

UNITED STATES DEPARTMENT OF LABOR
OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION (OSHA)

ADVISORY COMMITTEE ON CONSTRUCTION
SAFETY AND HEALTH (ACCSH)
ANNUAL MEETING

DIGITAL TRANSCRIPTION

U.S. Department of Labor
Frances Perkins Building
Conference Room N3437-A/B/C
200 Constitution Avenue, N.W.
Washington, D.C. 20210

Thursday, May 10, 2012

8:00 a.m.

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

2 I. OPENING REMARKS/AGENCY OVERVIEW

3 CHAIRMAN STAFFORD: Good morning, everyone.

4 We could go ahead and get started. Welcome to the OSHA
5 Advisory Committee on Construction Safety and Health.

6 My name is Pete Stafford. I am employee
7 representative, chair of ACCSH.

8 We have a quorum here, so we might as well get
9 started, I think. Yeah. Everyone's here except for
10 maybe Tisha, who I know is coming. So let's go ahead
11 and start as usual by going around and introducing
12 ourselves, starting to my right. We'd also like to
13 introduce folks in the back of the room, and I'll say
14 this a few times to the meeting. This is a public
15 meeting.

16 For any folks in the back of the room that
17 would like to make any comments to this Committee,
18 please sign up in the back and we'll make time at both
19 the end of the day today and the end of the day
20 tomorrow for that purpose. So, with that, let's start
21 with introductions to my right.

22 MR. BARE: Hello. I'm Ben Bare. I'm the

1 deputy with the Director of Construction.

2 MR. BATYKEFER. Gary Batykefer, Employee Rep,
3 ACCSH.

4 MR. RYAN. Gerry Ryan, Employee Rep,
5 Plasterers and Smithmasons International Union.

6 MS. SHADRICK: Hi. Laurie Shadrick, Employee
7 Rep, United Association of Plumbers and Pipe Fitters.

8 MS. ARIOTO: Elizabeth Arioto, Safety and
9 Health Consultant, the public rep for ACCSH.

10 MR. THIBODEAUX: Mike Thibodeaux, Employer
11 Rep, NAHB.

12 MR. STRIBLING: Good morning. Chuck
13 Stribling, State Planning Rep. I'm with Kentucky Labor
14 Cabinet, home of the National Champion, University of
15 Kentucky Wildcats --

16 (Laughter.)

17 MR. STRIBLING: -- 2012 NCAA Basketball.

18 MR. HAWKINS: That's why he wasn't here
19 yesterday.

20 MR. CANNON: Kevin Cannon, Employee Rep, AGC
21 of America.

22 MR. GILLEN: Matt Gillen, NIOSH rep.

1 MR. HAWKINS: Steve Hawkins, State Planning,
2 state home of Vanderbilt University, who beat Kentucky
3 just days before they claimed the national championship
4 and prepared them to go on to their victory.

5 (Laughter.)

6 MR. STRIBLING: Who cares, now?

7 MR. ZARLETTI: I'm Dan Zarletti. I'm an
8 Employer Rep with ACCSH and I represent the Road Safe
9 Traffic in Chicago.

10 MR. MARRERO: Tom Marrero, Employer Rep,
11 Zenith Systems.

12 MR. JONES: Walter Jones, Laborers Health and
13 Safety, Employee Rep.

14 MR. HERING: Bill Hering, SM Electric,
15 Employer Rep, Matrix parent company and the Association
16 of Union Constructors.

17 MS. SHORTALL: Sarah Shortall, I'm the ACCSH
18 counsel, and I have my bachelors and masters from the
19 University of Kansas.

20 MR. STRIBLING: Sorry to hear that.

21 (Laughter.)

22 CHAIRMAN STAFFORD: All right. Let's go to

1 the back. We'll start I guess on Christine's side.

2 Christine?

3 MS. BRANCHE: Christine Branche, NIOSH,
4 Director of the Office of Construction Safety and
5 Health.

6 MR. SCHNEIDER: Scott Schneider, the Director
7 of Occupational Safety & Health for Laborers, Health
8 and Safety Fund North America.

9 MR. ROLKSEN: I'm Bruce Rolksen of
10 Occupational Safety & Health Reporter, BNA.

11 MR. NOSAL: Thad Nosal, Director of
12 Engineering & Safety for the Insurances Services
13 Office.

14 MS. FARQUHAR: Yemi Farquhar, OSHA, Office of
15 Science & Technology Assessment.

16 MR. MCKENZIE: Dean McKenzie, Director of
17 Construction

18 MR. BOOM: Jim Boom, OSHA, Director of
19 Construction.

20 MR. COLE: Chris Cole, inside OSHA.

21 MS. MIHILIC: Michelle Mihilic with the
22 American Wind Energy Association.

1 MR. TRIPPLER: Aaron Trippler with the
2 American Industrial Hygiene Association.

3 MR. FROST: Jack Frost, Vice President and
4 Safety Matrix Service.

5 MS. FOLEY-HERING: Lynn Foley-Hering, SM
6 Electric, MSICI, and home of the New Jersey Devils.
7 You didn't say that, Bill.

8 MR. CREASAP: Wayne Creasap, the Association
9 of Union Constructors.

10 MR. SEYMOUR: Brian Seymour, Director of
11 Construction. Go Caps!

12 CHAIRMAN STAFFORD: Ready to go? Is that it?
13 Okay. Good morning. Well, we have a very full agenda
14 today. There's copies in the back for those folks of
15 you in the audience. I'd like to remind everyone ACCSH
16 members and folks in the back if you have any comments,
17 please state your name and the organization for the
18 reporter so we can keep that straight.

19 Let me just start by saying I'd like to thank
20 all the ACCSH members and the OSHA staff, and those of
21 you in the room that have been with us for the last
22 couple of days. I think we have some really great

1 workgroups, some very informative discussions, and I
2 truly appreciate all your work on that. It was very
3 good in my view, and for myself I learned a lot out of
4 these discussions. And, hopefully, we have some
5 directions on some of these issues and items, and which
6 way we are going to proceed.

7 We have Jim Maddux, the Director of the
8 Construction, will be first on deck today, and the
9 Assistant Secretary for OSHA will follow Jim.
10 Initially, on his schedule, we actually had Dr.
11 Michaels on the second day, actually, as kind of an end
12 of a roundtable kind of discussion. And I kind of like
13 that idea, and I think it's something that we could
14 explore at future meetings as we cover a lot of ground
15 in the three or four days here. So maybe having a
16 discussion with Dr. Michaels on some of the things that
17 we've discussed around this table at the end of the
18 meeting, as opposed to the beginning of the meeting, is
19 something to think about.

20 Now, with that said, Dr. Michaels has a very
21 demanding schedule, and we all understand that. So
22 we'll take them when we get them, so it's great to have

1 them this morning and we'll hear what he has to say and
2 have some questions and discussions with him. Then
3 we're going to have a break, and we're going to go
4 through the rest of the agenda that I'll talk about
5 later. But I guess we should first get to any
6 announcements that the OSHA folks have, so then as our
7 designated government official, Ben Bare. So, Ben, do
8 you have any administrative announcements for us?

9 MR. BARE: No, the exits are clearly marked.
10 We have an exit here and an exit there. There's a
11 stairway that leads down, and then there's another
12 hallway that goes down to your left. And follow that
13 around, there's a stairway to the outside. And then we
14 have a designated meeting area. The folks here should
15 meet out front where the main entrance is to the Labor
16 Department. And then I just wanted to echo what Pete
17 said.

18 There's copies of materials in the back, the
19 agenda and so forth, and so I'd encourage you, if you
20 want copies of that, that's available for you. And
21 then also appreciate the work of the workgroups; had a
22 lively discussion on many issues, and very productive,

1 I think. And I would encourage you to continue that
2 focus and participation. So, thank you very much.

3 CHAIRMAN STAFFORD: All right. Thank you,
4 Ben.

5 MS. SARAH SHORTALL? Any announcements?

6 MS. SHORTALL: No. I will be marking exhibits
7 that will be entered into the record, and you will be
8 able to find those at www.regulations.gov.

9 CHAIRMAN STAFFORD: Ms. Chatmon, is there
10 anything else I need to cover logistically or
11 administratively?

12 MS. CHATMON: No.

13 CHAIRMAN STAFFORD: No? We're good? Okay.
14 Let's get started.

15 Jim, it's great to have you, and please.

16 II. DOC REGULATORY UPDATE

17 MR. MADDUX: Okay. Well, thank you, and I'd
18 like to kind of join in on some of these thank-yous.
19 I'd especially like to thank my own staff, Damon, and
20 all of the people who are supporting the workgroups. I
21 think they've done really, really well.

22 (Applause.)

1 MR. MADDUX: And, you know, the workgroup
2 discussions, the last couple of days, were great. I
3 hope that everybody hasn't kind of exhausted themselves
4 with that. We've still got a good long ways to go.
5 And, so, today and tomorrow we're going to have a
6 number of good speakers. Of course, the workgroups
7 will be reporting out, and I'm sure that we'll continue
8 to probe into these interesting issues.

9 I wanted to start out just to briefly go
10 through the recommendations from the last meeting in
11 December and kind of where we're at on those. You've
12 got a handout in your packet that has recommendations
13 going back a couple of years. I'm just going to go
14 through the December ones, but I will need a little bit
15 of visual assistance. So the first one is a
16 recommendation that OSHA developed construction
17 sanitation guidelines, and so we are working on that.

18 The workgroup yesterday, I think, made some
19 progress on that, and we're looking for ward to some
20 support from the workgroup and from the Committee in
21 forming those guidelines. We are also planning on
22 developing a women in construction web page, and we

1 think that that will be one of the guidelines that will
2 be featured on that web page. And that web page will
3 also deal with some of the other issues, the problems
4 with getting properly fitting PPD, and whatever else
5 that we develop as we go forward.

6 The second one had to do with I2/P2 and three
7 basic principles: that the Safety and Health Program be
8 able to operate at two levels, employer based and site
9 wide; that an injury and illness prevention program
10 needs to be responsive to the dynamic nature of
11 construction, the way that the construction works as
12 the site develops. And the Safety and Health Programs
13 must include systems for clear open and consistent
14 communication.

15 We have, of course, provided those
16 recommendations to our director of standards and
17 guidance, who will be providing a presentation later on
18 today on the status of their projects. We also have
19 team members that are on the injury and illness
20 prevention team, so we'll continue to work on that as
21 that project moves forward.

22 The third one, ACCSH recommended that OSHA

1 post the alliance roundtable fact sheets on our web
2 page or create a link to those documents. We have
3 created a link on our construction web page that goes
4 right to the alliance web page where those fact sheets
5 are located. So that's completed.

6 The Committee recommended that the Director of
7 Construction will work with the Alliance roundtable to
8 develop an outreach program and dissemination plan. We
9 are giving the roundtable fact sheets and other
10 products to the design community owners and the public.

11 This is, I think, actually sort of a long-term issue.

12 You know, this whole prevention through design concept
13 is a remarkably powerful idea that I think people have
14 been talking about for a number of years.

15 NIOSH, in particular, has done a lot of really
16 good work here. Mohammed Ayoub, on my staff, gets out
17 and talks to the engineering community quite frequently
18 as a guest speaker at some of the colleges and so
19 forth, speaking to young engineering students. And so
20 we are continuing to try to provide outreach to the
21 engineering and design community on these concepts, and
22 I think it's something we will be doing for a very long

1 time.

2 The Committee recommended that OSHA proceed
3 with a direct final rule to revise OSHA's head
4 protection standard for the construction industry.
5 That is moving forward. I think that it is fairly
6 close to clearing our departmental procedures. Dorothy
7 may be able to give us more information on that.

8 The Committee recommended that OSHA suspend
9 work on the reinforced concrete, reinforcing steel
10 workgroup, until after the request for information is
11 published and we determine whether or not to proceed
12 with rulemaking. That RFI has been published now, so
13 we are gathering information on that subject, and it's
14 coming in. We've already gotten, I think, about 8 or
15 10 comments into the docket. As I guess most of you
16 know, is sort of human nature, people work to deadline.
17 So I'm sure that as we get closer to the deadline,
18 more comments will arrive.

19 CHAIRMAN STAFFORD: Jim, just like you had
20 mentioned "Backing Operations," will this be extended
21 as well for comments beyond the June 27th deadline?

22 MR. MADDUX: Yeah. We were actually working a

1 little bit with Sarah yesterday. I think we will be
2 able to keep the regulations.gov portal open for
3 comments, probably for another 30 days after the docket
4 formally closes. And because these are both a request
5 for information, they are not a formal notice of
6 proposed rulemaking.

7 We can continue to accept comments even after
8 that. So if anybody has comments, if they can get them
9 to me or Paul Bolon or Ben, anybody on staff, we'll
10 make sure that those get into the docket and get into
11 that process. Even after the docket closes, we have
12 the capability to add documents to it from our side.
13 But I think that on this recommendation number 6, I
14 think that probably at our next meeting we will want to
15 have a discussion about whether or not that workgroup
16 should be revived, or whether we should actually have
17 that workgroup meeting during that meeting.

18 Okay. The seventh recommendation was that we
19 enlarge the scope of the backing operations web page to
20 address operating equipment with an instructive view on
21 in any direction of travel; develop separate tracks on
22 the web page to differentiate between backing

1 operations and construction in general industry; and
2 follow a recognized hierarchy of controls and feasible
3 controls. And we are continuing to work on that web
4 page. I think that that's actually very smart for
5 those, everybody who was in the workgroup yesterday.

6 David Fosbroke, you know, pointed out a piece
7 of equipment that actually had, I think it was, three
8 feet or six feet of blind spot in the front of the
9 vehicle. So these difficult to view places can occur
10 anywhere, so very important, and we are continuing to
11 work on that web page.

12 The Committee recommended that OSHA include
13 proper fit of PPE in the SIPs IV rulemaking and we are
14 working on that now. There's going to be a discussion
15 later today on SIPs IV. I'm actually hopeful that the
16 Committee will have some more recommendations for SIPs
17 at this meeting. ACCSH recommended that OSHA consider
18 including the chimney variance in SIPs IV. Similar, we
19 are taking a look at that. I think everybody
20 understands that SIPs IV has kind of an upper cap to
21 the complexity of an individual issue that can be put
22 in it. I don't know. The chimneystack variance is a

1 fairly large piece, and maybe it will work and maybe it
2 won't, but we're certainly considering it.

3 And then the tenth recommendation and final
4 one was the Committee recommended that OSHA explore
5 with NIOSH the feasibility of doing a guidance document
6 on mass claim, similar to the nail gun document that we
7 published jointly. And we are continuing to consider
8 that. Quite honestly, we've been quite involved with
9 NIOSH on a separate issue in between the last meeting
10 and this issue, and that's the fall prevention campaign
11 that we'll be discussing later on. And so we haven't
12 made a lot of really concrete progress on that, but I
13 think these joint products with us and NIOSH with Matt
14 and Christine are really a big plus. So continue to
15 work on those.

16 Yeah, Walter?

17 MR. JONES: Chairman?

18 CHAIRMAN STAFFORD: Yes, please, Walter. Go
19 ahead.

20 MR. JONES: I believe the motion was mass
21 scaffolding.

22 MR. MADDUX: Mass scaffolding?

1 MR. JONES: Yeah. On that --

2 MR. MADDUX: Okay.

3 MR. JONES: Is that different? Without
4 distinction? It's the same?

5 MR. MADDUX: Yeah. I think that's just our
6 shorthand term for it. It's probably a much more
7 technical, engineering term that may be more
8 appropriate; but, yeah, that's what we intend there.

9 Okay. Any comments or questions son the
10 recommendations from the last meeting?

11 (No response.)

12 MR. MADDUX: Okay. Well, I'll jump into the
13 update portion. Today I'll give you a little bit of an
14 update on where we're at on our standards projects that
15 are going on in the directorate of construction. As I
16 mentioned, Dorothy will be talking about the standards
17 projects in our Directorate of Standards and Guidance.

18 Many of those, of course, have an impact on the
19 construction sector. There are sort of broader rules
20 that cover a variety of industries.

21 I will give a little bit of an update on some
22 of our guidance projects, where we're at there, some of

1 our outreach work. I will talk a little bit about some
2 construction fatality data. The Bureau of Labor
3 Statistics just came out with their final numbers for
4 2010, and then finish with a little bit of a discussion
5 about safety and health campaigns. And Dr. Michaels
6 will be adding some remarks to that, as well, when he
7 joins us.

8 The RFI for backing operations and proposed
9 tension steel and reinforcing steel has been published.
10 It is open for comment now. And so I would just
11 highlight, try to recommend that people take a look at
12 that. It does have a very large number of questions, I
13 believe, 93 questions on the two subjects, and
14 encourage people to comment on those two important
15 topics. Backing operations, as we've discussed, is a
16 very serious problem, results in 60 fatalities per
17 year, approximately. About half of those in
18 construction, and some of those are remarkably tragic.

19 I think that when we look back over -- I think
20 it was a five-year period -- we found at least three
21 cases where it was either a father that ran over his
22 son, or vice versa; so, a really horrible toll from

1 these backing accidents. This is also working in
2 tandem with a rulemaking by the National Highway
3 Transportation Safety Administration that is working on
4 a rule for over the road vehicles that would require
5 back-up cameras, I believe, in particular, for all
6 vehicles that are 10,000 pounds in gross vehicle
7 weight, or less.

8 So that NHTSA rule, which I think we
9 published -- my understanding is that they're trying to
10 publish that by the end of the year -- would provide
11 back-up protection for all of our light vehicles, for
12 all of the pickup trucks and vans, and so forth, on the
13 construction site. If we can do something with the
14 larger equipment, we may be able to do some real good
15 here on this very difficult issue.

16 The post-tensioning and reinforcing steel, of
17 course, a rebar, is in almost all of the concrete that
18 we pour and concrete is a material of choice in the
19 construction industry. So there are a lot of standards
20 there that we have already on the books. They're sort
21 of scattered about, and so the idea here is to try to
22 pull those together into one place and add some

1 improvements to those.

2 The second thing that we have in the pre rule
3 stage is our standards improvement process, which we've
4 been discussing with the Committee and gathering
5 candidates from a variety of sources, both from our own
6 people here at OSHA. We've done a polling of all of
7 our field offices, and so forth, talking to people
8 about candidates that they think would be appropriate.

9 Paul would be talking about the candidates that we
10 have kind of identified so far; and then I'm hoping
11 that the Committee will be able to provide us with some
12 additional ideas for things who would be helpful to
13 move forward with there.

14 We are also working on several final rules on
15 construction. The biggest of these, of course, is the
16 confined spaces standard, and I've talked about this at
17 length. This has been a problem for many, many years.

18 We've had a compliance spaces standard for general
19 industry but not for construction. So this will help
20 finally bring us up to where we have equal protection
21 for construction workers from these confined space
22 accidents, and we see these on a continuing basis. You

1 know. We get our press clips and fatality reports from
2 the field, and there continue to be a lot of problems
3 in confined spaces. And I'm hopeful that we can
4 really, you know, reduce the fatalities and the
5 problems that are going on there.

6 Cranes and derricks, and underground
7 construction and demolition, that's actually
8 approaching the end of its clearance process in the
9 Department of Labor; and, so, we're very hopeful that
10 we'll begin a discussion with OMB probably by the end
11 of the month on that issue. The cranes and derricks,
12 digger derrick exemption, that has to do with one of
13 the lawsuits from the crane standard. the one that was
14 brought forward by the Edison Electric Institute. And
15 so we are going to make a little bit of a tweak in the
16 stand for digger derricks that will match up,
17 basically, to the settlement agreement that we have
18 with EEI on that issue.

19 We have, actually, a fourth final rule that
20 we're working on, which is sort of a series of
21 technical corrections to the standard. There are
22 several places where there are just typographical

1 errors. There are a couple of definitions that were
2 laid out in the preamble that we erroneously did not
3 include in the regulatory text that we would like to
4 actually get into the reg text. And there is one
5 caption on one of the hand signals that's incorrect
6 that we would like to get fixed. So that's what that
7 final rule we'll work on is sort of cleaning up some of
8 those things that were minor errors in the final rule.

9 You'll notice that none of those talked about
10 proposed rules, and that is actually sort of a little
11 bit of a problem for us. We are in a phase that we've
12 gotten through the crane standard, where we have got
13 confined space. We have got a few things that are in
14 the pre rule stage, especially this reinforcing steel
15 and SIPs, and the back-overs. We are still in the
16 early stages of that, so we still don't actually have
17 right now a rule that's sort of racing towards the
18 proposed stage. So that's the gap that we're going to
19 be trying to work on as soon as we get some of this
20 work done is, okay, what's the next one that we can
21 really get moving on to get into the proposed part of
22 the process.

1 These are some of our construction directives
2 that are under development. Highway work zones,
3 actually, is also really close to its final clearance,
4 kind of with us and our solicitors, and our regional
5 offices, and so forth. And so we're going to be
6 starting our departmental clearance process on that
7 next week. It could be very exciting. The title here
8 might be a little bit misleading. This has to do with
9 more than just highway work zones in terms of highway
10 construction projects.

11 You know, our safety requirements for people
12 that are working in the middle of the roadway apply to
13 any kind of construction where people are getting
14 themselves out into traffic. So, for example,
15 oftentimes you will see workers who are maybe
16 installing like a series of telephone lines or some
17 other kind of telecommunication line. They were
18 working into the roadway. They were blocking off lanes
19 of traffic. Those rules apply to them as well. So,
20 you know, it's a very serious problem. It's just like
21 the back-overs when you have people that are getting
22 out into traffic. That's a particularly hazardous

1 situation, and so we want to make sure we are enforcing
2 our standards consistently, and of course that we are
3 also taking care of the safety of our own staff that
4 are getting out into those worksites.

5 The other really important one here is our
6 cranes and derricks directive. We've got a team
7 working on this of about four staff from the
8 directorate of construction and one solicitor. And
9 we're really trying to work through this and get it
10 into the clearance process. This is a really important
11 directive, so that we can really start to pick up our
12 enforcement of the crane standard.

13 We are issuing citations now under the crane
14 standard, but we want to make sure that we are doing
15 that consistently and effectively. And so we're trying
16 to get through this cranes and derricks directive that
17 can be incorporated then into a training course on
18 cranes and derricks from our director of training and
19 education, and so that we can really start to make sure
20 we are implementing the crane standard as it was meant
21 to be implemented. The others here are really sort of
22 more technical things that we're certainly trying to

1 work through, but they're not the same level of
2 priority.

3 Guidance products, as I think most of you
4 know, we've done a really tremendous amount of guidance
5 work in the last year. We've been continuing to
6 provide guidance on the crane standard for the
7 residential fall protection issue have been our major
8 focus, and we've been trying to do a lot on letters of
9 interpretation. We get a constant stream of letters of
10 interpretation, and so we continue to try to answer
11 those questions and get those letters out there so that
12 people know what our expectations are.

13 Some of these are on very, very sort of
14 specific issues that probably apply only to that actual
15 construction job, but some of them are broader in
16 scope. And so, I think, kind of tying back to the
17 crane directive, I think that a lot of people kind of
18 have an expectation that the crane directive is going
19 to include a lot of interpretations, and so forth, that
20 try to explain the crane standard. And there's
21 probably going to be some of that, but the real focus
22 of the directive is to try and talk to our folks in the

1 field about how to enforce the crane standard. You
2 know. The crane standard is complicated enough that
3 we're trying to keep really focused on that part of the
4 issue, and we're trying to do our interpretations
5 through other vehicles, either through letters of
6 interpretation or through frequently asked questions.

7 So, that being said, we have a series of
8 frequently asked questions we've been running through
9 clearance for the crane standard. We have, I believe,
10 25 FAQs that came up when the crane standard was first
11 published, and I think that those helped people quite
12 a lot. We've been clearing a second set of almost 30
13 FAQs and those actually just cleared this morning. So
14 we have a couple of small corrections that we're making
15 to them today. We will probably be able to provide a
16 full set of those FAQs to the Committee tomorrow.
17 That's what we're working toward.

18 We are also continuing to do FAQ sheets for
19 the residential fall protection issue; and, like I
20 said, the letters of interpretation we've had, I
21 believe, three or four letters of interpretation on the
22 crane standard and a number of others that continue to

1 go up. Maybe I'll describe a couple of those if I
2 could find Jim's notes here.

3 We also continue to try to keep our web page
4 updated, so these are a couple of items that we've put
5 up since our last meeting. "The structural collapses
6 during construction: Lessons learned 1990 to 2008," is
7 a very interesting piece. It was actually authored by
8 Mohammad Ayoub in our office at Construction
9 Engineering Services, and it actually walks through 96
10 structural collapses and kind of a brief synopsis of
11 the findings of those collapses. It's a very
12 interesting thing.

13 As you started to go through these, there are
14 themes that do kind of pop out. You suddenly start to
15 see, okay, some of these are actually design errors
16 that occurred during the design of the building. A
17 much larger number of them are places where the
18 construction project did not follow the design diagrams
19 in some way or another. You know. So the plan was
20 there, but the plan was not actually executed. And so
21 there was a collapse as a result.

22 And the third category, and one that is a

1 particularly troubling, I think, is field changes. And
2 so a large number of these are also caused by field
3 changes where for whatever reason -- and field changes
4 of course occur on any good-sized construction project,
5 but a lot of these times there's a field change. The
6 field change was not brought back to the original
7 design engineers and really thoroughly examined to make
8 sure that all of the engineering calculations were
9 still going to be correct for that structure.

10 And so one of them that kind of highlights
11 this was a job that was going on up in New York where
12 apparently somebody with a lot more money than me
13 decided they were going to put a basketball court in
14 their back yard. And they were going to put it under
15 brack. Okay. So it would be an indoor basketball
16 court, and so they had this designed and then dug this
17 large excavation in their backyard, put in this
18 basketball court. And, as they were deciding to put in
19 the basketball court, the owner realized that the court
20 was not a full NBA sized basketball court. So he said,
21 "I'm spending all this money. I want this to be a
22 full-size court." And so they made some field changes.

1 They had a few sort of light conversations
2 with the design engineers, but not enough. They went
3 ahead and completed the job. They basically just
4 worked out the steel beams that were going to be going
5 across the top of this project. They put in the steel
6 beams; they poured a concrete roof over the structure.
7 They were filling in the dirt, back on top of the
8 structure, and the whole thing collapsed. So, luckily,
9 there was nobody underneath, so the collapse didn't
10 fall on top of anybody.

11 There were two workers on top that were
12 helping to move some of this soil around it -- they
13 were arranging -- that went down with it that had minor
14 injuries, but nobody was killed. But in our
15 investigation, it turns out that they had not really
16 reengineered those steel beams; and so really it was
17 just a matter of time. It was actually probably lucky
18 that it fell then instead of later on when there were
19 actually people using that, after it had been turned
20 over to the owners.

21 We've also updated our prevention through
22 design. As we mentioned, you know, gotten some of the

1 links over to the fact sheets and so forth, and we
2 posted a number of new letters of interpretation. One
3 of them, for example, was on fall protection for metal
4 stud walls around stairwells to serve as protection.
5 And so there was a concern of whether or not the metal
6 studs were going to be treated the same way as wood
7 studs. And so, yes, of course, they are.

8 These are some of the residential fall
9 construction productions. We have three more fact
10 sheets that are working through. We have a total now,
11 when these come out probably next week or the week
12 after, we'll have a total of nine fact sheets. So
13 we're going to have one on working in attics, one on
14 putting up walls, and one on floor choice and decking.

15 These, I think, have been very, very helpful. We have
16 had really good distribution on them.

17 When we first came out with the residential
18 fall protection directive, the industry came to us with
19 10 issues that they said we're getting a lot of
20 questions from our membership about what's feasible or
21 what they should do for these operations. And so we
22 basically have been producing a fact sheet for each one

1 of those. The tenth one is a truss built construction,
2 where you actually sort of design, you know,
3 rafters -- not trusses, but rafters that are built
4 actually in place.

5 And we've got plans to get out and do a couple
6 of site visits. We have a couple of places around the
7 country where people will tell us that they've got some
8 solutions to these problems, and if we can get out and
9 get some site visits, that will probably be our tenth
10 and last fact sheet on this issue unless something new
11 pops up.

12 We also have a '98 guidance document that was
13 out that we wanted to revise to make sure it was
14 consistent with the new policy. So grouping documents,
15 we've got a very nice video from the state of
16 Washington that we're trying to put up that shows a
17 roof truss installation using a bracket scaffold system
18 around the perimeter, and then people inside the
19 structure rolling the trusses up that is a very nice
20 method. This has been one of the things that comes up
21 around the country all the time is how to install roof
22 trusses safely. And this video from the state of

1 Washington does a really nice job of showing that in a
2 live way.

3 Of course, video has a very nice power
4 compared to written documents, as people know from the
5 animated videos we put up last year, and they were
6 doing a lot of work on English to Spanish translations
7 for the video and outreach projects. We're especially
8 trying to get the nine fact sheets translated into
9 Spanish. It's been a big focus.

10 And then this is one of our hundred most
11 frequently cited standards that we're trying to get
12 through the clearance process. We got this drafted,
13 and quite honestly, actually it's sort of a shame.
14 It's just been given a lower priority than some of the
15 other issues, unfortunately. There's just only so much
16 people and time to go around.

17 I wanted to talk a little bit about the BLS
18 stats on fatality data. So these are the data for the
19 last five years that are available. The preliminary
20 2011 data will come out, I believe, sometimes in June.
21 The final 2010 data just came out. People don't know
22 the way that the BLS fatality statistical system works,

1 what they call the census of fatal occupational
2 injuries, or CFOI, is they collect data from a number
3 of sources. So this is not a statistical survey in
4 terms of sending out survey instruments to a
5 representative sample.

6 It's actually a census trying to count each
7 and every fatality that occurs in the United States.
8 And so they collect data from, I believe, it's 14
9 different sources, everything from death certificates
10 to worker's comp, to OSHA, press clips, whatever they
11 can find. And they will not include a fatality in the
12 census until it's been verified through, I believe,
13 three different sources.

14 Okay. So what happens is that when they get
15 to the end of the year, they will have some number that
16 have been partially verified, but not completely. So
17 over the next year, if they give more information about
18 that particular fatality case, then they'll include it
19 and they update the numbers. So they will update the
20 numbers about a month before they come out with the
21 preliminary numbers for the next year, so that you're
22 kind of comparing apples to apples.

1 So where we're at, 2006-2007, we were running
2 in this 1200 range that we've been at for many, many
3 years -- a huge number of fatalities. 2008, big
4 downturn in the economy. The construction industry was
5 hit very, very hard, and our fatalities came down about
6 25% down into this 8-900 range. And they've gone down
7 a little bit each year at the 2010 range. You see
8 employment actually went down about the same amount.

9 So when you look at the fatalities per 100,000
10 workers, what we see is between 2007 and 2008 we did
11 see it drop. So for whatever reason, because of the
12 type of construction changed during the downturn or
13 because people, perhaps very wisely, tried to keep
14 their highest quality workers and protect them during
15 the downturn, and perhaps those were the safest
16 workers. I'm not sure that anybody knows exactly why,
17 but we see this pattern kind of in economic downturns.

18 This fatality rate came down by almost a full
19 point. And what we see now is that really over the
20 last three years, that had stayed just stationary,
21 979998. So we're really, in terms of are we getting
22 safer on our construction projects, this would indicate

1 to me probably not. So we're not making gigantic
2 progress here in terms of actually really bringing down
3 the rates, which I think tells you where the practices
4 are. So there's still a lot of work yet to be done.

