance to you, and where perhaps we could have
5 coordinated efforts in terms of looking at ways to
6 ensure the continued quality and usefulness of the
7 outreach training program.

8 At the OSHA Training Institute Education
9 Center Directors' meeting, which we held this past
10 week, Tuesday, Wednesday, Thursday, in Baltimore, we do
11 also have work groups. We call them "project teams."
12 They are made up of education center directors.

13 We have a project team that is currently
14 assessing the goals, objectives, and test strategies
15 for all of the outreach training program courses that
16 we offer. The standards course, which serves, of
17 course, as an introduction to standards, but also the
18 prerequisite course for the trainer, the outreach
19 trainer courses.

20 We are looking at the standards courses, the
21 trainer courses, and the update courses, and just
22 evaluating the goals, the objectives, and test

1 strategies.

2 Perhaps in working with the work group, we can
3 be involved in some further assessment. I do concur
4 that if we are going to assess the program as a whole,
5 including the 10 hour and 30 hour components, but also
6 the trainer components, that understanding what
7 specific outcomes we would like to get out of that, the
8 questions, I think that's a great direction, and if we
9 can be of assistance, we certainly would like to be.

10 On that note, we do have another project team,
11 actually two separate project teams, doing some pilot
12 studies, some research, on the efficacy of the trainer
13 courses.

14 We have Kirkpatrick Level III evaluations
15 going on, which was at the request of OSHA, to enhance
16 our evaluation, going beyond the simple post-course
17 evaluation, but actually setting up a follow-up
18 evaluation after the course, asking about specific
19 outcomes, and then re-surveying six months later,
20 asking about specific outcomes.

21 Those two pilot research projects are being
22 led by -- one is West Virginia University and the other

1 is by Rutgers University. Each of those pilot studies
2 has four to six other OSHA Training Institute Education
3 Centers involved in piloting and collecting data.

4 I'd like to let this Committee know that
5 certainly we serve as a resource to Federal OSHA, and
6 we would love to coordinate our efforts to serve as a
7 resource to this group as well.

8 The final thing I will mention just as a point
9 of clarification, the update courses, the OSHA training
10 outreach update courses, 502 and 503, are currently
11 scheduled at an 18 hour minimum contact. That must be
12 done over 2.5 days, the duration of that course.

13 Again, that is something that the project team
14 is looking at, those goals and objectives, and ensuring
15 that what we are covering in those courses is relevant
16 and certainly to update on standards, which we know is
17 a very slow and lengthy process, and maybe doesn't need
18 the critical update.

19 We also update trainers on training
20 techniques, best practices in safety and health and
21 hazard recognition, new technologies, and all the rest
22 of what may have happened in the four years since they

1 became a trainer.

2 There are other things besides standards that
3 we do update in those courses, but again, very
4 supportive of the efforts to look at the entire package
5 of outreach training programs from the trainer side and
6 from the worker side, and making sure we are both on a
7 good path, supporting employees, employers, and of
8 course, the objectives of Federal OSHA as well.

9 CHAIRMAN STAFFORD: That's great. We
10 appreciate that. I'm sure the training work group will
11 take advantage of the offer and work with you.

12 The studies that WVU and Rutgers are doing,
13 how is that funded? Is that something they are doing
14 on their own?

15 MS. LONDON: First I'll mention that the OSHA
16 Training Institute Education Centers, we operate under
17 a non-financial cooperative agreement with OSHA. Just
18 in case anyone is not aware, this is a non-funded
19 effort.

20 We very much appreciate the cooperative nature
21 of our agreement, and that is why we charge a fee for
22 the training. What you will find with the education

1 centers is that we are very much committed to this
2 mission, to the mission of training, outreach training,
3 and just us wanting to do an excellent job.

4 We have volunteered our resources to evaluate
5 the programs. It helps us provide a better quality to
6 our clients, which are the employers and employees out
7 there that participate in this training. These are
8 non-funded pilot research studies.

9 CHAIRMAN STAFFORD: That is great. Any
10 questions or comments?

11 MS. DAVIS: First of all, thank you. Sounds
12 like a terrific resource for our education work group.
13 I hope you will participate.

