

UNITED STATES DEPARTMENT OF LABOR
OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

ADVISORY COMMITTEE ON
CONSTRUCTION SAFETY AND HEALTH (ACCSH)

DAY ONE OF TWO

Washington, D.C.

Thursday, September 11, 2008

2

1 ATTENDEES:

2 Employee Representatives:

3 THOMAS L. KAVICKY
Chicago Regional Council of Carpenters

4
5 ROBERT KRUL
United Union of Roofers, Waterproofers &
Allied Workers

6
7 FRANK L. MIGLIACCIO JR.
International Association of Bridge,
Structural, Ornamental & Reinforcing Iron

8
9 EMMETT M. RUSSELL
International Union of Operating Engineers

10 Employer Representatives:

11 DAN MURPHY
Zurich North America

12
13 THOMAS R. SHANAHAN
National Roofing Contractors Association

- 14 LINWOOD O. SMITH
T.A. Loving Company
- 15
MICHAEL J. THIBODEAUX
- 16 National Association of Home Builders
- 17 DANIEL D. ZARLETTI
Kenny Construction Company
- 18
State Representatives:
- 19
KEVIN D. BEAUREGARD
- 20 North Carolina Department of Labor
- 21 STEVEN D. HAWKINS
Tennessee Occupational Safety and Health
- 22 Administration

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- 1 ATTENDEES (CONT'D):
- 2 Public Representatives:
- 3 JEWEL ELIZABETH ARIOTO
Elizabeth Arioto Safety and Health Consulting
- 4 Services
- 5 THOMAS A. BRODERICK
Construction Safety Council

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Federal Representative:
MATT GILLEN
CDC-NIOSH, Office of the Director

Designated Federal Official:
MICHAEL M.X. BUCHET
Office of Construction Services
United States Department of Labor

Committee Contact:
VENETTA CHATMON
Office of Communications
United States Department of Labor

Committee Solicitor Contact:
SARAH SHORTALL
Office of the Solicitor
United States Department of Labor

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1 PROCEEDINGS

2 (8:36 a.m.)

3 MR. SMITH: Okay. We're going to do
4 it now. It's 8:36. 9/11 is a very significant
5 day in our country, of course. And we want to
6 be a part of the remembrance. And let's all
7 become silent, please, and remember the country.

8 Remember those who gave their lives
9 and pray for a country, if you would. Let's
10 have a moment of silence.

11 (Moment of silence observed)

12 MR. SMITH: For all of our visitors in
13 the back, if you would sign in, we would
14 appreciate it.

15 If you care to address the meeting
16 during public comments, please sign in,
17 indicating that.

18 I'd like to, at this time, call our
19 meeting to order. This is the ACCSH meeting,

20 September 11th and 12th. I appreciate
21 everyone being here. We all come from
22 different backgrounds but we all come for a

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1 common purpose. There is a common thread to
2 our meeting. We are here, of course, to
3 advise OSHA on policy and standards. And we
4 appreciate you being here.

5 And at this time, we'd like to go
6 around the room and have everyone introduce
7 themselves, and tell us a little bit about
8 you.

9 And we're going to start with Liz.

10 MS. ARIOTO: Liz Arioto. Liz Arioto,
11 Safety and Health Consultant Services. Today is

12 a special occasion for me because on 9/11, I was
13 asked to go back and to be the deputy director
14 of the cleanup, and it's been an honor to do
15 that. And to work with the iron workers that
16 were there, the laborers, the carpenters, and
17 all the other trades that gave their own time
18 and it's a pure honor.

19 So I'm glad that we did the
20 remembrance this morning, and that's all I'm
21 going to tell you about myself.

22 MR. KAVICKY: Good morning. My name

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1 is Tom Kavicky. I'm safety director with the
2 Chicago Regional Council of Carpenters. I'm an
3 employee rep.

4 MR. BEAUREGARD: Kevin Beauregard,
5 with the North Carolina Department of Labor and
6 also the Occupation Safety and Health State Plan
7 Association representative.

8 MR. KRUL: Bob Krul, assistant to the
9 president for the United Union of Roofers,
10 employee representative.

11 MR. RUSSELL: Emmett Russell. I'm
12 with the Operating Engineer's Union, director of
13 Safety and Health, and I'm an employee
14 representative.

15 MR. THIBODEAUX: Mike Thibodeaux, NHB.
16 I'm from Wimberley, Texas. I'm an employer
17 representative.

18 MR. HAWKINS: Steve Hawkins with the
19 Tennessee Department of Labor and Tennessee
20 OSHA, and I'm a Public Safety Agency officer.

21 MR. BRODERICK: John Broderick, with
22 the Construction Safety Council in Chicago, and

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1 I am a representative of the public.

2 MR. MURPHY: Dan Murphy, Zurich

3 Construction, and I am an employer rep.

4 MR. MIGLIACCIO: Frank Migliaccio,

5 executive director of Safety and Health for the

6 Ironworker's International, here in Washington,

7 D.C., and I'm an employee rep.

8 MR. SHANAHAN: Tom Shanahan with the

9 National Roofing Contractor's. I'm an employer

10 rep.

11 MS. GILLEN: Maggie Gillen. I'm an

12 NIOSH Construction Program coordinator, and I'm

13 a federal designee.

14 MR. CONNELL: Noah Connell. I'm the

15 acting director and deputy director of the

16 Directorate of Construction, and the designated

17 federal official.

18 MR. SMITH: Linwood Smith, and I'm an
19 employer rep, and I'm with T.A. Loving Company
20 in Goldsboro, North Carolina.

21 MS. SHORTALL: My name is Sarah
22 Shortall and I'm from the Office of the

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1 Solicitor. And I'm lucky enough to be counsel
2 to this wonderful committee.

3 MR. SMITH: Thank you. Okay. And to
4 start, we have David back here, who is new to
5 OSHA.

6 And stand up and introduce
7 yourself, if you would, David.

8 MR. ZWOLAK: Sure will. Dave Zwolak.

9 I'm the new office director for Construction
10 Services, here with OSHA. And actually, I've
11 been here for a little while in the national
12 office; for a little while, about 15 years total
13 experience with OSHA.

14 MR. SMITH: And I'm pleased to tell
15 you that we actually have an empty seat up here,
16 David.

17 Come on up. Come on down.

18 MR. ZWOLAK: Thank you.

19 MR. SMITH: Okay. And I'd like for
20 the rest of the public to introduce themselves,
21 if they would. Tell us who you are and who
22 you're with.

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1 MS. DiDOMENICO: My name's Toni

2 DiDomenico. I'm here with Toni D. and

3 Associates. And I'm also representing the

4 Arizona Chapter of the American Society of

5 Safety Engineers.

6 MR. BARBER: Dave Barber, Peterson

7 Dean Roofing, national safety director.

8 MR. HELMAN: Greg Helman. I'm a

9 reporter with Inside OSHA.

10 MR. CANNON: Kevin Cannon with NAHB.

11 MR. THURMAN: Sean Thurman with

12 Associated Builders and Contractors.

13 MS. MYERS: Michele Myers of the

14 Associated General Contractors of America.

15 MR. MILLER: Brad Miller, AGC of

16 Wisconsin.

17 MR. DRESSLER: Good Morning. I'm Dick

18 Dressler from the Association Recruitment

19 Manufacturers, Technical and Safety Services, in

20 Milwaukee.

21 MR. BUCHET: Michael Buchet, director

22 of Construction.

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1 MR. SNYDER: Scott Snyder, director of
2 Occupational Safety and Health for the Laborers
3 Health and Safety Fund North America.

4 MR. PARSONS: Charles Parsons with the
5 Laborers, also.

6 MR. JONES: Walter Jones, assistant
7 director of Occupational Safety and Health with
8 Laborers.

9 MR. SMITH: Thank you very much. And
10 we're glad to have each and every one. I saw
11 some of you at the work group meetings, the last
12 couple of days. And as you know, the public
13 gets involved in our deliberations through the
14 work groups. And then, what the work groups

15 decides comes before the full meeting. So we
16 are glad to be here. We appreciate everyone
17 being here.

18 If we can determine what time the
19 celebration is today, we will hopefully be
20 able to adjourn for that, to accommodate the
21 celebration.

22 MR. BUCHET: Bonetta is looking to

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1 give you a message. She has the time and
2 location.

3 MR. SMITH: Okay, thank you very much.

4 I'm sure all of you remember exactly what you
5 were doing when this event occurred and how you
6 first heard about it or where you first saw it.

7 And it's one of those events that we will never
8 forget.

9 And we certainly -- being in
10 Washington today -- we'd like to give
11 reverence to that when possible.

12 We have a pretty full agenda, as
13 you might imagine with -- Assistant Secretary
14 Foulke will be in at 9:00 to speak to us,
15 hopefully. 9:45, we'll do some work group
16 reports on silica and residential fall
17 protection. Around 10:15, we'll take a
18 break.

19 10:30, we'll have a revision on
20 hazard communication standard and to adopt
21 globally on the basis system presentation.
22 Lunch at 11:30 to 1:00.

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1 1:00, construction safety standards
2 update. Noah can have his favorite question
3 presented to him again: When Mr. Crane
4 Standards is going to be out.

5 MR. BUCHET: You did say that's the
6 last time you were ever going (inaudible) while
7 we work.

8 The observers are outside now. The
9 speaker's going get to the hall at like,
10 10:00.

11 MR. SMITH: Okay. There's an
12 observance going on now and then, at 10:00,
13 there's going to be some speakers in the great
14 hall downstairs. And we will try and break at
15 around 10:00, so that you can step down there a
16 few minutes if you'd like. If that's going to
17 be agreeable with the committee?

18 The schedule will then be -- I've
19 got to put my glasses on to see this

20 one -- BSL-CFOI and OSHA-IMIS data overview
21 presentation. A break around 3:00. Public
22 comments around 3:15.

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1 And please keep in mind, every
2 schedule I get says subject to change. I
3 never get anything that says final. And this
4 is a moving schedule; it is a fluid schedule.
5 And it may change as the day goes along. We
6 will try to keep it moving the best we can.
7 At 3:30 to 4:15, a mast climbing
8 scaffold update, and then work group reports
9 on diversity and trenching. And that will
10 conclude the day by 5:00, if not before. Any
11 corrections to the agenda is done. If not,

12 we'll try to aim for that.

13 We need and always try to get the
14 minutes approved from the previous meeting.

15 Our office have received those. Any
16 modifications to the minutes of the last
17 meeting?

18 MR. KRUL: Mr. Chairman?

19 MR. SMITH: Yes, Bob.

20 MR. KRUL: I'd just like to note that
21 I was not present for that last meeting, even
22 though I was listed as --

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1 MR. SMITH: Okay, you were here in
2 spirit, I guess.

3 MR. KRUL: I had a better offer.

4 MR. SMITH: Okay. We will make that
5 correction.

6 MR. KRUL: That's hard to believe.

7 MR. SMITH: Any other modifications or
8 changes to the last meeting? Could I have a
9 motion that we accept the minutes, then?

10 MR. KRUL: So moved.

11 SPEAKER: Recorded.

12 MR. MIGLIACCIO: Seconded.

13 MR. SMITH: Okay, we have a motion and
14 a second. Right. Anyone opposed to it? If
15 not, it stands approved as stated, by
16 acclimation.

17 MS. SHORTALL: Mr. Chair?

18 MR. SMITH: Yes.

19 MS. SHORTALL: I'd like to have the
20 improvements then marked as OSHA Exhibit
21 OSHA-2008-0029-0002, be entered into the record.

22 MR. SMITH: Okay, so noted. Also, a

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1 couple of items while we're waiting for the
2 Assistant Secretary. We talked about having our
3 next meeting of this committee on the week of
4 December 8th. If you would check your
5 calendars, let us know your availability that
6 week.

7 We would appreciate it.

8 MR. MIGLIACCIO: That's December?

9 MR. SMITH: December -- the week of
10 December 8th, yes, sir. This is pretty
11 ambitious of us to start planning a meeting at
12 this juncture, but we're getting better
13 organized, I think.

14 The week of December the 8th.

15 Check that and I'll ask Mack to send
16 something out on this in the next week or
17 two, and let him know back if that works.

18 And we'll shoot for that week.

19 Also, Tom Broderick has the
20 invitation for us, I think, for the meeting
21 after that.

22 MR. BRODERICK: Yes, our conference

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1 will be held in Chicago on February 15th, 16th,
2 and 17th.

3 MR. SMITH: Is that a Tuesday,
4 Wednesday, Thursday? The 17th, 18th, and 19th.

5 MR. BRODERICK: Yes, so, we would love
6 to have the ACCSH meeting in Chicago. And
7 certainly no one accuses anyone of it being a
8 junket coming to Chicago in February.

9 If you've been there, you know the

10 weather to be dicey sometimes, but we find
11 that we can get a lot more construction folks
12 from the northern tier that are able to make
13 it then.

14 MR. SMITH: We used to have meetings
15 there, and I've been to meetings there and, I
16 mean, it affords OSHA an opportunity to, you
17 know, put this meeting on and invite more
18 people. Tom's conference is very well attended.
19 It's a very professional, a very great
20 conference, and very enjoyable. And he's always
21 been nice enough to invite us and also nice
22 enough to waive any registration fees for his

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1 school, which is very, very nice.

2 He's giving you an invitation. Is
3 there a motion that we accept? Or that we
4 ask OSHA to plan this meeting in Chicago in
5 conjunction with Tom's school, if possible?

6 MR. KAVICKY: I make that motion,
7 Mr. Chairman.

8 MR. SMITH: Okay, thank you, Thomas.

9 MR. GILLEN: Second it.

10 MR. SMITH: Okay, second from Matt.
11 Any other discussion regarding maybe requesting
12 that we hold our meeting -- and that's all we're
13 doing, at this point, is requesting that OSHA
14 consider having our meeting in February in
15 Chicago. Any other discussion?

16 All in favor -- I'm sorry. Yes,
17 sir, Mike?

18 MR. THIBODEAUX: February, instead of
19 the prior date?

20 MR. SMITH: No, no. December date
21 will still be here and then the next meeting
22 would be in February, in Chicago.

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1 MR. THIBODEAUX: Okay.

2 MR. ZWOLAK: Clarifying question? Do
3 you want the -- will the committee meeting be
4 held concurrently with the conference, the same
5 days?

6 MR. SMITH: Yeah.

7 MR. THIBODEAUX: Okay, great.

8 MR. BRODERICK: Pat Broderick here.
9 What we have done in the past is, the third day
10 of the conference is professional development
11 seminars. We had the first page -- it says
12 we're doing this, this week -- we've had the
13 first day of the ACCSH meeting on Thursday, and
14 then Friday morning, we have a half-day and

15 Friday would be the travel day.

16 MR. ZWOLAK: Okay, great. We can plan

17 around that. Thanks for that clarification.

18 MS. SHORTALL: Can I ask

19 Mr. Broderick -- if the conference going to be

20 held in the location that it usually has been

21 held out in --

22 MR. BRODERICK: Rosemont.

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1 MR. SMITH: Rosement, yes.

2 MS. SHORTALL: All right, thank you.

3 MR. SMITH: What is it, the Donald G.

4 Stevens Convention Center or something like

5 that?

6 MR. BRODERICK: Yes.

7 MR. SMITH: Hey, I got a good memory.

8 MR. BRODERICK: Yes, you do.

9 MS. SHORTALL: Which, as I recall, all

10 of the hotels in the region provide free

11 shuttles to the airport.

12 MR. SMITH: Right. Any other

13 discussion regarding the meeting? All in favor,

14 signify by saying aye.

15 SPEAKERS: Aye.

16 MR. SMITH: All opposed, likewise?

17 Thank you, motion carries. If these two

18 meetings work, we're way ahead of schedule and

19 planning, compared to what we normally

20 do -- which is a real good thing. We appreciate

21 that very much.

22 We'd like to thank Michael Buchet,

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1 who does all of our legwork and puts in a lot
2 of effort.

3 And also, I was looking for
4 Venetta. Venetta Chapman just came in the
5 room. She helps us plan our travel and takes
6 care of the logistics and other issues.

7 Venetta?

8 MS. CHATMON: Yes?

9 MR. SMITH: We want to recognize you
10 and just give you a hand. If we could give her
11 a hand?

12 Thank you very much.

13 I don't know what -- we've got
14 about five minutes before our speaker is
15 supposed to be here. Anyone have anything
16 from the committee that -- any announcements
17 or any information they'd like to share in
18 five minutes or less?

19 Excuse me, on behalf of the
20 Secretary, you are invited to join your

21 fellow DOL colleagues for a brief ceremony at

22 8:30 a.m. We missed that. In addition to

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1 the DOL program on -- free to

2 welcome -- okay, that's all I see is the 8:30

3 session. So anyway, we are glad that they

4 had a ceremony. I don't know if that will

5 make Assistant Secretary Foulke late or not,

6 but it possibly could.

7 Is there a work group that's ready

8 to report at this time?

9 MR. KAVICKY: Residential is.

10 MR. SMITH: Residential? Okay. Thank

11 you, Mack -- I mean, Thomas, for bailing me out

12 here.

13 MR. KAVICKY: We try to be prepared.

14 MR. THIBODEAUX: Mike Thibodeaux. The

15 residential fall protection work group met on

16 Tuesday afternoon. We had quite a few

17 participants and a quite active discussion on

18 fall protection. Tom Trauger from Winchester

19 Homes had a PowerPoint presentation in the large

20 number areas, in residential construction, where

21 fall protection is necessary. In his

22 presentation, he showed a bracket system that's

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1 being used by his company for use in working on

2 concrete forms in basements, as well as using

3 anchor points, lanyards, and harnesses when

4 installing drywall in two-story foyers, which is

5 a pretty hazardous area in residential
6 construction. He also used those in window
7 installations and for painters painting dormers
8 on roofs. He said those have been very
9 effective.

10 Jim Green from NIOSH reviewed a
11 pilot project that's going to begin October
12 1st of this year, focusing on the wood frame
13 construction -- trussing. They will look at
14 test methodology, anchoring systems in
15 bracing patterns not only in the trusses, but
16 in other areas, to allow people in the
17 residential construction industry to
18 understand when they will be able to tie off
19 on trusses, and how they can do it to prevent
20 falls.

21 Kirk Grudahl from the WTCA has
22 already started their company or their

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1 association testing wall bracing, which they
2 believe is going to help in making the
3 trusses, when they're braced, even stronger
4 and help promote better conventional fall
5 prevention in truss operations.

6 Jeremy Bethancortt from LeBlanc
7 Framing advised the work group that even
8 though they've been used to convention fall
9 protection in their operations, they continue
10 to have written fall protection plans and
11 train their folks to that. So just because
12 they're using conventional fall protection
13 doesn't stop them from writing out their
14 plans, what everyone is supposed to do, and
15 train them to that, which is a pretty good
16 practice.

17 Dave Barber, from Peterson-Dean,

18 Inc., a roofing company, indicated that one
19 time they had 2,500 employees that they
20 trained in their operations using written
21 fall protection plan and they trained them to
22 those plans. They used a buddy system when

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1 on roofs, a more experienced roofer with a
2 less experienced roofer, until that person
3 gets more comfortable with what they're
4 supposed to do and how they can work around
5 other folks.

6 They periodically inspect their
7 fall protection systems, obviously. And they
8 have a disciplinary program that if folks
9 violate the company safety policies, there

10 are graduated penalties. Suspension for a
11 day or two days, et cetera. And if it
12 becomes too many violations, termination is a
13 resort.

14 All their workers tie off on their
15 roofs when they're working, including tile
16 roofs. And there was a discussion about, you
17 know, the problems with tile being stacked
18 too high, et cetera. And they've addressed
19 that in their written fall protection plan,
20 so, again that's something else that other
21 roofing companies can look to.

22 Tom Bobick from NIOSH presented a

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1 brochure on a new product that's being

2 developed and tested, called "The Adjustable
3 Roof Bracket Safety Rail Assembly." Now,
4 it's not in production yet. He's been
5 looking for someone to do that, but it could
6 be a very effective way to protect workers on
7 roofs and open-sided floors, et cetera.

8 We requested of all the
9 participants at the work group, that if they
10 had any information on new fall protection
11 products that had not been really advertised
12 to the residential construction industry. If
13 they would send us, Tom and I, that
14 information, we would attempt to get it on
15 the website, so it's available for the folks
16 out in the industry.

17 All of the participants -- it was
18 unanimous -- recommended that the fall
19 protection work group continue to meet and
20 address the fall protection issues in
21 residential construction, as well as trying
22 to find new fall protection products that can

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1 be introduced to the industry to protect the
2 workers.

3 And we adjourned at 4:30.

4 MR. SMITH: Thank you. Anything the
5 committee needs take action on?

6 MR. THIBODEAUX: Nothing comes to
7 mind. Not this time.

8 MR. SMITH: You plan to have a meeting
9 at our next meeting?

10 MR. THIBODEAUX: Yes, sir. We did.

11 MR. SMITH: Thank you. Can I have a
12 motion that we accept this report?

13 Yes, Tom?

14 MR. BRODERICK: Mr. Chairman, I wanted
15 to bring this up because I think it might be

16 useful for the committee. We've had over the
17 last several years, a number of people who have
18 come to work groups and have bought DVDs or CDs,
19 with PowerPoints, in some cases we've had videos
20 that have been shot. The fall protection -- the
21 Residential Fall Protection Group had, at the
22 last meeting, a couple of videos that had been

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1 made showing destructive testing on the use of a
2 fall protection device that spanned several
3 trusses in residential. And it showed that the
4 trusses, in fact, would be able to take the
5 required load and it seems like because these
6 are conducted not on the official record, we're
7 probably losing some opportunities to get some

8 good things onto a part of the OSHA website that
9 doesn't get much travel because it hasn't
10 changed much in the last 10 years or so.

11 But there is a section, when you go
12 to construction and drill down, of work
13 products. And it seems like maybe that would
14 be a good place to use as a basket for some
15 of these things that we probably -- Sarah
16 would give us advice on this, about getting a
17 release for those materials.

18 I guess another example would be I
19 know that we're going to talk about these
20 mast climbing systems and an engineer from
21 the director at HERE (?) gave a very
22 interesting PowerPoint at the last meeting.

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1 And he supplied us with a paper copy of his
2 slides, which I believe was entered into the
3 record. Many of these things are not brought
4 to the full committee and entered into the
5 record. So I think that when we're running
6 these work groups we should try to ascertain
7 whether these materials that are brought
8 could become a part of the permanent record?

9 And also, getting this permission
10 to make them available publicly if they're
11 suitable to do that with. So I just wanted
12 to bring that up as a suggestion, at this
13 point.

14 MR. SMITH: Thank you. Before we
15 address that, let's -- if we could, let's get
16 this report entered into record, then we'll
17 discuss it for a minute.

18 Could I have a motion to enter this
19 report?

20 MR. MIGLIACCIO: I make a motion.

21 MR. BRODERICK: Second.

22 MR. SMITH: I have a motion from Frank

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1 and a second from Tom. Any other discussion

2 regarding the report? All in favor, say aye.

3 SPEAKERS: Aye.

4 MR. SMITH: The motion is entered into

5 the report.

6 Sarah would like to address these

7 comments.

8 MS. SHORTALL: Well, the first thing

9 I'd like to do is make sure that we enter into

10 the record the approved Residential Fall

11 Protection Worker meeting report, as

12 Exhibit 0002, of the aforementioned docket.

13 To the extent that a particular
14 work group would like to have materials that
15 were presented at their worker meeting
16 entered into the record, and this particular
17 record is available electronically on
18 regulations.gov. You can always appendix to
19 it.

20 What we should always try to do is
21 the following: One, if it's a PowerPoint, as
22 you said, get a hard copy, which would be

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1 easier. Number two:

2 If there are copyright
3 considerations, we need to be made aware of
4 that particular thing because our standard

5 procedure in the -- our standard procedure is
6 that although copyrighted materials, if
7 they're entered into the record, are
8 available to inspect down at the docket
9 office, they are not placed on the webpage.
10 They include it in the index to the
11 webpage, that will alert you to go down
12 there. So a work-up should try to ascertain
13 advance, is there copyright concern that you
14 have about this? If not, then we can
15 certainly put those items in. NOAA would
16 need to address what they would plan to do on
17 the ACCSH page, but I can tell you what could
18 have happened in the official public record
19 of this.

20 I'd like to make a correction and
21 thank Mr. Buchet. I'd like to mark the
22 Residential Fall Protection Work-Up Meeting

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1 as 0003, not 0002.

2 MR. SMITH: Good comments. I think at
3 this point, we can have our subcommittee
4 chairmen ask the presenters if they would mind
5 their information being presented in the record?
6 I don't think we can mandate it, but we can
7 certainly ask and if they don't object, we can
8 certainly do that. Would that be an acceptable
9 solution to that? Yes, Tom?

10 MR. BRODERICK: Tom Broderick. Yes, I
11 do think that having it in both hard copy and
12 electronic format would be good, because
13 Dr. Ayoub gave a very interesting PowerPoint
14 presentation. And as far as I'm concerned, it
15 would have been suitable for -- if it had been
16 given to us in electronic format and put on the
17 web in electronic format, it would have been
18 suitable for us to take out to the construction

19 community. Primarily the masonry construction
20 folks that uses those scaffolds extensively. It
21 really opened my eyes and I think that having
22 something that could be just a product, if you

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1 will, that could be used to supplement a
2 training program would be a good idea.

3 MR. SMITH: Thank you. At this time,
4 Assistant Secretary Foulke is here and we'd like
5 to ask him to come to the table and make
6 comments to the committee at this time.
7 Assistant Secretary Foulke? I know he's a busy
8 man, so we certainly appreciate him taking time
9 to address this group.

10 MR. FOULKE: Good morning. Oh, look,

11 they left -- I've got my own notebook right
12 here. Isn't that nice? I'll tell you.
13 I'm sorry I'm running a little
14 late, but I was at the -- we had a 9/11
15 memorial service this morning out front of
16 the building, so we were away for that. And
17 I want start off by just saying once again,
18 as I always have, thank you very much for
19 participating in ACCSH. I know it takes time
20 from your normal jobs, but I appreciate it
21 because the information that you are
22 providing. The input you're providing -- the

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1 insight that you're providing and the
2 expertise that you're providing, all those

3 thing really help us, help OSHA, to be able
4 to do a better job and protect more people.
5 And make sure that people go home safe and
6 sound each night to the families and loved
7 ones.

8 And really, that's what I talk
9 about in pretty much all my speeches as being
10 the bottom line of what we're really trying
11 to do here. To make sure that everyone goes
12 home safe and sound every night.

13 So I did want to say thank you for
14 the job that you are doing. Thank you for
15 your work. And thank you for the work that
16 you're also going to be doing because I know
17 that there's going to be a lot of stuff I now
18 you're going to be doing in the future. I
19 know I was looking at the agenda for this
20 meeting and I see it's a pretty full agenda.
21 Well, more than pretty full -- very full
22 agenda -- where you have a lot of things

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1 you're going to be discussing.

2 Like I say, this is going to be
3 helpful to us. That's what the advisory
4 committees really are -- I see one of the
5 greatest benefits is that they provide
6 expertise and inside information that, from
7 the outside -- and I think that's very
8 important.

9 So just thank you again for
10 everything you all are doing in this. And
11 I'm going to apologize, because,
12 unfortunately, I'm going to have to read from
13 my notes. I usually don't do that -- as you
14 know, I'm not much of a reader -- when I do
15 speeches or even when I do talks. But

16 there's so much data here. There's so many
17 numbers, I couldn't remember it if I tried
18 and I apologize for that.

19 But I think it's important because
20 the information in there -- I think that the
21 data there shows that we are making a
22 difference. And that, with your assistance,

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1 OSHA is really everyday accomplishing its
2 mission of providing a safe and healthy
3 workplace for every working man and woman in
4 the United States.

5 And so I'm going to be -- I'll
6 start off my remarks with some, I think, some
7 very positive news. Probably most of you all

8 saw it. But a couple of weeks ago the
9 preliminary BLS data indicated that workplace
10 fatalities in all industries in our nation
11 declined in 2007 by 6 percent. And that's a
12 fairly significant drop: 6 percent drop in
13 the preliminary numbers for '07 versus the
14 numbers from '06.

15 We won't get the final numbers
16 until April next year for '07. But yet,
17 these preliminary numbers are way below where
18 our preliminary numbers were in '06, and they
19 are way below the numbers, 6 percent below
20 the actual numbers that came out. The final
21 numbers in those six, so that was really
22 welcome news.

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1 For the construction industry, the
2 fatality rate per 100,000 employees declined
3 from 10.3 -- I'm sorry, 10.9 to 10.3. So we
4 had a significant drop there, also.

5 The total construction fatalities
6 dropped percent from 1,239 people -- workers
7 to 1,178 workers. In human terms that means
8 at least that last year, 52 more people than
9 the previous year went home at the end of the
10 day to be with their families and loved ones.

11 And I attribute that -- part of that -- the
12 reason for this drop is the work that you all
13 are doing.

14 For the construction industry, BLS
15 reported that major decreases in fatalities
16 occurring in these categories: Exposure to
17 harmful substances, 6 percent decline;
18 transportation incidents, 12 percent decline;
19 fire and explosions, 23 percent decline. So
20 we have some really good news there.

21 However, BLS also found what I

22 would call some worrisome data. In 2007, we

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1 saw a 2 percent increase in fatalities caused
2 by falls. And the preliminary BLS did showed
3 the biggest increases were in falls from
4 girders and structural steel, and through
5 floor and roof opening.

6 You know, I wanted to show the
7 members of the ACCSH and the construction
8 that OSHA's working with our director of
9 construction to focus more attention of fall
10 hazards and prevention.

11 Among a number of strategies we are
12 developing, we are developing an OSHA webpage
13 that pulls together many of our resources

14 related to fall protection and prevention.
15 We are working to post this new webpage,
16 hopefully, in the next couple of weeks.

17 We are also awaiting the results of
18 the study under -- being undertaken by the
19 University of Tennessee Construction Industry
20 Research and Policy Center. The study is
21 analyzing OSHA data on fatal falls in
22 residential construction to determine the

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1 area where OSHA could best focus its
2 education outreach and enforcement efforts.
3 Our Office of Construction Standards and
4 Guidance has begun work on guidance documents
5 focusing on falls through skylights.

6 We will ask the ACCSH committee to
7 help us when it come to time to review the
8 draft of this document. Overall, the BLS
9 data reflects the lowest fatality rate in
10 recorded history -- which, obviously, is an
11 incredible accomplishment.

12 Nevertheless, it is vital that OSHA
13 and its advisory committee continue to work
14 together to address safety and health hazards
15 that spell tragedy for people working in the
16 construction industry. We must continue to
17 fine effective ways to impress upon every
18 employer to make workplace safety and health
19 the highest priority.

20 You know, I always say pretty much
21 in every speech that I give that we -- even
22 though we're doing well on fatalities -- or

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1 we made progress. I should say we made
2 progress. I always say that one fatality is
3 one fatality too many. Until we get to that
4 zero number, we must always focus on getting
5 to zero because if we accept, if we say we're
6 just going to get down to one or whatever,
7 we're still accepting that number. So we
8 have to get down to zero.

9 We must also continue to remind
10 employers that OSHA offers a wealth of
11 compliance assistance information and
12 services, along with our cooperative programs
13 which offer opportunities to solve problems,
14 share expertise, and raise awareness of good
15 practices.

16 Finally, we must continue to
17 improve our outreach to Spanish speaking in
18 construction and general industry. Like I

19 said before, this particular -- with respect
20 to the Hispanic community, we must continue
21 to focus on that. We've put a lot of
22 emphasis and we put a lot of resources in

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1 that effort, but we need to continue to work
2 in that area. So we continue to achieve,
3 hopefully, even greater results. And I'm
4 hopeful that even the fatality numbers will
5 continue to drop.

6 What I'm hearing in the field from
7 our regions this year is that, pretty much in
8 most of our regions, the number of fatalities
9 they've been involved with are down from last
10 year. So I hopeful that even next year that

11 that fatality number may be even lower.

12 With respect to emergency
13 preparedness. OSHA revved up its
14 preparedness this summer, as we anticipated
15 the annual hurricane season in our nation.
16 Indeed, for the last few weeks, a series of
17 hurricanes developed in the Atlantic to
18 threaten the U.S. coastline.

19 In response to Hurricane Gustav,
20 OSHA has mobilized technical support
21 equipment as part of our emergency response
22 for protecting employee's safety and health

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1 under the National Response framework. When
2 large scale disasters overwhelm state and

3 local resources, OSHA can provide technical
4 assistance needed to help protect response
5 and recover work crews.

6 Every year, people are injured
7 unnecessarily in clean-up efforts after
8 severe weather strikes. Storm cleanup is
9 dangerous and may create safety hazards for
10 employees. The most frequent hazards include
11 falls from heights, carbon monoxide poisoning
12 from generators, electrocutions, lacerations
13 from tree trimming, and automobile injuries
14 from working around roadways.

15 A wide range of activities OSHA
16 personnel were doing -- we're helping to
17 identify and assess hazards at disaster
18 sites. Determine resources needed to protect
19 and response crews recommend resources to
20 obtain additional supplies. Provided
21 technical expertise that then hazard
22 application and safe operation.

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1 Distributing literature explaining
2 safety and health work practices, providing
3 training where and when we can, and
4 monitoring work crews and intervening when
5 necessary to minimize injury or loss of life.
6 In Louisiana, 15,000 electrical workers are
7 deploying to help return power to over
8 1 million residents. OSHA is working with
9 these crews to remind them of the safe clean
10 up practices and to point out unusual hazards
11 that it may face because of the disaster.

