UNITED STATES OF AMERICA

DEPARTMENT OF LABOR

OCCUPATIONAL SAFETY AND

HEALTH ADMINISTRATION

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ADVISORY COMMITTEE ON CONSTRUCTION
SAFETY AND HEALTH

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MEETING

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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

T-A-B-L-E O-F C-O-N-T-E-N-T-S

E-X-H-I-B-I-T-S

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

8:36 a.m.

CHAIR MIGLIACCIO: On the record. I would like to welcome everybody back. Provided a travel day. So I mentioned to some of the members on the committee that the catch-up on the travel day would be a nice casual day. I can't see you wearing ties on Friday if you don't want to. It's up to you.

MR. HAWKINS: I just wanted to. So did Matt.

CHAIR MIGLIACCIO: You're Government.

We're going to start up with the Residential Fall Protection, Steve Hawkins and Tom Kavicky. Tom, you'll give that, correct?

MR. KAVICKY: Michael.

CHAIR MIGLIACCIO: Oh, Michael, I'm sorry. Michael. I didn't have you on. Michael Thibodeaux will do the honors.

WORK GROUP REPORTS/ADMINISTRATION:

RESIDENTIAL FALL PROTECTION

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

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

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

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

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

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

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

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

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

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

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

MR. KAVICKY: No.

CHAIR MIGLIACCIO: Okay. Questions from the Committee?

(No verbal response.)

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

MR. AHAL: So moved.

MS. MARTIN: Seconded?

MS. ARIOTO: Seconded.

CHAIR MIGLIACCIO: Seconded by

Elizabeth.

Questions or discussion?

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

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

MS. SHORTALL: Okay.

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

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

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

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

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

MR. THIBODEAUX: Sure.

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

MR. THIBODEAUX: Sure. We can do that.

MS. SHORTALL: Thank you.

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

(Chorus of ayes.)

Opposed?

(No response.)

So moved.

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

CHAIR MIGLIACCIO: Thank you.

The next work group will be Trenching. Emmett Russell.

WORK GROUP REPORTS/ ADMINISTRATION:

TRENCHING

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

Emmett Russell and Travis Parsons

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

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

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

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

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

(1) Training to educate the noncompliant people;

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

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

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

(5) Opportunities may exist with

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

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

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

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

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

CHAIR MIGLIACCIO: Thank you, Emmett.

Any questions from the Committee?

MS. SHORTALL: I have a question. Mr. Russell, were you intending for the NIOSH product and the TSSA booklets and pamphlets to be entered into the record along with the work group --

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

CHAIR MIGLIACCIO: Thanks.

MS. SHORTALL: Okay.

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

MR. GILLEN: Motion to accept.

MR. KAVICKY: I second.

CHAIR MIGLIACCIO: All right, Tom. Thank you.

Questions? Discussion?

(No verbal response.)

Seeing none, all in favor say aye.

(Chorus of ayes.)

Opposed?

(No verbal response.)

Ayes so have it.

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

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

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

WORK GROUP REPORTS/ADMINISTRATION:

POWER FASTENING TOOLS, NAIL GUNS

MS. ARIOTO: Thank you.

(Off record phone operator.)

CHAIR MIGLIACCIO: Can you hear us?

MR. SHANAHAN: Can you hear me?

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

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

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

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

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

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

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

A discussion of the training

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

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

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

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

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

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

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

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

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

Other comments provided by the

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

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

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

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

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

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

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

MR. KAVICKY: No.

CHAIR MIGLIACCIO: All right. Either Tom or Liz, could you just explain to the members of the public the difference between contact trip trigger and sequential?

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

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

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

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

ricochets and hits somebody.

It's a quite in-depth study. Hester did present it at the last board group meeting that is on record and we're following up as we go along. We appreciate your comments and attendance at the committee meeting.

CHAIR MIGLIACCIO: Thank you, Tom.

MR. KAVICKY: Thank you, Frank.

CHAIR MIGLIACCIO: Any questions from the Committee?

(No verbal response.)

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

(Off the record comments.)

Questions? Discussion?

(No verbal response.)

All in favor say aye.

(Chorus of ayes.)

Opposed?

(No verbal response.)

Motion passed.

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

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

WORKING GROUP REPORTS/ADMINISTRATION:

EDUCATION & TRAINING OTI

MR. JONES: Good morning.

(Chorus of Good mornings.)

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

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

Topic 2, Mandatory OSHA Attending

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

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

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

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

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

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

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

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

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

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

CHAIR MIGLIACCIO: Okay.

(Off the record discussion.)

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

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

MR. JONES: Yes, I see. Thirty.

