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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OPENING REMARKS/AGENDA OVERVIEW

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

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

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

Also, at the end of this meeting, like most of our meetings, we will have an opportunity for public comment. If anyone wants to make comments to the Committee, we will carve out some time at the end, depending on how our agenda goes to do so. There is
also a sign-in sheet in the back if you would like to
make public comment. I appreciate it.

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

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

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

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

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

MR. RIVERA: Jerry Rivera, NECA.

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

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

MR. PRATT: Don Pratt, employer rep.

MS. SHORTALL: Sarah Shortall, ACCSH counsel.

CHAIRMAN STAFFORD: Let's go to the back. Why
don't we start with you, Paul, and work our way around
the room.

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

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

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

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

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

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

    MR. COLE: Chris Cole, Inside OSHA.

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

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

MR. COUPLES: Tim Couples, Federal Highway Administration.

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


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

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


MR. TIGON: Jim Tigon, Aginomics.


MS. LYNN: Kate Lynn, OSHA.

MS. NIEVES: Lana Nieves, OSHA.

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

MR. BRANCH: Garvin Branch, Directorate of
Construction.

MS. BUTLER: Teresa Butler, OSHA.

MR. BURNEY: Lance Burney, Sigalarm.

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

MR. MASARICK: John Masarick, Independent Electrical Contractors.

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

MR. KENNEDY: George Kennedy, NUCA.

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

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

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

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

MS. OLIVER: Lolita Oliver, OSHA.

CHAIRMAN STAFFORD: That is Damon carrying the microphone around.

MS. DAVIS: Tish Davis, I'm a public
representative and I work with the Massachusetts Department of Public Health.

CHAIRMAN STAFFORD: Thank you. Dean, any announcements?

MR. McKENZIE: Nothing right off.

CHAIRMAN STAFFORD: Ms. Sarah?

MS. SHORTALL: No.

CHAIRMAN STAFFORD: The first thing on the agenda this morning is to start talking about the OSHA outreach training program. Before we do that, we have a couple of items of business that the Committee needs to take action on based on our discussion yesterday, and for many of us, it was a very interesting discussion that we had, and I was struck by the comments about OSHA's plan to push the crane and derrick training certification back for three years. I think we have talked amongst some of our Committee members and with the folks with OSHA. We heard those comments. For the Committee, I would like to offer up a motion to be considered, and we can have a discussion about that and hopefully move this forward.
Actually, there are going to be two recommendations with respect to the crane standard, one on the training certification issue and the other on the crane amendments that we discussed.

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

MOTION

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

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

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

CHAIRMAN STAFFORD: I do.

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

CHAIRMAN STAFFORD: Okay. Don?

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

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

Thank you.

CHAIRMAN STAFFORD: Okay.

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

I agree with Don. To be clear, I think folks know what they are doing, they just don't know what direction they need to go in as far as making sure they are not only compliant with best practices but we have
a statutory obligation, so I think folks in my area and the folks that have crane companies that I interact with and speak to, they are concerned because they want to ensure that they are not only providing best practices, but they are also doing what they need to under their legal obligations.

I agree with Don and everyone that this is something that really should not be put off if at all possible, and they should work on it immediately.

That's what I have to say.

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

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

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

CHAIRMAN STAFFORD: Thank you, Roger. Jerry?
MR. RIVERA: Mr. Chairman, I vote in support of the motion to extend it, I do want to make sure the Agency considers in the rulemaking process, if there is any significant financial impact, whether we include or address the type and capacity issue, that be considered as far as a SBREFA Panel.

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

CHAIRMAN STAFFORD: Thank you, Jerry. Kevin?

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

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

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

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

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

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

[Pause.]

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

CHAIRMAN STAFFORD: The one I initially proposed?

MR. RIVERA: Yes.

CHAIRMAN STAFFORD: I move that ACCSH recommend to OSHA that the crane operator certification
requirement due to take effect November 10, 2014 be suspended until such time as OSHA reopens the rule to clarify third party certification and employer training and qualification requirements, while keeping employer duties to ensure operator qualifications. That is the initial motion.

MR. McKENZIE: Why don't you say "reopens and amends?"

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

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

MS. SHORTALL: Pete Stafford moves that ACCSH recommend to OSHA that the crane operator certification requirement due to take effect 11/10/14 be suspended to such time that OSHA completes its rulemaking on operator certification, including opening the record to clarify third party certification and employer training and qualification requirements, while keeping employer duties to ensure operator qualifications.
CHAIRMAN STAFFORD: Sounds like a lawyer to me. I think that captures it.

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

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

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

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

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

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

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

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

CHAIRMAN STAFFORD: Is that satisfactory as far as timing?

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

CHAIRMAN STAFFORD: Chuck?

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

MS. SHORTALL: If both the person making the
motion and the person who seconded it accepts it as a
friendly amendment, there is no need to withdraw and
re-propose or remove.

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

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

I just don't know. If this is the best
solution for now, it's the best solution, and each
state is going to have to review what it is going to
do. It doesn't necessarily -- I don't see this being a
mandatory thing for the states because so many
employers have gone forward and got certification, and
to go back now and tell those employers oops, never
mind for now, we're going to extend this out sort of
indefinitely, because we don't know when it would
be -- it's going to put at least my state in a little
bit of a peculiar situation.

