

UNITED STATES OF AMERICA
DEPARTMENT OF LABOR
OCCUPATIONAL SAFETY AND
HEALTH ADMINISTRATION

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ADVISORY COMMITTEE ON CONSTRUCTION
SAFETY AND HEALTH

+ + + + +

MEETING

+ + + + +

FRIDAY, JULY 31, 2009

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The meeting convened at 8:30 a.m. in Room N-3437 A-C of the Frances Perkins Building, 200 Constitution Avenue, NW, Washington, DC, Frank Migliaccio, Chair, presiding.

EMPLOYEE REPRESENTATIVES:

FRANK L. MIGLIACCIO, JR., Executive Director,
Safety & Health, International
Association of Bridge, Structural,
Ornamental & Reinforcing Iron Workers

WALTER JONES, Associate Director, Occupational
Safety & Health, Laborers Health and
Safety Fund of North America

EMMETT M. RUSSELL, Director, Department of
Safety & Health, International Union of
Operating Engineers

THOMAS L. KAVICKY, Safety Director/Assistant

to the President, Chicago Regional
Council of Carpenters

EMPLOYER REPRESENTATIVES:

MICHAEL J. THIBODEAUX, President, MJT
Consulting, for the National Association
of Homebuilders

THOMAS R. SHANAHAN, Associate Executive
Director, National Roofing Contractors
Association (via teleconference)

WILLIAM R. AHAL, President, Ahal
Preconstruction Services, LLC, for the
Associated General Contractors

DANIEL D. ZARLETTI, Vice President, Safety,
Health & Environment, Kenny Construction
Company

STATE REPRESENTATIVES:

KEVIN D. BEAUREGARD, Assistant Deputy
Commissioner, Assistant Director,
Division of Occupational Safety &
Health, North Carolina Department of
Labor

STEVEN D. HAWKINS, Assistant Administrator,
Tennessee Occupational Safety & Health
Administration

PUBLIC REPRESENTATIVES:

THOMAS A. BRODERICK, Executive Director,
Construction Safety Council
JEWEL ELIZABETH ARIOTO, Elizabeth Arioto
Safety & Health Consulting Services

FEDERAL REPRESENTATIVE:

MATT GILLEN, Construction Program
Coordinator/Senior Scientist, Office of
the Director, CDC-NIOSH

DOL STAFF PRESENT:

MICHAEL M.X. BUCHET, Project Officer, Office
of Construction Services, Directorate of
Construction, Alternate Designated

Federal Official

SARAH SHORTALL, ACCSH Counsel, Office of the
Solicitor

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

2 8:36 a.m.

3 CHAIR MIGLIACCIO: On the record.

4 I would like to welcome everybody back.

5 Provided a travel day. So I mentioned to some

6 of the members on the committee that the

7 catch-up on the travel day would be a nice

8 casual day. I can't see you wearing ties on

9 Friday if you don't want to. It's up to you.

10 MR. HAWKINS: I just wanted to.

11 So did Matt.

12 CHAIR MIGLIACCIO: You're

13 Government.

14 We're going to start up with the

15 Residential Fall Protection, Steve Hawkins and

16 Tom Kavicky. Tom, you'll give that, correct?

17 MR. KAVICKY: Michael.

18 CHAIR MIGLIACCIO: Oh, Michael,

19 I'm sorry. Michael. I didn't have you on.

20 Michael Thibodeaux will do the honors.

21 WORK GROUP REPORTS/ADMINISTRATION:

22 RESIDENTIAL FALL PROTECTION

1 MR. THIBODEAUX: Okay.
2 Residential Fall Protection Work Group, we had
3 33 attendees at this meeting. It was very
4 good. We reviewed the April 14, 2009 meeting
5 minutes. We had two vendors and we had NIOSH
6 representatives presenting some fall
7 protection devices for review and discussion
8 to the work group attendees.

9 The three vendors, HUGS,
10 Horizontal Under-Eave Guardrail Systems,
11 French Creek Productions which had harnesses,
12 anchors, retractable devices and then NIOSH
13 had adjustable roof bracket and safety rail
14 assembly all set up for the folks to look at,
15 to talk to the vendors, to see what products
16 are out there and, of course, they're getting
17 more and more everyday that are usable in not
18 just residential fall protection but all fall
19 protection.

20 The work group reviewed the draft
21 and you have a copy of it, "Residential Fall
22 Protection Guidelines for Employer

1 Compliance." We requested comments on this
2 document be sent to Tom or myself or Steve
3 before the next meeting so that we could
4 hopefully have a final draft to present to
5 ACCSH at our September meeting. We're going
6 to email the folks who attended to remind them
7 about a month or so before the meeting to send
8 us their comments so we can finalize that.
9 And this Fall Protection Guideline was being
10 put together by a voluntary group out of the
11 work group in anticipation of the STD 3.01A
12 being ascended by the agency.

13 Jeremy Bethancourt from LaBlanc
14 Building Company in Phoenix, Arizona gave a
15 PowerPoint presentation, Personal Fall Arrest
16 System Anchor Points and Options in
17 Residential Construction. He was just showing
18 what his company is doing for fall protection
19 during truss and roof operations and some
20 options that they have when they're not always
21 able to use it, although he contends that they
22 try and use it 100 percent of the time. He

1 said it's very important to brace the trusses
2 correctly and sometimes even overbrace to make
3 sure you have enough stability and in order
4 to be able to keep down the guys coming, you
5 know, moving across the roof and hooking onto
6 something else, they set up multiple anchor
7 points on the roofs so that they can have two
8 or three guys working at the same time.

9 He said in a new technique they've
10 come up with, and I don't know that it's new
11 because other folks have been doing it before,
12 was to build some of the components on the
13 ground, put them together, and then put them
14 up as a unit and he said on some of the
15 finished homes they were leaving anchor points
16 both on the roof and on the side of the homes
17 for use for remodeling, painters, stucco guys,
18 et cetera, and specifically for roofing, but
19 those were other uses.

20 We were going to cover the
21 definition of residential construction;
22 however, we ran out of time. Again, we're

1 going to send out the end of August to all the
2 attendees the definition that's in the STD as
3 well as some other definitions that have been
4 proposed and ask them to make their comments
5 to us before the next meeting and hopefully
6 we'll have something to present to the full
7 ACCSH in September.

8 And the meeting was adjourned at
9 2:00 p.m.

10 CHAIR MIGLIACCIO: Tom, do you
11 have anything to add?

12 MR. KAVICKY: No.

13 CHAIR MIGLIACCIO: Okay.
14 Questions from the Committee?

15 (No verbal response.)

16 I see no questions. I'll
17 entertain a motion at this time to accept the
18 work group's report.

19 MR. AHAL: So moved.

20 MS. MARTIN: Seconded?

21 MS. ARIOTO: Seconded.

22 CHAIR MIGLIACCIO: Seconded by

1 Elizabeth.

2 Questions or discussion?

3 MS. SHORTALL: I have a couple of
4 things. First of all, on your final copy or
5 even the draft that you send out to people of
6 these guidelines, will it be possible on the
7 faux sheet to suppress the gray since it's
8 going to be hard, it may be hard, for people
9 to --

10 MR. THIBODEAUX: I don't know.
11 I'll check.

12 MS. SHORTALL: Okay.

13 MR. KAVICKY: We'd have to get
14 together with Rob Matuga.

15 MR. THIBODEAUX: Yes. Rob is the
16 one that put that.

17 MR. KAVICKY: I'll call Rob and
18 talk to him.

19 MS. SHORTALL: Okay. That would
20 be very helpful. Because you can see when you
21 reproduce copies, it's difficult to read the
22 words in there.

1 The second issue is when you are
2 ready to have Mike Buchet send this out to
3 people on the list would you please ask Mr.
4 Buchet or might request -- a suggestion would
5 be that you would ask Mr. Buchet to pass in
6 his email to say to people, "Please pass it
7 along to others who might be interested in
8 making comments."

9 MR. THIBODEAUX: Sure.

10 MS. SHORTALL: And that the work
11 group anticipates that at the September work
12 group meeting they will finalize the
13 recommendation to present to ACCSH.

14 MR. THIBODEAUX: Sure. We can do
15 that.

16 MS. SHORTALL: Thank you.

17 CHAIR MIGLIACCIO: All right. All
18 in favor say aye.

19 (Chorus of ayes.)

20 Opposed?

21 (No response.)

22 So moved.

1 MS. SHORTALL: Mr. Chair, I would
2 like to mark some exhibits to be entered into
3 the record for this meeting as Exhibit 17, the
4 Approved Residential Fall Protection Work
5 Group Meeting Report from their July 28, 2009
6 meeting, the draft Residential Fall Protection
7 Guidelines for Employer Compliance as Exhibit
8 17.1, and the PowerPoint presentation on
9 Personal Fall Arrest System Anchor Points and
10 Options in Residential Construction as Exhibit
11 17.2.

12 CHAIR MIGLIACCIO: Thank you.

13 The next work group will be
14 Trenching. Emmett Russell.

15 WORK GROUP REPORTS/ ADMINISTRATION:

16 TRENCHING

17 MR. RUSSELL: Good morning. The
18 Trench Work Group was held on July 28th at
19 2:15 p.m. We did welcome, self introductions.
20 The Co-Chair was Emmett Russell. Dan Zarletti
21 opened the meeting.

22 Emmett Russell and Travis Parsons

1 provided the group with a demonstration of the
2 Trench Safety Tool Box talks and Trench Safety
3 Tools in the updated Roadway Safety CD. A
4 recommendation was made to include cubic yards
5 excavated plus spoils per foot or per yard of
6 trench excavated while digging a trench with
7 a slope or bench in comparison to using a
8 trench box in future versions of the Roadway
9 Safety Trench Demo Tool.

10 T.J. Lentz of NIOSH gave a
11 presentation on two trench safety articles
12 published by NIOSH primarily directed at the
13 landscaping construction industry. The
14 articles are titled "Trenching: Part I, Don't
15 Dig Your Own Grave" and "Trenching: Part II,
16 Steps for Employers." Mr. Lentz also shared
17 with the committee an early draft of a NIOSH
18 Safety Workplace Solutions card directed to
19 educating workers in the industry. The card
20 is titled "Trench and Excavation Safety."

21 The committee was asked for their
22 feedback, input and recommendations. A NIOSH

1 product preventing worker deaths from trench
2 cave-ins was also presented which included
3 case studies of trench fatalities.

4 Richard Dressler of AEM provided
5 the group with some additional recommendations
6 from Keith Lamberson of the Trench Shoring
7 Services, a member of TSSA, who gave a
8 presentation to the work group at the April
9 2009 meeting. His recommendations are as
10 follows:

11 (1) Training to educate the
12 noncompliant people;

13 (2) New markets to reach shallow
14 to medium depth users, mini excavators, and
15 rubber tie back hose;

16 (3) Small contractors, plumbers,
17 rental yards need to get their attention and
18 educate for utility contractor group.

19 (4) Work with fire departments on
20 rescue, but we want to prevent the accidents.
21 Prevention is the key;

22 (5) Opportunities may exist with

1 OSHA, TSSA, NUCA, AGC, ABC and universities to
2 educate on the risk involved; and

3 (6) Cost savings through the use
4 of proper trench technology and shoring and
5 shielding.

6 Mr. Dressler also gave the
7 committee of number of TSSA booklets and
8 pamphlets: "Trench Shoring and Shielding Do's
9 and Don'ts," "Eight Good Reasons Why Trench
10 Shoring and Shielding Saves," and
11 "Introduction to Modern Trench Shoring and
12 Shielding."

13 The work group held a discussion
14 on the presentations and topics presented in
15 the work group meeting. The work group
16 discussed the value of placing warnings on the
17 dangers involved in trenching on trenching
18 equipment.

19 The work group meeting adjourned
20 at 3:45 p.m.

21 CHAIR MIGLIACCIO: Thank you,
22 Emmett.

1 Any questions from the Committee?

2 MS. SHORTALL: I have a question.

3 Mr. Russell, were you intending for the NIOSH
4 product and the TSSA booklets and pamphlets to
5 be entered into the record along with the work
6 group --

7 MR. RUSSELL: Yes, I can and I
8 will give copies of those to you today.

9 CHAIR MIGLIACCIO: Thanks.

10 MS. SHORTALL: Okay.

11 CHAIR MIGLIACCIO: Seeing no other
12 questions, I'll entertain a motion to accept
13 the work group's report.

14 MR. GILLEN: Motion to accept.

15 MR. KAVICKY: I second.

16 CHAIR MIGLIACCIO: All right, Tom.

17 Thank you.

18 Questions? Discussion?

19 (No verbal response.)

20 Seeing none, all in favor say aye.

21 (Chorus of ayes.)

22 Opposed?

1 (No verbal response.)

2 Ayes so have it.

3 MS. SHORTALL: Mr. Chair, I would
4 like to mark as Exhibit 18 and have entered
5 into the record the approved Trenching Work
6 Group Report from the July 28, 2009 meeting as
7 Exhibit 18.

8 Exhibits 18.1 through the
9 necessary end would be the items that Mr.
10 Russell will be providing me that were
11 distributed at the work group meeting.

12 CHAIR MIGLIACCIO: All right. The
13 next work group we'll hear from will be Power
14 Fastening Tools, Nail Guns, and Liz will give
15 the report.

16 WORK GROUP REPORTS/ADMINISTRATION:

17 POWER FASTENING TOOLS, NAIL GUNS

18 MS. ARIOTO: Thank you.

19 (Off record phone operator.)

20 CHAIR MIGLIACCIO: Can you hear
21 us?

22 MR. SHANAHAN: Can you hear me?

1 CHAIR MIGLIACCIO: Yes. Welcome,
2 Tom. All right. Liz.

3 MS. ARIOTO: I'm Liz Arioto
4 representing the public and my co-chair was
5 Tom Kavicky from the Chicago Regional Council
6 of Carpenters.

7 Our Power Fastening Tool/Nail Gun
8 Work Group was on July 28, 2009 and we started
9 at 4:00 p.m. We had self introductions and
10 there were 19 attendees. There were opening
11 comments and the agenda was covered. We
12 reviewed the meeting minutes of April 14,
13 2009.

14 Liz Arioto was given information
15 and data, E-Tool, for nail gun safety and Code
16 of Safety Practices from CAL-OSHA Consultation
17 Unit. At this time, this E-Tool has not been
18 fully developed. When this E-Tool has been
19 completed and made available, the work group
20 will make recommendations to the ACCSH
21 Committee that they ask OSHA to provide a link
22 on the OSHA website, the CAL-OSHA website, for

1 nail gun safety and the Code of Safe Work
2 Practices for public review.

3 John Kurtz discussed training
4 materials that are available in nail gun
5 safety. Two handouts were given to the work
6 group: "Description of Power Nailer/Stapler
7 Training Materials, Power Fastening Safety and
8 You: A Partnership ISANTA 2000," "Power
9 Fastening Tools: Safety Care 1992," "Power
10 Nailers Shopware 2006," "Pneumatic Nail and
11 Staple Gun Safety Shorts, 1994," "Play It
12 Safe: Bostitch 2005."

13 General comments on materials
14 included general nail gun safety, generic nail
15 gun information. Manufacturer training
16 materials did not cover everything. John
17 Kurtz stated that the operator must follow
18 different nail gun manufacturers'
19 recommendations for proper use and safety.
20 Also the Bostitch nail gun training video was
21 shown.

22 A discussion of the training

1 materials, handouts and videos included the
2 following: how do the manufacturers get the
3 information out to small contractors? John
4 Kurtz stated they can download the
5 information from the manufacturer's website.

6 John was asked about the status
7 for the update in the current ANSI 101-2002,
8 "Portable Compressed Air Actuated Fastener
9 Driving Tools Safety Requirements for." He
10 stated the standards action is about two weeks
11 away. A suggestion was given by the work
12 group to have Tom Kavicky send all work group
13 attendees an email notifying them of the ANSI
14 standard changes to the original 2002
15 document.

16 The written handed out materials
17 did not address the different trigger methods.
18 Also the materials did not discuss the safety
19 aspects of different triggers.

20 A recommendation was made that
21 ACCSH work group make comments to the ANSI
22 committee on the proposed new standard.

1 Michael Boucher informed the attendees that
2 the work group could not make comments to
3 ANSI. However, individuals, associations and
4 other organizations could make these comments
5 to ANSI.

6 Through an interpreter, Elizzar
7 Benzuides, owner of Benzuides Framing Company,
8 informed the work group that his company
9 employees did not use sequential trigger nail
10 guns when framing homes. They used contact
11 trip triggers exclusively. His concern is if
12 OSHA bans contact trip trigger nail guns his
13 company will not be productive enough to
14 compete in the marketplace and lose the work.
15 When asked by the work group how he
16 disseminates safety information to his mostly
17 Hispanic workforce he stated that he uses
18 experienced workers to train others in their
19 native language.

20 Bruce Jones, owner of Bruce L.
21 Jones Contractor, told the work group that he
22 owns and operates component shops and that

1 includes framing using nail guns. He
2 discussed the reasons why most of his
3 workforce used contact trip trigger nail guns,
4 explained that with a component shop and many
5 tasks performed in the field while framing,
6 decking and sheathing roofs, a sequential nail
7 gun would be a production hardship. He
8 explained that often times framing tasks may
9 require the installation of 150 to 350 nails
10 to secure a framing section for building code
11 drawings. A worker using a sequential gun
12 would likely develop ergonomic hand and finger
13 injuries.

14 He did request to the work group
15 that more safety information be provided in
16 the Spanish language. He explains that the
17 majority of injuries that his employees
18 experience are due to splitting of the wood as
19 a nail is driven and the nails ricocheting and
20 hitting the employee as they are driven by the
21 gun.

22 Other comments provided by the

1 work group participants included, whether a
2 worker is using a contact trip trigger or
3 sequential nail gun, training is the most
4 element to retain the safe of these tools.
5 There is great need for better supervision,
6 constant reinforcement of training, better
7 work practices and a good disciplinary policy
8 to help prevent and reduce injuries to users
9 of these nail guns.