12 It was very interesting. I was at
13 a -- I gave a speech yesterday that I -- one
14 of the participants at the meeting was
15 someone from -- a safety professional from
16 Louisiana, outside of New Orleans. And he

17 said he was amazed to watch the crews, the
18 electrical crews, as they come in and how
19 they were actually -- they were really
20 focusing on safety. That is, they were
21 laying out all of their safety equipment
22 before they even started to work. So I was

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1 very glad to hear that.
2 We're also providing public service
3 announcements to area television and radio
4 stations to inform listeners on topics such
5 as flooding, electrical hazards, chain saw,
6 and fall hazards.
7 As residents return to their homes
8 and begin repairs, OSHA will focus its

9 attention on people working on residential
10 construction industry and, of course, we're
11 going to do everything we can to make sure
12 that that work is performed in a safe manner.

13 I want to talk a little bit about
14 where we are in our crane safety initiative.
15 Now, our Director of Construction's moving
16 forward to promote greater awareness of crane
17 safety in the industry. I'm reviewing a
18 range of new actions, including enforcement
19 initiatives, outreach and compliance
20 assistance, which have been proposed by our
21 construction directory. I hope to reach a
22 decision soon a formal crane safety

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1 initiative that we'll be able to roll out

2 fairly quickly.

3 Meanwhile, the long-awaited

4 proposal on cranes and derricks will be

5 published in the Federal Register in the next

6 few weeks. Thanks to ACCSH and your input,

7 we have moved this proposal to a complex rule

8 making process. And this is a -- the crane

9 and derricks is a big step.

10 We're talking about 119 pages of

11 regulatory text and over 1,000 pages of the

12 preamble. This will be one of our larger

13 standards, so it's taken it's time to get

14 everything together on this, but I think

15 you'll find the effort was worth it.

16 In our efforts to work closely with

17 the industry on crane safety, OSHA staff

18 participated in meetings earlier this week,

19 with a conference in Washington, put on

20 together with the Engineering News Record,

21 Association of General Contractors, and the

22 Union of Operating Engineers.

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1 I also wanted to thank Linwood for
2 his leadership and service on the committee.
3 And I wish to especially thank all the
4 members of the committee. I know we've had a
5 number of people here that extended -- that
6 had extended terms on this committee, so I
7 really do appreciate that.

8 I'm also looking forward to the
9 information that your comments on improving
10 our OSHA 10-hour and 30-hour construction
11 outreach training and our 500 course
12 prerequisites. This is an area that we've
13 been working on. Overall, our whole training

14 operation, we've really kind of looked at.
15 We've changed the directory, as
16 you're aware. We move the directory of
17 training to a separate directorate. Because
18 I really wanted to focus, to put -- to have
19 it have its own directory and that we have
20 someone that was there, focusing strictly on
21 improving training. And the 10- and 30- hour
22 course, of course, the 500 courses are

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1 important. You know, we've revamped all the
2 training for our compliance assistance,
3 actually before our CSHOs. So hopefully,
4 we're going to have a better trained
5 workforce both inside OSHA and outside of

6 OSHA.

7 We're also -- as you know, we had a
8 hearing in June of this year on the proposal
9 for confined spaces in construction. And we
10 are reviewing the post-hearing briefing
11 comments on the issue. All the issues that
12 were raised at the hearing. And I think
13 you're going to learn more about the status
14 of this proposed -- the status of this and
15 other proposed construction standards. When
16 Bill Parsons, our new Director of Office of
17 Construction Standards and Guidance.

18 Since I became Assistant Secretary
19 back in April of '06, one of OSHA's top
20 priorities has been to improve workplace
21 safety and health in the construction
22 industry. OSHA's cooperative programs have

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1 played a key roll in those efforts.

2 Here's some of the highlights of
3 what OSHA's cooperative programs have
4 accomplished to address workplace safety in
5 construction. We currently have 14 new
6 alliances that address workplace safety and
7 health in the construction industry. Now,
8 since I became Assistant Secretary we have
9 signed five new alliances, national
10 alliances, and renewed eight national
11 alliances related strictly -- solely to the
12 construction industry.

13 We also have numerous regional area
14 offices alliances that specifically address
15 the construction industry. Construction
16 participation in our volunteer protection
17 program has significantly increased. As of
18 August 2008, 80 construction companies are
19 participating in BPP, a 53 percent increase

20 since August of '06.

21 As a whole, construction industry

22 participants in BPP have a total case rate,

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1 total case incident rate, and a DART (?) rate

2 61 percent and 67 percent, respectively,

3 below BLS rates for their industry sectors.

4 And this was based on '06 BLS data.

5 This rate is better than the

6 average BPP participants in general industry,

7 so we're really making some significant

8 progress there.

9 The construction track at OSHA is

10 also experienced significant growth. When I

11 started in April of '06 there were 36

12 participants impacting about 40 employers and
13 about 10,000 employees. Today the number has
14 doubled. We now have 71 participants
15 impacting about 88 employers and over 23,000
16 employees. Back in April of '06, only four
17 companies in the construction track had
18 graduated from the OSHA challenge. And no
19 graduates have yet achieved the BPP star of
20 merit.

21 As of August of this year, 17
22 companies have graduated from OSHA challenge,

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1 and 8 have achieved BPP star or merit.

2 We also have 135 construction

3 companies have entered the strategic

4 partnership program, as of April 2006. An
5 increase of 36 percent. The number of
6 employees impacted by the same period of
7 time -- about 172,000 employees -- and
8 increase of 43 percent.

9 Next week I'm going to be
10 signing -- or, I guess we're going to be
11 signing a renewal of our partnership with the
12 Electrical Transmission and Distribution
13 Construction Contractors trade associations.
14 We began this partnership back in 2004 and
15 most recently worked with the partnership to
16 develop an industry specific OSHA 10-hour
17 training course. This course has been
18 conducted more than 300 times, provided
19 training to more than 12,000 employees and
20 supervisors.

21 In addition, the partnership
22 developed an industry specific supervisor and

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1 leadership outreach training course for
2 foremen and general foremen. Also, our
3 partners have approved eight best practices
4 for the industry and are in the process of
5 implementing them partnership-wide.

6 This Friday, in Washington, I will
7 meet with the officials from Clark
8 Construction, based in Bethesda, to sign a
9 partnership designed to help contractors to
10 evolve towards exemplary safety and health
11 management systems during the construction
12 for Walter Reed -- for the new Walter Reed
13 Medical Center.

14 The project plan calls for the
15 construction of a 345-bed medical facility.
16 The project will employ about 40 contractors

17 and about 1,200 employees on-site over the
18 course of the construction. With this new
19 agreement that we signed, four partnerships
20 with Clark since May of 2007.

21 To date, we have completed eight
22 successful safety and health collaborations

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1 with them.

2 I'm particularly pleased to see
3 that Clark is inviting its subcontractors to
4 participate in this contract with Walter Reed
5 and commit these companies to achieve the
6 level of workplace safety and health
7 management that exceeds OSHA standards.

8 We have a couple of other things

9 that we're working on, and I know you're
10 going to have -- I saw on your agenda that
11 you have Dorothy Daugherty with the Director
12 of Standard Guides is going to talk about a
13 global harborization of classification of
14 chemicals. We're moving forward with this
15 standard. It's important that we move
16 forward with this standard, because I think
17 the Europeans will be coming out with their
18 global harborization system by the end of
19 this year.

20 We'll hopefully have our system
21 published and another proposed rule making
22 published on GHS by the end of this year.

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1 And hopefully we'll receive comments from
2 you. We're into departmental review with
3 that right now, and I know the next step will
4 be -- and I know Dorothy will be talking
5 about that.

6 I also want to thank -- one of the
7 things I did want to talk about -- or I
8 should like to thank Noah Connell for his
9 work in being the acting director of the
10 Director of Construction. He's been acting a
11 lot longer than he thought he was going to
12 act, so.

13 We've been doing a nationwide
14 search for the best possible people to join
15 the directorate. I'm hopeful we'll have a
16 new head of the director of construction
17 within the next month or so. And so we're
18 kind of moving on that.

19 Also, we've been really -- one of
20 the things we've been pushing for is to get
21 really good people in the director of
22 construction. And I think -- I don't know if

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1 you've met him yet, but I know we've had two
2 people that have come on board and have
3 joined the leadership of the director of
4 construction who have really great expertise
5 in the area. Bill Parsons, who heads up our
6 office -- who is heading up our Office of
7 Construction Standards and Guides. He brings
8 the agency 33 years of experience as an
9 occupational professional, including 21 years
10 of specialization in construction safety and
11 health.
12 And David Zwolak heads up our
13 Office of Construction Services. He brings
14 in management and techno expertise to OSHA,

15 with more than 30 years of experiences as an
16 industrial hygienist in the Department of
17 Labor -- at the Departments of Labor and
18 Defense. So these are very well-qualified
19 people. I know OSHA -- Noah's been really
20 good about really searching out and trying to
21 get some really good people, so I appreciate
22 the work that Noah's done in this job. It's

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1 hard to be acting some times and having to
2 deal with all of these issues and so I really
3 do appreciate his hard work in that area.
4 I guess the last thing I just want
5 to say once again -- I've pretty much got all
6 my notes in.

7 I covered the areas I wanted to
8 cover, but, you know, once again, I wanted to
9 say thank you for the job that you are doing,
10 because it really is important. Allowing
11 people to go home safe and sound every night
12 to the family's love is amazing. And the
13 things that you do here are going to touch so
14 many people.

15 And how they're going to touch
16 people is that they're not going to injured
17 on the job and there are some people who are
18 not going to get killed on the job because of
19 stuff that you do here.

20 And when you really think about
21 that, that's an amazing thing. And those
22 people aren't going to know anything about

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1 it. They're not going to know you, they're
2 not going to know what you've done, and
3 everything else. And so, you're not going to
4 get any thanks, you're not going to get any
5 credit, you not -- you know. You get to come
6 to Washington, but I don't know if that's a
7 big deal.

8 But it is important what the job
9 you're all doing. It's important to every
10 one. And I talk always about the OSHA family
11 and the OSHA team and you're part of that
12 family and part of that team because
13 everything we do together. OSHA itself can't
14 achieve its mission by itself. Anyone who
15 thinks it can is mistaken there. We got to
16 rely on help from individuals like yourself
17 who are willing to commit the time, willing
18 to give up their time to help serve the
19 country, basically. And doing things that

20 are going to help a lot of people.

21 And so, I just want to say again,

22 thank you for the job that you are doing. I

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1 really do appreciate it. Please let me know

2 what I can do in the short period of time

3 that I have here to help you be successful as

4 a committee.

5 Thank you very much for having me.

6 MR. SMITH: Thank you very much. We

7 appreciate those comments, and I appreciate what

8 you do, and I know you're extremely busy and we

9 thank you for what you do on behalf of the

10 American worker and appreciate your efforts to

11 keep a safe workplace and to help more people to

12 get home at night. That's the final objective
13 we all have regards of what background we come
14 from.

15 At this point, do you have a second
16 for a few question?

17 MR. FOULKE: Okay.

18 MR. SMITH: Any questions? Mike?

19 MR. THIBODEAUX: Mike Thibodeaux. At
20 last meeting, we had made a recommendation at
21 the ACCSH committee to OSHA concerning the
22 interim fall protection standard and rescinding

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1 that. Do you know what the status of that
2 recommendation is?

3 MR. FOULKE: Yes, I'm still

4 working -- looking on that. Actually, one of
5 the things I'm looking at, too, is particularly
6 all those shear stud issues and I'm dealing with
7 the projection part of that. And actually,
8 tomorrow I'm actually going to a site to look at
9 that particular issue, so we can move forward on
10 that whole thing, so we're waiting on that, so.

11 MR. SMITH: Thank you, Mike. Bob?

12 MR. KRUL: Good morning,
13 Mr. Secretary. Thank you, as always, for
14 coming. Any update on the situation in Las
15 Vegas, and the Nevada state plan?

16 MR. FOULKE: Well, you know -- as you
17 know, we had a request from the Governor to
18 provide some of the assistance to Nevada OSHA,
19 and we had a number of our COSHAs -- several of
20 our COSHAs out there assisting on the inspection
21 and providing assistance to the Nevada
22 inspectors. At the City Center project there.

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1 I, myself, went out there and met
2 with -- I met with Nevada OSHA first, and
3 then we also met with all the contractors and
4 subs, a lot of them, I think, pretty much
5 from the whole strip. They're talking about
6 their safety record there and how they really
7 need to ramp it up, with respect to improving
8 safety and health. Working on the -- having
9 a -- really developing a stronger culture of
10 safety and practices across the board.

11 I met with, actually -- as part of
12 that meeting, we actually met with some of
13 the hotel owner's reps, and talked to them to
14 giving their commitment to ensure that their
15 project -- that the two really -- the parts
16 that the contractors that they wanted the
17 projects to be safe.

18 And then I met with the union
19 representative from -- I think most of the
20 unions there that were on-site. And we
21 talked about -- that was about a two-hour
22 meeting and talked about what needed to be

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1 done and so we're working on that.
2 So we have been very active in
3 providing assistance to Nevada OSHA and we're
4 continuing to monitor that issue.
5 MR. KRUL: Thank you. Just one
6 administrative question. As you know, there's
7 seven of us who have our terms up. Is there any
8 calendar for reappointments?
9 MR. FOULKE: I believe everything has

10 been submitted to the Secretary for review. She
11 makes the determinations on that, and so I
12 suspect -- I'm hopeful that, you know, I've
13 been -- it's amazing, I try to move these things
14 out earlier and earlier. And you know, we
15 started making sure that it would be published
16 in the Federal Register fairly early out. About
17 then the nomination process was open, and we got
18 a lot of recommendations and we went through
19 them and then. And as I understand it, I think
20 the packet is up there with the Secretary for
21 her review.

22 MR. KRUL: Thank you.

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1 MR. SMITH: Thank you, Bob. Other

2 questions?

3 We'd like to thank the Assistant

4 Secretary again, and glad to tell you, too,

5 on behalf of the committee, this committee

6 does work hard and you mentioned that and I'm

7 very proud of them. They -- we had several

8 work group meetings over the last couple of

9 days and there were over 20 people at several

10 of the work group meetings. Not just our

11 committee, but people from the public from

12 all across the country. From different

13 interests and everyone contributed and we're

14 all working together for a common purpose and

15 we commend you for your efforts and thank you

16 again for you efforts.

17 MR. FOULKE: Thank you. I appreciate

18 it.

19 MR. SMITH: At this time, I'd like to

20 remind the people in the audience again, if you

21 would please sign up at the back if you'd like

22 to speak to the group, please also sign up. And

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1 at this point we will stand adjourned for about
2 10 minutes.

3 (Recess)

4 MR. SMITH: The meeting will come back
5 to order. I appreciate your flexibility. We'll
6 be doing several different things during the
7 day, and appreciate you working with us on that.
8 We'll have some surprises coming up here in the
9 next little bit, I think, and we're trying to
10 prepare for that at this point. So please stick
11 around.

12 We actually have a surprise coming
13 up. Can you believe that? We could have
14 many, many. When somebody walks in the door

15 we'll stop and have a surprise. That's what

16 I'm told anyway.

17 MR. MIGLIACCIO: How are we going to

18 work that one?

19 MR. SMITH: I know you're all excited.

20 Okay, we're back to workgroup reports. And Liz,

21 I think, is ready to do Diversity: Women in

22 Construction.

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1 MS. ARIOTO: Thank you. First of all,

2 it's been a pleasure to work with this group,

3 and I really would like to thank, first of all,

4 my co-chair. Such a professional gentleman, and

5 he's really helped me a lot with this workgroup.

6 We had 18 attendees at the meeting, and Tom

7 actually prepared the report for me, so I'm
8 going to ask him to continue with our written
9 report.

10 Thank you.

11 MR. KAVICKY: Thank you, Liz. Tom
12 Kavicky. We had a brief explanation with the
13 workgroup regarding the splitting of the
14 diversity multilingual workgroup into a
15 multilingual and a separate diversity women in
16 construction workgroup focusing on women in
17 construction. Carmen Shafer, with Shafer Safety
18 Solutions, LLC, presented the group with fact
19 sheets. There are about five or six fact
20 sheets, and I'm going to give those to Sarah,
21 regarding the fatality studies, injury
22 studies --

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1 MR. SMITH: At this point, let's
2 pause. We have our surprise. Come on in,
3 Venetta. Come on in.

4 Liz, I'll turn it over to you.

5 MS. ARIOTO: I'll talk from here. I'm
6 going to sing a quick Happy Birthday, and I
7 don't have a very good voice.

8 (Happy Birthday sung to Tom
9 Broderick; applause)

10 MS. ARIOTO: This is his 39th birthday
11 today.

12 MR. BRODERICK: Thirty-nine today.
13 Thank you, everybody. This is overwhelming.

14 SPEAKER: Twentieth anniversary of his
15 39th birthday.

16 MR. SMITH: At this point, we'll have
17 a 15-minute break, and everyone please join us
18 for cake.

19 (Recess)

20 MR. SMITH: Thank you. We appreciate

21 your indulgence. We definitely wanted to honor
22 Tom's birthday. Frank says he has a birthday

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1 next month.

2 We're going to check his driver's

3 license to make sure.

4 That was a delicious cake, and we

5 do hope you have a good day. We appreciate

6 you giving up your birthday to be with us

7 today. You've done a lot in safety and

8 health for a lot of years, and we certainly

9 appreciate it, and we recognize you today.

10 Thank you very much for what you

11 do.

12 MR. BRODERICK: Thank you. It's very

13 humbling.

14 MR. SMITH: And thank Liz. She's a
15 wonderful person. Her idea. And she does good
16 work. And that as not a grocery store cake
17 either.

18 I can tell the difference. I
19 appreciate that a lot. I really do.

20 If you're from the public, let me
21 say this: Please sign up at the back if you
22 wish to speak. I think public comments are

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1 this afternoon, but if you wish to speak and
2 you need to leave before 3:15, please sign up
3 and let us know. And we will work you in.
4 If anybody from the public would like to

5 speak today, we want to hear from you. So
6 we're not going to exclude you if you need to
7 leave.

8 We have at least one member of our
9 committee that will be flying back to Texas
10 tonight.

11 Good luck.

12 MR. THIBODEAUX: Thanks.

13 MR. SMITH: Trying to prepare for the
14 storm. At this time, let's go back to Liz for
15 Diversity: Women in Construction. Liz and
16 Thomas.

17 MR. KAVICKY: Before I was so
18 pleasantly interrupted, I'll continue my report.

19 Carmen Shepherd of Shepherd Safety
20 Solutions presented the group with multiple
21 fact sheets. Data from 1980 --

22 SPEAKER: Shafer.

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1 MR. KAVICKY: Shafer. Sorry. S-h-a?

2 SPEAKER: S-h-a-f-e-r.

3 MR. KAVICKY: From 1980 to 1992.

4 Current fatality studies from 2004 and 2006

5 showing the fatalities, the injuries, and the

6 cause of injury information for women in the

7 construction industry.

8 She reported that -- and it

9 surprised me a little bit -- women account

10 for approximately 9.5 percent of the total

11 workforce in construction as of 2006. She

12 provided us with a PowerPoint presentation of

13 data and information. And it is on report.

14 It is attached.

15 Comments from the group -- we

16 encourage comments from the group. We went

17 from 0 last meeting to 18 this time, which

18 was a very pleasant surprise. The comments
19 provided by the workgroup participants
20 included women's perceptions of construction
21 being a dangerous occupation. Another
22 comment -- the need for experienced and

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1 trained women acting as mentors to newly
2 recruited women workers. The issues of
3 harassment and workplace violence. Other
4 comments -- women's strengths and
5 capabilities in construction-related
6 activities, such as industrial hygiene,
7 engineering, support-type activities that
8 women can provide useful services in
9 construction, not only the common laborer

10 down in the hole.

11 Appropriately fitting, personal

12 protective equipment, such as sizes, weight

13 distribution, those kind of issues, were

14 discussed in depth. Ergonomic issues and

15 concerns, such as power tool weight, handling

16 some of these power tools, the vibration

17 results, things like that. And then fall

18 protection harness manufacturers' failure to

19 provide appropriate instruction in the use of

20 that equipment by male versus female

21 construction workers.

22 Some suggestions of the group:

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1 create a resource page on the OSHA website to

2 include links to women in construction groups
3 and associations. Another suggestion was
4 create a PPE supplier directory for women
5 construction workers and contractors to
6 access for their needs. Also, to update the
7 1999 HASWIC study entitled Women in the
8 Construction Workplace Providing Equitable
9 Safety and Health Protection.

10 She wanted -- the group feels that
11 it was a great document at the time; it needs
12 to be currently updated.

13 Another suggestion -- invite a few
14 manufacturer supply representatives of PPE to
15 the next ACCSH meeting. And to address and
16 inform the workgroup of the differences, the
17 options, the availability, and future
18 developments in PPE for the male versus
19 female workers.

20 And it unanimously recommended that
21 the workgroup meet again during or prior to
22 the December 2008 ACCSH meeting.

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1 We adjourned at 12:00.

2 MR. SMITH: Thank you. And they had
3 18 people in attendance at this meeting, which I
4 felt was outstanding. Very good.

5 You heard two recommendations:
6 basically, one, that they have another
7 meeting; and two, that they invite someone
8 from equipment manufacturers to come in and
9 address them with issues regarding females,
10 women in construction, and safety equipment,
11 and development of.

12 Can we get a motion that we accept
13 that report? Do I have a motion?

14 MR. MIGLIACCIO: So moved.

15 MR. SMITH: Second?

16 MR. BRODERICK: Second.

17 MR. SMITH: Any discussion? Thank

18 you. All in favor, say aye.

19 SPEAKERS: Aye.

20 MS. SHORTALL: Then, Mr. Chair, I'd

21 like to then enter into the record as

22 Exhibit 0004 the Diversity Women in Construction

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1 Workgroup meeting report from September 9, 2008.

2 An appendix of that report will be the

3 following. As 4.1, Women in Construction,

4 Occupational Health and Working Conditions by

5 Laura Welsh, et al. WAIWC Fact Sheet No. 1 as

6 4.2. NAWIC Fact Sheet No. 2 is 4.3. An article

7 entitled "Women in Construction," by Mark Avera

8 is 4.4.

9 A directory by Ontario Women's

10 Directorate on where to find PPE for women is

11 4.5. A PowerPoint presentation to the

12 Diversity Workgroup by Carmen Shafer is 4.6.

13 And NAWIC Fact Sheet 3 is 4.7.

14 MR. SMITH: Thank you. That will be

15 done. Also, I forgot to mention that the

16 residential fall protection workgroup had 27

17 people in attendance. I mean, the attendance at

18 our workgroups was phenomenal. And -- you know,

19 it gives you a lot of viewpoints and helps you

20 make a very informed decision. And we

21 appreciate that a lot.

22 Silica. Thomas Shanahan

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1 MR. SHANAHAN: Thank you,
2 Mr. Chairman. We had also a good meeting.
3 We're making progress, which I'm happy to
4 report. The minutes are coming around. Just
5 kind of a little review of the meeting itself.
6 We had a really good meeting last time, where we
7 set up the groundwork for some of the things
8 we're going to be doing going forward.

9 In particular, two things emerged.
10 The idea of creating a matrix to identify
11 silica exposure activities and work practices
12 that address reducing or eliminating them.
13 The real thinking is that there's a
14 tremendous amount of varied exposures with
15 regard to silica, and that's what makes the
16 standard so difficult. And so the workgroup
17 thought that it's important to look at -- and
18 I think even to propose a draft OSHA
19 standard that was issued a few years
20 ago -- categorized exposures from high,

21 medium, and low.

22 And so the group thought that we

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1 really should not focus all of our energies
2 at the high exposures, because those are
3 probably well-identified. And what you're
4 supposed to do is also well-identified. But
5 kind of go more towards the medium exposures,
6 which are random and a lot of different
7 industries have them. And discussion ensued
8 about the fact that many workers aren't even
9 aware, and employers aren't even aware of
10 silica being the danger that it is.

11 And so the idea was to create this
12 matrix, which Walter Jones offered to do a

13 draft of. And I accepted that offer. And
14 what we're going to be doing is looking at
15 exposures on one side, and then looking at
16 reduction methods on the other side. And
17 trying to plug -- not only identify gaps
18 where there aren't ideas and then start
19 plugging in what we think would be good work
20 practices to do that. I think that would be
21 very helpful.
22 There was some discussion that

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1 maybe that would even be something that
2 eventually could be used as a non-mandatory
3 appendix to the rule, if there ever is a
4 rule. But in the meantime there would be

5 something out there that starts giving some
6 guidance to employers and workers on what to
7 do to reduce these exposures.

8 So that was the matrix idea.

9 Another -- getting to the other big point
10 that the committee dealt with was the idea of
11 awareness building. Like I mentioned before,
12 just the idea that so many workers out there
13 are exposed to silica and don't even really
14 realize the danger that it really and truly
15 is. So what we can do about that. To that
16 end we started talking about the various
17 publications that OSHA and NIOSH already
18 have.

19 So Matt, I was going to come to you
20 to talk to you about getting some of those
21 things. And what we also want to do is then
22 take those documents and try to plug them

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1 into the matrix that we create so that we
2 really start creating something that provides
3 a good solution to folks.

4 We also talked about some of the
5 new regulations. CalOSHA just came out with
6 a rule. New Jersey apparently has a law, as
7 well. And so the group has decided to look
8 at those laws carefully to see if there's any
9 direction or help that we can get from there
10 and include that in our report as well.

11 So there are no real specific
12 actions to bring to ACCSH at this time, but
13 we are going to meeting in the interim. Like
14 I said, Walter is going to do that draft and
15 send it to me. I'm going to send it out to
16 all the committee members who attended this
17 meeting. We had about 10, and we had about
18 20 last time. So we have a good list of

19 folks to include on this workgroup. And
20 hopefully a number of them will continue to
21 participate and move the ball further down
22 the field on this.

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1 MR. SMITH: Thank you. It sounds like
2 you had a very good meeting.

3 MR. SHANAHAN: It really was.

4 MR. ZWOLAK: Just one minor change to
5 the minutes, Tom -- well done, by the way -- is
6 that my offer was to have someone from DSG, OSHA
7 Standard and Guidance, ask them to come to the
8 next meeting to provide an update versus DOC.

9 MR. SHANAHAN: Oh, okay.

10 MR. ZWOLAK: A minor point. But just

11 to correct the minutes. And again, well done.

12 MR. SHANAHAN: Great. Thank you, sir.

13 MR. SMITH: Very good. And I think

14 his recommendation is that this subcommittee

15 meet again.

16 In fact, I think OSHA is bringing

17 some information. Very good. Very

18 worthwhile. And 10 people at a meeting on

19 silica is excellent. Congratulations.

20 MR. SHANAHAN: Yes. Thanks.

21 MR. SMITH: All in favor of accepting

22 the report?

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1 I need a motion to second.

2 I'm sorry.

3 MR. KRUL: I make a motion.

4 MR. SMITH: I'm getting ahead of

5 myself. Thank you, Bob.

6 Second?

7 MR. MIGLIACCIO: Second.

8 MR. SMITH: Thank you, Frank. All in

9 favor, say aye.

10 SPEAKERS: Aye.

11 MR. SMITH: All opposed?

12 Motion carries.

13 MS. SHORTALL: And I would like to
14 have this silica workgroup meeting report from
15 the September 9, 2008 meeting entered into the
16 record as Exhibit 0005 of the previously
17 identified docket.

18 MR. SMITH: As I mentioned earlier,
19 and you've already observed this morning, I'm
20 sure our outline is a work in progress. It is
21 subject to change, and that's written on each
22 one of them. And it does change. We do have a

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1 presentation coming in at 10:30, and we will
2 stop at 10:30 for that presentation. But until
3 then we're going to continue with workgroups.

4 At this time, is Trenching ready to
5 report?

6 MR. RUSSELL: I can report. I don't
7 have a formal presentation. I don't have a
8 formal written report, but I can report.

9 MR. SMITH: Okay.

10 MR. RUSSELL: We had our meeting. We
11 had 22 people in attendance. A presentation was
12 made by Steve Hawkins on State Local Emphasis
13 Programs. And he gave a detailed presentation
14 on what different states are doing as it relates
15 to trench safety from the different OSHA offices

16 and state OSHA offices.

17 He highlighted activities of

18 Tennessee, North Carolina, Virginia, and

19 Oregon, and stated that a number of the

20 states actually have excellent information on

21 their websites. There was also a request

22 made to OSHA to consider putting links to the

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1 different state websites on the OSHA

2 Trenching website, so that if anyone wanted

3 additional information on trenching, they

4 could actually go to the OSHA website and

5 connect to the different state websites.

6 Also, he gave a pretty good

7 detailed presentation on how a number of

8 states are actually educating their employees
9 in trench safety awareness. In some cases,
10 OSHA employees are becoming very active in
11 enforcing and also giving out fines and other
12 things to enhance trench safety.

13 As a matter of fact, he even
14 presented some statistics where trench safety
15 is decreasing as a result of all of this
16 activity.

17 Also, he mentioned that he will
18 continue collecting activities from the
19 different states and will give updated
20 reports in future ACCSH workgroup meetings
21 because, again, he did not have information
22 from all states, but he did have information

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1 from a number of them.

2 We also passed out a list of
3 trench-related accidents in 2008. And we
4 gave some details as to those accidents. And
5 the accidents even went beyond fatalities.
6 So that was excellent information in terms of
7 the industry having an understanding of what
8 is the cost for some trench accidents.

9 We also discussed some trench
10 videos. And a recommendation as made that
11 the committee consider any videos it can get
12 on trenching where there was a trench
13 accident, that we think about putting some of
14 those up on YouTube. A number of the public
15 uses YouTube on a regular basis, and that
16 would be a way of getting some free
17 advertisement as it relates to trench safety.
18 So we would encourage anyone who has any
19 videos on trench safety to either get them to
20 the committee, or actually post them up on
21 YouTube and let the committee know about it.

22 We explored a number of additional

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1 things we can do in relation to the special
2 emphasis program. A request was made that
3 OSHA -- Federal OSHA continue its special
4 emphasis program because it was felt as
5 though it was having an impact on trench
6 safety, and that program should continue.

7 We made a request to have the
8 Office of Communication attend the next
9 workgroup meeting to explore some outreach
10 possibilities. Also, the committee discussed
11 a number of outreach possibilities that it
12 will explore on its own. And the meeting
13 ended at roughly 10:15.

14 MR. SMITH: Thank you, Emmett. How
15 many did you say you had in attendance?

16 MR. RUSSELL: Twenty-two.

17 MR. SMITH: Twenty-two. Fantastic. I
18 can't say it enough how delighted I am with the
19 attendance at our workgroup meetings.

20 Yes, Dan?

21 MR. ZARLETTI: This is Dan Zarletti
22 with Kenny Construction. As co-chair of that

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1 group, I wanted to make sure that we understood
2 that by asking OSHA that we wanted to have them
3 continue the emphasis program for trenching and
4 excavation safety, we also need to add to that a
5 training component that begins to assess the

6 proficiency levels of all the people exposed to
7 the hazards that are inherent in trenches and
8 excavations in our country.

9 So I wouldn't want to just have the
10 same old thing done. I'd want to have the
11 emphasis program along with a training
12 component that would get involved in
13 evaluating the proficiency level of the
14 people exposed.

15 MR. SMITH: Thank you. Emmett, can
16 you submit your notes to Sarah for inclusion
17 into the minutes?

18 MR. RUSSELL: Yes, I will.

19 MR. SMITH: Okay. Thank you.

20 MS. SHORTALL: Are you going to type
21 them out or just --

22 MR. RUSSELL: I would like to type

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1 them out and submit them to you before the end
2 of the day.

3 MS. SHORTALL: Okay. Well, then, why
4 don't we go ahead and give you --

5 MR. SMITH: Okay, let's get them
6 accepted. Do I have a motion that the report be
7 accepted?

8 MR. KAVICKY: Motion to accept.

9 MR. SMITH: Motion to accept. Second?

10 MR. BEAUREGARD: Second.

11 MS. SHORTALL: And I would ask that we
12 have that report that will be submitted to me as
13 Exhibit 0006 in the previously mentioned docket.

14 MR. SMITH: All in favor of accepting
15 the report?

16 SPEAKERS: Aye.

17 MR. SMITH: Thank you. Any opposed?

18 Thank you very much.

19 Any other comments about the
20 report? Or questions? Thank you very much.
21 Good job, guys. I appreciate that.
22 Okay. Our next presenter is here,

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1 and I like people that are early. So I
2 appreciate so much you being early.
3 Maureen Ruskin will be giving us a
4 report on -- let me get to it -- Revision of
5 Hazard Communication Standard to Adopt
6 Globally Harmonized System. And we
7 appreciate so much you being here. And I'll
8 turn it over to you at this time.
9 MS. RUSKIN: Thank you. One, I want
10 to let you know that the work done on this

11 modification is through the hard work of many

12 OSHA staff members.

13 And I'm here to present this to

14 you. And let's get started.

15 All right. The Global

16 Harmonization Classification System that we

17 are planning to propose to adopt into our

18 hazard communication program is a new

19 approach to classifying and communicating

20 chemical hazards. And this includes

21 harmonizing internationally the definition of

22 the hazards, specifying clear cut criteria

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1 for labels, and harmonizing the format for

2 safety data sheets.