Steve, if you're on the line?

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

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

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

CHAIRMAN STAFFORD: I appreciate that. Paul,
can you speak at all with respect to timing and what
OSHA is thinking about?

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

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

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

Are you saying that means there is no additional significant financial impact on small businesses?
MR. BOLON: When we were considering what we presented to ACCSH before, just moving the date by three years, there was a little bit of economic work to do. There was not going to be much impact, but it was not cleanly no cost.

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

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

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

CHAIRMAN STAFFORD: Chuck, please.

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

MR. BOLON: We will have it out of our Directorate. It goes to the Assistant Secretary, it goes to the Department, theoretically, goes to OMB. We
can only do our part and get the package ready and then it goes to the clearance process, which can be short or lengthy, and that is beyond my control.

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

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

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

CHAIRMAN STAFFORD: This seems to me in some ways it's dealing with the problem as opposed to putting it off for another three years.
I have forgot what the original motion was now. I will have to go back and look. Is there any more discussion?

[No response.]

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

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

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

MR. RIVERA: Phasing criteria maybe towards the end of that? Again, I just want to pinpoint somewhere, okay, what does that mean, oh, I know what it means now. I understand the point, it's implied, but --
MS. SHORTALL: I'm not certain I understand what you are saying, Mr. Rivera.

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

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

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

MR. McKENZIE: Yes.

MR. RIVERA: Yes, they must follow the phase-in criteria. It points them back to some direction of what they need to do.
MR. McKENZIE: The existing phase-in requirement.

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

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

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

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

I'm reading verbatim.

In the interim, employers are still required
to follow the existing phase-in criteria.

MR. RIVERA: There you go.

CHAIRMAN STAFFORD: Thanks. Matt?

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

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

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

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

M O T I O N [revised]

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

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

CHAIRMAN STAFFORD: Any more discussion?

[No response.]

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

[Chorus of ayes.]

CHAIRMAN STAFFORD: Opposed?

MR. BETHANCOURT: This is Jeremy, aye.

MS. DAVIS: Tish, aye.

MS. BARBER: Kristi, aye.

MR. HAWKINS: Steve Hawkins, aye.

CHAIRMAN STAFFORD: Any opposed?

[No response.]

CHAIRMAN STAFFORD: Okay. Thank you, Sarah.
The second motion I would like to consider is on the crane issue, but this is on the amendments. I think we heard a pretty compelling -- I'm not going to say argument but a pretty compelling situation from Mr. Burney and Mr. Sapper with respect to proximity alarms and insulating links.

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

MOTION

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

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

CHAIRMAN STAFFORD: Sure, Kristi. I move that the Agency proceed with the amendment to the crane
standard on NRTL approved equipment, but consider the
remarks at this meeting with respect to proximity
alarms and insulating links.

It could be stronger, of course, but I think
the point is we heard what was happening and the
proximity equipment/devices that Mr. Burney described.
I don't think the intent is not to see those as an
option. They are out there and they apparently work
and that would be counter to what our goals are here.

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

MR. CANNON: Kevin Cannon. Agency employer
rep.

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

MR. CANNON: Sorry.

MR. PRATT: You're out of order.

MR. CANNON: Yes, I am.

CHAIRMAN STAFFORD: Go ahead, Kevin.

MR. CANNON: Instead of just saying
"consider," the position statements that were made yesterday, can we insert "consider alternatives to NRTL based on the comments made yesterday?"

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

The way it is worded right now, it doesn't allow any direction. I think that captures it, "alternatives."

MR. CANNON: To the NRTL requirements based on.

CHAIRMAN STAFFORD: Chuck?

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

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

MS. SHORTALL: Mr. Stribling, you could ask that OSHA incorporate into their rulemaking record the
proceedings from this meeting, which would get all of
the discussion in the transcript. I don't know if that
is where you are going.

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

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

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

SPEAKER: "Acknowledge?"

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

If you were to say simply that you request
OSHA incorporate into that rulemaking the record from
this meeting, everything that was said, all the material that has come in about those issues, including the additional material the commentors submitted for the record, would be part of that record, so there would be some assurance OSHA consider that as well as its own record in reaching a determination.

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

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

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

CHAIRMAN STAFFORD: Go ahead, Chuck.

MR. STRIBLING: Mr. Chair, would you be acceptable to changing the word "consider" to "incorporate?"
CHAIRMAN STAFFORD: Incorporating the remarks from this meeting?

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

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

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

CHAIRMAN STAFFORD: Any other discussion?

[No response.]

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

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

CHAIRMAN STAFFORD: Okay. That's fine.

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

CHAIRMAN STAFFORD: Yes.
MS. SHORTALL: Pete Stafford moves that ACCSH recommend that OSHA proceed with the amendment to the crane standard on NRTL approved equipment and incorporate into the rulemaking docket the record from this meeting.

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

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

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

[No response.]

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

[Chorus of ayes.]

CHAIRMAN STAFFORD: Those of you on the phone?

MR. BETHANCOURT: This is Jeremy, aye.

MS. DAVIS: Tish, aye.

MS. BARBER: Kristi, aye.

MR. HAWKINS: Steve Hawkins, aye.

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

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

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

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

MOTION

CHAIRMAN STAFFORD: I move that OSHA consults
with NIOSH before ACCSH consider recommending to OSHA
that it remove requirements for chest x-rays in certain
health standards affecting construction workers and
permit digital storage of x-rays as part of SIP IV.

