

UNITED STATES DEPARTMENT OF LABOR
OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

ADVISORY COMMITTEE ON CONSTRUCTION
SAFETY AND HEALTH
(ACCSH)

Hyatt Regency O'Hare
TWA Room
9300 West Bryn Mawr Avenue
Rosemont, IL 60018

Thursday, February 13, 2003

The meeting was called to order,
pursuant to notice, at 8:30 a.m., JANE WILLIAMS,
Acting Chairperson, presiding.

Dennis
224 pp.

MOFFITT REPORTING ASSOCIATES
(301) 390-5150

P R E S E N TCHAIR

JANE F. WILLIAMS
Acting Chairperson
President
A-Z Safety Resources
4901 E. Kathleen Road
Scottsdale, AZ 85254

EMPLOYEE REPRESENTATIVE

MR. DAVID M. BUSH
CEO
Adena Corporation
282 North Trimble Road
Mansfield, Ohio 44906

MR. JOSEPH L. DURST
Director, Safety and Health
United Brotherhood of Carpenters International
Training Center
6801 Placid Street
Las Vegas, NV 89119

MR. MANUEL MEDEROS
Assistant Business Manager, Local 1245
International Brotherhood of Electrical Workers
704 Timber Trail
Pacific Grove, CA 93950

MR. DAN MURPHY
Vice President Risk Control
St. Paul Fire and Marine Insurance
385 Washington Street
St. Paul, Minnesota 55102

MR. MIKE SOTELO

Vice President/Field Operations
W.G. Clark Construction Company
408 Aurora Avenue N.
Seattle, WA 98109

MR. GREG STRUDWICK
President
Greg Strudwick and Associates, Inc.
P.O. Box 1820
Coppell, TX 75019

STATE REPRESENTATIVE

MR. KEVIN BEAUREGARD
Assistant Deputy Commissioner,
Assistant Director of the Division of Occupational
Safety and Health
North Carolina Department of Labor
4 West Edenton Street
Raleigh, NC 27601

PUBLIC REPRESENTATIVE

MR. THOMAS A. BRODERICK
Executive Director
Construction Safety Council
4100 Madison Street
Hillside, IL 60612

DESIGNATED FEDERAL OFFICIAL

MR. BRUCE SWANSON
Director
Directorate of Construction
200 Constitution Avenue, NW
Room N-3468
Washington, D.C. 20210

COMMITTEE CONTACTS

SARAH SHORTALL, ESQUIRE
Office of the Solicitor
ACCSH Counsel, DOL

ALSO PRESENT:

MR. JOHN L. HENSHAW
Assistant Secretary

MR. STEW BURKHAMMER

MR. MIKE CONNORS

MR. SCOTT SCHNEIDER

MR. BRAD SANT

MR. BILL PERRY

MR. NEIL DAVIS

MS. TRAECI FLETCHER, MS, CHST
Safety and Security Manager
Parsons-Odebrecht, J.V.

I N D E X

	<u>PAGE</u>
Call to Order.....	6
Introduction of ACCSH members/alternates.....	7
Introduction of Public Guests.....	9
Housekeeping Items.....	10
Remarks of Secretary John L. Henshaw.....	15
Construction Partnership Updates.....	65
Region V Update.....	80
Highway Work Zone Safety Update.....	110
Hearing Conservation Report.....	141
Status Report, SubPart V.....	159
Crystal and Silica Report.....	167
Remarks from Mr. Bruce Swanson.....	191
Director, Directorate of Construction	
ACCSH Business.....	197

Public Comment.....	206
Adjournment.....	222

P R O C E E D I N G SCALL TO ORDER

CHAIRPERSON WILLIAMS: I would like to welcome you all to the ACCSH meeting that we are having here in Chicago, Illinois. I am the acting Chair, Jane Williams, for Chairman Bob Krul who was not able to make it with us today.

We will go through various items on the agenda that has been provided. However, there are some changes to the agenda, which I will go over in just a moment.

At this time, I would encourage all members of the public to please sign our sign-in list that is going around. I brought it in and it is being circulated here, Mike.

INTRODUCTION OF ACCSH MEMBERS/ALTERNATES

CHAIRPERSON WILLIAMS: And I would like to begin with introductions of the committee, itself. And we will began with David.

MR. BUSH: I'm David Bush, CEO of Adena Corporation, a general contractor in Ohio, and representing management.

MR. MEDEROS: I'm Manny Mederos, representing IBEW, from the labor sector.

MR. MURPHY: Dan Murphy with St. Paul Companies.

MR. STRUDWICK: Greg Strudwick, Greg Strudwick and Associates.

MR. SWANSON: I am not a committee member. I am Bruce Swanson. I am the Designated Federal Official

for this committee.

CHAIRPERSON WILLIAMS: Again, Jane Williams, A to Z Safety, Public Representative, Scottsdale, Arizona.

MS. SHORTALL: Hi. I am not a member either. My name is Sarah Shortall. I am in the Office of the Solicitor and Counsel to ACCSH. And I am hoping I am the first to say Happy Valentine's Day to you.

MR. BRODERICK: I'm Tom Broderick with the Construction Safety Counsel, and I am the other Public Representative.

MR. SOTELO: Mike Sotelo, W.G. Clark Construction, Seattle, Washington, Employer Representative.

MR. DURST: Joe Durst, United Brotherhood of Carpenters, Las Vegas, Nevada, Employee Representative.

MR. BEAUREGARD: Kevin Beauregard, North Carolina Department of Labor. I'm the State Plan State representative.

INTRODUCTION OF PUBLIC GUESTS

CHAIRPERSON WILLIAMS: Thank you. And at this time, I would like to hear from our public guests. If you would start with Mr. Stew.

(Whereupon, the public guests introduced

themselves.)

CHAIRPERSON WILLIAMS: Good morning. The Chair would like to recognize our special guest, Mr. John Henshaw, The Assistant Secretary of Labor. John, we are very pleased to have you, and we will be hearing from him very shortly.

HOUSEKEEPING ITEMS

CHAIRPERSON WILLIAMS: Our first item is to take care of some housecleaning items, if we may.

You are located in the TWA Room. Our emergency access route is directly to the right, upon leaving this building. There is an exit door that you would follow to the right, past the buffet table that is sitting there.

Our accountability zone is going to be across the street. That is why it is imperative that everybody please sign in. It is important that we know who is in the room, so we can account for you.

And secondly, we also will be providing that to our data recording people, so that they can record that you were here and present. So, please make sure you sign that list.

If there is an emergency in the room, if anyone should need medical attention, the extension number that we will dial will be 55. And Kevin Beauregard is going to be my designated representative

to control that emergency.

HOUSEKEEPING ITEMS

CHAIRPERSON WILLIAMS: The first item of business is to review the minutes that have been provided in your packet. We do have some changes to those minutes.

ACCSH members, if you would turn to page four.

As our guidelines require us to go by Robert's Rules of Order, as does the IOSH requirements, we are inserting the comment: The chair was vacated by Chairman Krul and Jane Williams assumed the meeting as acting Chair. Our Solicitor, Mr. Biersner, vacated as solicitor. Mr. Hoffman assumed as acting solicitor.

Second correction --

MS. SHORTALL: That would be Mr. Hammock.

CHAIRPERSON WILLIAMS: Hammock?

MS. SHORTALL: H-A-M-M-O-C-K.

CHAIRPERSON WILLIAMS: The Chair is corrected.

It is Mr. Hammock, H-A-M--

MS. SHORTALL: M-O-C-K.

CHAIRPERSON WILLIAMS: M-O-C-K.

Our next correction appears on page six. If you go up to the second paragraph from the bottom, which begins Noah, insert prior to that paragraph: Upon motion duly made by the work group and voted upon

HOUSEKEEPING ITEMS

by all ACCSH members present, the in-progress work group work product was unanimously adopted.

Page seven, second paragraph from the bottom, second sentence, to record a statement that, insert: Chairman Krul. Krul is not identifiable as a person.

And Page 10, insert above the third paragraph from the bottom: Ms. Williams vacated as acting Chair. Chairman Krul resumed the Chair. Mr. Hommock?

MS. SHORTALL: Hammock.

CHAIRPERSON WILLIAMS: Hammock vacated as

acting solicitor and Mr. Biersner assumed the chair -- excuse me, the solicitor position.

The next item I have been asked to clarify -- there was some confusion in the appointments made by our Chair to various committees. As you are aware, by our guidelines we are -- we have two Chairs, typically, for most workgroups. We try to make sure we have representation from various entities on the ACCSH Committee. I have been asked to clarify who are the Chairs of these workgroups, and it will be so reflected in these minutes at this time.

Data Collection and Targeting. The two representatives as shown are the Co-Chairs.

Diversified Construction Work force Initiatives. Williams/Bush are the Co-Chairs.

Musculoskeletal Disorders. Sweeney/Durst are the Co-Chairs.

Multi-lingual Issues in Construction, Sweeney/Broderick are the Co-Chairs. Greg Strudwick and Mike Sotelo are members.

Noise in Construction, Sweeney/Durst Co-Chairs.

OSHA Training Institute, Frank Migliaccio and add Jane Williams as Co-Chair.

Certification and Training, Durst/Broderick are the Co-Chairs. Greg Strudwick is a member.

Safety and Health Programs, Williams/Beauregard are Co-Chairs.

State Plan States, Beauregard/Sotelo are the Co-Chairs. Durst is a member.

Tower Erection, Construction/Fall Protection, Fatalities, Injuries, Beauregard/Ahern are the Co-Chairs.

Silica, Williams/Sweeney are the Co-Chairs. Ahern, Strudwick, Mederos, Bush are members.

And at this time, there has been some discussion this morning, we would like to ask if there are any other ACCSH members that wish to be noted for these different committees that we have at this time?

I did skip Sanitation. That is myself only,

Jane Williams. We are an ongoing committee at this point in time. We do not have any formal actions of ACCSH, but I will be reporting to you on the status of that issue regarding A.10 and the participation that we have had from DOL with that.

And the last correction, on page 12, third paragraph, the Chair agreed to have, and it should read: Jane Williams, Work group Chair for the Guidelines to present recommendations, et, al. Mr. Durst made the suggestion to us, and the suggestion was accepted, and had been totally overlooked. And we thank Joe for that recommendation.

MR. DURST: Thank you.

CHAIRPERSON WILLIAMS: The Chair requests of the Directorate of Construction to revise those minutes accordingly, and please provide that to all ACCSH members.

That takes care of our housekeeping, the beginning our meeting.

At this time, we would like to welcome Mr.

Henshaw and hear his comments. Sir, welcome.

REMARKS FROM ASSISTANT SECRETARY HENSHAW

MR. HENSHAW: Thanks, Jane. I appreciate it.

Thank you all for allowing me to speak to you today. It's a great opportunity. I had an opportunity also to extend some of the sessions at the conference here, and obviously speak at the conference two days ago, or a day and a half ago.

But what this committee does and the kind of work that you've done in the past is worth acknowledging. You guys have got, you know, your act together. The Advisory Committee has been very productive over the years, and I think, you know, the kind of work and kind of advice this committee provides is very, very useful to the Agency.

So, I look forward to your continuing support.

You certainly have my full support. You have both ears and all ears of the Agency in respect to advice and where we can go from here and how can we advance the ball. Advancing the ball in my mind is how do we be more effective in reducing illnesses, injuries and fatalities. So, I am very pleased to be a part of this, to listen.

What I would like to do this morning is to tell you a little bit about, you know, where we are heading. You have a number of the OSHA folks who will give you more detail in a lot of the things that I will mention today. And please feel free to ask me any questions when I finish my prepared remarks.

Let me just give you sort of an overall. I mean, you have heard, sort of, our vision of the future, our vision of the Agency, our vision of how the Agency can be more productive and effective in the triple bottom line, which is reducing injuries, illnesses, and fatalities.

I don't want to repeat all of those, but I

will give you a little bit of an update as to where we have been in those areas and our strategies, as well as what the future may hold in some of those strategies. Where we are heading. Where our vision takes us to the next level.

And so, at least, you can determine whether that is right or not. I would certainly like to have your input as to whether that's right, the right vision and the right strategies to get there. And also, maybe, how we can get more participation in fleshing out or boning out those strategies to be -- so we can produce more positive results.

What we are about here, and what I am about, is not to talk about the past, but talk about the future, talk about where we are heading. We only analyze the past to see what's effective, what's worked in the past so we can build on that to go forward. We have to be focused on that, and we have to focus on dropping the things that were not successful, and the ones that are, build those even stronger and stronger

and stronger.

So, we will be measuring this. The Agency will be taking time and effort and analyzing data and determining the effectiveness over all of our programs to see whether, in fact, they deserve continuing support so that we can drive injuries, illnesses, and fatalities down, down, down.

One of our approaches -- I think you all understand or know that we have really three strategies that we are working on in driving performance. And the strategies are--and these are fully supported by the ASHAC--the ASHAC has 13 different issues, items that talk about how the Agency can do its mission, which is to assure a workplace in this country that is safe for all workers.

One of those items, obviously, is enforcement. And setting standards is another item. We will be doing that. We will be strengthening our enforcement efforts. We will be improving our targeting of construction. Our intent is to go to those workplaces

that need enforcement as an incentive to drive performance and provide a safe workplace. For those facilities that already have the right message and are already working in the right direction, we'll use other strategies to continue and foster further growth and further performance around reducing injuries, illnesses, and fatalities.

So, certainly the idea of how do we target construction sites is critical. We need to be more effective on how we target construction sites; how do we go to the facilities that need that kind of strategy to drive performance.

One of the other things that we will be announcing very soon is enhanced enforcement efforts, around what we call the recalcitrant employers. The employers that constantly, over some period of time, have chosen to take a different path in respect to compliance. How do we touch them? How do we get them to achieve the performance we are looking for?

The result of our measuring is not how many

finest we issue, or how many citations we issue. That's not the result. The result is a safe workplace. That's got to be our mission. That's got to be the measure that we look at how effective we are in accomplishing the mission that Congress has given us and the ASHAC.

So, we will be looking at ways, and we will be talking ways, and we will be announcing soon on how we are going to deal with employers that have not got the message. We do not want to be a part of the cycle where we continue to just participate in issuing fines, they pay the penalty, and work continues, and hazards continue. We've got to be out of that cycle. We've got to stop that cycle. We've got to find ways to stop that cycle.

Again, the measure of success is not how many fines we issue. It's how many hazards we correct, and how many lives we save, and how many injuries and illnesses we avoid. So, we will be talking more about that. But, our target is driving the numbers down.

That has got to be our ultimate measure of success.

So, targeting inspections, as well as recalcitrating employers. We will be focusing on that in the upcoming years. Targeting inspections round construction.

We have a reasonably good targeting system for general industry. We do not have, in our mind, a sufficient or good enough targeting process for construction. We've got to find a way. Don't know what that is yet, but we need to find a way. And we certainly can use your help.

The second strategy is around the outreach and education and assistance area, knowing that we can only approach, we can only inspect two percent of the facilities in this country. Incidentally, that's going through them one time. If we have to keep going back over and over and over again, we are cutting the number of people we can go to even less than that. So, that's why we have got to be effective in creating a change, so we don't have to go back to those facilities again.

So, we are only going to two percent of the facilities. What are we doing about the other 98 percent? And I am talking about all of the facilities in the nation, not just construction. We can only go to a small percentage. We've got to identify which ones we do enforcement, and then how do you deal with the other 98 percent. And that's going to be through our other two strategies around our education, and outreach, and assistance, and the other strategy. The last one I will talk about is voluntary programs.

Let me talk about cooperative programs. Let me talk first about our education and outreach. As you know, we have issues around immigrant workers. We will be addressing that in a very significant way. We have in the last year and a half and will be doing even more. Somebody asked me, are we doing enough? Well, in my mind today, we are not doing enough of anything.

That is the reality of the world. Tomorrow we are going to do more, and do it more effectively. We are never satisfied with what we are doing. We need to

continue to improve, and that is what continuous improvement is all about.

Are we doing enough on hispanics? Do we need to do more? Certainly. We need to began to approach, and more effectively approach the issues around immigrants coming into this country and working in hazardous jobs. We need to identify where they are. We need to identify how to reach them; how to reach the employers that employ them; how to reach the cultural issues, and the language issues.

We need them to respond, both employers -- Hispanic employers and employees -- in a way that they are safe as individuals, and they operate safe workplaces. The employers need to understand how to relate to immigrant workers, certainly, from a language barrier issue and a cultural barrier issue. There is cultural differences that we have to address. It's just not translating into dialect respect, it is other issues as well.

We have to be smart enough to understand what

that is. We are going to need partners in making that happen, and we are going to have to continuously improve that process as we go through it.

But, again, our goal has to be are we impacting the numbers? Are we impacting and reducing injuries, illnesses, and fatalities? That's got to be our mission. That's got to be our measure of success. Are we doing that?

Currently, I think you know the numbers are going in the wrong direction for Hispanic workers. We've got to stop that. Somehow, we've got to approach that, and we are going to need partners to make that happen. We are going to need alliances. We are going to need to work in a collaborative way with everybody to make that happen.

This cannot be done with OSHA, just by itself. We are all in this game together. We are all in this process together, and we are all going to have to work very closely together to attack this issue.

We have done some things that you have heard

about, and certainly, I'm not going to repeat some of the stuff that I repeated -- I mentioned at the opening session two days ago. You know, we've got 800 numbers.

We've got a task force. We've got a lot of activity going on in the Agency. We need to do more. We need to be as effective as we can. We are going to have to partner with a lot more people to make it happen.

We have done an awful lot of great work, but still, more great work is necessary to accomplish this result.

On our education outreach, one of the tools we are using to provide communication, provide information, provide guidance, provide instruction, provide lessons learned, provide business cases around how you -- what is the value of safety and health? And we firmly believe there is value derived from good safety and health practices. It's not just on human terms, it's also on business terms, on economic terms.

We want to be able to articulate that even more effectively than we have in the past.

And I would encourage this committee to give us some guidance on how we can do that. And the articulation, or the way we frame this, is not based on the traditional safety and health model. It is not as a safety professional. It's got to be on the economics. It's got to be -- we've already done that on the safety side. Safety professionals are out there shouting from the rooftop about safety pays. We've got to have insurance companies we've got to have business agents, we've got to have business people articulating the business value around good safety and health programs.

And today, more so than anytime in the past, with insurance rates like they are, with the concern about the quality of work force and dealing with all of the pain and suffering and the loss time associated with injuries, this is the time. We are at a better time than ever in our history, of articulating a business case around safety and health, the value around safety and health. And the value is not just

for the business, it is for the workplace, and that includes quality and moral. And it also is, obviously, for the individual. We've got to articulate that as effectively as we can.

We are going to be using the website to help us do that. We are going to use other kinds of media.

I certainly would encourage and hope that we'll have business schools starting to pick this up. One of my goals is to have the Harvard Business Review talk about the value of safety and health, and show it in terms that business people can understand and put in place and integrate into their businesses, safety and health.

It is not a separate piece. It's an integral piece of their operations.

The website, as I mentioned, we have an excellent website. We were able to secure a very high rating from OMB on our website, which is great. But, we can't rest on those laurels. As technology changes--and they change every day in this area--we have to continuously improve that communication

mechanism. And so, we can use your advice on how we can reach out, how we can communicate more effectively using, not only the website, but also other tools. Maybe there are other tools we can use.

We have one we call *Quick Takes*. This is a newsletter that goes out, and electronic newsletter that goes out to your email address, if you subscribe.

Right now, we have 30,000 subscribers. We are not satisfied with 30,000. I know there is over 100,000 people interested in safety and health, and we ought to not stop until we achieve those high levels.

This is a tool that can communicate issues, little small tidbits. And if you want more information, there is a hot link you can link on, or click on that and get more information if you choose. We need, and OSHA needs to be part of, the continuous communication around the value of safety and health. That means everything we do. We need to keep it up front and foremost in everybody's mind. That means a strong communication system. *Quick Takes* is one way to

do that.

Our electronic e-tools are another way to provide best practices help for small employers and large employers on figuring out how to derive the value of safety and health in the workplace. We need to communicate that. We need to be more effective. We can use guidance on how we can do that.

The Agency, we have our resources inside. You are the ones doing it every day. You are the ones who are creating the innovation and creativity every day to realize the value of safety and health and reducing injuries and illnesses. We need your help on how to be more effective in the long run.

We've got on the training side--I think, we have advertised--I think most of you know that we have increased, at least our education centers, educational centers. This was created several years ago, where we, basically, franchise, or we grant the ability for them to use OSHA training material and certify that you've been training under the OSHA training curriculum. We

have 12 institutes where we are doing that, and we have trained about 14,000 people. They, in turn, trained about 250,000. These are train the trainer programs.

That's not enough. We have got to find ways to enhance that, increase that. Fourteen thousand train the trainers, and 250,000 individuals is not enough. We have 100 million people working in this country today in construction and general industry. We've got a long way to go.

What we have done recently is we've increased the number of educational centers from 12 to 20. And that 20 represents 35 different institutions. A lot of these are in consortium. And they will be developing and delivering OSHA training material to these trainers who, in turn, will be training other individuals. We need to expand that.

One of the reasons why we did that is because we want them to market their skills and their training.

We don't want the stimulus to only come from OSHA, and then they go to the training session. They've got to

go out and market this, and go out and create the demand. And I think there is a demand out there. They've got to be skilled enough to go out and create that demand.

So, now the goal is not 14,000 train the trainers. Our goal is 30,000. There is no reason why -- we can double that in the next two years, and then the goal would be much higher in subsequent years.

We owe it to the American workers to get the training out there. And we owe it to them to find creative ways when marketing this training so that people understand. And when I say this training, it includes Spanish. It includes reaching the Hispanic worker and the Hispanic employer, and that includes, obviously, construction and general industry. We will be doing that.

On the training side, it deserves some attention that is structurally involved in this committee and some of your work, there is--we've got a new model now for training our employees, our COSHOs.

We are on the sixth training of our Steel Erection Standard, and using people who know how to get this done; using contractors and the iron workers on figuring out, or showing us, how we can be more effective in our inspections.

That's a great tool, great model, and we are going to do more of that, certainly, in the construction area, where we need to be more skilled on how to go into these workplaces, and how to do proper inspections. And that requires training on our part. So, that model, the sixth one is in St. Louis. Is that right?

MR. SWANSON: It's the seventh one coming up in St. Louis. That's the next one, John.

MR. HENSHAW: Seventh. Okay. We've done six.

MR. SWANSON: Right.

MR. HENSHAW: And the seventh one is in St. Louis. We get great reviews on the training, because it's not OSHA folks telling OSHA folks about how to do an inspection, it is people who do it day in and day

out. It's the workers and the employers who do it day in and day out.

That's the value of this kind of training. We hear it from the experts, and then we, in turn, can now represent some knowledge that we may have not had on how to do a proper inspection. We need to do more of that, certainly, in the construction area.

In other kinds of training, as far as our own internal training, we need, and will continue to bring in, people who know the construction industry in the Agency. And we've brought in a couple of new people as you probably have known -- know, with Stew and Steve. And we have good expertise already, and will continue to improve on that.

Our goal is to continuously improve our ability to do our job and understand the business in which we operate. And in construction, that's a whole different set of circumstances and paradigms that we don't understand. I'm from general industry, and I don't understand construction well enough. And we

recognize that, and therefore, we need that kind of expertise in this system.

Also, we are looking at internships, interning both ways. Our folks intern in construction, and the construction folks intern in OSHA. So, we can understand the relationships, understand the issues, so we can be better equipped to do the kind of job that we have to do. Those are being explored through alliances and partnerships and will continue. I am sure you will be hearing more about some of those later.

Let me talk about some of our voluntary programs and cooperative programs. Specifically, we are--the voluntary protection program has been around for 20 years. We have over 800 sites--900 sites in the voluntary protection program. And we have five of them now in construction, mobile sites. And we have several in construction that are permanent sites.

The reason why I personally like VPP, because it is a process by -- there is a qualification. You go through, probably, too much paperwork. And we've got

to worry about that. We are going to fix that. But, there is a process where we can recognize organizations. And when I say organizations, I am talking about workers and employers, unions and management, working together for one reason, and above anything else, safety and health.