3 This is not -- GHS is not a
4 proposed standard, but it is criteria that
5 have been brought together through
6 years -- decades of negotiations -- that can
7 be brought into countries' current systems.

8 And this is at the point of the process we
9 are at to bring it into our own hazard
10 communication standard.

11 So GHS will give us many
12 advantages. Since it is using the safe
13 definitions from country to country, and very
14 clear-cut criteria for the hazard
15 determinations, chemicals will have the same
16 classification no matter where they are
17 coming from and whoever is seeing the label.
18 It will provide the same basic information on
19 the labels and on the material safety data
20 sheets which the name has been changed
21 slightly to safety data sheets. Just for a
22 little bit of confusion.

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1 We expect that this will bring many
2 safety and health -- improve the protection
3 in safety and health through reduction of
4 confusion and increased comprehension of the
5 hazards. That this will then create better
6 management systems for downstream employers
7 to be able to choose their chemicals wisely.
8 It should also facilitate training since
9 everything coming in will look similar. And
10 it should also help some literacy problems
11 with multiple languages since it includes
12 pictograms and the same signal words on all
13 the labels.

14 This started over 25 years ago with
15 our own hazard communication standard, where
16 we recognized that having an international

17 system would facilitate trade and also
18 improve safety and health.
19 And we actually made a commitment
20 in the preamble that we will continue to
21 update hazard communications, the
22 communication standard, as new information

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1 came forward. It then continued through
2 years of trade negotiations. And in 1992,
3 the U.N. Mandate adopted the GHS principles,
4 and that led to another 10 years of
5 negotiations until around 2003 the U.N.
6 adopted the GHS principle with the idea of
7 implementation by the year 2008.
8 The U.S. has been part of the

9 process from pretty much day one where we've
10 not only supported it but we were actively
11 participating in it. Now, in 2008, you see
12 several countries throughout the world
13 implementing GHS, including this past week,
14 the EU has adopted it.

15 So where are we now? Well, I'm
16 sure many of you have heard talks on GHS in
17 the past. So we did publish an advance
18 notice of approvals rulemaking back in 2006
19 in which we received over 160 comments. The
20 majority of these were in favor of adoption,
21 citing enhanced protection, streamlining
22 training, and reducing costs. However, there

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1 were some concerns, which probably does not
2 surprise anyone. Concern about the cost of
3 implementation, what will our phase-in timing
4 be, and what impacts this will have on other
5 standards that OSHA has.

6 There were also concerns about
7 outreach, which we will be addressing, but it
8 is outside of this rulemaking process.

9 We proceeded with a peer review of
10 the economic analysis back in November of
11 last year, which Bob Burt will review later
12 in this talk. And our next steps are we are
13 at the point of internal review on the
14 modified hazard communication standards,
15 which reflect GHS. It will then go through
16 normal rulemaking procedures with the comment
17 periods, the information public hearings, and
18 then onto final rulemaking.

19 So what is this change? Well, the
20 main change is that we are changing from a
21 performance-oriented standard to a

22 specification-oriented standard. And instead

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1 of having some loosely worded
2 classifications, now the classifications will
3 be dictated by criteria such as flashpoint or
4 other analytical methods. These
5 classifications will then dictate the
6 material that will go onto the labels, and
7 that will be in the form of pictograms,
8 hazard statements, and precautionary
9 statements. This will also dictate the
10 information that will go onto a standardized
11 format on the safety data sheet. And I'll
12 get into that in just a little bit more
13 detail.

14 However, the main scope of the
15 hazard communication standard will not
16 change. It will also maintain the same basic
17 structure that a manufacturer will have to
18 classify the chemicals. They'll have to send
19 this information out on the labels and the
20 data safety sheet. The employers will have
21 to maintain the safety data sheet and train
22 their employees. All that will remain the

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1 same.

2 The implementation that we are
3 looking at is effective three years after the
4 final rule for the revised provision and two
5 years for training, so that the employees

6 will know what they are looking at when the
7 material comes in.

8 This is just a description of how
9 it will work. You will have Appendix A and
10 Appendix B, which are detailed descriptions
11 of what each hazard classification is. An
12 employer will designate the hazard category
13 for each chemical. That will then determine
14 what goes on the label and the safety data
15 sheet.

16 So on the left in the black is
17 currently what one might see. It's a little
18 difficult to see.

19 I'm sorry. With just some basic
20 information. This is current. When you
21 would go to the modified hazard communication
22 standard that incorporates GHS, you will then

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1 have a more complete label with the pictogram
2 so that people can easily identify the
3 dangers.

4 And the safety data sheet format.
5 This is modeled after ANSI, so many people
6 are already seeing this format. However, it
7 will become mandatory. And this way, any
8 time an employer gets a SDS, it will look the
9 same in that all the headings will be the
10 same every time and in the same order. OSHA
11 is proposing that Sections 1 through 11 and
12 Section 16 will be mandatory. To maintain
13 harmonization, we are also proposing 12
14 through 15, but they will be non-mandatory
15 because they are outside our jurisdiction.

16 One of the major concerns that we
17 had in the comments from back in 2006 was how
18 does this affect other standards? We did a
19 very thorough review of all of OSHA

20 standards, and we found that we didn't have
21 impact on other standards. And they came
22 into three or four broad categories. One,

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1 where other standards used terminology and
2 definitions that were similar to GHS in the
3 HAZCOM.

4 The other one was where a standard
5 actually takes a definition from HAZCOM to
6 define their scope. And then there was a
7 third where there is essentially no impact or
8 the subparts were self-contained.

9 And I will go through how we
10 handled each one -- or are proposing to
11 handle each one. In the substance specific

12 standards, we are proposing that the
13 workplace signs and labels reflect the GHS
14 terminology. And this is mainly since all
15 the labels will be coming in with uniform
16 language to help improve the employees'
17 comprehension. We thought in the workplace
18 they should also be seeing similar language.

19 An example is a sign for a
20 regulated area for cadmium. If you notice,
21 the main change is going from cancer hazard
22 to may cause cancer. And here, we notice

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1 that throughout the standards, we had several
2 different ways of alerting people that it was
3 a cancer hazard. From cancer hazard, to

4 cancer suspect agent, to may cause cancer,

5 now it will only be may cause cancer.

6 Another change in the

7 substance-specific standard that we are

8 proposing is that each one will have a

9 generic hazard communication statement

10 referring to HAZCOM, and also just alerting

11 the employers of the minimum health effects.

12 We are also proposing to change

13 language in some standards to maintain scope.

14 The main example on this is from the process

15 safety management standard, PSM, where we

16 reference HAZCOM for the definition. If we

17 did not change this, we might bring new

18 chemicals into the scope of PSM. This was

19 done simply by bringing in the terminology of

20 GHS, such as for the flammable gas. We now

21 just say category 1 flammable gas. And in

22 the case of flammable liquids, we actually

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1 put in the flashpoint that is applicable to
2 the standard.

3 This one was a little bit more
4 complicated, and one of our more difficult
5 problems to figure out -- how to deal with
6 the many definitions we had for flammable and
7 combustible liquids. In subpart F, we
8 actually have two sets of definitions. One
9 is based on NFPA, which -- I know this is
10 difficult to see, but we have Class 1A,
11 Class 1B, Class 1C for flammable, and then
12 combustible is Class 2 and Class 3.

13 In the definitions in 1926-155, we
14 had just two broad categories, where
15 flammable liquids were any liquid under 140
16 degrees Fahrenheit, and combustible liquids

17 were above 140 degrees and below 200. This
18 is also different than our hazard
19 communication definition of flammable liquid
20 of less than 100 degrees and combustible
21 between 100 and 200 degrees Fahrenheit.
22 Through GHS, we are proposing to

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1 harmonize these definitions and just use one.
2 And these are the four categories; one
3 through four, all were flammable liquid under
4 200 degrees Fahrenheit. We are removing the
5 term "combustible liquid" since it is not
6 used in GHS other than as a hazard statement,
7 and we thought it might be confusing if we
8 kept that in the definition. And we are

9 maintaining the scope of the flammable liquid
10 standards by combining the flashpoint cutoffs
11 with the GHS categories.

12 And I have an example there of
13 where Category 2 or 3 flammable liquids with
14 a flashpoint below 100 would be equivalent to
15 Class 1B and 1C liquids in the original
16 standard.

17 There are some standards we have
18 opted not to modify at this time. One is the
19 electrical standards in subpart K. And they
20 do not reference hazard communication
21 standards or the standard safety data sheets.
22 And we were concerned that these

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1 modifications might conflict with local
2 wiring codes. We are also at this point not
3 making changes to the definitions in
4 subpart U. These currently reference DOT for
5 their definitions.

6 So what is the major effect that
7 this will have on construction? We believe
8 that it is not a large effect in what people
9 will need to do. You will receive new labels
10 that will look different, and that employers
11 will have to train the employees on the
12 pictograms, the hazard statements, and the
13 signal words. We believe that there will be
14 some training needed for the new format for
15 the safety data sheets; however, as I said
16 before, this is modeled after ANSI, and many
17 of these sheets -- many manufacturers are
18 following this format.

19 And the employers will need to
20 continue to maintain current safety data
21 sheets as they come in.

22 This is a current requirement, and

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1 we feel that this will need to be maintained.
2 Employees -- they will see the new labels.
3 We believe that there may be an added benefit
4 since we are harmonizing, not only
5 internationally, but with our other U.S.
6 Agencies, such as EPA and Consumer Safety
7 Product Commissions, that this may help also
8 in their everyday life on labels that they
9 would see at home.

10 At this point, I'm going to turn
11 this over to Bob Burt, who will discuss in
12 more detail the costs and benefits to
13 construction.

14 MR. BURT: Hi, Bob Burt, OSHA's Office

15 of Regulatory Analysis.

16 Basically, what I'm going to talk
17 about for just a couple of minutes is how we
18 tried to quantify some of the things that
19 Maureen has discussed about what would be
20 required.

21 In terms of cost to the
22 construction sector, which is almost entirely

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1 a user sector rather than one that generates
2 SDSs, we saw two kinds of costs. One which
3 we broadly called management familiarization
4 and program adjustments.

5 And that's the fact that whoever
6 manages the HAZCOM program should spend a

7 couple of hours familiarizing themselves with
8 the new standard, getting up to speed, seeing
9 if he needs to make any changes to his
10 written program.

11 The second area that we saw costs
12 was any employees who currently receive
13 HAZCOM training would need 30 minutes to go
14 over this new material involving the
15 pictograms, the organization of the SDS, so
16 that they would be familiar with it. And we
17 saw these as one-time costs. In fact, we
18 would argue that probably training in the
19 future will be easier as a result of having
20 this system in place than it is now. But we
21 did not explicitly take that as a benefit.

22 So this is a kind of -- at least

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1 for OSHA -- a kind of unusual role in the
2 sense that if you just -- it affects millions
3 of establishments. It affects tens of
4 millions of employees. If you just do the
5 simple multiplication, that comes to millions
6 of dollars in cost. On the other hand, we
7 did not consider it -- we do not consider it
8 a significant impact in terms of small
9 business. We just don't -- sure, it affects
10 a substantial number, but by the criteria
11 we've set for significant impacts, giving
12 your employees half an hour of training once
13 does just not rise to the level of a
14 significant impact.

15 As Maureen has mentioned several
16 times, and let me summarize it in my narrow
17 economic sense, our basic approach to all our
18 revisions to the other provisions was to
19 absolutely minimize any possible costs. We

20 are not changing the scope or the
21 requirements of any other provision. The
22 only costs that will show up there are costs

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1 associated with changing a sign or changing a
2 label.

3 Benefits. We see two forms of
4 benefits. Health and safety benefits, we
5 estimated approximately as one percent or
6 more of the kinds of benefits we estimated
7 for the original HCS. We see this as just a
8 very rough way of quantifying the effects of
9 the fact that we feel that the pictograms
10 will be more effective than the current kinds
11 of labels. And there's quite a bit of

12 research supporting that, and that the SDSs

13 will be easier to use.

14 We also saw cost savings,

15 particularly in reduced time needed to store

16 chemicals properly, because the new SDSs will

17 be more efficient and easier to use.

18 And that's basically what we've

19 done on the economic analysis. We also

20 estimate the benefits would significantly

21 exceed the cost and would do so even under a

22 variety of different assumptions here.

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1 So that's what we have.

2 MR. SMITH: Thank you very much for

3 that report. Can you give us any details on

4 what the material safety data sheets will look

5 like?

6 MS. RUSKIN: Yes. In the packet that

7 I sent you, there was an outline of each section

8 for the material safety data sheet. It will be

9 16 sections where you have the identification of

10 the material, the hazards, the composition,

11 first aid, firefighting measures, accidental

12 releases. Sorry about that. Handling and

13 storage, exposure and controls, and personal

14 protection section. Physical and chemical

15 properties, stability and reactivity, the tox

16 information, and then we go into the

17 non-mandatory section. The ecological

18 information, disposal, transport, and then other

19 regulatory information. And finally the last

20 section -- it would just be other information.

21 So again, this is a format very,

22 very similar to what ANSI has other than -- I

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1 think Section 2 and 3 are flip-flopped.

2 MR. SMITH: The main thing is they

3 will all look alike, right?

4 MS. RUSKIN: They will all look alike,

5 yes.

6 MR. SMITH: Wonderful.

7 MS. RUSKIN: And that way, when

8 somebody goes to try to find something, it'll be

9 in the same spot.

10 MR. SMITH: Very good. Other

11 questions for our presenters? Mike first and

12 then Frank.

13 MR. THIBODEAUX: Mike Thibodeaux, I'm

14 sorry. The new signage that's going to need to

15 be on the sites, are those going to be

16 standardized and prepared through OSHA? Or is

17 this going to be an outside third party that's

18 going to do this?

19 MS. RUSKIN: We anticipate that it
20 would be the same as it currently is, which I
21 believe is outside third party.

22 MR. THIBODEAUX: Okay.

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1 MS. RUSKIN: We don't anticipate any
2 change in that.

3 MR. THIBODEAUX: So then everyone is
4 going to have to replace all their signs on
5 their construction-sites to coincide with that.
6 And that's three years from whenever you decide
7 to implement this. Is that correct?

8 MS. RUSKIN: At this point, yes. That
9 is what we're proposing.

10 MR. THIBODEAUX: Okay.

11 MR. SMITH: Frank? I'm sorry, go

12 ahead.

13 MR. THIBODEAUX: Second question is, I

14 know you said outreach was not part of this.

15 MS. RUSKIN: Well, it's not part of

16 rulemaking, but we will be spending considerable

17 resources on outreach material.

18 MR. THIBODEAUX: So that will be able

19 to go out from OSHA to the construction arena

20 and to the contractors and such so that they

21 will know exactly what they need to teach

22 specifically?

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1 MS. RUSKIN: Yes.

2 MR. BURT: Yeah, I just wanted to add
3 there that while we don't consider this a
4 significant impact on small business, we
5 consider this one of our most important small
6 business outreach efforts, because it will
7 affect so many small businesses. And we're
8 planning over the long-term to do a variety of
9 things to make it easy to comply with this.

10 MS. RUSKIN: Yes.

11 MR. SMITH: Thank you. Frank?

12 MR. MIGLIACCIO: Frank Migliaccio.
13 First, let me state that I like what you've

14 done.

15 MS. RUSKIN: Thank you.

16 MR. MIGLIACCIO: I just would like to
17 know why 12, 13, 14, and 15 were non-mandatory.

18 MS. RUSKIN: They're just outside
19 OSHA's jurisdiction. And they will be in the
20 standard. They have to be part of the format of
21 the safety data sheet. But OSHA will not be
22 regulating what's on it.

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1 MR. MIGLIACCIO: Thank you.

2 MR. SMITH: Thank you. Other

3 questions? Yes, sir, Bob.

4 MR. KRUL: Bob Krul. First of all, I

5 think you're going to find, for a change, broad

6 base support for this proposal. I don't think

7 you're going to see a lot of infighting going on

8 here with what you guys have done. You've done

9 a great job, and I think it's going to simply

10 things a lot.

11 I just have one question regarding

12 storage requirements. Would that change

13 under this proposal? The quantities that are

14 able to stored in cabinets or indoors?

15 MS. RUSKIN: How we've handled that
16 is, as I've said, we're going to combine the GHS
17 categories with the flashpoints. So we do not
18 anticipate any major change in the quantities
19 stored.

20 MR. KRUL: Okay. Thank you.

21 MR. SMITH: Thank you. Steve?

22 MR. HOPKINS: Steve Hopkins, from

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1 Tennessee. Are there any requirements in the
2 locally harmonized system for placards for
3 non-containerized gasses? We have a requirement
4 in our HAZCOM standard in Tennessee that's a
5 little different from the federal standard in
6 that it requires placards for non-containerized

7 gasses produced in the workplace, such as
8 welding fumes and carbon monoxide from lift
9 trucks. And I just wonder if there was anything
10 that addressed that that we would need to align
11 our standards with?

12 MS. RUSKIN: GHS is mainly outside the
13 workplace for materials that are going from one
14 site to another, and does not address all the
15 hazard signs in the workplace. So there should
16 not be an incompatibility there.

17 MR. HOPKINS: Okay. Thank you.

18 MR. SMITH: Thank you. Other
19 questions? Yes, sir, Tom.

20 MR. SHANAHAN: I have two questions.
21 Did you say -- Tom Shanahan with NRCA -- when
22 the NPRM was coming out?

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1 MS. RUSKIN: No, I didn't.

2 MR. SMITH: What we're doing here
3 today is we're asked to give a recommendation on
4 whether OSHA should proceed with this standard
5 or not. We will be doing that later.

6 MS. RUSKIN: Yes. And we are -- the
7 proposal is in internal review, and we are
8 hoping to move ahead very quickly with this.

9 MR. SHANAHAN: My question -- and I
10 appreciate what you're doing as well -- the one
11 question I had, and I appreciated your comment
12 about the flammability side in trying to get
13 your arms around all of that -- and as I was
14 going through it I wondered with having four
15 categories of flammability -- I mean, it seems
16 like the remedies for all those are pretty much
17 the same. I'm just wondering if keeping that
18 simple and just having it be one might be -- I
19 was just wondering the logic of four.

20 It looks like you're trying to

21 accommodate all those various standards, and

22 I just wonder if collapsing it would be

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1 more -- it would be more easy -- it would be

2 easier on the end of the receiving

3 party -- employees and things.

4 MS. RUSKIN: We thought about that.

5 To have just the categories 1, 2, 3, and 4

6 without the flashpoint cutoffs. However, we ran

7 into difficult with the storage requirements and

8 making major changes there. We decided at this

9 point that it was best to maintain the same

10 cutoffs for that reason.

11 MR. SHANAHAN: Okay. Thanks.

12 MR. SMITH: Yes, sir.

13 MR. BRODERICK: Tom Broderick. I was
14 trying to pay attention to the cadmium example,
15 where it seemed like existing data from the
16 domestic data cadmium -- on what you projected
17 on the screen indicated that cadmium is a
18 carcinogen. It has the possibility to also
19 do -- was it liver and --

20 MS. RUSKIN: Kidney.

21 MR. BRODERICK: Kidney damage. In the
22 globally harmonized version, it said it may

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1 cause cancer. I guess what my question is, have
2 there been occasions where you've had to
3 capitulate where perhaps the use standards and
4 treatment of the hazards and evaluation of the

5 hazards of a particular chemical may differ from
6 the research and the published data that we have
7 here in the states.

8 And if so, how are those
9 disparities handled?

10 MS. RUSKIN: First of all, let me
11 answer this in two parts. The change from
12 cancer hazard to may cause cancer is just
13 aligning the hazard statement. There is no
14 difference in how reviewing cadmium with
15 changing the hazard statement. Throughout the
16 substance specific standards, we say the same
17 thing in many different ways. In this way we
18 are just moving to one. If it is a category 1
19 cancer, it will have a hazard statement that
20 says may cause cancer. And that's the only
21 thing that somebody will see.

22 The other part of your question is

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1 the system that we are pulling in to hazard
2 communication -- no one else is doing the
3 hazard determination. The manufacturers are
4 doing the determination, and it is on all
5 available information that is currently out
6 there. So while we will not be taking any
7 hazard classifications from the employers
8 themselves, we'll be using that information
9 and making their own hazard determination.

10 Does that answer?

11 MR. BRODERICK: I believe so.

12 MS. RUSKIN: Okay.

13 MR. SMITH: Dan?

14 MR. ZARLETTI: This is Dan Zarletti
15 from Kenny Construction. It somehow implies
16 that when it says may cause cancer, that it may
17 not be any longer limited to lungs and liver.

18 Is that the way I'm supposed to read that or
19 not? Where it says -- it previously listed may
20 cause cancer, and then it explained or it
21 actually identified parts of body.

22 MS. RUSKIN: And it still does that.

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1 I can pull that back up.

2 MR. ZARLETTI: I thought it just said
3 may cause cancer.

4 MS. RUSKIN: No, it still says may
5 cause -- instead of saying cancer hazard can
6 cause lung and kidney disease, it will now say
7 may cause cancer. Causes damage to lung and
8 kidneys.

9 MR. ZARLETTI: I see.

10 MS. RUSKIN: So we have the same
11 information. We are just harmonizing how it is
12 said.

13 MR. ZARLETTI: Thank you.

14 MS. RUSKIN: Okay.

15 MR. SMITH: Thank you. Other
16 questions? Okay, Sarah has one.

17 MS. SHORTALL: This is a question that
18 comes up quite frequently in here because we
19 have so many organizations that are so proactive
20 in getting materials out to their members. As
21 part of the outreach program with the materials
22 that you develop in addition to our regional

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1 offices and national getting them out, will they

2 also be put on the OSHA webpage so that employer
3 groups, employee groups can download and use the
4 materials as quickly as possible?

5 MS. RUSKIN: While we haven't
6 finalized what our outreaching material will be,
7 that is the plan, that we will have materials
8 for businesses that they can use to help train
9 their employees.

10 MR. BURT: Certainly we would be
11 planning to put it on the website. And if you
12 look there now, you will find a lot of material
13 on the globally hazard -- excuse me, globally
14 harmonized system. It's a very rich section of
15 the website now if anyone is curious to find out
16 more details.

17 MR. SMITH: Okay. Any other
18 questions? Thank you very much for that
19 excellent presentation and for the work you've
20 done on this. I think you've got a lot of
21 support. We will be discussing and voting on it
22 later on.

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1 MS. RUSKIN: Thank you very much.

2 MR. SMITH: Yes, sir. Tom?

3 MR. BRODERICK: Before we get away, I

4 have one more question. And it was brought up

5 in one of the workgroup meetings yesterday,

6 although we weren't talking about global

7 harmonization. And that is will we see any

8 problems in datasheets? In fact, I think

9 we're -- will we see any problems in datasheets

10 from other countries that will not be in English

11 or will datasheets be available on materials --

12 MS. RUSKIN: I notice that the mic was

13 turned towards me on this one.

14 We don't anticipate that this will

15 change how we receive material data safety

16 sheets. The belief is that since we are
17 harmonizing the hazard statements and
18 precautionary statements, that there will be
19 easier translation and that hopefully the
20 materials that you get from outside the U.S.
21 will be more readable and in English.

22 MR. BRODERICK: Thank you.

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1 MS. SHORTALL: Can I ask a procedural
2 question? Tomorrow morning between 9:00 and
3 9:30, the ACCSH Committee is scheduled to
4 deliberate and develop whatever recommendations
5 they might have about the GHS proposal. If
6 there were any questions that were to arise from
7 the members, then will there be anyone from the

8 GHS group who will be able to be here during
9 that period of time to answer questions?

10 MS. RUSKIN: Yes.

11 MS. SHORTALL: Thank you.

12 MR. SMITH: Thank you very much. And
13 copies are being made for the committee this
14 time of their presentation on those Sarah?

15 MS. SHORTALL: Yes. I'm on it. I'd
16 like to have the hard copy of the PowerPoint
17 presentation on the global harmonizing standard
18 proposed rule by Maureen Ruskin and Robert Burt
19 be entered into record as 0007 of the
20 aforementioned docket.

21 MR. SMITH: Thank you. So done.

22 We're doing an excellent job here of moving

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1 along. We have --

2 MR. ZARLETTI: Can we jump to Parsons?

3 MR. SMITH: By my --

4 MR. ZARLETTI: Can we jump to Parsons?

5 MR. SMITH: Jump to what?

6 MR. ZARLETTI: To Parsons, which is --

7 MR. SMITH: Let's continue with

8 workgroup meetings right now and then we'll

9 break out the schedule.

10 We've got four other workgroups.

11 ROPS, Focused Inspection, OTI, and

12 Multilingual. Are all those groups ready to

13 report at this time? Is everyone ready?

14 MR. BRODERICK: No. Multilingual is

15 not prepared.

16 MR. SMITH: Okay.

17 MR. BRODERICK: Although might I ask,

18 when we left the room yesterday, I was unable to

19 find the sign-up sheet that had gone around.

20 Did anyone inadvertently walk off with the

21 sign-up sheet for that meeting?

22 MR. SMITH: Mike, do you know?

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1 MR. BUCHET: I'll ask Venetta if she

2 has it.

3 MR. SMITH: Good. We'll see if we can

4 come up with it. Okay, at this time then, let's

5 go ahead and do the robot protection structure

6 report. I believe that's Emmett. Is that you?

7 MR. RUSSELL: What's that now? Oh,

8 ROPS?

9 MR. KRUL: That's my fault,

10 Mr. Chairman. I'm distracting him here with

11 another article.

12 MR. SMITH: While he's getting ready,

13 one more time, if you would like to sign in from
14 the back, please do so now to make public
15 comments.

16 I'm sorry, Emmett. Go ahead.

17 MR. RUSSELL: Okay. For the ROPS
18 workgroup, we actually had 11 people attending.
19 And we had a presentation by the Association of
20 Equipment Manufacturers. And specifically, one
21 of their manufacturers, which is Bobcat, gave a
22 presentation from their perspective on the ISO

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1 standards that apply to skid steer loaders as it
2 relates to rollover protective structures. And
3 basically, all skid steer loader manufacturers
4 are in fact putting ROPS -- rollover protective

5 structures -- on their machines. So in terms of
6 trying to formulate some type language to move
7 forward with the exclusion is the task the
8 workgroup has to do as it relates to skid steer
9 loaders.

10 He did mention that there was some
11 controversy among the contractors -- I mean,
12 among the manufacturers -- as it related to
13 backup alarms, so we'll have to have some
14 discussion on that, even though that's not
15 our task -- in terms of trying to develop
16 language to deal with rollover protective
17 structures on skid steer loaders.

18 He also, at our request, did a
19 presentation as it related to compact
20 excavators. The group is going to look at
21 compact excavators as it relates to rollover
22 and rollover protective structures. His

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1 presentation related that there are two
2 issues with the compact excavators.
3 One is that there is a tip over
4 standard that applies. And some
5 manufacturers looking at rollover protective
6 standards -- because in most cases, if
7 equipment that comes in the realm of compact
8 excavators actually go over, in most cases,
9 it's just a tip over and they don't
10 necessarily roll. So in terms of looking at
11 that, we may have to compare tip over
12 standards as it relates to rollover
13 standards.

14 But again, good meeting. The
15 committee deliberated on a number of those
16 items as presented by the manufacturers. I'd
17 like to especially thank the manufacturers
18 and the Association of Equipment

19 Manufacturers for appearing. And I will
20 prepare a written report to be turned in by
21 tomorrow.

22 MR. SMITH: Thank you. The other

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1 question I've got, do you think the group should
2 continue?

3 MR. RUSSELL: Yes, the group should
4 continue, because I think we have a lot of -- we
5 have to develop recommendations to OSHA as to
6 how we deal with that. The current standard
7 exempts skid steer loaders, and the current
8 standard does not address compact excavators.

9 And I think the group needs to give
10 recommendations as to how OSHA should deal with

11 that as it relates to the current standard.

12 MR. SMITH: Okay. You've heard the

13 report. Is there a motion we accept it?

14 MR. KAVICKY: Motion to accept.

15 MS. ARIOTO: Second.

16 MR. SMITH: Thank you. Motion and a

17 second. Any discussion? Any comments on the

18 report?

19 Yes, Tom?

20 MR. BRODERICK: I just had one

21 question for Emmett. Skid steer loaders that do

22 have a bonnet or a cage on it, are those built

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1 to act as rollover protective structures?

2 MR. RUSSELL: Yes, they are. And

3 interesting, the standard addresses rubber tire,
4 and actually, a number of the machines, a high
5 percentage of the machines are actually rubber
6 track machines. So again, that's something also
7 we have to take a look at, even though the
8 standard addresses rubber tire.

9 MR. BUCHET: I was part of the
10 discussion. In another lifetime, I actually
11 operated Bobcats. That's one of the points of
12 confusion. We asked the industry what the
13 definition was for a skid steer, and it includes
14 rubber tire and track machines. And obviously,
15 OSHA's definition was only considering rubber
16 tire machines.

17 MR. RUSSELL: And as a matter of fact,
18 when I turn in the report, I will turn in -- we
19 did get those definitions for compact excavator
20 and also a definition for what a skid steer
21 loader is. And I will turn that in with the
22 report also.

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1 MR. SMITH: Okay. Thank you very
2 much. All in favor of accepting the report, say
3 aye.

4 SPEAKERS: Aye.

5 MR. SMITH: All opposed, likewise?

6 MS. SHORTALL: Mr. Chair, I would
7 request then that the ROPS workgroup report that
8 Mr. Russell will be reducing to writing be
9 entered into the record as Exhibit 0008 of the
10 previously mentioned docket.

11 MR. SMITH: Without objection, so
12 done. Focused Inspection, Frank?

13 MR. MIGLIACCIO: Focused Inspection
14 did not meet yesterday. When I got to the room,
15 there was nobody in there so we didn't meet.

16 MR. SMITH: Okay.

17 MR. MIGLIACCIO: Talking to Dan, we
18 feel as though we should keep the group open,
19 because sooner or later, something is going to
20 come up.

21 MR. SMITH: You mean to keep it open,
22 just schedule meetings if something does come

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1 open? Okay. Okay, you've heard the request.
2 No meeting was held. And if they come up with
3 items to discuss, we will schedule a future
4 meeting.

5 MR. SHANAHAN: Could I just ask a
6 question?

7 MR. SMITH: Sure.

8 MR. SHANAHAN: Because I was wondering
9 myself. What is the focus inspection -- the
10 charge of that group?

11 MR. SMITH: Frank?

12 MR. MIGLIACCIO: The focused
13 inspection is when the compliance officers come
14 out and they're actually looking at certain
15 things on the jobsites.

16 To date, I don't think we've had a
17 problem with what they're looking for. At
18 least, I mean, it hasn't been brought to our
19 attention. Mike might be able to expand a
20 little more.

21 MR. SHANAHAN: But, I mean, the
22 workgroup itself is --

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1 MR. MIGLIACCIO: To gather the
2 information and pass it forward. Mike's got
3 some more information, too.

4 MR. BUCHET: If you remember Bruce
5 Swanson as the director of construction, the
6 question came up about -- and we've heard this
7 referring before -- inconsistent use of
8 enforcement mechanisms in the field. In focused
9 inspection, several groups brought to Bruce's
10 attention that feeling that this inspection
11 technique was not being used uniformly
12 throughout OSHA's realm. And the focused
13 inspection workgroup was invited to go out and
14 collect anecdotally the information proving or
15 disproving whether it was uniformly used or not
16 uniformly used.

17 And we have had several meetings so
18 far. Nobody's shown up to discuss the issue.

19 The idea of keeping a workgroup on
20 the books potentially to have a meeting is
21 not necessarily efficient. We could free up

22 some workgroup co-chairs and free up some

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1 meeting room time. The committee is invited
2 to reinstitute a focused inspection workgroup
3 at some point if they would like to. That's
4 up to the committee, and to the chair, and to
5 the co-chairs of the workgroup. But I think
6 that's at least three meetings now where
7 nobody has shown up to discuss the topic.

8 MR. SMITH: Without data, Frank, it's
9 going to be impossible to really discuss. I
10 mean, I agree with what Bruce's contentions
11 were, and I remember it. There is some
12 inconsistency going on from what I hear in the
13 country regarding focused inspections. All

14 regions may not be -- you know, viewing it the
15 same and maybe not be conducting it the same
16 way.

17 You know, how does a focus
18 inspection work and how is it being
19 administered across the country. And I think
20 we would need the committee chairs to ask or
21 recommend to us that we ask as a committee
22 for specific information from OSHA or somehow

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1 have some documentation before we'd really be
2 able to talk about whether there is
3 inconsistency or not.

4 MR. MIGLIACCIO: Just speaking with
5 Dan -- Frank Migliaccio -- just after speaking

6 with Dan, my co-chair, we'll go along with
7 Mike's recommendation and we can end the
8 committee but make sure that if something does
9 come up it's put back into play.

10 MR. SMITH: Okay. Very good.

11 MR. SHANAHAN: Can I just add one
12 thing? Tom Shanahan. The reason I asked that
13 question is because I agree with that premise.
14 I mean, being newer I didn't realize it.

