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U.S. Department of Labor
Occupational Safety and Health Administration

Advisory Committee on
Construction Safety and Health (ACCSH)
December 5-6, 2013

Transcript of Day One of Two

1:02 to 3:58 p.m.

Thursday, December 5, 2013

U.S. Department of Labor
Francis Perkins Building, Room C-5515
200 Constitution Avenue, N.W.
Washington, D.C. 20210

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	C O N T E N T S	
		PAGE
1		
2		
3	Opening Remarks/Agenda Overview	3
4	Deputy Assistant Secretary's Agency Update	
5	and Remarks	12
6	Discussion of the OSHA 10-Hour and 30-Hour	
7	Training Courses	35
8	Chair Remarks/Public Comments	108
9		
10		
11		
12		
13		
14		
15		
16		
17		
18		
19		
20		
21		
22		

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

2 **Opening Remarks/Agenda Overview**

3 MR. STAFFORD: Good afternoon. If you
4 will find your seats, please, we will go ahead
5 and get started, since we have a quorum of ACCSH
6 members with us this afternoon.

7 Damon, are we set with the folks on the
8 phone?

9 [No audible response.]

10 MR. STAFFORD: Well, good afternoon
11 again. Welcome to the meeting of the Advisory
12 Committee on Construction Safety and Health,
13 ACCSH. My name is Peter Stafford. I'm an
14 employee rep and chairman of the committee. I'd
15 like to welcome you all here.

16 As you know, over the last year, many of
17 you know we've had to restructure our meetings.
18 The good news is this is the fourth meeting of
19 ACCSH in the fiscal 2012, and it is the first
20 time in many years that I think that we have had
21 four meetings of the full committee, and I
22 appreciate all the work of the committee members.

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1 The bad news is with the budget
2 restraints that OSHA has had over the past year,
3 that we've had to modify the meetings, because we
4 no longer have travel support to bring committee
5 members in who are not in town that can support
6 themselves. So, hence, we have a meeting where
7 we have several of the ACCSH members that are
8 participating over the telephone.

9 I would like to start today by doing
10 introductions. I would like to first go around
11 and introduce the folks around the table, the
12 ACCSH members, and go around and have the folks
13 that are on the telephone to introduce
14 themselves, our members, and then we'll go and
15 have introductions for those of you in the
16 audience. And then we'll move forward with the
17 meeting agenda.

18 I would like to first make an
19 announcement. For those of you familiar with
20 ACCSH, for years we had Sarah Shortall with the
21 Solicitor's Office to work with our committee and
22 who has made a great contribution to this. Sarah

1 has moved on to other assignments within the
2 Department of Labor and will no longer continue
3 to be the Solicitor for this committee.

4 The good news again for that is that we
5 have Lisa Wilson here joining us today from the
6 Solicitor's Office, who will now be working with
7 us on the committee. Lisa, we look forward to
8 it. As I told you before, you will have to keep
9 me and others in line sometimes, but I think
10 overall we try to get through the agenda and try
11 to follow protocol, but if I slip, you are going
12 to have to correct me.

13 Lisa has worked with the Division of
14 Solicitor's Office for 5 years, working on a
15 variety of rulemaking guidance and litigation
16 projects. The majority of these projects have
17 involved Directorate of Construction on
18 construction standards. Before joining DOL, she
19 worked at the National Association of State
20 Attorneys General. I am primarily making this
21 announcement on behalf of Dean McKenzie, who is
22 our Designated Government Official, who has a

1 little bit of a cold. His voice isn't on top
2 speed, so I'm doing that on Dean's behalf. So,
3 again, Lisa, thank you very much.

4 So let's start with my right to
5 introductions, and then we will get on with the
6 agenda.

7 Kevin.

8 MR. CANNON: Kevin Cannon, Employer Rep,
9 the Associated General Contractors of America.

10 MR. MARRERO: Tom Marrero, Employer Rep,
11 Tradesmen International.

12 MS. SHADRICK: Hi. Laurie Shadrick,
13 Employee Rep, United Association of Plumbers and
14 Pipefitters.

15 MR. STRIBLING: Good afternoon. Chuck
16 Stribling, State Plan Representative, Kentucky
17 Labor Cabinet.

18 MR. GILLEN: Matt Gillen, NIOSH Rep.

19 MR. JONES: Walter Jones. Laborers'
20 Health and Safety Fund, Employee Rep.

21 MR. PRATT: Don Pratt, Employer Rep,
22 representing National Association of Home

1 Builders.

2 MS. COYNE: Sarah Coyne, Employee Rep,
3 International Union of Painters and Allied
4 Trades.

5 MR. MCKENZIE: Dean McKenzie, OSHA,
6 Designated Federal Official, and I'm thankful for
7 microphones.

8 [Laughter.]

9 MS. WILSON: Lisa Wilson, ACCSH Counsel.

10 MR. BARAB: Jordan Barab, Deputy
11 Assistant Secretary.

12 MR. STAFFORD: Thanks, Jordan.

13 For those folks that are on the phone?

14 MR. BETHANCOURT: This is Jeremy
15 Bethancourt, Public Representative.

16 MS. BARBER: Kristi Barber, Employer
17 Representative.

18 MR. ERICKSON: Roger Erickson, Employee
19 Representative, MOST Programs, International
20 Brotherhood of Boilermakers.

21 MR. STAFFORD: Is that it, Damon? I
22 think that must be it.

1 MR. HAWKINS: Steve Hawkins, Tennessee
2 OSHA, State Plan Representative.

3 MR. STAFFORD: Thanks, Steve. Sorry
4 about that.

5 Okay. Now we'll go to the back of the
6 room starting with Rodd. Why don't you start for
7 us, Rodd.

8 MR. WEBER: Rod Weber with the PENTA
9 Building Group, Las Vegas, Nevada.

10 MR. O'CONNOR: Tom O'Connor, representing
11 AWCI.

12 MR. PARSONS: Bill Parsons, representing
13 the United States Air Force.

14 MR. BOLON: Paul Bolon, I'm in OSHA
15 Directorate of Construction.

16 MR. MASARICK: John Masarick, Independent
17 Electrical Contractors.

18 MR. KENNEDY: George Kennedy, NUCA,
19 National Utility Contractors.

20 MR. SCHUMACHER: Randy Schumacher for the
21 Materion Corporation.

22 MS. FENDLEY: Anna Fendley, United

1 Steelworkers.

2 MR. CREASAP: Wayne Creasap, the
3 Association of Union Constructors.

4 MR. HERING: Bill Hering, Matrix SME,
5 large utility contractor in the Northeast, and
6 also representing the Association of Union
7 Constructors.

8 MR. MURRAY: Courtney Murray, OSHA.

9 MS. OLIVER: Lolitz Oliver, OSHA.

10 MR. BOOM: Jim Boom, Director of
11 Construction, OSHA.

12 DR. PAYNE: Michael Payne, Directorate of
13 Construction, OSHA.

14 MR. JOHNSTON: Mike Johnston, National
15 Electrical Contractors Association.

16 MR. CHARTIER: George Chartier, OSHA
17 Communications.

18 MR. ECKSTINE: Matthew Eckstine, NCCCO,
19 National Commission for the Certification of
20 Crain Operators.

21 MR. BIRD: Charlie Bird, Balfour Beatty
22 Construction.

1 MR. RHODEN: Travis Rhoden, J.J. Keller &
2 Associates.

3 MR. LUNDEGREN: Bruce Lundegren, Office
4 of Advocacy, U.S. Small Business Administration.

5 MR. MATUGA: Rob Matuga, National
6 Association of Home Builders.

7 MS. VETICK: Chelsea Vetick, National
8 Association of Home Builders.

9 MR. PENNELL: Mike Pennell, OSHA
10 Enforcement Programs.

11 MR. HOFFMAN: Julian Hoffman, National
12 Safety Council.

13 MR. MADDUX: Jim Maddux, OSHA's
14 Directorate of Construction.

15 MR. BIERSNER: Bob Biersner, Solicitor's
16 Office of DOL.

17 MR. STAFFORD: Got everyone? Okay, thank
18 you.

19 Whoops. Sorry. Christine. Sorry.

20 MS. BRANCH: Christine Branch, NIOSH.

21 MR. ROLFSEN: Bruce Rolfsen, BNA
22 Occupational Safety and Health reporter.

1 MR. BONNEAU: Damon Bonneau, OSHA.

2 MS. CHATMAN: Veneta Chatman, OSHA.

3 MR. STAFFORD: Now we have everyone?

4 [No audible response.]

5 MR. STAFFORD: All right. Thank you,
6 Damon.

7 As a reminder for folks, at every
8 meeting, we make time at the end of the meeting
9 for public comments. So anyone that would like
10 to address the committee, we will carve out some
11 time at the end of today and at the end of
12 tomorrow. There is a sign-in sheet in the back.
13 You will have to sign in. So please, if you
14 would like to make comment, sign the sign-in
15 sheet.

16 For all of us, both on the committee and
17 particularly those folks on the phone and you in
18 the audience, if you have comments later on,
19 please announce yourself again, and the
20 affiliation is going to help our recorder keep
21 our minutes straight for our meeting.

22 **Deputy Assistant Secretary's**

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1 **Agency Update and Remarks**

2 MR. STAFFORD: So, with that, let's go
3 ahead and get into the agenda. It's our pleasure
4 to have Jordan Barab with us today. Jordan is
5 the Deputy Assistant Secretary for OSHA, has been
6 an advocate here, and is obviously very
7 interested in the construction industry.
8 Primarily, we have Jordan or Dr. Michaels come in
9 and address the committee to give us an update on
10 what's going on, on the state with the agency.

11 So, with that, Jordan, welcome, and the
12 floor is yours.

13 MR. BARAB: Thank you. Thank you for
14 inviting me. David unfortunately had to be out
15 of the office this afternoon, so I am here. I am
16 going to discuss a little bit about what we're
17 doing now. I will answer a few questions, and
18 then I have to run to another -- well, I'm not
19 going to run. I will limp to another meeting
20 because, once again, I have somehow been
21 scheduled to be at two places at the same time,
22 and even after 4-1/2 years here, I haven't

1 figured out how to do that, so let's get going
2 here.

3 Again, I want to welcome you. We have
4 been particularly busy, it seems, especially over
5 the last several months, both in terms of
6 regulatory activity, general outreach activity,
7 and enforcement activity. And I will go through
8 a few of those things now, and some of my able
9 compatriots will go into more detail on a number
10 of them as the meeting progresses.

11 Probably, the most exciting news and
12 certainly most significant on the regulatory
13 forefront is our silica proposal, which you're
14 aware we issued on September 12th, and that is
15 basically an update, a modernization of a
16 40-year-old standard, a 40-year-old permissible
17 exposure limit, bringing this agency into the
18 21st century.

19 That standard, as you're well aware,
20 especially the construction side of it, was
21 totally antiquated, I mean to the point where we
22 couldn't even measure to the method outlined in

1 the standard. We figured between that and the
2 fact that there has been a lot of new evidence
3 over the last year, so that not only does silica
4 exposure cause silicosis, as we all know, but
5 also cancer, COPD, and other diseases as well, at
6 much lower levels than we're at right now, that
7 we felt the need, the well-overdue need to update
8 the standard.

9 Again, we are in the public comment
10 period right now. That ends in the middle of
11 January. Those of you who want to appear at the
12 hearing, our notice of intention to appear, the
13 deadline for that is next week. Hopefully, you
14 have already filed that or you're about to file
15 that. It is a fairly simple procedure. It is
16 basically just a few lines saying you want to
17 appear, what you're going to be talking about, if
18 you're going to be testifying for more than 10
19 minutes, we want a short summary of what you are
20 going to be talking about.

21 So we are looking forward to the
22 hearings. As you are aware, OSHA has probably

1 one of the most open public processes of any
2 government agency in terms of getting public
3 input. Not only are we having this written
4 period, but then that will be followed by
5 hearings. It will begin in March where you can
6 all come and testify, and the fun part about OSHA
7 hearings, of course, is that not only do you get
8 to testify, you actually -- also, if you're a
9 witness, you get to cross-examine other witnesses
10 as well. So those of you who are not attorneys,
11 but really always wanted to be kind of, it's an
12 opportunity for you to show us your stuff. You
13 can also question OSHA, too, if you want to ask
14 questions about the proposal.

15 The hearings will be followed by a
16 post-hearing comment period, and then, hopefully,
17 we will get this rule out in a reasonable period
18 of time.

19 But I do want to emphasize we do want to
20 hear from you. It makes no sense for us to be
21 issuing standards that don't make sense in the
22 workplace. So we want to hear from all of you,

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1 employees, employers, about whether this standard
2 is (a) protective enough and (b) whether it makes
3 sense the way we've structured it to be feasible
4 in your workplaces.

5 Another rule that we've just proposed as
6 our rule on record, what we colloquially calling
7 "recordkeeping modernization," improving injury
8 and illness tracking, basically what that's going
9 to be is we are going to be collecting health and
10 safety statistics, basically your logs -- not
11 your logs, but the logs of employers who are
12 already required to fill out the logs. For large
13 employers over 250, they will be sending them in.
14 We will make sure that none of the personal
15 information is there, and then we will be posting
16 them. We think the advantage to that is that
17 employers will be able to basically benchmark
18 themselves against other employers in the same
19 industry. Workers will be able to also compare
20 their employers with other employers, and we are
21 hoping that that together will encourage
22 employers who may not have the best health and

1 safety record to really improve their health and
2 safety performance.

3 Smaller employers, those that are small
4 but still required to keep records, will be
5 sending in basically just the bottom-line totals.

6 Aside from the physical action of sending
7 the information into OSHA, there is no additional
8 requirements put on employers.

9 We're having a one-day meeting soon. I
10 can't find the date here. Not really a hearing,
11 because this is a regulation, not a standard, so
12 there are different requirements for it, but we
13 will be having a one-day meeting, and of course,
14 we will invite anybody who is interested in
15 making comments on that to come to that meeting.
16 Being as I don't have the date on that, we can
17 either get it for you, or it's on our website.

18 One other thing we just recently did,
19 which will be of interest to a lot of you, is we
20 just issued a Request for Information on
21 modernizing our process safety management
22 standard. This was a result of the executive

1 order that the President issued in August,
2 following the disaster in West Texas, the
3 ammonium nitrate disaster. The President issued
4 this executive order to basically improve safety
5 and security in our chemical installations across
6 the country. So it goes way beyond just ammonium
7 nitrate, to all of PSM, as far as we're
8 concerned. It also goes into a number of
9 security issues and environmental issues that are
10 under the purview of EPA and Department of
11 Homeland Security.

12 In any case, this is a Request for
13 Information. There are a number of issues in
14 there. The PSM standard I think is probably one
15 of our most important and effective standards,
16 but it's 20 years old, and this gives us the
17 opportunity to really address a lot of the issues
18 that have been raised over the last 20 years that
19 aren't adequately covered in the standard.

20 An RFI, Request for Information, is
21 exactly that. It's kind of the very, very
22 beginning of the regulatory process where we're

1 basically asking you questions about how we
2 should proceed as to go forward.

3 Following that, assuming we proceed along
4 the regulatory path, there would be, of course,
5 SBREFA and eventually ending up in some kind of
6 proposal.

7 But again, we encourage you, especially
8 those of you who have members or employees who
9 work in the areas covered -- chemical industry,
10 petrochemical industry, refinery industry -- that
11 are covered by PSM to take a look at that and
12 give us comments, if you have any.

13 A couple of initiatives we've been
14 focusing on, one, probably most important,
15 recently is our initiative to address health and
16 safety hazards among temporary employees, and we
17 are looking mainly here at staffing agencies,
18 agencies that provide staff or other employers.

19 We used to -- at least when I was but a
20 lad, I think to think of staffing agencies kind
21 of as Kelly Girls, kind of clerical stuff, that
22 you needed some clerical work, somebody to type

1 and file and use carbon copies and things like
2 that. It was very clerical.

3 These days, of course, not only are
4 staffing agencies much more common, used much
5 more, especially as the economy has problems,
6 more employers want the flexibility that
7 temporary employees can provide, but we are
8 finding them in almost every industry, from
9 construction, steelworkers, warehousing. All
10 kinds of different industries, you find temporary
11 employees.

12 The problem is we're finding a lot of
13 health and safety problems, and at least
14 anecdotally, more and more cases where we found
15 workers who are literally killed on their first
16 day on the job, and that is primarily due to the
17 fact that they aren't familiar with the job and
18 haven't been trained adequately.

19 The responsibility, depending on the
20 case, can lie either with the staffing agency or
21 with the employer, the actual employer where the
22 worker or staffing agency worker is working, and

1 depending on the circumstances, again, it can be
2 one or both of those parties that could be
3 responsible.

4 Our basic aim is to make sure that either
5 through misunderstanding or intention that there
6 are no gaps left in the training and protection
7 of these employees. Every employee in the United
8 States, whether they're a permanent employee or a
9 staffing agency employee, deserves a safe
10 workplace.