10 Co-Chair Tom Kavicky read a letter
11 that was sent by James Nolan, Carpenters
12 District Council, St. Louis, Missouri. Mr.
13 Nolan could not make the trip to Washington,
14 D.C. for this ACCSH work group meeting.

15 Mr. Nolan and Dennis Patterson
16 were responsible for helping Dr. Hester
17 Lipscomb gather data on nail gun injury
18 details and status conducted in the St. Louis
19 area. Data was collected by conducting
20 surveys of 3,088 carpenters from 2005 to 2008.
21 Eight hundred and fifty-two of the total
22 surveyed individuals reported sustaining at

1 least one nail gun injury in their career.
2 The majority of these injuries was called
3 from nail guns with contact trip triggers on
4 the report on file.

5 In the package information, Mr.
6 Nolan included a petition signed by 580
7 carpenters in the St. Louis district asking
8 for the outright ban of contact trigger
9 nailers in the petition on file.

10 The work group meeting was
11 adjourned at 5:30 p.m.

12 CHAIR MIGLIACCIO: Thank you. Mr.
13 Kavicky, do you have anything to add?

14 MR. KAVICKY: No.

15 CHAIR MIGLIACCIO: All right.

16 Either Tom or Liz, could you just explain to
17 the members of the public the difference
18 between contact trip trigger and sequential?

19 MR. KAVICKY: Just briefly, the
20 contact trip trigger nail gun takes two things
21 to happen. First, you squeeze the trigger for
22 a contact trip, squeeze the trigger, and then

1 you can bump the nail using the contact trip
2 trigger. You don't have to stop and release
3 the trigger and squeeze the trigger again to
4 make your next shot. It's a one-time squeeze
5 of the trigger, bam, bam, bam, bam. You're
6 nailing.

7 The sequential follows a specific
8 pattern where you squeeze the trigger. You
9 make contact. It discharges a nail. You
10 release the trigger and you squeeze the
11 trigger again and the next nail gets shot in
12 when you make contact with the item that
13 you're fastening. So that's basically the
14 difference between the two.

15 Many injuries in Dr. Lipscomb's
16 overview that she did down in St. Louis
17 produced documentation that the majority of
18 the injuries that take place with the
19 carpenters down there is from the contact trip
20 trigger whether they're carrying it, squeezing
21 the trigger and they bump it into their leg or
22 discharge it into another employee. The nail

1 ricochets and hits somebody.

2 It's a quite in-depth study.

3 Hester did present it at the last board group
4 meeting that is on record and we're following
5 up as we go along. We appreciate your
6 comments and attendance at the committee
7 meeting.

8 CHAIR MIGLIACCIO: Thank you, Tom.

9 MR. KAVICKY: Thank you, Frank.

10 CHAIR MIGLIACCIO: Any questions
11 from the Committee?

12 (No verbal response.)

13 Okay. Seeing none, I'll entertain
14 a motion to accept at this time.

15 (Off the record comments.)

16 Questions? Discussion?

17 (No verbal response.)

18 All in favor say aye.

19 (Chorus of ayes.)

20 Opposed?

21 (No verbal response.)

22 Motion passed.

1 MS. SHORTALL: Mr. Chair, at this
2 time I would like to mark and enter into the
3 record as Exhibit 19 the Approved Power
4 Fastening Tools/Nail Guns Work Group Report
5 from the July 28, 2009 meeting; as Exhibit
6 19.1 the ISANTA description of power
7 nailer/stapler safety training materials; as
8 Exhibit 19.2 a handout in International
9 "Staple, Nail and Tool Association Power
10 Fastening Safety and You, a Partnership;" as
11 19.3 "Power Fastening Safety and You, a
12 Leader's Guide" once again from ISANTA; as
13 Exhibit 19.4 a letter from Jim Nolan to Tom
14 Kavicky regarding petitions for an outright
15 ban on contact trigger nailers and a report
16 from Hester Lipscomb; as Exhibit 19.5 the
17 signed petitions; and as Exhibit 19.6 the
18 study done, the report done, by Hester
19 Lipscomb.

20 CHAIR MIGLIACCIO: Our last work
21 group report will come from the Education and
22 Training OTI. Walter Jones.

1 WORKING GROUP REPORTS/ADMINISTRATION:

2 EDUCATION & TRAINING OTI

3 MR. JONES: Good morning.

4 (Chorus of Good mornings.)

5 The committee did welcomes and
6 self introductions. They did a verbal agenda
7 and discuss what were the meeting goals. We
8 basically wanted to cover three topics. The
9 first topic was OSHA 500 Prereqs. The
10 committee opened with a discussion of the new
11 prerequisite requirements for the OSHA 500
12 course. OTI is no longer accepting the OSHA
13 30 as a prereq. and now is requiring the 510
14 or equivalent.

15 There currently has been no OSHA
16 510 equivalent established and equivalency
17 according to OTI would be based on training or
18 course work ability to meet the objectives
19 laid out in the OSHA 510. OTI will review any
20 submitted course material and make such
21 determinations.

22 Topic 2, Mandatory OSHA Attending

1 Supervisor Training, we brought this topic up
2 at the request of Hank Payne at a prior
3 meeting. The committee discussed the need to
4 make the OSHA 10 our course mandatory for
5 construction and demolition work. Hank from
6 OTI discussed the effect of the increase in
7 the number of the states requiring the OSHA 10
8 for the public and in some cases private
9 construction and demolition projects.

10 He talked about the
11 inconsistencies of the statues, staffing and
12 budgeting problems in his office to respond to
13 state needs. The OTI program control and
14 oversight consistency period with the OSHA 10
15 content, the development of a national
16 database and card security were issues that
17 OTI were currently grappling with in response
18 to such increased and explosive demand as he
19 said yesterday.

20 OTI requested committee assistance
21 with potential card refresher development and
22 developing card security. Sentiment on the

1 committee was in favor of looking at making
2 OSHA 10 mandatory for construction, but a
3 committee recommendation was put off in favor
4 of more research and discussion.

5 Supervisor training was identified
6 as a potential missing link in creating a
7 safety training workforce. The committee
8 suggested to OTI that OTI develop a management
9 and supervisory version of the OSHA 10. OTI
10 in turn suggested that the committee supply
11 material for review for inclusion as an
12 additional option section to be made available
13 for the OSHA authority.

14 Topic 3. In response to a
15 question from the public at a prior ACCSH
16 meeting the committee began by noting how vast
17 and useful the Susan Harwood products are, but
18 they are generally unavailable once the grant
19 is over. Much information is either
20 copyrighted or discontinued.

21 The committee asked Jim Barnes
22 from OTI questions about the proprietary of

1 copyrighted and taxpayer funded projects in
2 the development of a Susan Harwood depository
3 where all non copyrighted and even copyrighted
4 materials applicable could be stored. OTI was
5 not prepared for the query and was tasked with
6 making a presentation on these issues at our
7 next meeting.

8 CHAIR MIGLIACCIO: Thank you,
9 Walter. Walter, I have just one question.
10 Was the recommendation for the supervisors
11 training on the 10 hour or the 30 hour?

12 MR. JONES: The recommendation was
13 made for the 30 hour. A section be added to
14 the 30 hour for -- an optional section be
15 added that would cover management, a
16 management topic of safety supervisor that
17 would included safety culture, addressing
18 productivity issues. But not the 10 hour, no.

19 CHAIR MIGLIACCIO: Okay.

20 (Off the record discussion.)

21 CHAIR MIGLIACCIO: We just have
22 one change we're making to your minutes. If

1 it's all right, "the committee suggests that
2 OTI develop a management supervisor version of
3 the OSHA 30."

4 MR. JONES: Yes, I see. Thirty.

5 CHAIR MIGLIACCIO: I just want to
6 make sure that.

7 MR. JONES: Yes, you're right.

8 CHAIR MIGLIACCIO: Okay.

9 MR. JONES: That's a typo.

10 CHAIR MIGLIACCIO: All right.

11 Thank you.

12 MR. ZARLETTI: Mr. Chairman.

13 CHAIR MIGLIACCIO: Any questions
14 of the committee?

15 Yes, Dan.

16 MR. ZARLETTI: This is Dan
17 Zarletti with the Employers. Actually, I
18 didn't think that when I understood him to add
19 this module for supervision that it would any
20 longer remain 30 hours, that it wasn't going
21 to fit in the 30 hour format now. It was
22 going to become an extension of it and

1 basically rename the thing. Is that? Isn't
2 that?

3 MR. JONES: That's correct.

4 MR. ZARLETTI: Yes.

5 MR. JONES: There are two options
6 on the table, one just coming out with a
7 separate training course for supervisors and
8 Jim and others talked about he would open to
9 adding a section to the OSHA 30. But he's
10 going to come back and talk more about it.
11 I'm in favor of a separate training topic,
12 but, you know, we still are in much discussion
13 about that.

14 CHAIR MIGLIACCIO: So there will
15 be a lot more discussion going on.

16 MR. JONES: Yes, there's a lot
17 more discussion coming along.

18 CHAIR MIGLIACCIO: Any other
19 questions from the Committee?

20 (No verbal response.)

21 Seeing none, I'll entertain a
22 motion to accept the work group's report.

1 MR. THIBODEAUX: I so move.

2 CHAIR MIGLIACCIO: Mike

3 Thibodeaux.

4 MS. ARIOTO: I second.

5 CHAIR MIGLIACCIO: Seconded it.

6 Questions? Discussion?

7 MS. SHORTALL: Yes. I believe
8 there is one other typo in the report and that
9 is I think your meeting was held on July 29.

10 MR. JONES: That's correct.

11 MS. SHORTALL: Okay.

12 CHAIR MIGLIACCIO: Thank you.

13 (Off the record comment.)

14 All those in favor say aye.

15 (Chorus of ayes.)

16 MR. THIBODEAUX: 2009 has an extra
17 zero.

18 MS. SHORTALL: We'll make that
19 change, too.

20 (Off the record comments.)

21 CHAIR MIGLIACCIO: All in favor
22 again by saying aye.

1 (Chorus of ayes.)

2 Opposed?

3 (No verbal response.)

4 The ayes have it.

5 (Off the record discussions.)

6 MS. SHORTALL: Mr. Chair, then I'd
7 like to mark and have entered into the record
8 as Exhibit 20 the Approved OTI Work Group
9 Meeting Report from the July 29, 2009 meeting
10 as amended; as Exhibit 20.1 the list of
11 attendees from the July 29 meeting; and as
12 Exhibit 20.2 the state -- I take it since you
13 say laws that they are all mandatory.

14 MR. JONES: Those are all the
15 state requirements for OSHA 10 throughout the
16 country.

17 MS. SHORTALL: Okay. The list of
18 state plan states OSHA 10 requirements.

19 MR. BUCHET: They are laws passed
20 by states requiring OSHA 10 hour cards on
21 publicly funded jobs in the states whether
22 they are or not --

1 MS. SHORTALL: Okay. So Exhibit
2 20.2 is the state OSHA 10 laws prepared for
3 the ACCSH meeting of July 2009.

4 CHAIR MIGLIACCIO: All right.
5 Before our next presentation, we have enough
6 time that we've allowed here for Kevin
7 Beauregard. Yesterday he talked to the
8 Committee about the Subcontractor Safety Quick
9 Card and it's finished. Everybody has a copy
10 in front of them.

11 Kevin.

12 SUBCONTRACTOR SAFETY QUICK CARD

13 MR. BEAUREGARD: Okay. Yesterday,
14 I handed out a document and this morning I
15 handed out a revised one with a few typos that
16 were revised. Hopefully you had a chance to
17 look at it.

18 The Regulatory Compliance Work
19 Group decided that it was important to work on
20 a document for employers when selecting
21 contractors for construction related
22 activities and so we got input from the work

1 group. I got some additional input up to
2 about noon time yesterday and tried to
3 incorporate all those changes into the
4 document.

5 Whether or not it's a quick card
6 or a guidance document or a fact sheet, it
7 really, I don't think, makes a difference.
8 The intent is for OSHA to get something out
9 there that would help contractors evaluate the
10 folks that they select for job activities in
11 regards to safety and health programs to
12 better ensure they have a safe work site out
13 there.

14 And that's what this is. And the
15 intent is not necessarily for OSHA to adopt
16 this document verbatim. This contains issues
17 and items that the members of the work group
18 felt were important to look at when evaluating
19 a subcontractor for selection for a job.

20 And what I'd like to do is open up
21 a discussion on this document and hopefully if
22 it's something that the ACCSH members feel as

1 a whole it is worthwhile to recommend then I
2 am prepared to make a motion for OSHA to
3 develop a guidance document and to use this as
4 a basis for information that needs to be on
5 here but not necessarily for OSHA to adopt
6 this particular document but to give them this
7 information. Hopefully, that will aid them in
8 developing something.

9 CHAIR MIGLIACCIO: Okay. It's
10 open for discussion. Don't everybody speak at
11 one time.

12 MS. SHORTALL: Do you have any
13 extra copies, Kevin?

14 CHAIR MIGLIACCIO: Do you have any
15 extra copies, Kevin?

16 MR. BEAUREGARD: I do.

17 CHAIR MIGLIACCIO: Does anybody on
18 the Committee feel as though it's not needed
19 or it's a good idea? Tom Kavicky.

20 MR. KAVICKY: Tom Kavicky,
21 Employee Rep. Mr. Chairman, I think it's a
22 good idea to use this as a guidance document

1 or fact sheet or whatever OSHA comes up with.
2 But I think it's a good product coming from
3 the committee. It's designed just to use as
4 a suggested document when looking at
5 contractors/subcontractors. I like it.

6 CHAIR MIGLIACCIO: Okay. Anybody
7 else? Mike Thibodeaux.

8 MR. THIBODEAUX: Mike Thibodeaux,
9 Employee Rep. As a former risk manager, this
10 is something that we used in our company. But
11 I would guess that a lot of the smaller and
12 medium sized employers probably don't have
13 this kind of guidance in their programs. Some
14 may. But this is a good guide of things to
15 take into consideration for hiring a
16 contractor who is going to do the work well as
17 well as safely. So I think it's a really good
18 start and I would hope that the Committee
19 would ask OSHA to consider producing this
20 document for publication in the construction
21 industry.

22 CHAIR MIGLIACCIO: Okay. Anyone

1 else? Tom Broderick.

2 MR. BRODERICK: Tom Broderick. I
3 guess I'm going to display my ignorance here.
4 What are the choices that the agency has for
5 producing this document? There's a guidance
6 document. Is that right? A quick card?

7 What else?

8 MR. BEAUREGARD: A fact sheet.

9 MR. BRODERICK: A fact sheet,
10 okay. Thank you.

11 CHAIR MIGLIACCIO: Anyone else?

12 MR. AHAL: Bill Ahal, Employers.
13 I think it's a very good -- I think it has a
14 lot of usage particularly with perhaps a
15 smaller contractor/medium sized contractor.

16 I know that the agency will
17 probably have comments if it was to make it
18 all the way through. But in the second
19 paragraph I would like to ask the other
20 members of the group just in order to try to
21 pave the way for this to become a real
22 document or a used document, the words there

1 concerning the multi-employer where it says
2 "it makes it clear that prime contractor."
3 While I don't necessarily disagree with that
4 comment, I think that that's the basis for a
5 lot of discussion and argument that it's clear
6 that that says that. I'm wondering if we
7 should change those words just to make it a
8 little easier.

9 CHAIR MIGLIACCIO: Where is that?

10 MR. AHAL: On the first page,
11 right there after 29 CFR 1926.16 make it clear
12 that prime contractors have some
13 responsibility. I think there's a good number
14 of contractors in industry that don't
15 necessarily agree with that. It's not my
16 personal recommendation, but -- And should
17 those words be modified that indicate that
18 that language is found in that section? I
19 mean realistically I'm sure that that might
20 make this a little more palatable.

21 MR. BEAUREGARD: Well, if you just
22 got rid of that --

1 MR. AHAL: I don't argue with it.
2 I'm just trying to make this thing --

3 CHAIR MIGLIACCIO: Dan, we'll hear
4 from the other contractor reps or employer
5 reps. What do you think?

6 MR. ZARLETTI: Yes. Well, I think
7 that with the multi-employer as it is you're
8 really off the hook anyway.

9 CHAIR MIGLIACCIO: I'm sorry.

10 MR. ZARLETTI: With the multi-
11 employer policy that's in place currently,
12 we're not really ever relinquished of our
13 responsibility for subcontractors anyway.

14 CHAIR MIGLIACCIO: Okay.

15 MR. AHAL: What I'm just saying
16 is, is that a policy statement? Yesterday we
17 talked about making sure this wasn't making a
18 policy statement, that this was suggestions
19 and I'm just -- It's a fine point and I don't
20 disagree with that responsibility the general
21 contractor has. I never have. But is this a
22 policy statement within a guideline and could

1 that cause it to trip or could it? And I'm
2 just asking for --

3 CHAIR MIGLIACCIO: Kevin.

4 MR. BEAUREGARD: Mr. Chair, and I
5 don't disagree with Bill and again this --
6 what I'm probably going to make a motion on is
7 that something similar to that. But as far as
8 your concern there, I don't see much of a
9 problem with changing that. Instead of saying
10 "makes it clear" change it to some language
11 such as "appears to indicate the contractors
12 have some responsibility."

13 MR. AHAL: Just get the policy
14 statement out of it.

15 MR. BEAUREGARD: Again this is a
16 guidance document. And Mike may be able to
17 speak on this, but I don't think at this time
18 ACCSH is in a position to say "Print this
19 document."

20 I think what we're saying is
21 there's a need for a guidance document out
22 there. Here's an example of what we think are

1 the important things in a guidance document.
2 We're asking OSHA to develop a guidance
3 document.

4 CHAIR MIGLIACCIO: Yes. I think
5 at the meeting the other day we actually said
6 that it went through that OSHA would add and
7 subtract from it.

8 Walter.

9 MR. JONES: I'm just throwing out
10 there that if you just remove that 29 CFR to
11 that, those five or six words, and just went
12 from "prequalifying contractors, the prime
13 contractors have some responsibility" then you
14 would -- Would that be acceptable?

