UNITED STATES OF AMERICA
DEPARTMENT OF LABOR
OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION
ADVISORY COMMITTEE ON CONSTRUCTION SAFETY AND HEALTH

Thursday, January 24, 2008

The meeting came to order at 8:30 a.m. in Room N3437 of the Frances Perkins Building, 200 Constitution Avenue, N.W., Washington, D.C. Linwood Smith, Chairman, presiding.

PRESENT:
LINWOOD O. SMITH, Chairman
FRANK MIGLIACCIO, JR., Employee Representative
DALE DAVID HAGGERTY, Employee Representative
ROBERT KRUL, Employee Representative
EMMETT M. RUSSELL, Employee Representative
THOMAS L. KAVICKY, Employee Representative
MICHAEL J. THIBODEAUX, Employer Representative
THOMAS SHANAHAN, Employer Representative
DANIEL D. ZARLETTI, Employer Representative
DAN MURPHY, Employer Representative
KEVIN BEAUREGARD, State Representative
STEVEN D. HAWKINS, State Representative
THOMAS A. BRODERICK, Public Representative
ELIZABETH ARIOTO, Public Representative
MATT GILLEN, Federal Representative
STEVEN F. WITT, Designated Federal Official
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Remarks/Reconvene January 25, 2008

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

8:34 a.m.

Opening Remarks and Introductions

MR. SMITH: Okay. Thank you for your attendance today at the Advisory Committee on Construction Safety and Health. We appreciate everyone being here.

Just a little business first. The bathrooms, restrooms are right up the hall to your left. There's a break room on the fourth floor, restaurant up on the sixth.

Please turn your cell phones on vibrate or turn them off. Reception's not real good in here to start with, but that would help.

The first thing we want to do is go around, and we have a lot of new members up here, but we want to go around the room and introduce the members of the committee to start with who are all, I believe, sitting up here.

The only one not here at present is Tom, and he's involved in a medical situation. He should be here shortly. He is in town.
So we should have a full Board today, and hopefully everyone will be present.

So, the first thing we'd like to do is go around the room and let everybody introduce themselves, and let's start up here at the head table.

I'd like the new members particularly to tell a little bit about yourself, if you will, and we would appreciate that.

Let's start with our solicitor.

MS. SHORTALL: My name is Sarah Shortall. I'm from the Office of the Solicitor, and I'm the counsel for ACCSH.

MR. MURPHY: Dan Murphy, Zurich North America.

MS. ARIOTO: Elizabeth Arioto, Consulting Services. My past experience is 10 years as a nurse. I worked for like 13 years with an ironworking company as their safety director. I worked for the GC as their safety director for seven years, and I'm a consultant.

MR. SMITH: Can everyone hear? Can
you hear? Okay.

MR. MIGLIACCIO: Frank Migliaccio, Executive Director, Safety and Health, for the Iron Workers International, and I represent labor.

MR. HAGGERTY: I'm David Haggerty. I'm with the International Brotherhood of Boilermakers, and I represent labor.

MR. HAWKINS: I'm Steve Hawkins, Assistant Administrator with the Tennessee OSHA Program.

MR. RUSSELL: Good morning. Emmett Russell with Operating Engineers, 35-year member.

MR. KRUL: Bob Krul with the United Union of Roofers, and I don't want to say how long I've been there, but I also represent labor.

MR. THIBODEAUX: Mike Thibodeaux, Consultant with the National Association of Homebuilders.

MR. KAVICKY: Tom Kavicky, Safety Director, out of the Chicago and Northeast Illinois Regional Council of Carpenters.
MR. ZARLETTI: Dan Zarletti, Vice President of Safety for Kenny Construction Company in Chicago.

MR. BEAUREGARD: Kevin Beauregard, Assistant Deputy Commissioner, North Carolina Department of Labor, and a State Representative.

MR. GILLEN: Matt Gillen. I'm the NIOSH Construction Program Coordinator.

MR. SHANAHAN: Tom Shanahan. I'm with the National Roofing Contractors Association. I've been there for 19 years and responsible for their health, safety and education-related areas.

MR. WITT: Steven Witt, Director of Construction, OSHA.

MR. SMITH: Linwood Smith, T.A. Loving, Goldsboro, North Carolina, and I'm an Employer Representative.

Let's start right here and go around, if we would.

MR. CARNEY: Dave Carney, Stonesmith Patented Systems.

MR. SCHNEIDER: Scott Schneider with
the Laborers Health and Safety Fund North America.

MR. BURTON: Richard Burton, NESH Institute.

MR. MIDDLETON: George Middleton, Toll Brothers, Inc.


MR. TRAUGER: Tom Trauger, Winchester Homes.

MS. SHAFER: Carmen Shafer, Grunley-Walsh, Rockville, Maryland.

MS. TRAHAN: Chris Trahan, CPWR.

MR. DRESSLER: Dick Dressler, the Association of Equipment Manufacturers in Milwaukee.

MS. BILHORN: Susan Bilhorn, Jacobs Engineering.

MS. MYERS: Michele Myers, the Associated General Contractors of America.

MR. AHAL: Bill Ahal, Alberici Corporation, St. Louis.

MR. HENDRICKS: Mark Hendricks with Weyerhaeuser Real Estate Company.
MR. BRUMBAUGH: Larry Brumbaugh, Maracay Homes.


MR. HOLT: Dave Holt, Pardee Homes.

MR. OLIVA: Joel Oliva, the National Commission for the Certification of Crane Operators.

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

MS. PUNJ: Shweta Punj, Inside OSHA.

MS. MORGAN: Theresa Morgan, also with Inside OSHA.

MS. HANSEN: Heidi Hansen, Law Office of Adele Abrams for ASSE.

MR. IBARRA: Robert Ibarra, Directorate of Construction with OSHA.


MR. CLOUTIER: Steve Cloutier, Bovis Lend Lease out of Charlotte.
MR. BURKHAMMER:  Stew Burkhammer, OSHA today, retired tomorrow.

MR. PARSONS:  Bill Parsons, OSHA, Directorate of Construction.

MS. CHATMON:  Veneta Chatmon, Office of Communications.

MR. SMITH:  Right. That's our right hand.

The first thing, if you're from the public and you would like to speak during the public comment period, please sign the list at the back in order that we can look over that list and see how much time we've got and try to see if we can accommodate you. Please make sure you sign the list if you'd like to speak as a member of the public.

The next thing I'd like to do just very briefly, and it's not much about it, but if you look in the Federal Register, the mission of our committee, so to speak, or our mission statement, it says, "The aforesaid Section 107 requires the Secretary of Labor to seek the advice of the advisory committee in formulating construction standards"
thereunder."

So our role is to provide advice to the Secretary of Labor through this committee on standards that may be promulgated by them.

With that, I welcome you. It's real good to be here. We've not had a lot of meetings recently. This is the second meeting since I've been chairman. The first meeting, I was in the hospital, I believe, and did not make myself. So I'm extremely glad to be here, extremely glad to be in good health and appreciate it in a lot of ways.

If you would, to the members, minutes are in your packet. I'd like for you to look over them from the last meeting that we had, and I'd like to have a motion that we accept those, please.

MR. MIGLIACCIO: So moved.

MR. SMITH: Okay. I have a motion.

Is there a second?

MR. KRUL: Second.

MR. SMITH: Thank you. Any discussion?

(No response.)
MR. SMITH: All in favor, please say aye.

(Chorus of ayes.)

MR. SMITH: Thank you. All opposed, likewise.

(No response.)

MR. SMITH: Thank you very much. Yes, Bob?

MR. KRUL: Mr. Chairman, just a point of order. The minutes reflect at the October 11th and 12th meeting that the minutes of the previous meeting were not available at that meeting and would be made available at this meeting, and I only see these minutes.

MR. SMITH: Right. Could someone see if we make those available to the members of the committee today? We would appreciate that.

I want to recognize Bob Krul, Robert Krul. He is our former chairman. He was a great chairman. I enjoyed serving on this committee under him, and I'm already counting on him as an advisor and told him to please let me know, keep me straight.
So thank you, Bob, for your years of service, we appreciate it very much, as chairman. Glad you're still on the committee.

MR. KRUL: Thank you, Mr. Chairman.

MR. SMITH: At this time, we will call on Mr. Witt to make a few comments.

Remarks - Directorate of Construction/DFO

MR. WITT: Thank you, Linwood.

First of all, let me welcome the new members of the committee. Thank you for agreeing to support our advisory committee. Your service is appreciated, and thanks to those in the audience who have taken the time to be with us today and hopefully tomorrow, and we look forward to your participation during the public comment period.

For those who don't know me, I've been the Director of Construction since October of 2006, but I actually have a long relationship with this committee.

In 1978, almost 30 years ago, I was the counsel to this committee, the position that Sarah's holding now, and I joined the Department of Labor in 1972.
Some of my previous responsibilities have been Executive Assistant in OSHA, Director of Technical Support, Director of Health Standards, Director of Safety Standards, Director of Standards and Guidance, Deputy Assistant Secretary, now Director of Construction, and I would like to say that I'm very pleased with my current assignment.

I've enjoyed working with those involved in the construction industry. It's been a very interesting and challenging 15 or 16 months, and I look forward to the next two days.

I think we have a full agenda. We'll have reports from a number of the OSHA directorates and some other discussion items, reports from the work groups. I think we have a lot of work to do the next two days, and I believe that it will be a productive meeting and we will be, and Linwood will mention this later, we will be making plans for our next meeting and hopefully in the near future, we won't be waiting as long as we have since the
last meeting in 2006.

Let me just comment for a moment on the nomination process that we followed. In January of last year, we published a Federal Register Notice asking for nominees to this committee and were pleased that we received over 60 nominees, many of them well qualified.

I'm extremely pleased on the selections that the Secretary of Labor made. I think we have an excellent committee, a committee with a lot of experience in the construction area and a lot that they can do to support this committee and provide advice to the Assistant Secretary.

Based on that very open process, as we move forward in the future, I think it's the Assistant Secretary's intention as we fill vacancies as they occur, as terms expire, we will continue to make this an open and as transparent a process as possible so we can attract the most qualified members to this committee.

And with that, I'm going to turn it back to Linwood and look forward to the next
two days.

MR. SMITH: Thank you.

MS. SHORTALL: I wanted to make one comment about the nominations for officers.

I wanted to add one other thing about the nominations process. Assistant Secretary Ed Foulke has wanted to make the process more transparent and accessible for anyone who's interested in viewing the process and/or in submitting nominations, and so with this last round of nominations, not only did we put the nomination request in the Federal Register but everything that we received in response to that was put into the public record.

So that at any time, if any person would want to check that and see that information, they'd be able to do so and we keep that part of our ongoing docket system.

With that, I also would remind any person who has an interest in the future in applying, we will continue to put that in the Federal Register Notice and we will put it in our docket. So we caution you about submitting
certain types of personal information that you
wouldn't want to make public, like your birth
dates or your Social Security numbers.

    Thank you.

    MR. SMITH: Thank you. Also, Stew
Burkhammer, Stew left the room to go get these
minutes. There will be a retirement party for
him tonight after work across the street at
one of the local restaurants. I'm sure all of
you know him personally, but they've asked
that we contribute $10 apiece to help defray
the cost. They have him a real nice gift and
snacks provided. It will be a cash bar. We're
looking for a big crowd.

    Is Veneta here? Anyway, we will
have someone in the room in a little bit to
take up your money if you'd like to contribute
and you'd like to go to that. We would
certainly be glad to have you. Look forward
to seeing you there tonight after work.

    Okay. Veneta was on the agenda.
She did meet with us yesterday and went over
the orientation for the new members. We
appreciate that. At this point, we're running
a little bit ahead of schedule which is a good thing.

Okay. Right here is the young lady who can take up your money, if you would like to contribute $10 and get on the list to go to the party.

Please, if anyone in the back of the room would like to sign up for Stew's retirement party to go and they've got $10 they'd like to contribute, please. Would you raise your hand if you'd like to --

MR. WITT: And it's 5 to 7 this evening across the street at this really fancy bar called My Brother's Place. So, tie and jacket required. It's upstairs, and we'll begin hopefully right after we finish here.

MR. SMITH: Thank you very much. Raise your hands again so she can see you. Thank you, Leah.

MR. KRUL: If you don't have a gun when you go in, they'll search you and give you one.

(Laughter.)

MR. SMITH: Hopefully we're going
to have a little fun tonight with Stew and anybody that's been in the safety business 43 years needs a little special recognition.

Okay. We have Veneta, and you want to just give a little update?

MR. WITT: I assume not all of the members were present yesterday afternoon when you went over the administrative details for the committee.

Would you just summarize them? We put you on the agenda for a few minutes. Just summarize what you discussed yesterday afternoon with the committee members that were present.

Remarks - Office of Communication

MS. CHATMON: Basically, I shared with the members that were here the procedures for doing travel as an ACCSH member. Basically, things have changed. Everything is done by me and my assistant, Frances Durant, and all I ask that you do is just contact me with your travel arrangement plans.

I will put in the TA and process it and e-mail you a copy, and upon your return to
your designated locations, I ask that you send
back to me your hotel receipts and any other
receipts over $75, so a voucher can be
processed for reimbursement.

   If you need any additional
information, you know, please contact me at
202-693-1912, and Frances's number is 202-693-
1999.

   MR. SMITH: Thank you. Any
questions for Veneta?

   (No response.)

   MR. SMITH: Thank you very much.
You now have the minutes of the meeting that
was referenced earlier. Take just a second
and look over those, and we'd like a motion
that they be accepted into the report.

   Okay. Do we have a motion that
they be accepted into the report?

   MR. MIGLIACCIO: I make a motion
they be accepted.

   MR. SMITH: Thank you, Frank. Is
there a second?

   MR. GILLEN: Second.

   MR. SMITH: Thank you, Matt. All
in favor, please say aye.

   (Chorus of ayes.)

MR. SMITH: Any opposed, likewise.

   (No response.)

MR. SMITH: Thank you. Take just a
minute, if you will, and look over the agenda
for the meeting, see if you would like
anything added or updated on the agenda.

   Any questions or comments about the
agenda?

   (No response.)

MR. SMITH: Okay. Thank you very
much.

   Okay. I noticed earlier at least a
couple people in the audience that have been
members of this Board before. I'd like for
them to stand and anybody else that's in the
audience that's been on this Board. Please
stand. We'd like to thank them for their
years of service.

   Of course, Stew was once chairman
of this Board. I think Steve, you were
chairman, weren't you?

   MR. CLOUTIER: I was an acting
MR. SMITH: Okay. Acting chairman, and Scott Schneider, who just recently went off. Let's give them a hand for serving on this committee.

(Applause.)

MR. SMITH: Thank you. We're told that Secretary Foulke will be up in just a couple minutes. So, we're kind of waiting on him at this point.

If anybody on the committee has a comment they would like to make at this time? Yes, sir, Frank?

MR. MIGLIACCI: Frank Migliaccio. I have a question.

MR. SMITH: Okay.

MR. MIGLIACCI: Why did we not have a meeting last year?

MR. SMITH: I am going to defer that to Mr. Witt.

MR. WITT: We did not have a meeting because the decision was made when we published the Federal Register Notice last January asking for nominations, and we thought
the process would go fairly quickly in getting selections made by the Secretary of Labor.

The process took longer than we had planned, and the decision was made by the Assistant Secretary, because he also thought it would move more quickly than it did, that the next meeting of the committee would be the committee with the seven new members present, and the decision was made not to have a meeting with a committee where almost 50 percent of the members' terms had expired.

MR. SMITH: Thank you.

MR. WITT: But it is his intention, as I said, he may say this earlier, it is his intention to hold a meeting in the next several months. So we will hopefully not have that type of delay again.

MR. SMITH: Thank you. We'd like for the members of the committee to go ahead and submit their schedules for the last of April and the first of May. That is the tentative date that we will be having another meeting at this point, and please submit that to Michael Buchet, if you would, and we'll
hopefully be able to have another committee
meeting then.

Thank you, Frank. Any other
questions?

(No response.)

MR. SMITH: If everyone would then,
let's just kind of stand at ease till
Secretary Foulke gets here. Should be just a
second. Please don't leave the room.
Hopefully he'll be coming in very shortly, but
just please feel free to stand up for a second
and stretch your legs.

(Whereupon, the foregoing matter
went off the record at 8:55 a.m.
and went back on the record at
9:05 a.m.)

MR. SMITH: I'm going to carry this
gavel home with me. It works better up here
than it does at home. I need something to get
people's attention at home. Thank you for
your attention.

At this time, it's my privilege to
introduce to you Assistant Secretary Edwin
Foulke, and he will make a few comments, and I
Remarks - New Member Welcome

ASST. SEC. FOULKE: I'm going to make comments? Okay. That's right.

Good morning. How are you all doing this morning? Hope that everything's going well.

I just kind of wanted to start by welcoming -- I think there's seven new members to the committee, and also thank the members, the returning members, for your service to our country.

I know that you all could be at other things. You have a lot of responsibilities in your normal jobs, and I know it's difficult to be able to be here and take your time away from your jobs, but I do appreciate your service to the country, but I think you recognize, as I do recognize, that this is important to not only your particular companies but to your particular industry and that there are a lot of critical issues that your industry faces, and so what you all do here is going to be very important and help
people.

I talk a lot in my speeches about the bottom line. I don't talk about the bottom line being the financial bottom line, but what I see as the true bottom line for any business and our bottom line for OSHA is making sure that people go home safe and sound every night back to their families and loved ones, and so I just want to say thank you for what you all do and I thank you for it. I appreciate you all being involved in this.

It is important, and over the years, I know that ACCSH has been involved with a lot of recommendations to OSHA, and it's been extremely helpful to OSHA in helping its recommendations for the reg agenda but also recommendations for other things that we do, the guidance documents and stuff like that.

So I just want to say thank you for all that and that you have a lot more work to do because we still got a long way to go.

Even though our injuries and illnesses and fatality numbers are down, the rates are
down to the lowest that we've had in a long

time, we still can't stop there because I know

you believe and I believe -- you believe the

same that I believe, that obviously one

fatality is one fatality too many.

So we still have a lot of work to
do, and I really do appreciate you willing to

be able to serve.

I also wanted to thank Chairman

Linwood Smith for agreeing to chair the

committee again. Once again, you know, it's a
difficult thing to have to take time off of

your jobs, but like I said, this is a

significant commitment that you all have made,

and I do really appreciate that.

You really are helping us fulfill

our mandate to ensure that we have safe

working conditions for all of our employees.

I also want to recognize Stew

Burkhammer. Where is Stew? Stew, you know, I

really did want to say thank you to Stew. I've

already said thank you to Stew, but I

wanted to thank him for his contributions on

his impending retirement after a decade of
service to ACCSH and the five years he's been at the OSHA's Directorate of Construction as the Director of OSHA Office of Construction Services.

Is he still outside? Okay. Well, I'll make sure we thank him properly. So I did want to thank him.

I did want to kind of talk a little bit about what we've been doing at OSHA and -- that is of interest and involved in the construction industry and would be of interest to the committee.

We've been involved in a lot of different things, and one of the things that -- an area that we've been involved with much more in-depth than probably we have over the last seven, ten years is emergency preparedness.

We really have a lot more focus on that, and the most recent example of our involvement in emergency preparedness or emergency response, I guess, is more the case in this one, was the Minneapolis Interstate Bridge Collapse back in September of last year.
and also the wildfires in California this Fall.

Once again, what I really am -- I guess what was very interesting to me was the fact that we had a really good partnership with our state partners, working with the states in both of those responses.

We worked hand in hand with our state partners and agencies, state agencies to ensure that the response and recovery crews on the scene could work safely, and because of that, I think we did prevent people from being injured in both of those areas, and I'm very excited about how we responded and how quickly we were able to respond to it and how thoroughly we responded to it.

I understand that Jeff Isakson, Director of the Minnesota OSHA State Plan, will be here this afternoon, I believe, to discuss with you more about what happened there.

But I would just say that we are aware that emergency response crews, particularly construction people, need
immediate information and advice to stay safe while they're working in these type of situations, these highly hazardous situations, and we're continuing to improve on our abilities to respond quickly and to provide the information and provide the assistance that those response crews need, and so we'll continue to do that in the future.

Also, I understand later this morning, you're going to be hearing from Ruth McCully, who's our Director of the Directorate of Science, Technology, and Medicine, about the OSHA's Role in the National Response Plan.

I was at a -- on Tuesday, I was at a meeting at the National Press Club where the Secretary of Homeland Security rolled out the National Response Framework which is the overall document now that we're going to be working under for all federal, state, local, tribes are going to be -- gives us a framework of how we're going to be responding to all types of emergency situations.

I also understand that Mohammad Ayub, Director of OSHA's Office of Engineering
Services, will brief you about OSHA's Structural Response Team in national emergencies, and I think you'll find that very interesting. He had provided us a briefing during the Minneapolis bridge collapse of what was going on there which he responded to personally, and so I think that you will find that very informative.

Another area that we've been working that I think -- this kind of goes across all industries, is the issue on pandemic flu guidelines and the pandemic influenza generally.

We are looking at this. You know, there is no pandemic flu at this time, but all the experts agree it's not a matter of if it will occur, it is a question of when it will occur, and so it's difficult to predict when it will occur or how severe it will be, but the most important thing is that we're going to be prepared for that, and it's important that all companies, all industries are making preparations now because it is clear that if and -- or when the pandemic flu hits, that we
will not -- no industry, no company is going to be able to respond if they haven't done any preparation in advance.

This is not something that you can just prepare for once it shows up. You can't wait, say we'll wait till it shows up, wherever it shows up, and then we'll start planning, because this is going to take some detailed response.

So, we're taking this issue, the federal government is taking this issue seriously. OSHA is working to fulfill our role under the President's National Strategy for Pandemic Influenza in that we're charged to make sure that government employees are able to -- that the government runs, that employees are able to come to work, and our response is also to make sure that the businesses run and companies run and providing the information needed to allow that to occur.

So to meet this potential challenge of the pandemic, OSHA has developed two major guidance documents on pan. flu, one for general industry which outlines a whole tiered
approach of how you would handle a pandemic, and the other one, the other document, which is a much -- is probably -- a fairly thick document dealing with pandemic response for health care industry.

So we've been working on that, and basically the guidance allows information on how the influenza would spread, how employers can maintain operations, how to protect their employees, steps for identifying whether you're a low, medium, or high-risk workplace, and tips for employees, to provide your employees to stay safe while traveling and living abroad to work because that's one area that we also focus on, even those American workers that are out working on the -- outside the country.

So we've been -- we'll be sharing that, and Ruth can actually -- we have a couple directors, but Ruth's been involved with that preparation and so if you have any questions on that particularly, she can provide that information.

On the regulatory agenda, you know,
the Cranes and Derrick Negotiated Rulemaking Advisory Committee had been working to complete the analysis and review all the requirements to publish a Notice of Proposed Rulemaking.

With respect to the cranes and derricks standard, we are in the latter stages of development of the proposed rule, and if you had looked on the Federal Register, we were looking to publish the Notice of Proposed Rulemaking in January of '08.

Unfortunately, we're just not going to be able to make that date because this is a very detailed rule. It is going to be an extremely -- it's a large document is what it comes out to be and so it is just taking a lot -- taking us longer to get things through, to get things completed on this document, but our goal is to publish that NPRM this year on cranes and derricks. So we'll be moving on that, and we're committed to move on that project.

One of the things that we've done -- that we did complete in November of last
year was to publish a final rule on payment for personal protective equipment, and under this rule, employers are required to provide personal protective equipment or PPE at no cost to the employees, except under certain circumstances.

The rule contains exceptions for clothing and gear and clarified OSHA's requirement regarding payment of employee-owned PPE and replacement PPE.

We must have done something well because I think the time period for appealing, filing an appeal on that, has passed, and we didn't, as far as I know, we did not have anyone appeal that particular standard.

You know, I think we made a good -- we did a real good job of balancing all the issues that were involved in that. It was a complicated standard. There were some really complicated issues, but I think that foremost, it really kind of spelled out and clarified when employers are required to pay for PPE which is, for the most cases, almost all cases, but there are certain exceptions, and I
like it because now we have, I think, a clear and consistent policy on what employers have to pay for and also the standard projects that we're going to provide -- by implementing this rule will result in 21,000 fewer occupational injuries per year.

So you know, I think that's important. That demonstrates how this standard is going to be useful in that respect.

But I think, you know, the whole main thing is that, you know -- one thing the rule did not change is what personal protective equipment was required, and we've had some questions on that from different groups.

But the standard only dealt with who was paying for it. What type of personal protective equipment is necessary and when and how you determine that, what hazard assessments that you have to do, has actually been spelled out in previous personal protective equipment standards.

So the new one did not impact at
all as to what PPE was required. It's just who was going to pay for it.

Also in November of 2007, we proposed a rule for confined space in construction and general working conditions in shipyards.

Yesterday, in the January 23rd Federal Register, we announced a 30-day extension for the comment period, extending it to February 28th, on the proposed rule for confined spaces in construction.

And I believe Noah Connell, the Deputy Director of the Construction Directorate, is going to give you -- talk more about this in the Construction -- his Construction Update.

Trenching. In 2008, OSHA will continue to -- its trenching initiative as part of its commitment to focus on enforcement efforts in one of the most hazardous working conditions in your industry.

I do have some good news to report. In the last four years, in collecting data, calendar years 2003 to 2006, we've seen a
marked decrease in trenching fatalities in the industry, about 50 percent. So we went from 59 fatalities in 2003 to 29 fatalities in 2006.

Clearly, we're making progress in this area. Once again, one fatality is one fatality too many, and we're going to have to keep striving to get that number to zero. That has to be our goal, and we're going to continue to target outreach and ensure that that number in trenching fatalities continues to drop until we achieve our goal of zero.

Another construction-related OSHA activity is our teen summer job campaign involving construction jobs.

We have set up a five-year plan to target different industries dealing with teen summer jobs, and we're looking at the next generation of working men and women, and so three years ago we launched this initiative to improve the health and safety of teenagers, thousands of teenagers in the workforce each year, and we're going to be -- this year, it's going to focus on construction and probably
residential construction is where we're going to -- will be the focus of this campaign.

We're going to be kicking that off.

We're hoping to do a high-profile campaign kick-off, possibly in New York City, and at the same time, kicking the whole program off, having a ten-city, one in each region, ten-city kick-off this Spring.

So we're going to -- the focus obviously is to raise national awareness of the need for employees when they're hiring young people to provide appropriate safety and health training and protective equipment.

I remember when -- one of my first jobs when I was working in law school in the summer time when I was in law school was in construction, and I was doing road construction, and I was driving a -- I did a number of things, but one of the things I drove was a pan, which you know is a fairly large piece of equipment, and my safety training involved showing me what the seatbelt was.

So I understand the need for this,
and I also understand that a lot of teenagers, some of you all may have some teenagers, kind of feel like they're bulletproof, so to speak, that they can't get injured, and unfortunately accidents occur so easily and that's why we need to have this campaign.

It's been very successful over the two years we've done it already, and this will be our third year. So once again, we're hoping to impress upon the teens that there are hazards in the workplace that they need to be aware of and at the same time encourage employers to make sure that all teenagers, even though they are a summer job, that they're fully trained before they get put on the job and they understand the hazards, and so we'll be doing that.

Another area that we've been moving in construction is our cooperative programs for construction, and I believe Paula White is going to be talking to you today. She heads up our Directorate of Cooperative State Programs, and she's going to provide you details about our cooperative programs in the
construction industry.

We've been very -- obviously the last year, I guess it's been a little over a year, we had our -- we opened up our voluntary protection program into the construction, started doing model program, and right now we have 64 construction companies that have attained the recognition for safety and health by attaining VPP status in the construction area.

This is more than any time in the program's 25-year history, and we're opening the VPP to more general and specialty trade contractors, once again, to demonstrate that for those companies that have great safety and health programs, to recognize them for their great programs, and I think we have a number of companies here that have facilities or sites that are in VPP and we do appreciate that.