VPP has to be safety and health, is above any other issue in that manufacturing site or in that construction site. It has to be above all of this. It has to be above the issues that we have to deal with day to day with labor management. VPP sites, in my mind, have said that. They have established safety and health as a core value. It is above all other issues, and they hold that sacred. And all of them working together. All parties are working together to resolve the issues.

A good example of working together is not only a VPP site, but the World Trade Center. I think you all understand the issues around the World Trade Center. We've had cooperation from the trades, from

the employers, from the city, and from government, that we are going to work together and make sure nobody gets hurt. And the results of the World Trade Center, I don't need to reiterate that, but we had no fatalities.

We had many near-misses. But, we corrected those near-misses, or corrected those issues on the spot, as opposed to waiting to go through litigation.

And, I think our success rate, or the injury/illness rate, loss time rate, was half of what you would normally expect at a demolition site. To me, that's a great example of what we can do when we work together, not fight each other, but we hold safety and health paramount to anything else we do. That's the success of that kind of partnership.

VPP is similar, although VPP has, obviously more. It's been around for a while. We want to expand VPP. And not necessarily VPP Star, but we want to expand voluntary protection programs. VPP is plural. It is more than one. Right now, we have Star and Merit. I think the opportunities are immense for us to

build in a process where we identify rungs of a ladder and allow people to climb the ladder appropriate. Get them started.

What's most important is, you get people on the right page, working in the right direction. How fast they get there is going to depend on a lot of energy we put into it. But, the first step is getting into the conversation, getting into realizing there is a reason for doing this. Safety and health does add value. As they derive value from one step; they'll go into the next step and the next step. We want to be a part of that driving force.

And so, we will be expanding VPP. Our goal is not 800 sites in VPP. Our goal is 8,000 sites in VPP.

And if you think about it in a minute, why? And, again, the reason why you have to keep focusing on a triple-bottom line is, because no matter what we do, there is going to be all kinds of trappings, all kinds of concerns, and all kinds of, whether it be political, or whatever it might be -- there is all kinds of issues

around this. But, at the end of the day, we have got to say that whatever this program is, it is producing a better result than if we didn't have it. That's what we've got to look at.

VPP sites, both construction and general industry, their average injury rates are less than half their industry averages. They are less than half. One Hundred and fifty of them did not have a loss time accident last year, or in 2001. One hundred of them didn't have an OSHA recordable at all. Thousands and thousands of injuries have been avoided as a result of this program, in my mind.

If we didn't have that kind of a drive, that kind of interest, that kind of discussion or energy around safety and health, we may have not had that kind of reduction in injury and illnesses. Thousands of people may have been injured, and we avoided that, I think, because of this energy around VPP.

And the energy to go to VPPPA, the participants association conference, you see people,

both labor and management, talking about one issue and one issue only, about how they can be more effective in reducing injuries. The conversation is not how you comply with OSHA Standards. The conversation is, how do I avoid the next injury? How do I prevent the next injury? That's the conversation.

And you have the people who know how to do it.

You have the workers, and you have the management, who are committed to make it happen. They are the ones who can figure this out. So, think of the possibilities. Thousands -- I think there is over 5,000 or 6,000 injuries avoided and countless deaths avoided as a result of VPP at 800. Think if we increased that to 8,000. Think of the magnitude, the impact that would have. The number of lives saved, or the number of injuries and illnesses saved and avoided.

That's why we have to grow it. And we have to grow it in a way that -- right now, OSHA is a stumbling block in the sense it's a resource intensive. We've got to be creative on a way to still maintain quality,

still maintain the value of this, and yet minimize the resources so we can grow it. We can not be the limiting factor of this growth. We have to be the facilitating factor of its growth. So, we've got to figure that out.

We will be expanding, and our goal is 8,000. It won't be tomorrow, but it will be, I can guarantee, it will be, we will have 8,000 VPP sites.

The other cooperative program--and I am stressing the new stuff, like the cooperative programs and the outreach, and still want to maintain, and I should probably repeat it every time--enforcement in voluntary programs, enforcement in outreach and education. Enforcement has to still be there. Enforcement has to be stronger than it ever has been.

And I think the statistics -- I didn't say that earlier, but the number of inspections, while that may not be the ultimate measure, the measure in my mind is the triple bottom line, but we have increased our number of inspections and will increase them this year.

And we will increase our targeting this year for construction. And we will be doing more inspections this year. More importantly, we are going to get people turned around. We are going to figure out a way to get them to get off this viscous cycle and have a safe workplace.

On the cooperative programs, on the other ones, the partnerships and alliances, real brief, we've got about 188 partnerships. We are going to grow those significantly. They are -- most of those are in construction. They produce value. And they produce value in not only human terms, which is safety and health terms, but also in economic terms. We want to develop business cases, or articulate the value of those partnerships more than we have in the past. And we've got some ideas of how we can do that.

I was in Cincinnati, and we talked about the Paul Brown Stadium and the value of not only injuries and illnesses avoided, but also the money saved, that went back to the city. We need to get that information

out. We need to let people know that there is value in doing the right thing. And it is not only in human terms, but it is also in economic terms. And we will be doing more of that.

A significant partnership is in Idaho, and I already mentioned that, I think, a number of times, about the value of that. The value is we are leveraging resources. We are getting people focused on safety and health. We are getting people accountable for safety and health. Like the Idaho is, believe it or not, the general contractors are holding themselves accountable for safety and health. And they are producing positive results. Cut the fatality rates in half for the data we have so far, and injuries and illnesses from 25 per 100 to 14.

So, we are cutting injury and illness rates down. And the money saved, the worker's comp cost have been significantly reduced. And this one partnership deals with 27 general contractors in the State of Idaho.

And the leverage, we're talking about leverage resources, just real quick. The reason why this is important, these partnerships, we can only touch 250 facilities, construction sites, in the State of Idaho in a given year, based on our resources. And that's 250 sites as well. This partnership in that one year, touched, or did audits, evaluations, of over 3,000 operations, and over 500 sites.

That's a leverage of over 10 to 1, of people going in. That wasn't the same as an OSHA inspection, granted, but you know there's 80 percent of an OSHA inspection. That's 80 percent more than we had for those other 3,000 sites, or 2,500 sites. That's what the value is.

We've got people holding people accountable and paying attention to safety and health. And the value, as I mentioned, the bottom line was, we reduced significantly the injuries, and avoided fatalities. And, by the way, we saved money for the contractors and for the owners.

We want to do more of those. And we've got more to do, but the bottom line is, as we do those, we've got to measure the effectiveness of those partnerships. We've got -- at the end of the day, at the end of the partnership, we've got to say, here is what it was before, here is what it may have been without, here is what it was with, and to show and demonstrate that this is working. If it is not working, we've got to do something else, or we've got to fine tune it.

But, we've got to demonstrate the effectiveness of everything we do. And in my mind, the result is going to be, are we saving injuries and illnesses and lives?

We've got, as I said, numerous partnerships. We want to grow those tremendously. They are a great program for construction sites, for projects. Lambeau Field is one. We've got one with the Bears, the Bears' stadium here. We did one with the Patriot Stadium. That was the first one I was involved in. And at that

time, they were only five, and five in 2001, as far as their record. And, of course, they went on to win the superbowl.

And so, I used that a number of times as a motivational piece. You know, if you want to win the superbowl, sign an agreement with OSHA. But, then we signed one with the Bears, and so, I don't want to say anymore about that. Unfortunately, New England beat my hometown, which is the St. Louis Rams. So, that hurt too. But, at any rate, the idea is -- obviously, I was just joking, but the idea is, the performance at Foxborough Stadium, as well as the other stadiums is tremendous, as far as avoiding injuries, illnesses, and fatalities. And we want to continue to build that even more.

The other piece that I think is worthwhile to mention are the alliances. And I think it is worthwhile because I want to clear up any kind of misperceptions or misconceptions about the alliances, and why we are doing alliances.

In my mind, one of our jobs -- we have less than 23,000 employees in the federal system. We cannot do all of the work by ourselves. And we are not. I'm not suggesting we are. You guys are doing heavy lifting here. But, we need to find ways to bring in, to collaborate, to share resources, to improve our effectiveness as a total entity as opposed to individuals more than we have in the past.

We have got to spend our time helping, driving performance, as opposed to hindering what we've got to do. So, that means working on the same page. Now, obviously, there are times, certainly on the litigation enforcement side, we will take a different path, and we have to do that. But, there are many of other opportunities where we can work in a collaborative way and accomplish the results that we are all striving for.

In alliances--the partnerships, there are bells and whistles with that--you know, it is a little bit more detailed. There is evaluation. There is give

and take. There are a lot of roles and responsibilities built into that, as well as VPP. In alliances, those strings are not attached to alliances, nor are there concessions made. No concessions made on alliances. But what there are are agreements up front that we are going to work on a project and work on issues together, and usually in the outreach and education side.

They are in the area of how do you touch people? How do you educate? How do you sell the process? How do you sell the program? How do you sell the value of safety and health? How do you help them to establish a safe workplace? That's what the alliances are for.

My goal is to establish alliances with trade associations, with organized labor, labor organizations, with professional societies, with other kinds of organizations that are there to help specific aspects or specific organizations, where we gather people who are concerned about safety and health, I

want to develop an alliance with them and find out how we can work in a collaborative way to produce a more positive result. Again, reduce injuries, illnesses, and fatalities.

We've got over 20 alliances at this point right now. A lot of them are around ergonomics. A lot of them are around Hispanic issues, some of our concerns that we are addressing. All of them are dealing with training, outreach, getting the word out, convincing their members, like if it's a trade association. Can you imagine the power?

Now it is one thing OSHA saying that you ought to do this, employer. It is another thing if it is a trade association, who they are paying hard-earned money in dues, if they are saying the same thing. That creates a different paradigm in my mind. That provides a better communication process than if OSHA or the Federal Government says it.

That's what we want them to do. We want them, as member organizations, to be articulating the value

of safety and health, helping their members create value around safety and health. That's the value of it. And so it's not like a partnership, or not like VPP, where you have labor management all the time. You can't always have a tripartheid in an alliance.

But, what I am looking for is gathering whatever energy I can around safety and health, get them aligned, and help work on the same thing together.

Like I said, there are no concessions with that. Nobody is getting a free pass. Nobody is getting anything special. What we are doing is saying, we can work together on this issue, and improve something.

In the case of ergonomics, obviously, we are trying to improve ergonomics or musculoskeletal disorders.

So, now a number of alliances, we've got lots of opportunities on the construction side. And, I'm hoping we are all creative in our thinking, thinking outside of the box. Look at where there is value on both sides, and see if we can't articulate that in a

way that we can continue to foster that.

I mean, the bottom line is, individually, we can only go so far. But, I think, collectively, the end result is greater than the sum of the individual efforts. We can create a much bigger impact if we collaborate. And that's the goal behind the alliance piece.

Let me talk a little bit about, specifically, two things. What is coming up in construction, and you will hear some further discussion from others today on that issue, and more detail about partnerships and some of the other things that I alluded to. They have the detail. They are the experts at this, so I just step out of the way.

But let me talk a little bit about where we are heading in respect to standards, where we are heading in respect to homeland security, and then open up for any questions.

In respect to standards, as I mentioned, enforcement has got to be the fundamental basis of

which we operate. We cannot get anywhere--we cannot do the alliances, we cannot do cooperative programs, we cannot do outreach--if we do not have a strong effective enforcement. So, we've got to continue with that. And that also means continuing with the standard process, and we are.

And the reg agenda has been reduced because it becomes a -- in my mind, it's a management agenda. It's an agenda that you can count on. And when we say, we are going to get something done in April, it will be done in April. And Bruce understands that very well.

MR. SWANSON; Yes.

MR. HENSHAW: That we are holding managers accountable to those dates. It's no longer a floating date. It's no longer out there that, you know, you can't count on OSHA really addressing it. But, we reduced it to a point where we can do those, and we will do those as described in the reg agenda. And we are holding ourselves accountable to that.

Now, we have other outside influences. We

have our attorneys, and we have OMB. Obviously, we've got to factor that in, and we've got to work through that. But, the bottom line is, we are accountable for that. Not OMB, not the solicitors, we are accountable. So, we've got to work through those issues and get all of our partners as we generate these actions on the same page, so we can live up to those dates. And you can hold us accountable for those dates.

Obviously, you know, we are working on the cranes issue. That's a very old standard. Technology has well-surpassed the standard. We have got to have a more relevant standard in respect to cranes. That wasn't on the previous agenda. It is now, in negotiated rule making. I'm a supporter of negotiated rule making, but I'm only supportive in the sense that it puts the right work together and the right people together, and then OSHA follows through with that immediately. Not wait years. We have to take it to the next step.

If we wait, then we lose the institutional memory. We lose a lot of stuff. And I think steel erection may have been an example of what can happen if you wait several years before you produce the outcome.

We are not going to wait. In shipyards employment, there is a negotiated rule making where we have taken the next step--and it is on our reg agenda--and we will take it to the next step. In cranes, we will take it to the next step. We will be announcing soon, the committee, the negotiated rule making advisory committee.

The other issue is confined space. We have other partners in this, so we are knocking on wood. I hope this is good wood. But we have other partners in this. But the point is, we have got to live up to those dates, and we will be issuing that soon. The confined space, you know, the sweeper panel, we've scheduled to start that in April in 2003. And we'll live that.

The electric power transmission, the 1926 FRD,

that is also scheduled for April of 2003. That's a NAPIM.

The Silica, obviously, an NAPIM. That's also scheduled for November of 2003. And you will be hearing more about the Silica issue. Commercial diving, that's December of 2003. And as a notice of proposal, we are making a hearing conservation in construction. Hearing conservation, I cut my teeth on hearing loss and hearing conservation. And, I know how important it is to preserve people's hearing. And I know, also, the kinds of noise issues that occur in construction.

Now how you deal with that is different than you do in general industry. But, it is still an issue.

It has to be addressed, and we will be announcing advanced notice, or reviewing comments on the advanced notice.

You will be hearing some other things, more detail about some of the things that I just mentioned from others this afternoon, I think. Or this morning.

Feel free to ask any questions. We will try to answer all of them that we can on all of those issues.

The other one I want to briefly mention to you about is homeland security. That is--and obviously, after 9/11, we sort of had to re-tool, in essence, about what is the value of OSHA--what can OSHA -- how can OSHA contribute to the circumstances that we are dealing with now. And it is different. We have to be different than we were prior to September 11th. The nation needs us. The workers need us. We lost over 2,800 workers at the World Trade Center. Obviously, more lives were lost, but the 2,800 were workers in the World Trade Center. And all of the events around 9/11. They were working people.

Anthrax were working people. They were workers. They were being exposed to risk that we hadn't dealt with before. We have to be there. Our job is not just following OSHA regs. Our job is safety and health. Now, we want to continue with enforcement and continue with the standards, but when we don't have

a standard, when we have a new issue, like on Anthrax, we still have to step up. It is our responsibility.

It is our responsibility for worker protection. Not just enforcement and whatever standard comes out. Our job is to protect workers as they need protection. And in the 9/11 case, we had to respond. In Anthrax, we had to respond. We didn't have a whole lot of information. We didn't have a whole lot of data, you know. People asked us what is the right -- what is the permissible exposure limit on Anthrax? Well, we don't know. That doesn't mean we can't respond. We've got to take our best shot at it and protect people.

Now, are we going to be absolutely correct? Probably not. When you don't have a whole lot of data to go with, you're going to take your best shot, but more importantly, you are going to learn every time. Every step you make, you are going to have to document and then learn from that, and improve it as you go along.

So, we are not going to shy away from what we don't know, because there is a lot of things now we don't know. But, we will participate in assuring that workers are protected to the extent we can. The other agencies in the Federal Government support that. They know worker safety and health is our responsibility. So, we will be participating in numerous other activities that deal with worker safety.

We will be providing guidance. We will be providing assistance. We will be providing instruction. We will be providing monitoring. We will be providing risk assessment. We will be providing those kinds of things as we go forward. The rest of the agencies want us to do that. We want to do that. It is our responsibility. We will step up and do the best job we can possibly do.

The details of all the emergency response activities, all the national response plans, and all the things that are going on now, are continuing to be worked on. And we are a player in all of those

activities. And as they come out through the Department of Homeland Security, you will see OSHA's position in that. You will see OSHA's role of where we fit in respect to worker safety and health. But, we are not going to shy away from that responsibility. It is ours, no one else's.

With that, I think I've probably said all of the prepared remarks. Obviously, I wasn't using -- I didn't have written stuff down. So, how prepared it was, it was what I believe. And I probably missed a few things. And if I did, please feel free to ask, and I will try to answer whatever I can.

CHAIRPERSON WILLIAMS: Thank you. First of all, Mr. Henshaw, we would like to thank you. The committee is very pleased that we were able to meet here in Chicago in conjunction with the counsel's meetings here. It certainly has opened us up to the public questions and input, some of which, I think, we will be asking of you, that we have been asked and cannot respond to. But I would also like to make a

comment that everyone has noticed your presence and that of Mr. Swanson. The accessibility you have had this week here, all week, and the comments have been very, very positive that you really are demonstrating your desire to make OSHA more attainable. So, this is really to be complimented.

MR. HENSHAW: Thanks. You guys are doing the hard work. So, we've got to be here and participate to the extent that we can. And we will do that.

CHAIRPERSON WILLIAMS: We have really been approached, needless to say. You have addressed the one priority one, I think, that everyone has been asking us, what is the status of cranes negotiated rule making? And I believe you stated it would be soon. So, I think that would answer that question for everyone.

MR. HENSHAW: I don't know how many Os there are in soon.

CHAIRPERSON WILLIAMS: One, sir. You have a very aggressive schedule, and we all in ACCSH have been

made very much aware of your desire to uphold that schedule. And you have just expressed that again. ACCSH is supporting that schedule. We will be talking later on today of a date for our next meeting, and we are proposing the first week of May. But in conjunction with that, as we have done in the past, we would like to have scheduled various workgroups, meetings. We have a great deal of work ahead of us, and we just don't want it to linger out, if you will.

So, you will be getting that from Mr. Swanson's office, what our recommendations will be for various work group meetings. That will be coming to you at the conclusion of this meeting.

In your comments, you said we have multiple workgroups that can assist you in some of those issues, a couple that we don't have that could focus very clearly, and I made a note of those. One would be targeting. And I do believe we have resources on ACCSH that could give you some ideas where we feel how you may be able to select the constructors for that issue

and give you input on that. So, that would be one, I think, we can propose to initiate for you.

The other, we do have very active people on ACCSH who have intimate ties to insurance and other entities that you mentioned, as far as getting the word out: how this does -- how safety and health does improve the workers, as well as the economic issue of employers. And that might be something else that we could address.

The last one I made note of is one that we have been talking very heavily about here at this conference, and that is homeland security. Construction sites are being targeted because of accessibility and the size of those. I think that certainly would be a work group that we could constitute and give you some suggestions and ideas of where we see the vulnerabilities of our sites and, at least, have that made available to your from our experiences. And, quite frankly, it's been happening with bomb scares and everything else. So, I think we

can really assist you in that regard. And we can add that one.

Your comments on Silica. I know we have a report coming up, but it is my understanding, as co-chair, that you haven't been briefed on that yet. I strongly would like to recommend to you, sir, that we have continual experience with why general industry standards will not work in construction. And, inevitably, we go later, maybe 10 years later, and do a construction standard, such as confined space, because general industry just will not work with our continually changing atmospheres that we have.

We strongly ask you to support a separate construction silica standard to be piggybacked with the general industry. If your time line does not permit that, we will continue our work to support the silica health GI standard that is being worked on now. We have a very aggressive schedule in support of that effort. However, we do like to see a construction standard follow up immediately behind that, and that we

not be brought into that general industry compliance at that point in time, because it will be almost impossible for us in our arena to do that. So, we are going to make all of our information available to the work group, and to Mr. Perry and others, and via working with NIOSH, but we strongly ask your support to make sure we have a construction standard for that issue.

Hearing could also be one that could be very economically burdensome to construction if not approached in the proper way that we need that. So, we would also ask your support on that too, and hope that doesn't screw your calendar any.

I think they were most of the comments that I had that had been addressed to myself. I would like to ask the members now, if you have comments that you would like to address to the Secretary? Kevin?

MR. BEAUREGARD: Yes. Mr. Assistant Secretary, I just want to say that the State Plans certainly, support the efforts on homeland security.

At our last meeting, there was a little bit of concern noted, however, that if any arrangements were made on a national level not to, or to include the State Plan States, because we have regulatory authority over the public sector responders, and there is a little bit of fear that some arrangements may be made and the states be kept out of the loop. And we want to make sure that we are in that loop because of the position that we are in.

MR. HENSHAW: Yeah, I understand that completely. And they won't be left out of the loop. We will be talking more about that when we can.

MR. DURST: Mr. Secretary, thank you for being here and we look forward to working with the agency.

MR. HENSHAW: Okay. Thanks.

CHAIRPERSON WILLIAMS: Mike?

MR. SOTELO: (Shakes head negatively.)

CHAIRPERSON WILLIAMS: Tom?

MR. BRODERICK: Secretary Henshaw, I just want to reiterate Jane's comments that we are very

appreciative that you took the time to come here for the entire conference and to allow us to have the ACCSH meeting here in Chicago. So, thank you.

MR. HENSHAW: Thank you.

CHAIRPERSON WILLIAMS: Greg?

MR. STRUDWICK: Greg Strudwick. Secretary Henshaw, we do appreciate your abilities to expose the staff, the OSHA staff, to more of the associations and association meetings. I know that Stew is going to be with us, as far as the National Utilities Contractors Association, in March, in San Antonio. And that's the key. The key is to get everyone out to get them introduced so that there is a person behind the face or behind the phone call, and develop the trust, because we still have a problem between the construction work force and OSHA from a standpoint of compliance and regulatory issues.

So, we are committed. I am committed. If you will make these guys available to us, then I am sure that at some point the trust will start to build the

partnerships. The alliances, I think, are a wonderful thing. It's a stair step situation. Partnerships are not popular from the standpoint of a construction site, construction. And the mistrust is a part of that. But the alliance is a very good way to start.

And just from my association in Region Six, with the offices, local offices, there, the more we get to know those folks, the more contractor base gets to know those folks, the easier it is to work with them. And it produces a tremendous amount of rapport between the two. They take ownership, basically, of each others programs. So, we appreciate that.

MR. HENSHAW: That's an effective way to do it. Obviously, we've got to work together.

MR. STRUDWICK: Right.

MR. HENSHAW: And so, we've got to be there and talking to each other, and that trust will take some time to build, but we are committed to build it.

MR. STRUDWICK: Just exposure. The exposure to the two people meeting each other and understanding

each has a job to do, and safety and health is a priority. We all know that from a cost, as far as insurance, and experience modification ratings, and all of that. So, it is a positive situation. And what I've seen in how it has developed, is that the more somebody is able to address the personal situation, as far as compliance and initiatives and making it easier to do the outreach and training, is that it becomes more of a cultural advantage from a training standpoint.

We are not training on Saturdays or in the evenings. We are actually taking workdays now. And it comes back as a positive to the bottom line. So, it's a great thing. And the association, whether that's OGC, whether that's NUCA, any number of associations will tell you the same thing. If someone can be present, explain me the initiatives, not just so much that they are out there to cite or to regulate or to create a massive fine situation, but to educate and train, and become part of a team, then it is going to

work faster, quicker, and more effective.

MR. HENSHAW: One of the surprises that -- people ask me what's one of your biggest surprises when you came to the Agency? I've been here about a year and a half. My biggest surprise, because I didn't really know that, is the talent of people that we have in the Agency, and the interest, and the willingness to get out and participate. We've got a lot of good people in the area offices, the regional offices, and Washington, and they are anxious to do this. And so, they are enthused about it even more than I really expected. And so, that really speaks well of them.

MR. STRUDWICK: Well, we appreciate the initiative.

CHAIRPERSON WILLIAMS: Would all members please speak directly into the microphones for us?

MR. MURPHY: Sure. I just wanted to take a moment to thank you. Most of the committee members probably aren't aware, but from a visibility perspective and what you and your staff did yesterday

for the 21 students, almost through the lunch hour it seemed like, to take the opportunity to meet the new safety and health professionals that are coming out of the schools, was just fabulous.

MR. HENSHAW: Thank you.