14 Two issues that were raised today, one had to
15 do with the 2 and 10 hour course, introduction to OSHA,
16 and the other had to do with incorporating some
17 supervisory training skills in the OSHA 30. Are those
18 topics that have been addressed by your group?

19 MS. LONDON: I would say they are topics that
20 have been discussed and probably we have had many of
21 the same discussions about those topics. Certainly, we
22 have talked about the 2 hour intro to OSHA, the

1 materials that have been developed, the applicability
2 of those materials, all of the same conversations that
3 I sense you have had, we have had in our Education
4 Center Directors' meetings, and we have had at our
5 individual centers among our constituents.

6 Definitely we have been traveling along the
7 same paths, and certainly are committed just like
8 yourselves to making sure we are providing the training
9 that is most effective in keeping workers safe.

10 That is why I think some coordinated efforts
11 for OSHA to hear what is most relevant from multiple
12 points, if those opinions concur, then I think that
13 unified voice is helpful. If they don't, then it
14 enriches the dialogue.

15 We were talking earlier about expiration dates
16 of cards. There is a variety of opinions on this topic
17 as well. All these things, the more dialogue we can
18 have and find the places we agree and where we concur
19 and where we can advance the program, I think those are
20 things we would be very much interested in.

21 With regard to supervisory skills, in a 30
22 hour course, I'll reiterate some language that has

1 really been drilled to me from OSHA, and that is that
2 the 10 and 30 hour courses are hazard recognition
3 courses, so 30 hours of hazard recognition is more than
4 10 hours of hazard recognition, is that more
5 appropriate for a supervisor level? Sure, it is.

6 As an educational professional, I would like
7 to see supervisors have more than 30 hours of hazard
8 recognition, and now I'm stating more my opinion than
9 that of any collective group, but I believe the
10 products that the OSHA Training Institute Education
11 Centers offer, the standards courses, the introduction
12 to the standards courses, and then the more subpart
13 specific standards courses, I would prefer to see
14 supervisors have that kind of training, knowledge and
15 resources on the job site, but that's just a general
16 statement of the more they know, the better supervisor
17 they are.

18 In terms of management leadership, kinds of
19 skills, absolutely, we definitely recognize that it's
20 one thing to know the standards or to know hazard
21 recognition, it's another thing to be able to lead that
22 on a job site, and that takes some leadership and some

1 management skills, and it is certainly that we as an
2 education center group are concerned about. I'm not
3 certain that the 30 hour course is the right place for
4 it, but maybe it is.

5 We are definitely interested in that dialogue.

6 CHAIRMAN STAFFORD: We will continue that
7 discussion. Yes, please, Chuck.

8 MR. STRIBLING: The studies you mentioned, is
9 there any target date for completion, any publication
10 of the results?

11 MS. LONDON: We have just been updated on
12 this, like I mentioned. I believe both of them have
13 been a very narrow pilot. I've seen some extremely
14 preliminary data, along the magnitude of say 60
15 responses to the survey.

16 We are definitely in the early stages. Like
17 this group, we meet twice per year as a collective body
18 and then we have work group meetings in between. Our
19 next meeting will be in November. I would expect we
20 would have some additional data to be presented to us
21 at that time.

22 CHAIRMAN STAFFORD: Okay. Any other questions

1 or comments?

2 [No response.]

3 CHAIRMAN STAFFORD: Lisa, thank you. This is
4 great. We would very much -- I think Tish said
5 it -- like for you to be involved in our work group.
6 It seems like we are looking at the same issues. To
7 work together, I think, would be a terrific
8 opportunity.

9 MS. LONDON: We would be very pleased to work
10 with you.

11 CHAIRMAN STAFFORD: Do you have a business
12 card?

13 MS. LONDON: I do; absolutely. I have lots of
14 them.

15 CHAIRMAN STAFFORD: Would you give it to the
16 Reporter over there for the record. Also, LaTonya, if
17 you have a business card, would you give it to the
18 Reporter?

19 MS. JAMES-ROUSE: I did.

20 CHAIRMAN STAFFORD: All right. Last person
21 signed up is Francisco Trujillo for Miller & Long.

22 MR. TRUJILLO: My name is Frank Trujillo, I'm

1 with Miller & Long Concrete Construction. We do a lot
2 of concrete work here around the D.C. metropolitan
3 area. I am speaking in regard to the Federal Agency
4 procurement discussion.