Our OSHA Challenge, which is our program to help employers reach -- to move forward in their safety and health program to attain a VPP, has had tremendous results.
It's basically a three incremental stage program and after one year of OSHA Challenge, construction companies report a rate reduction averaging more than 30 percent, 30 percent reduction for those companies after one year of being in the Challenge program.

And since we introduced our strategic partnership program in 1998, we have partnered with more than 350 construction employers, and so once again here we have labor, management, and the government working together at the start of these large projects to go through the program and basically say how we're going to look at safety and health on this particular project, what are we going to anticipate are going to be the hazards, and so we really do appreciate that.

And I am really excited about how we've done on our outreach programs, our partnerships in the construction area, and hopefully we're going to continue to focus on that -- well, we are going to focus on that more, to try to get more and more companies working with OSHA, construction companies.
working with OSHA to make sure that we have more safe and healthy worksites and that we protect our employees.

And once again, it goes back again to what Mike had said. The true bottom line of any company should be making sure that your employees go home safe and sound.

So I just want to say, I'll end by just saying thank you for what you all have been doing and your involvement in this program really is important, and I do appreciate that, and looking forward to working with you, and you have my commitment, personal commitment, that whatever I can do to help to make this committee a success and that I'm going to be here to help you do that.

So thank you for your service to the country and to this committee. So, Mr. Chairman?

MR. SMITH: Thank you, Assistant Secretary Foulke.

And Stew just walked back in the room if you'd like to say a little word about him. What can you say, right?
ASST. SEC. FOULKE: That's right. There he is. Stand up.

MR. BURKHAMMER: I'm standing up. When you retire, you shrink.

ASST. SEC. FOULKE: I do personally want to thank you for your work in the construction area. You've been involved with the ACCSH Committee, I understand, for over ten years, been with the Directorate for five, but pretty much your whole life has been committed to safety and health in the construction area, and so I really do appreciate the work that you've done with us and your service to that.

So thank you very much for that, and we'll definitely miss you, but just because you're retired doesn't mean we're not going to use you in some other fashion. We'll still work you to death. Thank you.

(Applause.)

MR. SMITH: I think it also would be prudent for this committee to go on record as thanking Stew for his service to this committee and also to the Directorate of
Construction Office.

Could I hear a motion to that effect?

MR. KRUL: So moved.

MR. SMITH: Second?

MR. MIGLIACCIO: Second.

MR. SMITH: All in favor, say aye.

(Chorus of ayes.)

MR. SMITH: Thank you very much, Stew. We really appreciate it.

At this time, are there any questions for Secretary Foulke?

MR. MIGLIACCIO: Sir, it's my understanding that the OSHA Training Institute is trying to make some changes in the way it structures or picks the trainers.

Can you give us a little background on that, please?

ASST. SEC. FOULKE: Well, I can give you a little background on what we're trying to do with the whole program.

Last year, I took -- the Training Institute had been part of another directorate, and so I decided that -- you
know, when I first got involved with safety and health, I started practicing law in '78, and I think it was about '79 or '80 is when I first started doing OSHA work, and at that point in time, I remember that people used to talk about the OSHA Training Institute.

It was like that is where you went to get trained and that was where you really needed to be involved in -- that's where we had -- that was -- it was like kind of the gold standard for training for safety and health, and so as a result of that, I decided it really needed to be its own directorate.

So we established it as its own directorate, pulled it out of -- it was in State Plans, is where it was, under there, made its own directorate, and I put Hank Payne, Dr. Hank Payne, in charge of that, and my charge to him was to make sure that the OSHA Training Institute became the gold standard again for training, safety and health training in the country.

So we're moving on that, and we've been reviewing, as I understand, all the
different training programs. We're actually reviewing all the -- I know one area that we've done is we're actually revamping all the CSHO training to have much more detail, reviewing what training they should have and to do that.

We're also expanding the training programs that are available, and I know that they've done some -- they have talked about doing some additional changes on the program on training the trainers and stuff like that, expanding the requirements for the trainers, I believe, but I can't say right offhand what that is, to tell you the truth.

MR. MIGLIACCIO: My understanding of what they were trying to do, and somebody else can fill this in here a little bit, that they were looking for the OSHA 500 instructors to be basically professionals from colleges.

Now, you being a lawyer, I don't think you'd want an ironworker out there practicing law because we don't actually know what we're doing there, and I personally feel as though --
ASST. SEC. FOULKE: They may be better than some lawyers.

MR. MIGLIACCIO: Maybe. But there's some out there that -- I mean, I can only speak on behalf of my program, the OSHA 500 instructors where we have six master instructors, I'd pit them against any academic person out there teaching safety and health, and the reason I say this is because they work it every day. They're not full time. They work in the field.

ASST. SEC. FOULKE: Right.

MR. MIGLIACCIO: And that academic person, they can do a lot of book learning, and we found this out when we trained the compliance officers under Subpart R, that we had the OSHA people in there training, and we had different -- we had ABC in there with us, we had contractors training with us, and there was a variety of people, and it seemed like -- and, you know, here we can talk to some of the people who were actually there.

The field personnel that were doing the training, your compliance officers got a
lot more out of those people than they did out of anybody else, and I find it interesting that Dr. Payne or any of his people under him would want to take that knowledge away from the instructors that's going to be out there protecting these people.

So I'm a little --

ASST. SEC. FOUKLKE: I'm glad you raised that. I will have to look into that to see what -- no, I'll look at it and see what we have because I can understand what --

MR. WITT: If I may, Frank, my understanding is Dr. Payne will be joining us some time today, and if he does, I spoke to him the other day, I think he's --

ASST. SEC. FOUKLKE: Is he coming in or not? I thought he wasn't coming in. But go ahead.

MR. WITT: Maybe there's a change. He had indicated to me the other day he would be coming in, and he will be available, if he is coming in, to respond to your comment. If not, I know he has prepared a summary of what the activities that are going on related to
the outreach or train the trainer, and I will get those from him and distribute them to the committee.

MR. MIGLIACCIO: Up until today, I mean I hope it still goes on, but the subcommittee of the OTI, I chair it, and I found it interesting that nobody even approached us about any of this information that they want to change.

I would have thought they would at least come to the committee, said something to us, and then we could have brought it as our subcommittee to this full body, but we had no knowledge of it till, you know, till after all the letters went out there, and it's real interesting how they sort of circumvented --

MR. WITT: I've heard a little bit about this, but I'm not exactly sure -- I'm not fully informed what is all required or what they're looking to make -- change the requirements to. So I'll look at that.

I mean, all I can -- I know what I've charged Dr. Payne to do is to bring this to -- the OSHA Training Institute to be the
gold standard for safety and health training.

Now, you know, obviously practical experience always is very important, and to me, at least it's my thought that practical experience is important to be able to provide insight in how things are really done in training, and so we'll just look at that and get back with you on that.

MR. MIGLIACCI: I'd appreciate that.

MR. WITT: Maybe today.

MR. SMITH: Other questions? Yes, Bob?

MR. KRUL: Thank you, Mr. Secretary, for coming in, and I heard your remarks that you had no appeals on the PPE standard, but let me try to shave the corpse one more time.

It's still problematic for those of us who deal in collective bargaining agreements, especially when we do maintenance work in industrial facilities, when an owner mandates that steel-toed boots and/or metatarsal equipment has to be worn as to
whose responsibility that is.

I understand the exceptions, but it still seems that that's like a nebulous area that isn't clear when it comes to protective footwear, exactly whose responsibility it is.

I know what the employers' side is because those of us on labor have heard that argument a hundred times, and in fairness to the employers, their argument is that ought to be equipment that a construction worker should just purchase in the event that he or she has to go out on to a site where this equipment is mandated.

And from the safety and health viewpoint, you can go to Walmart or Kmart and get a pair of steel-toed shoes, but are they really what you're looking for for protection, and our argument with our apprentices that may come in in the first year and only be making 60 percent of what a journey person makes, this becomes quite a financial outlay for them.

And we understand management's
viewpoint on those quick turnaround jobs where they may have hundreds of people and looking at a $125 per boot, but it gets a little jumbled when the owner mandates that in order to come on his facility that you have to have this equipment in order to perform maintenance work.

ASST. SEC. FOULKE: Well, I think with respect to metatarsals, we did say that they could be required to pay for the -- not the built-in ones but the ones that go over top of the shoes or they could provide a credit for that.

So it is a complicated issue, you know. One thing I try to do is I went through all the testimony. There were a lot of different things we looked at, you know. We get in this thing about the tools of the trade and everything else. That was the kind of thing that we had opened or reopened the record to look at those things.

So like I say, I think we tried very hard to make sure we had the right type of balance and hopefully -- you know, like I
say, it's a complicated issue, and that's why
I guess it took the standard so long to get
around through there.

But I'm glad that we finally
finished the standard and got it out and, you
know, maybe we'll have to look and see down
the road what other -- if there's any changes,
you know, that will be made.

And I suspect that we're going to
have questions on requests for letters of
interpretations on the standard, too. As a
matter of fact, I know we will. We've already
had two groups that have asked us about
specific items dealing with certain PPE.

So thank you.

MR. KRUL: Thank you.

MR. SMITH: Other questions?

(No response.)

MR. SMITH: Any comments?

(No response.)

MR. SMITH: We'd like to thank the
Assistant Secretary Foulke for coming in today
and making these comments and also being
available to respond to questions and taking
your time to work with this committee.

This is a dedicated group, as you alluded to, and we gladly give our time to try to help our industry and appreciate your role in that regard, also.

Thank you very much.

ASST. SEC. FOULKE: Thank you, and thank you again for your service. I appreciate it.

(Applause.)

MR. SMITH: At this time, we want to take a 15-minute break, and I'd like to ask the committee to please stay present. I think there's going to be some photographs that they want to take at this time.

(Whereupon, the foregoing matter went off the record at 9:38 a.m. and went back on the record at 9:56 a.m.)

MR. SMITH: Okay. Let me have your attention, please. We'll start back.

MR. KRUL: Mr. Chairman?

MR. SMITH: Mr. Krul has asked for one minute.
MR. KRUL: Thank you, Mr. Chairman.

In light of the discussion with Secretary Foulke on this whole issue of the proposed recommendations and changes to the OSHA Training Institute, and for the benefit of the committee, the four major recommendations that the OTI is proposing, --

MR. SMITH: Sir, Mr. Krul, if I could, this afternoon, later on this afternoon, they're going to arrange a conference call with Dr. Payne at OTI.

Would it be appropriate to wait till then?

MR. KRUL: We could wait, but in light of Mr. Migliaccio's comments, I think this motion is in order. The Chair could rule me out of order.

What I would like to do is make a motion that this committee recommend to the Assistant Secretary that he direct the OTI that any proposed recommendations come through the work group formed by the OTI for any proposed recommendations and changes to that program.
MR. SMITH: Okay. I'd like -- the Chair would like to ask, if we could, that we wait till we get Dr. Payne on the phone, let him explain it, and then the motion would certainly be in order.

MR. KRUL: That's fine, Mr. Chairman.

MR. SMITH: Let's give him the opportunity to address us first.

MR. KRUL: That's fine.

MR. SMITH: If that's okay. Thank you very much.

Okay. Our next presenter, as soon as I put my glasses on, will be Amanda Edens with the Directorate of Standards and Guidance, and she will be discussing -- giving us a general industry standards update. We thank her for appearing before this committee.

MS. EDENS: Thank you.

MR. SMITH: And I need to move.

MS. EDENS: Yes, you do.

DSG - General Industry Standards Update

MS. EDENS: I'm going to cover the first 15 minutes, and then I'm going to turn
it over to John Steelneck who's going to speak a little bit about our new rulemaking with regards to a new fit testing alternative for respiratory protection. We just did one on a new Bitrex method, and then we have another one coming up, and I'll leave it to John to kind of discuss after I get through.

What I want to do is to go quickly over some of the Directorate of Standards and Guidance activities, primarily our regulatory projects, and I'll talk a little bit about a few of the upcoming guidance products we have.

Unless you don't know, the current regulatory agenda we just published a little over a month ago in sort of a new method. It generally comes out in paper but now through the magic of e-government, it's on the web which is kind of hard to -- you know, a lot of people kind of still like paper, I think I'm one of them, but now it's all electronic.

So if you actually get the Federal Register version, there's only like two regulatory items, but those are the significant items we have, and the other 26
items are in this website, reginfo.gov. So if you want to go and look at all the different items we have, seventeen of which are the responsibility of the directorate in which I'm in, you can see the details of those.

I'm not going to go over all of those. I was going to pick out a few, primarily the ones that have some impact or may impact on construction. I will not cover the two construction ones, cranes and derricks or confined spaces, because they're in our Construction Directorate, but these are ones that we're working on in DSG that also have some construction implications.

I heard some questions just when I came in a little bit about PPE payment. This is one we've had for a few years and finally finalized this November where it doesn't really address anything in terms of what PPE is required, but mainly the issue is the payment of PPE, and this sets the requirement that employers pay for most types of PPE and there are some exclusions that we have in this, and I think you discussed these maybe a
little bit earlier.

So I'm not going to really get into a lot of detail about this, but things like ordinary safety toe wear and things like that. They're not covered by these things, but things that are required, especially under the general PPE standard or the substance-specific standards that we have, the employer's required to pay for those.

We also have another big project which we refer to as our consensus standards project, and there's a lot of different little rulemakings embedded in there.

One of the first ones we did was a direct final back in 2004, and so the overall goal of this project is that, as many of you are probably aware, a lot of the standards, in particular a lot of the safety standards, we have used consensus standards as the basis in some form or another for the existing OSHA standards, and over time, these consensus groups have updated their standards, and OSHA has not been able to keep up pace.

So the point of this project is to
try to look at the ones that we could address
in a short fashion, and some may take a little
bit longer, but to pick off as many as we can
and in as quick a fashion as we can to update
some and make them more consistent with
current consensus standards.

The most recent one that we did was
another issue with PPE, not with payment but
with the consensus standard on PPE, and this
covers head, foot, and eye protection, and we
published this in the spring of last year and
completed hearings last month. So the
rulemaking record on that will close in a
little while, and we'll evaluate that record
and go on and complete the final.

Another one that we published, it's
almost a year ago now, was our final standard
on Subpart S. This is a general industry
standard. So we have a counter in the
construction industry, but this one was geared
to look primarily at electrical installations
in general industry. It was published as a
final in February of last year, became
effective this summer.
But there has been one issue with regards to temporary wiring and ground fault circuit interrupters, and the reason I bring this is up, because it does use some terminology which has created some confusion because the terminology it uses is that it requires the use of GFCIs where temporary wiring is used, and it gives these examples, and one of them is construction-like activities.

What we're trying to get at is the standard covers general industry. So first of all, you'd have to make a cut about whether it's construction or general industry, and once you've made that determination, you come into the general industry standard, but there are some activities that we believe are sort of construction-like in nature and the hazard is the same, and so we would require the same type of requirement.

But this particular phrase has sort of created a little bit of confusion. So what we're going to plan to do is have a technical amendment to explain what we mean here. It's
not meant to try to draw the line necessarily between construction and general industry but more to try to explain to people what our impetus was behind this particular provision. So really it's just for clarity's sake.

Another electrical standard we have is working on Subpart V. I mean, typically, we sort of generically refer to it as Subpart V because most of the work is going to cover the construction standard for electric power generation, transmission, and distribution, but there is a small part that's also general industry, dealing with maintenance under 1910.269.

We proposed this back in '05, commenced hearings the next year, and right now in our current reg. agenda, we're estimating final publication some time spring of this year.

We had to do a little bit of adjusting because in order to complete our PPE standard, we had to pull somebody off of that standard out of the Maritime Office to work on PPE and subsequently had to pull somebody out
of our Electrical Office into Maritime to backfill that.

So we got a little bit, in terms of trying to cover all the different work we had, we had a little bit of delay on that one. So we might not quite make that, but we're still working hard to make that date.

The main things that this will cover are trying to address communication issues between host employers and contract employers, things to protect from electric arcs, both in terms of PPE as well as, you know, laying out ways in which you would determine the energy in certain systems, address minimum approach distances, fall protection for employees working in aerial lifts, and also training to help them understand how to determine the -- energies of different power lines that they would be working on or around.

Going to more sort of the health end, we have our work on hazard communication where what we're trying to do now is -- the United States, in particular individuals in
OSHA have been heavily involved in getting the globally harmonized system of classification of labeling of chemicals, and so right now, the United States is at the point of adopting this system.

OSHA is one of those agencies, as well as EPA and CPSC have some work there, too, but what we're working towards is a proposal that would amend the current hazard communication standard to adopt this globally harmonized system where we would be more in line with the way the rest of the world classifies and labels chemicals.

We had an ANPR last year or actually over a year ago now, and that period, comment period, closed at the end of last year, and we just completed the peer review of our economic analysis. So we're moving forward trying to get this done as quickly as possible.

There was an international goal of adopting the hazard communication, the GHS, by 2008, but we, as well as a number of other countries, are finding that rather
In particular, because, I mean, the hazard communication sounds very ideal and it's a very simple concept in terms of, you know, trying to get everybody to have the same sort of system to classify and label chemicals so that everybody -- if you're going to cross countries, you have sort of a unified way of identifying hazards and recognizing them so that, you know, employees would have less confusion if they're seeing labels coming from different countries.

The complexity that's entered into it in OSHA is that, you know, we have a number of different standards which use phrases like "flammable," "explosive," and things like that. So we have to be very careful about how we adopt these definitions because they can have the unintended consequence of affecting another standard.

For example, something like the process safety management standard where you have a certain definition for reactive or something like that. You start changing the
definition, you know, you might inadvertently change the scope of, say, the PSM standard.

So we have to be very careful and go through all the different standards that have these sorts of definitions to figure out ways in which it might impact those standards and ways in which we might lessen that impact.

Another standard that has some impacts in construction is our standard on silica. It's been around for a long time like a number of other substances under the air contaminant standard.

There's a fairly large amount of non-compliance with the existing PELs. There's a lot of complexity of this in terms of sampling and whatnot.

We did the SBREFA process a couple years ago, and now we've been in the process of trying to pull together our health effects and risk assessment to the point where we can get it peer reviewed.

We were fairly well along in that process, but then OMB passed some new guidelines about peer review, and so we had to
sort of take a step back in order to be in compliance with those guidelines, and we also spent a fair amount of effort getting our conflict of interest form out because when you go out and seek peer reviewers, you have to get their conflict of interest, and if you get more than nine people that you're requesting it from, OMB considers that a survey.

So you have to actually have that form approved, and sort of the approach we took on that, rather than just making it very specific to silica, we thought it would be in our best interests to get this conflict of interest form filled for any chemical that we might have peer reviewed so that we wouldn't have to keep going back every time we wanted to, you know, go and seek more than nine people to get their input on a risk assessment. So that took a little bit of time to get that figured out.

Beryllium, another substance that was adopted back in the early '70s. It had some earlier work in 2002, both in terms of an RFI and some safety and health hazard
information bulletins, and most recently, we completed our SBREFA review.

We started that back in September, and the panel report was just recently signed off by OMB. So I think that panel report will be, if not already, sent to the Assistant Secretary, and probably we'll be able to make that publicly available on the website. Is that right, Sarah?

MS. SHORTALL: Yes, it was signed this week. The report went to the Assistant Secretary this week, and it will be put into the record for the beryllium rulemaking.

MS. EDENS: We have another project that is now in its third phase and it may even have a fourth or fifth phase, it's called the Standards Improvement Process, and basically this effort all along is to try to look at things that are sort of outdated, that might be duplicative, so that it could be simpler for employers to understand, and so now we're in our third phase.

We published an ANPR in December of '06, and the proposal now is under
development. It's going -- departmental review right now.

Some of the issues that might be of concern in construction, (1) there's an issue regarding posting of the requirements for the hazard assessment that's required under the PPE standard.

We're looking at updating our definition of potable water. Also, we're trying to clarify some of the triggers for medical surveillance and exposure monitoring and making them more consistent for the lead standard and also attempting to remove some redundant training requirements under the comprehensive health standards.

As you may know, we have sort of a hazard communication standard that has an overarching training requirement, and then in a lot of existing health standards, there's lots of different ways in which that training requirement is explained. So we're looking at some ways to sort of harmonize those and make it simpler for employers who may have to comply with a number of different standards.
Hearing and conservation. We did an ANPR a few years back, and then we held a couple of different stakeholder meetings, and since that time, we've been putting a fair amount of effort into going out and doing site visits and doing some analyses to collect different kinds of programs and to evaluate sort of the current practices out there and how effective they are so that we could do sort of the necessary technologic and economic feasibility assessments that we would need to do in order to move this standard forward.

And finally, just to mention this, I don't know how much it will have in construction, but we did an RFI in September of last year regarding emergency response and preparedness, and really this was sort of an outgrowth of sort of 9/11, where we do have a lot of different sort of emergency response requirements out there.

We have HAZWOPER. We have some requirements for emergency programs and different standards and things of that nature, but now sort of the nature of emergency
response and preparedness has changed, and the way people have to sort of respond to sort of the modern environment where we have either things that are purposely done or sort of these things like pan. flu and the nature that we really hadn't thought of in the past, and so this effort is to sort of look at that in the new way we're looking at emergency response and to get people's input on how OSHA should best move forward dealing with these new sort of challenges in the emergency response environment.

Just a couple quick things on guidance. I won't spend too much time before I turn it over to John.

I guess guidance now has been a new mission in our directorate for a few years now, and we've been fairly productive. I'm not going to go through a lot of these right here, but we're finding it very challenging and rewarding to get a different kind of spin on things, not just doing regulations but doing some guidance projects, and we have a lot of creative people at our directorate and
have been fairly active in putting some things out.

In particular, we have the OSHA pan. flu guidance which we did as a part of a larger federal effort. This one right here is the general one, and then our colleagues in the Directorate of Science, Technology, and Medicine did a more specific one regarding healthcare.

This just lists a few of the guidance products we have in development, and I'll highlight the one at the bottom which we have come to this committee before with this issue which is working with Portland cement.

As you know, we did not include Portland cement under coverage of our hexavalent chromium standard because we felt that there were existing standards to address the particular hazard that comes with Portland cement which is primarily from a dermal exposure.

So partly as a result of just our own need to make sure that people understood those standards and also as an outgrowth of
some of the settlement work that we did with the Building Construction Trades Department, we had this - I don't know if it was a pamphlet or a document, whatever you want to call it, it's going to be Working Safely with Portland Cement. This will address what the major hazards are as well as clearly identify the standards that employers have, the responsibilities they have under those existing standards with regards to working safely with Portland cement.

The silicon exposure document, that is now in OSHA clearance process. So hopefully that would not take too long and we could get it through the department and have that out in not-too-distant future.

And the ergonomics and shipyards, we actually published that a few months back and got comments, and I don't think we got a whole lot of criticism on that one. So hopefully it shouldn't take too long to turn around that document and get that out in a final.

And with that, I will turn it over
to John to let him complete, and then we'll take the last five minutes or so for questions.

MR. STEELNECK: All right. I am John Steelneck. I'm the project officer on OSHA's respirator standard.

When the OSHA published its respirator standard in 1998, it contains OSHA-accepted qualitative and quantitative fit test protocols in Appendix A, but it also contains in Part 2 a way to get new fit testing protocols approved by OSHA, basically by going through what's called Section 6(b)(7) rulemaking, notice and comment rulemaking.

Now the last time I was before the advisory committee here was to present the abbreviated Bitrex NPRM. That was in October of 2006. Since then, it has gone through the system, has been approved, and it was finally published in December 26th of 2007, and is out right now for public comment. Public comments on that are due February 25th, 2008, and then we'll go forward and look at the comments and hopefully finalize that.
At the time I presented that before the advisory committee, I also told them that we had just received the PortaCount. The PortaCount is the most widely-used qualitative, quantitative fit testing machine out there.

It's widely used for doing quantitative fit testing using the PortaCount really, and I said that we would be coming to the next advisory committee meeting to present that.

Well, I'm now here. History of the TSI, Inc., the manufacturer, the one who manufactures and distributes the PortaCount, submitted their peer-reviewed article to start their review system for an abbreviated set of fit test protocols, two new protocols for use with the PortaCount.

This was published by Dr. Roy T. McKay, who's a researcher, works at the University of Cincinnati, but he's also Chairman of the ANSI Z-8810 Fit Testing Subcommittee currently, and so he's very knowledgeable about fit testing, and I think
that's why they got him to do their testing for them.

There are two protocols. Basically, one of them just does the exact same protocol that OSHA has, but instead of using 60 seconds, a one minute exercise, they cut the time in half to 30 seconds. Then they have a second protocol which has five exercises. They eliminated two exercises, deep breathing and the first normal breathing, which are both where you don’t really move your head a lot, and instead they did other things to make it a tougher, more constrictive fit test.

Basically, they raised the pass/fail criteria for the second protocol from 100 to 200 for half mask and from 500 to a thousand for full face pieces. This is basically to eliminate the number of false-positives that make it a more stricter fit test. It provides a more conservative fit test by raising the pass/fail criteria and that worked pretty well.

That second fit test performed very
well. It actually showed up when compared to the ANSI Z-8810 standard has and their Appendix A-2 a set of criteria for evaluating new fit tests and for all the criteria, it turned out very well.

As you can see, basically here in the actual standard, proposed standard that I distributed back here, there is -- they are in the actual -- Page 11 is the actual values and you see for both half masks and full face pieces, the Protocol Number 2 exceeded all of the ANSI values.

The Protocol Number 1, which is where they just reduced it to 30 seconds, has a problem in that the sensitivity was only 91 percent when they really needed 95 percent. That's a problem. Basically, they have a false-positive in the test, meaning for the quick test, somebody would pass. There's a chance that one person might pass that would fail with the full 60-second OSHA test and that is a problem for us, but we're proposing to put it out for public comment to see what comments we do get on that from the general
Okay. We have invited comments basically on the accuracy and reliability of the proposed protocols. We ask a number of questions on Page 15, as you can see, describing how do they look at the peer-reviewed article, how well is it controlled, do they see problems, what do they feel the problem is, especially with the one issue we have, the 91 percent, and I think that will probably be a problem.

The second protocol performed very well against the ANSI standard criteria and that looks in much better shape, but we'll see what the public comments are.

Finally, once we've presented it here, this is a very short review, and what will happen is after you folks have a chance to look at it and make any comments, we will then proceed with the OSHA clearance process here within OSHA before we send it to OMB, the same process we did with the Bitrex fit test, after you saw that last time, and we will go through and publish it in the Federal
Register, hopefully some time later this year, and that's what we're planning to do with the revised PortaCount fit test method.

Thanks.

MS. EDENS: I think that's all we have, unless you have some questions.

MR. MURPHY: Amanda, Dan Murphy with Zurich.

Amanda, hearing conservation in construction. Have you begun to do any research on what, if anything, is happening out there?

MS. EDENS: Well, yes. I mean that is the purpose of our site visits, is we have a contractor who's going out, surveying some of the sites where they have hearing conservation programs in place, trying to evaluate what kinds of things they have, what kinds of things they don't have, and trying to see, you know, are they being effective, and so we'll look at, you know, basically what we can collect from the different places that we go and see if they are effective, if they're not, and also to kind of get a baseline of
sort of what is out there, so that if we were to have, you know, a standard, it would help us to assess, you know, how much more would people have to implement and what would it take to get them up to a place that we feel would be adequate in terms of our hearing conservation program.

MR. MURPHY: Okay. Because it's a major issue in the construction business. We've had those discussions at this committee in the past, and I guess if you need any assistance in trying to take a look at that, please contact me because I have a great interest in trying to solve that problem, but I'm not sure how to solve that problem, especially from a medical monitoring perspective.

MS. EDENS: Thank you for that offer.