11 We have been working with the American
12 Staffing Association very closely to make sure
13 that this message gets out to their members. We
14 did a webinar with them to talk about best
15 practices. So we are working very closely with
16 the industry, but nevertheless, we continue to
17 see these terrible accidents, fatalities,
18 injuries that really should not be happening. So
19 that is one of the major emphases we have been on
20 most recently, and you will be seeing more about
21 that in the media and around as well.

22 On the enforcement front, probably the

1 biggest news in the construction side is the
2 citations that we issued following the building
3 collapse in Philadelphia, the building that was
4 being demolished. November 14th, we issued a
5 citation to Campbell Construction following the
6 building -- I guess the building collapse was in
7 June, killed 6 people, injured 14. You will
8 recall it fell -- the building fell on top of a
9 Salvation Army and killed a number of people in
10 the Salvation Army thrift store.

11 We found violations of OSHA's demolition
12 construction standards. Basically the company
13 had been sort of -- trying to save some of the
14 materials in the building and really taking it
15 apart, including some of the supporting
16 structures from the bottom up, had apparently
17 been warned a number of times in the days before
18 that, that something didn't look right,
19 nevertheless kept on with it.

20 They were cited with three willful,
21 egregious violations for each day, that it left
22 the wall without sufficient lateral support; two

1 willful violations alleging the failures to
2 demolish the building from the top down; and to
3 have an engineering survey by a competent person
4 on the possibility of collapse prior to starting
5 the demolition. Jim Maddux will fill you in a
6 little bit more on the details of this, but
7 again, we thought it was a very significant
8 incident.

9 We are working very closely with the City
10 of Philadelphia and their code officials to make
11 sure that this doesn't happen again, that there
12 is sufficient oversight, and we want to get the
13 word out to other cities and other parties
14 responsible for demolitions to make sure that
15 something as avoidable as this doesn't happen
16 again.

17 Finally, on -- well, I don't know if it's
18 a sadder note or a happier note, but I do want to
19 note that Matt Gillen is retiring, and we will
20 greatly miss him. I have worked with Matt
21 practically since we were children. Right?

22 [Laughter.]

1 MR. BARAB: I don't even remember where
2 you were working or where I was working when we
3 first met, but we've both been around the block a
4 few times and both ended up in government.

5 Matt is just a great trainer, educator,
6 researcher. Even though he doesn't work for
7 OSHA, we practically consider him sort of one of
8 ours, because he's worked with us on so many
9 important projects. He's kind of known around
10 here most recently as "Mr. Nail Gun," but that's
11 really just the surface of what he's been --

12 MR. GILLEN: I started out as an OSHA
13 inspector.

14 MR. BARAB: Oh, right. Okay.

15 [Laughter.]

16 MR. BARAB: Right. Good.

17 So Matt has been around in a number of
18 different roles over the years. His kind of
19 experience in a variety of facets of this area
20 and his concern, his caring, his expertise, and
21 his skill, this is where I get sad, because it's
22 hard to know how to replace somebody like him.

1 It's really difficult to figure that out.

2 Nevertheless, it's not totally sad,
3 because he's going on to a whole new thing. I
4 have no idea what it is, but it sounds good,
5 anyway. He smiles a lot.

6 MR. GILLEN: I am going to say a few
7 words tomorrow, and I do want to say you are
8 going to be in good hands with Christine as far
9 as will be the NIOSH rep, and she's great. So
10 she'll be carrying it on.

11 MR. BARAB: Well, Christina is great. We
12 know that.

13 [Laughter.]

14 MR. BARAB: And that's about all I have
15 here, but I'd be glad to answer a few questions
16 before I have to run off to my next meeting.

17 MR. STAFFORD: Thanks, Jordan. You will
18 have to come back for the Matt roast tomorrow.

19 MR. BARAB: Oh, the Matt roast? Okay,
20 good. I will.

21 MR. STAFFORD: Any questions for Jordan
22 from the committee?

1 [No audible response.]

2 MR. STAFFORD: I have just two, very
3 quickly, and then I know you have to limp off to
4 another meeting.

5 Tomorrow, we are going to have a
6 discussion openly about the reformulation of the
7 work groups under ACCSH, and for those folks on
8 ACCSH or if those folks are familiar with ACCHS,
9 the brunt of our work gets done through the work
10 groups, and we've had some -- I guess a learning
11 curve to go through as we try to figure out how
12 to have work group meetings in this area when we
13 can't travel people in, and it's become an issue
14 that we are going to try to straighten that out
15 tomorrow.

16 But one of the things we had talked about
17 in realigning our work groups gets back to the
18 issue of the temporary staffing agencies, and
19 it's something a lot of folks around this table
20 are very interested in, and I'm assuming folks in
21 the audience too.

22 So I guess the question is, generally, if

1 we were going to do something at the level of
2 this committee in terms of working with or
3 recommending or helping the agency take a look at
4 this issue specific to the construction industry,
5 is there any kind of charge or mandate or
6 something that you could like for this committee
7 to address to help you?

8 MR. BARAB: Well, one of the things we're
9 trying to figure out is the extent of the
10 problem. I mean, first of all, the extent of
11 where we have temporary employees like this. We
12 know, obviously, in construction, there are a lot
13 of contractors, and we're not really looking at
14 that.

15 It's not totally clear. Nobody really
16 has a handle on where temporary employees are
17 working and to what extent they're working, what
18 their penetration is, over and above what
19 obviously the problems, the health and safety
20 problems are. So obviously, the more knowledge
21 we can get about that, it would help us just from
22 the get-go, and then obviously, anything else you

1 have in terms of the extent of the problems that
2 there we don't hear about, because we only hear
3 about -- based on reporting, we only hear about
4 fatalities basically or catastrophes. So there
5 must be -- there's a lot, obviously, happening
6 out there that we don't hear about.

7 We have the same issues with reporting
8 that we have elsewhere, but they're a little more
9 complicated here. If you get injured in a place
10 in your host employer's, it will go on the host
11 employer's log. Sometimes, though, it's the
12 staffing agency that files the worker's comp
13 report, but in terms of days away from the job,
14 how does that get counted? Does it get counted
15 accurately? So those are all the kinds of things
16 we're looking into.

17 But we'd be glad to talk to you more
18 about it in some detail, because we are trying to
19 formulate a plan here.

20 MR. STAFFORD: Right. Well, it's a
21 little bit premature, because we will have this
22 discussion tomorrow, but I am thinking this will

1 be one of the work groups that we are going to
2 end up with.

3 MR. BARAB: Okay, good.

4 MR. STAFFORD: And the second question is
5 on the same issue. For 2 years, this committee
6 -- and its' done a terrific job, our I2P2, our
7 program standard work group, of talking to the
8 issues we think of OSHA move forward on a program
9 standard that would be specific to the
10 construction industry and our multi-employer
11 setting.

12 And we're thinking now -- because it
13 looks like to me that -- I'm not sure where the
14 program standard is, and I guess that's the brunt
15 of my question, is of sunseting that group and
16 establishing another area of work, because it
17 just seems like to us that we've done about as
18 much as we can do as an advisory committee on
19 what we think a standard should look like for the
20 construction industry.

21 We've brought in large employers, small
22 employers, medium-size employers, heard from all

1 kinds of folks about what the advantages and
2 disadvantages are, and we are kind of at a
3 stalemate at this point, Jordan.

4 MR. BARAB: Yeah. Right, right.

5 I think that's probably an accurate
6 appraisal. Again, we hope to move forward on it.
7 We certainly appreciate the work you've done on
8 it. You've given us an enormous amount of
9 information.

10 As you know, if we -- if when we move
11 forward, it will be combined, general industry
12 and construction, but obviously, we are going to
13 have to take all of that into account. And I
14 think the work you have done has been great.

15 You're right. Probably, until we move
16 further in the process, there's not much more we
17 can get out of that, so if you need to move on to
18 other issues --

19 MR. STAFFORD: Okay. That's what we'll
20 do. We will come back.

21 MR. BARAB: Yeah, yeah. It will be a
22 multiyear process, as you know.

1 MR. STAFFORD: Anything, Matt?

2 MR. GILLEN: Yeah, I had a question. Now
3 that I'm getting older and out of date, I find
4 myself interested in some of the OSHA standards
5 that are older and going out of date, and I just
6 learned about month ago that NIOSH recommended
7 that for lead, levels above 10 micrograms per
8 deciliter are considered elevated. Of course,
9 OSHA standard for construction is designed to
10 keep levels at 40, you know.

11 MR. STAFFORD: Yeah.

12 MR. GILLEN: And so there's been a lot
13 more information about that.

14 Even if you wanted to do it, there is
15 just only so much that OSHA can do, and the
16 problem is that most workers and employers, they
17 view OSHA standards as top, and they are going to
18 protect them. So what do we do in the meantime
19 to get -- to sort of communicate this kind of
20 residual risk with some of the older standards,
21 is there some way that OSHA and NIOSH should work
22 together, or AIHA? How do we get the word out to

1 people that meet the OSHA standard, but you might
2 need to go above and beyond it? Because it's
3 getting a little out of date.

4 MR. BARAB: Well, yeah. Lead is really
5 just the top of the ice berg, although it's
6 something that has been in the news and I think
7 something we probably need to look into, but as
8 you know, almost all of OSHA's chemical standards
9 are 40 years old, and almost all of those are
10 based on science from the 1950s and '60s.

11 We just put those two webpages up, which
12 I think is the first step in that. Those of you
13 who aren't familiar, I don't know if that's going
14 to be discussed in more detail, but we put two
15 new webpages up. One talks about all the OELs,
16 the occupational exposure limits from other
17 agencies, including NIOSH, ACGIH, California, to
18 compare them with OSHA's because, as you know,
19 OSHA's are antiquated, and a lot of the
20 organizations and some states have much more
21 modern protective standards. So we put those up
22 there which hopefully should be and will be

1 indicative of the fact that OSHA's are not
2 adequate.

3 David, when he was announcing these, said
4 right out front that OSHA standards, a good
5 number of OSHA standards, are just not
6 protective.

7 The second thing we did was another
8 website that helps employers develop safe
9 alternatives, safe substitutes for what's out
10 there, so that's one thing.

11 We're working on another RFI, which
12 hopefully will be issued soon, on chemical
13 hazards. One of the major purposes of that is
14 also to elicit opinion on how we can update our
15 standard a little bit more efficiently than one
16 at a time, which as we know is impossible when
17 you look at the whole scope of what we have to do
18 and do it within our law. As you know, we have a
19 lot of fairly rigid requirements between our law
20 and court decisions, et cetera, for our standard
21 setting. We haven't really found a way around
22 addressing standards, addressing chemical

1 standards, except for one at a time. So that's
2 also high on our agenda to try to figure out new
3 ways to do that, but you're right. It's a
4 serious issue.

5 I think more information coming out about
6 lead indicates that's something we really need to
7 look into, but again, it's not alone among the
8 chemicals that are inadequately covered.

9 MR. STAFFORD: Thanks.

10 Anyone else?

11 [No audible response.]

12 MR. STAFFORD: Jordan, thank you. We
13 really appreciate it.

14 MR. BARAB: Okay. Thank you. Have a
15 good meeting.

16 MR. STAFFORD: Okay, yeah. You, too.
17 Have a good next meeting.

18 Hey, Damon, I didn't hear Jerry Rivera on
19 the phone introduce himself. Is he on?

20 MS. CHATMAN: He just came in.

21 MR. STAFFORD: He did? Okay.

22 MR. RIVERA: Yes, I'm on.

1 **Discussion of the OSHA 10-Hour and 30-Hour**
2 **Training Courses**

3 MR. STAFFORD: All right. Now we are
4 going to move in for the next, and this is really
5 the roll-out-sleeve-up kind of discussion on the
6 OSHA training program. I want to put this
7 conversation, I hope, in context on how we got
8 from there to here for this discussion today.
9 Even though the agenda talks about the discussion
10 of the OSHA 10- and OSHA 30-hour training
11 courses, we are indeed going to talk about those,
12 but we are talking specifically about the
13 introduction module for those programs.

14 Over a year ago -- I am not going to go
15 back as far as I was born in a log cabin, but I
16 am going to have to go back to how we started.
17 We have a training and outreach work group that
18 had several meetings and included lots of folks
19 from the public, because this is a very
20 interesting topic to a lot of folks in the
21 industry.

22 For those of us that have been around

1 from the beginning of this program, I don't think
2 anyone envisioned that the OSHA 10 or the OSHA 30
3 would essentially become the gold standard for
4 training hazardous awareness training in the
5 industry, but indeed a voluntary program has
6 become, it looks like, the gold standard, and we
7 know, of course, that there are eight states that
8 actually require it by law now. So we have been
9 kind of going through some growing pains with
10 OSHA on how to get a handle on this program
11 because of its popularity and trying to do the
12 balance between the quality control that we all
13 think is needed for quality training of workers
14 in this industry and letting the thing get out of
15 control, because of the popularity of the
16 program.

17 So our training and outreach work group
18 -- and I'd like to thank Kevin Cannon, who is
19 here to my right. Roger Erickson is an employee
20 rep with the Boilermakers Union, and Jerry Rivera
21 is an employer rep with NECA -- are the co-leads
22 of this work group, and they have done a lot of

1 work over the last couple of years in our open
2 meetings. These meetings were open when we had
3 everyone physically together and the public was
4 able to participate, and what we heard, I think,
5 by and large, unanimous from the industry -- that
6 means ACCSH members and many of you sitting out
7 in the audience today -- that we think the
8 industry believes the current OSHA requirement
9 that mandates 2 hours on the introductory section
10 of the program is not necessary.

11 So last November, this committee took
12 action, made a recommendation as a result of that
13 work group meeting, to ask or recommend to OSHA
14 that they enhance the learning objectives of the
15 program, and those learning objectives were
16 submitted by this committee to the docket for the
17 record. We have copies here. I don't know if
18 copies are in the back, but we can certainly have
19 some of those for you.

20 MR. BONNEAU: They are in the back.

21 MR. STAFFORD: They are in the back.

22 Thanks, Damon.

1 So that is the guiding principle for the
2 introduction to OSHA, and as long as you meet the
3 enabling objectives of the program, the committee
4 has recommended that you don't necessarily have
5 to spend 2 hours on the Intro to OSHA, because
6 we've heard almost unanimously from everybody in
7 the industry for all size employers that they
8 would rather get into -- if they can cover the
9 objectives, get into actually teaching and
10 training about the hazards of the work that their
11 workers are going to be dealing with on the job,
12 and I think we all agree with that. And it made
13 sense to us; hence, the action.

14 So today, what we're going to do as a
15 part of the follow-up to that specific
16 recommendation is go through the slide deck of
17 the Intro to OSHA module, and in the end, the
18 exercise is not to say to OSHA that this slide or
19 this particular exercise can no longer be taught.
20 What we are saying, as we go through these, are
21 these are slides or exercises or whatever they
22 may be that we could set on the side that could

1 be used by an instructor if they so want. It's
2 all good material, but it's not essential to meet
3 the enabling objectives. So that's where we're
4 at today, and this is going to take us a little
5 while to go through the slides and actually
6 strike.

7 Kevin and then Jerry and then Roger will
8 go through the slides and actually suggest slides
9 where they think this committee thinks that these
10 particular pieces do not necessarily have to be
11 included, and this is an important distinction.
12 Again, I think it's important that we are not
13 going on the record. ACCSH is not saying that
14 this exercise is not necessary and, therefore,
15 this exercise can never be used in an intro
16 module. We are just pointing out essential
17 things that we think are necessary, and the ones
18 that we don't think that are necessary, even
19 though they are good materials and they could be
20 used at the discretion of the instructor as long
21 as we meet the enabling objectives.

22 So I hope I said that clearly enough,

1 because there has been some confusion about this,
2 and I just want to be sure that we all understand
3 what we're talking about, because at the end of
4 the day, we're 13 months into this. What is
5 this? December. We are 13 months into this. We
6 made this recommendation in November of 2012. We
7 would like to move this forward.

8 I believe that Dr. Payne, Hank Payne, the
9 Director of the OSHA Training Institute, is on
10 the telephone, so he's a part of this
11 conversation. He was at our meeting last
12 November when we had this discussion. It's my
13 impression that Dr. Payne is very supportive of
14 what we're doing, and this is just the next step
15 to try to identify collectively, openly to the
16 public those things that we think are not
17 essential to the program, so that we can get
18 around the 2-hour mandatory requirement for the
19 intro.

20 Fair enough? Clear enough?

21 [No audible response.]

22 MR. STAFFORD: Okay. All right, thank

1 you.

2 What we are going to do here is that I am
3 going to get out of the way, and I don't know,
4 Damon, if we need to get the lights down a little
5 bit or not. We're going to go through the
6 slides, and we have divided them up between the
7 three co-chairs. So Kevin Cannon will start, and
8 then we will return it over to Jerry Rivera, who
9 is on the telephone, and then finally to Roger
10 Erickson to go through the end of the slides.