MR. MURPHY: And it took me many years in this industry to ever meet people like yourselves and Bruce and get to the point where I had that opportunity. And now things are changing and students are -- they are still students and they are starting to meet folks and understand more about how all of this stuff works. So, thank you very much.

MR. HENSHAW: Thanks.

CHAIRPERSON WILLIAMS: Manny?

MR. MEDEROS: Yes. I would like to thank you for your comments also, particularly in the area of VPP. I was asked to speak before a VPP Association meeting in Dallas on the labors perspective on VPPs, and one of my concerns in that area--they are several--and I usually do the partnerships--there are certain

pitfalls, but we support it, at least, from the IBEW perspective, that certain things are met.

However, one of the concerns was that there weren't any for construction at that time. And, the other thing was that it -- they only applied to the so-called good actors at that time, and those that were below those numbers, there was no program for them.

And my question is: if the VPP program is so efficient to reducing the numbers, why can't something be done for those other people that really need the help? And I see that you are going in that direction.

I appreciate that.

The Hispanic work force, we have been -- in the contracts I have been involved in, especially in California, we've been putting everything out in Spanish and English at that time. The problem I found out there is that there is not much teeth enforcement if you have a Spanish speaking work force out there, and the only person that can communicate with them leaves them in charge of somebody else, and they are

not aware of the standards. And there doesn't seem to be much interest in enforcement in that area.

Also, I was happy to see that finally, Subpart B is on the radar scope, since we've had three stakeholders meetings, three informal meetings over probably the past five years on the subject, with contractors and other people, that there is a real need for that standard to be updated, since, I believe, it's a 1971 standard. And it does cause quite a bit of confusion with the contractors when they are working on particular utilities properties. One poll will be on 1910.269. Another poll would be under the Subpart B standard and is confusing, I believe, for the contractors and also the employees that are working in that area.

So, I thank you for moving that forward.

CHAIRPERSON WILLIAMS: Mr. Bush.

MR. BUSH: Yes. Thanks. And I am the last around the circle, I guess. So, I thank you again for coming and being so open with us in your comments. And

again, your availability, yours and your staffs is tremendous, and it does signal a change. And you should continue that at whatever effort that takes, because it certainly helps us.

And the VPPs, I agree with what Manny said, they are great, but it is not easy. Our industry is not geared to forming good partnerships and we need to learn how. So, you can help lead that. And the alliances are critical. I think your approach to alliances are fantastic.

So, you cannot do it all by yourself. It's time for this industry to step forward and help. Both our labor side and management side need to learn that, and through the alliances and the partnerships we can do it.

So, thank you for your time and your travels and being willing to stay with us for a while.

MR. HENSHAW: Thanks.

CHAIRPERSON WILLIAMS: Mr. Swanson.

MR. SWANSON: Yeah. Thank you, Jane. Just an

addendum. As John said several times during his comments, you know, you guys are doing the heavy lifting. We are not lifting all of this by ourselves.

As I look around the table, you know, what is happening with the partnership out in Boise is we've got to remember the other side of that table is the AGC. They are here on a committee with us and are working with us on this and on many other things.

On the steel erection, the Brotherhood of Iron Workers. Unfortunately, Frank can't be here today, but those educated contractors who are working with us, I'm doing a commercial for the NEA here, because, you know, they are doing part of the lifting for us. Now, he is also back there mining, so I am getting some help here.

You know, on the Hispanic work force, many people around this table and in the back of the room are working with us on partnerships, alliances, and in trying to solve the many problems that Manny mentioned.

And we are all aware of on the Hispanic work force. And I just want to make sure that the record hears them

by name: St. Paul Companies, NEA, AGC, ABC, NEHB, whoever else has stepped up to the plate in helping us solve these problems.

MR. HENSHAW: And there is -- unfortunately, I cannot mention all of the good work that is being done. And if I don't mention it, it doesn't mean it's not important, or I don't know about it. So, I appreciate you clearing that record. And there is probably more that we've missed.

MR. SWANSON: True.

MR. HENSHAW: That we didn't mention. So, the heavy lifting is being done by all of the people around us, and that is very much appreciated, very much appreciated.

CHAIRPERSON WILLIAMS: Mr. Secretary, this Chair would be very remised if we didn't acknowledge your comments regarding training. The directorate provided ACCSH members a tour of the training facility here, and it is absolutely incredible. We were able to meet Mr. Payne, of course, and say hi to him. Mr.

Sadauskas was our grand tour guide, who did an exceptional job.

That is such a stride in reaching out to your folks, showing them what kind of training is available through you. And the level of training that you are offering in the workshops and labs were absolutely incredible. We were all in awe, and certainly did enjoy that response from them to take us. We thank you for your efforts in that regards.

MR. HENSHAW: Well, the effort has just begun. I mean, that's a facility. The result is how many people we train, how effective that training is.

CHAIRPERSON WILLIAMS: That is correct. Are there any other comments for the Secretary?

(No response.)

CHAIRPERSON WILLIAMS: Sir, we thank you for your time. We thank you for being with us all week long, and we hope you have a safe journey home.

MR. HENSHAW: Thanks.

CHAIRPERSON WILLIAMS: At this time, we will

take a break until 10:00 sharp. Excuse me 9:00.

MS. SHORTALL: What time is it?

CHAIRPERSON WILLIAMS: I'm in the wrong zone.

MR. SWANSON: You're in Chicago, Jane.

(Laughter.)

CHAIRPERSON WILLIAMS: Ten o'clock. I was right the first time. Thank you.

(Whereupon, the meeting was recessed at 9:45 a.m. and resumed back on the record at 10:00 a.m.)

CHAIRPERSON WILLIAMS: We are missing two members at this time, however, we will reconvene. Our next guest is Mr. Stew Burkhammer of the office of the Directorate of Construction. Stew.

CONSTRUCTION PARTNERSHIP UPDATE

Mr. Burkhammer: Thank you, Madam Chair, and
committee.

In December, I came before you and gave you a presentation on partnerships and alliances. And you have all heard of the Michilin Man and the Marlboro Man, and the Shell Answer Man, Well, I'm Construction Partnerships and Alliance Man.

So, I'm here to answer the questions that you all had for John that, you know, what partnerships and alliances do we have? Where are we on some of these? And where have we progressed since December when I briefed you on the beginnings of our efforts here?

Of course, you both are aware, all are aware, of the AGC and the ABC national template. As John indicated, most of the current partnerships are in construction. I think we have a total right now of 98, all together. These -- most of these are aligned through the ABC and AGC Chase and Platinum Partnerships through the chapters.

We have a relationship with the NCCCO, The National Commission for Crane Certification Crane Operators, to promote the certification of crane

operators. And that agreement was signed by John early last year, in the middle of last year.

Of course, Bruce talked about our steel erection training partnership with the NEA, the iron workers, ABC, OTI, and DOC, which has been highly successful in training over 135 compliance officers in steel erection. And the thing that is so neat about this partnership is the fact that we are giving the COSHOs real hands on experience. And Atlanta is a good example.

We had some of them out there climbing steel columns. We had them laying decking. We put a harness on them and lifted them up with a rig, so they could get a feel of what it is like to hang, if you fall from a building. And this is an experience that they've never had. And we are giving them this experience. And I think it is a terrific way to train.

We've gotten very, very high marks for this training. And Bruce and I are in discussions on looking to find ways to expand this training. And as I

go through the alliance and partnerships lists with you, I will touch on some of those.

The Board of Certified Safety Professionals is pretty well along. We've read their draft. We've commented on their draft. The draft is going back to them for rewrite, and we are -- this alliance is going to revolve around promoting the safety training supervisor and the construction safety and health technologist certifications in the construction industry.

We are working with Gilbane Contractors to do an alliance on promoting safety and health training in the work force. And that one is in draft. Jack O'Donovan, the Safety Director for Gilbane is drafting that up now. We've discussed it and we've got some points we want to bring out in that. So, I think that's got the potential.

The Industrial and Electrical Contractors is signed. That's a finished one. That's, again, promoting education, training, and outreach for

electrical contractors in the industrial sector.

We are talking to Scott Schneider in the laborers union about their work zone safety, and their work zone training and education programs. That's in the early discussion stages. Scott and I talked while we were here, and then I see some real potential there.

The National Electrical Contractors' Association. We met with Dave Potts earlier this year.

We were kind of drifting back and forth between a partnership and an alliance, which one we thought would be really beneficial to that association. And we settled on an alliance. And again, they are drafting that up now. That will go before their board before it comes to us for review and comment.

The American Society of Civil Engineers. We met with them toward the end of last year. They've drafted one. It's been through their executive committee. It's approved. We have it in-house. We are reviewing it now. And this is kind of neat, because I think this is the first concept we have ever

put together where we are going to take a look at safety in design. And we've all talked about that for years, and years, and years, and, I think, we've hopefully found a mechanism now where we can talk to the civil engineers in the design and the architectural stage about designing some safety concepts into the beginning stages of a project.

American Society of Safety Engineers, John mentioned, is signed. That is a training and education alliance. We have a -- I guess I would be remiss since I worked for Bechtel for 40 years, if I didn't have a Bechtel alliance. And we are certainly close to signing the Bechtel alliance. And that's got a little different twist to it too. We are looking at working with colleges on safety and health education and construction curriculums. And that's got some neat ideas with it. So, I'm excited about that.

Our Clark Construction, we've been dragging this one out a little bit for some reason. It keeps going back and forth, because we always have a problem

in the end. But we are close to signing with Harry Galer on Clark Construction on Ergo, best practices alliance.

Clark is going to share with the industry some of the things they've done to reduce their musculoskeletal disorders and soft tissue injuries. And they've done some neat things. It's an interesting program. And we are looking forward to getting that one signed and start sharing those with the industry.

The Construction Management Association of America is signed. That is one we are talking education and training in the construction industry through their membership. And their membership is a lot of large and medium large contractors. And we hope to be working with them to get the message out.

We are going to do a little outreach there too, do some promotion material with them, exchange some talks at conferences. And I think that's going to have the potential to get the word out also.

The Construction Users Round Table, CURT, we have been talking with since last July, when Deputy Assistant Secretary Gary Visscher and I made presentations to them. They are interested in outreach through the owners. You know, we've spent years talking about, if we could get the owners in the game, we've got a better opportunity to get their contractors in the game.

So, hopefully, when we can finalize the CURT one, which is difficult to finalize, because you are not only in CURT talking to owners, you are talking to contractors also, that are members of CURT. So, we are trying to strike a balance of what the owners would like to have in an alliance, versus what the major players from the contracting industry would like the owners to do. And we are a fine line there. And we're struggling with that one, but I hope to have that one done by the end of the year.

And you say, holy smokes, the end of the year is a long way off. But we've been working on this one

for about eight months now. And I would like to say we are a little further along in the eighth month than we were in the first month, but we are struggling a little bit again on how to find that fine line of where that is.

The Hispanic Contractors' of America is signed. We are looking forward to working with them. We have done some things with them on the Hispanic web page, as John mentioned to you. And we are looking to do some things with them now in the construction aspect of the Hispanic Contractors' Association.

The Washington Group is signed. That is an alliance that we worked on to develop a mentoring program for new COSHOs in Region Eight and in Region 10. And we're developing a draft of the template of the lesson plan. We've conceptualized how we want to do it with Brad Giles in the Washington Group. And they are now coming to us, hopefully, by the end of next month with their draft template of their program, of how this two-week or three-week rotation period with

some new COSHOs would work.

And I am excited about this one, because part of the mentoring is that they go to a job site, and they take their mentoring training, not only as part of the Washington Group to learn about how we bid jobs, and how that kind of stuff works in construction, but also take them out to a site and let them kind of mirror a safety rep for a while, or follow him around and see what they do in the -- and we are looking for jobs at different stages, civil mechanical, electrical, so he can get a different perspective of the work.

So, this one, I think, has a real good opportunity.

The Carpenter's Union. Mike Buchet and I have been in discussion with Joe and others about scaffolding training. And Michael and I are going out to the training facility in April, I think, Joe, it is, and we are -- Michael and I are going to sit through their course, and look at ways that we can take the standard and work with the Carpenter's Union as we've

done the Iron Workers and NEA, to put together a similar type package where we can teach some COSHOs about scaffolding erection and let them do real hands on work and go out and erect scaffold, like we've done steel.

And the neat part of the steel erection course is they -- we have these two mockups of steel columns and parts, and we divide them into groups, and we set them off, and they erect this thing. And it is really interesting. You give them a blueprint and tell them to go. And the record is seven minutes, and that was set in Oakland.

You don't race or anything. It just happened that this particular group did it in seven minutes. It's kind of ironic because we, when Mike Anderson divided up the groups, we put all of the engineers in one group, and all of the regular guys in another group, and the regular guys made seven minutes, and the engineers were still working at the end of the day trying to figure out how to get it together. But, we

figure they would have finished sometime during the course.

I mentioned earlier the Hispanic Contractors' Association. When we signed that alliance in March, they had about 42,000 to 45,000 contractor members of the group, and since then, part of that has splintered off. And I think I mentioned to you in December that there is a new group now called the United States Hispanic Contractors. And we are working with them now on an alliance. And the draft is completed, and they are circulating it through their executive board, and hopefully, that will come to us fairly shortly.

We've talked to Mike Sotelo about doing some work with the AGC Safety and Health Committee on ergo.

And Mike has set up a work group. And we are going to be working with them to come up with some kind of an alliance or some kind of mechanism to, again, take not only just Clark stuff--single the alliance with Clark--but take the overall AGC contractors that are doing a lot of best practices in ergo, and get that out, again,

to the construction community so we can show that there are cost effective ways to do it and there are safe ways to do it. And we can protect workers from soft tissue injuries because of it.

Carolina, AGC, Steve Cloutier, of our group is going to be talking tomorrow, Tuesday, with Chip Murray and some others in the Carolina AGC. I went down there and talked to them last year about an alliance. They've got several neat ideas for an alliance, and we are going to be formalizing that with them, hopefully this year.

ARTBA. We've been in discussion with Brad about work zone safety and working with the laborers and ARTBA, either jointly or singularly or other ways to promote work zone safety. One of my goals is, and it may be kind of peculiar to me, but, you know, I've seen for years these people that work on highways, and you all have seen them, and you're experienced, a lot of you do that kind of work. And even though the sign says 20, or 25, or 30, standing out in a work zone with

some cones or orange barrels filled with sand or plastic bags, and the cars go by doing 80 or 90, and those barrels fly all over the place and hit the workers, or the workers actually get hit by the vehicles is not a pretty sight.

And I think we need to find a better way to do that, and hopefully some of this work zone safety stuff will -- we can do some alliances with these folks, and get us to where we want to be and get more safe roadways and work ways out there for us.

Asphalt pavers. We are working with them currently, Rick Reinhart of Bruce's group, on a milling operations partnership. We have a very successful asphalt fumes partnership with them. It was NIOSH, the operating engineers, the laborers, and OSHA, and ARTBA, to come up with some neat engineering revisions to their machines that allowed them to cut down greatly on their fumes.

And now they've asked us to work with them on their milling operations. See, they go around and they

cut the stuff up and get the exposure there.

Last week, John and I had an opportunity to go to Cincinnati and sign the Turner VPP pilot mobil work force partnership. I think that is going to be a great one. It's the Cincinnati Business Division.

They've got a phenomenal program there. They've got a tremendous management commitment. And I think that VPP is going to show great dividends for the industry.

South Dakota School of Mining and Technology. We've been talking to their professor of construction, and again, working with them on getting safety and health in the curriculum. And you know, that's where you've got to start, folks. You know, we've got to get these curriculums to where they have safety required courses, whether you are in civil engineering, mechanical, electrical, industrial. Pick one. And right now, a lot of the colleges do not require them to take a safety and health class.

And we are talking to some of these schools.

And I think this alliance is a great way to do this, where we can really push this and get something going.

And I see Dan eyeing me there. Maybe we can also talk to some schools that Dan is affiliated with to do this too.

I have had some initial discussions with Bob Krul to come up with an alliance with the Building Instruction Trade Safety and Health Committee. It's kind of a generic alliance for the overall committee. And we are in very early discussions on that, and we've got to conceptualize that a little more.

Of course, when you get the Washington Group and Bechtel in alliance, the third one to kind of follow along is Fluor Daniel. And they've called me up and said, you know, I guess we're last. So, you know, what can we do to get in the game?

And, you know, that's kind of the neat part of these alliances. When somebody gets one, somebody else wants one. And the word spreads, that well, gee, this guy is going to be able to bid better because he's got

an alliance. So, I want to get one too, so I can bid too.

And we are also working with the Homebuilders.

And we are in early discussions with them to do some pamphlets, some brochures, and training. And also do some things in multi-employer, that I think we have a great opportunity to work with them.

And we are also talking to ABC. Bruce and I met with them a couple of weeks ago to also talk about multi-employer. So, we've got a lot of things going. A lot of things have signed. A lot of things are close to signing. A lot of things are a little further away from signing. A lot of things are just in the early discussion stages.

So, if any of you have any ideas on alliances or anything that you think would be a good alliance that I haven't talked about, or a group that would like to have an alliance, please let me know. That's what we are in the business for, is to get alliances and partnerships and help John reach his goal.

But, it's not only reach the goal, but it's also reach the industry. And that's the key to these things. You know, we want to get out there and we want to talk to them. And the more people we touch, the more people we get the word, and that's the name of the game.

CHAIRPERSON WILLIAMS: Stew, you mentioned multiple projects that these groups are working on. Lesson plans and things like that directly coincide with many of our workgroups. Would it be possible to use you as our liaison to those folks to start attending our work group so we don't have a duplications of efforts going into the directorate?

MR. BURKHAMMER: I will defer to my boss.

MR. SWANSON: Yeah. I'd be happy to personally be the liaison for this group to the Directorate of Construction.

CHAIRPERSON WILLIAMS: And by that, Bruce, would you help us to invite them to get their products in so that we could be working maybe together with them

or would that muddy your waters?

MR. SWANSON: I'm not sure this is a discussion to have on the record here, Jane.

CHAIRPERSON WILLIAMS: Okay.

MR. SWANSON: But, I'd be happy to follow up with you. You know, our office, Stew's shop, is doing a lot of things that he just shared with you, an update, a report. And if Stew will report to this committee whenever this committee has a meeting, and give you an update as to what progress he is making, but he feels he has the license to go forward and complete these missions without coming to the committee, and I agree with him.

CHAIRPERSON WILLIAMS: Thank you. We will look forward to you working closely with ACCSH work groups to help us where we can have access to those reports.

Any other questions from the committee to Mr. Burkhammer?

(No response.)

CHAIRPERSON WILLIAMS: Any other comments,
Stew?

MR. BURKHAMMER: I am out of here.

CHAIRPERSON WILLIAMS: Have a safe flight.
Thank you.

MR. SWANSON: Thanks, Stew.

CHAIRPERSON WILLIAMS: Our next report will be
a Region V update by Mike Connors.

REGION V UPDATE

MR. CONNORS: Okay. Well, my name is Mike
Connors. And first I want to welcome you to Chicago,
and hope you've enjoyed your stay here. It isn't often
that we get such nice weather in February for you.
But, you know, you are welcomed back any time.
Hopefully, you've enjoyed the conference.

And I want to congratulate Tom Broderick and the folks at the Construction Safety Counsel for another successful conference. We've been proud to be a part of the conference since the very beginning. And Tom is a great resource for us here in Chicago. And we sometimes maybe even abuse the resource, but we appreciate all the help we get, and love to see a good conference every year.

(A showing of slides.)

MR. CONNORS: Today, I want to talk to you a little bit about what we are doing in Region V, just kind of an overview on both enforcement, outreach and training, so you know where our region is going.

We are about 18 to 20 percent of OSHA's field program by size here in this region, the six states around the Great Lakes.

(Change of slides.)

MR. CONNORS: It is pretty typical statistics that are going on. About 38 percent of our workplace fatalities in the region were related to construction.

To give you an idea, last year we had 175 OSHA fatality inspections conducted, and 63 were in the construction area.

Those figures are down slightly from fiscal year 2000, where we had 188 total investigations and 73 in construction. Knock on wood. The trend is down, but, frankly, we do see the numbers fluctuate from year to year. We try to look for three or four-year trends before we'll make any real statement on that.

Number of inspections. About 47 percent of our inspections are in construction, and that is generally around 3,100 inspections a year, in that ballpark. We do about 6,300/6,4000 inspections. And that is pretty typical. It has been running that percent for about 10 years.

On significant cases, last year we did 24. Five of them were in the construction area. And, we also had two cases that involved criminal activity; one on falsification of records, and the other dealing with a couple of fatalities on high voltage transmission

lines. And, so we do see a pretty good mix on those.

Just to put it in perspective, we see about a 30 percent, roughly, incompliance rate when we go out on all types of inspections. And that's a soft figure, because, obviously, that has to do with your targeting and how many complaints and other things that you get.

(Change of slides.)

MR. CONNOR: Now, some people have mentioned-- and I guess it's a good thing--that the boss or the other people from the national office mentioned some of our programs, because if they didn't, then I wouldn't have been feeding them the information correctly. So, you will hear a little bit about these.

Back in the early 90s, we developed a program out of Cincinnati called the MASTER Project. And that stood for Mobilized Alliance for Safety Teamwork Education and Results. Basically, what we were trying to do is provide a program that recognized that we had some good contractors that could not get into the VPP program because of the rules at the time. The job was

only a year long, or less than a year. And they didn't meet all of the criteria.

We went ahead and put a program together, and, basically, it follows the guidelines of the VPP program. It needed a good safety and health program, teamwork, in that OSHA, and the contractors and labor would get together and do training and join audits of the site, and make sure that a part of it was the recognition that the responsibility for safety and health on the site rested with those people on the site, and that we should be a resource.

So, what we tried to do was, again, say we know that we have good people on that site. They are taking care of it. We are not going to target that for inspection. So, we moved it down the list. We couldn't move it off of the list because of some regulations, but it was down on the list.

We turned complaints, such as phone and fax and things like that, over to the site for joint investigations, rather than go out and site. We built

in training requirements for, like the, 10 and 30-hour course for most of the people on the site.

And then, of course, we measured results to see where we ended up on these jobs.

(Change of slides.)

MR. CONNOR: And this was a real success story. I was talking with Steve Spalding yesterday--it was probably more of a success than we knew--that on this site, they ran an LWDI rate of .95. At the time, the national rate was 4.0. More importantly, I guess, or as important, we didn't have any fatalities or serious accidents on the site.

And in addition, we learned that about \$5 million was saved in comp cost. And since this was a joint project, working with the city, and county, and private sector, they were very happy and we got some good stories coming out of the safety at this site.

So, we were encouraged by this program and a couple of others like it, and we have moved on to other high-visibility sites. And what we've done is, we've

actually moved off the MASTER Project, because they fit into the partnership agreement so well that what we are doing is calling them a one-site partnership, and we are not developing a separate program, like the MASTERS right now.

(Change of slides.)

MR. CONNORS: Soldier Field. Some people mentioned that we have one of these partnerships here.

And in this one, again, we have the contractors, the unions, OSHA, and we added the consultation program. This is the OSHA-funded program that does free on-site consultations typically for small employers. We have used them to help us do verification inspections. It helps them get their people up on the construction operations. They focus on helping the small subcontractors solve some of their problems, and we think we all benefit from this.

This project is on a short time frame. They essentially wanted to do it over the space of one season. And believe it or not, we in Chicago do want

the Bears to return to Chicago, and even after the last season. And, we have seen about 2 million man hours worked, about 1,100 workers on the site right now. And the rates are good. They are at about 2.3, with the national average of 3.2. We've seen no serious accidents. The steel shell is pretty much complete. They are on time.

And this job has really been working round the clock. And I'll tell you, we were a little worried about the schedule they had set, but everything seems to be going very well here and we're real happy with it.

We are seeing on these large jobs that the general is really taking control of the site. And in these three jobs that I am going to refer to, they also have a mechanism to enforce their rules with their subcontractors and have done that.

Yes, sir?

MR. STRUDWICK: Is that an owner-controlled insurance policy? Are they --

MR. CONNORS: Yes. Right.