MR. RUSSELL: Yes, on hearing conservation, do you have any time table or goals or next steps really clearly outlined as to where it's kind of heading?

MS. EDENS: No. Right now, the
current step in the most current reg agenda that just got published in December has it down as undetermined. So, we don't have a next step plotted out at this point that's on our agenda.

MR. RUSSELL: Could at least we, you know, think about some methods of trying to define that, you know, so that it's not open, if you follow what I'm saying?

MS. EDENS: Well, I think, you know, every -- at least twice a year, we go through the different projects that we have on the reg agenda and try to make some management choices about what the next steps are going to be in terms of what we know, what resources we have and that.

So, you know, the new agenda will come out in like April or May, depending on how quick OMB gets all the different requirements together, but we'll be going through that next cycle and we go through each of these items.

I mean, the best I can promise you is that we will look at that item like we look
at all the other items we have in trying to figure out what our next step will be and that will be made, you know, in conjunction with the Assistant Secretary and the department as well.

MR. RUSSELL: Thank you.

MR. BEAUREGARD: Amanda, Kevin Beauregard with the Department of Labor, North Carolina.

Can you expand or explain what went into the decision on the pay for PPE in regards to logging boots? I noticed that there is an exception for logging boots.

MS. EDENS: Well, I'll make an attempt. I mean, the best person, Kevin, you heard Jim Maddux was at OSPA last week, and really take this with me not -- I'm not sort of the expert on PPE, but there were already some issues under the logging standard where they address the issue about PPE in the logging standards and this rule was not trying to get into that particular one.

So, I think it really was a division of having two different rules and
trying to make them sort of consistent.

MS. SHORTALL: Kevin, in the 1994 Federal Register Notice announcing the final rule for logging, there is a very large discussion for why logging shoes were the one item that employers were not going to be required to pay for. For all other items of PPE that were required under that standard, employers were specifically required to pay and it was specified in the standard.

So, if you want an exact cite, give me an e-mail and I'll send you the explanation for it.

MR. BEAUREGARD: Okay. Great. Thank you.

MS. EDENS: Thanks, Sarah.

MR. MIGLIACCIO: Amanda, Frank Migliaccio with the Ironworkers. I have a few things.

When you were talking about the Portland Cement, you said that there was a Working Safe with Portland Cement. There's cards going to be out. Are they out yet?

MS. EDENS: No, they're not. They
are -- we had them. They're pretty much almost ready to be released. It's not really a card. It's going to be -- I don't know how to best describe it. I don't know if it's a pamphlet is the best word. It's not going to be like a little quick card, though.

It's cleared pretty much all of OSHA. I guess we're trying to clear up some issues about whether or not it needs to go to our departmental clearance folks, and I think they said that that wasn't necessary. So, hopefully we can get that out pretty soon.

The only step that might be taken now is to give it to our communications people to make it pretty, so we have all the right information, but we do like it to look nice as well.

MR. MIGLIACCIO: It would just be interesting to get some of those cards and reproduce them ourselves.

MS. EDENS: Sure.

MR. MIGLIACCIO: The other one is you talk about the consensus standard on the PPE.
Is there any talk about taking the consensus standard with the construction and general industry and maritime and putting it all together as one?

MS. EDENS: I don't know. I'd have to get back to you on that one. I don't know the answer to that.

Sarah, do you?

MS. SHORTALL: That's another standard that I was working -- I have been working on.

This is sort of the first phase of a number of different things that we're doing on some of the PPE standards. So, it was decided to take it sort of a step at a time with the idea and notion that, you know, based on what we got for comments during the December 4th hearing, that would give us the information we needed to also then thereafter address construction, and we did have representatives from the construction industry who did come to testify at that hearing.

MR. MIGLIACCIO: Thank you.

MR. SMITH: Yes, sir?
MR. RUSSELL: Emmett Russell. One last question.

As it relates to silica, I know that's kind of a construction industry and we may have a presentation from construction, is it appropriate to ask that then or is it appropriate to ask now, you know, what's the status of silica?

MS. EDENS: That's really in our directorate. We're taking both of those, unless Steve wants to answer.

MR. WITT: As the former director of Standards and Guidance, I think that would be appropriate for Amanda to answer.

MR. St. AMOUR: Right now, the reg agenda has it down as the peer review being completed in January. Since we haven't started it, I'm fairly certain that it won't be completed in the next five days.

So, I mean, what we're doing now is it's cleared some of our SOL attorneys or not cleared but we're working out just some of the last comments and hopefully we'll be taking it down to the Assistant Secretary and he can
decide sort of the timing on that one.

So, I don't know. What more specific did you want? That's the next step, is in the reg agenda, just to complete the peer review of the health effects and the risk assessment. So, we haven't really projected the date beyond that particular step at this point.

MR. RUSSELL: But it's definitely still in the process of moving forward?

MS. EDENS: Yes.

MR. RUSSELL: Thank you.

MR. SMITH: Other questions or comments? Yes, sir?

MR. ZARLETTI: Dan Zarletti from Kennett Construction. I wanted to just ask a question on Subpart V.

Does April '08 sound like a firm, still a firm date, and who will be the key person to contact?

MS. EDENS: The key person working on that is Dave Wallace. He's the office director in Office of Engineering Safety where that project resides.
As I mentioned before, Dave has had to do some double duty because we've had to do a little bit of personnel shifting in order to meet the deadline we had for the PPE standard. One of the experts on that was in another office and Dave sort of had to do some double duty. So, he had to do that.

The deadline on that probably might slip a couple months, but it shouldn't be too far. We're fairly well down the road on that, unless something unexpected, you know, were to come up because we did complete the hearings and we have staff working on it, but I can never predict when something will happen and, you know, you have to reopen the record or something like that.

MR. ZARLETTI: Right. But is there anything in print now as a draft?

MS. EDENS: No. The only thing that's out there would be the proposal.

MR. ZARLETTI: Okay. Thank you.

MR. SMITH: Thank you. Other comments by anyone that hasn't spoken?

(No response.)
MR. SMITH: Amanda, we thank you very much for your presentation and for your time here before the committee this morning.

MS. EDENS: You're welcome.

MR. SMITH: Is our next presenter here, the Directorate of Science, Technology, and Medicine? Okay. If you would come forward and get your presentation ready, we would appreciate it.

Okay. We thank Ruth for coming this morning, Ruth McCully, and look forward to her presentation and she's going to be talking about the OSHA National Response Plan, I believe.

MS. McCULLY: Right.

MR. SMITH: And we'll turn it over to you at this time and thank you so much.

MS. McCULLY: Well, thank you. I have some handouts.

MR. SMITH: Do you have a PowerPoint?

MS. McCULLY: I do not have a PowerPoint.

MR. SMITH: Okay. Good. I can sit
here then.

MS. McCULLY: You can.

**OSHA's Role in National Response Plan**

MS. McCULLY: I'm Ruth McCully, and I'm Director of the Directorate of Science, Technology, and Medicine in OSHA, and what I've been asked to go over with you all today is the National Response Plan, and actually we don't have a national response plan anymore. It's called the National Response Framework and what is being distributed is materials.

The National Response Framework was rolled out on Tuesday at the National Press Club. The Secretary of Homeland Security, along with a number of other secretaries and assistant secretaries, our Assistant Secretary was there, rolled out this new National Response Framework and so the materials that you have that are going around are the press release. There's a Q&A document and then, you know, What's New in the National Response Framework.

Then there is a -- I have the color version, you all do not, but it's another
handout that is called Introducing the National Response Framework, and this introduces you to a center which will be on the Internet that you can go to. It will be updated periodically with documents that are relevant to the National Response Framework.

So, my goal today is to really go over with you what is this new document, the National Response Framework, how does it differ from the National Response Plan, what does it mean to us, and in particular to go over the revised Worker Safety and Health Support Annex because that has gone through a number of revisions, and one of the handouts that has gone around is the Worker Safety and Health Support Annex to the National Response Framework.

All right. So that's the goal, and then after that, if there are any other questions related to the directorate, I'd be happy to take them.

This was a process that was a long time coming. Just to set the stage, prior to 9/11, the country had four response plans,
basically. It had the Federal Response Plan which is probably what the states and locals are most familiar with. It gets activated if there's a natural disaster.

   There was a Federal Radiological Emergency Response Plan for radiological events. There was a Con Plan which was for terrorist events, and there was a National Contingency Plan for major spills that came out of basically the Oil Spill Act that was passed by Congress.

   After 9/11, one of the lessons learned was the country needs one plan. So, they did away with those plans and we came up with the National Response Plan.

   The National Response Plan was basically the country's largest MOU. It was signed by every single secretary, including some private sector organizations, the American Red Cross, for example, and this document was signed in 2004, went into effect in April 2005.

   We were rolling it out through the end of June of 2005 and then we had Hurricane
Katrina, the country's largest natural disaster, and we never really had an opportunity to really exercise the National Response Plan, but as a result of that, one of the reports that came out, really the lessons learned from Katrina was the National Response Plan wasn't working. It was too big. It was a very thick document. It was too much to get through. It wasn't flexible enough, and as a result, the country really needed a framework instead of a plan that was too dictatorial, I guess might be the best word.

So, the idea to come up with a National Response Framework really came out of the White House Lessons Learned Report on Katrina.

The process for this started a year ago. About a year ago, work groups were established to say how can we redo this document in a way that will be most useful to the users and that's not necessarily the Federal Government.

All response is local. So, how do we come up with a framework that includes the
local entities, the states, but also talks about how the Federal Government can assist in those types of situations?

There were a number of work groups that were established. There were about 400 people who participated in work groups in the development of the National Response Framework, and the Response Framework was sent out for comment in September of 2007.

So, it's basically a document that focuses on response as compared to the National Response Plan that focused on planning, preparedness, prevention, response and recovery. It does have sections on planning, it does have sections on recovery, but the main emphasis of the National Response Framework is response.

What are the organizations, what are the coordinating structures at the local level and the federal level that are going to be engaged in response? It really lays out how the states will function, how the locals will function, and then how the Federal Government will function.
It follow the incident command system. The incident command system is the language of response and that was one of the items that was really kind of lacking in the National Response Plan.

So, the National Response Plan makes sure that the incident command system is integrated into this framework. It relies on another document which is called the National Incident Management System which really lays out the structures and how locals, states and Feds will respond in an incident command structure type of organization.

It also says, for example, that the National Response Framework is in effect always. In the past, the National Response Plan, for example, had to be implemented by the Secretary of Homeland Security. This is saying that the National Response Framework is always in effect. There's other mechanisms for calling in different organizations, if needed.

So, it's a tool that is really geared for senior officials, federal
officials, and senior officials at the state and local levels. It also addresses tribal entities as well.

It's a document that is geared to be scalable, depending upon the size of the event that's being responded to, and it also includes -- it's a base document that's relatively short. It's about 60 pages, which is nice compared to what the regular one was, and it is also supplemented by emergency support function annexes, support annexes, and incident annexes.

You will see, for example, that there are some things that have been eliminated from the document. For example, it goes into more -- let me make sure -- I want to make sure I've got this right.

It really defines the whole notion of what a Principal Federal Official is. There was a lot of concern about that. A Principal Federal Official will be appointed by the Department of Homeland Security if you have a large event, but for most events, it's really going to rely on a federal coordinating
official which is appointed by FEMA.

A little bit about the background in establishing this is that we received a number of comments, which I'm trying to find right now. Here they are. Just bear with me a minute.

All right. We received a number of comments. A total of 5,700 comments were received on the National Response Framework and on the annexes. The National Response Framework was put out for comment in September, the annexes were put out for comment in November.

So, we had over 300 entities that commented and over 5,700 comments that had to be resolved, and it was a pretty aggressive schedule that we were all put on to try to resolve those types of comments.

As I mentioned, there's an NRF Resource Center and that's in one of the handouts that you have. I have been on it. I tested it. It's user-friendly. It's intuitive. You can go to it pretty easily and get to different documents, and I would
suggest if you have an emergency response person in your organization, you make them familiar with this because this is going to be something that, as changes come up, they're going to be reflected on that National Response Framework, on the National Resource Center.

Why this is important is they make the point, particularly in the cases of the annexes, is that these are living documents and they can be changed at any time. There isn't going to be a type of -- it makes it appear that there won't be a situation where they're going to say, okay, we want to now make changes to the National Response Framework. This is the process. They can take any of these annexes at any time and make changes to them. So, it really is going to be a dynamic type of situation.

There will be an aggressive training program that is going to go along with the National Response Framework. There is going to be awareness training for emergency support functions that is scheduled
for mid March. Awareness training for support annexes is also scheduled for March, and the incident annex training is scheduled for April.

They're also planning to have position-specific training, and why this is relevant to us in particular is that in this framework, it specifies a safety officer and a safety function. So, we want to make sure that we're involved and for that position-specific training to make sure that that safety function training addresses the issues that it needs to address for emergency response and preparedness.

Some of the things that are new in the Response Framework. We've done away with some of our teams. We no longer have emergency response teams. We now have incident management assist teams, basically the same thing, a new name, a new acronym.

My experience in the emergency response world over the past seven years is if you don't like that acronym, just wait awhile, it'll change. Half of it is just trying to
keep up with the acronyms.

The other changes that you'll see that are probably most relevant, ESF-6 is no longer being taken care of by American Red Cross. The American Red Cross is no longer the primary agency. That's been taken over by DHS-FEMA. That's the one for mass care, emergency assistance and housing and human services.

There's been a collapsing of some ESFs. After Hurricane Katrina and with household pets and animals, there was a real concern about people being separated from their pets. Pets are family members and for some individuals, it may be really the only family that they have and it's important that their pets and them stay together.

So, for ESF-11, for agriculture and natural resources, a primary function of safety and well being of household pets has been added to that function to make sure that pets are not separated from their family members.

There's a new annex that has a
There's been considerable work going on over the past couple years over at DHS on critical infrastructure and key resources, and these are really private sector entities.

We're talking about utilities. We're talking about chemical industries, so forth, and so there's a new support annex that details processes to ensure the coordination and integration of these critical infrastructure and key resources.

If there's a major disaster going on, we want to make sure that those issues are addressed and that those critical infrastructures are maintained and continues to function. So that's been elevated.

There is also an incident annex that has been added on mass evacuation and clearly that's one of the lessons learned from Katrina, is how we effectively do mass evacuations.

In the past two hurricane seasons since Katrina, there's been considerable -- there have been exercises that have been done...
and a lot of focus on mass evacuations and so now with the National Response Framework, there is an incident annex that deals specifically with mass evacuations, so we don't end up with a situation like we had with Katrina where, in the middle of a flood, you're trying to evacuate hundreds of thousands of people.

Probably one of the issues that people are most concerned about in this meeting is the worker safety and health support annex.

As you know, the Department of Labor put forward a recommendation that the worker safety and health support annex be elevated to an emergency support function rather than a support annex, and this got -- and Assistant Secretary Ed Foulke presented the case for elevating it to an emergency support function.

However, when it was heard, the decision was made by the Interagency Community that it remain as a support annex rather than an emergency support function.
This process was overseen by both the Department of Homeland Security and an interagency work group called basically the Domestic Readiness Group which is made up of assistant secretaries across the Federal Government, so it's an interagency group, and they viewed the worker safety and health support annex as an annex that should be called up basically whenever there's any type of disaster.

There are workers who are involved, health and safety of those workers needs to be ensured, and so it's an annex that plays a role in any of those entities.

Now, in the process of doing that, we have redrafted the worker safety and health support annex, and this is based on our lessons learned from Hurricane Katrina as well as input that we received from the GAO and their findings in the GAO report, and what I'd like to do is go over what some of them are here, kind of walk you through just some high points of this document.

First thing that you can see is in

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the Scope, the second bullet there, is that it's very clear that this annex is structured to provide technical assistance and support for response and recovery worker safety and health and this really lays out the types of activities that you can find as a result of this support annex.

For example, the activities within the scope of this support annex will include the development of health and safety plans, identifying and doing assessment of health and safety hazards, conducting exposure monitoring, collecting and managing data, providing technical assistance and support for PPE programs, incident-specific response and recovery worker training, medical surveillance, providing exposure and risk management information, and providing technical assistance in the form of assistance relative to industrial hygiene, occupational safety and health, engineering and occupational medicine.

So, the scope kind of lays out what are the specific types of activities,
resources, that will be provided by this annex.

   The annex clearly lays out, for example, under the Organization on Page 2, that the annex operates under the direction and leadership of the Assistant Secretary for Occupational Safety and Health. So, DOL-OSHA is the coordinating agency for this and the Assistant Secretary basically leads the direction of this annex.

   At the local field level, the OSHA Regional Administrator is the regional leader for the annex.

   One of the questions that came up, for example, is what is the breakdown between what the worker safety and health annex would be responsible for and what FEMA would be responsible for, and on Page 3, you'll find that that is covered, and on the top of Page 3, it talks about within the joint field office, FEMA is responsible for the safety and health of its own employees as well as the safety and health of staff in FEMA-managed facilities.
This annex is responsible for the safety and health of all other workers, if it's implemented, and so the coordinator, the representative of the coordinating agency of this annex, would report directly to the FCO, the federal coordinating official, and would report on safety and health issues relative to response and recovery workers beyond the FEMA jurisdiction.

In the initial actions at the bottom of Page 3, this is new to annexes, it will talk about, for example, that within two hours of notification, the OSHA Assistant Secretary will ensure that all DOL-OSHA parties are fully informed, that it will alert cooperating agencies, and that we will send representatives over to the National Response Coordinating Center, which is housed over at FEMA Headquarters.

At the local level, the regional administrator will assume control for operations of this annex in the field and will staff the regional response coordination center.
So, we didn't have this in the past. We now have seats at the two major coordinating centers, both at the national and at the regional level, to address worker safety and health issues during a response and that is new. That didn't exist before.

In incident-related actions, within two hours of being notified as the coordinating agency, we will convene, probably through a conference call, a meeting of the appropriate agency representatives of our cooperating agencies, and on the front page of the document, it lists the cooperating agencies.

These include the Department of Defense, specifically the Coast Guard, the Department of Energy, Department of Health and Human Services, which includes NIOSH and Federal Occupational Health. We will also include the Department of Homeland Security and that specifically is FEMA as well as the other cooperating agencies, EPA.

So, we will look to all of our cooperating agencies for assistance. I left
one out. Department of Health and Human Services, this is a key player for us, is the National Institute for Environmental Health Sciences. They are a key player for us, particularly in the demands that come for training of workers.

All right. Under the Incident-Related Actions, rather than having a menu like we did last time, we tried to group that and you'll see that the incident-related actions that we have include worker safety and health needs assessment, which will include monitoring as well as observation of safety hazards, the development of health and safety plans, safety and health assessment ongoing monitoring, personal protective equipment, depending upon the event.

We will assist in the monitoring and/or providing information and technical assistance for PPE programs, including the selection, use and decon of PPE, and in coordination with FEMA and ESF-7, we will work with them on the logistics to make sure that if PPE is needed, it's being purchased and
it's being delivered to where it needs to be delivered.

We'll also focus on data management which, as you know, in an event can be its own type of difficult situation to deal with to get that type of injury and illness data from federal agencies and from private sector entities.

Training and communication is always key and we will start work -- and we usually rely on NIEHS. They have the master trainers and we use them to put basically just-in-time training together for those response and recovery workers.

We will work with ESF-8, which is HHS is the lead agency for that, on worker health and medical surveillance and we have our staff of occupational physicians who have worked with HHS in the past in doing those types of situations, doing that type of work.

And then in the area of psychological resiliency, we will continue to work with HHS, Federal Occupational Health, in the Substance Abuse Mental Health Services
Administration, to address psychological resiliency during emergency response.

So, as the last few pages of this document then list the responsibilities of the coordinating agency, that being DOL-OSHA, as well as the cooperating agencies and for each cooperating agency, it gives a summary of what the functions of that organization would be during emergency response.

The other change that comes about in this is that established at the joint field office is an Interagency Safety and Health Committee that's made up of representatives of the federal agencies that are representing the emergency support functions in the joint field office and we would chair that Interagency Safety and Health Committee.

What we found in Katrina, for example, that committee met daily in the early days. It continued to meet during that 12-month response recovery period, although it ended up at the end meeting once a week, but we would basically be involved and that's where you really get to share the information
of what hazards are being seen, getting information out there as far as changing requirements for PPE or changing requirements for controls. So that Interagency Safety and Health Committee is an important communication tool during response activities.

So that is a summary of the new National Response Framework. I really do urge you to take a look at the website and you can download the information and have your own personal copy.

This has not been published in the Federal Register yet. Once it's published in the Federal Register, it will become effective 60 days after publication in the Federal Register.

MR. SMITH: Thank you very much, Ruth.

Are there any questions or comments for Ruth while our next presenter's coming forward and getting ready? Yes, sir?

MR. ZARLETTI: Yes, Ruth. This is Dan Zarletti from Kennett Construction.

You mentioned training that's
coming up in March and April. Is that on the website, information about where and when?

    MS. McCULLY: I don't know. I mean, this is just information that I just received yesterday. So, as we get information on training, I'd be happy to send that over to Steve Witt and he can send it out to you all.

    MR. ZARLETTI: Thank you.

    MR. SMITH: Thomas?

    MR. KAVICKY: Thanks, Mr. Chairman.

    Ruth, Tom Kavicky, Carpenters Union out of Chicago.

    As we all know, Ruth, OSHA was heavily criticized during the World Trade Center and Katrina for not enforcing standards.

    Does the annex account for that? How is OSHA going to enforce those standards or are they in the future responses?

    MS. McCULLY: That's really covered under a directive that we have for the agency, and the directive is -- basically, it's our National Emergency Management Plan, and during
although it does away with -- although the National Response Framework does away with the term "incident of national significance," if there's a large-scale incident and, for example, the annex is implemented, initially that response will be a technical assistance response rather than an enforcement response.

And the decision to go -- to return to enforcement will be made in consultation between the regional administrator and the Assistant Secretary, and we have looked at the different types of approaches that we can take to work out those issues as far as enforcement versus technical assistance.

But in the early days, when we're in a response and we're talking about a large-scale disaster response and recovery, we would be operating in a technical assistance mode.

Now, as things change during that event, as things start to return to normal, if there are situations where you have basically a resistance to putting in the corrections that we are asking to be put in, then the agency can look at the use of the enforcement
tool in those particular situations.

So, it's not a black and white answer at this point. It's really on a case by case basis.

MR. BEAUREGARD: Just real briefly. Can you go over the interaction with specifically state plan, OSHA states, when you implement or when the annex is implemented?

Particularly, this kind of follows on the question that was just asked, is that in state plans, if enforcement is necessary, the state plan states actually have jurisdiction over local and state emergency responders, fire departments, paramedics.

In OSHA-regulated states, there's no enforcement ability over those. So, how do you plan on interacting with the states and coordinating within state plan states?

MS. McCULLY: Well, the regional administrators have been given direction by the Assistant Secretary and past assistant secretaries to coordinate with the state plan states and what we have found in both real world, whether it be the Minnesota bridge
collapse or in exercises, for example, we just completed a top-up exercise in Oregon, is that we've been able to basically put forth to the world one OSHA and, you know, when we go into those situations, the state plan does have jurisdiction in those areas and we're there and we pretty much provide assistance to that state plan who often doesn't have the same depth and volume of resources that we have.

What we have experienced is we haven't found that to be a problem and that in both exercises and in the real world, when you're working within this command structure, certainly at the local level, the fire tends to be the incident commander. So, you're working with them and they're paying attention to what you're requiring and I think you'll hear with the Minnesota bridge collapse, for example, they used a very innovative technique on daily checking on what the requirements were, and I think you'll hear a story as to how that worked very effectively.

But it is all working together. I mean that's the thing with an emergency, is
making sure that we're all working together.

   MR. SMITH: Okay. Thank you very much, Ruth, for your time. Appreciate that.

   We're ready for our next presenter.

   It will be our last presentation before lunch.

   OSHA's Structural Response Team, Mohammad Ayub, I think. Mohammad, are you ready?

   MR. AYUB: Yes, I think we need to turn on the computer.

   MR. BUCHET: If there's anything wrong, it's my fault.

   OSHA's Structural Response Team

   MR. AYUB: I think for the next one half hour, I'm going to walk you through some of the actual construction collapses that we have gone out to help in the enforcement mode.

   From 1 to 2 o'clock today in the afternoon, you are going to hear about the Minnesota bridge collapse. So, I'm not going to deal with that collapse now and I'm not going to steal the show. So, they will be here at 1 o'clock and they are going to talk
about that.

Before I proceed, I just wanted you to know as to who are the members of the National Structural Collapse Team. It's now coming up, I believe. Okay.

This team right now comprises six people and they have been drawn from National Office and here you are. We are going to add at least two more members soon in the team and this team in theory, it is only in action when the Assistant Secretary activates the National Emergency Plan, but in the case of a normal construction collapse, we can also draw some assistance from the team.

I'm just now waiting for the slide to show up there.

MR. THIBODEAUX: Keep going.

MR. AYUB: Okay. This team, while the National Emergency Plan has not been activated, it goes through training, one week of training goes through in classroom environment and one week of training goes out in the field, and the third week of the training is kind of a cross training between
the full team that we have because in the case of a collapse of a nuclear power plant, you might imagine that there will be radiation, there will be some chemical.

So, there is a need for the full team to act together. That's why we have a cross training between the full teams.

Next slide, please. Okay. These are the members of our Structural Response Team, and as I said earlier, we are going to add two more members soon.

Number 1 and Number 2 are by training, education and experience as chemical engineers and from 3 to 6, they are construction safety specialists and they have varied training in the disasters in the cranes, in all sorts of activities there.

Now, if you go to the Slide Number 3, this is what is one of the primary functions that you'll see, is to provide engineering assistance to the field in case of the major collapses.

This slide should not be confused with the earlier slide because this slide is
active all the time 24/7. Any time there is a collapse, in Jacksonville, Atlanta, New York, the RA is going to call the director of the DOC and they will come to some agreement that yes, there is need for some engineering help and we will provide that help.

In this slide, we are into the enforcement mode. In Slide Number 2, we were only in the technical assistance mode. So, in this slide, we will provide them engineering assistance. We will write a report to tell what was the cause of the collapse and we will also discuss whether or not there was violations of the OSHA standards or violation of the industry standards.

When we go out there, we have three objectives in our mind. The first objective is that the part of the structure that has already collapsed, it remains stable, there are no further collapses, and the part of the structure that has not collapsed, it is braced, it is shored, such that there are no unplanned collapses.

Number 2. We have an objective to
find out whether or not any of the OSHA standards or any of the industry standards have been violated, and the third objective is to find the cause of the collapse.

Can we go to the next slide, please? I'm going to walk you through some of the recent collapses that we have gone out in the field to help the RA here and area office.

One thing I would like to share with you, that based upon our 65 investigations that we have conducted so far of the immediate collapses, 15 to 20 percent of them are caused by the structural design flaw. It's not the fault of the contractor. It was the manner in which it was designed.

For example, Tropicana Garage collapse in Atlantic City. You will also know about the Jacksonville, Florida, garage collapse. Light Tower in Atlanta, a major sign in Georgia, which you see if you are driving I-95, there's a huge sign, that sign collapsed and killed three employees.

There was a steel chimney in Austin, Texas, and that failed. Just to give
you a few examples, that about 15 to 20 percent of the collapses take place because the structural engineer did not design the structure properly as per the described codes.

The first major incident I'd like to run by you is the Jacksonville, Florida, garage collapse. It was a five-story poured-in-place garage and on December 6th in the morning at about 6 o'clock, they were pouring the roof slab. That was the last to be poured and -- can you activate that?

This is a five-story poured-in-place garage. It is a one-bay post-tension slab with slopes in the roof and also one-bay post-tension beams and that green area is the area that was being poured on December 6th.

As they had started pouring concrete at about 12:30 a.m. in the morning and they worked four hours, except the two bays on the south, the entire garage collapsed.