11 We will just have to monitor the time.
12 We are going to spend up until four o'clock on
13 this issue, if necessary, but not after four
14 o'clock. As we get into this and see how things
15 will go, we will have a discussion amongst the
16 committee as we go or will wait until the end,
17 and we will just try to get through the slides
18 and see how it goes.

19 With that, I am going to turn it over to
20 Kevin.

21 MR. CANNON: Thanks, Pete.

22 ACCSH members as well as those in the

1 public, you had available to you the slide deck.
2 I'll just let you know how we're going to go
3 through it. We are going to go slide by slide,
4 but those that you see with the diagonal
5 strike-through, they are the ones that our group
6 have already recommended amongst ourselves to be
7 set aside for further teaching, as Pete said, but
8 the discussion does not have to be limited to
9 just those slides that we have already identified
10 to be removed.

11 Am I correct, Pete?

12 MR. STAFFORD: Right.

13 MR. CANNON: So, as we go through, I am
14 going to do the first 16. If there's any slides
15 that are of interest or you want to speak up,
16 have an opinion about, please feel free to do so.

17 Right now, what you are looking at is the
18 opening slide to the 2-hour intro. I think we
19 want to keep that one.

20 And then the next slide, please, is the
21 Lesson Overview. Based on discussions with the
22 work group, there was very little that needed to

1 be changed with this one. I do know that per my
2 notes from discussions, there was some question
3 as to the need for Question Number 4: What do
4 the OSHA standards say? So we would move to
5 strike that one question and renumber
6 accordingly, so 5 would now be 4 and 6, 5.

7 All right. I will move on.

8 Pete, are we doing this as we go?

9 MR. STAFFORD: Yeah. I think we have
10 time.

11 MR. CANNON: Yeah.

12 MR. PRATT: Okay. Don Pratt.

13 We might want to under topics on this
14 slide -- we might want to add what are the
15 worker's responsibility, as outlined in Section
16 5(b) of the OSH Act. They are clearly identified
17 in the Act, and it might be something that we
18 should be adding in there. Along with the rights
19 of the employee, there should be the
20 responsibilities of the employee.

21 And then there's a further slide back
22 that I will get to when we get to that slide that

1 would identify it even further.

2 MR. CANNON: That particular point has
3 been brought up with our group and --

4 MR. PRATT: I would hope so.

5 MR. CANNON: Yeah, we've discussed
6 addressing that later on, so --

7 MR. PRATT: That's fine.

8 MR. CANNON: If you're satisfied with how
9 we intend to address it later in my portion of
10 it, then say so or not.

11 Any other discussion on this slide?

12 [No audible response.]

13 MR. CANNON: Now, Pete, I do have another
14 question, I guess a procedural question. As far
15 as the folks -- and I know the intent to do this
16 slide by slide was not only to give ACCSH folks
17 an opportunity, but those in the back as well.

18 MR. STAFFORD: Yeah. I think once we get
19 through this, the folks in the who want to
20 comment, we will do that at the end as part of
21 the comment period. Any discussion about this,
22 we will save to the end.

1 MR. CANNON: Okay. So we would encourage
2 you guys to make notes if there's any issues,
3 concerns that you would have.

4 The next slide. All right. Now, this is
5 the first slide that we have come to that we
6 identified for removal, and it is not necessarily
7 because the information is not useful, but as we
8 move through, you will see that a lot of this
9 information is covered again in Slide Number 6,
10 History of OSHA; Slide 8, OSHA's mission. If
11 there's any information in there that you would
12 like to save, you can incorporate it into the
13 later slides, or OSHA has put together a pretty
14 extensive instructor's guide for this. Either
15 incorporate it in later slides or enhance what
16 you have already in the instructor's guide,
17 because in my opinion, based on these
18 recommendations, they will need to do some
19 modifications to this, anyhow.

20 MR. MARRERO: Tom Marrero, Employer Rep.
21 If we are going to strike this Topic 1
22 here, "Why is OSHA Important to You?" then

1 shouldn't we strike it in the slide before as
2 well or possibly change it or word it
3 differently, so the discussion questions can be
4 utilized?

5 MR. GILLEN: Can I ask a qualification
6 question? And I apologize if you covered this
7 and I wasn't --

8 You go first. You had a question?

9 MR. MARRERO: No. I already said it, so
10 you're good.

11 MR. GILLEN: Matt Gillen, NIOSH.

12 So what we're looking at here isn't what
13 -- the group didn't fill in the slide, so that
14 this represents what the final product would look
15 like. It's just your idea of which slide should
16 be taken out.

17 MR. CANNON: Yes.

18 MR. GILLEN: So, for example, somebody
19 has to take "Why is OSHA Important to You?" and
20 put it somewhere else. You can't just take away
21 that. Somebody has got to -- if you are going to
22 have the topic "Why is OSHA Important to You?"

1 then it's got to be in one of the slides.

2 MR. CANNON: I think that is the point
3 that Thomas was making. Yeah.

4 MR. GILLEN: What we're going through is
5 we need to make notes as to where OSHA needs to
6 add slides or just editorial slides to smooth all
7 this? Because it doesn't, as it is, represent a
8 coherent presentation, right?

9 MR. CANNON: Exactly.

10 MR. GILLEN: Okay.

11 MR. STAFFORD: So to clarity that -- this
12 is Pete -- the exercise is that what the
13 committee is presenting is areas where they think
14 either certain sections of a slide or a slide
15 entirely could come out.

16 MR. CANNON: Any further discussion?

17 [No audible response.]

18 MR. CANNON: Any questions?

19 [No audible response.]

20 MR. CANNON: All right. Next slide,
21 please.

22 These are discussion questions that are

1 put in place to help get the attendees or
2 students involved. We didn't make any
3 recommendation on this particular slide. I know
4 Chuck had an opportunity to weigh in, and
5 according to my notes, it was remove or revise
6 the first and second questions.

7 MS. COYNE: I do have a question. Sarah
8 Coyne, Employee Rep.

9 Do we have an idea of what we want or how
10 this is going to look once or if your proposed
11 changes are accepted?

12 MR. STAFFORD: Clarify how. This is Pete
13 Stafford. I don't think this is on, but what do
14 you mean how it's going to look, Sarah?

15 MS. COYNE: Well, if we're going to take
16 this slide out or take this verbiage out and,
17 hypothetically, let's say that the proposed
18 changes were all accepted, do we have a draft of
19 how this Intro to OSHA will look like?

20 MR. STAFFORD: Oh, yeah. I mean, I think
21 once we go through this exercise and if we all
22 reach agreement today, then we will finalize this

1 thing and there will be a new --

2 MS. COYNE: Reformat it?

3 MR. CANNON: Yes.

4 MR. STAFFORD: There will be a new
5 document that said this is it, now based on this
6 discussion.

7 MS. COYNE: Okay. And the reason why I'm
8 asking, it's just a little confusing when you
9 say, "Well, we are going to take this slide out,"
10 which I think you should, but then you go into
11 these questions, and where it's placed now is
12 inappropriate.

13 MR. STAFFORD: Mm-hmm.

14 MR. CANNON: It will be reshaped,
15 reformatted.

16 MS. COYNE: Thank you.

17 MR. CANNON: You're welcome.

18 MR. STAFFORD: All right. So, Kevin, I'm
19 sorry, and, Chuck, you're here next. You said at
20 the last meeting that Chuck had suggestions for
21 changing these questions?

22 MR. CANNON: No. I think Chuck had an

1 opportunity to review this in between meetings
2 and provided feedback in the Notes section on the
3 side.

4 MR. STRIBLING: Well, just to speak to
5 these two questions, you're right. The whole
6 thing has to be reformatted when we get through.

7 MR. CANNON: Mm-hmm.

8 MR. STRIBLING: But these first two
9 questions could eat up a half hour of the class.
10 You go around asking everybody that; you're going
11 to get that throughout the class. That's going
12 to be a discussion point.

13 If our goal here is to whittle this thing
14 down to an hour, take it out. It's going to come
15 up during the course of the instruction.

16 MR. CANNON: Anyone else?

17 MR. MARRERO: This is Tom Marrero,
18 Employee Rep.

19 I got to agree with Chuck then here too.
20 From my experience, a lot of times with this
21 first question, the first time that they heard
22 about OSHA tends to be the first time that they

1 do their OSHA 10 or any time they're doing a
2 safety orientation.

3 I don't think a lot of people really
4 understand that question, when they do an OSHA
5 10, what that really means to them, and like
6 Chuck said, it does come up throughout the
7 instruction as you go through it.

8 MR. CANNON: All right. Next slide,
9 please.

10 This is one that we have identified as
11 removal. My initial thoughts is that it's
12 somewhat out of place, putting it smack dab in
13 the middle. You're talking about the history of
14 OSHA, and then you're talking about fat cats.
15 Then you go back to, you know, what is OSHA, and
16 then go back to the history of OSHA. It could be
17 handled in other ways as far as reviewing some of
18 this.

19 Another thought that I have is that you
20 have such a diverse group that sometimes these
21 reports doesn't represent the type of work that
22 your students to. What use would that be for

1 them to investigate something that does not
2 really pertain to their operations, their task?

3 Any questions?

4 [No audible response.]

5 MR. CANNON: Comments?

6 [No audible response.]

7 MR. CANNON: Okay, thank you.

8 Next slide, please.

9 No recommendations were made by the work
10 group on this, so if you guys want to take some
11 time to look at it, but this is one of the slides
12 where I indicated that you could either
13 incorporate some of the statistics and data from
14 early on into these or enhance the instructor's
15 guide to cover some of that same information. I
16 mean, it is sort of repeated again if you look at
17 how they ask you to flow through it in the
18 instructor's guide.

19 Yes.

20 MR. JONES: I only have one question. I
21 like what Chuck said. It makes a lot of sense in
22 terms of getting rid of the slide on discussion

1 questions.

2 The problem I just have, and it's not a
3 big point, is that most workers when you ask them
4 what do they know about OSHA, they are going to
5 give you the Gestapo answer that, "Oh, they're
6 just here to shut the job down. They don't want
7 us to work." They don't have a full
8 understanding of exactly what OSHA is. So I
9 think this history slide talks out really why
10 OSHA is there, and I think it's a good point.

11 Then if a discussion followed up after
12 that, they are not there to shut the job down or
13 fine you or everything else; they are actually
14 there to try to help work safely. Even though
15 you may not want to wear a harness, this is why
16 you wear one.

17 MR. CANNON: Yeah. So you're --

18 MR. JONES: So my point is this this
19 should stay.

20 MR. CANNON: Which? This slide here?

21 MR. JONES: History.

22 MR. CANNON: Yeah. That is staying.

1 There was no recommendations made on this one.

2 MR. JONES: Good place for it.

3 MR. CANNON: Next slide.

4 This slide talks about OSHA's coverage
5 activity, and I understand this is the module
6 that is used for both construction and general
7 industry, but our work group though it would be
8 useful to use examples specific to construction
9 as far as who is covered and who is not, and
10 maybe do three separate slides, like they have
11 done in some of the other parts where they have
12 construction, maritime, and general industry,
13 maybe do the same for this one. Have OSHA
14 coverage activity for construction, maritime, and
15 general industry, but other than that, I guess
16 sorting out who is covered, who is not, it is not
17 a bad thing, but we would recommend having
18 examples specific to construction.

19 All right. Next slide.

20 No recommendations by the work group on
21 this one as far as revising, removing, but this
22 is also one of the slides that I mentioned early

1 on that some of the same information was being
2 covered.

3 MS. SHADRICK: Hi. This is Laurie
4 Shadrick.

5 I just have one thing. Shouldn't OSHA's
6 mission be like right up front?

7 MR. CANNON: Yeah.

8 MS. SHADRICK: Your mission statement?

9 MR. CANNON: Yeah. That's --

10 MR. MARRERO: This is Tom Marrero.

11 Even if you flip-flop the OSHA coverage
12 activity slide with that one, I think it would
13 make more sense, because then it's followed by
14 the questions for review, so --

15 MR. CANNON: Any other questions or
16 discussion?

17 [No audible response.]

18 MR. CANNON: Okay. Next slide, please.

19 This slide was not recommended for
20 setting aside. I don't want to say remove. But
21 it was thought that the first question, the
22 wording could be changed. Instead of "Why was

1 OSHA necessary?" you know, basically, "Why was
2 OSHA established?" and that was the only
3 recommendation that was put forward by the work
4 group.

5 Next slide, please.

6 No recommendation. So if there's
7 anything on this slide that the group would like
8 to share their thoughts or opinions on, please?

9 Yes.

10 MR. GILLEN: Again, it's my pet issue
11 that I bring up each time about the right to
12 report an injury without fear of reprisal, and so
13 it's an insertion. It could go here. It could
14 go on later on and be on Retaliation, Slide 21,
15 but I think explicitly, that's something that
16 needs to be in as a bullet point somewhere.

17 MR. CANNON: Does the last bullet cover
18 that, or do you want it to --

19 MR. GILLEN: I think it's not specific
20 enough.

21 MR. CANNON: Okay.

22 MR. GILLEN: I think if you think about

1 it, that's the most specific thing that could
2 happen to a worker is getting injured, and the
3 fact that you need to report that to the
4 employer. We know that there is a fear of
5 reporting injuries, and so to sort of be explicit
6 and to just come out and say it, I think is one
7 of the most important things that the course can
8 do.

9 So it's something to add in or just make
10 sure -- it's not so much that it has to be in
11 this slide. It just has to be somewhere in the
12 presentation, so if we can make a note somewhere
13 that that's included.

14 MR. STAFFORD: So we can just take that
15 last bullet and make it explicit.

16 MR. CANNON: I was looking at how it was
17 covered in the instructor's guide, and it doesn't
18 expand on it any further besides just --

19 MR. GILLEN: You could just put dash
20 "including the right to report an injury without
21 fear of retaliation.

22 MR. JONES: Walter Jones.

1 Isn't reporting injuries a responsibility
2 under the Act? I'm not clear.

3 MR. CANNON: A responsibility of the
4 employee?

5 MR. JONES: Don talked earlier about
6 making sure employee responsibility is in there.
7 Isn't that a responsibility to report injuries?

8 MR. CANNON: I don't think it explicitly
9 says that, no. No, I don't think it says you
10 must report.

11 MS. WILSON: We don't have the text of
12 the Act in front of us, but we don't think that's
13 explicit in the Act.

14 MR. CANNON: No. No.

15 So on this particular slide, it would
16 just be a dash "including the reporting of
17 injuries and illnesses."

18 MR. STAFFORD: Well, I think what Matt
19 said would be dash "including the right to report
20 an injury without reprisal.

21 MR. CANNON: Okay. Good?

22 [No audible response.]

1 MR. CANNON: All right. Next slide,
2 please.

3 This particular slide did not have any
4 recommendations put forward by the work group.
5 There was a suggestion made that the second
6 bullet was also covered in the previous slide as
7 well as the slide that will be following, so
8 maybe consider removing it.

9 Any questions? Comments?

10 [No audible response.]

11 MR. CANNON: No? Okay.

12 Next slide, please.

13 This is where 5(b) was being discussed as
14 far as inserting what the employee's
15 responsibilities are under the OSH Act. Any
16 thoughts on that?

17 MS. COYNE: I think you're right.

18 This is Sarah Coyne.

19 I think your recommendation on the
20 previous slide to remove the second bullet point,
21 especially if they are going to go in this order,
22 is appropriate.

1 MR. CANNON: Okay. Any discussion about
2 the 5(b), inclusion of that language into this
3 slide? Because it's right now just 5(a)(1), and
4 of course, there is the 5(b).

5 MR. STRIBLING: Yeah.

6 This is Chuck Stribling.

7 I'd say put it in, 5(a)(1) and 5(b).
8 This is the slide that covers both of them.

9 MR. BETHANCOURT: This is Jeremy
10 Bethancourt.

11 I guess my comment would be that I would
12 agree that it should actually be addressed in
13 this slide or somewhere in here, but this is an
14 appropriate place to put that, where it addresses
15 both parties have responsibilities in the OSH
16 Act. That would be my recommendation whenever
17 that time comes.

18 MR. JONES: Walter Jones.

19 Just getting back, just looking at the
20 flow here, maybe we might want to take this first
21 bullet point that you want to remove from the
22 prior slide, leave it in that slide, and then

1 have the two --

2 MR. CANNON: Condense 5-1, okay.

3 MR. JONES: You have employer
4 responsibility, employee responsibility on one
5 slide, and then keep this bullet or move that
6 first bullet to the worker rights one. Do you
7 know what I mean?

8 MR. CANNON: Yeah. No, that makes sense.

9 MR. JONES: You were talking about
10 reviewing it, but then you'd have like a jumbled
11 slide. I mean, it's already filled. Look at it.

12 MR. CANNON: So keep it under the
13 previous slide and remove it from this particular
14 slide and have 5(a)(1) and 5(b).

15 MR. JONES: Yeah.

16 MR. CANNON: Does that make sense? I
17 mean, it makes sense to me, but I want to give
18 the rest of the group an opportunity to --

19 MR. JONES: That works. All right. And
20 keep.

21 MR. CANNON: Next slide, please.

22 Other than need to be updated to reflect

1 the revised -- I'm sorry? Yeah. Outside of
2 needing to be updated, some of the other
3 recommendations were made to -- if it's being
4 covered in other parts of the 10- and 30-hour,
5 then potentially remove this slide.