5 This gets into the focus for work out of the
6 four top causes of construction fatalities, and these
7 have remained constant for many, many years. Falls to
8 a lower level is always the largest producer. Struck
9 by incidents, electrocutions, and caught in between
10 incidents bring up the other three. And so we have a
11 lot of even focus for training documents and things to
12 try and go at these because of the fact that these
13 continue to be our highest fatality producers.

14 When we look at falls, which is the leading
15 cause of fatality, this has also been very consistent.

16 We have three, major sources of fatal falls: falls
17 from roof, falls from scaffold, fall from ladder. We
18 also have every year about 10,000 lost workday injuries
19 due to falls. And I presented at the last ACCSH
20 meeting, we had some data showing that the direct cost
21 to worker's compensation of lost workday falls, which
22 is lost workday -- not one or more days that we use on

1 the 300 log, but the three to seven days that's used in
2 worker's compensation.

3 The average cost in one of those falls is
4 about \$100,000. Indirect costs are probably at least
5 double that. So that brings me then to our fall
6 prevention campaign, which is a very exciting effort to
7 try and do something about these falls to raise
8 awareness of these falls. And so we've been working
9 together with NIOSH, with the NORA Committee, and with
10 us here at OSHA.

11 We've also been working with our departmental
12 folks, our office of public affairs to develop an
13 outreach in education program, an awareness program on
14 preventing fatal falls in construction. And we handed
15 out yesterday at the workgroup on outreach and
16 training, and you have in your packets the posters. We
17 have a fact sheet. The fact sheet, not surprisingly,
18 focuses on the three issues: roofs, ladders and
19 scaffolds, where most of these falls are taking place.

20 And so we're really trying to increase awareness
21 amongst workers and employers about the need to try and
22 prevent these falls and try and pick that up.

1 I really do want to point out that this is not
2 an enforcement campaign on falls and we have had ever
3 since this agency was created. You know, fall
4 citations continue to be our number one citation on
5 construction jobs is for fall protection, for
6 scaffolding issues, for ladders. When you look at the
7 top 10 standards that we cite, these are on there every
8 year. So we don't need to have a new enforcement
9 outreach program or enforcement initiative in this
10 area. We're doing a lot there. This is trying to work
11 on the awareness part, to try to get people aware of
12 the problem, to try and get training resources, and to
13 get other things like that in their hands.

14 So this is actually a copy of the poster and
15 some of the information that we have there. And so
16 kind of the idea is plan: Plan ahead to get the job
17 done safely. Provide: Provide the right equipment for
18 the job. This is, particularly, we see it with ladders
19 a lot of times. People do not get the right ladder for
20 the job, and to train: Train everyone to use the
21 equipment safely; and that's a very key component.

22 And so there are three different websites that

1 have gone up since this is a joint campaign. We put up
2 a website at OSHA that we're really, very, very proud
3 of. We think that we've done a really good job on
4 putting that together. I think we've done a good job
5 on trying to keep all of our materials in plain
6 language. All of the materials are available in both
7 English and Spanish.

8 We also have a web page that NIOSH has put up,
9 which is also a good web page that points more to,
10 focuses a little bit more on the research aspects and
11 that sort of thing. And then the NORA Committee has
12 put up a web page through the CPWR with Pete's help.

13 And that web page also has sort of a different
14 catalog of resources, training materials and things
15 that have come up, research that CPWR has done on the
16 issue and those kind of things that are available for
17 people. And then all of the websites are sort of
18 linked together, so that we have this fairly
19 comprehensive package of materials that are available
20 for people as they try to learn about how to prevent
21 falls and look for resources to help them in that
22 effort. And so we've been talking this up.

1 One of the things that we did that we learned
2 from our nail gun guidance that we did last year is the
3 nail gun guidance -- I'll just mention it briefly, has
4 been a tremendous hit. I think we were approaching
5 about half a million hits on the website now on the
6 nail gun guidance and it's actually been picked up by
7 Amazon and is available for your kindle book reader
8 through Amazon, which I have never known of another
9 OSHA product that has been picked up, you know, by that
10 venue. So it has been extremely popular and we have
11 very high hopes that it's going to be good for people.

12 So one of the techniques we use when we roll
13 that out is that Christine and I did individualized
14 e-mails to a large number of stakeholders, key
15 stakeholders that we thought could transmit the
16 guidance out very, very quickly, and news about the
17 campaign. And that was very effective for nail guns,
18 and so we did the same thing for this campaign. And so
19 we started getting back, then, of course, e-mails about
20 what people were going to do.

21 And, so we had individual companies that were
22 like, "Yes, I'm going to order." You know. "I've got

1 a hundred projects going on and I'm going to order a
2 hundred copies of the poster and put them up on each
3 one of the projects" -- quite a few e-mails of that
4 sort -- labor unions doing some of the same thing.
5 We're going to get these up in all of our union halls
6 and we're going to provide training to all of our
7 members.

8 We had a very good offer, or a very nice one
9 from Bill Parsons who used to work here in the
10 Directorate of Construction. He was here yesterday. I
11 don't know if he's made it today. He is sending all of
12 his material out to his 1200 occupational safety and
13 health professionals in the Air Force, who will then be
14 training 600,000 civilian workers in the Air Force on
15 fall protection.

16 We had also happened to meet -- we put this
17 out last Thursday -- and we'd happened to meet earlier
18 that day with a company that sells construction
19 equipment, aerial lifts, and so forth. And one of the
20 folks that came in to meet with us was their
21 representative, their sales rep in China. And, so,
22 while they were here I talked to them about the fall

1 prevention campaign, and they were like, "Oh, yeah.
2 That's really exciting." And they told us about a big
3 fall prevention effort that's going on in China where
4 they're trying to reduce the amount of wooden
5 scaffolding by half, bamboo scaffolding that is still
6 very popular in the Southeast.

7 And so one of the fall prevention methods of
8 the Chinese Government is engaged in is to try and
9 reduce that. And so when we were sending you the
10 individual e-mails, I sent them out to the people that
11 we had met with the day before, and this guy sent them
12 immediately to his counterparts that are doing safety
13 and health work in China. So the campaign was actually
14 able to go international in its first day. So, you
15 know, lots of good things that people are doing to try
16 to get out the word, to try and get out awareness, to
17 try and actually get people to do the right thing for
18 fall protection, and to know what they need to do.

19 So that's what I've got for you guys today.
20 I'd be happy to take any questions or comments on what
21 we've got going.

22 CHAIRMAN STAFFORD: Thanks, Jim.

1 Any questions from the board?

2 MS. SHADRICK: I have a question. Laurie
3 Shadrick. You talk about your Directorate of
4 Construction Standards update. You have a final rule
5 focused on construction, and one of those was "Confined
6 space." Can you tell me what the final ruling on
7 "Confined space" means and where it's at?

8 MR. MADDUX: Well, where it's at. We issued a
9 proposed rule on confined space several years ago;
10 actually, even before we proposed the crane standard.
11 And that proposal, we went through notice and comment.
12 We held hearings. The vast majority of the comments
13 we got back on that were we would actually like to have
14 a confined space standard for construction that looks a
15 lot more like the confined space standard for general
16 industry. Okay. So what happened is that when the
17 crane issue then really heated up, then we had a big
18 focus, a big push to try and move the crane standard.
19 And so we put almost all of our people on the crane
20 standard, and really pretty much set aside the confined
21 space standard.

22 So we worked through the proposal on cranes,

1 worked through the final rule on cranes, and got that
2 out. Almost immediately after we got that crane
3 standard out, then we moved our focus back to the
4 confined space standard, and so now we're just finally
5 getting to where we got our regulatory text and almost
6 all of our preamble. We still have one section that
7 we're trying to close with our solicitors on; and, in
8 our economic analyses and so forth. And so now we're
9 moving into that clearance process where we're hoping
10 to issue a final standard by the end of the year.

11 CHAIRMAN STAFFORD: Liz?

12 MS. ARIOTO: I know I discussed this
13 yesterday, Mr. Maddux, about the NIOSH product on the
14 nail gun. And I was wondering if NIOSH on the next
15 release could add ACCSH as being a part of production,
16 giving input to the guidance document.

17 MR. GILLEN: So you're saying, put out a new
18 addition, new printing, or something like that to put
19 up front.

20 MR. MADDUX: I don't see that as being a
21 particular problem. It looks like we'll need to have
22 another printing, probably within the year.

1 CHAIRMAN STAFFORD: I know how many prints you
2 have. How many hard copies have actually gone out? Do
3 you know?

4 MR. MADDUX: I am not sure. I think that we
5 printed on the first run 10,000, and I think that we
6 are close to ordering a second printing. So, yeah. We
7 have gone through very, very large quantities of them.
8 It's been a remarkable product, and you raise a good
9 point there. There's been a tremendous amount of work
10 that went into this joint OSHA-NIOSH product that they
11 came together on. This Committee did a lot of work.

12 CPWR has done a lot of work. Hester Lipscomb
13 down at Duke University had done tons and tons of
14 research. The carpenter's local in St. Louis had done
15 a lot of work on this, and actually had provided a lot
16 of work places and access to workers, and to work with
17 employers in St. Louis so that Hester could continue
18 her research. So it really is a culmination of a lot
19 of efforts by a lot of different people around the
20 country for many, many years that finally got us to
21 this point.

22 MS. ARIOTO: And if we can, in addition, put

1 those out, I think that would help.

2 MR. GILLEN: Historically, the NIOSH and OSHA
3 documents don't have any information about who wrote
4 it, or anything like that. And I think what we're
5 hearing is that partnering is a good way to do things,
6 and when you partner you involve lots of people. And,
7 if we're going to do more of these partner type
8 products, that we could put more information in there.

9 CHAIRMAN STAFFORD: You know. This is an
10 issue that we have discussed before, both on joint
11 sponsorships of hard copy products or websites, and
12 it's not like a lot of things. It's not quite as easy
13 as it seems in terms of how you go about doing that.
14 But I think in this particular case, if it's
15 appropriate, even if you couldn't cope, ran something
16 that there's a certain acknowledgment, you know, and
17 somehow in the document that you have certain partners
18 that have significant input, that those documents, I
19 think, would be appropriate.

20 MR. GILLEN: It's not in the document. The
21 cover letter from Dr. Howard and Dr. Michaels was all
22 about the ACCSH recommendation, but not in the document

1 itself.

2 MR. MADDUX: No. I think actually a little
3 bit of a lesson learned. I've been thinking about this
4 quite a bit. I mean it's been this issue of how do you
5 really acknowledge, you know, all of the work that
6 precedes one of these documents going out. And one of
7 the ideas that I've had that we might look at in future
8 documents is some kind of assured peace, maybe even an
9 appendix that talks about the process that led to this
10 publication.

11 You know, because there really is a whole
12 process that sort of builds up over a period of time
13 that finally gets you to one of these things being
14 published; and, maybe just a one-page, almost maybe
15 like what we did in the letter that Dr. Howard and Dr.
16 Michaels signed that would talk about how we got here
17 might be a nice way to do that. And it might also just
18 be a nice way for people that used the document to
19 understand what went into creating it.

20 CHAIRMAN STAFFORD: Right. But, certainly
21 clearly, Jim, the power of OSHA in terms of the hits
22 you've got on that has just really been remarkable. If

1 you think about a half a million hits on a document, if
2 we had done that without OSHA, it wouldn't have been
3 anywhere close to that. Right?

4 MR. MADDUX: Well, I'd like to think so.
5 Yeah. I think the joint publication and bringing
6 together the skill sets and the resources from all of
7 the different groups has been it really is in my mind a
8 gigantic success story about how to get some really
9 good safety and health information put together and get
10 the right people looking at it. You know.

11 I mean, I'm actually really looking forward to
12 maybe a year from now being able to report to you on
13 the number of injuries that we have for nail guns. You
14 know. Because we've got the emergency room data that
15 we know that there's some 37,000 nail gun injuries or
16 emergency room visits from nail gun injuries per year,
17 and it will be really interesting. You take a look at
18 that in a year or so, and see if we've seen some
19 change.

20 CHAIRMAN STAFFORD: While we're on the
21 subject, CPWR is going to go ahead and proceed and put
22 out a companion document, a hazard alert card, targeted

1 to educational piece specifically for workers. The
2 guidance document that we're talking about was more
3 targeted toward the employer supervisor. Any other
4 questions or comments?

5 MR. HAWKINS: You know, Jim. I wouldn't like
6 that unless the document is amended to include all
7 those partners. I don't think it would be appropriate
8 for Ed Cox to be listed unless they're all listed.
9 Because Dr. Lipscomb, you know, did a lot of work and I
10 mean I personally feel like more work that we did. So,
11 unless the document's amended to include everybody, I
12 don't personally think it's appropriate for just our
13 Committee to be.

14 CHAIRMAN STAFFORD: Just this group?

15 MR. HAWKINS: Not really. And, I mean, Jim
16 probably knows who all the partners are.

17 MR. MADDUX: I'm not sure that I really know
18 who all of them are.

19 MR. HAWKINS: Well, somebody.

20 CHAIRMAN STAFFORD: All right. Well, if there
21 is a second printing, then maybe we need to revisit
22 this and take a look at and we'll work with you on

1 crafting the acknowledgment or the language, or all the
2 partners that we think should be included in the
3 revised version for that purpose.

4 MR. HAWKINS: It also might encourage others
5 to partner in the future, if they see some
6 acknowledgment. They may just think OSHA thinks up all
7 this stuff on their own and with no input. And, you
8 know, it does make it a little broader, have a little
9 broader appeal if people see there are a lot of
10 participants in the process.

11 MR. MADDUX: You know, it's actually sort of
12 a --

13 MR. HAWKINS: Grass roots thing, almost.

14 MR. MADDUX: It is a little bit of a grass
15 roots thing, and I think that's what you actually see
16 with almost all of these pieces of work that come out.
17 You know. You come out with this finished product,
18 but there are an awful lot of things that go into
19 building those. I mean whether it be getting out of
20 doing site visits so you can actually get information
21 about what the right safety practices are, and to get a
22 little bit more of a hands-on feel for what people are

1 doing to deal with those problems, or the people that
2 are doing more of the academic research approach. You
3 know. There are a lot of players that come into these
4 projects to get the right things to come together.

5 CHAIRMAN STAFFORD: You know, speaking
6 of -- I'm sorry. Let's go ahead.

7 MS. ARIOTO: Just like people in an
8 Association actually came in and presented theirs, and
9 I think they should be also included. Hester Lipscomb
10 was excellent. I spoke with her many times on the
11 telephone, and she was a great help on our Committee on
12 that one. But there are other people that should be
13 just as qualified.

14 CHAIRMAN STAFFORD: Yeah. Thanks. Tish?

15 MS. DAVIS: This is Tish Davis. I just want a
16 second. The nail gun document is absolutely terrific,
17 been very well received in Massachusetts. What I want
18 to caution about acknowledgments; or, not caution,
19 because I really need to be there. But having worked
20 on many kind of root projects at the state level, you
21 need to think systematically about who you're going to
22 acknowledge, because it turns out to be much more

1 complicated than you ever thought.

2 Because if you leave off someone who thinks
3 they should be acknowledged, you think you need to
4 develop a framework, but thinking about who are the key
5 partners. Are they the researchers? So, I just need
6 to put that on the record.

7 MR. MADDUX: Well, that's what I was thinking.

8 That's what I was thinking more about this piece; you
9 know, just sort of a few paragraphs talking about sort
10 of the historical perspective about how the document
11 grew up might be a nice way to do that.

12 CHAIRMAN STAFFORD: Yeah. Me too. Mr.
13 Stribling?

14 MR. STRIBLING: Sort of a two-part question:
15 Number one, this may be rhetorical; but, why is it so
16 popular? I mean, really, why has that document taken
17 off like it has? And if we could figure that
18 out -- and you mentioned you had the residential
19 construction industry come to you and you had the 10
20 projects that you're working on, and you're down to the
21 tenth -- has there been any thought to some type of
22 similar guidance document in conjunction with the falls

1 campaign? If you knew what the magic in the bottle was
2 for the nail gun document, and could paint that segue
3 over to something similar that could piggyback on with
4 the campaign --

5 MR. MADDUX: No. I'm not sure that we do know
6 what the magic in the bottle is. You know.

7 MR. STRIBLING: And it's even more amazing to
8 me that it's been that popular and OSHA does not
9 directly get involved in social media. If you did, I
10 can only imagine.

11 MR. MADDUX: Yeah. I do have a couple of
12 ideas, you know, that I think might be part of what
13 made it popular. I think that one of them is that
14 these incidents are popping up in the news every once
15 in a while in the popular media. And the reason why is
16 because we've got these really dramatic X-rays that go
17 with them, like the X-ray that we used on the cover of
18 the document. And so people do have, I think, somewhat
19 of an awareness. Yeah. These things can really do
20 some damage to you.

21 Another piece of the puzzle, I think, is this
22 also has a very big cross over from occupational safety

1 to homeowner safety, because a lot of people are using
2 these things at home for your own do-it-yourself
3 projects as well. So I think it has run not only
4 through the business community, but also through the
5 do-it-yourself community.

6 And then I think, actually, just the dramatic
7 nature of the injuries, you know, has driven a lot of
8 it. But it would be an interesting -- sort of a
9 back-end sort of a research project to take a look at
10 it. Okay. What are those, you know, sort of
11 psych-social factors that have driven the popularity of
12 it?

13 MR. GILLEN: We do hope to try to do some of
14 that, more evaluation of it.

15 CHAIRMAN STAFFORD: I was going to say that I
16 think for all things, including the campaign you talked
17 about, Jim, is we're be developing an evaluation piece
18 for that because we have to better understand what
19 mechanisms are responsible for the reach that we're
20 getting out of that campaign.

21 Christine, could you?

22 MS. BRANCHE: Christine Branche, NIOSH. I was

1 simply going to say that we really aren't leaving that
2 to chance. As Pete said -- sorry. As Mr. Stafford
3 said, CPWR is playing a substantial role as is NIOSH
4 and several other individuals in designing an
5 evaluation component for the campaign. And we've been
6 working on the campaign at such breakneck speed that
7 some of the evaluation elements for the nail gun guide
8 had been, you know, need more people, more time, more
9 money.

10 But it's not that it's been left undone. It's
11 just that you've been a bit distracted. So there are
12 some evaluation elements that are expected for the nail
13 gun guide. We've been working with staff at CPWR NIOSH
14 and OSHA together in our smaller Committee to be able
15 to address that.

16 CHAIRMAN STAFFORD: Thanks, Chris. Any other
17 questions or comments on this issue or any other? You
18 know. I think the fatalities campaign as we talk about
19 partnerships is increasingly important as we tried to
20 move things. And, Jim, you had mentioned earlier kind
21 of where we're at in pre rule stages, and we have to
22 get things in the cue. And I think until we can make

1 that push, the next best thing we've talked about and
2 can do -- and that's why we established the training
3 and outreach committee -- is to figure out what we can
4 do to get information out in short of new regulations
5 coming in the pipeline.

6 So, and I think developing partnerships, so
7 that all stakeholders are involved in that process, is
8 clearly kind of model where we need to be heading. And
9 this falls campaign is that. It's a lot of groups of
10 unions and employers that are participating on the
11 Norris Sector Council with NIOSH. And there's certain
12 things that you have to do as a group in bringing
13 partners and to bringing resources to bear.

14 And there's a lot of opportunities, I think,
15 that we can take advantage of all the groups that are
16 in here of their resources, things simple as getting
17 information or ads in their own magazines or that kind.

18 Those kinds of issues where it doesn't really take a
19 lot of resources to throw into it, but we all have our
20 mechanisms of getting things out, and I think that's
21 very important in the falls campaign.

22 I mean I see Scott, and I have to give Scott

1 Schneider very much credit with the Laborers Health and
2 Safety Fund. He's just put in an incredible amount of
3 work under the Norris Sector Council, pulled this
4 together. And Christine, Matt and others, I mean, this
5 has been a true partnership. And I appreciate what
6 OSHA has done and the rest of the group.

7 MR. MADDUX: Yeah. I think that's right, and
8 I think that that partnership is continuing. You know.
9 So the campaign will be working through however long
10 we've decided to run it. And so we'll be continuing to
11 produce new products, add new things as we go along, so
12 that there will be the new activities going along.

13 We've got some people working on a drop-in
14 article for magazines and media folks that we can use;
15 you know, that we can put up on our media tab. You
16 know. We're looking at putting up a training tab on
17 our website that can point people just to specific
18 training resources; and, then, of course, continuing to
19 produce guidance products and other things. We have
20 right now a toolbox sticker for the campaign that's at
21 the printers. And the stickers will, I think the first
22 batch will show up from the printer probably next week.

1 You know.

2 So we're going to continue to try and have
3 other sort of pushes as the campaign goes on so we can
4 continue to have announcements, you know, about maybe
5 once a month of new activities that are going on or new
6 products that are becoming available. And we're going
7 to need, actually, I think get together in the next
8 couple of weeks to kind of put together our best plans
9 for all of the players to continue to do that.

10 CHAIRMAN STAFFORD: Yeah, Chuck. Please.

11 MR. STRIBLING: I'm glad you said that. The
12 art work in the posters, in the stickers, in
13 Kentucky -- and you've already offered all the states a
14 batch of material to come to -- we're going to give out
15 more than you all can send. I promise you that, and I
16 suspect some of the other states might as well. Can
17 that artwork be made available to the state plan
18 partners? I mean we'll be happy to reprint on our own
19 dime.

20 MR. MADDUX: Yeah. No. We've actually
21 designed a poster. It's not up on the screen, but if
22 you look at the poster there's a white space down in

1 kind of the right-hand corner, and we try to keep that
2 space available. So if people want to put their own
3 logo in there, they can do that; and, if people want to
4 get ahold of us, we can get with our office of
5 communications. And they're willing to make those
6 print files, which are a different kind of file than
7 what most of us use on our computers that they use in
8 the software that they use to go to the printers
9 available, so that people can drop in their own logo
10 and do their own printing.

11 MR. STRIBLING: We'll be meeting later this
12 month and Steve or I will be more than happy to take it
13 to the next OSHA meeting. Because I'm pretty sure the
14 state plan partners would really like to have that.

15 CHAIRMAN STAFFORD: All right. Thank you.
16 Christine? Dean? Do you have a comment?

17 MR. DEAN: We will have the high solution
18 copies of that into -- they'll be in designs available
19 on the web page any day.

20 MR. MADDUX: We're trying to put that up on
21 the media resources section of the page.

22 CHAIRMAN STAFFORD: Tish?

1 MS. DAVIS: Will there be a horizontal
2 version, because we're interested in getting in our
3 transportation system?

4 MS. BRANCHE: NIOSH is working on a horizontal
5 version.

6 MS. DAVIS: Terrific.

7 CHAIRMAN STAFFORD: Of the?

8 MS. DAVIS: Poster.

9 CHAIRMAN STAFFORD: Okay. Christine?

10 MS. BRANCHE: I was simply going to say we
11 worked with the print file before now in the NIOSH
12 site, but we're having a little trouble with the
13 version we have.

14 MR. MADDUX: Yes. Well, we have had some
15 technical difficulties at different points in the
16 process. I guess I'll just call it. No. I mean the
17 partnership process is great, but it also requires
18 working closely together. I think that that's one of
19 the lessons we learned, too, is that you're inevitably
20 going to run into problems, like we ran into this
21 problem with this print ready file, you know, or other
22 issues. Or you may have maybe the clearance process in

1 one or another of the places has a problem with some
2 phrase or another.

3 And, so, you just have to work through those
4 things very quickly and very congenially to try and get
5 these things done. It's been, actually, a very, very
6 fast process to pull all of this material together
7 after the focus group research wrapped up the NIOSH and
8 NORA were involved in. And so it's been a pretty good
9 exercise to try and move the bureaucracies of the
10 individual agencies quickly enough to make this happen
11 on the schedule that we wanted. And so Christine and I
12 have worked together extremely closely to try and make
13 sure that we get through those little problems as they
14 come up.

15 CHAIRMAN STAFFORD: Yeah. I mean I think with
16 that time crunch you're absolutely right, and I
17 appreciate it. But that has led to a lot of the folks
18 under the sector council and others. We're kind of
19 operating on the fly in some way in terms of we had to
20 push and get this out. And now it's the things you
21 have to do to follow-up to keep it going and get the
22 websites up, all of those kinds of things; definition

1 of partnerships and what that means, even what we're
2 asking of partners. And certainly for all of us around
3 this table and the audience, there are things that we
4 could do to push out to our friends, colleagues and
5 partners in the industry to keep pushing this. And I
6 think that we all should do that.

7 You showed fatality data earlier, and you can
8 go back as far as you want looking at the data, whether
9 there's 1200 fatalities a year in construction or 800.

10 It's consistently always a third of those are due to
11 falls. So in this country, about one construction
12 worker every day is getting killed by a fall. It's
13 really important. And what makes it extremely hard in
14 this campaign, if Rob Matuga was here, he would say or
15 he would always say, is how do you reach the mom and
16 pop operations in this industry.

17 Before the collapse, and we've lost three
18 million construction jobs, there were three million
19 independent self-employed people in our industry. And
20 how do you start reaching those people if there's no
21 organizations, if they don't belong to anything. And
22 that's the trick, and that's something I think that we

1 can all collectively push out together. Any other
2 questions or comments on this?

3 I can't see it Jim, if you're still there.

4 (Laughter.)

5 MR. MADDUX: You know. I seem to have been
6 overtaken. If these guys had their sunglasses on, I'd
7 think they were with some other agency.

8 MS. SHORTALL: Mr. Chair, if there are no more
9 questions for Mr. Maddux, I would like to mark a few
10 exhibits on the record. As Meeting Exhibit 1, the
11 Agenda for the May 10-11 ACCSH meeting; as Exhibit
12 Number 2, OSHA's Response and ACCSH recommendations;
13 Exhibit Number 3, the PowerPoint presentation on DOC
14 update by Jim Maddux.

15 (Meeting Exhibits Nos. 1, 2
16 and 3 were marked for
17 identification.)

18 CHAIRMAN STAFFORD: Okay. Thank you, Sarah.

19 Well, what do we have? About five minutes, I
20 guess, on the agenda before Dr. Michaels gets here. I
21 don't know if Paul is here. Should we start the SIPs
22 discussion, or do we just want to sit tight for a few

1 minutes? Or any other things that we would need to
2 discuss before David gets here?

3 (No response.)

4 (A brief recess was taken.)

5 CHAIRMAN STAFFORD: If we could come back to
6 order, please, Dr. Michaels, it's a pleasure to have
7 you. We just finished up with Jim's report, and so
8 you're on.

9 III. ASSISTANT SECRETARY'S AGENCY UPDATE AND REMARKS

10 DR. MICHAELS: Great. Good morning, everyone.
11 Nice to see all of you. As I always begin, I'd like
12 to thank you for your work, first.

13 You know, this is a well-functioning
14 Committee. It's a vital Committee to us and we are
15 very grateful for the thought and the work that you put
16 into this. I think you make a big contribution to
17 OSHA's work to health and safety of construction
18 workers across the country, and so we're grateful.

19 I thought I'd just give you a little update.
20 I'm not going to cover that many issues. I know you're
21 going to be hearing more from the ocean staff; and,
22 also, some of you will be making presentations as well.

1 And, actually, I hope I have the time. I've had a
2 couple of crazy days, and actually just came back from
3 Kentucky when I was with Mr. Stribling at a very
4 successful Governor's Conference. So I'm trying to
5 catch up on some things, having been out of the office
6 for some time. But I hope to come by -- I think there
7 are a couple of very important things on your agenda I
8 hope to join you in, because I'd like to learn
9 something as well.

10 So I brought a couple of overheads, so let's
11 go through them. And if you have questions as I'm
12 speaking, put your hand up. Just stop me. Okay?
13 Sorry, Sarah, you can't see these. Sorry.

14 MS. SHORTALL: That's okay. I've got your
15 handout.

16 DR. MICHAELS: So I just wanted to point out
17 to remember two weeks ago was workers Memorial Day, a
18 little less than a week ago. And there were events all
19 across the country, certainly here in this building,
20 and we all participated in events, and actually a
21 number of you did too. It's important to talk about
22 this, because it reminds us of why we're here, and I

1 don't think anyone here really needs that regular
2 reminder. But just the fact that even though the
3 injury rate, the fatality rate has dropped dramatically
4 really over the last decade was because of the work of
5 people in this room and our colleagues in our fields.

6 We still have 13 deaths a day for on-the-job,
7 and obviously a lot of other people. There are three
8 million injuries reported every year by employers. We
9 have a long way to go; and workers' Memorial Day here
10 was brought home to us by a visit of family members of
11 workers who had died on the job. And we had a very,
12 very moving meeting where men from Nebraska described
13 how his son was electrocuted; a construction worker,
14 just gotten a job three months after graduating from
15 high school. And another woman talking about her uncle
16 falling down a 60-foot cement shaft. And these stories
17 remind us how far we have to go and what we still need
18 to do. And I so thought I'd begin with that, because
19 it's very much on our minds.

20 Related to that we put out a directive for
21 communicating with victims' families. For many reasons
22 we believe OSHA has to be working closely with the

1 families of workers who've been killed or were
2 seriously injured. First, it's the right thing to do.
3 It's so painful to lose a family member, and then to
4 feel disconnected from any sort of government activity
5 that's looking to what happened. So on that level
6 alone, part of our obligation is to ensure that family
7 members know what we're doing and have some
8 involvement.

9 We also believe that they actually have
10 information from us that can be very useful in
11 understanding what happened at the workplace.
12 Obviously, that's not always the case. So we have a
13 new directive that just came out a few weeks ago, just
14 for workers Memorial Day. It directs our staff and how
15 we can involve families in our processes, so we know
16 what we're doing. And they can have some input to tell
17 us what they're thinking. So we could supply that to
18 you if any of you would like to see that.

19 Let me just hit a couple of topics real
20 briefly. And one thing that you helped us with
21 tremendously in residential fall protection. I know
22 you've heard a little bit from Jim Maddox and you'll

1 hear much more, I think. Just to say where we are with
2 that; and it's obviously we're still trying to ensure
3 that all workers are protected from falls and we're
4 taking various approaches.

5 Obviously, one thing we're doing is a
6 tremendous amount of consultation and compliance
7 assistance; and, we've been very grateful that
8 consultation programs across the country have stepped
9 up to the plate. We have asked them to make this a
10 priority when employers ask them for help and they
11 have. And, as you can see, they've done over a
12 thousand consultation activities since this began. In
13 addition, we've done our regional and area compliance
14 assistance. Folks have done a tremendous number as
15 well.

16 What we're finding, I think, is very
17 interesting. I guess you'll hear more about this as
18 well. We have been doing enforcement residential
19 construction; but, primarily, when we see violations of
20 the law, they've actually been violations under the
21 previous enforcement policy. Mostly, what we're
22 seeing, actually, are the folks up there with no

1 protection at all. What we're continuing to do is
2 we're in the transitional period, so we are enforcing.

3 But, we're also telling first of all employers, if you
4 want consultation assistance, the onsite consultation
5 programs will make you a priority.

6 We're allowing our area and regional offices
7 to give a further 10% discount on a fine or reduction
8 on a fine for good faith, if someone really didn't know
9 they were not in compliance. You can get additional
10 reduction, and we have some policies that we won't site
11 more than once if we find the problem in one place, you
12 have 30 days to correct it elsewhere. And we just
13 extended that policy through next September.