MR. STRIBLING: Second.

CHAIRMAN STAFFORD: Any discussion?

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

CHAIRMAN STAFFORD: Yes. Any more discussion?

[No response.]

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

CHAIRMAN STAFFORD: Thank you. No more
discussion?

[No response.]
CHAIRMAN STAFFORD: All those in favor, signify by saying aye.

[Chorus of ayes.]

MS. DAVIS: This is Tish, aye.

MR. BETHANCOURT: This is Jeremy, aye.

MS. BARBER: This is Kristi, aye.

MR. HAWKINS: This is Steve Hawkins, aye.

CHAIRMAN STAFFORD: Any opposed?

[No response.]

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

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

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

CHAIRMAN STAFFORD: Our training work group has been working on that at the last meeting this Committee made a recommendation to OSHA that OSHA do away with the two hour time requirement for the intro
to OSHA for both the OSHA 10 and the OSHA 30.

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

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

I think Dr. Payne was at our last meeting, and I think he heard us. I have since talked to DOC staff, folks in Dr. Michaels' office as well. I think there is overall reception and support of what we are trying
to do, again, as long as we keep the objectives in place.

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

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

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

MR. CANNON: Sorry; yes. The document Pete referenced has kind of laid out as far as two parts, the problem statement as well as the recommended solution. Pete covered the problem statement pretty well as far as the specified two hours to cover the intro, whereas many trainers have felt as though the time could be spent covering more serious hazards in the workplace, and also that it really does not take for the most part two hours to cover that information.

I think in the last discussion, we heard folks
say they could do it in as little as half hour, and
make sure they meet all the objectives that were there.

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

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

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

We could say a minimum of an hour, but it
sounds like in some cases it doesn't take that long.
As long as we cover the objectives, that would be the
goal as opposed to say there is a certain time limit on
it.
MR. ERICKSON: Roger Erickson, employee representative. I believe the time limitation is really secondary here. I concur, we list the objectives, cover those objectives in the requirement, and make that recommendation.

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

DR. PAYNE: I am on the phone.

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

DR. PAYNE: Pete, I'm at a bit of a disadvantage. My understanding is that you and Jim Maddux had a meeting with Chief of Staff, Debbie Berkowitz, about this. I'm not real clear what it was you all discussed and necessarily agreed to. I had a very brief conversation with Jim. I'm not aware of the
He mentioned to me that he was under the impression that the work group was going to go through and prioritize all of the materials that were in the intro to OSHA module.

Is my understanding incorrect?

CHAIRMAN STAFFORD: I was hoping -- Dean?

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

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

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

We concur with some of your staff's comments
that there needs to be a specified amount, a bare
minimum.

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

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

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

MR. CANNON: That was an approach that Bill,
who was formerly on the work group, as well as Roger
and myself, had discussed that, actually going through
the module and identifying some of the areas.

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

CHAIRMAN STAFFORD: Like HAZCOM.

MR. CANNON: Yes, like HAZCOM, for instance.

That was the approach we were going to take. However, we weren't sure if that would have been accepted.

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

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

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

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

MR. RIVERA: As far as time frame, I think our recommendation on solution number two that says minimum
of one hour, I think that might capture a time frame.
I understand when you are conducting the training,
there needs to be a time limitation, and by having a
minimum, you ensure that an hour is covered and you can
allocate the rest of the time to other modules.

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

CHAIRMAN STAFFORD: I think we should do that.
The building trades' ten hour program, the
introduction module for that started out as an hour
module. Obviously, as labor representatives, we are
very attuned and think it is very important that the
members that go to this training understand their
rights and what OSHA is, so we are not short changing
that.

I personally think it could be done adequately
within an hour. I think the exercise now is to go
through the materials with Hank's help, work closely
with you, Hank, our work group and your office. We
will just go through the materials and reach agreement
on what we can do.

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

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

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

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

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

DR. PAYNE: I'm sorry. I can't hear.
MR. GILLEN: It was a study done by Hester Lipscomb about reporting of work related injuries among Union carpenters. She found there was considerable evidence of fear of reprisal for reporting injuries, and that 30 percent of the folks that injuries were almost never or rarely reported.

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

MS. DAVIS: I strongly second that.

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

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

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

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

MR. GILLEN: The motion would be for OSHA to explicitly add worker rights to report injuries to the
recommended modifications language. In other words, there is an enabling objective about worker rights, and it actually says the following rights, it lists rights. It doesn't really explicitly mention that. It also talks about discrimination but it doesn't explicitly mention that.

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

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

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

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

Hank, I don't know when the next meeting would be. I would imagine September/October time frame. I am hopeful we can kind of move forward at the work
group level and try to get this moving sooner than later.

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

CHAIRMAN STAFFORD: Sure, Tish. All members will get the materials and are more than welcome to comment. The work group will take the lead on it.

Yes, Jerry?

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

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

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

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

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

That is a potential option. I think working
through our work group and having stakeholders like we
have, working with them and kind of developing
consensus around the policy is the way for us to
proceed.

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

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

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

That is the kind of thing we were looking at
or at least I was thinking in terms of an assessment.