CHAIR MIGLIACCIO: I just want to make sure that.

MR. JONES: Yes, you're right.

CHAIR MIGLIACCIO: Okay.

MR. JONES: That's a typo.

CHAIR MIGLIACCIO: All right. Thank you.

MR. ZARLETTI: Mr. Chairman.

CHAIR MIGLIACCIO: Any questions of the committee?

Yes, Dan.

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

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

MR. JONES: That's correct.

MR. ZARLETTI: Yes.

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

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

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

CHAIR MIGLIACCIO: Any other questions from the Committee?

(No verbal response.)

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

MR. THIBODEAUX: I so move.

CHAIR MIGLIACCIO: Mike Thibodeaux.

MS. ARIOTO: I second.

CHAIR MIGLIACCIO: Seconded it. Questions? Discussion?

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

MR. JONES: That's correct.

MS. SHORTALL: Okay.

CHAIR MIGLIACCIO: Thank you.

(Off the record comment.)

All those in favor say aye.

(Chorus of ayes.)

MR. THIBODEAUX: 2009 has an extra zero.

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

(Off the record comments.)

CHAIR MIGLIACCIO: All in favor again by saying aye.

(Chorus of ayes.)

Opposed?

(No verbal response.)

The ayes have it.

(Off the record discussions.)

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

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

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

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

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

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

Kevin.

SUBCONTRACTOR SAFETY QUICK CARD

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

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

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

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

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

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

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

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

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

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

MR. BEAUREGARD: I do.

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

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

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

CHAIR MIGLIACCIO: Okay. Anybody else? Mike Thibodeaux.

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

CHAIR MIGLIACCIO: Okay. Anyone

else? Tom Broderick.

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

What else?

MR. BEAUREGARD: A fact sheet.

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

CHAIR MIGLIACCIO: Anyone else?

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

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

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

CHAIR MIGLIACCIO: Where is that?

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

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

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

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

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

CHAIR MIGLIACCIO: I'm sorry.

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

CHAIR MIGLIACCIO: Okay.

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

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

CHAIR MIGLIACCIO: Kevin.

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

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

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

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

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

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

Walter.

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

CHAIR MIGLIACCIO: Kevin.

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

MR. JONES: "Prime contractors

have some" --

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

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

MR. BEAUREGARD: I'm okay with that.

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

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

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

CHAIR MIGLIACCIO: Okay. Mike Buchet.

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

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

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

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

categories.

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

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

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

CHAIR MIGLIACCIO: Steve.

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

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

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

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

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

CHAIR MIGLIACCIO: Thanks, Steve.

Mike Thibodeaux.

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

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

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

MR. THIBODEAUX: Okay.

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

MR. THIBODEAUX: Okay.

MR. BUCHET: Thank you.

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

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

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

MR. ZARLETTI: I move.

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

MR. AHAL: Second.

CHAIR MIGLIACCIO: Bill.

Questions? Discussions?

All in favor -- Oh.

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

card.

CHAIR MIGLIACCIO: Good.

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

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

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

MS. SHORTALL: Okay.

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

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

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

MR. ZARLETTI: Yes.

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

MR. AHAL: Yes.

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

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

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

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

MS. SHORTALL: Second.

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

(Chorus of ayes.)

Discussion?

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

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

pending.

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

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

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

STANDARDS AND UPDATE

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

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

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

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

CHAIR MIGLIACCIO: Go ahead.

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

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

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

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

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

visits and see what's going on out there.

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

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

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

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

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

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

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

All of these are up on OSHA's

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

These are the safety ones we have

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

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

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

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

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

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

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

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

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

level.

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

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

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

The hazard communication guidance

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

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

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

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

that element of the final rule.

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

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

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

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

CHAIR MIGLIACCIO: Okay. Thank you very much.

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

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

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

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

MS. EDENS: Email you?

MS. SHORTALL: Yes.

MS. EDENS: Okay.

MS. SHORTALL: Thanks.

CHAIR MIGLIACCIO: Thank you.

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

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

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

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

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

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

CHAIR MIGLIACCIO: Okay.

MR. BEAUREGARD: Yes.

(Off the record discussion.)

MS. SHORTALL: I think I have most

of that. I have two questions. Just two.

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

(Off the record discussion.)

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

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

(Chorus of ayes.)

Opposed?

(No verbal response.)

Ayes so have it.

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

CHAIR MIGLIACCIO: Mike Thibodeaux.

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

MS. SHORTALL: Okay.

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

MR. BRODERICK: Mr. Chair.

CHAIR MIGLIACCIO: Tom.

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

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

CHAIR MIGLIACCIO: Okay. All right.