15 CHAIR MIGLIACCIO: Kevin.

16 MR. BEAUREGARD: It's acceptable
17 to me. I guess the question is is it
18 acceptable to the group. If I'm understanding
19 you correctly, you're saying put the sentence
20 in there "While there is no OSHA requirement
21 for prequalifying contractors" --

22 MR. JONES: "Prime contractors

1 have some" --

2 MR. BEAUREGARD: "Prime
3 contractors have some responsibility for
4 subcontractor safety and it's the best
5 practice in the industry today."

6 MR. JONES: That's what you just
7 said.

8 MR. BEAUREGARD: I'm okay with
9 that.

10 MR. ZARLETTI: And the multi-
11 employer policy's already been flipped once.
12 Now it's back. So it's --

13 MR. BEAUREGARD: And I can tell
14 you certainly our intent in the work group
15 wasn't to even speak on the multi-employer
16 worksite policies.

17 MR. AHAL: And that's why I'm
18 saying in order to not create a tripping point
19 that someone could -- you know, make this
20 thing as palatable as possible so that it --

21 CHAIR MIGLIACCIO: Okay. Mike
22 Buchet.

1 MR. BUCHET: If you could help the
2 agency understand the intent of the document.
3 It appears to start out offering suggestions
4 how to prequalify subcontractors. This
5 appears to be saying "On down the road we're
6 reminding you there's a multi-employer
7 citation policy."

8 Is it possible that the work group
9 would consider doing two versions? One saying
10 "This is what you need to do up front and, by
11 the way, once you have a contractual
12 relationship on a project here are some other
13 considerations."

14 MR. ZARLETTI: I think that might
15 be too confusing. I think either would weaken
16 the other. You have to have one statement
17 that's a guidance only. Just throw it out
18 there and get it as best you can in a single
19 approach.

20 MR. BUCHET: Well, then the multi-
21 employer citation policy doesn't talk in terms
22 of prime contractors. It has defined

1 categories.

2 MR. ZARLETTI: It talks about the
3 control, the contractor's control.

4 MR. BUCHET: And to make this
5 understandable you may end up having to define
6 the terms that are being used. This is
7 recognizable to most anybody that picks it up.

8 MR. BEAUREGARD: I'm sorry, Mr.
9 Chair. And again I would say that I think the
10 work group's main intent is to get something
11 out there particularly for smaller employers
12 as Mike said and to keep it as simple as
13 possible. That's one of the reasons why this
14 is a page, a page and a half, and I do fear if
15 you get different documents out there the
16 effectiveness may be lessened because the
17 chance of small employer going to two
18 documents are probably even more remote than
19 having gone to one.

20 CHAIR MIGLIACCIO: Steve.

21 MR. HAWKINS: You know, I would
22 just like to add if you were to, if the agency

1 were to, produce a document like this, the
2 intent of a document like this is just to
3 serve as an impetus to have a contractor who's
4 about to hire some subs go, "Hey, maybe I need
5 to look at this." And when you're talking
6 about contractors that may not be that
7 sophisticated at that point in their business,
8 you would want some statement in here that
9 reminded them that they do have some
10 responsibility whether that responsibility
11 comes in a general way from the multi-employer
12 worksite policy or if it comes from those
13 statements in the early part of the standard,
14 you know, in 16 and in 20 by having overall
15 responsibility.

16 You just want to remind them
17 whether you did it in this way and I don't
18 mind making these edits that Bill's talking
19 about, but you would want to remind them that
20 what we're trying to say with this document is
21 if you hire a subcontractor you're not Pontius
22 Pilate and you wipe your hands of the

1 situation. You've still got some
2 responsibility for oversight on that work and
3 the courts have found that to be true and they
4 know how your contract is written. If you've
5 got a really poor contract, you might be
6 responsible anyway.

7 So I think there ought to be a
8 suggestion here that this document reminds
9 general contractors, generally that's who
10 you're talking about, that they do have some
11 responsibility for the work that sub does
12 whether it be in the multi-employer worksite
13 policy or if it comes from these sections. I
14 think that would need to be retained in a
15 document like this.

16 CHAIR MIGLIACCIO: Thanks, Steve.

17 Mike Thibodeaux.

18 MR. THIBODEAUX: One question for
19 Mike. By including that, are you saying that
20 that's kind of two different issues? Or if we
21 would reword it, you know, while there's no
22 issue requirement for prequalifying

1 contractors all contractors have
2 responsibility for safety on a job site.
3 Would that make more sense or?

4 MR. BUCHET: My question was
5 please clarify the intent of the document to
6 the agency and then I used the example of
7 multi-employer versus this language as
8 possible points of confusion.

9 MR. THIBODEAUX: Okay.

10 MR. BUCHET: So I think we
11 understand now that this document is aimed at
12 construction contracting relationships,
13 whether you're the fifth tier sub, the 70th
14 tier sub, the 1st tier, the prime, the owner,
15 whatever it is and I think we hear that.

16 MR. THIBODEAUX: Okay.

17 MR. BUCHET: Thank you.

18 CHAIR MIGLIACCIO: Any more
19 questions, discussion, on this?

20 All right. At this time, we need
21 a motion to accept what's Steve or Kevin's
22 asking the Committee to do and then we're

1 going to have to have some amendments made to
2 it after. So right now, I'll entertain a
3 motion to accept this.

4 MR. ZARLETTI: I move.

5 CHAIR MIGLIACCIO: Dan Zarletti
6 will make the motion. Second?

7 MR. AHAL: Second.

8 CHAIR MIGLIACCIO: Bill.

9 Questions? Discussions?

10 All in favor -- Oh.

11 MS. SHORTALL: I'd like to mention
12 just a couple of things. Since one of the
13 options that is possibly considered and what
14 seemed to be brought up in the work group
15 meetings an idea of possibly a quick card.
16 There were also some mentions from people in
17 the Regulatory Compliance group that this
18 might be too much for a quick card. I think
19 it might be helpful if members, so that we get
20 it on the record, might want to weigh in on
21 which of these bullets they consider the
22 absolutely essential to remain in a quick

1 card.

2 CHAIR MIGLIACCIO: Good.

3 MR. BEAUREGARD: Sarah, if I may,
4 I have a motion that I think would kind of
5 give the leeway for OSHA to make their
6 decision whether it's best for a quick card or
7 a guidance document.

8 MS. SHORTALL: This is an
9 amendment to the motion?

10 MR. BEAUREGARD: I guess it would
11 be now. I was prepared to make the motion
12 before we had a motion. So I guess this would
13 be an amendment to the motion if I can attempt
14 to do that.

15 MS. SHORTALL: Okay.

16 MR. BEAUREGARD: I'd like to make
17 an amendment that ACCSH recommend that OSHA
18 develop a guidance document for contractors to
19 assist them in ensuring that the contractors
20 they select for construction related
21 activities have established and implemented
22 effective occupational safety health program.

1 Further, it is a recommendation of ACCSH that
2 OSHA include information similar to that
3 contained in the guidance document developed
4 by the Regulatory Compliance Work Group and
5 submit it at this time.

6 MS. SHORTALL: So the correct
7 thing would be with Mr. Zarletti to withdraw
8 his motion so that Kevin could make that one
9 instead.

10 MR. ZARLETTI: Yes.

11 MS. SHORTALL: Okay. Would the
12 seconder withdraw it?

13 MR. AHAL: Yes.

14 MS. SHORTALL: Okay. So that one
15 is withdrawn. So, Kevin, you would move and
16 you read your motion and could you read it one
17 more time for the members?

18 MR. BEAUREGARD: Yes. I'd like to
19 make an amendment that ACCSH recommend that
20 OSHA develop a guidance document for
21 contractors to assist them in ensuring that
22 the contractors they select for construction

1 related activities have established and
2 implemented an effective occupational safety
3 health program. Further, it is a
4 recommendation of ACCSH that OSHA include
5 information similar to that contained in the
6 guidance document developed by the Regulatory
7 Compliance Work Group and submit it at this
8 time.

9 CHAIR MIGLIACCIO: Okay. I'll
10 entertain a motion to --

11 MS. SHORTALL: Second.

12 CHAIR MIGLIACCIO: Second. Okay.
13 All in favor say aye.

14 (Chorus of ayes.)

15 Discussion?

16 MS. SHORTALL: I would like to
17 mention that it still might be helpful for
18 members to indicate if they thought if any
19 items on here were most critical in case OSHA
20 could do all of that.

21 We could finish that discussion
22 later, but we have motion on the floor

1 pending.

2 MR. BUCHET: We just had a vote on
3 it.

4 CHAIR MIGLIACCIO: Okay. We'll
5 hold off on this discussion and we'll go ahead
6 with the next one. As soon as this person has
7 completed their presentation, we'll come back
8 to this.

9 All right. At this time, we'll
10 have the Standards and Update. Dorothy
11 Dougherty is the Director of Standards and
12 Guidance if you'll bring your group forward.

13 STANDARDS AND UPDATE

14 MS. DOUGHERTY: So I'm scheduled
15 from 9:15 a.m. to 9:45 a.m., right?

16 CHAIR MIGLIACCIO: Thereabouts,
17 but you'll be allotted a few more minutes.

18 MS. DOUGHERTY: I unfortunately
19 have a meeting downstairs. So our slides will
20 be available so you'll have them for the
21 record. People will be able to look at them.
22 We'll leave some contact information if you

1 want to get in touch with us about anything.
2 But unfortunately we're going to be a little
3 rushed.

4 CHAIR MIGLIACCIO: Go ahead.

5 MS. DOUGHERTY: Okay. But let me
6 start out by thanking you all for inviting us
7 to come and meet with you and talk to you a
8 little bit about what's going on in the
9 Directorate of Standards and Guidance. I have
10 with me the two deputies there. We're a bit
11 unusual in OSHA. We're the largest
12 directorate in the National Office for OSHA
13 and our directorate has two deputies; where
14 the other directorates that maybe you've heard
15 from typically have one deputy. I have Bill
16 Perry with me and Mandy Edens.

17 And I wanted to bring them because
18 I thought it would be a good opportunity. I
19 haven't addressed the group in quite a while
20 and I think you're going to be hearing from us
21 quite a bit if all goes as planned. So I
22 wanted to take an opportunity to bring them

1 with me so you could meet all three of sort of
2 the leadership people in the Directorate of
3 Standards and Guidance and then you'd be
4 familiar with their faces as we go through the
5 different ACCSH meetings that are coming up.

6 Okay. Just quickly to familiarize
7 some of you that may not have had an
8 opportunity to work a lot with the rule-making
9 process, it is a long process and it does have
10 a lot of different steps. This is just a
11 visual to kind of show you, you know, you
12 don't get the true sense of how much time it
13 takes to go through each one of these steps.
14 But it's also a world of acronyms.

15 And so I like to put this up there
16 just to kind of let you know that when we talk
17 about preliminary rule-making activities
18 that's when we're doing our research. Items
19 are on the reg. agenda. Maybe they're not on
20 the reg. agenda yet and we're starting to
21 research an issue. We put a lot into having
22 contractor support to go out, do some site

1 visits and see what's going on out there.

2 We start development of the
3 proposed rule. Usually if it goes on the reg.
4 agenda at that time, we'll put out an ANPRM or
5 an Advanced Notice of Proposed Rule-Making or
6 an RFI. They are somewhat equivalent. They
7 do have a little bit different meanings, but
8 they are in that sort of pre-rule stage. So
9 I'm going to be talking about the different
10 stages that we have for our projects. This
11 will just familiarize you with that.

12 We do the publication of the
13 proposed rule or the Notice of Proposed Rule-
14 Making, the NPRM. That's the proposal. We go
15 through hearings. We then analyze the record
16 from the hearings and we then move forward to
17 develop the final rule.

18 There are a lot of complex
19 processes that happen in between here. Those
20 of you who are familiar with the SBREFA
21 process, if it impacts a small business, is
22 also a requirement that we have to go through

1 and that would come sort of before the
2 proposal and that's sort of the separate track
3 process that we go through. It's a series of
4 checks and balances which allows the public to
5 really comment on what we're doing and have
6 input and for us to constantly be evaluating
7 the information that we're receiving as we
8 move forward with the final.

9 This is just to let you know some
10 of the recent activities that had happened, I
11 think, since the last time you met or at least
12 we were here. We have a final rule for long-
13 shoring and marine terminals. That's up right
14 now. We were sued on that. So we're working
15 through the lawsuit right now.

16 We had a final rule for this
17 clarification on training and PPE for
18 employees. That we have not been sued on.

19 The final rule for welding
20 definitions is also another final that we had
21 out and have not been sued on.

22 All of these are up on OSHA's

1 website. So any of the items that you need to
2 get into more details with you can look at.

3 When the Secretary first came on,
4 actually her first day here, we had the
5 pleasure, Mandy did, of being her first
6 briefing on a technical subject. So this
7 Administration has clearly shown that they are
8 very eager to move forward with the rule-
9 making process.

10 At that time, we had talked about
11 diacetyl and on the table we had initiated an
12 ANPRM for diacetyl. In discussions with the
13 Secretary, it was decided that's not a
14 mandatory step, that that was not needed. So
15 we ended up withdrawing the ANPRM and going
16 right to initiating the SBREFA process for
17 diacetyl and that we have completed and I
18 think I have got dates for you a little bit
19 further on in the presentation.

20 We also added combustible dust to
21 the regulatory agenda. It had not been on the
22 reg. agenda since then and the Secretary made

1 the announcement at Workers Memorial Day that
2 we would go forward with rule-making,
3 comprehensive rule-making on combustible dust.

4 We initiated the peer review of
5 the silica health effects and the risk
6 assessment. It's my understanding that Dave
7 O'Connor from my office addressed the work
8 group and that also one of the members from
9 the work group did a presentation to the full
10 committee. So we'll touch on it a little bit,
11 but I won't spend a lot of time going through
12 the details of it.

13 And the withdrawal of the Bitrex
14 fit testing protocol, this is a requirement
15 under our Respiratory Protection Standard to
16 allow different fit testing methods to be
17 introduced and we will be withdrawing that
18 based on the evidence that was submitted.

19 Okay. Here are some of the health
20 agenda projects. The Hazard Communication or
21 GHS, ACCSH has had presentations before on
22 this one. This is moving forward to the

1 proposal stage. It's currently at OMB. We
2 expect to hear back from them or finish our
3 deliberations with them over the next month
4 and you will see the proposal for GHS.

5 Diacetyl, as I said, we just
6 finished the, let's see, SBREFA process and
7 that activity is all in the docket and
8 available for people to read.

9 Beryllium, our next step will be
10 to go forward with the peer review of the
11 health effects and the risk assessment and
12 it's probably about six months behind silica.
13 So you'll see that one and, as you've heard
14 already, we're moving forward on the peer
15 review of these two big items.

16 We kind of point this one out. We
17 have never gone through the type of peer
18 review, a full-blown peer review, as required
19 by OMB like we are now for silica. Silica is
20 the first one. So there will be some lessons
21 learned from that I'm sure that we will be
22 able to use for beryllium.

1 And then, like I said, the
2 activities for silica and then I have some
3 slides in here that walk through sort of the
4 peer review process that Dave O'Connor covered
5 with the work group. So I won't really -- and
6 I gave you the website there that you'll be
7 able to go to later.

8 Okay. And then the completion.
9 So all of this is being done at the same time
10 as we're doing the peer review. We're moving
11 aggressively to complete the proposal and so
12 we have formulated a new team to work on the
13 silica proposal.

14 In '03, you probably saw from the
15 SBREFA process some of OSHA's earlier
16 thoughts. Had a lot of comments that came out
17 of that process. A lot of back and forth.
18 There's a lot of work that's been done on it.
19 So we're moving aggressively to get the
20 proposal together.

21 I think one of the questions that
22 you probably would have is when do you come

1 back to this group and sort of present what we
2 have in our proposal and you know we are
3 required to do that obviously. So we will be
4 scheduling it. I can't give you a date. Some
5 of it, it just depends on how much work we get
6 done. But do expect to see us again to walk
7 through the proposal on silica.

8 These are some of the safety
9 standards items that are covered out of our
10 Directorate. I guess I should say there are -
11 - I think there's like 23 items on OSHA's
12 regulatory agenda and 18 of them are being
13 handled out of the Directorate of Standards
14 and Guidance. Not all of them having an
15 impact on construction, but a fair number.

16 And our plan is to keep you guys
17 in the loop as we move forward, so we have a
18 pretty smooth process. We are judging a lot
19 of different projects all in various stages.
20 So we're going to be working closely with you
21 to keep it moving.

22 These are the safety ones we have

1 on, some consensus standards updates. PPE is
2 over at OMB right now and you should be seeing
3 that within this month.

4 The consensus standards for
5 acetylene was just sent to the Federal
6 Register yesterday. That's a direct final.
7 So that will be up on the website.

8 Electric power generation or
9 Subpart B, this is one that we've been
10 working. We've had to reopen several times.
11 I believe we have addressed this group before
12 and we're moving forward to the final stage on
13 that one.

14 General working conditions in
15 shipyards, I don't think has too much of an
16 impact on you guys. We had hearings. We're
17 moving forward there.

18 And walking working surfaces or
19 DNI, we're getting ready to submit our
20 proposal.

21 So combustible dust, actually we
22 just had some guidance activity on combustible

1 dust and you'll see that and we're getting
2 ready to publish an advanced notice of
3 proposed rule-making, and ANPRM, in August,
4 hopefully before. Maybe the first week of
5 September, but it should be out in August.
6 That's going through final review right now.

7 We also handle guidance. The bulk
8 of the guidance is produced by OSHA. So this
9 is just to kind of flash up there and let you
10 take this home with you. All of these
11 materials that we've produced are up on the
12 website and combustible dust -- okay, let me
13 see what's next on the list.

14 Okay. We also did some guidance
15 under the ARRA and I think people have had a
16 time to look at that. The one big one for you
17 guys would be the silica controls in
18 construction and at the work group we also
19 talked about having some follow-up products on
20 that, some simpler, quick card type of
21 approach, fact sheet approach, to give out
22 some more information probably at the worker's

1 level.