The contractor was from Atlanta, Georgia, and we are finding -- we are not there yet. We have not yet concluded our
findings, but it seems that there are some major structural design flaws and also the fact that the amount of reshoring was not enough. He had only shored one level and two levels of reshoring, even though the shop drawings said the shoring calls for the reshores be placed up to the ground floor.

Now, the next slide is going to show you the manner in which it was collapsed. The last two bays that you see on the south did not fail but all the other five bays failed and as I said earlier, one of our prime functions is to make sure that the area of the building which has not collapsed, it remains stable, and we determined at the site that even though it had not collapsed, it is in danger of collapse, and the basis of that was that it is a one-bay post-tension slab and all the cables have lost their inner strength. It had become loose, therefore those slabs had no strength in them, and we asked the contractor that no one should be allowed to go underneath those two bays that have not failed. The contractor might have decided that he is going
to demolish that, too.

So, one more thing I would like to share with you, that by statute, we have only six months time in which we have to conclude everything. So, from the date of the incident, we have -- I mean the DOC has about four months in order to write a report, in order to conclude the findings, in order to write the basis and to find out as to what was the cause of the collapse.

In four months, you will find that some of the evidence are not out there yet. For example, in this case here, until today, the debris have not even been removed. So, we don't know where the shores, where were the reshores. We have no benefit of any test data on the strength of the concrete.

So, we work under a big constraint here, but our citations are not based upon the cause of the collapse. Our citations are based upon whether or not any standards have been violated, but some of the information comes out way later, like eight months or one year after the collapse.
The next incident which was a major incident of the Tropicana Garage Collapse that killed four garage employees and until last night that was the largest construction settlement, $101 million, but last night in Boston, due to the Big Dig at the airport, the settlement, I heard, was about $450 million. So now it is no longer the largest construction settlement here.

This is a very interesting case here and as I said earlier, part of the reason that the garage collapsed was the structural design flaw.

It was a very unique system that they had here. I don't know how many of you have heard the word "filigree." There was a filigree panel here. It is a two-inch thick precast concrete slab that acts as a form work for the poured-in-place concrete and it also becomes a part of the permanent slab.

That is the system that was used here. It's not very popular in all parts of the country, but at least in New Jersey, New York, Pennsylvania, it is fairly popular here.
So, this is a garage here. It was an eight-story garage and on October 30th, while the seventh floor was being poured here, we can see the filigree slab and the filigree beam and the shores here and while the sixth— I'm not sure whether it was the sixth floor or the seventh floor.

It was being poured and the exterior bay, which was about 60 feet wide, it collapsed from the seventh floor up to the fourth floor here.

Here you see the duration of the deflection of the slabs and those are the shores and those are the reshores and there was a big contention of the contractor that he was not required to extend the reshoring up to the first floor.

We'll see in this kind of animation that the reshoring and the shoring was only for three levels and the problem was essentially in the beam column joint in the exterior. The beam was much wider and the column was very narrow.

For example, the column was only 12
inches wide and on that narrow column, a 48-inch beam was going to rest on. Loading that column in a very eccentric manner here. Outside is the collapsed here area.

Can you go to the end? Okay. You'll see here that was the floor at the top. That was in whole and ACI, which is the Concrete Institute that says that you have to take a 50 pound per square foot as the load of the construction load that will account for the people that are standing on that floor and some of the equipment, and as you can see, there was only one level of shore and two level of reshore and why that was being poured, the slabs, exterior beams, and the columns failed.

One of our primary functions was to ensure that those bays which have not failed remain stable. So, we worked with the contractor and we came up with a plan as to shore them and guide those columns and brace those columns so that there's no other failures.

There was also a shear wall here
that was freely standing about 80 feet without any support of floors. Even though it did appear to be in danger, but when we ran the computations, we found that it is in no danger. It can take a wind speed of up to 110 miles an hour.

So, when we go out there, we have to keep in mind that those parts of the structures which have not failed, there's no unplanned collapse of those structures.

One of the recent incidents that we had was in U.S. 90 in Mississippi. The old bridge was destroyed by the Katrina storm and they were building a new bridge about 20-40 feet east of the old bridge, and one of the big bridge piers, it is 12 feet wide, six feet long, 39 feet high, it was being pulled.

Can you go to the next slide? And while it was being pulled, the form work that you see in the bay, it's now 12 X 6 and the thing that you are seeing are the rebar which went into the foundation and as they were coming up pouring the concrete into the form work, they had almost gone up to the required
height and the entire form work collapsed and it killed two of the employees.

When we did the investigation, we found that the reason was two reasons. One, that the rate of pouring was too high. They were pouring nine feet per hour. You can imagine at what speed it was being poured because the area of the bridge pier is 12 feet by six feet.

We also found that the concrete had superelasticizer and it also had a retarder. When you have a retarder in the concrete, the setting time is quite increased. Instead of having an initial setting time in about one half hour, it is going to set in three hours, in four hours.

So, all this much concrete coming up into the form work, it applied a lot of direct pressure on the form work and the form work was not designed for the pressure of the fluid concrete.

Next slide. This is Peachtree in Atlanta, Georgia. It was an elevator shaft being poured and the form work being built and
the reason was that they had made the elevator
door opening taller. When they made the
elevator door opening taller, the beam which
was embedded in the concrete did not have
enough meat below the insert and because it
didn't have enough concrete below the insert,
the entire concrete dropped off and it failed
and it killed a couple of people.

In Virgin Islands, -- oh, by the
way, we also exchange engineering assistance
to State OSHA plan, if they need it. They
need to ask us and if we believe that, yes,
there is a need to exchange the engineering
assistance to them, we will do that. We have
helped in Virginia, Portland, Oregon,
Minnesota, and some other places here.

This was a very huge manmade
landslide. They were trying to build a
parking lot and they compacted the slope too
steep and when we conducted a stability
analysis, we found that the angle of repose
was too great.

Can you show that? This is the
area of the manmade landslide. Any time when
you are told about the landslide, we are always reminded of the nature of landslides. It's usually caused by nature, but this was a manmade landslide.

Next one, please. Oh, this is a major area of concern for us. Can you show? These are the roof trusses and we are finding more and more that the roof trusses are collapsing when you build a church, when you build an auditorium or when you build a large span structure.

This is a restaurant which was being built. I think it was a restaurant or perhaps an office building. Any time you have a span of the roof trusses greater than 90 feet, there is a problem.

According to the Truss Plate Institute, you have to have a professional engineer design for you a bracing plan as to how these trusses will be braced. They need to be braced at the top core, the bottom core, and the diagonal.

But most truss erectors of these projects are very small-size erectors. They
are like, I mean, son and father or like three
people and four people and they just are
confident that if they can do an erection of
a 12-feet truss, why can't they do the
erception of a 90-feet long truss?

These we are finding almost
everywhere in Atlanta, in New Jersey, in
Philadelphia, in New York. So, what we are
going to do right now is that we are right now
working with the Truss Plate Institute and
some of the leading designers of the trusses,
like Mitek, and we are going to hold a seminar
at certain places. It's not yet final, but we
are still working on it.

But the main problem is how to
bring these contractors in the hall because
they are so small in size that there's not a
good record of them. So, we are working with
the Carpenter's Union and we will also work
with some other unions in the Eastern United
States so that OSHA, along with the Truss
Plate Institute and also along with the major
designers of the trusses, we can at least hold
some seminars so that we can focus on the need
that if you have the long wooden trusses, there should be a flag. You need to brace them properly.

In this case, not only were the trusses not braced properly, they also placed on the top of the truss 2 X 4 and 2 X 6 and 2 X 8 bundles on them and that load was such that it failed the trusses.

These trusses are very light trusses and they will only gain the strength if you have the plywood on the top because those members are the compression members and they will only gain the strength if you have the plywood at the top. If there's no sheathing at the top, it has very little strength.

It is in our backyard here. It was an office building and one day, we held a big promotion and a big roof collapse took place there. The whole roof of a 22-story building and the entire floor shoring collapsed on the floor and when we did the analysis, we found that the shores were not done properly and also there was space shoring that was placed
on this floor that was not meant to be placed on the floor.

This was for the floors below and there has never been any design for the shoring for that ever. Why? Because there was an upset beam there. I mean, it was like a 12-feet wide 18-inch deep upset beam and for that heavy load, the contractor never ever asked the shoring supplier to come up with a shoring plan, and even though there was an inspector there hired by the owner, there was an inspector by the county and when we talked to them, they said that this floor had the same shoring plan that was meant for the floors below can also be used here at the roof, even though on the plan, it says that this drawing is meant only for floors and not for roof.

So, the inspector was there and in spite of the fact that at times, you have the inspector hired by the owner, you have inspector by some other people and still the problems come up here.

Okay. So, because of the time
frame, I had only presented to you a few of
the major incidents that we had gone out in
the field to help.

This is primarily a DOC activity
and as I said earlier, one of the primary
functions of the DOC is to provide engineering
assistance to the field, to go out to the
field and help the area office.

If you have any questions to ask on
any of the incidents or if you have a general
question, I will be glad to answer them.

MR. SMITH: Okay.

MR. GILLEN: Thanks. That was a
terrific presentation. Enjoyed it.

I just wanted to say that from
NIOSH's perspective, we would be interested in
hearing from your investigations if you
uncover what you think is a good research
topic, an engineering-related research topic.

We'd be interested in hearing that.

I was wondering, also, it might be
something for the DOC to think about, is in
cases where you find that perhaps a new type
of construction method perhaps isn't really
adequately addressed by current regulation, is there something where there might be a need for thinking about how to address these types of problems in the future, it would be useful to hear more about that or get your recommendations in those regards as well.

MR. AYUB: Okay. Most of our investigation reports are on the OSHA Intranet, not on Internet. They are on the OSHA Intranet. So, you have access to that. NIOSH? No?

MR. GILLEN: No.

MR. AYUB: Okay. We will be glad to provide you with copies of our reports here, but based upon my experience here, 99 percent of the collapses take place not because of very big mistakes done by the contractor but from very simple blunders, simple blunders, and when there's a need to get engineering assistance, the contractors shy out.

They are quite shy to call the structural engineer in the field and get help from them. If they will do that, I think most
of the incidents will not take place.

There are some shortcuts that have been used and thank God that there is so much factor of safety in the design of the bridges and the buildings that they don't fail, but if you do a very simple blunder, very, if I may, stupid mistake, it's going to fail the building or the bridge or the tower or the tunnels.

They need to concentrate and they need to realize that if there's a need for engineering assistance, ask for it, get it. You are not qualified enough to solve the engineering problem. Get help from the right source.

MR. SMITH: Okay. Thank you. Yes, Tom?

MR. KAVICKY: Just a quick comment, Mr. Chairman.

Couldn't OSHA develop specifically for the truss collapses, we've had the same issues out in Chicago, a safety and health information bulletin regarding that?

MR. AYUB: There is one. It is not
by us, but it's by the Truss Plate Institute and that is a very good document. It shows in color, it shows in three dimensions where should the bracings be. It shows at the top, at the diagonal, at the bottom. It gives you in three colors all the bracing that needs to be there.

But if the span of the bridge is more than 90 feet, then the TPI will not take the responsibility. They say that professional engineer must be contacted and he or she be asked to, you know, design the bracings.

It is just a matter of communicating with the small contractors. That's my problem all the time. When I go out in the field, I find that he has never done a large truss and he doesn't even understand that it needs to be braced.

So, I think it is more a matter of education, but we have the slides. They have the color brochures. They have a large-scale depiction of how the trusses need to be braced.
MR. SMITH: Okay. A couple of housekeeping duties and we'll adjourn for lunch.

First, anyone from the public that would like to sign up to speak this afternoon, the list is in the back of the room. This is the last time that we will ask right as we come back from lunch, but please sign that during lunch.

And second, anyone that's arrived late that would like to attend Stewart Burkhammer's retirement party tonight, please see someone at OSHA and they'll get you signed up.

Mohammad, if you would -- Mohammad, could you provide us a copy of your PowerPoint presentation for the record, please?

MR. AYUB: Yes, I can.

MR. SMITH: Okay. Thank you. We'd like to have that today, if possible. Okay. Thank you very much.

With that, please be back at 1 o'clock for the presentation on the Minnesota Bridge Collapse.
(Whereupon, the meeting was in lunch recess from 11:41 a.m. until 1:04 p.m.)

MR. SMITH: Okay. Appreciate your promptness and we'll get started.

Last time I'm going to mention this but the sign-up sheet for the Public Comment's in the back of the room. That will be later on this afternoon and if you're going to sign up, now's the time to do it. It's the last opportunity. We'll take it off the table after we start back. So, please, if you're going to wait to sign up, now's your chance.

Okay. And any latecomers, hopefully you know about the retirement party for Mr. Burkhammer tonight. Please see any OSHA reps in the room if you'd like to attend. That will be right after work today. So, we can't run late today because we've got a big retirement party to go to.

So, appreciate your promptness. I know everybody's excited about hearing our next presentation regarding the Minnesota Bridge Collapse and OSHA's Role in that, and I'm going to turn it over to Jeff Isakson --
how do you pronounce that?

    MR. ISAKSON: Isakson.

    MR. SMITH: Isakson. I'm sorry.

My Southern accent catches me again.

    Appreciate you coming. He flew in this morning just for this and we appreciate it and he's got someone he'll be introducing that's going to help him with the presentation.

MN I-35 Bridge Collapse and OSHA's Role

    MR. ISAKSON: Thanks, Linwood.

    Again, my name is Jeff Isakson. I'm the Director for Minnesota OSHA, and I'm going to be doing this presentation along with Mark Hysell, who's the Area Director and covers our area for Region 5.

    Both of us worked very, very closely on the whole removal/recovery process of the 35W bridge collapse in Minneapolis, and when I left Minneapolis this morning, it was 24 degrees below zero. So, thank you for the heat wave. I appreciate it. I forgot my suit jacket, but when I was on the plane walking back toward the facilities, I was stopped
twice, people asked me if I could give them a refill on the beverages. So, I told them I was the pilot.

Anyway, to start things off, Mark's going to start us off, we have a short video that we're going to share with you on different events or different videos that were taken during the bridge collapse and then we'll move forward from there.

So, Mark?

MR. HYSELL: Thank you. Thank you, Jeff.

Again, my name's Mark Hysell. I'm the Area Director in Eau Claire, Wisconsin, and part of my job is to assist Jeff with monitoring the State of Minnesota OSHA Program for the Federal Government.

What we'd like to cover today is again, as Jeff explained, the video that we're going to show you and we wanted to show you this video so that you could actually see the magnitude of the event and some of the hazards that were associated with it that we had to deal with.
You know, the media and the television coverage really didn't do it justice. So, I think that you'll really be surprised at this video.

In addition to that, we want to cover our initial response, just a summary of our thoughts and how we came together cooperatively to try to incorporate safety and health into the removal, recovery and removal process, and then, in addition to that, we transitioned from what we called controlled chaos to getting control of the site through safety and health and ultimately the State of Minnesota and Minnesota OSHA entered into a cooperative agreement with the removal contractor and now the rebuild contractor. So, there's actually partnerships that have been developed as a result of this entire process.

And then we're going to cover a little bit of a lessons learned and hopefully we'll have time for a few questions. So, with that, I did want to give you a little bit of a summary of the event.
If you weren't aware of it, it happened on August 1st, about 6 p.m., Interstate 35W, the bridge crossing the river. It's in downtown Minneapolis. Actually, it's real close to the Metrodome. If you're not aware of exactly where it is, a quarter of a mile from the ramp going to the actual Metrodome and the State of Minnesota or Minnesota -- University of Minnesota is right on the other side of the river. So, it's a very congested area.

AUDIENCE MEMBER: Could you sit down, please, so we can see the screen?

MR. HYSELL: Oh, that's fine. Thank you for that.

So again, it's a very congested area and actually it's the most traveled bridge in the entire state of Minnesota. It was rush hour. There was a Minnesota Twins game getting ready to kick off at 7 p.m.

Just so you're aware, there were 13 fatalities associated with this collapse ultimately and one fatality had OSHA jurisdiction, where the State of Minnesota had
jurisdiction for the investigation of that fatality. 98 total injured.

The emergency response, the fire department had 40 pieces of equipment, as you can see. 40 to 50 mutual aid fire departments also responded initially. The police department had 850 officers onsite for the initial rescue and initial recovery. 64 law enforcement agencies and then we had 40 units respond, EMS response and the hospitals in the area. Everybody really went into action right after the collapse.

So, with that, Jeff's going to walk you through the video presentation.

MR. ISAKSON: What you're going to see is you're going to see a couple of surveillance camera shots that were taken from Mn/DOT. One was down in the river area and the other one was up above the approach to the bridge itself.

You're also going to see some cell phone video that was taken by a bystander and then some home video taken by another person, and then there's a piece that was put out by
the American Red Cross that kind of gives you a perspective of what really occurred.

This is from the surveillance camera from down below in the dam area. Some of you probably have seen this on TV. This next piece was from up above. The camera basically followed what was going on at the time of the bridge collapse.

This is right after it occurred. As you can see that there's cars that just stopped and turned around and people trying to get out of the area.

This was taken by an individual cell phone up on the 10th Street Bridge, which was right next door to the 35W Bridge, and this was shortly after. You can see the bus up on the upper right-hand side. All the kids that were -- that was a full school bus. All the kids were taken out and nobody was injured there.

The fire's from a truck. The bridge actually came down over top of the cab of a bread truck and that person was -- he was killed.
This is some home video that was taken by a bystander that was down in the -- this is the road that actually takes them to the bottom portion of the bridge and this is the initial response by the different emergency response vehicles.

This piece here was what was put together by the American Red Cross. It kind of puts into perspective what the bridge looked like and after the collapse what quite a number of people really had to go through as far as the recovery and removal process of that bridge.

When they removed the bridge, and you'll see some of the structure there, a lot of the metal portion of the bridge was better than an inch thick and they brought in a crane with some shears and to cut the bridge up, but I would say about 85 percent of the bridge was actually cut apart in pieces by the cutting torches just simply because they wanted to reassemble it. NTSB wanted to reassemble it so they could kind of reconstruct it to help determine what actually caused the bridge
collapse.

You see a lot of the people --
that's the 10th Street Bridge there where the
previous cell phone video was taken.

The number of people that were on
there those initial days, it was kind of like
going to a state fair. I mean, it was just a
sea of people walking around and the
Minneapolis Police Department did a very good
job with securing that site. As quickly as
they could, they put a barrier fence up to
keep people out of that area. It was shortly
after that they did close that 10th Street
Bridge as they were doing the recovery of the
deceased. So, it was really restricted as far
as what people could see.

Mark?

MR. HYSELL: So, as you can see,
there was quite a mess and that evening,
shortly after the collapse, communication
between the State of Minnesota, Minnesota
OSHA, and Federal OSHA started.

I was in contact with my boss, Mike
Connors, the regional administrator out of
Region 5, and Jeff was in contact with his managers, and I was in contact with Jeff and we started our initial brainstorming on how we would respond in a cooperative assistance mode and ultimately the next morning, we had a meeting via conference call, Department of Labor and Industry, Commissioner of Department of Labor and Industry, Jeff and myself, and we discussed our initial response and how we were going to try to get into the site.

So, what Jeff did is he contacted the Minneapolis Police Department and attempted to gain access to the site and actually went and toured the site that morning and he was escorted by the fire chief.

In the meantime, my boss was telling me to saddle up and head that direction, also. Federal OSHA, of course, wanted to assist Minnesota OSHA with anything that we could bring to the table, but, in addition to that, we had jurisdiction over the navigable waterways of the Mississippi River and all the work activity that would occur in the river itself.
And so I headed that direction, myself and my assistant area director, and we arrived that afternoon and Jeff briefed me on just the overall condition of the site. We went over our PPE requirements again and so on and then we traveled to the site together that afternoon.

And when we got there, for lack of a better term, and I kind of opened with this, but it really was controlled chaos. There were a lot of folks there doing a lot of different things and we really didn't find at the time -- and keep in mind, this is only, you know, 20 hours, 18 hours after this has occurred, and we really didn't find a real incident command structure like you would normally find or at least what you're trained to find when you go through the incident command trainings.

At that time, it's just, I guess, ironic, one of the first folks that we did come in contact with was Mn/DOT Safety and ultimately they became -- they were the agency that was in control of the bridge and they
were actually made the incident commander a couple of days later.

We conducted our first site survey of the bridge, and as Jeff explained, basically there were -- outside of the controlled areas and the controlled areas got more significant and more significant and the Minneapolis Police Department again did a great job, but outside of that, just getting from one side of the river to the other, it was like a carnival.

There were so many boats down there, that you'd sit at a stoplight and it would take three changes of a light to even get to the light and so we were dealing with that.

We surveyed the entire site and then at the same time, Minnesota OSHA was starting to gear up back at the Department of Labor and Industry with training folks to respond in cooperative assistance mode and they identified compliance assistance specialists and folks that actually responded to Katrina and 9/11. So, we used that pool of
staff members originally.

   About that same time, Mr. Connors was activating Federal OSHA for just some expertise to give me some assistance. Mohammad was the presenter right before lunch. He traveled to the site and immediately he was on a plane.

   We also had a civil engineer from the regional office, a diving expert from Cleveland, and a crane expert from Aurora, and I had my office set up a logistics for those folks and originally we were out in St. Paul at a hotel out there.

   That evening, about 10:30 p.m., Jeff and I returned to the Department of Labor and Industry and that was when the rubber really met the road.

   We had one goal and that was to develop a plan for OSHA's unified response. Here it is going on midnight and we knew that we were going to have to brief our bosses at 8 o'clock in the morning on what we thought of the site, our overall assessment, and what we could do to assist the responders and ultimate
removal throughout the entire process and so I want to go over a little bit of thought process that we went through that night as we went ahead.

The first thing that we did is we started with the site itself, okay, and as any true blue safety and health professional, the first thing we want to start with is what are the hazards?

Okay. We had a white board. We put up there all the different hazards that we saw going on, different activities, and also we were looking ahead at what type of engineering practices and work practices that were going to be incorporated at the site, all the way through to the end, and so we wanted to try to address that, personal protective equipment requirements, how we were going to offer our assistance, overall training needs for the site, and Jeff's going to get into exactly what we established for that.

We also at the time had identified some key players that we knew were at the site working and so we listed them and then we
knew, in addition to that, we would also need
to identify when all the daily meetings were
going to occur and how we were going to plug
into those meetings.

We wanted to ultimately focus our
activities in site hazards and developing a
JHA system for any work activities that
occurred.

Now, when we first arrived, when we
first traveled to the site, there was really
no control of the hazards and there was no
identified red zone where it's extremely
dangerous to be and where it's not, and
Mohammad helped me out a lot with that when he
arrived, and MnOSHA and Federal OSHA actually
established the red zone or the hot zone for
the site.

We discussed safety and health
plans for the site. In addition to that, we
wanted to look at what health hazards there
were going to be and what we envisioned for
the future and lead, hex chrome and silica
were what we started to focus our attentions
on.
Now, for OSHA, now we knew that we were going to have our folks on the site and we wanted, first and foremost, to make sure that we were protected. I mean at this time, we didn't have a hot zone. We didn't have control of anything. So, we had to come up with a plan of how we were going to get there, what we were going to do when we get there and how we were going to make sure none of our folks got hurt in doing what we were doing.

This is what we came up with. Four-person teams, two Minnesota OSHA and two Federal OSHA, seven days, three shifts, and a buddy system where we would pair up a Minnesota OSHA staff member and a Federal OSHA staff member and they would always stay together. We thought that that was paramount.

Each team was comprised of an industrial hygienist, safety specialist, and at least a diving expert during diving operations. We always had a crane expert in the mix of the four and so on.

In addition to that, we knew that we had to train our personnel as they arrived.
in Minneapolis, the Federal OSHA personnel and, in addition to that, the Minnesota OSHA personnel that were going to be involved in this project.

So, we started the initial brainstorming of exactly what that would entail. Personal protective equipment, of course, communication of span and control, that was very important, and ensuring our folks were safe.

The projected logistics requirements, you know. We needed to get people from the airport to the site. We needed to get a hotel close to the site. We needed to get people from the hotel to the site. We had shift rotations and so on.

Also, the estimated commitment in time. I needed to tell my boss how long I thought it was going to take to get this bridge out of the water and from my initial survey, I wanted to do that when I briefed Mike in the morning, and it's kind of funny. I don't know, just dumb luck, I guess, I said nine weeks, and it took eight, a little over
eight. So, we were pretty pleased with that.

That next morning, Mohammad and the other three experts arrived in St. Paul and I met them at the hotel first thing in the morning, I think it was 6:30-7 o'clock, and then we traveled to the Department of Labor and Industry, and I briefed Mike on the plan over the phone and at the same time, Jeff was briefing the commissioner, and ultimately the plan was approved pretty much exactly how we had planned it throughout the night. So that worked out very well.

When we went back to the site after that to start identifying the hot zone, you know, incorporate Federal OSHA into every aspect of this entire project and Minnesota OSHA, OSHA in general, I'm sorry, into this entire process, it really was chaotic.

There were a lot of turf wars that were going on and, you know, in my wildest dreams, I, you know, think about this a lot since 9/11, but I never envisioned the turf wars and I guess I was just naive because it stands to reason that there is going to be
some turf wars.

We had the NTSB onsite and they were in charge of the collapse investigation and they wanted to find out as quickly as possible what had happened so that they could prevent it from happening again somewhere else and that's in direct conflict with body removal and other types of operations that are going on because the NTSB is saying you can't touch that. Okay? Well, we've got to touch that and so on.

In addition to that, there was a criminal investigation going on. The FBI was there and the ATF was there. They had dogs going over the bridge. They had other types of explosive-sensing equipment that they were using.

Hennepin County Sheriff's Department actually set up shop on the river and took over control of the river and the body recovery operations in the river and, as we mentioned earlier, the City of Minneapolis had overall security of the entire site, and most of us are aware there's usually some sort
of friction between city police and county
police and state police and jurisdictional
issues and that really did come to light a lot
during this event.

We also had, after President Bush
came to the site, he sent in the Navy Dive
Team. They landed in Minneapolis about
midnight that Saturday night and they were
there for one purpose and that was to assist
the Hennepin County Sheriff's Department with
finding those bodies and getting those bodies
out of there. So, there was a lot of friction
between them and the NTSB.

FEMA was onsite. At about that
same time, a contract was let for a contractor
for the bridge removal and that was Bolander
and Sons out of St. Paul, and they did an
outstanding job and they were wonderful,
ultimately wonderful to work with, and again
MnDOT was in charge of the overall site and so
we, as OSHA, worked intimately with MnDOT and
MnDOT Safety to make this chaos something that
could be controlled and ultimately try to meet
our goal that nobody else was injured or
killed as a result of this catastrophe.

And this picture, I think, best depicts the hazards that we were observing initially when we got back to the site after getting the approval for our plan.

So, we had to transition from this to getting control of the site through Safety and Health and Jeff's going to explain how we did that.

MR. ISAKSON: As Mark had just explained that MnDOT was actually in control of the site, but the previous slide before where it says MnDOT had control of the site, there should be a whole bunch of question marks after that because of all of the turf wars that were going on at that time, they did have safety professionals with 24/7 coverage, but one of the things that I think that they were really struggling with is their staff was not really field staff.

So, they came to the site kind of blind, really not quite sure what to do, and all of our folks that were onsite were really field people. They were field staff, and they
knew really pretty much what needed to be done.

The unfortunate thing was those first few days that we were out there, we kind of looked at ourselves, you know, we stood back, looked at ourselves and we realized that we were really being kind of glorified babysitters because of all that was going on and one of the biggest difficulties you encounter when you have something like this happen is initially you've got rescue operations that are going on.