6 But if you look at the requirements for
7 the 10- and 30-hour, it's not an absolute
8 requirements, for it has come to be covered.
9 They give you 30 minutes to talk about health
10 hazards, and it says you can talk about silica or
11 HazCom or whatever you would like. If you remove
12 it, it's not guaranteed that it be covered unless
13 we're able to get this as part of the mandatory
14 curriculum.

15 I know the industry, both the 10- and the
16 30-hour require one hour on HazCom; whereas,
17 construction does not have that where it says you
18 must cover HazCom. Does that make sense?

19 MR. JONES: What's the question?

20 MR. CANNON: So the recommendation was
21 either, you know, remove -- remove this slide as
22 well as the next, but my thinking is that it's

1 not a mandatory requirement anywhere. So if we
2 do, it may be missed. Is this an opportunity to
3 say we could use that optional 30 minutes or the
4 elective 1 hour that's at the end of this?
5 Because the 10-hour gives you an optional 1 hour
6 at the end to cover whatever you want. The
7 30-hour gives you 2 hours of optional time to
8 cover whatever you want.

9 MR. JONES: Walker Jones.

10 So you're asking can we remake this a
11 non-mandatory slide?

12 MR. CANNON: No, not as far as take it
13 out of the intro, but require it to be covered
14 elsewhere in the program.

15 MR. JONES: I don't understand.

16 MR. CANNON: I'm sorry?

17 MR. JONES: I don't know that I support
18 -- heard a reason to support that.

19 MS. COYNE: Sarah Coyne.

20 Basically, what you're saying is any
21 authorized instructor who doesn't opt to choose
22 the HazCom elective, that this will -- everybody

1 will at least hit on this particular right for
2 every class, right? Is that what you're saying?

3 MR. STAFFORD: No, no.

4 MS. COYNE: If you leave this slide in,
5 everybody will cover this topic, where when we
6 get to the elective portions, I don't have to
7 cover HazCom. So this will ensure that everybody
8 covers it if it's left in the --

9 MR. CANNON: Yes..

10 MR. STAFFORD: Yeah. Sarah. I don't
11 think that's what Kevin said specifically, but I
12 think in the end, that's sounds like where we're
13 coming to.

14 MR. CANNON: Yeah.

15 MR. STAFFORD: Kevin, I think was
16 proposing to take this out because it could be
17 covered in another area, and I think it sounds
18 like Kevin to me -- that potentially because it
19 could not be, that it's probably worthy to keep
20 this hear to make sure that it's touched upon.

21 MR. CANNON: I guess I would ask the
22 question why is it required in the general

1 industry and not the construction.

2 MR. STAFFORD: I don't know the answer to
3 that.

4 MR. CANNON: Yeah, I don't know the
5 answer to that either.

6 MR. STAFFORD: That's kind of omitted.

7 ATTENDEE: I can fix that.

8 MR. CANNON: And that's what I'm saying.
9 If we can fix that, then we can take it out of
10 there.

11 ATTENDEE: No. Now make sure it's in
12 both.

13 MR. JONES: Yeah, because we can't.
14 Right to know is one of the basic fundamental
15 values that we fought for in the whole Act, the
16 whole point here, and I don't know how we can --
17 we're talking about their rights, so I don't
18 know. I don't know.

19 MR. STAFFORD: This is Pete.

20 I agree with you, Walter. I think that
21 this is one that probably needs to say. If it's
22 not going to be covered elsewhere, it's an

1 important slide.

2 MR. CANNON: Next slide.

3 Well, I am assuming then if we are going
4 to keep the previous slide, we will keep this
5 one, but just revise it to say SDS and use an
6 example of it.

7 ATTENDEE: Yep.

8 MR. CANNON: Next slide, please.

9 All right. Now, this has the slash
10 through it identifying it, but it's a possible,
11 and maybe it's depending upon how the language
12 could or should be revised to say that you have
13 the right responsible to report the occupational
14 injuries and illnesses, and that your employer
15 cannot stop you. I think this was one area where
16 we could expand on what Matt was saying as well,
17 now that's impossible.

18 MR. GILLEN: Nobody else feels -- this
19 seems like important information as well.

20 Matt Gillen.

21 I'm just wondering. You know, this is
22 the basic log. It's useful for workers to know

1 about, because sometimes people feel like if an
2 injury happened and it might have been
3 carelessness or something is what's the
4 discussion that people might have or might feel.

5 Whereas, when you look at the log, seeing
6 that it's happened to other people makes you
7 realize there's more to it. It isn't just a
8 carelessness thing. This is something that's
9 going on, and that, you know, talk to the other
10 person, what happened to you. I think it's an
11 important right to know about.

12 I mean, in our recommendations here, we
13 shouldn't just limit ourselves to deleting it.
14 We could say what about consolidating some of the
15 --

16 MR. CANNON: Exactly.

17 MR. GILLEN: Take a point here and a
18 point from another slide, maybe not entire -- all
19 of the points need to be kept, but it could be
20 made simpler and put in another slide.

21 MR. CANNON: So research the slides to
22 see where some of this information fits

1 elsewhere.

2 MR. GILLEN: Yeah. Consolidate it with
3 another slide.

4 MR. CANNON: Okay.
5 Walter?

6 MR. JONES: Nothing, nothing, nothing.

7 MR. CANNON: Next slide.

8 No recommendations on this one.

9 MR. STRIBLING: I just have a question,
10 because I don't know. I don't know.

11 Chuck Stribling.

12 I don't know the answer to this. What is
13 29 CFR 1977?

14 MR. CANNON: Lisa?

15 MS. WILSON: I believe 1977 is the
16 regulations for the whistleblower program under
17 Section 11(c).

18 MR. STRIBLING: Oh, okay.

19 MR. CANNON: Okay.

20 MR. STRIBLING: See, coming from a state
21 plan state, it's not codified that way with us,
22 so it wouldn't ring true for that slide in our

1 state, but instructor can change that as they go.

2 ATTENDEE: You could just say
3 whistleblower.

4 MR. STAFFORD: I was going to say why
5 don't you just say whistleblower. I mean, don't
6 you have whistleblower protection?

7 MR. STRIBLING: Oh, sure.

8 MR. CANNON: So then why don't you just
9 say whistleblower?

10 MR. STRIBLING: Yeah.

11 ATTENDEE: It makes no sense to tell a
12 construction worker 29 CFR -- and we supposed to
13 know, and we don't know. Why don't we just say
14 whistleblower?

15 [Laughter.]

16 MR. CANNON: Delete the reference to
17 that --

18 ATTENDEE: And insert "whistleblower."

19 MR. CANNON: Whistleblower.

20 All right. That ends my section of
21 review.

22 I believe it's Jerry who is up next.

1 Jerry?

2 MR. RIVERA: Yes. Good afternoon,
3 everybody. Can everybody hear me okay?

4 MR. STAFFORD: Yes.

5 MR. RIVERA: Okay. So I'm going to try
6 to do my best to take us through the next round
7 of slides.

8 MR. STAFFORD: Jerry?

9 MR. RIVERA: Hopefully, you guys can hear
10 me a little bit better than I heard you on the
11 lagging end, but just if you want to interrupt
12 me, go ahead and I'll speak a little louder.

13 MR. STAFFORD: Jerry, I want to interrupt
14 you. Jerry?

15 MR. RIVERA: Yes.

16 MR. STAFFORD: Hold on. Lisa, what did
17 you --

18 MR. CANNON: And introduce himself.

19 MS. WILSON: Oh, I was going to ask him
20 to introduce himself.

21 MR. RIVERA: Sorry about that. Could you
22 text that message?

1 ATTENDEE: He didn't hear you.

2 MR. STAFFORD: Introduce yourself, Jerry.

3 MR. RIVERA: My name is Jerry Rivera, and
4 I'm an employer rep.

5 All right. So I am going to begin and
6 take this through the next couple slides like
7 Kevin and our chairman mentioned before. It's
8 very tough to take away some of the slides and
9 keeping the integrity of the program, but most
10 importantly, because the OSHA 10-hour workforce
11 is so important and it's so well accepted in the
12 industry, it was important for us to give it a
13 really good look in some of the slides that were
14 either covered in some other sections of the
15 10-hour or that were kind of redundant.

16 This first slide that we're looking at,
17 we decided to keep, which is "Complain or Request
18 Corrections." It was important to keep this
19 slide.

20 The Training, another important element
21 that we keep in our training program to advise
22 some of the workers of the importance of where

1 they can get some training, not only from their
2 employer, but maybe some of those GCs on site and
3 the coordination to happen there.

4 Next slide. Next slide.

5 ATTENDEE: It's there.

6 MR. RIVERA: I might be lagging behind
7 because of the buffering.

8 But the strike-through, "Examining
9 Exposure and Medical Records," you know, based on
10 the discussion of the work group, it was
11 understood that, number one, it's a 1910
12 requirement, but examining the records for
13 employees, while it's important, it might have
14 not helped improve our safety and health
15 divisions on the job site. So it was decided to
16 strike this one out, because normally employees
17 are not involved at this level.

18 There's other venues that were used, such
19 as toolbox offerings on the job site to capture
20 the -- but actually going into the administrative
21 part of it was thought to be something that would
22 be more of an administrative function.

1 Next slide.

2 MR. CANNON: Hold, Jerry. You have some
3 comments.

4 MR. RIVERA: Go ahead.

5 MR. JONES: I was asleep at the wheel
6 here.

7 I want to go back to that slide, "Your
8 Right to Training," and that second bullet point,
9 I'm not clear totally on what you mean by
10 "required training," required blood-borne
11 pathogen training or topics. If we could make
12 these topics that were, I guess, using as
13 examples more relevant, as relevant as possible
14 to construction activities, that would be great,
15 or either align in there for the instructor to
16 make it relevant to the work site that they're
17 at, because I just think leading with blood-borne
18 pathogens is kind of tough, and then required
19 training on noise, I'm not so sure about.

20 MR. CANNON: Well, if I can, these are
21 the standard slides. We didn't revise this at
22 all.

1 MR. JONES: Oh, I know, but aren't we
2 making recommendations for it?

3 MR. CANNON: Oh, yeah. Okay. Yeah,
4 okay.

5 MR. JONES: As Matt said earlier, we
6 should not only be talking about what we want to
7 take out, but what we want to improve.

8 MR. CANNON: Yeah, improve. Okay.

9 MR. STRIBLING: Chuck Stribling.

10 From a state plan perspective, we like
11 this slide, because as a state, we have a
12 requirement for blood-borne in construction. We
13 have a construction confined space standard. So
14 you can change it. You might want to take it out
15 because you think you are making it more relevant
16 for construction, but that doesn't mean it's more
17 relevant nationwide for construction. See what
18 I'm saying?

19 MR. BETHANCOURT: This is Jeremy
20 Bethancourt.

21 I also believe that that is an important
22 thing to speak to in there, even in construction,

1 and having had experience with workers who have
2 been exposed to potential hazards from
3 blood-borne issues that occur out on a job site.
4 That's the grim reality at times is that they're
5 faced with that, and having some training on that
6 would be vital.

7 I agree that perhaps we might explain
8 what that means a little more, but maybe that's
9 something that would be like a subtext or
10 something for an instructor.

11 MR. RIVERA: This is Jerry.

12 Keep in mind that the training
13 requirements -- here is an idea where the
14 audience gives an opportunity to see what type of
15 topics that should be covered. They're not all
16 inclusive, but I think the remarks that we shared
17 as far as padding may be okay to bring some of
18 the more construction-specific requirements. It
19 might be something that should be left up to the
20 instructor.

21 All right. If there are no comments on
22 this one, I'd like to move over to Slide Number

1 19. I believe that's the one we are going into.

2 MR. GILLEN: Matt Gillen with NIOSH.

3 Again, I think this is an important one.

4 I think it could be consolidated like with the
5 information about injuries and illnesses. In
6 both cases, you are talking about records, and it
7 could be probably simplified to say where
8 employers collect air samples or environmental
9 samples or noise, readings, that workers have the
10 right to see those records and find out what the
11 results were.

12 And same with the medical records. I
13 mean, it's an important issue for a worker to
14 understand what their rights are to medical
15 records.

16 I think it could be shortened, but I
17 think it's definitely important information to
18 have in there somewhere.

19 MR. BETHANCOURT: You know, this is
20 Jeremy Bethancourt.

21 I would tend to agree with Matt. We just
22 recently did a survey at a facility, and as part

1 of that, of course, we did instruct the workers
2 that they have a right to know the records from
3 the exposure examination and the survey that we
4 did there for contaminants.

5 And I think that this is important. I
6 would agree, especially for folks who are exposed
7 to hazards, that they know that they're allowed
8 to -- if anything, the OSHA 10-hour should be
9 educating them, to prompt them to know they have
10 that ability perhaps, and then that might get
11 them thinking about it for wherever it is that
12 they work.

13 So maybe there's a way, like Matt said,
14 we might condense it, but I think that this is
15 important. That's what I'd say.

16 MR. JONUES: Can we look at consolidating
17 that point of medical with the information about
18 injury and illnesses into one or something like
19 that? I don't know. Instead of having two
20 slides, turn it into one. Is that doable?

21 MR. RIVERA: That might be the solid
22 approach.

1 Again, these were some of the
2 recommendations from the work group at the time,
3 but this is not written in stone. So some of
4 those remarks that you guys are sharing right
5 now, I know I'm taking notes on this end to make
6 sure if we can consolidate this slide, that is
7 the wishes from the group, before we move
8 forward.

9 MR. JONES: Great.

10 MR. RIVERA: All right. So moving on to
11 Slide Number 19.

12 MS. COYNE: I'm sorry. This is Sarah
13 Coyne.

14 Just a question. As we're looking at
15 this pertinent information and we're debating
16 what we should include and what we should
17 consolidate, to file a complaint, participate in
18 inspections, and some of the other information
19 that we have discussed thus far, is it possible
20 -- would it be possible to just have that as
21 additional information in a handout form?

22 MR. CANNON: And that's where I was going

1 to go, is that some of this that we're
2 recommending to be removed or set aside is
3 covered like in the handouts; for instance, the
4 OSHA poster that you're required to use for the
5 group activities.

6 MS. COYNE: Exactly.

7 MR. CANNON: So I understand.

8 MS. COYNE: So not only we provide the
9 information to our audience, but we don't
10 necessarily have to cover it in that time slot.

11 MR. CANNON: A lot of it is covered in
12 the handouts.

13 MS. COYNE: But we can do that? We can
14 take some of this information out and produce
15 them as handouts?

16 MR. GILLEN: Matt Gillen.

17 You can also put a reminder by putting
18 "see handout" in those particular slides, so that
19 people get the message that there is this
20 supplemental information, both the instructor and
21 the student.

22 MR. JONES: That's a good point.

1 MR. CANNON: Okay, Jerry.

2 MR. RIVERA: All right. So looking at
3 Slide Number 19, "File a Complaint with OSHA,"
4 again, the task group basically believed that it
5 was important to keep this level of information
6 within a 10-hour, so that employees have a way to
7 know how to file a complaint, should there be an
8 imminent danger, without worries that there will
9 be some type of retaliation. So it's basically
10 knowing their rights that they can file a
11 complaint with OSHA if they can't work it out at
12 the employee level.

13 Slide Number 20, next slide.

14 Participating in an OSHA inspection is
15 another vital component. It was understood that
16 employees should know that a representative could
17 accompany during an OSHA inspection, the employer
18 rep during an OSHA inspection, whether it's to
19 point out hazards, describe some of the injuries,
20 or to find out what the issues were identified,
21 what was the abatement, again, another vital set
22 of information that will uphold the integrity of

1 the 10-hour course.

2 Next slide.

3 MR. STRIBLING: Hey, Jerry, it's Chuck
4 Stribling. Could I interrupt you a minute?

5 MR. RIVERA: Go ahead.

6 MR. STRIBLING: That final bullet, I
7 don't completely agree with, because in some
8 states, that might be different. For instance,
9 in Kentucky, they can also object to the
10 abatement dates, but in Kentucky, they can also
11 object to the citation and/or the penalty. So
12 it's not the same everywhere, and to give
13 information that this is the way it is for
14 employees, they have additional rights in some
15 other states.

16 MR. RIVERA: Chuck, that's a great
17 observation, and I realize that the differences
18 between state -- and I'm dealing with that now --
19 are vast. I don't know. The recommendation
20 might be that in some regards, even though this
21 is -- I believe we are trying to fashion this for
22 the federal component, if some of these slides

1 have an additional note to say, "Hey, state
2 requirements might be different."

3 MR. ERICKSON: Jerry, this is Roger
4 Erickson.

5 I think that's a great idea that we have
6 some type of asterisk or whatever on some of
7 these slides that are in question regarding state
8 requirements.