2 We've also been very involved in
3 influenza guidance, pandemic flu guidance,
4 that we've been developing and all of those
5 items are also up on the web and available in
6 hard copy. And I'm not sure how much you guys
7 have been involved with the pandemic flu or in
8 preparation, but we have some really good
9 products that you could look at that gives
10 some good guidance to maybe share with your
11 people.

12 The next one coming out is this
13 proposed guidance on workplace stockpiling and
14 this is a guidance document that helps
15 employers calculate how many respirators they
16 should stockpile based on the type of work,
17 the need, and so hopefully that will be out
18 soon.

19 This gives you a little bit of a
20 picture of some of the H1N1 guidance
21 documents.

22 The hazard communication guidance

1 for combustible dust just went up on our
2 website today. So that's something that you
3 all should take a look at.

4 Five minutes. Oh, I'm sorry. We
5 have one more item that Mandy's going to cover
6 that I didn't have in my slides.

7 MS. EDENS: Just one issue that we
8 came to you earlier on. We issued a
9 hexavalent chromium final back in 2006 and we
10 were challenged by a number of groups and the
11 ruling came down. I guess it was last summer
12 perhaps or early this year and we prevailed on
13 most of the counts that we were petitioned,
14 that the court was petitioned, to review.

15 The one item though that was
16 remanded back to the agency had to deal with
17 notifying employees of exposure monitoring
18 results. The final standard had only included
19 that employees be notified when exposure has
20 exceeded the PEL and the court was not
21 convinced by sort of the rationale in our
22 report. They were wanting us to reconsider

1 that element of the final rule.

2 They said that it was inconsistent
3 with previous final standards that OSHA had
4 issued where all monitoring results were
5 provided to employees. It wasn't contingent
6 upon being in excess of the permissible
7 exposure limit. So they remanded that
8 particular issue back on hexavalent chromium.

9 So what you see on the reg. agenda
10 last time and this time is hexavalent chromium
11 yet once again back on our reg. agenda to
12 reconsider that one minor issue because the
13 direction to OSHA right now is to either
14 better explain its rationale for why we'd have
15 that provision or to take a different approach
16 such as requiring, allowing, employees to be
17 notified of all exposure.

18 That could have some potential
19 impact or would have potential impact in
20 construction where you have all exposure
21 results would have to be reported to
22 employees, not just those employees whose

1 exposures are above the count. That was the
2 direction the agency would go. I just wanted
3 to give you that heads-up on hexavalent
4 chromium.

5 CHAIR MIGLIACCIO: Okay. Thank
6 you very much.

7 With the time constraints on this
8 group here, I'm going to recommend that we
9 submit any questions we might have rather than
10 ask questions here so they can get to their
11 next meeting. And I apologize for the rush,
12 but you did an excellent job.

13 MS. DOUGHERTY: All right. Well,
14 thank you very much.

15 CHAIR MIGLIACCIO: Thank you. Do
16 you need to --

17 MS. SHORTALL: Yes. Mandy, could
18 you email me a copy of the PowerPoint
19 presentation?

20 MS. EDENS: Email you?

21 MS. SHORTALL: Yes.

22 MS. EDENS: Okay.

1 MS. SHORTALL: Thanks.

2 CHAIR MIGLIACCIO: Thank you.

3 All right. Kevin, if we could get
4 back to you, we still have a couple minutes
5 before the next presentation.

6 MR. BEAUREGARD: I think we had a
7 motion on the floor and I think we voted on
8 the motion. Is that correct?

9 MS. SHORTALL: We haven't voted on
10 it.

11 MR. BEAUREGARD: No, we got some
12 amendments to it.

13 CHAIR MIGLIACCIO: We voted on the
14 first one and we withdrew it.

15 MS. SHORTALL: No, you withdrew
16 and Mr. Zarletti withdrew his motion. The
17 second was withdrawn and Kevin made a new
18 motion and that motion was seconded.

19 CHAIR MIGLIACCIO: Okay.

20 MR. BEAUREGARD: Yes.

21 (Off the record discussion.)

22 MS. SHORTALL: I think I have most

1 of that. I have two questions. Just two.

2 PARTICIPANT: Just have to make
3 sure two words are --

4 (Off the record discussion.)

5 MS. SHORTALL: Okay. Mr.
6 Beauregard moved that ACCSH recommend that
7 OSHA develop a guidance document for
8 contractors to assist them in ensuring that
9 the contractor they select for construction-
10 related activities have established and
11 implemented an effective construction safety
12 and health program. Further, he recommended
13 that he moved that ACCSH recommend that OSHA
14 include information similar to that contained
15 in the contract or document developed by the
16 Regulatory Compliance Work Group and submit it
17 to ACCSH.

18 CHAIR MIGLIACCIO: All right. The
19 Committee has heard the recommendations. It's
20 been approved or first and second motions.
21 All in favor say aye.

22 (Chorus of ayes.)

1 Opposed?

2 (No verbal response.)

3 Ayes so have it.

4 MS. SHORTALL: And then I did ask
5 the question, "Did people have in this
6 guidance document any items that they felt
7 were the most critical bullet points in case
8 OSHA couldn't decide to do, for example, a
9 quick card and had to make a more limited
10 list?"

11 CHAIR MIGLIACCIO: Mike
12 Thibodeaux.

13 MR. THIBODEAUX: Mike Thibodeaux.
14 Each of these items, these bullet points, are
15 important.

16 MS. SHORTALL: Okay.

17 MR. THIBODEAUX: So that's why we
18 said, you know, for them to use their
19 expertise in determining what was the
20 appropriate means to put this out. We thought
21 it was too much for just a quick card.

22 MR. BRODERICK: Mr. Chair.

1 CHAIR MIGLIACCIO: Tom.

2 MR. BRODERICK: The reason I put
3 forth the question about the difference
4 between quick cards and guidance documents was
5 that it seemed like something of this nature
6 that's going to the management of a company
7 would be more suited for a guidance document
8 than a quick card. And I believe that Kevin's
9 particular motion was for the development of
10 a guidance document. Is that correct?

11 MR. BEAUREGARD: I did use the
12 term "analogy guidance document" and I don't
13 know if OSHA officially has a guidance
14 document or they use documents for guidance.
15 But that is what the motion said. That's
16 correct.

17 CHAIR MIGLIACCIO: Okay. All
18 right.

19 Bill Parsons is going to give us a
20 briefing on what's happened. We've always
21 asked. Motions have been made. What's
22 happened with them? He's going to give us a

1 briefing, a rundown on it.

2 WHAT'S HAPPENED TO MOTIONS MADE AND PASSED

3 MR. PARSONS: Over the past few
4 months, I've talked with several of you
5 individually regarding recommendations made by
6 the Committee over the past several years and
7 the status of recommendations made by the
8 Committee. It's been a concerning issue to me
9 as well as Michael and others within the
10 Directorate and what we have received approval
11 to do is if the Committee will allow the
12 Directorate time in future committee meetings,
13 we will brief the status of recommendations
14 made by the Committee at each Committee
15 meeting.

16 And all we ask in return is that
17 if the Committee makes recommendations to OSHA
18 that those recommendations be consolidated in
19 some format that we don't have to search
20 through the transcripts to find the
21 recommendations. So from this point forward
22 that's what we plan to do, is if you allot

1 time during the meeting for us to update you
2 on the status of recommendations we intend to
3 do so.

4 MS. SHORTALL: Mr. Parsons, just
5 as a quick update, for the past several years
6 I have been writing down all motions and
7 submitting them to the person who prepares the
8 minutes for the meetings so that we have the
9 accurate representation of what occurred at
10 the meeting. So all minutes of ACCSH meetings
11 will include all recommendations that this
12 committee has made requesting that OSHA do
13 something. So you should be able to get them
14 out of all the meeting minutes.

15 MR. PARSONS: That's fine. And we
16 intend to begin those briefings at the next
17 meeting in September.

18 CHAIR MIGLIACCIO: Okay.

19 MR. AHAL: Mr. Chairman.

20 CHAIR MIGLIACCIO: Question?

21 MR. AHAL: No. If I could make a
22 recommendation. If there's any discussion.

1 CHAIR MIGLIACCIO: I don't see any
2 more discussion.

3 MR. AHAL: Okay. Bill Ahal,
4 Employer Representation. I would like to make
5 a recommendation that the agenda for the ACCSH
6 meeting be amended to include as a standing
7 agenda item the review and update by the
8 Directorate of Construction of all opened,
9 unanswered, unresolved recommendations that
10 were previously made by the ACCSH Committee
11 and that this agenda item shall occur
12 immediately adjacent to the agenda item that
13 includes the comments from the Assistant
14 Secretary, and that's so they can be addressed
15 by the Assistant Secretary as appropriate.

16 MR. KAVICKY: I'll second that.

17 CHAIR MIGLIACCIO: A motion.
18 Seconded. Tom Kavicky. Questions?
19 Discussion?

20 MS. SHORTALL: Let him read it.
21 He's going to give it to me in writing.

22 CHAIR MIGLIACCIO: Okay. Will you

1 read it again?

2 MS. SHORTALL: Go ahead.

3 CHAIR MIGLIACCIO: Read it again
4 please.

5 MR. AHAL: Okay. A recommendation
6 that the agenda for the ACCSH meeting be
7 amended to include as a standing agenda item
8 a review and update by the Directorate of
9 Construction of all opened, unanswered,
10 unresolved recommendations that were
11 previously made by the ACCSH Committee and
12 that this agenda item shall occur immediately
13 adjacent to the agenda item that includes the
14 comments from the Assistant Secretary.

15 CHAIR MIGLIACCIO: Okay. Motion
16 has been made and seconded. Questions?
17 Discussion?

18 (No verbal response.)

19 All in favor say aye?

20 (Chorus of ayes.)

21 MS. SHORTALL: I have a question
22 to ask. If an agenda item the agency has

1 completed, if you want to have that reported
2 back, too?

3 MR. AHAL: The motion was for any
4 open, unanswered, unresolved. So once it's
5 been addressed or gone away or whatever, no,
6 you don't have to rehash the old. This is for
7 open items.

8 CHAIR MIGLIACCIO: Emmett.

9 MR. RUSSELL: Yes. I think based
10 on his report it might be good to add to that
11 completed items because, in other words, the
12 report would be complete if he gave any item
13 that was -- by the way, Emmett Russell, an
14 Employee Representative. Your motion would be
15 complete if in the report they gave completed
16 items or items actually done and then per your
17 report open unanswered or unresolved items.
18 So, in other words, the report would be
19 complete. They would give completed items and
20 then also unresolved or opened items also.

21 MR. AHAL: Yes, I don't want to --
22 it's not necessary to cover three years ago

1 something just to go over the entire list.
2 The list would grow as time goes on. I wanted
3 to make sure that all recommendations are seen
4 through to an end.

5 MR. BEAUREGARD: Mr. Chair, how
6 about just including language and also items
7 that were completed following the last ACCSH
8 meeting. So that way you wouldn't go back
9 three years, but just anything that may have
10 been resolved.

11 MR. RUSSELL: As they're
12 completed, okay.

13 CHAIR MIGLIACCIO: You agree to
14 amend it.

15 MR. AHAL: Yes.

16 CHAIR MIGLIACCIO: You'll give
17 that too. All in favor say aye.

18 (Chorus of ayes.)

19 Opposed?

20 (No verbal response.)

21 Ayes so have it. Thank you, Bill.

22 Okay. Our next presentation,

1 Mohammad, Major Construction Incident and this
2 is from the Office of Engineering Services.

3 (Off the record comments.)

4 ENGINEERING SERVICES UPDATE/LESSONS LEARNED

5 MR. AYUB: I chose the incident
6 that took place last year in December in
7 Atlanta, Georgia because of the fact that it
8 could be quite interesting for you to see the
9 method and means of construction and to see
10 the construction technique and because of the
11 fact that it is kind of a unique type of a
12 bridge. It was a pedestrian bridge.

13 (Off the record discussion.)

14 In view of the fact that the shape
15 and the profile of the bridge being kind of
16 unique, I thought it could be quite
17 interesting for you.

18 I am only prepared to discuss with
19 you the undisputed facts of the case, the
20 information which is in the public domain and
21 the information which is already published in
22 the local newspapers and in the national

1 newspapers. In other words, I'm not prepared
2 right now to talk about the findings and about
3 the conclusions that we had reached at the end
4 of our investigation due to the fact that it
5 is not a closed case. It is clearly an open
6 case.

7 The incident took place last year
8 in December and there is a botanical garden in
9 the area in Atlanta and the owner of the
10 garden wanted to have a bridge so that the
11 tourists and the pedestrians, they can walk
12 among the canopy of the trees. So it is kind
13 of an S-shaped bridge. It varies from about
14 eight to about 12 feet.

15 And the garden retained an
16 architect and a structural engineer in order
17 to design the bridge. And the architect, they
18 took inspiration from a very famous Spanish
19 architect, Santiago Calatrava. I'm not sure
20 if I'm saying his name correctly, but then the
21 Spanish architect came up with a unique
22 design, the bridge being only supported at two

1 ends by some cables and it is a bridge based
2 upon the inspirations that the architect
3 received from him.

4 You see the planned view of the
5 bridge. It is about 600 foot long and it is
6 supported by masts and by cables except in the
7 center of the bridge. Michael, is there any
8 pointer here?

9 MR. BUCHET: No.

10 MR. AYUB: Okay. So we will --

11 (Off the record comment.)

12 Yes. Except that --

13 (Off the record comments.)

14 So that part of the bridge was in
15 fact supported from the ground up by V-shaped
16 columns. All the other components of the
17 bridge are supported by five masts which you
18 see.

19 MR. BUCHET: This is one mast here
20 and this is the other.

21 MR. AYUB: No. That is the center
22 of the radius. The masts are identified by

1 BCD and E. I can go --

2 MR. BUCHET: There has to be one
3 in here somewhere.

4 (Off the record comments.)

5 MR. AYUB: The next time I promise
6 you I will have a laser. Here's one, two,
7 three, four. These masts -- each mast -- and
8 going that way and this mast is being held
9 there on the ground.

10 MR. BUCHET: This is the top of
11 the mast. This is the mast. This is the
12 anchor cable. This is the cable going to the
13 bridge if I'm reading right.

14 MR. AYUB: Yes. Exactly.

15 MR. BUCHET: So this dark line
16 here is the mast. Here is the top of the
17 mast.

18 MR. AYUB: Yes.

19 MR. BUCHET: The cable to support
20 the bridge, the cable over the bridge, anchor
21 cables, anchor cables, the mast to the bridge.

22 MR. AYUB: Okay. This is a blow-

1 up of one-half of the bridge here. It shows
2 some of the structural framing of the bridge.
3 That bridge is framed in a very unique way.
4 There is just one structural member for the
5 entire bridge that is a 30 inch diameter pipe.
6 That is the only structural member of the
7 bridge.

8 On the top of the pipe's main
9 member, there are other pieces here which goes
10 to frame the pedestrian walkway. Here you see
11 the main structural member, 30 inch diameter
12 pipe, and then you see at the very top that
13 there are some steel tubes, 6 X 6 tubes, and
14 they are being braced diagonally by all three
15 six inch tubes.

16 (Off the record discussion.)

17 Okay. Here it is. Here is the
18 main structural member here which is now
19 framed by the top tube member and that tube
20 member is cantilevering and just to nullify
21 the effect of the cantilevering it is being
22 braced back to the tube and here you have got

1 a composite deck here over which they are
2 going to put six inches of concrete and the
3 total width of the bridge at this location
4 will be about nine feet or so.

5 This is also another cross section
6 of the bridge here. That will go to show as
7 to how the bridge is being supported by the
8 cables here. You see the direction here.
9 This is where the cable will be attached to
10 the mast and in order to counterbalance the
11 weight of the bridge it is also being held
12 down here. And this cable will be in tension
13 going to the ground.

14 Michael had shown you the section
15 of the bridge which is in fact straight and
16 which is supported from the ground. This is
17 a cross section of that where you have but two
18 pipes, a structural member and on the top you
19 have the pedestrian bridge here.

20 MR. BUCHET: Mohammad, does this
21 straight piece help balance out some of that
22 cantilever?

1 MR. AYUB: No, it does not.

2 MR. BUCHET: Not at all.

3 MR. AYUB: There are two pipes.

4 There is no cantilever in that part of the
5 bridge here.

6 MR. BUCHET: It's not like big
7 torsion bars.

8 MR. AYUB: Yes. Here in some part
9 of the bridge because the botanical garden
10 they wanted to wider walkway here. Near the
11 big trees, it had to be expanded here and in
12 those cases you will see that the cantilever
13 is on both sides of the bridge.

14 This is a plan of the bridge here.
15 It just shows the progress of the work at the
16 time of that accident here.

17 This shows how much the concrete
18 was poured on the day of the accident and it
19 shows that the concrete was poured beginning
20 at Tower No. 5 going to Tower No. 8.

21 This is some of the pictures of
22 the bridge during the construction before the

1 incident here. You may be interested to know
2 that this bridge was all fabricated in the
3 shop and it was shipped to the field in 30
4 feet segments. So the only work that was
5 needed in the field was to splice the two
6 sections of the bridge. All the other
7 members, all the other members of this main
8 bridge, was all assembled in the shop. That
9 way, there was much better quality control and
10 in the design of this S-shape of the bridge
11 where all the members are in compression, you
12 require a very high degree of accuracy and
13 that is why 90 percent of the assembly was
14 done in the shop.

15 And that only thing that was left
16 in the field was to come and connect the two
17 pieces with a splice plate. And each splice
18 plate had 28 bolts in it. Here it shows the
19 geometry of the bridge and some of the other
20 structural members and these things which you
21 have seen here it was the shoring towers which
22 was needed.

1 The mast and the cables and all
2 the whole long -- they will be installed once
3 the bridge is in shape. Once the cables are
4 upholding the bridge, then the shoring towers
5 will be of no use and they will be removed.

6 So the contractor had a job on his
7 hands, of how to support the bridge before the
8 mast and the cables are in place. So they
9 came up with the idea of installing these
10 shoring towers. These are the shoring towers
11 which would be placed approximately at every
12 30 feet upholding the dead load of the bridge
13 and the load of the concrete decks and all the
14 construction load that may be placed on it.