Then it goes into recovery operations and getting people to transition from rescue to recovery is extremely difficult, to get the people to realizing that, you know, there's no more people that you're going to be rescuing, unfortunately the people that you're going to take out of the river now are no longer alive, you know, and that's the unfortunate fact of what occurred.

But people still think that they have the right or the ability to be crawling all over that collapsed structure.
So, with that, there's a lot of the babysitting that was going on, pulling people out of areas, sitting down, talking to them, letting them know that they can't do this, can't do that, and it was a few days later, we had a meeting and in the meeting, it was myself, Mark, and the deputy regional administrator, Sandy Taylor from Federal OSHA.

We sat down till the wee hours of the evening and we discussed, okay, what are site leadership's roles and responsibilities and we really mapped out what are the clear expectations that we're going to give the people that are working on that site to make sure nobody else gets hurt, you know.

We didn't want to have any more fatalities or any other injuries that could occur out at that site because we knew that there's going to -- when you think of a demolition site, especially a collapsed structure, I don't think you're going to find a more hazardous site than something like this, and you could see that by some of my earlier pictures.
So, what occurred then was Federal OSHA, which was Mark and Sandy, met with the federal agencies to sit down and explain to them what our expectations were, basically told them we are compliance assistance, we're not enforcement, and there are options.

I mean, if there's not going to be cooperation and people think that they can be all over the bridge doing what they really feel that they should do, there's nothing that says that we can't go into enforcement mode.

We didn't want to do that. We wanted to focus on the compliance assistance, but the federal agencies were extremely, extremely cooperative with that, once we sat down and talked to them and explained the meanings that we were looking at.

And then Minnesota OSHA met with MnDOT, who were the folks that supposedly were in control of the site, and they kind of led them down the path on what our expectations were for them, also.

The first thing that we did was we put together a uniform site orientation and
the little 35W, that's actually a sticker that we required anybody that entered that bridge site had to have on their hard hat before they were allowed into that bridge site and we expedited getting those out there available for people.

It was required for all workers onsite, including police, fire, NTSB, contractors, subcontractors, et. cetera.

One of the interesting situations that we would encounter from time to time is we'd have a utility company that maybe had to go into that area to do some utility work and when they were approached saying, you know, you really can't come in there and do work unless you've got the orientation behind you and you're following the site safety plan and the response, initial response was no, we're not part of this removal operation, so we really don't have to do those things.

So, our response back to them was, well, true, you don't have to, but this is a cooperative agreement that we're working on. We're working on a partnership right now with
all the groups that are working out there. If you don't want to participate in that, then you'll be under enforcement. I kind of stood back and they said, no, I think that we'll go through your orientation. That's not a problem.

So, you know, it took a couple of times before people really understood that this was really meant to be best for all of them.

We developed a grid system map and you probably really can't see it, but it's basically a map of the entire site. There's grid lines on there. The grid lines are actually different colors.

Over the river, they're blue. That means that if you enter any of that area that's blue, you had to have personal flotation devices as part of your PPE, and as our folks went out and did their hazard assessments and interventions, we entered those into an access database and we looked at trends of different things that were happening out there on that bridge site over that period.
and we used this grid map to really identify the locations where those things were happening.

This is the intervention access database that we put together and this was actually as the documentation was entered, we would pull this up on a daily basis and take a look at what type of interventions were going on, what types of hazards were being identified, and looked at trends and then we would have our leadership meetings every day and we would meet with the groups and we would talk about those trends and these are the things that they really need to look closely at and to address on a day by day basis.

We also put together activity sheets. These are daily activity sheets and it's basically a job hazard analysis permitting system. If you think of like a confined space permit or hot work permit, it was kind of the same concept, and what it was was every job that took place out on that site, they had to fill out one of these permits and they had to have a copy with them.
as the work was being performed and a copy would stay with our safety trailer.

This was something that really kind of evolved throughout that initial time period when the collapse first occurred, but how it would work is this would be filled out, would identify the hazards that were associated with the work that they're going to be doing, basically who was going to be doing the work, why they were doing the work, the area that they're going to be entering, and then it had to have signed-off approval by MnDOT Safety and then Federal OSHA and Minnesota OSHA would also look at it.

If there was work that was being performed in certain parts of the structure, such as if they had to actually enter the structure themselves, they had to have sign-on from a structural engineer saying that it was safe for them to enter that area.

I mean, this is even the NTSB that would enter that site, taking the measurements and that type of stuff. On a daily basis, they had to fill out one of these things.
If the work changed throughout that day, they had to fill out a new one of these. So, sometimes they would fill out two or three of them in one day for the work that they were doing.

Federal OSHA jurisdiction included the boats, the barges and floating platforms that were on the site, the diving maritime experience presence, the transition from the Navy Dive Team to the commercial contractor, and Federal OSHA did a comprehensive review of the contractor's operation, and then they ensure that those diving operations met the requirements and this evaluation was really critical in determining Federal OSHA's departure from the site.

So, I'll kind of summarize the response. We had a total of 24 Federal OSHA and 30 Minnesota OSHA personnel that reported to the site, and we experienced no injuries from any of our staff.

The regional administrator and deputy regional administrator were present at the site within the first 24 hours -- or the
first week of the catastrophe and they were included in the 24 from Federal OSHA.

We established a hot zone. A safety office trailer was established and that was housed by both MnDOT Safety, Minnesota OSHA and Federal OSHA and that's actually where we had our orientations there in that trailer, also, and it was a place where people could come, ask questions. We were the resource there and we typically had all of our people out in the field the majority of the time just working with folks.

The work permitting process was complete and it was required to be approved prior to the start of any work. All personnel onsite were required to attend the site safety training and companies performing work in the area of Federal OSHA jurisdiction received a comprehensive evaluation from Federal OSHA and then Federal OSHA's goal of assisting Minnesota OSHA was accomplished and to make sure that the responders were safe that were working at that job site.

A memo of understanding was signed
between the commissioner and Mike Connors, the regional administrator, to turn the entire site over to Minnesota OSHA and then Federal OSHA stood down at 3 p.m. on Friday, August 24th. So, they were there for, well, almost --

MR. HYSELL: Three and a half weeks.

MR. ISAKSON: About three and a half weeks.

I've got some pictures here I'll just kind of show you quickly. This is on the north side of the bridge. You can see that they've already started to knock out some of the structure over the top of the skeleton of the bridge itself.

This picture was taken, you can see the individual that's standing down kind of toward the center right side of the picture, that's how massive this building was -- this structure was that we're working with.

Here, you've got the surface taken off prior to the demolition or the cutting of the structure. You can see some of the
structure off to the back there and the bridge was hauled off to an area upstream, what we call The Flats, and that's where they were kind of reassembling the bridge at that time.

This was a -- they hauled in I can't remember how many tons of gravel, but it was quite a bit, so they could bring this 50-ton crane out there to lift the pieces out of the water and that roadway that they made out of the river is still there as they're building the new bridge.

Partnerships. We had a couple of partnerships that we actually signed with the companies or the contractors that were doing the work out there.

The first partnership was with MnDOT and Bolander and Sons who was the removal contractor, and the most difficult part of this whole partnership, to be honest with you, especially coming from Minnesota, was actually admitting that we modeled this after the stadium that the Green Bay Packers play in. So, we really, really struggled with that.
We had full-time compliance assistance during that partnership. We did industrial hygiene monitoring and employees were able to utilize us as a resource, of course, and we performed unannounced inspections as part of that.

We currently have a partnership with MnDOT and Flatiron. Flatiron is the rebuild contractor and they're onsite right now. Basically the same thing. They're part of the design. They're responsible to design and build, full-time compliance assistance coverage, and then employees will be able to use us as a resource through the duration of the project.

Right now, there's -- I think by the end of this month, we'll have about 300 contractors, 300 employees working out there on the bridge. Flatiron has been phenomenal to work with. Bolander and Sons was phenomenal to work with.

Flatiron. Right now, they have five full-time safety people that are working out on that bridge site. I was notified
yesterday that they're bringing in three more.

A lot of the work is just -- they're doing a lot of the concrete pouring, that type of work.

They've had to shut down the project three times because of the cold weather and I'm sure it's probably shut down again today because the concrete pouring that's -- the weather gets too cold for them to pour the concrete.

So, summary of the recovery and removal process. Approximately 85 percent of the contractor laborers or workforce received the OSHA 10-hour course which is huge. Going through that 10-hour course takes some time and fortunately we set up a class and put many of them through that.

624 employees received orientation training. The site-specific activity plans, that's those job hazard analysis, we had 962 of those submitted during that nine-week period.

So, as you can see, there was a lot of those forms that were filled out and approved.

We had over 4,800 employees trained
per each of those plans. So each time one of those plans was filled out, they had to cover that with a crew or they had to cover that with the folks that were going to be going out doing that work.

We identified over 4,500 hazards. Total removal took approximately nine weeks, a little less than nine weeks. We logged approximately a 100,000 hours during that time period, and the best part of that is nobody got hurt. There was some near-misses that occurred, but there was no serious injuries that resulted in lost time or reportable injury.

This is what the location looked like once the bridge was removed. I didn't add slides of what it looks like now, but this is what the new bridge will look like when it's complete.

Key observations. When you go on to a site like this, OSHA is typically viewed as a site safety officer and that's one of the things that we kind of battle through to make sure that, you know, folks understood we were
there as a resource. We were there to provide compliance assistance. We weren't the site safety officer. That was really the responsibility of the incident commander to assign that person and that's typically the folks that are in charge of that site and in this point, it was MnDOT.

Incident command on paper versus reality are really two different things. We really learned that. I mean, you can put down whatever you want on paper, but when you start dealing with personalities, you start dealing with, you know, really people, you find some pretty big challenges.

One of the things that we realized was OSHA's mindset when we had our investigators on that site doing the compliance assistance, they came on that site with that mindset that was really no different than the other fatalities that they routinely inspect or catastrophes that they routinely inspect.

So, they had that mindset already which kind of brought about kind of a common
effect because they knew how to approach and
talk to people and that, I know, made both
Mark and I extremely proud with the way that
they really handled themselves, our
investigators handled themselves on the site.

Transitioning from rescue to
recovery to removal mindset. I talked about
that a little bit. Huge challenge.
Flexibility. That's one of the key things we
learned, is you've got to be flexible.

Compliance assistance versus
enforcement. I did talk about that a little
bit. For example, when we had the issues with
some of the utility companies and just let
them know, you know, we're OSHA and we're here
to help. They kind of look at you funny to
begin with, but then when they work with you a
little bit, they tend to really appreciate the
work that you do.

And then establish an OSHA command
post immediately was one of the things that we
found that we probably should have done
because at the incident command site, people
had tents. We kind of showed up without a
home and that's one of the learnings that we took back with us, is that, if anything, you need to set up a tent that says OSHA across the top of it so people know that, hey, there's a safety resource here that we can go to.

And then, you know, one of the hassles we had to go through is, from time to time, people would come up and want to take their picture with us and we were polite. We said, yes, okay, we'll take our picture with you, that's okay. It was an honor to be able to meet the president and that's that.

MR. HYSELL: So, we would like to open it up for any questions that you might have concerning any aspects of what we dealt with and how we got to where we ultimately got in achieving our goals.

Please.

MS. ARIOTO: Elizabeth Arioto, Safety and Health Consultant Services. I would like to ask you a couple of questions, really.

How long did it take you to start
the orientation of personnel onsite?

MR. ISAKSON: The orientation actually started taking place, it was about a couple days after, but it was kind of segmented.

I mean, we had the construction company that was conducting the orientation. MnDOT, they were doing an orientation for their own people. But it actually took us, I believe it was, probably about four or five days before we pulled it all together and we had one orientation that we really had everybody going through.

MS. ARIOTO: Since you said that, is there anything that you would do to improve that time period or that time frame?

MR. ISAKSON: I would -- you know, I guess the learning that we took from it is when you have something like this that occurs, there's a lot of emotions that you're really dealing with and it's all part of that transition period from rescue to recovery that I talked about and really getting people to understand that.
You know that there's a lot going on here and we have to have, you know, -- we've got to really start thinking about the folks that are doing the work out there and pulling them in to start going through some sort of an orientation.

Pulling the orientation together took a little bit of time because we really had to really assess what the hazards were that people were going to be facing out there and the work that they were going to be doing.

So, I guess could we have done it sooner than that? If we could have, I think that maybe a day sooner. It would have been tough.

MR. HYSELL: You know, one of the real challenges that we had is establishing a site at the site for the training and just so you know, we had a trailer on its way through the City of Minneapolis on that Friday, just a day and a half or so after the collapse, and the Secret Service came up to us and said you can't bring that trailer here, you're going to be putting it right where the president's
helicopters are going to land tomorrow morning.

So, we had to stop that and we weren't able to get the trailer there because of that until Monday and so all of that went into that and then, you know, there were other issues, too.

We had, for instance, when you tell the NTSB, look, you know, before you go back out there, you've got to go through this training, well, you can imagine the resistance that we were starting to get, you know, and the looks and everything else, but we stood our ground and we made them go through it, even though they'd been onsite from the beginning.

In addition to that, we had law enforcement officers that were at security posts all around the site that couldn't leave their posts to go to security training. So, we actually took the dog and pony show on the road and we went to them and provided them with the site orientation briefing at each one of the security posts.
MS. ARIOTO: And I have one other
question with the contractor that you worked
with.

Are there any plans in the state
where you would have companies already like
preapproved, where they had training for their
employees for disasters and stuff like that?

MR. ISAKSON: Are you talking about
contractors?

MS. ARIOTO: Yes.

MR. ISAKSON: No, there wasn't.

There haven't been really any plans to do that
because -- and I think that would be somewhat
difficult to do because each disaster is
different, you know.

It was shortly after the bridge
collapsed, we had floods down in the southern
part of the state and when you face a
structure collapse versus something like that,
the training is going to be significantly
different.

I know that, you know, through some
of the training that the trades go through,
you know, they do learn the basics, such as
doing hazard assessments, those types of things, but to really capture a potential event that could occur and train people on that would be difficult.

They may not face that kind of a situation for -- you know, hopefully never, but it's really hard to pinpoint exactly what it is that they would need.

MS. ARIOTO: And the only reason I say that is because the state I'm from, California, they're trying to develop with different companies, in case there's an emergency, they can call on certain companies that have planning with them already, whether if you need ironworkers or if you need laborers, operators, whatever.

So that's just something maybe to think of in the future.

MR. ISAKSON: Sure.

MR. SMITH: Okay. Frank?

MR. MIGLIACCO: Frank Migliaccio with the Ironworkers International.

Did any of the -- you said you put quite a few people through the OSHA 10-hour
training. Did anybody come to the site with the training already that you didn't require to go through it?

MR. ISAKSON: Yes, there was quite a few that already had the 10-hour course. That's one of the great things that -- you know, with the relationship that we have with a lot of the trade unions in the state, is our consultation group will actually go and provide them the 10-hour course and I know that there's some of them that they do require all of their folks to go through the 10-hour training, such as I think the labor union requires that and the carpenter's union.

There may be others, too, but that was one of the benefits that we had in Minnesota, is quite a number of them already had the 10-hour course.

MR. MIGLIACCIO: Thank you.

MR. SMITH: Other questions or comments? Tom? I'd like to welcome Tom Broderick who's on our committee who was unable to make it this morning. We're glad you're here this afternoon.
MR. BRODERICK: Thank you. This is kind of a follow-up on the questions that Liz and Frank asked.

After September 11th, the OSHA Training Institute put together a group of people who were both involved in the rescue and recovery and other subject matter experts and developed two courses.

One was the 5600 course and the other is the 7600 course, and the 5600 course is an instructor course. The 7600 is a course for disaster site workers and that was disseminated to all of the OSHA Training Institute education centers, and it seems like it really has not gotten any traction and after Katrina happened, we went back and revamped the 5600 and the 7600 to address many of the different types of hazards that would come with a hurricane, including floods and some of the exposures that I'm sure that you were faced with.

I guess a question for the agency, for the OSHA Training Institute, is did you learn anything or do you have any insight on
how we could get those courses, which really
do cover a lot more than the OSHA 10-hour in
terms of some of the specific hazards you were
talking about there, how we can get traction
behind that course so that there would be a
cadre of workers in the Twin Cities or any
other metropolitan area that would be prepared
when they hit the site?

MR. HYSELL: Well, one thing that
we found is that it's critical that anybody
that responds to this, especially in a
management capacity, understands how the
incident command system is supposed to work.

Okay. Regardless of how it's going
to be when you get there, you need to know how
it is actually supposed to be and then you
know that you can work within that system
that's there at that time and you can also use
that training and how it's supposed to be for
your own folks and your own command structure
until the entire site can come up to speed.

Let's face it. A catastrophe like
this is significantly large and, you know, it
took a little while for things to get under
control and there's probability that there'd be quite larger and we're aware of that.

To answer your question, Federal OSHA, in Region 5, part of our regional emergency planning committee, we're working on identifying what levels of training folks are going to need.

Incident commanders. Just so you know, the 3600 course is going to be taking place at OTI, the incident commander. That's in July. The incident commander people that are going to be identified that Mike Connors could use would attend that.

In addition to that, all area directors have to at least be ICS trained through the 300 course and all personnel that would respond would have to be trained to the ICS 200 course.

I think part of our cooperative assistance and our compliance assistance specialists and our own speeches, we can explain a lot of that information and the need for that to the general public and, of course, get the information out that OTI has these
courses available for contractors to be able — but I think the communication does need to get out there because I think that everybody that goes to the site needs to be aware of what to expect as far as what the structure's going to be like and so I think that that -- you know, we can certainly work on that and I think it would be something we should look into.

MR. BRODERICK: Yes, and just a follow-up to your point.

After the bridge collapse, you did have serious flooding situations going on. So, I mean, there is a small cluster where people that have had the workers who are skilled support staff who had that 7600 course would have been able to respond to both of those and have had training not only in the incident command structure but what to do if you find a body or what to do if you incur certain things that are unique to a disaster site.

MR. ISAKSON: Tom, I think you really bring up a great point because I know
shortly after Katrina, Federal OSHA had also put together some pages on their website that really covers, you know, some of the approaches to the different types of situations that you can encounter and myself and quite a few of our folks use those pages all the time because, I mean, you can relate them to just about everything that you can encounter, even if there's not, you know, a catastrophe that occurs.

Just for general knowledge purposes, if you're out doing any kind of an inspection or any compliance assistance or even a consultation. So, those have been a super resource for us, and one of the things that Minnesota OSHA does is we're constantly reviewing our core training that we require our investigators to go through and I know that we've looked at some of those courses to really determine, unfortunately after the fact, who we need to have go through some of those courses.

But, you know, it's kind of like anything else. We want to have some experts
on staff that have that knowledge that whenever we do have a situation like that occur, we can turn to them as our subject matter experts and utilize that knowledge that they've got.

MR. BRODERICK: Thank you.

MR. MURPHY: My name is Dan Murphy with Zurich. I live in the Twin Cities and I just wanted to take a moment to thank you gentlemen for the great job that you did and the fact that you made it through that time period and we didn't have any more serious loss or injury was phenomenal.

When you went down and look at that site, it's unbelievable people weren't falling and dying all over the place. So, I wanted to just thank you very much for what you did for that time period.

MR. ISAKSON: Thank you.

MR. HYSELL: Thank you.

MR. SHANAHAN: I'm Tom Shanahan with the National Roofing Contractors.

Jeff, I was struck a number of times. You had mentioned about the difficulty
of getting everybody kind of on the same page with the territorial issues and things like that.

I'm always interested in that and clearly we're not getting these kind of situations, but that you got over that hump, I'm just wondering if there's something -- you kind of mentioned the reality versus what's on paper in terms of when you went in there.

I was just kind of wondering what lessons or kernels that you got from that that maybe we could include for others.

MR. ISAKSON: Well, I think the key learning there is just to remember that you're dealing with people and dealing with people versus dealing with paper are really two different things and when you deal with people, you sometimes deal with some fairly strong personalities.

You know, the reason that, you know, a certain person maybe that is leading a certain organization that's responding to a catastrophe like that, they're reasoning for having that strong personality -- the reason
that they have the position that they're in is typically because they have a fairly strong personality and they can lead in a way that they need to in order to get things done.

You know, some of the jobs that they had out there were extremely difficult. I mean, you look at the Hennepin County Sheriff. I mean, his responsibility was getting those bodies out of the river and to make sure -- I mean, and not only just to get the bodies out of the river but also to deal with those families of the victims and on a daily basis.

So, I'm sure that he was facing a heck of a lot of challenges during that time, also, along with really trying to cooperate, you know, with those that had really site responsibility for making sure that people were really safe.

You had the Navy Dive Team out there that, you know, I know I was talking to a couple of them and I asked them, I says, you know, geez, the water's pretty murky, you can only see maybe a foot in front of you and
there's constant current. This has got to be one of the most difficult recoveries I've ever faced. The guy looked at me and says, "Actually, this is one of the easier ones because nobody's shooting at you."

So, I mean, you're dealing with a lot of that kind of stuff and to really pull those people together and say, okay, bottom line is we're not going to hurt anybody else, you know. We're not going to have any more injuries. That's really the bottom line and to get everybody to kind of step back, think about it and come to the table and say, yes, we agree, we have -- I have five people, 10 people, 20 people here, I want them going home the same way that I brought them here, to get them to realize that, it takes a little bit of talking, you know, a little bit of really, you know, coaching and, you know, how you do that approach is different, regardless of who it is that you talk to.

So, it's a challenge and that's really what it is that you face and that's the difference between the paper and reality piece.
of it.

MR. SHANAHAN: Thank you.

MR. SMITH: I would like to think, too, that anywhere we go in the country, we would have this type of partnership, but I'm not positive we would.

I thank you for your efforts in working together. Outstanding job you did and on behalf of the committee, we commend you guys and appreciate you taking time to share this with us. It's been of tremendous value and, you know, thank God nobody else got hurt.

That's the main thing.

Thank you very much.

MR. HYSELL: Thank you, Linwood.

MR. ISAKSON: Thank you.

(Applause.)


Okay. Let's get started, please. Let me have your attention. Let's devote our attention to Noah.

DOC - Standards Update
MR. CONNELL: Thank you. My name is Noah Connell. I've two roles in the Directorate of Construction. I'm the Deputy Director and I'm also the Director of the Office of Construction Standards and Guidance, one of the three offices within the directorate, and our Office of Standards and Guidance has two principal responsibilities.

One is that, of course, we develop new construction standards, but we also issue the interpretations of the standards.

Before I go on, I just first want to say a personal thanks to Stew Burkhammer. It's been my pleasure to work with Stew for the last five years in the directorate and it's really been a pleasure to work with him. It's been a tremendous asset for us in Standards and Guidance, in particular to have someone of Stew's experience and also he's such an easy person to work with that we have made maximum use of him being on the staff and have badgered him with many, many hundreds of questions every year. So, just a personal thanks to Stew.
On the standards front, we are currently doing two major rulemakings. One is confined space in construction, the other is cranes and derricks in construction.

In confined space, first I'll just note, as I imagine you're all already aware, the comment period for the proposed rule -- we issued the proposed rule in November. The comment period was to close this month on the 28th, but it's been extended for 30 days, to February 28th.

After the comment period closes, then we will begin the process of -- well, if someone requests a hearing, there would be a hearing and then after, we would, of course, begin the process of analyzing the comments. We take a close look at the comments, make assessments.

We would then at the staff level make presentations to our bosses in terms of what has come in from the public and whether we think there should be changes made for purposes of the final rule and then ultimately we issue the final rule. A simple
straightforward process.

The general philosophy of the confined space proposed rule, I think you will find in looking at the published rule and the explanation in the preamble, is we've tried to make this as user-friendly for the -- particularly for the small businesses who do not have separate safety people on staff.

We tried to design it for them so that it would be something that they could understand and that they could really use, and we tried to walk the employer step by step from the moment they get on the site all the way through the process for protecting their workers from the hazards of confined spaces.

One of the points we make in the preamble is that, and I think, I hope you would agree with me on this, that substantively, probably about 90 percent of what is in our proposed rule is also in the general industry standards, substantively.

There are some differences. We have some other requirements that are designed specifically for construction to deal with
circumstances that are unique to construction.

So, there are some additional things in there in that regard.

The way it is presented is different and that's because, you know, we made this special effort to try to make what is intrinsically an extraordinarily complex set of concepts to try to make them as straightforward and understandable as possible.

So, the way it's presented is very different than what's in general industry, but I think, by and large, substantively, it's very similar.

Any questions about confined space?

(No response.)

MR. CONNELL: The other major rulemaking, of course, is our cranes and derricks standard. This is a standard that we are using negotiated rulemaking to develop. A negotiated rulemaking committee was formed and convened 11 times in about a one-year time period and in the Summer of 2004 completed a consensus document which is the basis for
what's going to be our proposed rule.

It's early 2008 and I know you're thinking he just said 2004, what's the deal there? I'll say a little bit about that.

The standard itself, if you look at the CDAC document, in terms of its length and compare it to the existing Subpart N requirements -- now the existing Subpart N requirements are found both in the Code of Federal Regulations, which is only a few pages, it's about seven and a half pages long in the Code of Federal Regulations, but it incorporates by reference numerous consensus standards, numerous consensus standards, which in some cases incorporate by reference other consensus standards. So, you have layers of incorporation.

If you calculate the number of words on all of those documents and you make an estimate of how many pages in the CFR that would take to print, which we've estimated this, it comes out to about -- the current rule comes out to about 99 CFR pages. That's the current rule.
The CDAC document, which also has some incorporations by reference but not nearly as many as the current rule, it comes out to about 65 CFR pages.

So, it's not that the CDAC document is really longer, it's not longer, it's shorter, but in the rulemaking process, after we have the negotiated rulemaking committee finish its work, we then had to write a complete history, explanation and justification for pretty much every single provision that's in the standard and that is, quite simply, an enormous undertaking.

We had to do the same thing with the confined space. OSHA does this with all of its standards and it is that process, probably more than anything else, that just takes an unbelievable effort and amount of time. That's what we've been doing all these years. We've been writing this encyclopedic description, explanation, analysis.

Fortunately, we are near the end of this process. Now, once we finish and we're close to finishing the drafting of it, and
we've been working with the Office of the Solicitor on it and we're near the end of that process, then there will be some internal Department of Labor reviews and then the Office of Management and Budget will have 90 days to review the document. So that will give you some idea of where we are and what we have ahead of us. That's to publish the proposed rule.

Of course, after that, a hearing, analysis and comments, changes as appropriate, and publication of a final rule.

Any question about cranes and derricks?

MR. SMITH: I'm surprised, Frank. Go right ahead.

MR. MIGLIACCO: Frank Migliaccio with the Ironworkers.

Noah, what you're saying then is this will probably, if it does go in effect and I say if and I'm not sure about that even, this won't happen till next administration comes in, most likely.

MR. CONNELL: Well, our target for
the past several years, our target has been to try to get the final rule out by the end of 2008 and I know that the Assistant Secretary Foulke has made that point in the past and if you tally up where we are right now, you really can't get there from here at this point.

So, we are, of course, disappointed at that, but we certainly aren't slowing down and, you know, we've been going flat out and we will continue to go flat out.

This is the Number 1 priority in our Office of Construction Standards and Guidance. We all, you know, are devoting the big chunk of our time to it and, you know, that's where we are. So, we're plowing ahead, but, you know, I will say this.

It's a legitimate complaint that we often hear about the complexity of federal rules and it's certainly our obligation to make these things as easily understood and as simple as possible, but we're dealing with a very complex industry.

The process of building a building,
and I'm not from the construction industry, but I've certainly been working with folks from the construction industry for some time now, and it doesn't take long to realize that the process of building structures and the process of building structures with cranes is extraordinarily complex and when you try to figure out and say, well, how do you do that complex process safely is also an extraordinarily complex undertaking and so, you know, when viewed from that perspective, it's not that surprising that this has -- this is a huge project.