With that said, from my role as Chair, I'd be glad to
follow up with DOC staff about the Department of Labor group that could come in and potentially help us, but certainly I think this is an important area, Hank, that we would like to work with you on through our training and outreach work group.

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

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

MR. ERICKSON: Mr. Chairman, Roger Erickson, employee rep. While we have Mr. Payne here, and this is kind of along this vein, I wanted a clarification. We have noticed lately that more and more of our employers, boilermaker employers, particularly due to owner demands, are wanting to see the 10 hour card.
A number of our people -- we know the requirement for the 30 hour class, which is within a six month time frame with the same primary instructor -- is it true that once you get your 10 hour card and move forward and go to the 30, that you have to turn that 10 hour card in?

DR. PAYNE: Yes, you do.

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

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

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

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

MR. ERICKSON:  I appreciate that. Thank you.

CHAIRMAN STAFFORD:  Thank you, Hank.

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

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

What are those questions. It sounds simple, but when you get down to what do you go ask 18,000
trainers or all the ed centers, it becomes a little more cumbersome.

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

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

MR. McKENZIE: It would be beneficial for a motion to consider in the future.

MS. DAVIS: I totally agree. I think crafting the specific evaluation questions that can range from quality of the education to resources allocated to the program. It could be at all different levels. I think articulating those questions and maybe that sets up the
CHAIRMAN STAFFORD: Okay. I think that is good. We will work on that. I think we need to come up with some questions and we can start on that sooner than later. Any other discussion on that?

[No response.]

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

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

Of course, I'm just offering this up, the
distribution of the OSHA outreach program is really a pretty incredible network that we have out there, Dr. Payne, and there is a lot of people doing a lot of good training.

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

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

In our industry, as you know, you can come out of the hall as a journeyman one day and then the next day, you're a foreman. You're a foreman because you're a good hand and you put work into place, but you are also given some responsibilities in some way in my mind and aren't prepared, for example, how you would do a
good tool box talk, what are the resources out there for those kinds of things, and how do you with still good communication take care of -- management kind of training.

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

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

Jerry?

MR. RIVERA: Mr. Chairman, I'd like to recommend maybe the subgroup invite members of the ET&D Partnership. They currently have a supervisor training that was geared to kind of mirror the 30 hour but for supervisors. It has not been accepted by our Training Branch from OSHA, outreach centers, but it does have a
curriculum as part of a partnership that OSHA holds with the electrical power transmission and distribution industry, and I think it's a good starting point.

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

CHAIRMAN STAFFORD: Okay. Any other discussion on that?

[No response.]

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

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

CHAIRMAN STAFFORD: Okay. Any other discussion?

[No response.]

CHAIRMAN STAFFORD: Sarah, please.
MS. SHORTALL: I have a number of exhibits that I want to make sure get into the record here. First, Exhibit No. 13, a written copy of the presentation yesterday by Graham Brent from NCCCO. Exhibit 14, the proxy submitted by Sarah Coyne. Exhibit 15, the proxy submitted by LaurieShadrick. Exhibit 16, the proxy submitted by Roger Erickson, and I know he's here, but he's going to be leaving early. Finally, as No. 17, OTI work group chair -- Kevin, are you the chair?

CHAIRMAN STAFFORD: Co-chair.

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

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

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

OCCUPATIONAL EXPOSURE TO BERYLLIUM

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

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

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

Also, I want to mention Maureen Ruskin who is our Office Director, who is giving us a lot of
guidance. She has a lot of experience in rulemaking, and most recently with the GHS, globally harmonized system, update of our hazard communication standard.

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

I'm not really sure why we call them "slides." There is no sliding going on the way the old carousel system was set up. For want of a better word, I'll just call them slides.

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

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

If we go to the next slide, the third slide, I want to go over some of the rulemaking activities that have occurred throughout this time. Rulemaking, as you
might expect, is a very complex process. It begins early on with a Request for Information and that information is collected, and it goes through a number of steps.

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

In addition to the SBREFA Panel that was completed in 2008, an unique activity that occurred in this process is that the United Steel Workers, and an industry leader in beryllium manufacturing and processing, Materion, which was formerly called Brush Wellman, they jointly developed a model beryllium standard. That model standard was presented to OSHA in
2012. We did receive that and have taken that model standard under consideration.

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

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

This is again a primary source of exposure in construction and also in maritime with ship building. The beryllium exposures are elevated really due to the abrasive blasting, and as most everyone knows, very high dust exposure concentrations that are generated during abrasive blasting.
Even though a coal slag has only very small amounts of beryllium in it, less than .1 percent, because of the high dust levels that are created in abrasive blasting, you can get elevated levels of beryllium in abrasive blasting.

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

If we go to the next slide, I want to talk a little bit about the draft proposed standard that was presented for SBREFA review. As you can see, it was what we call our typical 6(b) standard, other terms that are used, for example, expanded standard, where there are ancillary provisions in the standard, such as regulated areas, medical surveillance, medical removal, typical of standards that you may be more familiar with such as asbestos and lead that have a number of these ancillary provisions.
You will see in that first section there, the permissible exposure limit, what was considered. There was a range that was considered from the current PEL of two micrograms per cubic meter cubed to .1, down to .1, and numbers in between.

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

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

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

Under this PEL only standard, there are existing standards that would in effect, depending on the level of the PEL, once the PEL was set, these
standards would be in effect to protect for that particular level of PEL or permissible exposure limit.