15 Because that's what I hear from our members.

16 So the point that I wanted to
17 follow up on, Mike, is when you mentioned
18 about going out and getting -- was the
19 committee to gather information or -- because
20 I think doing that would be really a good
21 thing. I think we could find a lot of good
22 information out by that. And I think hearing

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1 that charge, I think I'm very supportive of
2 investigating that. But like you said, I
3 mean, we have to get the data. So could we
4 move -- maybe before we get rid of the
5 committee, get some work done. I mean, I
6 would be happy to share experiences that I
7 get through my members if that's the kind
8 of -- you said anecdotal, so that's --

9 MR. BUCHET: That's what it is. The
10 agency has no audit process that's going to say
11 whether the inspections are consistently
12 performed.

13 If you have anecdotal
14 information -- if other association
15 members -- worker organization members have
16 anecdotal information that these inspection
17 processes are not being followed consistently
18 around the country, that was the charge to

19 collect that information in that workgroup.

20 But the workgroup has been in

21 existence now for, I'm guessing three years

22 anyway --

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1 MR. SHANAHAN: Wow.

2 MR. SMITH: We have several

3 associations represented at the table, and also

4 several associations represented in the

5 audience. And let's ask each association to ask

6 their members if they have any examples of

7 focused inspections not being uniformly, you

8 know --

9 MR. MIGLIACCIO: Applied.

10 MR. SMITH: Applied, yes. And if we

11 get any comments back from members, then -- you
12 know, we can have a meeting and perhaps ask
13 someone to come in and discuss it. But until we
14 have that information, we really don't have
15 anything to discuss.

16 MR. SHANAHAN: Well, just to give you
17 one anecdotal thing that I hear consistently,
18 and again, I teach all over the country, is that
19 when we teach about focused inspections and what
20 that means, is that our contractors consistently
21 say when OSHA comes on the jobsite they don't do
22 one. So I'm asking them to -- I say make sure

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1 you ask for it. Show them your safety program.
2 Show them, you know -- so we're pushing you

3 drive it.

4 In other words, contractors -- the
5 foremen drive it. So even that, I think,
6 would be good information to get back. Not
7 all of them, of course, but that's the
8 consistent comment that I'm getting for it.
9 So yeah, I mean, personally, I would like to
10 see it continue only for that reason.

11 MR. BUCHET: As the chairman just
12 mentioned, if the associations in the room bring
13 anecdotes to the committee, they will go to the
14 workgroup to be analyzed. And this workgroup
15 has been in existence, and to our collective
16 knowledge, nobody has brought that information
17 to the committee or to the workgroup.

18 MR. SHANAHAN: Right.

19 MR. BUCHET: So the question of
20 whether or not a focused inspection is being
21 used is not the question the workgroup is
22 charged with. It's when they're being used are

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1 they being used consistently across OSHA's

2 realm.

3 MR. SHANAHAN: So broaden their scope

4 maybe.

5 MR. BUCHET: Well, that's a different

6 discussion.

7 MR. SMITH: At this point, I think if

8 you will allow me, what we will do is leave it

9 open for one more meeting, and we will ask all

10 the associations in the room to please survey

11 their members. You know, through Internet, it's

12 not that hard now, and if anybody comes forward

13 with any information to present, then we -- you

14 know, we will have the meeting; if not, we will

15 cancel the committee. Is that fair enough for

16 everybody?

17 Yes, sir.

18 MR. BEAUREGARD: I just wanted to
19 interject on this. Kind of been in the same
20 position as OSHA on the focused inspection
21 construction cases. You know, we had heard from
22 time to time that it wasn't being complied

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1 consistently in our state, and what we needed to
2 do was we needed to look at the policy because
3 we have mirrored just about Federal OSHA's
4 policy on the focused inspections for
5 construction. And whenever we heard that from
6 somebody, what we would do is we would pull the
7 case inspections that were involved in that
8 inspection. All the focused construction

9 inspections are coded, so OSHA, as well as North
10 Carolina OSHA, can run a listing of all those
11 that were focused inspections.

12 And so when we got an issue where
13 they said, hey, we don't think the policy was
14 being applied on this particular case, what
15 we would do is we would pull that case. And
16 first of all we would see if it was coded as
17 a focused inspection or not.

18 If it wasn't a focused inspection,
19 it won't be coded as a focused inspection.
20 So if we verify that it wasn't a focused
21 inspection, then we look into the case and
22 look into the narrative and find out why.

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1 Our people will put an explanation if it's
2 not a focused inspection, of why. And
3 generally what we were finding was if you
4 look in the policy there's all these
5 qualifications. In order to qualify for a
6 focused inspection, you need to meet these
7 things. And right off the bat, we were
8 finding on a lot of them that there wasn't a
9 universal safety and health program on the
10 jobsite, which will disqualify it right off
11 the bat.

12 And so if you're going to do that,
13 and I think it's fine to look at it,
14 particularly if you're finding there's
15 inconsistencies, but I think one of the
16 things the group will have to do, instead of
17 just getting stories about, hey, we're
18 hearing that -- you know, this isn't being
19 done, I think you're going to have to get
20 specific sites and then be able to pull that
21 data from OSHA and take a look into that case

22 and find out if there's a reason documented

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1 in the file as to why it wasn't a focused
2 inspection so you can see on whether or not
3 it's the perception that it's not being done
4 or whether there's a reason why it wasn't
5 being done. And that's all I would offer up
6 to that group.

7 MR. SMITH: Thank you very much.

8 Tom?

9 MR. BRODERICK: So it would seem to me
10 that the data about focused inspections would be
11 pretty readily available that perhaps if they
12 are coded, the designated federal official for
13 that workgroup could possibly do that research

14 for the next meeting. And I think that that
15 would be very interesting because the industry,
16 from my perspective, responded very positively
17 to the OSHA focused inspections.

18 And anecdotally, Tom Kavicky would
19 probably have a good handle on this also,
20 that the contractors that were the good
21 actors would have their stuff ready and get
22 it reviewed -- and now this is just

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1 Region 5 -- but would have a much expedited
2 walkthrough and moving along. So it was
3 viewed as a great program and it would be of
4 interest, I think to all of us, to see how
5 it's being utilized by the agency.

6 MR. SMITH: Okay. I think we
7 certainly can ask OSHA to provide us information
8 on the number of inspections and percent that
9 were focused. You know, that criteria should be
10 readily available I would think. So we'll ask
11 for that.

12 Any other comments on focused?
13 Thank you. No report being there was no
14 meeting, so we don't have anything we need to
15 put into the record at this point on the
16 meeting.

17 Frank, you're up again on OTI.

18 MR. MIGLIACCIO: Great. The OTI
19 workgroup committee met yesterday. We had 22
20 participants sign in. We had six people -- we
21 had about 28 people in the room. We had about
22 six people who didn't sign in, and we had two

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1 call-ins. Tom Shanahan and myself are
2 co-chairs. Participants came from OSHA,
3 Contractors Associations, ACCSH committee
4 members, Homebuilders Association, Center to
5 Protect Workers Rights, the Painters, the
6 Laborers, Sheet Metal Workers, Construction
7 Safety Council, the Ironworkers, the
8 Boilermakers, the AGC, and the Brotherhood of
9 Carpenters. And there were also 10 ACCSH
10 committee members present.

11 The meeting was called to order at
12 1:45. Those in attendance were asked to
13 introduce themselves. I reported on a
14 discussion that myself and Co-chair Shanahan
15 had with OTI staff, Jim Barnes and Hank
16 Paynes, over the phone several times in
17 between our last two meetings. We reported
18 to the group yesterday that we agreed on the
19 OSHA 10-hour changes we made.

20 They brought some things forward to
21 us three months ago. We actually met there,
22 didn't come to agreement at that meeting, but

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1 in between the meeting we talked with Hank,
2 and Jim, Tom, and myself, and we worked it
3 out and then brought it back to the committee
4 and they agreed.

5 At the last meeting, we actually
6 did agree on the 30-hour language. We didn't
7 have a problem with the 30-hour language at
8 all, and that was also brought forth
9 yesterday. On the 10-hour, what we agreed to
10 was to reduce the suggested hours for PPE and
11 health hazards from an hour to 30 minutes.

12 And that would be required.

13 Now, of course, people are going to
14 spend more time on those areas, but we were
15 trying to make it so we still had that 4-hour
16 wiggle room at the end of the 10-hour course.
17 And we were going to take the stairway and
18 ladders and put it into the optional
19 category. And by doing that and everybody
20 agreeing on it, and Hank and Jim from OTI
21 agreeing on it also, it did go through. It
22 passed.

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1 It was decided that disagreements
2 should be brought to the ACCSH Committee for
3 formal adoption, and we'll make a motion here

4 at the end of this presentation.

5 Yesterday's meeting really centered

6 around the OSHA 500 course itself.

7 Discussion turned to a number of items

8 directed at the OTI staff, Don Guerrero and

9 Ernie Thompson, and they were present by

10 conference call. They called in and we spoke

11 with them.

12 We had eight concerns that we

13 actually spoke about. The first concern was

14 raised about the viability of an online 500

15 course being offered. The issue was how

16 effectively can the train the trainer portion

17 be taught online. OTI staff reported that

18 they have been in contact with the providers

19 and have asked for a report on how they are

20 handling this. Once they receive that

21 response, OTI will make a determination as to

22 its effectiveness and whether or not to

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1 withdraw its approval of the course.

2 It was discussed at length that the
3 train the trainer portion should be taught in
4 person and importantly, students need to
5 demonstrate what they have learned. It was
6 strongly felt that this can't be done in an
7 online format.

8 Number 2. Concerns were raised
9 regarding the University of South Florida
10 offering the OSHA 510 course and giving a
11 30-hour card upon completion. OTI staff
12 reported that they had asked them not to do
13 this. A look at the website during the
14 meeting showed that this is still being
15 offered as the deal. OTI staff reported that
16 it would follow up on this. It was

17 recommended that OTI formally report back to
18 the co-chairs on the status of this request
19 and subsequent removal from the website.

20 Number 3. Concerns were raised
21 regarding how OTI policies and education
22 centers, and what they may do to attract

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1 students outside their jurisdiction.
2 Example: Offering online courses or giving
3 bonuses like the 30-hour card.

4 Number 4. Concerns were raised
5 regarding the quality of the 10- and 30-hour
6 trainers. Currently, there are no auditing
7 or other methods that OTI uses to verify
8 trainers actually training ability. A

9 suggestion was made to have trainers send
10 student evaluations into OTI chosen on a
11 random basis. It was agreed that this kind
12 of follow-up is very difficult to do. OTI
13 will consider the suggestion and report back
14 on possibilities.

15 I think the thing here is some
16 organizations do require the evaluations -- I
17 know we collect them and we keep track of
18 them. We keep all the evaluations and we
19 pass it on to the Center to Protect Workers
20 Rights, who works through the University of
21 West Virginia. The biggest problem they were
22 worried about was instructors actually

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1 changing the evaluations of the students, so
2 that's why there was a concern about some
3 instructors might see a bad evaluation and
4 actually say, well, I can change this. I
5 have an extra one. I'll change it myself and
6 sent that in as somebody doing it. So that
7 was a big concern there.

8 Concerns were raised -- number 5.
9 Concerns were raised as to the requirement
10 for 500 course trainers have actual
11 on-the-job experience. It was strongly
12 suggested that OTI make a requirement for
13 those who become eligible to teach the 500
14 course have at least five years of field
15 experience. And that's at a trade. Not any
16 particular trade but at some sort of
17 construction trade.

18 Regarding the -- number 6.
19 Regarding the 500 course prerequisites, the
20 group made the recommendation that making the
21 510 course the sole requirement is
22 inappropriate, nor is the suggestion to offer

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1 the course as a test out option. Two issues
2 emerge regarding the 500 course. The first
3 is that it's important that the trainers have
4 working knowledge of the standards
5 themselves. This is where the idea came to
6 require all trainers to take or pass an
7 equivalency exam for the 510 class.

8 The second issue is the need to
9 ensure that trainers know how to actually
10 train. It was suggested that a prerequisite be
11 that a trainer have previous training
12 experience and/or take some kind of specific
13 class providing that kind of instruction.

14 Number 7. It was recommended that

15 OTI provide, in writing, what qualifies as

16 "or equivalent."

17 Number 8. It was suggested that

18 the 510 and 30-hour class goals should be

19 compared. There was concern that they're too

20 similar and identifying the differences need

21 to occur or consider combining them into one

22 class.

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1 In general, it was determined that

2 this workgroup should continue to work on the

3 above issues. It was also strongly felt that

4 OTI should consult with this workgroup ACCSH

5 when making pragmatic changes.

6 There being no other business to

7 discuss, the meeting was adjourned at 3:00

8 p.m.

9 MR. SMITH: Thank you. Can I have a

10 motion we accept this report?

11 MR. KAVICKY: I make the motion.

12 MR. SMITH: We have a motion.

13 Thomas. A second?

14 MR. SHANAHAN: Second.

15 MR. SMITH: Discussion? There's a lot

16 of meat in this report.

17 Let's go back and read each item

18 individually, and if you don't mind, Frank,

19 and let's see if anyone has any comments

20 about each item individually.

21 MR. MIGLIACCIO: Number 1. Concern

22 was raised about the viability of online 500

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1 course being offered. The issue is how
2 effectively can the train the trainer portion be
3 taught online. OTI staff reported that they
4 have been in contact with the providers and have
5 asked for a report on how they are handling
6 this. Once they receive that response, OTI will
7 make a determination as to its effectiveness and
8 whether or not to withdraw its approval of the
9 course. It was discussed at length that the
10 train the trainer portion should be taught in
11 person, and importantly, students need to
12 demonstrate what they learned. It was strongly
13 felt that this can't be done in an online
14 format.

15 MR. SMITH: Any comments? Yes, sir,
16 Bob?

17 MR. KRUL: Bob Krul. I have one
18 comment, Mr. Chairman. Half of this committee
19 was there; I was not. One of the concerns that

20 we had -- and when I say we, I think I'm
21 speaking for contractors as well as laborer with
22 this comment -- you know, dumbing down this

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1 process given the dangers in construction just
2 doesn't seem to be a direction that OTI ought to
3 be going. I mean, I'm glad they finally saw the
4 wisdom in dealing with this subcommittee before
5 they make any substantive changes.

6 We've done this online training
7 through General Motors, Ford, Chrysler -- the
8 Big Three in Detroit that require a safe to
9 work. But it's regulated through training
10 programs. And the problem with putting this
11 stuff up on line, quite frankly, we've delved

12 into doing long distance training. There's a
13 reading and comprehension skill level here
14 that comes into play that can't substitute
15 for what takes place with in person training.
16 And there's also the cheating aspect, if
17 that's the right word. I go online. I look
18 at this program, and I have my wife do all
19 the answering of the questions, and I get my
20 certificate.

21 So I'd like to commend Frank and
22 his subcommittee workgroup for what they're

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1 doing here.
2 I think bringing OTI into this
3 process is very, very important, not only for

4 number one, but for everything that the

5 workgroup is recommending.

6 MR. SMITH: Thank you. Let's do it

7 this way. Bob spoke against the online training

8 aspect.

9 Would anybody like to speak in

10 favor of the online training aspect? Would

11 anybody like to speak in favor of it?

12 MR. SHANAHAN: The only thing that

13 I'll add to that because -- you know, I'm

14 responsible for education at RCA, as well, and

15 we're doing online training, is that it has its

16 place for certain delivery -- certain kinds of

17 information that you want to deliver. And Bob

18 is exactly right, and I would totally agree that

19 depending on the audience -- you know, you have

20 to be -- is it an audience that gathers

21 information?

22 I would say for this particular

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1 class the idea of some of the information
2 could certainly be delivered in an online
3 format, but the objection that the committee
4 had, which I completely agree with, is that a
5 big part of that class is teaching people to
6 be trainers. And I just don't think you can
7 possibly do that in an online format. You
8 know, as much as I'm supportive of online
9 learning, there are certain things you have
10 to do face-to-face, and to be able to see if
11 I've taught Bob something and have him them
12 reflect that back and get up front of the
13 class and practice it and give him feedback
14 is an important part of that.

15 Because one of the comments we had
16 at the committee, as Frank mentioned earlier,
17 is that there is concern out there that the

18 trainers who teach the 10- and 30-hour
19 classes aren't very good trainers. So you
20 only make that worse if they're getting their
21 card online. We really have to get them to
22 learn how to do it, and that's in person, I

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1 think.

2 MR. SMITH: Good point. George
3 Kennedy, would you come up to the speakers table
4 please? Now he's nervous. Come on up, George.

5 Tom, I'll get you in just a minute.

6 George, you've taken an online 500
7 course. Would you give us your opinions of
8 it?

9 MR. KENNEDY: I did take the online

10 course recently because I had let my
11 certification drop by mistake. And I had to
12 hustle to get it done. And so I went around and
13 I looked at what was available at the schools.
14 Well, by the time you pay the \$795 to go to an
15 OTI education class or school, and then all the
16 travel expenses, you're looking in the
17 neighborhood of \$2,000 to \$2,500.

18 As an experienced OSHA instructor
19 who has been teaching OSHA programs for
20 probably 30 years, I go to these classes,
21 these refreshers, and quite frankly I'm not
22 impressed. So I took the online program.

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1 MR. SMITH: Let me say one thing.

2 I've forgotten -- George is the safety director
3 for the National Utility Association. So let me
4 give your background first. Go ahead.

5 MR. KENNEDY: I have a construction
6 background, civil engineering degree. I'm a
7 certified safety professional. I've been
8 involved in safety for over 30 years. I've been
9 teaching the OSHA course, quite frankly, a lot.
10 I have construction experience, but a lot of my
11 experience working with construction was through
12 the insurance carriers that I had worked for
13 earlier in my career.

14 So I was a loss control rep. I
15 inspected a lot of sites and learned a lot of
16 things that I didn't know.

17 That's where I have a problem with
18 having a craft training only requirement. I
19 do disagree with that. I think -- I mean, I
20 have an engineering degree. I knew a lot
21 about construction. I worked in the crafts.
22 I mean, I've been an electrician; I've done

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1 different things like that. I was in the CB.

2 So anyway, the long story short.

3 With the online training, as a refresher

4 course for an instructor, I don't think it's

5 a bad idea. But as a first-time

6 be-an-instructor-type of course, I think it

7 needs to be one-on-one, or classroom

8 experience.

9 But one of the problems we do run

10 into is the experience of the classroom

11 instructors. I ran into it at OSHA itself at

12 OTI. There were times when the instructors

13 were great, and there were times when the

14 instructors were ill-informed. So it is a

15 tough call on what you want to do. But as a
16 first-time course, I don't think the online
17 course for 500 is a good idea.

18 Again, I think it's a great idea
19 for refresher. Because you take somebody,
20 like myself, and the guys that were in the
21 last OTI class that I went to for refresher
22 before I took the online course, there were a

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1 lot of us with 15, 20 years experience. And
2 quite frankly, we didn't learn anything. We
3 spent a half a day doing introductions.
4 Seriously. I'm dead serious. It was a half
5 a day. I was furious, and so were half the
6 people in the class. That was a waste of

7 time and money. We talked about HAZCOM. Do
8 you know how many of us have taught HAZCOM
9 and were there when HAZCOM was developed?
10 That was ridiculous. There were new things
11 on the table. There was the new steel
12 erection standard, the new forklift
13 requirements, the new recordkeeping
14 requirements, and one or two other things
15 that we didn't hear much about. We did hear
16 a little about the steel erection standards.

17 So again, myself and several other
18 people were not happy. We spent a lot of
19 money to be there. Give us an update. Tell
20 us what we need to know. Bring the new
21 things out. Put them on the table. Make us
22 learn. Help us know what to tell the

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1 students.

2 Again, I think this could be done

3 in an online training situation for an

4 experienced instructor to take. So I have

5 problems with that in some ways. And you pay

6 the same price. You pay \$795 for the class.

7 And it was pretty good. I mean, there were

8 things in it -- I found things wrong with it.

9 I had pages of notes which I recently sent to

10 the developer of the program because we're

11 looking at using some of their programs for

12 training purposes. But I went it to them for

13 them to look and go back and look at their

14 class -- the information that was presented.

15 The program was pretty good but it had

16 errors, in my opinion. Again, my opinion.

17 But you do spend a lot of money on

18 these classes. And it was a timesaver.

19 That's why I took it. It was relatively

20 simple for me to take. The information was

21 repetitive. OSHA 500 stuff you learn all the
22 time. They ask you questions at the end of

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1 each module, then when you take the final
2 test they ask you the same questions.

3 So a couple of times I missed
4 questions, so I wrote down their answer
5 versus what I thought was the answer, and
6 when I came back to it later I gave them
7 their answer.

8 I'm being straightforward. I call
9 things as I see it, and some people are not
10 going to like me for it. Especially the
11 developers of the course.

12 But these are things I ran into

13 with the program. There are good things
14 about online training. We're looking at
15 NUCA; we're looking at E-learning. I'm
16 getting very involved with it now at the
17 direction of my boss. He's asked me to do
18 some more things and research what we can do
19 and where we can go with it. And it has its
20 benefits, but it also has its negatives.
21 There are things that are not good
22 about it. I don't like when they ask

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1 questions and then rehash the same question
2 at the end of the program because to me
3 you're really not learning. You know, you're
4 just regurgitating what you were told earlier

5 is the answer. So there are different things

6 about it.

7 Nothing is perfect. I think the

8 10-hour programs for the most part are pretty

9 good. Most of the instructors out there are

10 not bad. Those that are active should

11 probably get more credit for refreshers. I

12 mean, quite frankly I haven't been as active

13 lately as I had in the past, so if I have to

14 take a refresher, I don't mind taking a

15 refresher. But I really would appreciate it

16 if I didn't have to go back to some education

17 center and listen to somebody who's got five

18 years experience as an instructor, or 10

19 years experience, or is an academia, and tell

20 me what I've known for a long time.

21 I mean, I'm not putting myself

22 above other people, but let's face it, a lot

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1 of the times, these education centers don't
2 have people that have been doing it for 20 or
3 30 years.

4 So there's a lot of things we can
5 offer that can make it -- I think that OTI
6 could do to make it better. One is the
7 refresher -- online refresher. Thinking hard
8 about whether they're going to go with a 500
9 course for a new person. I mean, go to Tom's
10 school. You'll get an education.

11 Go to the Laborers training
12 centers. You know, you'll get an education.
13 But some of these colleges -- and I haven't
14 been to the colleges -- but I'm hearing from
15 different people that they've been to certain
16 ones and they're good, and others that are
17 weak. Because we have instructors within our

18 group that are OSHA trainers. Many of our
19 nuclear instructors are OSHA trainers, and I
20 get feedback from them, too.

21 And I'm sure Tom gets a lot of
22 feedback. I mean, he, if anybody, Tom could

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1 probably tell you more about it. I'm sure
2 Building Trades can, too. But there's a lot
3 to offer. Let's work at it. Let's look at
4 it carefully. That's where I'm at.

5 MR. SMITH: Thank you.

6 First, Frank.

7 MR. MIGLIACCIO: Frank Migliaccio. I
8 have one question. When you did your
9 refresher -- and correct me if I'm wrong -- is

10 not the refresher the 502?

11 MR. KENNEDY: Number one, I was

12 outside the three months.

13 MR. MIGLIACCIO: Yeah, so you had to

14 actually go back to a 500 course.

15 MR. KENNEDY: I had to go to a 500.

16 MR. MIGLIACCIO: Okay.

17 MR. KENNEDY: But quite frankly, I had

18 planned on going online to take the refresher,

19 if I could, in lieu of taking -- I mean, taking

20 the 500 in lieu of the 502 refresher because it

21 was a cost factor. I'd rather pay the \$795 and

22 do that quick and easy than spend --

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1 travel -- you know, a week out of the office,

2 traveling and paying the expenses.

3 MR. MIGLIACCIO: The 500 is for the
4 new instructors.

5 MR. KENNEDY: That's correct.

6 MR. MIGLIACCIO: When we say 500,
7 we're talking about new instructors, not the
8 502.

9 MR. KENNEDY: That is correct.

10 MR. MIGLIACCIO: Now, also --

11 MR. KENNEDY: There is no 502
12 refresher online, by the way.

13 MR. MIGLIACCIO: That's right. When
14 you did what you called your refresher, was
15 everything in your class discussion presentation
16 or did you actually have to present to the whole
17 body?

18 MR. KENNEDY: You mean --

19 MR. MIGLIACCIO: In that classroom
20 when you went for your refresher, did you
21 actually get up and present in your class?

22 MR. KENNEDY: No.

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1 MR. MIGLIACCIO: See, that's the thing
2 right there how you can look at an
3 instructor -- when they have to actually present
4 to their peers, and the instructor is their
5 peer. So that's why I want to make sure that
6 we're concerned about the 500, not the
7 refresher. And that's what this is. It's a
8 first-time instructor. And like, you did get
9 caught up in that three-month period where you
10 actually went back through the whole thing where
11 you could have actually taken a 502.

12 MR. KENNEDY: I got caught up in that
13 also. And I'd certainly like to see the
14 requirements for that changed. I think it's
15 crazy.

16 MR. MIGLIACCIO: If you ever would
17 like to go through a refresher and not spend the
18 \$700, I will give you my card because we don't
19 charge anything.

20 MR. KENNEDY: I'll take it.

21 MR. SMITH: Mike has a question.

22 MR. KENNEDY: Okay, it's a deal.

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1 Tom's offered that to me, too, before.

2 MR. MIGLIACCIO: No charge.

3 MR. SMITH: George, we thank you very
4 much.

5 MR. KENNEDY: There's another
6 question. Mike had a question.

7 MR. SMITH: Thank you, George. Any

8 other comments about -- I think everybody pretty
9 much agrees the OSHA 500 first-time person
10 taking it should not be going online. Is that
11 what we're saying? Does everybody agree with
12 that?
13 MS. ARIOTO: Liz Arioto. I just have
14 one comment. I would like to agree with
15 Mr. Kennedy for the training. I don't believe
16 it should be only just craft training. Whether
17 you've been in the insurance business or if
18 you've been the safety directors of companies
19 for many years, you've had the experience, so I
20 believe there are other alternative equivalents.
21 And I think there are many good instructors out
22 there. And I will be going to a refresher class

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1 in a couple of months, so I'll give you feedback

2 on how it was.

3 MR. SMITH: Thank you. Dan Murphy?

4 MR. MURPHY: Dan Murphy with Zurich.

5 There's been discussion here that the 500 should

6 probably be taken in person, and I tend to agree

7 with that. But then a gentleman like George, I

8 understand, could go online because he's got a

9 wealth of knowledge and training, and so on and

10 so forth. But I think we're missing a piece

11 here. What if you do the 500 and then you don't

12 do a whole lot with it, and then you decide you

13 want to get certified again. Does that mean I

14 can go online even with very limited experience

15 and take the course?

16 MR. SMITH: Yes. That's the way the

17 rules are.

18 MR. MURPHY: Right? Am I correct in

19 what I'm thinking?

20 MR. SMITH: As it is right now, I

21 think so.

22 MR. BRODERICK: Tom Broderick here.

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1 The Ed Centers who are offering online training
2 are required to have some sort of a screening
3 process to make sure that the people who go
4 online to take the course have met the five
5 years of construction safety experience and have
6 had the 510 course. And it still is the 30-hour
7 course or the 510 course. And that has been the
8 subject of much debate because OTI would like to
9 drop the use of the OSHA 30-hour construction
10 course as a prerequisite. And they're
11 indicating that the OSHA 30 hour is not a
12 standards course. It's a hazard recognition

13 course. The 510, which is only offered by
14 education centers and has the -- typically a
15 much higher price than you can find the 510
16 online for -- so I think we need to kind of keep
17 those distinctions clear.

18 MR. SMITH: Last comment before lunch.

19 Dan?

20 MR. MURPHY: Dan Murphy. I guess I'm
21 going to turn to Frank to get some clarification
22 maybe at the next meeting. Again, I'm saying I

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1 could go take the 500 and then I could do
2 absolutely nothing with that, and yet in five
3 years I decide that maybe I want to be able to
4 do some instruction, so now I can do the 500

5 online. Correct? With very limited or no

6 experience in teaching?

7 MR. MIGLIACCIO: Basically, that's

8 what's happening right now.

9 MR. MURPHY: I just want to bring that

10 point to the discussion because I think there's

11 got to be some criteria for when a guy like

12 George can take it online. That I understand.

13 He's got a wealth of knowledge and he can

14 demonstrate that. But I've had 500 instructors

15 that haven't done anything with it and then they

16 go online and they get their certification

17 again, and that doesn't make them an instructor.

18 MR. SMITH: Thank you. With that, if

19 we could --

20 MS. SHORTALL: Can I ask a procedural

21 question?

22 MR. SMITH: No, not right now. That's

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1 going to be the last comment before lunch.

2 MS. SHORTALL: A procedural question.

3 I wanted to understand for procedural purposes

4 whether you were asking if people were all in

5 agreement on the issue you've been speaking

6 about so that you were making a recommendation

7 to the agency?

8 MR. SMITH: We will --

9 MS. SHORTALL: Or will it be a sense

10 of the committee to take back to the workers?

11 MR. SMITH: We will talk about that

12 after lunch. At this point, it's 11:45. We're

13 going to adjourn for lunch.

14 Be back at 1:00.

15 (Whereupon, at approximately

16 11:45 a.m., a luncheon recess was

17 taken.)

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1 AFTERNOON SESSION

2 (1:00 p.m.)

3 MR. SMITH: Everybody please have a
4 seat. Okay. Frank, what time you got to leave?

5 MR. MIGLIACCIO: 1:30, probably. I
6 could push it to 2:00. I've just got to be
7 there by 3:00.

8 MR. KAVICKY: So should we do the
9 standards update at 2:00?

10 MR. SMITH: Yes. I'm serious, that's

11 what I want to do if that's okay. 1:30, we need
12 to finish the report that he started earlier if
13 that's okay. Do you want to do that?

14 Okay, meeting come to order. You
15 were kidding, but we were serious.

16 Meeting come to order.

17 I assume one of you guys is Bill

18 Parsons?

19 MR. PARSONS: That's me.

20 MR. SMITH: We heard a lot about you

21 this morning from the Under Secretary, or the

22 Assistant Secretary, so we look forward to

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1 working with you. Welcome aboard. We
2 definitely need good people and we appreciate

3 you coming to work with us. And we're going to
4 turn it over to you at this time for the
5 construction safety standards update. And you
6 can introduce the gentleman with you if you'd
7 like.

8 MR. PARSONS: Thank you. My name is
9 Bill Parsons. This is Garvin Branch. We're
10 with the Office of Construction Standards and
11 Guidance in the Directorate of Constructions.

12 I wanted to take this opportunity
13 to introduce myself, being the new guy in the
14 office and not so new to the directorate, but
15 relatively new to the agency. I wanted to
16 let you folks know a little bit about myself
17 and my background so that you'll understand
18 where I'm coming from when I talk with you.

19 Interestingly enough, seven years
20 ago on this date, I had a life change for
21 myself, and that was having spent a career in
22 the military and suddenly I was a civilian

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1 owning a consulting company out in Colorado.
2 I found myself rather helpless when I saw
3 everything that was happening and I'm sure a
4 lot of you felt the same way. So it made me
5 reevaluate what I was doing with my life and
6 I decided I was going to come to work for
7 OSHA. I was going to come to work in
8 Washington, D.C., so that I could work with
9 people like you to affect change to the OSHA
10 standards so that we could protect people on
11 construction sites around the United States.
12 It might sound a little
13 Pollyannish, but it's true and that's why I'm
14 here. And I've been fortunate enough to be
15 placed in this position so that I can work

16 with you and I'm truly looking forward to it.

17 Having said that, I want to tell

18 you a little bit about myself. I have been a

19 safety professional for more than 33 years,

20 coming up on 34 years now, which makes me

21 feel extremely old when I say that, but it's

22 been a wonderful profession. More than 21

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1 years of that time is specializing wholly in

2 construction safety. My entire 33 years has

3 had an element of construction safety, but

4 the last 21 years has been entirely

5 construction safety.

6 My father was a construction

7 worker, his father was a construction worker.

8 I grew up on and around construction sites.
9 I understand the terminology in most cases,
10 and I say that because we all know things
11 change rather frequently now with technology.

12 Before I joined OSHA, I did a lot
13 of things. One of the things that I did
14 relating to construction safety was that I
15 worked on an airport project for the Republic
16 of Singapore. From there, I did a
17 construction project for Raytheon on Johnston
18 Island.

19 From there, I toured Germany for
20 the U.S. Army doing construction training and
21 job site audits throughout Germany for the
22 army as well as many other military

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1 organizations in other parts of the world.
2 I've done program development and
3 training and inspections for AGC, ABC, ASA,
4 U.S. Hispanic Contractors Association, and
5 others. I supported both union and non-union
6 organizations throughout the United States
7 with development, implementation, follow-up,
8 and inspections of safety programs. Some of
9 those include the plumbers and fitters, the
10 bricklayers, and allied craft workers,
11 independent electrical contractors, and
12 masonry organizations throughout the United
13 States as well as others. I've provided
14 services to several hundred subcontractors
15 throughout the United States, everything
16 ranging from floor installations to roofing
17 contractors to high-rise contractors, so on
18 and so forth.

19 I have firsthand on-site job
20 experience with residential construction,
21 roofing, plumbing, mechanical construction,

22 power plant construction, masonry

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1 construction, block, brick, and stone,
2 utility construction, electrical contracting,
3 and commercial construction of all types,
4 shapes, and sizes.
5 I have one objective, and one
6 objective only: Nobody gets hurt on a job
7 site. And it's my opinion that if I work
8 with you and you work with me, we can come to
9 that point much more quickly than if we view
10 ourselves as foes, and nobody accomplishes
11 anything. You folks do some wonderful work.
12 I've seen it. I've seen it in action. I've
13 sat in some of the work groups. I've heard

14 you working together. And I can tell you
15 that I need your help and I'll be coming to
16 you for assistance regularly and I hope
17 you'll be able to provide me that assistance.