15 This is also another view of the
16 bridge supported by the shoring towers. At
17 the end of the bridge on the north side there
18 was a trimming here and there was a short
19 shallow column here.

20 This shows the straight piece of
21 the bridge which is being supported by a V-
22 shaped column.

1 This is the north end of the
2 bridge where the bridge will be almost at
3 ground elevation and then it's going to raise
4 up to about 35 feet before again going down.

5 This is a closer view of the fixed
6 span of the bridge with two incline columns.

7 This is also another view of the
8 shoring tower. This is where the assembly of
9 the bridge was being done.

10 And the manner in which the bridge
11 was supported by the shoring tower was a
12 standard scaffold trains, eight of them, and
13 at the very top they had steel beams going in
14 two directions and they were upholding the
15 dead load of the bridge and also the weight of
16 the concrete after that will be placed on the
17 deck.

18 This is a good review of what we
19 call a shoring tower. The most, you know,
20 interesting part of the shoring tower is how
21 was this supported at the bottom. Botanical
22 garden did not permit the contractor to dig

1 the ground for the foundation because of the
2 roots of the trees and that they were quite
3 mindful of the top layer of -- so the
4 contractor along with his engineer came up
5 with a good idea to use the helical anchors in
6 the soil. The helical anchors was only about
7 two inches in diameter and they have the
8 blades, six inches of blades, and you just
9 rotate them into the ground and there is an
10 equipment at the top of the anchor from where
11 you can directly read the bearing capacity of
12 the soil anchor. One of the main advantage of
13 the soil anchor was that when the job will be
14 completed all you have to do is to unscrew
15 them, go in an anti-clockwise direction and
16 the anchor will be out and it will develop in
17 a minimal disturbance of the soil.

18 However, life is not easy.
19 Sometimes while you are screwing the soil
20 anchor into the dirt you will hit some stone
21 or you will hit what might appear to you to be
22 a rock, to a rock strata, but it might turn

1 out to just a small piece of the rock. And
2 from the top there's no way to tell whether we
3 are dealing with the complete rock strata or
4 we are only dealing with an isolated piece of
5 rock. So that resulted in a number of helical
6 anchors to be repositioned into the soil.

7 Sometimes it just happened that
8 the spacing between the soil anchor increased
9 as much as 15 to 20 feet and that assisted the
10 redesign of the bottom beams.

11 This is some of the pictures here.
12 This is a very good view of the shoring
13 towers. At the top it is a very simple
14 arrangement. But at the bottom was a very
15 tricky part due to the location of the soil
16 anchor and these beams could not be designed
17 earlier in the office because the engineer
18 really didn't know what will be the official
19 location of the soil anchor. Some of the
20 anchors if they were going to hit a tree root
21 it will have to be taken out immediately and
22 it will be repositioned.

1 So the contractor did a good job
2 actually in meeting the requirement of the
3 owner and in supporting the load of these
4 pipes. Sometimes the loads were as high as
5 about 57,000 pounds, 40,000 pounds or such on
6 the shoring towers.

7 This is during the assembly of the
8 pedestrian bridge. These are the splices that
9 you see here. These are the splices that were
10 made in the field.

11 Where there is no cable coming in
12 there were only two plates joined with the 28
13 bolts. Where there was a cable coming they
14 had an additional plate and between the two
15 splice plates and that had in fact increased
16 the strength of the bolts. If there are only
17 two plates then the bolts are in single shear
18 and it can fail easily. But if you have a
19 third plate in between the two plates then the
20 bolts come in the double shear and it's going
21 to increase its strength.

22 This is where on the day of the

1 incident they started to pour concrete. As I
2 said earlier, they had to started pouring
3 concrete from Tower No. 5 going to 6, 7 and 8.

4 Even the placement of the concrete
5 truck and the pump was very, very tricky
6 because the botanical garden will not give
7 them a free ride that you can go and place
8 your trucks anywhere that you want. That is
9 the reason why you see such long pumps, such
10 long tubes, here which is transporting the
11 concrete to the place -- of the placement of
12 the concrete.

13 By the way, if you go to the
14 YouTube, is it called YouTube on the internet?
15 And if you type the botanical bridge collapse
16 it shows the last placement of the segment of
17 the bridge and that is very, very interesting
18 to see how the last segment of the bridge was
19 placed. As you know, that has to be fairly
20 high because the entire bridge has already
21 been placed and the last 30 feet segment is
22 being dropped between the two splice plates

1 and if they are not matching perfectly you
2 will have a big problem on your hands. So I
3 think the construction was of a good standard
4 there.

5 These are some of the pictures
6 here that we have seen here. Okay. Now here
7 is the really interesting part. Here is a
8 close-up of the bottom beams supporting the
9 shoring towers. You can see the soil anchor
10 at the very bottom here. At the very bottom
11 you can see the soil anchor here.

12 MR. BUCHET: How deep was that?
13 Was it about six inches or was it more? How
14 far does it go in?

15 MR. AYUB: Above the ground. They
16 were supposed to go at least five feet into
17 the ground.

18 MR. BUCHET: Five feet.

19 MR. AYUB: Yes. So that at least
20 three to four blades must be inside the soil.
21 But in certain cases we have found that some
22 of the anchors were not driven the required

1 depth and sometimes in the future when we will
2 talk about our findings and our conclusions we
3 will go much more into that detail.

4 The problem with the shallow
5 anchor is if you do not drive the helical
6 anchor five feet deep into the soil, say, if
7 you only drive it like one foot into the soil,
8 the problem does not begin with the gravity
9 load. Gravity load will be fine.

10 But once you apply a lateral load,
11 due to some reason, if there is a movement at
12 the top of the bridge and if there is a
13 lateral load here, then that anchor will not
14 be able to support the lateral load. That is
15 why it is very, very crucial that these
16 anchors be driven into the soil to the
17 required minimum depth.

18 This is our -- our task was first
19 when we went to the site and when we started
20 to do the investigation of this incident, the
21 first thing that we do is to make sure that
22 the structural design of the bridge was, in

1 fact, okay. Was there any flaw in the
2 structural design and I had presented to you
3 earlier all the collapses are not taking place
4 due to the construction flaws or due to the
5 defects or due to the problems during the
6 construction. A number of major collapses
7 have taken place because of the structural
8 design flaws because a structural engineer did
9 not pay attention to the structural design of
10 the building or of the bridge or of the
11 towers. It did not meet the applicable codes.

12 So I was first asking the office
13 here to perform a finite element analysis of
14 the bridge to see whether the bridge was
15 designed properly or some of the flaws in the
16 structural design may have contributed towards
17 the collapse. And we considered all the
18 aspects here and we used commercially
19 available software and we go through the
20 analysis, a static analysis as well as a
21 dynamic analysis.

22 These are the shores which were

1 used by contractor and the contractor does not
2 own these shores. He had, in fact, leased it
3 from the local shoring company here and these
4 are the X shoring here. Each leg is supposed
5 to take 11,000 pounds, and with the factor of
6 safety of about three, each leg can be good
7 for 33,000 pounds before it will fail.

8 And as I had told you earlier at
9 the most we found that each shoring tower had
10 a maximum load of about 47,000 to 50,000
11 pounds. And if you have put eight here that
12 is more than enough to support the weight
13 placed on these shoring towers.

14 This was a design prepared by the
15 engineer who was retained by the shoring
16 contractor and it showed the framing at the
17 top and it also showed the framing at the
18 bottom. There was a requirement of the
19 engineer that if the height of the shoring
20 towers than, say, 25 feet they need to be
21 diagonally braced between the adjoining
22 shoring towers.

1 For example, here was one of the
2 designs where the three shoring towers are
3 being braced to each other and these
4 requirements were based upon two things: (1)
5 height of the shoring tower and (2) also
6 whether or not helical anchors had full
7 embedment into the soil.

8 This is a picture after the
9 collapse. They started pouring the slab at
10 about 8:00 a.m. and then they had proceeded
11 from Shoring Tower No. 5 through Shoring Tower
12 No. 8 and as soon as they reached the Shoring
13 Tower No. 8, 75 percent of the bridge
14 collapsed. There were about 21 people on the
15 top of the deck and fortunately one employee
16 was killed. There was a potential which could
17 have been much more catastrophic.

18 This is some of the pictures that
19 we have.

20 This is a part of the soil anchor
21 there, and it shows there that should be the
22 minimum depth of embedment.

1 (Off the record comments.)

2 It also shows how many blades
3 should be placed into the soil here.

4 This is our drawing when we did
5 the structural analysis. When we did the
6 structural analysis, we had the actual survey
7 done of the bridge itself so that we can
8 determine the location of the tower as they
9 existed immediately before the accident,
10 because that will only determine what kind of
11 load was being placed on the shoring towers.

12 Because the shoring towers had
13 collapsed as a result of the incident, we had
14 those surveyors go out in the field and locate
15 the soil anchors because from the soil anchors
16 we can then deduce where could those shoring
17 towers have been. So once we determined where
18 the soil anchors were, then we were able to
19 locate within 98 percent of accuracy of where
20 the shoring tower would have been and that was
21 the key of our investigation because we had to
22 determine how much load was placed on the

1 shoring towers and we cannot go by the drawing
2 which was produced pre-incident.

3 So we had to go do an accurate
4 survey of where the soil anchors were and
5 where the shoring towers were. And we found
6 in fact that some of the shoring towers were
7 not placed where the design of the tower had
8 indicated. Some of the shoring towers were
9 farther than 30 feet apart and that was a
10 requirement on the structural drawings that
11 the shoring towers be not placed farther than
12 30 feet.

13 Once we had the information on the
14 location of the shoring towers, then we had to
15 compute the dead load of the bridge and after
16 that we were able to revisit the site. Here
17 are some of the soil anchors that you see
18 here. This shoring tower you can tell that
19 only one blade is inside the soil. Two are
20 outside.

21 If you are going to load this
22 anchor in a plump manner in the direction of

1 the gravity perhaps it will be okay. But once
2 you apply any lateral load here, any lateral
3 load here, it will be extremely weak and it
4 will make the soil loose and it may even lose
5 the bearing capacity of the soil.

6 We did not have the subsurface
7 investigation report at the site, but we were
8 able to compute the lateral capacity of the
9 soil anchor based upon the fact that it was
10 only blade in the soil or whether it were two
11 blades inside the soil.

12 This is some of the surveys that
13 was done after incident and it shows all the
14 soil anchors under Tower No. 7.

15 This shows the end of the slides
16 that I have presented to you. I hope in your
17 future ACCSH meetings we will be able to come
18 to you and share with you the conclusions that
19 we had reached and some of the findings that
20 we have arrived at and the basic line is the
21 same as it always gets placed and as I always
22 say that the construction incidents do not

1 take place due to minor mistakes. It takes
2 place because someone had done a real blunder
3 somewhere because of the factor of safety that
4 we have. Most of the structures that we
5 design and the shoring towers that we design
6 and the helical anchors that we have have a
7 factor of safety to two to three. So in order
8 for it to fail you will have to really load it
9 two to three times or load it in such a manner
10 that it doesn't have any kind of -- capacity.

11 I'm sorry. I took longer than my
12 time I believe.

13 CHAIR MIGLIACCIO: That's okay.
14 You're sacrificing their break. That's not a
15 problem.

16 (Off the record comments.)

17 MR. AYUB: If you have any
18 questions to ask, I will be glad to answer
19 them.

20 CHAIR MIGLIACCIO: Emmett.

21 MR. RUSSELL: Yes. Emmett
22 Russell, Employee Rep. In one slide you

1 showed I thought three concrete pumps at the
2 same time. What was the justification on such
3 a small structure to have three concrete pumps
4 pumping concrete at the same time?

5 MR. AYUB: Because of the
6 restraints of the owner of the botanical
7 garden. They will not have all the trucks
8 lined up in the garden. So if you want to
9 have a continuous flow of the concrete you
10 will have to place three trucks at three
11 locations so that as soon as one truck is
12 emptied the truck no. 2 can begin to flow the
13 concrete and the truck no. 3 can begin to flow
14 the concrete.

15 In a normal case, you have all the
16 concrete trucks lined up in a row and you go
17 one after the other. But the botanical garden
18 is very much proud of their trees and of their
19 saplings there and after 12 inches of the soil
20 that they have and that we didn't want to
21 disturb.

22 CHAIR MIGLIACCIO: Any other

1 questions?

2 (No verbal response.)

3 Okay.

4 MS. SHORTALL: Yes. I would like
5 to get a couple things taken care of right now
6 in terms of our housekeeping and record.

7 Mr. Jones handed me materials
8 regarding the Silica Work Group meeting, one
9 of which was a revised Silica Work Group
10 meeting report that now includes the changes
11 of the people who attended the meeting. So
12 without objection I would mark this as Exhibit
13 5 and remove the Exhibit 5 that we had
14 yesterday.

15 As Exhibit 5.1, a preliminary list
16 of exposure controls prepared by the Center
17 for Protection of Worker Rights. As Exhibit
18 5.2, the building and construction trades
19 department positions for presentation to ACCSH
20 Silica Work Group on OSHA's draft regulatory
21 text on silica. And as Exhibit 5.3 a silica
22 management matrix presented to the work group

1 by Hilarie Schubert Warren from Georgia Tech
2 Research Institute.

3 As Exhibit 21, the guidance
4 document for contractors developed by the
5 Regulatory Compliance Work Group and approved
6 by ACCSH to present to OSHA. As Exhibit 22,
7 the PowerPoint presentation on the Directorate
8 of Standards and Guidance projects by Dorothy
9 Dougherty, Director. Twenty-three PowerPoint
10 presentation on a major construction incident
11 by Mr. Mohammad Ayub from the Office of
12 Engineering Services at DOC.

13 CHAIR MIGLIACCIO: So moved.

14 Before we go any further, I want
15 to make sure the public knows there's a sign-
16 in sheet located in the back of the room. If
17 anybody would like to address the Committee
18 later on this morning, please sign in.

19 Mike, how long is it going to
20 take?

21 MR. BUCHET: We can get the next
22 presentation going right now.

1 CHAIR MIGLIACCIO: If any of the
2 Committee members have to leave. We're going
3 to go without the scheduled break and continue
4 on. We're running just a little bit behind
5 and there are some of you catching planes.

6 (Off the record comments.)

7 All right. Michelle. Our next
8 presentation is on the Stimulus Impact: Wind
9 Power Generation by the American Wind Energy
10 Association. Michelle, the floor is yours.

11 STIMULUS IMPACT: WIND POWER GENERATION

12 MS. MYERS: Hello. My name is
13 Michelle Myers and I am the Manager of Labor
14 Health and Safety at the American Wind Energy
15 Association. So real quick I'm going to give
16 you some background information on wind as an
17 industry.

18 A little bit about the
19 Association, we were founded in 1974. We have
20 over 2,300 business members which include wind
21 project developers. These are landowners,
22 contractors, subcontractors, kind of the whole

1 nine yards. And then we also have wind
2 turbine manufacturers, component manufacturers
3 which include towers, blades, gears. There
4 are over 8,000 parts in a wind turbine. Each
5 of these are manufactured separately,
6 distinctly, what have you. So our
7 organization advocates on behalf of wind
8 energy and we also have extensive information
9 on our website.

10 A little bit of history about wind
11 power. These are just some samples of wind
12 mills or turbines over the course of the
13 years. Initially, the very first windmill was
14 kind of developed in 1464 in regards to
15 pumping water and what have you and these are
16 just some of the examples.

17 In 1888 it was the large scale
18 wind turbine and then there were a few others
19 that were developed for small wind in the
20 1890s in Denmark and the United States. And
21 you can see some other sporadic explorations
22 and experiments over the years.

1 I just thought this was a really
2 cool picture. It's just a really old wind
3 turbine or windmill that was created in the
4 1940s. But due to economic times the wind
5 energy industry kind of faltered a little.

6 And then in the 1970s during the
7 oil crisis the Federal Wind Research and
8 Development Program was created and
9 essentially that was created out of the
10 Eisenhower Administration. And they had
11 created a National Science Foundation program.

12 So then in 1978 during the second
13 oil crisis, the Public Utility Regulatory
14 Policies Act was enacted and it essentially
15 required utilities to buy electricity from
16 renewable and co-generation facilities.

17 The very first, I guess, wind farm
18 that was created in the United States was in
19 Crotched Mountain, New Hampshire in the 1980s.
20 And then from there in 1981 the creation of in
21 California some of the wind farms were
22 developed. These wind farms consisted of 20

1 30-kilowatt turbines which generated about 600
2 kilowatts of energy.

3 Essentially, wind turbine
4 technology generally falls into two different
5 categories. Small turbines, which distribute
6 power on a much smaller scale to homes and
7 they generally range in capacity from 10
8 kilowatts to 100 kilowatts. There's also
9 utility scale turbines which are -- well, the
10 small turbine as you can see is in the
11 pictures on your right. The larger utility
12 scale turbines are in the middle two pictures.
13 And then we also have offshore which in the
14 United States hasn't started developing. The
15 final rule from the Department of Interior was
16 just released a couple of months ago. So
17 there's a lot of initial investigation, but it
18 will be several years before offshore really
19 gets a hold of anything here in the United
20 States.

21 So here is a general, I guess,
22 turbine. We had the rotor and then the cell

1 and the tower and those are the three major
2 big components within a wind turbine. The
3 rotor essentially converts the energy to the
4 rotational shaft. Then the cell consists of
5 a dry train, gear box and a generation and
6 then we have the tower.

7 Right now I'm going to go through
8 really quickly the basic supply chain, the
9 general idea of how manufacturing is
10 established for wind turbine. We have
11 everything from raw material suppliers all the
12 way to the turbine manufacturers themselves.

13 Domestically manufacturing wind
14 turbines in the United States creates a
15 significant amount of jobs, not only on the
16 manufacturing side but also through the supply
17 of raw materials and transportation.

18 This is essentially the inside of
19 a cell or engine so to speak. It has several
20 components.

21 MR. JONES: How large is that?

22 MS. MYERS: They range, but it

1 depends on the size of the actual turbine.