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

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

Another option which is limited scope, a limited scope option, which would exempt construction and maritime, and even limited coverage to materials that are -- limited coverage to materials that are over 0.1 percent for beryllium.
An example of what is something that is under 0.1 percent would be coal slag, which has trace amounts of beryllium in it at levels less than .1.

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

CHAIRMAN STAFFORD: Thank you, David. Any questions?

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

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

SPEAKER: Regulations.gov.

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

MR. CANNON: Any type on construction?

MR. VALIANTE: Offhand, there may have been a few. I would say the answer is yes, but I couldn't
give you a percentage of how many there were.

CHAIRMAN STAFFORD: Any other questions or comments? Chuck?

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

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

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

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

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

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

    MS. SHORTALL: Thank you.

    CHAIRMAN STAFFORD: Any other questions or
discussion?

    [No response.]

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

    [Brief recess.]

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

    MR. BOLON: I expect we will present another
batch of SIP candidates at the next ACCSH meeting, and that will be a wrap, then we will quickly proposed after that.

CHAIRMAN STAFFORD: All right.

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

CHAIRMAN STAFFORD: I'm a quorum on my own. [Laughter.]

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

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

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

This fourth one is focused mainly on construction things. We published an RFI in December. We had comment until February. We had 25 or 30 comments. We are presenting six items here to ACCSH,
and we did four yesterday and we have two more today, and the first one is on decompression tables, which are in our Subpart on underground construction, and these are the tables you follow if you have a worker that is under more than atmospheric pressure, how you bring them back to keep them from getting the bends, which is what it used to be called.

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

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

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

Those trades recommended updating to tables that the industry uses and tables that have been approved prior or in the variance process. The Laborers Fund recommended updating to the French tables for lower pressures and tri-mixed tables for higher
pressures, and also recommended that anything above eight bars of pressure must be approved by the variance process.

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

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

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

OSHA has been thinking about doing this in the past, mainly because it's an extra step for the employers who have to do the work. They have to submit a variance to use a different table than what we
currently have in our standards. Not only is it a
benefit to the employers that have to do the work but
also it frees OSHA up as we wouldn't have to review
that as part of the variance application.

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

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

The French and Edel-Kindwall Tables were
mentioned in both the NIOSH and Laborers Fund
recommendations, and both have been used in variance
applications for work. The British, German and
Brazilian Tables were also mentioned in NIOSH's
comments to the SIP's RFI. They were included in an
U.K. study from their Health and Safety Executive that
compared various decompression tables.

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

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

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

Generally, when variance applications come in,
they tell us what pressures they think they will be
to work at and they will pick a decompression table
based on that.

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

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

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

CHAIRMAN STAFFORD: Any questions or comments?

Chuck?

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

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

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

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

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

MR. BOLON: Our understanding is these tables
MR. STRIBLING: Is it feasible that in a SIP effort, it can be a non-mandatory appendix or something like that if an employer was working at a higher pressure? I'm just throwing that out there.

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

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

MR. BOLON: Sure; yes.

CHAIRMAN STAFFORD: Chuck, go ahead.

MR. STRIBLING: I agree. I certainly support this effort. I think the standard really does need to be addressed, but if I also heard you right, there are a couple of other things you have to check into, mainly copyrighting and if it is reproducible. I think that is pretty important.
Is there any way -- if you are going to bring us another round of SIPs at our next meeting, maybe at that time we could hear again, see what we find out? That could have a significant bearing on what the final product might look like from the Agency.

MR. BOLON: Sure.

CHAIRMAN STAFFORD: That sounds like a good recommendation. Any other questions or discussion?

Matt, go ahead.

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

CHAIRMAN STAFFORD: Okay. Who is the next victim?

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

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

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

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

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

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

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

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

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

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

The new version has options, it has guidance,
and it has standards. It specifically says what is a standard. Those are the parts that OSHA would be adopting as rules under these three standards.

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

With the new signs they require, DOT generally allows old signs to be used until they wear out unless there is something really unsafe about them and they have target dates for compliance with those new signs. They have updated their high visibility safety apparel section, which we already enforce as well under the general duty clause, and they include a lot of new technology which most of the new technology is optional, and it says if you use it, this is how you have to use it. Again, it won't really create any new
costs unless employers choose to go with the new
technology.

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

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

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

MR. RIVERA: Jerry Rivera, employer rep, NECA.
I just want to ask as far as adopting the Manual in
general, is that available for on-line viewing for the
contractors that are going to be affected by this?

MR. SKOGLAND: Yes.

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

MR. SKOGLAND: It's available on the OSHA
website and it's available on DOT's website under the Federal Highway Administration.

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

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

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

CHAIRMAN STAFFORD: Don?

MR. PRATT: Thank you, Mr. Chairman. Just a quick question. Has there been any document developed for residential construction? We don't get involved in heavy road work and things like that, but we do get
involved many, many times in having to close a lane or putting in an acceleration or deceleration lane into a new subdivision.

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

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

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

MR. PRATT: What I am really saying is that we have a hard enough time with our members trying to get
them to read anything, but specifically, this is something that is critical, especially for new construction.

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

Is that possible?

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

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

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

MR. SKOGLAND: We have some internal documents that we have worked on and also DOT has comparison
documents between the 2009 and 2003 versions and the 2003 version is nearly the same as the 2000 version.