18 With that, I'd like to turn over to
19 Mr. Branch the microphone so he can talk to
20 you about a couple of items that I'm sure
21 will be of interest to many of you and that's
22 confined spaces in construction and cranes

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1 and derricks.
2 MR. BRANCH: Good afternoon. Again,
3 my name is Garvin Branch. I'm a staff writer
4 for the Construction Standards Office, I'm the
5 project officer on the compliant spaces, and I'm

6 happy to report that we conducted a hearing on
7 August 22nd and 23rd, in which we gathered a
8 whole bunch of new information, one in
9 particular regarding the wind industry. It's an
10 up and coming industry. They were very
11 interested in our rule and how it affected them.

12 Personally, I learned a lot about
13 some of the confined spaces that they may
14 have in their industry and we have to take a
15 look at that kind of information when we
16 gather it from the comments.

17 The comment period for this rule
18 closes on the 22nd of September. Because we
19 got the transcripts two weeks later, the
20 judge thought it was appropriate to allow the
21 legal side to submit briefs on
22 October 23rd -- I mean, up until the 23rd, so

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1 the comment period for that basically goes
2 from the 22nd of August all the way to
3 October 23rd. Afterwards, we would evaluate
4 those comments and submit all of our findings
5 to our bosses to decide where we're going to
6 go from there with regard to the rule.

7 MR. CONNELL: Garvin, you're referring
8 to the post-hearing comment period; correct?

9 MR. BRANCH: Right. The post-hearing
10 comments. The initial comment period ended long
11 before that, last year, at the end of last year.

12 This rule is a little bit further
13 along than cranes and derricks. Cranes and
14 derricks, we are proud to report that it just
15 cleared OMB. It's been a long time coming to
16 get to this and I know you guys are anxious
17 to get this rule out as so am I. As soon as
18 I finish this, I'm going back to my little

19 room to finish formatting it and get it over
20 to the Federal Registrar office as soon as I
21 get the okay.
22 The next step in that is

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1 publication of the rule. We don't anticipate
2 having any major issues with formatting, so
3 hopefully it'll be over there within a couple
4 weeks. After that, again, most likely there
5 will be a hearing. We'll announce that in
6 the Federal Register.

7 With regard to comments,
8 post-hearing comments, for the confined
9 spaces standard, you can access any of those
10 via our -- on www.regulations.gov. The

11 docket number for that is OSHA-2007-0026.
12 And then you can navigate through -- you can
13 quickly find any post-hearing comments by
14 putting in the August 22nd date and then
15 going forward from that.

16 With that, that's all we have with
17 regard to those two rules.

18 MR. SMITH: Okay. Thank you. Are
19 there questions or comments? Okay, Emmet?

20 MR. RUSSELL: My understanding is
21 there may be time for the CDAC Committee to
22 review the Federal Register notice before it

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1 goes out to the public. Is that still on the
2 table?

3 MR. PARSONS: Yes.

4 MR. RUSSELL: Do you have any idea
5 when that would be released to the CDAC
6 committee, and how long the committee would
7 actually have to review the Federal Register
8 notice?

9 MR. PARSONS: I don't want to give you
10 a political answer, but the answer is, when it's
11 ready we'll release it to you, but right now
12 we're not certain when we're going to be ready
13 to do that.

14 MR. RUSSELL: Can you at least give a
15 scope or on outside --

16 MR. PARSONS: Mr. Connell, would you
17 like to do that?

18 MR. CONNELL: Sure. Sure, I would
19 like to address Mr. Russell's point. The ground
20 rules for the cranes and derricks negotiated
21 rule making committee, calls for us to give the
22 CDAC members an opportunity to review the

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1 documents before it is published in the Federal
2 Register. So the actual very next step is going
3 to be to release the document to the CDAC
4 members and then once the CDAC members have an
5 opportunity to review it, then we're going to
6 publish the proposed rule in the Federal
7 Register.

8 The timing on that is still being
9 worked out, and we still don't have an answer
10 to your questions, so once we get an answer
11 to those questions, then it's going to go out
12 in the mail and it's going to go to you. So
13 unfortunately, I don't have an answer to your
14 precise question about how long, so when I do
15 have that answer, that's when it's going to
16 go out.

17 MR. RUSSELL: Well, you know, if you
18 don't have an answer as to when it might go out,
19 would you have an answer as to how long a review
20 period the CDAC members might have?

21 MR. CONNELL: I'm still -- I'm waiting
22 on an answer to both of those questions.

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1 MR. RUSSELL: Okay.

2 MR. CONNELL: And that's what's
3 holding it up.

4 MR. RUSSELL: Thank you.

5 MR. SMITH: Yes, sir, Tom?

6 MR. BRODERICK: Are the CDAC members
7 delivered this document in a mayonnaise jar
8 which they are to seal and bury in the backyard

9 after they're through looking at it, or is it

10 something that may leak out?

11 MR. CONNELL: First of all, it won't

12 fit in a mayonnaise jar. Not even restaurant

13 size. When the document is released, it will be

14 equivalent of a public release. So we are

15 taking the extra trouble to provide these

16 materials -- you know, printing them up and

17 packaging them up and providing them to the CDAC

18 members, that's all in accordance with the

19 ground rules. Now, the public will be able to

20 have access electronically to what we're going

21 to provide the CDAC members. So no, it's not

22 sealed because it will be a public release.

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1 Now, we're going to stress that
2 when we do this, it's not the beginning of
3 the comment period for the public. The
4 comment period for the public will not begin
5 until it's been published in the Federal
6 Register.

7 MR. BRODERICK: Thank you.

8 MR. SMITH: Thank you. Any other
9 questions? Okay, we appreciate that very much.
10 Thank you.

11 Let's get -- we're a little bit
12 ahead of our next presenters although they're
13 here and they can come forward and be getting
14 ready if they'd like while we're taking care
15 of some other business.

16 But at this time, we're going to go
17 back to discussing the OTI subcommittee
18 report for just a few minutes and just to
19 bring clarity. This has been an ongoing
20 process working with OTI and Frank and Tom
21 submitted this report basically for

22 information only. He does have two specific

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1 recommendations that he would like to make.

2 I can't see him due to the mic, but I did

3 tell him to get ready so he's in good shape.

4 But he's got two specific motions he wants to

5 make, I think, regarding recommendations to

6 OSHA at this point for OTI.

7 MR. SHANAHAN: The first one is the

8 subcommittee --

9 MR. SMITH: Oh, excuse me just a

10 minute. Could I have your attention, please?

11 Go right ahead.

12 MR. SHANAHAN: The subcommittee would

13 like to recommend to this full committee that

14 the 10- and 30-hour course changes be accepted
15 as previously noted.
16 MR. SMITH: Okay. This is discussion
17 of the first subgroup meeting, and also
18 discussion Frank has had with OTI, they agreed
19 to in the subcommittee -- Frank and Tom and OTI,
20 and they agree with discussion on that, and
21 basically what it does is to leave four hours of
22 flexibility or wiggle room, and doesn't tie the

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1 instructors down to one specific course meaning
2 that you can tailor make what you instruct on.
3 It gives instructors some latitude. Any motion
4 to accept that as a committee?
5 MR. KAVICKY: So moved.

6 MR. SMITH: So I have a motion. Is

7 there a second?

8 MR. THIBODEAUX: Second.

9 MR. SMITH: We have a second, also.

10 Any discussion on that motion?

11 MS. SHORTALL: Could they repeat the

12 motion one more time?

13 MR. SHANAHAN: Sure, so the

14 subcommittee would like to recommend to this

15 full committee that the 10- and 30-hour course

16 changes be accepted as previously noted.

17 MR. SMITH: And you can provide Sarah

18 what those changes were, right?

19 MR. SHANAHAN: It's in the minutes.

20 MR. SMITH: It's in the minutes.

21 Okay, good deal. Any other discussion on the

22 motion?

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1 MS. SHORTALL: Yes. I'd like to have
2 a clarification. Is it the work groups intent
3 that they're simply recommending to ACCSH or
4 that they're hoping that ACCSH will recommend to
5 the agency?

6 MR. SMITH: This motion will -- I can
7 answer that, I believe, is that ACCSH will make
8 this motion to the agency.

9 MR. SHANAHAN: Right.

10 MR. SMITH: Any other discussion? All
11 in favor, say aye?

12 SPEAKERS: Aye.

13 MR. SMITH: All opposed, likewise?

14 Motion carries.

15 Second motion?

16 MR. MIGLIACCIO: The subcommittee
17 would like to recommend to this full committee
18 that the OSHA 510 not be accepted as the sole
19 prerequisite to the OSHA 500 course.

20 MR. SMITH: Are you making that a
21 formal motion?

22 MR. MIGLIACCIO: Yes.

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1 MR. SMITH: Is there a second?

2 MR. SHANAHAN: Second.

3 MR. SMITH: Originally, OTI came to us
4 asking us for permission to use the OSHA 510 as
5 a mandatory requirement before you could take
6 the 500 and all this motion does, and it was
7 discussed at length in both subcommittee
8 meetings, but all this motion does is say as no,
9 that we don't agree that OSHA 510 should be used
10 in conjunction before you can take the 500.

11 MR. ZARLETTI: As the sole.

12 MR. SMITH: As the sole prerequisite.

13 Right.

14 MR. MIGLIACCIO: And we'd like the

15 committee to also forward this on to --

16 MR. SMITH: Right. This is the same

17 motion to the agency. Any other discussion?

18 Tom?

19 MR. KAVICKY: Mr. Chairman, I'd just

20 like to make a point. Tom Kavicky. I found it

21 very difficult listening to the conversations as

22 an observer in the work room and a participant.

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1 I found it very difficult where I was placed at

2 the table listening to the phone conversation.

3 I didn't catch everything, and I was just

4 wondering if somebody from OTI or a group of OTI
5 people could come personally to answer our
6 questions that would have the answers to our
7 questions. There are a lot of questions that
8 the gentlemen that Frank and Tom were talking
9 with had no knowledge of what was going on. So
10 I'd like to go on record stating that.

11 MR. SMITH: I appreciate that very
12 much and let's vote on this motion and then
13 we'll get right back to it. Any other
14 discussion? All in favor, say aye.

15 SPEAKERS: Aye.

16 MR. SMITH: All opposed, likewise.
17 Okay. In relation to what Tom was just saying
18 and we had discussions at lunch, me and Frank, I
19 think everybody would agree, and also it made it
20 a little bit disheartening that the people, due
21 to conflicts or whatever, the people on the
22 phone yesterday were not the same two people

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1 that talked to us originally. And they didn't
2 seem familiar with some of the things we talked
3 about originally, so I think Frank would like to
4 include in the record that OTI be invited to the
5 next meeting, right?

6 MR. MIGLIACCIO: That's correct.

7 MR. SMITH: So we do plan to do that,
8 and would like to ask the agency to do that.

9 MS. SHORTALL: Since the work group
10 report on OTI has been approved by the
11 committee, I request that it be entered into the
12 record as Exhibit 0009 in the previously
13 mentioned docket.

14 MR. SMITH: Thank you very much. And
15 we got that in before Frank had to leave.
16 We're glad to do that.

17 MR. MIGLIACCIO: Thank you.

18 MR. SMITH: Thank you very much.

19 Okay, our next presenters are here and ready and

20 we appreciate them being timely also -- Bureau

21 of Labor Statistics and OSHA Director of

22 Evaluation and Analysis Staff.

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1 If you would introduce yourselves,

2 I'd appreciate it.

3 MS. WINDAU: Yes, I'm Janice Rendel

4 with the Bureau of Labor Statistics.

5 MR. SCHMIDT: I'm David Schmidt. I'm

6 from OSHA.

7 MS. WINDAU: And I will be going over

8 some clarifications that I guess have come up in

9 various meetings in terms of where you can find
10 different categories in our data.
11 First of all, our data collection
12 programs cover three different categories.
13 First is the data of fatal occupational
14 injuries, the preliminary data released in
15 August, and then final updated data released
16 the next April. And the next is our
17 non-fatal survey of occupational injuries and
18 illnesses, the summary industry data released
19 in October, and the case in demographic
20 characteristics in November. And we also,
21 from time-to-time, have contracted to do
22 special studies. A couple of these have been

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1 respirator usage and also violence

2 prevention.

3 And I'm going to be discussing a

4 little bit about the survey of occupational

5 injury and illness scope. Of course it's

6 private sector wage and salary workers except

7 for farms with fewer than 11 employees and

8 private household workers. It excludes

9 self-employed and we supplement the data with

10 mining data that we get from the MSHA and

11 railroad data from the Department of

12 Transportation.

13 In terms of state and local

14 government, currently, we get state and local

15 government data for approximately 25 states,

16 but beginning in 2008 data collection year

17 we'll be collecting state and local

18 government from all states, and we're also

19 working on collecting occupational injury and

20 illness data according to record keeping

21 guidelines from the federal government.

22 In the survey, there's about

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1 195,000 private sector establishments
2 nationally, and of course, it's based on the
3 OSHA recordkeeping logs and the summary. We
4 pre-notify establishments in the sample for
5 the next survey year to make sure that
6 they're keeping logs. It's a mandatory
7 survey, and response rate is from 92 to
8 95 percent and the state -- we contract with
9 state agencies. They're actually the ones
10 who collect the data.

11 And we have several data collection
12 options at this point. We have internet data
13 collection which comprises about 40 percent
14 of the survey forms in the past year, and we

15 are going to try to collect that on a more
16 timely basis or expand that to hopefully
17 additional establishments. We also have an
18 e-mail Adobe Fillable form that people can
19 request and they will also be able to request
20 the mail survey form.

21 We have non-response follow-up and
22 it's for consistency and reliability.

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1 The data available are recordable
2 case counts and incidence rates based on
3 full-time equivalents, and we also have
4 quartile data. I'll be going over the rates
5 in more detail later on.

6 The cases with days away from work,

7 of course we have industry, we have
8 occupation collected according to the
9 standard occupational classifications since
10 2003. We have demographic characteristics.
11 Time of incident, time work day began, median
12 days away from work, and the case
13 characteristics nature part source and event.

14 Our other data collection program
15 is the census of fatal occupational injuries.
16 This has a different scope. It includes all
17 types of employment -- public sector, private
18 sector, self- employed, small farms and
19 volunteer workers who perform similar tasks
20 as paid workers.

21 The information we collect is from
22 multiple source documents. Again, we

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1 contract with the state agencies to collect
2 the data. They collect information from
3 death certificates, workers comp reports,
4 OSHA reports, and media reports. We require
5 a minimum of two source documents from each
6 fatality so that we get the required data and
7 we also have a follow-back questionnaire if
8 we only have one source document or the case
9 is missing required data elements.

10 Again, here are the CFOI data
11 elements, industry and occupation demographic
12 characteristics. We do have a couple of
13 extra ones on the CFOI program -- foreign
14 birth. We can identify that from the death
15 certificate and class of worker which
16 identifies whether it's self-employed or wage
17 and salary worker or a family worker or
18 military. Then the case characteristics and
19 worker activity, time of incident, and

20 location of incident.

21 The location of incident, we have

22 three codes for construction. We have road

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1 construction, we have residential

2 construction, and other construction. While

3 our residential construction definition is

4 probably different than what OSHA considers

5 residential construction. I believe OSHA

6 considers wood frame structures -- we don't

7 have that information when we're collecting

8 our data, so we've defined residential

9 construction as single family houses and town

10 houses.

11 And I'll describe our basic

12 Occupational Injury and Illness
13 Classification Structure. We have the
14 acronym OIICS. I'll probably be using that
15 along the way. It was developed by BLS and
16 the states in 1992 for both fatalities and
17 non-fatal data. We recently updated it to
18 add some clarifications in coding that we
19 made along the way.

20 We made a specific point of not
21 adding new codes or deleting codes because we
22 have a number of other system development

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1 projects in the works so we didn't want to
2 spend a lot of time changing the computer
3 programs for that, but we are currently

4 undergoing a major revision which will
5 include addition or deletion of codes and we
6 sent out a Federal Register notice and our
7 formal due date was in April, but we're still
8 working on it, so if you have any suggestions
9 or are having trouble identifying something
10 in our data and would like additional codes,
11 please e-mail us.

12 The four or five case
13 characteristics are nature of injury, part of
14 body effected, there's source and secondary
15 source -- that's why I said four or
16 five -- source and secondary source uses the
17 same code structure but they have different
18 definitions -- I'll go over that in a
19 minute -- and event or exposure.

20 This shows the relationship between
21 the classifications. Here's an example of a
22 nurse who sprains her back while lifting a

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1 patient. The nature is the sprain, the part
2 of body is what's effected by the nature of
3 the back. The event is over exertion during
4 lifting and the source is the patient.

5 Each code structure has definition,
6 rules for selection, list of codes, code
7 descriptions, and an alpha index. And
8 examples of nature codes are fracture,
9 lacerations, sprain -- it's basically just
10 what the injury or illness was. We have
11 rules of selection for multiple types of
12 injuries. In general we code the initial
13 injury or illness. If it's a cut or
14 laceration that got infected, we code the
15 cut. If there's more than one injury, we
16 code the more severe.

17 And we also have different

18 categories of multiple codes. For example,
19 we have basic fracture code, but we also have
20 a fractures and other injuries code, so if
21 you're interested in looking at fractures,
22 you might want to look at the multiple code

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1 also.
2 And of course, the part of body
3 affected is that which was injured. For
4 traumatic injuries, such as a cut or
5 fracture, we select the external part even
6 though it may affect internal organs. For
7 diseases we code the internal part and we
8 also have a body system code for things like
9 hypothermia.

10 The source of injury or illness is
11 defined as the optic substance or exposure
12 which directly produced or inflicted the
13 previous identified nature. Again, we have
14 rules of selection. For transportation
15 incidents it's the vehicle that the injured
16 worker was in or on at the time or the
17 vehicle that struck the worker. Incidents
18 involving lifting an object, the object that
19 was being lifted is named. We have a rule if
20 a container injures the person, it's the
21 container and not the contents that's coded.
22 The event or exposure is the manner

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1 in which the injury was produced -- a fall

2 from a roof, highway motor vehicle
3 collision -- and we have what we call rules
4 of precedence. The first rule is code the
5 assaults or violent acts. The next is
6 transportation incidents and fires and
7 explosions. For example, if a tractor
8 trailer overturns and it results in a fire or
9 explosion, the transportation incident would
10 be coded there.

11 The secondary source we're trying
12 to get other objects or substances that
13 contributed to the event and again we have
14 different rules of selection. If a machine
15 or the equipment involved that wasn't the
16 source, you code that. For example, if a
17 person is injured by a nail which was ejected
18 by a nail gun, the nail would be the source
19 and the nail gun would be the secondary
20 source.

21 For slips or falls, we code the
22 water that precipitated the slip and if there

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1 wasn't anything that really precipitated it,
2 but if it was a fall from a roof or ladder,
3 we code the roof or ladder.
4 For fires or explosions, we code
5 the substance or machine that caught fire or
6 that exploded. For assaults, we code the
7 perpetrator. For vehicle collisions, we code
8 the other vehicle that was involved. And if
9 two or more things contributed, we code the
10 object that actively contributed or the
11 machine or tool that was powered over
12 non-powered.
13 The next part of my presentation
14 will go over some of the questions that Mike

15 Bouchet said that I guess people had been
16 asking him. Again, I said transportation
17 incidents have precedence over
18 non-transportation incidents. To be included
19 in transportation incidents, vehicles that
20 are in normal operation or that are being
21 driven back and forth in a forward travel are
22 included.

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1 For example, this category that I'm
2 looking at now, pedestrians struck by
3 vehicles, if the vehicle -- a person must be
4 driving the vehicle to be considered in the
5 transportation incident, but if the vehicle
6 just slips in gear or starts rolling, that's

7 considered in the "struck by" category. And
8 if the person struck by the non-transport
9 components of mobile equipment or vehicle
10 such as if one is struck by just the crane
11 boom and the crane isn't traveling, then
12 again that's considered in the "struck by"
13 category.

14 We have several categories of
15 pedestrian-type incidents in the roadway.
16 Now for construction incidents, it's
17 considered in the roadway even if the lanes
18 are blocked off for repair. It's considered
19 on the side of the road if it's in the
20 shoulder or on the side of the road. And in
21 parking lot or non-roadway areas, unpaved
22 construction roadways, roads being built, and

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1 of course other non-construction type
2 incidents such as firearms on industrial
3 premises are considered non-roadway areas.

4 The question that Mike had asked
5 was if you can tell whether a vehicle has
6 impinged into the blocked off area and my
7 point here was that, no, you can't really
8 tell from our data whether the vehicle has
9 gone into the blocked off area or if it was
10 in the roadway because they're both coded in
11 that first category, but again, we are
12 undergoing a revision, so that's something
13 that we'll be looking at to see if we can
14 have a separate code for that.

15 And this is the opposite case where
16 it's not a transportation incident. This is
17 the struck by rolling sliding objects or
18 equipment on floor ground level. This is in
19 the contact with objects or equipment
20 category. This excludes transportation

21 related incidents. It includes things like
22 vehicles rolling off a ramp, parked vehicles

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1 slipping into gear or because the parking
2 brake was not set.
3 So again we do have some vehicles
4 in the "struck by" category, but if it's a
5 pedestrian struck by a vehicle when someone's
6 driving, then that would be considered a
7 transportation incident.

8 Here is -- we started using the
9 North American Industrial Classification
10 System codes beginning with year 2003. It's
11 such a major change from the standard
12 industrial classification structure that we

13 consider that a break in series. And one of
14 the things to remember in looking at data
15 coded is that we have additional specific
16 codes for residential and nonresidential
17 construction, and it's coded at the
18 establishment level -- an offsite warehouse
19 for a furniture store or other store would be
20 coded as a warehouse previously, all
21 establishments within the company would be
22 retail store.

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1 And getting back to the residential
2 versus non-residential construction, again,
3 that won't necessarily be consistent with the
4 OSHA definition of residential and

5 non-residential construction.

6 For the survey industry is coded
7 automatically or is assigned automatically
8 from the sampling frame. We use the
9 unemployment insurance files for the sampling
10 frame. In CFOI, the information could be
11 derived from other additional sources,
12 however the states try to use the
13 unemployment insurance files if they have
14 information on that establishment.

15 We began using the standard
16 occupational classification system in 2003,
17 again, this is for the SOII, it's coded from
18 what the employer provides on the case form.
19 It may differ from trade union designations.
20 And coding may differ depending on industry.
21 I'll show an example. For example, for iron
22 workers, if on the survey form it says iron

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1 worker in the construction of buildings or
2 trades, or if it's unspecified, it's
3 considered -- the person's considered a
4 structural iron and steel worker. An iron
5 worker in road construction is considered a
6 reinforcing iron and rebar worker, and if the
7 survey form just says welder, we code him as
8 a welder.

9 And now I'll discuss the
10 differences between the SOII rates and the
11 CFOI rates. I understand there was interest
12 in some of the denominators -- differences in
13 denominators. The SOII industry rates are
14 expressed as cases per 100 full-time
15 equivalent workers. The formula is the
16 number of injuries and illnesses divided by
17 the employee hours and the employee hours are

18 what the employer puts on the survey form for
19 the establishment.
20 And it's multiplied by 200,000
21 hours, which is the base for 100 equivalent
22 full-time workers working 2,000 hours a year,

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1 which is 40 hours per week, 50 weeks a year.
2 The case characteristic data and
3 the illness rates are expressed as cases per
4 10,000 full-time equivalent workers which is
5 a similar formula but because there's fewer
6 of these cases in order that we're not
7 working with a number of decimal points we
8 express it as per 10,000 full-time workers
9 and the base that it's multiplied by is 20

10 million hours, which is the base for 10,000

11 workers.

12 We just instituted age and gender

13 rates and also occupational rates beginning

14 with survey year 2006 and again these are

15 expressed as cases per 10,000 full-time

16 equivalent workers. It's the same basic

17 formula, but employee hours from the survey

18 are adjusted according to the proportion of

19 hours worked by that age group or gender and

20 this figure is compiled using current

21 population survey data which is adjusted to

22 match the scope of SOII.

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1 The current calculations survey

2 includes self-employed workers and, of
3 course, small farm workers, which are
4 excluded from the scope of the SOIL.

5 We also began releasing
6 occupational rates for 2006 and again these
7 are expressed as cases per 10,000 full-time
8 workers. It's the same basic formula for
9 employee hours. We multiply employment data
10 from the Occupational Employment Statistics
11 Program by average hours worked, data from
12 the current population survey. It's felt
13 that the occupations that are coded in the
14 Occupational Employment Statistics Program
15 are more reliable and more detailed than the
16 CPS. And again we adjust this to match the
17 scope of the SOIL.

18 For the CFOI rate, it's expressed
19 as fatalities per 100,000 workers. It covers
20 workers 16 and older. We adjust the
21 numerator -- that is the number of fatal
22 injuries -- to be consistent with the current

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1 population survey which excludes workers
2 under 16 years old. And for the employment
3 data, we add in the resident military workers
4 from the Department of Defense.
5 And again, we adjust the numerator
6 to be consistent with the denominator and we
7 do realize that using hours worked is more
8 reliable than using employment data. Using
9 hours worked adjusts for part time employment
10 and you can see a big difference in rates for
11 the young workers and older workers who are
12 more likely to work part-time. So we are
13 looking at using an hours-based rate which
14 would be a similar formula to the SOII and
15 expressing it as 100,000 full-time employees.

16 And because the CPS hours excludes the
17 military, this would be for civilian only.

18 This is a list of products that we
19 have available from the BLS website. We have
20 news releases, supplemental tables, these
21 tables include various occupations or
22 industries with high rates or high case

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1 counts. We have tables of repetitive motion
2 or muscular skeletal disorders, assaults. We
3 have charts, detailed industry and occupation
4 tables cross-tabulated by the other
5 characteristics.

6 We have state data and also we have
7 contacts for each of the states. We have a

8 profile system where you can enter in the
9 industry or occupation that you want or maybe
10 if you're interested in falls from roofs, and
11 it will spit out data for the other
12 characteristics for those specific injuries
13 that you requested and we also have -- we
14 just started putting out special tables from
15 time to time.

16 If there's a disaster, we'll create
17 a special fact sheet for -- we have one for
18 crane-related incidents, and we have done oil
19 and gas and mining when there's been a mine
20 disaster. We've created a special fact sheet
21 so those are available.

22 MR. SMITH: Thank you very much.

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1 Any questions or comments?

2 Kevin and then Tom.

3 MR. BEAUREGARD: I have a couple of

4 questions. The first one is having to do with

5 the survey pool size. It's my understanding

6 over the past, I don't know, dozen years or so,

7 the various states survey pools have shrunken

8 due to budgetary and other reasons, and I was

9 kind of surprised when I found out the pool size

10 seems to be different in different states. And

11 I was wondering if you can explain that process

12 and also if there's a way that keeps it on a

13 level playing field so you're comparing apples

14 to apples in the various states when you're

15 looking at injury and illness rates. I just

16 don't understand that whole process.

17 Maybe if you can enlighten us a

18 little bit.

19 MS. WINDAU: I wish I knew more about

20 it, but I think this is how it goes. The states

21 are allocated a sample size and then in terms of

22 industries and occupations -- or industries,

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1 excuse me, they select the specific industries

2 that they're interested in producing data for.

3 And this is after the national sample has been

4 selected. In terms of the national data, we do

5 that here in the national office and we have

6 targeted industries that we have a sample size

7 for. And we have recently expanded the

8 industries that we produce estimates for. In

9 2006, I think there was about 20 additional

10 industries that we produce data for.

11 MR. BEAUREGARD: I guess following up

12 on that, my real question is, I'm looking

13 at -- I run North Carolina's program, and we
14 look at North Carolina injury and illness rates
15 and the BLS survey is part of what -- it's done
16 through our department in coordination with you.
17 And when I'm looking at injury and illness
18 rates, say in the construction industry and
19 various trades, and I want to see how North
20 Carolina is doing by comparison to another
21 state -- Iowa or Michigan -- am I looking at
22 comparable data in that the survey pool sizes

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1 and percentages are the same?
2 Or am I looking at different data?
3 Because that's the question that comes up.
4 Inevitably, we get a call from the media and

5 they want to know, how does North Carolina
6 compare to California or Vermont or Florida?
7 And I've just been hearing that there's
8 different pool sizes and different
9 percentages and I just want to make sure that
10 when we're looking at that kind of
11 comparison, we're looking at apples and
12 apples and I'm just not sure if that's what
13 we're looking at there.

14 MS. WINDAU: As far as I know, that's
15 taken into account according to the state sample
16 allocations, but I can refer you to one of our
17 statisticians.

18 MR. BEAUREGARD: That would be great.

19 MS. WINDAU: That probably would be
20 better.

21 MR. BEAUREGARD: I just want to talk
22 to somebody about that. Thank you.

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1 MR. BRODERICK: Kevin, just so I
2 understand. Are you talking about like
3 denominator parameters?

4 MR. BEAUREGARD: In some cases. The
5 way -- and again, this is an area that I'm not
6 directly involved in, but what happens is
7 generally we participate as a state. Right now
8 I think half the states are participating in the
9 survey so right off the bat, up until now when
10 you look at the national data and then you look
11 at the state data, I believe it's about half of
12 the states don't even participate. Is that
13 correct?

14 MS. WINDAU: We have state data for
15 about states, I think.

16 MR. BUCHET: Kevin. I was going to
17 ask that question because I understand in the
18 sample that the pool of construction employers

19 is not necessarily what OSHA and the industry
20 would consider representative construction
21 employers. What's a small employer that does
22 horizontal work? What's a small employer that

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1 does vertical work? What's a small excavation
2 contractor? I think we're all interested in
3 finding out how these numbers work together so
4 that we can understand better what the picture
5 is they paint. Certainly, big employers are
6 maybe not such an issue, but what is the
7 120-person paving contractor that represents
8 paving contractors for Massachusetts compared to
9 a 120-person employer that does paving in North
10 Carolina? Or is there one? Some of the stuff

11 that we wrestle with under the numbers that we
12 keep throwing around -- well, let's look at
13 state comparisons or let's look at the national
14 average.

15 MR. BEAUREGARD: That's what
16 everybody -- we want to have the most effective
17 safety and health program we can have and that's
18 what we're going to work towards, but inevitably
19 we're always asked, well, how does that compare
20 to this area or that area? And I don't know if
21 I know enough to say that, I can say, well, you
22 can get the numbers out of the BLS and it's a

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1 direct comparison.

2 MR. BUCHET: And then the other one

3 you and I talked about, Janice, is how an
4 employer or a union looking at its members
5 experience can compare that experience against
6 the national average. If there are fatalities
7 in the union and the unions keep track of that
8 and there are injuries and illnesses in a union
9 and they keep track of that, if they go to the
10 BLS number for carpenters, that's a BLS
11 occupation -- construction laborer is another
12 occupation, how does the experience captured by
13 the organization -- what can they do with their
14 numbers to go, well we're above or below the
15 national average?

16 MS. WINDAU: We do have the quartile
17 tables and we do have an incidence rate
18 calculator on our website. Does that answer
19 your question?

20 MR. BUCHET: I'm not sure it helps
21 us -- it explains how we can do it, but it
22 doesn't tell what the numbers really -- for

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1 instance, how does an organization come up with
2 denominator data for fatalities? Is there a way
3 that would say, I'm XYZ construction employee
4 association, I've got 5,000 employer members and
5 we've had 50 fatalities in our membership this
6 year? Is that a lot? Is it a little? Is it a
7 big rate? Is it a small rate? Is that rate
8 comparable to the national rate for our type of
9 construction? I don't think there's a page on
10 BLS where you can go in and plug in numbers and
11 it will come up with a --

12 MS. WINDAU: With fatalities. Okay.

13 And also with construction --

14 MR. BUCHET: Right.

15 MS. WINDAU: There's not the detailed

16 data, there's just construction, is that one of
17 the things you're getting at too?

18 MR. KAVICKY: Tom Kavicky. Janice,
19 thank you for coming out today. I know I've
20 learned a lot. I'm wondering if BLS has the
21 ability to differentiate between the union or
22 nonunion worker in these studies from the

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1 standpoint -- what I hear with ACCSH, a worker
2 is a worker is a worker. I don't care if you're
3 union, nonunion -- when I get back home, I put
4 on my union hat and I'm looking at information
5 that's going to help my brothers and sisters
6 locally. And the more information I have on
7 what our training is providing to our members, I

8 can adjust that and tweak that. Is there any
9 provision for that? And if so, I'd like to
10 know. And if not, why not?

11 MS. WINDAU: In terms of the non-fatal
12 data, our data comes from the OSHA recordkeeping
13 logs and also the individual case form that the
14 employer fills out. So we don't have that
15 information from the SOII. If OSHA decided to
16 put that on their form, then we would basically
17 have it.

18 We could potentially, I guess, ask
19 an additional question in addition to what's
20 on the form, but again we would need the
21 employer to fill it out for each individual
22 case form and in terms of the sense of fatal

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1 occupational injuries, most of the required
2 data elements are available from death
3 certificates or workers comp reports. So
4 again, if it's not on one of those forms, we
5 don't have the data.