5 There are a few concerns that we had when
6 looking at this, and speaking with some fellow
7 colleagues of mine in the safety industry and some
8 general contractors in the area.

9 The first was discussed a little bit earlier
10 about the data being examined by the qualification for
11 the job, such as accident rates and EMRs. I can't
12 remember the other one.

13 The bottom line is especially with accident
14 rates, they are easily manipulated in what is turned in
15 for project bids and such, and it is not hard for
16 contractors to manipulate that data to look better or
17 look worse.

18 The other one was OSHA citations, I just
19 remembered. Some of the contractors were concerned
20 about maybe OSHA wars going on, contractors calling
21 OSHA in on their competitors so they could worsen their
22 safety records, maybe have a better shot at getting

1 some of this work.

2 The market is improving. Federal dollars are
3 driving a lot of the industry.

4 Another point of concern was the JHAs, and
5 some of the scoring and how the data is examined is
6 kind of subjective. There was mention about the
7 quality of the JHAs. Beauty is in the eye of the
8 beholder. I can look at some JHAs and pick them apart
9 or I could say I love them. It just depends on what
10 you are trying to do to the person who wrote them.
11 It's a little concerning, some of the language in here
12 about how things are scored.

13 Inspection documentation was another concern.
14 There is some language in here about turning in past
15 inspection reports to document you have done
16 inspections. There is a lot of concern about that
17 being used against the people who submit it, possibly
18 be used as a foundation for a willful violation if
19 there was an enforcement event in the future.

20 I would tend to anticipate that you would only
21 receive gleaming inspection reports on every
22 application. I doubt you would find any if at all on

1 anything other than maybe somebody wasn't wearing their
2 safety glasses.

3 We thought that was a bit of a concern, but
4 the biggest concern we had was the requirement for OSHA
5 10 and 30 hour training. The OSHA 10 and 30 hour
6 training, we have recently had a lot of input on this
7 in the State of Maryland. We are looking at
8 establishing an OSHA 10 or 30 hour requirement in all
9 state funded projects.

10 Miller & Long in this area employs about 2,000
11 employees, just in the D.C. metropolitan area, D.C.,
12 Maryland and Virginia. We are one of the largest
13 employers in the area. It is hard work, it's labor
14 intensive work. It's carpentry, moving heavy materials
15 from here to there and it's concrete work.

16 Consequently, we have a higher turnover than a
17 lot of companies have, and it is a huge burden on an
18 employer like us to have us training a lot of employees
19 in an OSHA 10 hour who likely we won't retain, and
20 continuing that cycle in trying to staff these projects
21 with employees being 10 hour trained is just a huge
22 cost burden to us to comply.

1 As a safety professional, I always have to say
2 the OSHA 30 hour for a foreman or superintendent is
3 valuable, and we have adopted that wholeheartedly and
4 we are pretty much 100 percent compliant in that area.

5 It does hold value from a managerial standpoint.

6 As far as an individual worker having an OSHA
7 10 hour card making him safer, I think it is up for
8 debate. I would think it's up for debate and a lot of
9 my colleagues feel the same.

10 Another thing to consider is it's on the OSHA
11 website that OSHA 10 or 30 hour training in no way
12 meets any OSHA required training anywhere in the CFR.
13 It is not a substitute for any required training
14 anywhere in the OSHA Manual in 1910 and 1926, it is not
15 its purpose, it is not what it does.

16 You can go on the website. It says it
17 outright. It is just an additional safety training
18 offered to employees. I think it has some value in
19 certain areas, but as a means of making employees safer
20 or making a project safer, I don't think having every
21 single employee on the project comply with OSHA 10 hour
22 achieves any of those goals, injury reduction. I think

1 30 hours for supervisors could.

2 The Maryland legislation, when they were
3 looking at passing the 10 hour requirement for every
4 employee on their state funded projects really relied
5 on the 2 hour and showed the OSHA section as the
6 primary reason they wanted to get this thing out to
7 people, to all the employers on their work sites, so
8 that employers knew their rights.

9 If that is the function of having a 10 hour
10 required for every employee, I guess that is an
11 argument. For making the project safe or making the
12 employees safer, again, I think that is up for debate.