MR. STRUDWICK: Because we find that there is a lot of mutual work, as far as safety is concerned in the --

MR. CONNORS: Yes. In fact, we heard from -- was it Dan Zewleski from Kennedy Construction yesterday, was telling me about that. And I think that reinforced what you just said, that they really do get a better emphasize on, they pretty much leave the OSHA standards behind, say what kind of performance they are looking for, and we do see increased performance overall. So, we like it very much.

(Change of slides.)

MR. CONNORS: And, all right, so we did Soldier Field. I have to give Lambeau Field some, you know, reluctantly. But, this is another project involving OSHA, the contractors, the consultation program, and labor, at the site. We did, on this one as with most, have 100 percent fall protection in place. And fortunately, we did, because this is an

actual picture of somebody that fell and was caught by the fall arrest system.

We had two situations like this. Fortunately, both people were protected and are still working on the job. We had one other incident where because they were strictly adhering to the rules where the rigging wasn't done properly on a section of flooring, and it fell and crashed down through a concrete floor, and did collapse. And normally, we would have six people working under there. But again, we had the discussion that we wouldn't have anybody working under any suspended loads. They followed that rule, and no one was hurt on that, what could have been a pretty severe accident for the six workers that were normally in the area.

This one, again, the rates looked good. We have here 55 contractors, 1,100 employees. Sixty-five percent of the employees had received a 10-hour training course. And all contractors had at least one individual that had completed the 30-hour training

course on the site.

So, we are seeing the increased education, the increased awareness. And I think it has been said a couple of times today, and the people on site recall taking care of the job themselves. And we service as a resource. And that is what we would like to see.

(Change of slides.)

MR. CONNORS: And I think I covered that with you. Stew just mentioned the mobile work site demonstration projection. And, I guess John mentioned it too. This is a project that is going on. It's a pilot project in Southwestern Ohio. And, when we signed a partnership agreement with the contractors' association down in Cincinnati, we had a little talk about recognition programs and VPP. And that was all they needed to start pushing hard to get some kind of a pilot going to be able to get into the VPP program.

What we did was, rather than set up a whole new program and go through Federal Register Notices and get regulations, we had this mobile work site

demonstration project already on the books. And while it's not an exact fit for construction, it could be made to work. And what we have agreed to do is look at five companies over a three-year period and evaluate the ability for us to, number one, bring them into VPP and evaluate one program at either the business center for Turner, which is the Cincinnati office, or the corporate offices, as in the case of Century, and then apply the VPP to multiple sites.

So, this would be truly recognizing the construction industry. If this pilot is successful, it could open up the program to all construction, essentially. There are still some issues that would have to be worked out. There are issues of the application and the amount of paperwork still. There will be issues dealing with the jurisdiction in terms of will it just be related to an area office, a state, or a region, and we'll have to try and wrestle with those before we go forward.

Right now, we have two very good companies in

Century Construction, which is a general contractor, as well as Turner, which I am sure everyone is familiar with. We have room for three more. John was a little overly optimistic. We don't have five yet. We've got a couple more in the works, but we would like to get some more good candidates so we can give this a real good evaluation and make our recommendations to Washington on how to move forward with the project.

We have a number of partnerships as you have heard talked about. There are 31 partnerships in the region and 21 of them are in construction. But, I think this is a real success story. I think we are beginning to see the kind of trust build that was mentioned this morning. It is important for us to form these relationships and to work together to solve some problems.

(Change of slides.)

MR. CONNORS: Now, the AGC and the ABC. Virtually, we have the region covered in the six states, which in and of itself was a learning

experience. We first went out and did individual agreements, area office by area office. Well, the contractors don't follow area office jurisdictions when they are going out there and work. So, when we had variations in the partnership agreements, some confusion resulted as to what requirements they would follow and which jurisdiction.

We have gone back and tried to make this a little more consistent as they come up to the renewal time. We just signed in Ohio one master agreement for all of the AGC sites. So, they will be dealing with, essentially, one OSHA and see one OSHA program and follow one set of agreements.

Now, there is still going to be some, you know, overlap between the multiple organizations that contractors belong to, such as the Cleveland Contractors' and Employers' Association. Many of them are also AGC members. And there may be slight differences because we are flexible on how we develop these partnerships.

The same with the ABC, we pretty much follow the national templates. In Wisconsin, we started out based on what we had learned, with one statewide partnership, again, for consistency, and those seemed to be serving as well. I think it was important for us to step back and learn that people want to see one OSHA, and we've got to work on that consistency. And our area jurisdictions don't really mean anything to the business community in that sense.

We have a number of other partnerships going from single sites to multiple employer associations. A couple of them, the Construction Employers' Association out of Cleveland, we are beginning to see some results.

We have 30 members that have qualified for that program, and the recognition that they are top performers. They cover about 2,000 employees. Of those, 460 have been trained in the 30-hour course, and 565 in the 10-hour course. And the incidence rate for these 30 participating members has dropped by over 32 percent in the couple of years they have been in the

program. So, that's the kind of data we like to see coming out of partnerships, where we set the goal and we see these reductions occurring in the programs.

In the Cincinnati area, the allied construction industries, which was a group that was responsible for supporting the mobile work site demonstration program, along with the ABC, we have 24 partners there. They have most of their people trained in the 10-or 30-hour courses. And of the 24, only eight companies have reported any OSHA reportables this year. So, we are optimistic that we are getting some good results.

Other programs we have are made up of a wide variety of groups in different areas. In Toledo, we have a program called the Partnership for Safety and Health Success, and that is made up of the Construction Contractors' Counsel, the Mechanical Contractors' Association, the Toledo Electrical Contractors' Association, as well as the Northwest Ohio Building Trades. So, large groups are coming in and saying we

all want to work together. And we actually think there is a lot of merit in those. We could have shut those down and counted a lot of different ones, but I think if we got everybody working together and doing the same thing, we are happy to take them at any size we can get them, and they seem to be working for us. So, we are going to continue to move on those.

We don't have any formal alliances as yet, but we have a whole lot of informal ones, where we are talking to people and seeing whether they want to get together. When we talked about our Road Builder's Program, you'll see an example of an informal relationship that is working very well for us that would fit the alliance mode. Whether they want to sign a piece of paper or not, really doesn't matter that much to me. It's the fact that we are working together. Well, it maybe matters a little more now that John's counting them actually, so I probably will pay attention to that.

(Change of slides.)

MR. CONNORS: In Columbus, this is one that we are real happy with, and we just started out. We had a compliance assistance person who came out of the IBEW, and he went back to his roots and tried to get a partnership going with the National Electric Contractors' Association, EBEW. And you can see from the slide, that what we were looking at and trying to get at were the injuries occurring to electricians on the job, and that many of the injuries that are occurring are related to arc blasts, and not someone directly coming in contact with the line or grabbing a live wire.

That 80 percent of the accidents occurred where the work was being done energized. And what we did was get together. And they worked out an agreement where they would follow the NFPA 70E standard, which basically says that before a person works an energized line, they will go through a checklist and get it approved to do it that way.

The intent is to work de-energized wherever we

can, not work electrical lines hot, unless we have really done everything else we can and only as a last resort do that, and then do it with the proper training and personal protective equipment. We developed a checklist. And one of the things we also knew that we had to do was make our compliance officers more familiar with these rules and how to do this kind of work.

So, the first training was given to the first -- was given to 35 compliance officers in the Ohio area, so that they were knowledgeable about the program, and the requirements under this program. And now we're going out and working with the contractors and electricians to do other training, and move forward from there. Six other area offices have contacted us around the country and are interested in looking at this agreement and seeing if they could get something going in their areas. So, we've got very high hopes for that, that it will reduce the number of injuries around the country -- around that area, and

particularly, it will spread to the rest of the country.

(Change of slides.)

MR. CONNORS: The next partnership that we are real happy to be dealing with is a pilot that we are running for the country. And it deals with the tower erectors. And, of course, with the cellular networks that are being established, the high-definition television, the number of towers going up in the next number of years is phenomenal. It's in the 100,000 range. This industry, though unfortunately doesn't have many workers, but it does have a very high fatality rate, among the highest that we are aware of.

For about 10,000 workers, maybe 7,000 to 10,000, we are seeing over 20 fatalities a year. It is much higher than the rates in other industries. The industry as a whole, looking at the growth of the National Association of Tower Erectors, the NATE group, it has grown from 50 members to 600 members in five years. The NATE group covers about 90 percent of the

employees in the industry. So, we thought this was a good group to partner with and to try and work out some issues.

Now, the first thing that we found that we had to do was work out what standards we would be using with this group, because there aren't a lot of standards that apply directly to this industry. And there were some very difficult issues, issues such as, can you hoist personnel up with the crane, and how far, and when can you do it?

We worked out a series of procedures and got agreement that they would do things like use certified hoists that are certified for personnel lifting. For the first year, we said that in most cases the towers--I think we found about 80 percent of the towers were 200 feet or less--we decided that we would implement the procedures over 200 feet and see how well that went, rather than routinely lifting all of the people in the industry up and down.

The preliminary data we had--by the way, we

worked with NIOSH also, and they did a number of surveys across the whole industry for us--came back such that if we use the certified hoisting devices, we took the precautions and they followed the directive that, in fact, we would let them ride the lines up and down; that there were issues involving ergonomics and climbing up in this kind of weather would tire you out, and be just as dangerous as doing something like that, if you took the right precautions.

So, we did put a directive together. We trained our compliance officers, and we started to try and do an outreach and education program along with some inspections. Now, in this region, we've done about 80 inspections in the past two years. Seventy-five percent of them still did involve some kind of fall violations. But, we did see the fatality rate drop from three in the areas where we've got this program, down to none this year to date, and we are hoping that's the beginning of some activity, or positive activity.

The problem with some of these, and I don't know if--from the industry standpoint it's not a problem, it's from our standpoint--it's hard to find these jobs. If the slab is poured and the preliminary work is done, these jobs go up very quickly, and we don't often run into them. So, we are looking for ways to try and work with the people who approve the towers, or may be the owners of the towers so we get built into the contracts an agreement that they will follow these procedures that we've put in place, and then try and make sure that the people who bid on them are bidding safety and health into the job.

So, we are going to continue to work for that. We've said we would look at this program for at least a year. There are already two other regions that have approached, or been approached, by NATE where they want to expand it. And I would say in the near future, this will probably become a national program.

Right now out of the NATE membership, we have 40 companies that qualified for recognition in the

program. And what recognition means is that we've looked at their safety and health program. They are following the procedures and they've reached a certain level of performance.

If we go on site, they will get a streamlined inspection. Again, it's a partnership, so they don't get a complete exemption like under the VPP, but they are moved down the list. And when we do go on site, it is a much different inspection than a full blown inspection that we would do on other sites. This is one that we -- as I said, we have high hopes for, and I think it is in an area that it is really needed.

(Change of slides.)

MR. CONNORS: Just some of the things that we talked before about, some of the things -- one of the things that I did not mention was that we did make this a true regional partnership. We went out to the State Plan States in Indiana, Michigan, and Minnesota and asked them to participate also, so that the entire region would be focusing on this issue and be alert to

problems with it. And, fortunately, they all signed right up. And I think that's something we will be doing in the future, is advocating that the states join with us or in some cases, Michigan was actually in this program from the very beginning and were a little bit ahead of us. And we caught up and have decided to work together. So, I think it's a good program.

(Change of slides.)

MR. CONNORS: We talked a little bit about the emphasis programs, and these are enforcement programs.

These are the areas that we feel we do need to continue to focus on, for reasons of the fatality rates, and other things, in order to meet the goals we've met under the strategic plan.

We did about 1800 fall inspections last year.

We think we've got to continue with this program. Basically, we are treating fall inspections somewhat similar to trenching inspections. If a compliance officer drives by a site and observes somebody working at risk, they are told to stop and then conduct that

investigation, looking at the fall hazard.

We have not come up with a good way to target in the construction industry. So, we've told our people--and it appears to be fairly effective--is that when we go out, look at these operations. If you see something, then stop and, in fact, look at it. About 95 percent of our inspections result in serious willful repeat violations under this program.

Again, that's kind of self-fulfilling prophecy. If you see the violation from the roadside, and you go in and get it, you're going to get a fairly high rate. Now, where the others would occur might be employee misconduct issues and things like that, where we didn't issue citations.

Tower erection. I think we have talked about. We are still doing inspections there. And that's really in support of the partnership to keep the visibility on.

I'll talk about road construction in a minute.

Gut rehab is not really a medical term for

intestinal problems. That's gutting rehabilitation of buildings in the -- usually, in major cities, but, in particular, in Chicago and Milwaukee, we are looking at that. And here is where we run into just about all of the problems that you can imagine. Fortunately, I have a success story later on that I'll talk about.

But we are seeing a lot of immigrant workers in this area, Hispanic, Polish, Russian. In Chicago, we get kind of a pretty good mix. They tend to disappear when we show up on the site. And so, we are trying some education programs and things like that.

When you go in you find structural issues. You find silica, possibly; if they're tuck pointing or sandblasting, you get lead issues. I mean, virtually the whole gambit of construction activity in this area.

And there have been problems with building collapses and other things in the area. So, that one was put together as a result of a series of accidents that occurred.

Inspection scheduling. We are trying some

things in Ohio and some other places to try and improve our ability to schedule, so that, number one, we get to a number of work sites, and not just the big sites, because we know that there is a lot of activity at the smaller sites that needs to be looked at, but also to cover the geographical areas. Because sometimes in the counties--when Peoria covers 88 counties in Southern Illinois--they don't always get to some of the small ones and see some of the work that's out there.

So, we are trying to find ways to schedule that will cover the full geographical area, but also not just focus on the big jobs listed in the University of Tennessee list. And I'll have to be honest, we are getting very mixed results with that. Probably our most effective targeting is still if we observe a hazard on like trenching or fall protection or a road job, those are our best means of getting inspections.

A lot of times on the other lists we are still going out and finding the job at a stage where we are not going to be real effective in doing it, or the job

not started, or, in fact, over. So, those are all issues that we're looking at under LEPS.

(Change of slides.)

MR. CONNORS: Okay. We are going to try something here, because Bill Donovan and John Meranno, sitting in the back of the room, threatened me if I didn't run it. We have a video clip here of a flagging operation and really what not to do on a flagging operation. This was taken by a compliance officer, who drove up on the site.

(Whereupon, the film clip was played.)

MR. CONNORS: And what we are trying to do is let this cement truck in, and we did. But then, we got everybody else coming over. And it looks like we are waiving aircraft off a job there, to have them go around again. The person actually ends up in front of a number of cars. Fortunately, we did work it out for this individual that they redid the work zone area, and managed to make a separate lane entrance that was controlled better with some signs and proper flagging

so that no one was hurt on the job.

But, we are still very concerned about road building jobs, and we are working with the road building community. I'm not going to run that clip. I think we'll extend our time there.

(Change of slides.)

MR. CONNORS: About three years ago, we went to the road building community as a result of seeing that Transportation Equity Act, and all the money coming in to the road building community. We found that there would be a 66 percent increase in highway sites, and that we could expect a work zone every 30 to 40 miles on the highways.

I actually have relatives in Cincinnati and drive there a couple of times a year, and I have counted the work zones and that works out very accurately. In the summertime, when you go down there, you see a work zone about every 30 to 40 miles. And, it makes your trip very enjoyable, usually.

But, fortunately, we have been able to put a

program together with the road builders. Although, as I said, it is not a formal alliance or a partnership. In fact, we got off to a little bit of a rocky start. We got everybody in the room together--we had the Illinois Department of Transportation, we had the highway patrol, we had the road builders, ATSSA--everybody we could figure we brought in and tried to get together and said, how about a partnership to deal with the issues that are going to come up.

And the response was, well, you know, we really don't know you that well. We are not sure we should do a partnership at this point in time. And so, we said all right. What about if we do some joint training, try and increase the visibility and awareness of the problems out here, and we will start an emphasis program.

And actually we got very good support for starting an emphasis program. They thought it was a good idea. So, we did start a program. We trained their people in it. John Meranno, who helped put this

program together, now sits on and meets regularly with their safety and health committee.

We've done 950 inspections. We have seen a reduction, again, in the fatality rate over the time period. We had 10, 10 and then two last year. So, that looks like a positive development. And the two actually were in Ohio where we have done a little less on the road building than we have done in the Illinois area.

And in the process of doing this, we worked with ATSSA to work on a problem that we saw in a number of inspections, and that was the people who collect the cones from the road jobs. We've seen them lying on the carts, or hanging off the back of a truck, or doing whatever they can to grab these as you go by. Well, we worked out a program where they actually fabricated a small cage with wheels on it that they could be in, trailing behind the truck, and not be at risk for falling out or getting hit by traffic as they moved along.

We got good support from ATSSA with it. They liked it. They've been advocating the use. So, you can buy the real expensive piece of equipment I understand that's out there that's a commercially available. You can fabricate something like we've worked ut with ATSSA, or you can, in fact, close the area and pick up the cones and walk the site and do it that way.

But, we think some goods things have come out of here. I consider it really a successful alliance, even though we have not really formalized this program at this point in time. My hope is that we will move towards some partnerships. We have been approached by two major road building contractors, one in Ohio and one in Illinois, and we hope to have some partnerships going with them in the coming year.

(Change of slides.)

MR. CONNORS: We told you about the gut rehabilitation program. This is a site that one of our compliance officers came upon on an investigation.

There were people working on the second level and the first level, and they had weakened already the existing flooring support beams. And the place was, overall, pretty much a mess.

The compliance officer did an assessment and saw they had no engineering survey. They didn't have proper access to the second levels, no fall protection.

There was debris all over. Housekeeping was terrible.

But what he was really concerned with is that the building just didn't look like it was in the shape that it was going to be around for very much longer.

Rather than pursue in imminent danger, he talked to the owner and said, I think you need to pull your people out of this job before we have a real problem. The owner, fortunately, said I understand where you are. We'll get somebody out here to look at it.

(Change of slides.)

MR. CONNORS: We did get the employees removed. And the next day this building collapsed.

And there were six to 10 people working in that building on the upper levels, and they would have been killed or severely injured when that occurred.

Fortunately, you know, we didn't spend a lot of time worrying about the imminent dangers and court proceeding. We simply talked to people; they took action. And I think this is probably a good way to finish, saying that this is the way we like to see it done. Nobody gets hurt. We work out the problem, and then we move on.

So, in summary, Region V has got a lot going on. I think, similar to what other regions are doing. We are using a full mix of enforcement, partnerships, training and education, and I think we are getting better results than we have. And I am looking forward to continuing on with these programs.

Thank you.

CHAIRPERSON WILLIAMS: Jim, can we get our lights? Mr. Connors, thank you. What an impressive presentation.

MR. CONNORS: Thank you.

CHAIRPERSON WILLIAMS: You are certainly doing an incredible job in your region.

MR. CONNORS: We hope so.

CHAIRPERSON WILLIAMS: You are to be commended.

MR. CONNORS: Thank you.

CHAIRPERSON WILLIAMS: And I would like to invite you to attend our work group meeting if you are available. Kevin Beauregard is heading that up on towers erection. And we are looking at that in particular, because of the severe issue that it is. It seems you've made some good advances there.

MR. CONNORS: We are happy. Next week we are going to their national convention. John Henshaw is going to speak there.

CHAIRPERSON WILLIAMS: Yes.

MR. CONNORS: And we are putting on the 10-hour course with the institute, and we are also reviewing some of the training requirements that have

been done. We've attended their conferences for the last three or four years, and I would be happy to do anything I could.

CHAIRPERSON WILLIAMS: That would be wonderful. I'm looking forward to attending that myself.

MR. CONNORS: Thank you.

CHAIRPERSON WILLIAMS: Thank you, sir.

MR. CONNORS: Thank you.

CHAIRPERSON WILLIAMS: And thank you to your region for doing a great job.

(Applause.)

CHAIRPERSON WILLIAMS: Our next presentation will be by Scott Schneider, the International Laborers.

And Scott is going to give his update on highway work zone safety.

MR. SCHNEIDER: I'll need about a minute to set up the laptop.

CHAIRPERSON WILLIAMS: Okay. We can take a stretch break.

(Whereupon, there was a brief pause.)

CHAIRPERSON WILLIAMS: Would everyone in the back take a chair, please. We are now going to hear Scott Schneider's presentation on work zone safety. And Jim if I could get you to help me with the lights.

MR. BROOM: Yes, ma'am.

CHAIRPERSON WILLIAMS: Thank you.

HIGHWAY WORK ZONE SAFETY

MR. SCHNEIDER: Thank you very much, Jane. I wanted to do this as a joint presentation with Brad Sant from the American Transportation Builders' Association. And I really appreciate the opportunity to show this program to the ACCSH. I know we had scheduled this for December and got snowed out, but we had our work zone safety conference down there, Brad did, down in Orlando that week too.

But, this is something that we've been putting together over the last year and a half with a Harvard grant, and we are very proud of it. And all I can say is, we showed this to a lot of people in the last year, and we've gotten an incredibly enthusiastic response. So, I think -- I'm hoping it will be a contribution

towards improving safety in the road industry.

Let me just set up the program.

(A showing of slides.)

MR. SCHNEIDER: You can see these are the topics that are covered in the program, and we are not going to go through the whole thing. We have an introduction, run-overs and back-overs, operator safety, struck or crushed injuries, flagger safety, night work, excavation, electrical hazards, sprains and strains, falls, noise, health hazards, working outdoors, and emergencies.

This was developed as a committed between the road builders, National Asphalt Pavement Association, the operating engineers, and the laborers. And we sat down and spent a lot of time thinking and looking at the data and trying to come up with a sort of overview of what the main hazards were in this industry.

And what we did was, for each hazard we identified, we put together a couple of slides, like three or four slides that identifies what the hazard is

and what you can do to prevent yourself from getting injured on the job.

It was really designed as an awareness program, primarily as an orientation program for new workers, since we know new workers coming onto the job site have some of the highest risks of injuries. So, we said, look, if we can develop a one-hour safety program that will be given to people as they come on the job site, that maybe it will be helpful to remind them of some of the hazards, some of the things that they could do to prevent the injuries, and also demonstrate the importance of safety to that contractor.

We realize that not all these hazards -- you couldn't really go through all of this in one hour, and we are not going to if you really want to do a good job. But, also, some of these hazards may not apply to your job site. You may not be doing night work. You may -- under working outdoors, we have stuff on heat hazards, and cold hazards.

So, obviously, not both of those will apply

this afternoon in Chicago. But, I think, you know, you can pick and choose. You can also use this individually as toolbox talks, and we will go into that again later. So, we think it provides a lot of flexibility. It's short. It's to the point, and we think it's useful.

So, what we will do, you can move this around in whatever order you want. If you just want to talk about emergencies, you can move that up to the top, or not. So, yeah. Sorry. So, you can put them in whatever order you want. Then you set the screen size and you can make it start.

Now, we have three versions of this that we are making available. One of them is the computerized version. One of them is, which we gave you all a CD that has this on it. You also can do this. You can print it onto color overheads and use it with an overhead projector, if that's your technology. We are also making these large posters that will be used for toolbox talks. It will be English on one side and

Spanish on the other. So, we are just in the process of finishing the printing for the posters. Right now, it's a very difficult printing job, but I think we'll have it done in about a month, and we'll have some to use.

(Change of slides.)

MR. SCHNEIDER: Okay. So, first we go through three introductory slides, basically, to introduce the program. Who put the program together? The OSHA. And also to emphasize, this is not a substitute for an OSHA 10-hour program. It's really a labor management reminder before you start work. And we have the OSHA disclaimer, as far as grant produced.

(Change of slides.)

MR. SCHNEIDER: First, you know, why do we need this program? Well, you know, building highways is dangerous work.

Each year, about 7,500 construction workers get hurt or sick on the job. On highway jobs about more than 80--now it's more like 120 or so--are killed

each year.

But, the work doesn't have to be dangerous if we are made aware of the hazards, given ways to avoid the hazards, and to raise safety concerns with our supervisors. So, that's the main message we are trying to get across.

(Change of slides.)

MR. SCHNEIDER: And we do have some reminders about safety programs. How people do have to follow company safety rules, avoid reckless behavior, ask for instructions if you don't understand, join in safety discussions, and that employers are responsible to make sure that employees understand this information.

(Change of slides.)

MR. SCHNEIDER: Now, we'll show you a couple of these modules. I'll have Brad talk about a couple of them now.

(Change of slides.)