9 MR. RIVERA: Hey, Chuck, would that
10 capture your thoughts?

11 MR. STRIBLING: Sure. And you've got to
12 remember, you know, obviously, I'm here
13 representing the states, but you're talking about
14 27 state plans. So that's a pretty significant
15 portion of the country that's going to be getting
16 this information.

17 MR. GILLEN: Chuck, so in those cases,
18 the states can't go below the federal minimum,
19 but they go above it, right? So the note could
20 say states may have additional rights or
21 additional -- something along those lines as a
22 footnote.

1 MR. STRIBLING: Sure.

2 MR. RIVERA: All right. So switching up
3 to Slide Number 21.

4 We talk there being free from
5 retaliation. Again, there is always that concern
6 of the employee that they identify an unsafe
7 condition or they file a complaint, that they can
8 be retaliated against. This was, again, one of
9 those slides that was important to keep there, to
10 make sure that that end user, who is getting the
11 10-hour, can know his right as it relates to
12 being protected when they file a complaint. So
13 we chose to keep Slide 21.

14 MR. STRIBLING: Jerry, this is Chuck
15 Stribling again.

16 Here again, I would ask that you put a
17 note in there that it might be different in the
18 states, because in Kentucky, an employee has 120
19 days to file a discrimination complaint.

20 MR. RIVERA: You know what, Chuck, I'm
21 going to make that asterisk, and it might require
22 a little bit more. You know, again, in different

1 states, some of those instructors typically
2 addressed those issues, but it might be worth,
3 like you mentioned, putting the asterisk that way
4 as a reminder to that instructor that the
5 information can be different from that, the
6 federal requirement.

7 MR. STRIBLING: Sure.

8 MR. RIVERA: Slide Number 22.

9 MR. MARRERO: Real quick, Jerry. This is
10 Tom Marrero.

11 With Slide 21, I think it would be better
12 suited if we put it in front of Slide 19, because
13 Slide 19, when you read it here, you know, Worker
14 may file a complaint with OSHA and they believe a
15 violation or safety or health standard or
16 imminent dangerous situation exists in a
17 workplace, I think it would flow better if we put
18 21 in front of that, because if the employee is
19 exposed to a hazard, he should be addressing it
20 with the employer, prior to calling OSHA. So I
21 just think it would flow better, maybe add a
22 little bit of verbiage in there that they should

1 address it with the employer. And if the
2 employer fails to do anything, then to file a
3 complaint.

4 MR. RIVERA: That's -- the recommendation
5 is duly noted.

6 Again, we will add these remarks, so that
7 we can finalize our recommendation. So I will
8 jot that down, Mr. Marrero.

9 Slide Number 22 is a set of questions
10 that basically asks or tests the instructor to
11 use -- test the knowledge gained, what is an
12 MSDS, what are some of the rights related to
13 injury and illness, and what are some of the
14 standards or hazards where workers must be
15 trained.

16 Again, we have taken out some exercises,
17 but others we've chosen to keep, because there
18 needs to be somewhat of an assessment from the
19 instructor as he's going along to make sure that
20 the audience is understanding the message being
21 portrayed.

22 Slide Number 23.

1 Now, in Slide Number 23, what
2 responsibility does your employer have under
3 OSHA, again, it's also worth noting for the folks
4 who are taking the 10-hour to understand also
5 that the employer has some rights, which vary
6 differently from what the employee rights are,
7 but again, it's just more knowledge based on what
8 the requirements are and how they impact whether
9 it's the employer or the employee group.

10 There's also some notes there as it
11 relates to the posting of the signs, that again,
12 it's not -- it's a requirement for the employer,
13 but employees should know where to find that
14 information should there be a citation and the
15 notices where they will be posted.

16 Slide Number 24.

17 Keep the records of injuries and
18 illnesses. It just basically goes over and over
19 of what the reporting, some of the deaths or
20 reporting responsibility, whether somebody has
21 been hospitalized three or more and the access to
22 annual records.

1 Slide Number 25.

2 MR. GILLEN: Matt Gillen with NIOSH.

3 Is this a case to make it crystal clear
4 to say report each worker death to OSHA and
5 report each incident that hospitalizes three or
6 more workers to OSHA, just to make it clear?

7 MR. RIVERA: Yes.

8 MR. STRIBLING: Hey, Jerry, this is Chuck
9 Stribling.

10 This is another one that needs the state
11 asterisks. In some states, you have to report
12 all hospitalizations. In some states, you have
13 to report all amputations. So the states go
14 above and beyond OSHA on some of their specific
15 reporting requirements.

16 MR. JONES: If there's going to be an
17 asterisk for every -- Walter Jones.

18 There's probably going to be an asterisk
19 for every slide, because state plans are required
20 to at least have the minimum requirements of
21 OSHA, and in any particular area could go beyond.

22 Is Hank on the phone?

1 DR. PAYNE: I am on the phone.

2 MR. JONES: Hey, Hank. How are you
3 doing? Walter Jones.

4 DR. PAYNE: Hi, Walter.

5 MR. JONES: Does your OSHA 500 deal with
6 this issue of state plan versus fed OSHA?

7 DR. PAYNE: No. It does not.

8 MR. JONES: That's all I have.

9 MR. GILLEN: Matt Gillen.

10 So is the idea that this model template
11 would go out to states, and then the states, they
12 take it and they tweak it to incorporate their
13 information? Is that how it works?

14 MR. STRIBLING: No.

15 Oh, I'm sorry. Are you asking Hank, or
16 are you asking me?

17 MR. GILLEN: I'm asking you, Chuck, as
18 far as your experience.

19 MR. STRIBLING: No. We've run into this.
20 You will have an instructor who can take this
21 template, and they give this information out, and
22 it doesn't include any of the state-specific

1 requirements. None. They don't have to, because
2 this is an approved 10-hour presentation or a
3 30-hour presentation.

4 So they don't know in Kentucky we have a
5 different requirement for steel erection fall
6 protection or residential construction fall
7 protection or reporting all hospitalizations.

8 MR. GILLEN: It sounds like that's an
9 issue that maybe the group would want to maybe
10 come up with some ideas for OSHA to think about.
11 What do you think?

12 I mean, one way would be that there is an
13 instructor package that goes with this, and the
14 instructor notes, ask people to refer to that, or
15 it could be some handouts.

16 MR. CANNON: Maybe just incorporate --
17 I'm sorry. No, it doesn't, but what I'm saying
18 is like with the grant training, you know, we do
19 -- when we put together the grant training, it's
20 per the federal OSHA requirements, but they
21 specifically state that if you are going to a
22 state to do this training that has different

1 requirements, you must modify your presentation
2 to reflect that. So I guess it's as simple as
3 making that language available in the
4 instructor's guide, because there was a pretty
5 good instructor's guide with this.

6 MR. JONES: Yeah. Well, this is a
7 process here, state question. Maybe we want to
8 look at this state issue separately from this
9 consolidation issue, because I think we're going
10 to run through the state problem over and over
11 again, and maybe this is an issue that ACCSH in
12 the future needs to look at, like how do we
13 address some of these state issues that are
14 differing that go beyond, especially in this
15 rights section, that you feel is misleading to
16 employees in state plan states.

17 MR. STRIBLING: Yeah. And I don't mean
18 to disparate -- Chuck Stribling. I don't mean to
19 disparage every instructor out there. There are
20 many conscientious instructors that do their
21 homework and relay the state-specific information
22 to their students. I just think students get

1 shortchanged when they get information that's not
2 wholly correct for where they work.

3 MR. MARRERO: This is Tom Marrero.

4 How about if we add a slide somewhere in
5 the beginning that addresses that there is
6 federal OSHA and state-run plans, and state-run
7 plans will vary, so that way at least they're
8 aware.

9 MR. HAWKINS: This is Steve Hawkins on
10 the phone.

11 I was just going to say exactly what Tom
12 just said. I agree with him. Probably a
13 disclaimer at the front, because this is a -- it
14 varies so much from state to state, and a lot of
15 our construction workers, unfortunately, lately
16 have been kind of transient, you know, having to
17 go from state to state and kind of follow the
18 work, because the economy has been down.

19 I mean, one problem we've got here,
20 probably a lot of times, you could probably query
21 them the next day, and they wouldn't remember
22 whether it was 30, 60, 90, or 180 days.

1 When I teach a class like this, I try to
2 tell them to act immediately. If you think
3 you've been discriminated against, you don't need
4 to be sitting around looking at a calendar. You
5 need to call the day that you realize that's
6 happened to you, and so I think some kind of
7 disclaimer at the front really might be
8 worthwhile.

9 MR. RIVERA: I think one of those two
10 approaches might be sufficient. So what we will
11 do is we will take notes on both angles whether
12 to add an additional slide or just an asterisk in
13 the bottom.

14 Going back to Slide Number 25, in this
15 slide, this is one of the handouts where they
16 hand out the OSHA 300, and this has tended to go
17 through a couple of exercises of how OSHA 300 log
18 is filled. This is more of another function
19 that's handled administratively, either at an
20 office by an administrative assistant.

21 And, you know, the groups thought, look,
22 as long as employees know where to report it,

1 filling out the log might not really improve
2 safety and health conditions on the job site by
3 learning how to fill out the logs.

4 So again, it's a tough one to strike out,
5 but at the end of the day, how many of the guys
6 or in the field really fill out OSHA 300 forms of
7 the workers? Probably none of them, but it was
8 important to take this one out to make sure that
9 we'd make good use of the time.

10 Moving on to Slide Number 26, which
11 addresses payment for PPE, again, vital
12 information that needs to be included, but this
13 information, we chose to strike it out here,
14 because there is a PPE. This information would
15 be better housed in that module versus in the
16 Introduction to OSHA.

17 As you'll see, some of these, like this
18 slide, it's kind of redundant. There's nothing
19 wrong with redundancy. We sometimes need to
20 remind folks of things over and over, but in this
21 particular case, given the time constraints and
22 knowledge base and where we'd be covered, we were

1 confident that this would be better covered in
2 the PPE module.

3 Slide Number 27. Questions for Review.
4 Again, there needs to be a way to assess the
5 knowledge gained in the classroom to see if the
6 instructor needs to emphasize some other areas,
7 but we chose to strike out the PPE and who must
8 pay for it. Again, the assumption is that this
9 is being covered in the PPE module.

10 Slide Number 28.

11 MR. GILLEN: Matt Gillen, NIOSH.

12 The second bullet there, I mean, I think
13 it's really important that people know that the
14 Act prohibits employers from discriminating. I'm
15 just not sure if knowing the section and all -- I
16 mean, what they need to know is they should call
17 OSHA and discuss it, right? I mean, is that
18 something to discuss, this section? Is that that
19 critical? Is it that critical of a point? I
20 mean, is that something that could be deleted or
21 reworded? Basically, they need to know that they
22 have that, and if they ever want to discuss it,

1 they can, but knowing this section is less
2 important to me than knowing that they can call
3 and discuss that with someone.

4 MR. JONES: I think that is why that
5 earlier slide had 29 CFR 1977, so that -- you
6 know what I mean? That's why.

7 But again, we struck it there. We should
8 strike it there and enter another question.

9 MR. MARRERO: This is Tom Marrero.

10 Kevin, you said that when Don asked about
11 the 5(b) -- would that be somewhere after the
12 employer responsibilities, or is that going to be
13 later on throughout the presentation? You made a
14 comment earlier.

15 MR. CANNON: No. And we addressed that
16 during my section as far as readjusting that
17 slide where it talked about 5(a)(1) and then
18 slapping 5(b) into there.

19 MR. MARRERO: Oh, okay. Okay. I thought
20 you had mentioned it was going to be --

21 MR. CANNON: I mean later in my section,
22 not Jerry's.

1 MR. MARRERO: Oh, okay.

2 MR. CANNON: Okay, Jerry.

3 MR. RIVERA: All righty. Going to Slide
4 Number 28.

5 What do the OSHA standards say? Again,
6 this slide gives a general overview of what the
7 categories that each standard falls into -- and
8 most importantly the General Duty Clause, which
9 again is a little bit redundant, but there's
10 nothing wrong with that in this particular slide,
11 and we chose as a group to sustain this type of
12 information and keep this slide.

13 Slide Number 29 talks about the most
14 frequently cited standards. Again, this
15 information is shared elsewhere. We make a big
16 campaign of what the most frequently cited
17 standards are, and the majority of the audience
18 doesn't really, you know, just understand the
19 standards as is articulated in this slide. So it
20 was decided that it might be best to just strike
21 this one through.

22 Slide Number 30. The handouts. While

1 it's a strike-through for the actual slide, it is
2 not necessarily a strike-through for the
3 handouts. These resources have been developed,
4 and they are usually handled throughout the
5 course of the 10-hour course by the instructor.
6 So while the instructor will hand out some of
7 these materials, it doesn't necessarily need to
8 be this stuff at this point, and particularly
9 because all protection is covered in another
10 module as well, so is Subpart K in fire
11 prevention and fire prevention.

12 MR. PRATT: Jerry, this is Don Pratt.

13 I want to go back to the previous slide,
14 "Most Frequently Cited Standards." Is it your
15 understanding that this is going to be covered
16 somewhere else, or is it covered somewhere else?
17 Let's ask it in a positive, because I personally
18 think that this is valuable to the students, that
19 they need to know what these -- what the
20 frequency of some of these cited standards are,
21 and this should be something that's updated every
22 year.

1 Why are you shaking your head, Kevin?

2 MR. CANNON: I am just saying this could
3 be another one of those handout situations.

4 MR. PRATT: That's fine. I have no issue
5 with that at all. I just don't want to forget
6 it.

7 MR. CANNON: Yeah.

8 MR. RIVERA: Any other questions there?

9 MR. CANNON: Go ahead, Jerry.

10 MR. RIVERA: All right. Let's go back to
11 -- we're in Slide Number 31 now, which is the
12 review of some of the general industry, 1915,
13 which doesn't apply, what the OSHA construction
14 standard is. The first question is covered
15 throughout the course, but the others are kind of
16 irrelevant to what the construction industry
17 sector might be more in tune with. So again, it
18 was the general belief of the group to strike
19 this one through for recommended deletion.

20 And this really takes me to the end of
21 the slides where I hand this over to my peer,
22 Roger Erickson, but if you have any questions on

1 the slide that we just discussed, I'll be more
2 than happy to take those now.

3 [No audible response.]

4 MR. ERICKSON: Okay. Thank you, Jerry.

5 Roger Erickson, Employee Rep, most
6 programs, Boilermakers International.

7 I want to thank Jerry and Kevin for
8 helping here on this project. As everybody
9 knows, the recommendation was to condense the
10 2-hour part of this, and whenever you condense
11 something, you have to unfortunately get rid of
12 some things.

13 Please remember that this Intro to OSHA,
14 it's just the 2 hours. It's 20 percent of the
15 10-hour. So we're not throwing out a lot of
16 these things and don't think they're relevant.
17 It just is we feel that they can be covered in
18 different parts of the training.

19 So with that being said, we will start
20 with Slide 32, and that slide, the committee
21 recommended keeping. It's a very important
22 slide.

1 Next slide.

2 Any comments?

3 [No audible response.]

4 MR. ERICKSON: I'm on a teleconference.
5 I'm not webbed in here, so just speak up or
6 interrupt me, please.

7 Slide 33, OSHA Inspection Priority. Once
8 again, we feel like this is a very important
9 slide and should be kept.

10 Next slide, Slide 34, Citations and
11 Penalties. Again, the committee feels that this
12 is an important slide and should be kept.

13 There was one suggestion, and Chuck had
14 made the recommendation that failure to abate
15 should be listed under Violation Type. So we
16 will make a note of that.

17 Slide 35, Questions for Review. The
18 committee thinks this is a very good slide and we
19 should keep.

20 Slide 36, which is the start of Topic 6,
21 Where Can You Go for Help? The committee thought
22 this slide could be deleted. There was a lot of

1 conversation regarding this and very good
2 dialogue, but the consensus was to delete.

3 MR. GILLEN: Matt Gillen here.

4 Is that because you felt that the
5 sources outside the workplace covered it or for
6 some other reason?

7 MR. ERICKSON: Well, I think basically --
8 and like I stated earlier, this was a topic of
9 good dialogue here, but we thought that possibly
10 the sources outside would be that proper place to
11 go.

12 MR. GILLEN: Okay.

13 MR. ERICKSON: And here again, just
14 looking at this, the three bullet points, of
15 course, we would eliminate the whole slide, but
16 remember how to file an OSHA complaint has
17 already been talked about, and the second bullet
18 point, I am going to get to here with sources
19 outside the workplace.

20 Slide 37, Sources Within the Workplace.
21 As I stated before, quite a source of dialogue,
22 but it was a consensus to delete this slide.

1 Slide 38, Sources Outside the Workplace,
2 a very good slide. We want to keep this slide.
3 Also, I believe there was a suggestion by Chuck
4 that there should be some mention of state plans.
5 As they are contacted, there is different contact
6 information, and we have already discussed that,
7 regarding some type of new slide or an asterisk.

8 Slide 39, How to File an OSHA Complaint,
9 the handout. This has already been covered under
10 Topic 2, which was Slide 10, Rights Under OSHA,
11 and also covered under the previous slide, 19.