It was mainly a cosmetic change.

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

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

MR. PRATT: Appreciate that. Thank you.

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

MR. BETHANCOURT: Mr. Chairman, this is Jeremy, if I can make a comment that I hope would help Don. We work with folks in commercial and residential construction. There really is no differentiation on the requirements, to kind of reiterate what I think I was hearing the folks at OSHA saying.
One thing that we found and that we urged the folks that we interact with was to contact the actual municipality that you are working with, where you may need to have restrictions, and they are generally speaking very helpful. In fact, they assume the control over their streets.

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

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

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

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

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

MR. GILLEN: That's before my time.

CHAIRMAN STAFFORD: Any other questions or discussion?

[No response.]

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

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

MR. BOLON: Right.

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

MOTION

MR. BETHANCOURT: I'd like to make a motion to
incorporate that. I think this is a great idea to have that incorporated.

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


CHAIRMAN STAFFORD: What did I say?


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

CHAIRMAN STAFFORD: 2009. Do we have a second?

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

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

[No response.]

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

[Chorus of ayes.]

MR. BETHANCOURT: Jeremy, aye.

MS. BARBER: This is Kristi, aye.

MS. DAVIS: This is Tish, aye.
MR. HAWKINS: Steve Hawkins, aye.

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

[No response.]

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

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

CHAIRMAN STAFFORD: Thank you, Ms. Sarah. We would like to switch back and talk a little bit about procurement, but before we do that, I would like to talk just a minute about our work groups. I think it
is important, and based on the conversation we had yesterday with David Michaels and OSHA's interest in looking at temporary workers and clearly for construction, temporary workers, is an issue that we need to look at.

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

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

I think for two years we have had a work group that has done excellent work, kind of figuring out how a program standard would work in our multi-employer industry. We brought large employers in here to talk
to us about the elements of their programs and what
they think is good about a potential program standard.
We have brought small employers in here to talk about
the potential roadblocks or problems they see with the
program standard.

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

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

Jerry?

MR. RIVERA: Mr. Chairman, Jerry Rivera,
employer rep. I support that we create a work group that focuses on that. I think the Assistant Secretary has identified that as a priority, and we see that as a necessity out there in the field for that portion of the workforce.

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

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

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

I really think we need a research and demonstration project evaluating that possibility. I think we need to understand what are the practical issues and barriers, what is really feasible on
construction sites of various sizes.

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

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

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

As I said earlier, one of the problems of having to meet by telephone now with the budget constraints the Department of Labor has in supporting our Committee and all the other OSHA committees, that we run out of momentum.
I think the work and the work groups between the meetings are critically important. I think at this point, Ms. Sarah, I'm looking at you. It's clear now based on our discussion earlier, our training and outreach work group has some work to do. I want to be sure we are straight on if we have a work group meeting in the next week or two or month, whatever that time is, how we include the public that's interested.

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

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

MS. SHORTALL: We certainly could take the sign-in sheet from today and yesterday and use that. OSHA, very wisely, has started a new element on their ACCSH web page, and that is called "New." It's up in
the upper right-hand corner. That would be an excellent place to announce a teleconference meeting, and to have people interested in participating contact OSHA, get the passcode information for that particular call.

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

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

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

CHAIRMAN STAFFORD: Okay. As a staff function, so I understand, Kevin and Jerry want to have a training and outreach work group meeting and Roger is
not here, two weeks from today. They would notify OSHA
staff to get that announcement on the website?

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

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

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

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

    CHAIRMAN STAFFORD: All right. Go ahead,
MS. DAVIS: I'm just trying to figure out a process by which I know, besides going on the OSHA website every day, when the announcement is posted, so if I'm trying to recruit people to participate in this discussion, I can let them know.

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

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

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

MS. SHORTALL: Yes.

MS. DAVIS: Thank you.

CHAIRMAN STAFFORD: Did Jeremy or Steve, someone else have a question?
MR. BETHANCOURT: My question was very similar to Tish, that was exactly my concern. I wanted to make sure I can schedule myself to be able to be there and also to get people as well.

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

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

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

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

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

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

Let's move to the procurement document, and this will be the last thing on our formal agenda, and then we will move into the public comment period.
DISCUSSION OF THE DRAFT FEDERAL AGENCY PROCUREMENT CONSTRUCTION, HEALTH AND SAFETY CHECKLIST

CHAIRMAN STAFFORD: David Michaels kind of challenged us to take a look at this issue. One of the things we have heard particularly from the large employers is that one of the most important elements they have in their performance is how they select contractors and subcontractors working on their sites. I don't have the latest data, but in 2010, putting about $45 billion worth of construction in place, so the I2P2 work group has gone down the path of developing a procurement checklist for our procurement officers, for contractors, bidding on Federal Government work.

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

I think from our Committee, this was an exercise that we have gone through under I2P2. Once we get to the point that we have an agreed on checklist
and the back-up document, which is in your packet, I am hoping by the next meeting it will be final, and we are going to work on language.

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

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

We realize anything you ask procurement folks to do is just another thing on the table of things they have to do, and obviously, it's not going to be something that's going to be easy, and we certainly think before we can go to Dr. Michaels and say okay,
this is the final document and let's do a Presidential Executive Order and get this out, we need the feedback from the procurement folks that are doing this day in and day out.