2 But they could -- they're really big. Really,
3 really big. They're about the size of a
4 school bus, give or take, on average.

5 So a 2-megawatt wind turbine, this
6 right here is not it, that is it, is about 80
7 meters in diameter and well, I guess in this
8 case here if you look at the picture it's
9 superimposed on a Boeing 747. So it's fairly
10 large.

11 MR. BUCHET: Some of the towers
12 are 300 feet tall.

13 MS. MYERS: On average, the tower
14 is, it's not up there. On average, the tower
15 is anywhere from 250 to 300 feet. But there
16 are also larger towers. But on average in the
17 United States 250 to 300 feet.

18 The hub height is anywhere from 60
19 to 100 meters. The rotor diameter 70 to 100
20 meters. And the total weight of the turbine
21 itself is about 230 to 340 tons.

22 These are essentially small wind

1 systems. Small wind generate anywhere from
2 0.3 to 100 kilowatts. They're installed both
3 on and off grid and they require about four or
4 nine miles per hour winds essentially. It
5 means if you're looking at a small wind
6 turbine for your house you essentially need
7 about nine miles per hour around your house to
8 be able to have a wind turbine.

9 Large wind systems range from 660
10 kilowatts to 3.6 megawatts and they
11 essentially are what you see when you're
12 driving through Western Pennsylvania,
13 Missouri, pretty much anywhere in the Wind
14 Belt. One megawatts generates about enough
15 electricity for about 225 to 300 households.

16 This essentially is the wind
17 resource map real quick. I just wanted to
18 kind of give you some idea here as to what
19 kind of wind or where the Wind Belt
20 essentially is. North Dakota alone generates
21 more wind than the whole entire country of
22 Germany.

1 And this is another resource map
2 of wind speeds in the United States.

3 So jobs. In late 2007/early 2008,
4 the Department of Energy had created a report
5 called The 20 Percent Wind Energy by 2030. It
6 essentially was if the United States were to
7 commit to a 20 percent wind energy by 2030,
8 you know, it kind of gave a perspective as to
9 what we could do in the United States. Under
10 this report, over 500,000 jobs would be
11 created and supported through the wind
12 industry and in 2008 alone we created 35,000
13 new jobs. Now most of this is in regards to
14 operations, manufacturing and construction,
15 but it also includes transportation and some
16 infrastructure jobs.

17 Forty-six states currently have
18 developed -- well, 46 states would develop
19 wind farms under the report. So right now --
20 well, in 2005 you can see here by the graph
21 there was about 25 percent of the components
22 were domestically manufactured. In 2008, we

1 doubled that to 50 percent of the components
2 within a wind turbine is domestically
3 manufactured.

4 Right now, we are also trying to
5 increase the domestic component manufacturing
6 by taking some of the auto worker or the auto
7 manufacturing plants and converting them into
8 wind manufacturing plants.

9 There are over 120 manufacturing
10 facilities for turbines and large components
11 online in the United States. The United
12 States manufacturers producing all of the
13 various pieces for the turbine components.
14 About 30 percent in 2005 of turbine and major
15 components were made in the United States.
16 But in 2008, we were able to account for 50
17 percent.

18 These are essentially the states
19 that have five or more facilities currently in
20 the United States that are manufacturing
21 components for wind turbines. In 2008, the
22 wind industry manufacturing jobs nearly

1 doubled.

2 The market update. Right now, the
3 United States is the leader in wind power
4 which is good.

5 Right now, this is a graph kind of
6 showing the capacity of wind power
7 installations that have been installed in the
8 United States. In 2008, we've installed 8,554
9 megawatts which serves over two million homes
10 and it's essentially doubled. Then percentage
11 of generation by year it's just in a graph
12 format.

13 So these are essentially the
14 installed wind projects at the end of 2008.
15 The varying colors show the amount of
16 megawatts that are produced in these states
17 and it's another graph of percentage of
18 electricity generated.

19 We have 55 manufacturing
20 facilities that opened, expanded or were
21 announced in 2008. Some of these
22 manufacturing facilities are also -- they have

1 to be retrofitted or constructed or built
2 essentially. So the wind industry also ends
3 up using a lot of contractors and developers
4 to also not only build wind farms and
5 infrastructure, but we also provide additional
6 job opportunities through the creation of wind
7 manufacturing.

8 MR. BUCHET: How do you connect
9 the wind farm generated power to the grid? Is
10 that something you all do or the power
11 companies do?

12 MS. MYERS: That's coming later in
13 the --

14 MR. BUCHET: Okay.

15 MS. MYERS: But it is a problem.
16 So the United States installed more twice the
17 installations necessary to get 20 percent,
18 well, according to the report, the 20 by 2030
19 report. We've already surpassed the
20 expectations from that report essentially.

21 This is the power installations by
22 state that we have graphed out. The average

1 project size growth so far. In 2008, the
2 average project size was about 70 megawatts.

3 This is a list of the largest wind
4 farms that are currently in the United States.
5 Now just to let you know all of these are
6 land-based. Once again, we don't have any of
7 the offshore yet.

8 Some turbine statistics. Here, on
9 average, I guess 1.5 megawatts is what's
10 produced from these turbines, but they have
11 the capacity of 1.67.

12 Now we get into the stimulus. As
13 you guys know, in February 2009, President
14 Obama signed the American Recovery and
15 Reinvestment Act. There were many provisions
16 that were actually put in that would benefit
17 the wind industry. But a lot of these
18 programs have yet to be implemented or receive
19 funding.

20 Now I'm going to have to admit.
21 I'm not as familiar with this. So I was given
22 talking points, but this is not my area of

1 expertise.

2 But essentially the Federal Tax
3 Incentives, the production tax credit or the
4 PTC and an accelerated depreciation have been
5 the primary deployment incentives offered for
6 the wind energy by the Federal Government.

7 The PTC was originally enacted in 1992, but it
8 was allowed to expire a handful of times.

9 When it expired, the deployment of wind energy
10 obviously plummeted. The PTC helps keep wind
11 energy more competitive with fossil fuels by
12 providing a tax credit worth 2.1 cents per
13 kilowatt hour.

14 However, when the economy went
15 south last fall, financial markets swooned.
16 The tax credit based incentives became much
17 less useful. The companies that tended to
18 finance projects such as investment banks,
19 large banks, insurance companies, were not
20 making the money. Therefore, they did not
21 profit or they did not have the profits
22 against which to utilize a PTC. And with the

1 credit markets frozen, there were very few
2 chances for lending money.

3 So Congress allowed wind
4 developers to temporarily elect an investment
5 tax credit instead of a PTC and then converted
6 the 30 percent ITC which is the investment tax
7 credit into an equivalent cash grant from the
8 Treasury. This grant is only available to
9 project developers and not manufacturers. So
10 this would effect construction.

11 Therefore, the incentive no longer
12 required companies to have tax burden in order
13 to utilize it. It allowed developers to get
14 a check from the Treasury to offset 30 percent
15 of the cost of construction including the cost
16 of turbines.

17 The grant options that are
18 available for projects finished by the end of
19 2010 or placed in service by January 2013 for
20 wind projects provided the construction began
21 by the end of 2010. The rules for the
22 Treasury grant program were just released

1 earlier this month. The Treasury expects to
2 start accepting applications today. So the
3 money hasn't gone anywhere.

4 MR. BUCHET: Yet.

5 MS. MYERS: Yet. Hopefully, it
6 will soon.

7 So the loan guarantee program, DOE
8 also provided funding to support \$60 billion
9 or more in loan guarantees for both innovative
10 and commercial renewable energy technologies.
11 These project developers and manufacturers are
12 both eligible for assistance.

13 The commercial technology is one
14 that has been installed in three or more
15 projects in the United States for five years
16 or more. Many wind technologies will qualify
17 as commercial, but some will also be qualified
18 under innovative.

19 DOE also released or just released
20 a solicitation for applications for
21 innovative, renewable energy projects on July
22 29th and the rule will apply to commercial

1 technology applications. It remains unclear
2 as to what the impacts will have on the wind
3 sector.

4 Under research and development,
5 \$93 million in stimulus funding has been
6 provided for wind energy research and
7 development and another \$100 million for the
8 National Renewable Energy Lab. The \$93
9 million for R&D would be on top of the \$55
10 million in regular FY '09 appropriations
11 provided for this purpose. And essentially
12 it's divided out by \$45 million for wind
13 turbine/drive train research and development
14 and testing, \$14 million for technology
15 development and \$24 million for wind power
16 research and development and this would
17 essentially be for universities and industries
18 to focus on critical wind energy challenges,
19 \$10 million for National Wind Technology
20 Center and I think that's it because my page
21 cut off.

22 Now transmission, which is

1 essentially linking the energy to the grid to
2 get it to you or us or anyone. One of the
3 unfortunate things is that we can build as
4 many wind turbines, wind farms, as we like,
5 but if we don't have the infrastructure and
6 essentially the transmission lines in place
7 then there's really no point in creating or
8 developing any more wind farms which
9 unfortunately is, I'm sure most of you have
10 read about T. Boone Pickens withdrawing some
11 of his commitment to wind.

12 So AWEA is currently also
13 advocating for a green power super highway
14 which is develop and link grids together so
15 that we can distribute the energy out.
16 Conceptually speaking, this is what the
17 expansion plan would look like to expand the
18 grid for transmission. We're hoping this is
19 what happens.

20 Right now, currently waiting in
21 the queue, there are over 300,000 megawatts
22 worth of projects and proposals that are

1 currently waiting to be -- oh, that's cut off,
2 sorry -- linked up and to kind of go forward.

3 One of the unfortunate things is -
4 - I mean there are several stumbling blocks
5 currently with wind and some of the
6 renewables. Obviously, stimulus money,
7 getting funded, that's a problem.
8 Transmission, that's also another problem.

9 Now we get to safety and this is
10 going to be more from the AWEA perspective and
11 that we represent the wind industry. But
12 essentially the AWEA Safety Committee has made
13 the commitment and the board has made the
14 commitment that occupational safety and health
15 is a core value. It's not a priority because
16 priorities shift. It's a value of ours. And
17 essentially the commitment is to improve
18 worker safety and health, support continuous
19 education and training of employers and
20 employees in the wind industry and to work
21 cooperatively with regulatory agencies to
22 ensure safety and health for all workers.

1 Education and understanding the
2 intricacies of the development and
3 sustainability of wind generation I think is
4 key. A lot of times you can read articles in
5 the newspapers or magazines there's a lot of
6 assumptions that are made about wind and wind
7 generation and just understanding all the
8 varying pieces that go into a wind farm and
9 developing wind energy is key to also being
10 able to ensure the safety and health of all
11 the workers.

12 One of the core, I guess,
13 priorities, commitments, missions of AWEA is
14 to empower workers to be engaged and take
15 ownership in worker safety and health programs
16 and this goes across all sectors,
17 manufacturing, transportation, construction
18 and then the operation and maintenance sides.

19 One of the goals that AWEA has
20 established for ourselves is to gather,
21 collect, monitor injury and illness and
22 fatality data. What are the leading

1 indicators? What are the injuries and
2 illnesses? What are the causes of fatalities?
3 Where are the accidents happening? Through
4 that, we can identify the high hazard areas
5 and then also develop solutions and eliminate
6 hopefully and/or significantly reduce these
7 incidents.

8 Some of the identification of high
9 risk areas that I think is fairly apparent is
10 in regards to falls, emergency rescue,
11 electrical hazards and environmental
12 conditions and when I'm talking about
13 environmental conditions I'm talking about
14 heat, the cold, the wind, ice. They are all
15 factors that we have to deal with in both the
16 operations and maintenance sides but also on
17 the construction side.

18 We are currently working on
19 developing training initiatives and part of
20 that is identifying the appropriate safety and
21 health training programs and educational
22 materials that the wind industry needs. So

1 the question is do we need an OSHA ten-hour or
2 an OSHA 30-hour. If so, should it be one
3 separate for construction, one for operations
4 and maintenance? But regardless of what
5 happens we also need to make sure that it fits
6 for the wind industry.

7 We're also, once we kind of hash
8 out some of those ideas, looking into
9 developing specific programs and/or developing
10 perhaps even like a more extensive OSHA 30-
11 hour for supervisors, superintendents, both on
12 the operations and maintenance and the
13 construction sides.

14 Emergency rescue is also key not
15 only for the workers but also for the
16 communities. And then we also have confined
17 space which is a hotly debated issue within
18 the wind industry.

19 Sorry for talking really fast and
20 going through all that, but I know I have a
21 limited amount of time.

22 CHAIR MIGLIACCIO: Thank you,

1 Michele.

2 Any questions of the Committee?

3 Michele.

4 MR. GILLEN: I had some questions.

5 CHAIR MIGLIACCIO: All right.

6 MR. GILLEN: Michele.

7 MS. MYERS: Yes.

8 MR. GILLEN: Thanks for a terrific

9 presentation. I had a couple of questions.

10 One is, I understand the grid being the large

11 multi-state thing. But what I don't have a

12 good understanding of is how the power from

13 each individual unit gets to the grid. I

14 mean, you don't see any wires. Is it

15 underground? Is there trenching involved for

16 example?

17 MS. MYERS: Yes. All of it is

18 underground. Well, the transmission and the

19 electricity, that all is underground. You

20 don't have any of the external.

21 So, like for example, when we were

22 discussing the crane and derrick standard, one

1 of the issues that came up was how often do
2 your cranes run into the power lines? We
3 don't have power lines. It's all underground.

4 MR. GILLEN: But you do have
5 trenching.

6 MS. MYERS: Yes.

7 MR. GILLEN: That's a -- okay.
8 The second question would be about
9 maintenance. I mean, is there an estimate?
10 Once a tower is up like over a year, I mean,
11 how many hours of maintenance is required
12 where people have to go up and for whatever
13 reason service that?

14 MS. MYERS: That depends on the
15 turbine. It depends on the manufacturer. It
16 also depends on how much use is generated out
17 of it. On average the way we as an industry
18 base it, it's more along the lines of how many
19 wind technicians does it require to maintain
20 a tower versus how many man hours or how much
21 time.

22 MR. GILLEN: Okay.

1 MS. MYERS: But I will also let
2 you know in regards to wind technicians and
3 jobs one of the things that AWEA is also doing
4 is identifying specific jobs and positions and
5 occupations within the wind industry and then
6 identifying the core skill sets that each of
7 the individual people will need. So right now
8 we're tackling wind technicians which is in
9 high demand and one of the core things that
10 AWEA has identified is that at a minimum
11 something like the OSHA 30-hour is going to be
12 required for every wind technician within the
13 wind industry.

14 Now granted obviously it's going
15 to change and be tweaked a little bit because
16 the 30-hour doesn't necessarily all of the
17 issues that they'll be facing.

18 MR. GILLEN: Okay. My last
19 question and then I'm done is I noticed that
20 you didn't mention anything about design and
21 I know NIOSH would be interested in working
22 with you. It just seems like a real

1 opportunity to get in relatively early to sort
2 of make sure that they all have really good
3 design features, built-in anchors, all that
4 kind of stuff.

5 MS. MYERS: Yes.

6 MR. GILLEN: Can you comment on
7 that?

8 MS. MYERS: I can't. I guess one
9 of the problems with -- or one of the issues
10 that we have to deal with is even though the
11 United States was really the inventor, the
12 creator, of wind turbine, wind farm or wind
13 energy, in the '80s, the United States kind of
14 backed off. Well, Europe kind of took it and
15 ran with it.

16 Many of the turbines that we see
17 are European turbines. They're European based
18 and Europe created their own safety design
19 standards with structural design and according
20 to their standards.

21 So having some of these companies
22 come in and trying to get a grasp as to how to

1 integrate their standards, their turbines,
2 their designs, with U.S. standards, U.S.
3 needs, has been a bit of a challenge and it's
4 just trying to communicate and what have you.
5 But we've already actually created a task
6 force to address European standards in regards
7 to both safety standards, occupational and
8 safety and health standards or guidance, and
9 then also safety designs and then try to
10 somehow mesh and incorporate that with the
11 United States with our needs.

12 Does that answer your question?

13 MR. GILLEN: Not really.

14 MS. MYERS: Sorry.

15 MR. GILLEN: I guess what I would
16 mean would be like it's even an AWEA ad, a
17 poster, which shows a worker standing on top
18 of the nacelle and you know if there's not
19 going to be guard rails up there, is there at
20 least an anchor so that somebody could tie off
21 if you have to stand on top of the nacelle?

22 MS. MYERS: Yes.

1 MR. GILLEN: But every nacelle as
2 part of the design have built-in anchors, kind
3 of that kind of stuff.

4 MS. MYERS: Yes. Well, that is
5 part of the current debate that is going on
6 with the European manufacturers and the
7 European designs and what have you. Once
8 again, there are certain expectations that we
9 have here in the United States. There's a
10 certain level of expectation and design and
11 experience that they have in Europe and it's
12 just trying to --

13 CHAIR MIGLIACCIO: Integrate.

14 MS. MYERS: -- maneuver through
15 some of the issues.

16 CHAIR MIGLIACCIO: Okay.

17 MS. MYERS: So, yes, we are
18 adjusting it. It's just trying to figure out
19 how.

20 MR. BUCHET: And certainly the
21 fall protection manufacturers, some of them,
22 are seriously looking at how to get people up,

1 down, in and out and around these towers.

2 MS. MYERS: Yes. You know
3 definitely and there are a lot of trainers,
4 vendors and what have you that it does become
5 very interesting because they've developed all
6 kinds of innovative, new ways to rescue
7 people, to handle fall protection issues, to
8 climb up the turbines, what have you.

9 MR. ZARLETTI: There's actually a
10 lot of things that go into new product lines
11 and we've started an energy solutions
12 operating group and right now all we're doing
13 is cutting roads so they can bring this
14 equipment to the site because generally
15 they're all backwoods and so we're not only
16 cutting them, but we're paving them and then
17 the foundation is really to our extent now,
18 but the foundations are significant.

19 MR. BUCHET: And some of the crane
20 manufacturers are designing all-terrain
21 monsters that can go out there with these 250
22 ton nacelle and put them up.