It is unfortunate that the preamble has evolved to the point where, you know, it now is in all these rulemakings the biggest part of the rulemaking process, but that's what we have and that's what we're dealing with.

MR. MIGLIACCIO: In the beginning, though, it just seems like the date -- like every meeting we've had with ACCSH, the date always changes. It was 2006, then it was going to be early 2007, and now it's going to
be late 2008, and for the complexity of building a building, I think construction builds buildings – I'm not going to say it -- a lot faster than what OSHA does when it comes to rulemaking.

Now, it can't be that complex. I just -- I don't understand the complexity of this. I mean, there probably is and like you said, you're not from the construction industry. I'm not sure how many people in your office are from the construction industry, but it just seems like it's not working.

The amount of time it takes, there's people out there working with cranes every day. I mean, there's a lot of organizations. There were 23 people on the committee. There are two of the people on the committee are in the room right here sitting on this committee here.

A lot of time was put into it, and I think you say you're disappointed. I think we're a lot more disappointed than you are. We just expected it to be a lot faster.
MR. CONNELL: Well, yes, I think it's a real tribute to the committee that the committee was able to develop the draft proposed rule in 11 months' time. I mean that was an extraordinary accomplishment.

Our job since then has been to explain each and every provision in that document and that's, you know, a 95+ page double-spaced document and also the agency has had to do an economic analysis of the implications of everything that's in there and that is another document.

So, yes, I'm just saying it's an enormous undertaking not just to develop the provisions themselves but to explain them, and we take great pains to try to make sure that we're explaining them correctly.

Now, in terms of, you know, construction experience, the way the Directorate of Construction has been set up, we have our Office of Construction Services where we have people with extensive experience in the construction industry and we spend a lot of time with them.
We also have our Office of Engineering Services where we have engineers and we spend time with them, but also, fortunately, one of the great benefits of negotiated rulemaking is that we come to know the members of the committee and those members also are a source of technical information.

So, we do not do our work in a vacuum. Whenever we come across, which we do constantly, issues and questions of a technical nature regarding the construction process, we go to construction people for that information and, you know, that takes time, too, but that's time well worth spending.

So, we do take that very seriously.

So, we're not doing this in a vacuum. We weren't doing it in a vacuum when we negotiated it and we're not doing this part of it in a vacuum either.

You know, the timelines, it's very difficult to predict these dates. You know, we don't work independently. We work with a number of different agencies within OSHA. Those different parts of OSHA have projects
other than our project and so inevitably there is some competition of resources and, you know, the agency as a whole has been working on many, many projects concurrently.

So, as I'm sure everyone in this room knows, when you have a situation like that, there are windows that open and close when it comes to the availability of other resources within your organization and if things don't wind up being coordinated perfectly, especially when unforeseen events come in from the outside, you know, that window might be closed when you need it to be open.

So, I think that's in large measure why the dates you refer to, you know, keep slipping. It's very difficult to predict how it's all going to play out in the end.

The only thing I can assure you all of is that we have never for a day slowed down in what we are doing to get this thing finished. I mean, this has been and continues to be our Number 1 priority and, you know, that's all we can do.
MR. SMITH: Okay. Thank you very much, Noah.

Is there any other questions for Noah involving any questions, other than the timeline? I think he's sufficiently answered that for us. Any other questions?

(No response.)

MR. SMITH: Okay. Thank you very much.

MR. CONNELL: Thank you.

MR. SMITH: I know you didn't look forward to giving that report to us. Thank you a lot.

(Applause.)

MR. SMITH: Okay. We'll take a break in just a second here.

Anything we need to cover before we take a break? Okay. Just a minute, please.

MR. WITT: If you would review -- I understand Sarah Shortall passed out some materials this morning.

MS. SHORTALL: Yes. This morning, the members of the committee were given copies of the PortaCount Draft Notice of Proposed
Rulemaking and a copy of a memorandum to ACCSH from Dorothy Dougherty, Director of the Directorate of Standards and Guidance on the PortaCount Proposed Rule, and it is my understanding that Mr. Witt would like to have the members of the committee review these materials this evening so that they can be discussed tomorrow and members of that rulemaking team will also be available tomorrow to answer your questions.

Steve, did you want to --

MR. WITT: We would like to get your reaction to that document. Any recommendations or suggestions you may have, a sense of the members of the committee.

This issue was raised at the last committee. I know we have seven new members since October of 2006. We'd like to get a sense of the committee as relates to that document. So, if you have the opportunity, if you would look at it tonight or late this afternoon, we would appreciate it.

MS. SHORTALL: So, before we go off the record, so that tomorrow will be
considered your opportunity to provide recommendations on this proposed rule.

    MR. SMITH: Okay. Is everybody familiar with the document now?

    MR. SHANAHAN: The other one was what?

    MR. SMITH: Okay. Be back at 2:45. Paula White will be here.

    (Whereupon, the foregoing matter went off the record at 2:27 p.m. and went back on the record at 2:48 p.m.)

    MR. SMITH: Okay. Thank you. Okay. At this point, we'll hear from the Director of Cooperative and State Programs, Paula White. Thank you. Appreciate you being with us.

    Construction Cooperative Programs

    MS. WHITE: Thank you so much. It's a pleasure to be here with you this afternoon.

    I wanted to give you a brief update of where we are and what we're doing in the Cooperative and State Programs. It may be
somewhat repetitious of information you already know and if it is, I apologize. I really know that you are all OSHA hands, but sometimes a reminder is good for everyone.

So, the programs I want to talk to you about today include where we are with our primary cooperative programs, including the Alliance Program, our Consultation Program, including the SHARP Recognition Program, the Voluntary Protection Programs, our Partnership Program, and then a word or two on OSHA State Plans.

So, first of all, in terms of the Alliance Program, I think doubtless you all are familiar with it and I'm thinking you're familiar with it because we do in fact have considerable participation -- oh, thank you so much. That does make a difference, doesn't it?

We do have considerable participation by the construction industry and not just participation but successful participation in this program.

The Alliance Program is our newest
cooperative program. It does offer an opportunity for us and I actually think for our Alliance Program partners as well to find ways for us to work together and maximize resources.

We focus primarily on very specific activities around training, outreach and education, certainly on very specific kinds of product development.

Through the Alliance Program, we have been very successful in developing jointly an array of products, ranging, as you can see, from publications to having the private sector participate with us on our Ed Boards, for our safety and health topic pages.

We've developed joint training. We've provided joint training. More importantly, I think one of the most important things that's happened through this program is an opportunity for people in the private sector and for our Alliance partners to offer training to OSHA staff and that certainly is a rich resource that is made available to us through the program.
Another thing that's been very important to us is development of success stories, business case studies and that's something I think, especially in the construction industry, we would like to see if we can find a willing partner to work with us on.

I mean, in general industry, we have worked closely with Abbott, formerly known as Abbott Labs, over about the last four years. We've developed a number of business case studies. We've developed some business case studies with Dow and with some other partners and actually most recently, with the Washington Group, but I think business case studies are something that are important for all of us in developing compelling evidence about the importance of safety and health to any successful workplace.

So, these are just web page cutouts of many of the products that are up on our Web with the construction focus and as you can see, they range everywhere from topics pages to tip sheets to a boxtop, fact sheets.
One of the wonderful things I think about the Alliance Program is the ready availability of information on the Web. Every one of our alliance -- each of our alliances at the national level has its own website. All of the information that is developed is readily available through that website. We have linkages to the websites of those that we are in partnership with.

We currently have 13 national construction alliances and as you can see, I don't need to read to you the topics that we are working on, but we have -- I actually believe, and I'm not just saying this because you are the Construction Advisory Committee.

I do think that the construction community has been probably our very best partner as a community group in terms of the work that we have done together in the Alliance Program and certainly one of the most -- some of the most important accomplishments have come out of the Construction Roundtable effort.

In July of '04, really from the --
it was an impetus of the partners, we were working with so many national construction groups, the thought was why don't we all get together in the same room and figure out, you know, where our interests overlap and what are the things we could do together to have more impact, and as a result of a very enthusiastic meeting, this group formed themselves into two subgroups, one focusing on fall protection and the other focusing on design for safety, and they have really been going full tilt at this since the Summer of 2004.

The group is about to meet again as a whole, I guess next week, to relook at where they are, to talk about, you know, where we want -- how we want to move forward, and what the next steps are.

Certainly the design for safety group has just, I think, been outstanding in terms of, you know, we've done any number of presentations at national events. We participated at the NIOSH event last summer together. I think they're doing some groundbreaking work, and I would urge you, if
You've not looked at the website and looked at some of the products and looked at the information, to do so, and again the leadership really for this effort is coming from the groups in the Construction Alliance.

But we have, for example, with the fall protection group developed a series of toolbox talks which address ladder safety, some tip sheets for both employers and employees. We have a design for safety web page that is up, a slide presentation that can be used by anyone with interest in this field to do presentations, and one of the things that we're doing now that we are very excited about is developing a 10-hour course that's focused on engineers who are doing the designing of buildings.

So, you know, it's really beginning, I think. It's capitalizing on an issue that's of national importance and I think we're in on the ground floor and we're just extremely pleased with what these groups have done.

Just to give you a couple of
specific examples, again in case you're not familiar with some of our alliances, we have had for a number of years an alliance with NAHB.

One of the things that has been, I think, particularly successful in this alliance is the training that has been developed in how to build a house series. This is something that OSHA people have been able to participate in, including our Assistant Secretary. I think not many months ago, Steve accompanied one of my staff to a local how to build a house seminar.

But in addition to that, a number of training resources with a focus on non-English-speaking employees have been developed. We're very pleased that NAHB representatives help us on the Ed Board for our topics page, on residential construction. So again, a number of opportunities to work together.

One of the things, as I mentioned to you, that I think is of particular note in terms of the success of the Alliance Program
are training opportunities that have been developed. Sometimes these training opportunities are opportunities in which the alliance partner offers training to OSHA and our state plan partners. Sometimes it is training that they have developed and offer not only to their own members or employees but to others.

But just so you are aware, in this last fiscal year, through the Alliance Program, there were 25 training events that reached over 4,500 employees and that obviously includes OSHA employees and this has been a steadily increasing outcome of the Alliance Program, and as you can see from some of the examples that are on the slide, the training addresses any number of topics, from, as you can see, safe take entry to small businesses.

We've had training on pyrotechnics. We've had training on process safety management and really just an array of subjects.

So, you are aware of what's new
and/or up and coming. We actually have just posted this last week a new cleaning industry topics page that is a product of our alliance with that group. We have updated and is posted on our small business page our safety page advisor, which I think, if you look at, you will see is a much improved tool and perhaps something that would be useful for you in this industry to use, especially with small subcontractors.

We are working with a number of alliance groups on a new eTool for powered industrial trucks, and we are updating our hospital eTool.

So, changing topics to another one of our cooperative programs, I often say and at the same time, I think, am embarrassed to say, you know, we often feel that our consultation program remains a secret and it is something we want those who work with us, including our advisory committees as well as our cooperative program partners, to help us get more information out into your communities and your states and your organizations about
the OSHA Consultation Program.

OSHA funds in every state a free service, run by state agencies, an agency designated by the governor of each state. This consultation program that provides assistance to small employers. The target audience is employers with 250 or fewer employees at a site. Generally speaking, the focus is on employers with no more than 500 corporatewide with some exceptions.

Consultation projects are more and more getting into the construction business and we are looking to work with them, talking about developing a pilot program for recognition through the Safety and Health Recognition Program, the SHARP Program, which I will talk about in a minute.

This is a good program in terms of offering both training assistance as well as assistance in recognition and abatement of hazards and, more importantly, the implementation of effective safety and health management systems.

The recognition program that exists
that is part of the Consultation Program is a
program called SHARP. As I said before, it's
the Safety and Health Achievement Recognition
Program. Isn't that a great government
acronym? You can see why we call it SHARP.

SHARP is a program that looks a lot
like the VPP Program in terms of the program
requirements. Certainly the intention is an
effective safety and health management system,
as I said.

There are criteria for the program
in terms of safety and health performance, but
this is a program that recognizes that small
employers may need assistance in achieving
safety and health excellence and so in this
case, unlike our Voluntary Protection
Programs, the assistance that helps the small
employer is assistance offered by the state
consultation projects.

Anthony Forest Products is but one
of many, many examples of the success of this
program. This is a family-owned business that
operates in four states. Their experience
with our Consultation Program started in Texas. They have sites in Texas, Arkansas, Louisiana and Georgia and now all six of their businesses are in the SHARP Program.

Linda Anthony, who actually was in the building today, is an outspoken supporter of this Consultation Program and the SHARP Program, and they very willingly share their experience of having invested $50,000 and they believe they've had something over a million dollar return on that investment.

The most important thing obviously is the improved safety and health environment for their employees.

One of the things we have just completed, albeit completed in that this is now posted but it is an ongoing project for us, is a new look and feel to our small business web page. I would urge you to go look at it.

We designed it, redesigned it in a tab format because we think it is easier to use. It provides a clearer focus for the page.
One of the things that is up and coming that will be of importance to you will be the development and a focus on the development of material that can be easily downloaded that is focus material on training for especially Hispanic employees.

So, we're going to have a series of training tools. There will be things you can download, like a poster and information that will allow you to do training for it. We're going to have information that will have a family focus, so that these will be things that can be downloaded and printed for employees that they'll be able to take home.

Certainly one of the things we know that, you know, if you get the kids involved, you know, with coloring books, with, you know, cartoon-like characters the kids can focus on, that we think this will have a real impact.

We're very lucky. We've hired recently some folks with really good expertise and experience in this area and so I think this is going to be something very, very
powerful with a focus on small employers.

Again, it's something that our state plan partners in California have had a lot of success with, especially in residential fall protection -- I'm sorry -- residential home building and so I think this is something that downstream is going to have a big pay-off for all of us.

I mentioned before our new safety SafetyPay Tool. This product has just gone up. SafetyPay Tool is something that OSHA's had for a number of years, but it was pretty awkward to use. It was not really accessible.

You had to download it to your computer. You had to use it offline and it was a bit cumbersome.

This is now set up with dropdown menus. It's the kind of thing that you can, you know, plug in amputation and you can plug in the cost, you know, what you know it's going to cost you in terms of insurance costs and you can immediately start seeing what it costs, what you have to generate in profit to make up for the cost of that accident.
So again, I think, especially for small contractors, folks that are operating on the margin in terms of profit, clearly this safety and health is not something they should do because it is profitable, but this might be what you need to push them to understand the consequences of behavior and perhaps change behavior.

So, a few minutes now, kind of transitioning once again to talk a bit about the Voluntary Protection Programs, a program that we're having more and more interest and more and more opportunities for the construction industry.

So, I want to talk briefly about our Corporate Program, our Mobile Workforce Program, because you are all taxpayers and because I think it's very, very important, and I want to talk about what we're doing in federal agencies and then finally to talk a bit about OSHA Challenge.

One of the things I would just mention at the onset because it's something I would like you to all think about where you
work is that we see the Voluntary Protection Program really offers an opportunity for leveraging safety beyond individual sites.

This is but an example, not a construction example but I think a good example. Valero Refineries, Valero has actually been a very committed VPP partner in terms of focusing on bringing all of their refineries into the program, but one of the things they did at this particular site in Corpus Christi is make a commitment to get all of their contractors in.

So, in this site, you can see the array of VPP flags, I think there should be seven there, and they represent flags not just for Valero but for them insisting on contractor safety and health at an exemplary performance point so that all of their contractors are recognized by VPP as well as the Valero site and certainly I think downstream, as all of you look to improving safety and health wherever you work, you are all dealing with contractors on some level or another, and I think this simply illustrates
quite graphically that you can successfully improve safety and health not for just for your own employees but for your contractors as well.

One of the things, a pilot that we started about -- I always think things happened yesterday and now I don't know. Probably four or five years ago. We began a corporate pilot which is an opportunity for us to look at ways to leverage our resources and to save resources, both on the part of OSHA and on our partners' part so that we've got a corporate process that allows us to look at and approve those corporate safety and health programs that are applicable to all the corporate entities' sites, so that then when individual sites apply, we can have an abbreviated application and a more abbreviated onsite because we're not continuing to review paper programs we've reviewed. We're looking at the effect of programs onsite.

So, our initial experience was with the six groups listed there. Our initial experience tells us that this is working, that
we are seeing a resource savings both on our part and on the part of our partners.

The Postal Service is certainly our most prolific partner. Prior to beginning in the corporate pilot in 2005, the Postal Service had 17 sites in VPP. They now have a 104.

The Washington Group is, in this initial group, our only partner that has construction experience. As you will see from this slide, we are now expanding participation in the corporate pilot. We're kind of moving into Phase 2.

These are the groups that we are working with currently. We've already received an application from four. I am very intrigued about what the expansion of this pilot is going to give us an opportunity to explore.

As you can see, we now are going to have not just the Washington Group but also Fluor, Jacobs, and Parsons in this program and so it's not just -- so, it's going to really give us an opportunity to figure out in a very
real world way, you know, how does the concept of corporate VPP work for construction entities.

More interestingly, you know, we've had sidebar conversations with folks from all of these corporate entities and clearly there are times that they work together in a joint venture. What's that going to look like and how does it work? How is this going to work with our state plan partners?

Steve and Kevin are folks that we need to talk to about that because often, you know, as they are making these kinds of commitments and their work is often in state plan states, I think we need to try to pave the way and find a way to make this work on a national basis.

So, it's one of the nicest things I think about VPP is it offers us an opportunity to do pilots, to have demonstration projects and to figure out what works.

So, we're very excited about the commitment that everyone is making, all of the groups on this slide, because it really is
giving us a good opportunity to look -- to not just expand the VPP Program but to do it in a sensible way and to do it in a way that's effective and makes sense in terms of safety and health.

The OSHA Challenge Program is another program I know you guys have heard about and you've heard from me about. Again a program that we're very, very excited about and is working very well for us.

We designed this program really as a roadmap to VPP. In point of fact, this program has success whether you go to VPP or not. It really is a roadmap to improving safety and health performance, to improving -- to helping any entity, be it the general industry or construction, leading them to the implementation of effective safety and health management systems, whether or not they ever decide to go into VPP.

We do have two tracks, as I said, for general industry and construction. The last bullet is the most important bullet on this page. I truly believe there is no other
program we can find and the wonderful part about this program is it is almost resource neutral for OSHA, but it allows us to collect data from the program administrators about the participating sites from the moment the sites come in the program and that's really what we're doing, is looking at the data.

So, the data is telling us that the average participant in this program is improving their total case incident rate and the days away rate close to 40 percent a year. Now I just don't think you're going to find another program which is minimizing government resources, is maximizing your reliance on essentially a mentoring and support system of volunteers and have that kind of improvement in safety and health.

So, it is certainly something we are interested in expanding. It is something that I think has a pay-off for all of us. This is simply a list and these are on our website, but you now have a copy of my slides. These are our current VPP Challenge program administrators in the construction industry.
Again construction performance has been better than the performance in general industry. We've really had a lot more participation on the construction side. So, we are always looking for new challenge administrators. We are happy, if anyone is interested, both to encourage you to speak to other people who've already done it, also to do a webinar, to share information with you.

But again a very, very exciting program and one that the data suggests is very, very good.

Just one slide to talk about one of our many successes, North American Energy Services. They reduced their total case incident rate from 11.3 to 4.9. They reduced their EMR from 1.09 to .7.

One of the things that most of the construction data is going to tell us is that participation in this program has improved their competitiveness and I think, you know, if you just think about the data about the improvement in an EMR rate, you can appreciate why in fact it would improve their
competitiveness.

So again, we're happy to talk more about this. We're looking for everybody to sign up. I have a slide that I use sometimes at presentations that's got Uncle Sam, you know, kind of we want you to be a challenge administrator, but we do.

I talked to you before. You know, we launched nationally about a year and a half ago our VPP demo for construction. It is a program that in some ways has surprised me because it is a program that has not taken off as much as we thought it would.

Those who are in it are very, very excited about it and again have very successful programs and are very happy with the program.

What we did, the 17 VPP demo construction participants represent new demo folks. We actually overall in terms of construction participation in VPP, when you wrap them all up, we've got about a hundred different sites participating in the program.

Again, a good VPP example from
Quadrant Homes, a couple of things obviously leap out at you, I think, from this slide; that is, a 57 percent decrease in reportables and a $2.4 million savings for direct cost, direct and indirect costs associated with safety and health for Quadrant Homes.

Just a word now. Again, as I said before, you are all taxpayers and you are all safety and health professionals, and I think, you know, a longstanding issue for those of us who are federal employees has been as safety and health has improved generally in the country, that oftentimes I think federal employees have been a bit left behind.

We are very excited about the growing interest in the Federal Government in VPP as a solution to many of the very serious safety and health issues that exist in a number of federal agencies. So, as you can see, we now have a 150 VPP sites in eight agencies.

A couple of very exciting things for us. First, it is that OSHA is walking the walk, as the expression goes, as well as
talking the talk. We now have five area offices that are in the program. Probably more importantly, we do have an agencywide initiative on VPP that is very strong, very focused and is ongoing.

Along with Mike Connors, our regional administrator from Chicago, I'm chairing the group of executives. We've got a number of teams. We are developing an agency policy and programs so that we've got a consistent safety and health management system. We're looking at what the issues are. We're working with our unions, and it certainly has been Ed's expectation that all of the regions are moving toward VPP in some of their area offices.

Clearly, you know, Mike's well ahead of the rest of the agency with five sites in, and he actually told me in a conference call earlier this week he has three other area offices he thinks will come in in about the next year.

So, this is something I think that is very important for us. Certainly the
experience of the folks in those area offices, they think it helps them tremendously now when they are out in the field and they are talking to employers about some of the obstacles they face. They can say, yes, you know, we went through that, too.

Often, I think safety and health professionals are probably the hardest sell because they think, you know, OSHA people, we think we know it all and we're the best and we don't need to improve and in point of fact, we do and we have, and there's a strong commitment here on the part of the agency.

The other really major piece for us has been the commitment of the Department of Defense, originally going back to Secretary Rumsfeld, continuing with the new Secretary. They have an extremely active program. They've invested really considerable money in terms of contractors that are helping them with hazard assessment and GAAP analyses.

We have a newly-signed partnership with the Air Force, another partnership with the Army. We're negotiating a partnership
with the Navy as well.

As you can see, the total number of sites now is fairly small, but we've got a very structured plan for bringing in considerable more sites, Army bases, Air Force bases, and the like.

Certainly in terms of readiness, in terms of the cost to the taxpayer, more importantly the cost to working men and women, improving safety and health in the Defense Department is of importance, I think, to all of us and there is a great deal of enthusiasm in the services for this program.

Then just briefly, a bit on our Strategic Partnership Program. This is a program that has remained at a fairly steady size over the years. We usually have about 55 new partnerships a year. Again, it is a program that has had its best success in the construction and our most active participation has been in the construction industry and you can sort of compare the numbers there when you look at, you know, out of a current 169 active, a 139 are construction partnerships.
So, you can pretty much see this is a construction program.

Great successes, especially in big construction projects. I think all of the major new sports stadiums have been built under construction.

A successful partnership, though, that is not in construction but one that is of great interest and the information on this is available on our website is our partnership with the Postal Service.

This is a partnership that has focused on the implementation of a new ergonomic risk reduction strategy by the Postal Service. The focus for this partnership is in their major mail distribution sites.

As you can see again the numbers, they've had considerable success, both in reductions in MSD recordable rates as reductions having to do with lifting.

The Postal Service, as I mentioned before, is also a VPP partner. These two obviously complement one another, but a very
good success, and then just one more success,
which is again a bit more typical.

    Fox Energy Center. This was a
building of a new power plant. I don't need
to read the data to you. You can see it. The
data is very, very impressive in terms of both
the illness and injury reductions as well as
the importance of 1.45 million hours worked
with no fatalities, three days away cases, and
this is pretty typical, I think, for these
major construction partnerships.

    Again Busch Stadium. This is a
partnership that's been closed obviously for a
couple of years since the stadium opened in
2006, but it is a process that has been
replicated in most of these major stadiums,
showing you the success of these partnerships.

    Just leaving you with this word
before I have just a couple words on State
Programs. We were very excited a couple of
months ago to find from Australia a recent
report by Goldman Sachs, JB Were, in which
they have done a pretty intense study to
advise their investors and one of the things
that they have noted is that they are essentially telling their investors that there are relationships between workplace safety and health and investment performance and they are really telling their investors, you know, if you want to make money, you want to look to invest in a place that is focused and cognizant of their workplace safety and health corporate responsibilities and they are very clear about a return on investment.

Certainly something that was music to our ears because it is something we believe as an agency. We're very pleased to have Goldman Sachs confirm it, but certainly in terms of corporate social responsibility, I think it's something that is important for all of us to keep in mind.

Then one brief word because I know many of you either live or work or may work in state plan states. Certainly our state plan partners are very important to the overall OSHA programs and our state plan partners are responsible for 40 percent of the OSH coverage in this country.
In our 22 states, we have 22 states with full state plans, four more states that cover only public employees, one of the things that we have been working on and are about to launch are new pages describing each of our state plans.

These pages will be parallel one to another. They will provide you with consistent descriptive information and, most importantly, they're going to provide you with either a link in terms of a hyperlink or a phone number to call to get information about all of the important issues that are described on these pages.

Something we're all pretty excited about, both our state plan partners and us. You know, I know people go often to the OSHA website to get information about our directives, information about our new standards, you know, but when you get it, you know that you're generally getting information about what Federal OSHA is doing.

So, we have developed these new pages, and I know this -- I'm certain it's
even worse on the tiny ones you have. You can't really read this handout, but we will now be attaching every time there is a new OSHA standard or a new OSHA directive, we will attach after the six-month period that states have to respond a chart that will indicate to you whether the state addressed this issue, if they addressed it, did they adopt an identical standard or policy to the federal policy.

If they adopted something different, it's going to tell you that and it's going to give you information on how to get -- you know, where to find out what the state is doing.

So, this really will be a good solid one-stop place to get information about what's going on nationally because you'll have a complete chart, you know, as we develop new items. So, I think it will be very helpful to anyone who, you know, is working in any area besides one federal state.

So that is a brief update for us. We're very excited about all of the opportunities that we have to work on this
exciting array of programs, certainly appreciate your input and your help with any of these.

Steve and Kevin are very strong state plan partners. We work regularly with them as well. I'm very pleased that they are included in this committee because it's certainly a viewpoint that's important to us as well as to you.

So, I'd be happy to answer any questions or allow the agenda to move on so we can all move toward party time.

MR. SMITH: We've got time for a few questions, but we'll have time for the other, also.

MR. KRUL: Bob Krul with the Roofers.

Mr. Chairman, thank you. One quick question, Paula.

Your VPP Challenge Program construction administrators list. Some of them had an asterisk next to them.

MS. WHITE: Oh, yes, thank you. I'm sorry I didn't say that. The asterisk
simply means they were -- those with the asterisk were in our original group. So, they are just original partners.

MR. KRUL: Okay. Secondly, the statistics on individual sites speak for themselves with injury rates and the data you provided, but these bigger companies with multiple construction sites and OSHA only has human and financial resources to do job site visits in roughly 10 percent of them, how do you assure that all those sites are in compliance with safety standards?

MS. WHITE: Well, I'm assuming that the context of the question would be with VPP.

MR. KRUL: Yes.

MS. WHITE: Okay. As you know, our approach to construction and VPP is different than it is in general industry.

Right now, the way we have set the program up for our VPP demo program is if you apply -- now I'm not talking about corporate because, as I said, corporate, we've got to figure out, but our current VPP demo, applications are accepted in a defined
geographic area and the applier has to
negotiate that geographic area with the
regional administrator. It can be limited to
an area office. It could be a state. It
could be the entire region.

I will be quite honest with you. I
don't think we have any regional administrator
right now who's willing to go into our region.