6 We are trying to -- we do have a
7 question out to the states for some
8 additional data elements on the CFOI program
9 to see if they can collect them, and one of
10 those is union versus non-union and a couple
11 of states have come back and said, you know,
12 we're not sure we can get this data.

13 MR. KAVICKY: Thank you.

14 MR. SMITH: Thank you. And I would
15 have been real disappointed if Matt Gillen
16 hadn't asked a question on this. He's into
17 statistics so I knew he was going to ask a
18 question or make a comment.

19 MR. GILLEN: Thanks, Chairman and
20 thanks Janice. It's a great presentation. I
21 had a couple of questions. For SOII -- so how

22 many small employers, say like less than 10

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1 employees, are they represented in SOII?

2 MS. WINDAU: Yes, we did, even though

3 they're not covered under the recordkeeping

4 laws, they are in our survey sample. Again, we

5 notify everyone who's in the sample in -- I

6 guess it's December of the year before the

7 survey is taken -- so that they have their

8 recordkeeping forums and so they know to keep

9 the records.

10 MR. GILLEN: Okay. The other question

11 was that it's so interesting because the SOII is

12 for employers -- the numerator and denominator.

13 And CFOI, the numerator it's everybody, so it

14 includes those 2 million self-employed
15 construction folks that are not in SOII, but
16 then those are also included in the denominator
17 for CFOI as well?

18 MS. WINDAU: Yeah, and that's why we
19 chose the current population survey as opposed
20 to the employer-based payroll statistics,
21 because --

22 MR. GILLEN: Is it possible then to

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1 create a separate statistic then for the
2 fatality rate for employers as opposed to that
3 entire number?

4 MS. WINDAU: It may be. I asked a
5 couple people that question -- you're basically

6 talking about the private sector wage and salary
7 workers. We're looking into -- we can look into
8 it. We might be able to use the quarterly
9 census of employment and wage data which is our
10 sampling frame for the SOII. We may be able to
11 use that as a denominator and of course exclude
12 the injuries to the self-employed from the
13 numerator.

14 MR. GILLEN: That would be helpful.

15 Thanks.

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

18 MR. BRODERICK: I had a couple of
19 them, and again, you have a wonderful website
20 and if one is really patient and has a well
21 thought out query, then it's a great asset.

22 Injury or illness, name the

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1 container not the contents, generally name
2 the whole object and not the part -- it would
3 seem like in trying to analyze accidents that
4 it would be -- if you're just talking about
5 a -- I'm having trouble thinking of a precise
6 example, but that when people are injured or
7 killed by being struck by something, it would
8 seem like whether they were struck by the
9 back of it or the front of it, or run over by
10 it, that that would be of interest and if you
11 name the container -- like a box -- if we
12 knew what was in the box, that would really
13 help us to tie it into what was going on.
14 I'm sure that that would make the sort feel
15 much more difficult. Is the inputting of
16 this data -- are these menu driven so you
17 only have these few choices?
18 MS. WINDAU: I'm not sure. We

19 have -- like a crane boom hits the person, hits
20 the person, we don't have a code for crane boom.
21 We do have a machine part code. It's not
22 specific.

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1 MR. BRODERICK: Okay. Jumping down to
2 secondary source, and this is -- assaults. Name
3 the perpetrator. That seems like an odd piece
4 of information. That would seem like fairly
5 irrelevant. Wouldn't you want to know about the
6 nature of the assault?

7 MS. WINDAU: That's captured in event.

8 MR. BRODERICK: Oh, I see. Okay.

9 MS. WINDAU: In the back we have
10 shooting, beating --

11 MR. BRODERICK: I see. Yes.

12 MS. WINDAU: And by name the
13 perpetrator, we don't mean the person's name, we
14 mean whether they were a robber or a student --

15 MR. BRODERICK: Oh, you're not saying
16 literally the --

17 MS. WINDAU: The person's name.

18 MR. BRODERICK: The person's name.

19 MS. WINDAU: No, no.

20 MR. BRODERICK: Oh, okay. All right,
21 going over to iron workers, Frank Migliaccio is
22 not here from the ironworkers, but you have two

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1 or three categories, iron worker in construction
2 of buildings or unspecified would be coded as

3 structural iron and steel workers. Iron worker
4 in road construction would be reinforcing and
5 rebar workers. And then welders and those could
6 happen in either type of construction, but I
7 think that it could be misleading because in the
8 construction of buildings, a lot of buildings
9 are concrete, structures that are much more
10 concrete than they are structural steel, and yet
11 there may be very few structural ironworkers
12 working with steel but these buildings would
13 have many rod busters or reinforcing workers.

14 And similarly, in road
15 construction, for the most part, you would
16 have rebar workers, but when you're talking
17 about bridges, that's in the bailiwick of
18 road construction. Those would be
19 constructed by structural ironworkers except
20 for the bridge deck which would be concrete
21 that would have rebar in it.

22 Have you heard anybody else -- not

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1 necessarily fuss about it, but it's sort of a
2 different --
3 MS. WINDAU: We have had somebody ask
4 about the welders, that these other workers do
5 some welding, but again all we have is the
6 information that's on the case form in the SOII.
7 In terms of where we got these definitions,
8 these are that I used in census when they
9 collect their employment data. They've devised
10 an index, occupations, and sometimes the
11 occupational job title will be -- have a
12 subcategory of an industry will be different
13 depending on the industry, and other times, like
14 in welders, it's just --

15 MR. BRODERICK: Right.

16 MS. WINDAU: These are what they've

17 given us, basically, so --

18 MR. BRODERICK: Right, and I have a
19 big book at my office that has all these
20 occupational codes and so forth and that's where
21 they're coming from, but this group here gets
22 together periodically and we all represent the

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1 construction industry. Some of us represent
2 workers, some companies and others represent the
3 public and NIOSH and so forth.

4 And we are really here to be
5 advisors and helpers to you. And whether it
6 would be in a venue like this where we
7 could -- maybe since you are doing some
8 revisions, help with some of the

9 nomenclature, we would be happy to do that,
10 or you have the ability to pick up the phone
11 and call the ironworkers who would be happy
12 to -- because whether you're talking union or
13 non-union, the nomenclature that I'm talking
14 about that would sort these out would be the
15 same. So anyway, I'm just saying, I guess,
16 don't hesitate to use this advisory committee
17 to maybe give you some better descriptive
18 information than what might come out of a
19 book.

20 MS. WINDAU: Okay.

21 MR. BRODERICK: And I guess I had a
22 question because I work for the Construction

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1 Safety Council and I fairly often have
2 contractors and others that would call me and
3 not have the sophistication or necessarily even
4 the hardware to do a search -- is there any way
5 that, say an electrical contractor, can e-mail
6 someone or call and say, well, we're an
7 electrical contractor and we have 75 employees
8 and we're kind of wondering how we compare. We
9 know what our days away from -- our DART
10 is -- is there any way that they could ask that
11 in lay terms and have a search performed?

12 MS. WINDAU: A search in terms of what
13 the data for --

14 MR. BRODERICK: Yeah, provide them a
15 little report about -- you know, here's what we
16 find for electrical contractors of this size
17 range that you're in.

18 MS. WINDAU: Okay, in terms of what
19 types of injuries are --

20 MR. BRODERICK: What types of
21 injuries --

22 MS. WINDAU: We don't have that data

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1 by size class. We do have -- that's the
2 profiles data that I was talking about. We do
3 have that by industry or occupation. But we
4 don't have -- we can compare the rates by size
5 class.

6 MR. SMITH: Tom, we're going to need
7 to wrap up these comments.

8 MR. BRODERICK: I was just wondering,
9 do you have customer service people that would
10 help?

11 MS. WINDAU: Oh, yes. Definitely.
12 Definitely. On our website there is an e-mail
13 template that you can ask your question in.

14 MR. BRODERICK: That's super.

15 MR. SMITH: And David, thoughts,
16 comments, or questions?

17 MR. ZWOLAK: Janice, David Zwolak with
18 OSHA. First off, nice presentation. A
19 question -- Tom Kavicky came up with some good
20 suggestions. Matt did. Who is our contact? If
21 we want to execute on some of these sorts, who
22 do we get that to? Who do we make the request

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1 to and how soon would the turnaround be? Would
2 that be you?

3 MS. WINDAU: I guess, yeah, you can
4 e-mail me and then --

5 MR. ZWOLAK: Okay. Great. Great.

6 MS. WINDAU: I can give you a card or

7 if you want to give me your card.

8 MR. BUCHET: We know how to find you

9 and --

10 MS. WINDAU: Yes.

11 MR. ZWOLAK: And also a follow-up

12 question. I presume you can do retrospective

13 looks at data, at data bases you already have?

14 MS. WINDAU: From prior years?

15 MR. ZWOLAK: Yes, that's correct.

16 MS. WINDAU: Yeah.

17 MR. ZWOLAK: Okay. Good. Great.

18 Thank you.

19 MR. SMITH: Liz?

20 MS. ARIOTO: Yes, I have one question.

21 It's kind of a follow-up to Tom's question about

22 the ironworkers. We have ironworkers listed,

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1 where would light metal deckers be considered in
2 that even though they have serious injuries?
3 Would they just fall under the ironworking
4 category? Where, you know, you have connectors,
5 you have the deckers?

6 MS. WINDAU: I don't know. I would
7 have to look up that in the index. Do you call
8 them metal deckers?

9 MS. ARIOTO: Deckers. Metal deckers.

10 MR. BRODERICK: If they're doing it on
11 buildings, if it's like the floor --

12 MS. ARIOTO: I was just wondering
13 because they call themselves ironworkers, you
14 know, so would the classification -- if the
15 connectors are -- you know, rebar peoples are
16 the deckers or what. So it's just a question I
17 would like to know how that --

18 MS. WINDAU: I can look it up.

19 MS. ARIOTO: Thank you.

20 MR. SMITH: Matt has one last

21 question.

22 MR. GILLEN: One last question. So

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1 you say you're undergoing a major revision of
2 the Occupational Injury and Illness
3 Classification System, and that seems like where
4 we'd get at some of these issues. I mean, do
5 you think the group should try to take a closer
6 look at that? And how big is that to take a
7 look at?

8 MS. WINDAU: The last couple of
9 questions have dealt with occupation and that's
10 not in this revision. They're just finishing up
11 a revision, unfortunately, and I'm not sure if

12 it's still time to get comments into that or
13 not. But I can ask. You might have to wait for
14 ten years.

15 MR. SMITH: Mike has a question.

16 MR. BUCHET: Acronym soup, I think, is
17 leaving us a little confused. There's the
18 Standard Occupational SOCs, which is not SIC and
19 is not NAICS. Can you spend a second and
20 explain what the NAICS -- North American
21 Industrial Classification System is, what the
22 Standard Occupational Classification is, and

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1 which ones we're now going through the revision
2 on, it's neither of those, but it's a third
3 system and if you could pin those down, then

4 we'll be able to tune what energy the committee
5 can put to which one of them.

6 MS. WINDAU: The NAICS that has just
7 undergone a revision, also, that's the industry
8 classification. The 2007 book has just been
9 published.

10 MR. BUCHET: And that has a
11 translation code to the old SIC manual?

12 MS. WINDAU: Right. And the SOC, the
13 Standard Occupational Classification System,
14 that -- I can check, but I'm pretty sure it's
15 too late to get comments in.

16 MR. BUCHET: That is not a BLS system?

17 MS. WINDAU: It's an interagency.
18 It's the census bureau, OPM and several other
19 agencies in addition to BLS is involved with
20 that.

21 MR. BUCHET: And then there's OICS.

22 MS. WINDAU: OICS. Yeah. Now that's

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1 the one that I'm --

2 MR. BUCHET: And that's the
3 Occupational Injury and Illness Classification
4 System and that's the one that's undergoing the
5 revision.

6 MS. WINDAU: Right. And that's like
7 the nature, part, source, and event which
8 describes the injury itself or describes how the
9 incident occurred.

10 MR. BUCHET: We can contribute by
11 describing more accurately the nature of -- fill
12 in the pieces here, the event --

13 MS. WINDAU: Right, or --

14 MR. BUCHET: The part of the body,
15 well --

16 MS. WINDAU: What you're probably more

17 interested in contributing to is the event,
18 which is how the incident occurred and also the
19 source code list which has a lot of machinery
20 wording. We're not machinery experts.

21 MR. BUCHET: Well, and part of
22 machinery is the part -- I don't want to speak

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1 for everybody -- would seem interesting. Is
2 anything being done with the activity codes?

3 MS. WINDAU: I think it will
4 be -- activity and location, I think the CFOI
5 program is planning to do something but they
6 haven't sent out a request for comments, but if
7 you have comments, go ahead and send them.

8 MR. BUCHET: The work zone questions

9 are going to be the activity and location of
10 code questions. That would help us put down
11 what's really happening out there.

12 MR. SMITH: Thank you very much.

13 Appreciate that.

14 What we're going to do now, just to
15 give you an idea and some agenda
16 changes -- love to have some board comments
17 and we're also going to talk about the group
18 here in town this week for a minute and also
19 Pam Parletti has a presentation on
20 (inaudible). I'm sorry, excuse me. Hold all
21 that.

22 We'll get to it later.

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1 MR. RUSSELL: If we have a moment, I
2 would like to make a request to the agency per
3 the ROPS work group and that is that when we
4 started dealing with the compactor, we actually
5 had data from CPWR because they had just done a
6 report. If I can make a request to OSHA, if
7 they had any fatality or injury data on the skid
8 steer loader, if they could provide the work
9 group with that, and also the same on the mini
10 excavators. I know the mini excavators are
11 recently more being used in the industry, but
12 again, both of those would actually help the
13 committee in its deliberations.

14 MR. SMITH: I think we can do that
15 without a motion.

16 MR. ZWOLAK: Yeah, let me -- Dave
17 Zwolak -- yeah, let me take a look. We'll see
18 if we can provide it, we will.

19 MR. RUSSELL: Yes, you know, for the
20 next committee meeting that would be good if you
21 had anything available -- injury, fatality on
22 both the skid steer and also the mini excavator.

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1 MR. ZWOLAK: Yes, sir. So noted.

2 MR. RUSSELL: Thank you.

3 MR. SMITH: Yes, sir?

4 MR. SCHMIDT: My name is Dave Schmidt.

5 I work in the Director of Evaluation Analysis

6 here at OSHA and what I wanted to do is I just

7 wanted to talk about a couple of databases that

8 we have available here that are specific to

9 construction and then I was going to touch

10 briefly on how we use that data to target our

11 inspections for program target.

12 The first database is the

13 Integrated Management Information System or

14 the IMIS. And what this is, this contains

15 OSHA's inspection history all the way back to
16 early 1970s. There's about 3 million records
17 in there and since about half of our
18 inspections are construction related, about
19 half of those records are construction
20 related. And what we do is we make available
21 most of the information in there to the
22 public through our website and I was just

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1 going to touch on a few of the applications
2 up on the website that employers or any
3 member of the public can access this data
4 with.

5 The first one is establishment
6 inspection history, so if you just type in

7 any specific name of a company that you
8 want -- I just typed in ABC Construction
9 Company here. It will return to you not all
10 of, but a grouping of establishments that are
11 either that name or similar to that name, and
12 what it does is since we have so much data in
13 there, you have to do it in chunks of years,
14 so I think you have to do it in chunks of 10
15 years, but what it does is it returns all
16 this information that's close to the name
17 that you put in there, and then what you can
18 do is you can just click on the activity
19 number, which is the OSHA inspection number,
20 and it will bring up details of that
21 particular inspection.

22 It will give you information about

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1 the establishment itself. It will give you
2 information about the type of inspection it
3 was. Was it a planned inspection? A
4 complaint? And then it will give you the
5 results of that inspection. It will tell you
6 how many citations there were with penalties
7 involved and the specific violation items.

8 So that's one source that's
9 available. Another application is the
10 Fatality Catastrophe Narratives. And what
11 this application does is for each fatality
12 inspection that we do, the compliance officer
13 will enter in a narrative that briefly
14 describes the fatality and the results of the
15 inspection and what you can do is you can
16 just search on those narratives for any kind
17 of word that you want to type in there. For
18 example, I typed in "crane" and this is an
19 example of a narrative that was associated

20 with that inspection.

21 Now, just like any other database,

22 it's dependent on how much effort's put into

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1 typing in these narratives, so some of them

2 are short with no information whatsoever.

3 Some of them are very detailed.

4 One thing that's different about

5 this between what's publicly available and

6 what's not publicly available -- what's

7 available to us internally, is that these

8 narratives have to be cleaned for personal

9 information. So OSHA went through an effort

10 to clean up the data and we've gotten as far

11 as 2004. So information that's available to

12 the public is 2004 and prior, but internally
13 we have access all the way up to current
14 date.

15 Also within this application
16 there's a keyword search. So OSHA identified
17 a whole bunch of keywords that would be
18 pertinent to fatalities and you can select
19 one of those and what that will do is it will
20 return every fatality inspection that
21 contains that keyword. So for example, if
22 you go to cranes, you get 1,592 hits. So

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1 there were 1,592 fatality inspections that we
2 conducted that had the word "crane" in those
3 narratives. "Carpenters" will return you 671

4 hits. And you can go through each one of
5 those. You can narrow it down by area, if
6 you want.

7 MR. ZARLETTI: Now I'm assuming if you
8 just put in "crane," singular, you're going to
9 get another whole group of similar type
10 accidents, because it's spelled differently?

11 MR. SCHMIDT: If you put in "cranes"
12 in the search -- yeah, what the keyword list
13 does for you is somebody went through every one
14 of those narratives and decided if that
15 narrative pertained to cranes and construction,
16 or something. There might be the word "crane"
17 in there talking about a bird and you won't get
18 that in this keyword search, but you will get it
19 if you do it just a narrative search.

20 In addition to what you can get off
21 of that public website, we contract with the
22 Construction Industry Research and Policy

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1 Center which is part of the University of
2 Tennessee and what they do is they
3 take -- they go through, by calendar year,
4 they'll go through all of the fatality write
5 ups that we did for a fatality inspection,
6 and they'll produce a report for us each
7 year, and it's a very nice report, that
8 analyzes all those fatalities for
9 construction. So this is just limited to
10 construction here.

11 So what they did for 2006, they
12 went through all of our construction
13 fatalities, found that there were 780
14 incidents that involved 800 fatalities in
15 calendar year 2006, and then they summarize
16 them in different ways.

17 Now they've been doing this for us

18 for quite a long time so we have 14 studies
19 now. And this is public information. If
20 anybody wants it, they can do a request for
21 it.

22 MR. GILLEN: Is it on the website?

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1 MR. SCHMIDT: No, it's not on the
2 website. But if you want it we'll give it to
3 you.

4 MR. ZARLETTI: Is there a link to it
5 anywhere?

6 MR. SCHMIDT: Well, UT has asked it's
7 permission to link, you know, to put it up on
8 their website and we've given it to them, but
9 they haven't done it. I thought it would be a

10 good idea to dump it up on our website if you

11 agree, but also if you just want a copy of it,

12 I'm certainly glad to send you a copy.

13 MR. BRODERICK: Can we distribute it

14 to the entire committee?

15 MR. SCHMIDT: Oh, definitely. Yeah,

16 this is a public document. And what I did is I

17 just cut and paste a couple of -- these are just

18 a couple of examples of tables that they have in

19 there. What they do is they look at event or

20 exposure and they'll summarize, they'll code

21 things similar to what BLS does, and they'll

22 summarize by number of events and percent of

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2 MR. BRODERICK: What definitions do
3 they use?

4 MR. SCHMIDT: They don't use BLS's,
5 but what's inside the report here, in one of the
6 appendices, they list their definitions.

7 So in addition to event or
8 exposure, they also introduce fatalities by
9 the size of the project, the owner of the
10 project -- or type of owner of the project,
11 and similar things like that.

12 Back to our website -- there's an
13 application that allows you to enter in any
14 four digit SSC or six digit NAICS code and it
15 will return all the inspections that we've
16 done within that SIC.

17 So in here, I just typed in
18 SIC 1521 and it returned 14,958 inspections
19 that we did in that SIC. And remember, this
20 goes back to the early '70s.

21 MR. ZARLETTI: That was all last week.

22 MR. BUCHET: All last week. Yes.

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1 MR. SCHMIDT: We do do a lot of
2 construction. Another application is frequently
3 cited standards. And again what this allows you
4 to do is to type in an SIC or an NAICS code and
5 it will return the standards that are most
6 frequently cited within that industry and it
7 ranks them by number of citations, so you can
8 see that for SIC 1521, construction general
9 requirements was the most cited with 398.

10 Now with this -- this application
11 is only for one year and I think it's a
12 fiscal year, so this is probably Fiscal Year
13 2007 data.

14 MR. BUCHET: Is this just federal data

15 or federal and state?

16 MR. SCHMIDT: That I don't know.

17 MS. SHORTALL: You can do searches on

18 both. It depends on what parameters you put in.

19 MR. BUCHET: The problem is that the

20 numbering system for the states don't translate

21 necessarily --

22 MR. SCHMIDT: Right.

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1 MR. BUCHET: To the numbering for the

2 federal --

3 MS. SHORTALL: That is true, but you

4 can get state inspection data to be set the

5 thing input it --

6 MR. SCHMIDT: I have to look at the

7 front page to see if that's true or not.

8 MR. BUCHET: Yes. Thank you.

9 MR. SCHMIDT: But one thing about the
10 frequently cited standards on the OSHA website
11 is it's limited to the eight digit standard, and
12 it's limited to one year of data, so you an only
13 get it at the eight digit level for FY '07, I
14 believe. But if you made a request into our
15 office or to construction, we could do runs for
16 you at any of the standard levels -- 8, 10, 12,
17 22 -- and we could do it for the 35-year history
18 that's within the database.

19 Another application on the website
20 is an industry profile for an OSHA standard.
21 And what this allows you to do -- it's kind
22 of the opposite, you type in the standard

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1 you're interested in and it will give you a
2 list of the industries where we frequently
3 cite it, so I just typed in the general
4 requirements standard here for construction
5 and it shows you that SIC 1741 masonry got
6 cited the most and then of course it ranks it
7 by number of citations.

8 And you can do it by different
9 levels of SIC: 2-digit, 4-digit, 3-digit.

10 So that's what's available up on
11 the web for our inspection database. Now
12 another thing that we do is we buy data file
13 from a company called FW Dodge. What they
14 are is they're a -- they try to compile a
15 list of all the construction activity through
16 United States, and the reason they do it is
17 for economic purposes for companies to bid on
18 sub contracts and suppliers to bid, but we
19 buy it to do our enforcement activities with.
20 And what they do is they have about 1,000

21 reporters that will go through a whole bunch
22 of different sources to identify all the

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1 construction activity. And what we found
2 through studies is that for projects that are
3 \$50,000 or greater, we showed that they have
4 a 90 percent identification rate. So they're
5 able to identify 90 percent of the
6 construction projects that are \$50,000 or
7 greater within this country.

8 And what they do for us is -- just
9 as I mentioned, the data that we buy from
10 them excludes single family and duplex
11 houses, but that data is available from Dodge
12 if we wanted it, so if somebody wanted it for

13 like a special emphasis program, we could go
14 ahead and buy it. But what Dodge does is
15 they'll send us a monthly list and it's about
16 83 -- in the low 80s -- 80,000 construction
17 projects that are just starting, and they'll
18 send that to the University of Tennessee on a
19 monthly basis.

20 What the University of Tennessee
21 does is they'll put it into an econometric
22 model which will look at a few different data

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1 elements -- the projected start date, the
2 dollar value of the project, the end use of
3 the project -- and they'll predict when that
4 data is -- or that site is going to be

5 between 30 and 60 percent complete. And then
6 what they do with that is they'll randomly
7 select establishments out of that active file
8 and they'll distribute them to our area
9 offices and then the area offices will use
10 that as their inspection targeting. So
11 that's how we use that data.

12 Now they also have -- this is just
13 a -- when UT selects out these establishments
14 for inspection, they'll go back to Dodge and
15 request what's called a Dodge report which
16 contains all this information on it and
17 they'll give that to -- what we do is we just
18 post this up on our website so that our area
19 offices can access it so they'll have an idea
20 what they're looking for when they go out to
21 the site.

22 And there's another data element,

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1 if an area office wants to do either a local
2 emphasis program, Dodge has the ability to
3 search its databases for keywords such as
4 paint remover, sandblasting, demolition, and
5 so what an area office can do is they can
6 come to us, tell us that they want to do this
7 special emphasis program, we'll send the
8 information to Dodge, Dodge will give us a
9 list of everybody that has that keyword in
10 there and then we'll do a random selection
11 for inspection target.

12 So those are a couple of databases
13 that we have available, that's how we use it.

14 MR. SMITH: Thank you. Any questions?
15 Comments? Emmett?

16 MR. RUSSELL: Yes, Emmett Russell.
17 The information -- with the University of

18 Tennessee -- can anyone get some of that stuff
19 from the University of Tennessee or we actually
20 have to come through you to assess that
21 information?

22 MR. SCHMIDT: Well, you know we have a

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1 contract with UT, so in order to be sure that
2 you get the data, you would come through us and
3 then we could request the data from UT. Now, I
4 think if -- it's a nice group of people, that's
5 for sure, so if you wanted a copy of their
6 fatality studies, you could certainly just call
7 them directly. I'm sure they would give it to
8 you. So depending on the type of data you want,
9 if you're looking for listings, you would have

10 to come through us probably.

11 MR. RUSSELL: Thank you.

12 MR. BUCHET: You can also go to Dodge

13 and pay them to do the research. They're really

14 happy to provide data.

15 MR. RUSSELL: We'll come to you.

16 MR. SMITH: Other questions, comments?

17 thank you very much. I appreciate that.

18 MS. SHORTALL: Before they leave, I

19 first would like to designate the

20 presentation -- hard copy of the PowerPoint

21 presentation on BLS Occupational Injury and

22 Illness Data by Ms. Windau as Exhibit 0010 in

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1 the previously mentioned docket.

2 Do you happen to have a hard copy
3 of the presentation that you made on the
4 OSHA?

5 MR. SCHMIDT: I do.

6 MS. SHORTALL: You do.

7 MR. THIBODEAUX: It's in the packet.

8 MS. SHORTALL: I'd like to mark
9 that -- a hard copy of that presentation as
10 0011.

11 MR. SCHMIDT: Sarah, do you want a
12 copy of this too?

13 MS. SHORTALL: If it's already in
14 here, we'll mark what we have.

15 MR. SCHMIDT: This isn't. The
16 fatality report.

17 MR. SMITH: Thank you very much.
18 Let's -- it's not quite time for a break, but
19 now is a good time to take one, so let's take a
20 15-minute break.

21 (Recess)

22 MR. SMITH: Pam, come on up. The

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1 meeting come to order, we'll go back on the
2 record. We're going to hear a presentation from
3 Pam Susi -- if I pronounced that right.

4 MS. SUSI: It's close enough.

5 MR. SMITH: Thank you for being so
6 nice. Scaffold presentation. And then after
7 that's over, of course as you can see, that's
8 the last thing we've got listed, but we're going
9 to talk for a few minutes about the crane summit
10 that was held this week. We'll talk a little
11 bit about a couple new standards, just kind of
12 an informational session, and then I'm going to
13 ask you for comments.

14 During the breaks and at lunch, I
15 am constantly hearing from the members of the

16 committee with great ideas, great
17 recommendations, great suggestions and we're
18 going to give you time to make any of those
19 comments you'd like to make on the record
20 before we leave today. Okay? So I think,
21 just as we have public comments, we also have
22 board member comments. Yes, sir, Bob?

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1 MR. KRUL: I was just going to remind
2 the chairman of the public comment period.
3 MR. BUCHET: Nobody signed up.
4 MR. KRUL: Okay.
5 MR. SMITH: Great. So thank you very
6 much, Bob. Always take suggestions very well.
7 Okay, Pam, thank you very much for

8 being with us today. We appreciate your

9 time.

10 MS. SUSI: Yeah, and I appreciate your

11 time. I'm an industrial hygienist with CPW, I

12 guess you're all familiar with that

13 organization. I'm also working with (inaudible)

14 so I want to kind of go over some of the

15 recommendations --

16 MR. SMITH: If you would pull the mic

17 a little closer.

18 MS. SUSI: So mainly what I wanted to

19 do today is just go over our recommendations

20 because after two year process, we completed

21 some recommendations. I think they're in your

22 packet, too, right, Mike? So the way this

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1 workgroup that we put together at CPWR formed
2 was that we had a standing engineering controls
3 workgroup which I co-chair with NIOSH (?) and we
4 focus on health and safety hazards, and it was
5 brought to our attention back in about 2005 by
6 the painter's union and some of the folks in the
7 Philadelphia building trades that the mast
8 scaffolds were being used more and that they'd
9 had some serious accidents there including two
10 involving two different fatalities.

11 And so at that meeting we had in
12 2005, they recommended that we put together a
13 workgroup just to focus on this particular
14 technology and how to increase safer use of
15 it which is what we did. So the goal of the
16 workgroup was that one, we were looking at
17 the causes of accidents, trying to look at
18 the current regulations and see if they
19 adequately addressed the problem, and then
20 make recommendations on how to prevent any

21 future injuries or death.

22 Can you see that okay like that or

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1 is it better we turn off another light?

2 Okay.

3 The workgroup composition -- we've

4 got a good mix of people. It's co-chaired by

5 Steve Martini, who heads up the training

6 department of the International Masonry

7 Institute, and Jim Kinatader, who's a masonry

8 contractor out in Milwaukee. And then we

9 have representation from all of these groups

10 listed here -- OSHA, the painters Union,

11 laborers, bricklayers, building trades,

12 Scaffold Industry Association, the

13 International Power Access Federation. NIOSH

14 is also on there and we've got, I think,

15 three different scaffold manufacturers

16 represented.

17 In fact, one of the scaffold makers

18 is also the chair of the A92.9 ANCI (?) that

19 oversees mast scaffold. So we've got a good

20 group there. This is most everybody.

21 Dr. Ayoub is also in our group, but

22 he wasn't at that meeting.

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1 So everybody recognizes, I think,

2 that there's a lot of benefits to the mast

3 scaffolds, that they seem to increase

4 productivity, you know, you save the time in

5 terms of the erection and in terms of
6 ergonomics it's a plus because you can
7 position the platform right where you need
8 it. It holds a great deal of weight, goes up
9 very high reaches, so it's a plus that way,
10 but it bends several -- this isn't a complete
11 list, but this just kind of gives you a feel
12 for the fact that often when there is an
13 incident, it's a catastrophic incident and
14 that multiple workers are killed and there
15 can be serious injuries. I don't have to
16 tell this group that these numbers represent
17 someone's son or someone's spouse or father,
18 so it's serious issue.

19 You're probably familiar with this
20 type of system, I just was going to run
21 through how it's brought onsite. Here you
22 see the components are trucked onto the site

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1 and it's erected relatively easily -- or
2 relatively quickly, I should say. This is a
3 single mast scaffold. You see the single
4 tower in the middle there. And in Europe,
5 apparently, they've been using this system
6 for quite some time.

7 They started using it in the '70s,
8 but we didn't really start using it in this
9 country until the early '80s and we really,
10 from what I understand from people in the
11 industry, it hasn't been used in mass,
12 really, until the last 10 years or so, so
13 Hydro Mobile was the first manufacturer to
14 introduce the product in North America and
15 then Fraco started coming online in 1991.

16 You see it used a lot for masonry
17 registration. This is a double mast
18 scaffold. This is a job in Center City,

19 Philadelphia. One of the things -- you see
20 on the left, I don't know if you can make it
21 out -- they're pedestrians are walking
22 underneath the platform and Kevin O'Shea

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1 who's out of the UK and on our group points
2 out that in Britain they won't let them walk
3 under platforms like that. The pedestrian
4 has to be like -- it has to be guarded so the
5 pedestrian can't go underneath it. And you
6 see them here, they're great for high- rise
7 because they can travel so high, but they're
8 also popular for low-rise work.
9 Now when we started looking at some
10 of the accidents that have occurred, and

11 again, Dr. Ayoub was really instrumental in
12 doing this for us. These are the things we
13 found to be major problems -- corrosion of
14 the components, oftentimes the last tie would
15 be removed before the scaffold was secure so
16 that it would collapse, overloading or
17 unbalanced loading on the platform,
18 inadequate base support, insufficient
19 anchorage.

20 Sometimes the path of travel would
21 be interrupted by an object that the operator
22 didn't see. Removal of planking, guardrails,

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1 and then gaps in the work platform.

2 And this is a tie-in or an anchor

3 point. This is what holds the whole thing
4 up, so obviously this is a key thing, the
5 anchorage point, and these were some pictures
6 I took in Chicago of two different systems.

7 On the left, you see they're
8 anchored into -- you can't really tell there
9 if they're anchored into just the brick or
10 into the structural component of the
11 building. On the right, they've removed the
12 brick so you can see a little bit more, but
13 this is a big issue is whether or not it's
14 tied into something structural within the
15 building that's going to have the force to
16 hold it up. This is an example.

17 Some of the base supports you see
18 and how often they're not adequate. Example
19 of how sometimes the distance between the
20 platform and the building can be very large
21 causing a potential fall hazard. And this is
22 a bigger picture of one of the pictures I

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1 showed you earlier of a building in Chicago
2 and you can't really make it out. It looks
3 like it's all glass. But on the side there,
4 is brick and you can see the mast platform
5 way up there at the top.