1 MS. MYERS: And apparently there
2 are also crane manufacturers in Europe that
3 are creating and developing cranes specific
4 for wind turbines and wind farms.

5 CHAIR MIGLIACCIO: Okay. Any
6 other questions?

7 MS. SHORTALL: Mr. Chair, then I'd
8 like to mark as Exhibit 24 and enter in the
9 record the hard copy of the PowerPoint
10 presentation titled Stimulus Impact: Wind
11 Energy, presented by Michele Myers of American
12 Wind Energy Association.

13 CHAIR MIGLIACCIO: Okay. Thank
14 you, Michele.

15 MS. MYERS: Thank you.

16 CHAIR MIGLIACCIO: The next up is
17 the OSHA Information Systems Update from OIS
18 Special Assistant Project Executive, Robert
19 Pitulej.

20 Robert, the floor is yours.

21 OSHA INFORMATION SYSTEM UPDATE

22 MR. PITULEJ: All right. Thank

1 you, sir.

2 Good morning. My name is Bob
3 Pitulej and I've got with me Gus Georgiades
4 and Mehul Sanghani. We're members of the
5 agency's, OSHA's, Information System team.
6 We've been working on the project for several
7 years now trying to put together a new
8 internal central database system for the
9 agency and we'd just like to take a few
10 minutes to give you an update on where we are
11 with that and then afterwards we also have a
12 brief presentation to give you a little bit of
13 an idea of that pilot that we ran last
14 November to give you an overview of the
15 system.

16 What is the OSHA Information
17 System? It's the next generation replacement
18 for our legacy IMIS system. I don't know if
19 you folks are familiar with the Integrated
20 Management Information System. Again, it's an
21 internal database system that houses and
22 collects all of the occupational, safety and

1 health information that the agency collects
2 across the country.

3 Our original system has been
4 around for a number of years. It's been
5 upgraded in years passed and we are now
6 working on a serious effort to replace it with
7 the new system.

8 We are looking. We're still on
9 schedule to have the system deployed October
10 1, 2010. Always have to have the caveat with
11 a new administration in place provided that
12 funding continues and that agency priorities
13 do not change.

14 What's unique about the new
15 system? It is a web-based system. It will
16 replace our existing National Cash Register
17 machines and we do expect to have the older
18 equipment retired with OSHA and have it
19 replaced with this new web-based system.

20 We conducted a pilot last
21 November. We tested probably about 15 to 20
22 percent of the functionality that we expect to

1 have in the system. We reached out through
2 our internal OSHA family, both state, plan
3 states, folks from Kevin Beauregard's
4 organizations helped us out, other
5 consultation projects and several of our
6 regions.

7 We think it went well. We learned
8 some lessons and the net effect was that the
9 organization did want to have a new system.
10 We just can't get it out fast enough to make
11 them happy.

12 Where are we currently? We
13 briefed our new Acting Assistant Secretary a
14 few months ago. He is very supportive of the
15 effort thus far. So we expect to continue to
16 have both the political support and financial
17 support to complete the project.

18 We are in the process of securing
19 the funding to complete. What we've done is
20 we've broken down the system into various what
21 we call modules that represent the different
22 program areas within the agency and right now

1 we're building the whistleblower and
2 consultation modules and we expect to have
3 those done in a few months for sure before the
4 end of this calendar year.

5 We're also exploring the
6 possibility of having another pilot this fall
7 to give our internal folks an idea of where we
8 are with the system.

9 This is kind of a difficult slide.
10 It's a little bit dark, but this just kind of
11 shows you the time line as far as where we've
12 come on the different business areas and where
13 we're getting to as far as deployment. Again,
14 we're very excited about it. The feedback
15 that we've gotten from the organization or
16 from the extended OSHA family has been
17 positive and we're looking forward to get it
18 built.

19 I was going to take a few
20 questions and answers or try to give you some
21 answers if you have any. If not, I was going
22 to turn it over to Gus Georgiades on our team

1 to show you, give you, a brief demonstration
2 of the pilot that we conducted last November.

3 Again, I understand you've been
4 here for a few days and it's getting late in
5 the morning and stuff. We don't take it
6 personally if you want to cut it off after a
7 minute or two or anything like that.

8 I will be happy to answer any
9 questions that you may have. Does anyone have
10 any initial questions?

11 CHAIR MIGLIACCIO: Any questions
12 from the Committee?

13 Mr. Beauregard.

14 MR. PITULEJ: That's good to see.

15 MR. BEAUREGARD: I don't have any
16 questions. I can tell you that their group
17 has worked very hard on this and as one of the
18 users of the end product we welcome it. I
19 think it's been long in the making and we sure
20 do look forward to the deployment because I
21 think it's going to be helpful to the field
22 staff both on the consultation side and the

1 compliance side and anybody else that uses it.

2 The current system is, I think Bob
3 understated it, built on '70s technology. It
4 was deployed in the early '80s. And Steve and
5 I were just talking. When we get new
6 employees, they can't believe you have to hit
7 the Alt key and the Function key to get
8 something done and it's not oriented for use
9 of a mouse or anything like that. So it
10 should actually help quite a bit I think in
11 bringing us up to speed so we don't have to
12 spend as much time training and doing data
13 entry and we can spend more time in the field
14 doing the various things we need to do.

15 MR. HAWKINS: Just one other
16 question. Have you all gotten with the
17 Smithsonian to receive one of these?

18 MR. PITULEJ: I think that's part
19 of our formal retirement plan of the old
20 system.

21 MR. HAWKINS: I just wanted to
22 make sure.

1 MR. PITULEJ: It's right here on
2 the other side of the Mall for us. So it's
3 not a long walk.

4 MR. HAWKINS: Just get a two-
5 wheeler.

6 MR. PITULEJ: Yes, sir.

7 CHAIR MIGLIACCIO: Any other
8 questions?

9 Okay. Gus.

10 MR. GEORGIADES: As Bob mentioned,
11 we conducted a pilot last year and from that
12 pilot we captured some screen shots and put
13 together a little demo for people to give some
14 flavor to what this new system will look like.

15 It's pretty close to what it will
16 be, but you know the screens are going to
17 change as we got the feedback from the pilot
18 and continue to develop it. I'm going to run
19 through the program. I'm not going to show
20 you all of it. I'm just going to show you
21 bits and parts of it. I'm going to skip a few
22 little bits. But if you have any questions,

1 I'll try to answer them and if you're quick
2 enough, I'll try to pause it.

3 As Bob mentioned, the user would
4 log in. They would have their own user name
5 and password and have access to the internet
6 and also access to within where the system is,
7 probably within OSHA system.

8 MR. GILLEN: Can I ask you a
9 question? Can you clarify as you go along
10 with it probably just be for internal OSHA and
11 any of it would be available to any public
12 outside parties as well?

13 MR. PITULEJ: Let me address that
14 and --

15 MR. BEAUREGARD: That's not
16 possible.

17 MR. PITULEJ: If you want to keep
18 it going, that's fine. Right now, there is a
19 component of our legacy system that is fed
20 into another system that is available to the
21 public on the OSHA public website. The agency
22 right now, our Acting Assistant Secretary's

1 commitment, is to absolutely have us do the
2 same thing, provide this data into that system
3 so that it will be able to be up on the public
4 website. He is also -- our Acting Assistant
5 Secretary Jordan Barab has also tasked the
6 agency to try to find more ways to make more
7 information under the Administration's
8 transparency efforts.

9 The issue for us is not
10 necessarily providing the information. All
11 the information will be in the system. The
12 challenge will be is balancing Federal
13 security IT requirements and privacy
14 requirements with the Freedom of Information
15 Act. So those are policy decisions. But all
16 the information will be available if it can
17 get through those hurdles to get to the
18 public.

19 MR. GEORGIADES: When the users
20 log in, they will have access to what their
21 view is going to be. So on the left-hand side
22 as this thing is going to be scrolling down

1 here in a second you will see a task list.
2 But what you're seeing is more or less of a
3 universal task list. Obviously, those people
4 in enforcement will not have the consultation
5 module and only those modules that that
6 particular user needs will have access to
7 them. Some of them are shared.

8 MR. PITULEJ: One of the things
9 we're excited about with this system is for
10 the first time in the agency's history we'll
11 have all the programs, enforcement programs,
12 cooperative programs, consultation programs,
13 all in one central database. Now we've had
14 some bits and pieces of different databases
15 and not necessarily knowing what all the
16 agency is doing at a particular worksite. so
17 we're excited about that component of this.

18 MR. RUSSELL: When you say all of
19 what the agency is doing in the worksite, this
20 will be just for the OSHA. It won't be like
21 for --

22 MR. PITULEJ: No, sir. I'm sorry.

1 just OSHA. Only OSHA.

2 MR. GEORGIADES: As we're going
3 through, one of the things is, one of the
4 enhancements, is right now each program sort
5 of has a different establishment to answer and
6 also as Bob mentioned there are some different
7 little systems out there. So each one enters
8 it differently. So right now, one of the
9 enhancements we've made was all the business
10 areas can use an establishment now, depending
11 on what you're going to do with it.

12 But as I said earlier you won't be
13 able to see all the things associated with it.
14 But this way you'll be able to look up a
15 little bit better what's going on with an
16 establishment.

17 So, first of all, the user would
18 log in and search for an establishment. If
19 one doesn't exist, then obviously the next
20 step would be to create one.

21 MR. BUCHET: That was my question.
22 Is this going to be so smooth that if COSHO is

1 ready to do an inspection on an establishment
2 they'll find out if consultation programs are
3 in alliance or partnership were in progress.

4 MR. GEORGIADES: There are some
5 abilities like that on consultation to see if
6 there's an enforcement case going on. As I
7 said, there will be limited access for
8 enforcement to see consultation, but some of
9 that stuff we're working on.

10 MR. PITULEJ: You will be able to
11 know that there's additional activity from
12 another part of the agency taking place at
13 that site.

14 MR. BEAUREGARD: I'm hoping that
15 one of the things that comes out of this and
16 you may be able to speak on this is one of the
17 things our group has talked about here in the
18 past is the difficulty of getting specific
19 data in certain areas. That's one of the
20 limitations of the current system and
21 hopefully we'll be able to do a lot more
22 specialized reports on OSHA activity and be

1 able to get it. If you want information on
2 roofers or you want information on a specific
3 class, hopefully, we'll be able to pull that
4 out of the system.

5 MR. PITULEJ: Yes, we're pretty --
6 that's another component. I think the agency
7 internally is going to be very happy with the
8 folks led by Mehul Sanghani who put together
9 some real good technical solutions for us.
10 You know we've made a lot of investment in
11 business objects, software and a crystal
12 report software system that's going to allow
13 the agency to do a tremendous amount more of
14 reporting than has been able to. You don't
15 have to do these customized reports. You'll
16 be able to do it.

17 Again, I just caution. It will be
18 a policy issue for the Assistant Secretary to
19 decide what part goes public, but the system
20 will have the capability to drill down and get
21 that kind of information down to the state
22 area, the local area office area and so forth.

1 MR. JONES: Is this going to be
2 inclusive of state plans?

3 MR. PITULEJ: Yes.

4 MR. GEORGIADES: Those state plans
5 are not usually in the system, but, yes,
6 everybody will -- we will include that
7 information, but it's inclusive consultation,
8 state plan, enforcement --

9 MR. PITULEJ: I should mention
10 just to clarify the record. There are two
11 states right now that we know of, the State of
12 Washington and the State of Minnesota, that
13 have their own internal system. But they will
14 be feeding data into this system as well. So
15 we're not mandating that you have to use the
16 system. We've heard -- there has been some
17 indication from other state plan states like
18 in the State of California might have an
19 effort. But best as we could tell, you
20 probably have to refer to them. They may be
21 a few years off before they're actually
22 putting it together.

1 MR. GEORGIADES: This next part of
2 the show is the enforcement part. It allows
3 the user once again to search for an
4 enforcement case, to create a new one.
5 There's a number of search features where they
6 can find current cases as a case is going on.

7 MR. PITULEJ: We're expecting that
8 the COSHO can move a lot faster than we're
9 moving here on -- hopefully, they'll be able
10 to point and click a bit faster. This is kind
11 of my speed I guess.

12 MR. GEORGIADES: Also it's not in
13 the pilot system what the user might have
14 previously entered in the complaint, but that
15 will be capacity report. So when they go with
16 the inspection, that information they'll be
17 able to pull into their inspection folder.

18 As you're scrolling across the
19 top, you can see a lot of the information has
20 been sort of put into tabs, sort of like
21 information in tabs. So a user could go to
22 those specific things. Instead of having like

1 one screen where you go through the top to the
2 bottom and have everything, it makes it a
3 little bit more compact and it allows certain
4 things as I said to be grouped together.

5 It allows, as I said, the user to
6 import that particular establishment
7 information from the establishment now. That
8 establishment file would have included the
9 business address and the mailing address and
10 then the user would put in the site address
11 for that particular action they were taking.

12 MR. PITULEJ: So again, it's the
13 same or similar type set-up for some of the
14 other program areas you have within the
15 agency. We don't want to be redundant if
16 folks got a feel of the system. Unless there
17 are some specific questions, we don't need to
18 continue. If folks -- they could see the rest
19 of it if they want, but at the same time if
20 you have other issues or something you want to
21 move onto, that's fine by us.

22 Should we stop it here, Mike?

1 MR. BUCHET: Yes. Well, I have a
2 question.

3 MR. PITULEJ: Sure.

4 MR. BUCHET: You mentioned legacy.

5 MR. PITULEJ: Yes.

6 MR. BUCHET: How's the clean-up
7 going? Are we going to continue doing NAICS
8 and SIC code?

9 MR. GEORGIADES: Where you see the
10 establishment, you will enter NAICS. But if
11 there was a SIC associated with it, it will be
12 put in there, but it will be not editable.

13 MR. PITULEJ: But we are working
14 hard to try to clean up the historical data to
15 try to make sure -- there are some
16 duplications and things that need to be
17 cleaned up. Again, our technical team led by
18 Mehul Sanghani has come up with a lot of great
19 solutions for us to figure out how to deal
20 with that. So we're hoping that not only are
21 we going to bring over cleaned up data from
22 the legacy system, but as we go forward, we're

1 putting things in place like drop-down menus
2 and so forth to ensure that we don't run into
3 that problem in the future.

4 CHAIR MIGLIACCIO: Any questions
5 from the Committee?

6 (No verbal response.)

7 MS. SHORTALL: Mr. Chair, I'd like
8 to then mark and enter into the record the
9 PowerPoint entitled "OSHA Information System
10 (OIS) Update" presented by Robert Pitulej and
11 other members of OSHA's OIS team. Although
12 the team did not finish its entire PowerPoint,
13 we're going to go ahead and put the entire
14 PowerPoint in the record. So you'll be able
15 to see the rest and be able to download, too.

16 So would your office please
17 provide an electronic copy of that?

18 MR. PITULEJ: To you, Sarah.

19 MS. SHORTALL: Yes.

20 MR. PITULEJ: Yes.

21 MS. SHORTALL: Okay. Thank you so
22 much.

1 MR. PITULEJ: Sure. Thank you.

2 CHAIR MIGLIACCIO: Thank you very
3 much.

4 MR. KAVICKY: Frank, I do have
5 one question.

6 CHAIR MIGLIACCIO: Of them?

7 MR. KAVICKY: Yes.

8 CHAIR MIGLIACCIO: Excuse me,
9 Robert. We have one question.

10 MR. PITULEJ: Sure.

11 MR. KAVICKY: Tom Kavicky,
12 Employee Rep. Is the new system going to be
13 able to break down the difference between
14 union and non union? In the past, the
15 Committee has asked, say scaffold violations,
16 to see how the union side is doing versus the
17 non union.

18 MR. PITULEJ: Yes. There is a --
19 you know this is an internal, some policy
20 decisions that have to be made. The system
21 will have the capability for tracking whether
22 a site is a union site or a non site. But as

1 you know the data is only as good as the
2 individual that's putting it into the system.

3 So where policy decisions that are
4 being made above my pay grade as to how many
5 of the fields are mandated fields versus
6 optional fields. I don't know -- you know
7 we're still a ways off from making those types
8 of decisions. But from a technical
9 perspective, the system will easily be able to
10 track that information and to report that type
11 of information.

12 MR. KAVICKY: Very good. Thank
13 you.

14 MR. PITULEJ: Thank you.

15 CHAIR MIGLIACCIO: Other
16 questions?

17 MR. JONES: I have a question.
18 Just now following up on Tom Kavicky, you said
19 you characterized a site as union or non union
20 and often it's the contractor that made the
21 union or non union. Will we be able to tell
22 the difference?

1 MR. PITULEJ: Yes. There will be
2 -- you'll have datapoints that you'll be able
3 to drill down that far into the organization.
4 The issue will be --

5 MR. JONES: It's a policy issue
6 then.

7 MR. PITULEJ: Yes. Which one --
8 the system will have the technical capability.

9 MR. JONES: There will be a policy
10 whether we want to collect that type of data.

11 MR. PITULEJ: Yes, sir. And my
12 guess is we'll probably -- this is -- I don't
13 want to speak for our front office, but we'll
14 probably collect the information. But then
15 again there may be some issues with Freedom of
16 Information, privacy and Federal security as
17 to whether it can be made public.

18 MR. JONES: Okay.

19 MR. PITULEJ: I think that's where
20 the battles will be.

21 MR. JONES: All right. Thank you.

22 MR. PITULEJ: No problem. Any

1 time.

2 CHAIR MIGLIACCIO: I think this is
3 it. There are no other questions, right?

4 (No verbal response.)

5 Okay. Thank you.

6 MR. PITULEJ: Thank you.

7 CHAIR MIGLIACCIO: All right.

8 Sarah.

9 MS. SHORTALL: Yes. Well, Mr.
10 Chair, what I just distributed to members of
11 ACCSH arose out of some discussions we had
12 yesterday and several members of the Committee
13 said they didn't have copies of some of the
14 regulations and statutes that apply to them.
15 So I've made you all a copy of the relevant
16 one.

17 On the left side, you'll find a
18 copy of the Federal Advisory Committee Act and
19 behind that you'll see a copy of the
20 regulations developed and promulgated by the
21 General Services Administration implementing
22 the Federal Advisory Committee Act. So those

1 are general across the board. They apply to
2 you as well as others.