14 In addition, though, and this is really more
15 important, we are working jointly with many of you.
16 Certainly, NIOSH has played a key role in this
17 campaign. But a number of trade associations and
18 unions around the country have helped with this fault
19 prevention campaign, which is just being rolled out now
20 over the last month. We've got posters and materials.
21 They were developed by some very good social marketing
22 people.

1 Some real resources went into figuring out how
2 to make the best poster. We're getting this material
3 out. We're talking about around the country. We're
4 reaching out to employers, to unions, to all sorts of
5 groups, getting information out. Falls remain the
6 leading cause of death in construction workers and we
7 think we can do better.

8 So, the other campaign we're working on that
9 we worked on last summer and again you were
10 instrumental in helping get this out, and we've heard
11 great stories around the country about this RD
12 campaign. We envisioned it as a two-year campaign, so
13 this is our second summer. And this summer we really
14 have everything ready to go along before the heat
15 arrived, because it was obviously our second year.

16 We think we've got great materials, you know,
17 in English and Spanish. We've got fact sheets. We've
18 got posters. Last year we got out 180,000 of these
19 with your help. I mean I got the report from Kentucky
20 that, you know, this was the consultation program that
21 got out and thousands of pieces. They would drive
22 along the road and see people. I think it's a great

1 program, because not only does it point out the obvious
2 about working safely in heat, but also gives the
3 message that worker safety is important. And it shows
4 workers and employers that OSHA shows employees that
5 their employer cares about them by talking about this.

6 It's been a very successful campaign. We're going to
7 be doing it more this summer, and we'll be continuing.

8 One of the things we're very proud of: Every
9 time there's a heat alert put out by the National
10 Oceanic and Atmospheric Administration (NOAA), which
11 people now get on their smartphones, that are broadcast
12 on their radio, it will include information
13 specifically for workers coming from OSHA. And this is
14 part of what it says: "To reduce risk during outdoor
15 work, the Occupational Safety and Health Administration
16 recommends scheduling frequent rest breaks and shaded
17 or air conditioned environments. Anyone overcome by
18 heat should be moved to a cool and shaded location.
19 Heat stroke is an emergency. Call 911."

20 And so that goes out thousands of times and is
21 read by millions of people over the summer, and we hope
22 that makes a difference as well. And, finally, we have

1 our relatively new -- it came out partway through last
2 summer, but we have a smartphone app. And it's a very
3 simple, straightforward app. It works very well in
4 English and in Spanish. It's on iPhone and Android.
5 Essentially, you could put in your temperature and
6 humidity where you are, or it will connect you to NOAA,
7 to the National Weather Service, which will tell, based
8 on your location, this is what we think the temperature
9 and humidity is at your location.

10 I mean it won't be exact, but it's as good as
11 NOAA gets. It's pretty good. And it will tell you at
12 that temperature and humidity what's the hazard and
13 what you should do. And so it will say, for example,
14 you're in an area of moderate hazard and here are the
15 steps to follow. Or, if it's very hot, it will tell
16 you exactly what to do and how often to take breaks,
17 things like that. It's been downloaded 16,000 times
18 already. It came up the end of last summer.

19 This summer we're really switching it out as
20 much as we can. We think it's a very simple way to get
21 the information out to people to save some lives; so,
22 that's our heat campaign. So thank you for your help

1 on that. It's really been great.

2 We continue to do a tremendous amount of
3 compliance assistance. Every time we start up a new
4 program, we try to get more of it on our website. We
5 got about 200 million unique visitors last year, and we
6 have an 800 number and respond to e-mail requests.
7 And, of course, most important in terms of getting
8 information out where it really makes a big difference,
9 our onsite consultation program did almost 30,000 small
10 business consultations last year.

11 Another, I think, very important development
12 for all workers across the United States, and for
13 virtual employers, virtual workers, is our new standard
14 came out a couple months ago with globally harmonized
15 system for classification and labeling chemicals to
16 GHS. It's an update of our HAZCOM or hazard
17 communication standard. It's really a major change and
18 it will affect construction workers. It will affect
19 construction employers; not as much as it will affect,
20 for example, chemical manufacturers. But, what it will
21 mean is the chemical substances brought onto worksites
22 will have a new type of label.

1 You're probably starting to see them already.

2 But there are new requirements on the label, and there
3 are new requirements on what are now called the safety
4 data sheets, not the material safety data sheets. And,
5 it's a very big difference, couple of differences. The
6 main thing, the old HAZCOM standard gave a tremendous
7 amount of leeway, or let's just say didn't require the
8 consistent detail across labels and material data
9 sheets. And so there was a lot of inconsistency, and
10 there wasn't a lot of thought in getting information
11 out to people in the way they can understand them.

12 So, now, labels will follow a standard
13 requirement. They'll be a certain sort of signal words
14 that say, you know, they'll never be able to learn. It
15 will use precautionary statements, and most importantly
16 it will use pictograms. And so there will be some
17 requirements that employers have to meet new training,
18 essentially to learn these nine pictograms, but they're
19 pretty obvious. There are two signal words: danger and
20 warning; and, they're very simple hazard statements
21 that are required and they'll be standardized.

22 And so you will see for the first time all

1 your safety eval sheets will read very similarly. Once
2 you understand one, you can understand any of them; and
3 whether or not you read English you can understand
4 them. This is a huge event. It's being welcomed by
5 manufacturers because this is the system used in other
6 countries, in Europe for example. And so our exports
7 will increase as a result of this. It will be easier
8 and less expensive to sell products overseas, but also
9 we see it clearly as a way for employers and for
10 workers here, because it makes information much
11 simpler; and, certainly, for employers in the
12 construction industry who have to choose what
13 substances, what chemicals to buy, they don't have the
14 training either.

15 They will have a better understanding of
16 what's safe and what isn't, or what's safer and what's
17 less safe. So they certainly will be able to use this
18 to their advantage. They will be able to train much
19 more easily, and we think this will prevent
20 occupational illness down the line. So the standard
21 was just promulgated. It will take several years to go
22 into effect and the training requirement has a little

1 over a year in there to get people up to speed on these
2 sort of things, like these pictograms. That's been our
3 most important standard development, recently.

4 Another area we want to talk about that we
5 very much focused on is this question of injury
6 reporting, and this is something I know we have
7 discussed here. And NACOSH has given us some
8 recommendations, which I'll get to. But we are very
9 concerned that in many cases injuries are not reported
10 to employers or reported by employers on the OSHA log.

11 And we don't collect OSHA logs. Everybody here I
12 think knows that, but much of the country doesn't. You
13 know. When an employer compiles an OSHA log,
14 especially in the construction trade, we only see it if
15 we make an inspection.

16 We collect a small portion of OSHA logs of all
17 employers across the country, but those are mostly
18 manufacturing and nursing homes, and it's only a small
19 portion of them. But, your logs, for those of you who
20 are employers, we don't see it unless we do an
21 inspection. The log is for the employer and for the
22 employees to figure out what's going on at the work

1 place. And if employees are discouraged from reporting
2 injuries and they don't get on the log, they can't be
3 investigated. Nothing can be learned and the next
4 event can't be prevented. And we know, in fact, many
5 times the fatal event can be predicted by precursor
6 events, earlier injuries that occurred. And if those
7 injuries are never investigated, nothing can be done.

8 We also understand that there's a tension in
9 all this, because employers want to see low injury
10 rates. That makes perfect sense, and they set up
11 programs to incentivize low injuries by providing
12 either incentive to employees to have low injury or to
13 their managers to have low injuries. And I think
14 virtually every large manufacturing company in the
15 country, for example, has some bonuses involved with
16 low injuries. It's part of one of the things people
17 are evaluated on.

18 We think on one level it's a good thing, but
19 it also can lead to discouraging reporting. It also
20 can lead to the things like putting some companies at a
21 financial disadvantage, because we've heard from many,
22 many of the most responsible employers who say "We

1 absolutely require full reporting of injuries." And
2 when we bid for a job, especially a job with, say,
3 municipality, points will be taken off if we have a
4 higher injury rate than some other companies that
5 applied. And we know that there are some employers who
6 don't necessarily have complete reporting.

7 And so we don't want them to be at a financial
8 advantage over the honest companies. So how do we deal
9 with this? And we're really trying to wrestle with
10 this, but we know there are ways employees are
11 discouraged from reporting injuries, and we want to
12 make sure that that stops. So, what we are doing is we
13 will investigate. We get reports like this, that there
14 are some employers who discipline workers no matter
15 what the circumstances of the injury.

16 Their policy is if a worker is injured,
17 someone must have been doing something wrong. A safety
18 rule must have been violated, and we sometimes see
19 things, and we see that automatically there's a hearing
20 when the worker is injured. We think that discourages
21 workers from reporting injuries, and just having a
22 policy, if say, a worker is injured then automatically

1 it can be brought up on charges and investigated.
2 That's obviously a problem, and we will investigate
3 that. And we'll consider a citation if we think that's
4 what's going on there.

5 Invoking otherwise ignored safety rules: We
6 see situations where you have a rule that says stay
7 alert; and, the only time anyone has ever brought up
8 charges is when they're injured. That's a pretext,
9 then. And so that and whistleblower program, we've
10 actually had findings against employers who are doing
11 exactly that. And offering incentives for not
12 reporting injuries, and this is the one that's sort of
13 in some ways in the news on a daily basis, because
14 incentive programs are very common. And, on one level,
15 it intuitively makes sense.

16 If you say to your workforce, if no one's
17 injured, there's an incentive. There's a monetary
18 prize or a pizza party, or a participation in a raffle.

19 Well, of course, that makes sense, but what it does,
20 what we think it does, is it just discourages injured
21 workers for not reporting. Because if you have a
22 prize, you know, at the end of a month or two months,

1 is that really going to change behavior on the first
2 week of that period? Or, even if you're offered pizza
3 on a Friday, are you going to work differently on a
4 Tuesday? And we know that there are lots and lots of
5 these incentive programs around, you know, safety
6 bingo. And sort of one of them you get to play in
7 these games, but we've heard reports.

8 I just heard the report, for example, of a
9 drilling company out West -- gas drilling -- that said
10 if every worker on the site, all contractors involved,
11 do not have an injury over a three-month period, a
12 quarter of the year, every worker gets an additional
13 month's pay. Now, let's say you're injured seven weeks
14 into that or the week before that ends and it's not too
15 serious an injury. Are you going to report that
16 injury?

17 MR. HAWKINS: Okay. Finger amputation or
18 something?

19 (Laughter.)

20 DR. MICHAELS: Right. And so we see this as a
21 problem, and we're not alone. In fact, just yesterday
22 the Government Accountability Office actually issued a

1 report on this. You probably haven't seen it, because
2 it came out yesterday, but I highly recommend you read
3 it. It's called "Better OSHA guidance needed on safety
4 incentive programs." And what GAO says is this is a
5 problem we've had. OSHA better start looking at it.
6 And they talk to experts around the country, and they
7 note that we've already raised this issue within our
8 VPP program and we've made clear to VPP employers that
9 they can have incentive programs like this if it's a
10 small component of their overall program.

11 There are lots of things you could
12 incentivize. You could incentivize hazard abatement.
13 You could incentivize training. Incentives make a lot
14 of sense; but, simply by saying we have a big prize if
15 no one's injured or if you're not injured, that could
16 be problematic and that's what we've asked our VPP
17 companies if they want to stay in the program. That
18 can't be the basis of their safety program.

19 So, anyway, I recommend you read this report.

20 It's very interesting. And so what we are telling
21 employers is if a program primarily consists of a
22 warning benefits to workers who don't report injuries,

1 that program is flawed. And the effective programs
2 incentivize hazard abatement or other safety related
3 activities, not whether a worker has reported injury.

4 That's just a very important point we're
5 trying to get out. Relating to that, though, is this
6 question of what you do with workers who report
7 injuries, and there are two sides to it. Incentive
8 programs, it's very clear to us if you withhold
9 benefits to a worker, because they reported an injury,
10 that's a violation of 11(c), because 11(c) being the
11 whistleblower or anti-retaliation protection component
12 of the OSHA law, because reporting an injury is a
13 safety and health activity.

14 The reason you report injury is to understand
15 what's going on in the workplace, so it's a component
16 of any safety program is to understand the injuries
17 that are occurring. So if you have a system that says
18 everybody is going to get a prize at the end of the
19 month, but you're not going to get it because you
20 report an injury, that's a whistleblower violation.
21 That's a violation of 11(c) and we'll pursue it.

22 We've also seen retaliation against workers

1 who report injuries. We've seen situations where
2 workers who report injuries, first of all, they're the
3 ones who are labeled as the one that impacted
4 everybody's ability to get an incentive, and sometimes
5 they have to wear like a yellow jacket, or a yellow
6 penny or a vest for the month. That's retaliation.
7 We've seen workers who are fired for not willing to
8 sign the worker's comp form saying it wasn't
9 work-related. Any sort of retaliation like that, we've
10 seen programs where workers get points against them for
11 being injured, no matter what the cause with no
12 investigation.

13 Retaliation for reporting an injury is
14 absolutely against the law and we will pursue it. And
15 so we have a new memo on that; again, if you'd like to
16 see that, we're trying to get the word out. And, well,
17 it's part of our enhanced whistleblower protection
18 activities. We are expanding our whistleblower
19 protection or anti-retaliation activities. We've
20 restructured our national office. We are hiring a
21 bunch of new people.

22 We have announced it for a new director of our

1 whistleblower protection program, as an SES position, a
2 high level position. So I think -- I don't know if
3 it's still open, but we are looking to ensure that we
4 got a great person for that. We've done a great deal
5 of additional training. We're dealing with a backlog
6 of, and we're very much focused on this.

7 In the President's 2013 budget there's a
8 request for a 40% increase. That's a huge increase,
9 especially in this time of physical challenges, because
10 there's a commitment on the Obama Administration to
11 ensure that retaliation doesn't occur to workers who
12 raised concerns, either on worker safety or anything
13 protecting the public's health, safety or welfare. So
14 OSHA not only enforces worker safety whistleblower
15 provisions, but anti-retaliation provisions in
16 financial securities law, in Sarbanes-Oxley and
17 Dodd-Frank, in food safety, in clean air, clean water
18 and railway safety and airline safety. Our job is to
19 ensure not just workers but the public's health and
20 safety and welfare are protected.

21 We are expanding our activities in that area,
22 and this very much relates to this issue, though,

1 circling back a little bit. NACOSH made a
2 recommendation to us. NACOSH is your sister advisory
3 committee, the national advisory committee that
4 actually advises OSHA and NIOSH; and, they recommended
5 to us that this recordkeeping issue is very important,
6 and we have to do it in a way that ensures accurate
7 recordkeeping and doesn't penalize those companies that
8 do a good job, that we are committed to safe places and
9 are absolutely sure to record all injuries.

10 What they've asked us to do -- and we're
11 trying to do this and we love your suggestions -- is to
12 work with employers to discourage contractor or vendor
13 selection criteria based solely on injury or illness
14 rates. In other words, we don't want a situation where
15 a water system or a municipality, or any sort of a
16 purchaser of your services says I'm going to make my
17 decision. I'm going to veto your inclusion based on an
18 injury rate, if we think that, in fact, the company has
19 a very good safety program. But their injury rate is
20 high, and I could give you an example of that.

21 At the BP Texas City explosion -- it was about
22 five or six years ago now -- there were 17 workers

1 killed; 150 or 180 workers injured. Of those
2 fatalities, not a single one worked for BP. Most of
3 those were construction contractors, Jacobs. It wasn't
4 their fault, but their fatality rate that year was
5 terrible, because they had to have the job with BP.
6 Why should they be penalized in getting jobs because
7 they have a high fatality rate?

8 So what we're asking, and when NACOSH advises
9 us, and I assume you agree, but to help on, how do you
10 set up a system? How do we encourage those purchasers
11 of construction services to do a real assessment of the
12 health and safety program of the companies bidding on
13 the job. They should look at job safety analysis.
14 They should look at near miss investigation. The
15 things that really make a difference that we know are
16 about safety and not simply to look at what danger it
17 is, because it's too easy for some companies to claim
18 no injuries, either because they got lucky that year or
19 because accurate reporting isn't going on. And we want
20 to make sure companies that have good programs are the
21 ones that are rewarded for it by getting good jobs.

22 That's my report. I'll take a couple

1 questions, and let me thank you again for being here.

2 CHAIRMAN STAFFORD: Thank you very much, Dr.
3 Michaels. I'm sure we probably do have some questions,
4 if you have some time.

5 DR. MICHAELS: I do.

6 CHAIRMAN STAFFORD: I'd like to, I guess,
7 start. Under this Committee we have a program
8 standard, an I2P2 workgroup. On this very issue
9 yesterday we had a large contractor, an electrical
10 contractor come in and talk to us about their
11 perspectives and elements of a safety and health
12 program. And we heard that one of the key elements, at
13 least for the larger employers and the smaller too, if
14 they're here -- I can't tell if they're not -- is
15 prequalification.

16 I mean, how do you identify back to this issue
17 the subcontractors that you're going to bring in to
18 work on your project. And it seems to me that there's
19 something that maybe this Committee could offer; or,
20 you know, we look at models like the Army Corps of
21 Engineers, for example, who has very stringent
22 prequalification rules. And I haven't looked lately,

1 but the last time I did I think this Federal Government
2 was responsible for about \$40 Billion in construction
3 as the owner of construction services that perhaps this
4 Committee may be working with.

5 NICOSH or this Committee could actually
6 develop some kind of language that OSHA could take the
7 lead on in terms of prequalifying employers in our
8 industry as the Federal Government. As the user of
9 these construction services, it seems that it would be
10 appropriate, maybe, for the government to take the lead
11 on models for how you prequalified again this issue
12 that you just described.

13 DR. MICHAELS: Well, I think that it sounds
14 like a very promising idea. We'd certainly welcome it.
15 I obviously can't make any assurances we'd be able to
16 apply it, but we'd certainly like to work with you on
17 exactly that.

18 CHAIRMAN STAFFORD: Okay. And I think the
19 Army Corps -- and I talked to Jim Maddux a little bit
20 about this yesterday after the workgroup
21 meeting -- maybe something that could come in and talk
22 to either our workgroup or maybe the full ACCSH in

1 terms of how the Army Corps prequalifies contractors
2 and subcontractors on their projects.

3 DR. MICHAELS: You know, it's interesting you
4 raise that. There's another one of our very important
5 advisory committees is the Federal Advisory Committee,
6 actually, the Federal Advisory Council on Occupational
7 Safety and Health, which is made up of federal agencies
8 and representatives of workers in federal agencies.
9 And, just two weeks ago, that committee met and made
10 the recommendation that all federal agencies work to
11 ensure that their employees, but also all their
12 contractor employees and the subcontractors on federal
13 sites, ensure that workers are protected from chemical
14 exposure to the lowest, feasible occupational exposure
15 limit.

16 Essentially, first of all, embrace the idea
17 that not just OSHA upholds, but we should be working to
18 safe occupational exposure levels for all federal
19 employees, but to push those down through the
20 contractors as well. And so this really in some ways
21 parallels that. And so we should work with that, but
22 also I could put you in touch with the folks at ACCSH,

1 and it might be worth chatting with them as well.

2 CHAIRMAN STAFFORD: Okay. Thanks. Walter?

3 MR. JONES: How are you doing, Dr. Michaels?

4 I just have a question. Yesterday, OCI made a
5 presentation. They talked about the fact that OCI is
6 going to be looking at oil and gas industry training;
7 and, I'd like to hear from you. What do you see OSHA's
8 role in the emerging gas, shale gas extraction
9 industry, and have you folks begun to reach out to
10 these companies, many of which are independently run?

11 I guess the small operators, and then the big guys are
12 moving in quickly in terms of health and safety issues.

13 I know you are aware of the silicate exposures
14 during the sand transfers into the fracking fluids.
15 Again, what role, and have you guys reached out to
16 provide the expertise that we can lend to that emerging
17 industry?

18 DR. MICHAELS: That's an interesting question,
19 though. The shale oil and shale gas drilling is both a
20 new industry, but in fact a very old one. I mean,
21 there are some differences, but oil and gas drilling
22 has been going, I'd say, for quite some time, and OSHA

1 has been working closely with that industry in, for
2 example, oil patch areas down in Texas and Oklahoma.
3 But that remains a very high hazard industry. We
4 recently had a meeting and our Region 6 folks told us
5 there'd been six fatalities in oil and gas
6 drilling -- I'm sorry -- nine fatalities since October
7 in Oklahoma alone.

8 So putting aside just shale, oil and gas, gas
9 drilling and oil drilling is dangerous. It's also an
10 interesting industry in that the fatality rate is
11 several times higher than the national average for the
12 private sector. CDC -- NIOSH issued a report a couple
13 years ago saying it was seven times higher than the
14 national average, yet the injury rate is significantly
15 below the national average.

16 You know, obviously, there are some causes of
17 death, like falling from derricks, which perhaps are
18 more likely to kill than to injure. But, I think what
19 goes on in that industry is that there's lots of
20 reasons injuries are not reported. There's a culture
21 that says keep working, but fatalities are reported.
22 So we know that's a very high hazard industry to begin

1 with.

2 We have a very strong program in parts of the
3 country or steps program, which started out being
4 called the South Texas Exploration and Production
5 System Network, I think, which is not a change of name,
6 because no longer in South Texas, where we work closely
7 with that industry to get information out. What we
8 find is a lot of larger drilling companies and the oil
9 and gas companies that control the sites, some of them
10 are very committed to safety and will work very hard to
11 push those same requirements down to the
12 subcontractors; but we do a huge meeting every year in
13 Texas. I spoke there last year.

14 Well over a thousand people come, and always
15 there are new, small contractors getting to the
16 business who just don't know anything about -- they
17 know little about safety. They don't know about the
18 existence of any of the compliance assistance or the
19 free state consultation programs. So we're trying to
20 get that information out. At the same time, we're
21 doing more enforcement, and we just did put some
22 additional folks up in North Dakota, for example, where

1 Shell Oil drilling is going on.

2 It's quite a challenge to go up there, because
3 every one of these wells takes thousands of trucks to
4 come into them. They bring in millions of gallons of
5 water and they bring in up to four million pounds of
6 sand for any one well. And it's all brought in on
7 trucks, and then in some cases the oil has to be
8 brought out on trucks. So even to get to these places
9 is quite difficult; you know, a huge amount of truck
10 traffic, off the road, which, by the way, is the
11 highest cause of fatalities. And we get there. We
12 have no place to stay because there are no hotels
13 available.

14 But we're increasing our enforcement in those
15 areas. We're working closely with NIOSH to look at the
16 silica exposures, because, as you know, many of you may
17 have heard that recently NIOSH released some data where
18 they found silica levels around some of these wells far
19 higher than the OSHA well and even the workers had some
20 respiratory protection beyond the enveloped protection
21 of those, of the respirator they were using.

22 So we were looking at that. We're committed

1 to ensuring that this drilling, which is obviously very
2 important for America's future, for our national
3 security, for our economic security so we have
4 production of oil and gas in the United States, is done
5 safely. So we are meeting on a regular basis with
6 NIOSH to think about how we're going to do. We get out
7 there both around the fatalities and injuries, and the
8 chemical exposures, which at this point in shale, oil
9 and gas, the primary ones are silica and diesel
10 exhaust.

11 Now, it will be challenged, but we're used to
12 that. OSHA has a very wide range of foci. I tell
13 people we do everything from nail guns to nail salons.
14 And we are. This year we're doing both those, but
15 that's certainly not high on our agenda.

16 CHAIRMAN STAFFORD: All right. Thanks.
17 Kevin?

18 MR. CANNON: Dr. Michaels, in regards to your
19 report among the incentive programs and then the GAO
20 report that you mentioned, are you planning to provide
21 some further guidance to employers so that they can
22 understand, you know, whether they're not?

1 DR. MICHAELS: Absolutely. We want to assist
2 employers in trying to avoid the bad programs and how
3 to start new programs. That's what GAO asks us to do
4 as well, provide that sort of guidance, and we will.

5 MR. CANNON: Thank you.

6 CHAIRMAN STAFFORD: Thank you.

7 DR. MICHAELS: Let me take one more. Okay.

8 CHAIRMAN STAFFORD: We're all good. Dr.
9 Michaels, thank you very much. That was great.

10 DR. MICHAELS: Thank you all, and I will see
11 you hopefully more over the next couple of days.

12 (Applause.)

13 MS. SHORTALL: Mr. Chair, at this time I'd
14 like to just mark as Exhibit Number 4 the OSHA update
15 PowerPoint presented by Dr. David Michaels.

16 (Meeting Exhibit No. 4 was
17 marked for identification.)

18 CHAIRMAN STAFFORD: Okay. Thank you. All
19 right. We'll take our break and reconvene at 10:15.
20 Thank you.

21 (A brief recess was taken.)

22 CHAIRMAN STAFFORD: Well, Mr. Seymour, are you

1 ready? We're ready for the standards of guidance
2 office.

3 MR. SEYMOUR: Ready when you are.

4 CHAIRMAN STAFFORD: So Mike will be filling in
5 for Dorothy who I'm assuming he's not coming at all.
6 Right, Mike?

7 MR. SEYMOUR: That's correct.

8 CHAIRMAN STAFFORD: Okay. Great. Welcome.
9 It's a pleasure to have you, please.

10 IV. DSG UPDATE

11 MR. SEYMOUR: Thank you. All right. Well,
12 Mr. Chairman and members of the Committee, thank you
13 for having us. Dorothy sends her regrets. She's tied
14 up this morning and she asked me to take care of her
15 presentation. And I really look forward to the
16 opportunity to talk about the wonderful work that's
17 going on in the Directorate of Standards and Guidance
18 that I believe has an impact, like a huge impact on
19 American workers. So I appreciate the opportunity to
20 talk to you this morning.

21 So we're going to talk this morning a little
22 bit about what's on the fall regulatory agenda. We're

1 going to talk about which final rules we have worked on
2 and are working on. We're going to talk about those
3 items that are nearing a proposal, and we're going to
4 talk about a few major initiatives that we're working
5 on that we've begun recently.

6 Some of the things I'm going to talk about may
7 not be particularly germane to construction, but I
8 think the presentation gives kind of a broad picture of
9 all the activities that's going on in the Directorate
10 of Standards and Guidance. Okay. This is the
11 standards and guidance bible, if you will, and this is
12 really our marching orders and it's what we work from
13 and work to to get our projects done. So talk a little
14 bit about the final rules.

15 As I think most of you know or I'm sure all of
16 you know, we just finalized our Hazard Communication
17 Standard. We've gotten an electric power generation
18 transmission and distribution. That's Subpart B of
19 rulemaking that's in the final stages. We're working
20 on walking and working surfaces and personal fall
21 protection standard, and we've got several consensus
22 standard, one on settling and one on PPE for head

1 protection.

2 So those are the final rules that either have
3 gone out or about to go out shortly. We're very, very
4 proud of the work that has been done on the Hazard
5 Communication Standard. Just to give you a brief
6 update on the history, we did a proposal, notice of
7 proposed rulemaking in September of 2009. We had a
8 90-day comment period that ended in December of 2009,
9 the very end of December. We held public hearings in
10 2010, and then with the working of the final rule and
11 published in the Federal Register on March 26th of this
12 year. Okay.

13 This is the third rulemaking we've done on
14 hazard communication of the 1983 elementary work that
15 was done that that got HazCom on the books. We revised
16 it in '94. We've been calling this one HazCom 2012, so
17 I'll try to remember to refer to it as that so we can
18 keep clear the existing requirements versus the new
19 requirements for the globally harmonized system for
20 hazard communication.

21 Some of the things that have remained the
22 same, and this is really important, the scope and

1 application for hazard communication has not changed in
2 our new final rule. Okay. The basic requirement for
3 written hazard communication program remains the same,
4 and much of the worker training and trade secret
5 provisions are the same. So we haven't done a complete
6 overhaul, if you will, of HazCom in this rulemaking;
7 but, what we have done is we've harmonized with the
8 globally harmonized system for hazard communication.
9 And we've really turned a corner, I think, in making
10 sure that not only the workers have a right to know
11 what's going on, but they really have a right to
12 understand what's going on with respect to chemical
13 exposures. Okay.

14 So the hazard communication and the globally
15 harmonized system, I think, would it be helpful if I
16 gave you just a one-minute background on what this
17 globally harmonized system is? There has been a U.N.
18 committee for many, many years, Jennifer Silk has
19 worked on; who used to work in Standards, and had
20 worked on this for many, many years. And, so, the U.N.
21 has established a workgroup, a committee, that has
22 developed a system for hazard communication that is

1 common throughout the European Union.

2 It's being adopted in the Pacific Rim
3 countries. Japan is working on adopting or has adopted
4 it. And so this is a common nomenclature, if you will,
5 about chemicals. So when a chemical is sold here in
6 this country, it has certain, specific information on
7 it that employees need to know how to handle that
8 chemical; and if the same chemical is sold in the U.K.,
9 in France or in German, the same kinds of information
10 and using the same techniques are used there.

11 So that this is good for trade in that it
12 makes it so the chemical companies or the companies
13 that sell chemicals don't have to relabel it when they
14 cross borders with their product. So that's good for
15 them; but, much more importantly than that, it's really
16 good for workers, because it was designed to help
17 workers truly understand the chemicals that they were
18 working with. And, perhaps, many of you would have the
19 experience of seeing material safety data feeds from
20 the past, and one chemical company would write them one
21 way, and for the very same chemical, another company
22 would write it a different way.

1 Perhaps one would use certain information and
2 draw some conclusions, and write the language that went
3 with that information; and, another company would write
4 to a different set of data and come up with a different
5 conclusion. So for a single chemical, you might have
6 two very, very different materials. All that's gone by
7 the wayside in this. The harmonization of this
8 information collection and how the information is
9 portrayed on what we call now a safety data feed. It's
10 not material safety data feed.

11 The safety data feeds have a consistent format
12 throughout the world at this point, and it's a
13 16-second format. The information that's required to
14 be reviewed in order to fill out the SDS is consistent.

15 And so there's a lot of consistency here; and I
16 believe, and I think it's been filling in our preamble
17 that that consistency also implies a lot of extra
18 safety. Okay. So like I said, this is a common,
19 coherent approach to classifying and communicating
20 chemical hazards. And the final rule does include a
21 harmonized definition of hazards so that when a hazard
22 chemical is defined as a carcinogen in this country.

1 It's defined as a carcinogen the same way in other
2 countries. It has very specific criteria for labels,
3 and the labels will look the same on products
4 throughout, so employees know where to look for the
5 critical information that they need to handle the
6 chemical properly.

7 And, like I said, it has a harmonized format
8 for safety data feeds, okay, the label elements. Like
9 I said, the label has a consistent format for all
10 chemical products at this point, and it includes signal
11 words, like "danger" and "caution." And those signal
12 words have a definition, have a meaning. They aren't
13 just intended to be a red flag. They actually have a
14 meaning now, and that's important that workers
15 understand that.

16 We have hazard statements so that when a
17 chemical is a carcinogen or an irritant, there's a
18 specific hazard statement that goes with that chemical
19 that will be consistent from label to label to label.
20 Okay. We're using pictograms, and I know Dr. Michaels
21 talked a little bit about this earlier this morning,
22 and the pictograms are important, particularly for low

1 letter receipt and a non-English speaking employees in
2 this country, because the pictograms provide a visual
3 key to what the hazard is all about. And then we have
4 precautionary statements, that again are harmonized
5 from one chemical to another.