You know, we're often more turtle-like than
hare-like and so we're moving slowly and I
think that's good. That's the reason you have
pilots. It lets us know what we're doing.

So, I know, for example, Mike has
had, you know, companies that have applied in
the demo that first have been an area office
and he's had some expansions statewide and I
think we do this based on our experience.

The program is written very clearly
that, you know, if you apply, you know, we
aren't going to all your sites. We're going
to go to select ones of your sites.

The important part about this
demonstration project, and it's the same in
the Corporate Program, is that (1) the key
thing -- a key thing we are reviewing is not just a corporate commitment but a demonstration that the corporation can assure us of their oversight capacity, so that we look not just at paper but we interview and clearly if we have indications that there is a failure in that corporate oversight, then we're going to go back.

I think the other fail safe in this is -- there are a couple things. You know, I know my friend Mr. Swanson is in the audience today.

One of the things that we've always thought about and looked at in OSHA is that we do have limited resources and ultimately we cannot go every place and so we do want to be strategic about where we enforce and we want to encourage people who are doing the right thing to do the right thing even better and to be responsible and so I think one of the things this program offers us is an opportunity to encourage people to do what they are supposed to be doing, which is ensuring safety and health, and we do monitor
that corporate oversight.

    We never relinquish responding to employee complaints, responding to a disaster. If something goes awry, we are there. So, I think there are sufficient fail safes, and I think -- but I think the opportunity for improvement by encouraging -- you know, VPP is a striking program in that OSHA's not giving anybody a whole lot beyond recognition and the fact that people are willing to do as much as they're willing to do just for that recognition is really inspirational, inspirational to me on a personal level, but I think it's that that we need to encourage.

  MR. KRUL: Thank you, Paula. Thank you, Mr. Chairman.

  MR. SMITH: Thank you. Other comments?

  MR. HAWKINS: Mr. Chairman?

  MR. SMITH: Yes, sir?

  MR. HAWKINS: I'd like to recognize Steve Hawkins from Tennessee Plan.

  At our OCOSH meeting, Ms. Paula announced her intent to retire and be sure
that our OCOSH group acknowledges that and
thanks her for her service and didn't know if
you were aware of that.

    MR. SMITH: Thank you very much.

    MS. WHITE: Thank you, Steve. He
wants to make me cry. Thank you.

    MR. HAWKINS: We thought she was
crying the last time but she just had a bad
cold.

    MS. WHITE: I was crying.

    MR. HAWKINS: She came in with her
handkerchief, but she has been of service to
this group, I know.

    MR. SMITH: She sure has.

    MR. HAWKINS: I just want to make
that motion.

    MS. WHITE: Thank you so much.

Thank you.

    MR. SMITH: And thank you for --
and that's a good way to end.

    MS. WHITE: Thank you.

    MR. SMITH: Thank you so much for
coming in.

    MS. WHITE: Thank you, Linwood.
Thank you. I will be around this evening, so I'm happy to answer any more questions or provide any information that you guys need.

MR. SMITH: And as the committee, we would like to thank you for your service very much.

MS. WHITE: Thank you so much.

MR. SMITH: We really appreciate it.

MS. WHITE: I appreciate it. Thank you.

(Applause.)

MR. SMITH: Thank you.

MS. WHITE: Thank you so much.

MR. SMITH: Thank you. Okay. Mr. Buchet, you want to get Mr. Butler, Hank Payne on the phone?

MR. BUCHET: I understood he was going to be standing by at 3:45.

MR. SMITH: 3:45. Okay. We can move right on then. It's 3:30 now. We will keep meeting. We've got work groups. We've got two work groups that met yesterday and I think they're both ready to make their
reports. So, let's start with Tom Kavicky on Residential Fall Protection and we'll keep moving right along and then at 3:45, we'll stop and talk to Dr. Payne.

MR. KAVICKY: Thank you, Mr. Chairman.

Co-Chair Mike Thibodeaux is going to give the presentation.

MR. SMITH: How did you talk him into that?

ACCSH Governance/Work Group Reports

MR. THIBODEAUX: We began our meeting at 9 yesterday on Residential Fall Protection and we started out, Tom and I, summarizing the prior presentations on residential fall protection at the other work group meetings we had, to include roof and truss operations, use of scaffolds and ladders in truss operations.

MR. SMITH: Would you forgive me? Let me interrupt.

I'm going to back up a minute. I don't put my glasses on often enough. Hold your report.
MR. THIBODEAUX: Okay.

MR. SMITH: We've got two gentlemen that have signed up for Public Comments and just in case they have other obligations or other places they need to be, they were supposed to go at 3:45 and we're going to be tied up with Dr. Payne at 3:45.

So, at this time, Scott Schneider and Mike McCann, and we'll let them -- Scott go first, if that's okay, and Scott, if you take about five minutes, we'd really appreciate it.

Public Comment

MR. SCHNEIDER: Scott Schneider with the Laborers Health and Safety Fund of North America, and thank you very much for letting me make a short announcement.

I wanted to make two announcements, really. One of them is just to make you aware, next month, at the National Hearing Conservation Association in Portland, we'll be announcing -- we're working with NIOSH, between NIOSH and the National Hearing Conservation Association, to develop a special
award to be given to the construction company that has an excellent hearing conservation, hearing loss prevention program.

So, we're going to be hopefully working with all of you to help promote this and encourage people to apply, and the first award will be given at the National Hearing Conservation Association meeting a year from February, in February of '09, but we'll be promoting it at the Construction Safety Conference in Chicago and hopefully we'll get a lot of people that have really good programs, so we can give an award out. So that's just one thing I wanted to mention to you, some minor progress.

The other progress I wanted to mention to you is while I was on the committee a couple of years ago, I kept harping on trying to make the work group reports a lot more accessible because the work groups do tremendous amount of work and really productive and very good work, but the reports from the work groups are unfortunately buried in the OSHA docket. It's very difficult to
find them.

So, last month or maybe it was two months ago, I worked with CPWR to put all the work group reports that we could find up on the LCOSH website. So, if you go to the Electronic Library for Construction Safety and Health, there is a page where you can access very easily the ACCSH Work Group Reports and I believe that link is now on the OSHA/ACCSH web page. So, you can go directly from there to the LCOSH.

So, anyway, minor progress but progress nonetheless.

Okay. Thank you very much.

MR. SMITH: Thank you. Thank you very much. I knew you had been sitting here all day and wanted to make sure we got your comments. I appreciate that.

Mike McCann. Thank you very much, also, for being with us and we'd like for you to take five minutes or less, if you would.

MR. McCANN: Thank you.

MR. SMITH: Thank you.

MR. McCANN: Mike McCann, Director
of Safety Research at CPWR, the Center for Construction Research and Training, a new name.

In the past, in meeting notices and everything that we have put out on ACCSH, it's talked about for ACCSH members, employee representatives and employer representatives. However, and a number of people have brought this up to me, in this meeting, last meeting notice of December 17th, it talked about representatives of employee viewpoints and representatives of employer viewpoints.

I know that was an issue that some of the non-union construction contractors had been saying that, oh, we represent employee viewpoints and so I'm just wondering what is the reason for this change. Does anyone know, and does it --

MR. SMITH: Well, I certainly don't know. Is anyone here capable of commenting on that or qualified to comment on that?

MR. SHANAHAN: I just want to get a clarifying question. So, are you asking that like non -- are non-union employees being
represented?

MR. McCANN: No. Is this a change in position on OSHA that would ultimately may be allowed non-union employees to be represented by employers or something like that?

MR. SHANAHAN: I see.

MS. SHORTALL: Want me to deal with it?

MR. SMITH: Go right ahead.

MS. SHORTALL: Okay. In the Construction Safety Act, it does specifically say identify what type of membership has to be represented here. Three members shall be individuals, representative employees, primarily in the building trades and construction industry, engaged in carrying out contracts to which the section applies.

In the regulations that OSHA developed or promulgated to carry over the Construction Safety Act, it does specifically say in here that there are to be five members who are qualified by experience, affiliation to present the viewpoint of employees
involved.

So, I think what they were just trying to do was track the exact language that you would find in Section 1912.3 of OSHA regulations. It was not representing any type of change in OSHA's position but, rather, just trying to stick as closely as possible to the exact language in the regulations.

MR. McCANN: It was a change in that people had noticed it and wondered about the significance of it.

MR. WITT: It wasn't meant to suggest a change in philosophy, policy or practice, just to better reflect the language in the regulations.

As Sarah said, the language -- the regulation implements the Construction Safety Act which was carried over and that's -- as many of you know, this committee was formed under the Construction Safety Act.

This was the means we used to bring this committee under the Occupational Safety and Health Act.

MR. McCANN: Okay. Thank you.
MR. SMITH: Thank you. Thank you very much.

Okay. We'll go back to our report on Residential Fall Protection.

MR. THIBODEAUX: All right. As I stated, we summarized the prior presentations that were made to the Residential Fall Protection Group, scaffolds, ladders, fall rest systems, use of the wall walker system, and we've got copies of the prior minutes of the work group meetings that we will submit along with this report.

Discussions opened concerning definition of residential construction and how residential construction is characterized and obviously it's characterized by wood framing, wooden floor joists and roof structures, and after discussion with the group, the consensus was urging OSHA to redefine residential construction and supports the inclusion of concrete block or cinder block construction as well as metal stud framing when used in residential construction as part of that definition.
There was a presentation by LeBlanc Building, Weyerhaeuser Real Estate, and Maracay, not MaryKay but Maracay, Homes, and they gave us a presentation on fall protection in residential construction and it included the use of all conventional fall protection methods with showing us concrete basement walls by using rails and the installation of floor joists and floor trusses and subfloor leading edge work, installation of roof trusses where they used conventional fall protection before the trusses were sheathed and also in roof sheathing and also during roofing operations.

The discussion following this presentation, a number of questions were asked concerning will these roof trusses support the fall protection anchors without being fully sheathed, and, of course, they tested it and showed us in their presentation that they had them attached to four trusses rather than one truss.

And the amount of training that was required to train people to be able to utilize
this fall protection system and they stated that it was about eight hours of training where they felt comfortable that their workers could operate this very safely.

So, also, a question was asked concerning increased costs for implementing this in residential homebuilding and the cost of this truss bar, which I said encompasses three or four trusses, is anywhere from $1,200 to $1,500. The cost of the self-retracting lifelines cost anywhere from $500 to $800, and they had also roof and window anchors that they use for painters, siders, et. cetera, that were $20 to $30 apiece.

Of course, the truss bar and the self-retracting lifelines are reusable for quite a long time, until you have a fall, and then the self-retracting lifeline has to be replaced, but they estimated the cost to implement this kind of program was approximately $250 per home.

Now, one thing that they didn't have was engineering, scientific data on the fall protection program as well as data from
their truss manufacturer stating that they
were okay with the way they set this up
because what they've done has contradicted
what the National Truss Manufacturers
Association has stated concerning trusses that
are not sheathed, you know. They're not
designed to handle that type of fall
protection without being even partially
sheathed.

So, they're going to furnish that
to us and to the folks that were there who
requested it and we'll look at that and it may
be that this is, you know, an appropriate
presentation to be made to the full ACCSH
Committee at our next meeting in either April
or May.

A couple other things. One
commenter expressed concern about the smaller
contractors may find the initial cost
prohibitive to implement these systems and the
presentation also showed the use of a crane in
putting the trusses on the home itself and I
don't believe that they did it like some -- in
some areas of the country where they build the
roof trusses onsite and put them up one at a time and how is that going to work and whether that is feasible for the particular system. That was from that presentation.

We had another one from the National Frame Building Association. Although they're primarily used in the agricultural and commercial industry, this was presented to be similar in design and resembling residential construction, built on grade, no basements.

There's supposed to be a more detailed presentation to the committee tomorrow and the bottom line is the National Frame Building Association would like to be -- they would like their industry to be included under the residential fall protection compliance guidelines and so that you'll hear that tomorrow, a more detailed report. So that's why I didn't go into much detail on it.

There was a big discussion concerning the interim standard and I don't know what the number is now, but it was called STD-3.01(a) that was promulgated, I think, in '94.
The question was asked, you know, hey, let's talk about either retaining this, modifying it, or eliminating it, and a number of the comments were, from a number of folks, that the interim standards creates confusion and it authorizes alternative fall protection measures, but it doesn't have the limitation that Subpart M does.

It doesn't have to be a written fall protection plan. You don't have to show infeasibility or greater hazard. You can just implement it and I think that is -- what's the best way I can put this? That allows some folks to not follow Subpart M, even though it could be feasible and there's not a greater hazard and I think that was the consensus.

There was a concern for the lack of written fall protection plans and the majority of state plan states think that this interim standard should be rescinded because most of them don't use it. I think there were only four that do use it throughout the states.

NAHB talked about their training programs and they distributed a copy of their
training manual for fall protection as well as a copy of their video that they're using in their training program and it was noted in their comments that there's no reference to the interim standard in their training documents which was, I think back in '94, NAHB was one of the promulgators of the interim standard and I think they feel with the things that have come about over the last 14 years that allow folks to be able to use more standardized fall protection measures to protect the workers, especially in roof and truss operations and framing operations.

A number of attendees voiced their support of the NAHB's direction towards following Subpart M, and National Roofing Contractors actually said that they opposed the elimination of the standard because it allows them -- and that was just strictly for roof operations, not for truss operations or anything else. It allows them some flexibility.

And comments were also made that OSHA should train their compliance officers so
that there's more uniform enforcement of the standards under Subpart M.

MR. SMITH: Okay. We need to call Dr. Payne. I think -- I know I heard one recommendation in that report and possibly another one. If you'd like to make those as recommendations to the full committee, then we can vote on it after we do this, we'll be glad to do that.

MR. THIBODEAUX: Sure.

MR. SMITH: Thank you for your understanding.

DR. PAYNE: Hey.

MR. SMITH: Dr. Payne, can you hear us?

DR. PAYNE: Barely.

MR. SMITH: Okay. This is Linwood Smith, Chairman of ACCSH.

DR. PAYNE: How you doing?

MR. SMITH: Doing good. Appreciate you standing by for us. Can you hear us better now?

DR. PAYNE: Yes.

MR. SMITH: Would you like to
update us on any changes in OTI? Then I'm sure some of our members will have some questions.

DR. PAYNE: I'm not sure how many of you know, I don't remember the last time I was at ACCSH, but we've hired -- we've had a number of changes in the management structure out here.

Sean Zin Yin is now the head of the Construction Branch out here. He's a structural engineer who used to be with Region 5.

Charlie Shields is the new Director of the OSHA Training Institute who replaced Sig Sedaucus who retired about two years ago now.

We have a new admin director out here, Sam Lombardo, and a new Director of Programs. His name is Jim Barnes. A new Deputy Director who is Ernest Thompson, who used to be the head of the Programs Office out here. So, we've had a number of personnel changes out here.

We also -- I think maybe you knew
we went through -- our office went through competitive sourcing which is the A-76 process whereby the instructor positions, the developer positions and a lot of the staff positions went through a competition and to see if it would be cheaper to outsource the work or keep it in the house with federal employees, and it was cheaper to keep it inhouse with federal employees.

So, we were very happy about that, although we are working under a most efficient organizational structure right now which does cause us some constraints in terms of personnel assignments and who can do what, but we're working around those.

Those are probably the two big things that -- two major things that have gone on out here, I think, since ACCSH last met. It's been all in the personnel changes and getting through this competition.

MR. SMITH: Thank you. Could you talk to us briefly -- I've heard some comments from the members of the committee -- about the OSHA 500 instructors and maybe some changes
that are going to take place there or being contemplated?

DR. PAYNE: Yes, I can. The Outreach Training Program is basically the program, I guess it's probably known as the 10- and 30-hour card program, but officially it's the OSHA Outreach Training Program, where OSHA authorizes instructors who complete a training program to go out and do 10- and 30-hour courses in either construction or in general industry.

Periodically, we take a look at the program and we update it and make changes. The last time any changes were made to the program was in 2003. We're currently looking at the program right now to see what changes that might need to be made. We're still in the process of discussing a lot of those, but basically they're kind of -- they really come under two areas.

The first area would be topic changes. Right now, there are specific areas. Under each program, there are required topics and then there are, for lack of a better term,
topic areas that you can choose from to fill
in the 10 or remaining 30 hours.

Then the second set of changes
basically deal with an ongoing issue that a
number, a large number of the OSHA Training
Institute education centers have been
reporting to us dealing around the
prerequisites for becoming an authorized
instructor and then primarily it being that a
number of the people now enrolling in the
trainer courses which are the 500 and the 501
courses are really struggling with not having
a sufficient background and many of them
switch and go through the standards course.

Now that sounds more ominous than
it is. It is a course that is an overview of
construction standards, policies and
procedures. It's not a blow by blow here are
all the standards in construction and here's
everything you need to know.

It really is an overview of
standards to help give them a feel for what
kind of standards cover the construction
industry and the kinds of things they need to
help them be better instructors.

In the past, we have allowed the OSHA 30-hour to substitute for the standards course and what the ed centers have been reporting to us is that those students are more and more having problems in the trainer course and a number of them are backing out of the trainer course and are going into taking the standards course.

So, we are at this point exploring whether we're going to eliminate the 30-hour and basically require the standards course, in the construction case it would be the 510 course, or what we would call an equivalent and there are a number of areas that we're considering as equivalent areas.

For example, an associate's, bachelor's or master's degree in the safety and health field. If the person is a certified safety professional or a certified - - an occupational health and safety technologist or a construction safety and health technician or a professional engineer who's had course work in OSHA standards,
things along those lines are what we are currently considering as would substitute as an equivalent for that 510 course.

MR. SMITH: Okay. Thank you very much.

At this point, Hank, I'm going to ask the committee if they have any questions, and I'm going to ask them to identify themselves before they ask the question so you know you're responding to.

DR. PAYNE: Okay. Thanks.

MR. SMITH: Yes, sir, Frank?

MR. MIGLIACCIO: Frank Migliaccio with the Ironworkers, Hank.

DR. PAYNE: Hi, Frank. How you doing?

MR. MIGLIACCIO: Good. How you doing?

DR. PAYNE: Okay.

MR. MIGLIACCIO: It's my understanding some of the prerequisites you were looking at here and you basically spelled them out right there were college degrees, engineering degrees, so forth like that, and
you've worked with our people for, God, I don't know how many years.

We have six master instructors. I think all the trades, building trades have the same. We're allowed six master instructors and our master instructors have gone through the training that was required before. They've been evaluated. They've taught courses for the OTI themselves and come back with excellent evaluations.

And this morning when Assistant Secretary Foulke was here, it was brought up and I actually said that if it comes down to somebody teaching a class to construction personnel, I can't find anybody better than a person that works in the construction field, not somebody who's got book learning.

There's a lot of people in the world got book learning but they don't have a drop of common sense, and in construction, it takes common sense to put something together and it works safe.

Now, if there's going to be changes made here, I was surprised that the OTI didn't
even come to or even think about coming to the subcommittee through ACCSH, the OTI subcommittee, which I chair.

I felt as though we were like, you know, just circumvented here. I'm not sure what the reason for this is and the only thing I can see motivationwise is the colleges and so forth that have come forward and said that some people are having this trouble, is it's a money issue, and when you start putting money issues ahead of safety and the correct way of training, I'm totally against this.

I think most of the people on this committee would feel the same way.

The other thing I want to talk about was -- he's not going to answer, I don't think.

Excuse me. Would you like to answer that question? I didn't give it as a question, but go ahead.

DR. PAYNE: I didn't really hear a question, but I don't really see it -- we don't really see it as a money issue. We see it as a program integrity issue, and Frank, we
have been struggling with the issue and on how to deal with the master trainers in the building trades and we haven't really come to a resolution.

MR. MIGLIACCIO: Okay. When you come up with a resolution or when you come up with an idea, would you be willing to bring this in front of the subcommittee that I chair?

DR. PAYNE: Sure.

MR. MIGLIACCIO: All right. That answered that question.

Now, the other thing I had here was one of the other things I guess OSHA was looking at was an expiration date on a 10-to-30-hour card, and this has come in front of the committee several times.

If a person comes out and takes the OSHA 10, they do it on their own time. It's voluntary because OSHA doesn't require an OSHA 10-hour card to get on any job. The contractors in turn do. Contractors can require the card and they can require every two-three years somebody go back through a
refresher class, so to speak.

But for OSHA to come out and OTI to come out and say that they feel as though there should be an expiration date on a card that's not mandatory in the first place, how can you punish somebody for taking the class on their own time, putting their own time and money and effort into it, and then punish them by making them come back through something that maybe a contractor doesn't require? That is a question.

DR. PAYNE: I don't know where this expiration date is coming from. We hear it a number of times. We're not proposing an expiration date be put on the construction or the general industry 10-hour or 30-hour cards.

MR. SMITH: The only expiration, I think, is on the OSHA 500 instructors.

DR. PAYNE: The trainer cards have an expiration date and have had for a long time but not the worker cards.

MR. SMITH: Okay. Thank you. Someone else have a question for Hank? Anyone else?
(No response.)

MR. SMITH: Well, we sure appreciate you dropping in today.

DR. PAYNE: Okay. Hey, Frank, I'll be in touch with you.

MR. MIGLIACCIO: You've got my number.

DR. PAYNE: Yes.

MR. SMITH: How's the weather?

DR. PAYNE: It's cold.

MR. SMITH: Okay. Thanks a lot.

DR. PAYNE: Okay.

MR. SMITH: Thank you. Okay.

Thank you very much. Do you still have a motion?

MR. KRUL: Yes, sir, Mr. Chairman.

Thank you.

I still would like to propose the motion that I made earlier and that's that we make a recommendation to the Assistant Secretary that any proposed changes to the OSHA Training Institute current parameters be brought before the subcommittee that's been charged with the OSHA Training Institute
matters and that any of those recommendations then be brought back to this full committee and again for recommendations back to the Assistant Secretary and I make that in the form of a motion.

MR. SMITH: Okay. We have a motion on the floor. Is there a second?

MR. MIGLIACCIO: Second.

MR. SMITH: Okay. Any discussion?

Any discussion?

MR. BEAUREGARD: I just have a question. This is Kevin Beauregard from North Carolina.

I have no problem with the motion, but you might want to limit it to in the area of construction because NCI does a lot of other things outside of the construction arena, and I don't know if you want everything going through this committee.

MR. KRUL: Well, -- go ahead, Frank.

MR. MIGLIACCIO: This is only construction. He can only relate to construction to us.
MR. KRUL: I would amend my motion to limit it to construction.

MR. BEAUREGARD: Very good.

MR. SHANAHAN: This is Tom Shanahan.

I guess just a discussion question. What is the -- does anybody know what the OTI's chain of command is in terms of when they want to make changes? Is it -- I mean, are we receiving this because we have to have a work group or --

MR. SMITH: Let's vote on this motion and then we'll entertain your question. It concerns a different thing really.

Let's vote on this motion. Any other questions on this motion?

(No response.)

MR. SMITH: Okay. All in favor, say aye.

(Chorus of ayes.)

MR. SMITH: All opposed, likewise.

(No response.)

MR. SMITH: Motion carries. Now your question is about when they might make a
change?

MR. SHANAHAN: Well, I just wondered what the process was in general for OTI's --

MR. MIGLIACCIO: I can speak to the internal process, specifically that the Director Hank Payne uses to consider changes to either existing policy or existing procedures to the Training Institute, but for the most part, those changes would come to Washington for presenting to the Assistant Secretary and those decisions made by the Assistant Secretary.

I'm sure there's some minor procedural changes there that don't rise to the level of the Assistant Secretary, but any change that would have a significant effect on those who either take courses directly at the Training Institute or through the ed centers or through the train the trainer would come to Washington, but Hank Payne, the Director of the Training and Education until recently was an office within the Directorate of the Cooperative and State Programs, it's now a
freestanding directorate that answers directly to the Assistant Secretary's Office.

MR. SMITH: And the chair appreciates Mike's consideration in stopping his report. Would you like to finish your report, Mike, and/or make a recommendation to the committee?

MR. THIBODEAUX: Yes, I did have a few other things to say.

MR. SMITH: Please go right ahead. Thank you.

MR. THIBODEAUX: The NAHB representative presented just a short summary of a residential fall protection study they had done by a third party and I understand that's going to be published within the next month or so and will be available for us, and the study revealed that the leading causes of deaths due to falls in residential construction were first from roofs, second from ladders, third from scaffolding, falls from other areas which weren't delineated, and then the fifth one was falls from a floor, a dock, or ground level.
This fatality data was collected from the Bureau of Labor Statistics Census of Fatal Occupational Injuries. So, it's from a very reliable source.

We did have a motion to make and even before that, also NAHB said they still had some more handbooks on fall protection as well as video to give out to anyone who didn't get any yesterday and they'll be here after the meeting.

I have a motion that the full committee recommend to OSHA to include concrete block, cinder block and metal stud framing in trusses in the definition of residential construction but only for residential homebuilding.

MR. SMITH: Okay. You've heard a motion. Is there a second?

MR. SHANAHAN: Second.

MR. SMITH: Okay. We have a motion and a second. Discussion?

MR. MIGLIACCI: Can you say that again?

MR. THIBODEAUX: The motion itself
is basically right now, under the interpretation by OSHA, concrete block, cinder block, and metal stud framing in trusses are not included as part of residential construction, as part of the definition of residential construction and so they have to go to other means to do their fall protection, et. cetera, and it is confusing because cinder block and concrete block and metal studs are used in homebuilding a lot more than they were many years ago and the consensus of the work group yesterday was that it should all be included as part of the residential construction, so long as it fits within the home, you know, residential homebuilding definition of the type and means of -- type of materials used, because right now it's just wood framing and there is metal framing in metal trusses and there's also concrete block that's used on the waffles and once they're braced, they're, you know, the same strength as wood truss.

And we also have wooden floor joists and roof structures. They have metal
floor joists and metal trusses that they're using, also, in homebuilding and the gist of the motion is that should be a part of rather than excluded from the residential construction definition.

MR. SMITH: Thank you. Mike, we've been asked to have you restate your motion one more time.

MR. THIBODEAUX: Okay. And then Dan wants to ask you a question.

MR. THIBODEAUX: I'm glad I wrote it down.

MR. SMITH: Can you give us the written copy? Maybe that would help. Go ahead.

MR. THIBODEAUX: The motion is that the ACCSH Committee recommend to OSHA that they include concrete block and cinder block and metal stud framing in trusses in the definition of residential construction so long as they're used only in residential homebuilding.

MR. SMITH: Thank you. Dan?

MR. MURPHY: Dan Murphy. Mike,
you've got to help me out a little bit.

Yesterday, I sat in on the committee meeting or the subgroup meeting, and one of the major areas of concern was poured-in-place concrete basement, and you don't identify that as part of residential, at least I didn't hear poured-in-place concrete, but yesterday's example was they had handrails around a basement that was poured-in-place.

So, I don't mean to muddy the waters, but I wonder if that should or should not be a part of your definition.

MR. THIBODEAUX: From my standpoint, you're going to have to be very narrow in doing that. Poured-in-place basement foundations only used in residential construction might be, you know, appropriate, but I wouldn't want to just say poured-in-place concrete because that just widens it way too much and gets into the commercial area way too much.

MR. MURPHY: Yes, because your cinder block example would cover a base, correct?
MR. THIBODEAUX: Correct.

MR. MURPHY: But poured concrete wouldn't be included, but we have the same exposures?

MR. THIBODEAUX: Right. I don't have any problem in amending my motion to include, you know, poured concrete for basement walls in residential homebuilding.

MR. SMITH: Okay. Say it one more time.

MR. KAVICKY: Now you now why Mike is here.

MR. THIBODEAUX: This is the last time, Tom.

MR. SMITH: No, not the entire motion, just the part about the poured-in-place concrete.

MR. THIBODEAUX: Okay. To include poured-in-place concrete for basement walls in residential construction.