3 Now on the right side, what I've
4 given you is a copy of the OSH Act. So you'll
5 specifically want to look at Section 7. I've
6 also given you a copy of the Construction
7 Safety Act and you'll specifically in that one
8 want to look at Section -- well, in here
9 you'll see it under E. Okay. Advisory
10 Committee on Construction Safety and Health.

11 The next thing after that is Part
12 1912 of 29 Code of Federal Register which are
13 OSHA's own regulations governing advisory
14 committees and all of 1912 applies to you, but
15 there are also special ones that apply to
16 ACCSH that are included in Section 1912.3.

17 I've also included Part 1911 of 29
18 Code of Federal Regulations and Part 1911 are
19 OSHA's rules for promulgating, modifying or
20 revoking occupational safety and health rules
21 and the specific area that you will be
22 concerned with is 1911.10 which apply to

1 construction standards.

2 Then we have a copy of your
3 charter, your current charter, which expires
4 on May of 2010.

5 And lastly, I have the Advisory
6 Committee Procedures and Guidelines for
7 Conducting ACCSH meetings as well as your work
8 group meetings and although it says final
9 adoption was in 2001 they actually adopted it
10 as a committee in 2000, but they made a couple
11 of revisions to it that had been agreed upon
12 by the committee as a whole. So that's why it
13 says that.

14 One of the members of the
15 Committee as a four person committee
16 consisting of the ACCSH chair, a member of
17 Management, a member of Labor as well as the
18 then head of the Directorate of Construction
19 and the DFO for ACCSH, Bruce Swanson. So it
20 did bring in all of those and it was approved
21 by the committee.

22 Now you have everything. I'm

1 going to put it in the record, but all these
2 things are publicly available as well. I have
3 two comments to make with regard to it.
4 Number one, when you read all this, I hope you
5 then won't conclude that you don't need your
6 ACCSH counsel anymore because you have got all
7 the laws yourself. And number two while I was
8 printing all this stuff off last night, I
9 thought I'm really tempted to give you guys a
10 quiz on this at the next ACCSH meeting. So
11 don't be surprised.

12 And for Tom Shanahan, if he's
13 still on the phone, I will send this out to
14 you.

15 CHAIR MIGLIACCIO: Don't worry.
16 She's told me several times it's at the
17 discretion of the chair, I don't think there
18 will be a test because that means I would have
19 to study, too. I don't know.

20 Yes, Tom.

21 MR. KAVICKY: Mr. Chair, Tom
22 Kavicky, Employee. A question for Sarah on

1 the work group meetings. It says it is
2 customary practice for the chair to assign two
3 co-chairs.

4 MS. SHORTALL: Yes.

5 MR. KAVICKY: In Residential Fall
6 Protection, we have three. Is that a problem?

7 MS. SHORTALL: No.

8 MR. KAVICKY: Thank you.

9 MS. SHORTALL: The idea behind --
10 the most important is to read the second part
11 about it and that is to appoint two co-chairs,
12 one who would represent employees and one who
13 would represent management.

14 MR. KAVICKY: Yes.

15 MS. SHORTALL: Because the idea
16 behind this is whatever a subcommittee does or
17 a worker does also should retain the same
18 degree of balance that you find on the
19 committee as a whole.

20 MR. KAVICKY: I just wanted to go
21 on record.

22 CHAIR MIGLIACCIO: That was one of

1 the things that I was bringing up here in my
2 remarks.

3 MS. SHORTALL: Okay.

4 CHAIR MIGLIACCIO: To make sure we
5 have them try. We called it try.

6 MS. SHORTALL: And my name on the
7 contact list, your rosters. If you ever have
8 any questions or if you're studying and want
9 to get a little update on what the questions
10 might include, you can give me a call.

11 CHAIR MIGLIACCIO: Yes, Steve.

12 MR. HAWKINS: We talked about
13 something yesterday. I just wanted to make
14 sure that I understand correctly. We were in
15 our work groups. If the work group is working
16 on something and they feel like they've
17 achieved a consensus or a point of consensus,
18 if they take a vote, a straw poll, whatever
19 you want to call that, did I understand
20 correctly, that only ACCSH members should
21 participate in that vote or straw poll or
22 whatever that is?

1 MS. SHORTALL: I think that's why
2 Mike's comments yesterday were just so
3 appropriate and what he said was the concept
4 of trying to reach a consensus, in other
5 words, doesn't really include a vote. All
6 right. And something coming out from a work
7 group that represents consensus obviously
8 represents the consensus of the ACCSH members.

9 If something had to come down to a
10 vote, the only persons who are permitted to
11 vote are members of the Committee. Otherwise
12 what we're doing is you have been appointed by
13 the Secretary of Labor and if we have the
14 ACCSH groups voting and using non members then
15 basically we've added new people that have not
16 been appointed by the Secretary.

17 But that's why Mike is trying to
18 say work groups that operate on consensus
19 basis will probably have a stronger presence
20 of their recommendations here. But when it
21 comes down to it the voting it's by the
22 members only and that's reflected in the

1 guidelines here.

2 CHAIR MIGLIACCIO: Anything else?

3 MR. HAWKINS: Thank you.

4 CHAIR MIGLIACCIO: All right.

5 Public comment. Is there anybody listed on
6 the public comment? Bill, will you check the
7 public comment please?

8 MR. AHAL: Nothing.

9 CHAIR MIGLIACCIO: Thank you.

10 Kevin.

11 MR. BEAUREGARD: I just wanted to
12 let folks know about something that may be of
13 interest to you. North Carolina took the CDAC
14 product that was developed and we did make
15 some what I would consider minor changes to it
16 to ensure that it could go through our rule-
17 making process. But we've started working on
18 it late last summer and I'm happy to announce
19 as of a couple weeks ago we have adopted a
20 comprehensive crane and derrick standard
21 that's modeled after CDAC.

22 Most of the language is verbatim.

1 I would probably say that maybe a half of
2 percent of the language was changed, but it
3 was really changed to meet our rule-making
4 requirements. We cannot have any language
5 that's deemed to be ambiguous and that would
6 include language such as if there was a
7 terminology that said you needed to have
8 training from an acceptable source or some
9 type of language like that. We have to define
10 it. We're not allowed to have language that
11 can be interpreted different ways.

12 But it goes into effect October
13 1st. It's a comprehensive standard. Like I
14 said, all the sections that are in the CDAC
15 document are in our standard and most of the
16 language is verbatim from the CDAC document.

17 The only issue that we ran into
18 during the whole promulgation process was we
19 did have some objections to our scope for the
20 inclusion of some equipment from the power
21 industry. We worked that out and that was the
22 only major issue we had.

1 We're excited about it. We're in
2 the process of doing training for our staff.
3 We're going to be doing internal training,
4 specific crane training. A lot of our staff
5 are not familiar with the various components
6 and other things and we want to make sure that
7 they are fully knowledgeable for those that
8 are going to be doing this training. But
9 we're training our entire staff, consultation,
10 compliance.

11 We're also undergoing efforts to
12 do outreach to the regulated community, too.
13 We're going to holding a number of courses.
14 We already have some scheduled. We're going
15 to be holding more. If you're at all
16 interested, you can check our training website
17 and they'll be putting the training schedules
18 up as they go along.

19 And a copy of the standard if it's
20 not already there it should be on our website
21 real soon. And if you want a copy, I think I
22 sent Mike a copy. But if you send me a note,

1 I'll be glad to send you a copy of the
2 standard as well.

3 CHAIR MIGLIACCIO: Thank you,
4 Kevin. Good job.

5 MR. BEAUREGARD: Thank you.

6 CHAIR MIGLIACCIO: All right.
7 Yesterday due to time problems, we didn't have
8 any time allotted for Committee
9 administration. So we have a few things that
10 we have to back up on today to pick out.

11 Work group assignments, we did
12 handle the one where we have the try with
13 adding Mike and we had talked about this at
14 the last meeting with Mike having -- he moved
15 back into the Committee workgroup area and I
16 moved in here, we had a vacancy. But it was
17 also recommended that Mike go back to the
18 Residential Fall Protection. He actually said
19 this before. So that was taken care of
20 already today.

21 Right now, on the work groups,
22 everybody is on except for Jim Tomaseski and

1 Bill. So we need you to pick a work group
2 you'd like to co-chair and if somebody would
3 like to give up a co-chair or have a tri-
4 chair. But everybody on the committee has to
5 actually have a work group assigned them. So
6 we have to make sure that's taken care of.
7 Bill, you can look through them.

8 MR. AHAL: All right.

9 CHAIR MIGLIACCIO: I'll get in
10 touch with Jim and try by the next meeting we
11 have that taken care of.

12 Also I want to reiterate Friday is
13 a travel day. So next meeting when we have it
14 on a Friday if you'd like to dress casual, if
15 you have the ties on, I'm not a proponent of
16 ties. But it's up to you if you'd like to
17 wear them. I'm just saying. I made sure
18 because my two state reps over here to the
19 right said they didn't hear that yesterday.
20 All right. Is there anything we would like to
21 speak about before we announce the next
22 meetings and so forth?

1 MR. KAVICKY: Just a question, Mr.
2 Chairman. Tom Kavicky, Employee Rep.

3 Quite a few years ago our
4 identification badges were taken away from us
5 and I'm wondering if there would be any
6 reconsideration on OSHA's part or if they've
7 reconsidered issuing permanent identification
8 badges for the term of the appointment by the
9 Assistant Secretary of Labor.

10 MR. BUCHET: Michael Buchet,
11 Directorate of Construction. We have asked
12 the question and we can ask it again, but the
13 answer was no that last time I asked, so we'll
14 see what happens.

15 MR. KAVICKY: That's why I asked
16 about reconsideration.

17 CHAIR MIGLIACCIO: It was a
18 previous administration. I think we have a
19 better chance.

20 MS. ARIOTO: Liz Arioto. I
21 received an email from United Airlines stating
22 that in the future they will be coming out

1 with a mandate where if you're traveling on a
2 government travel you're going to have to have
3 a photograph identifying you working for the
4 government.

5 CHAIR MIGLIACCIO: With the
6 government.

7 MS. ARIOTO: Yes. I received that
8 about a month ago.

9 CHAIR MIGLIACCIO: So we have a
10 recommendation and we'll look into the photo
11 ID and I guess with Liz's addition there.
12 Anybody else? Anybody else have anything to
13 add to the group here?

14 All right. The next meeting --
15 sorry.

16 MS. SHORTALL: I have a couple
17 housekeeping. As Exhibit 26, I would like to
18 enter into the record the statutes,
19 regulations, charter and guidelines relating
20 to ACCSH and I have had a number of people as
21 I've collected everything who said they wanted
22 copies of things like PowerPoint

1 presentations. I will be entering them into
2 the record, but I don't know if ACCSH wants to
3 address of PowerPoint presentations and having
4 hard copies at the meetings or not. But I
5 only get the one copy.

6 MR. GILLEN: In other words, we
7 should get handouts of all the PowerPoint
8 presentations or you get the electronic
9 versions.

10 CHAIR MIGLIACCIO: Are you asking
11 about the hard copy?

12 MR. GILLEN: Electronic version.

13 MS. SHORTALL: I mean I'm just
14 saying that people came up and asked me for
15 copies and I said I was going to put them in
16 the record and you can download them from
17 there. But it seemed like a number of people
18 have wanted to have them hard copies available
19 at the meeting so they can take notes and
20 things on them.

21 CHAIR MIGLIACCIO: Steve.

22 MR. HAWKINS: You know if it would

1 help, would it be possible for you to send us
2 a link or a brief set of instructions. I know
3 I found them one time, but it wasn't easy to
4 do on my own. If you could send us a brief
5 email --

6 MS. SHORTALL: Sure. How do get
7 on regs.gov.

8 MR. HAWKINS: And kind of how to
9 navigate.

10 MS. SHORTALL: Okay. It might be
11 helpful because they just last week changed
12 the regs.government webpage again.

13 MR. HAWKINS: So if they're there
14 electronically I assume this is where you
15 could click on the PowerPoint presentation
16 that's nested in this regs.gov and see it.

17 MS. SHORTALL: Sure.

18 MR. HAWKINS: Then that would
19 probably make us all happy.

20 CHAIR MIGLIACCIO: Emmett.

21 MR. RUSSELL: Emmett Russell,
22 Employee. Instead of the directing, it would

1 be good that once they're posted just a single
2 link that we can go to it.

3 MR. BUCHET: I don't know if we
4 can do that.

5 MS. SHORTALL: I'm not sure we
6 can. But I can give you a real easy way to
7 get to them.

8 MR. RUSSELL: Okay. Thank you.

9 (Off the record discussion.)

10 CHAIR MIGLIACCIO: I have one
11 question of Kevin. Did the OIS pay you well
12 for your recommendation for all the kind words
13 you've said?

14 MR. BEAUREGARD: No, but I'll tell
15 you. It's been a long, long hard road and I
16 think it's all in our better interest to get
17 a system. We're required as they said to
18 download our data and some of the states have
19 gone on their own and made their own database
20 system not necessarily because they wanted to,
21 but the system's breaking down and they're
22 frustrated.

1 The down side of that is whatever
2 you develop has to be able to communicate with
3 the Federal system. So you could develop
4 something. They develop a new system. Then
5 you have to figure out how to shovel the data
6 over there. So we're actually looking forward
7 to the deployment and I can't imagine whatever
8 does come out can be worse than what we have.

9 CHAIR MIGLIACCIO: It looked
10 fantastic and like I said that's the first
11 I've seen it.

12 Mike.

13 MR. BUCHET: I had a question I
14 was going to ask Bob, but I didn't. So I'll
15 ask it of you. How do you get your citation
16 references to your code or statutes to jive
17 with OSHA's citation references which are
18 strictly to our code?

19 MR. BEAUREGARD: That's a good
20 question and some states have adopted verbatim
21 the Federal standards. But other states like
22 California has a different nomenclature for

1 each standard and in current system the states
2 have to create what's called a data table and
3 we have to actually add our specific standards
4 into the data table. So you may not see a
5 correlation between a Federal standard and a
6 state standard.

7 Now we have adopted all the
8 Federal standards, but then we have some
9 additional standards that go above that and we
10 have changed some scopes and some other things
11 and so those are all added to the data table.
12 Under this new system it's my understanding
13 there will be a similar process where we'll
14 have to add our standards to that.

15 But when you run a report it will
16 show those violations that are identical to
17 Federal standards. But then it will also show
18 those ones that we have in addition and you'll
19 have to kind of do a little homework to find
20 out what those are.

21 MR. BUCHET: The favorite question
22 is what are the most frequently cited. What

1 are the biggest penalty collectors. Where are
2 the biggest hazards? And we say we'll run the
3 data on the Federal side and we're pretty sure
4 we have captured some of them. When it's to
5 the states, there's this translation table
6 issue.

7 MR. BEAUREGARD: I think it's
8 going to be better, but I don't know about
9 that. You'll have to speak to Bob. But one
10 of the things I will say that I think has been
11 an improvement over the last couple of years
12 is you've heard a lot about this transparency
13 information.

14 One of the things that OSHA has
15 tried to do as new things come out, if OSHA
16 develops a new standard, comes out with a new
17 standard, there's a table on their website and
18 it indicates the states and whether or not the
19 states have adopted that verbatim or whether
20 they have something different and if they have
21 something different there's a link and it will
22 take you to exactly what they have and that's

1 to help that employers that do business across
2 lines and I find it very helpful just when
3 we're looking into an issue to see how things
4 are done elsewhere in the country. So I think
5 that's going towards the right direction so
6 that somebody can look in one place and find
7 out this is a standard on a Federal level. Is
8 it different in North Carolina or is it
9 different in DC? So I hope it continues to go
10 like that. I don't know if any of you have
11 looked at that, but I think it's a definite
12 improvement.

13 MR. BUCHET: We're not allowed to
14 see it. We talk about it. Some of us get to
15 test it.

16 CHAIR MIGLIACCIO: Any other
17 comments?

18 Tom.

19 MR. KAVICKY: Just one last
20 comment, Frank. Tom Kavicky, Employee. I
21 would like to say thanks to OSHA and, Mike, I
22 don't know whose office is who for the way you

1 scheduled the work group meetings so we could
2 all attend whichever work group we wanted to
3 rather than picking and choosing.

4 MR. BUCHET: It is a matter of
5 picking and choosing. People call me up and
6 say this is this and this is that and I've got
7 to have this and I've got to have that. And
8 I talk it over with Frank and we try and make
9 the request where time slots work out.
10 There's no magic to it.

11 MR. KAVICKY: It's a good job.

12 CLOSING COMMENTS/ADJOURNMENT

13 CHAIR MIGLIACCIO: Just for the
14 co-chairs, yesterday in the afternoon, late in
15 the afternoon, the public asked the co-chairs
16 if we could do something to help them out. If
17 they call you, do help them as much as you
18 can. Give them as much notice as you can. I
19 mean that's just a courtesy.

20 I'd like to thank the public for
21 sticking it out.

22 (Applause.)

1 And the next meeting schedules
2 will be September 22 and 23 for the work
3 groups, September 24 and 25 for the full
4 committee right here in Washington, D.C.

5 (Off the record comments.)

6 Okay. Emmett has asked me to
7 repeat those dates. September 22 and 23 for
8 the work groups. September 24 and 25 for the
9 full committee and Mike has something to say.

10 MR. BUCHET: If you have
11 scheduling requirements, please get them to me
12 next week or the week after because we have to
13 draft the Federal Register notice and get it
14 approved and get it out of here and then there
15 is a short time frame between now and the 21st
16 of September.

17 CHAIR MIGLIACCIO: Any other
18 comments?

19 (No verbal response.)

20 I'll entertain a motion to
21 adjourn.

22 (Motion to adjourn and seconded.)

1 All in favor say aye.

2 (Chorus of ayes.)

3 Opposed.

4 (No verbal response.)

5 Adjourned. Off the record.

6 (Whereupon, at 11:44 a.m., the

7 above-entitled matter went off the record)

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