12 Want to remember, too, that we make sure
13 that all of our trainers when they are taking the
14 500 class -- and I think it's very important that
15 anybody -- how helpful the osha.gov website is
16 and for all the students to be aware of that, and
17 right there in that website, it spells out very
18 clearly how to file a complaint.

19 Slide Number 40, Filing an OSHA
20 Complaint, I've just touched on. It's already
21 covered in the intro, and the committee's
22 consensus was to delete that slide.

1 MR. GILLEN: Matt Gillen, NIOSH.

2 You know, back on Slide 38, it might be
3 useful after you talk about the OSHA website to
4 mention that there is an OSHA construction,
5 Directorate of Construction site or some sort of
6 site like that. People who may be not as savvy
7 with the Web, just that there's one place you can
8 find construction information and that you
9 include that Web address as well.

10 MR. ERICKSON: We can just add another
11 bullet?

12 MR. GILLEN: Correct.

13 MR. ERICKSON: Okay. I don't think that
14 should be an issue.

15 Slide 41, Filing a Complaint. The
16 committee's consensus was to delete that slide,
17 which brings us to Slide 42, Questions for
18 Review. We are going to keep that slide, but the
19 first bullet point had been eliminated through
20 previous action as regarding resources inside the
21 workplace.

22 Slide Number 43, Session Summary. We are

1 going to keep this, of course. What we are
2 looking at is a suggestion by Chuck, and I'll
3 read this. Because we struck the importance of
4 OSHA previously, we should make history of safety
5 and health the start of the first bullet point.
6 Also, a suggestion to change bullet six to
7 "including the right to file a complaint," not
8 "how to file a complaint."

9 And that brings us to Slide 44, the final
10 slide.

11 So by keeping score here at home, I think
12 we are to the point where we have decided -- and
13 correct me if I am wrong -- to keep 29 of the
14 slides -- or the recommendation, keep 29 of the
15 slides and delete 15.

16 MR. STAFFORD: You are the only one
17 that's got a scorecard, so I would quit while
18 you're ahead at this point.

19 [Laughter.]

20 MR. ERICKSON: Well, I'm just writing
21 because the question was originally we were going
22 to delete Slide 14. I'm just making a comment,

1 Pete, that we were going to delete Slide 14, but
2 I think the consensus of the group now is to keep
3 Slide 14.

4 MR. STAFFORD: Yeah. And I think based
5 on the discussion, we have to go back and do some
6 wordsmithing and some consolidation of some of
7 them as well.

8 I think it's been a useful exercise. I
9 want to thank you, Roger and Jerry and Kevin, for
10 your work.

11 Hank, we're going to take a break in a
12 minute and then open it up to the public, but now
13 as a protocol question, I think now that we've
14 gone through this and the committee has had a
15 chance to react and I think that it generally
16 looks like we're on the right track here, but in
17 terms of actually polishing this up and
18 finalizing it and dealing with the issues of
19 adding a slide with a disclaimer about the
20 differences in state plans or just the specifics
21 of the words, is this something that now we're to
22 the point that it would be something we would

1 work with the OTI on to finalize language, or are
2 you looking to us to come back with a final
3 product with our specific recommendations for an
4 example how to add a disclaimer or a new slide on
5 state plan state differences, or can you tell us
6 how you would prefer to work with us to finalize
7 this?

8 MR. ERICKSON: You know, Pete, I'm going
9 to have to talk with folks on the second floor
10 and get back to you. I really don't know.

11 MR. STAFFORD: Okay. That's fair enough.
12 That's a straight answer. I don't particularly
13 like the answer, but it's a straight answer.

14 Okay. Well, why don't we take a break.
15 We will come back at three o'clock, let's say,
16 and then we will have a final, finish this
17 discussion and have open comments. Thank you.

18 [Break from 2:45 to 3:03 p.m.]

19 MR. STAFFORD: Let's go ahead and
20 reconvene, please.

21 Lisa, before we go on to wrap this
22 discussion up and public comment, do you have

1 exhibits to report?

2 MS. WILSON: Yes. Thank you, Mr.

3 Chairman.

4 I will just mark the slide deck of the
5 Introduction to OSHA that was just discussed as
6 Exhibit 1 and the one-page recommended
7 modifications as Exhibit 2.

8 Thank you.

9 MR. STAFFORD: Okay. Thank you, Lisa.

10 MR. BONNEAU: Mr. Chair, can you poll the
11 phone just to make sure everyone is here?

12 MR. STAFFORD: Sure.

13 Steve, are you still with us -- Hawkins?

14 MR. HAWKINS: Yes, Mr. Chairman, I'm
15 here.

16 MR. STAFFORD: Jeremy?

17 MR. BETHANCOURT: Yes, I'm here.

18 MR. STAFFORD: Okay, good, Jeremy.

19 Jerry Rivera?

20 MR. RIVERA: Yes, Mr. Chairman.

21 MR. STAFFORD: Okay. Is Kristi there?
22 Kristi?

1 MS. BARBER: Yes, sir, I'm on.

2 MR. STAFFORD: All right, Kristi.

3 And Roger Erickson still with us?

4 MR. ERICKSON: Yes, Mr. Chairman.

5 **Chairman's Remarks/Public Comments**

6 MR. STAFFORD: All right. Thanks, Roger.

7 Okay, Damon. It looks like we've got a
8 quorum and ready to go.

9 Before we move on to public comment, I
10 just want to say to the committee, particularly
11 the training and outreach work group, that I
12 really appreciate your work on this. I think at
13 this point, if we are going to try to move this
14 forward and as Dr. Payne said get this to the
15 second floor for approval or not approval or
16 whatever the second floor is going to do with it,
17 I feel compelled -- struggling with this, because
18 on the one hand, I feel compelled to ask Kevin
19 and Roger and Jerry to sharpen your pencils, and
20 based on the discussion we just had, modify the
21 slide deck as discussed and give us a fresh slide
22 deck tomorrow morning, so that we can take an

1 official action and essentially recommend -- this
2 committee recommends that the new slide deck go
3 to OSHA officials for approval.

4 On the other hand, we put so much work
5 into it, I'm a little bit concerned to try to
6 rush this through by tomorrow morning without
7 giving the committee time to consider the
8 comments, and the language and consolidating
9 slides might be a little bit of a push. So I'm
10 just raising this, because I am torn on it,
11 personally. I really want this to move, because
12 I know the industry stakeholders want it to
13 happen. We all agree to that. We are 13 months
14 into this discussion. If we put it off again, we
15 are going to have to take official action at our
16 next meeting, which pushes it back to March and
17 April or whatever that time frame is, and then
18 we're a year and a half into the discussion on
19 what we thought was a relatively simple thing to
20 do.

21 So I'm a bit perplexed by it, and I'd
22 like the committee's comments before we move

1 forward one way or the other, if we're going to
2 ask the work group to go tonight and revise this
3 based on the discussion and give us a final slide
4 deck tomorrow for action, or do we want to wait
5 and give the committee time and absorb the
6 comments and give us more time to revise the
7 intro module and come back when we meet in March
8 or April and at that time take formal action.

9 So if there's any comment from the
10 committee, I sure would appreciate it, your
11 thoughts on it, especially the three co-chairs.
12 If we go the former, that they're the ones that
13 are going to have to be doing the work tonight
14 and tomorrow morning to prepare for a formal
15 recommendation. So I am just throwing that open
16 to the committee on what you think about it.

17 Walter?

18 MR. JONES: I guess either directly to
19 you or Hank, if the committee was to come back
20 with a package, it's not likely -- or is it
21 likely, I should say to be positive -- is it
22 likely that the second floor would accept it as

1 whole, or are they going to want to edit it
2 themselves or make changes?

3 DR. PAYNE: Hi, Walter. This is Hank.

4 I can't really address what the second
5 floor would do, but what I would say is I don't
6 think you can just hand them a slide deck. I
7 think the instructor guide, where a lot of the
8 information about what is supposed to be done and
9 additional information on each slide, would also
10 need to be revised according to the changes you
11 want to make.

12 And without the two, I think it's easy to
13 misconstrue some of the changes that you all
14 might be recommending, without seeing what the
15 accompanying intent is behind the slide, which
16 should be in the instructor guide.

17 MR. JONES: Yeah. That makes a lot of
18 sense. Yeah, okay.

19 DR. PAYNE: And I wouldn't ask them to --
20 I don't think they can do that overnight.

21 MR. JONES: Yeah. No, nor can we.

22 MR. STAFFORD: Yeah. I was just going to

1 say, Kevin -- I don't know, Dr. Payne. We don't
2 -- I know Kevin has a copy in his hand, here to
3 my right, but he just has that on a PDF, and if
4 the committee was going to take a shot at doing
5 that, can you forward that or get that to us or
6 to Damon on staff, and then he can get it out to
7 the committee?

8 DR. PAYNE: Yeah. We have it, I believe,
9 somewhere in a Word document.

10 MR. JONES: Yeah, that would be better if
11 editable.

12 DR. PAYNE: We will hunt that down and
13 get it to you.

14 MR. STAFFORD: Something that we can edit
15 or the committee can edit.

16 Okay. Well, then it sounds like -- and
17 this is for, I guess, Lisa and Dean. I'm glad
18 you're here, because obviously if this is the
19 approach that we're going to take, that means
20 that the work group is going to continue to work
21 on the slides and the manuals for presentation to
22 the full committee ACCSH, which means that the

1 work group will be working. This drives the
2 issue that we've had over the last year about the
3 work group working and doing it in such a way
4 that it's transparent and open to the public.

5 So now that we -- it sounds like we
6 decided that the work group needs to take its
7 time and go back through the slides and
8 incorporate the comments and address the two
9 guides that go with this, that we need to do that
10 in a transparent way.

11 And I would suggest if this -- and I am
12 looking to Lisa when I suggest this -- that the
13 work group somehow goes through that process and
14 we have an open call in the end before we come
15 back as a full committee and make a formal action
16 that we don't have any kind of issues, that we
17 didn't have a transparent work group meeting, so
18 the public can comment on the revisions that
19 we're going to make.

20 MR. McKENZIE: This is Dean, Dean
21 McKenzie with OSHA.

22 I think the approach should probably be

1 that the committee works on it, and when you come
2 back in March, you present what your
3 recommendations are. It should be fairly quick.
4 You have gone through it one time, and any
5 modifications to the other -- but if you have a
6 full committee on a work group meeting, that
7 invokes FACA, and so now we have the public and
8 now we have the recording requirements and all
9 that.

10 MR. STAFFORD: Right.

11 MR. MCKENZIE: So we either continue to
12 work on it as the full committee, or the work
13 group goes back, cleans house a little bit with
14 the recommendations from this meeting -- or the
15 discussion from this meeting and brings it back
16 out, and we talk about it again at the next
17 meeting.

18 MR. STAFFORD: Right. I'm sorry, but
19 this is what I want to try to avoid, Dean. I
20 want to try to avoid talking about it again at
21 the next meeting, and I want to have a
22 recommendation at the next meeting that says this

1 is it and it goes to the second floor for final
2 approval. And I don't want to get stumbled in
3 March by saying that the work group met and did
4 all these revisions and the public didn't have an
5 opportunity to comment, and so that's what I'm
6 trying to get at.

7 MR. BONNEAU: Just for the work group
8 process, the work group is going to receive
9 public comments in a few minutes, right? So they
10 will receive the comments from the committee, and
11 the committee during public comment period is
12 going to receive public comments. So now the
13 work group is going to go away and incorporate
14 those comments into a document and bring it back
15 at the next meeting. I'm not understanding how
16 it could be excluded.

17 MR. STAFFORD: No, no, no. They are
18 included now. We just went through this process,
19 but when we drop this on the table in March,
20 let's say, and we make a formal recommendation
21 that this goes to the second floor for final
22 approval, I don't want anybody to say, "Well, the

1 public didn't have a chance to look at the final
2 document before the committee has taken final
3 action."

4 MR. MCKENZIE: The committee would have
5 to debate the final package at the meeting,
6 anyway.

7 MR. STAFFORD: Correct.

8 MR. MCKENZIE: If we post the --

9 MR. JONES: First of all, do we need the
10 public, first of all? As Sarah often said, we
11 are the ones that vote, and we provide OSHA with
12 advice. So I don't know that we necessarily need
13 the public, per se, and if the second floor
14 decides that we do that against what's written in
15 the Act, they need advice from the folks sitting
16 at this table. And if we decide this package is
17 good enough, that's it.

18 Second -- in my opinion, I'm speaking.
19 Second, the question I think, the bigger question
20 is, Is the second floor open to this idea of
21 reducing it? It needs to be covered, because
22 even if everybody in this room and 90 percent of

1 construction agrees with us, it seems like this
2 thing is a little too long, and efforts need to
3 be made to shorten it, if they don't agree,
4 aren't we back where we started?

5 MR. STAFFORD: Yeah. Well, the short
6 answer to my view is -- again, just my view --

7 MR. JONES: Yeah.

8 MR. STAFFORD: -- as the chairman is yes.
9 I was under the impression that 13 months ago
10 after we took action that the second floor was
11 generally in favor of the recommendation, and we
12 were going to come back with specifics on how it
13 could be done. And that's why I said to Dr.
14 Payne, when he said it's got to go back to the
15 second floor, I was a little bit confused,
16 because it seems like we've gone full circle.

17 MR. JONES: Okay. Well, shouldn't we
18 just bring them in here and ask them, or can we,
19 or ask Dean or Jim Maddux or whoever we can talk
20 to? Like we're working on this. We've been
21 giving you tons of recommendations. I'm almost
22 -- I thought I remember us making a motion at

1 some point to reduce this.

2 MR. STAFFORD: We did. I can read you
3 the recommendation, if you would like.

4 MR. JONES: So in the past, Jim would
5 start off these meetings by saying these are the
6 motions that are out there, these are the ones
7 that we're working on, these are the ones we're
8 not working on, and these are the ones that we're
9 still thinking about. Can we bring Jim up to
10 give us a real discussion on this? Because the
11 work is going to take -- to really get consensus
12 on this, even for March, it's going to be tough,
13 and to tell us that, all right, we'll think about
14 it another 13 months would be very frustrating.

15 MR. STAFFORD: Right, I agree. Normally,
16 we had started that process of Jim coming at the
17 beginning of the meetings to talk about that, but
18 just with the schedule and Jordan today, that
19 didn't happen that way. And Jim just stepped in,
20 so it was a very opportune time, Jim.

21 We've having this discussion, Jim, and
22 this is a protocol discussion as much as

1 anything, and here it is. We have just gone
2 through this exercise of going through the slide
3 deck. I think we all agree, generally, that
4 we're on the right track in terms of what needs
5 to be done with the OSHA intro based on 13
6 months' worth of work now.

7 Now, the question is -- and Hank pointed
8 it out, and I was struggling at the beginning of
9 this discussion of saying whether we want to ask
10 the work group to go back and work tonight to
11 incorporate everything that was said today, to
12 have a final product on the table for us to take
13 action on tomorrow.

14 Dr. Payne has reminded us that he didn't
15 think going to the second floor with just a
16 revised slide deck is good enough, that we would
17 have to also go with our thoughts about how we
18 would revise the instructor manuals, et cetera,
19 that go with the program.

20 So here's the question. So we go back
21 and do that. So again, now we're waiting until
22 the March or April meeting of 2014, and we have a

1 final product. We've heard from the public
2 today. We are going back and we're revising
3 based on this meeting, so in April, we have a
4 final product that's a revised slide deck, a
5 revised instructor manual, and revised
6 everything.

7 That I do not want to come back to a
8 meeting in March or April with a revised document
9 that we're ready to take action on, as Hank says,
10 to go to the second floor and hear that we did
11 not get input from the public before we've taken
12 action in March or April on a revised final
13 document that goes to the second floor for
14 approval, and it seems like we've gone full
15 circle now.

16 MR. MADDUX: I don't think that that's
17 necessary.

18 MR. STAFFORD: Okay.

19 MR. MADDUX: I think that the committee
20 has done a lot of work on going through this. It
21 sounds to me like there are specific
22 recommendations inside of the slide deck, and

1 that then there are another set of
2 recommendations that are kind of related to
3 certain process issues; for example, the state
4 plan question or to certain types of things, you
5 know, sort of thematic things for the
6 instructors.

7 So it seems to me that if the work group
8 could get the slide deck modified to reflect
9 today's discussion and that these other sort of
10 themes could be put in the form of a
11 recommendation, that that would be enough.

12 MR. STAFFORD: All right. So you think
13 that would be good enough for you or Dr. Payne or
14 you and/or Dr. Payne to go to the second floor
15 and say this be it?

16 MR. MADDUX: Yes. I think that the
17 committee has had a very full discussion, and
18 that if we want to go through and figure out why
19 the committee made a specific recommendation,
20 that we have a thorough discussion on the record
21 today that will enable us to do that.