MR. SMITH: Very good. Thank you. Any other comments? Would OSHA like to comment on that or anyone else?

MR. WITT: Not at this time.
MR. SMITH: Okay. You've heard the motion. Have a second. No more discussion.

All in favor, say aye.

(Chorus of ayes.)

MR. SMITH: All opposed?

(No response.)

MR. SMITH: Okay. Thank you. Do you have another motion?

MR. THIBODEAUX: No, sir, not at this time.

MR. SMITH: Okay. You don't have one on the interpretation?

MR. THIBODEAUX: No. We want to get more on the engineering data and truss information before we finally make that.

MR. SMITH: That's fine. Thank you very much.

Dan, are you ready to make your report? I know you wanted Tom to make it, but he keeps -- and you have to understand today, Tom doesn't have a personal medical situation himself but his parents have a situation today and he's been called to the phone on that several times. So, please understand his not
being in the room today. He'd be here if he could.

MR. MURPHY: With that said, Linwood, if at all possible, I would like to - - we have a report that would probably be no more than five to 10 minutes, but there was a lot of discussion that Tom led and if it would be okay with you, Mr. Chairman, and the committee, we'd like to report out when Tom's available and hopefully that will be a little later today or tomorrow morning, if you don't have issue with that.

MR. SMITH: That will be fine, sir.

MR. MURPHY: Thank you.

MR. SMITH: Everyone, if you would, take out your sheet in your folder at this point that's entitled ACCSH Work Group Membership and DOC Staff. Please take a look at that. It's in your brochure. If you don't find it, let us know. This is a test. It's amazing how confusing we can get papers here today. Does everyone have it?

MR. HAWKINS: Mr. Chairman, I don't think I have a copy.
MR. SMITH: It's not in your packet of information?

MR. BUCHET: Originally, it was the third sheet in on the right side.

MR. SMITH: Okay.

MR. HAWKINS: I got it.

MR. SMITH: Okay. He's got it, he's got it. Okay. Everyone got it? Okay. Let's look at that for a second and talk about our work groups and we want to talk about the work groups and first we want to talk about whether they should continue or not, they should carry over, or whether their charter and purpose has been fulfilled, and then we want to talk about the chairman and vice chairman and if the chairman or vice chairman this year, we'd certainly defer to them for their comments, and then we'll take recommendations.

Let's just start at the top of the page, Diversity and Multilingual was Dan Murphy and Tom Broderick, and they did meet yesterday.

Do you recommend they continue?
Dan?

MR. MURPHY: Well, as a part of the report, this is as good a spot as any to talk a little bit about Diversity and Multilingual.

It was the committee's consensus that we have fulfilled the requirements of the charge that we had and basically what we said was we're at a point in the free market where there's a lot of materials available in other languages for trainers and educators to use and so we have a lot of the stuff.

One of the suggestions that was made was we split this committee actually into two groups because we had the Women in Construction document that's housed on the OSHA web page that we felt could certainly be a plus to employers today but it's a 1999 document and so we're nine years out of date and a lot has happened.

From a Multilingual -- so, we thought maybe there should be a work group on Women in Construction and then we thought the Multilingual may continue, but we wanted to talk more about issues, develop goals and
objectives for that committee that certainly include like culture change in a construction company and how we could maybe get some more of that happening and we had two folks from NIOSH at our meeting and they were saying that most of the incidents that they have looked at were with construction companies with 10 or less employees.

So, from a work group perspective, maybe we could work on figuring out how to get more of the safety culture into the smaller construction companies. So that was the recommendation of the group that we wanted to bring here and see if that made sense to the rest of the committee.

MR. SMITH: Okay. So, you're recommending we split Diversity and Multilingual into two work groups?

MR. MURPHY: Yes.

MR. SMITH: Okay. You're an employer rep, Tom's the public rep on the total committee now. Have you all talked about how you would like to -- what you would like to do?
MR. MURPHY: That's when the stuff started happening. So, I haven't talked to Tom since that started.

MR. SMITH: Okay.

MR. MURPHY: So, if we can give you some feedback on that, if he ever gets off of this conference call, we'll be able to do that either today or tomorrow morning.

MR. SMITH: Okay. Would anybody like to volunteer for Diversity or Multilingual? Elizabeth?

MS. ARIOTO: I'll volunteer for Diversity.

MR. SMITH: For Diversity?

MS. ARIOTO: Yes.

MR. SMITH: Diversity, for Women in Construction. And also, per your recommendation, we'll rename it Women in Construction?

MR. MURPHY: I guess I would need some help there, but that was one of the things that we thought could be accomplished as an update of a fantastic report that was done nine years ago.
MR. SMITH: Okay.

MR. MURPHY: But that may not be the only issue as Women in Construction, there may be other diversity issues that that group may deal with. So, I don't know what you should name it.

MR. SMITH: Okay. Any volunteers from employee reps for Diversity or Multilingual? Anybody like to volunteer for either one of those two groups? And this is just all recommendations, I guess, at this point, but would anybody like to volunteer for those two?

I assume what we're doing is making recommendations to the Director of Construction and they will make decisions.

MR. KAVICKY: I wouldn't mind -- I had originally talked with Emmett about going on Trenching, but I'm involved in Women in the Trades and Diversity back home. So, I would be willing to work with Elizabeth on Diversity.

MR. SMITH: Okay. Tom Kavicky.

MR. KAVICKY: Yes.
MR. SMITH: Very good.

MR. KAVICKY: Thank you.

MR. SMITH: Okay. Focused Inspection Initiative. Frank? Kevin?

MR. BEAUREGARD: I'm not sure exactly what our goals are on that committee because it was established awhile back, but I know that OSHA has a focused inspection initiative. I know many state plans have OSHA focused inspection initiatives in construction.

Does anybody recall what our goal or objective was for that particular committee?

MR. SMITH: Steve, we'll ask you to comment on that.

MR. KRUL: Is this your final official duty?

MR. CLOUTIER: No. I just learned something you don't know yet.

If you remember back, Bruce and I brought this before you last time. Based on a question that came in from one of the past members of ACCSH that said that focused
1 inspections were not uniformly being done
2 across the 10 regions and that's how this
3 whole thing started, so Bruce wanted to do a
4 study, and he's left or he could do this
5 instead, but Bruce wanted the committee to
6 look into that and do a study throughout the
7 10 regions to see just whether they were or
8 they weren't and that was the charge, Kevin,
9 that was given to the original focus.

10 MR. BEAUREGARD: What was the
11 purpose of the work group?

12 MR. CLOUTIER: The purpose of the
13 work group was to conduct a study at any way
14 they chose to do that and then report back at
15 the next meeting what their findings were, but
16 we never had -- we didn't have the next
17 meeting, so we didn't hear the findings.

18 MR. SMITH: One of the purposes of
19 having a work group, we may recommend that to
20 OSHA that they do it.

21 MR. CLOUTIER: Well, it's up to
22 Steve if he wants to continue that or not. I
23 mean, I don't see a need to do it anymore.

24 MR. SHANAHAN: And the chairman
doesn't either?

MR. SMITH: No, no. We will ask, you know, if that's something OSHA might consider looking at.

MR. GILLEN: I'm interested in that. I think that's a partnership.

MR. SMITH: Okay. You're public. Matt Gillen. What's the sense of the committee? Obviously, you know, my opinion is noise is still an issue and certainly is and we've asked questions about it today, I believe. So, I think we can do it. Okay. We've got employee/employer. Would people like to volunteer?

MR. MURPHY: Linwood, Dan Murphy. I would be happy to do the employer piece.

MR. SMITH: Okay. How about from employee side, employee rep?

MR. MURPHY: Frank.

MR. MIGLIACCIO: I'll take it.

MR. SMITH: Thank you, Frank, for volunteering, with Dan's help.

OTI, who we just talked to. We've already got a motion that it -- we've already
got a second committee with Frank.

MR. HAGGERTY: I would like to be
called for that on the employee side.

MR. SMITH: Okay. You can be on
the committee and not be the chairman and
Frank, I think, wants to keep -- be the
chairman. You've got a new recruit there,
Frank.

Residential Fall Protection,
Kavicky and Mike.

MR. THIBODEAUX: Yes.

MR. SMITH: Okay. That definitely
needs to continue, I think. You had a
tremendous meeting yesterday.

MR. THIBODEAUX: Yes.

MR. SMITH: ROPS, ROPS.

MR. GILLEN: Can I ask a point of
clarification?

MR. SMITH: Yes, sir.

MR. GILLEN: This is to pick the
chairs or is this to indicate interest in
being on the committee?

MR. SMITH: No, this is just the
chairs and the vice chairs --
MR. GILLEN: Okay.

MR. SMITH: -- and the reps from each, you know, each segment. Good point. Thank you, Matt.

ROPS, ROPS.

MR. RUSSELL: I can take that over from Frank.

MR. SMITH: Okay.

MR. RUSSELL: Emmett Russell.

MR. SMITH: Thank you, Emmett.

MR. MIGLIACCIO: I want to stay on the committee, though.

MR. SMITH: Does this committee need to continue?

MR. RUSSELL: Yes, we should be close to a final report back to the group. So, yes, it does.

MR. SMITH: Okay. And what are you working on?

MR. RUSSELL: ROPS is on compactors. Right now, the OSHA standard says that rollover protective structures are not necessary and the committee was to take a look at that and make a recommendation as to where
we go in the future with that.

MR. SMITH: Okay. Thank you very much, Emmett.

For employer, we've got Mike listed and Dan Murphy. Well, I guess we just need one basically, right? I know. We need the employer rep and employee rep. We're showing two employer reps right now. We only need one as chairman. They both can be on the committee, but we only need one as the vice chair or chairman.

MR. MIGLIACCIO: Chair is much more knowledgeable.

MR. SMITH: That's fine. We'll take your name off the chart then. So, I'm saying from the employer side, we're showing Mike and Dan and we only need one of them, you know, for the chairmanship or vice chairman.

MR. MURPHY: Congratulations, Mike.

MR. THIBODEAUX: I said it first.

MR. MURPHY: Either way is fine with me.

MR. SMITH: Okay. Who's on the most committees, I guess? Probably about
equal, right?

MR. MURPHY: I got three.

MR. SMITH: Okay. Let's use Mike on this then.


MR. GILLEN: I'm interested in that one.

MR. SMITH: Okay.

MR. KRUL: Mr. Chairman, I'll be interested in that committee.

MR. SMITH: Okay.

MR. WITT: Can I ask a question?

MR. SMITH: Yes, sir. Thank you, Robert.

MR. WITT: The interest expressed in the subject. The work group will have a purpose. It's not just interest. There will be an assignment or a purpose for the work group to have discussions on a particular issue and report back to the full committee?

I just want to make sure it's not just for interest in the subject. There's
probably 30 construction subjects you're interested in, but we don't necessarily need a work group.

MR. SMITH: Can someone tell us what their assignment was or what their charge was as a subcommittee? Scott?

MR. SCHNEIDER: Yes, I chaired this previously and I think part of it was to review a lot of information that was coming out on silica in construction, there's quite a bit, and I think part of it was also in preparation for action that OSHA was going to take in reviewing their reg analysis, et cetera.

So, we're anticipating that something will need to come before the committee and I would hope it would be sooner rather than later, but I would hope that they would work closely with this committee in developing their regulation and also their regulatory package.

MR. SMITH: Okay. Thank you. Anyone like to volunteer from the employer side? This don't mean all these committees
are going to be formed now. This is just --
if they are formed and we've got them in place
and ready to go.

But is there an employer rep that
would like to --

MR. SHANAHAN: Sure. I will.

MR. SMITH: Okay. Thank you, Tom.
Okay. Training and Certification. What was
their charge? Is that something we need to
continue? Mike?

MR. BUCHET: I don't think so.

MR. SMITH: That's all gone? We've
got consensus on one.

Trenching. Trenching Task Force.
Yes, sir?

MR. BUCHET: In the packet, there
is a list of action items. Michael Buchet,
Director of Construction staff.

In your packet, originally on the
left-hand side, there is a print-out of
materials that we received from Brent
Strudwick, the past co-chair of the Trench
Work Group, and it includes the action items
from that work group and if you don't mind, if
you can refer to Mr. Scott Schneider, I think he can tell you about half of them were done because he was the other co-chair.

    MR. SMITH: Okay.

    MR. BUCHET: And we at the agency are continuing our trenching initiative for another year. You may want to put that in the balance.

    MR. SMITH: Okay. So, there may be other work to do on it, right? Okay.

    Daniel, would you serve as the employer rep?


    MR. SMITH: Okay. Employee rep?

    MR. GILLEN: I'm interested in serving on that committee.

    MR. SMITH: Okay.

    MR. RUSSELL: I would volunteer for employee.

    MR. SMITH: Okay. Thank you, Emmett.

    MR. HAWKINS: Mr. Chairman, I'd be willing to -- Steve Hawkins. I'd be willing to serve on that committee as well.
MR. SMITH: Okay. Super. Keep in mind, you know, each committee needs a chair and a vice chair, a public representative assigned to it, and keep in mind that the agency will actually look over these subcommittees and determine resources and how many, you know, they can fund and how many can meet and how much work is left to do and what the charge is and, you know, then they'll report back to us on what committees have actually been formed.

Yes, sir, Emmett?

MR. RUSSELL: Mr. Chairman, I'd like to make a recommendation that, based on a presentation this morning, which was on structural failures, I think it might interest us to look at a Structural Failures Prevention Work Group because I think clearly on some of the presentations this morning, it was clear that if employees had a chance to voice what they saw on the job, they had a chance to exercise some options, a number of those failures could have been prevented, and I think that's the case where we can look at a
possibility of what are some of the options we might present where, when we clearly see signs of failures and in a lot of cases, the signs were there, how do we prevent them from happening and empower people to have a voice.

To give you an example, for instance, in the cranes and derricks proposal, it was clear that when it comes to critical lifts, you had to have a competent person, you had to have a meeting before you start the process, also an assembly/disassembly, and I think in some cases, something similar to that in some of the cases presented might actually prevent the loss of lives and injury.

MR. SMITH: Okay. Thank you, Emmett, for those comments.

Any other comments on starting that subcommittee?

MR. BEAUREGARD: Not on starting up another subcommittee, but I'd like to make a recommendation that at some point, we go on record in the meeting minutes or somewhere and outline what the scope and the objectives and the goals of these work groups are because
people come and go off these committees and
I've been around for awhile and it's really
nice when there's a charge, you know what
you're supposed to do, you do it, and you
disband the group. Otherwise we get in a
situation where nobody really knows what the
group's supposed to do and they go on in
perpetuity.

So, at some point in time, I'd like
to see if we can't do that.

MR. SMITH: By consensus, can we
ask DOL, DOC, Director of Construction Office,
to look at our list and see if there's a
charge already in place and if there is, you
know, if we need it to continue, to continue
it, or either help create a charge for the new
subcommittees? Would that be fair?

MR. BUCHET: Yes, but -- yes,
that's fair, as the former chair.

MR. WITT: That was a year and a
half ago. You want to count on his memory?

No. Of course we'll do that.

We'll review the past documents that contain
the purpose or the charge for each subgroup
and we'll distribute copies of that to everyone, but we would then ask for feedback on whether that purpose still asks and are there any other responsibilities we'd like to get to these particular subgroups or should they be disbanded.

I agree that some of the work groups go on in perpetuity. The work groups usually are established to meet a certain purpose and then dissolve. So, yes, I think it would be good to go through this process.

MR. SMITH: Okay. And you can use the people here especially after we go through the process and hopefully we'll send that out to you, but when the DOC sends that out, then maybe the people listed here could write back, you know, will you agree or you think some changes need to be made to the charge or, you know, you disagree, and we can talk about it next week.

MR. RUSSELL: One other issue I would like to bring up and that is, that if it's agreed that a Structural Failures Prevention Work Group -- and I'm not saying...
that's the formal name, but for right now at least that identifies the possibility, I did talk to the engineer, Mohammad Ayub or however you pronounce his last name, and I thought that if the work group were to be formed, it would be crucial that he or his organization be part of that group because I think clearly he could bring some substance for consideration, if that were to be a work group.

    MR. SMITH: Okay. Yes, sir, Bob?

    MR. KRUL: Along those lines, maybe it should come through the work group, but I'll ask Steve Witt this question.

    That to me was a very, very dramatic presentation on structural failure, and Mr. Ayub's recommendations as an engineer for prevention to me seem like they're invaluable.

    I know OSHA has limited resources, but would it be possible to put that on the OSHA website under Construction, that that could be a resource for contractors to use?

    MR. WITT: The structural reports
that Mohammad's office does when they go onsite, I can look into it. There may be some problems, but I'll try and get those resolved because these reports were all part of -- these are all part of enforcement inspections.

Mohammad and his staff are called out when there has been a structural collapse and OSHA goes onsite as part of an inspection, but I'll look into it and if we can, we'll link them through the ACCSH page.

MR. KRUL: Okay. Thanks, Steve.

MR. ZARLETTI: I want to go back to the work group when we split up the Multilingual and Diversity.

Now, do I understand that you and Tom continue on the Multilingual and Liz took on the Diversity with who? Who else?

MR. SMITH: Tom Kavicky.

MR. ZARLETTI: And you only need two on there? Is that what you're saying?

MR. SMITH: Well, no. What we're saying is we're just looking at the chairs. When we have a subgroup meeting, you know, they need other members obviously and you can
be -- you can volunteer for those committees
or you can go to all of them, you know, or
some of them.

Like yesterday, Residential Fall
Group had over 30 people in attendance and the
work groups traditionally, if they have a
meeting, even have people from outside this
committee to come in and participate in the
work group.

So, you know, this is just looking
for chairs. Like I sat in on some of these
committees the other day. So, thank you for
asking me the question and we'll ask them also
to look at the structural issue.

MS. SHORTALL: It looks like there
still needs to be Diversity and --

MR. SMITH: We've got a
recommendation on Diversity. Multilingual,
Dan's going to get back to us after he talks
to his --

MS. SHORTALL: If you're going to
have the committees, then you still need
either a public -- excuse me -- either an
employee or employer rep on some of these.
Liz represents public. So, you don't have an employer rep on that one.

   MR. ZARLETTI: That's what I was doing.

   MS. SHORTALL: Multilingual, you don't have an employee rep.

   MR. SMITH: Okay. Very good. Anyone like to --

   MR. ZARLETTI: I'll take the employer on Diversity.

   MR. SMITH: Diversity.

   MS. SHORTALL: So, then you need an employee on the Multilingual side.

   MR. SMITH: Right. Then an employee on the Multilingual side. Anyone interested in that? I'm getting confused.

   MR. MIGLIACCIO: Okay. Let me suggest that we work out the final chair and how many chairs and vice chairs we need for each one after we first resolve which committees we will have and which will continue and what their purpose will be.

   MR. SMITH: Well, I agree with that. We've got some names, but we'll work
out the final. After we work out which groups we're going to have, we will certainly need to look at it and make sure that it's kind of a fair split between everybody and everybody's got a fair load and, you know, we don't have one person chair or vice chair of all the committees. So, we'll try to make sure everybody's got an equal workload. Does that sound good?

Okay. Any other comments on work groups?

MS. SHORTALL: Mr. Chair, I have a number of housekeeping items to take care of today and they are marking certain items as exhibits and entering them into the record of this meeting.

They will be entered into Docket Number OSHA-2007-0082. The first one is Minutes from the October 11th and 12th, '06, ACCSH Meeting, marked as Exhibit 0002.

The Minutes from the December 8th, '05, ACCSH Meeting as 0003.

The hard copy of OSHA's Standards and Guidance Update PowerPoint Presentation by
Amanda Edens as 0004.

The Memo to ACCSH from Dorothy Dougherty regarding the PortaCount Proposal as 0005.

The Draft OSHA Notice of Proposed Rulemaking on PortaCount Quantitative Fit Testing Protocols as 0006.


The NRF Fact Sheet as 0008.

The NRF Press Release of January 22nd, 2008, as 0009.

The hard copy of OSHA Structural Response Plan PowerPoint Presentation by Mr. Mohammad Ayub as 0010.

The hard copy of Minnesota OSHA's PowerPoint Presentation by Jeff Isakson to be reserved as 0011.

The hard copy of OSHA's Construction Cooperative Programs PowerPoint Presentation by Paula White as 0012.

And finally, the Residential Fall Protection Work Group Report from the January 23, '08, Work Group Meeting, as 0013.
MR. SMITH: Thank you. That will be entered into the record after some corrections.

MS. SHORTALL: And all of those exhibits will be located for your perusal once again in OSHA Docket OSHA-2007-0082.

This change in the OSHA Docket represents the fact that OSHA, like all other agencies of the Federal Government, have moved over to the eRulemaking Federal Portal which is now on regulations.gov. So that's how you will now access the documents. You will go to www.regulations.gov.

MR. SMITH: Okay. Thank you.

MR. KRUL: Mr. Chairman, just a question for Sarah. 2007 or 2008?

MS. SHORTALL: We're putting them in the 2007 because they're related to the meeting announcement, the meeting announcement that came out on December 17th. So, those relate to that, but you're right, the next thing we'll do will be entered in under 2008.

MR. KRUL: Okay. Thank you.

MR. SMITH: Okay. Any other
MR. MIGLIACCIO: Frank Migliaccio with the Ironworkers.

Yes, it's been brought to my attention yesterday coming in here and then today about the badges and I was asked to bring it up in front of the committee, what happened with the badges. The photos that need to be taken now with, you now, another -- having to stand in line and waiting to get in.

MR. WITT: I can answer that, Frank. That's not something OSHA's done. There's a new Homeland Security Directive that controls photo badges that are given out to those who have access to federal buildings. All our new badges have microchips with personal information stored and our fingerprints.

The practice now is not to give those badges out generally. There is a background check that needs to be done before they're given and at least the Department of Labor at this point is not issuing those type of badges, to my understanding, and I can
check on that.

Now we do -- there are contractors in the building who have them and others that have some financial relationship with the Department of Labor, but I can check as to whether they're willing to give them out to advisory committee members, but there has been a change in the type of badges we get and the rules that apply to the issuance of badges.

MR. MIGLIACCIO: Will the badges you're carrying now, are they similar to the TWIC badges?

MR. WITT: They look like this and they have little microchips.

MR. MIGLIACCIO: Yes, I'm talking about -- well, the TWIC has the same thing.

MR. SMITH: Anybody on this committee got a problem with background check?

MR. THIBODEAUX: It's Frank.

MR. MIGLIACCIO: I come here, I'm legal.

MR. SMITH: Would it be appropriate for this group to go on record as asking that the agency consider that?
MR. WITT: Sure. And of course, if it's possible, we'll do it, but it's not within our control, but I'll have someone check with the department's administrative people who control the issuance process.

MR. SMITH: You know, of course, they've got to find your name, stand in line, and then you only got one door you can come through, same thing. You know, depending on where you're staying, that could be a little bit more of a walk. That's a longer walk.

Can I get a motion on this?

MR. THIBODEAUX: And Frank, you're on one of those watch lists.

MR. MIGLIACCIO: I know, but they couldn't find my name.

MR. BUCHET: Committee members should be at the top of the list, not alphabetized with everybody else. That's the way we sent it down there.

MR. SMITH: Can I get a motion on that?

MR. MIGLIACCIO: I make a motion.

MR. SMITH: Okay. Frank makes the
motion that we ask the DOC Office, Director of
Construction Office, to see if they can
somehow get us name badges which would be very
beneficial. Is there a second?

    MR. THIBODEAUX: Second.

    MR. KRUL: Second.

    MR. SMITH: Any more discussion?

    (No response.)

    MR. SMITH: Okay. All in favor, say aye.

    MR. RUSSELL: One question.

    MR. SMITH: Okay.

    MR. RUSSELL: I am a member of
another committee and let me say this. What I
have to go through to deal with that committee
is something I would not recommend because
with that committee, not only do they have to
do a background, you've got to give financial
disclosure and it's a whole bunch of other
stuff.

    So, I would say if we can get the
badges without all of that, we get them, but
if all of that's going to be required of each
committee member, let me say that's a lot of
process and I think we're better off with what
we have.

     MR. MIGLIACCIO: Because the
Department of Labor, they know what I make
anyway. So, it doesn't make any difference.

     MR. SMITH: Well, --

     MR. WITT: Let me make one other
comment. Michael distributed about a 37-page
document that relates to the issue that was
raised earlier on the PortaCount and I said
we'd like to look over the Federal Register
Notice. Two pieces of material that John
Steelneck gave you earlier.

     Please, if you have a chance, look
at it. I know we're not all going to go back
and study this material tonight, but we would
like to get a sense of the committee or any
recommendations.

     Michael is going to describe to you
the additional document that was handed out
that's even longer and what this represents
from the last committee meeting.

     Michael?

     MR. SMITH: It's getting late in
the day and my friend here is letting me slide with this. We haven't voted on this motion that Frank made yet.

All in favor of the motion, say aye.

(Chorus of ayes.)

MR. SMITH: All opposed, likewise.
(No response.)

MR. SMITH: Okay. Then we have an official recommendation from this committee.

Any other items to claim our attention today?

MS. SHORTALL: Yes, we have reconsideration of the minutes from 2005.

MR. SMITH: The minutes from 2005.

MR. MIGLIACCIO: I make a motion to accept them after reading them again.

MR. SMITH: Thank you. Is there a second?

MR. THIBODEAUX: Second.

MR. SMITH: Any discussion?
(No response.)

MR. SMITH: All in favor, say aye.
(Chorus of ayes.)
MR. SMITH: All opposed, likewise.

(No response.)

MR. SMITH: Thank you. Everything clear? Sarah's got something else.

MS. SHORTALL: I have one question.

I'm sorry. I was trying to look something up.

Mr. Migliaccio's earlier recommendation. Was there a second? Had there been a second?

MR. SMITH: Name badges?

MS. SHORTALL: Name badges.

MR. SMITH: Yes, oh, yes.


MR. SMITH: Okay. Anything else? Yes, sir, Michael? Would you give us directions?

MR. BUCHET: Which order would you like it? Talk about this or directions?

MR. SMITH: Either way.

MR. BUCHET: While your memory is still fresh.

MR. SMITH: Either way, sir.
MR. BUCHET: You want to know where the food is. After you pay attention on this sheet of paper.

Michael Buchet, Director of Construction staff.

This is an excerpt of the transcript from the October 11th, 2006, ACCSH Meeting. John Steelneck and Carol Jones came and gave a lengthy presentation on sign protection factors and a lengthy one on PortaCount.

It is the entirety of their testimony and the questions and answers. You will recognize some of the names of the committee members who asked questions that you might want to look at. Mr. Kavicky asked some questions. Mr. Hayslip, who is not here, asked some questions.

It will give you some background into the presentation they gave today and some more meat in your thoughts on the subject.

There are actually, if you want the full transcript, another 300 pages.

Thank you.
MR. SMITH: Okay.

MR. KRUL: You know, I know how much everybody's going to take this home tonight and read it with their reading light on after going to Stew's retirement party, but there's one thing in this draft NPRM that I will put out now and not want an answer until tomorrow.

But there's three issues in these two test value tables. One of the test values failed, the other one's borderline failure, and then the other test value for full face respirators, there's a borderline failure, and my pragmatic side says why would we be considering giving any kind of a positive response or nod from this committee for respirators that are failing or are borderline failing in any test protocol?

I'd just leave that for thought.

MR. SMITH: Okay. Thank you, Bob.

Okay. Directions, if anybody needs them.

MR. BUCHET: Directions to My Brother's Place. How many of you know where My Brother's Place is? That'll simplify it.
MR. KRUL: If there was building security, you could walk out that door.

MR. SMITH: Hold on a minute.

MR. BUCHET: You will have to walk --

MR. SMITH: Just a minute. Let's go off the record. Meeting is hereby adjourned. We're off the record now.

(Whereupon, the above-entitled matter was adjourned at 4:46 p.m.)