6 So all that has been formatted. All that is
7 set, so when a worker sees a label, he knows where to
8 find the right information, the critical information to
9 help him handle that hazard properly. And it's all
10 written in a consistent way so that he can understand
11 it. So this is where the right to know turns to the
12 right to understand. Okay? I can't see those.

13 I suspect that you can't see those, but these
14 are the nine pictograms that the new DHS uses. And so
15 these pictograms are being used on the labels
16 consistently. When you see the one that talks about
17 flammability, it will be consistent for any flammable
18 material.

19 COMMITTEE MEMBER: Could you just go over this
20 line by line?

21 MR. SEYMOUR: Yes. Let me get my copy out of
22 here so I can accurately see all the words.

1 MR. HAWKINS: Is that available elsewhere?

2 MR. SEYMOUR: It is. Actually, this is in the
3 rule, for one thing, the preamble. Okay. Well, these
4 were designed to be intuitive, but as in all things,
5 you really can't do justice to every intricacy, every
6 detail of every hazard. So there needed to be some
7 grouping, and I think, well, we've grouped quite a bit
8 of material under that exclamation point. But the one
9 in the upper left-hand corner talks about oxidizers.
10 That's a flame over a circle. The regular flame next
11 to it talks about flammable and pyrophorics, et cetera.

12 The explosion, the one on the upper right-hand
13 corner talks about explosive hazards. The skull and
14 crossbones is acute toxicity. That's a familiar one.
15 The one in the very center of the tic tac toe board up
16 there talks about corrosives, and that's been drawn
17 from a very familiar pictogram that's been used in the
18 transportation business for a long time. Okay.

19 The gas cylinder talks about gases under
20 pressure. The guy in the lower left-hand, he's been
21 called a lot of things. "Star Man" is one of them, but
22 I think that's really unfortunate. But that one talks

1 about the long-term hazards, the carcinogenicity,
2 mutagenicity, et cetera. That one talks about
3 carcinogenicity and mutagenicity and the long-term
4 hazards. Yes?

5 MR. RYAN: Jerry Ryan, Employee Rep. You
6 mentioned earlier about it's a known carcinogen. If
7 it's listed as a carcinogen like Europe, or something,
8 and it's going to be listed here as well, automatic?

9 MR. SEYMOUR: Well, okay. The GHS and now our
10 HazCom standard sets up criteria for making those
11 judgments. Okay. And so that when the chemical
12 company puts together their label and the MSDS's, or
13 their SDS's now, they have consistent rules to apply to
14 come up with the same judgment based on the information
15 that's available. So the criteria that are in our new
16 HazCom 2012 and then in the GHS sets up the rules for
17 making that judgment: What is a carcinogen; what is a
18 mutagenic, and what's a reproductive hazard.

19 MR. RYAN: So some of the things that weren't
20 a carcinogenic before, but are maybe a carcinogen in
21 Europe, will be here now?

22 MR. SEYMOUR: What it will do is it will make

1 sure that the people in Europe that make that judgment
2 and the people here in the United States that make that
3 judgment, that they will make that judgment
4 consistently based on the available information. Okay.

5 All right. On the bottom row, the
6 environmental of pictogram, we actually, that's not in
7 our scope of work here at OSHA. So we didn't write to
8 that one, and we're hoping that at some point the
9 Environmental Protection Agency will pick that up. And
10 finally the exclamation mark is really the irritant,
11 skin sensitizer, acute toxicity, although the
12 difference between that and the skull and crossbones is
13 skull and crossbones is severe, acute toxicity. And
14 for the exclamation point it's harmful but not severe.

15 The preamble will have gone into the
16 differences there for it so that you can read about
17 that. Okay. So those are the nine pictograms, and we
18 believe that those are going to be very helpful for
19 workers in having a better understanding of the
20 chemicals that they handle.

21 I'll either take questions now on this, or we
22 can go to the end, whichever you prefer.

1 CHAIRMAN STAFFORD: Kevin?

2 MR. CANNON: I can wait until the end. It was
3 GHS's though. I'm sorry.

4 CHAIRMAN STAFFORD: Go ahead.

5 MR. CANNON: All right. As I understand it --

6 CHAIRMAN STAFFORD: Kevin, I'm sorry.
7 Announce your name.

8 MR. CANNON: Kevin Gannon, Employee Rep. As I
9 understand it, GHS is updated repeatedly, two to three
10 years or so. How do you intend to keep up with the
11 changes that impact the final rule?

12 MR. SEYMOUR: I'm not sure that GHS gets
13 updated quite that frequently, and you know our
14 regulatory process --

15 MR. CANNON: Exactly.

16 MR. SEYMOUR: -- is less responsive than that,
17 and for some good reasons. We have people on the DSG
18 staff that are involved in the international committees
19 that are working on this; and when a milestone is
20 achieved, I'm sure we'll be taking a look at it to try
21 to figure out when it makes sense to update this again.
22 This does need to be a living document. On the other

1 hand it needed to go through the rulemaking process.
2 And so it does take time to do that; but we'll be
3 keeping a pulse on what's going on internationally and
4 making sure that when the time is right that this gets
5 harmonized again.

6 Okay. Moving on to Subpart V, this is our
7 electrical power generation and transmission and
8 distribution standards. What this standard provides is
9 additional protection beyond our current standards in
10 the area of information transfer. This rule talks
11 quite a bit about the exchange of information between
12 host, host employers and contractors. It addresses
13 fall protection from things like area lifts and those
14 kinds of things. It goes into some excruciating detail
15 on minimum approach distances, how far an area lift
16 needs to stay away from a power line to keep you from
17 being electrocuted, and it talks about protection from
18 electric arcs.

19 Those are the four, major categories of
20 changes in this rule. We're currently, we have been
21 working with the office of the solicitor and the office
22 of the assistant secretary. We are in the final review

1 process at the department prior to sending this over to
2 the Office of Management and Budget for their review.
3 After we do that, then we'll publish a final rule and
4 the standard will be completed.

5 Okay. I know this one doesn't necessarily
6 touch on construction that much, but we're working
7 pretty diligently on updating subparts, the NI and the
8 1910 standards. So they reflect changes in technology
9 industry practices, provides greater compliance
10 flexibility. It reorganizes the rule so it's a little
11 clearer and more easy to understand and adds a Section
12 I that provides criteria for fall protection equipment.

13 The status on this one as we published a proposal in
14 2010, we held public hearings in 2011. We had a
15 post-hearing comment period that closed in April of
16 2011, and we are currently analyzing that record and
17 developing the final rule for publication.

18 "Items Nearing Proposal:" This is an
19 important standard and it actually deserves a slide of
20 its own in my opinion, but the status on silica is we
21 submitted the proposed rule package to the office of
22 management and budget in February 2011. In our various

1 conversations with them, we have modified our analysis
2 to some degree to answer some of their questions; and,
3 frankly, it's not clear when the proposed rule be
4 published. And, what it is is it will be followed by
5 public comment period, and public hearings typical of
6 our regulatory process.

7 CHAIRMAN STAFFORD: So, Mike, on that -- and
8 this is something that we discussed with you a long
9 time in this committee --

10 MR. SEYMOUR: Yes?

11 CHAIRMAN STAFFORD: Is there any particular
12 reasons for hold-up, or is this just being held up?

13 MR. SEYMOUR: This is a pretty complicated
14 rule as you might imagine, and so I think it deserves a
15 lot of thought, whether it deserves 15 months worth of
16 thought, and I don't know how to answer that question.

17 But I do know it's a complicated rule and they've
18 asked us to do some new analysis that we haven't
19 actually done before that will actually make our
20 package stronger.

21 So, we've done some work on the package as
22 well. That's over there, but we're waiting for this to

1 come out. We're anxious for it to come out so we can
2 get some comment on it. I wish I could answer your
3 question better than that.

4 CHAIRMAN STAFFORD: Thank you.

5 MR. SEYMOUR: I know we've talked to you
6 several times about this. I'll give you just a quick
7 kind of summary of what is in here. We've looked at
8 four different, alternate permissible exposure limits,
9 25, 50, 75 and 100 micrograms per cubic meter. And the
10 revisions you'll see, and there's typical "Regulated
11 Areas," "Exposure Assessment," "Training," "Medical
12 Monitoring," and "Respiratory Protection." These are
13 the things that are familiar, and in the end you will
14 probably see in this one also. "Combustible Dust" is a
15 major initiative. This is a very complicated subject
16 matter.

17 Other initiatives, in between those prevention
18 programs, I've spoken to this group before about that.

19 We've got a new regulation on infectious disease. And
20 we've got something called "Review look back of OSHA
21 chemical standards," and we'll talk a little bit about
22 what that initiative is. With respect to "Combustible

1 Dust," we published an advanced notice of proposed
2 rulemaking toward the end of 2009. We held a series of
3 stakeholder meetings in Washington, Atlanta, Chicago.
4 And we held our first ever -- an I don't think it will
5 be our last -- virtual stakeholder meeting, and
6 actually that was a fairly successful experience to
7 operate and to run a stakeholder meeting using Internet
8 technology.

9 We also held an expert dust forum in 2011
10 where we had combustible dust experts advise us to talk
11 to us about their perspectives on combustible dust.
12 Now, this project has been moved to long-term items in
13 the regulatory agenda, so we really don't have a future
14 schedule. But we are working diligently on this
15 important. Let me rephrase something that I just said.

16 "Advise" is the wrong word to use in that sentence.
17 These people gave us their prospectus on combustible
18 dust, but they really weren't in a position to advise
19 us on this project.

20 Some of the things we've learned along the way
21 in this particular subject matter: One size certainly
22 does not fit all; and not all dusts are the same. So

1 it's a complicated standard trying to figure out how to
2 deal with al aluminum dust hazard versus other kinds of
3 hazards, other kinds of dust that have the potential
4 for being combustible, but do it in very different
5 ways. Very different opinions on how to define what a
6 combustible dust is; there's a debate on whether or not
7 we ought to have a performance-base versus a
8 specification-oriented standard. And many stakeholders
9 throughout the process cautioned us not to just
10 outright adopt the NFDA standards. So we're looking at
11 those standards as a basis for moving forward.

12 Okay. In between those prevention, this is
13 one I've spoken to you about before. And I know you
14 have a working group. I was on travel yesterday,
15 otherwise, I would have enjoyed having a conversation
16 with you all about this. But this is an important
17 project of the status on it is that we've held a series
18 of stakeholder meetings around the country, and we've
19 initiated SBRFA process. And the SBRFA process, the
20 last regulatory agenda suggested that the SBRFA process
21 would be in full swing at this point, but we've taken a
22 step back to make sure we look at additional

1 alternatives that we would like to get the small
2 business representatives to have input on.

3 We've taken a look at the writings that we
4 want to give the small entity representatives to make
5 sure that they're complete and they're understandable,
6 and they really do minimize the amount of time that the
7 small entity representatives have to review our data
8 before they meet. So we're really trying to figure out
9 how to make the most out of this interaction with the
10 small entity representatives to gather the best
11 information. Yes?

12 CHAIRMAN STAFFORD: So, Mike, on that on the
13 SBRFA process, is that when you talk to small
14 businesses, now, are they small businesses in all
15 industry? Or are you talking to small businesses in
16 constructive and maritime, and industrial? How does
17 that work?

18 MR. SEYMOUR: We are talking to groups of
19 small businesses in all the impacted industries. So we
20 have thought about trying to segregate them into
21 industry groups, but really we feel it's best to hold a
22 series of meetings where we've got a mixture of

1 prospectuses so people can react to each other, and we
2 can see the differences between general industry needs
3 versus construction needs, versus maritime needs, et
4 cetera. So, no. We haven't set up separate meetings
5 on an industry-specific basis.

6 Okay. I've gone through most of these slides
7 with you, so I'll go through them very, very briefly.
8 Clearly, "Management Duties," committed management, is
9 one of the keys to success to entering those prevention
10 programs. And it goes hand in hand with employee
11 participation. Worker participation is very, very
12 important to make sure that workers not only get their
13 prospectus, would have our high value prospectus, but
14 also to get their buy-in into the system to make sure
15 that the system operates effectively.

16 One of the hearts of, or the heart of the
17 standard is really the "Hazard Identification
18 Assessment." This is the fine part, the fine and fixed
19 that you have heard us talk about. So we're looking at
20 all of those requirements that will make it so that
21 when someone inspects their workplace, and they talk to
22 their workers, and they investigate incidents, they do

1 it in ways that are effective in identifying existing
2 hazards.

3 "Hazard Prevention Control" is fairly obvious.

4 Once you find a hazard that needs to be controlled
5 according to the standards that exist or according to
6 the general duty clause, education and training is
7 important; and, this is important, really on two
8 levels. The education and training is important to
9 make sure that employees understand the hazards that
10 they worked with. But, also, workers need to
11 understand how the system works and how they can best
12 participate in it. Okay. And certainly no program is
13 good on the long run if it isn't evaluated periodically
14 and approved based on that evaluation.

15 I know I've talked very quickly through that.

16 If you want to talk about that some more, we can, but
17 I know I've also talked to you in detail in the past on
18 that and didn't want to necessarily cover the same
19 ground. Okay?

20 This is an interesting standard. I don't know
21 that it has an awful lot of relevance to your industry,
22 but we're working on a standard that will address

1 infectious diseases in the healthcare setting. So in
2 hospitals, nursing homes and many other kinds of
3 healthcare facilities we're developing a standard that
4 will address infectious diseases among employees. So
5 we publish an RFI in 2010. We had a comment period
6 that we closed in August of 2010. We held a
7 stakeholder meeting here in Washington in July, and our
8 next step is to initiate a brief.

9 In the meantime we've been gathering
10 additional information, analyzing the stakeholder
11 prospectus and working on the paperwork that's needed
12 to initiate the SBRFA process.

13 CHAIRMAN STAFFORD: Walter?

14 MR. JONES: Walter Jones, employee rep. You
15 mentioned that you don't see a lot of cross-over for
16 construction. We do a lot of work in healthcare
17 facilities. We do primarily a lot of renovation
18 activity, mostly in urban areas. A lot of construction
19 is going on in hospital settings, and the primary
20 concern is that we make sure we don't do anything that
21 will have powerful effects on immuno-compromised
22 patients in these facilities.

1 But there is also a growing concern among many
2 workers are whether they are entering into a hazardous
3 environment, whether they're dormant, infectious
4 substances in the rafters, in the ventilation systems;
5 and, how shall we handle it? You know. Currently,
6 we're teaching the standard pathogens of universal
7 precautions, but I don't know that rises to -- if
8 you're going to be going out with a standard.

9 You may want to look at this issue of
10 protecting workers that are working in hospital
11 situations, or at least providing them with information
12 about the hazards or the infections that they may be
13 subject to, especially if you talk about you're
14 renovating animal facilities that may be dealing with
15 veterinarian, different types of Zoonosis that workers
16 may come in contact from typical maintenance
17 operations.

18 MR. SEYMOUR: I'd be pleased to pass your
19 message on to the team that's working on that, and I
20 will certainly do that. But I would also like to ask
21 you if you are aware of any case studies or other kind
22 of studies that might actually show, give us a notion

1 whether or not, so we could address the significant.

2 MR. JONES: No. I understand what you're
3 saying. I did look at some very old stuff that I
4 thought Matt had did, but I don't think we've run
5 across anything. But we haven't run across anything,
6 so it's not like our response is that there's no known
7 studies out there; but, there is a concern about that
8 issue, and I haven't run across anything yet.

9 MR. SEYMOUR: Okay. Well, we'll keep an eye
10 open for it and make sure that your concern is
11 addressed.

12 MR. GILLEN: If anybody has a situation like
13 that it's a good opportunity for a health hazard
14 evaluation to have somebody go in and take some
15 measurements, help clarify it.

16 MS. ARIOTO: Ms. Arioto. Also, prisons,
17 working in prisons, I believe that there's maybe a high
18 number of prisoners or inmates that have TB.

19 MR. SEYMOUR: Yes, yes.

20 MS. ARIOTO: So I'm not sure if you're aware
21 of that.

22 MR. SEYMOUR: We are aware of that, and the

1 healthcare workers in that setting are certainly of
2 concern to us.

3 MS. ARIOTO: I'm talking about construction
4 workers going into prisons and remodeling. There's
5 concern about taking care of the actual workers.

6 MR. SEYMOUR: Okay.

7 CHAIRMAN STAFFORD: We have a question behind
8 you. Go ahead, Jim.

9 MS. SHORTALL: You need to identify yourself
10 or come up to the mic, please.

11 MR. PLATNER: James Platner. I'm with CPWR.
12 I just wanted to say there is some research that's been
13 done, even guidance that's available for construction
14 workers in waste water treatment plant, maintenance and
15 sewage systems that I could share.

16 CHAIRMAN STAFFORD: Thank you. Tish?

17 MS. DAVIS: Tish Davis. You know there's
18 tremendous emphasis on patient safety in today's world
19 under the Healthcare Reform Act. I mean it's within
20 the accountable care organizations and metrics on
21 patient safety being used. And there's also increasing
22 discussion of the intersection between patient safety

1 and worker safety, and we anticipate.

2 I know in Massachusetts there's going to be
3 initiatives looking at those two things together, and
4 there's discussion of some national initiatives to look
5 at patient safety and worker safety together. And I
6 hadn't really thought of the construction issue, so I
7 just want to kind of remind all of us that when those
8 discussions take place, construction issues need to get
9 onto that agenda.

10 MR. SEYMOUR: Well, thank you. And this is
11 our last initiative. We're working on a request for
12 information to talk about techniques that we might use
13 in the future to help expedite PEL's update. And this
14 is not a new topic, but there are techniques that we're
15 thinking about that we'd like to put before the public
16 eye and get some input on about different approaches to
17 risk assessment, perhaps different approaches to
18 technological feasibility analysis and those kinds of
19 things that would help us expedite the promulgation of
20 new, permissible exposure limits.

21 We are planning. Our next action on this is
22 to publish this request for information in the August

1 timeframe. So you expect to see something here this
2 late summer or early fall. Okay. That's the
3 information that I'd like to share.

4 CHAIRMAN STAFFORD: Thank you very much,
5 Michael.

6 Gary?

7 MR. BATYKEFER: Gary Batykefer with the
8 Sheetmetal Occupational Health Institute Employee
9 Representative of ACCSH. I have a question and forgive
10 my ignorance. I'm not as versed on the subject as I'd
11 like to be, but there are a lot of issues that are
12 coming to fore right now with regard to green building,
13 green construction. And, I was just wondering if your
14 labeling system there could incorporate at some point
15 in time is this involves green components so that
16 workers on the jobsites that are accepting materials on
17 the job know that it is a green product and they can be
18 using it, as opposed to getting it onsite and just
19 slamming it in, and then having to turn around and
20 remove it, or whatever, because it is a carcinogen or
21 it isn't acceptable in green building construction.

22 I know the lead 2012 initiative is going out

1 right now and they're reviewing a boatload of chemicals
2 right now that are, you know, being reviewed by blue
3 green alliance in the U.S. GBC, and everyone else. And
4 they're looking for input with regard to worker safety
5 issues. And I just wondered if incorporating a green
6 dot or green something on each one of these symbols
7 could be infused to kind of ducktail all of the
8 initiatives that are coming together with regard to
9 green building.

10 MR. SEYMOUR: Okay. I'll take that suggestion
11 back to the group that's working on this. I believe
12 that the international committees are at least talking
13 about sustainability and green issues, so I'll go back
14 and try to make sure that the people working on this
15 are aware of your concern now.

16 CHAIRMAN STAFFORD: Thank you. Tish?

17 MS. DAVIS: Tish Davis. I believe it was last
18 year OSHA issued, I think, it was an advance notice of
19 proposed rulemaking on amending the recordkeeping to
20 require reporting of amputations and single
21 hospitalizations. Do you have any update on the status
22 of that initiative?

1 MR. SEYMOUR: No.

2 (Laughter.)

3 MS. DAVIS: I'm used to surveillance being
4 done at the top of the list.

5 MR. SEYMOUR: You know, I can't offer any
6 comment on that. That's not a project that's going on
7 in the industry in our standard shop.

8 CHAIRMAN STAFFORD: Where is that, Mike?

9 MR. SEYMOUR: I believe it's the project I'm
10 thinking about, it's going on in our recordkeeping shop
11 in our evaluation and analysis. I can check on it and
12 get you a status if you'd like me to.

13 CHAIRMAN STAFFORD: Anything else? Mr.
14 Seymour, thank you very much.

15 MR. SEYMOUR: Thank you.

16 (Applause.)

17 CHAIRMAN STAFFORD: Paul?

18 MS. SHORTALL: Mr. Chairman, at this time I'd
19 like to mark as Exhibit Number 5 the OSHA Standards
20 Update PowerPoint presented by Michael Seymour from the
21 Directorate of Standards and Guidance.

22 //

1 (Meeting Exhibit No. 5 was
2 marked for identification.)

3 CHAIRMAN STAFFORD: Okay. Thank you.

4 Next on the agenda is a conversation that we
5 started at the December meeting on SIPs for the
6 standard improvement project forum. We have Paul Bolon
7 and colleague. They're going to kind of walk us
8 through this, and hopefully we'll be able to.

9 I don't know, Paul, if the intent today is to
10 get recommendations from the Committee on SIPs to
11 finalize, or we would like to see in construction. Or
12 is this still in the middle of a dialog, or where do we
13 stand? So to the extent that you could help us figure
14 out how we could help you, I would appreciate it.

15 V. SIP IV

16 MR. BOLON: Right. Good morning. I am Paul
17 Bolon from the Directorate of Construction, and Dayton
18 Eckerson is here with me. He's actually that's really
19 going to do the yeoman's work on developing it.
20 Standards Improvement Project, this is the fourth one
21 we will be doing. It's Phase IV, and the acronym we
22 give it is SIPs. We're still really in the preliminary

1 stages of we're just getting it under way.

2 The first step that we have is to publish an
3 RFI in the Federal Register and request ideas for
4 changes, primarily to construction regulations for
5 improving the existing OSHA standards. We have written
6 a document. It's gone into review and clearance. I'm
7 hopeful that it will be published in June. There will
8 be a 60-day comment period for people who can submit
9 their ideas for improving the existing standards that
10 we have.

11 The RFI doesn't present any of the -- we have
12 a list of candidate provisions that we're going to look
13 at. Some were recommended to us from ACCSH at the last
14 meeting, and we've been developing some as we have
15 asked the entire OSHA family to provide ideas to us.
16 So we have ideas coming in and Dayton is collecting
17 them. But the RFI won't present the new ideas; we're
18 still in the collection phase. So the RFI will just be
19 asking for ideas for us to look at.

20 And once the comment period closes, we will
21 gather all the ideas for changes we have from all the
22 sources. We'll review them, and we'll select the ones

1 we think are the best and the ones that we can do
2 through the SIPs process. I'm hopeful that if the RFI
3 is published in June, 60-day comment period, that at
4 least by the time of the next ACCSH meeting, we'll have
5 many things that are high on our priority list that
6 we'll have at least many of them, if not all of them,
7 to present to ACCSH before the next meeting.

8 I would just like to talk about, and we talked
9 a little bit about this at the last meeting, what the
10 parameters, what the limits of the SIP project is.
11 It's not normal rulemaking. We don't address new
12 risks. If we were doing that, we would have to do a
13 whole bunch of things. We would have to show that
14 significant risks exist. We'd have to show that our
15 standard substantially reduces it. We would have to do
16 a rather extensive economic analysis, a Reg plex
17 analysis, and we'd have to go through all the steps of
18 rulemaking, which would be a small business review
19 panel, publish a proposal, have public hearings, and
20 then a comment period before the final rule. And the
21 good thing about SIPs is that it's a much more
22 abbreviated rulemaking than that.

1 We usually publish a proposal. We have
2 written comments, and then we go to a final rule. So
3 it's far, far shorter, and I can't emphasize enough the
4 usefulness of this to actually fix things in our
5 standards. And the SIPs often has -- I don't
6 know -- 20 or 30 different items, and we would never be
7 able to address all of those. They're too small. We
8 can't take them all through full rulemaking, so it's
9 just a tremendously useful thing to do to fix outdated
10 standards or ones that can be improved.

11 So I just handed out to you -- and I think the
12 audience, there's also some at the back -- a handout
13 that just goes through the criteria for SIPs. And this
14 is all presented again or will be presented again in
15 the Federal Register notice, the RFI, but I'll just go
16 down through the bullets, and I won't do the details
17 here. These are the criteria that we looked for or at
18 least in the past have looked for for existing
19 standards to get improved by the SIPs project.

20 SIPs -- they provide more alternatives and
21 more flexibility for compliance. They may eliminate
22 unnecessary paperwork. They may eliminate employer

1 duties that are unnecessary. They may rewrite language
2 to make employer responsibilities clearer. They can
3 resolve inconsistencies between OSHA standards and
4 eliminate duplication.

5 Sometimes they permit new technology or better
6 measures to provide employee protection so that they
7 will provide equivalent or superior performance than
8 the current standard which may actually inhibit better
9 protections. And then the ones at the bottom,
10 sometimes we just eliminate obsolete or antiquated
11 standards, clarify language, correct grammar, and
12 sometimes correct typographical errors.

13 Usually, though, there is a kernel in a SIPs
14 provision that's going to be changed. It's not just
15 what we would call a technical amendment. It's not
16 just a grammar or misspelling. There's something in
17 there. It's not a big thing, but they are significant.

18 And sometimes, just in terms like for instance the
19 cost savings, can be pretty substantial. So that is
20 the outline of the SIPs candidates.

21 I thought we would just go through and
22 describe the ones that we mentioned and the

1 recommendations we got from MCCSH to show how these
2 would fit within the SIPs context. So last time ACCSH
3 suggested that we handle the issue of PPE fitting women
4 employees, and that generally looks like it is a fairly
5 feasible candidate for SIPs. We have a very simple PPE
6 standard in the construction rigs, which I think uses
7 the word "appropriate." The PP has to be appropriate.
8 So under that rubric, this could be a good candidate
9 for SIPs.

10 Another thing was mentioned in the last ACCSH
11 meeting dealt with underground construction and
12 tunneling, where we have decompression tables, which
13 we've heard from a number of sources and we had a
14 presentation actually last time on tunneling, that our
15 decompression tables are out of date and that there are
16 new ones. There are several new ones which are
17 actually superior and provide better protections. So I
18 think for each tunneling project, the employer has to
19 get a variance, which is a fairly lengthy and involved
20 process.

21 So that's a good candidate for SIPs. It
22 actually increases protections. It's already being

1 done. There's not a new cost. So that seems to fall
2 well within the SIPs criteria. Another one I think
3 Chuck Stribling recommended that we look at it is the
4 chimney variance, which I actually read last night.

5 COMMITTEE MEMBER: What's the date?

6 MR. BOLON: Well, I have August or September
7 of '09. And I was pretty impressed with the length and
8 complexity of it. I think it affects, actually, nine
9 different provisions in different places. There are
10 four or five findings that affect feasibility or making
11 conclusions about what is possible, what is safe use,
12 what becomes increasingly difficult, and so forth. And
13 then there's three or four pages of conditions that
14 have to be met in order to meet the variance. So this
15 is an incredibly complex thing, probably, to handle for
16 SIPs.

17 You never know. I think Dayton may find a
18 brilliant way, a silver bullet where he can just tweak
19 something or put a note in and maybe address it. But,
20 right now, it probably looks too complicated to handle
21 in SIPs. Another one that was mentioned was the
22 sanitation issue for women employees in construction.

1 Our basis looks like there's a new health risk and that
2 there might be a few new costs. So that tends to push
3 it more into traditional rulemaking mode and tends to
4 take it out of the SIPs a good SIPs candidate. But
5 we're going to continue to look at it, but that's just
6 where it looks as a quick view.

7 Another thing I think that was an example
8 presented was we have certification for a fault
9 protection training. Those are the kinds of paperwork
10 things that we've been dropping, the certification
11 things in SIPs for the last 8 or 10 years. So those
12 are the ones I think that were mentioned last time, and
13 just a quick response about how they fit and, Dayton,
14 did you have a couple you wanted to do?

15 MR. ECKERSON: Yeah. I mean most of the
16 examples that we received from the various offices
17 throughout the country and in-house here in town are
18 fascinating only in the sense that for people who
19 believe that reading the Federal Register is
20 fascinating they're pretty much technical fixes and
21 really aren't anything that I think are worthy of
22 talking about at the moment. But there are a few here

1 that I might mention that might be of interest.

2 The one we had mentioned, I think, at the last
3 meeting was the written certification requirement of
4 training in the fall protection standard. Right now,
5 the written certification requirement is a pretty
6 burdensome requirement in terms of the burden hours
7 that are required. And in several other instances SIPs
8 has removed the certification requirements for
9 training.

10 We wouldn't be touching the underlying
11 requirement, but we would be eliminating possibly, if
12 this goes in, the requirement for the certification.
13 That's not without some controversy, because a lot of
14 folks are of the opinion that having that written
15 certification requirement makes compliance rates much
16 higher, and that's the type of discussion that we'll be
17 having over the next several months about whether this
18 is appropriate.

19 CHAIRMAN STAFFORD: So, David, on that one
20 example, are you obligated to do some kind of analyses
21 in terms of the cost of the burden of certifying all
22 protection training?

1 MR. BOLON: Usually -- I've done a couple of
2 them -- if there are some things that strike the
3 economist that's working on a project as particular
4 cost saving items, then those will be estimated. But
5 there's not an analysis, usually, for every item. It
6 might be for 5 out of 25.

7 MS. SHORTALL: I have a question. Paul, in
8 terms of cost savings, are you looking only at
9 monetary, or also cost savings in terms of reduced
10 paperwork requirements under Paperwork Reduction Act?

11 MR. BOLON: Yes, we do. Usually, while the
12 cost of paperwork savings, and we usually don't
13 ask -- there often will be -- I said 5 out of 25.
14 There may be another 10 that do have some effect, but
15 it's not a big effect, and we usually don't quantify
16 it. I mean if you're providing more flexibility and
17 compliance, I'll allow the decompression tables. It
18 might save a lot of time. It might save a lot of cost.
19 If we don't have a good way to cost that, quickly, we
20 might not quantify that. So does that answer?

21 MR. ECKERSON: One of the other provisions
22 that we were looking at is in the steel erection

1 standard. The standard as it's now written also
2 contains crane provisions regarding use of cranes in
3 steel erection situations. Almost all of the
4 provisions there directly mirror word for word what's
5 in the new crane standard. And so one of the many
6 suggestions is to eliminate any ambiguity between the
7 two sections; that we eliminate the provisions in the
8 steel erection standard and just cross-reference the
9 new crane standard.

10 There was one other suggestion from our Region
11 3 office, again this again may be getting too much into
12 the weeds, but in our excavation standard, apparently,
13 there's quite a bit of ambiguity with regard to
14 excavations in shale formations. And, I don't
15 understand, frankly, at this point all of the nuances
16 of this specific suggestion; but, apparently, there is
17 a lot of ambiguity about whether or not the shale
18 formations constitute a stable rack or layered system
19 which would trigger different requirements for that.
20 So the suggestion from Region 3 was that we provide
21 some guidance with respect to that. So that's was
22 another substantive candidate that we were considering.