22 I really had a very strong goal of trying

1 to wrap this out at this ACCSH meeting, and I
2 think that we're kind of at a point of
3 diminishing marginal returns, to talk like an
4 economist, where the committee has done a lot of
5 work. I think you've gotten into the detail that
6 we asked you to get into in terms of the
7 recommendations of how the 2-hour presentation
8 could be tightened up, without losing the
9 important content that is in this module that we
10 all agree is important.

11 And I think you are probably there. I
12 think that as part of that -- and maybe it says
13 something about the value of the conversation --
14 you have identified another set of issues that
15 need to be coordinated with that -- or should be,
16 and that two recommendations, one saying OSHA,
17 we'd like for you to consider our recommendation
18 on the actual content, and number two, you know,
19 a motion, we would also like for you to consider
20 these issues inside of the 10- and 30-hour
21 programs would be adequate.

22 MR. STAFFORD: Okay. Chuck?

1 MR. STRIBLING: Yeah. Chuck Stribling.

2 That sort of leads into what I was
3 thinking here.

4 We looked at the content. We're pretty
5 much in agreement, so why can't we recommend that
6 and leave it to the agency to work on the
7 instructor manual and the handout. I mean, we've
8 done the heart of it.

9 MR. MADDUX: We need to make it match.

10 MR. STRIBLING: Right.

11 They can add to it through those other
12 documents to match our recommended content.

13 MR. JONES: They may have concerns that
14 we haven't raised that they want to address as
15 well, take this opportunity to address as well,
16 so let's move forward.

17 MR. STAFFORD: All right. Well, then
18 that sounds -- that's what we wanted, and that's
19 what we talked about prior to this meeting.

20 Okay. With that said, then this is what
21 we're going to do. Kevin, this is what you're
22 going to do.

1 [Laughter.]

2 MR. STAFFORD: And you and Roger and
3 Jerry, I'd like you to take the feedback from
4 today with your notes, and I have some, too, and
5 I'm sure others do to help you. And if we could
6 have a new slide -- a revised slide deck based on
7 today's discussion openly with the public, we'd
8 like to have that tomorrow to make a formal
9 recommendation, okay?

10 Jerry and Roger?

11 MR. RIVERA: Okay.

12 MR. ERICKSON: Okay.

13 MR. STAFFORD: Okay. All right. Thanks.
14 Thank you, Jim.

15 Ready for public comments. I don't know
16 who -- are you first on deck, Steve, or the only
17 one on deck?

18 MR. BONNEAU: [Speaking off mic.]

19 MR. STAFFORD: If we don't like what they
20 want to talk about, we will send them next door
21 to the FACOSH meeting.

22 [Laughter.]

1 MR. STAFFORD: All right, so let's go. I
2 guess Matthew with NCCCO, I'm sure you -- I
3 wanted to get to the comments, if there were any
4 that pertained specifically to this discussion on
5 OSHA, the intro course.

6 And I know, Matthew, yours is probably
7 not, I would imagine. Okay. So we'll come back
8 to you.

9 For those of you that had signed up, did
10 any of you that signed up want to talk about the
11 OSHA training program? Because I think it would
12 be -- okay, so we -- all right.

13 So then I will have to go in order. Anna
14 Fendley, did you want to talk -- you don't want
15 to talk about training?

16 ATTENDEE: [Speaking off mic.]

17 MR. STAFFORD: I will come back to you.
18 Okay.

19 Frank Trujillo. Frank, you want to talk
20 about training? Okay. Please, Frank. Come on
21 up.

22 MR. TRUJILLO: Okay. My name is Frank

1 Trujillo with Miller and Long Concrete and
2 Construction here in Washington, D.C.,
3 metropolitan area.

4 I just made a few notes. I noticed on
5 Slide 10, you were going to add a note about
6 reporting injuries, and I know it's splitting
7 hairs, but I just thought I'd bring up reporting
8 workplace injuries and illnesses, focus on -- and
9 also specify the workplace.

10 And on Slide 13, there was some debate
11 about keeping that slide.

12 MR. STAFFORD: Wait a minute, Frank. I'm
13 sorry. Go back to Slide 10. What did you --

14 MR. TRUJILLO: Yes.

15 MR. CANNON: Where Matt wanted to expand
16 on reporting workplace injuries on the last
17 bullet.

18 MR. STAFFORD: Including the right to
19 report an injury, okay.

20 MR. CANNON: Injuries in the workplace.

21 MR. STAFFORD: And illness. Okay.

22 MR. TRUJILLO: And illnesses.

1 MR. STAFFORD: Okay. Sorry. Thanks.

2 MR. TRUJILLO: No problem.

3 And Slide 13 was decided to be kept
4 because of its important right, and I agree with
5 that; however, Slide 14, while that is a good
6 exercise to have, I think it should be considered
7 that the OSHA 30 or 10 does not meet any of the
8 required OSHA training that is mandated by the
9 standard.

10 And I think getting into the rights of
11 HazCom and then getting into an MSDS exercise
12 could have employers thinking they've met that
13 requirement and maybe stop there. I'll leave
14 that in your hands, very capable hands. I just
15 thought I'd raise that point that while it could
16 be a valuable exercise, it does take time, which
17 you're trying to reduce, and it should be covered
18 in another area in order to meet those required
19 standards.

20 MR. MCKENZIE: Nothing in the 10- or
21 30-hour meet the training requirements is defined
22 in the standard. It's an awareness course.

1 MR. TRUJILLO: I thought that slide had
2 been put back in.

3 MR. CANNON: Yeah. The know about
4 hazardous chemicals?

5 MR. TRUJILLO: Yes, the handout and what
6 does this information provide and has been
7 crossed out, and then I think there was
8 discussion to put it back in.

9 MS. COYNE: Or was it that we kept 13 in
10 and kept 14 out?

11 MR. CANNON: I thought we just kept 13 ,
12 and 14 was out.

13 MR. STAFFORD: 14 is out.

14 MR. TRUJILLO: Good, I got that done.
15 Thank you.

16 [Laughter.]

17 MR. CANNON: For that matter, I'll take
18 out 18 too.

19 All right. Thank you, guys.

20 MR. STAFFORD: All right. Thank you.

21 Okay. Rod, you want to talk about
22 training?

1 MR. WEBER: Yes.

2 MR. STAFFORD: Okay, come on up.

3 MR. WEBER: Good afternoon. My name is
4 Rod Weber. I'm with the PENTA Building Group in
5 Las Vegas, Nevada.

6 And there were several points here I
7 wanted to talk about. One was I'm in agreement
8 with adding a state-specific slide in the
9 beginning or at least a bullet point that just
10 addresses the state-specific issues that would
11 then cover all the preceding slides.

12 My general statement on the discussion
13 questions would be to delete all of those slides,
14 the reason being is that at the end of this
15 session, there is a quiz for general knowledge
16 information retention, that all of those
17 questions could be put into a quiz format at the
18 end. That would save you quite a few slides that
19 you don't have to cover it. It's redundant.
20 There's no sense that you have to do one little
21 topic and then have an exercise to see if
22 everybody got it. You could save that for the

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1 end of the hour and then -- I mean, it's only an
2 hour-long training. It's not like it's an 8-day
3 training course and you'd want to do periodic
4 measurements throughout the course. So I think
5 you could delete that.

6 My other general statement would be that
7 under your -- I believe it was -- look here, it's
8 the topic slide. Okay. It's Slide Number 2
9 where you have listed the topics that will be
10 covered. I agree with the deletion or at least
11 the revision of the first one, Why is OSHA
12 important to you specifically, because you are
13 going to delete that slide.

14 But the other topics there, as they are
15 listed -- and then you go into a slide that
16 obviously addresses what are your rights under
17 OSHA, I believe that that -- those slides where
18 it says Topic 2 and then Topic 3, so that it
19 would be Slide 10, for instance, and it would be
20 Slide -- let me see. Then it would be Slide 23,
21 and you've got Slide 28, Slide 32, and Slide 36.
22 Those would all be good slides to use as your

1 main slide for that point, and then you can
2 expand on those under the bullet points as
3 applicable for your audience.

4 So, for instance, you'd be able to -- if
5 you look at Slide 10 where if you use this as
6 your main rights, you know, your rights under
7 OSHA slide, that you could expand on each of
8 those points as necessary versus having a slide
9 for each of those points, which some of those
10 which you've deleted. So rather than having one
11 slide on a safe and healthy workplace or one
12 slide on know about chemical hazards, which I'll
13 get to in just a second on that one in
14 particular, but I think that you could use those
15 main topic slides as your main slide and then
16 just expand on those points as needed. Kind of
17 leave that up to the trainer. It would help you
18 reduce the length and certainly the -- not
19 necessarily the content, but it would certainly
20 reduce the length and give you some flexibility
21 within the program itself to meet the training
22 need.

1 For instance -- and I think it was Matt
2 Gillen that brought it up, emphasizing the
3 whistleblower protection -- would be certainly
4 something you could expand upon, where it talks
5 about be free from retaliation from exercising,
6 the last point there on Slide 10. Instead of
7 having to have a slide for that, which I believe
8 was Slide 21, which that's good information to
9 cover, but if you just had that as a general
10 "here's our main slide," here's what we're going
11 to cover as the main points, I think you could
12 just cover that as well in that. And you can
13 elaborate on that as needed for your audience.

14 Going back to the second point on that,
15 though, where it talks about knowing chemical
16 hazards, my suggestion would be due to the fact
17 that OSHA is requiring the GHS training now, but
18 that happened as of December 1st or should have
19 happened, I would hate to say add something
20 additional for training, but I believe that you
21 -- Dean actually had mentioned it that you could
22 add that as a requirement.

1 I don't necessarily think that's a bad
2 idea to just include HazCom as a required section
3 of the training. I mean, I do the training
4 myself. I have a bunch of safety guys that all
5 do the training for me, and it's something that
6 we certainly cover, the HazCom, as one of our
7 electives, if you want to call it that, the 10 or
8 the 30. In Nevada, we're required to have every
9 employee trained either 10 or 30 hours, so that
10 is -- for us, it's a required course, and I think
11 it makes sense under the construction standards
12 that people are trained, specifically now with
13 the GHS requirement, that they all have to be
14 trained on that anyway. So it might make sense
15 just to add that in. So that's just something
16 I'd throw out for consideration.

17 And then I think a lot of the points that
18 I was talking about specifically to each slide
19 for like your right to training or your right to
20 examine, expose records, I think all of those are
21 great point -- they have great points within
22 those, but some of those are very redundant, and

1 I think, again, if we just put it on a bullet
2 point, even if you did one slide just with some
3 bullet points under your rights for those things,
4 you could reduce a lot of these slides.

5 And so again, I don't want to be
6 redundant on this myself, but again, Topic 3
7 would be your main slide. You could expand upon
8 that as necessary with each of those points,
9 rather than adding specific slides.

10 And I think if you added -- like I know
11 Chuck has brought up several times with adding a
12 footnote, referencing the state plan differences,
13 I believe that if you just covered that under
14 your main slide at the beginning, that would -- I
15 think, Tom, you had actually mentioned that as
16 well. That makes sense.

17 There was one other point here.

18 [Pause.]

19 MR. WEBER: I believe that would be it.

20 MR. STAFFORD: All right. Well, thank
21 you very much, Rod. It's very helpful. I
22 appreciate that.

1 MR. WEBER: Thank you.

2 Go, Chuck. I'm sorry.

3 MR. STRIBLING: To address some comments
4 that were just made, the point about the
5 discussion slides, I'm sitting here thinking
6 that's a real good idea, eliminating them,
7 because you're going to get to it at the end, and
8 correct me if I'm wrong, if Dr. Payne is still
9 there, this could also be a course that people
10 are taking online, this module. So they get to
11 that discussion slide. Click, you know. They're
12 not going to sit there and discuss it with
13 themselves. So at the end, it's going to get
14 incorporated, so --

15 MR. STAFFORD: I do that. I didn't know
16 --

17 [Laughter.]

18 MR. STRIBLING: And in the classroom
19 setting, as you go through these slides, you get
20 discussion, so just to recap it with discussion
21 again seems kind of silly.

22 MR. STAFFORD: Does everyone agree with

1 that for our folks?

2 ATTENDEE: Absolutely, that was a great
3 suggestion.

4 MR. STAFFORD: Thank you, Rod. Greatly
5 appreciate it.

6 Tom?

7 MR. TRAUGER: I will be brief. First of
8 all, good job on a very tough job in trying to
9 change this and keeping everybody happy.

10 I want to make sure that this --

11 MR. STAFFORD: Announce yourself, Tom.

12 MR. TRAUGER: Oh, I'm sorry. Tom
13 Trauger, Winchester Homes.

14 I've done several of these trainings for
15 the past several years, and one thing, this is
16 the student handout that I have right here, 42
17 pages. You have the instructor's guideline.
18 There's also some procedures online. I want to
19 make sure that they all align, because there's a
20 lot of handouts in here that are referred in
21 here, and then by taking out these slides over
22 here, you are taking these out over here.

1 You may want to keep these in there as
2 reference because they're very good reference,
3 and my understanding is I have to give this to
4 every student. So this could be good reference
5 material. It may not be mandatory.

6 And just one suggestion on Handout Number
7 9 for the resources. If they can add trade
8 associations, AGC, ABC, NAHB. All of these have
9 excellent materials, and they are not listed in
10 here. Handout Number 9 of the student --

11 MR. STAFFORD: The student guide.

12 MR. TRAUGER: That's it.

13 MR. STAFFORD: Thank you, Tom very much.

14 Wayne, do you want to talk about training
15 or something else?

16 MR. CREASAP: Training.

17 MR. STAFFORD: Training? All right.

18 Come on up, bud.

19 MR. CREASAP: Good afternoon. I'm Wayne
20 Creasap with the Association of Union
21 Contractors, Arlington, Virginia. Again,
22 commendable job on this. I know it's been a long

1 process, and I really appreciate all the efforts
2 on the OSHA 10 and 30.

3 My question, I guess, was more along the
4 lines of the document, these objectives, the
5 learning objectives for the course. As I was
6 going through this, I noticed that everything on
7 here is kind of geared toward the OSHA 10 or
8 talks about the OSHA 10. There's not a reference
9 to the OSHA 30, and with this being an intro to
10 OSHA class, I guess a couple of thoughts would
11 be, one, to make sure that it does include the
12 OSHA 30-hour, but also that the OSHA 10 is -- as
13 Dean pointed out, these are awareness classes,
14 and we are not going to expect certain things
15 from the people based on the type of class that
16 we're teaching, whether it's the 10-hour or the
17 30-hour.

18 So I would ask the committee to consider
19 maybe looking at these objectives and maybe
20 breaking them down as to which would be applied
21 to the OSHA 10-hour and what would be applied to
22 the OSHA 30-hour because, for example, looking at

1 the enabling objective number 4, discuss the use
2 of OSHA standards, students will be able to match
3 three requirements with their appropriate
4 citation number, and in an OSHA 10-hour class,
5 chances are as an instructor, I am not going to
6 go to the expense and the time to purchase 1926
7 standards books for my students to go through and
8 teach them how to do that.

9 I know there's a handout that teaches the
10 students as part of the handouts, that will teach
11 them how to read the standard, but in all
12 reality, in a 10-hour class, that's a hazard
13 awareness, hazard recognition class. How do I
14 teach somebody to avoid those hazards, not read
15 the standard? Maybe in a 30-hour class for a
16 supervisor, I might want to see them do that, but
17 I don't see where I'd want to have them do that
18 in a 10-hour course. So I'd ask the committee to
19 consider maybe breaking that down to what would
20 be applicable for those different classes.

21 And Tom mentioned this earlier. You
22 know, for example, another -- your sources on a

1 different subject or similar subject, for
2 example, enabling objective Number 6, you have a
3 Slide 38 on the present handouts, which is on
4 page 19, about some different sources, and I know
5 Tom mentioned some of the various sources that
6 are there as well. You also have different
7 workers' comp insurance, other professional
8 safety associations. I don't know if that would
9 be appropriate to maybe look at, not necessarily
10 in a slide, but as a handout for -- as part of
11 the handouts on that page 9.

12 So those are my two comments.

13 MR. STAFFORD: I appreciate that, Wayne.
14 Thanks. We will go back and look at the
15 objectives. I think that is a good point.

16 MR. CREASAP: Thank you.

17 MR. ERICKSON: Pete, Roger Erickson.

18 MR. STAFFORD: Hey, Roger.

19 MR. ERICKSON: Can I just make one
20 comment to Wayne?

21 MR. STAFFORD: Oh, sure.

22 MR. ERICKSON: Just a clarification

1 there, and if I heard you right, regarding the
2 10-hour and the 30, any basic differences, please
3 note that the Intro to OSHA is also required in
4 the 30. The 10, of course, is the component.

5 MR. CREASAP: Yes. Wayne Creasap again.

6 Roger, absolutely, I agree with you. I
7 was just looking at it as I would take more time
8 as an instructor to go through and teach my
9 students in a 30-hour class under the Intro to
10 OSHA how to read the standards, more than I would
11 in a 10-hour class. I just want to make that
12 differentiation.