MR. SCHNEIDER: Like this is one of the ones, one of the most important ones, the one on run-

overs.

MR. SANT: Just before we start that, I want to add a couple of comments to what Scott had said in developing the program. I think with what we've heard this morning about partnerships and alliances, this is one where it is not really an official OSHA alliance, but through this Harvard Grant, you've brought together two major unions that are involved in road construction, as well as two major national associations.

And, we have now developed a partnership that is going much beyond just this program, working on a lot of areas, But, it is facilitated by getting together and working under the Harvard Program. So, I just wanted to emphasize that, the importance of that.

In the road construction industry, nearly half of the total fatalities are caused by struck-by incidents. Roughly half are intrusions. Not quite half. And a little over half are actually workers being run over by their own equipment.

So, we -- this module is probably one of the most important in talking about how to work safely in their equipment. First, starting with workers on foot and how those workers on foot most protect themselves.

Some basic stuff. Remain alert at all times, and checking their surroundings often; listening for the warning, the backup alarms, and not becoming immune to them. Keeping themselves at a safe distance from traffic. And when possible, having positive separation, such as concrete barriers. And also to pay attention and look out for other workers.

You've noticed as we present that, as you finish each slide, the number goes red, and then you know you've finished the slide to go on, then, to the next.

(Change of slides.)

MR. SANT: Talking about -- okay, you've identified the hazard. So what precautions do we need to take? Employers must provide proper personal protective equipment. And, of course, the most notable

for highway workers are the high visibility garments and high visibility vests.

As you roll over each of these different classes, it explains what they are for. Really, in road construction, you are looking at Class II or Class III, because you are doing the speeds that are greater than 25 miles an hour, generally. And you need to wear that clothing that is going to protect you, and make you visible, both in day and night, both for passing traffic and for that equipment inside the work zone. So, all workers need to be donned properly.

And more and more we are seeing hard hats. Companies have recently come out with high-visibility hard hats, that again help distinguish workers from the equipment in which they are working. Especially, this equipment is tall. And workers walking around it, sometimes all you will see is the top of the hard hat.

And if you've got a white truck, and a white hard hat, it's sometimes indistinguishable.

(Change of slides.)

MR. SANT: And then we talked a little bit about equipment and how they should stand around equipment, such as staying out of blind spots, realizing that the operator has limitations. Communicating, being able to communicate with the operator with radio or eye contact, not approaching any type of equipment until it has stopped, until you have made that communication.

There is such a thing as the state creating a safety circle, whether that's real, or just envisioned, around equipment to watch out for swing radius, and scissor points and other things; staying clear of traffic and knowing what the traffic control plan is. They may not be technically experts to set that up, but they should know whether it's sufficient, and whether they are being protected. And then, again, using spotters when working near equipment when backing up.

(Change of slides.)

MR. SANT: We will jump on to night work, because that is increasingly becoming a greater

challenge in road construction. As we were presenting this yesterday, I had people raise hands about how many had been involved with night work as of five years ago, as opposed to now, there is about a 50 percent increase. And so, night work is becoming increasingly challenging, simply because the growth, the highway construction program has doubled in -- from about \$15 billion in 1998 to a \$30 billion a year program now.

Most of this is renovation and reconstruction.

And so, because we are working adjacent to traffic on existing highways, we are trying to have a minimum impact on traffic. And so a lot of the state DOTs require us to work at night, and that creates a hazardous environment that we will talk a little bit about.

So, what are the hazards there? Again, poor visibility for motorists and for workers. Communication, a lot of time. These are going between shifts. So, you've got different shifts of workers coming on and off, and you need to make sure they know

what's happening, what the hazards are, and what the problems are they've seen.

Impaired and drowsy drivers. National statistics show that impaired and drowsy drivers increases like 70 percent between daytime and nighttime. And we want to make the workers aware that there is going to be physical and social disruptions, things that perhaps an employer doesn't often think about what goes on away from the job, but things that very much will impair the worker if they don't pay attention, sleep disruption, impaired family relationships, et cetera.

(Change of slides.)

MR. SANT: So, what can they do now, knowing these hazards, to protect themselves at night? Look at increased visibility, making sure that they are donned in the proper clothing. Again, some of these are a little bit repetitive from what we saw earlier, but that's because each of these modules will stand alone as a toolbox talk or as part of the overall program.

Even some new high-tech clothing that have flashing lights, but just to make sure they are visible, that the equipment is visible, and using retro-reflective tape on equipment. Set up good area lighting for worker visibility and for motorists to be able to see you.

And then, all the more important at night, to know the surroundings and make sure that the workers know where the vehicles are entering and setting up pathways for doing that. Workers stay in assigned areas, but if they need to go to take a break that there are certain designated paths that they should take away from the moving traffic to the extent possible. And just watch out for the equipment and for their fellow workers.

(Change of slides.)

MR. SANT: Again, this is intended to be empowering to the worker, what they can do. This is not necessarily an employer program, so this is -- we are trying to provide ideas for what workers can do.

So, make sure that the signage is set up properly, that the traffic is diverted, using the proper changing messaging signs. These are all typical in traffic control plans, but sometimes they may need to be modified above and beyond what is recommended in the MUTCD, or the Manual on Uniformed Traffic Control Devices.

Sometimes, as you may have been driving in a work zone at night, the exit may be very difficult to distinguish from the regular lanes, because those barrels are spaced so far apart, because you are, typically, traveling at 45 miles and hour, perhaps, in that work zone. So, at night, you might want to move that traffic control closer together to make those reps a little more clear.

Again, using proper lighting. Make sure that your work lighting isn't conflicting with your directional lighting of your traffic control devices. And then, constantly inspect it. Those things are going to get knocked and misplaced a lot. And you just

need to continually check the area.

(Change of slides.)

MR. SANT: And then going into the worker health habits. What can they do to make sure that they stay alert and attentive on the side? Simple things about proper diet when at work and at home. How to make sleep a priority, and set up routines. Work with family members.

These come from a lot of NIOSH recommendations for night work. Encouraging them to plan time to be with their family, so that isn't a stress. We know that family problems can bring a lot of stress.

(Change of slides.)

MR. SANT: So, one last one. Go ahead.

MR. SCHNEIDER: Okay. Al right. Let's talk for a minute about -- one thing I do want to tell you before we go on, we do have a student booklet, which we gave all of you in English, and in Spanish. And it summarizes, basically, everything on these slides in a small booklet, which you have been given.

We also are putting together individual -- if these are being given as toolbox talks, we will have individual trifolds, like this, that will, you know, on each topic. So, if you are just talking about excavations, you can give them this, and it will have basically the same thing, the same information in it in one sheet of paper. So, if you are using this for toolbox talks, these are not finished yet. We are still revising and editing these and getting them into the right format.

And, we also do have an instructor's guide, which has all of this information from the slides, plus other notes and information for the instructor they can use. We only have about four copies of this. They got taken when we gave the class this week at the -- they, sort of, took more than they should have. But we do have -- we will leave these four copies here for people that are really interested, so that the entire instruction manual, the student booklets. English and spanish, are all on this CD and can be printed out from

the CD. So, just for your information.

(Change of slides.)

MR. SCHNEIDER: Well, obviously, flaggers are at some of the highest risks -- oops. Hang on a second.

(Change of slides.)

MR. SCHNEIDER: Well, you can see, if you are somewhere in the program and you have a problem, or you want to go back or forward, you can go to this menu. But, I'll show you. For example, for flaggers, we know about 20 flaggers are killed each year on the job.

Why is flagging dangerous? Well, there is high speed traffic. You can have angry or aggressive drivers. And after seeing a flagger, a motorist traveling 60 miles an hour needs almost 400 feet to stop. So, we thought this was an important concept to get across, so we included a short demo to show people what this is like.

And here, you can see, you can make the cars go up to 80 miles an hour. And then if you hit the

break button, how long do you think it takes to stop at 65 miles an hour? Now, it depends on the paving. If it's under dry conditions, it's about 500 feet. But, then again, if the conditions are wet, you can compare that with 500 feet; now it's almost 800 feet. And this goes up to packed snow, to ice and sleet. And you can even get up to speeds up to 80 miles an hour if you're, I guess, in Utah, or Wyoming, or I don't know. It doesn't go -- it doesn't stop. So, hold on. Okay.

(Change of slides.)

MR. SANT: Okay. So how do you protect yourself if you are a flagger? Well, obviously, again, you have to be visible, wear high visibility clothing.

And again, you have the rollovers to show what those are for. Using reflective vests at night, other protective clothing you should wear like long sleeved shirts and pants, hard hats, other weather gear, like rain gear or warm coats.

Now, the other thing I should point out is, we do have a button on every slide now, and you click it,

and then the slide changes to Spanish. So, you can do the whole thing in Spanish, or in English, or you can flip back and forth. And what that means, if you are teaching a bilingual class, even if you don't speak Spanish, you could switch to it, and then they can read the slides. We try to make these slides with the minimum amount of text on them, mostly very graphically oriented, because people -- a lot of men don't have, you know, high reading levels, and I think this is the way to present it more effectively.

(Change of slides.)

MR. SCHNEIDER: Okay. How do you protect yourself? Obviously, you have to stay out of harms way, keep your guard up. Stand alone on the shoulder in clear view and not in the open traffic lane. Plan an escape route for emergencies. Stay in communications with other flaggers. Keep focused on your work. Make sure your hand signals are not conflicting with traffic signals nearby. And this is an important one: treating motorists with respect and

courtesy. Not picking fights or responding to anger.

We had a case in Annapolis last year where a motorist was assaulted, or assaulted a flagger with a 2x4 because he was so angry and said he was going to come back and kill them. And they got -- called in law enforcement and found the guy. But it can be very dangerous.

(Change of slides.)

MR. SCHNEIDER: And then we have some sort of tips on things they shouldn't do. Like, for example, not standing where you can be crushed. Not standing over the crest of a hill, around a sharp curve. Not leaving your position until you are properly relieved.

Not standing near equipment or in a group. Not making unneeded conversations, or reading on duty, listening to music, or not turning your back to the traffic.

So, these are just simple things that we hope, you know, through toolbox talks and orientations people will --

(Change of slides.)

MR. SCHNEIDER: Oops. Sometimes I click too many times. But, I'm just going to give you a couple of more examples.

Here is one on sprains and strains. And, you know, I think a lot of people, since there are -- so many of these programs are safety oriented, they tend to ignore things like sprain/strain injuries and ergonomics. But, as we pointed out, 43 percent of lost workday injuries in road construction are sprain or strain injuries. So, it's a significant number. It's a lot.

(Change of slides.)

MR. SCHNEIDER: So, what causes these injuries? We say, you know, what are the most difficult parts of your job? Working in awkward postures, like asphalt raking, handling heavy materials, like concrete form work. Repetitive work, like rebar tying. Using vibrating tools, like a pavement breaker, and whole body vibration for equipment operators.

(Change of slides.)

MR. SCHNEIDER: Oops. So, we say, what are ways you could avoid sprain and strain injuries? How could the work be done differently? Can you minimize the amount of manual materials handling that is being done? Can you plan the job better about where materials are delivered and how they are used, where they are stored? Can you get tools that are comfortable and easier to handle? Can you use protective equipment, like knee pads or shoulder pads to reduce contact stresses? And where possible, can you take breaks or rotate people between difficult and easy tasks? Just simple ideas to, hopefully, make your jobs easier.

(Change of slides.)

MR. SCHNEIDER: And also, there are things that you, yourself, can do, such as planning a clear and level walking path, not lifting too much by yourself, getting help, using proper lifting technique where possible, avoiding working in awkward postures,

doing stretching exercises before work, and keeping fit.

They are just some simple ideas we are doing.

Okay.

(Change of slides.)

MR. SCHNEIDER: Briefly, I will go over fall hazards. You know, falls are a significant problem in road construction. And what is it? It is mostly due to slips and trips. There is falls on walking surfaces because of material or debris, falls down hills or embankments; stepping in holes, or stumbling while carrying loads, or slipping on wet, or muddy, or icy conditions.

And on the other side, there are some falls from elevations, as well. Falls from equipment, like aerial lifts; falls from bridges, because bridge work is also covered, although it is not the main focus of the program; falls from form work and into excavations.

And for each of these we have one slide on what to do about falls on the same level, such as avoid

walking on wet or icy surfaces where possible; use footwear with ankle support and good soles; don't carry heavy loads, use hauling equipment; practice good housekeeping; filling in or marking holes in the ground, and giving clear working, walking surfaces; clear them of tripping hazards; and have safe walking routes in your safety plan.

And then for falls from heights. Some of the things you can do include 100 percent fall protection program. Planning your work for fall; have fall protection anchors or guard rails; erecting guard rails around large excavations; using restraints and seat belts when you are in a vehicle; using modular erection to avoid work at heights on forms, and using three-point contact when you are entering and exiting vehicles.

We do have a section on noise and hearing loss prevention.

(Change of slides.)

MR. SCHNEIDER: Yeah. Well, let me just skip

over that, and we will talk about health hazards.

(Change of slides.)

MR. SCHNEIDER: Okay. On the outdoors work-- or on the health hazard side. Obviously, we can't cover all health hazards in road construction, so, what we do is, we have a generic slide, first of all, on toxic substances, how you can have short-or long-term effects; how they enter the body.

And then we do have individual slides on the four main health hazards in highway construction.

(Change of slides.)

MR. SCHNEIDER: Silica. And we talked about silica being a common problem, caused from rock or concrete. We list some high-exposure tasks: sandblasting, rock drilling, concrete cutting. It can cause silicosis or lung cancer. And to prevent silica exposures, you can reduce your airborne levels through ventilation and wetting, and use toxic dust respirators that are approved by NIOSH.

(Change of slides.)

MR. SCHNEIDER: We have a slide on asphalt. We talked about asphalt fumes and skin contact. The fumes can cause eye and respiratory irritation. Hot asphalt can severely burn the skin. And you should work up wind wherever possible, maintain a lower temperature to minimize the fumes, use ventilation on paving equipment and wear gloves or long sleeves to prevent skin contact.

(Change of slides.)

MR. SCHNEIDER: We have a slide on concrete dermatitides from wet concrete. There is irritant dermatitis from the caustic chemicals in concrete, and allergic dermatitis is a possibility. And the prevention measures are to wear long sleeves, gloves, keep concrete out of your boots, change your boots and gloves when it is contaminated. Wash your hands in clean water, or PH neutral soap. Protect any cuts with bandages, and wear eye protection.

(Change of slides.)

MR. SCHNEIDER: And the fourth health hazard

we'll go over is lead. There is, like I said, on bridge jobs, it is an issue, certainly. It damages the nervous system and the reproductive system. It is found in paints on bridges. The dust or the fume can be inhaled or ingested, some high exposure tasks, sandblasting, welding, cutting. It can be carried home and poison your family.

And some of the prevention measures is to remove paint before cutting or welding. Use long-handled torches, local exhaust ventilation, proper respirators, washing your face and hands before eating, smoking or drinking. Showering and changing clothes before leaving work. And getting your blood level tested periodically to assure you are not overexposed.

(Change of slides.)

MR. SCHNEIDER: And then we have a final slide that sort of talks -- it says there are other health hazards including carbon monoxide, solvents, sealants, paints. You should review the material safety data sheet. We do have some typos in here that we are

correcting. Limiting exposure as much as possible, staying up wind of hazardous exposures. Making sure controls are working, and wearing the proper protective equipment.

(Change of slides.)

MR. SCHNEIDER: So, I don't want to bore you by going through the whole program, but we do have a section on outdoor work.

(Change of slides.)

MR. SCHNEIDER: We have a section that talks about sun exposure, heat, cold.

(Change of slides.)

MR. SCHNEIDER: We have a section on hazards for operators. And then we don't -- I think we skipped it, but there is a section on working on emergencies on the job site.

(Change of slides.)

MR. SCHNEIDER: We talked about the most common emergencies: a worker being seriously injured, or killed, contact with a power line, or gas line,

trench collapse, traffic entering the work zone, toxic chemical spills, and things that you should do.

(Change of slides.)

MR. SCHNEIDER: Having an emergency plan, including calling 911, getting medical help, on-site CPR and first aid, shutting off equipment, evacuating the area, having an on-site coordinator call the fire department or utility company, and then asking for counseling if there is been a tragedy or a near miss.

(Change of slides.)

MR. SCHNEIDER: And then, lastly, preparing for emergencies, having a warning system so everybody knows when and how to evacuate, knowing where the emergency phone numbers are, knowing who the emergency coordinator is on the site, having people trained in the emergency plan, and participating in regular drills.

So, this is just an overview of the program. Obviously, we are just rushing through it. We think, you know, in an hour contractors can go through a

substantial amount of this as an orientation. Each one of these can be a 15-minute toolbox talk. We will have the posters done so people can use it on the back of a pickup truck, in addition to the computerized version.

Our plans with this, in addition, we are adding some new things to this. We are adding some more demonstrations, like the flagger demo. We are going to have one on blind spots and backing up, where you move a worker in back of a dump truck, and you can see whether you can see them in the mirrors or not, of the dump truck.

We are adding a demonstration on trench collapse. We are adding some -- we have added some sounds on the noise sections so people can hear what it sounds like to have tinnitus or hearing loss. We are adding some video clips on silica to show how much dust you get when you do cut dry, versus wet. We are adding video clips also on -- what's the other video clip? Oh, on electrical contact, where we are going to show like a 10-or 30-second clip on an electrical contact

with a power line. I think it's the one we got from OSHA, which most of you have probably seen.

So, we hope that through making it interactive and interesting, and short and to the point, this will be a useful reminder for people. And we are happy to answer any questions about this or, you know, or where we are going with this or any suggestions you have and what else we can do with this program.

CHAIRMAN WILLIAMS: Well, Scott, may I say, you've done an excellent job with that presentation. It is excellent. Did the committee have any questions or comments they would like to offer?

MR. BEAUREGARD: I have a question, Jane. Who should we point somebody to if they want to obtain copies of this?

MR. SANT: They can come to OSHA, or we will be delivering some. But if they are a member of any of the organizations that have developed them, or just want to contact Scott or I. But, you know, if they are a NAPA member, a laborer, an operator, ARTBA, or, you

know, anybody else concerned to the extent that we have them and we have funds, we will distribute them. And they are free of charge.

CHAIRPERSON WILLIAMS: Hard copies of this presentation, as well as the early one by Mr. Connors will be attached to the minutes of this proceeding. In addition, this programs will be part of the record in OSHA's technical data center, and could be viewed right there, as well.

MR. SANT: If I could add just one closing comment here.

CHAIRPERSON WILLIAMS: Yes.

MR. SANT: A lot of what started this was in 1998, when I was -- as I mentioned earlier, the highway program grew from about 15 millon to about 30 billion as it is this year. Right now, this year, we are in the re-authorization of that program again. And we are looking at a program that will grow from 30 billion to as high as 60 billion, over for the next five years.

So, we appreciate the outreach that OSHA has

helped us to provide, the way that this industry is working together and look forward to a lot of continuing work in this area.

CHAIRPERSON WILLIAMS: Scott.

MR. SCHNEIDER: Yeah. I want to make one other comment. And that is, when we designed this program, it was not designed as a compliance program. You will note in the slides there is almost nothing said about OSHA or OSHA standards. It's really a best practice program. And we had some discussions with OSHA about adding some OSHA requirements so that people will know what they are.

In fact, for a lot of these areas, there are no OSHA requirements for back-overs and run-overs, for heat stress, cold stress, for a lot of these areas. But in any case, we are having some discussions about it. But really, we are not focusing so much -- we are not encouraging contractors to do these things or to recommend these work procedures because OSHA tells them they have to do it. It's much more. This is what you

ought to tell people. This is the way to do the job to make sure it is done safely and people don't get hurt.

CHAIRPERSON WILLIAMS: Scott, may I ask? We have six committee members who are not present. And I see you have extra copies there. Would it be possible for me to have one for each of those members?

MR. SCHNEIDER: Yes. And we would be happy to provide them. And in fact, we only have four copies of the instructor guide. Anybody that wants one can just let me know, or you can let me know. And send me an email and we'll send them out to you. We'll make them available, certainly.

CHAIRPERSON WILLIAMS: Thank you very much. Thank you for the copies and thank you for your presentation, gentlemen. Very impressive.

We are on schedule for lunch. Are there any comments or any items that the committee would like to discuss at this point?

MR. SWANSON: Madam Chair.

CHAIRPERSON WILLIAMS: Mr. Swanson.

MR. SWANSON: Of your morning agenda, remarks by me were the only thing that we had to skip over. And I see I am going to do an update sometime this afternoon. So, I am a little late to make any introductions of my boss who is now in the airport, and can do other things.

I do want to thank Tom for making it possible for us to come out here and join our ACCSH meeting with his counsel meeting here for the last several days. You know, when I arrived in the room this morning, I looked out and I said, you know, it's all the usual suspects. These are the same people that come to meetings in Washington, D.C., and all we did was make you come halfway across the country for the meeting. But, thankfully, the room started to fill up an hour or so later.

I assume that we have a lot of local construction employers and employees in the room in those that arrived in the second wave this morning. And I'm really appreciative of you coming, attending,

taking a look at what this activity is and how our regulatory agency tries to interface with the constructions industry through regular four-times-a-year meetings with folks like you see at the table this morning. So, thank you for your attendance.

CHAIRPERSON WILLIAM: Thank you, Mr. Swanson.

When we come back, we will finish the agenda this afternoon. We will review a date for an upcoming work group and -- work groups, and our next ACCSH meeting. And we will entertain comment from the public. We have two who have requested to make comment for us.

If there is anyone else, if they would please let myself know. And Mr. Swanson, we would be glad to ensure we call upon you.

We will convene sharp at 1:00. There is a lot of things to get done this afternoon, and we are going to recess early at this point, unless there is any other comment from the committee. We are recessed until 1:00 p.m. Excuse me.

Mike, did you have a comment?

MR. BROOM: Has everybody seen Tom?

CHAIRPERSON WILLIAMS: Has everybody on the committee, the ACCSH members, seen Tom Broderick? Please be sure to. Thank you.

(Whereupon, at 11:45 a.m., the meeting was recessed for lunch.)

AFTERNOON SESSION

(1:00 p.m.)

CHAIRPERSON WILLIAMS: Let the record show the meeting is reconvened. Again, if there is anyone from the public that would like to address the committee, if you would just let us know your name and the representative company, we will be glad to entertain you at the appropriate time. At this point, I have two.

Our next presentation will be made by William

Perry, Mr. Davis. And John Steelnack, I believe, will be following up if he is -- is he here?

VOICE: No.

CHAIRPERSON WILLIAMS: He is not.

VOICE: John is not here today.

CHAIRPERSON WILLIAMS: Okay. So, just you gentlemen.

MR. SWANSON: If I may for a moment, Madam Chair?

CHAIRPERSON WILLIAMS: Yes, sir.

MR. SWANSON: We had this presentation or some form of it back in December. The Chair sent me a lovely note later, and said that some members of this committee thought that it was perhaps a little too technical for the audience, or possibly even the committee.

VOICE: I admit it.

MR. SWANSON: I am very general about that. So, could we perhaps have a re-run at it? So, we have invited a couple of folks from the standard shop to

come out and try and answer any and all questions.

There are certain things that they are not going to be able to say because of the status of the issues at this time, but anything that they can talk about, they will be happy to talk about and share with you, and try and leave everyone smiling this time. That's our wish any how. Okay.

CHAIRPERSON WILLIAMS: Thank you, Mr. Swanson.

We are going to, again, switch this around a little to accommodate departure schedules. And the first item were are going to hear under this report is hearing conservation.

HEARING CONSERVATION

MR. PERRY: Thank you, Jane. Again, it's a pleasure to be here this afternoon. And good afternoon to everyone. I am Bill Perry. I am out of the -- I am Director of the Office of Chemical Hazards, Non-metals in the Directorate of Standards and Guidance at OSHA.

Our Director, Stephen Witt, who was originally on the agenda, sends his regards to the committee. And unfortunately, he was not able to be here in person to address all of you.

With me is Neil Davis, who is also from my office. And we very much appreciate the opportunity to inform the committee on our progress on projects dealing with hearing conversation in construction, Subpart B, and Silica. And as Bruce indicated, if you have particular questions of a technical nature on EPS, I will do my best to help answer those.