1 MR. BOLON: So we're happy to entertain ideas
2 now or at any time, really. You can always send them
3 to Jim or myself, or you can wait for the RFI to come
4 out. And we'll continue collecting these, and like I
5 say, after the RFI is published and the comment period
6 closes, Beth will be collecting all the ideas from all
7 our sources and figuring out which ones to present. I
8 think I the RFI it's emphasized that we're primarily
9 looking at construction standards for this SIPs
10 project.

11 CHAIRMAN STAFFORD: So, I'm sorry. At the
12 beginning you probably said it. So the RFI is at OMB
13 now waiting for clearance?

14 MR. BOLON: No, it's an internal clearance.

15 CHAIRMAN STAFFORD: It's now internal. So it
16 wouldn't be for approval. Okay.

17 MR. BOLON: Yeah. But it's not a long
18 document. It's a straightforward document. So, like I
19 said, I think it should be published in June.

20 CHAIRMAN STAFFORD: Okay. Thanks. Any
21 questions or comments from the Committee?

22 David, you had said something earlier I think

1 that would help inform us, and I hadn't heard that
2 about -- I don't know if this is anecdotal or OSHA has
3 done some research in terms of certification driving up
4 compliance. Is that something that you've looked at
5 specifically? Or do we have that information about how
6 this will effect certifications?

7 MR. ECKERSON: No. I'd like to put that in
8 the category of anecdotal. Yeah. There's nothing
9 specific I have to point to that. The comment we
10 received from when we circulated our initial
11 suggestions from inside OSHA to the regions, that was
12 one of the regions came back, said, well, we understand
13 your concern to want to eliminate paperwork burden
14 reduction. But, in their experience, they believe they
15 found a correlation between the requirement of keeping
16 paperwork instead of certification and the compliance
17 rate. But we don't have any specific data to back that
18 up. That was their opinion.

19 CHAIRMAN STAFFORD: Okay. Yeah. Kevin,
20 please?

21 MR. CANNON: Kevin Cannon, Employer Rep. When
22 you say a certification, you're merely talking about

1 documenting the training?

2 MR. BOLON: Correct.

3 CHAIRMAN STAFFORD: So on that one I mean I
4 think I see that that's a candidate, and I guess we
5 recommended it last time. But I think that's something
6 that we need to take a close look at, I mean, just
7 because what's happening on falls and we know that a
8 third of the construction fatalities are due to falls.

9 MR. BOLON: Actually, you didn't recommend
10 that. That was just one that --

11 CHAIRMAN STAFFORD: Came up.

12 MR. BOLON: -- we had a paperwork package come
13 in and it jumped out at us.

14 CHAIRMAN STAFFORD: Okay. I thought you had
15 said that earlier. Sorry. You know, maybe I would
16 like to hear from the employers, because, you know what
17 you think. I don't know how big of a burden this is on
18 the employer community in terms of documenting that
19 you've done fall protection training.

20 MS. SHORTALL: Can I ask Paul a question? And
21 that is, well, I guess, sir, the history of the use of
22 the word "certification." Going back a number of years

1 is it correct, Paul, when we would specify other
2 aspects about paperwork regarding training, OMB would
3 require the agency under the Paperwork Reduction Act to
4 take burden hours for completing that paperwork.
5 However, when we use the word certification, they did
6 not consider that to be paperwork, since it was
7 basically an identical form for everyone.

8 However, since that time, OMB has changed its
9 opinion and also considers certification to be covered
10 under the Paperwork Reduction Act, so we have to take
11 paperwork burden hour for certifications. Do I have
12 the correct history, that that's how it went from one
13 to the other?

14 MR. BOLON: You're right. What has been
15 counted as paperwork over the last 20 years has changed
16 quite a bit. Sometime, parts of the actual training
17 do, then was taken off. And I think you're right.
18 Initially, just the certification wasn't counted, but I
19 do know it's counted now.

20 CHAIRMAN STAFFORD: Dan?

21 MR. ZARLETTI: Dan Zarletti, Employer Rep.
22 Actually, maybe I'm just missing a point here, but for

1 us as an employer we feel as though if we don't have
2 anything documented, nothing was really begotten. This
3 can't be proved. However, everything we file as
4 results a person's training experience while under our
5 employee is done electronically, and then if it needs
6 to be printed for proof, it can be. But, generally, we
7 don't have files full of things that people have
8 accomplished over time; that we have electronic files
9 with their names on it into a folder, which can be
10 produced at any time. So I guess that gives us the
11 paperwork reduction thing.

12 MS. SHORTALL: And it's not so much keeping a
13 piece of paper as it is the concept of collecting it or
14 the government telling you to collect information.

15 MR. BOLON: And, Sarah, correct me if I'm
16 wrong, but the actual certification is a separate kind
17 of paperwork function than just having a log of who you
18 trained with. The certification is --

19 MR. HAWKINS: Well, it's not much more.

20 MS. SHORTALL: No.

21 MR. HAWKINS: Usually, what we see most of the
22 times -- Steve Hawkins, State Plan Rep -- is the topic

1 of the training, who the trainer was to date, and then
2 a roster just about like what we passed around now.
3 That's what we see most frequently, so it's not much
4 more than what Dan's describing, certainly.

5 MR. ZARLETTI: Well, we don't press with the
6 certification issue either as much as we do training
7 and completion with diligence, references. And so that
8 we're not into actually certifying, even though we have
9 instructors that are qualified. We don't get into the
10 certified piece as much.

11 MR. HAWKINS: Steve Hawkins, again. The word
12 "certify" is such a misnomer almost here, because
13 really you're just talking about documentation that the
14 training occurred. And I'm relieved to see that we
15 probably didn't recommend that, because I think that
16 would take a lot of debate. The burden -- I am an
17 employer and I do have to record lots of stuff that I
18 do, I guess, on my role. So I guess I can speak with
19 some experience there. And the training is the hard
20 work, and that takes some time in just recording or
21 documenting the training took place.

22 It doesn't relieve a very big burden for me as

1 an employer; and, you know, everything I submit to
2 OSHA, I have to document that I did certain things. We
3 have to document, so I mean I understand the burden of
4 documentation. That's a large part of what we do, but
5 I mean certainly, would you think just keeping up with
6 the roster is a big burden, I mean for an employer?
7 I'm not trying to put you on the spot.

8 MR. CANNON: No. And when you said that, my
9 first thought was to write it down and get, you know,
10 some feedback from my membership. But, you know,
11 personally speaking as Kevin, I don't see that, and I
12 don't think an employer would want to produce some
13 evidence as to the training that has been conducted.

14 THE CHAIRMAN: Right. Chuck?

15 MR. HAWKINS: Excuse me. One more thing. How
16 would you keep up with who you trained and who lacked
17 training? That's lacked, l-a-c-k, not liked.

18 (Laughter.)

19 MR. HAWKINS: I'll go ahead and fix my
20 Southern accent now. I asked a person one time how
21 much he lacked being caught up. He said he liked it a
22 lot. So ever since then I've tried to pronounce like

1 and lack separately. But how would you keep up with
2 who lacked training if you didn't keep some record of
3 the training? And once you met that internal burden to
4 keep up with who you trained and who you haven't,
5 you've all met the recordkeeping requirements. I
6 wouldn't be forward moving that requirement, frankly,
7 but that's just my personal opinion. It just doesn't
8 seem like it's that onerous to me.

9 MR. CANNON: Right. No. It's not.

10 MR. HAWKINS: The list of who you trained and
11 who you didn't, and what date they were trained.

12 CHAIRMAN STAFFORD: Was that onerous or
13 ornery?

14 (Laughter.)

15 MR. HAWKINS: I'm always at a disadvantage
16 when I come to this meeting. I'm doing the best I can,
17 honestly.

18 CHAIRMAN STAFFORD: Chuck?

19 MR. STRIBLING: Chuck Stribling. The state
20 governor of the state. You make me look good, thanks,
21 or sound good.

22 (Laughter.)

1 MR. STRIBLING: And Mr. Cannon hit the nail
2 right on the head from a state plan perspective with
3 the Division of Compliance, it behooves an employer to
4 have that record, even if it's not required, because if
5 something happens and compliance goes on the side, in
6 interviews, they're going to ask have you been trained.

7 And employees forget things, occasionally; you know, I
8 think I have, but I'm not real sure. Well, that means
9 the compliance officer is going to ask the employer has
10 so and so been trained, and when they can show a
11 training record that just accounts for that, that issue
12 is off the table. And so it's really been official,
13 even if it's not required; but, I will certainly agree
14 with Steve, I think, that's something that's not a bad
15 requirement.

16 MR. CANNON: And in the course of an
17 inspection you interview an employee, and you say,
18 "Have you been trained in fall protection," and he
19 says, "No. I haven't. But you have proof that this
20 individual has received such training, so I think it's
21 a good defense. And then you talk about the
22 prequalification issue. Some falls may want to see a

1 record of training in certain areas, and falls could be
2 one of them.

3 CHAIRMAN STAFFORD: So it seems like we're all
4 in agreement on that. I mean, maybe in terms of the
5 SIPs process, and instead of dropping certification
6 that we change the word from certification that you
7 have, whatever it is, no documentation that you've been
8 trained.

9 MS. SHORTALL: I think part of the
10 reason -- and maybe I'm overstating the policy -- and
11 part of the reason that the agency has been relooking
12 at the issues of certification and the fact that they
13 are now being encountered as paperwork is a very heavy
14 burden on the agency to reduce the amount of paperwork
15 burdens on employers. And as Mr. Hawkins and as Mr.
16 Stribling are saying, and, Mr. Cannon too, we're going
17 to keep those records in any event. So the question is
18 does OSHA need to require you to do that or will the
19 employer want to for their own benefit to retain some
20 kind of documentation. Is that correct, Paul?

21 MR. BOLON: Yes.

22 CHAIRMAN STAFFORD: Mike?

1 MR. THIBODEAUX: Mike Thibodeaux. Yeah. I've
2 found that over the years both the large homebuilders
3 that I worked for and other homebuilders that I consult
4 with, that's just a given. You always maintain
5 records, because I learned in the Army: It ain't
6 written down, it didn't happen. You know. And any
7 employer goes, "Oh, yes, I've trained them." But if
8 you have that small document that you produce every
9 time you do the training, all they do is sign you in,
10 how good the trainer was, when it was done, and what
11 the subject matter was; one page, you're done. And
12 that's an effective way to monitor the folks that have
13 been trained, that need more training. And when Chuck
14 shows up on my job site in Kentucky, you know, have you
15 guys been trained? Yes, here.

16 MR. HAWKINS: One more thing about that.
17 There's also this guidance document OSHA has. When the
18 recording of the training, it's the only thing that's
19 lacking. It's a de minimis violation and you don't
20 issue a citation for it any way. So if one of the
21 OSHA's inspectors or one of my inspectors goes out to a
22 site and we interview Walter and say, "Walter, have you

1 ever been trained?" "Oh, sure." "And tell me about
2 it?" "Oh, they taught me how to put this harness on.
3 This is how you put it on. They tell me how to inspect
4 it, tell me to have a 5,000-pound anchorage point.
5 They tell me this lanyard's only good for 5,000 pounds.

6 I should never allow myself to fall six feet before
7 I'm arrested." You know. After we recover from the
8 shock of that interview --

9 (Laughter.)

10 MR. HAWKINS: -- and we turn around and ask
11 the employer, Dan said, "Do you have records where you
12 trained Walter?" He said, "No. I don't. I trained
13 him but I don't have records." You go to this guidance
14 document, it says it's a de minimis violation, because
15 the training obviously occurred. So, again, the reason
16 to include it in CSI, I would just advocate for leaving
17 that requirement. I just really would, in spite of
18 what pretty Miss Sarah said.

19 CHAIRMAN STAFFORD: All right. Well, go ahead
20 Walter.

21 MR. JONES: Just real quick. I could be
22 wrong, but it looked like the California IITP requires

1 you to record, still requires you to record.

2 MS. ARIOTO: There is an exception for
3 employees.

4 MR. JONES: Yeah. But I mean that requires
5 you to be trained, and we instruct all of our
6 contractors just as we were saying, listed. So, yeah.
7 I don't know that the same thing is not being done.

8 MS. ARIOTO: Ms. Arioto. In regards the IITP,
9 the California one, if the inspector will come out and
10 talk to an employee, and let's say they get nervous if
11 they see an OSHA or CALOSHA. They say, I forgot. No.
12 I haven't been trained. Well, then the documentation
13 is very important, but the compliance officer can also
14 say did you do real good training. They show a program
15 really effective, and that's a little bit more
16 investigation there than just saying have you received
17 training. So I think there's two sides to having
18 documentation, but also including what you trained in.
19 And sometimes employees do. They're so nervous, they
20 forget. I mean they just don't know how to deal with
21 it. And I think it's just a nervous thing, although
22 they haven't been really trained.

1 CHAIRMAN STAFFORD: So it may be, Paul, a
2 little bit premature. We'll wait for the next meeting
3 or the RFA, but it sounds like we pretty much reached
4 agreement on that, and if you want ACCSH to go on
5 record that we do not want this to be included in the
6 SIPs process, I think we would be happy to do that
7 right now.

8 MR. BOLON: That's really up to you. I mean
9 we could also just -- I would imagine at the next
10 meeting, again, we're going to have a number of items
11 for you to look at, and I would just keep this and hold
12 it for them, but it's really up to you.

13 CHAIRMAN STAFFORD: Okay. All right. We'll
14 deal with it all at one time then, I think, when we
15 have the laundry list of what we're considering. Any
16 other questions or comments from ACCSH? Wayne?

17 MS. SHORTALL: I HAVE ONE QUESTION. Paul,
18 when you had mentioned that women as sanitation were
19 probably not the strong candidate for this, were you
20 indicating which provisions were not a strong
21 candidate, or --

22 MR. BOLON: I really hadn't looked at separate

1 provisions, but because the basis for it -- what is
2 that?

3 MR. ECKERSON: It's 1926.51.

4 MR. BOLON: Yeah. It's just that if we view
5 it as addressing a new health risk and having new
6 costs, that's usually put it out of the realm of SIPs,
7 but we're going to give it a hard look at see what we
8 can do.

9 MS. SHORTALL: The other thing that sounds
10 like the workgroup on women in construction has raised
11 are issues such as laboratories or, I guess, toilet
12 facilities having water list hand cleaning agents. Was
13 that included in the kind that you think are for
14 rulemaking or for a candidate for SIPs?

15 MR. BOLON: I really hadn't thought about
16 the -- you know that Subpart F in the Maritime Standard
17 was recently redone, and it addressed the number of
18 toilet facilities, the separateness of them, hand
19 sanitation and all kinds of conditions that if you did
20 use porta-potties that they would have to have the
21 ventilation. I don't remember what the others
22 were -- cleanliness, light. So we have very simple

1 sanitation standards in construction adding all of
2 that, like we had in Subpart F. We'd pop it out.

3 MS. SHORTALL: I believe Subpart F standard
4 allowed employers to utilize soap and water or hand
5 cleaning agents. I don't remember the analysis of it,
6 but I thought that indicated that allowing
7 hand-cleaning agents would be a cost savings to
8 employers?

9 MR. BOLON: That's true. That would fit, for
10 example. So there may be some pieces would fit, and
11 we'll just have to look and see.

12 CHAIRMAN STAFFORD: Any other questions or
13 comments? Liz?

14 MS. ARIOTO: Yes. When you talk about --

15 CHAIRMAN STAFFORD: And who are you, Liz?

16 MS. ARIOTO: I'm sorry. Pardon?

17 MR. BOLON: Announce?

18 MS. ARIOTO: Oh. I'm sorry. Liz Arioto,
19 public representative. When it comes to cost, what do
20 you mean by "cost?" You know, just to kind of get an
21 idea in my head.

22 MR. BOLON: Well, it's new cost. I mean if

1 people are already doing it, and we're just kind of
2 bringing a rule, kind of snuggling up to what people
3 are already doing, if it's not new cost, then we're
4 fine. But if our rule said you have to have a
5 porta-potty if you have one female employee, so that
6 there would be a lot of new ones, that wouldn't be a
7 big cost, but it would be a new cost.

8 MS. ARIOTO: It's new cost, not the amount of
9 the cost?

10 MR. BOLON: Right.

11 MS. ARIOTO: Okay. Thank you.

12 CHAIRMAN STAFFORD: Thanks. Wayne?

13 MR. CREASAP: Wayne Creasap, the Association
14 of Union Constructors. Just on the precertification
15 and certification of fall protection, I want to ask
16 what the Committee considers what the transient nature
17 of the construction workforce was the portability of
18 recognizing that training going from one employer to
19 the other and something to consider with that is being
20 an issue for employers to make sure they recognize that
21 training going from one contractor to another, or that
22 was provided by a third party and going from one to

1 another union.

2 CHAIRMAN STAFFORD: Yes, Chuck.

3 MR. STRIBLING: Chuck Stribling, state
4 government representative. That is very similar to
5 what was done on the power and industrial truck
6 training requirements over on the general industry
7 side, and so there's already somewhat of a model in
8 place.

9 MR. HAWKINS: Again, I think that probably
10 qualifies as a de minimis violation. The person had
11 the training and their certificate was all -- then you
12 could document that. I think a lot of those kind of
13 things get done in the field, whether we realize it or
14 not here.

15 MR. BOLON: The odd thing about it is that
16 when we about dropping the certifications, we think the
17 agency usually thinks we're reducing the burden on
18 employers and paperwork, but what I'm hearing is, "So
19 what?"

20 MR. HAWKINS: Well, and I think you think
21 you're helping reduce the paperwork burden on them, but
22 then you wind up getting them in trouble, because now

1 they can't prove that the training took place. And I
2 just interviewed a guy up on an aerial lift without his
3 fall protection on. I said, "Have you ever been
4 trained?" "No, man. Nobody ever told me anything."
5 That's what you get, and then the employer says, "Oh,
6 yes I did. I brought all my people together and had
7 this training." And say, "Well, did you keep any
8 documentation?" "Well, no." So, you know, it could
9 actually be hurting employers.

10 I think Wayne's suggestion about if you want
11 to improve something in SIFs, add the word that
12 training could be portable, that would really help, I
13 think.

14 MR. BOLON: That's a good idea. I mean --

15 MR. GILLEN: Matt Gillen. I always think of
16 OSHA standards as being minimum, but we don't stop
17 employers from keeping good records just because we
18 don't require it in every standard.

19 MR. HAWKINS: No, but sometimes you do
20 encourage them to do it --

21 MR. GILLEN: Well, sometimes we require it.

22 MR. HAWKINS: -- and that's good.

1 MR. GILLEN: And when the agency requires it,
2 then that's kind of a specific burden and there's
3 objection to it.

4 MR. HAWKINS: You know. I've heard lots of
5 push back over the years from employers, but I've never
6 really heard one go, "You know. We love doing this
7 training, but we hate writing it down." I just don't
8 hear that. I just don't hear it. Now, if you come out
9 with a new standard and say, "Oh, God. We've got to
10 send everybody to training class." But I've heard
11 nobody complain about we have to get a certificate back
12 that's good for five. That's not the complaint you
13 hear. It's the doing the work, the recording of it.
14 Just, maybe, you all hear it.

15 MR. BOLON: Well, the employers aren't
16 certifying the crane operators.

17 MR. HAWKINS: That's right, the third parties.

18 CHAIRMAN STAFFORD: The third parties. That's
19 right. Matt, go ahead, and then Liz, and then Tish.

20 MS. ARIOTO: Liz Arioto, ACCSH public
21 representative. Example, like the forklift that you
22 were talking about. Let's say your company comes to

1 mind, and I'm the new company, and I have that card, or
2 whatever it is, and it says, blah, blah, blah. You're
3 trained. I think the company that's receiving that
4 card should observe the operator.

5 That's what we do, is we observe the operator
6 to make sure that he is in compliance with the
7 operation of that piece of equipment. So it's really
8 observing. You know. If someone comes with a card of
9 training, it's just to look at them to see that they
10 are doing something correctly, whether it's driving a
11 truck, a motor, you know, or whatever. They say
12 they've done it before, but I still think it's on the
13 compactor side to observe that person to make sure it's
14 being done correctly. It's just that you come from one
15 company, you give me a card. I don't know what really
16 training you had, but I can observe you. Right? And
17 say, yeah, you're doing it correctly. But I think as a
18 follow up, this might be a good thing to see.

19 CHAIRMAN STAFFORD: Tish?

20 MS. DAVIS: I just wanted to comment. It
21 sounds like most employers, big employers, good
22 employers, are already documenting training. So, in

1 fact, to change it is not reducing paperwork. I mean,
2 if you absolutely quantify the amount of paperwork,
3 you're not reducing the paperwork, because they're
4 already doing it. It looks good on your SIPs record,
5 and I understand that.

6 MS. SHORTALL: The Paperwork Reduction Act --

7 MS. DAVIS: I totally understand that and
8 appreciate it, but the Paperwork Reduction Act deals
9 with the information that the government requires
10 employers to either keep, gather, document, you know.
11 So that's how we are judged. I understand that's how
12 you judge, and we advocate that judge.

13 CHAIRMAN STAFFORD: All right. Thank you.

14 Any other questions or comments? Dan?

15 MR. ZARLETTI: I just had one. Dan Zarletti,
16 employer rep.

17 CHAIRMAN STAFFORD: Buy the way, Dan. I was
18 just told by Sarah we don't have to identify ourselves
19 anymore. I think we're good.

20 MS. SHORTALL: The person has got all of your
21 identities now. He's all set.

22 CHAIRMAN STAFFORD: Okay. Great. What were

1 you going to say?

2 MR. ZARLETTI: I'm gonna forget who I was.

3 (Laughter.)

4 CHAIRMAN STAFFORD: So say what you want.

5 MS. SHORTALL: He's got your number.

6 MR. ZARLETTI: He's got my number, she says.

7 Okay. Good. Actually, I think in the training part
8 it's as important if not more so. So understand, not
9 only did this person get trained, but what they
10 retained in the training. Because if you talk to
11 somebody on the job, whether they're getting choked up
12 over being in front of an OSHA person or not; can't
13 remember being trained, maybe he can't remember what he
14 learned. And that standard's pretty clear on what
15 happens when they fail to retain their proficiency
16 level that was initially designed with the course.
17 You've got to be retrained.

18 So I think there's another element to this,
19 where it's important to make sure that they can confirm
20 the training, and the documentation will help that.
21 But, if the guy can't answer any of the top five
22 questions you ask correctly, then I think the

1 employer's got another burden; that is to get this
2 person back into the classroom.

3 MS. ARIOTO: I could talk about saying that,
4 the effectiveness of the training, the program, so
5 that's what the training aspect of that is.

6 CHAIRMAN STAFFORD: Thanks. Anything else?

7 Paul, thank you very much.

8 (Applause.)

9 CHAIRMAN STAFFORD: All right. We're a little
10 bit ahead of schedule. I guess there's no crime in
11 that and getting out a little bit early, if we can get
12 through this agenda. And, Steve, I know you have a
13 conflict and it may be a little bit earlier than you
14 thought, but if you and Chuck are prepared to do your
15 Backing operations Workgroup report, we could probably
16 get that in before the lunch break, if you'd like to.

17 MR. HAWKINS: Do that now?

18 CHAIRMAN STAFFORD: Yeah, please, if you're
19 ready.

20 MS. SHORTALL: Well, Mr. Chair, while they get
21 their material out, I'd like to mark as Exhibit Number
22 6 the handout from Paul Bolon on the SIP IV rationale.

1 (Meeting Exhibit No. 6 was
2 marked for identification.)

3 CHAIRMAN STAFFORD: Thank you, Sarah.

4 VII. BACKING OPERATIONS WORKGROUP REPORT

5 MR. HAWKINS: Okay. Mr. Chairman, Backing
6 Operations Workgroup met on Tuesday, and I'll read into
7 the record the minutes. A separate list of attendees
8 will be attached and I will forward that to Sarah in
9 this packet of information to go on the official
10 record. The meeting was well attended. All of the
11 ACCSH members, I believe, that are present for the
12 meeting were there, except perhaps Tish. I don't think
13 she was able to be there, but the rest were.

14 "All present in the room introduced
15 themselves. We had a sign-in sheet that was
16 circulated. Mr. Jim Maddux, Director of the
17 Directorate of Construction, addressed the work group
18 and discussed the RFI recently published on backovers
19 in the Federal Register. He encouraged ACCSH members
20 and other interested parties in the room to submit
21 comments into the docket and other pertinent
22 information before the comment period closes on June

1 27, 2012. He also stated information could be
2 submitted directly to him or to Mr. Paul Bolon after
3 that date. He also stated a request to extend the
4 comment period had been received by the agency and was
5 under consideration.

6 Following Mr. Maddux' remarks, Mr. Dave
7 Fosbroke with NIOSH presented an overview of research
8 project underway at NIOSH, looking at internal traffic
9 control plans and the effect these plans have on
10 backing hazards on several large, continuous paving
11 projects. Mr. Fosbroke informed the work group the
12 findings were preliminary and the study was in the
13 draft stages. He emphasized the point that the data
14 had not been fully analyzed, and that additional work
15 on the data was still to be completed.

16 Several limitations of the study were
17 discussed, including the fact that the internal traffic
18 control plans were put in place only the day before or
19 the day of the observations were made. And one would
20 expect better results were the plans in effect for a
21 longer period of time before the observations. He also
22 discussed a chart identifying a scoring system for

1 hazard exposure depending upon where the worker was
2 physically located in relationship to the equipment and
3 the direction of travel of the equipment.

4 The preliminary results of the study were a
5 mixed bag at this point. Several of the projects
6 appear to show a hazard reduction when an internal
7 traffic control plan was deployed, while other projects
8 study did not exhibit a reduction. Mr. Fosbroke
9 stressed the analysis was not complete and that the
10 conclusions had not yet been reached by NIOSH. He
11 assured the work group additional information from the
12 study would be shared with the group in the future.

13 Mr. Fosbroke also presented information on
14 diagramming of blind spots for specific construction
15 machinery, for example, various dump trucks by
16 different manufacturers and how this information might
17 be used by employers and employees to recognize the
18 hazards associated with backing. The presentation
19 included a review of several methods used to document
20 blind spots."

21 Not in the note, but would just like to again
22 thank NIOSH for providing him as a speaker. He was an

1 excellent speaker. He was well-versed, and we did have
2 an excellent discussion at the conclusion of his
3 presentations. So back to the minutes here:

4 "Following Mr. Fosbroke's presentation, a lively and
5 productive discussion was held. Mr. Fosbroke answered
6 several questions about the study and a mapping of the
7 blind spots. His presentation was very pertinent and
8 beneficial.

9 Mr. Steve Hawkins presented the results of a
10 very informal survey concerning hand signals used by a
11 spotter and equipment operator. The survey was
12 distributed to members of ACCSH and other state plan
13 OSHA programs. The results showed most respondents
14 recognized the hand signals that accompanied the
15 survey. In addition, the results indicated most of the
16 respondents supported standardization of hand signals."

17 All of the comments were compiled and are attached to
18 this report that you'll have pretty much there.

19 "A discussion of hand signals was held, and
20 some of the comments indicated hand signals might
21 better be placed in a non-mandatory appendix to a
22 possible OSHA standard. The workgroup discussed topics

1 for a future meeting, including the possibility of
2 having a representative from Lane or Ray. I think they
3 had experienced the name change, but one of those two
4 companies, or which of those two is the parent now, can
5 speak on the company's use of internal Air Traffic
6 Control plans on their paving projects.

7 Mr. Brad Sant will be the contact to determine
8 if the company is willing to present to the group. The
9 cochairs will also attempt to develop a list of
10 research papers that may be available addressing this
11 hazard. No motions were made at the meeting, and the
12 work group will continue to explore this topic in
13 future meetings."

14 We did discuss the possibility of having some
15 motions, but at this point we really still feel like
16 we're in the information gathering stages and hope to
17 be able to produce something with Paul's guidance that
18 will be useful to the agency and this request for
19 information that they have out.

20 CHAIRMAN STAFFORD: Okay. Thank you. Steve?
21 Chuck? Do you have anything to add?

22 MR. STRIBLING: Just for the record, I was not

1 here for the workgroup meeting.

2 CHAIRMAN STAFFORD: Oh. Okay. Thanks. Gary?

3 M O T I O N

4 MR. BATYKEFER: I make a motion to accept the
5 minutes.

6 MR. HERING: I'll make a second on that.

7 CHAIRMAN STAFFORD: All right. The motion has
8 been made and seconded. Any other discussion? Correct
9 me, Steve. I don't remember. I took down my notes.
10 With respect to the recommendation last time that OSHA
11 proceed with backing operations website, I believe Paul
12 indicated that that was going to be an OSHA website
13 that construction would be a part of the overall
14 website. Is that right?

15 MR. HAWKINS: Right. That's right, from the
16 last meeting.

17 CHAIRMAN STAFFORD: All right. So we're going
18 to have a website that up front on the home page you
19 can go into construction or any other industry that
20 you're interested in. That was the plan. Is Paul
21 still here?

22 MR. BOLON: Yeah.

1 CHAIRMAN STAFFORD: So that's the --

2 MR. BOLON: Yeah. I think to develop this, we
3 can run it by some -- (mic off.)

4 CHAIRMAN STAFFORD: Okay. All right.

5 MR. HAWKINS: Also, just one last word of
6 appreciation for Paul. Paul's been very helpful,
7 communicated a lot with the cochairs before we got
8 here, helped us with the minutes and has really been an
9 excellent person to work with. So on behalf of the
10 workgroup, I'd like to thank Paul for being so helpful
11 and easy to work with.

12 CHAIRMAN STAFFORD: All right. Thank you.
13 Thank you, Paul. Any other questions or comments?

14 Okay. So we have a motion made and seconded.
15 All those in favor say "aye."

16 (Chorus of ayes.)

17 CHAIRMAN STAFFORD: Any opposed?

18 (No response.)

19 MS. SHORTALL: Mr. Chair, at this point I'd
20 like to mark as Exhibit Number 7 the improved Backing
21 Operations Workgroup report from the 5/8/12 meeting; as
22 Exhibit Number 8, the PowerPoint titled, "Internal

1 Traffic Control Plans of Field Evaluation, Hot Nicks
2 Asphalt Paving Operations Preliminary Results,"
3 presented by David Fosbroke from NIOSH; as Exhibit 9
4 the PowerPoint titled, "Blind Areas Around Construction
5 Equipment," also presented by David Fosbroke; and,
6 Exhibit 10, "Responses To an Informal Inquiry On the
7 Use Of Hand Signals In Backing Operations By
8 Representatives From 13 OSHA State Plan States and two
9 ACCSH Members."

10 (Meeting Exhibits Nos. 7, 8,
11 9, and 10 were marked for
12 identification.)

13 CHAIRMAN STAFFORD: Thank you, Sarah. Okay.
14 Why don't we go ahead and break for lunch? We'll
15 readjourn (sic) at 1:00. Thank you.

16 (A lunch recess was taken.)

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1 A F T E R N O O N S E S S I O N

2 CHAIRMAN STAFFORD: Go ahead and call the
3 meeting back to order. Let's see. Tim, you are next
4 on the agenda. So, again, we're glad you made it. We
5 have a workgroup on the program standard, Tim, and
6 we've been having several meetings now, looking at,
7 specifically, if OSHA proceeds after the SBRFA process,
8 it's rulemaking on a program standard and our role on
9 this Committee is really to try to carve out how a
10 program standard would work for the construction
11 sector.