6 And one of the big issues, when you
7 talk to rank and file bricklayers who use
8 this -- bricklayers and glazers seem to use
9 this more than any other craft and when you
10 talk to rank and file bricklayers, one of
11 their biggest issues is the access because on
12 some of these, they travel too slow to make
13 it practical from the contractor's point of
14 view to bring them down for the employer to
15 get on and off when they're accessing the

16 platform and so as a result they're required
17 to climb the mast and you can see by looking
18 at that it's not really well designed for
19 climbing, but in some cases they're asked to
20 climb 100 feet in the air and if they're
21 working in a place where it's wet and icy and
22 the workforce is getting older -- this is

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1 really a concern that, you know, they're
2 going to get up there and slip and fall and
3 knock the guy down below them. So that was a
4 big issue really for a lot of the members I
5 talked to.
6 These pictures are kind of graphic
7 so I'll warn you about that. These are some

8 case study photos from the incidents that
9 occurred in the Philadelphia are and this one
10 involved a glazer from Painters District
11 Council 21 Philly, and this was in
12 Pennsylvania, Philadelphia. What they had
13 here were two different mast scaffolds and
14 they formed like an L configuration you see
15 there.

16 And so the beginning of the work
17 day, they had them lined up so that they were
18 parallel there, one more or less continuous
19 system, and then later in the day, they
20 lowered the second mast. And the worker who
21 fell, I guess, was in his mind thinking that
22 that was still there and he fell the 85 feet

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1 to his death. And that's the platform he
2 fell from. I think this guy was an
3 apprentice, very young guy.
4 Some more pictures of that job.
5 The same job, you know, you can see that
6 they're working off of an unprotected edge,
7 no fall protection, and you've got this big
8 gap here. Unguarded opening. And this was
9 the same year, different job in the same area
10 over in Camden, this scaffold here 120-foot
11 mast scaffold. They were bringing it down
12 and the last tie was removed before it was
13 anchored correctly with the crane or however
14 it is they secure it when they're breaking it
15 down, and so it collapsed and everything
16 shifted down and crushed the worker that was
17 on the platform. And again, this fellow was
18 killed.

19 So one of the problems with these
20 systems is that there are several
21 manufacturers and although they operate on

22 the same basic principle, they're all a

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1 little bit different, so someone who's worked
2 on a Hydro-Mobile may not be knowledgeable
3 about how to work on a Franco and so on. And
4 so in addition to generic training, there's
5 also a need for equipment-specific training
6 which apparently isn't always happening.

7 And again, a lot of these are
8 manufactured in -- or they come from Europe
9 and so you'll have the product literature may
10 be in another language and that's an issue,
11 having the information in a language that the
12 workers understand.

13 So the rest of these slides

14 basically go over the recommendations which
15 you should have in your packet but our
16 preliminary findings were that there's really
17 a real lack of training for these types of
18 scaffold systems and that there's a lot of
19 common engineering problems that we see in
20 the accidents that do occur.

21 And there's an issue with poor site
22 coordination -- communication between the

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1 manufacturers, the contractors, the subs, the
2 workers -- so you might have a masonry
3 contractor who's got a scaffold erected for
4 their employees and the electrician has to
5 get up to a certain point and they just jump

6 on the equipment and use it and they're not
7 even aware -- the masonry sub may not even be
8 aware that that worker's on their equipment,
9 so there's this issue with problems with
10 coordination.

11 And then sometimes this equipment
12 will be leased or sold so that the
13 manufacturer is two steps removed from the
14 end user, and a lot of the information that
15 you need from the manufacturer is getting
16 lost in that process. But the thing that we
17 found that is most relevant to this group is
18 that the OSHA standards are really inadequate
19 in addressing mast scaffold. You know, there
20 are scaffolding standards but when those were
21 created, these systems were not even used
22 that commonly, so one of our requests was

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1 that this committee consider the possibility
2 of recommending that OSHA look at updating
3 their standards in this regard.

4 There's an ANSI 92.9 committee
5 which oversees mast scaffolds and they had a
6 standard that goes back to 1993, but they're
7 currently updating that and it's in the
8 review stage now, and so that should be final
9 certainly by next year if not this year. But
10 some of the things that we don't see as being
11 adequate enough in there are training
12 requirements, the access issue about climbs
13 over 20 feet, language on-site safety
14 personnel, and some engineering control
15 requirements that we'd like to see addressed.

16 So our preliminary recommendations
17 are these, that one in terms of training that
18 there be a mandatory four hour minimum

19 awareness level course for operators and
20 users, there be a 16-hour erector dismantler
21 course, or this could be the four-hour
22 awareness level plus an additional 12 hours.

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1 There should be site- and model-specific
2 training, you know, on-site to supplement
3 that general training and that there should
4 be refresher training every three years
5 unless there's a qualified instructor in that
6 discipline who certifies it's not required.
7 In terms of the engineering control
8 recommendations, we recommend that there be
9 someone qualified in structural engineering
10 who reviews and approves mast scaffold

11 designs that involve cantilevered designs, or
12 if the scaffold doesn't lack a substantial
13 base or it's shoring under concrete flooring,
14 so they may in some cases have something that
15 projects out from a building as the platform
16 to rest a mast scaffold on. In a case like
17 that, you definitely would want someone with
18 that expertise involved.

19 We also recommend that there be
20 someone qualified in structural engineering
21 who designs the anchorage system, that there
22 be written instructions for the anchorage

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1 system that workers would be required to
2 follow when they do the installation,

3 prohibition on tying into brick or lumber
4 unless it's approved on a case-by-case basis,
5 load tables on-site and presented in a
6 language so that anyone using that equipment
7 would understand it, design of tarps,
8 windscreens, and signage authorized by the
9 manufacturer so that it could withstand wind
10 loads.

11 Because as I'm sure you're aware,
12 sometimes in the winter time they have these
13 weather enclosures and those represent
14 another hazard. Also monitoring of wind
15 speeds and having work stopped when the winds
16 were above 30 miles per hour or at a speed
17 recommended by the manufacturer. And that
18 there be a daily inspection for visible
19 defects or an inspection done after any kind
20 of occurrence that could affect the integrity
21 of the scaffold.

22 And also, there should be a

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1 written -- I don't think this is a word, I
2 misspelled it -- there should a written
3 preventative maintenance program that is
4 carried out by a qualified person.

5 And then with regard to the access
6 issues, and this has more to do with the
7 access not climbing up the mast, but access
8 from in the building -- because the two ways
9 they access -- there's three ways, one is to
10 ride the mast up or ride the platform up,
11 rather, go out a window opening and climb on
12 to the platform, or to climb up the mast
13 itself.

14 And generally if there's window
15 openings, that's the way they'll access the
16 platform. So when that occurs, we would say

17 that they should not access the platform that
18 way unless they have guarded openings, that
19 the space between the scaffold and the
20 building is not more than seven inches, and
21 that there be a job hazard analysis for
22 greater distances. Because we're told that

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1 once you get beyond a certain elevation, that
2 seven inches is not going to be enough, that
3 the thing will creep in and it might hit the
4 building. And then in terms of the level
5 issue, that every effort be made to try to
6 get the platform up level to the opening of
7 the building. And where that can't be done,
8 that the vertical distance not exceed 15

9 inches, so that if someone's stepping off
10 into the mast platform, that they don't have
11 to drop more than 15 inches or climb 15
12 inches to get to that level. And then, of
13 course, you know, maintenance of non-slippery
14 surfaces.

15 In terms of the vertical climb,
16 this was something that was very contentious
17 because our contractor member felt very
18 strongly that the productivity issues would
19 be a problem for him if it was required that
20 you lower the platform every time someone got
21 on. The worker representatives in our group
22 thought that was an important issue that

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1 workers should not have to climb higher than
2 20 feet on a vertical axis. So what we came
3 up with was this compromise language and that
4 is, as far as vertical climbs go, that they
5 should be assessed by a job hazard analysis,
6 that the scaffold should be lowered so there
7 can be safe access egress for climbs greater
8 than 20 feet, but if this isn't feasible,
9 then a written method for access should be in
10 place before they climb and to make sure to
11 prevent for fall hazards. And where climbing
12 over 20 feet is permitted, there should be
13 rest platforms provided every 20 feet.

14 MR. MURPHY: Dan Murphy. When you
15 were making the recommendation that rest
16 platforms be provided, is that something you're
17 going to ask the manufacturers to supply those?
18 Or is this something the contractor would do?

19 MS. SUSI: The contractor would have
20 to get that equipment from the manufacturer. So
21 that would be the contractor's -- and I will

22 tell you, just to relay the thinking here is

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1 that the workers who -- the bricklayers in our
2 group, it wasn't desirable, you know, it wasn't
3 ideal, because even if you're stepping down on a
4 rest platform, and those of you who've worked at
5 heights, you know what that's like. If you're
6 like 100 feet in the air and you're climbing and
7 you step down on a rest platform, that's not
8 necessarily a good feeling. So this was not
9 necessarily the desirable -- the desirable thing
10 would be that if it's greater than a 20-foot
11 elevation that you lower the mast and that they
12 ride up the platform or lower the platform,
13 rather.

14 MR. MURPHY: Or they provide a cable
15 climber like we do on ladders, on stacks,
16 chimneys, where you hook off onto the cable and
17 you go up the ladder and then when you need to
18 rest, you can rest wherever you are and it locks
19 on the cable. It sounds to me like this would
20 be the perfect application for that.

21 MS. SUSI: That might be something,
22 yes. That's why we wanted to put this forward

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1 to this group because you'd have (inaudible) of
2 this.

3 MS. ARIOTO: I'd like to ask a
4 question. I've never seen anybody actually
5 climb the mast, I've only seen them come down.

6 Do the manufacturers actually allow this? Is it
7 written in the manufacturers recommendations
8 that they cannot climb the mast?

9 MS. SUSI: It depends on what
10 manufacturer it is. I think one that -- most of
11 them it's not an issue because they do travel at
12 a high enough speed and you can lower them
13 without things being in the way to make it
14 difficult to lower. Hydro-Mobile's earlier
15 series, apparently, they have some kind of
16 anchoring system that once you get it up there,
17 it gets in the way of lowering it, and it
18 travels at such slow speeds that the contractor
19 has a problem with waiting that long. So it's
20 not all the systems that are out there.
21 Unfortunately they project that these will still
22 be in commerce for like at least another 10

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1 years.

2 MS. ARIOTO: I'm just curious if
3 they're climbing up the mast, how are they
4 getting on there? I mean, I've never seen one
5 with a trap door or anything like that so they
6 can climb in, the only one I've seen is -- you
7 know, I've never seen them do that. They have
8 to come down and --

9 MS. SUSI: Yes, there is some
10 kind -- I think there's some kind like a trap
11 door, kind of, right?

12 MR. ZARLETTI: There is a swing gate
13 that brings you in and automatically closes
14 behind you on the outside.

15 MS. ARIOTO: I don't mean that so
16 much, that climbing up the mast --

17 MS. SUSI: You see, I've never been on
18 a -- the Franco I was on, they lowered it, and
19 so I didn't have to climb up the bottom, but I

20 guess you go around the side.

21 MS. ARIOTO: I was just curious how

22 you get in from the mast to the platform

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1 (inaudible) just looking at this, you'd have to
2 be climbing around the side. I mean, the ones
3 I've seen, they have to come down. Sometimes
4 they can't come down to the ground level because
5 of maybe you have some kind of protrusion from
6 the building, and then the contractor would have
7 to build a certain walkway to get on maybe at
8 the next level up.

9 MS. SUSI: They do sell to -- these
10 scaffolding manufacturers, they sell the stair
11 scaffolding, but then the contractor in our

12 group said, well if I'm going to do that, I
13 might as well build traditional scaffolds.

14 So this is --

15 MR. BRODERICK: Okay? So?

16 MS. SUSI: Right. And then fall
17 protection for climbs over 10 feet, we recommend
18 it.

19 We also have recommendations that
20 involve the responsibility of the
21 manufacturers, the suppliers, the
22 users -- and I'm not listing those out here,

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1 but they're in your written materials, and
2 that there be certain site safety and
3 oversight roles and qualifications. One

4 thing we recommend there always be two people
5 on the platform at any given time and that
6 there be a site safety personnel to supervise
7 access so that not anyone could just jump on
8 the platform, that they would regulate who
9 would be able to get on there.

10 And that is all we have.

11 MR. SMITH: Go ahead, Tom.

12 MR. KAVICKY: Thanks, Mr. Chairman.

13 Unless I missed it, is there anything about a
14 competent person in that recommendation.

15 MS. SUSI: We didn't use the
16 terminology "competent person" because we
17 thought that was something that the contractor
18 would have to make that designation as opposed
19 to a more generic recommendation which we made.

20 And what we did, if you look on --

21 MR. BRODERICK: Tom, I think that if
22 you didn't have one that they would apply the

1 scaffold standard to this technology.

2 MR. KAVICKY: Right, which required
3 it.

4 MR. BRODERICK: Yeah, and then write
5 the citation for lack of a competent person.

6 MS. SUSI: Yes, it would be required.

7 We do make reference to a qualified person and
8 that there be someone designated who has the
9 expertise, but we could probably put some
10 language in there that was more compatible with
11 the competent person, like that they had the
12 authority to stop work because I think we did
13 leave that out.

14 MR. KRUL: You have it right under
15 your qualified person, your definition --

16 MS. SUSI: Yes, we have that in the

17 definitions, but I don't know that we need to go
18 back and look at the text and see if we
19 referenced it in the text itself. I mean, we
20 defined what a competent person is, but I'm not
21 sure we made reference to it.
22 If you look on page seven though,

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1 under site safety and oversight, item 4-B,
2 that says, "Site safety personnel designated
3 by the employer to supervise access,
4 operation, and to conduct inspection, should
5 be qualified by experience and training or
6 education to carry out assigned duties."
7 It might be that we need to beef
8 that up a little bit to say that they have

9 the authority to stop work too and that
10 essentially is the competent person but we
11 didn't name it as such because that would
12 kind of be a legal designation that the
13 employer would have to give that individual.

14 MR. KAVICKY: Yes, because there's
15 reference on page 6 under J, the third bullet
16 point, "Adequate fall protection for scaffold
17 users is determined by a competent person."

18 MS. SUSI: Right. Okay, so we did --

19 MR. KAVICKY: So there's reference
20 back to it, but there's nothing as far as a
21 competent person should be or shall be at this
22 site.

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1 MS. SUSI: Yes, we need to go back and
2 revisit that.

3 MR. SMITH: Okay, Dan? Next question.

4 MR. ZARLETTI: Thank you,
5 Mr. Chairman. I'm not sure I understand the
6 full intent of what this was to tell us or if
7 it's asking us something --

8 MS. SUSI: Say again.

9 MR. ZARLETTI: I'm not sure the intent
10 of getting this information to us today and
11 what's expected of us in the form suggestions,
12 recommendations?

13 MR. SMITH: At this point, Dan, it's
14 just an informational presentation.

15 MR. ZARLETTI: Okay. The reason I ask
16 is because I'm very familiar with this subject.
17 I serve on the Board of Directors for the
18 Scaffold Industry Association.

19 MR. SMITH: Oh, okay.

20 MR. ZARLETTI: That's one of the
21 things that I do. I happen to think that mast
22 climbers, when used in the right arrangement,

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1 can be far safer scaffold mechanisms than
2 anything else that can be used. To give you an
3 example, and your example of working at 100
4 feet, you used that example a couple of times,
5 so let's stay there. The difference of being on
6 a mast climber that's correctly built at 100
7 feet gives you what we call a dance floor of
8 about 9 to 12 feet, sometimes even more, that's
9 fully guard railed with a primary system.

10 That's a dance floor compared to
11 standing on a 2-by-10 at 100 feet. So you've
12 got two 2-by-10's across. They're nominal
13 cut, so you've got less than 20 inches that
14 you're standing on or 10 feet or 12 feet. I

15 mean, it gives the opportunity for
16 bricklayers and restoration contractors and
17 the like to do work with materials to their
18 side that aren't going to become a weight
19 creation of their own balance system of
20 staying up there.

21 MS. SUSI: Right.

22 MR. ZARLETTI: And I can tell you for

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1 a fact, we have begun using mast climbers in
2 shafts that we dig for large tunnels because
3 there is such a span of wall in these shafts
4 that are so big. We set up a mast climber
5 because many of these walls have to be anchored
6 and we put in a three foot screw that goes in

7 the wall and that can all be done as this thing
8 expands 100 feet across, by several men at a
9 time and they move up and down.

10 So I would hope that all of us
11 wouldn't think of this a something different
12 so it's something wrong, but it's something
13 different and it can be very right, but it's
14 limited in its application.

15 MS. SUSI: Right.

16 MR. ZARLETTI: Lastly, I would just
17 say that no item that we can deal with in
18 scaffolding in particular, can be used safety
19 without the combination of the qualified person
20 and the competent persons because without the
21 both of them, to your example of putting it back
22 in the text, without that usage, you have no

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1 line of communication to the actual person on
2 the scaffold.

3 You've got the supervising
4 competent person, and if you have an absence
5 of that person, you have people that qualify
6 that are maybe in the trailer reading the
7 drawing, and a bunch of other people on the
8 scaffold that haven't been directed or are
9 not being mentored by anybody.

10 MS. SUSI: So the key is that they,
11 one, have the authority to stop work and that
12 they actually be present, no matter what you
13 call them, that they be --

14 MR. ZARLETTI: Correct. On the spot.

15 MS. SUSI: Right, they're on the site.
16 Definitely these are a plus piece of equipment,
17 but it, like you say, there are some problems.
18 Would you say that most of the problems may
19 occur during the erection or dismantling? It

20 seems like in the case of Boston --

21 MR. ZARLETTI: It is a little bit

22 hairy in certain applications, but the nice

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1 thing about where you see these, and I don't
2 know if anybody has -- around my house, I was
3 getting a Walgreens or CVS Pharmacy about every
4 three blocks -- they were putting mast climbers
5 and that's why they were getting them up so
6 fast. I mean, they were putting a whole row of
7 grippys on there and running them up and running
8 them down. And the thing was done.

9 So in a flat, continuous
10 application, they're very good. Putting them
11 up and putting them down does take some work.

12 It kind of works as the old form of a jack
13 and a car where you have to notch it up one
14 at a time to get your elevation and it has to
15 be coordinated like a scaffold would be where
16 you can't jack up one part of the mast
17 without the other, so you have to coordinate
18 with your operators.

19 MS. SUSI: That's a hydraulic, but
20 there's supposed to be an electric. Aren't
21 there like two different types?

22 MR. ZARLETTI: Yes.

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1 MR. SMITH: What system do you use?

2 What manufacturer?

3 MR. ZARLETTI: I was trying to think

4 of the name. They're out of Canada.

5 MR. SMITH: Hydro-Mobile is out of
6 Canada. I think Franco is, too.

7 MR. BRODERICK: It could be.

8 MR. ZARLETTI: Yes.

9 MR. BUCHET: Some of them may have
10 rack and pinion; some of them may have
11 hydraulic. I don't know that anybody is
12 specifically one type or the other type.

13 MR. SMITH: Bob Krul had a comment.

14 MR. KRUL: To address Dan's concerns,
15 I can't help but draw the parallel between these
16 things with no standards covering them and what
17 we went through, people that sat on this
18 committee when we addressed the communication
19 tower erection problem. There were no standards
20 and people got -- talked about the guy that was
21 hoisting people up on a well wheel on a rope and
22 making half hitch and hoisting them up 60 feet

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1 and the thing fell apart and the mother watched
2 her two sons fall to their death.

3 There was no standards that -- I
4 mean, looking at those pictures that Pam had,
5 anchoring these things into brick mortar
6 joints and wondering why the mast collapses,
7 or wondering why the mast collapses when
8 people are dismantling things when people are
9 still standing on a platform.

10 So I think the idea here is to have
11 OSHA -- this was an informational
12 presentation. Have OSHA look at amending or
13 putting an addendum to the scaffolding
14 standard and to get some type of
15 standardization of what people should be
16 doing with these things rather than having
17 willy-nilly, no competent people, no

18 qualified people erecting or dismantling
19 these things or working off of them for that
20 matter.

21 MR. SMITH: Okay. Tom?

22 MR. BRODERICK: Well, I think we can

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1 put that in the form of a motion to go onto the
2 record that whenever the scaffold standard is
3 revised, that that would be rolled into it, but
4 it really does point to the bigger problem, Bob,
5 that you pointed out, the tower. But look at
6 the crane standard. You know, we've been
7 working with this 1968 standard and it really
8 seems like the technology is advancing fairly
9 quickly.

10 And over the next couple of years
11 it would be really interesting to see if we
12 could come up with some kind of an approach.
13 It would take probably a tweaking of the act,
14 and that makes everyone nervous, but some way
15 that there could be expedited rule making to
16 be able to topically address new technologies
17 and insert them into existing standards.

18 MR. MURPHY: Quickly.

19 MR. BRODERICK: Quickly, so we don't
20 have to go through the whole gut wrenching
21 process like we did with SMRAC or CDAC.

22 MR. SMITH: Other comments?

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1 MR. ZARLETTI: I just wanted to

2 conclude by saying we should move in that
3 direction with that motion, Tom, because this is
4 becoming wider and widely used across this
5 country and throughout Europe and I don't think
6 it's a product that's going to be a flash in the
7 pan. It's here to stay. And like I said
8 before, if you had the option of being at 100
9 feet, you know, 2-by-10s or a patio deck, where
10 would you rather stand?

11 MS. SUSI: Right.

12 MR. ZARLETTI: That's basically what
13 the difference is, and it is much safer, but
14 it's got its limitations and we should address
15 those.

16 MR. SMITH: Dan?

17 MR. MURPHY: I was going to say
18 exactly what Dan just mentioned, but I think Tom
19 brought up a phenomenal point and it should be
20 addressed by this committee that we need to make
21 a motion of some sort that says we can get some
22 verbiage in somewhere, somehow to protect people

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1 on new styles or new pieces of equipment that
2 come into our industry. You've done a great job
3 of presenting a lot of the issues and how all
4 this stuff works, but now how do we make sure
5 that we don't continue that lousy slide you had
6 of all those fatalities because people are
7 bolting into mortar giants instead of tying into
8 concrete? And I sat here and asked Tom, I said,
9 what if it's structural steel, Tom? And he
10 says, well, maybe they weld them in. I don't
11 know.

12 So we need something that protects
13 those people, so I just wanted to reinforce
14 both Tom and Dan and what they just

15 mentioned.

16 MS. SUSI: Yes, but we're having a
17 work group meeting in October in conjunction
18 with the ANSI (?) committee and it would be
19 wonderful to report that you guys made a motion
20 and seconded it of that idea.

21 MR. ZARLETTI: Well, we could address
22 this back to the Scaffold Industry Association

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1 which is probably the lead organization for
2 scaffolds in this country, in North America,
3 actually.

4 MS. SUSI: Right. And they're
5 represented in our work group too, Greg James
6 and --

7 MR. ZARLETTI: Right, I saw that.

8 And our next meeting is February, so it could
9 certainly be done. They just had one in July,
10 but it's in February now.

11 MR. SMITH: Steve?

12 MR. HAWKINS: If you remember how the
13 scaffold standards organized now, I think there
14 are 26 sections, something like that, that
15 identify different types of scaffolds and I
16 would think --

17 MR. ZARLETTI: Twenty-six.

18 MR. HAWKINS: Twenty-six
19 different -- okay, you know, I would think at a
20 minimum as a result of the presentation today,
21 we could have a motion to recommend to the
22 agency that as soon as possible, they could add

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1 additional requirements for this particular type
2 of scaffold in a timely manner.

3 Because ultimately, that's what
4 you'd like to have is a standard that says
5 this is how you safely erect, maintain, and
6 dismantle a mast to climb scaffold. So at a
7 minimum, I would think, that that's what we'd
8 want to do.

9 MR. SMITH: Are you making that a
10 formal motion?

11 MR. HAWKINS: Well, I don't want to
12 make it prematurely in case someone has a better
13 motion than mine?

14 MR. SMITH: Is the floor voting for a
15 motion?

16 MR. HAWKINS: Take Tom's.

17 MR. SMITH: He can't make a motion but
18 he can make a comment.

19 MR. BUCHET: This is in the form of a
20 comment. The record of Cooperative and State

21 programs headed by Steve Woodpack there, our
22 former director over here, has recently signed

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1 an alliance with the Scaffold Industry
2 Association. And part of the alliance and some
3 of the goals of that alliance are to create
4 guidance documents through the alliance process
5 for the use of mast climbing scaffolds in
6 reconstruction. So there certainly is room,
7 short of saying you've got to do a standard, to
8 come up with guidance materials as practice
9 materials and say you need to come up with a
10 standard. We realize that the scaffold standard
11 doesn't address this type of equipment very
12 thoroughly.

13 MR. SMITH: So are you saying this is

14 already in the works?

15 MR. BUCHET: No, I'm saying the

16 alliance is going to work on some best practice

17 documents.

18 MS. SUSI: It sounds like you're

19 saying that there's documents, it would be

20 helpful when you do revise the statements, but

21 that it's a good idea to revise the standards.

22 MR. BUCHET: The more work that the

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1 agency has in front of it that says this is how

2 these things should operate, the easier it will

3 be to create guidance materials, outreach

4 materials, and eventually, if you remember SMRAC

5 and CDAC, it was a work group that produced the
6 product that ended up becoming the standard.

7 MS. SUSI: But ultimately the
8 contractors always say, well, unless OSHA makes
9 my competitor do it, then I'm at a disadvantage
10 to do it correctly, so ultimately you need the
11 standard.

12 MR. BUCHET: Right.

13 MR. SMITH: Okay, question to the
14 committee. What's the right way to proceed?
15 Bob?

16 MR. KRUL: Just a clarification that
17 if I understood the motion made was the --

18 MR. SMITH: We don't have a motion.

19 MR. KRUL: I thought he was making a
20 motion.

21 MR. SMITH: No, no, he never made it.

22 MR. HAWKINS: Tom, did you make a

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1 motion?

2 MR. SMITH: No, no one has made a
3 motion. The floor is open for one.

4 MR. KRUL: Well, if the Chairman will
5 open up the floor for a motion, I will -- ACCSH
6 go on record that OSHA move in the most
7 expeditious manner to address the hazards and
8 shortcomings in the scheduled standard, that
9 address mast climbing platform work.

10 MR. SMITH: Thank you very much. Is
11 there a second?

12 MR. HAWKINS: I second.

13 MR. SMITH: Just making a motion, Bob.

14 MR. HAWKINS: You said it well.

15 MR. SMITH: Any other discussion?

16 Anymore discussion? All in favor, say aye.

17 SPEAKERS: Aye.

18 MR. SMITH: All opposed, likewise.
19 Motion carries. Thank you very much, Pam.
20 MS. SUSI: Thank you. We'll be
21 opening up the comment period for what I passed
22 out to the end of September, so if anyone has

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1 any other comments, we'd really appreciate it
2 and hopefully we'll have a white paper for you
3 here by the end of the year, early next year.
4 So thank you.

5 MR. SMITH: Thank you very much.
6 Appreciate the work you guys do.

7 MS. SHORTALL: Ms. Susi, by any chance
8 would you be able to also give us a copy of your
9 PowerPoint where each one of the slides is on a

10 separate page?

11 MS. SUSI: How about I give you the

12 disc? I'll just give you the CD.

13 MS. SHORTALL: That would be fine.

14 And at this time, what I'd like to do is enter

15 into the record the PowerPoint presentation by

16 Ms. Susi on mast climbing platform work as 0012

17 and the final review draft recommendations from

18 the CPWR mast climbing platform scaffold work

19 group of September 2, 2008, as 0013.

20 I'm requesting that we have a

21 presentation that has one side at a time

22 because although we will put all of the

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1 pictures in the public docket, there may be

2 some that we decide, because of their
3 sensitive nature, we may not put up on the
4 website.

5 MR. SMITH: Thank you. At this
6 time -- and we have nobody signed up for public
7 comment. Check one more time. If anyone from
8 the public would like to make a comment, please
9 raise your hand. That would be just to get a
10 sign up to you.

11 We're going to do something maybe a
12 little bit different. We try to go by
13 schedule most of the time, but right now
14 we're going to do some discussion prompted by
15 members coming to me and asking for, do you
16 want let's discuss so and so and we're going
17 to take that in order, I think, of when
18 people came to me and Dan called me the other
19 week and asked about updating us on a couple
20 new ANSI standards. And I think you have a
21 presentation -- do you have people that are
22 going to help you with that?

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1 MR. ZARLETTI: I do.

2 MR. SMITH: Charlie, and who else?

3 MR. ZARLETTI: Well, it's two separate
4 ANSI standards, and what I wanted to do is just
5 bring to the attention of the committee what
6 progress is being made by these two
7 subcommittees both which I sit on and that
8 they've done a lot of work to do a lot of good
9 things about two very important subjects, one is
10 A14-4 which is job-made ladders, and the other
11 is A10-47, which is work zone safety.

12 And obviously, both of those have
13 their place in construction and have been an
14 area of question, so because of ANSI's
15 regulations on working on a revision, there's

16 nothing that can actually be released. We
17 can't hand out things or give you a link to
18 something until it's open for public comment,
19 but it's getting very close to that in both
20 cases, of both of these standards, so we
21 we're fortunate today to have Charlie Bird
22 here who I thought that he could just maybe

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1 bring us up to speed on some of the
2 highlights of things that have been done for
3 this standard of job-made ladders.

4 MR. SMITH: Charlie, come up to the
5 table.

6 MR. ZARLETTI: Travis Parsons was
7 here, and if he's not available and Brad Sant is

8 gone, I'll take care of the work zone safety.

9 MR. SMITH: Thank you for being here,
10 Charlie. You look very nice in your suit today,
11 by the way.

12 MR. ZARLETTI: He was at the Pentagon
13 at 6:00 a.m.

14 MR. SMITH: Oh, good gracious.

15 MR. BIRD: Charlie Bird with Balfour
16 Beatty Construction, also representing AGC on
17 the A14 and then A14-4 subcommittee. Just can't
18 get into the details really, but we work to
19 clarify a few things, some clarifications, and
20 also the tables, the lumber types, that for
21 example select oak in there which you can't buy
22 a select oak 2-by-4, it has to be milled, and

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1 that sort of thing, so they actually eliminated
2 some things and went with stress grades as ways
3 of making that a little bit more user friendly
4 in the tables.

5 We also worked, I think they match
6 up some of the terminology in the numbers
7 with OSHA standards. An example of the cleat
8 spacings on a job-made ladder, there was a
9 conflict between the ANSI standards and the
10 OSHA standards. That's an example. Points
11 of contact, some other things that have been
12 kind of modified to match up a little bit
13 better. Anything else I'm leaving out there,
14 Dan?

15 MR. ZARLETTI: Well, no, I think the
16 lumber grading is really important because as
17 some of us know, when we get into job-made
18 ladders, sometimes they're made out of whatever
19 you've got. And this standard is designed to
20 eliminate that and make it an absolute violation

21 of standard if that's going on.

22 That means that we're going to have

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1 a better product when it's in place, it's
2 going to last longer, it's going to protect
3 better, it's just going to be a better thing.
4 So I think just the fact that we are shoring
5 this thing up and making it look more like
6 something that would be recognized by those
7 who read the OSHA standards more often than
8 they do the ANSI standards makes a lot of
9 sense. So maybe Charlie, you could just
10 throw out -- aren't we on a deadline for the
11 end of this year to have this thing ready for
12 public comment?

13 MR. BIRD: I think that is the goal,

14 yes.

15 MR. ZARLETTI: Right. So it's

16 imminent. By the time we meet again, if we

17 don't meet until February or if we're going to

18 meet in December, whatever, this is going to be

19 right on the mark of having it.

20 MR. SMITH: Let me give you an update

21 on the next meeting. The date has already

22 changed. This morning you heard it's the week

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1 of December the 8th. I've never done this

2 before, never made this kind of announcement,

3 but we've actually backed it up to the first

4 week in December rather than going to the next

5 month we're talking earlier right now. And
6 we've already booked this room so there is hope
7 we're going to have a meeting the first week in
8 December.

9 MR. KAVICKY: Cool.

10 MR. SMITH: I knew you would like
11 that.

12 MR. ZARLETTI: All right, Charlie,
13 thank you very much.

14 MR. SMITH: Thank you very much,
15 Charlie.

16 MR. BIRD: Thank you.

17 MR. ZARLETTI: I don't see either
18 Travis Parsons or Brad Sant who were here
19 earlier but let me just give you an update on
20 what's going on in the A10-47, work zone safety.
21 There's thousands of people who are still being
22 injured and killed in the work zones throughout

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1 the country.

2 Yesterday I got an e-mail that said

3 that they've released now \$8 billion in the

4 highway trust fix fund, they call it, and

5 that's possible to go as far as \$14 billion.

6 So the work that's been slowed through this

7 Congress process is now being picked up again

8 and this money that's been promised is going

9 to be used, which means more and more are we

10 going to see the work zones that are

11 affecting the way we get to work and head

12 home and get from place to place, but the

13 thousands of people who are injured represent

14 primarily motorists that are injured in these

15 work zones, not the workers.