So, at this point, I would like to introduce Neil, who will give the committee a run down on our hearing conservation advanced notice for proposed rule

making.

MR. DAVIS: I will be speaking today on the advanced notice of proposed rule making for hearing conservation in construction. And the first point I wanted to make, even though it's in the name, it is not necessarily a proposed or final rule.

We in the -- closer?

MR. SWANSON: Please move the mike closer, please.

MR. DAVIS: Closer? I'm sorry. And I will speak a little bit louder.

CHAIRMAN WILLIAMS: Pull the mike closer.

MR. SWANSON: There you go.

MR. DAVIS: Can I be heard now?

CHAIRPERSON WILLIAMS: Yes, sir.

MR. DAVIS: Thank you.

MR. SWANSON: The Justice Department tapes will pick it up from this point.

(Laughter.)

MR. DAVIS: What I was trying to emphasize is

this is not a final rule. This is -- it's not even necessarily a proposed rule in the sense that we are still gathering information to see if the rule making should be pursued or not, and what regulatory or non-regulatory alternatives are available to the Agency.

The ANPR was published August 5th, 2002. It was -- there were 90 days for comment period. And during that period, or shortly thereafter, we received 57 written comments. When parties responded, of course, there were multiple names on some submittals, but 57 comments were received.

I'm going to give a little bit, just a touch background. As most of the people on this committee know, construction involves loud and very loud noise sources. OSHA estimates that 750,000 construction workers are exposed above 85 DBA, and that's as a time-weighted average. Some of the sources are much wider, but when you average it over an eight-hour day, that is the value.

Eighty-five is the trigger for hearing

conservation in the general industry standard. And we are considering alternate methods and triggers.

Nothing has been decided at this point.

Engineering administrative controls are often not used or not feasible in construction to bring the noise levels down to the current PEL in construction, which is at 90 decibels. Also, the use of hearing protectors are low. There haven't been that many studies on that, but--and there is--the average use found on various studies is from 15 percent to 66 percent. So, there is a wide variability, and wide variation throughout the country, and probably within even cities, between different contractors.

Many construction workers lose their hearing at an early age. NIOSH's work has shown that an average 25 year old carpenter has what would be present in a 50-year-old-man, so that the, again, at 25 years, it would be like 50 year old ears. There is also -- tinnitus is a common experience among construction workers and others who are -- which is a ringing in the

ear.

OSHA's existing standards in construction, 1926.52 and 1926.101. There are existing standards now in construction, as most of the members of this committee are aware of. But, the problem is language.

In OSHA's construction rules that currently exist. It is not specific. For example, in 1926.52, requires "continuing effective hearing conservations program," if engineering and administrative controls do not bring noise levels below an eight-hour, 90 DBA PEL.

When you compare that with the general industry standard, which was passed approximately 20 years ago, which is 1910.95, there is much more specific language. And the program is triggered at 85 DBA, as opposed to 90 DBA exposure. The hearing conservation program includes audiograms, hearing protection devices, training, record keeping, and exposure monitoring.

In our actual ANPR, we asked approximately 100 questions in 29 different categories. The ANPR broadly

asks the following questions. Should OSHA update the hearing conservation elements of the existing construction noise standards? Should OSHA apply the general industry standard to construction? If so, how?

What other alternatives or models are available that are specific to construction and the realities in construction?

We had different types of responses, and I'm going to try to characterize them broadly. Some commentors urged OSHA To pursue rule making. Typical comments included simply monitoring by assuming loud noises for most occupations and many activities; transfer training and audiometric data from one employer to next; update the rules to reflect the most recent ANSI standards for testing.

On the other hand, there were -- other commentors asked OSHA to leave the rules as they are, stating that the current standard is adequate and provides flexibility. Increased cost and paperwork was a concern, especially for small business. And use

voluntary approaches instead of regulation. An example of that would be working with equipment manufacturers to make quieter equipment.

There are a few key hot point issues that can be summarized from the responders. The first is audiometric testing. The second is the maintenance and transfer of audiometric, particularly audiometric, but also exposure records. And also, what type and frequency of exposure monitoring should be required.

If OSHA pursues a rule, we will need to come up with workable solutions to these questions. The unique characteristics of construction need to be considered in the process.

Where do we go from here? The first part is the OSHA staff has to finish and analyzing the comments that we've received. We need to weigh the pros and cons of revising the standard. And standards and guidance staff will then present an options paper to OSHA management, who will decide how to proceed.

OSHA is also doing work in non-regulatory

alternatives. To effectively address the issue of noise in construction, we need both regulatory and non-regulatory initiatives. One concrete project that we are working on now is we are working with a contractor to enhance some existing toolbox talks. And we are doing this in combination with the OSHA training institute.

And this process will actually end in a train the trainer type deliverable in terms of a program and training material. In the future, we are going to work on other guidance efforts to help employers to help reduce noise levels. And, we are open to ideas and suggestions of this committee in terms of those non-regulatory approaches. I would be happy to answer any questions at this time.

CHAIRPERSON WILLIAMS: Thank you, Mr. Davis. Does the committee have any questions at this time? Mike.

MR. SOTELO: I think a lot of the issues for employers stems, at least, for some employers, stems on

the fact that these things are occupational diseases. These are not being occupational disease. And there are some worker's comp issues that get involved with that. And I was kind of interested. Have you worked with any insurance companies or gotten any feedback from insurance companies that handle worker's comp on what their protocol is and what they are doing? A proactive, versus a reactive approach?

MR. DAVIS: There were no comments on the record from any of the insurance carriers. To a large extent, worker's comp issues are really beyond the range of OSHA to address.

MR. SOTELO: But, maybe, Dan, you could help us on this, or, you know. There -- your company certainly handles a lot of claims. Has there been any data done on that in your industry?

MR. MURPHY: I guess the best way to answer it is we recognize in the construction industry that we have a potential issue, as this work is being done, as this committee meets, as we talk about more hearing

conservation efforts. And, we are trying to come up with simply, or fairly simply solutions to the problem.

I have quite a number of people working on the issue.

But as you are well aware, with the vast amount of turnover, the number of people we run through, and not knowing what they are exposed to when they are not on the job, it makes a very difficult task.

So, we are looking, we are studying. We have groups that are looking at it, and we are trying to come up with solutions, which I will share with Bruce and his people as soon as we have something concrete.

MR. SOTELO: Thank you.

CHAIRPERSON WILLIAMS: Mr. Davis, at our previous ACCSH meeting, there was a question regarding -- there was a couple of questions. You were going to attempt to look into it. I don't know if you've had time to do that.

But, one of them was, has any progress been made on looking at the fact that a 25-year-old carpenter, or worker, may potentially, be at a

significant hearing loss with the influx of Sony Walkmans and the things of nature, or both, that we see as they come in on the construction site, they are impaired before they even get there. Are you having any dialogue on looking into those issues?

MR. DAVIS: There is no question that non-occupational sources of noise is a contributing factor to people's hearing loss. We have not really had any formalized. For example, we haven't had any formalized discussion, but, for example, in that non-regulatory area, in the training guide, there is -- one out of the 12 chapters deals with non-occupational noise sources.

It would be hard for OSHA to through its regulatory capacity; affect that grouping, you know, non-occupational private use of exposures.

MR. PERRY: If I could interject, too. The point of a hearing conservation program is, of course, to be proactive and prevent the workplace from being a significant contributor to hearing loss. You will find in our docket some analyses that OSHA has had done by a

contractor to look at risks, and these are, predominantly, occupational risks. And in terms of to what extent, or how many people are likely to experience a hearing loss if exposed to 85 or 90 DB, or higher on the job. And those risks turn out to be quite substantial. So, that's what we are trying to address.

This issue did come up in the general industry, rule making. My memory is a little fuzzy on it, but basically, we felt that the hearing conservation was important in general industry, because exposure is on the order of 85 DB are associated with very high risks of hearing loss. So, that's really, I think, our perspective on this, and doesn't get directly into the issue of whether for a single given case, was work of a significant contributor, or not. That's where workman's comp steps in and we don't get into that area. But, I don't think you need to answer that question in order to decide what steps should be taken in the workplace to reduce the risks that have

been demonstrated in the scientific literature.

MR. SOTELO: On a voluntary basis, that's true.

MR. PERRY: Uh-huh.

MR. SOTELO: But, if it's a regulatory issue, then it's a huge concern, because it sets precedent for worker's comp. And I know you said that, you know, you don't deal with worker's comp. But that means it's -- you know, when it comes to a business person, it's all in the same wallet, so to speak.

MR. DAVIS: There was comment in the record that indicated that the issue of audiometric testing, coupled with the issue of worker's comp, was of a concern to the business community. As I was stating before, OSHA doesn't have a long enough reach to deal with that worker comp issue because it's beyond our mandate. But it is probably something that will have to be addressed in this area.

MR. DURST: Madam Chairman?

CHAIRPERSON WILLIAMS: Joe.

MR. DURST: Well, Madam Chairman, the comment you asked earlier about the comment of the 25 year old carpenter having 50--year--old ears. That is a statement from the National Institute of Occupational Safety and Health, from Dr. Mark Stephenson, based on audiometric tests given to thousands of apprentices in our organization, and to journeyman, both at our general convention and apprenticeship contacts and at local unions. It is a statistically valid figure.

The issue of Walkmen and other things that people do, chain saw, sawing wood, firearms, activities, those kinds of things, impacts very little on the amount of noise that you get in the workplace exposure on a continuous basis. Now, two other issues in the standard, the impact noise. Presently, NIOSH is working with Gardiners on that issue, plus some other steel issues on hearing conservation, and hearing protectors, and the results aren't done yet.

But, the impact noise issue, all of our pile driving rigs, all of the power tools these things give,

the sudden jar to the ear, the ear drum, there is certainly a problem or appears to be a problem of equilibrium of those employees exposed to that. And there are slips, trips, and falls when there is no reason for there to be. When they quit working and walk away from that activity, there is nothing for them to trip over, but yet that person will fall and have an incident.

And then there is the issue of hearing protectors, themselves, how well they protect, and how well or how good does an employee insert that hearing protector in their ear, not given any instruction as to how to do that. Simply give somebody a couple of cabot hearing protectors, and say, here is your hearing protection. One guy barely rolls it up and sticks it in, so it expands, not getting very much protection. The other guy rolls it up sharp as a pencil, gets it clear in, touching almost the eardrum. It expands and touches the ear drum.

So, there is a lot of difference in how these

things should be done.

CHAIRPERSON WILLIAMS: I appreciate that, Joe.

Ms. Sweeney, who is the co-chair for the support group that is serving, or course, with you, and they have now made a very good presentation to the committee, and did share all of the information that you are saying. And we are not disputing the issue of those who are impaired.

What the question was was how can the employer on a migratory work force monitor the hearing loss and do the initial testing if he is only going to be performing on the job for four hours, or whatever? So, it was a question of exposure prior to coming to an employer's project to determine who really had the responsibility of doing that. I'm not questioning the training and all the things we need to be doing once they are there. It was the determination of responsibility.

So, we are very much aware that. The other question --

MR. DURST: Madam Chairman?

CHAIRPERSON WILLIAMS: Yes?

MR. DURST: I'm not done yet. Thank you,
ma'am.

CHAIRPERSON WILLIAMS: I'm sorry. When you
went like that, I thought -- I apologize.

MR. DURST: I was reaching for the bell to cut
you off.

A VOICE: It wasn't there.

MR. SWANSON: We took the bell.

MR. DURST: But it will be. The other thing
in construction, when an employee comes to work for an
employer, unless it is, you know, going to be a long-
term job, whatever long term job is, and audiometric
testing is done to establish a baseline, or a baseline
has been established prior to there getting there. So,
there is no way of knowing the volume of the noise of
that employer's employment for that employee.

Now, someone who is going to be--and this is a
problem, nature to construction--you are going out on

your job for three days. Three days noise, depending on what it is, may have an effect on somebody's hearing. If it is at 86 decibels, it's probably not going to have much effect on their hearing. But, you can't expect every contractor to give a baseline physical every time they hire somebody, and give them a audiogram when they leave to see whether or not there was any threshold shift.

That is certainly not going to happen. But, we can identify all of those situations in construction the use of tools and activities that do create noise levels above 85 decibels, or 90 decibels, whatever the number is going to be, and then expect, number one, engineering controls to be done if they can. In a place of construction, probably 90 percent of the time that answer is no because of the movement of the equipment, movement of the employees, engineering controls are not practical.

Then you get to personal protective equipment, and then it's a question of providing the personal

protection hearing protectors that work best for the employee or for that type of noise. And Dr. Stephenson, one of the other things that had been done when we get done with this project, which should be shortly, we would like to have him and Dr. Carol Stephenson come and make a presentation to the advisory committee.

But, we have recorded and digitally recorded every -- not every, but many thousands of construction tools, used in construction, so you know exactly what the noise level is when that tool is being use. Table saws, jigsaw saws, all power actuated tools, grinders, sanders. And if a person uses a tool, you will see a little graph right over here, just like on your hi-fi at home, showing you the decibel levels and the frequencies. Thank you.

CHAIRPERSON WILLIAMS: You are welcome. Mr. Davis, do you have any time line established as to when you think your next steps might be accomplished by?

MR. DAVIS: It's kind of a -- it's soft, and

it's subject to other changes, but I would say that the internal staff work should be completed in mid or late spring. And then it would be a firm management review, and then I really can't post a time on that.

CHAIRPERSON WILLIAMS: The reason for my question is, our work group is progressing with Mr. Durst and Ms. Sweeney, and they were -- Ms. Sweeney was curious as to looking to how they could gear their actions to support your activities and get data to your from their work group.

I know they will be meeting at -- prior to our next ACCSH meeting.

MR. DAVIS: Okay.

CHAIRPERSON WILLIAMS: So, I'm sure Marie in all her conversations with you had -- would make sure that you are aware of those and welcome your participation in those meetings.

MR. DAVIS: We welcome the ideas and any support and direction that may come from this committee.

CHAIRPERSON WILLIAMS: Thank you.

MR. PERRY: And with that -- I'll just add to that. Obviously, as you can tell, we are very early in this process. So, it's not like development of a proposal; should OSHA decide to go in that direction, is immediately imminent.

We have a record now, not a huge record, but a record that has some -- quite a bit of technical information and some good ideas in it. So, I think there will be ample opportunity for us to work with the working group on these noise issues and get input from the group.

CHAIRPERSON WILLIAMS: Thank you. Any other comments? Joe.

MR. DURST: Madam Chairman, just one. And this is to the employer individuals in the room, and that is, OSHA and worker's compensation, and they are two separate, distinct things. And there are times when you have to take worker's comp and put it over here, and put a hat over it, and forget it, and talk

about safety and health issues at hand.

Unfortunately, hearing conservations is one of the things that also is recordable under 1904. So, therefore, you get two shots at this worker's comp ghost jumping up out of our hat, and you can't forget about it.

Here is a thought. It is not true. What if one of the 50 states didn't cover hearing conservation as a compensable illness or injury? You wouldn't worry about worker's comp, because it doesn't exist. It is not something in that state that is covered. That's not the case, thank God. But -- so you have to think about what you are doing safety and health-wise with the Occupational Safety and Health Administration, or with the State Plan State here. And then, if something, in fact, leads to a disease or to an injury, then it goes over here, maybe.

CHAIRPERSON WILLIAMS: Thank you, Joe. Any other comments from the committee?

(No response.)

CHAIRPERSON WILLIAMS: Mr. Davis, thank you.
I appreciate your presentation. I'm sure we look
forward to working with you.

MR. DAVIS: Your welcome.

CHAIRPERSON WILLIAMS: Mr. Perry.

STATUS REPORT, SUBPART V

MR. PERRY: Thank you. Moving on to the
status report on Subpart V. As you know, OSHA
currently has two standards covering work on electric
power transmission, and distribution lines and
equipment: Subpart V of Part 1926, which covers
construction of these installations, and 1910.269,
which covers maintenance and repair of these
installations.

And I'm going to go through the current state

of our proposal and summarize some of the content on what we've put together so far. Just be aware, unfortunately, the expert in this area was unable to be here today. I'm not the expert in this area. I've learned probably more about power transmission and distribution lines in the last two days than I ever cared to. So, please bear with me. I will try and answer any questions you have as best I can.

Both of these standards the construction and general industry standards address the same hazards, primarily electrical hazards posed by lines and equipment, and fall hazards posed by working on overhead support structures. The existing construction standard is over 30 years old. It was promulgated in 1972, and is inconsistent with the updated general industry standard.

The general industry standard was promulgated in 1994. It's primarily a work practice standard based on safe practices that are reflected in consensus standards, such as the National Electrical Safety Code.

What this means is, the situation is now that employers who are engaged in this type of work must meet two different standards, depending on the nature of the work being performed at any given point in time.

They have to follow the general industry standard in performing maintenance activities and operation of these facilities. And they have to follow the construction standard if they are altering, converting, or improving this equipment.

OSHA is proposing to revise the standard, addressing construction of electric transmission and distribution installations. The proposal will make the construction standard consistent with the general industry standard. It will revise both of these standards to reflect current technology that exists to protect employees from hazards associated with work on transmission and distribution installations. It will revise related standards that we have for electrical protective equipment, specifically, 1910.137.

The proposal was released to the public in

draft form a few years ago. Subsequently to that, it was the subject of a series of stakeholder meetings that OSHA held in summer and fall of 2000. I should say that applying the requirements from the general, the existing general industry, standard to construction work is not expected to impose a significant burden on employers, since most of the employers who would be covered are already following the updated general industry rules.

If I could summarize very briefly what the significant changes being proposed in the construction rule are. First, the proposal would recognize class 00 rubber gloves. These are low voltage gloves that are intended for use up to 500 volts. And this change reflects and update recent consensus standards.

The proposal would require electrical protective equipment made from materials other than rubber to be capable of withstanding voltages involved in the work and to limit the current reaching the employee. So, the proposal would permit the use of

protective clothing that is made from some newer materials that have been developed.

The proposal includes two new training provisions to ensure that training is appropriate for the degree of risk faced by the employee, and to ensure employees can recognize the hazards they are likely to face. In addition, employees would need to be trained in skills that teach them what to do in order to avoid hazards that they face.

The proposal includes provisions for greater communication between a host employer and contractors and provisions for host employers to consider safety performance when hiring contractors. Now, the proposal would require employers to provide the employee in charge with information necessary to perform the job safely -- safely, I should say.

The proposal would also make requirements for fall protection in aerial lifts, the same as in other general industry and construction rules. That is employees would need to use harnesses or restraint

systems.

In addition, the proposal updates requirements for work positioning equipment to make them consistent with the latest applicable ASTM and OSHA standards. It also includes requirements intended to ensure that employees are using rubber insulating equipment when they are most likely to breach the minimum approach distance.

There are also provisions that employers must assess the flame and electric arc hazards and provide flame resistant clothing that are appropriate to those hazards. The minimum reproach distances would be adjusted to make them consistent with the latest National Electrical Safety Code.

And in cases where independent crews are working on the same de-energized lines or equipment, the proposal would require that the crews coordinate the energizing and re-energizing the lines or equipment when there is no system operator. The proposal would permit a reduction in the size of protective grounds

under certain conditions, and would also permit grounds to be placed without the use of live-line tools under limited circumstances.

With respect to working in manholes and vaults, the existing OSHA standards contain several requirements that apply to work on underground installations. Some of these requirements apply to manholes. Some apply to underground vaults. And other requirements apply to both manholes and underground vaults. The proposal would apply all of the requirements to both manholes and underground vaults, which hopefully, would simplify what employers would need to do.

As far as the status goes, a preliminary regulatory flexibility analysis has been submitted to SBA in accordance with the Small Business Regulatory Enforcement and Fairness Act. And OSHA, SBA, and OMB are preparing at this time to convene a SBREFA panel to gather the input of affected small entities.

Following that, the proposal would be revised

to reflect comment and input that we received from the small business committee and would be published after all of the appropriate departmental and OMB review that is required at that time.

So that is where Subpart V stands. Should I take questions on Subpart V now?

CHAIRPERSON WILLIAMS: Yes.

MR. PERRY: Move on to Silica?

CHAIRPERSON WILLIAMS: Any questions from the committee?

(No response.)

CHAIRPERSON WILLIAMS: Comments?

MR. MEDEROS: Do you have any idea how long the SBREFA panel will be involved with this or, you know, average?

MR. PERRY: I'll let the Solicitor handle that. Thanks.

MS. SHORTALL: The SBREFA panel and the time line for that is set statutorily. Although there might be some informal negotiations that go on, where the

panel is formally convened, the process is --

MR. SWANSON: Your mike cut out.

MS. SHORTALL: I'm sorry. Although there may be some informal talks that go on with the SBA, Small Business Administration, Office of Advocacy, OMB, and within OSHA for setting up the SBREFA panel, once the panel is formally convened in writing by letter, it is a 60 days process. During that 60-day process, the panel reviews the documents that it has been delivered.

It meets with the small employer representatives and prepares a final report. And that final report is usually put into the record for that rule making. So, the key date you want to look for is that formal convening of the panel by letter. And that letter is usually posted on OSHA's web page, as well.

MR. MEDEROS: I have one other question. In the protection of overhead line crews in the area of FR clothing, has the issue of who pays for that clothing been resolved?

MR. PERRY: I don't know.

MR. MEDEROS: Okay.

MR. PERRY: I'm sorry. I'm just not familiar enough with the proposal myself. If there is a way I could get the question -- could I get the question answered later?

MR. MEDEROS: Sure.

MR. SWANSON: Sure.

MR. PERRY: And send you a response. Okay.

CHAIRPERSON WILLIAMS: Any other questions to Subpart V?

(No response.)

CHAIRPERSON WILLIAMS: Mr. Perry, next.

CRYSTAL AND SILICA

MR. PERRY: Thank you. I had the pleasure of briefing the committee on the status of crystal and silica when it met that snowy day last December.

There has been no change in the status. It has only been a couple of months. But just to recap briefly, we are in the process of developing a number of regulatory options for both general industry and construction, maritime as well, trying to use all of the information that we have compiled over a number of

years of research efforts and looking at exposures and effectiveness of dust control measures.

And we are looking at what costs might be involved in this regulatory options. We are looking at relative effectiveness of this regulatory options, so that we can put a draft proposal together and make a determination of whether, first of all, we need to convene a SBREFA panel and if so, what are we going to send forward? And that decision has not yet been made. I would expect it will be made pretty soon.

At this point, I mean, that is as far as where we are in the rule making process. We are keeping a very open mind in terms of what the content of the standards might be and what we are going to go forward with. That's, -- basically, we need to put some information together that would be useful to our management for making a decision how to proceed from here.

I would be happy to answer any questions on that topic if you have any, or thought of any sense we

last met.

Very briefly, too, as you all know, we have the silica working group and, you know, we are really looking forward to working with the working group and getting their input and their ideas in the hopes that we can make a standard for construction effective and workable.

MR. SOTELO: Remind me. Was there something you were getting most of your information from some -- was it death certificates? Is that where --

MR. PERRY: Oh, well, we have a lot of information. We certainly have statistics from death certificates. I think that came from the National Center for Health Statistics, and NIOSH has published that in its world report. I believe there is a new world report now, very recently issued by NIOSH. You could check their web site. I think it should be out by now. If it isn't quite out, it will be very, very soon.

But, we have a great deal of risk information.

There has been a lot published in the scientific literature on this. We have published risk estimates that deal with the risk of acquiring abnormal x-rays, that is, small opacities on x-rays, either ILO 10 or 11 graded x-rays.

We have risk estimates on silicosis mortality.

We have risk estimates on lung cancer, all of them related to, basically, exposure to crystal and quartz.

So, we have quite a bit of risk information on which to examine and base a decision, I think.

I didn't want to imply that it was the death certificate data that was driving everything. It is not. In fact, we know that that's going to be under reported, and some people have done work, you know, to show that that's likely to be a serious underestimate of true silicosis mortality.

CHAIRPERSON WILLIAMS: Tom.

MR. BRODERICK: Could you characterize the Agency's activities right now in terms of enforcement with what you have for silica?