13 That is our primary concern, the 10 and 30
14 hour training. The rest of it, I think it can be
15 tweaked. I think there are a lot of good things done
16 here and I understand the function of it, but that's
17 the concern I wanted to voice.

18 CHAIRMAN STAFFORD: We appreciate that. Will
19 you provide those comments to us as a part of the work
20 group, and any issues that you have? That kind of
21 input would be helpful as we fine tune this thing.

22 MR. TRUJILLO: Sure.

1 CHAIRMAN STAFFORD: On the OSHA 30 and 10, I
2 am going to say I probably disagree with you, but that
3 is neither here nor there. The checklist is that you
4 provided the training, it's not requiring you provide
5 the training. The checklist is yes or no, you either
6 do the 10 or 30 or you do not.

7 We are not saying if you don't provide the 10
8 or 30 hour training, you're not going to get Federal
9 Government contracts.

10 MR. TRUJILLO: It scores you lower on the
11 scale.

12 CHAIRMAN STAFFORD: That's right. Jerry?

13 MR. RIVERA: Mr. Chairman, Jerry Rivera,
14 employer rep. I'd like to thank the gentleman for
15 stepping up and sharing his insight. It definitely
16 shows there might be some areas of consideration moving
17 forward with the procurement document. It was kind of
18 interesting to hear your thoughts on the JHAs, the job
19 site inspections, and definitely, the 10 hour. It's a
20 valid point. It's a tool, but by means is it a
21 substitute for safety and health training moving
22 forward.

1 It should bring us back to the perspective to
2 see the value of some of these things that are
3 included.

4 I would like to ask, besides working with the
5 work group, which I highly encourage, if you are
6 willing to share some of your procurement processes,
7 what they look like. It doesn't have to be on formal
8 company letterhead, an idea.

9 We want to make sure we compliment the
10 industry moving forward, not hurt it. I know it's hard
11 to bid work, and by no way are we saying that employers
12 that are unsafe should get work. We just want to make
13 sure everybody has a fair opportunity moving forward.

14 I think Miller & Long on behalf of the local
15 market is something we should consider, companies like
16 yourself.

17 MR. TRUJILLO: Sure. For a company like us
18 that spends close to seven figures a year on safety
19 training and education, apprenticeship programs, things
20 like that, if there was some metric that you wanted to
21 come up with for evaluating our training besides the 10
22 hour, we really do try to provide a lot of training to

1 our people, but ten hours for every employee is
2 something that is very difficult for us.

3 I know it is not required, but it is a metric
4 of evaluation which can put you down more.

5 MR. RIVERA: My point is you might be doing
6 more, and I can see that. There are definitely people
7 who do less. The guys who are doing the right thing
8 are probably doing more from job site orientation to
9 job site specific training to tool box and so forth,
10 combination of all of it, probably more than that.

11 MR. TRUJILLO: Sure.

12 CHAIRMAN STAFFORD: Frank, if there is some
13 category that we could add that would kind of get at
14 the kind of training that is provided and not the
15 reliance on OSHA 30 or 10.

16 MR. TRUJILLO: Maybe something in there that
17 says the equivalent or greater.

18 CHAIRMAN STAFFORD: I guess that is kind of
19 what I was asking for in terms of comments, if there
20 are things we can do to tweak it over the next couple
21 of months, that is the kind of input we would like to
22 have.

1 MR. TRUJILLO: We would be glad to.

2 CHAIRMAN STAFFORD: Thank you. Any other
3 questions or comments?

4 [No response.]

5 CHAIRMAN STAFFORD: Thank you very much.
6 Thank you for being here.

7 MR. TRUJILLO: Thank you.

8 CHAIRMAN STAFFORD: Ms. Sarah, I think we are
9 close to wrapping up. Do you have anything?

10 MS. SHORTALL: No.

11 CHAIRMAN STAFFORD: Dean?

12 MR. MCKENZIE: No.

13 CHAIRMAN STAFFORD: I want to thank again all
14 the ACCSH members and the folks that have participated
15 and the public. I think we have had a good discussion
16 over the last couple of days.

17 If there are no other questions or comments,
18 I'd like to adjourn the meeting. Thank you very much.

19 (Whereupon, at 12:50 p.m., the meeting was
20 adjourned.)

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