13 MR. ERICKSON: Okay.

14 MR. STAFFORD: All right. Thank you,
15 Wayne.

16 Okay. I think that's it for the
17 training. So I want to go back on top of the
18 list.

19 Matt?

20 MR. ECKSTINE: All right. Good
21 afternoon, and thank you. My name is Matthew
22 Eckstine, and I'm with NCCCO, National Commission

1 for the Certification of Crane Operators.

2 I would like to take this opportunity
3 very quickly to change topics, and of course,
4 being from CCO, you can appreciate I want to talk
5 about cranes.

6 Really, a question for the committee is,
7 as far as the cranes and derricks and
8 construction, operator certification rule, has
9 there been any kind of updates on the proposed
10 delay regarding the operator certification in
11 cranes and derricks and construction rule?

12 As you know, specifically to extend the
13 crane operator competency certification date by 3
14 years to November 2017, as it currently stands,
15 we're about 1 year out, the way the rule is
16 currently written. There is a certification for
17 operators or -- I'm sorry -- a requirement for
18 operators to be certified by November 10th, 2014.

19 Now, it does seem like from what I
20 understand and from what I just read recently
21 that we were getting some traction with this, and
22 that there was a semiannual regulatory agenda

1 that was published on November 26th that seemed
2 to suggest that the 3-year extension will
3 actually be made public to November 2017, that
4 that will be made public soon.

5 So I guess really my question is, Do we
6 have any kind of an update for a timeline of
7 whenever that 2017 extension will be made
8 official, if you will?

9 MR. STAFFORD: Well, I'm not sure that
10 it's our place. We had a very lengthy discussion
11 on this issue, Matt, two meetings ago and made a
12 recommendation from this committee on what OSHA
13 should do on this, but I know it's coming out. I
14 think I should probably defer to Jim Maddux on
15 the timing, because I think that that --

16 MR. MADDUX: I think that that will be in
17 my remarks tomorrow morning.

18 MR. ECKSTINE: Okay, excellent. Thank
19 you, Jim.

20 MR. STAFFORD: All right. Thanks. So
21 you will have to come back tomorrow.

22 MR. ECKSTINE: Will do. I was planning

1 on it, anyway.

2 [Laughter.]

3 MR. ECKSTINE: I will grace your presence
4 again tomorrow.

5 MR. STAFFORD: All right. Thanks, Matt.

6 MR. ECKSTINE: Thank you.

7 MR. STAFFORD: Anna?

8 MS. FENDLEY: Good afternoon. I have a
9 prepared statement. I am Anna Fendley with the
10 United Steelworkers, and I am offering this
11 statement on behalf of the United Steelworkers
12 and the Materion Corporation.

13 We at the Steelworkers represent the
14 majority of unionized workers exposed to
15 beryllium, and Materion is the world's only fully
16 integrated supplier of beryllium and beryllium
17 products and accounts for all of the pure
18 beryllium metal and preponderance of the
19 beryllium-containing alloys products in the U.S.

20 That's a mouthful.

21 Domestically produced
22 beryllium-containing materials are also exported

1 by Materion.

2 No doubt, it might be somewhat unusual
3 for ACCSH to receive a unified statement from a
4 labor union and a manufacturer. For our two
5 organizations, however, this is a continuation of
6 a process we started several years ago centered
7 on establishing a new, more protective OSHA
8 standard for beryllium.

9 We eagerly await the release of OSHA's
10 proposed standard for this metal, yet this year
11 in accordance with the regulatory agenda.

12 A proposed beryllium standard is well
13 overdue, and both organizations want to see its
14 release as soon as possible.

15 In February 2012, we jointly presented to
16 OSHA a complete model beryllium consensus
17 standard. The letter accompanying this agreement
18 stated we believe the enclosed draft standard is
19 both necessary and sufficient to protect
20 beryllium workers and that it meets all the
21 criteria established by Congress for rules
22 promulgated under the OSHA Act.

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1 The cover letter recognized that ISHA
2 could not see its authority, but encouraged OSHA
3 to give the draft standard serious consideration
4 and recommended that OSHA quickly propose its own
5 standard.

6 The USW and Materion collaboration and
7 proposal to accelerate the OSHA standards process
8 is unique in the history of OSHA standards. The
9 desire to better protect all workers exposed to
10 beryllium-containing materials sooner rather than
11 later is the underlying motive that brought us
12 together.

13 Achieving this objective in a technically
14 and economically feasible way guided the two
15 organizations' discussions on each element of the
16 consensus standard. In addition, the body of
17 science from the 15-plus-year beryllium research
18 project between Materion and NIOSH, the longest
19 of all such NIOSH research partnerships,
20 frequently underpin discussions in crafting the
21 consensus standard.

22 On August 26th, leaders from USW and

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1 Materion sent a letter to the new Secretary of
2 Labor to inform him of our work together and to
3 offer OSHA an opportunity to advance the
4 beryllium standard swiftly through the
5 standard-setting process, and we continue to
6 stand ready to assist the agency, so that a
7 proposed beryllium standard can be published as
8 soon as possible.

9 We urge OSHA to accelerate its efforts to
10 complete whatever work remains on the draft
11 standard and to fast-track internal and external
12 review, so the agency can publish a new proposed
13 beryllium standard in the swiftest time frame
14 possible. It would stand as a hallmark
15 achievement to this administration. It would
16 also serve as a forward-thinking model for future
17 labor-management collaboration to update other
18 significantly out-of-date standards.

19 Surely, ACCSH and OSHA should do whatever
20 it can to complete this as quickly -- to complete
21 a final beryllium standard as quickly as
22 possible. USW and Materion have laid out a

1 strong foundation for OSHA through our
2 collaboration with the sound science and
3 technological and economic feasibility
4 requirements of the OSHA Act.

5 So thank you again for allowing this time
6 for public comment and for considering our appeal
7 for swift action as part of your agenda tomorrow,
8 and I believe this is on your agenda tomorrow.

9 MR. STAFFORD: It is on the agenda
10 tomorrow. Again, thank you for your statement.

11 This is an area where I -- and I have
12 mentioned this to Mr. Maddux before the meeting.
13 I mean, obviously, the Act requires that OSHA
14 comes to this committee before it can proceed,
15 and so that's what we're going to hear tomorrow,
16 but I have to confess my ignorance with how the
17 beryllium standard really impacts construction,
18 and I need to do -- as the chair, do my homework
19 on that, and I yield to my fellow committee
20 members here too. But certainly, this is
21 something that we recognize that it's important,
22 and we will listen to what OSHA has to tell us

1 tomorrow, and we will do our part.

2 MS. FENDLEY: Absolutely.

3 MR. STAFFORD: Thank you.

4 MS. WILSON: Thank you.

5 This is Lisa Wilson. I will mark Ms.
6 Fendley's statement as Exhibit Number 3.

7 MR. STAFFORD: Okay. I think it looks
8 last, but certainly not least, our good friend
9 Steve Rank from the Ironworkers.

10 MR. RANK: Good afternoon, Mr. Chairman,
11 committee members, and representatives from the
12 agency. My name is Steve Rank. I'm here on
13 behalf of the Ironworkers International Union.
14 General President Walter Wise asked me to come
15 here today to urge your continued support to
16 pursue the reinforced concrete standard that's
17 currently on one of OSHA's two regulatory items
18 on our agenda.

19 We thought that it was very important to
20 kind of reiterate the timeline, that in 2010, we
21 submitted a petition to Dr. Michaels and Jordan
22 Barab and others in the agency to say we need new

1 reinforcing steel and post tensioning standards.
2 If you will look at them under your concrete and
3 masonry standards, there's only two references to
4 rebar and only one or two to post-tensioning
5 operations, but yet this industry has grown so
6 much, and we have so many workers that are
7 affected by the concrete -- reinforced concrete
8 structures that it's time to revise these
9 standards to address specific hazards.

10 In that proposal that was submitted to
11 Dr. Michaels and also submitted to this committee
12 later on was the rationale for it and also was a
13 laundry list of stakeholders who were both union
14 and non-union, who were organizations like the
15 Post Tensioning Institute who do nothing except
16 do work on how much -- how many cables that you
17 put in concrete beams and joist and columns to
18 replace rebar, how do you make concrete
19 structures stand and not fail. So they are the
20 foremost authority. We had them as a
21 stakeholder.

22 We had the Concrete Reinforced Steel

1 Institute, who does nothing except study
2 reinforced concrete structures and promote the
3 growth of that industry.

4 We had four other industries that I won't
5 mention that all came here with us that day to
6 submit to this committee a petition or a proposal
7 or urge your support to get the agency to pursue
8 revising the Subpart Q, concrete and masonry
9 standards, to include new rebar and post
10 tensioning standards.

11 We were told at that time that because it
12 was an election year, we wanted -- first of all,
13 we wanted negotiated rulemaking. We wanted labor
14 and management people, people doing the work to
15 be at the table to say this is what happens in
16 the field, so that they could assist the agency
17 in writing the right standards.

18 In lieu of that, we were presented with a
19 counter-proposal that the best way to do it would
20 be to get it passed through OMB and then send out
21 a Request for Information, an RFI, and that was
22 done last July. And that was done.

1 During that time, before this -- at the
2 time this issue came to your attention, the
3 chairman directed a work group or subgroup to
4 convene to do a study on this and report back to
5 the parent committee, and we did that. The
6 subgroup was unanimous that the standards were
7 antiquated, they needed updating, they didn't
8 address the hazards that had resulted in numerous
9 fatalities and disabling injuries.

10 We came back to your committee, the
11 parent committee. We allowed you to look at the
12 slides, to look at the current standard, and it
13 was your unanimous decision and vote that day
14 that to urge the agency to pursue this. That's
15 how it got on the regulatory agenda, but we sit
16 here today, and General President Wise wants this
17 committee to once again urge the agency to
18 continue forward and request the agency to pursue
19 this as a standard.

20 Just this last year, ANSI has revised
21 their concrete and masonry standard, their ANSI
22 A10.9 standard. They adopted every one of the

1 standards that has been presented to this
2 committee and to the agency, every one of them,
3 word for word. There were 73 voting parties, and
4 99 percent of the voting party voted yes to adopt
5 this. It's now a current national consensus
6 standard. It's the concrete and masonry standard
7 that ANSI has called the A10.9 standard.

8 In addition to that, we had three
9 state-approved OSHA plans that are looking to
10 adopt this. They have received formal petitions
11 from General President Wise for these state plans
12 not to wait on federal OSHA, but to go ahead and
13 adopt these standards under the provisions of
14 state-approved OSHA plans, California, Oregon,
15 Washington, and Michigan is next. We have met
16 with their state administrators. They see the
17 need of it. They have had fatalities, disabling
18 injuries as a result of their not being a clear
19 line of responsibility for safety standards in
20 this particular industry.

21 So we're just urging your support to have
22 this, Mr. Chairman, as one of the agenda items

1 for your next meeting, and at your direction, we
2 can pursue this and hopefully save lives.

3 It's been my understanding in the last 6
4 months, we've had two fatalities that have dealt
5 with reinforcing steel. One of them was a
6 collapse of form work, who crushed a worker
7 because the vertical form work wasn't adequately
8 braced and shored. There needs to be a clear
9 line of responsibility for that. That happened
10 just north of here in New Jersey, I believe.

11 The second one was in my back yard in
12 California that due to site conditions tried
13 offloading truckloads of rebar. They had a
14 forklift overturn and crushed one of our members.

15 So we're after a comprehensive standard
16 that allows for site conditions to address
17 columns, walls, decks, impalement, training,
18 hoisting and rigging of rebar assemblies, and
19 things like this, because we see a pattern of
20 these types of injuries and fatalities.

21 Lastly, I just want to say we appreciate
22 the agency sending over their representatives to

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1 the Ironworkers International a year ago that
2 reviewed our fatality data. They brought their
3 fatality data, and we matched them up to make
4 sure that these fatalities were a result of the
5 lack of regulations, the much-needed regulations.

6 So I just want to conclude by saying
7 thank you for all your work to do to advise the
8 agency on matters of safety and health, and this
9 is certainly one that's important to the
10 ironworkers and other people that work around us
11 doing reinforcing and post tensioning work, so
12 thank you very much.

13 MR. STAFFORD: Thank you, Steve.
14 Appreciate that.

15 Any other questions or comments?

16 Yeah, Chuck, please.

17 MR. STRIBLING: For us or for --

18 MR. STAFFORD: For us, yeah. The public
19 is finished.

20 MR. STRIBLING: Yeah. I had one thing.
21 I don't think -- we're not talking about SIPs
22 this meeting, are we?

1 MR. STAFFORD: No.

2 MR. STRIBLING: Okay. Well, I'm glad Mr.
3 Maddux is here, and I wish Mr. Bolon was here,
4 but a good while back on the SIP stuff, I brought
5 up a point about the variances that were being
6 granted to chimney construction. And OSHA said,
7 well, it's not really appropriate for SIPs.

8 So I thought that was pretty well done,
9 but then October 2nd, OSHA issued another set of
10 variances for chimney construction, and this
11 time, they consolidated 15 employers who
12 construct chimneys into this variance. The
13 preamble is 19 pages. The regulatory text is 7
14 pages.

15 I don't know how many companies are out
16 there building chimneys, but I'm betting it's
17 about 15. I don't know. Because they probably
18 all just got a variance. Yeah.

19 So I guess, you know, what I would
20 suggest here, the variance is in force in all
21 federal jurisdictions, and it's in 13 state plan
22 jurisdictions. The other states had problems,

1 said they -- and they commented against the
2 variance, and a couple of states might have
3 included, said, well, you can maybe do a
4 variance, but you got to go through us. Here in
5 Kentucky, you got to let us know.

6 So with this many employers who are
7 getting this variance out, I still think we
8 should consider -- or if the agency could
9 consider why can't this just be part of the
10 regulation, because it is as effective as, it is
11 as safe as the current requirement. So it could
12 just be you could do the current requirement
13 and/or -- or -- I'm sorry -- this new
14 requirement. Like I said, it's 7 pages long.

15 And it also presents a problem for us
16 because let's just say there's an employer out
17 there building a chimney in Kentucky, and we have
18 some power plants going up, and they are. And
19 they said, "We're not going to do what's in the
20 standard. We're going to do what's in this
21 variance," and although they weren't granted the
22 variance, I am told from a compliance standpoint,

1 we don't have a leg to stand on. If that
2 variance is as effective as and it's been granted
3 to that many different employers, for us to cite
4 them for doing the standard instead of what the
5 variance allows, which is as effective as, a
6 hearing officer would laugh us out in a
7 heartbeat.

8 So if you just put it in the regulation,
9 then every single state will have to address that
10 on their own, and it would be published in their
11 regulations, which it already is. But instead of
12 it being in 13 states and some not here and some
13 there, it would be out there for everybody as an
14 option to follow in the standards, if they could.

15 MR. STAFFORD: Right. Paul is not here,
16 and I guess, Jim, the question comes back is this
17 a -- I think, Chuck. You can correct me. Is
18 this a possibility that we revisit this a part of
19 the SIPs process?

20 MR. MADDUX: Yeah. I think that we still
21 have some time to look at it. I think that this
22 committee has an active chimney stack

1 recommendation on the books already that we look
2 at doing something at this with SIPs. I think
3 that this either/or approach is a slightly new
4 wrinkle.

5 MR. STRIBLING: Yeah. And it's also
6 important to note that this variance goes above
7 and beyond the other variances and incorporates a
8 couple other things that are new in chimney
9 construction that these employers are doing.

10 So if the agency is comfortable with it
11 for that many employers, who like I said I think
12 probably are the majority of all employers in
13 that industry --

14 MR. MADDUX: We are still in development
15 of the SIPs process, so there's no reason why we
16 can't think about it.

17 MR. JONES: Hey, Jim, wasn't the issue
18 that the standard was outdated as the real
19 problem with that?

20 MR. MADDUX: Well, the standard is
21 outdated.

22 MR. JONES: It's outdated, so it doesn't

1 reflect the changes in technology and the
2 difficulty of complying?

3 MR. MADDUX: I'm not sure about that.

4 MR. JONES: Okay.

5 MR. McKENZIE: This is Dean McKenzie.

6 I think one of the biggest issues was the
7 variance has new cost requirements above and
8 beyond the standard, and if you want to be able
9 to use these procedures and you're willing to
10 bear those costs, that's one thing. But to just
11 plug it in the rule, that goes beyond SIPs. We
12 can't add much in the way of new cost.

13 MR. MADDUX: Well, that's what we'd have
14 to take a look at. This either/or approach may
15 resolve that.

16 MR. STAFFORD: Thanks, Jim.

17 Any other questions or comments?

18 [No audible response.]

19 MR. STAFFORD: Okay. Then we'll adjourn
20 for the day. We're going to reconvene tomorrow
21 morning -- I mean tomorrow afternoon -- I'm sorry
22 -- back at 1 p.m., back in this room. So I thank

1 everyone.

2 [Whereupon, at 3:58 p.m., the ACCSH
3 meeting was recessed, to reconvene at 1:03 p.m.,
4 on Friday, December 6, 2013.]

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