12 And so with that, we know you in your role as
13 a staffer for the NCA 10, and there's a lot of
14 standards dealing with the construction of programs
15 that will be helpful; not only to the R2P workgroup,
16 but for the full Committee to have you here to talk a
17 little bit about your process and the contents of the
18 various standards that ANSI has dealing with
19 construction programs. So it's a pleasure to have you.

20 With that, I'll just turn it over to you.

21 //

22 //

1 VI. ANSI-ASSE A10.33 - SAFETY AND HEALTH PROGRAM

2 REQUIREMENTS FOR MULTI-EMPLOYER PROJECTS OVERVIEW

3 MR. FISHER: Thank you, everybody. I guess
4 I'll start. You'll have to give me just a little
5 leeway here. Pete asked me; he's glad I made it. And
6 just to tell you what happened to me on the way it, it
7 was interesting.

8 I'm on the plane. I look out the window. And
9 I spend a long time with airlines and air pilots. I
10 spent a lot of time in the service and did a lot of
11 time on ground crew safety, so I'm pretty familiar. I
12 look out, and I'm like, man, the tire on the plane
13 looks like it's flat. But I'm kind of from a weird
14 angle. So I thought, well, I must be looking at it
15 wrong. I'm sure it's fine.

16 So the plane actually backs off from the jet
17 way, we start taxiing out. And all of a sudden we
18 turned back and come around. Sure enough, the plane
19 had a flat tire, which if you know anything about
20 aviation safety, that can actually lead to a plane
21 crash. So I was pretty shocked that nobody on the
22 ground crew or anybody caught it. And, so, I got to

1 spend about two hours in the plane looking at them
2 switching a tire. But I'm glad nothing took place,
3 but I am glad to be here. It's somewhat as I look
4 around, it's almost like the mini A10 committee
5 reinvented, and a lot of you I know.

6 So I guess what we'll do is we'll kind of jump
7 into this and basically what happened is when OSHA
8 asked me to come in to talk about the standard, and
9 I'll talk somewhat about the standard a little bit on
10 the process, some of the lessons learned and some of
11 the things that have worked, I think, for the A10
12 Committee. So that's our little presentation slide
13 right there.

14 First of all, let me give you the caveats on
15 this. Anybody that's been involved with A10
16 understands at times things can get a little bit
17 interesting with the Committee. I'll give you a little
18 bit of a feel for the Committee in a minute. But what
19 I'm talking about today is my perspective is the
20 secretary of the A10 Committee and is the Director of
21 Practices and Standards for ASSE. I'm not speaking for
22 the A10 Committee.

1 If I speak with the A10 Committee, there will
2 be A10-ers that will want to hang me in July, because
3 there's a very specific process how the Committee
4 actually issues public statements. And so I just want
5 to make sure that we're clear, that for the record I'm
6 speaking on behalf of the Secretariat. And then what
7 I'm hear to speak on today is the process that we use
8 for the development of standards. And what I
9 personally see is some of the key aspects with A10.33,
10 so I just want to make sure that we're clear on the
11 caveats.

12 Let me give you a quick word about ASSE. I'm
13 not going to give you a big history lesson, but there's
14 a number of ASSE members in here. The organization was
15 founded in 1911. Triangle Shirtwaist Fire, I think
16 most people know. That's over 100 years old now, and
17 that's outstanding. We had our 100-year anniversary
18 last year. We had our best conference ever. The
19 organization has over 34,000 members, and we're going
20 more and more global.

21 I can't speak for a lot of the other
22 occupational safety and health professional

1 organizations in the U.S. or worldwide, but we very
2 well might be the only one that's growing. The
3 organization is doing well. We're very strong,
4 financially and professionally, and we continue to do
5 well. Our membership is absolutely outstanding when
6 you look at our checkered network and the people that
7 are dedicated, and that really amazes me how good our
8 volunteers are.

9 Our leadership is also very dedicated to
10 standards development. I'll get to that in a little
11 bit. We recently took on -- I don't know people have
12 been listening this, but the American Industrial
13 Hygiene Association is giving up all their standards
14 development activities. The Z9 standard for
15 ventilation, Z10 for occupational safety and health
16 management systems, and Z88, which is the respirator
17 standards, their key standards used here in the United
18 States, and we've agreed to take those on.

19 So we're working on a final agreement with AIG
20 right now, and then we'll be the standard developing
21 organization for those three committees as well, which
22 is probably a total of about another 20 subcommittees

1 and standards. I don't actually have the numbers in
2 front of me. Why do I have a picture? Does anybody
3 know who this is up on the screen? It's Ernie Banks.
4 And why is Ernie up there? That's because I have to
5 throw this out to -- anybody who deals with me, Tim
6 Fisher, on standards, knows that I have two passions,
7 and that's the Chicago Bears and the Chicago Cubs.

8 We're going 105 years without a World Series
9 victory, and I just thought that I'd throw up a picture
10 of Ernie. Because if you get anything from me on
11 standards, you're always going to see a lot about the
12 Cubs. So I just thought I'd throw that out. Someday,
13 I'll tell you about the 1945 World Series, because the
14 goat story is absolutely true, just so you guys are
15 aware of that. Absolutely true; the goat story is
16 true.

17 The ASSE approach to standards, and I think
18 this is an important slide and it actually leads to a
19 technical issue here which I wanted to point out. And
20 this is from our SDC chairman, who is Gary Lopez. He's
21 from Florida, and two quotes here; and that is if we're
22 not sure which path to take that we must take the bold

1 one, which is somewhat a repeat of other quotes, but he
2 said that as well. And ASSE is trying to invest SH&E
3 with standards. We are not here to maintain the status
4 quo. And I think this is an important difference,
5 because it happens all the time, and not just with us,
6 but with other standards developing organizations.

7 A lot of constituents and stakeholders get us
8 mixed up with the government. I got a letter of
9 complaint the other day from a Congressman asking are
10 OSHA laws each read 59.2, and OSHA doesn't write 59.2.

11 We do. But my point on it is what we're trying to do
12 with standards is we move them forward. I'll get a
13 little bit more into it, but ANSI standards by their
14 very nature are fluid. They're revised, reaffirmed or
15 withdrawn every five years. They don't sit. So when
16 we talk about a standard and very, very few occasions
17 will you see an ANSI standard take a step back. They
18 generally move forward. They get more stringent as
19 time goes on, and I think that's an important
20 consideration. And that's what I'm trying to show with
21 this slide.

22 What's ASSE's role in standards? And I think

1 this is important, also, from a procedural thing. I
2 wanted the Committee to be aware of what's going on;
3 and, that is basically ASSE, we manage the process and
4 we follow the procedures and our own essential
5 requirements document, which is put out by ANSI. And
6 an important thing to remember -- and we hear this a
7 lot -- ASSE wrote XY Standard. We didn't. We manage
8 the standard over half of our committees, the vast
9 majority, actually, and some of them are not staffed by
10 ASSE members.

11 Now, there are ASSE members on the Committee,
12 but representing organizations; but. as far as ASSE
13 members themselves, less than half of our ANSI
14 committees are generally made up of representatives
15 that belong to the society, and that's an important
16 thing. With A10 it's less than half. With Z359, our
17 fall protection committee, it's probably pushing almost
18 half; but, other ones, for example our A12.64 standard,
19 it's less than 20%. So I think that's important. And
20 then what we need to do at the end is when we work
21 through the procedures, and I'll talk on how A10.33
22 worked with that is how consensus is reached.

1 So that's what we do. We manage the process.
2 We make sure procedures are filed. We try to do a
3 good solid job, and I think, from my perspective, we do
4 that. If we move into A10, and A10 I'm sure maybe some
5 of the people in this room realize we do not, but A10
6 is actually perhaps the oldest, still in existence ANSI
7 standard development committee out there. It was
8 established sometime circa 1932.

9 The first standard from A10 came out in 1944,
10 which was a whole book. If you ever want to read
11 something interesting and you stop by ASSE, I'll let
12 you read that code. It was a construction demolitions
13 code, and it's kind of amazing when you see some of the
14 thinking back in 1944 as opposed to nowadays. So
15 there's been a lot of difference.

16 The National Safety Council was the long-time
17 secretariat of A10. For almost 70 years they had that
18 committee. NSC gave up all their standards activities,
19 circa 2003, 2004, and we took that on in 2004. So
20 we're not a secretariat of that committee. A10 has 48
21 standards and projects. That's a very large committee.
22 There's hundreds of active members on that committee

1 on both the main committee and subgroups. The main
2 committee is limited right now to 75 organization
3 voting members, but when you look at the subgroups,
4 there's literally hundreds of organizations of people
5 on there. And if you look at the committee, the
6 committee at least in my opinion is stronger and better
7 recognized than ever was before.

8 We will routinely get probably 80 people in a
9 meeting now. Ten years ago when some of the people in
10 this room were at those meetings, they'd get 30. So
11 there's been, I think, a lot of recognition. There's
12 been a lot of participation in A10. Companies are very
13 active. We get a lot of applications. I think the
14 biggest thing we have with that right now is that
15 organizations have to wait, which has led to, I think,
16 some heartburn here and there.

17 Leadership of the committee is Richard King.
18 I think some of you know Richard. He's the senior vice
19 president for Black & Veatch. Jim Tomaseski, he's our
20 vice chair of the A10 Committee, and he's the director
21 of the International Brotherhood of Electrical Workers.
22 Also, they give us meeting space. We usually meet at

1 IBEW. We'll be there again on July 9th or 10th. I
2 can't remember the exact date. Anybody who wants to
3 attend, it's free. Just let us know ahead of time;
4 we'll get you on the list. And in regards to A10.33,
5 Jim Lapping, whom I think many of the people in this
6 room would know. Jim actually worked with OSHA at one
7 time. He worked with some other organization. He
8 chairs the A10.33 sub, so Jim is the chair for that.

9 Here's the standard itself, A10.33. It is
10 available from ASSE right now, and our dealers, which
11 would be global ANSI text and basically they sell the
12 standard on our behalf. But this is what it looks like
13 right now. The standard is available, and is an
14 electronic version. We do sell hard copy. But let's
15 get really to I think the important thing that you
16 wanted me to talk about, and that's the scoop on what's
17 going on with the standard.

18 The first version of it was approved in 1992.
19 I think it was a good solid guideline. The revision
20 came in 1998. The standard was significantly
21 strengthened at that point. It was then reaffirmed in
22 2004, and now we just came up with a new version of the

1 standard. It was approved by ANSI on November 11 of
2 last year, and we have an effective date of May 7th.
3 So it just became effective a couple days ago. So the
4 standard is out now. There's been a lot of questions.

5 I'll get into a little bit on the impact later -- the
6 scoop -- and that is why you use contractors.

7 And this is from Hannibal, ancient conqueror
8 and great fall of the Roman Empire. "We must use words
9 and leaders from outside the walls of Carthage. We
10 need skills and abilities to allow us to surprise the
11 enemy and win the war." And there's no question, if
12 you look at A10, one of the main consensus that I think
13 we heard from committee is that the use of contractors
14 and subcontractors has only continued to grow.

15 We see that more and more. We also need to
16 point out that A10.33 -- it's just one path to take,
17 but we think it's a darned good one, but it's just one
18 path to take. So I did have a couple people ask me why
19 did I use Carthage, because Carthage was eventually
20 wiped out by Rome, and they sowed the fields with salt
21 and all that good stuff; but, that's a Cecil B. DeMille
22 movie, but I thought it was a good quote.

1 What am I going to talk about today as far as
2 some of our key issues that we want to talk about with
3 the presentation? Let me back up on one thing, also.
4 There was a number of people on A10, if they want to
5 bring up points, I'm more than happy to get into that
6 discussion. I think what they want to do is go for
7 about 40 minutes and then open this up to a Q and A.
8 But, if you have points you want to bring up, I have
9 absolutely no heartburn with somebody breaking it, and
10 I don't know what the protocol of the committee is, but
11 just to let you know that.

12 But we're going to look at really what some of
13 the key definitions and terms used. There's been some
14 significant differences in this standard between other
15 versions. And I think one of the big things here is
16 when we look at the second bullet point, and really how
17 does the standard of assigned responsibilities to
18 owners, project constructors and contractors. That
19 really gets to the heart of where this standard went.

20 The key actions -- and there's no question
21 that some of the key actions with this particular
22 standard revision were somewhat controversial in there

1 had to be a lot of compromise to get it to where it is
2 now. The other thing is what is the price of safety
3 health plan and how does it function. What's the
4 differences and what's the construction process plan,
5 and how does it function. So I think some of those are
6 the important things, but if we look at some of the
7 other key issues, I think these are some of the big
8 ones.

9 And that was, I think, when we looked at
10 Section 3, it was the senior contractor supervisor. It
11 was very, very widely discussed within the subgroup.
12 The senior project supervisor and the owner's
13 designated safety representative. From my opinion,
14 this was probably -- perhaps I'll get a little bit more
15 into it later -- was one of the critical issues that
16 the committee looked at in the standard.

17 And then the other big one here is the second
18 one that's on communication and I'm not telling you
19 anything you guys don't know. I'll get into this a
20 little bit, but at least from my experience, a lot of
21 the construction incidents that I've investigated or
22 looked into, communication always plays a critical

1 role. Lock-out, tag-out, I probably looked at probably
2 two or three fatalities now in my career, and all of
3 them involve communication.

4 So those are some of the things that we're
5 looking at; and, the other big one which we got into
6 quite a bit, and I'll get in it a little bit later, was
7 the use of construction standards, our standards for
8 smaller projects or companies. And the criticism has
9 always been levied against A10 that it can't be used
10 with smaller companies and contractors, and that we've
11 set unrealistic expectations. So I'll hit on that a
12 little bit, but let's move on. And I want to talk
13 about our timeline, our process, and I really think,
14 most importantly, really what's the guts of the A10.33
15 standard and why has it generated a lot of interest in
16 the SH&E community, which it absolutely has.

17 I think an important thing here to mention is
18 that synergy is a very important thing when we look at
19 A10.33. As I mentioned, we have 48 standards and
20 projects. But what we're trying to do, and I think
21 we've done a pretty good job on it and we're continuing
22 to work on this is we want to have Synergy with all our

1 standards. And when we look at A10.33, it's really
2 meant to be somewhat of a trio or triumvirate, I guess
3 would be the best way to put it. And then as far as
4 we're talking construction safety management, I think
5 with A10 there is no substantive, but there's really
6 three standards that really play a key, key role when
7 we talk about safety health management from the aspect
8 of the A10 committee.

9 One is A10.33, which I'm here to talk about
10 today. That's the multi-employer standard. A10.38,
11 which is our basic element standard, also very, very
12 widely used, and then our A10.39 standard, which is the
13 auditing standard. A10.39 hasn't been used as widely
14 as we'd like, but all three of them, at least from my
15 perspective, are designed that they're supposed to work
16 with each other.

17 A fourth standard, which just came out, I
18 think is going to play a critical role in construction
19 also. And also with A10.33, and that's our A10.1
20 standard, it deals with preplanning for construction
21 sites. It's a critical standard, got a lot of
22 interest, and absolutely impacts a 10.33 when we get

1 into some of the preplanning aspects of the standard.

2 Fast forward on process. This standard has
3 always, always been historically difficult to reach
4 consensus. This one was no different. We did have a
5 number of outstanding objections to the standard when
6 it was finalized, I think 17. I would have to go back.

7 I could be wrong on that number, but there was a
8 number of outstanding objections. We had over 100
9 pages of comments, fun-filled comments on how the
10 standard should be changed and how some members of the
11 committee were insane with their expectations, which
12 was always pretty good. The one thing I'd tell you on
13 standards development activities, I don't care what
14 interest category you're with, and I don't care what
15 your thinking is. If the committee does not accept
16 your comments, they're absolutely crazy.

17 I mean that's the one thing which I think has
18 been an absolute with my experience in standards for 20
19 years. Of interest, there was no appeals filed. A10,
20 we have dealt with appeals before, but we did not have
21 to face an appeal this time, but we did not have to
22 face an appeal this time. If we get an A10.33, really,

1 as far as I think somewhat the standard itself, there's
2 no question. The standard has been extended and it's a
3 much, much stronger standard. I think there's been a
4 lot of additions to it. There's been some additional
5 requirements. And I'll get a little bit into that, but
6 if you look at the crux of the standard, it's been made
7 larger.

8 Size isn't always an indicator of quality, but
9 I think that they definitively have expanded the size
10 of the standard. They're trying to get more, as far as
11 what they're looking for. I guess I would want to call
12 it from my perspective a holistic approach. They're
13 trying to get the owner, the constructor and the
14 subcontractors working together, communication, some
15 hazard assessment, that type of thing. The standard
16 actually had hazard assessment, originally, but I think
17 it's really been expanded. And when we get into it a
18 little bit later, I could point some of that out.

19 I think, once again, we're looking for a
20 synergy with our A10.38, 39 standards and our A10.1.
21 The other standard, which I think was not an unintended
22 consequence, but we didn't realize how much impact it

1 was going to have was our Z590.3 standard, which is our
2 prevention through design standard. It's had a lot of
3 impact in construction. The biggest user of the
4 standard or the purchaser of the standard in the last
5 six months has been the construction demolition
6 industry. So if you look at Z590.3, it's our
7 prevention through design standard.

8 It looks at prevention through design from a
9 30,000-foot view, I would say, but absolutely it has
10 played a role with construction. I think from the
11 design aspect a little bit, the biggest thing I've seen
12 now has been the design of anchorage points on
13 facilities prior to construction, which a lot of that
14 maybe some of you probably have seen that before. But
15 that, in my opinion, has been something which has been
16 missing for many years. But I've seen more of that, I
17 think, in the last year, and I like to think our
18 standard has helped play a role in that.

19 There's absolutely no doubt though, as I've
20 said, that we did have some outstanding objections.
21 But I do think that the consensus within the committee,
22 and remember consensus is not unanimous. That's an

1 important consideration here, was far stronger than we
2 had seen with previous versions of A10.33. So some
3 people in this room might disagree with me, but I
4 thought that consensus was stronger for the standard
5 that we've seen before.

6 What's included in A10.33? There's really 15
7 chapters or 15 sections. I'll break them down a little
8 bit, but this is a listing of them right here. From my
9 perspective, I'll talk a little bit about it. I
10 personally think that Section 3 was the one that was
11 debated the most. I see it as the heart of the
12 standard. Now, that's not saying that the other
13 sections don't play an important role, but from my
14 perspective, I think that Section 3 plays an absolutely
15 critical role as far as the standard goes.

16 The other thing, which I think was very
17 important as far as this A10.33 standard was there was
18 a number of appendices which were added. Now, they're
19 not mandatory, which is always an important
20 consideration when we talk about American national
21 standards, because when people look at an ANSI
22 standard, whether it's ANSI, if it's an ASSE standard,

1 an NFPA standard, ASTM, there is an important
2 consideration between what is considered to be a
3 mandatory portion of the standard and what's considered
4 to be non-mandatory.

5 The appendices sections are non-mandatory.
6 They're informational. That being said, they play a
7 critical role, and I think they really give some good,
8 solid guidance to the industry and to the SH&E
9 professionals in construction demolition is to where
10 the direction of the standard is going. And some good
11 ideas, if you can use them, there's absolutely some
12 good materials which can be used on the job site. So
13 that's what I mean by bad.

14 Okay. Now, on this slide here, if we talk
15 about the standard itself, and I think this is
16 critical, Section 1 deals with the scope and
17 application. And when we look at the scope and
18 application standard, it was really not from my
19 perspective that significantly changed. I don't think
20 it was a big difference. Scopes historically and
21 standards don't change that much. Sometimes they do,
22 but they generally stayed pretty consistent. But when

1 we talk about the overall standard itself, I think the
2 changes in this were very, very significant. And on a
3 scale of 1 to 10, I'd rate it about a 9, which means
4 that yes, there was, I think, some pretty significant
5 big changes in this standard versus the older version,
6 so some pretty big differences. And we'll get into
7 some of that stuff as we go along.

8 The scope -- and I mentioned there wasn't a
9 lot of change in it, but I still think it's an
10 important thing to read here, and that is the scope.
11 And this standard sets forth the minimum elements and
12 activities of a program, which defines the duties and
13 responsibilities of construction employers working on a
14 construction project where multiple employers are or
15 will be engaged in a common undertaking the completed
16 construction project. I mean, basically, what does it
17 say in the scope?

18 And that is that basically we've written a
19 document, and the document from our opinion really sets
20 the minimum expectations that should take place as far
21 as managing multi employers on a work site. That's as
22 far as we're saying, as far as contractors and

1 subcontractors. The committee, when they saw this, is
2 somewhat of a fair minimum. If we move into Section 2,
3 and I think this is important, because definitions,
4 when you look at a standard, I really think it differs
5 on the opinion of the committee as to which direction
6 you want to take.

7 Some standards developers and some committees
8 believe that the definitions drive the standard. Other
9 ones believe that the standard drives the definitions,
10 and it may sound like I'm just cutting into the gray
11 area here, but I'm not. It's a very critical area as
12 far as the standards are written. From my perspective
13 what A.10 does is they try to write standards which
14 they think are based on good, solid operating
15 practices, and then they try to write the definitions
16 to go with it.

17 And in my opinion, that's a good way to try
18 and write a standard. And so what we've done with this
19 one is the definitions were significant expanded from
20 10 to 20. I'll give in to some of them also, but I
21 think some of the key ones, the additions there, was
22 the enforcing authority. There was some work done on

1 that. That's always been an ongoing debate with an
2 A10. Who was the enforcing authority. Who was the
3 responsibility? Who really is the one that can make
4 things happen?

5 I would like to point out, I think, in your
6 packets we included our A10 tech brief that has the
7 definitions in there, so you can see those as well.
8 And the other big one, and this I'm going to harp on
9 for a minute, hazard analysis and job safety analysis.

10 These are big additions to the standard, from my
11 perspective as the secretary and where occupational and
12 safety health is going.

13 Hazard analysis, safety analysis, risk
14 assessment is absolutely critical. We're seeing more
15 and more of this out in the field. I deal with a lot
16 of ASSE members. We have 4,000 members in our
17 construction practice specialty. The biggest question
18 we get from them, I think, deals with the question
19 hazard analysis, risk assessment and a JSA. So this is
20 in addition to the standard, very, very critical. I'll
21 give you some of the components on that later, but I
22 think some of the additions on this from the definition

1 perspective added a lot.

2 I mentioned earlier that I really think
3 Section 3, the project safety and health requirements,
4 from my perspective is really the heart of the
5 standard. When you really look at what we're trying to
6 do there, lessons learned and what we're trying to
7 accomplish, I really think this cuts to what we're
8 looking to do with that net, as I mentioned a couple
9 before. We're looking for a holistic approach to
10 contractor and subcontractor safety. What are we
11 trying to do, really, with this is trying to one, get
12 communication going. We're trying to get some lines
13 of -- I don't want to necessarily use the word
14 "authority," but I guess that's the proper. We want to
15 delineate some lines of authority. We want to make
16 sure that readers of the standard understand that what
17 we're looking for is for some responsibility for people
18 to be designated.

19 Once again, I'm not telling you anything you
20 don't know, but if we go on a lot of construction
21 sites, a lot of times nobody knows who's in charge of
22 safety. And I've seen that from my own personal

1 experience many times. Many times -- not with bigger
2 companies -- I mean I'm not talking about the larger
3 contractors. But a lot of the mid to small, a lot of
4 times nobody really knows. So will they use the
5 standard?

6 We hope and think they will down the road, but
7 that's what we're looking for here. So the standard
8 assigns responsibilities to owners, project instructors
9 and contractors. And if you're looking to how the
10 standard is structured, we think that there's a
11 reasonable approach to that. We think that there's
12 some balancing. There's a balancing act in there. I
13 think one of the big aspects we got into when we looked
14 at Section 3 was how do we balance what we thought is
15 reasonable responsibility, reasonable delineation of
16 authority, and practical work on a demolition site.

17 Hopefully, we got that, and that's I think,
18 but as I mentioned earlier, that was one of the biggest
19 areas that we debated with this. But what key actions,
20 really, when we talk about Section 3? And, really,
21 when you look at it up here, implementation was, I
22 think, when you look at how the standard was revised,

1 implementation was big. Basically, what they did is I
2 think if you look at the committee we're coming up with
3 a more pragmatic approach. We're looking for a more
4 proactive approach as far as the standard goes for
5 users. We're looking for people to get out there.

6 I mentioned earlier, job hazard analysis, JSA
7 risk assessment. We want them out there looking for
8 hazards. We want them coming up with action plans.
9 And I think implementation goes a lot into that. You
10 know. I don't want to get into a full breakdown of
11 every bullet point. I think what's important too is
12 like the assessment of qualifications at the end. This
13 was something we got into a lot of discussion on, and
14 that is a lot of the smaller specialty contractors may
15 not necessarily have the safety record that somebody
16 would be looking for.

17 What does the standard say? Does it say you
18 can't use those companies? It does not say that at
19 all, and I think that is an important consideration.
20 What it says, you're going to use a contract or
21 subcontractor that's had some issues with safety before
22 in the past. You need to have an action plan. You

1 need to work with them as far as what you're looking
2 for, some clear expectations, and I think that's an
3 important one.

4 The plan description and these other ones are
5 important. I already, I think, talked about
6 responsibilities and authority. I'll give that a
7 little bit later, but I think the standard does a very
8 good job of delineating that, of what the committee was
9 looking for in regards to how a good quality plan
10 should be managed on a site. If you look, really, at
11 the requirements of the plan, I want to get into this.

12 And I really think for me, I thought this was a
13 critical aspect of the standard. This was the section
14 which was added, 3.1.3. "Each contractor shall develop
15 document and implement a site specific safety and
16 health plan commensurate with the scope and extent of
17 their activities, and sufficient to ensure compliance
18 provisions of the standard." And what are we looking
19 for with this? We're looking for the contractor to
20 really play a key role with safety on the jobs.

21 That's one of the things I think is absolutely
22 critical. The standard absolutely has, I think, taken

1 a different direction on this, has put more teeth into
2 it than before you had seen that. A lot of times the
3 contractor will have a plan, will have an excellent
4 working plan, and it will sit on the shelf. With this
5 one, what we're saying is we want everybody to play a
6 key role, and we're looking for all of them to have
7 their own occupational safety and health plans.

8 I mentioned lock-out, tag-out. I am amazed to
9 this day how many companies that deal with, you know,
10 lock-out, tag-out exposures don't have a written plan.

11 That, absolutely, it's such a significant exposure to
12 hazard on a construction site. We write a standard for
13 it, but you'd be amazed how many calls I get on that
14 specific issue. It's very, very common.

15 Section 3, also, when we look in here, and you
16 can look through the standard, I think, to see the
17 specifics on that. But there's a couple things in
18 there, which I think really played a key role. One is
19 revisions and safety and health plans, which thus is
20 important, because if we want the plan to be written.
21 We don't want it to just be some ongoing, onliving
22 document. We're looking for it to move forward. We're

1 looking for the onsite people to be looking for hazards
2 and exposures, like I noted. We're looking for good,
3 proactive action, and I think that 3.7 addresses that
4 to some extent.

5 Critical structures and complex process is
6 3.9. That was a change in the standard, also. I think
7 that it added more heat to it than you had seen before
8 in the past. But, to me, I kind of beat on this a
9 little bit earlier, and that's 3.10, which is
10 communication, which I think has been significantly
11 changed in the standard. It's been significantly
12 strengthened. There's been lines of communication,
13 which have been designated in the standard which
14 weren't there before.

15 So I think this is a lessons learned for us.
16 I think it's a lessons learned for construction
17 demolition industry. I know it's a lesson from our
18 construction practice, especially. We hear this all
19 the time. And when we look at root cause analysis with
20 incidents that we deal with, communication always seems
21 to play a key role. So I think we've done a pretty
22 good job on the standard in trying to address that.

1 Let's look at disciplinary procedures. I
2 think this is an important one. What key actions does
3 the standard address? And, really, what it says is you
4 need to have a policy. That's really what the standard
5 is saying. You need to have a policy in there. Also
6 of interest, it says you should really have a worker
7 recognition program in there, which we see a lot of
8 bigger contractor, if absolutely you have a bigger
9 company. But I'm starting to see smaller ones, as
10 well.

11 As an example, I judged a construction safety
12 contest in Indiana not that long ago, and the overall
13 winner was a company that had less than 20
14 employees -- absolutely an outstanding safety
15 program -- very proactive, good solid ideas, and they
16 were a specialty. I should say they were a specialty
17 contractor. I should point that out, but I'm really
18 amazing that you saw the type of work that was being
19 done. So disciplinary procedures and worker
20 recognition does not necessarily just mean bigger
21 outfits, and I think that's an important consideration
22 that we need to talk about.

1 So Section 4, I think, did that. I think
2 that's a lesson learned also that we should probably
3 talk about, because I think from our experience from
4 ASSE and from some of our members that they found that
5 recognition can go a long way on construction sites, if
6 it's done appropriately and correctly, and it's worked
7 out well.

8 MR. HAWKINS: What kind of recognition program
9 are you talking about?

10 MR. FISHER: Well, what we see in the standard
11 is we don't give a specific -- like we don't have a
12 specific format. What we're seeing is you really
13 should have them. It's up to you as the employer, as
14 to what you want to do. So we don't say you'll use
15 this type of system, use this type of award program.
16 We don't do that. We're just saying it's a good idea
17 to have one.

18 MR. HAWKINS: You reward them for what?

19 MR. FISHER: Well, I'm not saying you're going
20 to reward them for not -- I guess I don't understand
21 your question. What are you asking?

22 MR. HAWKINS: You're talking about recognition

1 programs and awards, that they would encourage people
2 not to report accidents.

3 MR. FISHER: That's not what I'm talking
4 about, absolutely not. Let me clarify that. And I
5 told you before when I said that I'm talking about an
6 appropriate recognition program, this does not deal
7 with non reporting injuries. We're not in any way
8 trying to say that you shouldn't report injuries, and I
9 want to be very final on that.

10 MR. HAWKINS: Apparently not.

11 MR. FISHER: Okay.

12 MR. HAWKINS: I just wondered if you had any
13 examples of ones you're saying are good or what kind of
14 things you'd --

15 MR. FISHER: I've seen a lot of good
16 recognition programs, but none that I would
17 specifically point out here at this meeting.

18 MR. HAWKINS: Okay.

19 CHAIRMAN STAFFORD: So you make the
20 distinction recognition versus incentive?

21 MR. FISHER: Absolutely, and that's why I
22 said, "recognition," not an incentive program. I'm

1 very familiar with the issues of non-reporting, which
2 is why I wanted to be tough on this one, and I actually
3 thought I'd get this question. I want to be very clear
4 on that, that this is not an incentive program to not
5 report injuries and illnesses and fatalities. That's
6 not what this is.

7 If we go on to Section 5, which deals with key
8 issues, I think this is one of the key things here, and
9 that is the senior project supervisor and the
10 responsibilities versus the corrective actions. I
11 think this was, perhaps, one of the most debated areas
12 of the standard that deals with the roles, how they're
13 addressed and implemented, and really what was the
14 senior project supervisor doing.

15 They have overall responsibility for the site.

16 And I think when we look at the standard -- this was
17 in there before, but there's been some additional
18 language added to that that deals with the question of
19 a senior project supervisor. Again, what we're trying
20 to do is we're trying to get them to not only be the
21 person walking the area, helping with making sure those
22 plans get implemented. But I think really operating,

1 also, as somewhat of a communicator up and down the
2 chain, they do have the responsibility on the site, and
3 I think that's an important difference.