16 Now there are workers, and those

17 are the ones we hear about, but it is a

18 significant amount of difference

19 between -- there's thousands in the motoring
20 public that are injured. So we need an
21 outreach to that route to tell them not only
22 drive 45, stay alive, and all that sort of

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1 thing. But the photo enforcement that's
2 bringing the fines to bear, and so forth,
3 we're going through it kind of the way OSHA
4 did at first was heavy on the enforcement and
5 now it's got to turn and kind of do heavy on
6 the training and awareness.
7 So I think you're going to see a
8 lot of those things in the new standard which
9 is also due to go to public comment by the
10 end of this year so it's another kind of

11 chase to the finish line here, but I also
12 know that there's been a new -- there will be
13 more revisions to the retro reflective ware
14 that people in the work zone have to
15 wear -- whiter and more often.

16 And the percentage of the vest will
17 change at some point because there's always
18 some percentage of the vest that needs to be
19 retro reflective on the lime green. But
20 there's barricading that's going to change
21 some of the way they are barricading with
22 temporary barricades and of course in

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1 construction we consider everything
2 temporary. But we've got a strip in the

3 Chicago area now that's Jersey walled in two
4 different directions and across about four
5 lanes, which is all Jersey wall for 25 miles.
6 And from the air it just looks like one
7 gigantic rat maze and they are moving, you
8 know, tens of thousands of cars through it.
9 And so that's going to be something that's
10 going to have to be addressed as temporary as
11 well.

12 The photo enforcement in
13 Illinois -- and I can't speak for all the
14 states -- but the photo enforcement issue in
15 Illinois in the first month that they had
16 photo enforcement, they wrote over 6,000
17 violations that are taking pictures of people
18 coming through the work zone speeding and
19 mailed directly to the home of those people
20 with the license registered to that vehicle.

21 And at \$375 a hit for the first
22 one, the second ticket's \$1,000, and the

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1 third one is a suspension of the license, you
2 know, that's pretty heavyweight stuff for an
3 enforcement policy and it'll get your
4 attention even with the first one. But
5 they've also come up with the hit a worker,
6 it's 10 years in jail and up to \$14,000 in a
7 fine. It's not so much that our contractors
8 and employees are all sitting in these jobs
9 but there are times when people will miss one
10 of these barricades or read it incorrectly
11 and drag right through the work zone and
12 there are just people flying for their lives
13 trying to get away.

14 And then lastly, the last piece I
15 wanted to just bring up was the training and

16 enforcement. There will be PSAs that go with
17 this for the awareness campaigns and it's
18 going to be an exciting piece when it's done.
19 It's going to take a lot of awareness to make
20 the enforcement a little easier to go down
21 but with us looking at \$8 to \$14 billion in
22 highway trust fund, there's going to be a lot

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1 of work out there. And if you can think
2 about the way our infrastructure is in this
3 country, there's a lot of work that's needed
4 that's probably not even fit in this bill
5 yet.

6 I know in Illinois, they did a
7 study that we have over 700 bridges over 100

8 years old in the state of Illinois and none
9 of them -- I wouldn't say none of them, but
10 hardly enough of them are on a schedule to be
11 replaced and all of them are carrying either
12 automobile transit, freight by rail transit,
13 they're doing something on a daily basis and
14 they're all over 100 years old.

15 MR. SMITH: We may have you beat on
16 bad bruises, but we just use our bridges for
17 horses and buggies, so it's not too bad down in
18 the Carolinas.

19 MR. ZARLETTI: That's right.

20 MR. SMITH: Thank you very much, Dan.
21 The next thing that was brought to my attention,
22 Emmet Russell asked about the crane summit and

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1 maybe we want maybe to have a little discussion
2 on that.

3 There was a crane summit in
4 Washington this week. A lot of us were there
5 for part of it. Emmet was there for the
6 whole day. Tom was there (inaudible) Matt
7 was there all day. I was there for part of
8 the day. Am I missing anybody? And there's
9 some people in the audience that were there
10 all day -- Brent, Michelle, AGC was one of
11 the co-sponsors along with McGraw-Hill and
12 Operating Engineers, is that right? And all
13 parties to the crane -- crane manufacturers,
14 crane rental places, CDAC people,
15 OSHA -- well-represented by the industry and
16 it was an all day event.

17 And Emmett, would you like to start
18 off and give us a little update?

19 MR. RUSSELL: Yes. We had
20 approximately 20 organizations from the crane
21 industry represented in the summit. The reason

22 for the summit was the number of accidents and

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1 fatalities over the last six months. I'd just
2 like to give you some of the highlights.

3 For instance, discussion on the
4 operator -- you know, clearly the operator is
5 going to be certified by the new regulation
6 and I think the industry is actually moving
7 forward to embrace that.

8 There was also some discussion that
9 when the operator is placed on a specialty
10 piece of equipment that there be additional
11 training for that operator on that specialty
12 piece. Also, in some cases, when an operator
13 is switched from one crane to a different

14 type crane on the same job, that there be
15 some training to make sure that the operator
16 can comfortably understand all of the nuances
17 of that crane that he might be switched
18 on -- he or she might be switched on.
19 A lot of discussion on the signal
20 person and the rigger. The industry has
21 actually moved forward to certification of
22 the signal person and the rigger, not by

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1 regulation but by consensus and matter of
2 fact, the certification organization,
3 specifically NCCCO, has actually designed a
4 signal person certification package and
5 they're working on a rigger certification

6 package.

7 Next, there was a lot of discussion
8 that ANSI has actually made some requirements
9 for site supervisor and lift supervisor, and
10 there was some discussion on additional
11 training in those two areas as well as at
12 some point in the future, possible
13 certification in those areas.

14 A lot of discussion on assembly,
15 disassembly, and jumping of tire cranes, and
16 the industry felt as though there's
17 additional training needed and specifically
18 there needs to be a supervisor type person
19 who might be a competent person, certified
20 person, in these areas to make sure that an
21 assembly, disassembly crew should be trained,
22 but there should be a person in charge who

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1 actually might be certified or be designated
2 as competent qualified who can actually
3 direct that crew to make sure that there's no
4 injury when you're in the process of doing
5 assembly, disassembly, or jumping the crane.

6 Some discussion on those working
7 around the crane, even though they may not
8 have a specific task to do on the crane or
9 rigging the crane, but there should be some
10 training as to what these people should do,
11 for instance, staying out of the way of the
12 counterweight, staying from underneath the
13 load, staying from underneath the boom,
14 things like that that could actually help
15 prevent injury.

16 Inspection was a major item. We
17 discussed inspection on a daily basis,
18 monthly basis, by the operator, and what that

19 operator should be doing in that inspection.
20 We talked about competent qualified person
21 doing inspections for the contractor on the
22 crane in different situations and a lot of

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1 discussion on the third-party inspection on
2 the annual or semiannual basis, and that this
3 third- party inspector should be certified.
4 And the industry should come up with specific
5 qualifications for this third-party
6 inspection because it's felt as though a lot
7 of the cranes are older, a lot of the cranes
8 are actually very complex, and the third-
9 party inspector needs to be certified and
10 needs to know specifically how to inspect the

11 different models and types of cranes.
12 One concept came up in the seminar
13 that I thought -- in the summit, that was very
14 important and this was the concept of a crane
15 management system. A number of people are
16 going to look to identify crane management
17 system, which would include everything to do
18 with the crane on a given site and all
19 components of craning that should be looked
20 at, from the ground to supervisor to
21 everything involved in safely managing that
22 crane on the site. And hopefully, at some

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1 point in the near future, we'll have some
2 understanding or some definition of that

3 crane management system and be able to
4 release that to the industry so we can better
5 have safe craning.

6 Manufacturers brought a number of
7 good points in, for instance, the
8 manufacturers clearly are designing safety in
9 the cranes. There was some discussion on
10 design safety in the cranes and also
11 additional training. A lot of discussion on
12 power line safety and some of the components
13 that will assist in having safer cranes
14 around power lines, how to eliminate power
15 lines or do different things to actually
16 enhance power line safety, and that was
17 basically some of the highlights of the day.

18 MR. SMITH: Thank you. Tom?
19 Observations or highlights?

20 MR. BRODERICK: Yes. I thought that
21 we are -- we've gone a long time without doing
22 anything different in the crane industry with

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1 the exception of CCO which started back in '94
2 or '95, but there was a lot of excitement in the
3 room and people throwing ideas around that you
4 really didn't necessarily expect to hear. A
5 contractor that I think was connected with
6 (inaudible) talking about, well, we have a new
7 supervisor designation for an erector and
8 dismantler of our cranes, and that person is
9 going to be there not only qualified and
10 competent and able to stop the job and -- I
11 mean, there were some really neat concepts. And
12 I know that at least -- E&R was also another
13 sponsor of the program. And there's going to be
14 another one that ABC is going to be doing.
15 And it seems to me I've heard of at
16 least one other one out maybe in the

17 Northwest, but with the E&R Tudor van Hampton
18 was their equipment guy and has written quite
19 a few articles on crane accidents, was at the
20 end of the program as the convener and
21 brought a lot of it back together. And we
22 talked about having the -- if there are going

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1 to be several crane summits to try to share
2 the information with what went on in Crystal
3 City the other day. So Tudor is going to try
4 to distill the information or some of the
5 ideas that came from that and pass it on to
6 any other crane summits, so that ultimately,
7 these ideas and the energy is going to, I
8 think, help us to be really receptive to

9 getting this new standard in place and moving

10 on with it.

11 MR. SMITH: Thank you. Dan, are you

12 at liberty to tell us --

13 MR. MURPHY: Sure. Dan Murphy. As a

14 result of a lot of the stuff that's been going

15 on in the industry I had some involvement with

16 the City of New York when there were some issues

17 out there. I was invited to be a part of the

18 group there for a couple of days to help the

19 building department out there try to figure out

20 how to keep those tower cranes in the

21 air -- both for the safety of the work they're

22 in and the safety of the traveling public in

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1 that city which a lot of the work going on there
2 will apply to many other cities.

3 As a result of that, I got with
4 Billy Miller and a few other folks in our
5 risk engineering department and we're
6 developing a seminar that we'll present in
7 seven different regions for our customers.
8 And what Tom just mentioned or one of the
9 folks just mentioned about total management
10 of the crane issue on the job site, that's
11 kind of what we're putting together as the
12 basis for the training program.

13 We're using Tom's facility to help
14 us build this program and we'll be out on the
15 street here probably in two weeks trying to
16 help at least the contractors we do business
17 with and hopefully be able to invite others.
18 That will happen seven times before the end
19 of the year.

20 MR. BRODERICK: And hopefully it will
21 be a presentation at our conference in February

22 because it's good stuff.

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1 MR. SMITH: Yes. Matt?

2 MR. GILLEN: I think Emmett and Tom
3 did a great summary. The one thing I would add
4 was --

5 MR. SMITH: They don't need any
6 statistic therapy?

7 MR. GILLEN: No, no. The one thing
8 that was interesting that I would add that was
9 new for me was this whole emerging issue of
10 constructing for wind energy, that that
11 particular usage seems to be a unique area where
12 there are some issues. If there's a high wind
13 setting for use of a very tall crane, uneven

14 terrain, I guess there's been a few incidents,
15 tip overs and things with those, so it's another
16 one of those emerging issues to keep an eye on.

17 MR. SMITH: Anyone in the audience
18 that was at the crane summit like to make a
19 comment?

20 Michelle, come on up to the
21 microphone if you would. While she's coming
22 up, Emmett, go ahead.

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1 MR. RUSSELL: Yes, one other issue,
2 very important. We also talked about developing
3 a fatality, injury, accident, and near miss
4 database and as a matter of fact, NIOSH, CPWR
5 and possibly OSHA might work together on trying

6 to get some type of an online database, one we
7 can actually have data available for in those
8 areas.

9 MR. SMITH: Thank you. Michelle
10 Meyers with AGC.

11 MS. MEYERS: Good afternoon. I am
12 Michelle Meyers with AGC of America. And
13 actually Emmett covered what I was going to
14 mention, which is I think the last pretty much
15 big issue that we really had a great deal of
16 discussion on was trying to figure out the crane
17 accidents, what kind of data we had out there,
18 where would we be able to gather the data, what
19 kind of cranes were in accidents, who were the
20 major players that were injured, what kind of
21 work they were doing. And so we are trying to
22 get our hands around all of that stuff. And we

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1 really, I think, hopefully started a dialogue
2 and a discussion on something that's very
3 important to the industry and anybody who is
4 interested in also possibly getting a little bit
5 more involved in our, I guess, future
6 discussions, you know, you're more than welcome
7 to give Emmett or me a call or get in contact
8 with us.

9 Emmett and -- well, the operating
10 engineers AGC, McGraw-Hill and E&R will be
11 compiling all the information and also
12 rolling it out as soon as we possibly can and
13 hopefully also possibly having another summit
14 or a type of summit in the near future which
15 we still have to discuss. That's pretty much
16 it.

17 MR. SMITH: Thank you, Michelle. If
18 everyone in the industry is as concerned about
19 it, as Michelle said -- there is a dialogue

20 being started. Unfortunately, there's no simple
21 cure to this issue of crane safety. We will be
22 receiving, I'm sure, an update tomorrow morning

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1 from OSHA on the crane accidents that have
2 occurred.

3 In the summit, they gave out
4 information on the accidents. There is no
5 simple fix. There's no one thing you can
6 point to and say, you know, if we do this,
7 it's going to stop accidents from occurring.
8 It's a very complicated issue. There are a
9 lot of cranes across America. Unfortunately
10 a lot of the people that have cranes weren't
11 at the summit yesterday, obviously, and we've

12 got to somehow figure out a way to reach

13 these people and it's a very complicated

14 issue. Did you have a comment?

15 MR. ZWOLAK: Yes, I did.

16 MR. SMITH: Okay.

17 MR. ZWOLAK: Emmett, good thoughts on

18 the database for the injuries, fatalities and

19 near misses. I'm a big proponent of watching

20 near misses. Any thoughts on what we track and

21 also how the reporting would occur -- it would

22 be voluntary of course -- in how we get these

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1 voluntary reports in on near misses?

2 MR. RUSSELL: Well, based on the

3 discussion, we thought that near misses could

4 not be identified specifically. Near misses
5 would actually have to be people actually going
6 onto the website and putting information on
7 there but not necessarily tying it to a
8 contractor or given operator because if we were
9 to do that, people would be hesitant about
10 putting the information on, so it would almost
11 be voluntary where it could not be specifically
12 identified.

13 But again, where it came to
14 fatality and/or accidents and/or injury, we
15 could specifically identify but the near
16 misses would not be identified, it would be
17 for informational purposes in terms of how to
18 avoid crane mishaps in the future.

19 MR. SMITH: Thank you. Anyone else
20 who would like to speak who hasn't spoke on this
21 issue?

22 Appreciate everyone speaking and

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1 helping us. At this time we want to take
2 just -- whatever time it takes, I guess, and
3 I learn from you guys. I think we learn from
4 one another. Too often maybe we come to a
5 meeting and we sit around and we have an
6 agenda and we fulfill the agenda and we go
7 home and I know a lot of times there are
8 things that you like to share. When we do
9 training, we do evaluations, so we've got no
10 problem with you evaluating your committee,
11 telling us what you think about the
12 committee, how you think maybe it could be
13 made better, any changes you would recommend,
14 any suggestions.

15 If you have an announcement you'd
16 like to make about something going on with

17 association that you are involved in or work
18 with, now would be a good time to bring those
19 issues up.

20 So the floor is open to anyone.

21 Liz?

22 MS. ARIOTO: Yes, I'd like to

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1 recommend that maybe some time we have
2 manufacturers or developers of new products come
3 in and demonstrate because there are certain
4 things I find that no one else seems to know
5 about and I'm sure people here we all use
6 different products or pieces of equipment. I
7 was watching a piece the other day at NIOSH who
8 gave a (inaudible) to someone and I would love

9 to have brought it here to show the development
10 of it, but we didn't have enough time so maybe
11 we can schedule just some time in the future
12 that we can -- just 15 minutes, 20 minutes to
13 have someone present something or demonstrate
14 something.

15 MR. SMITH: Thank you. Good point.

16 Anyone else? Tom?

17 MR. KAVICKY: Mr. Chairman, I don't
18 know if this is the time and place for it, but
19 as a suggestion maybe looking at a future work
20 group nail gun issue.

21 MR. SMITH: Okay.

22 MR. KAVICKY: A study was done by

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1 NIOSH and the carpenters down in St. Louis and
2 the tremendous amount of injuries that those
3 nail guns are providing not only the
4 construction worker, also the general public.

5 MR. SMITH: Thank you. I'm going to
6 do this being we've started two in a row here.
7 I'm going to do this kind of like we'd do it
8 back home where I'm at in the country and
9 sometimes you have to ask people, and if you ask
10 people, you always get good comments, good
11 ideas. Kevin, give us an idea or suggestion or
12 a comment. Anything. Anything's on the table.

13 MR. BEAUREGARD: Well, I do have a
14 comment. We're moving forward with a crane
15 standard in North Carolina. We're trying to
16 fast track it as much as we can. We are
17 mirroring it after the CDAC standard. Our hope
18 is to get that out as soon as we can so we're
19 waiting very anxiously for the release, the
20 imminent release of the recently released CDAC
21 standard for OMB. We want to mirror our
22 standard as much as possible with that because

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1 we do think that that is a good standard and we
2 do think it will come out eventually but we're
3 kind of under orders from our commissioner to
4 get it out sooner than eventually so we've been
5 spending a lot of energy on that lately.
6 Hopefully I'll be able to update you at our next
7 meeting as to where we sit on that. Hopefully
8 I'll be able to tell you so it's just about
9 done.

10 MR. SMITH: Thank you very much.

11 Former chairman and mentor -- Bob Krul?

12 MR. KRUL: Well, Mr. Chairman, let me
13 take this opportunity to say to this committee
14 that I enjoy being on here. I don't know that

15 these new appointments are going to be coming.
16 I'll save you the -- whatever it is now, .43 for
17 an envelope to mail everybody to thank them for
18 the opportunity to work with this committee over
19 the years. I've asked that my name be taken out
20 of nomination -- to be more active on the
21 organized side, I'd just like to take this
22 opportunity to thank all of you for the

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1 opportunity to work with you over the years,
2 both as your chairman and as a member of this
3 committee. Repeating what somebody said
4 earlier, I think this is very important work
5 that this committee does. Everybody recognizes
6 the dangers in construction.

7 It's not something that -- safety
8 and health is not something that should be
9 taken for granted or let people take for
10 granted. When you get on construction sites,
11 they're very dangerous places as all of you
12 know, and as a former apprentice instructor I
13 can tell you that it does my heart good to
14 know that you've done something good to get
15 somebody home safely at night.

16 So I thank you all. I won't be
17 with you tomorrow. But since I had to make a
18 comment, again, I want to just thank
19 everybody. It's been a privilege and
20 pleasure to work with all of you.

21 MR. SMITH: Thank you very much, Bob.
22 You'll be missed. Emmett?

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1 MR. RUSSELL: I'll pass.

2 MR. SMITH: Mike? What time is your
3 plane?

4 MR. THIBODEAUX: 6:55.

5 MR. SMITH: Is the hurricane still
6 headed towards you?

7 MR. THIBODEAUX: Yup.

8 MR. SMITH: You're going to be ahead
9 of it, right?

10 MR. THIBODEAUX: I hope so.

11 MR. SMITH: God's speed.

12 MR. HAWKINS: I just wonder if Bob
13 will give me a lesson on making good solid
14 motions --

15 MR. SMITH: Good job. Thank you.
16 Tom?

17 MR. BRODERICK: Tom Kavicky. You
18 mentioned pneumatic nailers and that's something
19 I just have been contacted before this meeting

20 by Jim Alberts from NIOSH. And he sent me a
21 number of documents and my organization was
22 involved with ISANTA and Tom was involved a

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1 little bit with ISANTA to do some peer review
2 stuff on a video that they did and some training
3 materials that they put out, but they did
4 create -- they were the secretariat for ANSI
5 standard for pneumatic nailers and I think that
6 this is something that we really need to take a
7 look at. I don't know if that rises to the
8 let's have a work group, I think it might. The
9 data are incredible because not only are workers
10 being injured, but people from the public are
11 being injured and the crux of the problem is the

12 difference between the contact trigger and the
13 sequential trigger.
14 When you use it in the contact
15 mode, you just hold the trigger down and
16 bang, bang, bang, and unfortunately,
17 sometimes two nails come out at the same time
18 and sometimes nails fly in different
19 directions. They have case studies of people
20 being hit in the head and people hitting
21 other people with these things, so I think
22 it's something that we should really look at.

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1 I know that there are a lot of homebuilders
2 that probably are going to be a little fussy
3 about that, but --

4 MR. THIBODEAUX: No, the contractors
5 may be fussy about that, but that's an issue
6 that we've seen throughout the years and
7 bypassing that safety we've seen way too many
8 injuries.

9 MR. BRODERICK: Right. And I guess
10 the thing is, even though these nailers are
11 being manufactured with a sequential trigger,
12 apparently some of the manufacturers are
13 including in the box with the gun with the
14 trigger the parts that you need to defeat the
15 trigger and turn it into a sequential nailer.
16 Anyway, that's something that I think that we
17 need to examine as a committee.

18 I know that we're having some
19 people leave. I trust that we will have a
20 quorum tomorrow. I know Dan is leaving --

21 MR. SMITH: Yes, that's what I was
22 doing, I was just looking. We've got Mike, Bob,

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1 and Dan. Anyone else not going to be here

2 tomorrow? We've got three people that are going

3 to be out.

4 MS. SHORTALL: Is Frank going to be

5 here?

6 MR. SMITH: Frank said he would be

7 here.

8 MS. SHORTALL: Dale?

9 MR. SMITH: Yes.

10 MR. BUCHET: Yes, you've got a quorum.

11 MR. SMITH: Yes.

12 MR. BRODERICK: Just a heads up, Dan

13 is not going to be here, but I talked to Frank

14 about this and there will be a motion made to

15 increase the scope of the -- you're going to do

16 it now? Okay.

17 Then the other thing is our

18 conference is coming up and we would like to
19 have abstracts by the end of the month but I
20 know that's coming up quickly and I've got
21 wiggle room in there, but we'd really love to
22 have anybody who would like to come and be a

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1 presenter at our conference. You know, I
2 don't think we've ever had a roofing
3 presentation. What an opportunity. And as
4 you know, Chicago in February is gorgeous.
5 It's a wonderful place.

6 MR. KRUL: Especially out there by
7 O'Hare.

8 MR. BRODERICK: So anyway, get a hold
9 of me or e-mail me with a little abstract of

10 what your idea is for the conference so that we
11 can look it over and write you a letter thanking
12 you and accepting your abstract and what I'm
13 really looking for is not an abstract like you
14 would send into ASSE for a professional
15 development seminar, you know, a very wordy
16 abstract, just a short paragraph kind of
17 capturing what you would talk on and that would
18 be pretty close to what we'll put right into the
19 brochure so it's more to get people to be
20 interested in your session and the information
21 that they would get.

22 MR. SMITH: Good luck, Mike.

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1 MR. KRUL: Stay low.

2 MR. SMITH: Stay low and then go high.

3 Okay, Dan Murphy?

4 MR. MURPHY: Dan Murphy. Thomas, when

5 you take a look at the pneumatic nailers, would

6 you also be sure to make a note on the

7 compressed gas like the pass loads? Same sets

8 of issues, easy to override the safeguards and

9 shoot nails all day long very quickly and I've

10 seen a lot of that where we're having cranes

11 arising out of not just pneumatic, but also the

12 compressed gas.

13 One other point, I think, before I

14 get to a motion that I'm going to let Tom

15 make tomorrow, but I'm going to present to

16 you folks to think about is we are partnering

17 with the AGC on a program that should be

18 available in 2009, I think available to all

19 kinds of people through the AGC. We're

20 providing some of the funding on work zone

21 safety, so just so you're aware that that's

22 coming and it'll be available to a lot of

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1 different companies to try to sell some of
2 the issues of the work zone problems with not
3 only the traveling public, but our own
4 workers at the same time.
5 Tom and I had a discussion earlier
6 about focused inspection and obviously we're
7 not getting a lot of information, Frank and
8 I, to take a look at what's going on with
9 focused inspections, so Tom made a suggestion
10 and I tend to agree with him that we should
11 maybe rename -- and if you folks would think
12 about this this evening -- rename the work
13 group to OSHA Enforcement and we would be
14 charged then with a broadened scope to deal

15 with things like focused inspection,
16 targeting, emphasis, and any and all other
17 matters encompassed under OSHA enforcement
18 which would broaden that work group a little
19 bit and I think that's a great idea because
20 then we would have some -- it was
21 Broderickized.

22 But anyway, if you would think

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1 about that and then Tom will bring it up
2 again tomorrow and maybe that would be
3 something worth taking a look at or talking
4 about again tomorrow.
5 MR. SMITH: Okay, we'll talk about
6 that tomorrow.

7 MR. MURPHY: And with that, someday
8 maybe I'll find out if I'm supposed to be here
9 in December or not. Okay?

10 MR. SMITH: Thank you.

11 MR. ZARLETTI: Is there any wiggle
12 room on the title?

13 MR. MURPHY: Talk to Tom. Speak to
14 the mike and talk to Tom.

15 MR. SHANAHAN: All right, I totally
16 agree with Tom on the pneumatic nailers. In
17 fact, I helped produce that video for ISANTA
18 with NRCA and our contractors are actually
19 asking for it because the amount of injuries
20 that are occurring as a result of that, so I
21 think it's a really great part of that. But my
22 other just general comment is, in particular

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1 being on the training OTI (inaudible) I just
2 think that is the wave of the future. I mean,
3 the idea of whether we get into online training
4 or whatever, but the purpose of getting people,
5 building awareness and doing that, the more that
6 we can do to support those activities. The
7 regulatory process is the regulatory process and
8 we all know the headaches or whatever with that.
9 But the simple fact of the matter is in the
10 meantime, you know, doing and identifying good
11 safe practices and getting those things
12 communicated and awareness building, I think
13 that the more we can do with that, I think the
14 better.

15 MR. SMITH: Thank you. Dan?

16 MR. ZARLETTI: I would almost defer
17 because we don't use them much. I agree with
18 the systems. I understand the overrides are an
19 issue. The repetitive action is an issue, but
20 that's about the only thing we don't do is build

21 the houses. We're not using them much if at
22 all.

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1 MR. SMITH: Feel free to make any
2 comments you'd like at this point. They don't
3 have to be about nail guns.

4 MR. ZARLETTI: No, I'm good.

5 MR. SMITH: Okay, you're good. Okay.
6 Matt?

7 MR. GILLEN: I'd like to say that I've
8 worked with Mike in the past to get NIOSH items
9 on the agenda, you guys typically have a pretty
10 full agenda, but there are a lot of good studies
11 and this nail gun is a perfect example. There
12 are some NIOSH supported researchers like Dr.

13 Hester Lipscomb, who did a lot of work on this.
14 Dave Fosbroke's research and work zone is coming
15 to the point. So I'd like to have, if there's
16 interest in the committee, the ability to work
17 with Mike to try to arrange for some folks to
18 come and give presentations on issues that seem
19 to be before the group that I think would help,
20 you'd find interesting.

21 MR. SMITH: How many of you knew that
22 NIOSH has done a study on nail guns? Some of

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1 you knew that already? Okay. Have you seen it?

2 MS. ARIOTO: Yes.

3 MR. SMITH: Would it be worth us
4 seeing as a committee, those numbers?

5 MS. ARIOTO: Yes, there are several.
6 The standards board in California for the past
7 seven years, the last one, the recent ones that
8 were passed was a nail gun regulation and if
9 (inaudible) for all of us to look at that, but
10 there was a high interest. A lot of people came
11 to the meetings on this one so I think it's a
12 very important one.

13 The status from NIOSH regarding
14 numerous injuries and the way I think they
15 did this, they went to the emergency rooms
16 and got statistics from the emergency rooms
17 how many people went. And I think they
18 divided it into two sections: The ones that
19 went to the Home Depot, people that were
20 using them at home; and the people that were
21 at work or had workers comp. Thousands that
22 were injured. It's no small thing and I

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1 would love to be on the work group with this
2 one.

3 MR. SHANAHAN: Liz, your point -- I'm
4 sorry to interrupt, to your point before, this
5 is where a good example of where the
6 manufacturers really should be involved because
7 we try to get them involved in getting those
8 tools changed to effect some of these things has
9 really not been easy.

10 MR. SMITH: Talk to Mike about what
11 you can do as far as a presentation.

12 MR. BUCHET: Okay. Should we try and
13 reach out to ISANTA and invite them to send
14 somebody to participate --

15 MR. SMITH: Yes, I've got to tell you,
16 this committee is up and rolling. A big reason
17 is the work of Michael Buchet, our support

18 person.

19 (Applause)

20 MR. BUCHET: I only did what the chair

21 asked.

22 MR. SMITH: And also Noah has been a

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1 big asset also. I wish he were here to thank.

2 And David is new, but I can tell you from being

3 around him the last couple days he's going to be

4 part of the solution.

5 MR. ZWOLAK: No comment. Thank you.

6 MR. SMITH: Dave?

7 MR. ZWOLAK: Linwood. Thank you very

8 much. Three quick things. Spending the last

9 few days with you, you are to be complimented on

10 professionalism and personal dedication to the
11 task.

12 I look forward and my department
13 and Mike looks forward to continuing working
14 with you. We're going to make some good
15 progress.

16 Second thing, personal thanks to
17 Mike. Logistics, Mike has kept on track,
18 really kept the meetings running smoothly, so
19 well done. Mike has said he's done only what
20 the chair asked, he's gone much beyond that.
21 He's being much too humble.

22 A final thought is, there's been a

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1 lot of flux in my department. We have a

2 couple new folks on board. I would invite
3 everyone in terms of just a broad public
4 announcement to keep an eye on USA Jobs if
5 you've got interested candidates with a
6 construction background, safety and health
7 background, because there are going to be
8 some postings -- some postings planned for
9 that, so keep an eye on that site if you've
10 got interested candidates in the near future.

11 MR. SMITH: Thank you. And I
12 appreciate you sitting beside me today because
13 they have yet to throw anything at me today.

14 MS. SHORTALL: Yes, I'll first get the
15 procedural things out of the way. I'd like to
16 mark for the record of the memorandum for ACCSH
17 of Edwin Foulke concerning the proposed
18 modifications to the hazard communication
19 standard. This is Exhibit No. 0014 and a letter
20 to Michael Bucher from Paul Lagersted regarding
21 the super anchor safety user liability questions
22 document as 0015.

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1 And at the risk of every saying
2 anything substantive, I would like to say two
3 things substantive. I don't know if any of
4 you look on OSHA's webpage or even the
5 Department of Labor's. One of the main
6 things that has ended up on the webpage in
7 the last year is information about pandemic
8 flu and I see a big connection between
9 pandemic flu and the issue of workplace
10 sanitation and although often the issue of
11 workplace sanitation seems to be relegated to
12 women in construction, it seems to be an area
13 that hasn't been touched on by the committee
14 in a long time so I bring that up.

15 And then second, this is just to

16 Mr. Zarletti, I think that the workgroup ANSI
17 committee should have a provision in its ANSI
18 standard that says companies should be able
19 to get motorists to slow down by whatever
20 means necessary, so if they need to trick
21 motorists into slowing down or whatever, I
22 think that would be a very good idea.

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1 MR. ZARLETTI: We've tried some of
2 that, it only goes so far.

3 MS. SHORTALL: Can you tell them your
4 brilliant one?

5 MR. KRUL: Yes, we've tried.
6 Something other either old or new business. One
7 of my other many duties is chairman of the

8 National Maintenance Agreement Policy Committee

9 and over the last four or five or six years, the

10 older you get, the more you lose track of time,

11 there's been a national zero injury safety award

12 at different tiers for contractors around the

13 country. Obviously all of this is with

14 signatory organizations, but last year it was

15 held, I know OSHA comes, some of you around the

16 table have come to this. It's going to be held

17 October 29th at the National Building Museum.

18 And if you and/or your organization

19 is interested in attending this, it's online

20 at NMAPC.org and it explains the whole ZISA

21 process, probably even has who the awards are

22 being presented to this year and it's a

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1 wonderful evening. I wish I could remember
2 who they got as a keynote speaker. It's
3 somebody famous. Memory and hair are going,
4 but they are having a wonderful speaker.
5 Last year it was Cecil Roberts, who's
6 president of the Mine Workers. He did a
7 phenomenal job.

8 They got somebody and I have to
9 approve this check, I'll probably be afraid
10 to look at it, but it is someone heavily
11 involved in safety and gosh, I wish I could
12 remember. It'll be on the website, but I
13 encourage anybody who's interested to attend
14 this. It's really, really a nice -- not only
15 is it a nice function for what it does, and
16 that's reward people for safety performance
17 during the course of the year, but it's a
18 wonderful opportunity to integrate with
19 labor, with management, with safety
20 professionals from around the country.

21 MR. KAVICKY: What was that link?

22 MR. KRUL: NMAPC. It's National

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1 Maintenance Agreement Policy Committee, that's

2 the acronym, dot-org.

3 MR. ZARLETTI: And when is this event

4 you're talking about?

5 MR. KRUL: October 29th.

6 MR. ZARLETTI: And where?

7 MR. KRUL: It'll be at the National

8 Building Museum here in town. It's a wonderful,

9 wonderful place.

10 MR. SMITH: Does the Chair hear a

11 motion that we adjourn?

12 MR. KAVICKY: So moved.

13 MR. SMITH: Is there a second?

14 MS. ARIOTO: Second.

15 (Whereupon, at approximately 4:32

16 p.m., the PROCEEDINGS were

17 continued.)

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