MR. PERRY: Well, we've had a special emphasize program since 1996. That continues. I know that we do a lot of inspections. We have a lot of sampling data that is coming out of the construction area. Beyond that, I am not sure. As I understand it, we enforce, just like we do any other health standard that we have, or any other PEL that we have. We are doing a lot of sampling and looking to see, in particular, where exposures are, several fold above current exposure limits, trying to get the most egregious instances resolved.

MR. SWANSON: Tom. Excuse me, Bill.

MR. PERRY: Yeah.

MR. SWANSON: Tom, are you inquiring about the measurement difficulties that we had a while ago under 1926 as compared to 1910?

MR. BRODERICK: No. Actually, I was just trying to get a feeling for the private sector's reaction to the enforcement that has taken place under the special emphasis program.

MR. PERRY: The private sector's reaction --

MR. BRODERICK: Has there been a lot of resistance? Have trade associates come forth and -- with a hue and cry?

MR. PERRY: Not that I'm aware of, really.

MR. SWANSON: No. And Tom, in all honesty, I'm not sure that's the fairest question to be asking Bill. He helps right the standards and sends them forth for the rest of us to play with. But, you know, your colleagues sitting to your right and left might want to respond to that, as to how they feel about it, present enforcement of the present silica standard in the construction industry.

MR. SOTELO: Well, I reside in the State of Washington, and they have had a standard out there for a long time. And for the most part, it's a good standard. It has -- I mean, there is some validity to the issue. There is no question about it. The rub came, when they were putting the standard together is that they felt that the data wasn't as sufficient and

it was a little bit broad. And that's why I brought up the death certificate issue.

There is always going to be some resistance to any type of new regulation when it comes to things like that, as far as what employers perceive as being cost to accommodate the hazard. But, for the most part, under that standard in Washington State, there doesn't seem to be a huge impact.

CHAIRPERSON WILLIAMS: Any other comment?

(No response.)

CHAIRPERSON WILLIAMS: I would like to personally thank Mr. Perry for having met with me as co-chair of the silica work group. He has spent some time. And we are trying to put together various activities for our work group to proceed, and he has agreed and has welcomed participating with our work group. And Marie is my co-chair on that, and we have a host of ACCSN members participating. So, it should be a very interesting one. And I personally will make sure that you are aware of all of those work group

meetings, both so we can participate together. I look forward to it.

MR. PERRY: Thank you. I look forward to it.
Thank you.

CHAIRPERSON WILLIAMS: Are there any other comments or questions for Mr. Perry?

(No response.)

CHAIRPERSON WILLIAMS: Thank you, sir. Thank you for attending.

MR. PERRY: Thank you very much.

CHAIRPERSON WILLIAMS: And thank you for your time.

MR. SWANSON: Thanks, Bill.

CHAIRPERSON WILLIAMS: At this time, we will entertain our work group reports. I'll go through our listing, and if any of the chairs are here, if you could please respond on any activities you would like to have entered into the record.

I will offer comment on Data Collection and Targeting. This was a work group that had been

established to look at various coding activity sometime ago. The question came this morning, that maybe those co-chairs would be able to discuss their current activities, where their focus is, and potentially look at assisting the Assistant Secretary with information on targeting as it relates to his quest for targeting of inspections and not targeting of other data that this was originally done for, root cause analysis.

We discussed that Mr. Broderick, who was co-chair and who is present, and Tom, if you would like to respond to how you determine you will proceed with that.

MR. BRODERICK: Yeah. We haven't had, as far as I can recall, a data collection work group meeting for about two years. And the concept that you and I shared, Madam Chairperson, is that since the tag targeting is hanging out there, and any targeting initiative would seem to be relating to a data initiative that I would like to talk with Dr. Sweeney about, moving the emphasize of the program from looking

at the various data collection instruments that the Agency has now to an initiative where we would come up with a practical means of directing enforcement initiatives towards construction activities.

I think we heard earlier today that the dodger boards are not necessarily -- or the U 10 reports, that Mr. Connors was talking about, as not being particularly useful here in his region. And perhaps, we could find some alternative mechanisms to assist the agency.

CHAIRPERSON WILLIAMS: Thank you, Tom.

MR. SWANSON: Madam Chair, may I comment on the general subject area?

CHAIRPERSON WILLIAMS: Absolutely.

MR. SWANSON: On the issue of targeting, the Agency has been, as you well know, for the last couple of years trying to do something in the area of targeting for construction with the myriad mobility industry issues and the -- you know, the legal prescriptions that we have from the Barlow Case, et

cetera. We are working, and have for several years, been working to amend the 170. John is rather emphatic about it. He wants to see a 170 modification, and that's the form that we fill out at the time of an inspection, and particularly, we are concerned about the fatality reports and the causative factors related to each fatality.

We are going to change our computer forms. You not only have to do that. You have the issue of, you know, retraining the entire expectorant out there for OSHA. You have the issue of negotiating with the -- with several state plans, and who wishes to join us on a modified 170 form or inspection fatality report.

It is a monstrous issue. We are not going to be able to improve, in my humble opinion, on our targeting of construction inspections until we have a streamlined database, and can make some rational decisions about what is happening where. And that gets you over the first part of the hurdle. The second part of the hurdle is now, where are these employers who are

going to fit this profile? Where are they this afternoon in this very perpetuated industry?

And we continue to work on it, and obviously, we will work with, continue to work with the task force.

CHAIRPERSON WILLIAMS: Thank you, Mr. Swanson.

The next work group we have is the Diversified Construction Work Force Initiatives.

I have been serving on that. We only had one meeting. That meeting was sometime ago. And I need to get the baseline that we had created at that time, and get with my co-chair, Mr. Bush, and we will review that, and hopefully, we will be scheduling a meeting at our -- prior to the next work group meeting. As I think most of these will try to have some meeting at that point in time. We will discuss that under ACCSH business.

Musculoskeletal Disorders. Joe, I know you are new on that. Do you have any comment or have you been able to have any dialogue with Dr. Sweeney at this

time?

MR. DURST: I've got to. And prior to the next meeting, we will have exchanged materials for this musculoskeletal disorder.

CHAIRPERSON WILLIAMS: Very good. Multilingual Issues in Construction. That has been an active committee. It has not met recently. And again, Tom, I know you are on that. I know Mike was on, as well as Greg and Dr. Sweeney. Do you have any activity that you would like to report on?

MR. BRODERICK: We have talked with the OSHA task force that is directed by John Miles. And they have been meeting, I think every other month. And we were invited to the most recent meeting. I think it was in Phoenix. And because of scheduling conflicts, neither Marie nor I were able to make it.

The invitation has been extended for us too, and we have been given time on the agenda at their next meeting in the first week of May, I believe. And I just checked with Mike, and depending on the dates, I

know that Marie was indicating that she could make it.

So, we will probably try to schedule a work group meeting just prior -- the day prior to that meeting, so that we can then go and report to John Mile's task force about what ACCSH is doing and then be able to take that information from that group and assimilate it into our activities and then report back at our next ACCSH meeting.

CHAIRPERSON WILLIAMS: Very good. Would you be sure to notify Mr. Krul, the Chair, as to when those work groups will be meeting, as well as, of course, Mr. Swanson?

MR. BRODERICK: Absolutely.

CHAIRPERSON WILLIAMS: Thank you. Noise in Construction. Joe, any comment?

MR. DURST: No. We have nothing to offer right now.

CHAIRPERSON WILLIAMS: Very good.

MR. DURST: The next meeting we will have.

CHAIRPERSON WILLIAMS: Okay. OSHA Training

Institute. Frank is not here. I can report as I did earlier.

We had a very good review session and are looking forward to working with those folks in anyway that we can. And I am sure there will be more activity on that by the next meeting.

Certification and Training. Joe and Tom, you are both here. Any comment either of you would like to make on that?

MR. DURST: We haven't met.

MR. BRODERICK: We haven't met.

CHAIRPERSON WILLIAMS: Okay. Safety and Health Program Standard. That is myself and Kevin. Kevin and I have had a brief dialogue that lasted about 10 seconds. Was it Kevin?

We are going to resurrect, or actually have information provided to us by the A 10 Committee, who is pursuing that issue and see how those folks are addressing that issue. And then we will be talking about that within our work group. And will be working

with the Directorate to see what our focus should be, if at all at this point in time, on that work group.

Sanitation. I am very pleased to report that the reports are out for the A 1025 Standard to be initiated. I am waiting for comment back from the committee. I am the Chair of A 1025. I have not received any negative comments at this point in time.

Our time line is to get a final draft for the July A 10 meeting, and, hopefully, go for balloting in the near future, at which time, then I would pursue following up with the Secretary to see if we could get that back on an agenda with a realistic goal if that is appropriate.

State Plans. Kevin? Mike?

MR. BEAUREGARD: The original reason for the State Plan Committee was there was a recommendation to look at asbestos certification among different states and at different requirements. There, I believe it was Owen Smith that originally had put that into effect.

We briefly looked at that and came to the

quick conclusion that in probably 98 percent of the states, that didn't even fall under the OSH program in those State Plan States, or within Federal OSH program.

We did agree to keep the committee alive though in the event that there are other State Plan issues that arise. Or if a member has an issue regarding State Plans, versus Federal Plans, et cetera, that we will go ahead and address those issues with that committee.

But we don't have anything like that.

CHAIRPERSON WILLIAMS: Thank you, Kevin.

Mike, any additional comment?

MR. SOTELO: No.

CHAIRPERSON WILLIAMS: Any other comment?

Tower Erection. Kevin.

MR. BEAUREGARD: I was hoping that -- this meeting to present North Carolina's draft tower standard. It's still held up. It is being reviewed by our attorneys and some other folks within our agency. So, hopefully next time. But, it is also my understanding when we talked last time we were going to

be having a speaker on tower erection at this meeting.

However, due to location and some other issues, I think that has been moved back to our next meeting?

CHAIRPERSON WILLIAMS: Yes.

MR. BEAUREGARD: And I think we were also going to extend an invitation to maybe some of the associations as well --

CHAIRPERSON WILLIAMS: Yes.

MR. BEAUREGARD: Or the tower owners that --

VOICE: NATE?

CHAIRPERSON WILLIAMS: NATE.

chairperson williams: Yeah, NATE and the tower owners, I believe it was.

CHAIRPERSON WILLIAMS: Yeah.

MR. BEAUREGARD: Prior to our next meeting, I anticipate that we will probably have a work group meeting within that same week. I have put together a list of e-mail addresses as far as who we use to contact on the work in our standard, and I think we will probably get that out and put together a

subcommittee with other folks. Now whether or not that happens before the next meeting, I'm not sure.

CHAIRPERSON WILLIAMS: Wonderful. I will be attending the NATE meeting and the OTI 10-hour session next week. At that time, I intend to make comment -- or contact for you. I will get those names to you, and then we can approach the chair to have that as an agenda item, and, of course, as a directorate.

MR. BEAUREGARD. Yeah. And we do have the NATE contacts. But if they have someone, in particular, that you think will be interested in that, let us know.

CHAIRPERSON WILLIAMS: So, I understand. So, I'll have input from you once I get that fact finding out of the way.

Silica, as I said, I had very productive meetings with Mr. Perry, and he has been very generous in providing what information he could. We do realize we have a very aggressive time line to support the Secretary's time line that he has given them. We will

do everything that we can.

The work group has been invited to meet the--I want to clarify--the ACCSH members of the work group has been invited to attend a NIOSH meeting in Cincinnati to really be informed as to their issues and be made available a lot of the data that they have, and we will be scheduling that meeting through the Directorate. And in the very near future, they are looking for a date for the ACCSH work group members to do that. That is a data fact finding for us. And we will, then, have a follow-up meeting -- work group meeting prior to our next ACCSH meeting.

A comment by the chair. In talking to Mr. Krul, our chair, it is very evident with some of the statuses of our work groups that we have not met, and their have been changes with our focus. We feel it would be a good opportunity for us to meet with Mr. Swanson in his office to redefine the directive for our work groups and what our task should be, currently, as it is being pursued by the directorate, and how we can

support them in these work group meetings. We hope to do that in the very near future, if by telephone. We will get it done quickly so that we can get out to the ACCSH members every definition of where we feel our goal should be to support their efforts. And then we can pursue very actively what the meetings that many of us are in the process of scheduling at this time.

Bruce, would you have any comment to that, or --

MR. SWANSON: No, ma'am. I would be happy to meet with whoever and wherever you want to meet and discuss.

CHAIRPERSON WILLIAMS: I heard the Virgin Islands is going to have a State Plan.

MR. SWANSON: Well, let me amend wherever. I stand corrected.

CHAIRPERSON WILLIAMS: The next -- are there any other comments on work group reports? And are there any other ACCSH members who wish to be officially listed on reports? I think you all know that every

ACCSH member is a member, or can be a member of any work group they care to be. We just need to let the chair know that you wish to participate on that, the co-chairs know, so they can contact you.

In accordance with --

MR. DURST: Jane --

CHAIRPERSON WILLIAMS: Yes, sir.

MR. DURST: Can I work with you on the Sanitation Committee?

CHAIRPERSON WILLIAMS: I would love to have you work with me on Sanitation.

MR. STRUDWICK: Jane.

CHAIRPERSON WILLIAMS: Yes?

MR. STRUDWICK: Volunteer me, or put me down with Frank on the OTI training.

CHAIRPERSON WILLIAMS: OTI?

MR. STRUDWICK: Yes.

CHAIRPERSON WILLIAMS: Yes, sir.

MR. CUMMINGS: Who was that?

MR. STRUDWICK: Greg Strudwick.

CHAIRPERSON WILLIAMS: And Joe Durst on Sanitation.

Mr. Bush, you gave me a notecard that I properly filed with this morning's papers. I apologize.

MR. BUSH: No problem.

CHAIRPERSON WILLIAMS: What were the ones that you wanted to be added to?

MR. BUSH: The Safety and Health Program Standard.

CHAIRPERSON WILLIAMS: Okay. And the other one I am about to do, in addressing the comments from our -- Mr. Henshaw this morning, I have a phone call to Mr. Krul to check a couple of things with him. I think with Mr. Broderick handling targeting or evaluating-- and will do so with the chair--the refocusing of that after he talks with his co-chair, that we will not address that at this time.

However, the one of Homeland Security we do think would be a very good work group, because it

does -- we all are being impacted by it right now. And I think this committee could bring a very good emphasis to the directorate for our concerns, and maybe some resolutions for them also. In that regard, depending -- a comment by the chair who has not gotten back to me at this point in time. I told him via the message that I left that we would, for the record, state we will have a Homeland Security work group. I will be a co-chair of that work group, and Mr. Krul will appoint or recommend the additional person. Anyone who would really care to serve on that, please get that information to him. And I have a feeling this might be an entire committee work group. So, we will look for one other co-chair, and look for all -- yes, Mr. --

MR. DURST: Madam Chairman --

CHAIRPERSON WILLIAMS: Mr. Murphy first, and then --

MR. DURST: Homeland Security or Home Land and Security?

CHAIRPERSON WILLIAMS: I'm sorry?

MR. DURST: The title is Home Land and Security, right? Not --

CHAIRPERSON WILLIAMS: I don't think it -- and please comment, if you will. I don't know. I don't want to mirror a title of any existing titles for conflict that we are working for someone we may not be or what we're being charged.

So, my thought was to keep it Homeland Security Construction Work Group or something like that just to avoid any conflict. And I might be --

MR. SWANSON: This committee is free to call it whatever it wishes to call its work group.

CHAIRPERSON WILLIAMS: Okay. Let's call it Homeland Security for Construction. And that certainly can be corrected by the chair. That should be his privilege. And I will discuss that with him, and we will correct the formal minutes at the next official meeting, should there be a change.

MR. MURPHY: Jane, when you --

CHAIRPERSON WILLIAMS: Yes, sir, Mr. Murphy.

MR. MURPHY: I was on the MSD Committee. I did talk to Marie. We are going to get together and have a conference call. So, I don't know if you were just listing chairs there, but I want to be sure that my name is attached to that committee.

CHAIRPERSON WILLIAMS: It is not -- we need to do that. Thank you.

MR. MURPHY: And then, if I -- I would like to see if I could be added to the Multi-lingual Issues in Construction Committee.

CHAIRPERSON WILLIAMS: We are adding Mr. Murphy to Multi-lingual Issues in Construction work group and also Musculoskeletal Disorders. Thank you. Any other comments?

It is our intent to have all work groups, as best we can, and sometimes it's difficult, because we are running different places. I have already had dialogue with Veneta and a preliminary with Mr. Krul. We are intending for all work groups to be meeting between now and our next ACCSH meeting. And,

specifically, the two-day period prior to that we will have to work very closely with the directorate in scheduling to make sure we do not overlap. So, those of you who know you will be meeting, I think we should get that information to Mr. Swanson's office very quickly, so we can look at rooms and securing it, and get the proper notifications out that we need to to the public.

MR. SWANSON: Madam Chair.

CHAIRPERSON WILLIAMS: Yes, Bruce.

MR. SWANSON: Did I hear you say on the record that we would have some conversation with Mr. Krul, yourself, and whoever else is necessary on the scope of some of this work groups --

CHAIRPERSON WILLIAMS: Yes, sir.

MR. SWANSON: -- revisit the issue?

CHAIRPERSON WILLIAMS: Okay. Very good.

CHAIRPERSON WILLIAMS: Yes. And that will happen to enable us to do the scheduling that I just referred to. That's why I said that I look for that to

occur very quickly so that we can all proceed on our scopes appropriately.

MR. SWANSON: And, further, when we have co-chairs and other members of the committee volunteer to serve on committees, it would seem to me--and the committee does whatever it wants--but, it would seem to me that if you have a conflict like Tom's conflict, unable to make a meeting in Texas, there were other committee members, I hope, were asked to attend. Maybe we can do that in the future.

CHAIRPERSON WILLIAMS: I think that is an excellent idea, Bruce, because we are finding that we are crossing each other's paths a great deal. And that is another reason I think, in looking over our guidelines, we did not address that. And that's a comment that I had to Bruce. And that will be something that may come back to you at the May meeting, that we should address that. And when we get more direction, I think that could be an internal document going to the members of ACCSH as to how we think we can

streamline that and make it a little bit easier on ourselves to do exactly what Bruce is saying and make sure we do have representation.

We have already discussed sanitation, which was our next issue. If anybody would like to jump up and garner their support for me, I certainly would welcome that now. Hearing none, we will move on.

Let's take a very quick break. We are on time. In fact, we are a little bit ahead. We will take a quick 15-minute break. Please be back on time.

And then we will complete our agenda for the day.

(Whereupon, the meeting was recessed at 2:17 p.m.)

AFTER RECESS

(2:12 p.m.)

CHAIRPERSON WILLIAMS: Our next item on the agenda is to hear comments from Mr. Swanson, Director of the Directorate of Construction, for his update.

DIRECTORATE OF CONSTRUCTION UPDATE

MR. SWANSON: Thank you. One of the real advantages of being where I am on the agenda is that 90 percent of it has already been covered, and I won't bother you much with it. Besides that, some of us are going back to Washington, and during break, I was told by a colleague that they are putting up missile batteries around Washington, D.C. And I've just got to get home and see that. It sounds really exciting.

Let me touch on a couple of things though. I had these notes prepared, and I am going to share them with you just because they ought to be heard, almost like a litany, I think. As often as I can share them with the construction industry, I am going to.

From 2000 to 2001, we had a six percent increase again in our fatalities. The construction industry makes up seven to eight percent of the private sector of our industry here in America. We have 21 percent plus of the fatalities. We have work to do.

Construction inspections, John touched on it this morning, and how inspections are going to grow. In 2002, of the 37,000 inspections that OSHA did, almost 22,000/21,000 plus, anyhow, were in our industry, in the construction industry. You can plan on that growing, because you heard the Assistant Secretary tell you it would grow this morning.

One other thing that he emphasized that we all understand is a problem is the unique set of issues that the percentage of Hispanic employees in our

construction industry hands to us, opportunities to show how well we can problem solve. The Hispanics are suffering an unfair and a disproportionate percentage of those fatalities I talked about. We have to find as many tools as quickly as we can to get in and solve these problems. Those of you who are at the table that have talked to me over the past weeks and months and are working with me on various -- working with my office on various task forces and programs to solve these issues, let me tell you publicly how much I appreciate it.

Partnerships, my colleague, Stew Burkhammer, I think, covered fully this morning. Signs, signals, and barricades, and our adoption of MUTCD, those of you that were here this week and attended the construction conference saw that there was a breakout section on MUTCD. I think that Michael Buchet did an excellent job of dealing with the subject. If you still have a questions, Michael Buchet is waving his hands at me in the back of the room, and Steve Cloutier as well. Is

that what you wanted? Yeah. If any of you -- anyone in the audience or anyone on ACCSH has questions about MUTCD, I'll be happy to go into it, but otherwise, I don't think it is necessary.

Cranes. You heard the boss say this morning that Subpart M, the Negotiated Rule Making Committee on cranes would be announced soon in the Federal Register.

That means that there are other folks involved on the clearance process for this committee. A proposed committee made it through John's office before Christmas, and I join John in saying that I am sure it will be soon that we will be able to announce such a committee.

And probably more than anyone in this room, I am looking forward to it, because I am the one that John made a point of telling you all that Swanson knows what my deadlines are, and he is going to meet them. Well, I would like to have a committee.

Steel erection. Let me say, once again, how successful that steel erection training has been, how

well received it has been by the compliance officers who have attended. Approximately 25 had a shot, have attend this training. They all compliment the system and the methodology. I was pleased to hear my boss say this morning that we are going to try and take this methodology into other subject areas, at least within the construction area. And I think that's applaudable. And I hope you all share that feeling with me.

On tower erection, you heard a very good report out of my colleague from Region V today on what this region is doing with tower erection. And, actually, Mike's people are really on the cutting edge of what OSHA is doing and they are interfaced with N-A-T-E, or NATE, which represents 90 percent of the known employers in the tower erection field.

Confined spaces. It was mentioned this morning by John that confined spaces is going to SBREFA shortly. For those of you that don't know what SBREFA was this morning I think you do by this afternoon. And, we have to take almost all of our standards -- any

standard that is going to have an impact on small business, has to be run through Small Business Administration, and a sub-office of theirs over there for a SBREFA hearing.

And it was also explained by Mr. Perry that -- or maybe it was Sarah that was kind enough to share and outline of SBREFA with us. And a SBREFA hearing can only last 60 days, and by statute, it has to end 60 days after it starts. But, Sarah was very clever in the way she told you that we can get a lot of work done before we declare that it's starting. So, we will start these -- start the committee hearings on SBREFA, scheduled for April, which means that 60 days thereafter, we will have -- on confined space, we will have a report out of SBREFA, and will then know which way OSHA is going with a confined space standard.

So, that is a quick and dirty. And I will be happy to answer any questions that anyone has, either on anything that Stew covered this morning, or that John covered, or that anyone else has covered from

OSHA.

CHAIRPERSON WILLIAMS: Members?

MS. SHORTALL: I wanted to clarify one thing about SBREFA. When I was speaking about the things that would go on prior, there are certain procedural issues that need to be ironed out prior to convening, much important of which is making sure that there are available small employer representatives to participate in the SBREFA process. If that were trying to be conducted also during the 60 days, you might not have people who would want to be available during that time period.

Not only is a 60 day period statutory for the process of the panel meeting together and meeting with the small employer representatives, but the report that must come out of that process also must be finalized and delivered to the Department with that 60 day period.

MR. SWANSON: Right. I thank you, Sarah. You remind me of one other issue, and that is an invitation

to the ACCSH members that you folks are in a position to let us know if you have -- if you are from an association, and you have members, you are from any field that has small business entities that are going to be covered by our regulation, and you would like to see them on a SBREFA panel, we have some input as to who sits on a SBREFA panel. You can go directly to the Small Business Administration and say you have members whose names you would like to submit as candidates for SBREFA panels in certain subject areas, and I invite you to do so. Thank you.

CHAIRPERSON WILLIAMS: Thank you. Any comments from the members?

(No response.)

CHAIRPERSON WILLIAMS: The next item, we are going to go to ACCSH business, and we will conclude with public comment.

ACCSH BUSINESS

CHAIRPERSON WILLIAMS: Under ACCSH business, I was charged to revise our guidelines to include coverage of a couple of items that we did not have in there. Therefore, I present to you a move that we amend, under the ACCSH Committee Guidelines, Item 2, ACCSH Meeting, Paragraph C, Typical Agenda. The second Item states "Chair reviews exit location for emergency response." I move to delete that and replace with "Chair reviews exit locations for emergency and medical response for members, agency representatives, and public attendees at ACCSH meetings."