4 So I wanted to say I think this one here, when
5 we revise this portion of the standard, it was pretty
6 important. So the senior contractor supervisor is
7 another one, and when we talk about that, really, their
8 responsibility, and they're the key person. I think
9 they're the main contact on the site for the contractor
10 themselves. And if you look at the way the standard's
11 been written, once again, I mentioned earlier there's
12 been much more added as far as communication and
13 delineation of responsibility as to what they have to
14 do or what they don't have to do.

15 So I think that's an important consideration,
16 also. Also, once again, this is something that A10 I
17 think really wrestled with is the question of the owner
18 and the owner's designated safety representative. And
19 here's the question there. It's like, okay. I'm the
20 owner. I basically contracted out my job. Do I really
21 have a lot? What's my involvement in this? Maybe I
22 come by the site, and what the standard is saying,

1 absolutely, you have a responsibility. We need you
2 there. You need to help lead the way on this thing.
3 You need to play a critical role as far as the
4 coordination of this, and that's really what's the
5 standard is saying on that when you look at that.

6 So it's not saying that the owner and the
7 owner-designated safety rep is going to be running the
8 entire safety program. That's not their purpose.
9 Their purpose is that they're still going to be on that
10 site on occasion. They're going to be helping, taking
11 a role in that, and they're going to be involved in
12 coordination of it. So I think if you look at the
13 standard and if you look at some of the sections in
14 there, there's been some definite strengthening on
15 that.

16 I would say that this is an important area to
17 standard. I think it's a lessons learned, that we
18 talked about lessons learned as far as our perspective.

19 When we did the standard I think this is one area that
20 the committee will intentionally look to try and
21 strengthen. I think, really, the scope, I want to get
22 more into the senior project supervisor. Really, what

1 are we saying the standard? You need to have one. I
2 mean that's the basic thing there.

3 We need to have delineated levels of
4 responsibility, which the standard does have, and there
5 needs to be some corrective actions taken. So the
6 senior project supervisor, they're really the
7 quarterback, and this is what we're saying on this.
8 And they need to have a presence on the project, and
9 the standard's pretty clear on that. Once again, I
10 don't know what everybody else is experiencing, but I'm
11 always amazed that you can have somebody that's
12 responsible for a project and they won't set foot on
13 it. I've seen that at least a half a dozen times in
14 the last year, where they're are designated as the lead
15 on it, and they're not even there. They could be in a
16 different state, and they may get their once. It's
17 something I've seen, and I always have an issue with
18 that, but that's my own personal perspective.

19 Section 7 is our "Construction Process Plan,"
20 and I mentioned this earlier. I want to talk on this
21 for a little bit, because it's a short session, but
22 it's pretty darned significant. And really, what it

1 does, is allow the SH&E professional to be more
2 proactive. That's what we're trying to do with this.
3 And one of the big things I mentioned earlier is we
4 were looking for the question of synergy with our A10.1
5 planning standard, because what we talked about in
6 A10.33 is the need to do some planning, the need to
7 decide how your work is going to go, some designing on
8 processes.

9 A10.1 is also going to play a critical role in
10 that, because that gets involved in the preplanning
11 phase. And that's what we're talking about, what we
12 mean by a test. So we're not saying that we want to go
13 out there and test companies and contractors. We're
14 just saying that we think this is something you can use
15 when you look at your own plan. You can look at that
16 and rate against it.

17 Section 8, though, is absolutely a tie-in to
18 Section 7. Once again, we're looking at the need for
19 planning. I really think the hazard analysis section,
20 8.2, is absolutely critical, and we really talk about
21 here it's the need to involve workers and to identify
22 hazardous exposures. And we're looking for pre-phase

1 planning meetings. I think also the standard is
2 looking a little bit more pragmatic communication with
3 workers, perhaps than we had before in the past.

4 There's no question if you're on a
5 construction demolition site, if you want to or have
6 some exposure there, talk to your workers. They'll
7 absolutely be able to point them out to you. And I
8 think we tried to include that and the standard,
9 perhaps, stronger than we did before.

10 Section 9 was our "Emergency Plan." A quick
11 word under A10.26 and A10.34 standards, because I think
12 they play an important role. A10.26 is our emergency
13 response standard. It's brand new. It is cited in the
14 standard A10.34 as protecting the public, even though
15 OSHA itself does not get into protection of the public,
16 per se. This standard doesn't do that either, but
17 A10.34 does. And I think that there's a role here,
18 because A10.34 absolutely plays a role when we look at
19 A10.33, emergency planning and disaster, and that type
20 of thing. So I think that's an important standard. Of
21 interest is A10.34 is perhaps one of our most commonly
22 used standards, very, very well used.

1 Section 10, "Permitting System," it looks at
2 addressing the ongoing issue of permits, and this I
3 think is important with a lot of questions about it.
4 What happens when work environments change? Section 10
5 really looks at that. It looks at the question of
6 emphasis on the need for communication both up and down
7 the chain for additional hazard assessment, if need be.
8 And I think Section 10 plays a pretty critical role in
9 that area.

10 I mentioned earlier some lock-out tag-out
11 stuff I worked on, and I noted every lotto incident I
12 ever investigated somehow involved poor communication
13 as one of the key issues there. So that's for my own
14 personal experience, and we're trying to address that
15 with section 10 with some of the ongoing communication
16 issues.

17 Section 11, "Notification," this is also
18 small, but it's a very significant section up there.
19 And what are we really trying to show with this
20 standard is once again the issue of communication, and
21 that is that safety and health information really needs
22 to be distributed out there, and that contractors and

1 employees need to have access to project safety and
2 health program requirements. You can't hold them
3 responsible or hold them to a level of performance if
4 they don't know what they are, and I think that's what
5 A10.33 and what this section is what we're trying to
6 accomplish with that particular area.

7 12, once again, if you look at the way the
8 standard is mentioned, I just want to mention that
9 Section 7 is the heart. Some of these other ones are
10 fairly small sections, but Section 12 is an important
11 one, because when we talk about training, it's
12 important that people understand, once again, what
13 they're doing, how they're doing it and what the
14 purpose is. So the training session, the standard,
15 even though it's not vast, it does talk about the need
16 for training, need for documentation. And we do have
17 other training standards with an A10. Eventually,
18 we're going to come out with an A10 II training
19 standard, and I see this is kind of coupling onto that
20 one, so just so people are aware of what that is.

21 "Changes to Protective Measures," once again,
22 this kind of gets back into it, and that is when

1 alternative measures are no longer applicable. What
2 are we going to do if the hazard continues to exist and
3 places others at risk? What the standard really says
4 is you really need to get in there. You really need to
5 take a good look at what's going on. You need to
6 correct that. Potentially, you might have to do some
7 job shaping there. You might have to shut down areas
8 of a job. If you have significant, immediate
9 death-like hazard type situation, the standard does
10 talk about that.

11 I think this is an important section of the
12 standard. You know. I mean, right now, I don't think
13 I'm, once again, I'm telling anybody who knows; but,
14 you know, an incident on a construction site costs an
15 awful lot of money to a contractor when all is said and
16 done. I see those numbers come through all the time.
17 I'm familiar with one site that dealt with a welding, a
18 fire incident, probably about a \$2 Million loss, which
19 probably could have been corrected for about a \$250
20 fire watch. So these are some of the things that we're
21 looking at.

22 14 and 15, really, we're talking about our

1 hierarchy reviews, correction of hazardous conditions.

2 So these aren't huge sections, but I think they play
3 an important role. They're in the standard I would
4 once again say take a look at it.

5 Our appendix materials, the appendix is almost
6 half the size of the standard over again. I could beat
7 a dead horse on the appendix materials. I think
8 they're outstanding. Appendix A is really our model
9 contractor safety and health program that's taken from
10 work actually done with ACCSH. There were some edits
11 done to it to be consistent with the verbiage, which we
12 have in A10.33. Very positive response on this, I
13 would say. We tried to maintain consistency between
14 the model contractor program and the requirements of
15 the standard. I think we did that. Some of the
16 verbiage, I think, some of the nomenclature was one of
17 the topics that they spent a lot of time looking at.

18 Let me talk really quick on the current
19 impact. Between ASSE and our developers, we've
20 probably sold about a thousand copies of the standard.

21 So there's been a lot of interest out on that. So
22 we've used the standard, I really think, to encourage

1 the attendants on our webinars. Have you ever been on
2 our ASSE webinar? Basically, what we'll do is include
3 the standard as a freebie, if people will come on it,
4 as well. I've seen a number of examples the last six
5 months of how the standard is being used to contract
6 some work agreements.

7 Now, I argue there's a difference between a
8 contract and a work agreement. I'm sure if there's an
9 attorney in the room, they're going to tell me I'm
10 wrong. But I see a difference on that, and I see them
11 use it both ways. How are the standards used? I
12 really think what we're looking for is we want to see
13 them used as far as pragmatic use onsite; and, I think,
14 hopefully, we'll be able to do that with this standard.

15 We're also looking to do potentially some Apps. We've
16 already been looking at handheld units so that they can
17 be used onsite.

18 The other big question I have is after the
19 summit decision came down, was a 10.33 used a lot, and
20 it absolutely was. When that was somewhat in limbo at
21 that time, we had huge use of the standard. I can't
22 even tell you how many calls I had on it that time.

1 And then there's been extensive interest from ASSE
2 members, and our own SH&E professionals.

3 Small business: One of the other big
4 questions we get on that, we argue that it can be used
5 by smaller companies and contractors. We know this is
6 a quote that I got from a small contractor, which I
7 thought was interesting. He had called me; and,
8 originally, he was somewhat irritated because A10.33
9 was included in one of his contracts, and he had to
10 follow it. So I had a discussion with him, and he
11 called me about two weeks later on something else; but,
12 I asked if I could use this quote.

13 He asked me not to use his name, since this is
14 a government presentation; but, he said, I could use
15 the quote anyway. As part of a contract, we had to
16 agree to follow the A10.33 document, and we had never
17 heard of the scanner, let alone the ASSE or A10. But
18 the standards gave us a very good snapshot of what we
19 should aspire to be. The investment in our safety
20 program has made us much more competitive for future
21 bids and jobs. It worked out well.

22 I cannot say that we were thrilled to have to

1 do the things listed in the standard, but I think
2 overall it is a good thing to do. So, yeah. I mean
3 did he think the standard was potentially not the
4 easiest thing for implementing at a site? Absolutely.

5 But, of interest, and I would say on this, is that he
6 thinks it made him more competitive for future bids and
7 jobs, especially with some of the bigger jobs, and I
8 think that's important.

9 So, as that great American Porky Pig says,
10 "That's all folks." I actually a Porky Pig's, and I
11 appreciate your time. And if anybody has any
12 questions, I'd be more than happy to take them on. And
13 I think that I've just about hit my time, Pete.

14 CHAIRMAN STAFFORD: Yeah. Thank you very
15 much. And no Yogi Bear saying, so --

16 (Laughter.)

17 CHAIRMAN STAFFORD: -- any questions or
18 comments?

19 MR. CANNON: I just have one.

20 CHAIRMAN STAFFORD: Go ahead, please.

21 MR. CANNON: Do you formally solicit feedback
22 to see if there are additional challenges for

1 subcontractors? What size contract are you buying?
2 What's the purpose? You said, you know, contracts did
3 this in one exhibit, and, yeah, just some general
4 information.

5 CHAIRMAN STAFFORD: Yeah. I would tell you
6 this. Out of the thousand standards that we've sold, I
7 would say -- and I wouldn't say the specific data on
8 it. I haven't done the analysis on it yet. There's no
9 question the vast majority of them I would say are
10 active, bigger level companies. There are some smaller
11 companies that use them. I think the biggest driver
12 has been if we're talking about bigger organizations.
13 From my experience it's been the bigger companies are
14 actually out there trying to do some good, solid things
15 with SH&E Construction. They see it as a benchmark.

16 The one thing I see with A10 standards is they
17 use it as a benchmark, pretty often. If we're talking,
18 the smaller companies, the biggest reason I've seen
19 that is that because A10.33 is cited in the contract
20 for them to get the job. So for us to do this, this
21 and this, we have to file with the Army Corps of
22 Engineers, manual. We'll do this, this and this. Oh.

1 And A10.33 is listed as well. That's been the biggest
2 user of that.

3 As far as do we go out and ask for insights on
4 these, we absolutely do. It's part of the process. We
5 have to go out there. We have to announce public
6 review. We have to announce when the projects launch,
7 and we'll always accept comments on any standard. So I
8 don't know if I'm answering your question, Kevin, or
9 kind of wording around it?

10 MR. CANNON: Yeah. You did, but as the
11 smaller guys, what are the true challenges with meeting
12 every single requirement?

13 CHAIRMAN STAFFORD: I think when we talk about
14 the smaller ones, I and I've talked to a number of
15 these companies now, I mean, a lot of them when they
16 first look at the standard, the first thing is oh, I've
17 got to do this? I mean we hear a lot of that. I'm not
18 saying we don't, but I also hear an awful lot of after
19 we went through the exercise, one, it wasn't what we
20 thought it was going to be. And, two, after we did it,
21 it's going to make our program more competitive.

22 I don't know what the committee is looking at

1 right now, but there's no question, at least from my
2 aspect, kind of from maybe the outside looking in on
3 this, safety and health has become a competitive
4 advantage right now, especially in the bidding
5 processes. If you don't have a good, solid safety and
6 health program, and good solid safety and health stats,
7 there's a lot of jobs you're not going to get. It's a
8 big impact for the smaller guys. I deal with them all
9 the time. And I'm not claiming I represent small
10 employer. I don't.

11 I represent the ASSE, but I deal with an awful
12 lot of them. So I would say from the small guys when
13 they first look at it, they're like, God, this thing's
14 going to be tough to implement. They go through it,
15 they go, you know, we really do a lot of this stuff.
16 It gives them a barometer of what they're going to
17 aspire to be, and I think it's been good. The other
18 thing I'd say, also, as a member, A10 is a voluntary
19 national consensus standard. It's not the law.

20 CHAIRMAN STAFFORD: Right. Thanks. Tish?

21 MS. DAVIS: Yeah. Thanks very much. I was
22 wondering if you could comment on what the standards

1 specified with respect to project wide injury
2 reporting, project wide log effects. I noticed in the
3 appendices there was a log that you didn't speak to.

4 MR. FISHER: Yeah. I mean it is a log-in,
5 that the standard also has a mandatory log as far as,
6 actually, talking about a daily log in certain sections
7 of the standard. We don't get into a statistical type
8 formula type thing. We don't do that. I mean the
9 Feds, they have recordkeeping rules for that. So we
10 haven't gotten to that, but they talk about daily logs
11 in there. They also talk about hazard investigation,
12 that type of thing. So you need to maintain it, but
13 I'm not saying the standard does not get into great
14 detail of how we're going to classify injuries and that
15 type thing. It doesn't deal with that.

16 CHAIRMAN STAFFORD: And under your definition
17 of senior contractor, is that a holdover from the
18 initial standard as opposed to prime controlling,
19 responsible?

20 MR. FISHER: It was in there, but it has
21 been -- it has, I would say, significantly edited, but
22 there was some changes to it.

1 CHAIRMAN STAFFORD: And the communication on
2 large sites where there may be multiple, senior
3 contractors as a standard address.

4 MR. FISHER: Absolutely; the standard
5 actually, and maybe I should be clear on that. I
6 mentioned a lot about communication. I think that was
7 a good lesson learned that the Committee looked at when
8 it looked at revising the standard. But one thing that
9 they really noticed that they thought an important
10 piece missing is they weren't able to properly
11 coordinate communication as far as the standard one.
12 And that's what the standard talks about. It talks
13 about how you're going to get your senior people
14 involved. Some of the different coordination, some of
15 the communication tools they can use, I think we solved
16 some of that with the current standard.

17 CHAIRMAN STAFFORD: Yeah. Jim, please?

18 DR. PLATNER: Jim Platner from CPWR. Maybe
19 it's for Tim and maybe it's for OSHA, but are some OSHA
20 regs referencing ANSI standards? When that happens,
21 how do you manage sort of exposure of these? That's
22 obvious the cost of the standard supporting the rule,

1 the standard making process. Presumably, you don't
2 want it published in the Federal Register, and I was
3 just wondering how those are dealt with.

4 MR. FISHER: One of the ongoing, great debates
5 of our time deals with free standards, free consensus
6 standards. I just want to say one thing. I know
7 people, and I'll answer that question. But when I've
8 first got into Safety over 20 years ago, and if I
9 needed a copy of the Code of Federal Regulations, I had
10 two choices. I could either drive to the nearest OSHA
11 office, which was 45 miles away; or, I could order it
12 to the Government Printing Office and pay a fee. Sop I
13 also know that if you're an attorney, you subscribe to
14 Westlaw.

15 If you want to know about appeals, and all
16 that, you're going to get that information. So I
17 argue, I would say, first of all, that a lot of this
18 stuff there's always been a charge for. As far as what
19 we do, do we like to see our standards cited by
20 reference? I think we do. We haven't been as big on
21 that as some of the other standards the developing
22 organizations have been.

1 I think we prefer to see our standard is used
2 more as a suggested guidance document. Some of our
3 standards are Z87 as one of our old standard sets that
4 ostensibly set it by reference, not just by OSHA.
5 A10.33 has a couple mentions on the OSHA page, but I
6 guess, specifically, to Jim's question, do we want to
7 see it cited, yes. When is the standard cited? What
8 do we do then? Well, we have our tech brief which
9 basically gives everybody what's in it.

10 We get basically almost 30% of the standard
11 away for free right there. We don't give the whole
12 standard away for free. People would need to order it.

13 If you look at the cost of standards, ours are
14 probably the cheapest out there. Remember. You can
15 get one of our standards for \$54, so that's pretty much
16 how our pricing works. Will we give a standard out for
17 free? On occasion we will, depending on the situations
18 that come to us, and somebody writes us or contacts us
19 and makes their case known. We'll hear them out. We
20 are looking, for example, at what NFPA does. At NFPA,
21 basically, they put their standard on a website.

22 You can read it and look at the whole thing,

1 but you can't copy it. You can't print it, and you
2 can't save it. Well, we do that. We're looking at it.

3 I don't know if we will or not, because one, we're not
4 near the size of a developer that say NFPA is, or ASDM.

5 So we run the two big issues with them, and that is do
6 we make money on standards development with ASSE.

7 Yeah. We make a little bit.

8 I'm not saying we don't make anything. I'm
9 saying we do okay; but, after you throw in the
10 insurance, the cost for standard development, we pay
11 over \$20,000 to advance you a loan, just so people are
12 aware. Insurance is very expensive. You've got me.
13 You've got everybody that goes with it, the website,
14 everything that goes with it. We make a few bucks on
15 standards, not a lot of money.

16 So the issue we get into is if we give out
17 free standards, will we have enough to actually drive
18 the standards process. That we don't know yet, and
19 because we're a smaller developer in the overall
20 standards and developing environment, I don't know if
21 the loss that we would get from free views would
22 necessarily hit us the other way. I don't know if I'm

1 answering your question, Jim, or just kind of dancing
2 around.

3 MR. PLATNER: Well, I'm just concerned about
4 it.

5 MR. FISHER: Yeah. I think it's a valid point
6 we're paying attention to. We've seen the debate and
7 the discussion on it. A lot of our standards aren't
8 cited by reference, which at one time used to annoy us.
9 And I think right now, we're probably a little mad
10 about it.

11 CHAIRMAN STAFFORD: Any other questions or
12 comments? Tim, explain to me, and I should know this.
13 I've read it, but I forgot. What is the standard
14 required specifically with respect to owner or
15 representative involvement in safety and health
16 program?

17 MR. FISHER: Basically, what we talk about
18 there is they want the owner and their designated
19 representative to be involved, and the standard was
20 strengthened that way. It gives them more of a
21 specific role. It definitely talks about more
22 coordination and communication with the senior project

1 constructor, which I don't think was there in the
2 previous edition. I definitely think it adds an
3 additional delineation of responsibility, that they
4 play significant role in the overall safety of the
5 site, which I think was missing in the standard
6 originally, and definitely gets involved in the
7 communication process.

8 Am I answering your question on that one,
9 Pete?

10 CHAIRMAN STAFFORD: Yes, thank you.

11 MR. FISHER: Okay.

12 CHAIRMAN STAFFORD: Anyone else?

13 MR. GILLEN: I've got a question. So, I don't
14 know. Can you just simply describe, so the whole issue
15 you have it's a multi-employer worksite and you have
16 one of the construction firms called the constructor
17 and the enforcing authority has more responsibility and
18 the others? And so what under the standard, what are
19 the vehicles that that person or organization uses to
20 ensure communication? Is it a weekly meeting? Is it a
21 monthly meeting? How does that work?

22 MR. FISHER: Yeah. The standard talks about

1 scheduled briefings. I think the senior project
2 constructor plays a critical role in that. He or she
3 is going to play a critical role in setting up the
4 meeting schedules, communications and the information,
5 and that's really what the standard is talking about.
6 I mean the standard does not, I think, get into the
7 level of saying that every eight hours you're going to
8 have a hazard briefing or there's going to be a tool
9 box talk every 72 hours. It doesn't get into that.

10 What it really does is it delineates these
11 people. It says this is what they need to do, talks
12 about the reports, and then I think it really leads it
13 up. Once again, I'm going to go back to the hazard
14 assessment. Your hazard assessment, I argue, is going
15 to drive a lot of your meetings and your
16 communications. Am I answering your question, Matt?

17 MR. GILLEN: I think so. Yeah.

18 MR. FISHER: Okay.

19 MR. GILLEN: And so if there's like an
20 incident or an injury that one of the employers has
21 that's relevant for the others is the standard.

22 MR. FISHER: And the standard absolutely

1 addresses that. They talk about communication, and
2 absolutely we talk also, I think, it's Section 7 that
3 talks about the need to share information up and down
4 the chain. So the standard absolutely goes into that.

5 MR. GILLEN: Okay. And then my last question
6 is that a lot of jobs have what they call an
7 orientation where everybody coming onto the site has to
8 be given some basic information about the project, and
9 that generally the constructor takes the responsibility
10 for that. And so it's the standard address that?

11 MR. FISHER: Yes, the standard addresses it,
12 talks about the importance of training, orientation.
13 It's in there. It's in section -- I have to look at
14 the standard, but there's a section on training.

15 MR. GILLEN: 12.

16 MR. FISHER: Section 12 deals with training.
17 But even before that, it also talks in Section 3 about
18 the need to make sure that your people during the
19 planning phase are properly recognizing hazards and
20 they're properly trained.

21 MR. GILLEN: Okay. Thanks.

22 CHAIRMAN STAFFORD: Walter?

1 MR. JONES: How you doing, Tim?

2 MR. FISHER: Really good there, Walter.

3 MR. JONES: I just have a question. I want to
4 follow-up on compliance. Does the standard have a
5 mechanism to deal with making sure the chain from the
6 owner to the GC to the subs there's a method of
7 compliance with the standard?

8 MR. FISHER: By that you mean like if there's
9 like a reporting system in it? I mean there's a lot of
10 materials in the standard that could be used for that.
11 There's some tracking materials, but I wouldn't
12 say -- I mean this is from my perspective -- there's
13 not an absolute reporting system that says, you know,
14 if Matt notifies me of this hazard within 48 hours, I'm
15 going to report to Charles on what it is. It doesn't
16 get into that level of detail.

17 MR. JONES: But it is in there. I don't mean
18 it to be so prescriptive as --

19 MR. FISHER: Oh. Yeah, absolutely. There was
20 a sense of accountability, sure, and that is addressed
21 in Section 3, Section 5, and Section 7 would go
22 somewhat into that.

1 MR. JONES: All right. Thank you.

2 CHAIRMAN STAFFORD: Thank you. Liz?

3 MS. ARIOTO: I've been a member of ASSE for 20
4 years, too. So I really love the organization. I
5 think you do a great job. I'd just like to ask you a
6 question. If it starts with owners, sometimes the
7 owners will put it to a construction management
8 company. Are the owners still up there including them?

9 MR. FISHER: Yes, absolutely.

10 MS. ARIOTO: Even though they put it down to a
11 construction management and then to a general
12 contractor?

13 MR. FISHER: The standard has actually been
14 strengthened from that perspective, and that was the
15 one thing. And we have some other A10 people, and if
16 they want to tip in on this one also, I think that
17 actually was strengthening the standard. With the
18 standard before, actually, if you read it -- and, once
19 again, this is my perspective -- is the 1998 reaffirmed
20 version of A10.33. What it did was it talked about the
21 owner, but then it talked about pretty much the senior
22 constructor running off with everything.

1 And I think if you read the way the standard's
2 been restructured, it absolutely has strengthened some
3 of those areas and has put much more of the onus on the
4 owner and the owner's designated rep, the senior
5 constructor and the senior contractor, and some of the
6 end users as well, and some of the subcontractors,
7 which I don't think was in there before. So I would
8 say, yes, it's definitely been strengthened.

9 MS. ARIOTO: So does it have like precomm
10 meetings prior to being started?

11 MR. FISHER: Yes, it does. Yeah.

12 MS. ARIOTO: Just prior to being started, so
13 you have a precomm meeting a month before or two weeks
14 before?

15 MR. FISHER: It doesn't break it down like
16 that. Now, we do also have our A10.1 standard, which
17 also deals with preplanning and also gives more
18 guidances. But the standard really is it doesn't get
19 any -- you'll do a 72 hours out you're going to do
20 this. Or if we have an incident, we're going to pool
21 everything for a toolbox talk. It talks about things
22 that do what you should do on a site, but it doesn't

1 give the specifics of what actually has to be done.

2 MS. ARIOTO: So does it go into more detail on
3 what are the controlling?

4 MR. FISHER: Yes.

5 MS ARIOTO: And, you know, a baited one?

6 MR. FISHER: Yeah. Oh, yeah. There's whole
7 descriptions and definitions of that.

8 MS ARIOTO: Those are definitions, but
9 sometimes there's some kind of misunderstanding
10 sometimes, where a controlling one can also be a baited
11 one, a contractor, so.

12 MR. FISHER: I would say when we talk about
13 nomenclature and all that, there's always going to be a
14 difference of opinion on what that means; but, I think
15 the standard's pretty clear on that.

16 MS ARIOTO: Okay. Thank you.

17 CHAIRMAN STAFFORD: Thank you. Any other
18 questions, comments?

19 (No response.)

20 CHAIRMAN STAFFORD: Well, Tim. Thank you very
21 much. Don't forget to kick the tires before you get on
22 a plane again!

1 (Applause.)

2 MR. FISHER: Thank you, everybody.

3 MS. SHORTALL: Mr. Chair, at this time I'd
4 like to mark as Exhibit 11 the PowerPoint title,
5 "A10.33 presentation and introduction to the "ANSI-ASSE
6 A10.33 American National Standard, Safety and Health
7 Program Requirements For Multi-Employer Projects,"
8 presented by Tim Fisher with ASSE. As Exhibit 12,
9 "ASSE Tech Brief on the ANSI-ASSE A10.33 2011
10 Standard," dated January 18, 2012.

11 (Meeting Exhibits Nos. 11
12 and 12 were marked for
13 identification.)

14 CHAIRMAN STAFFORD: Okay. Thank you, Sarah.

15 Okay. Let's get into some of the workgroup
16 reports. The way the schedule is going, I'm going to
17 say that we're probably going to wrap-up our business
18 before the time on the agenda. So I'm going to remind
19 any folks that if you want to make any public comments,
20 please sign up in the back, and we'll be sure to get
21 you, but it will probably be before 3:45.

22 So with that, let's go ahead and start getting

1 into our workgroup reports. I guess next on deck is
2 Health Hazards, Emerging Issues, and Prevention through
3 Design. Matt Walter and --

4 MS. SHORTALL: Mr. Chair, while they're
5 setting up, Damon Bonneau gave me a list of everybody
6 on ACCSH who would like to have this sent around to let
7 people look to see if anything needs to be updated. We
8 want to make sure that Steven Hawkins gets it, because
9 he'll be leaving early.

10 COMMITTEE MEMBER: Can we just hand them to
11 you for corrections?

12 MS. SHORTALL: You can put the correction
13 right down there. They'll be able to see.

14 CHAIRMAN STAFFORD: What are we talking about?
15 A list of what to be updated?

16 MS. SHORTALL: A list of you, all of you.

17 COMMITTEE MEMBER: Contact information.

18 CHAIRMAN STAFFORD: Oh. Contact information.
19 Okay. Sure. Okay. Matt, Walter or Mike? Matt, are
20 you going to start? Or Mike?

21 MR. GILLEN: I'll start up.

22 CHAIRMAN STAFFORD: Okay. Please.

1 VIII. HEALTH HAZARDS/EMERGING ISSUES/PREVENTION

2 THROUGH DESIGN WORKGROUP REPORT

3 MR. GILLEN: So, anyway, we met May 8th, 3:15
4 to 5. We had about 35 people attending, and we're
5 sending you an attached list of folks who attended and
6 presided over by Walter Jones, Mike Thibodeaux and
7 myself. And we have two topics; one was di-isocyanates
8 and the other was radio frequency hazards, and I'll
9 start off with that one. So two speakers were
10 scheduled to provide background information on this
11 issue, which is an emerging issue and a health hazard
12 issue.

13 "Rick Burnheimer of RF Check was the first
14 speaker, and RF Check is a consulting firm that
15 provides sight specific RF safety plans using a
16 proprietary database. And he reported there was over
17 600,000 cell phone antenna systems in use, projected to
18 exceed one million over the next several years. Health
19 effects associated with high short-term exposure to RF
20 and cell phone antennas can including heat injuries,
21 behavioral disturbances and cognitive impairment.

22 The Federal Communications Commission, FCC, is

1 the primary government regulator for RF, and they use
2 licensing obligations to address occupational exposure.

3 No worker is supposed to be exposed to RF radiation
4 levels that exceed FCC human exposure limits. He
5 stated that the FCC does not have an enforcement
6 mechanism for checking out occupational exposures. He
7 indicated that cell phone antenna installer exposures
8 typically address by cutting off the power to the
9 antenna during installation and maintenance.

10 The issue for ACCSH and construction is
11 inadvertent exposure to what Burnheimer called third
12 party construction workers performing roofing,
13 painting, heating, ventilation and air conditioning, or
14 similar work in close proximity to these antennas. And
15 he showed several slides of actual cases to show how
16 it's common, in some cases mandatory, to hide the
17 antennas for aesthetic reasons using fiberglass panels
18 and structures. And these fiberglass panels are
19 transparent to the RF ignitions.

20 As a result, there's no visible indication of
21 the antenna and workers are often not aware they are
22 working adjacent to one. Sometimes, these structures

1 are used for signs or advertising placement,
2 necessitating close work or access to change the signs.

3 While FCC regulations do require RF warning signs to
4 be posted, these are often posted on doors or other
5 locations some distance from the hidden antenna itself.

6 So slides showed actual examples involving scaffold
7 installers and roofers near an antenna in a church
8 steeple. And a faux wall panel and commercial sign
9 that would require sign painter access.