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

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

CHAIRMAN STAFFORD: Go ahead, Kevin.

MR. CANNON: Kevin Cannon, employer rep. That had been discussed and included in the initial checklist. We felt as though that was not an accurate measure because the fluctuation in EMRs can sometimes be a result of things that are not safety related. I'm no expert in it myself but I understand payroll sizes and what not can impact EMR, and then particularly for
a small employer, you can have a clean record for the past ten years and you can have just one minor incident, and that can cause your EMR to sky rocket.

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

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

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

MR. RIVERA: Mr. Chairman, this is kind of a slightly different spin to it, but since we are discussing the procurement process, I think it's off to
a great stop. I am just wondering if we can gather
some examples of other Federal procurement agencies,
just to kind of align to see if we are on the right
path, is there anything that we are missing, and most
importantly, maybe get the feedback from those groups
as to what they are doing and how it is going to relate
to them before we move any kind of formal
recommendation.

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

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

CHAIRMAN STAFFORD: What is the acronym you
are saying?

    MR. CANNON: Naval Facilities and Command.


    MR. CANNON: Yes.

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

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

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

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

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

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

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

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

CHAIRMAN STAFFORD: Okay, I appreciate that.
I don't know that, so we could look into that.

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

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

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

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

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

CHAIRMAN STAFFORD: We have identified a GSA procurement officer who has agreed to review it for us.
MR. RIVERA: Great. Would they be able to share that?

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

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

MS. DAVIS: I can't hear.

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

CHAIRMAN STAFFORD: Yes.

MR. CANNON: Is there a cutoff point?

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

We can work through the Summer on this hoping that by September 1, this is final, a general guideline. I don't think OSHA can tell us today when the next meeting is going to be, but we can assume -- you can? Then tell us, help us identify a
MR. McKENZIE: Dean McKenzie, DOC. We are actually hoping to hold another meeting toward the end of August/early September. It will have to be the same format, we will still be under the same budget constraints. We would like to try to schedule that and we will start working toward that after this meeting.

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

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

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

MS. DAVIS: Okay. That's fine.

MR. BETHANCOURT: I think this is a great document. I hope it will be used more than other means. Of course, generally speaking, it always seems that safety has taken a back burner to the final budget
requirement or cost, but I think this is a great
document, and I hope it is something that can be
utilized to support the good players as opposed to
supporting the bad players, which are done more often
where this type of document is not utilized.

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

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

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

CHAIRMAN STAFFORD: Thank you.

MS. DAVIS: I'd like to comment. I've been
surprised at how well this has worked from my end, but
I also need to say it has worked because I know the people, I know the voices, but face to face meetings are an important component. These can be supplements.

I think I need to say that.

CHAIRMAN STAFFORD: Thank you, Tish.

MR. BETHANCOURT: I need to agree with Tish.

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

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

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

Apparently, it looks -- speaking as one of your state regulatory agencies, that is just another
variance we have to keep up with, whereas if it is something that is printed in the standard, it is much easier for our staff to be aware of instead of hunting out the variance and reading through it, and we have to get the training done to support the variance when they are out in the field.

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

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

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

MR. BOLON: We can look at it again.

MS. DAVIS: I wanted to also say I know we have an opportunity in these meetings to speak to NIOSH as well as OSHA, and we didn't this time get an update from NIOSH, and one of the recent developments is NIOSH has discontinued funding of their adult blood lead
surveillance program, which has huge implications for surveillance in the construction industry because construction workers are among the most commonly lead poisoned.

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

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

PUBLIC COMMENTS

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

LaTonya James-Rouse, American Staffing Association.

MS. JAMES-ROUSE: My name is LaTonya James-Rouse. I am the Assistant General Counsel for the American Staffing Association, which I believe Dr. Michaels mentioned yesterday when he brought up the possibility of forming the working group regarding temporary employees that you guys mentioned a few
minutes ago. I just have a very brief comment.

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

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

That is all I wanted to say.

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

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

MS. JAMES-ROUSE: ASA thinks there is a shared responsibility between the staffing firm and the clients where the temporary employees are being assigned. We do have information available to our
staffing firms about best practices for employee safety, but according to OSHA standards, there seems like there is a joint requirement there. It could be a little bit clearer on the responsibilities of each party.

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

CHAIRMAN STAFFORD: All right. Don?

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

CHAIRMAN STAFFORD: Any other questions or comments? Jerry?

MS. RIVERA: Jerry Rivera, employer rep, NECA. Just an observation. It is very important, the hosting contractor responsibility there, and as we move
forward with the work group, I want to thank LaTonya
for stepping up to work up with the subgroup or with
ACCSH in general. I think it's a step in the right
direction.

CHAIRMAN STAFFORD: I appreciate that.

LaTonya, you are signed in. When our work group meets,
you will be getting those notifications and we would
like you involved at that level.

MS. JAMES-ROUSE: Thank you.

CHAIRMAN STAFFORD: Thank you. Lisa?

MS. LONDON: Hello. My name is Lisa London.

I work for the University of Texas at Arlington. We
serve OSHA as an OSHA Training Institute Education
Center. I also serve as the chair of the Executive
Committee for the OSHA Training Institute Education
Center Directors across the country. There are 28
education centers across the country, with 40
organizations involved.