Do I hear a second?

MR. MEDEROS: Second.

CHAIRPERSON WILLIAMS: It has been duly seconded. Are there any comments? As many as are in favor to amend the guidelines accordingly, say aye.

(A chorus of ayes.)

CHAIRPERSON WILLIAMS: Opposed?

(No response.)

CHAIRPERSON WILLIAMS: Hearing none, the Guidelines are amended. We will add into ACCSH business.

I have now been charged to -- we will update the work group activities section of the guidelines to cover our intent to have coverage at all of the work group activities whenever we feel that we can't make it as a co-chair so that we can participate as best our schedules allows us. And I will do that.

For the record, we would like to note that prior to our next meeting, the Chair, Bob Krul, myself, and the Directorate, will meet to review our work groups, their task, the co-chairs that we confirmed today, and then we will ask that the ACCSH web page be updated so that all that information will be available to the public with the co-chairs' names, e-mail addresses, and contact information, so you will know who to get in touch with for future meetings. And the ACCSH web page will also have a listing of those

upcoming work group meetings for your participation and their dates as they are being assigned.

The next item -- in looking at our next ACCSH meeting, I suggested this morning, the first week--we have reviewed several schedules--it is being suggested that we have our next ACCSH meeting in Washington, D.C., at the offices of the Department of Labor. And that would be the week of May 12. Would that accommodate members' present schedule?

(No response.)

CHAIRPERSON WILLIAMS: Very good. We will submit that to the Chair, Bob Krul, and if that is in accordance with his schedule, then we will contact Mr. Swanson accordingly. Therefore, our work group meetings would potentially be the 14th and the 13th of May, which would be Tuesday/Wednesday. And we will rely on our co-chairs to coordinate that activity accordingly.

MR. SWANSON: Madam Chair, if I may add an asterisk here. I am told that there is a possibility

that the Standards Office might have some business for this committee prior to the middle of May, and if they do, we will find a proper vehicle, possibly, up to and including a short-notice emergency meeting that we ask this committee to hold. Or if we can handle it otherwise, telephonically or through e-mail, we will do that as well or maybe some combination of the two.

But, as of yet, I have no date, just a maybe.

The middle of May would be too late for some of John's time schedules where he would like to get this group's input.

CHAIRPERSON WILLIAMS: Mr. Swanson, you have heard us say, I'm sure this committee will support any activity you have for us as best we can.

MR. SWANSON: Thank you.

CHAIRPERSON WILLIAMS: So, we look forward to that notification.

MR. SWANSON: Thank you.

MS. SHORTALL: I am sure Mr. Swanson is also trying to let the public know that if the meeting were

established to be held telephonically that there would be arrangements made for the public to listen and participate and -- so that the requirements of public meeting laws would still be in effect and honored.

MR. SWANSON: Well, Mr. Swanson, wasn't, but he should have. Yeah.

CHAIRPERSON WILLIAMS: We have a requirement to notify the public so many days in advance of formal meetings, and as Sarah has just said, other requirements. So, the record will indicate there will be a potential waiving those requirements by having serving notice of future potential meeting.

MS. SHORTALL: No. No.

MR. SWANSON: No.

MS. SHORTALL: I'm not saying that. I am reassuring the public that Mr. Swanson I am sure fully plans to -- if a meeting was held by teleconference, to make sites or ways available for the public to be patched in, so it too can participate in a required open meeting.

MR. SWANSON: Understood.

CHAIRPERSON WILLIAMS: Okay. The next item of -- yes, sir?

MR. CUMMINGS: Yes, ma'am. Could I just verify that you are saying the date for the next ACCSH will actually be the 15th or the 15th and the 16th?

CHAIRPERSON WILLIAMS: Pending approval, the next date of the ACCSH meeting should be May 15 and 16, Thursday/Friday, with work group meetings on the 13th/14th.

A VOICE: Is that right?

CHAIRPERSON WILLIAMS: Unless an emergency meeting is called of ACCSH.

The next item that I would like to address at this point is, we have been made aware that we will be losing the assistance of someone who has been very special to ACCSH and who has made our meetings run very smoothly, and certainly has kept us all in line with all of our responsibilities, and has put up with some frantic phone calls from each of us on this committee

and the past committees that I have served with for five years. And that is Jim Boom. Jim, would you stand a moment?

A VOICE: No.

(Mr. Boom rises.)

CHAIRPERSON WILLIAMS: Jim has done an incredible job for the Directorate. We could not have held such wonderful meetings, Jim. We are going to miss having your direct interaction, but we all have your phone number, and I understand it is not changing.

So, I would like to, on behalf of Mr. Krul and this entire committee, thank you for all your efforts, wish you well in your new endeavors, and someone's got very, very big shoes to fill for you. Jim, thank you.

(Applause.)

MR. BOOM: Thank you.

CHAIRPERSON WILLIAMS: Are there any other comments for ACCSH business? Any other items you would like to entertain? Tom?

MR. BRODERICK: I would just like to clarify

something from a little earlier in the meeting. When we were talking, or having a report on Silica from Messrs. Perry and Davis, I had asked the question whether there had been a hue and cry or negative comments from the public regarding the enforcement activities under the guidelines that we have now for silica, and I was confirmed by Mr. Swanson that the two people that I was posing the question to were not really the appropriate people. And I just wanted to clarify the motivation behind my question.

Silicosis is probably one of the oldest occupational diseases that we've known about. And, 70 years ago, give or take, we had one of the worst occupational incidents in our history, if not the worst, when anywhere from 500 to 1,500 tunnelers in Gauley, West Virginia died, many of them on the job, of silicosis.

Setting the clock ahead to the 70s, I was a driller, working in tunneling, and that recently, respiratory protection consisted of a bandanna, if one

wanted to protect one's lungs. So, my motivation in that question is if our industry has not been--and it appears as though there hasn't been a huge hue and cry about silica enforcement activities--and I have not noticed it here in Region V, where I think our compliance people have been as busy as anywhere--that we should urge the Agency to move as quickly as possible with giving us a standard that covers the activities of tunnel workers, people who chip and drill on concrete and any of the other activities that produce crystal and silica.

So I just wanted people to understand that that was the motivation behind my question.

CHAIRPERSON WILLIAMS: Thank you, Tom.

Comments any other members?

(No response.)

CHAIRPERSON WILLIAMS: Mr. Swanson, comments?

MR. SWANSON: No. I was just curious as to whether Tom was asking the committee to take some formal action and to encourage OSHA formally. I don't

want to put words in your mouth, sir.

MR. BRODERICK: I would be delighted if the rest of the committee or any of those on the committee would join me in making that recommendation.

CHAIRPERSON WILLIAMS: What did you say? Make the recommendation?

MR. BRODERICK: That the ACCSH committee encourages OSHA to move as quickly as possible to adopt a standard for silica.

CHAIRPERSON WILLIAMS: Is there a second?

A VOICE: There is no motion.

MR. STRUDWICK: I will go along with Thomas and agree that that would be a very good initiative.

CHAIRPERSON WILLIAMS: Greg, can I take that as a second?

MR. STRUDWICK: That's a second.

CHAIRPERSON WILLIAMS: It has been moved and seconded for ACCSH to encourage OSHA to adopt a standard for silica as soon as practical. I think that's close to what he said. As many as are in favor,

say aye. Excuse me. Is there any discussion?

(No response.)

CHAIRPERSON WILLIAMS: As many as are in favor, say I.

(A chorus of ayes.)

CHAIRPERSON WILLIAMS: Those opposed?

(No response.)

CHAIRPERSON WILLIAMS: The motion is adopted. Are there any other comments?

(No response.)

CHAIRPERSON WILLIAMS: We will now go to our public comment period. I will call upon those who have requested in the order that they have requested. Our first will be Mr. Scott Schneider, the International Laborers.

PUBLIC COMMENT

MR. SCHNEIDER: Hi. Thank you very much for letting me speak. I'll just be about five minutes.

CHAIRPERSON WILLIAMS: You told me three.

(Laughter.)

MR. SCHNEIDER: Okay. I want to do two things. One of them is, I wanted to thank you for taking about the hearing conservation issue. We did submit comments on behalf of the laborers and the building trades, plus 60 attachments with all of the documentation to support the need for this. It is a huge issue.

We did try to put together comments and proposed to OSHA a standard that would be feasible for

the industry, where anyone doing an activity that exposed them to more than 85 decibels would be required to wear hearing protection at the time. Everybody would get some training annually and everyone would get an annual hearing test. We can't get into all the details, but I would be happy to make those comments that we made available to anyone on the committee, and particularly to the co-chairs on the noise sub-committee.

CHAIRPERSON WILLIAMS: Thank you.

MR. SCHNEIDER: Yeah. I did want to also pass around -- we had another meeting this week of what we call the Construction Noise Control Partnership, something that we started a couple of years ago, to work with manufacturers, insurance folks, the industry folks, unions, government, to talk about how we can reduce noise levels in the construction industry. And we have a web site you can look at and see what we are up to. And I know Dawn Garby from St. Paul, has been active, and John Demose, and a lot of folks. So,

I'll pass those -- this is a brochure about the noise control partnership -- around.

I just wanted to show you this video. It's only two minutes. This is a -- we talked a lot about construction and ergonomics in the construction industry. And people see this as kind of an odd idea.

Construction ergonomics, you know, what could we do? It's hard work. There is nothing we can do. And it's -- you know, it would be very difficult to do ergonomics in the construction industry.

And yet, we don't realize that people have been doing this kind of stuff for a long time. This is a video that I have, that I got, of the first, to my knowledge, ergonomic investigation, and ergonomic project in the construction industry. It was shot on original film footage in the 1890s, by a guy named Frank Gilbrith. So, this video will show you, sort of, what he did 110 years ago. I think you can turn the sound up. It should be on in a second.

(Whereupon, a video was played.)

MR. SCHNEIDER: I guess the point is that there is lots of things that can be done in terms of ergonomics in the construction industry. It doesn't have to be rocket science. A lot of things have been done. There is a lot out there. And I think we have a long way to go, but there is, certainly, a lot that can be done.

So, I don't know if anyone wants to comment.

CHAIRPERSON WILLIAMS: What year was that from?

MR. SCHNEIDER: It was made about 1890. So, we shouldn't be afraid of ergonomics in the construction industry.

CHAIRPERSON WILLIAMS: Does any member of the committee wish to move to change the word musculoskeletal to motion analysis?

(Laughter.)

CHAIRPERSON WILLIAMS: Thank you very much, Scott.

MR. SCHNEIDER: Oh, Madam Chairperson, I also

wanted to point out, I know you set the meeting tentatively for that week in May. That is the week that the Industrial Hygiene Conference is being held in Dallas. I know Mr. Henshaw will be there, at least, for part of it. So, I don't know if that has any effect on this committee whatsoever, but that is the week of their annual meeting.

CHAIRPERSON WILLIAMS: Thank you. It's DIH conference?

MR. SCHNEIDER: Yes.

CHAIRPERSON WILLIAMS: Good. Our next guest is Traeci Fletcher. Traeci, would you give us your company you are representing to, please? --

MS. FLETCHER: Sure.

CHAIRPERSON WILLIAMS: -- for the record?

MS. FLETCHER: Yes. Thank you. Madam Chair and Committee, my name is Traeci Fletcher. I am with Parsons - Odebrecht, Joint Venture. That's Ralph M. Parsons, originally, not to be confused with Parsons, Reinker, Hoff. They would like for me to mention that.

I have a masters of science in safety management from West Virginia University, and I hold a CHST card. I began working in the mining industry. And I currently work in South Florida for a construction management firm that is going to be building a south terminal expansion at Miami International Airport.

I would like to applaud OSHA's efforts in making the Hispanic outreach, because it has, obviously, had some impact, and it has helped me out greatly as well. I'm not where I need to be, of course, with all of them, but I am getting there.

I have written a letter -- I have written lots and lots of letters, but the one that I am going to read from today, which I will enter into the record a little bit later, I sent to the attention of Mr. Swanson, and I'll just get to it. I sent this on October 30th, of 2002.

"Dear Mr. Swanson, I have been in contact with Mr. Henshaw, Mr. Burkhammer, and Mr. Boom regarding two

issues that I have a strong passion for in relation to the construction industry. Ultimately, I was directed to contact you to see about volunteering to join the ACCSH, or if that is not possible, to address the committee regarding these two subjects:

Item one, mandatory OSHA training for those employees regulated by 29 CFR 1926. Item two, standardized licensure for heavy equipment operators.

It is my strongly held belief -- my strongly held professional belief that OSHA could benefit from duplicating MSHA's training efforts for at least the high hazard construction industry. I know that OSHA can achieve the same level of training excellence that MSHA has obtained. And feel that I have to further this now that I've stuck my foot in the door.

Equipment operators must have a perquisite training and standardized written and practical test as is now being done for crane operators through the NCCCO. I advocate standardized training and demonstrable skills by all heavy equipment operators,

using the same criteria, and ultimately a nationally recognized license or certification. We have the technology and capability to do this, and there is no credible reason why it cannot be done. I will volunteer to be the ambassador to accomplish this goal provided I am granted the means to achieve it.

Regardless, I encourage the committee to review the various federal and state training requirements mandated for miners, specifications for obtaining qualification versus certification, documentation of training on a federal form 5000-23 and repercussions for falsifying training.

And for anybody who is unaware of it -- that's the end of my letter by the way. Sorry. For anybody who has never been made familiar with it, I brought of the 5000-23, which I will also enter. And I would like to draw attention to one particular section of it. It is item six. "False certification is punishable under the Section 110 (a) and (f) of the Federal Mine Safety and Health Act."

And in the mining industry, if you falsify training, they come and get you. They lock you up. And I think that it is very important that standardized training be -- 5000-23 is a very good form to base something from. I think that if we came up with 20 items that we wanted people who were working in general construction to springboard from, at least this much. The 5000-23 also allows for task-training, and in the mining industry you have to be observed in the task that you are doing at least once in the year and it gets documented in the like.

In the event that there is an incident or there is a fatality or a serious injury, or what have you, the first thing that the MSHA inspector says is, I want to see that training form and I want to see it now. So, they are maintained. And the thing that is good is that the trainee can take that form with him, or with her whenever she leaves the employment, so, employers don't have to keep going over the same training, other than the task training.

The other thing that I think is extremely important is the standardized licensure for heavy equipment operators. We started with forklifts on this end. We've cranes on that end. Now we've got to close that loop. I think anything that is a vehicular piece of equipment, meaning it's got wheels and a motor, and it can kill people, should have some sort of a standardized training. And I think CC has got a good approach to it. I also think that the forklift -- I don't know which of the two would be better. And I don't really have a strong opinion either way, but standardization of the training, I think, is vitally important.

Lastly, I would like to really say that we are all on the same page. We need to -- we want to ensure workers are protected, trained, and, most importantly, prepared to do their job in the safest possible manner.

The preparation can only be accomplished through standardized, mandatory training and can only be adequately verified when a standardized form is used.

Penalties for falsification of training must be prompt and severe, otherwise we are always going to have people cheating the system. And, I believe I need to ask the committee for a resolution on this. Is that correct?

CHAIRPERSON WILLIAMS: I do not know that the committee could give you a resolution. You certainly could ask.

MS. FLETCHER: I'm asking.

CHAIRPERSON WILLIAMS: I want to say this properly and I'm sure these two are going to let me know. In fact, maybe I should just shut up and call upon my solicitor. But, I do not believe that we could affect a resolution at this committee, other than to refer your comments to the appropriate department, which would be -- our means is the Directorate for action on what you are saying, and, also to the work groups who would be involved with that, one of which is training.

I can say that if a past member, Mr. Routent,

had been here, he would certainly welcome it. We have had several discussions on mandatory 10-hour training for all construction workers. And it is a passion of this committee and has been. But, unless I am wrong -- is there a resolution that we could entertain?

MS. SHORTALL: Any member of ACCSH is always able to make a motion for discussion and potential voting on.

MR. BOOM: Would you speak into your microphone?

MS. SHORTALL: Oh, excuse me. Any member of ACCSH always is within their right to make a motion for consideration and discussion and voting. Nothing, of course, moves forward or takes a -- goes in any direction unless ACCSH, as a group, votes to either refer or make recommendations in a certain direction.

MR. SWANSON: You could also, Madam Chair, direct -- formulate this into a question or an issue, and hand it to one of your work groups, and ask them to take a closer look at exactly what the parameters of

the problem are, and report back at your next meeting.

MS. FLETCHER: I would like to volunteer to be on that work group.

(Laughter.)

MR. SWANSON: I bet she attends the meetings.

CHAIRPERSON WILLIAMS: I bet she does, too.

MS. FLETCHER: Watch me go.

CHAIRPERSON WILLIAMS: Thank you, Ms.

Fletcher. Would any member of the committee care to --

MR. BRODERICK: Yeah. Mr. Durst and I were just talking about that. That would be something that we would invite you to do, is to be on our training and certification work group.

MS. FLETCHER: Fantastic.

MR. BRODERICK: And we can discuss it, have a meeting of the work group.

MS. FLETCHER: Uh-huh.

MR. BRODERICK: And, perhaps, have a proper resolution prepared for the next ACCSH meeting.

MR. SWANSON: I -- may I?

CHAIRPERSON WILLIAMS: Yes. Sure.

MR. SWANSON: I believe what kind of happened is Mr. Broderick, and Mr. Durst, and whatever other members of ACCSH would like to meet with them to go ahead and set a date for such a meeting, invite Ms. Fletcher and the rest of the human race to attend that meeting, which you will announce a time and place for. And that's the way that would be handled, I believe.

MS. FLETCHER: Just tell me what to do and where to be.

CHAIRPERSON WILLIAMS: Thank you, Tom. The committee has hereby charged to look at a date when a meeting can be arranged and a proper location for you to address those issues, and come back to this committee with a recommendation at our next meeting. And please notify Ms. Fletcher, if you'll provide them with your email and other contact phone numbers so that you can be invited to attend that meeting when it is established.

MS. FLETCHER: Of course. Okay.

CHAIRPERSON WILLIAMS: Thank you.

MS. FLETCHER: Thank you.

CHAIRPERSON WILLIAMS: Thank you, ma'am. Are there any other comments? Yes, Joe?

MR. DURST: Madam Chairman, just in response to Ms. Fletcher's comments about mandatory training for construction, I don't think there is any of us in this room who disagree with a requirement for training. But, when we say mandatory training, mandatory 10 hours, or mandatory 16 hours, construction is large animals. And the 10 hours of training for electricians is not the same 10 hours of training for carpenters. Nor is it the same 10 hours of training for operating engineers.

And this is why we have from the OSHA Training Institute, the 10 and the 30-hour courses with five mandatory hours that you must teach, and five hours you get to select from the 10-hour course. And with the 30-hour course, the 24 hours of mandatory stuff from the six you get to select for the 30. And that works

well.

Because unless we go back to the national designated, uniformed safety and health training program concept--and for those of you who can think fast, the National Designated Uniformed Registered Safety Training Program--unless you go back to that concept of keeping track of exactly what everybody was trained in and have some repository, then a hard system of 10 hours and 30 hours works fine, except for when it's an issue that the training committee will probably bring up in the next meeting, is expiration.

Presently, they don't expire. The certification authorization for instructors to teach 10 and 30 hours courses do expire every four years. And we have people out there who have cards from the early 80s/late 70s, since the OSHA Institute started this program. And a carpenter contractor says I want 20 carpenters. They have to have OSHA 10-hour cards. And he gets five who have cards dated 2002. He gets five whose cards are dated 1990. And he gets 10 who are

1985.

Now, did he get what he wanted? No. He got what he asked for. But, he wanted 20 employees who were trained in the OSHA 10-hour course who had some knowledge, standard knowledge about those 10 subjects, or at least the five subjects that OSHA says are required and important.

So, if you -- it's kind of imperative that OSHA 10 and 30-hour cards do expire at some point.

CHAIRPERSON WILLIAMS: Thank you, Joe.

MR. DURST: Just as a point. From 1980 forward, how many new standards has OSHA put out? Nine. So, there's nine standards out there these guys know nothing about the changes in them.

CHAIRPERSON WILLIAMS: Thank you, Joe.

MR. DURST: You're welcome.

CHAIRPERSON WILLIAMS: Are there any other comments from the committee? Greg.

MR. STRUDWICK: Greg Strudwick. One more comment, Joe and Tom. We haven't met yet as far as the

training task force for workers is concerned, but I have a meeting here tomorrow with our vice president of the foundation, Education and Training Foundation for NUCA, and we are preparing for excavation: excavator, loader, backhoe training. And so, it is in the works.

Okay. We know, based on the fact that the industrial truck standard was initiated and it has been relatively, in our opinion, successful. It's just a matter -- and the crane is really coming along wonderfully, you know, from a standpoint of establishing a criteria for operator excellence. We are looking forward to participating and hopefully coming up with a good established criteria for curriculum for backhoe, loader, excavator, everything that we use in the field, compactors and all of that.

So, I just want to let you know that those items are in the works. And it is just a matter of validating a card or a -- or having a valid type of, for no other better word, a license to operate a piece of equipment that would identify that piece of

equipment and that operator. And we do have client bases at this point in time, or I do, that have operator training programs in place where it is in-house, because a lot of it is OJT, you know, on-the-job-training. And it is very effective.

And I can walk out on any site where these clients are working and ask the operator for a card. And if he does not have that card in his pocket, then he is relieved of duty right then. So, it is very timely that Traeci came. Thanks an awful lot. We are going to work hard and work with you, and it will benefit all of us, because a safe operator makes a safe work site, honestly. Thank you.

CHAIRPERSON WILLIAMS: Thank you, Greg. Any other comments from the committee?

(No response.)

CHAIRPERSON WILLIAMS: The chair would like to thank the Construction Safety Counsel for all the things you have done for us and making our stay here this week very pleasant, except for that seven degree

morning. We'll forget that.

And, certainly to all of the public representatives who have taken your time not only to attend the meeting, but to seek us out during this week. Your comments and input have been very vital to us to hear all of those comments and also, of course, for all of the help by the Directorate and from Ms. Chapman. And the beverages and things were certainly appreciated. We want to thank you all.

This meeting of ACCSH is adjourned. It is now --

MR. DURST: Madam Chairman.

CHAIRPERSON WILLIAMS: I'm sorry. Yes, Joe.

MR. DURST: Just to clarify that the meeting for the training committee in the two days, are you talking about the two days before the advisory committee or are you talking about two days separate and apart somewhere else?

CHAIRPERSON WILLIAMS: That will be a determination of the co-chairs to advise the

Directorate.

MR. SWANSON: Yeah. I believe the way we have operated historically, you know, we have tried to make those two days available and make facilities available in Washington for folks that don't want to double up on their trips. Yeah. But that was only for convenience sake. If either work group wants to meet some other place, other than the Virgin Islands, and some other time other than those two days, feel free. You are in charge of it.

MR. DURST: All right. Thank you.

MR. SWANSON: Just give us enough notification so that we can notify the public--I'm a quick study--and get everyone there. Okay.

CHAIRPERSON WILLIAMS: And for the committee's information, the notice of record for the Federal Register is 15 days.

MS. SHORTALL: Minimum.

CHAIRPERSON WILLIAMS: Minimum. Thank you, Sarah. Are there any other comments?

(No response.)

CHAIRPERSON WILLIAMS: We will advise you all, Mr. Swanson's office will, when the next meeting will be. We were looking at May. And if, in fact, there should be another emergency meeting required of the committee, of course, that would be forthcoming to us also.

Any other comments?

(No response.)

CHAIRPERSON WILLIAMS: Hearing none, this meeting is adjourned at 3:34. Thank you.

(Whereupon, at 3:34 p.m., the meeting was adjourned.)

C E R T I F I C A T E

This is to certify that the foregoing of a hearing before the Advisory Committee on Construction Safety and Health, held on Thursday, February 13, 2002,

MOFFITT REPORTING ASSOCIATES
(301) 390-5150

were transcribed as herein appears, and this is the original of transcript thereof.

Lisa L. Dennis

Transcriber