10 In another slide example, RF antennas mounted
11 on the wall of a parking garage were not hidden, but
12 the painters working off the area list were not
13 provided any hazard information. It was reported they
14 worked directly in front of the antennas while painting
15 the wall the antennas were mounted on. The last
16 example provided was a roof hatch up onto the roof that
17 opened up directly in front of roof-mounted RF emitting
18 antennas.

19 Greg Lotz of NIOSH was the next speaker. He
20 was accompanied by Joe Bowman of NIOSH, and they
21 participated by a bridge line from Cincinnati. Greg
22 took issue with Rick Burnheimer's characterization of

1 potential health effects from low and single exposure
2 levels. He said the science is not yet clear on
3 long-term memory and sleep effects from these type of
4 exposures. He did report that the International Agency
5 for Research on Cancer, IARC, had recently rated RF and
6 cell phones as group 2B, which is possibly carcinogenic
7 to humans.

8 Greg Lotz told the group that NIOSH can
9 perform health hazard evaluations -- HHEs -- for RF to
10 help determine potential exposures and risks. You're
11 pointing to HHE involving concerned window washers in
12 Kentucky that measured exposures and found them below
13 FCC limits, so not all work adjacent to a cell phone
14 antenna will involve an overexposure. He also stated
15 high exposure situations were possible and could
16 actually lead to overheating effects and heat stress
17 that might not be readily attributed to antennas by the
18 construction workers.

19 A response to the question by Pete Stafford
20 about what construction workers should do if they
21 suspect they're working near a cell phone antenna, Greg
22 suggested they stop and communicate with the building

1 owner. Joe Bowman indicated that the posted RF warning
2 signs are supposed to include an owner phone number for
3 questions.

4 Regarding worst case exposures, Greg Lotz
5 indicated that TV and radio broadcast antennas emitted
6 higher levels than cell phone antennas, and he related
7 a case involving the former Sears Tower where a worker
8 was involved with that and there was leg burns
9 involved. In some there was some difference of opinion
10 on health effects.

11 There was general agreement from the speakers
12 that construction workers could experience inadvertent
13 RF exposures from working around disguised antennas.
14 Two additional handouts were provided with information
15 on one, the federal web page, resources on RF; and,
16 two, existing guidance from FCC and IEEE, which is the
17 Institute of Electrical and Electronics Engineers.

18 Cochairs thanked the speakers on behalf of
19 ACCSH for providing useful information for further
20 discussions about the issue. For di-isocyanate
21 developments, Janet Carter of OSHA's Directorate of
22 Standards and Guidance provided a comprehensive update

1 on current developments related to di-isocyanates.

2 Also called isocyanates, these substance -- there are
3 several types -- are most commonly known from their use
4 as an ingredient in spray polyurethane foam, SPF.

5 SPF is viewed by some as a green product,
6 because it's very effective in insulating homes to save
7 homeowners on energy bills and because some
8 formulations include other plant-based ingredients.

9 Isocyanate containing products are also used for
10 roofing, sealing, glues and some paints. John
11 explained that isocyanates had been reported the
12 leading attributable chemical cause of work-related
13 asthma.

14 Exposed workers experiencing asthma may not
15 make the connection to isocyanates. Sensitization can
16 occur from either dermal or inhalation exposures; and,
17 once workers are sensitized to isocyanates, their
18 asthma can be triggered from exposures well below the
19 current OSHA ceiling PEO. And this may require them to
20 actually leave SPF insulation work as a trade.

21 Janet described how construction workers can
22 be exposed during spring of SPF from bistandard

1 exposure near SPF jobs, from trimming freshly sprayed
2 foam, from heating, previously sprayed foam and from
3 mixing or cleaning up. She reported on exposure
4 studies, indicated potential for over exposure to
5 isocyanates during the SPF application operations. She
6 described precautions that can be used to protect
7 workers and have prejob planning, job setup, controls,
8 PPE and work practices are all important. Air supply
9 respirators are required, because isocyanates lack
10 warning properties.

11 She described relevant OSHA regulations for
12 SPF jobs. She described federal agency efforts
13 addressing isocyanates, trade association, development
14 of worker and contractor training materials and
15 information available from OSHA, NIOSH and EPA on these
16 materials. She reported that OSHA was planning a
17 national emphasis plan, NEP, aimed at reducing worker
18 exposure to isocyanates, and this is planned for later
19 this year and that the NEP will focus. The focus will
20 include construction along with maritime and general
21 industries.

22 We had good discussions, but because of the

1 length of the presentations it was reduced time for
2 discussion. We had some discussion, for example,
3 Walter Jones expressed reservations that small
4 contractors would have the technical capability to
5 develop and implement the strict precautions needed to
6 use isocyanates safely for both the workers and for the
7 homeowners. And he thought use of alternative products
8 would be a better approach.

9 The cochairs thank the speakers for their
10 presentations and suggest that this information would
11 provide the workgroup with ideas for future discussions
12 and we adjourned at 5:10."

13 So that's the end of the report.

14 CHAIRMAN STAFFORD: Thank you, Matt. Any
15 questions or comments?

16 (No response.)

17 CHAIRMAN STAFFORD: You know, one of the
18 things that struck me, Matt, I think Greg said, I was
19 surprised that there was no research going on on this
20 radiation issue, at least in this country. And I know
21 the tower that NIOSH looked at in Lexington, Kentucky,
22 was based on a health hazard evaluation. Would you

1 happen to know if that would be something that NIOSH
2 would be willing to explore if other HHEs were filed to
3 kind of take a look at this issue?

4 MR. GILLEN: Oh, yes. I think this is a good
5 example where the HHE program is really useful. And,
6 people, you know, you'd get a call from your members
7 whether you're a trade association or a union, and
8 people are saying you've got one of these jobs. People
9 are working very close to these signs. What's going
10 on? So it's sort of work with us and try to get a
11 quick HHE to help explore, you know, what are the
12 exposures, what are the precautions. I think we can
13 learn more about it. It's not equivalent to a full
14 research study, but we can get exposure data. We can
15 get precautions. We can learn more about it, get more
16 case examples. So I think that's a good way to maybe
17 further explore this.

18 You know. I think the cochairs, we need to
19 talk. Maybe there's some things that we can do in
20 between meetings, find out a little bit more about the
21 FCC regulations; or, have FCC or the OSHA people that
22 maybe have used the general duty clause before to sort

1 of continue the discussions about this.

2 CHAIRMAN STAFFORD: I think that would be
3 great. I mean I don't know very much about this issue.

4 I know this is something that's come to our building
5 trades meetings for several years, driven primarily by
6 the electrical workers as you know. But I have no idea
7 if anyone has ever gone to the FCC and raised the
8 concerns that this industry has about what's going on.

9 As I understand it, you have to get a license
10 from FCC, and as a part of that licensing, you have to
11 show that you're training your technicians to install
12 and maintain. It may be something that OSHA could do
13 in some way with FCC to try to understand or clarify
14 these gaps and protections; and, I don't know if
15 there's no OSHA staff here talking about OSHA getting
16 with FCC some kind of memorandum of understanding to
17 clarify who's responsible for what might be something
18 that needs to be considered.

19 MR. GILLEN: And it's very possible that the
20 language for the people that are doing the actual
21 installation is good, but that this issue of these
22 inadvertent exposures to construction workers, kind of

1 like bystander exposure, they haven't really thought
2 about that and it doesn't say much about it. So that
3 might be a gap area. It could be that they do, and
4 then in that case we could find out more about what is,
5 what you are supposed to do, and help publicize that.

6 CHAIRMAN STAFFORD: Walter?

7 MR. HERING: You heard my comment yesterday
8 chairing the zoning board in a major city. This is
9 something that I think needs to have attention, fast,
10 because you've got 600,000 towers out there, and the
11 gentleman that gave the testimony said that in a year
12 or two there's going to be a million towers. So we
13 have people in our trade, in the construction industry,
14 being exposed right now to what is definitely a health
15 hazard. There's no question.

16 The degree of the health hazard, Matt, I know
17 you guys at NIOSH are, oh, you're going to have a hard
18 look at this, but this is something I look at, looking
19 at it from the community standpoint. The next person,
20 the next one that comes into my zoning board in Rahway,
21 they're going to have some questions asked that they
22 never had asked at the zoning board before, the Nextel

1 tower user. But we have in our town probably 50, 60
2 sites, and there are places, like I said yesterday,
3 where workers are working.

4 Some of them were between V-type billboards on
5 the highway, and what do they change? They change the
6 billboard face every month or two when somebody else
7 rents it. And the other thing I want to point out is a
8 lot of these locations where they use these, and say,
9 well, call the owner. The owner only gets one -- well,
10 he gets the rent. He rents the roof. He rents the
11 land for the tower. The guy owns the billboard, and
12 they don't care. They just want to put advertisements
13 on the billboard. So, you know, this has to be looked
14 at somehow really hard. And I'm coming in from a
15 different hat on this, but this is a serious thing,
16 because coming back to us folks at OSHA, this is a
17 serious hazard that's happening right now with these
18 600 towers that are active and are working.

19 MR. RYAN: 600,000.

20 MR. HERING: 600,000 -- I'm sorry. 600,000
21 and it's going up to a million. 600,000 is a lot of
22 towers; and, I'll bet you if I listen to his testimony,

1 I will bet you that at least 25% of them are in areas
2 where there's other people working on a regular basis.

3 MR. RYAN: Well, that -- just the labeling of
4 the cautionary, I mean -- when it's down on a doorway,
5 down on a building that's 200 feet away, too, I mean
6 there's no communication with telling anybody there's a
7 hazard in the area.

8 MR. HERING: I just wanted to focus on it.
9 It's a hot issue. We can't wait two years or a year.
10 I know that we can do partnerships and all, but I think
11 Ben and the rest of the crew here, we have to have a
12 hard look at this pretty quick. That's my gut feeling,
13 now that I see what it is, and I'm looking at it from
14 the community end.

15 CHAIRMAN STAFFORD: Go ahead, Ben.

16 MR. BARE: Just from our perspective, I agree
17 that it's a potential hazard; but, we don't know enough
18 about what is the real hazard here. As they were
19 speaking yesterday, if NIOSH or we had some exposure
20 data, some real injury and illness or injury data to go
21 along with, to kind of determine whether we're dealing
22 with a real hazard or not here. Because if we start

1 doing inspections and we try to use the 5A1 process, we
2 don't have the standard right now that's really covered
3 under FCC.

4 They have the primary jurisdiction, and I'm
5 not sure that there'd be some boundary lines there that
6 we might have to cross and work out. But, really, the
7 important part is determined if there's a real hazard
8 here or not, and if NIOSH could help us with that, or
9 if we had that kind of information before we started
10 issuing 5A1 violations, and doing inspections.

11 MR. HERING: Well, I think he pointed out
12 there is that and it shows. We just don't know how
13 serious it is, but it's nice to get on the cutting edge
14 and find out. This is totally different from
15 electromagnetic field or induction from power. This is
16 something that's focused on getting out for
17 communications in a different RF type, you know.

18 CHAIRMAN STAFFORD: All right. Gary, and then
19 Walter.

20 MR. BATYKEFER: Gary Batykefer with the
21 Sheetmetal Workers, Employee Rep. I made comment
22 yesterday with regard to the RF check people making

1 their presentation, and my concern is for that
2 construction worker that after that building's built
3 the antenna is installed and wherever. There's no
4 standardization of where that antenna's going to go.
5 You come out of a roof hatch and you're immediately
6 exposed. People that work in that building have a
7 smoke break. They go up on the roof to smoke, and they
8 don't know.

9 My concern is that that building owner knows
10 that antenna is on there, because he's collecting rent
11 every month, and he made the judgment to let that be
12 mounted on his roof from the people that wanted it
13 mounted there, because it's the right place for that
14 antenna. Should there not be some way of assessing
15 that information and disseminating it to subcontractors
16 that go to work on that job; and, also, make that
17 information available to the building occupants so that
18 they can stay out of harms way.

19 The power down issues, we understand they're
20 working on that. If they knew that antenna was on the
21 roof, maybe the contractor would have that powered down
22 prior to having our guys go on the job, because you

1 know as well as I do, when the members hit the job, the
2 workers hit the job. They're trying to get the job
3 done, because they're paid hourly. And if they don't
4 perform, they get laid off. So they're probably
5 putting in the back of their mind the safety aspect
6 regarding doing their job. So my concerns are that we
7 should have some type of responsibility made of the
8 building owner and dissemination from the
9 subcontractors that work on that job site to the
10 member, the worker that's performing the job prior to
11 him starting his work.

12 We avoid it before we get there, and that
13 would be the easiest way until we get some quantifiable
14 data that says, okay. If you're exposed, this could
15 happen to you, because God, for what he said yesterday
16 with respect to some of the symptoms, I think I've been
17 exposed.

18 CHAIRMAN STAFFORD: I can tell you definitely
19 have it.

20 (Laughter.)

21 MR. BATYKEFER: Yeah, I mean --

22 CHAIRMAN STAFFORD: I was being polite, Gary.

1 Walter, go ahead.

2 MR. JONES: Well, I agree with you, with the
3 significance here, and the Committee will move forward
4 on this. But let's remember, as Rick pointed out, when
5 in 1996 that made the possibility for the sitings of
6 these cell towers to happen. The legislation by
7 Congress basically said that you cant' hold them up
8 based on health and safety complaints. So that's where
9 it all began, by Congress allowing, realizing this, and
10 then making a caveat so that we can't stop progress.

11 I do think that we need to observe the
12 precautionary principle here on PEL, NIOSH and those
13 involved; determine exactly what the exposure is, what
14 the rates and what the health effects are from
15 different types of exposure are. We need to come up
16 with some ideas that we can work with contractors with
17 implementing in terms of proximity of warning, size,
18 cordoning off of areas, up-to-date information on
19 contact for power outage or power downs, and maybe it's
20 going to move forward.

21 We will try to reach out to the big boys and
22 the cell phone business to see how interested they may

1 be in working with us in this partnership to see if we
2 can just work on getting basic data out there in terms
3 of getting the signs, better posted warning areas and
4 cordoning off as the health effect data comes in so we
5 can be proactive.

6 CHAIRMAN STAFFORD: So when you say "we," just
7 so we're clear, for the record, the workroom?

8 MR. JONES: Oh. The workroom?

9 CHAIRMAN STAFFORD: ACCSH. We're not
10 suggesting OSHA.

11 MR. JONES: Oh. No. I'm not suggesting OSHA,
12 because when you say "owner," now OSHA's not involved.

13 MR. HAWKINS: No. Remember the asbestos
14 standard has some requirements. It's not outside the
15 realm of possibilities.

16 MR. JONES: No. It's not outside. So I'll
17 hold on there, but I'm just saying in terms of
18 workgroup, we really have to really drill down on the
19 issue, I think, and provide as far as this Committee,
20 ACCSH advice on what we think would be appropriate for
21 construction.

22 MR. HERING: The one thing he said about

1 Congress -- and you're right -- and this comes down to
2 municipal land use laws in all of our 50 states -- if
3 something is inherently beneficial to the general
4 public, the ability to call 911, it now becomes that's
5 why the FCC and Congress said that you can't stop them
6 from putting them in. You can locate them. You can
7 make them pretty. All right? You could make them
8 aesthetically pleasing, but they're inherently
9 beneficial. I'm just saying you're right on that.
10 That's why that went that way through Congress, and
11 most people in zoning and planning look at that. So
12 this has got a lot of little tentacles on it, but it's
13 nice for us to look at it positively now and get on the
14 cutting edge and see how let's start working with NIOSH
15 and other groups that help us and see where we want to
16 go with it as we move forward.

17 MR. JONES: And the FCC.

18 CHAIRMAN STAFFORD: And the FCC. Right.

19 Okay. Mike?

20 MR. THIBODEAUX: I heard yesterday that FCC
21 doesn't have any kind of enforcement mechanism for this
22 procedure, but maybe we ought to check and see. Have

1 they had these kinds of complaints and what have they
2 done about them, if anything? And, you know, that
3 could give us a direction to go in. If they've had
4 these complaints and have sent them off to some weather
5 balloon in the sky, or if they send them to some agency
6 to deal with, I think that could help give us some
7 direction.

8 If they haven't done anything, then I agree
9 NIOSH needs to tell us: Here's what the problem is;
10 and, then we can go from there as Walter had said.

11 CHAIRMAN STAFFORD: So, go ahead, Tish.

12 MS. DAVIS: And my point was going to be I
13 can't imagine that our partners in the environmental
14 world haven't dealt with this, and so that would be a
15 place I would go. I'd certainly asked in my department
16 and, you know, whether they've had communi -- because
17 the homeowners and building occupants, that's an
18 environmental public health problem. So I think that
19 we can do some looking there. I have another comment
20 on a different topic that's so people are still talking
21 about this.

22 MR. ZARLETTI: Well, I was just going to add

1 to your point earlier why has this been going on and we
2 haven't heard so much about it. Some of it might have
3 to do with the fact that this has been a stealth
4 project that we have, because in order to manage the
5 aesthetics of all these buildings, these have
6 enshrouded away from normal view for the most part. I
7 mean we pick up cell towers here and there, but if you
8 knew you were passing on every other building, but it's
9 been enclosed in a fiberglass enclosure, how would you
10 ever know?

11 MR. JONES: And the symptoms are, the symptom
12 health effects are non-specific.

13 CHAIRMAN STAFFORD: Right, right. We would
14 only know if the owner identified that up front when
15 you had a crew coming out there to do whatever
16 maintenance there were.

17 MR. HERING: And the other thing that he
18 mentioned in his report is in the cases that they think
19 were part of this they were misdiagnosed by a physician
20 as something else. I mean it's easily missed, if
21 that's the fact, if you remember that far.

22 MR. HAWKINS: Well, you know, to that point,

1 though, from what we saw, you could be exposed. They
2 had used -- the worker would never even know to tell
3 the doctor: Hey, by the way, I was assigned on a
4 fiberglass enclosure of a cell phone antenna. I might
5 have been exposed to RF energy. You went up there and
6 put that sign up. You put that sign up and never even
7 know that that was on the other side from what we saw.

8 CHAIRMAN STAFFORD: That's exactly right. So
9 as I understand, Walter, then the workgroup is going to
10 contact FCC as a part. Is that what you suggest?

11 MR. JONES: Well, we're writing our agenda as
12 you guys talk.

13 (Laughter.)

14 MR. GILLEN: I think we'll try to follow the
15 guidance that Sarah gave us to meet in between meetings
16 to use the people who bring it up and maybe use a
17 caller too, and hear more about the health effects,
18 hear more about the existing FCC, if we can. And it
19 sounds like there's some interesting folks here.

20 MS. SHORTALL: I think we're also going to
21 have to look and see exactly what FCC has done in terms
22 of technically safety and health issues to see if OSHA

1 is prohibited from taking actions under Section 4(b)(1)
2 of the OSHA Act, where another federal agency has
3 decided to address the issue of certain working
4 condition hazards. We may be unable to, but I don't
5 know. I just don't know what the case is about this.

6 CHAIRMAN STAFFORD: See, but I think there
7 might be -- well, we'll let that go. There's a clear
8 line there, as I understand it. And you folks know
9 more about this than I do on the workgroup, but the FCC
10 only cares about training of the technicians that are
11 installing or maintaining the equipment; nothing to do
12 with any other outside workforces.

13 MR. GILLEN: No. No ancillary contracts.

14 CHAIRMAN STAFFORD: Right.

15 MR. BATYKEFER: One comment. They apparently
16 have done research on this, because they've established
17 encouragement based on size of antennas and power of
18 antennas. Only need for me as a worker, I need to know
19 what the encouragement zone is, where the danger zones
20 are, and I'll stay away from it if in fact I'm not
21 working directly in that area. If I have to, I have a
22 mechanism to power that antenna down, if I know. I

1 want to know that prior to going on that roof.

2 MR. HAWKINS: Is there any way that cap up
3 there, we get this cap replaced. The hale damage, the
4 sheet metal guy, can you go up there and put me a new
5 cap around the top of my -- and you don't know they
6 don't know the size of that box. It's just a big
7 antenna. You know.

8 MR. JONES: But there are TLVs that I think
9 ACGH has RFTLVs. They have RFTLVs, and there's an OSHA
10 standard. There's FCC requirements.

11 CHAIRMAN STAFFORD: Tish?

12 MS. DAVIS: My question is, is there a map,
13 when you go on the website?

14 CHAIRMAN STAFFORD: Well, that's RF Check, I
15 think, is one of the things they're very interested in.
16 It's they're day one to map and they're not having
17 completed that yet. I don't even know if they started,
18 but that's what their aim is, to be able to map. They
19 get the FCC, they get all the providers to throw in
20 money to map.

21 MR. JONES: And I have to just jump in here
22 when Scott pointed out to me, and we all have phones.

1 I mean if we were told it could be a similar device
2 that you just pull out of your pocket. And you just
3 throw it up and it just --

4 MR. HAWKINS: How many bars do you get?

5 MR. JONES: How many bars?

6 MR. HAWKINS: The bars are full. They're
7 running down my arms. They're too close.

8 (Laughter.)

9 CHAIRMAN STAFFORD: Tish, did you have another
10 issue?

11 MS. DAVIS: Oh, yeah. I just wanted
12 to -- last time we were here we heard about the bathtub
13 refinishing and the -- an emerging issue. And I think
14 OSHA and NIOSH talked about a possible alert. I know
15 the whole convention campaign that's taken things over,
16 but I didn't know if there was a follow-up to that.

17 MR. GILLEN: I think they're still working on
18 that alert. That's what I've heard from the NIOSH
19 folks. I don't know when it's going to come out,
20 though.

21 CHAIRMAN STAFFORD: Okay. Any --

22 MR. GILLEN: Do we need to second it?

1 M O T I O N

2 CHAIRMAN STAFFORD: We need a motion, first.

3 MR. HERING: I'll make that motion.

4 CHAIRMAN STAFFORD: Motion has been made to
5 accept the workgroup report. Do I have a second?

6 MR. BATYKEFER: Good report.

7 CHAIRMAN STAFFORD: Gary Batykefer seconded
8 it. All in favor say "aye."

9 (Chorus of ayes.)

10 CHAIRMAN STAFFORD: The report has been
11 accepted. Okay. We're at the point that we should
12 have a break; but, with that said, we have one more
13 workgroup report on the agenda. So we can either break
14 and come back, or if you want to go ahead and get the
15 last workgroup report? Keep going.

16 MS. SHORTALL: Mr. Chairman, then what I'd
17 like to do is mark into the record at this point
18 meeting Exhibit 13, the "Approved Health
19 Hazards/Emerging Issues And Prevention Through Design
20 Workgroup Report" from the May 8, 2012 meeting; as
21 Exhibit 14, the PowerPoint on "Radio Frequency On
22 Wireless Antenna" presented by Richard Burnheimer of RF

1 Check; as Exhibit 15 a handout entitled, "URLs for
2 Health Advice On Electric And Magnetic Fields Offered
3 By U.S. Government Civilian Agencies;" and, as Exhibit
4 17, the handout titled, "RF Guidance" provided by
5 Richard Burnheimer from RF Check; and as Exhibit 17,
6 the PowerPoint titled, "An Update On Spray Polyurethane
7 Foam, and Isocyanates In Construction," presented by
8 Janet Carr, OSHA.

9 CHAIRMAN STAFFORD: Thank you, Sarah. Okay.
10 I2P2 workgroup? Tom?

11 IX. INJURY AND ILLNESS PREVENTION PROGRAM

12 (I2P2) WORKGROUP REPORT

13 MR. MARRERO: All right. "The meeting was
14 called to order by workgroup co-chair Tish Davis, Gary
15 Batykefer, and Tom Marrero. There were 37 attendees.
16 Jim Maddux reported that the I2P2 proposed rule is in
17 the SBRFA process, and that OSHA is working on
18 providing some additional information for this review.

19 He gave an overview of the workgroup meeting and
20 highlighted the VPP process.

21 Following the SBRFA review, Tish gave a brief
22 recap of the previous workgroup minutes and the

1 presentation by the Building and Construction Trades
2 Department given at the meeting. Next was the
3 presentation by David Kliwinski of Jacobs Construction.

4 He began by emphasizing that relationship building and
5 trust of multi employer sites is key. He described
6 Jacobs' five-step program for construction safety
7 management.

8 Number one: Subcontractor selection. They
9 place heavy emphasis on subcontractor pre-quals. They
10 are the OSHA history, obtained references for subs from
11 former clients and used the tool called "Jacobs Injury
12 Performance Standards." They bring together corporate
13 entities to review what they refer to as attachment A,
14 describing safety and health requirements. Their aim
15 is to create a common safety culture within their
16 contractor and subcontractor environment.

17 Number two: Contract preparation. Bid
18 documents must set out clear safety expectations
19 between contractors and subs. Each contract must
20 include earmarked resources for establishing a safety
21 program on-site in identifying key safety personnel.

22 Number three: Contract award. Key

1 individuals attending initial kick-off meeting to get
2 by it and ownership of the safety program by all
3 involved.

4 Number four: Orientation and training.
5 Orientation is a key element as first impressions are
6 critical. Policies and procedures are conveyed to the
7 subs. They have a beyond zero training program,
8 hands-on training, mentoring and coaching foreseen as
9 crucial in developing a safety culture between
10 employees and subs.

11 Number five: Managing the work. Site
12 leadership teams review quality measures and assess
13 site safety using attachment A. They also have beyond
14 zero safety committees that include workers and
15 management, with having involvement of workers. Safety
16 committees meet monthly. Safety personnel do job-site
17 assessments on a weekly basis with a focus on task and
18 potential hazards of up to three weeks look-ahead.

19 They also use whiteboards onsite to list
20 activities, work in progress. A cruise connector and
21 hazard safety information on whiteboards, and they get
22 recognized for exemplary entries. Also with the

1 whiteboards, other tradesmen can view what that trade
2 is doing. So if there's a conflict of interest in a
3 work area, you can work that out pretty quickly, so.

4 Jacobs also uses instant investigations to
5 create safety alerts that are shared company wide.
6 They have a claim management classification program.
7 They also have a process for senior staff review to
8 determine construction readiness prior to beginning new
9 work.

10 During the Q and A, we learn the foremen and
11 supervisors are required to have OSHA 10 and first aid
12 training. Workers have stop work authority based on
13 safety concerns and, in some sites, have stop work
14 cards. Jacobs requires all subs to have health and
15 safety management programs, and smaller subs can adopt
16 the Jacobs program if they don't have a program of
17 their own.

18 In response to the question about how they
19 work in other countries that have requirements from
20 I2P2, David responded that there could be challenges,
21 but melding program requirements is not too burdensome.

22 David also reiterated their emphasis on pre-quals.

1 Jacobs looked at safety performance over the last three
2 years, comparing contractor, subcontractor, injury
3 rates with the national average for the relevant NAICS
4 code. And Jacobs does not rely primary on the
5 experienced modification rate or the EMR.

6 The next presentation was by Tom Botwell of
7 Cupertino Electric, a California-based company and a
8 NECA contractor. They have a written 10-point I2P2
9 program, which goes beyond CAL OSHA's requirements and
10 Code of Safety Practices. A pocket-sized version is
11 provided for all onsite for use. All subcontractors
12 and employees get copies, and prior to starting a job,
13 they meet with the general contractor to review the
14 site safety plan.

15 They have daily safety pre task planning
16 signed-off by the workers and unsafe conditions are
17 mitigated on observation and on smaller jobs, like one
18 and two-man jobs. Hazards are logged in daily. In
19 response to a question about whether CAL OSHA looks at
20 more than the paper program, he responded that CAL OSHA
21 definitely goes beyond review of written program and
22 conducts site inspections to verify program

1 implementation.

2 When asked if he believes the I2P2 works, his
3 response was, 'Yes, it does produce results, but can be
4 more challenging on smaller jobs.' They do address
5 ergonomic issues in their program through rotation and
6 task assessments. They do require all subs to have an
7 I2P2 program, even if states do not require it.

8 Per a general discussion in response to
9 questions about incentive programs, both reported that
10 they do not have formal incentive programs focused on
11 injury rates, but do recognize safe work practices and
12 exemplary safety behavior. David did underscore that
13 discipline is an important part of a program. In
14 response to a question about recordkeeping, both
15 reported that the subs keep their own OSHA logs, but
16 provide written reports to the injuries of the upper
17 tier contractors. Both companies maintain databases
18 about reports received.

19 Plans for the next meeting: OSHA could not
20 report on a definitive timeline for the SBRFA process
21 to be completed. There was a strong feeling that the
22 workgroup should continue. It was agreed that we get

1 input from smaller contractors at the next meeting to
2 learn about their experiences and any concerns they
3 have about mandatory I2P2 requirements. And the
4 meeting was adjourned at 10:06 a.m."

5 CHAIRMAN STAFFORD: Thank you, Tom. Any
6 questions or comments? No?

7 M O T I O N

8 MR. RYAN: I make a motion that we accept the
9 minutes.

10 MS. SHADRICK: Second the motion.

11 CHAIRMAN STAFFORD: The motion has been made
12 to approve the report. Laurie Shadrick seconds. All
13 those in favor say "aye."

14 (Chorus of ayes.)

15 CHAIRMAN STAFFORD: Opposed?

16 (No response.)

17 CHAIRMAN STAFFORD: Okay. Sarah?

18 MS. SHORTALL: Okay. Then I'd like to mark as
19 Exhibit Number 18 the approved "I2P2 Workgroup Report
20 from the May 9, 2012 Meeting;" and as Exhibit 18, the
21 "NACOSH Recommendations to OSHA and NIOSH On Entry
22 Illness Prevention Programs, dated June 22, 2011."

1 And, Matt, are you going to be providing a copy of the
2 workgroup report you just gave to Damon electronically?

3 CHAIRMAN STAFFORD: Tom? Are you talking to
4 Tom?

5 MS. SHORTALL: Oh, no. No, I'm talking about
6 Matt's earlier one.

7 MR. GILLEN: Do you want me to provide?

8 MS. SHORTALL: Are you going to be providing a
9 copy of your health hazards workgroup report to Damon
10 Bonneau electronically?

11 MR. GILLEN: I'm sure I will.

12 MS. SHORTALL: Your handout that you gave has
13 May 8, 2011 on it. So maybe when you update it you
14 could change the date?

15 MR. GILLEN: Okay. I'm living in the past.

16 MR. MARRERO: Sarah, what's the date that you
17 reported for the I2P2? I heard you say May 19th?

18 MS. SHORTALL: Oh, no. This was the NACOSH
19 recommendations on I2P2.

20 MR. MARRERO: Okay.

21 //

22 //

1 X. CHAIR REMARKS/PUBLIC COMMENTS

2 CHAIRMAN STAFFORD: Okay. This is the point
3 in time if we have any comments from the public. Is
4 there anyone who'd like to make comments? I'd like to
5 apologize to Scott Schneider who went to the office and
6 came back. He was going to do an add-on presentation
7 about the falls fatality campaign, but Scott will do
8 that first thing in the morning. Jim can't be with us
9 until after 3, but we'll be adjourned by then, so I
10 appreciate your patience.

11 I'd like to thank Steve Hawkins and Laurie
12 Shadrick on your work. I know both of you have
13 previous commitments and won't be able to join us
14 tomorrow. So safe travels, and appreciate that. And
15 if there's no other questions or comments, we'll
16 adjourn.

17 (No response.)

18 CHAIRMAN STAFFORD: Okay. We are adjourned.
19 Thank you.

20 (Whereupon, at 2:40 p.m., the meeting was
21 adjourned until the following day, May 11, 2012.)

22 * * * * *