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

briefing, a rundown on it.

WHAT'S HAPPENED TO MOTIONS MADE AND PASSED

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

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

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

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

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

CHAIR MIGLIACCIO: Okay.

MR. AHAL: Mr. Chairman.

CHAIR MIGLIACCIO: Question?

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

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

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

MR. KAVICKY: I'll second that.

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

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

CHAIR MIGLIACCIO: Okay. Will you

read it again?

MS. SHORTALL: Go ahead.

CHAIR MIGLIACCIO: Read it again please.

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

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

(No verbal response.)

All in favor say aye?

(Chorus of ayes.)

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

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

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

CHAIR MIGLIACCIO: Emmett.

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

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

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

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

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

CHAIR MIGLIACCIO: You agree to amend it.

MR. AHAL: Yes.

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

(Chorus of ayes.)

Opposed?

(No verbal response.)

Ayes so have it. Thank you, Bill.

Okay. Our next presentation,

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

(Off the record comments.)

ENGINEERING SERVICES UPDATE/LESSONS LEARNED

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

(Off the record discussion.)

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

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

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

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

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

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

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

MR. BUCHET: No.

MR. AYUB: Okay. So we will --

(Off the record comment.)

Yes. Except that --

(Off the record comments.)

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

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

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

BCD and E. I can go --

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

(Off the record comments.)

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

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

MR. AYUB: Yes. Exactly.

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

MR. AYUB: Yes.

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

MR. AYUB: Okay. This is a blow-

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

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

(Off the record discussion.)

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

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

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

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

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

MR. AYUB: No, it does not.

MR. BUCHET: Not at all.

MR. AYUB: There are two pipes. There is no cantilever in that part of the bridge here.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

This is where on the day of the

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

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

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

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

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

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

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

MR. BUCHET: Five feet.

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

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

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

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

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

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

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

These are the shores which were

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

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

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

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

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

This is some of the pictures that we have.

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

(Off the record comments.)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(Off the record comments.)

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

CHAIR MIGLIACCIO: Emmett.

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

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

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

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

CHAIR MIGLIACCIO: Any other

questions?

(No verbal response.)

Okay.

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

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

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

by Hilarie Schubert Warren from Georgia Tech Research Institute.

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

CHAIR MIGLIACCIO: So moved.

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

Mike, how long is it going to take?

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

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

(Off the record comments.)

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

STIMULUS IMPACT: WIND POWER GENERATION

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

MR. JONES: How large is that?

MS. MYERS: They range, but it

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

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

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

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

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

These are essentially small wind

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

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

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

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

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

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

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

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

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

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

doubled.

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

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

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

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

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

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

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

MR. BUCHET: Okay.

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

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

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

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

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

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

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

expertise.

But essentially the Federal Tax Incentives, the production tax credit or the PTC and an accelerated depreciation have been the primary deployment incentives offered for the wind energy by the Federal Government. The PTC was originally enacted in 1992, but it was allowed to expire a handful of times. When it expired, the deployment of wind energy obviously plummeted. The PTC helps keep wind energy more competitive with fossil fuels by providing a tax credit worth 2.1 cents per kilowatt hour.

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

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

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

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

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

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

MR. BUCHET: Yet.

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

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

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

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

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

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

Now transmission, which is

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

CHAIR MIGLIACCIO: Thank you,

Michele.

Any questions of the Committee?

Michele.

MR. GILLEN: I had some questions.

CHAIR MIGLIACCIO: All right.

MR. GILLEN: Michele.

MS. MYERS: Yes.

MR. GILLEN: Thanks for a terrific presentation. I had a couple of questions. One is, I understand the grid being the large multi-state thing. But what I don't have a good understanding of is how the power from each individual unit gets to the grid. I mean, you don't see any wires. Is it underground? Is there trenching involved for example?

MS. MYERS: Yes. All of it is underground. Well, the transmission and the electricity, that all is underground. You don't have any of the external.

So, like for example, when we were discussing the crane and derrick standard, one

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

MR. GILLEN: But you do have trenching.

MS. MYERS: Yes.

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

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

MR. GILLEN: Okay.

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

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

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

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

MS. MYERS: Yes.

MR. GILLEN: Can you comment on that?

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

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

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

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

Does that answer your question?

MR. GILLEN: Not really.

MS. MYERS: Sorry.

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

MS. MYERS: Yes.

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

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

CHAIR MIGLIACCIO: Integrate.

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

CHAIR MIGLIACCIO: Okay.

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

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

down, in and out and around these towers.

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

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

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

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

CHAIR MIGLIACCIO: Okay. Any other questions?