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

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

At the OSHA Training Institute Education Center Directors' meeting, which we held this past week, Tuesday, Wednesday, Thursday, in Baltimore, we do also have work groups. We call them "project teams."

They are made up of education center directors.

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

We are looking at the standards courses, the trainer courses, and the update courses, and just evaluating the goals, the objectives, and test
Perhaps in working with the work group, we can be involved in some further assessment. I do concur that if we are going to assess the program as a whole, including the 10 hour and 30 hour components, but also the trainer components, that understanding what specific outcomes we would like to get out of that, the questions, I think that's a great direction, and if we can be of assistance, we certainly would like to be.

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

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

Those two pilot research projects are being led by -- one is West Virginia University and the other
is by Rutgers University. Each of those pilot studies has four to six other OSHA Training Institute Education Centers involved in piloting and collecting data.

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

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

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

We also update trainers on training techniques, best practices in safety and health and hazard recognition, new technologies, and all the rest of what may have happened in the four years since they
became a trainer.

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

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

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

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

We very much appreciate the cooperative nature of our agreement, and that is why we charge a fee for the training. What you will find with the education
centers is that we are very much committed to this
mission, to the mission of training, outreach training,
and just us wanting to do an excellent job.

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

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

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

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

MS. LONDON: I would say they are topics that
have been discussed and probably we have had many of
the same discussions about those topics. Certainly, we
have talked about the 2 hour intro to OSHA, the
materials that have been developed, the applicability of those materials, all of the same conversations that I sense you have had, we have had in our Education Center Directors' meetings, and we have had at our individual centers among our constituents.

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

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

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

With regard to supervisory skills, in a 30 hour course, I'll reiterate some language that has
really been drilled to me from OSHA, and that is that
the 10 and 30 hour courses are hazard recognition
courses, so 30 hours of hazard recognition is more than
10 hours of hazard recognition, is that more
appropriate for a supervisor level? Sure, it is.

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

In terms of management leadership, kinds of
skills, absolutely, we definitely recognize that it's
one thing to know the standards or to know hazard
recognition, it's another thing to be able to lead that
on a job site, and that takes some leadership and some
management skills, and it is certainly that we as an education center group are concerned about. I'm not certain that the 30 hour course is the right place for it, but maybe it is.

We are definitely interested in that dialogue.

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

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

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

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

CHAIRMAN STAFFORD: Okay. Any other questions
or comments?

[No response.]

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

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

CHAIRMAN STAFFORD: Do you have a business card?

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

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

MS. JAMES-ROUSE: I did.

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

MR. TRUJILLO: My name is Frank Trujillo, I'm
with Miller & Long Concrete Construction. We do a lot of concrete work here around the D.C. metropolitan area. I am speaking in regard to the Federal Agency procurement discussion.

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

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

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

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

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

Another point of concern was the JHAs, and some of the scoring and how the data is examined is kind of subjective. There was mention about the quality of the JHAs. Beauty is in the eye of the beholder. I can look at some JHAs and pick them apart or I could say I love them. It just depends on what you are trying to do to the person who wrote them.

It's a little concerning, some of the language in here about how things are scored.

Inspection documentation was another concern.

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

I would tend to anticipate that you would only receive gleaming inspection reports on every application. I doubt you would find any if at all on
anything other than maybe somebody wasn't wearing their safety glasses.

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

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

Consequently, we have a higher turnover than a lot of companies have, and it is a huge burden on an employer like us to have us training a lot of employees in an OSHA 10 hour who likely we won't retain, and continuing that cycle in trying to staff these projects with employees being 10 hour trained is just a huge cost burden to us to comply.
As a safety professional, I always have to say the OSHA 30 hour for a foreman or superintendent is valuable, and we have adopted that wholeheartedly and we are pretty much 100 percent compliant in that area. It does hold value from a managerial standpoint.

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

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

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

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

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

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

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

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

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

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

CHAIRMAN STAFFORD: That's right. Jerry?

MR. RIVERA: Mr. Chairman, Jerry Rivera, employer rep. I'd like to thank the gentleman for stepping up and sharing his insight. It definitely shows there might be some areas of consideration moving forward with the procurement document. It was kind of interesting to hear your thoughts on the JHAs, the job site inspections, and definitely, the 10 hour. It's a valid point. It's a tool, but by means is it a substitute for safety and health training moving forward.
It should bring us back to the perspective to see the value of some of these things that are included.

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

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

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

MR. TRUJILLO: Sure. For a company like us that spends close to seven figures a year on safety training and education, apprenticeship programs, things like that, if there was some metric that you wanted to come up with for evaluating our training besides the 10 hour, we really do try to provide a lot of training to
our people, but ten hours for every employee is something that is very difficult for us.

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

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

MR. TRUJILLO: Sure.

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

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

CHAIRMAN STAFFORD: I guess that is kind of what I was asking for in terms of comments, if there are things we can do to tweak it over the next couple of months, that is the kind of input we would like to have.
MR. TRUJILLO: We would be glad to.

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

[No response.]

CHAIRMAN STAFFORD: Thank you very much.

Thank you for being here.

MR. TRUJILLO: Thank you.

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

MS. SHORTALL: No.

CHAIRMAN STAFFORD: Dean?

MR. McKENZIE: No.

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

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

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

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