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

CHAIR MIGLIACCIO: Okay. Thank you, Michele.

MS. MYERS: Thank you.

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

Robert, the floor is yours.

OSHA INFORMATION SYSTEM UPDATE

MR. PITULEJ: All right. Thank

you, sir.

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

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

health information that the agency collects across the country.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

CHAIR MIGLIACCIO: Any questions from the Committee?

Mr. Beauregard.

MR. PITULEJ: That's good to see.

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

compliance side and anybody else that uses it.

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

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

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

MR. HAWKINS: I just wanted to make sure.

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

MR. HAWKINS: Just get a two-wheeler.

MR. PITULEJ: Yes, sir.

CHAIR MIGLIACCIO: Any other questions?

Okay. Gus.

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

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

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

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

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

MR. PITULEJ: Let me address that and --

MR. BEAUREGARD: That's not possible.

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

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

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

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

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

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

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

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

just OSHA. Only OSHA.

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

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

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

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

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

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

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

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

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

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

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

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

MR. PITULEJ: Yes.

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

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

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

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

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

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

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

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

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

Should we stop it here, Mike?

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

MR. PITULEJ: Sure.

MR. BUCHET: You mentioned legacy.

MR. PITULEJ: Yes.

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

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

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

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

CHAIR MIGLIACCIO: Any questions from the Committee?

(No verbal response.)

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

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

MR. PITULEJ: To you, Sarah.

MS. SHORTALL: Yes.

MR. PITULEJ: Yes.

MS. SHORTALL: Okay. Thank you so much.

MR. PITULEJ: Sure. Thank you.

CHAIR MIGLIACCIO: Thank you very much.

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

CHAIR MIGLIACCIO: Of them?

MR. KAVICKY: Yes.

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

MR. PITULEJ: Sure.

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

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

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

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

MR. KAVICKY: Very good. Thank you.

MR. PITULEJ: Thank you.

CHAIR MIGLIACCIO: Other questions?

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

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

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

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

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

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

MR. JONES: Okay.

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

MR. JONES: All right. Thank you.

MR. PITULEJ: No problem. Any

time.

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

(No verbal response.)

Okay. Thank you.

MR. PITULEJ: Thank you.

CHAIR MIGLIACCIO: All right. Sarah.

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

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

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

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

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

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

construction standards.

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

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

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

Now you have everything. I'm

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

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

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

Yes, Tom.

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

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

MS. SHORTALL: Yes.

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

MS. SHORTALL: No.

MR. KAVICKY: Thank you.

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

MR. KAVICKY: Yes.

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

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

CHAIR MIGLIACCIO: That was one of

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

MS. SHORTALL: Okay.

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

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

CHAIR MIGLIACCIO: Yes, Steve.

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

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

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

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

guidelines here.

CHAIR MIGLIACCIO: Anything else?

MR. HAWKINS: Thank you.

CHAIR MIGLIACCIO: All right. Public comment. Is there anybody listed on the public comment? Bill, will you check the public comment please?

MR. AHAL: Nothing.

CHAIR MIGLIACCIO: Thank you.

Kevin.

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

Most of the language is verbatim.

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

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

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

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

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

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

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

CHAIR MIGLIACCIO: Thank you, Kevin. Good job.

MR. BEAUREGARD: Thank you.

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

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

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

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

MR. AHAL: All right.

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

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

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

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

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

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

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

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

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

CHAIR MIGLIACCIO: With the government.

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

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

All right. The next meeting -- sorry.

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

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

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

CHAIR MIGLIACCIO: Are you asking about the hard copy?

MR. GILLEN: Electronic version.

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

CHAIR MIGLIACCIO: Steve.

MR. HAWKINS: You know if it would

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

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

MR. HAWKINS: And kind of how to navigate.

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

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

MS. SHORTALL: Sure.

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

CHAIR MIGLIACCIO: Emmett.

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

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

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

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

MR. RUSSELL: Okay. Thank you.

(Off the record discussion.)

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

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

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

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

Mike.

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

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

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

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

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

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

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

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

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

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

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

CHAIR MIGLIACCIO: Any other comments?

Tom.

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

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

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

MR. KAVICKY: It's a good job.

CLOSING COMMENTS/ADJOURNMENT

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

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

(Applause.)

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

(Off the record comments.)

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

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

CHAIR MIGLIACCIO: Any other comments?

(No verbal response.)

I'll entertain a motion to adjourn.

(Motion to adjourn and seconded.)

All in favor say aye.

(Chorus of ayes.)

Opposed.

(No verbal response.)

Adjourned. Off the record.

(Whereupon, at 11:44 a.m., the above-entitled matter went off the record)

J